

Religious Freedom and Hajj Quota Redistribution in Indonesia: Lessons from Malaysia

Wika Milatul Jannah¹, George Mulingi Mugabe²

¹ Faculty of Law, Universitas Trunodjoyo Madura, Indonesia

² Kepler College, Rwanda

Corresponding Author: milawika07@gmail.com

ARTICLE INFO

Article History

Received: May 12, 2026

Revised: August 16, 2026

Accepted: August 24, 2026

Keywords

Religious Freedom;
Human Rights;
Hajj Quota;
Hajj Administration.

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ABSTRACT

This study analyzes Hajj quota allocation from the perspective of the constitutional right to freedom of religion, as guaranteed by Article 28E, Paragraph (1), and Article 29 of the 1945 Constitution, as well as international human rights instruments. To date, there have been very few studies that frame the management of Hajj quotas as part of the state's positive obligation to guarantee freedom of religion. To address this gap, the researcher employs a constitutional rights approach and a human rights-based approach using a normative legal methodology through an analysis of legislation, Constitutional Court rulings, and international human rights standards. The research findings indicate that transferring Hajj quotas without a clear legal basis and without pilgrims' consent violates the principles of legality, accountability, non-discrimination, and justice, and reflects political and economic interests that disregard good governance. This study expands the scope of constitutional law by affirming that managing Hajj quotas constitutes a positive obligation of the state to guarantee freedom of religion. Thus, transferring Hajj quotas contradicts the principle of constitutional governance and the state's obligation to protect human rights. Consequently, this study advocates strengthening regulations, establishing independent oversight mechanisms, and enhancing judicial review of Hajj administrative policies to ensure that Hajj administration remains consistent with the protection of citizens' constitutional rights.

Introduction

The Hajj is one of the pillars of Islam that must be performed by every Muslim who is capable, both physically and financially. Performing the Hajj is a testament to a servant's obedience to the commands of his Lord and the laws of the state.¹ For Muslims, the Umrah and the Hajj are considered extremely noble and special acts; the term "noble" in this context refers to the fact that only those who are able and have received a call from Allah to go to the *Baitullah* will, of course, visit the *Baitullah*, which is deeply longed for by all Muslims, not only that, but there are certainly

¹ Abdulaziz H. Alzeer and Jude Abuzinadah, "Beyond Borders: Exploring the Mental, Emotional, and Spiritual Significance of Hajj," *Annals of Thoracic Medicine* 19, no. 3 (2024): 179–89, https://doi.org/10.4103/atm.atm_72_24.

countless beauties there; one might even say that Mecca is the birthplace of the most noble human being in the world, whose exemplary life reflected an abundance of goodness. Moreover, the uniqueness in question also stems from the fact that not all Muslims can experience the privilege of being present to witness the beauty of the Baitullah firsthand—only certain individuals whom Allah has predestined. Speaking of Umrah and Hajj, the obligatory pilgrimage in Islam is Hajj, which must be performed at least once in a lifetime. For those who have already performed it, subsequent Hajj pilgrimages are considered *sunnah*, because once someone has completed their first Hajj, they have fulfilled their obligation and upheld the fifth pillar of Islam. Some people often view the title “Hajj” as a status of honor and consider it special. The organization of this pilgrimage encompasses various activities, such as guidance, the provision of services, and protection for the pilgrims, which must indeed be implemented in accordance with.² This religious practice can be performed not only individually but also in groups, considering that, to date, travel agencies and communities—which, by their very nature, organize Hajj and Umrah departures—operate in groups of more than one or two people. Therefore, oversight must strictly enforce the level of protection.³

In Indonesia, the Ministry of Religious Affairs of the Republic of Indonesia (hereinafter referred to as Kemenag RI) regulates and manages Hajj organizers under a quota system established annually by the Government of Saudi Arabia. This quota is divided into the regular Hajj, which is directly managed by the government through the Directorate General (Dirjen) of Hajj and Umrah (PHU), and the Special Hajj, which is managed by private entities that have obtained a license to operate as Special Hajj Organizers (PIHK), in accordance with applicable laws.

The organization of the Hajj and Umrah pilgrimages serves to provide assistance and facilities to pilgrims intending to travel to the Holy Land, in accordance with the commitments made by the organizers. However, in practice, the process has not gone smoothly; specifically, regarding the Hajj, its implementation still requires waiting due to the lengthy waiting list—hereinafter referred to as the “waiting list”—which is one reason for frequent discrepancies in its management. This aligns with the 2023 case, where the Hajj quota was misused, specifically through additional quotas allocated without transparency or accountability.

Looking at the Hajj quota for 2023, the government of Saudi Arabia added a Hajj quota of up to 20,000 pilgrims for Indonesia; however, based on preliminary findings, the Ministry of Religious Affairs divided this quota equally, with 10,000

² Ulfah Alfiyanti et al., “Hajj Financial Management in the Maqāṣid Shari’ah Perspective,” *Al-Ahkam* 29, no. 2 (2019): 203–32, <https://doi.org/10.21580/ahkam.2019.29.2.3893>.

