

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
Third Regular Session



COMMITTEE REPORT NO. 1302

Submitted by the Committee on Public Accounts on December 11, 2024.

RE: Inquiry, in aid of legislation, on the reported mismanagement and non-compliance with mandated standards by the National Commission on Muslim Filipinos (NCMF) of the 2023 Hajj pilgrimage and on the utilization of public funds therefor.

Informing the House of its findings and recommendations.

Sponsors: Representatives Joseph Stephen “Caraps” S. Paduano, Yasser Alonto Balindong, Zia Alonto Adiong, Mohamad Khalid Q. Dimaporo, and Bai Dimple I. Mastura.


Mr. Speaker:

The Committee on Public Accounts, to which were referred the following measures:

1. Privilege Speech No. 177, by Rep. Yasser Alonto Balindong, entitled: “Problems Encountered During the 2023 Hajj Pilgrimage”;
2. Privilege Speech No. 178, by Rep. Zia Alonto Adiong, entitled: “Mishandling of the 2023 Hajj Pilgrimage”;
3. House Resolution No. 1313, sponsored by Rep. Mohamad Khalid Q. Dimaporo, entitled: “A Resolution Directing the House Committee on Public Accounts to Conduct an Investigation, in Aid of Legislation, on the Issuance of the Bureau of Treasury an Authority for the National Commission on Muslim Filipinos (NCMF) to Retain Its Deposit Accounts in the Philippine National Bank and if the Said Extension Is Compliant with the Special Provisions of Republic Act No. 11936, Otherwise Known as the General Appropriations Act of 2023, and the Provisions of Republic Act No. 9997, Otherwise Known as the National Commission on Muslim Filipinos Act”; and
4. House Resolution No. 1107, sponsored by Rep. Bai Dimple I. Mastura, entitled: “Resolution Directing the Committee on Public Accounts and the Committee on Muslim Affairs to Jointly Conduct an Inquiry in Aid of Legislation into the 2023 Hajj”

has considered the same and has the honor to submit to the House the attached report on its findings and recommendations.

Respectfully submitted,



Joseph Stephen "Caraps" S. Paduano
Chairperson
Committee on Public Accounts

**THE HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES
QUEZON CITY**

PREFATORY STATEMENT

On July 31, 2023, Representatives Yasser Alonto Balindong and Zia Alonto Adiong delivered their respective privilege speeches alleging serious deficiencies in the management of the 2023 Hajj pilgrimage by the National Commission on Muslim Filipinos (NCMF) under the helm of Secretary Guiling Mamondiong. Rep. Balindong highlighted the lack of transparency in the high costs, poor accommodations, and insufficient food provisions, criticizing the NCMF for not fulfilling its legal obligations and failing to meet pilgrim expectations. Rep. Adiong focused on NCMF's inability to provide adequate transportation, accommodations, and food for over 7,000 Filipino pilgrims, emphasizing its failure to coordinate the pilgrimage effectively as mandated by law.

The privilege speeches were referred to the Committee on Public Accounts, hereafter referred to as Committee, on August 15, 2023 and public hearings commenced on November 7, 2023. Pursuant to Section 15 of the Rules of Procedure Governing Inquiries in Aid of Legislation, the Committee voted to revive and extend deliberations on the issues highlighted in the privilege speeches as 60 days had already elapsed from the time of their referral.

Subsequently, House Resolution No. 1313, authored by Rep. Mohamad Khalid Q. Dimaporo, and House Resolution No. 1107, authored by Rep. Bai Dimple I. Mastura, were referred to the Committee on November 8, 2023 and January 30, 2024, respectively.

The mandate of the Committee is to look into and deliberate matters directly and principally relating to the examination and scrutiny of audit reports on the performance of all government agencies to determine their adherence to or compliance with the plans and programs authorized through appropriations approved by the legislature. It exercised this mandate to look into the performance of NCMF and compliance with its Charter and other relevant laws. The Committee conducted four (4) hearings with the following resource persons who testified and submitted documents during the hearings, namely:

1. Assistant Secretary Mardomel Celo D. Melicor – Department of Foreign Affairs (DFA)
2. Robert Ferrer – Senior Special Assistant, DFA
3. Dir. Lemuel Lopez – DFA
4. Perpetual Judea P. Quiazon – Chief Budget Management Specialist, Department of Budget and Management (DBM)
5. Krisshia D. Genio – Audit Team Leader, Commission on Audit (COA)
6. Rachel S. Policarpio – Supervising Auditor, COA
7. Dominick Mariano – Director, Bureau of Treasury (BTr)
8. Atty. Enrico H. Alday, Jr. – Department of the Interior and Local Government (DILG)
9. Atty. Guiling A. Mamondiong – former Secretary, NCMF

