



Analysis of Health Istitha'ah For the Postponement of The Departure of Hajj Pilgrims According to The Perspective of Fiqh Siyasah

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Abstract - The Indonesian government has made health istitha'ah a mandatory condition for the Hajj pilgrimage. On January 9, 2024, the government updated the regulations concerning health istitha'ah, making it a prerequisite for the repayment of BIPIH (Hajj costs). This research uses normative research methods or library research from various trusted sources. The results of this research show that the government made changes to regulations because many Indonesian Hajj pilgrims died in the holy land in the past, and it is hoped that this change can prevent Hajj pilgrims from dying. This new regulation is not intended to make things difficult for Hajj pilgrims, their departure will only be postponed and put back in the queue, and if the following year they have recovered, they can depart. According to Siyasah Fiqh, this change is good, because it prioritizes the safety of the Hajj pilgrims. Apart from that, this decision is also in line with the rules in Al-Darurah Fiqh, namely, avoiding damage takes priority over achieving benefit.

Keywords: Changes to The Rules, Istitha'ah, Fiqh Siyasah.

I. INTRODUCTION

Carrying out the Hajj if able is one of the five pillars of Islam that must be carried out by Muslims. Unlike the other four pillars of Islam, Hajj is only mandatory for Muslims who are given abilities by Allah SWT, be it physical, financial, health and circumstance. The word hajj in language can be interpreted as visiting. Meanwhile, according to the term hajj, it can be interpreted as the activity of visiting baitul haram with the intention to do a certain practice such as wukuf, mabit, jumroh, tawaf, sai and others which are carried out at a predetermined time. Quraish Shihab explained that man is commanded to carry out this will of Allah to see Baitullah and find security and tranquility and peace there. Performing Hajj is indeed Allah's command to humans, but Allah is the most just and wise substance, (Shihab, 1998) In His words, Allah SWT explains that Hajj is only obligatory for Muslims who are able, both physically and spiritually. So, it can be understood that Allah forgives and forgives people who do not have the ability to perform the hajj. Meanwhile, for Muslims who are able and meet the requirements to go on the hajj but consciously and deliberately abandon the command of Allah, then pray for them because they reject the call of Allah SWT.

In Indonesia itself, there are thousands of pilgrims who depart for Mecca every year. This is natural, considering the majority of Indonesian people are Muslims and how urgent the hajj is for the perfection of worship. Hajj pilgrims from Indonesia are dominated by the elderly. Where it can be understood together that elderly people have begun to experience a phase of physical degeneration which affects the decline of the body's metabolism and the vulnerability of the body's immune system. Meanwhile, excellent physical condition is very necessary for pilgrims who want to go to Mecca because when traveling on the hajj there will be many series

of activities that require good physical condition to be strong in carrying out the hajj, (Siregar & Sazali, 2024) According to (Yanis, 2024), the hajj is an activity that is filled with 70% physical activities and 30% spiritual worship activities that do not require physicality. So the author can interpret that the activities of the Hajj dominated by physical activities, therefore the excellent health of the pilgrims is needed for the continuity of the smooth hajj pilgrimage, Alya R. Siregar dan Hasan hadi, (2015). In 2024, there will be changes in regulations related to the implementation of this health Istitha'ah. Where previously prospective pilgrims had to pay off the Hajj Travel Fee (BIPIH) only after being able to do health Istitha'ah, but in 2024 the regulation has changed to Hajj pilgrims are required to do health Istitha'ah first before finally being able to pay off the Hajj Travel Fee (BIPIH). The decision on the amendment of the regulation is written in the Decree of the Director General of Hajj and Umrah Organizers Number 83 of 2024, where it is explained that in the payment of Hajj Travel Costs in 1445 H/2024 AD, health Istitha'ah is a mandatory requirement to be carried out by pilgrims before paying off the remaining costs.

It should be noted that before the regulations are changed by the Ministry of Religious Affairs (Kemenag), pilgrims must first pay off BIPIH before performing health Istitha'ah. Because of this, pilgrims who are not in good health will still try to participate in the implementation of the hajj in accordance with the queue number that has been given in advance. Because it could be that when a health test is carried out, the fitness of a pilgrim is not very good, but on the day of departure he is healthy and very fit. According to the author, this can happen seeing the condition of the congregation which is dominated by the elderly over 50 years old. Meanwhile, the new regulation issued by the Ministry of Religion in 2024 requires pilgrims to perform health Istitha'ah first before paying BIPIH in full. As a result, many pilgrims whose departure had to be postponed due to health that did not meet the standards. This obviously makes many pilgrims who have been waiting for a long time disappointed because their departure has to be postponed. It should also be noted that the average waiting period for Hajj in Indonesia reaches 20 years. So, you can imagine how disappointed the pilgrims who have been waiting for that long, and when it is their turn, their departure has to be canceled due to Istitha'ah health that does not meet the standards. Obviously, this is a new problem.

