

VIOLATION OF THE ECONOMIC RIGHTS OF CONSUMER BY FIRST TRAVEL COMPANY AS A REFLECTION OF LAW PROTECTION IN INDONESIA

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ABSTRACT

From 2017-2018, The Indonesian Consumers Foundation has received 3056 complaints from jama'ah umrah related to Biro Umrah Travel. The failure of the First Travel company to dispatch 27,000 jama'ah umrah is due to the weakness of legal settlement of the economic rights of consumers in Indonesia. Although the Jakarta District Court has ruled upheld, then it confirmed by a Supreme Court ruling that the director of PT First Travel has been sentenced to 20 years in prison, while the director of the company has been sentenced to 18 years in prison. However, the economic rights of consumers in the form of financial assets that have to pay is neglected, because they cannot be returned and become spoils of the state. Criminal settlement of the law will harm the economic rights of the congregation as consumers, and this is contrary to Law Number 8 of 1999 concerning Consumer Protection, also aligned with Law Number 13 of 2008 concerning the Implementation of Hajj. The First Travel Company violation is a complex legal violation because legal settlement is only carried out criminally, while civil legal settlement related to the economic rights of consumer and settlement through mediation that benefits consumers is not considered. The research has been carried out in 2019, while the primary data is obtained through court decisions and regulations on the implementation of umrah in Indonesia. Meanwhile, secondary data is obtained through online media, journals and books. This study will analysis about how the reflection of the law protection to the violation of the economic rights of the consumer in Indonesia? This study provides a recommendation that the economic rights of consumers should be put forward before the criminal process is carried out as a solution to the cases of violations of the First Travel Company.

Keyword: the economic rights, the consumer, the reflection, the law protection

INTRODUCTION

The daily head of Indonesian Consumers Foundation (YLKI), Tulus Abadi, said that the umrah problem in Indonesia has caused uneasiness in umrah pilgrims since the First Travel (PT) case was revealed and it has become the biggest case of violation of umrah consumer rights until now. YLKI noted that no less than 22,000 complaints from Umrah consumers went to YLKI, related with rogue travel agencies against service dissatisfaction even the travel failed to leave. From the result of YLKI verification, there were 6 Umrah bureau companies that reported, the highest case is the Hajj and Umrah "First Travel" agencies with 17,000 complaints;

followed by “Asyifah Mandiri” travel agencies case with 10,000 complaints; and “Kafila Rindu Ka’bah” travel agencies case with 3000 complaints. And the rest case were almost 1800 complaints from small bureaus with a total of tens to hundreds (www.kompas.com accessed on April 20, 2018). In 2018 estimated that Umrah pilgrims will reach 1 million, an increase of 878 thousand pilgrims from the previous year and also an estimated about 1 million umrah pilgrims in 2018 due to a limited Haj quota, in fact the hajj queue starts from 15 to 40 years (www.nasional.kompas.com accessed on April 22, 2018). From 2015-2017 the Indonesian Ministry of Religion has revoke 13 PPIU for Umrah and Hajj travel in Indonesia, 5 of them were revoked in 2017. Umrah and Hajj travel agencies whose permits have been revoked include PT. Al-Utsmaniyah Travel Agency or known as Hannier Tour (www.Jawapos.com accessed on April 23, 2018), PT Assyifa Mandiri Wisata, PT Raudah Kharisma Wisata, PT Fist Anugerah Karya Wiyasata known as Fist Travel, PT Meditterania Travel, PT. Mustaqbal Lima, PT. Ronalditya, PT. Kopindo Wisata, PT. Maulana, PT Timur Sarana Tour and Travel, PT Diva akinah and PT Hikma sakti Perdana. In 2018, the Director General of Hajj and Umrah Organizers, Nizar Ali and the Ministry Religion of the Republic of Indonesia revoked 4 problematic Umrah and Hajj travels, including PT Amanah Bersama Umat (ABU) Tour Makasar, Solusi Balad Lumampah (SBL) in Bandung, Mustaqbal Prima Wisata Cirebon, and Interculture Tourindi in Jakarta. The revoked was announced at a press conference on March 27, 2018 in Jakarta. Nizar explained that the license revocation due to the travel agencies failed to dispatch Umrah pilgrims and did not have the financial capacity to do a travel agency. (www.liputan6.com accessed on April 23, 2018).

