

The Law Enforcement for Fraudulent Actors of Hajj and Umrah Tour Bureaus

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Abstract. Crimes that are still very common in society are fraud and embezzlement. For the perpetrators, the crime is not so difficult to do. Fraud can be carried out simply by having good communication skills so that someone can convince others. The fraud case in the field of Umrah service bureaus that shocked the people of Indonesia the most was the first travel case in 2017. arena ensnare up to tens of thousands of victims. Hajj and Umrah pilgrimage violations in Indonesia have been regulated in Act No. 8 of 2019 concerning the Implementation of Hajj and Umrah Pilgrimage, which also regulates criminal provisions for those who violate the Law. The purpose of this research is to find out how to enforce and prevent law against perpetrators of Hajj and Umrah tutor bureau fraud. In this study using Normative juridical method. The research specification used in this study is a descriptive type of analysis. In this study the authors focused on library research as well as primary materials in the form of applicable laws and secondary materials in the form of expert opinions, law books, journals and magazines. Data analysis techniques in this study were carried out by qualitative data analysis, namely data collection using laws, theories and legal principles. The results of the fraud research are regulated in Book Two Chapter XXV Article 378 of the Criminal Code, but the implementation of Hajj and Umrah is regulated in Article of the Law of the Republic of Indonesia Number 8 of 2019 Concerning the Implementation of Hajj and Umrah Pilgrimage. The Government's policy to overcome the problems of Hajj and Umrah is to create an Integrated Umrah and Special Hajj Monitoring Information System (SIPATUH) developed in order to strengthen the supervisory function of organizing Umrah pilgrimages in Indonesia and expand the scope of supervision from registration to return, this is to prevent criminal acts of fraud.

Keywords: Enforcement; Fraud; Hajj; Umrah.

1. Introduction

Law is the highest thing (supreme) which is the ideal of mankind throughout the world who yearn for peace, tranquility and prosperity.¹ Even though the purpose of law is for order and safety, it does not guarantee that humans as legal objects are protected from crime or criminal acts.

One form of crime that is still very common in society is fraud and embezzlement. For the perpetrators, the crime is not so difficult to do. Fraud can be carried out simply by having good communication skills so that someone can convince others. The criminal act of fraud is a crime that has an object against objects or goods to be owned personally. Fraud is a form of bargain sale. The common feature of the sale of promises is that the person is misled, and so he is willing to give up his goods or money. The crime of fraud includes "materieel delict" meaning that for its perfection there must be consequences.²

The fraud case in the field of Umrah service bureaus that shocked the people of Indonesia the most was the first travel case in 2017. arena ensnare up to tens of thousands of victims. First Travel is a Hajj and Umrah travel service founded by Anniesa Hasibuan and Andika Surachman. First Travel was selling well in the market due to the lure of lower costs than the market price at that time. The deceptive travel service company offers an Umrah travel package of IDR 14,300,000 when the standard costs IDR 22,000,000. First Travel apparently uses a ponzi scheme in its business. Prospective pilgrims or Umrah pilgrims will depart if there are applicants who deposit funds. This has caused many prospective pilgrims to fail to depart according to a predetermined date. The loss of victims of First Travel is estimated at IDR 1 trillion.³ Indonesia as a rule of law adheres to the principle of *lex specialis derogat legi generali*, where the principle of legal interpretation states that special laws (*lex specialis*) overrule general laws (*lex generalis*). Hajj and Umrah pilgrimage violations in Indonesia have been regulated in Act No. 8 of 2019 concerning the Implementation of Hajj and Umrah Pilgrimage, which also regulates criminal provisions for those who violate the Law.

Departing from the background above, the authors are interested in studying the law enforcement process for cases of fraud in the implementation of the Umrah pilgrimage referred to above with the title "Law Enforcement for Criminal Acts of Umrah or Hajj Tour Bureau Fraud".

¹Viswandro, and Maria Matilda, and Bayu Saputra, *Get to Know the Law Enforcement Profession*, 1st Edition, (Yogyakarta: digital media publisher, 2015 page 1)

²Tri Andrisman . *Certain offenses in the Criminal Code*. Unila, Bandar Lampung, 2011, p.176

³ <https://www.cnbcindonesia.com/market/20220418140601-17-332469/binomo-untung-first-travel-ini-deretan-penipuan-skema-ponzi> accessed on January 7, 2023 at 12.50 WIB

2. Research Methods

The method used by the author in compiling the journal uses the normative juridical method. The research specification used in this study is a descriptive type of analysis. In this study the authors focused on library research as well as primary materials in the form of applicable laws and secondary materials in the form of expert opinions, law books, journals and magazines. The data collection technique carried out in this study used literature study, collecting data from the results of a review of literature and secondary data which included primary legal materials, secondary legal materials and tertiary legal materials. Data analysis techniques in this study were carried out by qualitative data analysis, namely data collection using laws, theories and legal principles.