³ Arindika Aprilliani et al., “Peran Bidang Penyelenggara Haji Dan Umrah Kementerian Agama Kabupaten Sumedang Dalam Pelayanan Pendaftaran Haji Tahun 2023,” *Mabrur: Academic Journal of Hajj and Umra* 3, no. 1 (2024): 23–38, <https://doi.org/10.15575/mjhu.v3i1.34925>.

allocated for the regular Hajj and another 10,000 for the special Hajj. This allocation is perceived as contrary to applicable legal provisions and raises public questions about transparency and accountability in managing these quotas.

Furthermore, the special Hajj quotas managed by PIHK have been sold to private travel agencies for a deposit ranging from USD 2,600 to USD 7,000 per quota, or approximately 41 million to 113 million. This practice indicates the commercialization of Hajj quotas, which should rightfully belong to pilgrims based on the official waiting list system. This quota distribution clearly violates applicable legal provisions and constitutes a criminal act of corruption involving officials from the Ministry of Religious Affairs and private travel agencies.

In accordance with Article 64, Paragraph 2 of Law No. 8 of 2019 on the Organization of the Hajj and Umrah, the special Hajj quota should be 8%, while the regular Hajj quota should be 92%. Thus, of the additional 20,000 quota slots granted by the Saudi Arabian government, 18,400 should have been allocated for the regular Hajj and 1,600 for the special Hajj; however, in practice, the process did not proceed as intended, as discrepancies and misappropriation were found in the management of these quota slots. In light of the above case, these actions do not comply with the relevant articles and may constitute corruption, as they align with the elements of a corruption offense—namely, causing financial loss to the state.

Thus, more specific regulations are likely needed to address how Hajj and Umrah pilgrimage quotas should be managed properly and in good faith. Furthermore, enforcing the law is crucial so that, in this context, it is possible to determine who should be held accountable for acts of corruption. This case involves practices that demonstrate the trading of Hajj quotas—quotas that should rightfully belong to pilgrims in the regular queue under the official waiting-list system. It is clear that the allocation of these quotas does not comply with existing legal provisions, giving rise to corruption involving officials from the Ministry of Religious Affairs and private travel agencies.⁴

Thus, although Hajj management is clearly regulated, it cannot be denied that there are weaknesses in the oversight and transparency of Hajj quota allocation—particularly regarding additional quotas—as there are no regulations that explicitly govern how additional quotas should be managed or the administrative sanctions for misuse by Hajj Service Providers (PIHK), thereby raising legal concerns regarding violations of the principles of good governance. Furthermore, the lack of

⁴ Nanang Setiawan, “Ponzi Schemes in the Hajj and Umrah Business: Causes, Methods, Consequences and Prevention,” *Journal of Financial Regulation and Compliance* 33, no. 5 (2025): 743–59, <https://doi.org/10.1108/JFRC-01-2025-0023>.

transparency regarding quota data easily creates opportunities for manipulation and improper collusion between travel agencies and officials.⁵

This case highlights weaknesses in oversight, transparency, and accountability in managing Hajj quotas. The absence of clear regulations concerning additional quotas, coupled with weak administrative sanctions against PIHKs, creates opportunities for manipulation. This also violates the principles of good governance, which should form the foundation for administering the Hajj pilgrimage. Thus, this research is important because corruption in the management of Hajj quotas not only causes financial losses to the state but also undermines the public's sense of justice and trust in the government and religious institutions.

Before conducting this research, the authors first reviewed previous studies relevant to the subject under examination. Existing studies indicate that research on the administration of the Hajj in Indonesia has largely focused on the management and misuse of Hajj funds, including the potential for corruption in their administration and the Islamic legal perspective on Hajj fund governance.⁶ Other studies have examined the vulnerability of Hajj funds to corrupt practices from economic and managerial perspectives, emphasizing transparency, accountability, and the utilization of funds for the benefit of pilgrims.⁷ Meanwhile, several studies have addressed the alleged misuse of additional Hajj quotas,⁸ including the practice of trading special Hajj quotas and the potential resulting losses to the state, while other research has examined institutional problems and delays in law enforcement in addressing alleged corruption involving Hajj quotas.⁹ Although these studies contribute to understanding the governance of Hajj funds, the misuse of Hajj quotas, and weaknesses in law enforcement, research specifically examining the regulation of Hajj quota distribution as a potential object of abuse or corruption, particularly in relation to administrative law mechanisms and the criminal liability of public officials, remains relatively limited. This gap provides an important basis for the present study to examine more specifically the regulatory framework, distribution, misuse, and legal accountability associated with Hajj quota management in Indonesia.

⁵ Nanang Setiawan and Noorlailie Soewarno, "Protection of Hajj and Umrah Pilgrims from Fraud: Evidence from Indonesia," *Share: Jurnal Ekonomi Dan Keuangan Islam* 13, no. 1 (2024): 276–98, <https://doi.org/10.22373/share.v13i1.22865>.

⁶ Achmad Iskandar Zulkarnain et al., "Enhancing Accountability in Hajj Fund Governance Through Regulatory Impact Analysis and Value Chain Model," *International Journal of Cyber and IT Service Management* 5, no. 2 (2025), <https://doi.org/10.34306/ijcitsm.v5i2.205>.

⁷ Setiawan, "Ponzi Schemes in the Hajj and Umrah Business."

⁸ Madalia Faza, "Legal Noncompliance in Indonesia Additional Hajj Quota Allocation," *Academia Open* 11, no. 1 (2026), <https://doi.org/10.21070/acopen.11.2026.13134>.