Based on the hajj and umrah travel associations, there are still many, even hundreds of Umrah travel agencies that have problems in Indonesia, both licensed and unlicensed. Then the problem of Umrah travel agencies which are not in small amount that have spread at the regency level, the Ta’lim Council, Mosque Congregation Associations, Islamic organizations and others that have Umrah and Hajj Travel Agencies. According to YLKI records in 2017, there were complaints of 3,056 Umrah pilgrims against various problems of Umrah travel agencies in Indonesia (See www.rappler.com). In fact, many Hajj and Umrah travel agencies do not have permits, for example in Babel Bangka Belitung. The Head of Hajj and Umrah Guidance for the Regional Office of the Ministry of Religion of Bangka Belitung, Riduan Yunitarto said that the results of the data collection turned out that from 70 Umrah travels in Bangka Belitung, only 4 of them have permits from the Ministry of Religion, in accordance with PMA 18 of 2015 Article 8 paragraph (2) every Umrah travel agency operating in the region must obtain permission from the local regional office (Bangka.tribunnews.com accessed

April 25, 2018). YLPK in East Java received 991 reports of Umrah consumers from various regions in East Java who report various problematic Umrah Travel Agencies ([Https://fajar.co.id](https://fajar.co.id) accessed May 2, 2018). In Bandung, 12,845 pilgrims have become victims of problematic Umrah Travel agencies. The congregation has paid to the company but has not departed. ("www.liputan6.com accessed on April 25, 2018)

The problem of problematic travel agencies which is detrimental to thousands of Umrah pilgrims in Indonesia. Even some of them are not only the permits that revoked but also got the legal sanctions, both civil and criminals, which are currently still in the process of prosecution, including "Fist Travel" Jakarta, Abu Tour Makassar and Bandung. The problem of the hajj had angered the DPR RI so that they held several meeting with the Minister of Religion, DR. Lukman Hakim. There is even a discourse to form a Hajj and Umrah special Committee. The result of the meeting with the Minister of Religion of the Republic of Indonesia, DR. Lukman Hakim and the DPR considered that the Umrah problem that occurred in Indonesia was the responsibility of the Indonesian Ministry of Religion, this was in accordance with RI Law No.13 of 2013 concerning Haj and Umrah (RI Law No.13 of 2013).

YLKI Jakarta has indicated that there are many problematic Umrah travel agencies caused by the negligent Ministry of Religion that does not have a monitoring system for Hajj and Umrah Travel in Indonesia, The Ministry of Religion only grants permission but does not carry out supervision, audits, and reporting systems for Umrah travel agents. This Gap is used by Umrah travel agencies to manipulate various ways to attract consumers, for example with low prices. Weak monitoring also occurs in the corporate accountability sector. Many travel agents are made without personnel, company organizational structures, financial systems, payment systems, congregational governance starting from departure, transportation, accommodation, poor health. ([Http://tirto.id](http://tirto.id))

The description above is the phenomenon of the weak legal protection of the umrah pilgrims in Indonesia. Hajj consumer protection is generally regulated in Law No. 8 of 1999 on Consumer Protection. In particular, consumer protection is also contained in the Hajj Law no. 13 of 2008 concerning the Implementation of Hajj. In Article 45 of Law No.13 / 2014, Umrah consumers are entitled to (1) Worship Advisors (2) Right to Health services (3) Right to dispatch in accordance with the validity period of the Umrah Visa to Saudi Arabia (4) Receive services in accordance with a written agreement agreed by the organizers and the Jamaah.