As a result, many prospective pilgrims fail to go on hajj and have to wait longer. Moreover, most prospective pilgrims have an average age of 50-70 years. At such an old age, perhaps some prospective pilgrims can only cry and lament their fate because they do not have the energy to protest. With all the considerations for the obstacles and problems that can occur, why did the Ministry of Religion make such a decision? So that in 2024 a new regulation will be triggered to replace the long-running regulation.

II. METHOD

The type of research used by the author is normative juridical research (literature research). Literature research is research that describes the study of documents or literature using various secondary data such as court decisions, laws, legal theories, and the opinions of experts and scholars. Normative legal research differs from other types of legal research because it focuses on the analysis of legal norms, principles, and doctrines rather than empirical data or social facts. It is concerned with what the law should be and often involves the interpretation of legal texts, such as statutes, regulations, and case law, to establish legal arguments or assess the coherence and consistency of legal rules. This approach is particularly suitable for your study because you are analyzing the new regulation regarding health istitha'ah in the context of Fiqh Siyasah, which requires an examination of Islamic legal principles and their application to contemporary issues. Normative research allows you to explore how these principles justify or challenge the regulation and to assess its alignment with broader religious and legal doctrines.

The approach used by normative law research is to use qualitative analysis, which is to interpret existing data with statements and not with numbers. Meanwhile, the matters studied in normative law research include, legal principles, systematics, inventory, clinical law,

synchronicity, legal comparison, and history. This type of normative juridical research requires the author to collect data from existing reading materials or libraries. In this case, the author adjusts the literature materials with the title that the author raised, namely: "Analysis Of Health Istitha'ah For The Delay Of The Departure Of Hajj Pilgrims According To The Perspective Of Fiqh Siyasah".

III. RESULT AND DISCUSSION

Qaidah Fiqh Haji

Haji Meaccording to Syara' is to deliberately visit *Ka'bah* (الكعبة) carry out deeds of worship that have been taught in Islam. Previously, it was discussed about istitha'ah, So it is necessary to first know about the rules Fiqh haji. According to Sulaiman Rashid, the hajj is a worship that is obligatory for people who can afford it, at least once in a lifetime. If a person who already has the ability to perform Hajj But he continued to delay his Hajj and did not immediately leave for Hajj, so he sinned for his negligence. The conditions for Hajj are Islam, Reason, Puberty, and power (willing).

Being able in this case is divided into two types, namely: First, being able to support himself while in the holy land and also supporting his family that he left at home. Second, it is capable in terms of transportation or transport vehicles for travel to Makkah, (Rasjid, 2016) Regarding one of the requirements for Hajj, namely puberty or adults to perform Hajj, the question arises, what if there are children who have not yet reached puberty to perform Hajj? If this happens, then children who leave for Hajj when they are not yet puberty are still valid, but are considered sunnah. So when the child is an adult, he is obliged to perform the hajj again.

In Islamic law, women are not allowed to travel far without their mahram or husband, just like performing Hajj. An akhwat must perform the hajj together with his mahram or her husband. However, if her husband cannot accompany her or does not have a husband, then the woman can be accompanied by other women she trusts. (Bobihu, 2023). The matter of badal hajj is also explained in the rules of Hajj Fiqh , where badal can be interpreted as performing hajj or representing others in performing hajj. Badal Hajj can be done if there is someone who has the ability to perform Hajj but before he has time to perform it he dies, then his Hajj can be performed on behalf of the deceased person.

Badal Hajj can also be performed by people who are weak or seriously ill and do not have the physical ability to perform Hajj, however having the ability to find people to represent him, then he can perform his hajj. It should be underlined that not just anyone can represent someone to perform Hajj, the person who performs the hajj or the one who performs the hajj is a person who has previously performed the hajj at least once. Then can a person who is blind or has a physical defect since birth be able to perform his Hajj? People who have physical shortcomings are still obliged to perform Hajj if they are physically and spiritually capable, because many things can be used as a tool, especially in this modern era, so these shortcomings can be covered and not be a reason to perform Hajj, especially not to the point of not performing Hajj.

Health Istitha'ah Regulations

Muslims who want to carry out the hajj need istitha'ah as one of the conditions for hajj. Etymologically, the word Istitha'ah can be interpreted as being able or capable of carrying out an activity. Meanwhile, according to the terminology of Istitha'ah means being able in terms of soul, body, property, and time in carrying out the hajj. The word Istitha'ah or الاستطاعة In the Arabic dictionary it has more than one meaning, namely capable, obedient, strong, and also powerful. In addition to istitha'ah, there is another word that has a similar meaning to this word, namely wus'u. The word wus'u in the Arabic dictionary means an ability or capacity that a person has. The two words have similar meanings, namely the ability or ability to carry out Allah's obligations. However, the two words have differences in the context of different

obligations to perform worship, where the term istitha'ah is only used in the study of hajj worship, while wus'u includes other worships such as prayer and fasting, along with other worships, (Munawwir, 1997)