⁹ Akhmad Fauzin et al., "Special Hajj Polemics in Online Media: Quota Scandals, Corruption, and Demands for Transparency," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, June 30, 2026, 271–85, <https://doi.org/10.24090/volksgeist.v9i1.15310>.

The significance of this study lies primarily in its distinct research focus compared to previous studies. Whereas earlier research often highlighted Hajj funds as the object of corruption, this study specifically focuses on the Hajj quota as the primary subject of corruption analysis. Hajj quotas are viewed not merely as a technical aspect of administration but as part of the pilgrims' rights that must be guaranteed by the state. By focusing on quotas, this study opens up a new perspective that has not been extensively explored in Indonesian legal literature.

This study does not stop at a simple normative analysis but combines *a statute approach* to examine written legal rules, *a conceptual approach* to link principles of good governance, *a case approach* to analyze the 2023 Hajj quota abuse case, and *a comparative approach* to compare Hajj quota management practices in Indonesia with those in other countries. Through this combination of approaches, the study provides a more comprehensive picture of the issues and the proposed solutions.

Furthermore, this study also focuses on regulatory weaknesses and oversight gaps in the Hajj quota allocation system. Previous studies have largely addressed aspects of Hajj funding or weaknesses in law enforcement, whereas this study highlights in detail how existing regulations do not explicitly govern the mechanism for managing additional quotas, the weakness of administrative sanctions against Hajj Pilgrimage Organizing Agencies (PIHK), and the lack of transparency regarding quota data. This analysis is important because it reveals the root causes that enable quota manipulation and the buying and selling of quotas.

Finally, this study offers a novel contribution in the form of concrete legal policy recommendations to prevent similar cases from recurring. These recommendations include revising regulations, strengthening oversight through independent institutions, imposing stricter criminal and administrative sanctions, and ensuring transparency in Hajj quota data so the public can access it openly. Thus, this study is not merely descriptive but also offers normative and policy-based solutions to strengthen the integrity of Hajj administration in Indonesia.

This study examines how existing regulations can be improved, with the hope that the well-structured Hajj quota system will no longer be abused in the future and that violations of the rights of Hajj pilgrims—particularly those in the regular category—will not recur. The primary objectives of this study are to analyze the legal perspective on corruption offenses in the management of Hajj quotas, to identify regulatory weaknesses and oversight gaps in the Hajj quota allocation system, and to formulate a legal policy review aimed at preventing corruption in the administration of the Hajj. This study is important because it aims to uphold the integrity and quality of Hajj services, which constitute a public responsibility and involve the trust of the Muslim community; in this context, the community's trust is a primary expectation for Hajj organizers. Acts such as corruption in the management of Hajj funds and quotas not only harm the state's finances but also undermine justice and the public's trust in religious institutions and the government.

Method

In this study, the author employs normative legal *research*, supported by an empirical approach.¹⁰ Specifically, the normative legal analysis examines applicable legal provisions—namely, Law No. 8 of 2019 on the Organization of the Hajj and Umrah Pilgrimages in conjunction with the Anti-Corruption Law, as well as other regulations related to Hajj quotas—which is then reinforced by an empirical analysis examining actual practices in Hajj quota management—such as those observed in 2023, including cases of misuse of additional quotas—to assess the alignment between legal norms and on-the-ground practices.

Furthermore, regarding the research approach, the author employs a legal analysis approach by examining the legal provisions governing Hajj quotas, specifically those outlined in Article 64(2) of Law No. 8 of 2019. Additionally, the author employs a conceptual approach to examine the concepts of the right to freedom of religion, good governance, and the principle of public accountability. This is supported by a case study approach, which analyzes the transfer of additional Hajj quotas in 2023 as a concrete case study. Finally, a historical approach is used to review past instances of Hajj-related corruption to identify recurring patterns.

The data obtained in this study consist of legislation, namely Law No. 8 of 2019 and Law No. 31 of 1999 as amended by Law No. 20 of 2001 on the Eradication of Corruption Offenses. The study is also supported by academic literature, including theses, dissertations, and legal journals. Furthermore, in this study, the author analyzes the data using qualitative analysis—specifically, a descriptive-analytical method—to describe the legal provisions, case facts, and practices in Hajj management, compare legal norms with actual practices in the field, and, of course, identify loopholes that lead to legal violations and infringements on the right to freedom of religion.

Discussion

The Freedom of Religion as a Constitutional Right

Freedom of religion encompasses the freedom to choose, practice, and change one's religion or belief, as well as the freedom to practice the tenets of one's religion without discrimination or punishment.¹¹ It is important to note that freedom of religion cannot be interpreted as merely encompassing the freedom to adhere to a specific religion in accordance with one's beliefs; rather, it also highlights the freedom to practice one's respective religious teachings—such as performing religious rituals, following and emulating religious teachings in daily life, and the

¹⁰ Aikaterini Argyrou, “Making the Case for Case Studies in Empirical Legal Research,” *Utrecht Law Review* 13, no. 3 (2017): 95, <https://doi.org/10.18352/ulr.409>.