10. Yusoph Mando – Commissioner, NCMF
11. Atty. Michael Mamukid – Commissioner, NCMF
12. Atty. Ras Lidasan – Commissioner, NCMF
13. Samer Allong – Commissioner, NCMF
14. Dalisay Macadawan – Commissioner, NCMF
15. Tahir S. Lidasan Jr. – Executive Director, NCMF
16. Jehan-Jehan A. Lepail – Deputy Executive Director, NCMF
17. Atty. Rolando Abo – Director, Legal Affairs, NCMF
18. Estrella Neri – Director, Finance & Management Service, NCMF
19. Haidee Ampatuan – Director, Planning Service, NCMF
20. Atty. Moumina Abdullah – Team Leader, Hajj Legal Team, NCMF
21. Atty. Rhaiza Dellova – Hajj Legal Team, NCMF
22. Atty. Yasser Apion – Legal, NCMF
23. Lawrence Dilangalen – Electronic Data Processing, NCMF
24. Sheikh Abdullah S. Macaorao
25. Atty. Haron R. Ali
26. Mr. Jamaloding Solaman

The Committee terminated the deliberation on June 25, 2024.

STATEMENT OF FACTS

Under Republic Act No. (RA) 9997, otherwise known as the “National Commission on Muslim Filipinos Act of 2009,” NCMF took over the functions of the Office on Muslim Affairs (OMA) and is mandated to preserve and develop the culture, traditions, institutions and well-being of Muslim Filipinos, in conformity with the country’s laws and in consonance with national unity and development. The NCMF formally organized on February 18, 2010 and with the issuance of Executive Order (EO) No. 67 on October 31, 2019, the supervision over NCMF was transferred from the Office of the President to the Office of the Undersecretary for Mindanao Affairs of the Department of Interior and Local Government (DILG).

On December 22, 2022, NCMF released the 2023 Hajj Advisory which set the deadline for registration and payment of mutawiff fees¹. The 2023 Hajj took place from Monday,

¹ Mutawiff fee refers to the aggregate fees or charges paid by intending pilgrims to the Mutawiff in such amount as may be determined by the NCMF after the Annual Hajj Conference subject to prevailing exchange rate and made known to the public via Hajj advisory at least three (3) months before the Hajj. It includes services for transportation, food, housing and other related services for the pilgrims during the duration of Hajj season covering the period from their preparation for Hajj until final return from Saudi to their place of origin – NCMF hajj Operations Manual for 2023

June 26 to Saturday, July 1, 2023 occurring during the eighth to the 13th day of Dhul Hijjah, the 12th month of the Islamic lunar calendar.

After the 2023 Hajj pilgrimage, numerous reports on complaints from pilgrims published by various news agencies and the grievances lodged with government bodies such as the DFA surfaced.

In contrast to these reports, NCMF released En Banc Resolution No. 17 Series of 2023 declaring the 2023 Hajj operations successful compared to previous Hajj missions with the implementation of innovative measures that addressed recurring problems and on the result of the customer satisfaction survey administered to the pilgrims and sheikhs in Saudi Arabia.

ISSUE

Whether or not NCMF mismanaged the 2023 Hajj pilgrimage and failed to comply with the standard procedures as mandated by existing laws, rules and guidelines.

DISCUSSION ON FINDINGS

The Committee established the NCMF grossly mismanaged the 2023 Hajj pilgrimage and failed to comply with the established standard procedures mandated by prevailing laws, rules, and guidelines.

During the course of the inquiry, in aid of legislation, the Committee obtained the following facts and information:

1. The Logistical Challenges Faced by the Pilgrims Necessitate Changes in the NCMF

The Muslim-Filipino pilgrims faced delays and logistical challenges during the Hajj pilgrimage. NCMF admitted that many Filipinos encountered several logistical issues during the Hajj, affecting not only the pilgrims but also NCMF commissioners and supervisory team members. NCMF noted that similar issues were experienced by delegations from countries like Indonesia, Malaysia, and Nigeria, and described these challenges as part of the Hajj experience.

For context, the average Muslim-Filipino pilgrim spends the following amount to participate in the Hajj pilgrimage:

SCHEDULE OF HAJJ FEES

Particulars of Payment	2022 in US Dollars	2023 in US Dollars
1. Guaranty Insurance	18.28	18.28
2. Hajj Visa Insurance (Mofa)	80.65	80.65
3. Insurance	29.37	7.73
4. Ground Services a) Madinah and Makkah Services b) Porterage in Saudi Airports c) Emergency and Camp Fees	N/A	428.26
5. Transportation (Naqaba)	264.00	264.00
6. Mashariq (Package for Mashaer)	1237.34	992.94 (net after 20 percent discount)
7. Housing in Makkah (inclusive of full board meals)	1612.51	1559.14
8. Housing in Madinah (inclusive of full board meals and lifting cost at hotels)	147.85	150.00
TOTAL	3390.00	3501.00

The Committee finds unacceptable the justification of NCMF that the difficulties suffered by the Hajj pilgrims are an inherent part of the Hajj. It is the height of insensitivity that NCMF considered such difficulties as normal under the circumstances, disregarding the efforts and substantial costs incurred by the pilgrims.

To expect pilgrims to simply accept these significant logistical challenges detracts from NCMF's responsibility to facilitate a smooth and organized pilgrimage. Given the high expenses paid by pilgrims, it is just and fair to expect better planning and support from the NCMF to mitigate these issues, rather than considering them as inevitable hardships.