In the Qur'an, it is also explained related to health Istitha'ah , namely in surah Al-Imran verse 97:

فِيهِ آيَاتٌ بَيِّنَاتٌ مِّمَّا يُبَيِّنُ اللَّهُ لِبَنِي إِسْرَائِيلَ وَمَنْ دَخَلَهُ كَانَ آمِنًا ۗ وَاللَّهُ عَلَى النَّاسِ حَاسِبٌ عَدْلٌ
إِلَيْهِ سَبِيلًا ۗ وَمَنْ كَفَرَ فَإِنَّ اللَّهَ غَنِيٌّ عَنِ الْعَالَمِينَ

It means: "There are clear signs, (including) Ibrahim's tomb. Whoever enters it (Baitullah) is safe. And (among them) the obligation of human beings to Allah SWT is to perform the Hajj to Baitullah, namely for those who are able to carry out the Hajj trip there. Whoever denies (obligation) of Hajj, then know that Allah is the richest (does not need anything) of all nature" Surah Al-Imran Verse 97..

In the tafsir of Wajiz, the sentence "for those who are able" is interpreted as an obligation for mankind to Allah in carrying out Hajj is for Muslims who have reached puberty or who have been able to reason well, people who are able to carry out long journeys to Baitullah, have enough provisions for themselves and for their families who are left at home, physical ability, Having means of transportation and having security in travel, and whoever claims to be Muslim but does not practice it, then he is actually considered an infidel, Ibnu Athiyah (2011).

The evidence of istitha'ah is also enshrined in surah Al-Baqarah verse 196, which reads:

وَأَتِمُّوا الْحَجَّ وَالْعُمْرَةَ لِلَّهِ ۚ فَإِنْ أُحْصِرْتُمْ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ ۚ وَلَا تَحْلِقُوا رُءُوسَكُمْ حَتَّىٰ يَبْلُغَ الْهَدْيُ مَحَلَّهُ ۚ فَمَنْ كَانَ مِنْكُمْ مَّرِيضًا أَوْ بِهِ أَذًى مِنْ رَأْسِهِ فَفِدْيَةٌ مِنْ صِيَامٍ أَوْ صَدَقَةٍ أَوْ نُسُكٍ ۚ فَإِذَا أَمِنْتُمْ ۚ فَمَنْ تَمَتَّعَ بِالْعُمْرَةِ إِلَى الْحَجِّ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ ۚ فَمَنْ لَمْ يَجِدْ فَصِيَامٌ ثَلَاثَةِ أَيَّامٍ ۚ فِي الْحَجِّ وَسَبْعَةٍ إِذَا رَجَعْتُمْ ۚ تِلْكَ عَشْرَةٌ كَامِلَةٌ ۚ ذَلِكَ لِمَنْ لَمْ يَكُنْ أَهْلَهُ حَاضِرِي الْمَسْجِدِ الْحَرَامِ ۚ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ شَدِيدُ الْعِقَابِ

It means: "And complete the hajj for Allah's sake. If you are besieged or sick, then (slaughter) the qurbani that is easy to obtain, and do not shave the hair of your head, before the qurbani reaches the slaughterhouse. If any of you is sick or has a disturbance in his head (then he shaves), then it is obligatory for him to do fidyah, namely: fasting or giving alms or qurbani. If you are safe, then whoever wants to perform Umrah before Hajj (in the month of Hajj), (it is obligatory for him to slaughter) qurbani that is easy to get. But if he does not find, then it is obligatory fasting for three days during the hajj and seven days when returning home. Those are the perfect ten" surah Al-Baqarah ayat 196.

According to the interpretation of Imam Ash-Shaukuni, the sentence "if you are besieged" means that there is something that hinders the implementation of the hajj for you, be it because of illness or other things that make the hajj impossible to do, then instead slaughter the qurbani that is easy to get, (Syaukani, 2009). It is also related to istitha'ah, if there is no obstacle in anything, then it is obligatory by law to perform Hajj for Muslims, if there is no obstacle but does not perform Hajj, then the person is considered an infidel. Because istitha'ah means ability, this istitha'ah is divided into two types, namely physical problems and property problems. In the matter of property, people who want to depart or send others to the

Holy Land must use halal property, besides that it is also not allowed to perform the hajj by burdening and imposing, let alone abandoning.

The point is, Muslims who want to perform Hajj must collect money to perform Hajj with money generated from halal hard work, not from the proceeds of stealing, not from the proceeds of corruption or money obtained from similar crimes, if it is done then the law of Hajj is haram for him. People who perform Hajj should also not impose their will if their economy is indeed unstable, let alone abandon their families at home. It is also forbidden to sell the house where his family lives for the cost of going to Hajj because it means that he abandons his family. People who have money to perform Hajj but have a lot of debt to others are also prohibited from performing Hajj because paying debts must be expedited and the Hajj should not be forced. Even if the person has succeeded in collecting money to go on Hajj but his family's economy is in an unstable state, then he is obliged to precede the interests of his family, and really forcing Hajj for that person is haram.

