
The Queue as the Measure of Justice? Indonesia's 2026 Waiting-List-Based Hajj Quota Formula and the Emergence of Queue *Istiṭā'ah*

Authors:

Muris Muhammad Syah^{1*}

¹ International Islamic University Islamabad, Islamabad, Pakistan
E-mail: muris.msudoo1648@student.iiu.edu.pk

Rahmad Hidayat Ajrul Iman²

² Universitas Islam Negeri Ar-Raniry, Banda Aceh, Indonesia
E-mail: rahmathidayatai98@gmail.com

Abstract

Beginning with the 1447 AH/2026 CE season, Indonesia allocates its regular hajj quota among provinces in proportion to each province's share of the national waiting list rather than its Muslim population. The government defends the policy as fair because waiting times in every province are now uniform at about 26.4 years, compared with a range of 11 to 47 years previously. This article asks what kind of justice is measured by the length of a queue and how that measure changes the meaning of *istiṭā'ah* (capacity), the condition that makes the hajj obligatory. It applies socio-legal policy analysis to public documents, namely Law No. 14/2025, Constitutional Court Decision No. 237/PUU-XXIII/2025, the 2025 and 2026 quota tables, pilgrim health and mortality data for 2023–2026, and fatwas of the Indonesian Ulema Council, and reads them through theories of local justice and queue justice together with the fiqh of *istiṭā'ah*. The findings are threefold. First, the uniform waiting time is a mathematical identity of the formula rather than a policy achievement, because the national regular quota did not change. Second, health-based *istiṭā'ah* is assessed only shortly before final payment, decades after registration, and the registration slot of a pilgrim who fails the assessment can be transferred to a family member. Third, Aceh gained 1,048 places while West Java lost 9,080. The article calls this shift "queue *istiṭā'ah*", in which capacity is no longer a person's condition when the obligation arises but the ability to survive until one's turn comes. It also proposes the concept of "administrative fiqh", the process by which administrative design reshapes a fiqh concept without any new fatwa, and outlines a policy agenda that weighs age, need, and the protection of life alongside order of registration.

Article history

Received 14 January 2026
Revised 21 April 2026
Accepted 5 June 2026
Published 30 June 2026

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Keywords: *istiṭā'ah*; hajj quota; waiting list; distributive justice; religious policy; administrative fiqh; queue justice; Aceh

Introduction

The 1447 AH/2026 CE hajj season marks a major change in how the Indonesian state distributes the opportunity to perform the pilgrimage. The national quota of 221,000 was divided into 203,320 regular and 17,680 special places,¹ and the regular quota was then allocated to the provinces according to their share of the waiting list rather than their share of the Muslim population.² The Ministry of Hajj and Umrah stated that under this formula the waiting time in every province had become “exactly the same, 26.4 years”, whereas it had previously ranged from 11 years in Southwest Maluku Regency to 47 years in South Sulawesi.³ In Aceh, the waiting time in early 2025 was reported at 32 years,⁴ and in East Java at 34 years.⁵ The chair of Commission VIII of the House of Representatives (DPR) defended the policy on the grounds that “all provinces and all pilgrims on the waiting list are now equal”,⁶ and the Constitutional Court rejected a petition for judicial review of its legal basis.⁷ For Muslims, however, this change is more than an administrative matter. The Qur'an ties the obligation of hajj to capacity: it is owed “by those who are able to find a way there” (Q. Āl 'Imrān 3:97). When the state makes the length of a queue the measure of justice, it also shapes when and how that capacity is assessed. As a warming climate raises health risks in Mecca,⁸ the question of who is able, and when, becomes a matter of safety and not only of jurisprudence.

Scholarship on the relationship between *istiṭā'ah* and the waiting list exists, but almost all of it predates the 2026 formula. Huda and Haeba show that meeting the conditions of *istiṭā'ah* does not guarantee departure because the quota is limited, so that prospective pilgrims may lose their health or die before their turn arrives.⁹ Arifin et al. find that in Bone the meaning of *istiṭā'ah* has narrowed to economic capacity, and they propose treating the waiting list as the

¹Annasa Rizki Kamalina, “Lengkap! Daftar Alokasi Kuota Haji 2026 Setiap Provinsi,” *Bisnis.com*, 28 October 2025, <https://ekonomi.bisnis.com/read/20251028/12/1923967/lengkap-daftar-alokasi-kuota-haji-2026-setiap-provinsi>.

²Commission VIII of the DPR RI, “Laporan Singkat Rapat Kerja Komisi VIII DPR RI dengan Menteri Haji dan Umrah” [Summary report of the working meeting of Commission VIII with the Minister of Hajj and Umrah], Jakarta, 28 October 2025, <https://berkas.dpr.go.id/akd/dokumen/komisi8-14-c40720ba375ab461506c3058c85b7cd7.pdf>; see also Law No. 14 of 2025 on the Third Amendment to Law No. 8 of 2019 on the Organization of Hajj and Umrah, Article 13.

³Antara, “Ada Formula Baru, Kemenhaj Sebut Masa Tunggu Haji di RI 26,4 Tahun,” *Bisnis.com*, 30 November 2025, <https://ekonomi.bisnis.com/read/20251130/12/1932833/ada-formula-baru-kemenhaj-sebut-masa-tunggu-haji-di-ri-264-tahun>.

⁴Fajri Fatmawati, “Daftar Tunggu Haji di Aceh Capai 32 Tahun,” *Metrotvnews.com*, 21 January 2025, <https://www.metrotvnews.com/read/KXyCQo7W-daftar-tunggu-haji-di-aceh-capai-32-tahun>.

⁵detikHikmah, “Antrean Haji Indonesia Paling Lama 47 Tahun, Tercepat 11 Tahun,” *detikHikmah*, 27 April 2025, <https://www.detik.com/hikmah/haji-dan-umrah/d-7888442/antrean-haji-indonesia-paling-lama-47-tahun-tercepat-11-tahun>.

⁶Nabila Ramadhanty, “DPR Dukung Usul Kemenhaj Pangkas Masa Tunggu Haji Jadi 26 Tahun,” *Tirto.id*, 28 October 2025, <https://tirto.id/dpr-dukung-usul-kemenhaj-pangkas-masa-tunggu-haji-jadi-26-tahun-hkzM>.

⁷Constitutional Court of the Republic of Indonesia, Decision No. 237/PUU-XXIII/2025 on the Review of Law No. 14 of 2025, pronounced 16 March 2026.

⁸Saber Yezli et al., “Escalating Climate-Related Health Risks for Hajj Pilgrims to Mecca,” *Journal of Travel Medicine* 31, no. 4 (2024): taec042, <https://doi.org/10.1093/jtm/taec042>.

⁹Qomarul Huda and Ilham Dwitama Haeba, “Hajj, Istiṭā'ah, and Waiting List Regulation in Indonesia,” *Al-Adalah* 18, no. 2 (2021): 193–212, <https://doi.org/10.24042/adalah.v18i2.9903>.

'illah (operative cause) for determining istiṭā'ah.¹⁰ Sufyan et al. discuss health-based istiṭā'ah for “queue pilgrims” (*al-ḥujjāj al-ṭābūrīn*) and offer proxy pilgrimage (*badal*) as a solution.¹¹ In Malaysia, Man et al. argue that the Tabung Haji rotation system fails to screen for the conditions of legal capacity (*mukallaḥ*) and financial istiṭā'ah.¹² At the institutional level, Qosim et al. read the creation of the Ministry of Hajj as a bureaucratization of the pilgrimage and advance the idea of istiṭā'ah as a state-shaped condition together with a *fiqh al-mu'assasāt* (jurisprudence of institutions).¹³ As far as can be ascertained, the only study devoted specifically to the 2026 formula is that of Ilfa, who assesses the reform as a step towards equity through the lenses of *siyāṣah shar'īyyah* and implementation theory but does not address istiṭā'ah.¹⁴ No study has yet linked the mechanics of the 2026 formula to the meaning of istiṭā'ah on an empirical basis.

This article analyses Indonesia's 2026 waiting-list-based hajj quota formula as a conception of justice and traces its implications for the meaning of istiṭā'ah. It poses three questions. First, what does the formula actually equalize, and who bears its costs, as revealed by data on quotas, waiting lists, age, and pilgrim mortality? Second, at which point and by whom is istiṭā'ah assessed in the post-2026 administrative cycle, and how does that assessment relate to juristic formulations and fatwas? Third, how does the same formula produce different experiences in a province that gained quota, such as Aceh, and a province that lost it, such as West Java? The three questions are answered in turn through statistical evidence, normative-documentary evidence, and a comparative case study, so that each part of the findings corresponds to one question and one analytical technique.

The article argues that the 2026 formula turns the queue into the measure of justice and, without any new fatwa, shifts the meaning of istiṭā'ah. The formula equalizes waiting times across regions but not each person's chance of actually performing the pilgrimage, because that chance depends on age at registration and on health during the wait. As a result, istiṭā'ah in practice no longer denotes a state of capacity at the moment the obligation arises; it denotes the capacity to survive until one's turn comes. This article terms the phenomenon “queue istiṭā'ah”. The concept also explains why a registration slot (*nomor porsi*) can be passed on to family members even though the hajj obligation is personal. Whereas Qosim et al. evaluate

¹⁰Nursyirwan 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): 1557–76, <https://doi.org/10.22373/sjhk.v7i3.15436>.