To address these perennial problems, NCMF must have new leaders who will prioritize the welfare of the pilgrims. During the hearing, former NCMF Secretary Mamondiong compared managing NCMF to running a 'mini government,' complicated by the need to accommodate diverse Muslim tribes. However, citing such complexities as an excuse for ineffective governance is unacceptable. True leadership demands accountability and the capacity to drive positive change. If leaders find themselves overwhelmed and unable to address the issues within their organization, it would be prudent and commendable to relinquish their positions, allowing for leadership that possesses the necessary skills and

vision to implement effective solutions. Merely blaming the complexities of the role does not constitute a viable strategy; proactive and robust leadership does.

The DILG created a task force to investigate these concerns and conducted an internal audit on the NCMF, finding Sec. Mamondiong liable for grave misconduct, gross neglect of duty, and conduct prejudicial to the best interest of the service. Accordingly, a three-month preventive suspension was imposed on him in March 2024 for these offenses. However, as this suspension period coincided with his retirement, it was effectively rendered moot.

The Committee agrees with the decision of the DILG, albeit it may have come a little too late.

On the other hand, the Bureau of Pilgrimage and Endowment (BPE), specifically, must face scrutiny for its failure to perform its responsibilities, which include the timely processing of travel documents and the meticulous planning of Hajj activities. These lapses suggest a disconcerting disregard for both the logistical and spiritual aspects of organizing the Hajj pilgrimage, which is of profound significance to the Muslim community.

The Committee took into consideration the following submissions:

a. Observations of the DFA

The DFA observed significant challenges faced by Muslim Filipino pilgrims during the Hajj. Despite each pilgrim paying a significant amount of money, the services they received were grossly inadequate and disappointing.

DFA Assistant Secretary Mardomel Celo Melicor, who handles Middle East and African Affairs, confirmed the receipt of numerous grievances indicating that many pilgrims felt the services rendered were not commensurate to the payment the pilgrims made.

Assistant Secretary Melicor relayed that both the consulate in Jeddah and the embassy in Riyadh reported having to exert extraordinary efforts to address these issues. He shared firsthand accounts of receiving text messages about Filipinos suffering from severe dehydration in Muzdalifa during the 2023 Hajj. Consequently, the resources ordinarily reserved for standard diplomatic operations were redirected to assist with the Hajj pilgrimage. The funding for these unforeseen expenses is drawn from the Office of Migrant Workers Affairs, treating these support activities to pilgrims as “Assistance to Nationals” cases.

In view of this, the DFA recommended the formation of an inter-agency task force to oversee the annual Hajj activities. The task force's mandate would include a comprehensive review of all funding sources for the Hajj—ranging from the personal contributions from the pilgrims to allocations by the Philippine government, as well as any

donations from external sources. The objective would be to meticulously track and scrutinize the allocation and expenditure of these funds.

The Committee agrees with the recommendation of the DFA. The creation of an inter-agency task force, comprising several government agencies, to manage Hajj activities, will greatly alleviate the plight of pilgrims. This task force will utilize diverse expertise for a more comprehensive management approach. The pooling of resources from different agencies is seen as a way to enhance operational efficiency and reduce unnecessary efforts and expenses.

b. Discrepancy on flight schedules

NCMF representatives acknowledged that while the accredited travel agency arranges the scheduled flights for pilgrims, these schedules often conflict with the requirements set by Saudi Arabia. They pointed out that although Philippine law allows pilgrims the freedom to choose the airlines and travel agencies, this often clashes with the regulations of Saudi Arabia since it requires that flights for pilgrims be scheduled during periods when Hajj operations have not yet commenced or have already concluded, a stipulation that contradicts the flexibility provided by Philippine law. This schedule coordination must be communicated with the General Authority of Civil Aviation, as stated in official communications from the Ministry of Hajj and Umrah.

c. Problem in Housing and Hotel Accommodation

The Sheikhs noted that pilgrims are informed by the NCMF that certain services, such as provision for accommodations, are mandatory. However, upon arrival in Mecca, they found that the quality of the accommodations and food provided did not correspond with the high fees they paid. Given these discrepancies, the Sheikhs argued that the arrangement for accommodation, including finding hotels for the pilgrims, should be made by the travel agencies rather than the NCMF. This shift would help ensure that the services provided are commensurate with the fees paid, thereby enhancing the overall pilgrimage experience.

d. Roles of the Sheikhs

Sheikh Abdullah Macaorao acknowledged the pivotal role that sheikhs play in the pilgrimage, though their involvement is limited. The sheikhs primarily serve as guides for Hajj rituals, educating pilgrims right from their recruitment in hometowns, assisting with travel documents, and accompanying the pilgrims to Saudi Arabia until their return to the Philippines. In addressing challenges such as accommodation arrangements, overcrowded tents, transportation, and food problems, Sheikh Abdullah clarified that sheikhs lack the authority to intervene in such matters. He highlighted the disconnect

between the Hajj fees and the services provided, recounting a situation where a maktab² intended for 2,800 pilgrims ended up accommodating over 3,000, leaving some without proper beddings.

e. Failure to Appoint a Hajj Attaché

The Committee learned that there is currently an acting Hajj Attaché, but no permanent appointment has been made by the President. Under the NCMF Charter, the NCMF shall recommend to the President three (3) nominees for the position of Hajj Attaché. As of the last hearing on March 19, 2024, the Commissioners have not yet discussed or made recommendations regarding the three nominees for the Hajj Attaché position.

