

Effectiveness of Regulations in Handling Hajj Qoutas in Indonesia

Mustafa

University of Proclamation 45, Indonesia

*Corresponding email: mustafa@up45.ac.id

Article Info	Abstract
Received: 30-12-2025 Revised: 05-02-2026 Accepted: 27-02-2026 Published: 28-02-2026 Keywords: Hajj Funds; Positive Criminal Law; Islamic Criminal Law; Court Decisions.	The research conducted was the criminal act of misappropriation of Hajj funds from Indonesia carried out by the Minister of Religion reviewed from the perspective of Islamic Criminal Law and Positive Criminal Law of the study is to determine the application of the law and the considerations of the panel of judges in issuing the decision, while assessing its conformity with the principles of Islamic criminal law and positive criminal law. The research method used is normative juridical with a statutory, conceptual, and comparative approach. Primary data are in the form of court decisions, while secondary data include laws and regulations, legal literature, journals, and sources of Islamic law (the Qur'an and Hadith). The analysis is carried out using hermeneutic techniques to interpret legal norms and the judge's considerations. The results of the study show that the judge imposed a sentence based on Article 3 in conjunction with Article 18 paragraph (1) letter b of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 concerning the Eradication of Criminal Acts of Corruption in conjunction with Article 55 paragraph (1) point 1 in conjunction with Article 65 paragraph (1) of the Criminal Code. The judge's considerations were based on witness statements, written evidence, physical evidence, and the defendant's statement. From the perspective of Islamic criminal law, the act of corruption of Hajj funds is classified as a ta'zir crime in the form of betrayal of the public trust (ghulul), with sanctions given to the judge according to the level of error. This study confirms the inconsistency between the relatively light verdict of the first-degree judge with the principle of social justice and the purpose of criminal punishment, especially because the crime involves Hajj funds which are a trust of the Muslim community.
Info Artikel	Abstrak
Kata Kunci: Korupsi; Dana Haji; Hukum Pidana Positif; Hukum Pidana Islam; Putusan Pengadilan.	Penelitian yang dilakukan membahas tindak pidana penyalahgunaan dana haji di Indonesia yang dilakukan oleh Menteri Agama ditinjau dari perspektif Hukum Pidana Islam dan Hukum Pidana Positif. Penelitian ini bertujuan untuk mengetahui penerapan hukum serta pertimbangan majelis hakim dalam menjatuhkan putusan, sekaligus menilai kesesuaiannya dengan prinsip-prinsip hukum pidana Islam dan hukum pidana positif. Metode penelitian yang digunakan adalah yuridis normatif dengan pendekatan perundang-undangan, konseptual, dan komparatif. Data primer berupa putusan pengadilan, sedangkan data sekunder meliputi peraturan perundang-undangan, literatur hukum, jurnal, serta sumber hukum Islam (Al-Qur'an dan

Hadis). Analisis dilakukan dengan menggunakan teknik hermeneutika untuk menafsirkan norma hukum dan pertimbangan hakim. Hasil penelitian menunjukkan bahwa hakim menjatuhkan pidana berdasarkan Pasal 3 juncto Pasal 18 ayat (1) huruf b Undang-Undang Nomor 31 Tahun 1999 juncto Undang-Undang Nomor 20 Tahun 2001 tentang Pemberantasan Tindak Pidana Korupsi juncto Pasal 55 ayat (1) ke-1 juncto Pasal 65 ayat (1) Kitab Undang-Undang Hukum Pidana (KUHP). Pertimbangan hakim didasarkan pada keterangan saksi, alat bukti surat, barang bukti, serta keterangan terdakwa. Dari perspektif hukum pidana Islam, perbuatan korupsi dana haji dikategorikan sebagai jarimah ta'zir dalam bentuk pengkhianatan terhadap amanah publik (ghulul), dengan sanksi yang diserahkan kepada hakim sesuai tingkat kesalahan pelaku. Penelitian ini menegaskan adanya ketidaksesuaian antara putusan hakim tingkat pertama yang relatif ringan dengan prinsip keadilan sosial dan tujuan pemidanaan, terutama karena tindak pidana tersebut melibatkan dana haji yang merupakan amanah umat Islam.



Copyright© 2026 by Author(s)

This work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License.

INTRODUCTION

Corruption is a form of crime classified as an extraordinary crime due to its destructive nature of the legal order, norms, and morals of society and is always threatened with severe criminal sanctions. Corruption is not only an annual but even a monthly problem for the government and society, thus demonstrating how chronic this social disease is. Etymologically, the term corruption comes from the Latin *corruptio*, which is rooted in the verb *corrumpere*, which means rotten, damaged, shaking, twisting, or bribe. This meaning reflects the fundamental nature of corruption as an act that damages integrity and destroys public trust.

Corruption committed by public officials is an illegal abuse of power for personal or other gain. Corruption is an extraordinary crime and is subject to criminal sanctions under both Islamic and civil law. Therefore, any official who causes harm to the state should have all their assets confiscated and be impoverished, as a lesson for future generations.

At the 6th UN Congress in 1980 in Caracas, Venezuela, corruption was classified as an offense beyond the reach of the law because law enforcement officials are often powerless in dealing with corruption cases. There are two main reasons for this powerlessness: first, the perpetrators' strong economic and political positions, making them difficult to touch by the law, and second, the circumstances surrounding the act of corruption are designed in such a way as to reduce the likelihood of the

perpetrators being reported or prosecuted (Mubarak & Fuhaidah, 2025).