¹¹Muhammad Suhaili Sufyan et al., “Taḥqīq Maḥūm al-Istiṭā'ah al-Ṣiḥḥiyyah li al-Ḥujjāj al-Ṭābūrīn fī Indūnīsiyā al-Mu'āṣirah,” *Al-Zahra: Journal for Islamic and Arabic Studies* 21, no. 2 (2024), <https://doi.org/10.15408/zr.v21i2.39385>.

¹²Sa'adan Man, Syed Mohd Jeffri Syed Jaafar, and Lokman Musa, “Istiṭā'ah dalam Ibadah Haji: Analisis terhadap Sistem Penggiliran Haji Malaysia,” *Jurnal Fiqh* 21, no. 2 (2024): 209–32, <https://doi.org/10.22452/fiqh.vol21no2.2>.

¹³M. Rizal Qosim, Dwi Surya Atmaja, and Prihantono, “*Fiqh al-Mu'assasāt* in Contemporary Muslim Society: A Socio-Political Analysis of the Establishment of Indonesia's Ministry of Hajj,” *Journal of Islamic Law* 7, no. 1 (2026): 84–112, <https://doi.org/10.24260/jil.v7i1.5947>.

¹⁴Muhammad Alfia Ilfa, “Reforming Hajj Quota Allocation for Equity: Indonesia's Waiting Period Reduction Policy Under Law 14/2025,” *Thailand Islamic Journal* 3, no. 1 (2026): 1–22, <https://so16.tci-thaijo.org/index.php/TIJ/article/view/3168>.

the state's role as an agent of *maqāṣid* at the institutional level,¹⁵ this article identifies the concrete mechanisms of the shift: the quota formula, the timing of health assessments, and the rules on slot transfer. The working proposition is that queue justice is formal and horizontal, whereas the justice demanded by the fiqh of istiṭā'ah is substantive and personal.

Literature Review

Istiṭā'ah in Fiqh and Policy

In classical fiqh, istiṭā'ah is a condition of the hajj obligation grounded in Q. Āl 'Imrān 3:97. Al-Nawawī divides those who are able into two groups, those able by themselves and those able through others, and specifies the conditions for the former, including bodily health, provisions, a mount, a safe route, and sufficient time.¹⁶ The last element is known as *imkān al-masīr*, the availability of enough time to complete the journey before the rites take place. Jurists also disagree on whether a hajj that has become obligatory must be performed immediately (*'alā al-faw*), as held by the Ḥanbalīs and by Abū Yūsuf among the Ḥanafīs, or may be deferred (*'alā al-tarākhi*), as held by the Shāfi'ī school.¹⁷ Ibn Qudāmah insists that the required istiṭā'ah consists in possessing provisions and a mount.¹⁸ Al-Zuhaylī summarizes it as the bodily, financial, and security-related ability to reach Mecca.¹⁹ In Indonesia, the Indonesian Ulema Council (MUI) has held since 1979 that a Muslim is deemed able when his or her physical, spiritual, and material means allow it, "without neglecting obligations towards the family".²⁰ The contemporary trend is to extend istiṭā'ah from an economic to a medically verifiable health standard. Minister of Health Regulation No. 15 of 2016 defines health istiṭā'ah as physical and mental capacity "measured through accountable examination".²¹ Istiṭā'ah, which in fiqh is a judgement about a person's condition, has thus also become an administrative status conferred by the state.

Previous studies can be grouped according to three dimensions of istiṭā'ah. The first is financial. Arifin et al. document the narrowing of istiṭā'ah to the ability to pay,²² Sopa and Rahmah show that bridging loans allow people to register before they are actually able,²³ and Man et al. note that in Malaysia children and the financially unable can enter the queue.²⁴ The second is health. Regulation 15/2016 classifies examination outcomes into four categories;²⁵ Sugeng et al. find that 40.8% of the 2023 prospective pilgrims in their sample qualified only

¹⁵Qosim, Atmaja, and Prihantono, "*Fiqh al-Mu'assasāt* in Contemporary Muslim Society."

¹⁶Muḥyī al-Dīn Yaḥyā ibn Sharaf al-Nawawī, *Al-Majmū' Sharḥ al-Muḥadhdhab*, vol. 7 (Cairo: Idārat al-Ṭibā'ah al-Muniriyyah, 1344–1347 H), 63–69.

¹⁷Al-Nawawī, *Al-Majmū'*, 7:103.

¹⁸Muwaffaq al-Dīn Ibn Qudāmah, *Al-Mughnī*, vol. 3 (Cairo: Maktabat al-Qāhirah, 1968), 213–15.

¹⁹Wahbah al-Zuhaylī, *Al-Fiqh al-Islāmī wa Adillatuh*, 4th ed., vol. 3 (Damascus: Dār al-Fikr, n.d.), 2082–83.

²⁰Indonesian Ulema Council (MUI), Fatwa on Istitha'ah in Performing the Hajj, Jakarta, 2 February 1979.

²¹Minister of Health Regulation No. 15 of 2016 on the Health Istitha'ah of Hajj Pilgrims, Article 1(1) and Article 9(2).

²²Arifin et al., "The Shifting Meaning of Istitha'ah."

²³Sopa and Siti Rahmah, "Studi Evaluasi atas Dana Talangan Haji Produk Perbankan Syariah di Indonesia," *Ahkan: Jurnal Ilmu Syariah* 13, no. 2 (2013): 303–14, <https://doi.org/10.15408/ajis.v13i2.943>.

²⁴Man, Syed Jaafar, and Musa, "Istiṭā'ah dalam Ibadah Haji."

²⁵Minister of Health Regulation No. 15 of 2016.

with assistance;²⁶ Rustika et al. report that about 20% of prospective pilgrims had to postpone departure for health reasons and identify weak inter-ministerial coordination;²⁷ Ishom et al. find that the implementation of health istiṭā'ah at the district level is hampered by the lack of local regulation;²⁸ and Lestari et al. highlight weak health guidance during the waiting period.²⁹ The third dimension concerns security and time. Huda and Haeba treat the waiting list as an external obstacle,³⁰ Arifin et al. propose it as an *'illah*,³¹ and Sufyan et al. recommend *badal* for queue pilgrims who lose their physical capacity.³² A clear pattern emerges: waiting time is discussed as an interference with istiṭā'ah, not as an element that helps constitute its meaning.

Queues and Allocative Justice

Allocative justice concerns how scarce goods are distributed. Elster calls this field “local justice”, the principles and procedures that institutions use to allocate scarce goods and necessary burdens such as transplant organs, university places, or military service.³³ One of the most widely used principles is temporal priority. Mann shows that long queues form small social systems with informal rules and that the principle of first come, first served is tied to egalitarian values: time “served” in the line is felt to confer a right to one’s place.³⁴ Larson adds that perceived fairness in queues depends on adherence to first-in, first-out order and that the cost of waiting does not grow linearly with time.³⁵ From an economic perspective, Barzel shows that when a good is supplied below its market price, queuing becomes a rationing device and waiting time functions as a “price”.³⁶ A study of the rental-housing queue in Stockholm demonstrates the same point empirically: time spent in the queue acts as an implicit price.³⁷ The literature thus tends to see the queue as a mechanism that appears neutral but embeds moral choices about who comes first.

Allocative principles can be grouped into four families: egalitarian principles (lotteries or equal shares), time-based principles (queues and waiting lists), need-based principles (priority for the most urgent or vulnerable), and status- or territory-based principles (regional

²⁶Sugeng Sugeng et al., “Factors Associated with Health Preparedness (Istithaah) Status among Hajj Pilgrims in Indonesia: A Cross-Sectional Study,” *Jurnal Ners* 20, no. 1 (2024): 26–32, <https://doi.org/10.20473/jn.v20i1.58887>.

²⁷Rustika Rustika et al., “An Evaluation of Health Policy Implementation for Hajj Pilgrims in Indonesia,” *Journal of Epidemiology and Global Health* 10, no. 4 (2020): 263–68, <https://doi.org/10.2991/jegh.k.200411.001>.

²⁸Muhammad Ishom et al., “Hajj Health Istita’ah from the Perspective of Health Decentralization,” *Petita: Jurnal Kajian Ilmu Hukum dan Syariah* 9, no. 1 (2024): 290–304, <https://doi.org/10.22373/petita.v9i1.253>.

²⁹Rinna Dwi Lestari, Istiqomah Istiqomah, and Arief Tajally Adhiatma, “Examining the Urgency of the Hajj Health Istithaah Policy within Legal and Bioethical Perspectives,” *Contagion: Scientific Periodical Journal of Public Health and Coastal Health* 8, no. 3 (2026): 391–404, <https://doi.org/10.30829/contagion.v8i3.30421>.

³⁰Huda and Haeba, “Hajj, Istita’ah, and Waiting List.”

³¹Arifin et al., “The Shifting Meaning of Istiṭā’ah.”

³²Sufyan et al., “Taḥqīq Maflūm al-Istiṭā’ah al-Ṣiḥḥiyyah.”

³³Jon Elster, *Local Justice: How Institutions Allocate Scarce Goods and Necessary Burdens* (New York: Russell Sage Foundation, 1992).

³⁴Leon Mann, “Queue Culture: The Waiting Line as a Social System,” *American Journal of Sociology* 75, no. 3 (1969): 340–54, <https://doi.org/10.1086/224787>.

³⁵Richard C. Larson, “Perspectives on Queues: Social Justice and the Psychology of Queuing,” *Operations Research* 35, no. 6 (1987): 895–905, <https://doi.org/10.1287/opre.35.6.895>.