3. Results and Discussion

3.1. Law Enforcement for Fraudulent Actors of Umrah or Hajj Tour Bureaus

Law is the overall rules of behavior that apply in a common life that can be imposed with a sanction. Law enforcement can take place formally and peacefully, but it can also occur because violations of the law must be enforced.⁴According to Soerjono Soekanto, said that law enforcement is an activity of harmonizing the relationship of values that are described in solid principles and attitudes as a series of final stages of value translation. To create, maintain and maintain social peace of life.⁵

The criminal act of fraud is a crime that has an object against objects or goods to be owned personally. Fraud is a form of bargain sale. The common feature of the sale of promises is that the person is misled, and so he is willing to give up his goods or money. The crime of fraud includes material offenses, where material offenses are offenses whose formulation focuses on unwanted consequences (prohibited). This offense is only finished when the unwanted consequences have occurred. If not, then at most there is only a trial.⁶Fraud is regulated in Book Two Chapter XXV Article 378 of the Criminal Code, namely:

"Whoever with the intent to benefit himself or others unlawfully, by using a false name or false prestige, by trickery or by a series of lies incites another person to hand over something to him, or to give him a debt or

⁴Sudikno Mertokusumo. 2010. Knowing the Law of an Introduction. Yogyakarta: Liberty, page 207

⁵Soerjono Soekanto, 1983, Factors Influencing Law Enforcement, UI Pres, Jakarta, Pg 35

⁶Isnu Gunadi W. And Jonedi Efendi. 2011. Quickly and Easily Understanding Criminal Law. Jakarta: Library Achievements, page 52.

write off a debt, is threatened because fraud with a maximum imprisonment of 4 (four) years.”

However, it should be noted that Indonesia also adheres to the principle of *lex specialis derogat legi generali*, where the principle of legal interpretation states that special laws (*lex specialis*) overrule general laws (*lex generalis*). Act No. 13 of 2008 concerning the Implementation of the Hajj Pilgrimage has been repealed and replaced with the Law of the Republic of Indonesia Number 8 of 2019 concerning the Implementation of the Hajj and Umrah Pilgrimage. Criminal provisions in Umrah and Hajj are regulated in chapter XII articles 120-126:

Article 120

Everyone who without rights acts as a recipient of Bipih payments, as referred to in Article 113, shall be subject to imprisonment for a maximum of 4 (four) years or a maximum fine of IDR 4,000,000,000.00 (four billion rupiahs).

Article 121

Everyone who without rights acts as a PIHK by collecting and/or dispatching the Special Hajj Pilgrims, as referred to in Article 114 shall be subject to imprisonment for a maximum of 6 (six) years or a fine of up to IDR 6,000,000,000.00 (six billion rupiah) .

Article 122

Everyone who without rights acts as a PPIU by collecting and/or dispatching Umrah Pilgrims, as referred to in Article 115, shall be subject to imprisonment for a maximum of 6 (six) years or a maximum fine of IDR 6,000,000,000.00 (six billion rupiah) .

Article 123

Everyone who trades Indonesian Hajj quotas as referred to in Article 116 shall be subject to imprisonment for a maximum of 8 (eight) years or a maximum fine of IDR 8,000,000,000.00 (eight billion rupiahs).

Article 124

Any person without the right to collect part or all of the Umrah Pilgrims deposit, as referred to in Article 117, shall be subject to imprisonment for a maximum of 8 (eight) years or a maximum fine of IDR 8,000,000,000.00 (eight billion rupiahs).

Article 125

The PIHK which intentionally causes the departure failure, neglect, or failure of the Special Hajj Congregation to return, as referred to in Article 118 shall be subject to imprisonment for a maximum of 10 (ten) years or a maximum fine of IDR 10,000,000,000.00 (ten billion rupiahs) .

Article 126

PPIUs who deliberately cause failure to depart, neglect or fail to return Umrah pilgrims, as referred to in Article 119, shall be subject to

imprisonment for a maximum of 10 (ten) years or a fine of up to IDR 10,000,000,000.00 (ten billion rupiah).