In addition to the problem of property, there is also a physical problem, where this physical problem is istitha'ah which refers to the health ability of a pilgrim. This health includes the physical and mental abilities of the pilgrims, for which the health examination of the pilgrims is the responsibility of the government in determine the status of his health istitha'ah. Meanwhile, prospective pilgrims with disabilities or special needs are not categorized as sick people. That is, if the prospective Hajj pilgrims with disabilities have good physical and mental health, then they are welcome to carry out the Hajj with a companion. In 2024, the Ministry of Religion will make pilgrims with disabilities a special concern so that currently pilgrims with disabilities can go on Hajj accompanied by companions from their families.

If there is a person who is capable in terms of physical and property but he does not perform the Hajj, then he will die in a state of ignorance, as explained in the following hadith: (al-Albani, 2013).

قَالَ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: مَنْ لَمْ تَحْبِسْهُ حَاجَةٌ ظَاهِرَةٌ أَوْ مَرَضٌ حَاسِسٌ أَوْ سُلْطَانٌ
جَائِرٌ وَلَمْ يَحْجَّ فَأَيَّمْتُ إِنْ شَاءَ يَهُودِيًّا وَإِنْ شَاءَ نَصْرَانِيًّا

It means: "The Prophet (peace and blessings of Allaah be upon him) said, "Whoever is not hindered by real wishes or diseases that can hinder him or because of a tyrannical leader and then he does not perform Hajj, then he should die in the state of a Jew or a Christian (HR. Ibn Hibban and Al-Baihaqi)".

In addition, there is also a hadith that explains that if you are able to perform Hajj but do not perform Hajj, then you are included in the group of obstructed people:

يَقُولُ اللَّهُ ﷻ : إِنْ عَبْدًا صَحَّحْتُ لَهُ جِسْمَهُ وَوَسَّعْتُ عَلَيْهِ فِي الْمَعِيشَةِ فَمَضَى عَلَيْهِ
خَمْسَتُ أَعوَامٍ لَا يَفْدُلِيَّ لِمَحْرُومٍ

It means: "Allah said, indeed, a servant whom I have given the health of the body and I have given his life, and then five years have passed to him and he has not visited me (Hajj), so he is really an obstructed person (mercy) (HR. Ibn Hibban)". With this, it is clear that if a person has the ability to perform Hajj both physically and financially, then it is obligatory to perform Hajj as soon as possible and not to delay, because Hajj is a call from Allah that must be carried out and accelerated.

Several stages are needed in conducting a health examination to determine the results of the health status of prospective pilgrims. This stage of the examination process is very important for prospective pilgrims, because this process is carried out to ensure that all pilgrims who carry out the hajj are in good physical condition and health so that they are able

to carry out the entire series of worship that requires a lot of stamina and endurance (Arsyad et al., 2024). This is explained in Law Number 13 of 2008 concerning the Implementation of Hajj, where the party responsible for the implementation of the Hajj must provide the best guidance, service, and protection possible to the pilgrims, so that the pilgrims can carry out the Hajj ibadah as best as possible in accordance with religious provisions without any hindrance.

The Ministry of Religion and the Ministry of Health provide criteria or groups in determining health Istitha'ah for pilgrims. This determination is divided into four groups of health Istitha'ah status, namely: First, pilgrims who meet the health standards of Istitha'ah for pilgrims. Hajj pilgrims with this criterion are pilgrims who are declared healthy and able to carry out the hajj without any obstacles and obstacles. Hajj pilgrims who fall into this criterion have excellent physical health conditions and do not have diseases that can interfere with the continuation of the hajj. In addition to the physical condition of the pilgrims in this criterion, they also have adequate mental health conditions. Second, pilgrims who meet Istitha'ah health standards with companions. Hajj pilgrims who fall into this second criterion are allowed to carry out the hajj on the condition that there is a person or officer accompanying them. Usually, there are several pilgrims who need companions in carrying out a series of hajj activities.

This service in the form of a companion is provided specifically to pilgrims with unstable health conditions so that they require extra supervision in carrying out the hajj. Third, pilgrims who do not meet the requirements of Istitha'ah for temporary health. Prospective pilgrims in this category are not allowed to perform the hajj for a while, or rather their departure is postponed until their health improves. Prospective pilgrims who are included in this criterion are still given the opportunity to improve his physical condition by taking care or undergoing treatment so that his condition can recover. Fourth, pilgrims who do not meet the criteria for permanent Hajj health Istitha'ah. Hajj pilgrims who are in the fourth group are declared to be no longer able to carry out the hajj as a result of their inadequate health conditions. The results of the medical examination are used as the main consideration in making the decision, this is done to avoid the worst risk so that there are no unwanted incidents considering the results of the examination.