³⁶Yoram Barzel, “A Theory of Rationing by Waiting,” *Journal of Law and Economics* 17, no. 1 (1974): 73–95, <https://doi.org/10.1086/466785>.

³⁷Mats Wilhelmsson, “Demand for Rent-Regulated Apartments in the Swedish Housing Market,” *Housing Studies* 39, no. 12 (2024): 3092–3116, <https://doi.org/10.1080/02673037.2023.2244908>.

allotments).³⁸ Persad, Wertheimer, and Emanuel conclude that no simple principle, including first come, first served, is adequate on its own, so that a combination is required.³⁹ John and Millum argue more pointedly that waiting time has no intrinsic moral weight; it can justify an allocation only through duties of *fair play* or its instrumental benefits, and only when candidates are relevantly similar.⁴⁰ Roth's review of Elster's book observes that waiting lists also invite strategic behaviour, such as registering as early as possible to accumulate waiting time.⁴¹ Siciliani et al. caution that waiting-time measures are administrative and that averages always diverge from the experience of those still waiting.⁴² For Rawls, inequalities are justified only if they bring the greatest benefit to the least advantaged,⁴³ while Auda advocates a reading of the *maqāṣid* that moves from "protection" to "development and rights".⁴⁴ Both frameworks serve in the Discussion as normative tests: Rawls's difference principle to ask who the least advantaged in the hajj queue are, and the *maqāṣid* to weigh *ḥifẓ al-dīn* (protection of religion) against *ḥifẓ al-nafs* (protection of life) where the two collide in quota design.

Hajj Quota Governance and the Bureaucratization of Sharia

The hajj quota is the ceiling on the number of pilgrims that Saudi Arabia sets for each country, which sending states then distribute among their regions and citizens. Piscatori and Suryana both note that the rule of one pilgrim per thousand Muslim inhabitants originates in the 1988 agreement of the Organisation of Islamic Cooperation in Amman.⁴⁵ Bianchi shows that the hajj is an arena of Muslim states' politics,⁴⁷ and in later work notes that when the ratio of applicants to places in Turkey soared, the Turkish government gave most visas to elderly first-time pilgrims regardless of their place in the queue.⁴⁸ In Indonesia, the dominant trend is bureaucratization. Jahar reads the incorporation of sharia into state law as bureaucratization rather than Islamization, with the Ministry of Religious Affairs as the central actor.⁴⁹ Senay et al. show that Islamic bureaucracies such as the Ministry of Religious Affairs must be read as

³⁸Elster, *Local Justice*.

³⁹Govind Persad, Alan Wertheimer, and Ezekiel J. Emanuel, "Principles for Allocation of Scarce Medical Interventions," *The Lancet* 373, no. 9661 (2009): 423–31, [https://doi.org/10.1016/S0140-6736\(09\)60137-9](https://doi.org/10.1016/S0140-6736(09)60137-9).

⁴⁰Tyler M. John and Joseph Millum, "First Come, First Served?," *Ethics* 130, no. 2 (2020): 179–207, <https://doi.org/10.1086/705763>.

⁴¹Alvin E. Roth, review of *Local Justice: How Institutions Allocate Scarce Goods and Necessary Burdens*, by Jon Elster, *Journal of Economic Literature* 31 (1993): 1445–46.

⁴²Luigi Siciliani, Valerie Moran, and Michael Borowitz, "Measuring and Comparing Health Care Waiting Times in OECD Countries," *Health Policy* 118, no. 3 (2014): 292–303, <https://doi.org/10.1016/j.healthpol.2014.08.011>.

⁴³John Rawls, *A Theory of Justice*, rev. ed. (Cambridge, MA: Belknap Press of Harvard University Press, 1999).

⁴⁴Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach* (London and Washington: International Institute of Islamic Thought, 2008), <https://doi.org/10.2307/j.ctvkc67tg>.

⁴⁵James Piscatori, "Allocating 'God's Guests': The Politics of Hajj Quotas," HH Sheikh Nasser al-Mohammad al-Sabah Publication Series, Research Working Paper No. 32 (Durham: Durham University, 2021).

⁴⁶A'an Suryana, "Challenges Await Indonesia's New Ministry of Hajj and Umrah," *ISEAS Perspective*, no. 2026/5 (Singapore: ISEAS–Yusof Ishak Institute, 24 January 2026).

⁴⁷Robert R. Bianchi, *Guests of God: Pilgrimage and Politics in the Islamic World* (New York: Oxford University Press, 2004).

⁴⁸Robert R. Bianchi, "Reimagining the Hajj," *Social Sciences* 6, no. 2 (2017): 36, <https://doi.org/10.3390/socsci6020036>.

⁴⁹Asep Saepudin Jahar, "Bureaucratizing Sharia in Modern Indonesia: The Case of Zakat, Waqf and Family Law," *Studia Islamika* 26, no. 2 (2019): 207–45, <https://doi.org/10.15408/sdi.v26i2.7797>.

institutional configurations shaped by their political histories.⁵⁰ Before 2026, provincial quotas were allocated in proportion to the Muslim population, as documented by Prasetyo.⁵¹ Such an allocation is fair by a territorial yardstick but produces widely divergent waiting times across provinces.

Studies of quota governance fall into four groups. The first deals with hajj funds, for instance Samsudin et al., who read hajj fund management through the maqāṣid,⁵² and Jamal and Sharif, who compare Indonesia's Hajj Financial Management Agency (BPKH) with Malaysia's Tabung Haji.⁵³ The second addresses access restrictions in the name of fairness among applicants, such as Husen and Mukhlisin on repeat pilgrimage⁵⁴ and Siddiq et al. on the ten-year bar on re-registration.⁵⁵ The third examines legal compliance, such as Faza on the allocation of the 2024 additional quota.⁵⁶ The fourth concerns religious authority: Alfitri shows how MUI has bureaucratized fatwa production,⁵⁷ while Ichwan notes that MUI fatwas are not legally binding and that their influence depends on the political context.⁵⁸ Ilfa then discusses the 2026 formula and projects a 10–15% decline in deaths among elderly pilgrims, although that figure is only a projection.⁵⁹ The pattern is that justice in the governance literature is almost always understood as equal access and procedural compliance, while shifts in the meaning of worship are assumed to occur through fatwas rather than through administrative instruments.

These three bodies of literature have developed in isolation. Studies of the fiqh of istiṭā'ah treat the queue as an external obstacle, and the remedies they propose, such as *badal* or age limits, leave the design of the queue untouched.⁶⁰ The literature on allocative justice offers theories of queuing but has not been applied to a religious obligation whose conditions attach to the individual. Governance studies, including Ilfa's, assess the 2026 formula in terms of

⁵⁰Banu Senay et al., "Islamic Bureaucracies in Indonesia and Turkey: The Challenge of Comparison," *Religion, State and Society* 53, no. 3 (2025): 165–87, <https://doi.org/10.1080/09637494.2025.2561361>.

⁵¹Arif Prasetyo, "Waiting List Patterns in the Implementation of Hajj: The Fulfillment of the Rights of the Congregation (Study of Central Java Province, Indonesia)," *Journal of Indonesian Legal Studies* 2, no. 1 (2017): 37–42, <https://doi.org/10.15294/jils.v2i01.16636>.

⁵²Abdul Aziz Samsudin et al., "Hajj Funds Management Based on Maqāṣid Al-Sharī'ah: A Proposal for Indonesian Context," *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 18, no. 2 (2023): 544–67, <https://doi.org/10.19105/al-lhkam.v18i2.7268>.

⁵³Hafiz Arif Jamal and Saqib Sharif, "Making Road to Makkah Accessible for Pakistanis: Proposed Model from the Experience of Indonesia and Malaysia," *Islamic Banking and Finance Review* 12, no. 1 (2025): 92–122, <https://doi.org/10.32350/ibfr.121.05>.

⁵⁴Fathurrohman Husen and Mukhlisin, "Balancing Faith and Fairness: A Maqāṣid al-Sharī'ah Perspective on Regulating Repeated Hajj in Indonesia," *Al-Ahkam: Jurnal Ilmu Syari'ah dan Hukum* 9, no. 2 (2024): 171–94, <https://doi.org/10.22515/al-lhkam.v9i2.10540>.

⁵⁵Achmad Siddiq et al., "Restrictions on Hajj Pilgrimage for Indonesian Congregation from the Perspective of Sadd al-Dzari'ah," *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi* 7, no. 1 (2024): 35–51, <https://doi.org/10.24090/volksgeist.v7i1.9701>.

⁵⁶Madalia Faza, "Legal Noncompliance in Indonesia Additional Hajj Quota Allocation," *Academia Open* 11, no. 1 (2026), <https://doi.org/10.21070/acopen.11.2026.13134>.

⁵⁷Alfitri, "Bureaucratizing Fatwā in Indonesia: The Council of Indonesian Ulama and Its Quasi-Legislative Power," *Ummuna* 24, no. 2 (2020): 367–97, <https://doi.org/10.20414/ujis.v24i2.412>.

⁵⁸Moch. Nur Ichwan, "Ulamā', State and Politics: Majelis Ulama Indonesia after Suharto," *Islamic Law and Society* 12, no. 1 (2005): 45–72.

⁵⁹Ilfa, "Reforming Hajj Quota Allocation."

⁶⁰Sufyan et al., "Taḥqīq Maḥmūd al-Istiṭā'ah al-Siḥhiyyah."