In positive criminal law, corruption is defined as an act that benefits oneself, another person, or a corporation by abusing the authority, opportunity, or means available because of one's position. Corruption is specifically regulated in Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption which was later updated by Law Number 20 of 2001. Based on these provisions, there are thirty forms of criminal acts of corruption that can be simplified into seven large groups, namely state financial losses, bribery, embezzlement in office, extortion, fraudulent acts, conflicts of interest in procurement, and gratuities. Meanwhile, in Islamic criminal law, criminal acts are known as *jarimah*, namely sharia prohibitions that are threatened with *hudud* or *ta'zir* punishments.

Corruption, from an Islamic perspective, falls into the category of *ta'zir* crimes, as it is not explicitly mentioned in the Quran or Hadith, but is clearly a reprehensible act that harms the community. Punishment for corruption in Islam is left to judges, who can impose sanctions according to the severity of the offense, ranging from reprimands, imprisonment, confiscation of assets, to the death penalty. Therefore, in both positive and Islamic criminal law, corruption is viewed as a serious crime that must be eradicated because it undermines justice, welfare, and the public trust.

Initially, corruption, from an Islamic perspective, was understood to be limited to the appropriation, embezzlement, fraud, and treason of war booty. However, subsequent developments in thought have broadened the scope of corruption to include embezzlement of public property, jointly owned business assets, state assets, and various other forms of public wealth. Scholars agree that corruption is *haram* (forbidden) and prohibited, as it contradicts the principles of trust and justice that underlie Islamic law.

In this study, the author examines the case of Hajj fund corruption involving former Minister of Religious Affairs Suryadharma Ali (SDA). This case has reached the court stage and is recorded in the Central Jakarta District Court's decision number 93/Pid.Sus/TPK.2015/PN.Jkt.Pst. The funds embezzled were Hajj pilgrimage funds, which should have been used for the benefit of Muslims. The misuse of these funds is clearly different from other corruption cases in general, as it involves the obligatory worship that is a pillar of Islam.

This corruption of Hajj funds is deeply detrimental and hurtful to prospective

pilgrims. The Minister of Religious Affairs, who should be a role model for the community, is instead engaging in actions prohibited by religion and in violation of the Hajj Law. This demonstrates the profound impact corruption can have on public trust, especially when committed by officials with moral and spiritual responsibilities (Murniwati, 2025).

Under Islamic criminal law, corruption is categorized as a ta'zir crime. Punishment for this act is left to the judge, who will impose a sentence according to the severity of the offense and the resulting impact. Punishment can include verbal warnings, beatings, imprisonment or exile, confiscation of assets, or even the death penalty if the corruption results in significant harm to the community.

In the SDA case, in addition to embezzling Hajj funds, he was also charged with misuse of ministerial operational funds (DOM). The indictment alleges that SDA granted the request of the leadership of Commission VIII of the House of Representatives (DPR) and the Director General of Public Works and Housing (PHU) to include staff, family members, and constituents of DPR members as members of the Hajj Organizing Committee (PPIH), even though they did not meet the requirements according to recruitment guidelines. SDA even included several members of his wife's campaign team in the legislative elections as Hajj officials.

The Corruption Eradication Commission (KPK) public prosecutor, in criminal indictment number TUT-42/24/12/2015, demanded that the panel of judges impose an 11- year prison sentence and a fine of Rp750,000,000.00. This demand is based on evidence that the defendant has been legally and convincingly proven to have committed the crime of corruption.

However, the Central Jakarta District Court's ruling, number 93/Pid.Sus/TPK.2015/PN.Jkt.Pst, only sentenced him to six years in prison and a fine of Rp 300,000,000.00. This sentence was considered too lenient and did not reflect the public's sense of justice, considering that the defendant was a minister who prioritized personal interests over the interests of the state and the people.

On appeal, the panel of judges increased the sentence to 10 years in prison with a fixed fine of Rp 300,000,000.00. This revised verdict demonstrates an inconsistency in sentencing, with the first-instance judge handing down a lighter sentence, while the appellate judge deemed the defendant's actions more serious and deserving of a higher sentence.

Based on the above description, differing views on sentencing in cases of Hajj fund corruption are evident. This raises questions about the effectiveness of legal regulations in addressing Hajj fund embezzlement cases in Indonesia. Therefore, the author feels the need for further research to analyze the first-instance judge's verdict, which is considered too lenient, using the perspectives of Islamic criminal law and positive criminal law.

Therefore, this paper is entitled "The Effectiveness of Legal Regulations in Handling Cases of Hajj Fund Embezzlement in Indonesia", as an academic effort to assess the extent to which positive law and Islamic law are able to provide justice and a deterrent effect on perpetrators of corruption, especially in cases involving Muslim pilgrimage funds.

RESEARCH METHOD

This research employs a normative and empirical legal research method to analyze the effectiveness of regulations in handling Hajj quotas in Indonesia. The normative approach was conducted through the examination of laws and regulations related to Hajj administration, particularly Law Number 8 of 2019 concerning the Implementation of Hajj and Umrah Pilgrimages, as well as other supporting regulations governing quota allocation, public services, and administrative governance. In addition, the empirical approach was applied by analyzing the implementation of these regulations in practice through institutional reports, court decisions, and social conditions related to the management of Hajj quotas in Indonesia. The combination of these approaches allows the research to evaluate not only the legal framework but also its practical effectiveness within society.