This must be identified with certainty so that there are no mistakes and do not cause unwanted problems. Therefore, the Ministry of Religion and the Ministry of Health provide a fairly strict scheme template in terms of health Istitha'ah eligibility. They carry out health checks more strictly and in stages in order to identify exactly the physical health conditions that meet the health requirements of the pilgrims who will depart. In addition to strict health checks, the Ministry of Religion and the Ministry of Health also provide education and trainings on health and what dangers can occur at any time during the Hajj trip that they will carry out. This training is very useful for pilgrims, because with this pilgrim who do not know the situation there and are not used to the weather there can know what they should do to avoid illness and maintain fitness, (Muslihuddin et al., 2024)

Related to public sentiment towards the Covid-19 pandemic, the government also requires vaccination. In addition to covid vaccination, pilgrims are also required to vaccinate against meningitis, influenza, etc. This is done so that there is no spread of disease when carrying out the hajj. One important reason why the series of things above must be done is because most of the pilgrims from Indonesia are filled with elderly people aged 50 years and above. Obviously, this is quite risky considering that the hajj is a worship that is dominated by 70% physical activities. Therefore, this gradual examination is very mandatory for all prospective pilgrims. Vaccination is also mandatory so that there is no spread of disease, because it is feared If one person is infected with a virus, then others can also contract the same virus, (Kartika et al., 2021)

One thing that needs to be underlined from this health regulation is that there are changes related to the regulations on health Istitha'ah. Where in the past health Istitha'ah examinations were carried out before pilgrims paid the Hajj Travel Fee (BIPIH), now there is a change in regulations, where pilgrims are required to carry out a health Istitha'ah examination as a mandatory condition for paying off the Hajj Travel Fee (BIPIH). Automatically

the current health Istitha'ah examination is carried out before making the repayment. So, it is clear that there is a difference between the old Istitha'ah regulations and the new ordinance.

Implications of Changes in Regulations on the Postponement of Hajj Departure

In 2024, there will be a change in regulations related to health istitha'ah, which is written in the Decree of the Director General of Hajj and Umrah Organizers Number 83 of 2024. The main reason for the emergence of this problem is the change in health Istitha'ah regulations by the Ministry of Religion. Which before changing the procedure is that prospective pilgrims carry out a series of health Istitha'ah checks, only after that the pilgrims can pay BIPIH. The main point is that in the past, prospective pilgrims whose results from the Istitha'ah health examination did not meet the standards will still try to depart by taking care of several files, this can be done because the repayment has been made at the beginning, it has been paid off before the health Istitha'ah examination is carried out, so there is no reason to cancel the departure. This old regulation is quite easy for prospective pilgrims and of course makes their hearts calm because their dreams so far to carry out the hajj will be realized. This is what which is inversely proportional after the issuance of a new decision from the Ministry of Religion on

Health Istitha'ah .

On January 9, 2024, the Decree of the Director General of Hajj and Umrah Organizers Number 83 of 2024 concerning Technical Guidelines for the Implementation of Payment of Regular Hajj Travel Fees in 1445 Hijri / 2024 AD was issued. After the regulations are changed and reversed, prospective pilgrims are obliged to carry out a health Istitha'ah examination as a prerequisite for repaying BIPIH, if the results of the health Istitha'ah examination meet the standards, then the prospective pilgrims can continue to pay off BIPIH and depart for Hajj, on the other hand if the prospective pilgrims do not meet the standards of Istitha'ah health, he is not allowed to repay BIPIH. As a result, many prospective pilgrims failed to depart due to the new regulation. This causes disappointment among prospective pilgrims who fail to depart, they can only bite their fingers to hear the results of the health Istitha'ah examination. In fact, waiting for their turn to carry out the hajj has been very long, but when it is their turn, they still have to postpone their departure. This is an irony that if not clarified by the Ministry of Religious Affairs will cause a lot of chaos among prospective pilgrims who fail to depart.

It should be noted that the waiting period for Hajj in Indonesia is not short. The average waiting period for Indonesian hajj pilgrims is 20 years, obviously it is not a short time, it takes patience and a high sense of tawakal to receive it. So you can imagine how disappointed the pilgrims who have waited for 20 years or more and when it is their turn to still have to postpone their departure because they are hindered by health istitha' ah, (Alijaya et al., 2023). The waiting period for pilgrims from Indonesia can be as long as that is because of the many interest of the Indonesian people who want to go to the Holy Land to carry out the 5th Pillar of Islam. This can also happen because the majority of Indonesian people who embrace Islam as their religion, of course it is natural for them to flock to try to perfect their worship as devout Muslims.