⁶¹Huda and Haeba, "Hajj, Istiṭā'ah, and Waiting List."

equity and implementation without asking what happens to the concept of istiṭā'ah.⁶² Qosim et al. have proposed the idea of a state-shaped istiṭā'ah, but at the level of the ministry's establishment and in a normative register that casts the state as an agent of maqāṣid, rather than at the level of observable mechanisms.⁶³ Nor has any study read Constitutional Court Decision No. 237/PUU-XXIII/2025 in relation to fiqh. This article addresses that gap by bringing together queue-justice theory, the fiqh of istiṭā'ah, and 2026 policy data to show how administrative design shifts the meaning of a religious concept.

Methods

The object of this study is the inter-provincial allocation of the regular hajj quota in proportion to waiting lists, as regulated in Article 13 of Law No. 14 of 2025 on the Third Amendment to Law No. 8 of 2019 on the Organization of Hajj and Umrah, together with its implementation in the 1447 AH/2026 CE season.⁶⁴ This object was chosen because it is the first change to the basis of quota allocation since the population-based system was introduced and because the change was explicitly justified in the language of justice. The unit of analysis is policy at the national and provincial levels. Aceh was selected as the primary case because it is a province that gained quota and formally implements Islamic law, while West Java was selected as the comparison case because it suffered the largest loss. The selection of two opposite cases follows a contrasting-case logic, allowing the effects of the same formula to be observed from both directions. The focus is not on the performance of hajj administration but on the conception of justice embedded in the formula and its implications for istiṭā'ah.

This is a qualitative socio-legal study with a document-based policy-analysis design, supplemented by descriptive statistics. The design suits research questions concerning the relationship between norms (fiqh and law) and policy mechanisms that can be observed through public documents. The data comprise four types. The first is legal data: Law No. 14 of 2025, Minister of Health Regulation No. 15 of 2016, Minister of Religious Affairs Decree No. 1996 of 2024 on the 2025 quota, and Constitutional Court Decision No. 237/PUU-XXIII/2025. The second is religious data: classical fiqh works and MUI fatwas on istiṭā'ah (1979), the status of deposits held in the waiting list (2012), repeat pilgrimage (2015), and the use of returns on initial deposits (2024). The third is statistical data: provincial quota tables for 2025 and 2026, waiting-list figures, the results of the 2026 istiṭā'ah examinations, pilgrim deaths for 2023–2026, the 2026 age composition of pilgrims published by Statistics Indonesia (BPS), and BPKH data on investment returns (*nilai manfaat*). The fourth consists of official statements by the Ministry of Hajj and Umrah, the DPR, MUI, and the Ministry of Health as reported by mainstream online media. All data are public and were collected between October 2025 and October 2026.

The study involves no human participants. No interviews, surveys, or field observations were conducted, and no informant quotations are used. Instead, the study examines “textual

⁶²Ilfa, “Reforming Hajj Quota Allocation.”

⁶³Qosim, Atmaja, and Prihantono, “*Fiqh al-Mu'assasāt* in Contemporary Muslim Society.”

⁶⁴Commission VIII of the DPR RI, “Laporan Singkat Rapat Kerja,” 28 October 2025.

actors”, that is, institutions whose voices are recorded in public documents: the Ministry of Hajj and Umrah as policy designer and implementer, Commission VIII of the DPR as co-determiner of the quota, the Constitutional Court as the body reviewing the norm, MUI as fatwa authority, the Ministry of Health as assessor of health istiṭā'ah, BPKH as fund manager, BPS as the source of demographic data on pilgrims, and the Indonesian Consumers Foundation (YLKI) as a critical voice outside government. Actors were selected on the basis of their formal authority or public role in formulating and evaluating the policy. Following Elster, they are grouped into three orders: first-order actors that carry out the allocation (the Ministry of Hajj and Umrah and the Ministry of Health), second-order actors that set and review its legal framework (the DPR and the Constitutional Court), and third-order actors that shape public opinion and legitimacy (MUI, YLKI, and the media).⁶⁵ Because no personal data were processed, ethical approval was not required, but care was taken to attribute every statement accurately.

The research proceeded in four stages. The first was an inventory of relevant legal documents, fatwas, and quantitative data. The second was verification and triangulation of figures. Where sources disagreed, the source closest to the official document was preferred. For example, East Java's 2026 quota is recorded as 42,409 according to the table released with the DPR working-meeting report rather than 42,490 as stated in one media report, and North Sumatra's 2025 quota is recorded as 8,328 according to the table in Ministerial Decree No. 1996 of 2024, which makes its fall to 5,913 in 2026 consistent with the Antara report.⁶⁶ The third stage was coding the documents with two frameworks: Elster's allocative principles (time, need, egalitarian, status/territory) and the dimensions of istiṭā'ah (financial, health, security, time). The fourth stage compared the Aceh and West Java cases to see how the same formula operates in a province that gained and one that lost quota.

The analysis proceeded on three levels, each answering one research question. The first level is descriptive statistics: recalculating the ratio of waiting list to quota, the change in quotas, and the proportions of elderly and deceased pilgrims in order to test what the formula actually equalizes. The second is qualitative content analysis of normative documents to map at which point istiṭā'ah is assessed, by whom, and with what consequences, and to compare this with juristic and fatwa formulations. The third is a comparative case analysis of Aceh and West Java. The findings from the three levels are then read through queue-justice theory and the fiqh of istiṭā'ah in the Discussion. Validity was ensured through source triangulation, an audit trail of decisions on conflicting data, and a strict distinction between figures reported by sources and figures calculated by the author. Following the caution of Siciliani et al., waiting-time figures are treated as administrative measures rather than as the waiting time experienced by each registrant.⁶⁸

⁶⁵Elster, *Local Justice*.

⁶⁶Antara, “Pembagian Kuota Haji Reguler Tiap Provinsi Tahun 1446 H/2025 M,” *ANTARA*, 2025, <https://www.antaraneews.com/berita/4570170/pembagian-kuota-haji-reguler-tiap-provinsi-tahun-1446-h-2025-m> (including the annex to Minister of Religious Affairs Decree No. 1996 of 2024).

⁶⁷Antara, “Ada Formula Baru.”

⁶⁸Siciliani, Moran, and Borowitz, “Measuring and Comparing Health Care Waiting Times.”

Results

Evidence 1: Statistical Data on Quotas, Age, and Pilgrim Mortality

Table 1 summarizes quota changes in selected provinces. With a national waiting list of 5,398,420 people and a regular quota of 203,320 places, the national ratio is 26.55 years, close to the official figure of 26.4 years and to the “around 26 years” cited by the DPR before the Constitutional Court.⁶⁹⁷⁰ Aceh, with a waiting list of 144,076, received 5,426 places, an increase of 1,048 over its 4,378 places in 2025.⁷¹⁷² West Java, by contrast, fell from 38,723 to 29,643 places, a loss of 9,080 (23.4%),⁷³ and at the district level the quota of Sukabumi Regency reportedly fell from 1,535 to 124 places.⁷⁴ East Java rose from 35,152 to 42,409 and South Sulawesi from 7,272 to 9,670, whereas North Sumatra fell from 8,328 to 5,913.⁷⁵⁷⁶ Table 2 shows another side of the queue: in 2026, 36.6% of pilgrims were aged 60 or over and 21.5% were aged 65 or over, while only about 7% came from the bottom 40% of the expenditure distribution.⁷⁷ The number of pilgrim deaths fell from 773 in 2023 to 461 in 2024, 447 in 2025, and 367 in 2026.⁷⁸⁷⁹⁸⁰⁸¹

Table 1. Changes in the Regular Haji Quota in Selected Provinces, 2025–2026

Province	Quota 2025	Quota 2026	Change	Waiting time (before → after)
Aceh	4,378	5,426	+1,048	32 years → approx. 26.5 years
West Java	38,723	29,643	−9,080	approx. 20 years* → approx. 26.5 years

⁶⁹Desy Yuliasuti, “Kuota Haji 2026 Diatur Ulang, Masa Tunggu Dipukul Rata 26 Tahun,” *Fortune Indonesia*, 29 October 2025, <https://www.fortuneidn.com/sharia/kuota-haji-2026-diatur-ulang-masa-tunggu-dipukul-rata-26-tahun-00-4vfn9-rbxzg9>.

⁷⁰Constitutional Court of the Republic of Indonesia, “Rumusan Baru Pembagian Kuota Haji, Masa Tunggu Seragam 26 Tahun” [New quota allocation formula, uniform 26-year waiting time], *mkri.id*, 27 January 2026, <https://www.mkri.id/berita/rumusan-baru-pembagian-kuota-haji-masa-tunggu-seragam-26-tahun-24465>.

⁷¹Yuliasuti, “Kuota Haji 2026 Diatur Ulang.”

⁷²Antara, “Pembagian Kuota Haji Reguler Tiap Provinsi 2025.”

⁷³Bima Bagaskara, “Jawa Barat Kehilangan 9.000 Kuota Haji 2026,” *detikJabar*, 1 November 2025, <https://www.detik.com/jabar/berita/d-8188199/jawa-barat-kehilangan-9-000-kuota-haji-2026>.

⁷⁴Aji Prasetyo, “YLKI Kritik Redistribusi Kuota Haji 2026,” *Hukumonline*, 12 November 2025, <https://www.hukumonline.com/berita/a/ylki-kritik-redistribusi-kuota-haji-2026-lt691466ccda928/>.

⁷⁵Antara, “Pembagian Kuota Haji Reguler Tiap Provinsi 2025.”