The Hajj Attaché is essential for coordinating matters between the governments of Saudi Arabia and the Philippines regarding Hajj pilgrimage. The absence of a permanent Hajj Attaché can significantly impact the preparations and overall experience of Filipino Muslims participating in the Hajj pilgrimage. The Hajj Attaché addresses various logistical, cultural, and administrative needs essential for the pilgrimage, and without their assistance, there could be delays and complications in processing and documentation, potentially reducing the number of pilgrims able to participate in the Hajj. The Hajj Attaché is also tasked in securing affordable and convenient arrangements near the holy sites thereby directly influencing the pilgrims' Hajj experience. Accordingly, the Committee urges the NCMF to set aside political considerations and promptly recommend to the President the nominees for a permanent Hajj Attaché.

f. COA Audit Observations

The Committee's concerns regarding the management and financial practices of the NCMF have been validated by recent findings from the COA. During the hearings, the COA Audit Observations Summary, dated March 19, 2024, highlighted several critical issues:

- i. **Travel Expenses Pre-Hajj:** Despite having a Hajj Attaché office in Jeddah, Kingdom of Saudi Arabia (KSA), some NCMF officials' pre-Hajj travels to KSA incurred additional government expenses of PhP 2.5 million.
- ii. **Unauthorized Payment for Private Travel:** The NCMF covered round-trip airfares for 95 private individuals, totaling PhP 9.9 million, violating EO No. 77, Section 3(c).

² A maktab, in the context of Hajj, is a designated area or office that offers specific Hajj services to pilgrims. These services can range from providing accommodation and transportation to offering religious guidance and medical assistance.

- iii. Discrepancies in Funds: There was a difference of US\$169.7 million in the Philippine National Bank (PNB) dollar account compared to expected collections from pilgrims, indicating excess mutawiff fees.
- iv. Lack of Financial Documentation: Payments totaling US\$25 million for mutawiff fees, food, and hotel accommodations lacked official receipts and financial clearance certificates, obscuring potential outstanding obligations.
- v. Excess Vaccination Fees: The COA identified an excess collection of PhP 2 million in vaccination fees, with PhP 28 million deposited as against PhP 26 million expected from 7,502 pilgrims.
- vi. Missing Documents and Illegal Expenses: There were PhP 43.2 million transferred between NCMF's bank accounts, with PhP 32.4 million unverified due to missing documents and PhP 10.7 million spent illegally.
- vii. Illegal Procurement: Expenses for hotel accommodations and food for Hajj CY 2023 were not in the NCMF's Annual Procurement Plan, violating RA No. 9184, otherwise known as Government Procurement Reform Act, related regulations.
- viii. Misuse of Funds by paying Previous Debts: Payments totaling US\$765,000 for unpaid hotel and catering services for Hajj CY 2022 were improperly made using mutawiff fees collected for Hajj CY 2023, contrary to Presidential Decree No. 1445. Additionally, trust receipts were not deposited with the Bureau of the Treasury as required.

These findings reveal a pattern of mismanagement and disregard of proper financial protocols within the NCMF which not only compromise the integrity of the Hajj operations but also betray the trust placed in the NCMF by the government and the pilgrims. It is imperative that corrective measures be implemented promptly to restore accountability and ensure the adherence to fiscal responsibility and legal compliance in future operations.

On the other hand, the NCMF asserted that it has taken significant steps to alleviate the challenges faced by the pilgrims. For example, the NCMF developed and finalized a Hajj Operations Manual, which was approved by the Commission *en banc* and submitted to the UP Law Center in January 2023, and became effective in early February of the same year. Additionally, the NCMF presented to the Committee its other accomplishments, to wit:

- Improvements in visa processing pursuant to a Memorandum of Agreement (MOA) with the Bureau of Immigration, which facilitated the establishment of a dedicated Hajj Lane to expedite pilgrim travel;
- Administration of Competency Exam as part of the accreditation of Sheikhs;
- MOA Signing with airlines such as Philippine Airlines and with travel agencies;

- "Masjidil Haram at Your Doorstep" or the arrangement of flights from Mindanao to Saudi Arabia;
- Rigid selection of Supervisory and Medical team members;
- Designation of Hajj Technical Assistants to coordinate with concerned local government units;
- Clear delineation of tasks of the supervisory and medical team members; and
- Establishment of Helpdesks in every hotel accommodation of the pilgrims.