Everything that happens in this world must happen for a reason, there is a cause, then there is an effect. Then the question arises, what causes the government to make Health istitha'ah that meets the requirements as a condition for repaying BIPIH? It turns out that the cause of this is the number of previous pilgrims from Indonesia who died in the Holy Land while performing the hajj. The main cause is clearly the age factor of the pilgrims who are dominated by the elderly aged 50-70 years. As a result, the Ministry of Religion requires health Istitha'ah first as a condition in paying off the cost of the hajj, because the Ministry of Religion wants to avoid any pilgrims who die in the Holy Land due to poor health. This is based on previous experiences, where if calculated quite a number of pilgrims died due to illness and fatigue at an age that is no longer young. If you look at this, it seems that the decision from the Ministry of Religion is understandable, because it is done for the common good.

Every decision issued by the government must have pros and cons, this is a very natural thing and always happens in society. Similar to this decision from the Ministry of Religion, some people agree and some others regret the decision. One thing that is the main problem is the age of the prospective pilgrims who are very old, some have even stepped on the head of seven. Obviously, this gives anxiety to the elderly pilgrims because they are afraid that they will not have time to perform the hajj because they do not know how long they will live. From the confusion of the pilgrims, a new question arises, how does the government provide guarantees for prospective pilgrims whose departure is postponed in 2024 because they do not meet Istitha'ah health standards? This question often makes prospective pilgrims worried, there are even some prospective pilgrims who are still on the waiting list to become worried about this news, because they are aware of their condition that is not as fit as when they were young. Fortunately, the government provides guarantees for prospective pilgrims who fail to depart in 2024.

Prospective pilgrims who fail to depart because they do not meet the health Istitha'ah standards will be re-entered into the queue list, then if his health has fully recovered, so the prospective pilgrims concerned can carry out the Hajj in the following year, Decree of the Director General of Hajj and Umrah Organizers Number 83 of 2024 concerning Technical Instructions for the Implementation of Payment of Regular Hajj Travel Expenses in 1445 H / 2024 AD, Chapter VII paragraph (8). One important thing that needs to be underlined is that this guarantee only applies to prospective pilgrims who fail to depart due to health problems, but still have hope or possibility to recover, based on the health Istitha'ah group determined by the Ministry of Religion and the Ministry of Health, these prospective pilgrims are included in the third group or pilgrims who do not meet the requirements of Istitha'ah temporary health. Meanwhile, prospective pilgrims of the fourth group or who do not meet the requirements of Istitha'ah health permanently are still not allowed to carry out the hajj. Hajj pilgrims who fall into this fourth group usually have a history of chronic diseases that can endanger themselves if they force themselves to perform the hajj.

Hearing this explanation, prospective pilgrims can breathe a sigh of relief, because they will still be sure to be dispatched to the Holy Land to carry out the hajj. Meanwhile, prospective pilgrims who have a severe illness who are not allowed to go on Hajj will receive a refund of the initial fee. According to the author, the illness can vary, there are diseases that can be categorized as mild diseases, there are also diseases that are categorized as severe diseases. Colds and heart attacks are both referred to as diseases, but obviously the level of danger is different. A cold can be cured in two to three days if you maintain a lifestyle and take medication well, but heart disease cannot be considered trivial and if it recurs, you must be hospitalized. And in this new regulation, it is impossible to continue to perform the hajj if the Istitha'ah health does not meet the standards. It should be underlined that pilgrims who do not meet health requirements are pilgrims with criteria for chronic diseases such as heart disease, kidney failure, chronic lung disease, HIV/AIDS, and other life-threatening diseases.

It must be noted that prospective pilgrims who fail to depart permanently because they have an acute illness are included in the group whose hajj obligation has been lost. So the pilgrims who failed to depart do not need to be sad or stressed in responding to this. God will, because indeed Allah understands the condition of his people and will not giving trials beyond human ability. The badal hajj can be done, but with certain conditions. Badal Hajj is Hajj for people who are no longer able to perform Hajj, in other words their Hajj is represented by others. A person can perform his hajj on the following conditions: first, if the person concerned has died, then his hajj can be performed. Second, if the person concerned is eligible not to perform the hajj in terms of physical and health, then it is permissible to perform the hajj to another person, provided that the person who performs the hajj has performed the hajj at least once, (Jahada Mangka et al., 2024)

Changes in Health istitha'ah regulations in the Perspective of Fiqh Siyasah

As Muslims who feel capable, Hajj is an obligation that must be fulfilled as an effort to achieve perfection of worship. On the other hand, the government provides requirements and

qualifications to prospective pilgrims who intend to perform the hajj. For example, a prospective pilgrim feels capable in terms of health, but the government represented by health workers states that he does not meet the health requirements, if this happens, then the prospective pilgrim concerned must heed the government's decision. So, what is the perspective of Fiqh Siyasah in looking at changes in regulations related to health Istitha'ah carried out by the government? explained that the decision issued by the Ministry of Religion through the Decree of the Director General of Hajj and Umarh Number 83 of 2024, does not contradict Fiqh Siyasah. Because if the line is drawn backwards, the reason the Ministry of Religion does this is because of the many casualties from these activities, and this is also done for the sake of the fame of the community.