Based on Article 45 paragraph (1) of Law No. 13 of 2008, if the Hajj travel agency does not exercise the rights of Umrah consumers, then a maximum of 6 years of imprisonment or a

fine of 100,000,000,000 (One Hundred Billion Rupiah) can be imposed. in Article 378 of the Criminal Code (KUHP) the threat of fraudulent travel services can be punished with a minimum of four years.

Juridically, the protection of Umrah Jamaah consumers is very clear in Indonesia, the application of legal protection that occurred to 27,000 Umrah pilgrims was violated by the Umrah travel agency "Fist Travel" Jakarta, currently the manager of "Fist Travel" is carrying out their criminal responsibility to the Jakarta District Court. However, what about the economic rights of Umrah consumers in the form of money that has been deposited, the right to be departed to Saudi Arabia and other rights. In the process of prosecution and consumer protection in the "Fist Travel" case, the police prioritize criminal cases rather than the return of consumer rights, even the decision of the congregational asset court is controlled by the state as well as the decision of supreme court. In the 1999 Consumer Law, consumer disputes between fist travel congregations and fist travel managers can be resolved persuasively or through through settlement by agreement (Negotiations) by prioritizing the protection of consumer rights. The Fist Travel settlement pattern that immediately transferred to the criminal realm causing consumer rights to be hampered and there is no guarantee of returning the rights of Umrah pilgrims who have been harmed, especially in the criminal trial process, the Fist Travel manager impossible to return Umrah Consumer Rights. Based on the explanation above, it is interesting to conduct collaborative research between Doctrinal research on the concept of consumer protection for Umrah pilgrims in the context of Indonesian law, and Non- Doctrinal implementation on consumer violation cases in Indonesia, it seems there are areas of the legal system that are ineffective in implementing and resolving consumer violation cases, especially in the case of Fist Travel.

LITERATURE REVIEW

This research is a legal research that is connected by entering the realm (scope of area) of socio-religious research about on consumer protection law in economic field (Islam), which called legal research. This is a research that focuses on the value of inclusive law as a system of norms, institutional systems, cultural value systems, religious systems and fact systems in order to answer the problems of the Islamic community by the state in the framework of legal protection in an equitable manner to fulfill religious rights. The research on the aspects of consumer protection against violations of the rights of Umrah pilgrims in Indonesian region is not a new research, because there are previous studies that can be used as initial references.

Abdul Muiz Sholeh's research entitled "Perlindungan Hukum Terhadap Jamaah Haji sebagai Konsumen Jasa Pelayanan Penyelenggaraan Ibadah Umrah Dan Haji Plus Berdasarkan Undang-Undang Nomer 8 Tahun 1999 Tentang Perlindungan Konsumen di PT Sihanok Indah Holiday Kota Cirebon". The difference with this research lies in the perspective of consumer protection law that applies in Indonesia. Abdul Muiz Sholeh only limits legal protection accordance to Law Number 8 of 1999 while the research that will be carried out related to the Umrah Consumer protection system is not only applicable to Law Number 8 of 1999 but also applies to other laws, and the implementing regulations starting from the level of Presidential decrees, Ministerial Regulations, government regulations and regional regulations related to the protection of Umrah consumers in Indonesia. (Abdul Muiz Sholeh: 2013)

Suryadi's research with the title "Kajian Yuridis Terhadap Jamaah Haji sebagai Konsumen Jasa Pelayanan Penyelenggaraan Ibadah Umrah Dan Haji Plus Berdasarkan Undang-Undang Nomer 8 tahun 1999 tentang Perlindungan Konsumen", which was published in the SAINTEKS journal Vol 7 No. 2 of 2011 Muhammadiyah University of Purwokerto. In line with Sholeh's research above, Suryadi only saw consumer protection from Law Number 8 of 1999 to Umrah consumers in Indonesia by looking at the consumer law side, it is different from the research that will be carried out which sees the contents of the system in which the Umrah Consumer Protection Law applies, Furthermore, it can be seen from the perspective of various regulations in Indonesia. Both by Sholeh and Suryadi, the methods and types of the research are pure doctrinal research not combined with the facts of cases that occur in Indonesia, while the research that will be carried out is more non-doctrinal as seen from the implementation of consumer protection law in Indonesia so the several cases such as Fist Travel, Abu Tour, and Hannan Tour will become examples of violations and settlement of Umrah consumers in Indonesia. (Suryadi: 2018)