¹¹ Muwaffiq Jufri et al., “State Power Limitations on Religion for The Fulfillment of The Constitutional Rights of Indigenous Religion Believers in Indonesia,” *Journal of Indonesian Constitutional Law* 1, no. 3 (2024): 194–220, <https://doi.org/10.71239/jicl.v1i3.23>.

freedom to propagate the religious teachings one adheres to. Furthermore, freedom of religion is also understood to include the freedom not to practice any religion or to choose not to follow the teachings of a particular religion.¹²

The reallocation of Hajj quotas in Indonesia must be assessed based on the principles of *good governance*, which require legality, transparency, accountability, and non-discrimination, as stipulated in Law No. 30 of 2014 on Government Administration. However, quota reallocation carried out without a clear legal basis and tending to benefit certain groups violates the principles of legality and accountability. Furthermore, this policy fails to meet the principle of proportionality, as the goals of efficiency or political interests are not commensurate with the losses suffered by pilgrims who have lost their constitutional right to perform the pilgrimage as scheduled. The potential for irregularities in the management of Hajj quotas and Hajj funds can be analyzed from several dimensions. First, the administrative dimension: officials' discretionary authority in redistributing quotas is not balanced by adequate control mechanisms, opening the door to nepotism and the buying and selling of quotas.¹³

The administration of the Hajj pilgrimage *haji* can't be viewed solely as an administrative and logistical activity, but it also has a very strong moral and spiritual dimension. Transparency is of utmost importance because the Hajj quota is directly related to the public's right to a fair and equitable opportunity to perform the Hajj. Furthermore, Indonesia has one of the largest Muslim populations, which naturally results in high demand for Hajj and Umrah registration. Consequently, the government must assure the public that Hajj and Umrah quota management is carried out with integrity, rather than undermining public trust through actions that fail to reflect responsible governance.

From an administrative perspective, the reallocation of Hajj quotas constitutes a form of maladministration that harms citizens; therefore, it should be subject to review through the Administrative Court (PTUN) mechanism and considered in light of the Constitutional Court, which reaffirms the state's obligation to guarantee freedom of religion. This analysis is also relevant to international standards, particularly Article 18 of the ICCPR, which affirms that everyone has the right to practice their religion or belief without discrimination. Thus, reallocating Hajj quotas is not merely an administrative issue but a violation of national constitutional standards and the state's positive obligation to guarantee freedom of religion in accordance with international human rights principles.

¹² Safi' Safi' et al., "Bhag-Rembhag Sabhala'an as a Method of Resolving Religious Conflicts in the Madura Legal Tradition," *El-Mashlahah* 14, no. 1 (2024): 95–126, <https://doi.org/10.23971/el-mashlahah.v14i1.7819>.

¹³ Ahmad J. Showail, "Solving Hajj and Umrah Challenges Using Information and Communication Technology: A Survey," *IEEE Access* 10 (2022): 75404–27, <https://doi.org/10.1109/ACCESS.2022.3190853>.

The Hajj pilgrimage is a very special event for the Indonesian people, as more than 5 million pilgrims are currently waiting for their turn to travel to the Holy Land. The right to perform the Hajj is a human right guaranteed by the constitution and international law. Every individual has the right to practice their religion without coercion or discrimination. Thus, the Hajj quota system must be designed with due consideration for the principles of human rights and equality. Transparency and accountability in managing the Hajj quota system are also important. The public has the right to clear, easily accessible information about the selection process, selection criteria, and quota distribution. Hajj organizers must be accountable for implementing a fair and transparent quota system.¹⁴

In this regard, religious freedom is not an absolute right; restrictions are imposed to maintain public order, security, and morality, and to protect others' rights. Such restrictions must be based on clear and non-discriminatory laws and must be consistent with the principles of democracy and human rights. In practice, religious freedom can be realized in various ways, such as through legal recognition and protection of religious rights, free and non-coercive religious education, and protection against religious discrimination and intolerance.

Indonesia, as one of the countries with the largest Muslim population in the world, certainly organizes the Hajj pilgrimage every year, particularly during the month designated for Muslims who are financially and physically capable of performing the Hajj. Performing the Hajj, one of the pillars of Islam, is an obligation for every Muslim individual who is capable of fulfilling it. The Hajj is obligatory for every Muslim who has reached the age of legal responsibility (*mukallaf*) under Islamic law, provided they have sufficient resources to perform the pilgrimage, can ensure the well-being of those they leave behind, are capable of enduring the journey, and possess the physical strength required to perform the Hajj. Therefore, they are obligated to fulfill this pillar of Islam. So, in essence, from a religious perspective, performing the Hajj is an obligation that must be fulfilled by every Muslim who has the ability to do so.¹⁵ In Indonesia, Hajj is divided into two categories: regular Hajj and special Hajj.

Regular Hajj is a pilgrimage fully regulated by the government, while special Hajj is organized by private entities or Hajj travel agencies that have official permits from the Ministry of Religious Affairs. Regular Hajj is organized in line with government policy through the Ministry of Religious Affairs, and government policy is a decision made systematically by the government with specific intentions and objectives concerning the public interest. Religious worship is a matter related to

¹⁴ Daariin Dewi Nabillah et al., "Peran Akuntansi Forensik Dalam Mengidentifikasi Aliran Dana Dan Kerugian Negara Pada Kasus Korupsi Kuota Haji Di Indonesia," *Inisiatif: Jurnal Ekonomi, Akuntansi Dan Manajemen* 5, no. 3 (2026): 787–805, <https://doi.org/10.30640/inisiatif.v5i3.6916>.