The new decision related to health Istitha'ah issued by the Ministry of Religion has implications for the number of delayed departures of prospective pilgrims, this causes disappointment and fatigue. In the past, when the old regulations were still in effect, prospective pilgrims who had problems with health istitha'ah would still be tried to depart by taking care of certain files, but now this cannot be enforced again. Indonesia is a Pancasila-based country, so every citizen is obliged to follow what has been enacted by the government, including the decision, but when studied with Fiqh Siyasah, prospective pilgrims who fail to go to Hajj due to illness are among those who have lost their obligation to perform Hajj, because they no longer have the ability to support themselves to perform Hajj, (Yanis, 2024)

Similar to people who cannot afford Hajj due to economic problems, the person does not have the obligation to Hajj because he does not have money. Even though he has a strong spirit to accumulate money for Hajj, he is still not obliged to perform Hajj because he must prioritize his family's economy first, imagine if he performs the Hajj but his wife's children at home are starving, such a situation certainly should not happen. These things are the main focus of Fiqh Siyasah in looking at this case. If you are not able to do it, do not force it, Allah will not curse those who fail to perform the hajj because of their inability to perform physical condition. However, Allah will undoubtedly still see the intention of a Muslim in his desire and effort in carrying out the Hajj, God willing, it will still be a very valuable practice.

Related to the problems that have been explained, the author further conducted research with the study of Fiqh Siyasah Idariyyah. That is the science of Fiqh which explains the state administration of a state institution. Regarding Istitha'ah health, it is still included in the administrative requirements for the departure of Hajj, therefore Fiqh Siyasah idariyyah is very relevant to the research made by this author. If we talk about health checks, it is very related to the Ministry of Health and medical personnel, therefore this health Istitha'ah really needs the role of the Ministry of Health. They are the ones responsible for the health checks of prospective Indonesia pilgrims. And in the process, the Ministry of Religious Affairs collaborated with the Ministry of Health in monitoring health Istitha'ah activities, (Iqbal, 2014) Health checks are very important in the hajj departure process because they are mandatory administrative requirements. For the record, the Head of the PHU Section of the Ministry of Religion

Batam City Syahbudi provided information that health checks for pilgrims have the purpose of identifying factors of health risks that can cause problems when pilgrims are in the Holy Land. Therefore, control efforts have been carried out since it was still in the country. This explanation is clarified by the existence of a hadith related to this matter, where the hadith reads:

عَنْ أَبِي سَهْدٍ سَهْدِ بْنِ مَالِكِ بْنِ سِنَانَ الْخُدْرِيِّ رَضِيَ اللَّهُ عَنْهُ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: لَا ضَرَرَ وَلَا ضِرَارَ

It means: "From Abu sa'id sa'd bin Malik bin Sinan Al-Khudri radihyallahu anhu, the Prophet PBUH said, There should be no danger and there should be no harm" (HR. Al-Hakim), (al-Albani, 2013)

To discuss this matter more deeply, the author also relates this problem to Fiqh Al-Darurah or Emergency Syar'iyah, where the concept of Fiqh explains how to make decisions when something emergency or urgent happens. This Syar'iyah emergency is very related to what happened to Indonesia's pilgrims. Fiqh Al-Darurah or in Indonesian often called Emergency Fiqh can be defined as a science of Fiqh that has the purpose of providing answers to problems caused by emergency situations by prioritizing the rules of sharia law in handling a difficult situation. Fiqh Al-Darurah exists to realize human fame by eliminating difficulties among humans, especially in emergency or urgent matters, besides that Fiqh Al-Darurah is also a tool to protect the fame of the community based on maqashid shar'iyah, (Seha et al., 2022)

Islamic law or sharia is determined to bring good and stay away from evil. However, there are times when a difficult condition comes that requires an exception, Islamic law can be used as an alternative solution in considering all aspects of the emergency. To realize and maintain a benefit among humans, a Fiqh scholar is obliged to carefully compare the positive and negative things that can occur among humans, (Rohman et al., 2024) In fact, when there is an emergency and you have to choose one of two things that both have a bad impact, you have to choose the one that has a smaller negative impact. A scholar must consider this in issuing a fatwa for an emergency case, so that the scholar can provide an alternative through Fiqh Al-Darurah and by looking intensely at the emergency situation that occurs, so that the benefits can still be maintained and human beings are avoided from damage. This information is supported by a Qaidah Fiqh which reads :

دَرَأُ الْمَفَاسِدِ مُقَدَّمٌ عَلَى جَلْبِ الْمَصَالِحِ

It means: "Preventing mafsadah comes first from bringing benefits". (Muthalib, 2022)