The Committee is not impressed with these accomplishments. These initiatives are integral in the performance of NCMF's mandate to support and facilitate the religious practices of Filipino Muslims. It is both appropriate and necessary for the NCMF to strive for improvements in areas such as operational guidelines to enhance the pilgrimage experience. The Committee remains unconvinced that the NCMF has sufficiently addressed the myriad challenges faced by the pilgrims. To cite an example, the Hajj Manual had been in draft form since the days of the now-defunct OMA, but it only received approval in 2023 and took more than a decade to finalize the document.

The testimonies and documents submitted to the Committee suggest that the measures taken, while steps in the right direction, have not adequately mitigated the difficulties encountered during the Hajj, indicating a need for further action and review to ensure the well-being and satisfaction of all pilgrims.

Representatives from the NCMF further claimed that one of the causes of the logistical challenges faced by pilgrims is the funding models used by the Philippines. They stated that while other Islamic countries subsidize their citizens' Hajj, the Philippines does not provide financial support for the pilgrimage. This lack of finances can be seen in the late payment of fees by pilgrims who struggle financially, further contributing to delays. The NCMF reported that the Hajj 2023 Advisory prescribed a deadline for payment on April 14, 2023. However, by this date, only 1,877 out of approximately 7,000 pilgrims made payments. Consequently, the deadline was extended to April 28, 2023, by which time approximately 6,570 pilgrims had submitted their payments.

The Committee finds this argument of NCMF unmeritorious. The NCMF should not encourage pilgrims to solicit from anyone, including the government, for funds, as the Qur'an, the holy book of Islam, states that Muslims who are financially incapable are not obligated to undertake the pilgrimage.³ If the NCMF is urging Muslims of all financial backgrounds to spend more than they can afford on the Hajj, then it is essentially acting like a travel agency, primarily motivated by the prospect of generating income.

³ The pilgrimage to the House is a duty owed to Allah by people who are able to undertake it." (Quran 3:97)

This superficial solution by the NCMF also violates the principle of separation of church and state, which is enshrined in the Constitution⁴. Encouraging such fundraising undermines the dignity of the pilgrims and disregards the constitutional boundaries between religious practices and governmental responsibilities.

Under the law, one of the mandates of the NCMF is to promote the development of a Hajj Assistance Fund⁵ that shall be created from contributions of Muslim Filipinos and other donors to support the financial needs of deserving Muslim Filipinos intending to participate in the annual Hajj. However, this should not be construed as a way to encourage Muslim Filipinos who are financially constrained to go to Mecca to perform Hajj.

2. The Mutawiff Fees Should Be Regarded as Public Funds

The Secretary of the NCMF, in conjunction with the BPE, oversees the mutawiff fees. The Committee established that the BPE's involvement in setting the mutawiff fees is contingent upon various components: the combined guarantee insurance, mandatory Hajj fees, transportation costs, visa processing, electronic services, ground services, and accommodation fees in the camps. This is contrary to the NCMF Charter which provides that collection shall be limited to mutawiff and passporting and/or processing fees only.⁶

The Committee also established that NCMF did not adhere to the directives of COA-DBM Joint Circular No. 1-97, dated January 2, 1997, which requires government agencies to transfer all cash balances to the national treasury. COA representatives affirmed that only the President has the authority to grant exemptions from this rule, and the NCMF has not been granted any such exemptions.

⁴ Philippine Constitution, Article II, Section 6: The separation of Church and State shall be inviolable.

⁵ RA 9997 Section 8 par. r) Promote the development of a Hajj Assistance Fund that shall be created from contributions of Muslim Filipinos and other donors which shall be used to support the financial needs of deserving Muslim Filipinos intending to participate in the annual Hajj;

⁶ Ibid Section 11

xxx

(e)Bureau of Pilgrimage and Endowment. - This Bureau shall be primarily responsible for the administration of the annual Muslim pilgrimage to Mecca, Kingdom of Saudi Arabia; and the formulation and implementation of programs, projects and activities for the efficient and effective administration and supervision of the conduct of pilgrimage activities: Provided, That the supervision accorded the Bureau under this section shall not include control.

Pursuant to the above responsibilities, the Bureau shall formulate the necessary guidelines to ensure the timely processing of the pilgrim's travel documents and the equitable and reasonable collection of fees. Such collection shall be limited to mutawiff and passporting and/or processing fees only. Collected fees shall be deposited in a special trust fund which shall be established by the Commission, the expenses from which shall be subject to existing auditing laws, rules and regulations.

The NCMF defended its practice of not transferring collected funds to the national treasury by citing historical precedence. According to NCMF, this had been the practice of its predecessor, OMA. The NCMF argued that this long-standing practice had been the standard and thus implicitly accepted. They explained that they deposited collections in its account with the PNB which was a government bank back then, and they did not transfer their accounts to a government bank even after its privatization.

Furthermore, NCMF contended that the mutawiff fees collected from pilgrims are distinct from general public funds. They argued that these fees, paid directly by the pilgrims for specific services related to the Hajj pilgrimage, constitute a unique category of funds. This classification, they claimed, exempts them from the standard financial regulations and oversight that govern general public funds, suggesting that these fees should not be subject to the same processes as other government-collected revenues, such as depositing into the national treasury.