The three studies that conducted by Natasya Victoria Ruswandana, Bambang Eko Turisno, and Suharto entitled "Perlindungan Hukum Terhadap Konsumen dalam Pembatalan Keberangkatan Ibadah Haji Khusus Oleh Biro Penyelenggara Ibadah haji Khusus" which was published in Diponegoro Law Journal Volume 5 Number 3 of 2013. The research that conducted by Eko Turisno and friends in terms of the theme is in line with the research that will be carried out, the difference is that Eko Turisno and friends only limits legal protection in the event of cancellation of Umrah and Hajj departures on special hajj travel, the research that will be carried out is not only a cancellation departure but broader towards legal protection in all aspects (Nathasya; 2013)

RESEARCH METHOD

This research uses a qualitative approach and a Doctrinal design because of the legal conditions as a value system and the law as a social norm (intrinsic law), which collaborated with the field (non-Doctrinal) to reveal consumer protection of the rights of Umrah pilgrims in a formal juridical context in Indonesia. This research is a type of juridical social research analysis that is descriptive. (Cik Hasan Bisri: 2005: 52-53) The research data includes primary data in the form of Laws, Regulations, which are qualitative data, data will be combined with field findings of Umrah consumer rights violations that occurred in Indonesia from 2017 to 2018, It is important to look at the effectiveness of consumer protection regulations. This research is a doctrinal and field research that was conducted to find out the legal protection of the rights of Umrah congregation consumers in Indonesia, by describing the correlation in the form of facts on violation cases of Umrah Consumer Rights committed by the Umrah Travel Bureau "Fist Travel" Jakarta.

RESULTS

Looking back on the story of Fist Travel founders, A husband and wife couple Anniesa Desvitasari Hasibuan dan Andika Surachman will be touched by the struggles , ups and downs of establishing Travel Umrah labeled Fist Travel, which started with borrowed money from in-laws. Andhika Surachman was born in Bogor on December 29, 1985. After graduating from high school while working in a shop in Bogor following his education at STIE Tama Jakarsa, South Jakarta. As a salesman Andika married his girlfriend in 2005 Anniesa Desvitasari Hasibuan, who was born on July 30, 1986, who is currently studying at the University of Indonesia, Depok, Jakarta. But unfortunately Andika and Anniesa had to quit college when they experienced various economic crisis in 2008.

Andika who only graduated from SMA 2 Budi Warman, South Jakarta, before taking part in Umrah Travel business field had ups and downs as an entrepreneur. Andika admitted that he was forced to enter the business world in 2004, at that time Andika worked in a minimarket as an employee in Jakarta, only one year at the minimarket then Andika became an interns with a salary of IDR 50,000 per day. Since his father-in-law passed away in 2008, Andika and his wife have lived with his in-laws and Anisa's younger siblings. At that time Andika and his wife became the backbone of the family and had to support Anniesa's 3 younger siblings, because of the salary he earned from his place of work was not sufficient, Andika mortgage his motorbike for 2 million rupiah to start a business such as Credit, culinary, burgers

to bed sheet business, but all of them went bankrupt. Because Andika run out of capital, he mortgaged his father-in-law's house to a bank for 50 million Rupiah. After that Andika started a business again but he failed again, which in the end the Bank confiscated their house. From the remaining money left by his father-in-law Andika decided to open CV Fist Karya Utama which is engaged in travel sector, The travel business run by Andika and Anniesa is something new for them because they are self-taught. Fist Travel then focused on the Umrah journey. With no experience, Andika and Anniesa only have a Yellow Page telephone book to call an Umrah travel agency. (Doddy Rosadi: 2015)

Andika and Anniesa's travel business began to show results starting from a request from Bank Indonesia to delivered 9 of their employees to Umrah. Although that's the first time for Andika and Anniesa sent Umrah pilgrims to holy land with lack of knowledge. They did not understand the system of Umrah but they managed to provide good and satisfying servants, for this achievement the collaboration with BI continued until 2011. Hundreds of BI employees were successfully sent by Andika with his Fist Travel to the Holy Land to perform Umrah. This success continued with Andika's courage to offer a cheap Umrah package of 14 million Rupiah and to expand his Umrah business Andika opened 15 Fist Travel branches, and he moved the head office from Depok to the Kuningan.