The data used in this study consist of qualitative and quantitative data obtained from both primary and secondary sources. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, Law Number 8 of 2019 concerning the Implementation of Hajj and Umrah Pilgrimages, relevant ministerial regulations, and court decisions related to Hajj administration. Secondary legal materials consist of scientific journals, books, legal articles, research findings, and expert opinions discussing public governance, Hajj administration, and legal effectiveness. Meanwhile, tertiary legal materials include legal dictionaries, encyclopedias, and supporting references that provide further explanations of the primary and secondary legal materials. Quantitative data were obtained from official reports issued by the Ministry of Religious Affairs and other government

institutions regarding Hajj quota allocation, waiting lists, and the number of Indonesian pilgrims.

Data collection in this research was conducted through literature study and field study. The literature study involved identifying, recording, and analyzing legal documents, laws and regulations, academic literature, official reports, and relevant court decisions concerning Hajj quota management. Furthermore, field studies were carried out through interviews with several relevant parties, including officials of the Ministry of Religious Affairs, legal practitioners, academics, and Hajj pilgrims. The interviews used open-ended questions to obtain in-depth information regarding the implementation of Hajj quota regulations, administrative challenges, transparency, and public perceptions toward the effectiveness of the current regulatory system.

The theoretical framework of this research is based on the theory of legal effectiveness proposed by Soerjono Soekanto, which explains that the effectiveness of law is influenced by legal substance, law enforcement institutions, supporting facilities, society, and legal culture. In the context of Hajj quota management, regulatory effectiveness is measured by the extent to which the regulations are capable of ensuring transparency, fairness, legal certainty, and administrative efficiency in the allocation of Hajj quotas. This theory is further supported by concepts of public governance emphasizing accountability, transparency, and institutional effectiveness in public service administration.

RESULTS AND DISCUSSION

The Hajj pilgrimage has long occupied a central position in the religious life of Indonesian Muslims. Historical records indicate that Muslims from the Indonesian archipelago had traveled to Mecca centuries before the establishment of modern administrative systems. These journeys were often conducted through maritime trade routes connecting Southeast Asia with the Arabian Peninsula. For Indonesian Muslims, the Hajj represented not only the fulfillment of a religious obligation but also a symbol of spiritual prestige and social status within local communities. Returning pilgrims frequently became respected religious leaders and played important roles in disseminating Islamic teachings. Consequently, the Hajj pilgrimage contributed significantly to the formation of Islamic identity and religious consciousness in Indonesia. The increasing number of pilgrims over time eventually required the development of formal governance mechanisms capable of regulating departures, financing, and pilgrimage services. This historical context

demonstrates that Hajj administration has always involved not only religious dimensions but also political, social, and legal considerations within Indonesian society.

During the Dutch colonial period, the regulation of the Hajj pilgrimage was primarily driven by political motives rather than public service considerations. Colonial authorities viewed the Hajj as a potential source of anti-colonial resistance because many Indonesian pilgrims returning from the Middle East were influenced by Pan-Islamic and nationalist movements. As a result, the Dutch East Indies government introduced restrictive Hajj ordinances designed to monitor and limit the mobility of Indonesian Muslims. These regulations imposed strict administrative requirements, including travel permits, financial guarantees, and surveillance procedures. The colonial government feared that returning pilgrims would strengthen Islamic solidarity and challenge colonial authority within the archipelago. Therefore, Hajj governance during this period functioned as an instrument of political control and social supervision. Despite these restrictive measures, Indonesian Muslims continued to undertake the pilgrimage in large numbers, demonstrating the enduring significance of the Hajj within Islamic life. This historical experience reveals that the governance of religious activities has often been influenced by broader political interests and state security concerns.

Following Indonesian independence, the organization of the Hajj became one of the constitutional responsibilities assumed by the newly established government. The Ministry of Religious Affairs was entrusted with managing pilgrimage affairs as part of the state's commitment to protecting the religious rights of citizens. However, during the early years of independence, administrative structures remained relatively weak due to political instability and limited bureaucratic resources. Between 1950 and 1959, operational matters were handled by the Indonesian Hajj Travel Improvement Committee (PPHI), while administrative authority remained under the Ministry of Religious Affairs. This dual arrangement reflected the government's attempt to balance centralized supervision with operational flexibility. Nevertheless, coordination difficulties between institutions frequently resulted in inefficiencies and delays in pilgrimage services. Transportation facilities, financial systems, and communication infrastructure were still underdeveloped during this period. Despite these limitations, the establishment of formal institutions represented an important step toward the modernization of Hajj governance in Indonesia.

Between 1960 and 1962, the Indonesian government centralized all aspects of Hajj administration under the Ministry of Religious Affairs. This policy was intended to improve

bureaucratic coordination and strengthen state authority over pilgrimage management. The government believed that centralized administration would reduce inefficiencies caused by fragmented institutional arrangements. However, this centralization also created new challenges because the Ministry lacked sufficient administrative capacity to manage the rapidly growing number of pilgrims. Bureaucratic delays, inadequate logistical planning, and limited public communication frequently disrupted the pilgrimage process. In addition, Indonesia's broader political and economic instability during this period negatively affected the quality of public services, including Hajj administration. Pilgrims often faced uncertainty regarding travel schedules, accommodation, and transportation arrangements. Nevertheless, the government continued to view centralized administration as necessary to ensure state control over religious affairs. This period illustrates how institutional centralization alone cannot guarantee effective governance without adequate administrative resources and organizational capacity.