This argument is bereft of merit. Both tax and non-tax revenues of the government, including those not allocated in the General Appropriations Act (GAA) are classified as public funds. Hajj funds are similar in nature to non-tax revenues, thus, should also be considered public funds.

Looking into the charter of NCMF, it is clear that mutawiff fees are public funds. Under Section 11, subsection E paragraph 2:

“xxx The Bureau shall formulate the necessary guidelines to ensure the timely processing of the pilgrim’s travel documents and the equitable and reasonable collection of fees. Such collection shall be limited to mutawiff and passporting and/or processing fees only. Collected fees shall be deposited in a special trust fund which shall be established by the Commission, the expenses from which shall be subject to existing auditing laws, rules and regulations.”

Under PD 1445 or the Government Auditing Code of the Philippines, trust funds are defined as *“funds which have come officially into the possession of any agency of the government or of a public officer as trustee, agent, or administrator, or which have been received for the fulfillment of some obligation.”* Furthermore, since the law mandates that these fees shall be subject to COA auditing rules and regulations, it should be classified as public funds.

The Bureau of the Treasury (BTr), through its representative, mentioned a special provision in the 2015 GAA that directed the deposit of Hajj receipts into the national treasury. He confirmed that NCMF has not been complying with this requirement since 2015.

The 2015 GAA provision reads:

"xxx receipts from payment made in advance by pilgrims, and other donations (both local and foreign) to cover expenses for the annual Hajj shall be deposited with the National Treasury and booked as trust receipts account of the NCMF to be used in accordance with E.O. No. 338, s. 1996, as implemented by COA-DBM-DOF Joint Circular No. 1-97."

In a letter of BTr dated November 28, 2023, the Bureau reiterated this position and stated that NCMF should deposit the funds with the national treasury following the rules and regulations for trust receipts as reflected in the General Provisions of RA No. 11936, or the General Appropriation Act of 2023, and consistent with NCMF's Special Provisions.

The revelation that NCMF has not been adhering to the specific directive of the GAA regarding the deposit of Hajj receipts and donations into the national treasury is alarming. This non-compliance raises significant concerns about the management and administration of these funds.

Accordingly, the Committee instructed NCMF to close its PNB account and deposit the mutawiff fees to a government bank.

Director Robert Dominick E. Mariano of BTr confirmed that as of March 13, 2024, NCMF balances from its PNB account have already been transferred to its account with the Land Bank of the Philippines as authorized by BTr, specifically for the processing of the Hajj fees. He further explained that these balances are now recognized as trust receipts upon receipt by BTr. To facilitate the orderly processing of the 2024 Hajj, BTr has authorized NCMF to open two savings and one current account with Land Bank for the pilgrims to deposit their payments. He further stated that all disbursements will go through the Modified Disbursement System in line with the usual budgetary release procedures. He clarified that this is only a temporary setup just for Hajj 2024 and will thereafter transition to more automated and cashless systems.

3. The Management of the Hajj Should be Privatized

The management of the Hajj pilgrimage could be divided into several key phases: firstly, the collection of fees from the pilgrims, noting that delayed payments often result in higher airfares and accommodation costs; secondly, the logistical coordination for pilgrims traveling from their local communities to Ninoy Aquino International Airport, including visa processing; and thirdly, the actual experience in Saudi Arabia, where issues raised by sponsors and sheikhs occur.

Saudi Arabia sets the mandatory fees for certain services, but housing and catering are not included and must be arranged by contracting service providers, as outlined in the booklet of regulating instructions for Hajj affairs issued by the Saudi Arabian Government.

Mr. Jamaloding O. Solaman, a local service provider from Sharp Travel Service, Philippines, Incorporated, mentioned that in the past, pilgrims were able to choose their own hotels without NCMF's intervention, except for the mandatory fees. However, this practice was discontinued by NCMF.

The NCMF, whose charter primarily permits supervision over Hajj operations, appears to have overstepped its boundaries by acting as an intermediary between pilgrims and service providers. According to Atty. Jaron Ali, Chairman of UMMATI Philippines and legal representative for various service providers, this contravenes the principle of *laissez-faire*, wherein government agencies are typically prohibited from meddling in private contractual matters, as it undermines the economic autonomy of companies.

The Committee agrees with this observation. Accordingly, the Committee proposes to privatize the management of the Hajj, rather than having it under NCMF's control. This is to streamline and make operations more effective. In a privatized system, the competition among various firms for Hajj management contracts could introduce an accountability mechanism, ensuring quality services at reasonable costs. This will also reduce the commission's direct involvement and potential for violations.

Furthermore, the actions of NCMF breached the constitutional mandate of the separation of the church and state. Consequently, the privatization of Hajj management would ensure compliance with legal and constitutional standards while respecting the economic freedoms of private entities.

The NCMF may consider allowing travel agencies to process visas for Hajj pilgrims and collect mutawiff fees. This change would require an amendment to existing rules and regulations, particularly the NCMF Hajj Operations Manual of 2023.