¹⁵ Nursyirwan Bustanul Arifin et al., "The Shifting Meaning of *Istiṭā'ah* in Performing Hajj for the Bone People in the Perspective of Islamic Law," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (2023): 1557, <https://doi.org/10.22373/sjhk.v7i3.15436>.

religion, and it is clearly and explicitly stipulated that the right to freedom of religion in Indonesia is firmly guaranteed by the 1945 Constitution, particularly through Article 28E, paragraph (1), regarding freedom to practice a religion, and Article 29, paragraph (2), regarding the state's guarantee of freedom of worship.¹⁶

Within this guarantee, two (2) key aspects can be identified: Internal freedom, which is nothing other than the freedom to believe in and practice a religion, and external freedom to implement the teachings of that religion and perform acts of worship; because as a country that upholds religious values, this is a sacred matter, and it can be said that it is impossible for a state to act as a mediator or be the cause of difficulties for its citizens—or even force them to refrain from performing such acts of worship. Therefore, it is essential—and further reinforced by the second aspect—to emphasize external freedom, which places greater emphasis on an individual's right to worship. Consequently, the state has a duty to ensure fair access and opportunities for religious communities to perform the acts of worship mandated by their faith.¹⁷

This is also relevant to the Hajj pilgrimage, which is, of course, an obligation for Muslims who are financially and physically capable and strong enough for the journey; thus, access to performing the Hajj is an integral part of exercising religious freedom. When the state regulates the organization of the Hajj, such regulations should not merely be administrative rules for public services but rather a system of governance aimed at fulfilling constitutional rights. Access to the Hajj is limited by quotas, and its implementation is not optimal—as evidenced by ongoing discrepancies in the fulfillment of rights, particularly for pilgrims in the regular category who are denied the right to depart and face uncertainty about their departure, being told only to wait indefinitely.¹⁸

When regular quotas—which should be allocated to the general public—are diverted to special channels that naturally come with higher costs, it is entirely possible that opportunities will be restricted for Muslims who have each been waiting a long time for their turn to depart.¹⁹ This creates social injustice, as financially capable groups receive priority, while the lower- and middle-income segments are casually told to be patient and wait even longer—for years, or even

¹⁶ Muwaffiq Jufri et al., “Religion and State in Islamic Constitutional Law: The Role of Pesantren in Strengthening Symbiotic Islam and the State in Madura,” *Justicia Islamica* 21, no. 2 (2024): 221–46, <https://doi.org/10.21154/justicia.v21i2.9283>.

¹⁷ Muwaffiq Jufri, “Regulation Model of Religious Rights and Freedoms for Local Religious Believers in the Majapahit Constitution,” *Jurnal HAM* 13, no. 3 (2022): 539–56, <https://doi.org/10.30641/ham.2022.13.539-556>.

¹⁸ Isahaque Ali et al., “Hajj and Umrah Management in Bangladesh: Issues, Challenges and Human Rights Perspective,” in *Building Sustainable Communities*, ed. Md. Nurul Momen et al. (Springer Nature Singapore, 2020), https://doi.org/10.1007/978-981-15-2393-9_36.

¹⁹ Evi Satispi et al., “Analisis Kebijakan Publik Terhadap Rencana Pembentukan Kementerian Haji Di Indonesia,” *Arus Jurnal Sosial Dan Humaniora* 5, no. 3 (2025): 4939–46, <https://doi.org/10.57250/ajsh.v5i3.2069>.

decades. Any policy that allocates, redirects, or trades these quotas should first adhere to the principles of justice, non-discrimination, transparency, and accountability, with the aim of protecting the rights of pilgrims seeking to perform their religious duties.

Hajj Quota Regulations in Malaysia: Lessons for Indonesia

Comparing the Hajj quota management systems in Indonesia and Malaysia is important because both countries have large Muslim populations, yet they use different institutional models and legal systems to manage Hajj funds. Indonesia has developed a management model through the BPKH as an independent public legal entity, whereas Malaysia manages Hajj funds through the Tabung Haji model, administered by the Tabung Haji Institution (hereinafter referred to as LTH).²⁰ The establishment of LTH originated from an idea proposed by Ungku Aziz Bin Ungku Abdul Hamid in 1959. Ungku Aziz advised the Malaysian federal government to establish a financial institution to help the Muslim community save for the Hajj while also advancing the nation's economy and development, and to serve as an institution more fully integrated with the Islamic financial system.²¹ These differences raise questions regarding institutional effectiveness, the scope of authority, oversight mechanisms, investment strategies, and legal protections for Hajj pilgrims in each country.

By understanding the key differences between how Malaysia and Indonesia organize the Hajj and Umrah, we can conclude that the administration of the Hajj and Umrah in Indonesia and Malaysia reflects two distinct approaches, yet both strive to provide the best possible service to pilgrims. In Indonesia, the system is more complex because it involves many private entities, such as PIHKs and PPIUs, under strict oversight by the Ministry of Religious Affairs. Detailed regulations aim to prevent fraud, but on-the-ground practices still face challenges related to cost transparency, non-quota Hajj, and quota limitations that create long waiting lists. Meanwhile, Malaysia has adopted a more centralized model through the Tabung Haji Agency (LTH) as the sole official administrator.²² This system simplifies oversight, makes costs more affordable through subsidies, and ensures more efficient service with digitalization initiatives such as the Makkah Route program.