⁷⁶Kamalina, “Lengkap! Daftar Alokasi Kuota Haji 2026.”

⁷⁷Kumparan, “BPS Dorong Penguatan Layanan Kesehatan Haji: 36,6% Jemaah 2026 Lansia,” *Kumparan*, 6 August 2026, <https://kumparan.com/fadjar-hadi/bps-dorong-penguatan-layanan-kesehatan-haji-36-6-jemaah-2026-lansia-27w1H6s4wyG> (reporting the presentation by the Head of BPS on the 1447 AH/2026 CE Indonesian Haji Service Satisfaction Survey and Statistical Study).

⁷⁸Kristina, “Operasional Haji 2023 Berakhir: 77 Jemaah Dirawat, 773 Wafat, 1 Masih Hilang,” *detikHikmah*, 5 August 2023, <https://www.detik.com/hikmah/haji-dan-umrah/d-6860555/operasional-haji-2023-berakhir-77-jemaah-dirawat-773-wafat-1-masih-hilang>.

⁷⁹Ministry of Health of the Republic of Indonesia, “Resmi Berhenti Beroperasi, Layanan Kesehatan Haji Indonesia di Arab Saudi Berhasil Tekan Angka Kematian Jemaah Tahun 2025,” 12 July 2025, <https://www.kemkes.go.id/id/resmi-berhenti-beroperasi-layanan-kesehatan-haji-indonesia-di-arab-saudi-berhasil-tekan-angka-kematian-jemaah-tahun-2025>.

⁸⁰NU Online, “Operasional Haji 2025 Resmi Ditutup, 3 Jemaah Dilaporkan Hilang dan 447 Meninggal,” 14 July 2025, <https://www.nu.or.id/nasional/operasional-haji-2025-resmi-ditutup-3-jemaah-dilaporkan-hilang-dan-447-meninggal-8TtXO>.

⁸¹Abi Abdul Jabbar Sidik, “Operasional Haji 2026 Resmi Berakhir, 367 Jemaah Indonesia Wafat dan 60 Masih Dirawat di Arab Saudi,” *Madaninews.id*, 3 July 2026, <https://www.madaninews.id/27906/operasional-haji-2026-resmi-berakhir-367-jemaah-indonesia-wafat-dan-60-masih-dirawat-di-arab-saudi.html>.

Province	Quota 2025	Quota 2026	Change	Waiting time (before → after)
East Java	35,152	42,409	+7,257	34 years → approx. 26.5 years
South Sulawesi	7,272	9,670	+2,398	36 years → 26 years
North Sumatra	8,328	5,913	−2,415	19 years → 26 years
National (regular)	203,320	203,320	0	11–47 years → 26.4 years

Sources: 2025 quotas from Minister of Religious Affairs Decree No. 1996 of 2024 as released by Antara (2025); 2026 quotas from Kamalina (Bisnis.com, 28 October 2025) and the summary report of the Commission VIII working meeting (28 October 2025); waiting times from Fatmawati (Metrotvnews, 2025), detikHikmah (27 April 2025), Ramadhanty (Tirto, 28 October 2025), and Antara (Bisnis.com, 30 November 2025). * Author's estimate: West Java's waiting list of 787,071 divided by its 2025 quota; no official provincial figure was found. Changes calculated by the author from quota differences; media sources report slightly different differences (East Java +7,255; Aceh +1,047).

Table 2. Health, Age, and Mortality Indicators of Indonesian Hajj Pilgrims

Indicator	Value and year
Pilgrim deaths in Saudi Arabia	773 (2023); 461 (2024); 447 (2025); 367 (2026)
Deceased pilgrims aged ≥65	562 of 773 (72.7%) in 2023
Pilgrims with comorbidities	approx. 80.43% in 2025
Pilgrims aged ≥60 / ≥65	36.6% / 21.5% in 2026
Regular applicants examined for istiṭā'ah, 2026	220,283
Not meeting istiṭā'ah requirements, 2026	1,135 regular (0.52%) and 34 special; 704 regular under further evaluation
Elderly priority quota, 2026	5% of the provincial quota, minimum age 65

Sources: Kristina (detikHikmah, 5 August 2023); Ministry of Health (12 July and 14 August 2025); NU Online (14 July 2025); Sidik (Madaninews, 3 July 2026); Kumparan (6 August 2026, BPS data); Fadjarudin (Suara Surabaya, 21 January 2026); Evandio (Bisnis.com, 4 December 2025). Percentages calculated by the author.

These figures show that the uniformity of waiting times is not a policy achievement but a mathematical identity of the formula. If each provincial quota is set as the province's share of the national waiting list multiplied by the national quota, the ratio of waiting list to quota in every province must equal the national ratio. The calculations for Aceh (144,076 divided by 5,426) and West Java (787,071 divided by 29,643) both yield 26.55 years. Because the national regular quota was 203,320 in both 2025 and 2026, the formula does not shorten the national queue at all; it merely moves places from provinces with relatively short queues to provinces with long ones. Meanwhile, the age and mortality data show that the burden of waiting is not evenly distributed by age. More than one-third of the 2026 pilgrims were aged 60 or over, and in 2023 almost three-quarters of those who died were aged 65 or over. The hajj health literature corroborates this pattern: Gaddoury and Armenian find that diabetes, hypertension, and cardiovascular disease are significantly associated with pilgrim deaths in Mecca hospitals,⁸² and Elfaki et al. report that almost half of heat-related illness patients during the 2024 hajj were aged 60 or over.⁸³ The decline in deaths in 2024–2026 coincided with a tightening of istiṭā'ah requirements and cannot be attributed to the quota formula.

⁸²Mahmoud A. Gaddoury and Haroutune K. Armenian, "Epidemiology of Hajj Pilgrimage Mortality: Analysis for Potential Intervention," *Journal of Infection and Public Health* 17 (2024): 49–61, <https://doi.org/10.1016/j.jiph.2023.05.021>.

⁸³Elbagir A. Elfaki et al., "Prevalence and Risk Factors of Heat-Related Illness among Pilgrims during the Hajj Season 2024: A Cross-Sectional Study," *Journal of Epidemiology and Global Health* 16 (2026): 58, <https://doi.org/10.1007/s44197-026-00550-x>.

This finding supports the first part of the argument: what the 2026 formula equalizes is time, not opportunity. With a waiting time of about 26.5 years, a person who registers at 45 will depart at about 72, assuming the queue and quota remain constant. In Larson's terms, the formula enforces first-in, first-out on a national scale, so that two people who register on the same day in Aceh and in West Java will depart at roughly the same time.⁸⁴ Yet Larson also warns that the cost of waiting is not linear in time. In the hajj context that cost takes the form of a risk of losing one's health or life that rises with age. Pane et al. record mortality among Indonesian pilgrims of 149–337 per 100,000 pilgrims per year in 2004–2011, mainly from cardiovascular and respiratory disease,⁸⁵ while Yezli et al. show that temperatures in Mecca continue to rise and correlate with cases of heat stroke.⁸⁶ A person who passes the istiṭā'ah assessment after decades of waiting is thus examined in a body and a climate different from those at the time of registration. Uniform temporal justice therefore produces unequal risk determined by age at registration.

Evidence 2: Normative and Documentary Data on the Assessment of Istiṭā'ah

The second body of evidence comes from normative documents and official statements, in lieu of interview data. Table 3 maps the points at which istiṭā'ah is assessed in the post-2026 hajj cycle. At registration, the main requirement examined is the ability to pay the initial deposit. Health istiṭā'ah is examined only shortly before departure. The Minister of Hajj and Umrah stated that for the 2026 season the examination “was carried out before payment or settlement”, with 1,135 regular pilgrims declared ineligible.⁸⁷ Pilgrims who withdraw for failing istiṭā'ah may be replaced by a family member, “a child or spouse”.⁸⁸ Provisions on transferring the slot of a pilgrim who has died or is permanently ill have existed since Law No. 8 of 2019.⁸⁹ On the religious side, MUI has ruled that deposits held in the waiting list “belong, in sharia terms, to the registrant”,⁹⁰ that obstructing someone who intends to perform the obligatory hajj is forbidden and that first-time pilgrimage should be prioritized,⁹¹ and that using the returns on one person's initial deposit to finance another pilgrim's hajj is forbidden.⁹² Beyond MUI,

⁸⁴Larson, “Perspectives on Queues.”

⁸⁵Masdalina Pane et al., “Indonesian Hajj Cohorts and Mortality in Saudi Arabia from 2004 to 2011,” *Journal of Epidemiology and Global Health* 9, no. 1 (2019): 11–18, <https://doi.org/10.2991/jegh.k.181231.001>.

⁸⁶Yezli et al., “Escalating Climate-Related Health Risks.”

⁸⁷Muchlis Fadjarudin, “Menhaj: Prinsip Istithaah Diterapkan untuk Menjamin Keselamatan Jemaah,” *Suara Surabaya*, 21 January 2026, <https://www.suarasurabaya.net/kelanakota/2026/menhaj-prinsip-istithaah-diterapkan-untuk-menjamin-keselamatan-jemaah/>.

⁸⁸Nabila Ramadhanty, “Menhaj: Jemaah Haji 2026 Tak Istithaah Bisa Digantikan Keluarga,” *Tirto.id*, 21 January 2026, <https://tirto.id/menhaj-jemaah-haji-2026-tak-istithaah-bisa-digantikan-keluarga-hpEk>.