Note that its Charter allows NCMF to coordinate with private entities, which can be interpreted as a basis for privatization. Section 8 of the NCMF Charter provides:

Section 8. Powers and Functions. - To accomplish its mandate, the Commission shall have the following powers and functions:

- (a) Provide advice and assistance to the President in the formulation, coordination, implementation and monitoring of policies, plans, programs and projects affecting Muslim Filipino communities; when so authorized, represent the President on matters concerning Muslim Filipino communities; serve as a link between the President and public or private agencies, internal or external, that are involved in such programs and projects; and recommend such affirmative actions as may be necessary for their efficient and effective implementation; xxx*

Given these considerations, NCMF's potential collaboration with private travel agencies for visa processing and fee collection represents a feasible adaptation within the framework of its Charter. By leveraging its authorized powers to partner with private entities, the NCMF can enhance the efficiency and accessibility of Hajj preparations for Filipino Muslims.

4. Collection of Mutawiff Fees Violates the NCMF Charter

The Committee sought to be clarified on the definition of mutawiff fee, which is not explicitly defined in RA 9997, or the National Commission on Muslim Filipinos Act of 2009. NCMF's Implementing Rules and Regulations (IRR) define mutawiff fees as covering a broad range of services, including transportation, food, housing, and other related services in Saudi Arabia.

NCMF contended that since RA 9997 does not provide a clear definition of mutawiff fees, the NCMF could define it by citing specific expenses. Thus, the mutawiff fee was defined in the NCMF Hajj Operations Manual of 2023 as the aggregate fees paid by intending pilgrims for services such as transportation, food, housing, and other related services during the Hajj season. Its definition in the Hajj Operations Manual was based on inputs from current and former officials of the BPE and drafted by the Hajj Legal Team to establish a norm for charging fees.

However, the IRR cannot amend the law on which it is based. It can only expound or clarify its provisions. If there are conflicting provisions, the law will prevail.

The NCMF is improperly interfering with logistics arrangements, in violation of its charter, and should have not obliged the pilgrims to purchase logistics, materials, and supplies from the NCMF or its designated agents. The NCMF must adhere to the law's principles, allowing pilgrims the freedom to choose their providers. Simply put, it should focus on overseeing the process without exercising control.

NCMF's collection of fees for the Hajj pilgrimage for 2023 includes eight different fees, whereas the law only authorizes NCMF to collect three types of fees: the mutawiff fee, the passporting fee, and the processing fee.

Members of the Committee emphasized that the mandatory mutawiff fee, including insurance and visa costs, should only amount to around US\$ 300. However, when other services are included, the total fees reach thousands of US dollars, significantly higher than the mandatory fee.

The schedule of mutawiff fees released by the NCMF each year includes mandatory Hajj fees fixed by Saudi Arabia and fees for housing, transportation, and catering. The latter is determined after procurement activities and the signing of contracts. These fees can be

categorized into two: mandatory fees set by Saudi Arabia and other fees determined after procurement activities.

Section 11 of RA 9997 provides that the pilgrims shall be accorded free choice of travel agencies and airlines or other means of transportation to and from the site of pilgrimage, provided, that pilgrims comply with the prescribed arrival and departure schedule fixed by the Ministry of Hajj of the KSA. It further provides that all pilgrims shall be legitimate holders of round- trip tickets to and from the KSA, provided furthermore, that the pilgrims shall be free to choose on where to purchase or acquire other logistics, materials and supplies for the pilgrimage.

Therefore, the NCMF's operations manual, insofar as it pertains to the collection of mutawiff fees, violates the law by aligning with costs set by Saudi Arabia, which exceeds its regulatory authority.

5. NCMF Did Not Adhere to Procurement Protocols

Section 4 of RA 9184, otherwise known as the "Government Procurement Reform Act," governed the Procurement of Infrastructure Projects, Goods and Consulting Services, regardless of source of funds, whether local or foreign. This law has now been amended but it was the pertinent law in effect at that time.

Since the mutawiff fees are unarguably public funds, the NCMF must also comply with existing procurement laws. The NCMF had treated the said fees as private in nature. This actuation was evident by its procurement of services without going through the Bids and Awards Committee (BAC) as required by RA 9184. The NCMF argued that procurements made in Saudi Arabia do not fall under the jurisdiction of Philippine procurement laws. It further argued that proper bidding processes were conducted, albeit without sending members of its regular BAC to Saudi Arabia, citing the impracticality and expense of such a measure.

Again, this argument is untenable. Under the law, a government agency is allowed to resort to alternative methods of procurement when it is determined that it will expedite and be more economical than conducting public or competitive bidding. In fact, the Government Procurement Policy Board (GPPB) issued Resolution No. 28-2017, which provides guidelines for overseas procurement. These guidelines specify the procedures for conducting procurement, including delegation of authority to certain personnel or committees for procurement purposes. However, the NCMF never complied with GPPB Resolution No. 28-2017. Worse, it never constituted a special BAC to oversee the procurement.

Following criticism from the Committee as well as other relevant agencies during the hearing, the NCMF established a special BAC for the 2024 Hajj. This action was taken to

ensure compliance with the procurement law. The creation of this special BAC is intended to rectify previous violations and improve the transparency and efficiency of the procurement processes for future Hajj operations.