In the criminal act of defrauding prospective Umrah pilgrims there are more specific rules (*lex specialis*) which regulate criminal acts in the field of organizing Umrah besides those regulated in the Criminal Code which in Indonesia is a general provision or *lex generalis*. Law enforcement in handling a crime is not only focused on the Police, but is an interrelated system which in Indonesia is known as the criminal justice system, namely the Police, Prosecutors and Courts, and the final punishment is in Correctional Institutions.⁷

3.2. Prevention of Criminal Acts of Umrah or Hajj Tour Bureau Fraud

The Indonesian Hajj Umrah Travel Entrepreneurs Brotherhood (PERPUHI) urges the Indonesian people not to be tempted by Umrah packages that are too cheap because from year to year there are always cases of Umrah fraud. The following is a database of fraud cases that occurred in Indonesia.⁸

Organizers of Umrah pilgrimages who do not comply with these conditions are subject to administrative sanctions in the form of written warnings, license suspensions, or permit revocation. Apart from that, Article 119 of Act No. 8 of 2019 Concerning the Implementation of Hajj and Umrah also emphasizes that: PPIU is prohibited from committing acts that cause failure of departure, neglect, or failure of Umrah pilgrims to return. Organizers of Umrah pilgrimages who deliberately cause Umrah pilgrims to fail to depart, neglect or fail to return are subject to imprisonment for a maximum of 10 years or a fine of up to IDR 10 billion.

The Government's policy to overcome the problems of haj and umroh is to create an Integrated Umrah and Special Hajj Monitoring Information System (SIPATUH) to be developed in order to strengthen the supervisory function of organizing umroh pilgrimages in Indonesia and expand the scope of supervision from registration to return. This system contains a number of information, including:⁹

- a. Umrah pilgrimage registration;
- b. Travel packages offered by PPIU;
- c. Package price;

⁷Sigit Prihanto, Law Enforcement Against Fraudulent Acts of Prospective Umrah Pilgrims, *Khaira Ummah Law Journal* Vol. 12. No. 4 December 2017, p. 887

⁸ <https://kabarkota.com/kemenag-rilis-14-%20register-travel-umrah-problem/> accessed on January 7, 2023 at 15.18 WIB

⁹Enjang, "A Criminological Analysis of the Crime of Embezzlement and Fraud of Umrah Funds by the Umrah Pilgrimage Travel Organizer Pt.Nabila Travel in Medan City", *Journal of Rule of Law, Media Communication and Information on Law and Society*, Volume : 19, Number : 2 ISSN Online : 2613- 9340 ISSN Offline : 1412-1255, p. 393

- d. Monitoring the provision of tickets that are integrated with airlines,
- e. Monitoring accommodation that is integrated with the muassasah system (a body or foundation established as a substitute for the sheikh of the Hajj congregation in Mecca) in Saudi Arabia

The Integrated Umrah and Special Hajj Monitoring Information System, according to this regulation, also includes a flow of visa orders that is integrated with the Saudi Arabian Embassy, identity validation of pilgrims that is integrated with Dukcapil and monitoring of departures and returns that is integrated with Immigration. Through the Integrated Umrah and Special Hajj Monitoring Information System, the congregation will obtain a registration number as proof of the registration process carried out according to regulations. That is, the final process of registration is the issuance of the umroh registration number (a type of portion number in the registration of the pilgrimage). With this registration number, the congregation can monitor the departure preparation process carried out by PPIU, starting from procuring tickets, booking accommodation, to issuing visas.

The steps taken in tackling the criminal act of fraud on Umrah funds by the PPIU Bureau include:¹⁰

1. Community outreach
2. Determination of standard Umrah travel costs by the PPIU bureau
3. Supervision of the PPIU Bureau

Referring to the theory of penal policy put forward by Sapiro Rahardjo, it states that the activity of choosing and the method to be used to achieve a certain social and legal goal in society. Substantially legal politics is directed at the law that should apply (*ius constituendum*). Meanwhile, according to Muchtar Kusumatmadja, the meaning of legal politics is legal policy and legislation in the framework of legal reform.

The process of forming a law must be able to accommodate all matters relevant to the field or problem to be regulated in the law, if the legislation is an effective legal arrangement. By implementing the theory of criminal law policy in cases of fraud committed by Umrah travel, it becomes an effective policy in preventing fraudulent acts committed by Umrah travel in the future.¹¹

4. Conclusion

¹⁰Ibid

¹¹Siska Amelya, Policies for the Prevention of Fraudulent Crimes Committed by Umrah Travel in the Future, Journal of the Faculty of Law, University of Riau.

The criminal act of fraud is a crime that has an object against objects or goods to be owned personally. The crime of fraud includes material offenses, where material offenses are offenses whose formulation focuses on unwanted consequences (prohibited). This offense is only finished when the unwanted consequences have occurred. If not, then at most there is only a trial. Fraud is regulated in article 378 of the Criminal Code, but fraud in Umrah and Hajj cases is specifically regulated in Act No. 8 of 2019 concerning the Implementation of Hajj and Umrah Pilgrimage.

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