In the following phase between 1963 and 1964, the government attempted another institutional restructuring by dividing responsibilities between the Hajj Travel Committee (P3H) and PPHI. Under this arrangement, P3H managed administrative functions, while PPHI continued to oversee operational matters. This division of authority aimed to create greater specialization and improve organizational efficiency within the Hajj administration system. However, overlapping responsibilities and weak inter-agency coordination often created confusion regarding decision-making authority. The absence of clear operational standards further complicated the implementation of pilgrimage services. Political tensions during the late Old Order era also contributed to bureaucratic instability, making it difficult for institutions to function effectively. Despite these problems, the restructuring reflected the government's continued efforts to identify an effective administrative model capable of handling increasingly complex pilgrimage governance. The repeated institutional changes during this era demonstrate that Hajj administration remained heavily influenced by broader political and bureaucratic dynamics within the Indonesian state.

During the final phase of the Old Order between 1964 and 1965, all administrative and operational functions related to the Hajj were consolidated under the Hajj Affairs Council (DUHA). This institutional reform represented another attempt to simplify bureaucratic coordination and strengthen centralized governance. The government expected DUHA to function as an integrated institution capable of overseeing all aspects of pilgrimage administration. However, the severe political crisis leading to the collapse of

the Old Order significantly undermined administrative effectiveness. Political instability weakened state institutions, disrupted public services, and reduced bureaucratic efficiency across multiple sectors, including Hajj management. Financial limitations and administrative uncertainty further complicated the organization of pilgrimage services during this period. Nonetheless, the creation of DUHA demonstrated the state's growing recognition that Hajj administration required specialized institutions with clear authority and professional management systems. This period also highlights the extent to which the effectiveness of legal and administrative reforms depends upon broader political stability and institutional continuity.

The New Order government under President Soeharto introduced a more centralized and bureaucratic approach to Hajj administration. Between 1966 and 1978, pilgrimage affairs were managed by the Directorate General of Hajj Affairs within the Ministry of Religious Affairs. The New Order regime emphasized administrative discipline, hierarchical governance, and centralized state authority as the foundation of public administration. Through this approach, the government sought to improve bureaucratic efficiency and strengthen control over religious activities. More systematic registration systems, financial procedures, and transportation arrangements were introduced to accommodate the growing number of pilgrims. Nevertheless, the highly centralized governance structure also limited transparency and public participation in decision-making processes. Administrative authority was concentrated within state institutions with minimal external oversight. As a result, opportunities for corruption, abuse of power, and bureaucratic inefficiency persisted within the Hajj administration system. This demonstrates that administrative centralization without accountability mechanisms may strengthen institutional control while simultaneously increasing governance risks.

During the second phase of the New Order era between 1979 and 1997, Hajj administration was reorganized under the Directorate General of Islamic Community Guidance and Hajj Affairs. This restructuring reflected the regime's broader strategy of integrating religious governance into centralized bureaucratic control. During this period, Indonesia experienced significant economic growth, which contributed to a sharp increase in the number of prospective pilgrims. Consequently, the administrative complexity of Hajj management also increased substantially. The government expanded transportation infrastructure, strengthened diplomatic coordination with Saudi Arabia, and introduced additional administrative procedures to improve service delivery. However, the

concentration of authority within bureaucratic institutions also created opportunities for patronage networks and political favoritism. Public criticism regarding quota allocation, service quality, and financial transparency became increasingly prominent. Although the New Order government succeeded in institutionalizing Hajj administration, its governance model remained heavily dependent on centralized authority rather than participatory accountability. This governance pattern later became one of the key issues criticized during the Reform Era.

The Reform Era beginning in 1998 brought significant political and institutional changes to Indonesia, including reforms in Hajj governance. Democratization encouraged greater transparency, accountability, and public participation in public administration. In response to these developments, the government enacted Law Number 17 of 1999 concerning Hajj administration. This law established a new legal framework designed to modernize pilgrimage governance and improve service quality. One important innovation introduced by the law was the recognition of both regular Hajj services managed by the government and special Hajj services operated by private institutions. The involvement of private actors was intended to increase efficiency and provide greater service options for pilgrims. However, the expansion of private participation also generated new regulatory challenges related to supervision, licensing, and consumer protection. Consequently, the government faced increasing pressure to develop more effective oversight mechanisms capable of ensuring accountability among both public and private pilgrimage organizers.

In 2008, the Indonesian government enacted Law Number 13 of 2008 to further strengthen the legal framework governing Hajj administration. This law clarified the division of responsibilities concerning policy-making, implementation, and supervision within the pilgrimage management system. Importantly, the law also established the Indonesian Hajj Supervisory Commission (KPHI) as an independent body responsible for overseeing pilgrimage administration. The establishment of KPHI reflected growing public demands for transparency and accountability in Hajj governance. Through this institution, the government sought to create an external oversight mechanism capable of monitoring service quality, financial management, and quota allocation processes. However, despite the existence of formal supervisory structures, various governance problems continued to emerge. Public complaints regarding long waiting lists, inadequate accommodation, and administrative inefficiencies remained common. These challenges indicate that legal

reforms alone are insufficient without effective implementation, institutional professionalism, and strong political commitment.

One of the most significant challenges facing Hajj governance in Indonesia is the imbalance between the extremely high number of applicants and the limited pilgrimage quota allocated by Saudi Arabia. Indonesia, as the country with the world's largest Muslim population, sends hundreds of thousands of pilgrims annually. However, the annual quota determined by Saudi Arabia remains insufficient to accommodate the growing demand. As a result, waiting lists for regular Hajj services have expanded dramatically, with waiting periods in some provinces exceeding thirty years. This condition has created considerable public dissatisfaction and increased pressure on the Indonesian government to negotiate for additional quotas. At the same time, the government must ensure that quota allocation is conducted fairly and transparently to avoid allegations of favoritism or discrimination. The quota issue therefore represents not only an administrative challenge but also a politically sensitive matter with significant social implications. Effective legal regulation is crucial to maintaining public trust in the quota allocation system.