Ibn Taymiyah also explained the same thing, where he explained that bad things can be chosen with two purposes and reasons. First, avoid choosing the one that has the greatest negative impact or damage if in a condition where it is necessary to choose one of two things that both have a negative impact. Second, taking a choice that has a less adverse impact if in a condition it is necessary to choose one of two things that both have a negative impact. Furthermore, Ibn Taymiyah also explained that good things can be abandoned if they are in two conditions. First, if given the choice to choose one of two good things, then you must choose the thing that has the greatest good impact and leave out the small one. Second, if when choosing good things actually causes bad impacts or has negative implications. In this condition, good things can be left behind. According to Ibn Taymiyah, an intelligent person is not the one who knows which is good and which is bad, but he who knows which is the best of the two good and which is the worst of the two, (Jundi & Syarqowi, 2006)

If examined, this has similarities with the cancellation of the departure of some pilgrims because they do not meet health istitha'ah standards. The government, especially the Ministry of Religion, was given two options, both of which had negative implications for the impact, the first was that they canceled the departure of Hajj for several pilgrims who did not meet health requirements, the bad impact of several Hajj pilgrims failing to leave for Hajj in 2024. Second, they continue to dispatch prospective pilgrims whose health does not meet the standards, with the worst impact that can occur is that the pilgrims can die from fatigue and illness due to the many activities carried out when performing hajj and health factors that do not meet the standards from the beginning. Seeing these two possibilities, it is clear that the Ministry of Religion chose the first option, which is to temporarily cancel the departure of several prospective pilgrims who do not pass the health qualifications. This is to protect the benefits of pilgrims from Indonesia and prevent bad events in the past from recurring.

IV. CONCLUSION

From the explanation above, it can be concluded that the amendment of regulations on health istitha'ah regulated in the Decree of the Director General of Hajj and Umrah Implementation Number 83 of 2024 concerning Technical Instructions for the Implementation

of Payment of Regular Hajj Travel Costs in 1445 H / 2024 AD, makes procedures from istitha'ah health has changed. Where previously prospective pilgrims had to pay off BIPIH first and then then carry out a health istitha'ah examination, changed to, prospective pilgrims must carry out a health istitha'ah examination as a prerequisite for repayment of BIPIH, which if the prospective hajj pilgrim has a test result from his health examination below the standard, then he is not allowed to pay off BIPIH, as a result this has implications for cancellation Hajj departure for some prospective pilgrims. This change in regulation has been effective since the decision was issued, namely on January 9, 2024.

The reason why the government has made health istitha'ah a mandatory requirement for pilgrims who want to pay BIPIH is because of the aftermath of the many pilgrims from Indonesia who died in the Holy Land. So what the government wants to do is to prevent the bad experience in previous years from happening again, although in the end it must be given up that there must be several pilgrims who fail to go on the hajj. But again, it was emphasized that this was all done because of thinking about for the common good, for the sake of no more pilgrims who die in the Holy Land due to fatigue, illness, and so on. It is hoped that this new procedure can reduce or even prevent casualties who are sick or die when performing the hajj. As for prospective pilgrims who fail to depart in 2024, there is no need to worry too much, because the government guarantees that if the prospective pilgrims concerned have returned to prime physical condition, they will be departed for the Hajj the following year.

So are people who have physical deficiencies categorized as people who do not meet the requirements for health istitha'ah? According to the Ministry of Religion, the condition of disability from birth is not a condition that can make a person fail a health istitha'ah examination. Pilgrims with disabilities are a special concern for the Ministry of Religion and physical deprivation is not an obstacle. As long as he has good physical and spiritual health despite his physical shortcomings, he can still depart using a Hajj companion. Istitha'ah actually includes two things, in addition to physical problems, istitha'ah also discusses the problem of property. If physical problems are related to physical and spiritual health, then property problems are related to the economic condition of the pilgrims. It should be underlined that carrying out Hajj must use property produced in a halal way and not by stealing, corruption and so on. In addition, the hajj should also not be forced, let alone abandon the family. Even if a person manages to accumulate wealth to carry out Hajj, but his family's economy is still bad, what must be prioritized is his family's economy. If there is a person who forces Hajj and then abandons his family at home, then the Hajj law for him becomes haram.

According to Fiqh Siyasah's view, the changes made by the government are good and do not violate sharia. Because, as previously explained, this is done for the common good. In addition to that, it should also be noted that Fiqh Siyasah considers people who have diseases and are not able to be in health as a group of people whose obligation to perform Hajj is lost, even though they are financially capable. In addition, this can also be studied with Fiqh Al-Darurah, where Fiqh This is a science used to find solutions in difficult situations or emergencies. In this case, the government reluctantly canceled the departure of prospective pilgrims who did not pass the requirements of health istitha'ah in order to avoid difficult and emergency situation, namely avoiding the presence of pilgrims who died in the Holy Land. In a postulate of the rules of ushul Fiqih related to Fiqh Al-Darurah it is explained that "preventing mafsadah or damage takes precedence over bringing harm". In addition, in Fiqh Al-Darurah it is also explained that if it is required to choose two options that both have a bad impact, then it is required to choose the one that has the least bad impact and stay away from the one that has a greater bad impact. With this explanation, the changes made by the government are considered understandable even though this decision is not spared from pros and cons.

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