In 2012, Fist Travel dispatched up to 800 Umrah pilgrims. In 2013 has increased to 3600, almost twofold from the previous year. The fantastic numbers began In 2014, first Travel dispatched 14,700 pilgrims and in 2016, Andika successfully dispatched 35,000 pilgrims. It is the first time in Indonesia, the travel agencies in only one year is able to dispatch 35,000 Umrah pilgrim, by the very large number of pilgrim the Indonesian Record Museum (MURI) awarded Fist Travel with the title "The Biggest Manasik Akbar Umrah in Indonesia". From the 35,000 pilgrim dispatched by First Travel, they managed to make a profit of 40 million US dollars or 528 billion. And Andika then opened more than 20 Fist Travel branches throughout Indonesia.

Andika's success was followed by the debut of his wife, Anniesa Devitasari, as a successful designer. In 2016 Anniesa became the only fashion designer who succeeded in breaking into the New York Culture Festival Week, Anniesa's work with the theme D'jakarta Swow received a standing ovation from 2000 viewers. Not only in New York, the United States of Amerika, Anniesa was also success in Doha, Qatar in November 2016. ([https // national.kontan.co.id](https://national.kontan.co.id) downloaded October 20, 2018) violation of consumer rights for Umrah travel by Fist Travel, based on the decision of the Depok District Court, it was proven to have committed fraud and fraudulent acts. Fist Travel was proven to have committed fraud against

72672 Umrah pilgrims. The fraud mode is carried out by offering cheap Umrah packages, namely:

- a) Umrah Travel Package only 14,3 million
- b) Regular Package
- c) VIP Package

With cheap package costs compared to other travel, it is even cheaper than the price of Umrah trips that have been set by the Directorate General of Hajj and Umrah Travel of the Indonesian Ministry of Religion. From there Fist Travel managed to get 72,672 Umrah pilgrims registrants. From 2016 to 2017, Fist Travel only dispatched 14,000 pilgrims, 58,682 pilgrims were unsuccessful to depart, losses suffered by Umrah consumers reached a total of 84.87 billion. The number of complaints to the Criminal Investigation Unit from Fist Travel congregants who did not depart and felt that they were detrimental had prompted POLRI to open a crisis center. Since the opening of the Crisis Center, reports of Fist Travel victims totaled 4,043 pilgrims and 2,280 reports submitted via email.

The efforts of the Umrah pilgrims to be able to depart for Umrah not only asked the state police crisis center to deal with failed departures, but formed an association which was named "Association of Travel Fist Victims". Paguyuban is a communication forum for victims of Fist Travel throughout Indonesia, including Jakarta, Depok, Bogor, Bandung, Surabaya, Medan, Ujung Pandang and other cities. According to Hamahera, one of the fist travel pilgrims, the association has 1700 members, communication and information about fist travel cases using social media Facebook and What's App. The activities of the association that have been carried out include The activities of the association that have been carried out include (1) Trying to made peace between the Jamaah and the management of fist travel, but these efforts have not been successful. (2) Efforts to restore consumer rights through the BPSK institution at the Depok, Jakarta court. This effort according to one of the Fist Travel pilgrims is still running but it is getting more difficult because the position of the Fist Travel has been revoked and the owner of the fist travel is serving a prison sentence in the Sukamiskin cell. (3) Report to the crisis Center.