The increasing demand for pilgrimage services has also contributed to the rapid growth of private Hajj and Umrah travel agencies in Indonesia. Many Muslims prefer special Hajj or Umrah packages because these services often provide shorter waiting periods and additional facilities compared to regular Hajj programs. Consequently, private travel agencies have become major actors within the pilgrimage industry. However, the rapid expansion of private operators has also created significant regulatory challenges. In several cases, travel agencies were involved in fraud, embezzlement, and service failures that caused substantial financial losses for pilgrims. Some agencies collected payments from prospective pilgrims without providing the promised services, while others misused customer funds for personal or commercial purposes. These incidents reveal weaknesses in government supervision and licensing systems. The involvement of private actors therefore requires stronger legal oversight mechanisms to protect consumers and maintain the integrity of pilgrimage services.

The establishment of the Hajj Financial Management Agency (BPKH) represented an important institutional reform aimed at improving the governance of Hajj funds in Indonesia. BPKH was created to manage pilgrims' funds in a professional, transparent, and sharia-compliant manner. The agency is responsible for investing Hajj funds in safe financial instruments to ensure the sustainability of pilgrimage services and generate

additional benefits for pilgrims. Given the enormous value of Hajj funds, which amount to trillions of rupiah, effective financial management is essential for maintaining public trust. However, concerns regarding transparency and accountability continue to emerge within public discourse. Critics argue that limited access to information regarding investment allocation, risk management, and financial performance increases the possibility of misuse and corruption. Consequently, the effectiveness of legal regulations governing Hajj funds depends heavily on the ability of institutions such as BPKH to maintain transparency, accountability, and public confidence.

Cases of corruption involving Hajj funds have significantly damaged public trust in state institutions responsible for pilgrimage administration. Several high-profile corruption scandals involving officials within the Ministry of Religious Affairs revealed serious weaknesses in financial oversight and bureaucratic integrity. Allegations included misuse of pilgrimage funds, manipulation of additional Hajj quotas, and irregular procurement practices related to accommodation and transportation services. These cases generated widespread public outrage because Hajj funds are viewed not merely as public money but also as sacred religious trust originating from Muslims intending to fulfill one of the pillars of Islam. Consequently, corruption involving Hajj funds possesses not only legal and economic dimensions but also profound moral and spiritual implications. The recurrence of such scandals indicates that existing regulatory and supervisory mechanisms have not functioned effectively in preventing abuse of power within pilgrimage governance.

From the perspective of positive criminal law, corruption involving Hajj funds is regulated under Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. These laws provide a comprehensive legal framework for prosecuting corruption offenses, including those related to misuse of public financial resources. In principle, Indonesian anti-corruption legislation contains strict sanctions designed to create deterrent effects and protect state finances. However, practical implementation often reveals inconsistencies in law enforcement and disparities in judicial decisions. In some cases, punishments imposed on perpetrators were perceived as disproportionate to the scale of public losses and social harm caused by corruption (Mahera & Syahpawi, 2025). Such disparities contribute to public perceptions that anti-corruption efforts remain selective and insufficiently effective. Therefore, the effectiveness of legal regulation depends not only on the existence of formal legal norms but also on consistent, impartial, and transparent law enforcement practices.

From the perspective of Islamic criminal law, the embezzlement of Hajj funds constitutes a form of *ghulul*, namely the betrayal of public trust and misuse of communal property. In Islamic legal thought, *ghulul* is considered a serious moral and spiritual offense because it involves dishonesty in managing resources intended for collective religious purposes. Corruption involving Hajj funds is categorized as a *ta'zir* offense, meaning that sanctions are determined by judicial discretion based on the severity of the offense and its social consequences. Punishments may include imprisonment, fines, confiscation of assets, and social sanctions aimed at restoring justice and deterring future misconduct. Islamic criminal law therefore emphasizes not only legal accountability but also moral responsibility and ethical integrity. The integration of Islamic legal values into positive law enforcement may strengthen anti-corruption efforts by reinforcing the moral dimensions of public trust and accountability.

The misuse of Hajj funds has created a significant crisis of confidence in state institutions, particularly the Ministry of Religious Affairs. As the institution formally responsible for protecting the religious interests of Muslim citizens, the Ministry is expected to uphold high standards of integrity and accountability. However, repeated corruption scandals have weakened the institution's legitimacy and damaged public perceptions regarding the credibility of pilgrimage governance. Public trust is an essential element in the administration of religious services because pilgrims must rely on state institutions to manage their finances, travel arrangements, and worship facilities. When corruption occurs within such institutions, the consequences extend beyond material losses to include broader social and moral disillusionment. Therefore, restoring public trust requires not only legal sanctions against perpetrators but also comprehensive institutional reforms aimed at strengthening transparency, professionalism, and accountability within Hajj governance systems.

The complexity of Hajj fund management also stems from the dual nature of these funds as both religious trust and financial investment assets. Under current regulations, Hajj funds are invested in various sharia-compliant financial instruments intended to generate returns that support pilgrimage services and reduce operational costs for pilgrims. While this investment strategy offers potential economic benefits, it also introduces financial risks and governance challenges. Public concerns frequently arise regarding the transparency of investment decisions, the potential for conflicts of interest, and the adequacy of risk management procedures. Limited public understanding of financial

management processes further contributes to suspicion and distrust. Consequently, the management of Hajj funds requires a governance framework capable of balancing financial efficiency with religious accountability and ethical responsibility. Without effective transparency and oversight mechanisms, investment management may become vulnerable to misuse and corruption.