⁸⁹Dimas Ryandi, “RUU Penyelenggaraan Haji dan Umrah Disahkan, Banyak Perubahannya,” *JawaPos.com*, 28 March 2019, <https://www.jawapos.com/politik/1903280162/ruu-penyelenggaraan-haji-dan-umrah-disahkan-banyak-perubahannya>.

⁹⁰MUI Fatwa Commission, Decision of the Fourth Ijtima' Ulama of Indonesian Fatwa Commissions on the Ownership Status of BPIH Deposits on the Waiting List, Cipasung, 1 July 2012.

⁹¹MUI Fatwa Commission, Decision of the Fifth Ijtima' Ulama of Indonesian Fatwa Commissions on Repeat Hajj, At-Tauhidiyah Islamic Boarding School, Cikura, Tegal, 7–10 June 2015.

⁹²MUI Fatwa Commission, Decision of the Eighth Ijtima' Ulama of Indonesian Fatwa Commissions No. 09/Ijtima' Ulama/VIII/2024 on the Ruling on Using Returns on Prospective Pilgrims' Initial BIPIH Deposits to Finance Other Pilgrims' Hajj, Bangka, 28–31 May 2024.

Muhammadiyah's Tarjih Council in 2026 examined extending the meaning of istiṭā'ah to an administrative dimension, including visas and official procedures.⁹³

Table 3. Points of Istiṭā'ah Assessment in the Regular Hajj Cycle after 2026

Stage	What is assessed	Basis and consequence
Registration	Ability to pay the initial deposit; identity	Registration number issued; funds belong to the registrant (MUI 2012) and are managed by BPKH
Waiting period (approx. 26.5 years)	No routine istiṭā'ah assessment	Queue equalized across provinces (Law 14/2025, Art. 13); health guidance considered weak (Rustika et al. 2020; Lestari et al. 2026)
Before final payment	Health istiṭā'ah (physical, mental, cognitive, ADL)	Regulation 15/2016: four categories; 2026: 1,135 regular pilgrims ineligible
Failure of istiṭā'ah or death	—	Slot may be transferred to a family member (Law 8/2019; Minister's statement 2026)
Departure	Fitness to fly; Saudi health requirements	Certain illnesses excluded by Saudi authorities for 2026

Sources: compiled by the author from Regulation 15/2016; Law 14/2025; MUI Fatwa 2012; Fadjarudin (Suara Surabaya, 21 January 2026); Ramadhanty (Tirto, 21 January 2026); Ryandi (JawaPos, 28 March 2019); Yani (detikHikmah, 23 October 2025); Rustika et al. (2020); Lestari et al. (2026).

This map shows that in the administrative system istiṭā'ah is assessed at the end of the queue, not at its beginning. At registration, what is examined is the financial ability to pay the initial deposit, even though MUI's 1979 formulation defines istiṭā'ah as encompassing physical, spiritual, and material means.⁹⁴ Health is assessed only some two and a half decades later. Operationally, then, istiṭā'ah means “able when one's turn arrives”. Slot transfer to family members adds a further layer. In fiqh, the hajj obligation attaches to the individual, and for those who are physically unable, fiqh provides the notion of capacity through another person, namely *badal*.⁹⁵ Slot transfer, however, is not *badal*. The heir does not perform the pilgrimage on behalf of the original registrant but uses the queue number for his or her own hajj. What is inherited is not the obligation but a position in the queue. A deputy chair of MUI's Fatwa Commission has cautioned that “the hajj obligation lapses if one is not safe (istiṭā'ah)”,⁹⁶ while the Minister of Hajj and Umrah has acknowledged that the implementation of health istiṭā'ah in some regions is “not good”.⁹⁷ Rustika et al. likewise find that post-examination guidance is ineffective and inter-ministerial coordination weak,⁹⁸ so that the long waiting period is not used to monitor capacity.

These normative findings support the second part of the argument, namely the shift of istiṭā'ah from a condition to a position. Mann observes that in a queue, time served is felt to

⁹³Muhammadiyah, “Muhammadiyah Expands the Meaning of Hajj Capability towards Administrative and Maqasid Sharia Aspects,” *muhammadiyah.or.id*, 4 May 2026, <https://en.muhammadiyah.or.id/muhammadiyah-expands-the-meaning-of-hajj-capability-towards-administrative-and-maqasid-sharia-aspects/>.

⁹⁴MUI, Fatwa on Istitha'ah, 1979.

⁹⁵Al-Nawawī, *Al-Majmū'*, 7:63–69.

⁹⁶Irfan Amin, “MUI: Keselamatan Jemaah Haji Lebih Penting dari Kurangi Antrean,” *Tirto.id*, 23 January 2026, <https://tirto.id/mui-keselamatan-jemaah-haji-lebih-penting-dari-kurangi-antrean-hpLv>.

⁹⁷Wibi Pangestu Pratama, “Dua Catatan Besar Haji 2026: Situasi di Mina dan Istithaah Kesehatan Jemaah,” *Bisnis.com*, 31 May 2026, <https://kabar24.bisnis.com/read/20260531/15/1977434/dua-catatan-besar-haji-2026-situasi-di-mina-dan-istithaah-kesehatan-jemaah>.

⁹⁸Rustika et al., “An Evaluation of Health Policy Implementation.”

confer a right to one's place.⁹⁹ The Indonesian hajj system institutionalizes this intuition: the registration number is a right that can be transferred to family members, and the deposit belongs to the registrant. Oberholzer-Gee's experiments show that people are reluctant to sell their place in a queue because queues carry a morality of their own;¹⁰⁰ the hajj system does not permit the sale of slots but does permit their inheritance, so that the slot sits between a property right and a right of worship. Constitutional Court Decision No. 237/PUU-XXIII/2025 reinforces this framework.¹⁰¹ The petitioner, a prospective regular pilgrim holding a registration number, challenged the phrase "and/or" in Article 13(2)(a) of Law No. 14 of 2025 against Article 28D(1) of the 1945 Constitution. He argued that the phrase allowed the Minister to choose among allocation schemes without clear parameters, thereby shifting his expected year of departure, and asked the Court to read the phrase as "and". The Court rejected the petition, reasoning that the norm must be read within the statute as a whole: quota allocation depends on the Saudi quota, on continually changing waiting lists, and on the need to correct disparities in waiting times, so that "controlled flexibility" is required for just legal certainty.¹⁰² The controls consist of a limited choice of variables, the principles of transparency, proportionality, and fairness, attention to elderly pilgrims, and joint approval with the DPR.¹⁰³ The Court's reasoning does refer to the guarantee of freedom of worship and to the requirement that hajj administration conform to sharia, but it does not address istiṭā'ah. The yardstick of justice it applies is fairness among registrants and regions together with legal certainty, not the formula's conformity with the conditions of the hajj obligation. In other words, the Court examined who may choose the formula and within what limits, but not what the formula does to the meaning of the obligation it governs. This is where "queue istiṭā'ah" emerges: capacity that is no longer measured when the obligation arises but when the queue ends.

Evidence 3: The Cases of Aceh and West Java

Aceh and West Java show two faces of the same formula. In Aceh, the waiting time in early 2025 stood at 32 years with a quota of 4,378, including 219 elderly places.¹⁰⁴ In 2026 Aceh's quota rose to 5,426 places, an increase of about 24%, and its waiting time fell to around 26 years.¹⁰⁵ Aceh is the only Indonesian province that formally implements Islamic law, yet its additional quota has nothing to do with that status; it results solely from the length of its accumulated queue. In West Java, the quota fell by 9,080 places. The head of the Hajj and Umrah Division of the West Java Regional Office of the Ministry of Religious Affairs nonetheless described the change as "a breakthrough to bring justice to the community".¹⁰⁷

⁹⁹Mann, "Queue Culture."

¹⁰⁰Felix Oberholzer-Gee, "A Market for Time: Fairness and Efficiency in Waiting Lines," *Kyklos* 59, no. 3 (2006): 427–40, <https://doi.org/10.1111/j.1467-6435.2006.00340.x>.

¹⁰¹Constitutional Court Decision No. 237/PUU-XXIII/2025.

¹⁰²Constitutional Court Decision No. 237/PUU-XXIII/2025, paras. [3.11]–[3.13.1].

¹⁰³Constitutional Court Decision No. 237/PUU-XXIII/2025, paras. [3.12.1]–[3.13.2].

¹⁰⁴Fatmawati, "Daftar Tunggu Haji di Aceh."

¹⁰⁵Yuliastuti, "Kuota Haji 2026 Diatur Ulang."

¹⁰⁶Muhyiddin, "Kuota Haji 2026 Berubah: 12 Provinsi Naik, 22 Provinsi Turun, Jawa Timur Paling Diuntungkan," *Republika*, 20 November 2025, <https://khazanah.republika.co.id/berita/t60g3z483/kuota-haji-2026-berubah-12-provinsi-naik-22-provinsi-turun-jawa-timur-paling-diuntungkan>.

¹⁰⁷Bagaskara, "Jawa Barat Kehilangan 9.000 Kuota."