DISCUSSION

Since the occurrence of the Fist Travel and other problematic Travel cases, various legal efforts have been taken by the Indonesian Ministry of Religion, civil and criminal lawsuits. The Fist Travel case caught the attention of Commission X DPRD RI, who asked related parties

to the Ministry of Religion and the police to resolve it as soon as possible, considering that the number of victims reached thousands of Umrah pilgrims.

According to some legal observers, the settlement of Umrah cases in Indonesia has more power to revoke permits and criminal sanctions. According to the Professor. DR. Muzhahir, a professor of Criminal Law at the Islamic University of Indonesia, Yogyakarta, said that the dispute over Umrah pilgrims to Umrah travel service providers is essentially a civil dispute that should be resolved based on civil law norms. This effort is made to protect the interests of Umrah consumers and Umrah travel interests including Umrah fund assets and Travel company assets.

In terms of the Law on Consumer Protection, Fist Travel and Hannien Tour have violated the Consumer Rights Article 4 point b of the 1999 UUPK :

"The right to choose goods and / or services and get the goods and / or services in accordance with the exchange rate and conditions and guarantees promised"

From a legal aspect, Fist Travel and Hannien Tour have Administrative, Prime and Criminal responsibilities. From a civil side, Fist Travel has made a number of achievements, namely not sending the Umrah pilgrims according to the agreement. Based on this achievement, both Fist Travel and Hannien Tour have violated article 7 of the 1999 UUPK, namely:

- a. Not doing good ethics because they have neglected so that the Umrah pilgrims failed to depart.
- b. Not providing true and honest information on Umrah services which are the content of their travel business.
- c. There is no guarantee of quality standards for the Umrah travel services provided
- d. There is no compensation for the loss of failing to depart the Umrah pilgrims to the holy land.

Fist Travel carries out a promotional pattern that violates article 12 and article 13 of the 1999 UUPK, that businessmen are prohibited from offering, promoting or advertising with special rates within a certain time and amount. And do Umrah promotions with certain promises but do not provide what has been promised by Umrah Travel. This practice can be seen from the business pattern by dividing the three categories of Umrah travel, namely Promo,

Regular and VIP. In accordance with article 16 UUPK Fist Travel does not comply with Umrah travel service bookings as agreed, including the agreement on quality and achievement.

In terms of consumer protection, Fist Travel has tricked advertising and promotions so that Umrah consumers are interested in buying Umrah travel services, in article 17 UUPK tricking consumers is prohibited as a promotional practice :

Article 17

- (1) Entrepreneurs in the advertising business are prohibited from producing Ads:
 - a. Fooling consumers regarding the quality, quantity, materials, use and price of goods and / or service rates as well as the timeliness of receiving goods and / or services.
 - b. Deceive guarantees of goods and / or services
 - c. Contains false, wrong, or incorrect information regarding goods and / or services

Failed to depart Umrah pilgrims based on Article 19 of the UUPK, Umrah businessmen are obliged to provide compensation. Compensation can be in the form of refunding the service fee that has been paid or in the form of rescheduling of the Umrah community or Umrah departure with an agreement through other travel. However, Article 19 paragraph (4) does not always succeed in dispatching the Umrah pilgrims because there are elements of error that allow criminal charges. The element of Fist Travel's error has been proven by the prosecutor and tried it in the District court which decided that there was an element of error, namely the misuse of Umrah funds for the benefit of Travel owners.

There are several mistakes that form the basis of Fist Travel's crime, namely:

- a. Article 372 of the crime of embezzlement
- b. The criminal act of fraud 378 KUHP
- c. Money Laundering, Law No. 8/2010