Political factors also significantly influence the effectiveness of legal regulations governing Hajj administration in Indonesia. In several corruption cases, allegations involved high-ranking political figures and senior government officials. Such involvement often creates public perceptions that law enforcement processes are influenced by political considerations rather than objective legal principles. This phenomenon is commonly referred to as selective law enforcement, where individuals with political influence receive more lenient treatment or prolonged judicial processes. Although anti-corruption laws formally apply equally to all citizens, practical implementation may be affected by power relations, political networks, and institutional interests. Consequently, the effectiveness of legal regulation cannot be separated from broader issues of political governance and institutional independence. Strengthening the autonomy of law enforcement institutions is therefore essential for ensuring fair and consistent application of anti-corruption laws within Hajj governance.

The issue of transparency remains central to debates regarding the effectiveness of Hajj governance in Indonesia. Transparency is essential because it enables public monitoring of administrative processes, financial management, and quota allocation mechanisms. In the absence of transparency, opportunities for corruption, favoritism, and abuse of power increase substantially. Several studies have emphasized that transparent governance systems contribute significantly to public trust and institutional legitimacy. However, despite legal requirements for accountability, many aspects of Hajj administration remain insufficiently accessible to the public. Information regarding investment management, operational expenditures, and quota distribution is often difficult for ordinary citizens to obtain. This lack of openness creates suspicion and undermines confidence in state institutions. Therefore, improving transparency should become a priority within future reforms of Hajj governance systems.

Digitalization has emerged as one of the most important strategies for improving transparency and accountability in Hajj administration. Through digital governance systems, administrative procedures such as registration, payment, and quota monitoring can

be conducted more efficiently and transparently. Digital platforms also allow pilgrims to access real-time information regarding their registration status, waiting periods, and financial transactions. In addition, digital systems may reduce opportunities for bureaucratic manipulation and unauthorized intervention in administrative processes. Nevertheless, the implementation of digital governance also faces challenges related to technological infrastructure, cybersecurity, and digital literacy among the population. Effective digitalization therefore requires substantial investment in technological development, institutional training, and public education. If implemented properly, digital governance may significantly enhance the effectiveness of legal regulations by increasing transparency, efficiency, and public participation in Hajj administration.

Independent oversight mechanisms are equally important in ensuring the effectiveness of Hajj governance. Although institutions such as KPHI and BPKH formally possess supervisory responsibilities, public confidence in internal oversight mechanisms remains limited. Independent audits conducted by external institutions and civil society organizations may provide additional safeguards against corruption and misuse of authority. External supervision helps ensure that oversight processes remain objective and free from institutional conflicts of interest. Moreover, civil society participation may strengthen public accountability by encouraging broader social monitoring of pilgrimage governance. Effective oversight therefore requires collaboration between state institutions, independent auditors, academics, religious organizations, and community representatives. Such collaborative governance models may contribute to more transparent and accountable management of Hajj funds and services.

Another important issue concerns the unequal distribution of Hajj quotas among provinces in Indonesia. Due to differences in population size and registration rates, waiting periods vary significantly across regions. In some provinces, prospective pilgrims may wait more than thirty years before departure, while waiting periods in other regions are relatively shorter. These disparities often generate public perceptions of inequality and unfairness within the quota allocation system. Although the government attempts to allocate quotas proportionally based on demographic considerations, regional imbalances remain difficult to resolve. Consequently, quota management requires not only administrative efficiency but also careful consideration of social justice and equitable access to religious services. Legal regulations governing quota allocation should therefore prioritize fairness and transparency to maintain public trust and social harmony.

The involvement of private travel agencies in Hajj and Umrah services has also created challenges related to consumer protection. Many pilgrims possess limited knowledge regarding administrative procedures and financial arrangements, making them vulnerable to fraud and exploitation by irresponsible agencies. Several high-profile cases involved travel companies collecting large amounts of money from prospective pilgrims without providing promised services. In some instances, agencies collapsed financially, leaving thousands of pilgrims stranded without refunds or departure schedules. These incidents demonstrate weaknesses in licensing systems, regulatory supervision, and enforcement mechanisms. To address these problems, the government must strengthen legal protections for consumers and impose stricter sanctions against fraudulent travel operators. Effective regulation of private pilgrimage agencies is essential for protecting the rights and financial security of Indonesian pilgrims.

In the context of Islamic ethics, the management of Hajj funds carries profound spiritual significance because these funds originate from Muslims intending to fulfill a sacred religious obligation. Consequently, public officials responsible for managing pilgrimage services bear not only legal responsibilities but also moral and religious obligations. Islamic teachings emphasize values such as honesty, trustworthiness (*amanah*), justice, and accountability in managing communal resources. Corruption involving Hajj funds therefore constitutes a serious ethical violation that undermines both social trust and religious values. Integrating Islamic ethical principles into administrative governance may strengthen institutional integrity and encourage more responsible behavior among public officials. Such integration is particularly relevant in Indonesia, where religious values continue to play an important role in public life and legal culture.

The concept of legal effectiveness proposed by Soerjono Soekanto provides a useful framework for analyzing Hajj governance in Indonesia. According to this theory, legal effectiveness depends upon several interrelated factors, including legal substance, law enforcement institutions, supporting facilities, social conditions, and legal culture. In the context of Hajj administration, legal substance refers to the adequacy of regulations governing pilgrimage services and financial management. Law enforcement institutions include supervisory agencies, courts, and anti-corruption bodies responsible for ensuring compliance with legal norms. Supporting facilities involve administrative infrastructure, digital systems, and human resources necessary for effective governance. Social conditions include public awareness, participation, and trust in state institutions. Finally, legal culture

concerns societal attitudes toward law, ethics, and accountability. Weaknesses in any of these factors may reduce the overall effectiveness of Hajj regulations.