Of course, organizing and managing the Hajj is no easy task. Therefore, based on the applicable laws and regulations, there is also room for independent

²⁰ Aisyah Wulan Rahmadhani et al., “Menelusuri Sistem Kuota Haji Di Indonesia: Perspektif Hukum Tentang Kesetaraan, Hak Dan Transparansi,” *RechtJiva* 2, no. 1 (2025): 49–65, <https://doi.org/10.21776/rechtjiva.v2n1.4>.

²¹ Aiza Maslan Baharudin, “Hajj Management in Malaysia Since 1969,” in *The Politics of the Hajj from a Comparative Perspective*, ed. Muriel Gomez-Perez et al., Palgrave Studies in Religion, Politics, and Policy (Springer Nature Switzerland, 2024), https://doi.org/10.1007/978-3-031-65349-0_5.

²² Muhammad Farid Aljawi and Faisal Santiago, “Reconstructing the Governance of Hajj and Umrah Administration in Indonesia,” *Greenation International Journal of Law and Social Sciences* 3, no. 3 (2025): 822–32, <https://doi.org/10.38035/gijlss.v3i3.567>.

non-governmental companies—whether in terms of financial capacity or human resources—to participate and be involved as organizers and administrators of the Hajj pilgrimage,²³ provided that the model of implementation and administration remains aligned with applicable laws and regulations; in other words, the government will continue to serve as the regulator. Thus, Indonesia has the advantage of comprehensive regulations, but it still needs to strengthen oversight and system integration to make them more effective.²⁴ This is because the core issue is the misuse of quotas, which inevitably infringes upon an individual's right to religious freedom—specifically, in the context of religious worship. Meanwhile, Malaysia has essentially centralized Hajj management under Tabung Haji.²⁵ Moreover, Malaysia has successfully created a more controlled and transparent model, ensuring pilgrims experience convenience and certainty. This comparison shows that Indonesia can learn from Malaysia in centralization and digitization, while Malaysia can learn from Indonesia's diversification of organizers to ensure room for innovation.

Regular Hajj Quota Redistribution Hampers Pilgrims

Undoubtedly, it is a source of great joy and hope for all Muslims who, filled with enthusiasm and sincere intention, flock to register so they can soon experience the beauty of the holy land of Mecca. However, they are forced to wait a long time because of mismanagement of the quotas—specifically, quotas are reallocated according to the whims of certain individuals. Essentially, regular Hajj quotas are reallocated when the quota allocated to a specific region or group is not fully utilized, and it is then transferred to another region or group that still has a waiting list. This reallocation often causes disappointment and creates obstacles for pilgrims who have been waiting a long time to perform the Hajj.²⁶

Furthermore, these pilgrims have likely prepared physically, mentally, and financially to perform the Hajj, but quota transfers delay their plans. The transfer of regular Hajj quotas can also create uncertainty for registered pilgrims. They may not know whether they can perform the Hajj in the same year or will have to wait several more years. This uncertainty can cause anxiety and even stress for pilgrims, especially for those who are elderly or have unstable health conditions (making the pilgrimage impossible).

²³ Aishath Muneeza and Zakariya Mustapha, “COVID-19: It's Impact in Hajj and Umrah and a Future Direction,” *Journal of Islamic Accounting and Business Research* 12, no. 5 (2021): 661–79, <https://doi.org/10.1108/JIABR-02-2021-0062>.

²⁴ Didi Subandi and Yon Machmudi, “The Role of the Governments of Indonesia and Saudi Arabia in Organizing the Hajj Pilgrimage 2015 – 2021,” *Journal of Strategic and Global Studies* 5, no. 1 (2022), <https://doi.org/10.7454/jsgs.v5i1.1106>.

²⁵ Noorliza Karia and Firas Izzat Mahmoud Saleh, “Hajj Management Chain Feasibility Post COVID-19;” in *Advances in Hospitality, Tourism, and the Services Industry*, ed. S. K. Gupta et al. (IGI Global, 2023), <https://doi.org/10.4018/978-1-6684-4817-5.ch006>.

²⁶ Fajar Adi and Winfrey Oktavian, “From Mandate to Metrics: Journalism and the Crisis of Moral Credibility in Indonesia's Hajj Quota Scandal,” *Media Asia* 53, no. 1 (2026): 299–308, <https://doi.org/10.1080/01296612.2025.2589234>.

The transfer of regular Hajj quotas to the special Hajj track is certainly a significant obstacle for pilgrims who have long been waiting for their turn to depart. Given that Indonesia's regular Hajj registration system operates on a "*first come, first served*" basis—meaning that prospective pilgrims who register earlier should receive priority to depart in order of registration. However, when regular quotas are transferred to the special track, this right is disregarded, and the system fails to function as intended. Regular pilgrims—who often come from lower-middle-class backgrounds—must wait for decades, while special-track pilgrims who can afford higher fees are able to depart much sooner. This situation has clearly led to social injustice and reveals discrimination based on economic status.