YLKI, however, criticized the redistribution from a consumer-protection perspective, demanding legal certainty and disclosure of the formula's parameters and proposing complaint and compensation mechanisms, citing the fall of Sukabumi Regency's quota from 1,535 to 124 places.¹⁰⁸ Within West Java itself, waiting times had previously ranged from about 16–17 years in Sukabumi and Cianjur to about 30 years in Depok and Bekasi Regency.¹⁰⁹

The two cases show that the 2026 formula is a redistribution, not an addition. With the same waiting list, West Java's former quota corresponded to a waiting time of about 20 years by the author's calculation, whereas its new quota corresponds to 26.5 years. Registrants in West Java who previously expected to depart within two decades now wait about six years longer, while registrants in Aceh wait several years less. For elderly registrants in West Java, six additional years may mean losing the chance to perform the hajj altogether; for registrants in Aceh, the same acceleration may mean departing before their health declines. The sharp cut in districts such as Sukabumi, which previously had some of the shortest queues in West Java, shows that equalization between provinces is followed by equalization within them. YLKI's critique matters because it reveals that registrants treat their projected year of departure as a legitimate expectation, a kind of promise attached to the registration number.¹¹⁰ When that promise changes, what registrants experience is not merely a change in figures but a change in entitlement.

The case study reveals the horizontal character of queue justice. In Elster's terms, the state has replaced a status-based territorial principle (allotments by Muslim population) with a time-based principle (national order of registration).¹¹¹ Elster's distinction between three orders of actors clarifies how this replacement was legitimized. At the first order, the Ministry of Hajj and Umrah and the West Java Regional Office framed the formula as a "breakthrough" for justice. At the second order, the DPR approved the quota and the Constitutional Court upheld the formula's flexibility. Criticism emerged only at the third order, from YLKI, which demanded transparent parameters and compensation. The debate over the formula's fairness thus took place almost entirely outside the institutions empowered to change it, and no first- or second-order actor raised the question of istiṭā'ah. The replacement is fair to registrants as individuals placed in a single national queue, but it takes no account of differences in age and health among them. The Aceh case also shows that in this system the length of the queue functions as a form of capital: the provinces with the longest queues receive the most places regardless of the age profile of their registrants. The elderly priority quota of 5% per province for those aged at least 65¹¹² is the only element of a need-based principle in the system, and it is small compared with the 21.5% of 2026 pilgrims aged 65 or over.¹¹³ Indonesia's choice

¹⁰⁸Prasetyo, "YLKI Kritik Redistribusi."

¹⁰⁹Metrotvnews, "Kemenag Sesuaikan Kuota Haji Jabar, Masa Tunggu Jadi Rata 26,4 Tahun," *Metrotvnews.com*, 4 November 2025, <https://www.metrotvnews.com/read/KYVC431x-kemenag-sesuaikan-kuota-haji-jabar-masa-tunggu-jadi-rata-26-4-tahun>.

¹¹⁰Prasetyo, "YLKI Kritik Redistribusi."

¹¹¹Elster, *Local Justice*.

¹¹²Akbar Evandio, "Buka-Bukaan Skema Kuota Lansia untuk Ibadah Haji 2026," *Bisnis.com*, 4 December 2025, <https://kabar24.bisnis.com/read/20251204/15/1934291/buka-bukaan-skema-kuota-lansia-untuk-ibadah-haji-2026>.

¹¹³Kumparan, "BPS Dorong Penguatan Layanan Kesehatan Haji."

contrasts with that of Turkey, which, according to Bianchi, gave most visas to elderly first-time pilgrims once the queue exceeded the remaining life expectancy of many applicants.¹¹⁴ The case thus reinforces the argument that the 2026 formula equalizes time but not risk.

Discussion

The three bodies of evidence converge on a single conclusion. The statistical evidence shows that the uniform waiting time of 26.5 years is a mathematical consequence of the formula rather than the result of additional places, and that the burden of waiting falls most heavily on elderly pilgrims. The normative evidence shows that health istiṭā'ah is assessed at the end of the queue, while the registration number is treated as a transferable right. The case study shows that the same formula shortens Aceh's queue and lengthens West Java's, with a temporal principle replacing a territorial one. Taken in order, these findings answer the research questions and support the argument that the 2026 formula makes the queue the measure of justice and shifts istiṭā'ah from a person's condition when the obligation arises to the capacity to survive until one's turn comes.

These findings both complement and correct earlier studies. Ilfa projects a 10–15% decline in deaths among elderly pilgrims as a result of the 2026 formula.¹¹⁵ The 2026 data do record a fall in deaths to 367, but the decline also occurred in 2024 and 2025, before the formula took effect and alongside a tightening of istiṭā'ah requirements, so it cannot be attributed to the formula. Arifin et al. identify a narrowing of istiṭā'ah to economic capacity;¹¹⁶ this article shows a further narrowing, in which istiṭā'ah becomes a function of time. Sufyan et al. propose *badal* for queue pilgrims;¹¹⁷ this article shows that the practice actually in place is slot transfer, which differs from *badal* in fiqh. Man et al. criticize the Malaysian queue for failing to screen for the conditions of obligation at the point of entry;¹¹⁸ the present findings show the same problem in Indonesia, with assessment deferred to the end of the queue. Qosim et al. view the bureaucratization of the hajj as a state maqāṣid project;¹¹⁹ this article shows the other side of that bureaucratization, namely the transfer of risk to individuals. Finally, Piscatori identifies sending states as bearing the political burden of waiting lists;¹²⁰ the Indonesian case shows that this burden is passed on to registrants.

Theoretically, the case shows that the state can change the meaning of a fiqh concept without a fatwa, through administrative design. This article calls the phenomenon “administrative fiqh”: the meaning of a condition of worship is shaped by the sequence of forms, the schedule of examinations, and the formula for allocating places. The concept extends Jahar's thesis on the bureaucratization of sharia, demonstrated for zakat, waqf, and family law,¹²¹ to the domain of ritual worship (*ibādah maḥḍah*). This reading must, however,

¹¹⁴Bianchi, “Reimagining the Hajj.”

¹¹⁵Ilfa, “Reforming Hajj Quota Allocation.”

¹¹⁶Arifin et al., “The Shifting Meaning of Istiṭā'ah.”

¹¹⁷Sufyan et al., “Taḥqīq Maḥūm al-Istiṭā'ah al-Ṣiḥḥiyah.”

¹¹⁸Man, Syed Jaafar, and Musa, “Istiṭā'ah dalam Ibadah Haji.”

¹¹⁹Qosim, Atmaja, and Prihantono, “*Fiqh al-Mu'assasāt* in Contemporary Muslim Society.”

¹²⁰Piscatori, “Allocating ‘God’s Guests.’”

¹²¹Jahar, “Bureaucratizing Sharia in Modern Indonesia.”

be tested against the strongest counter-argument from within fiqh itself: the queue might be regarded simply as a modern form of *imkān al-masīr*, so that the obligation binds only once the journey becomes possible and no meaning has shifted. This counter-argument is not fully adequate, for three reasons. First, in classical fiqh *imkān al-masīr* is measured in units of a single season, that is, whether there is enough time to arrive before the rites, not in units of decades that place the remainder of a person's life under uncertainty. Second, obstacles to travel in classical fiqh are external and temporary, whereas the queue is created by the state and accompanied by an initial deposit that binds the registrant legally and financially. Third, the debate between *fawr* and *tarākhī* presupposes that deferral is the choice of the legally responsible person, so that the issue is the culpability of the one who defers.¹²² In the queue system, deferral is not a choice. On either view, a registrant who dies before his or her turn bears no sin of deferral, and that is precisely where the shift lies: a risk that fiqh assigns to personal choice is now determined by state design. The queue is no longer an obstacle that postpones the obligation but a structure that determines when capacity is assessed. The concept of administrative fiqh also complements the findings of Alfitri and Ichwan on fatwa authority: where fatwas are not legally binding, binding administrative instruments become a more effective channel for shaping religious meaning.¹²³¹²⁴ Queue-justice theory explains why the change has been readily accepted, since order of arrival feels fair, egalitarian, and intuitive.¹²⁵¹²⁶ John and Millum, however, expose its limits: waiting time carries no intrinsic moral weight and is legitimate only when applicants are relevantly similar,¹²⁷ whereas hajj registrants differ greatly in age and health. Barzel helps to explain the economic side: because the hajj slot is subsidized, time becomes the "price", and that price is paid in years of life.¹²⁸ BPS data showing that only about 7% of 2026 pilgrims came from the bottom 40% of the expenditure distribution¹²⁹ indicate that the queue is not economically neutral either.

The findings carry three practical implications. First, the claim that the 2026 formula is just must be read narrowly. The formula is just in a horizontal sense, across regions and among registrants by order of time, but not in a substantive sense, that is, in terms of the real chance of performing the hajj safely. Tested against Rawls's difference principle, the least advantaged in the hajj queue are elderly and low-income registrants. The 2026 formula is not designed to benefit them most, because gains and losses of places are determined by the province of registration rather than by the vulnerability of registrants; the only element pointing in that direction is the 5% elderly priority quota.¹³⁰ In maqāṣid terms, the formula prioritizes *ḥifẓ al-dīn* in the sense of an equal opportunity to fulfil a pillar of Islam, while *ḥifẓ al-nafs* is considered only at the end of the queue through the istiṭā'ah examination. Auda's reading of the maqāṣid, which moves from "protection" to "rights", demands a different sequence: the safety of life

¹²² Al-Nawawī, *Al-Majmū'*, 7:103.

¹²³ Alfitri, "Bureaucratizing Fatwā in Indonesia."

¹²⁴ Ichwan, "Ulamā', State and Politics."

¹²⁵ Mann, "Queue Culture."

¹²⁶ Larson, "Perspectives on Queues."

¹²⁷ John and Millum, "First Come, First Served?"

¹²⁸ Barzel, "A Theory of Rationing by Waiting."

¹²⁹ Kumparan, "BPS Dorong Penguatan Layanan Kesehatan Haji."