6. The BARMM May Take Over Some Hajj-Related Functions and Accrediting Independent Organizers

The Committee observed that there is constant communication between the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) and the NCMF regarding the transfer of some Hajj-related responsibilities to BARMM. This move is permitted under the Bangsamoro Organic Law, which grants BARMM certain authorities in managing Hajj affairs.⁷

Through the request of the Committee, the DFA consulted the Saudi Ministry of Hajj about the possibility of having two Philippine agencies involved in Hajj matters, to which the latter did not object, provided that the other agency is affiliated with the pilgrim affairs office of the NCMF (presumably the BPE) and that only one main representative is retained.

The DFA also disclosed that the guidelines issued by the Saudi Ministry of Hajj include provisions for affiliated and independent organizers. Thus, it is possible for the NCMF to declare other entities as affiliated or independent organizers and revert to former arrangements where independent entities also co-administer the Hajj.

The Committee interpose no objection to giving BARMM a participation in the administration of Hajj. However, the Committee advises that this discussion between Congress and the BARMM regarding the administration of Hajj should go through the Intergovernmental Relations Board (IGRB) mechanism, which is a forum for coordination between the Congress and the Bangsamoro Parliament. The IGRB is the proper venue to discuss requests from the BARMM to have its own accredited agencies or to handle Hajj pilgrims in the coming years.

CONCLUSION

The NCMF has notably failed to fulfill its mandate, as evidenced by the grossly inadequate and disappointing services provided to pilgrims, who have endured overcrowded and unsafe conditions, as well as inadequate food provisions.

Furthermore, the misuse of public funds, as identified by the Committee and the COA, alongside instances of non-compliance with auditing and procurement laws, should be

⁷ Section 42, R.A. No. 11054

met with stringent corrective measures. These transgressions highlight a troubling breach of trust and accountability that cannot go unpunished.

In light of these persistent issues, it is imperative that the responsible officials within the NCMF be held accountable, removed from their positions, and subjected to appropriate disciplinary actions. To prevent future failings, the Committee proposes the implementation of timely compliance audits, comprehensive stakeholder consultations, and the exploration of international cooperation with Hajj organizers from other nations. Such measures would ensure a robust framework for governance and operations within the NCMF, which the Committee hopes to foster a culture of transparency and efficiency that aligns with both the spiritual and logistical demands of the Hajj pilgrimage.

RECOMMENDATIONS

In light of the findings concerning the misuse of public funds by current and former officials of the NCMF, the Committee strongly recommends the following steps to ensure accountability and uphold the integrity of public service:

- a. For incumbent NCMF officials involved in the mismanagement of 2023 Hajj pilgrim:
 - The Civil Service Commission (CSC) will conduct appropriate administrative discipline proceeding based on the severity of the infractions.
 - Office of the Ombudsman will initiate criminal proceedings in accordance with the Government Procurement Reform Act (RA 9184), the Anti-Graft and Corrupt Practices Act (RA 3019), and, where applicable, the Plunder Law (RA 7080). Furthermore, accountable officials should be held liable under Section 106 of P.D. No. 1445 for disbursing public funds which they are chargeable without notifying the superior officers in writing of the illegality of the payment, application, or disposition, making them primarily liable for any illegal expenditure or misuse of such funds.
 - Department of Justice (DOJ) will assist the Ombudsman in criminal proceedings to ensure meticulous legal procedures and thorough prosecution.
 - Supreme Court and the Integrated Bar of the Philippines will file disbarment cases for those who are licensed lawyers and have breached legal ethical standards.
 - COA will pursue civil suits for restitution and damages to address financial discrepancies, supported by necessary audit findings.
- b. For former NCMF officials:
 - CSC will enforce the forfeiture of retirement benefits for individuals found guilty of administrative offenses, serving as a measure of accountability after their tenure.
 - The Office of the Ombudsman will pursue criminal charges for violations of the Anti-Graft and Corrupt Practices Act and the Plunder Law committed during their

tenure, applying Section 103 of P.D. No. 1445 to hold them personally liable for unlawful expenditures.

- DOJ will facilitate the prosecution process
- The Supreme Court and the Integrated Bar of the Philippines will recommend disbarment proceedings against former officials who are licensed lawyers and have violated legal ethical standards.
- COA will initiate civil suits to rectify financial mismanagement, providing audit findings to substantiate the claims.

Additionally, the DILG is directed to provide the House of Representatives with a copy of its internal audit findings on the NCMF, which led to the dismissal of Secretary Mamondiong. This action will ensure transparency and facilitate further legislative oversight, reinforcing the commitment to accountability in government operations.

Finally, it is the position of the Committee that cases arising from the transgressions of NCMF officials can be processed simultaneously if they arise from the same set of facts but address different legal aspects. For instance, a civil service case may tackle violations of civil service rules, while an Ombudsman case may focus on corruption charges.

This distinction must be taken into consideration by the agencies investigating the NCMF to ensure that while several cases may be filed simultaneously, care is taken to address distinct legal issues or aspects in each case to prevent forum shopping.