

Topic: Badal Hajj Benefit for Total and Permanent Disability: Shariah Revisit

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One of the notable benefits provided by Takaful Operators in the takaful market is Badal Hajj. As Hajj is one of the five pillars of Islam, it is an obligation for every Muslim to perform Hajj at least once in their lifetime for those who are financially and physically capable to perform Hajj (Al-Rāfi'ī, 1997).

Takaful Operators place emphasis on participants facing physical constraints in performing Hajj due to a diagnosis of Total and Permanent Disabilities (TPD). The particular benefit offers financial assistance to participants diagnosed and confirmed with TPD that enables them to appoint another individual to perform Badal Hajj on their behalf. This benefit is aligned with Maqasid Al-Shariah by safeguarding the preservation of religion (ḥifẓ al-dīn) by ensuring the pillars of Islam are carried out and the symbols of Islam are manifested (Al-Khādīmī, 2001).

The general definition of TPD by 5 Takaful Operators includes but not limited to the following criteria:

- Permanent loss of sight in both eyes.
- Permanent loss of use of two or more limbs.
- Permanent loss of sight in one eye and loss of one limb¹.

Participants who meet the TPD criteria are eligible for the Badal Hajj benefit for TPD. Nonetheless, there is possibility of inconsistency between the general eligibility criteria established by Takaful Operators for the participants with TPD and the Shariah eligibility criteria for a person performing Badal Hajj. This matter may create some discrepancies in adhering to Shariah requirements and meeting the criteria for Badal Hajj.

Muslim scholars have set guidelines regarding parameters and level of disability for performing Badal Hajj. According to Shafi'i Scholars' opinion, Badal Hajj is only applicable and eligible for deceased person, fully paralyzed person, old folks, person with chronic illnesses with no hope of recovery and person who is unable to perform Hajj due to extreme difficulty (Al-Nawawī, 1994).

It is worth to highlight that according to Maliki Scholars' view, it is not a requirement for mukallaf (accountable Muslim to perform obligations) to be in optimal functioning of each organ to perform Hajj. If there is a defect or deficiency in some of his organs yet he is still able to reach Makkah safely without extreme hardship, then performing Hajj becomes obligatory upon him individually and he cannot appoint other person to perform Badal Hajj on his behalf (Al-Ḥaṭṭāb, 1992).

According to Hanbali Scholars' view: the blind person is still obligated to perform Hajj by himself and is not entitled for Badal Hajj. He is obligated to have an assistant to assist him throughout the Hajj. As a matter of fact, this assistant is akin to the requirement for a woman to be accompanied by mahram during Hajj (Al-Mardāwī, 1955).

¹ The definitions provided are observed within the wording of product certificates issued by Takaful Operators.

In view of the above, it is evident that individuals who have lost both of their eyes, hands or legs are not entitled for Badal Hajj if they can fulfil two conditions; they have a person who can assist them during the Hajj and their conditions do not cause excessive hardship to them while performing Hajj (Al-Nawāwī, 1925).

Considering the views of scholars from Shafi'i, Maliki and Hanbali Schools as mentioned above, should we re-define TPD definition and establish new requirement for Badal Hajj benefit? Is it also fine just to follow the general TPD concept which is applicable to other normal rider? Looking at the current scenario of takaful industry in Malaysia, it is suggested that current TPD criteria for Badal Hajj benefit for TPD need to be aligned with the parameters of disability for performing Badal Hajj as stated by Muslim scholars. The Takaful Operators may refer to the available ruling and fatwa related to Hajj and Badal Hajj and engage with relevant government agencies including Department of Awqaf, Zakat and Hajj (JAWHAR) and Lembaga Tabung Haji in determining the requirement and criteria for Badal Hajj prior to product structuring.

We are of the view that any physical disabilities that will not totally deprive one person from performing Hajj should be excluded from the list of TPD for Badal Hajj benefit entitlement based on the parameters stated by Muslim scholars. Takaful Operators may design the ancillary benefit to help the person with TPD to perform Hajj by himself probably by channeling those benefits for assistant or escort allowances, prosthetic leg or arm assistance that enabling the participants to independently perform the Hajj obligation.

In a nutshell, this brief research paper discussed the TPD purely from Shariah viewpoint which reflects its entitlement for Badal Hajj in comparison to the normal TPD applied by Takaful Operators in Malaysia. As the area is considered as interesting, it is recommended that more studies are conducted in order to have a more detailed analysis which can be useful in takaful product development process particularly to the respective rider formulation.

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