¹³⁰ Rawls, *A Theory of Justice*.

becomes a right to be considered from the design of the allocation onwards, not merely a filter at the end.¹³¹ Second, because istiṭā'ah is assessed at the end of the queue, the risk of losing the opportunity to perform the hajj is shifted to individuals and their families. Those who fail istiṭā'ah after decades of waiting can only hope that their slot will pass to a relative. The scarcity of places also encourages dangerous irregular routes; Memish et al. note that most of the 1,301 heat-related deaths during the 2024 hajj involved unregistered pilgrims.¹³² Third, financial inequality becomes more visible. Each pilgrim departing in 2026 received a subsidy from investment returns of about IDR 33.2 million,¹³³ whereas the average return credited to the virtual accounts of regular waiting-list registrants in the first 2026 distribution was about IDR 323,490,¹³⁴ roughly one-hundredth of that amount. MUI has ruled that using the investment returns on one person's deposit to finance another pilgrim is forbidden.¹³⁵ A queue that is uniform but long prolongs this inequality.

Why did the state choose the queue as the measure of justice? Four factors are evident in the documents. First, the Saudi quota is fixed and cannot be expanded to meet demand, so the state can regulate only distribution, not volume.¹³⁶ Second, there is the logic of subsidy. The chair of Commission VIII described the old system as unjust because waiting times differed although the subsidy per pilgrim was the same,¹³⁸ and the DPR told the Constitutional Court that a uniform waiting time gives everyone an equal opportunity to access investment returns.¹³⁹ Third, accountability: disparities in waiting time of up to 47 years had been flagged in an audit by the Supreme Audit Agency (BPK).¹⁴⁰ Fourth, simplicity and verifiability: the time of registration is neatly recorded in the system, whereas need, health, and age require more complex and contestable assessments. The Deputy Minister of Hajj and Umrah even described age as a "debatable" criterion.¹⁴² Senay et al. caution that such choices arise from particular bureaucratic configurations rather than from technical necessity.¹⁴³ Together these four factors make the queue appear the most neutral option, even though it embodies a moral choice about who bears the risk.

¹³¹ Auda, *Maqasid al-Shariah as Philosophy of Islamic Law*.

¹³² Ziad A. Memish, Alimuddin Zumla, and Salim Parker, "Heat-Related Deaths during the 2024 Hajj Pilgrimage," *Journal of Travel Medicine* 31, no. 6 (2024): taac096, <https://doi.org/10.1093/jtm/taac096>.

¹³³ NU Online, "BPIH 2026 Turun Rp 2 Juta, BPKH Apresiasi Tegaskan Komitmen Penyaluran Nilai Manfaat," 29 October 2025, <https://www.nu.or.id/nasional/bpih-2026-turun-rp-2-juta-bpkh-apresiasi-tegaskan-komitmen-penyaluran-nilai-manfaat-CT4i4>.

¹³⁴ CNN Indonesia, "BPKH Salurkan Rp2,06 Triliun Nilai Manfaat Tahap I Tahun 2026," 5 August 2026, <https://cnnindonesia.com/ekonomi/20260805111336-625-1388806/bpkh-salurkan-rp206-triliun-nilai-manfaat-tahap-i-tahun-2026>.

¹³⁵ Eighth Ijtima' Ulama No. 09/2024.

¹³⁶ Piscatori, "Allocating 'God's Guests.'"

¹³⁷ Afrilia Tristara, "Seminar Akbar Haji 2025, PBNU Dorong Keadilan Masa Tunggu bagi Negara Mayoritas Muslim," *NU Online*, 2 June 2025, <https://www.nu.or.id/internasional/seminar-akbar-haji-2025-pbnu-dorong-keadilan-masa-tunggu-bagi-negara-mayoritas-muslim-wNVhT>.

¹³⁸ Ramadhanty, "DPR Dukung Usul Kemenhaj."

¹³⁹ Constitutional Court, "Rumusan Baru Pembagian Kuota Haji."

¹⁴⁰ Constitutional Court, "Rumusan Baru Pembagian Kuota Haji."

¹⁴¹ Yuliasuti, "Kuota Haji 2026 Diatur Ulang."

¹⁴² Wildan Pratama, "Angka Jemaah Wafat Tertinggi di Nasional, Kemenhaj Beri Catatan Khusus bagi Jatim," *Suara Surabaya*, 12 June 2026, <https://www.suarasurabaya.net/kelanakota/2026/angka-jemaah-wafat-tertinggi-di-nasional-kemenhaj-beri-catatan-khusus-bagi-jatim/>.

¹⁴³ Senay et al., "Islamic Bureaucracies in Indonesia and Turkey."

Five recommendations follow from these findings. First, basic health screening should take place at registration, not only before final payment, so that istiṭā'ah is monitored throughout the waiting period and health guidance begins earlier, as the evidence on weak post-examination guidance also suggests.¹⁴⁴ Second, quota allocation could combine time and need through weighted criteria, in line with the conclusion of Persad et al. that no single allocative principle suffices on its own,¹⁴⁵ for example by gradually raising the elderly priority quota towards the share of pilgrims aged 65 or over, as Turkey has done.¹⁴⁶ Third, in line with MUI's 2015 fatwa, the queue for first-time registrants should be clearly separated from that for repeat pilgrims.¹⁴⁷ Fourth, as YLKI demands, the formula's parameters, provincial waiting-list data, and projected departure years should be published openly and regularly.¹⁴⁸ Fifth, MUI and Islamic organizations should articulate a juristic position on the status of the registration number: whether it is an inheritable right, and how it relates to the personal nature of the obligation and to the concept of *badal*. The Muhammadiyah Tarjih Council's study of the administrative dimension of istiṭā'ah offers a starting point for this discussion.¹⁴⁹

Conclusion

This article finds that Indonesia's 2026 waiting-list-based hajj quota formula makes the queue the measure of justice. The uniform waiting time of about 26.5 years is a mathematical identity of the formula rather than the result of additional places, and the formula moves quota from provinces with shorter queues, such as West Java, to provinces with longer ones, such as Aceh. Within this system, health istiṭā'ah is assessed shortly before final payment, decades after registration, and the registration number is treated as a right that can be transferred to family members. As a result, istiṭā'ah in practice shifts from a state of capacity when the obligation arises to the capacity to survive until one's turn comes, which this article calls "queue istiṭā'ah".

The article makes three contributions. Theoretically, it brings queue justice and local justice into conversation with the fiqh of istiṭā'ah and offers two analytical concepts: "queue istiṭā'ah", which captures the shifting meaning of a condition of the hajj obligation, and "administrative fiqh", which explains how bureaucratic design can change the meaning of a religious concept without a fatwa. The latter concept extends the thesis of the bureaucratization of sharia to the domain of worship and distinguishes itself from the notion of *fiqh al-mu'assasāt* by identifying observable mechanisms. Empirically, it offers an analysis of the 2026 formula that links quota, age, mortality, and fatwa data, and it reads Constitutional Court Decision No. 237/PUU-XXIII/2025 from the perspective of fiqh. Practically, it proposes a policy agenda that weighs age, need, and the protection of life alongside order of registration.

¹⁴⁴Rustika et al., "An Evaluation of Health Policy Implementation."

¹⁴⁵Persad, Wertheimer, and Emanuel, "Principles for Allocation."

¹⁴⁶Bianchi, "Reimagining the Hajj."

¹⁴⁷Fifth Ijtima' Ulama, Repeat Hajj, 2015.

¹⁴⁸Prasetyo, "YLKI Kritik Redistribusi."

¹⁴⁹Muhammadiyah, "Muhammadiyah Expands the Meaning of Hajj Capability."

The study has several limitations. First, the data cover only one hajj season after the formula took effect, so its long-term effects on pilgrim mortality and departures cannot yet be assessed. Second, some figures derive from media reports quoting officials, and several differ slightly across sources; these discrepancies have been recorded and resolved transparently. Third, West Java's pre-2026 waiting time is the author's estimate because no official provincial figure was found. Fourth, the study does not capture the experiences of waiting registrants, of families receiving transferred slots, or of the health officers who conduct the examinations. Nevertheless, the concept of queue istiṭā'ah is not confined to Indonesia. Every country that allocates its hajj quota through long waiting lists, such as Malaysia with its Tabung Haji rotation system,¹⁵⁰ Pakistan, which relies on balloting and is considering a savings-and-queue model along Indonesian and Malaysian lines,¹⁵¹ or Turkey with its priority for the elderly,¹⁵² faces the same question of when, and by whom, capacity is assessed. Future research should gather field data on how registrants understand istiṭā'ah while waiting, compare Indonesia with the queuing systems of Malaysia and Turkey, and model the probability of departure by age at registration using cohort data.

Declarations

Use of AI

The authors used an AI assistant (Claude, Anthropic) to support source searching, drafting, language editing, and translation. All data, quotations, and references have been rechecked by the authors, who take full responsibility for the content of the manuscript.

Author contributions

All authors contributed to the conceptualization, methodology, analysis, drafting, and revision of the manuscript. All authors read and approved the final version.

Funding

This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.

Conflict of interest

The authors declare no conflict of interest.

Research ethics

This study uses only public documents and data and involves no human participants.

¹⁵⁰Man, Syed Jaafar, and Musa, "Istiṭā'ah dalam Ibadah Haji."

¹⁵¹Jamal and Sharif, "Making Road to Makkah Accessible."

¹⁵²Bianchi, "Reimagining the Hajj."

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