The obstacles faced by regular pilgrims are no longer merely delays in departure but also foster frustration and disappointment, as they feel their right to worship is not valued equally and equitably. Given that the Hajj is an obligation for financially able Muslims, the state is obligated to ensure fair and transparent access. When regular quotas are reduced or reallocated, the state appears to be neglecting its constitutional obligation to guarantee freedom of religion for all its citizens. In this context, the government and relevant authorities must ensure that the reallocation of regular Hajj quotas is carried out with due consideration for pilgrims' interests and that their rights remain protected and are not overlooked. Furthermore, evaluating and improving the Hajj quota management system is necessary to ensure that regular Hajj quotas are reallocated fairly and transparently.²⁷ Moreover, reallocating regular quotas can certainly lead to an increasingly sharp disparity between pilgrims who are financially capable and those who rely solely on the regular quota system.

This reinforces the perception that the Hajj is no longer merely a religious obligation but has become a commodity that can be expedited at a high cost. The obstacles faced by regular pilgrims are ultimately not merely administrative issues but also concern the fundamental right of Muslims to practice their religion in accordance with its teachings.²⁸ Thus, the reallocation of regular Hajj quotas clearly hinders pilgrims, creates injustice, and has the potential to violate the right to freedom of religion guaranteed by the state. The reallocation of Hajj quotas from the regular to the special category is a practice that does not reflect sound ethics in managing Hajj quotas. Pilgrims in the regular category, who should have already received their right to travel to the Holy Land at the designated time, have had their quotas transferred to the special Hajj category; consequently, those in the regular

²⁷ Ali Yusuf Muzaki et al., "Reconstructing the Hadiths on the Obligation of Hajj: A Study of 'Ilal and Visa Quota Policies from the Perspective of Uṣūl al-Fiqh," *Jurnal Ilmu Pendidikan Dan Sains Islam Interdisipliner*, June 8, 2026, 553–64, <https://doi.org/10.59944/jipsi.v5i1.883>.

²⁸ Ahmad Nabilul Maram et al., "Fatwā on The Ruling of Hajj Without Taṣrīh; The Case of Indonesian Hajj Pilgrims in 2024," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 19, no. 2 (2024): 413–43, <https://doi.org/10.19105/al-lhkam.v19i2.15437>.

category must wait in a long queue and will inevitably face delays and a backlog of applicants.²⁹

The misuse of Hajj quotas encompasses various forms of irregularities, ranging from manipulating prospective pilgrims' data and buying and selling quotas to granting priority to certain parties based on personal or political interests, and bribery in the quota allocation process. This study aims to identify and better understand several forms of misuse of regular Hajj quotas in Indonesia, particularly those involving specific, complex methods that often involve both internal and external actors. Among these are:³⁰

- 1) “Last-Minute Hajj” Practices (unofficial quotas). In this practice, individuals or groups are sent on the Hajj through channels outside the official quotas set by the government (the Ministry of Religious Affairs)—in other words, they circumvent the proper Hajj process by often using visas other than Hajj visas, such as pilgrimage visas, seasonal worker visas, or other non-Hajj visas, with the aim of shortening the waiting period; however, although this practice is often carried out by unlicensed or unofficial travel agencies, sometimes the regular quota that should be allocated for the current year is misused or sneaked into this group by individuals within the system who have access.
- 2) Illegal Quota Transfer (buying and selling Hajj quota numbers): In terms of this misuse, it is often the most common and frequent method, thereby undermining public fairness—where registered Hajj quota numbers that have already been assigned a waiting period are sold to third parties through direct transactions. Specifically, quota holders who feel unable to endure the waiting period and need quick cash are willing to sell their right to travel to others at the original price; Additionally, this can occur through the scheme of transfer or substitution, whereby a quota is sold by manipulating legitimate transfer data—such as transfers due to death or permanent illness deemed difficult to cure, or cases where the individual is deemed (unable to perform the Hajj)—using forged documents such as death certificates or medical certificates. In such cases, individuals at the local Ministry of Religious Affairs (Kemenag) office are often involved.
- 3) Data/Document Forgery: To expedite departure, individuals or prospective pilgrims manipulate data by falsifying age information, so that the pilgrim's age is altered to qualify them as an elderly pilgrim (hereinafter referred to as “Lansia”) or for another priority category eligible for expedited departure. In addition, there is also the forgery of health documents, in which certificates of permanent illness or other special

²⁹ Showail, “Solving Hajj and Umrah Challenges Using Information and Communication Technology.”

³⁰ Faza, “Legal Noncompliance in Indonesia Additional Hajj Quota Allocation.”

conditions are falsified in order to apply for a transfer or expedited departure.

The state's involvement in resolving conflicts related to the Hajj and Umrah is crucial to ensuring that pilgrims are not left to fend for themselves when facing material or moral losses.³¹ Furthermore, under such circumstances, certain organizers or officials should not exploit the quota system—which, in this context, refers to the abuse of authority by individuals with access to the quota data system, such as misusing staff quotas—where quotas intended for Hajj staff—commonly referred to as “non-pilgrims”—are sold or transferred to regular pilgrims seeking to depart sooner, as well as through the practice of “pilgrim insertion”—that is, adding specific pilgrims' names to the current year's departure list without waiting in line in exchange for financial compensation or illegal fees—thereby displacing pilgrims who are more entitled to depart.³²

Failure is the inability to achieve a planned goal. Anything can be considered a failure when it fails to meet the expected and established standards.³³ Thus, public policy in this context can be considered a failure because what was planned was not implemented through an efficient process and may even lead to undesirable outcomes. Every process inevitably has flaws, but if left unaddressed, they can cause significant harm to the congregation and may lead to a decline in public trust.³⁴