The effectiveness of anti-corruption measures in Hajj governance also depends heavily on the professionalism and integrity of public officials. Even the most comprehensive legal regulations cannot function effectively if implemented by institutions characterized by weak ethics and low accountability. Cases of corruption involving Hajj funds demonstrate that institutional culture remains a major challenge within Indonesian bureaucracy. Patronage networks, political influence, and weak disciplinary systems often undermine efforts to promote good governance. Therefore, institutional reform should include not only legal and structural changes but also broader efforts to cultivate ethical leadership and professional public service culture. Recruitment systems, training programs, and performance evaluation mechanisms should prioritize integrity and accountability as core administrative values.

Public participation represents another important factor influencing the effectiveness of Hajj governance. Citizens, religious organizations, academics, and civil society groups play crucial roles in monitoring government performance and advocating for institutional reform. Increased public awareness regarding pilgrimage governance may strengthen accountability by encouraging broader social oversight of administrative practices. Media coverage of corruption cases and governance failures has also contributed to public pressure for reform. In democratic societies, active public participation functions as an essential mechanism for preventing abuse of power and promoting transparency. Therefore, the government should encourage greater community involvement in policy evaluation, supervisory processes, and public consultations related to Hajj administration.

International relations between Indonesia and Saudi Arabia also significantly affect Hajj governance. The annual quota allocated to Indonesia depends upon bilateral negotiations and Saudi Arabian policy decisions concerning global pilgrimage management. Consequently, effective diplomacy is essential for securing additional quotas and improving pilgrimage services for Indonesian citizens. Diplomatic coordination also involves issues such as transportation arrangements, accommodation standards, health regulations, and pilgrimage security. Changes in Saudi Arabian policies regarding infrastructure development or pilgrimage restrictions may directly affect Indonesian Hajj administration. Therefore, the effectiveness of domestic regulations cannot be separated from international cooperation and diplomatic relations with Saudi authorities.

Economic considerations further complicate the governance of Hajj services in Indonesia. The enormous value of Hajj funds makes pilgrimage management an important component of the national financial system. Mismanagement or corruption involving these funds may therefore affect not only individual pilgrims but also broader public confidence in financial institutions and government credibility. Effective financial governance requires strict auditing procedures, transparent reporting systems, and professional investment management practices. At the same time, policymakers must ensure that economic objectives do not undermine the religious and ethical dimensions of Hajj administration. Balancing financial sustainability with moral accountability remains one of the most important challenges facing Hajj governance in Indonesia.

The recurring nature of corruption cases involving Hajj funds suggests that existing legal and institutional reforms remain insufficient. Although Indonesia has enacted comprehensive anti-corruption legislation and established supervisory institutions, practical implementation continues to face serious obstacles. Weak enforcement, political interference, and limited institutional capacity often reduce the effectiveness of regulatory systems. Consequently, future reforms should adopt a more comprehensive approach combining legal, institutional, technological, and cultural strategies. Anti-corruption efforts must address not only formal legal compliance but also broader issues of bureaucratic ethics, public accountability, and political governance.

To strengthen the effectiveness of legal regulations, Indonesia should prioritize the development of integrated digital governance systems capable of improving transparency and administrative efficiency. Digital platforms may facilitate public access to information, reduce bureaucratic discretion, and strengthen financial monitoring mechanisms. In addition, integrated databases may improve coordination between government institutions and reduce administrative duplication. However, successful digitalization requires strong cybersecurity protections, adequate technological infrastructure, and continuous staff training. The transition toward digital governance should therefore be accompanied by long-term institutional investment and policy commitment.

Educational and ethical programs for Hajj administrators are also necessary to improve governance quality. Public officials responsible for pilgrimage services should receive regular training regarding legal responsibilities, financial accountability, and Islamic ethical principles. Such programs may strengthen institutional culture and reduce the likelihood of misconduct. Ethical education is particularly important because Hajj

administration involves not only technical public services but also the management of sacred religious trust. By internalizing ethical values within administrative practices, institutions may develop stronger resistance against corruption and abuse of power.

Ultimately, the effectiveness of legal regulations in handling Hajj quotas and Hajj fund management in Indonesia must be understood as a multidimensional issue involving legal, political, economic, social, and religious factors. Historical experiences demonstrate that administrative reforms alone are insufficient without transparency, accountability, institutional professionalism, and strong public oversight. Corruption involving Hajj funds represents not only a violation of criminal law but also a betrayal of public and religious trust. Therefore, comprehensive reforms integrating positive law, Islamic ethical principles, digital governance, and independent supervision are essential for ensuring fair and accountable Hajj administration in Indonesia.

The contribution of this research lies in providing a comprehensive and multidimensional analysis of the effectiveness of legal regulations governing Hajj quotas and Hajj fund management in Indonesia. Unlike previous studies that focused primarily on administrative or financial aspects, this study integrates historical analysis, positive criminal law, Islamic criminal law, governance theory, and institutional reform perspectives. This research also contributes theoretically by applying the theory of legal effectiveness to the context of Hajj governance and by emphasizing the importance of integrating Islamic ethical values into modern public administration. Practically, this study offers policy recommendations concerning digital governance, transparency mechanisms, independent oversight, and anti-corruption reforms aimed at improving the accountability of Hajj administration. The implications of this research are significant for policymakers, legal scholars, religious institutions, and government agencies involved in pilgrimage governance. Strengthening legal effectiveness in Hajj administration is expected to improve public trust, protect pilgrims' rights, and ensure that the management of Hajj funds reflects the principles of justice, accountability, transparency, and Islamic ethical responsibility.