Of course, every issue ultimately comes down to policy; since this is not merely an individual matter, public policy is certainly needed. Public policy serves as the primary foundation for administering the Hajj pilgrimage in Indonesia. In this regard, it plays a crucial role in preventing and addressing the misuse of Hajj and Umrah quotas, particularly in cases of quota transfers that harm pilgrims. As part of the state's service to the right to freedom of religion, public policy should ensure transparency, accountability, and fairness in quota distribution. The government also needs to empower Community-Based Consumer Protection Agencies (LPKSM) to assist victims of unscrupulous travel agencies³⁵ when quota transfers occur without a clear legal basis; this not only violates the principles of good governance but also

³¹ Muhammad Farid Aljawi and Faisal Santiago, “Reconstructing the Governance of Hajj and Umrah Administration in Indonesia.”

³² Mirjam Lücking, “Management and Pilgrims' Encounters with the State in Contemporary Indonesia (2013–2021),” in *The Politics of the Hajj from a Comparative Perspective*, ed. Muriel Gomez-Perez et al., Palgrave Studies in Religion, Politics, and Policy (Springer Nature Switzerland, 2024), https://doi.org/10.1007/978-3-031-65349-0_8.

³³ Dadi Darmadi, “Hak Angket Haji: Pilgrimage and the Cultural Politics of Hajj Organization in Contemporary Indonesia,” *Studia Islamika* 20, no. 3 (2013): 443–66, <https://doi.org/10.15408/sdi.v20i3.512>.

³⁴ Moh Soehadha Moh Soehadha et al., “Disorientation of the Meaning of Hajj in Local Indonesian Muslim Communities,” *Indonesian Journal of Islam and Muslim Societies* 15, no. 2 (2025): 385–411, <https://doi.org/10.18326/ijims.v15i2.385-411>.

³⁵ Aini Widya Utami, Legal Protection for Prospective Umrah Pilgrims Following the Revocation of Licenses for Umrah Travel Organizers (PPIU), *USM Law Review*, Vol. 8, No. 2, (2025), p. 1053.

risks undermining citizens' constitutional right to worship according to their beliefs. Therefore, public policy must strengthen regulations, implement technology-based oversight, and impose strict sanctions on parties that abuse their authority.³⁶ Through these measures, the state can ensure that Hajj and Umrah quotas do not become commodities to be bought and sold, but rather remain the rights of pilgrims protected by law and the principle of religious freedom.

Conclusion

This study concludes that, in Indonesia as a Muslim-majority country, organizing the Hajj pilgrimage is essential to fulfilling citizens' constitutional rights. Therefore, the management of Hajj quotas cannot be viewed merely as a matter of public administration but rather as a form of the state's responsibility to ensure the exercise of religious freedom in a fair, transparent, and nondiscriminatory manner. However, transferring regular Hajj quotas to the special Hajj track has led to social injustice because it benefits groups with greater economic means, while regular pilgrims must wait for an extremely long time—even up to several decades.

Furthermore, reallocating quotas without a clear legal basis reflects administrative misconduct and opens the door to buying and selling quotas, nepotism, and data manipulation. As a result, public trust in the government has declined, and the right to worship—which the state should guarantee—has been hindered. The state has a positive obligation to ensure that Hajj policies are not only administratively efficient but also socially just and consistent with the principle of religious freedom. Various forms of Hajj quota abuse—such as last-minute Hajj arrangements, the buying and selling of quota numbers, document forgery, and abuse of authority by unscrupulous organizers—indicate weak oversight and accountability in governing Hajj operations. These conditions not only cause administrative and financial harm to regular pilgrims but also have the potential to violate the right to religious freedom by hindering Muslims from fulfilling their religious obligations. Therefore, the government needs to conduct a comprehensive evaluation of the Hajj quota management system by strengthening the principles of fairness, transparency, and legal oversight so that pilgrims' rights are protected and Hajj administration proceeds in accordance with constitutional values and human rights principles.

Therefore, policies are needed that directly address the root causes of the problem as identified in the study. First, regulations must be strengthened by closing loopholes that allow officials discretion in quota allocation, so that there is no room for nepotism or the buying and selling of quotas. Second, transparency in quota distribution must be ensured through a digital system that allows the public open access to information regarding waiting lists, priority criteria, and quota changes.

³⁶ Lailatul Qadariyah and Umar Faruq, "Legal and Human Rights Violations in the Hajj Quota Diversion Policy in Indonesia," *At-Ta'fkeir* 18, no. 1 (2025): 91–102, <https://doi.org/10.32505/at.v18i1.12543>.

Third, oversight mechanisms must be strengthened by involving independent institutions such as the Ombudsman and the Administrative Court (PTUN) so that every quota allocation policy can be subject to legal review. Fourth, the government needs to implement a vulnerability-based priority scheme—for example, for elderly pilgrims, people with disabilities, or those who have been waiting for more than two decades—so that the principle of fairness is truly realized. Fifth, strict sanctions against officials and travel agencies proven to have misused quotas must be consistently enforced—whether administrative or criminal—to serve as a deterrent. With these measures, Hajj quota management will be more transparent, accountable, and equitable, ensuring that Muslims’ right to religious freedom remains protected and public trust in the government can be restored.

Acknowledgment

None

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