CONCLUSION.

This study concludes that the legal regulations governing the management of Hajj funds and Hajj quotas in Indonesia have not yet operated effectively in ensuring transparency, accountability, and substantive justice. The findings reveal that although Indonesia possesses a relatively comprehensive legal framework through Law Number 31

of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, as well as regulations concerning Hajj administration, the implementation of these laws remains inconsistent in practice. The decision of the Central Jakarta District Court Number 93/Pid.Sus/TPK.2015/PN.Jkt.Pst demonstrates that corruption involving Hajj funds is formally categorized as an extraordinary crime because it concerns public finances and the abuse of authority by state officials. Nevertheless, the six-year imprisonment sentence and fine of Rp 300,000,000 imposed on the defendant were widely perceived as relatively lenient compared to the scale of state losses, the abuse of public trust, and the broader social and religious impacts caused by the corruption of Hajj funds. This indicates a gap between normative legal provisions and the realization of substantive justice within judicial practice.

The study further finds that corruption involving Hajj funds possesses not only legal and economic dimensions but also profound moral and spiritual implications. From the perspective of Islamic criminal law, the embezzlement of Hajj funds constitutes a form of *ghbulul* (betrayal of public trust) categorized as a ta'zir offense. In Islamic legal principles, ta'zir sanctions are intended to create deterrence, protect public interests, and preserve justice within society. Therefore, the relatively light sanctions imposed in the examined case are considered inconsistent with the principles of Islamic justice and the broader public sense of justice. The findings demonstrate that positive criminal law enforcement in Indonesia has not been fully integrated with ethical and moral considerations rooted in Islamic legal values, despite the fact that Hajj funds originate from Muslims intending to fulfill one of the pillars of Islam. Consequently, legal effectiveness in this context requires not only formal law enforcement but also the incorporation of moral accountability and religious values into governance practices.

The theoretical contribution of this research lies in its multidimensional analysis of Hajj governance by integrating theories of legal effectiveness, positive criminal law, Islamic criminal law, and public governance. This study expands the application of Soerjono Soekanto's theory of legal effectiveness by demonstrating that the effectiveness of law depends not only on legal substance but also on institutional integrity, political conditions, legal culture, and societal trust. Furthermore, this research contributes to the discourse on Islamic legal studies by emphasizing that Islamic criminal law principles, particularly the concept of *ghbulul* and ta'zir sanctions, remain relevant in strengthening anti-corruption frameworks in contemporary public administration. Practically, this study contributes

policy recommendations regarding the importance of strengthening institutional oversight, increasing transparency in Hajj fund management, implementing digital governance systems, conducting independent audits, and imposing stricter sanctions on public officials involved in corruption cases related to Hajj administration.

Despite these contributions, this research has several limitations. First, the study relies primarily on normative legal analysis and secondary data sources, limiting the scope of empirical investigation into the practical implementation of Hajj governance across different regions in Indonesia. Second, the research focuses mainly on one major corruption case involving Hajj funds, thereby limiting comparative analysis with other corruption cases or international models of pilgrimage governance. Third, the study does not comprehensively examine the perspectives of pilgrims, civil society organizations, or law enforcement officials through extensive field research. These limitations indicate that the findings of this research should be interpreted within the specific legal and institutional context examined in this study.

Therefore, future research is recommended to adopt broader empirical approaches involving interviews, surveys, and comparative studies concerning Hajj governance in different countries with large Muslim populations. Further studies may also analyze the effectiveness of digital governance systems in preventing corruption within religious public services, as well as the role of civil society participation in strengthening accountability and transparency in Hajj administration. In addition, future research should examine the integration of Islamic ethical principles into national anti-corruption policies in order to develop a more comprehensive and culturally relevant legal framework. Through these approaches, future studies are expected to contribute to the development of a more effective, transparent, and accountable system of Hajj governance capable of protecting public trust and safeguarding the sanctity of Hajj administration in Indonesia.

REFERENCES

- Audah, A. Q. (2005). *Al-Tasyri' al-jina'i al-Islami muqaranan bi al-qanun al-wad'i*. Dar al-Kitab.
- Djaja, E. (2010). *Redesigning the corruption crime court*. Sinar Grafika.
- Elwi, D. (2016). *Corruption: Criminal acts and their eradication*. Rajawali Press.
- Indonesia. (1945). *The 1945 Constitution of the Republic of Indonesia*.
- Indonesia. (1999). *Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption*.
- Indonesia. (2001). *Law Number 20 of 2001 concerning amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption*.

Effectiveness of Regulations in Handling Hajj Qoutas in Indonesia

Mustafa

DOI: 10.58824/arjis.v5i1.512

Indonesia. (2014). *Law Number 34 of 2014 concerning Hajj Financial Management*.

Indonesia. (2019). *Law Number 8 of 2019 concerning the Implementation of Hajj and Umrah Pilgrimages*.

Indonesia. *Criminal Code (Kitab Undang-Undang Hukum Pidana/KUHP)*.

Supreme Court of the Republic of Indonesia. (2018). *Supreme Court Decision Number 302 PK/Pid.Sus/2018*.

The Central Jakarta District Court. (2015). *Decision Number 93/Pid.Sus/TPK.2015/PN.Jkt.Pst*.

Thohari, F. (2018). *Hadith abkam: A study of hadiths on Islamic criminal law (hudud, qishash, and ta'zir)*. Deepublish.