Consumer protection efforts on Fist Travel Umrah pilgrims, from the results of searches in the field, feel that they are not paying attention to the protection of consumer rights, both efforts to protect and returning material losses by regulators in this case the Indonesian Ministry of Religion as the person in charge of Haj and Umrah trips, the Government of Indonesia, and the Police. The sanctions for the revocation of operational permits carried out by the Ministry of Religion have an impact on the congregation being increasingly uncertain and unclear about the departure of Umrah and Umrah travel fees entrusted by Fist Travel. There are no systematic steps taken by the government to save the rights of Umrah consumers, which number more than 5,000 pilgrims with a value of more than 1 trillion. When DPRI received a complaint

report from the Umrah pilgrims and the results of the DPR-RI Commission III meeting which was attended by 2/3 members of commission III including Trisedi (chairman of KMMomisi III), Arteria Dahlan (PDIP), Hasrul Azhar (PPP), Raden Mokh Syafei (Gerindra), Anwar Rakhman (PKB), John Kenedy Azis (Golkar), Faesal (Hanura), Taufiq (Nasdem), Muslim Ayu (PAN) and others. The Commission III meeting was about to form a special committee for Umrah and Hajj trips, but this effort has never materialized to date. YLKI said that there was an error in handling the protection of Fist Travel and Hannien Tour victims, the related parties prioritize the Criminal element rather than returning the rights of Umrah consumers.

In an effort to protect consumers, the Minister of Religion has issued Decree No. 589 of 2017 which instructs Fist Travel to return all money for Umrah pilgrims without the slightest deduction. (Investigation to the Fist Travel victim association) (However, this decision of the Minister of Religion was never realized and there was no continuation from the Ministry of State to complete the return of Umrah consumer rights.

The Consumer Rights Claims, which are members of the Fist travel victims association, were carried out through the PKPU court in the Central Jakarta court in early September 2017 until today. In 2018 several trials were held. At the second trial on 29 September 2017, the peace proposal submitted by Fist Travel was discussed in the PKPU session at the Central Jakarta District Court. Based on PKPU data, the number of fist travel creditors reached 59,994, there were also 7 vendors and 89 agents, with a claim value of IDR 1.002 trillion which had to be returned by Fist Travel. At the second PKPU trial, it was revealed that the creditors objected to the Ministry of Religion's move to revoke the Operational Travel permit, because it would complicate the PKPU trial and the refund of Umrah pilgrims.

In the midst of the PKPU fist Travel trial at the Central Jakarta District Court that haven't get the results yet, Hannien Tour's civil trial in solo, and other cities. The Police of the Republic of Indonesia conducted an investigation into allegations of fraud and embezzlement of money for Umrah pilgrims as a criminal act. The criminal prosecution case continued on July 31, 2018, the judge sentenced them to a criminal sentence, including Andika Suracmana, who was sentenced to 20 years in prison with a fine of IDR 10 billion. Anniesa Hasibuan imprisonment for 18 years with a fine of IDR 10 billion and Kiki Hasibuan in prison for 15 years with a fine of IDR 5 billion. In the judge's decision, Andika and Anniesa were proven to have committed a crime of money laundering reaching IDR 905 billion, of which IDR 60 billion had been confiscated. One of the fist travel congregations on the Facebook page "Paguyuban korban fist travel" responded to the criminal verdict, he considered the judge's verdict to be fair, but the decision that ordered the confiscation of the perpetrator's assets was

a mistake by the judge, the assets which were the result of the Umrah fraud should be returned by the Jamaah who was the victim. (See the Facebook page for the group of victims of Fist Travel). The plan is that the victims of Fist Travel will file a lawsuit to the Supreme Court, even Fist Travel lawyers will make an effort to send a letter to President Jokowi. (News.Detik.com “Aset Bos Fist Travel di rampas”).

Professor DR. Muzhakir, a professor of Criminalization at UII Yogyakarta, said that the Umrah dispute in Indonesia should prioritize the interests of Umrah consumers. Munazdakir said that the Umrah dispute has a different conflict with other economic disputes, the Umrah dispute must be based on the philosophy of Worship, because Umrah activities are part of carrying out Islamic worship. Muzhakir provides resolution of Umrah consumer disputes that must be done in wise and syar'iah ways, namely: (interview)

- 1) Both parties or more disputing parties must have a philosophy of worship, because the journey to be undertaken is in the framework of worshipping to Allah SWT.
- 2) The participation of the Ministry of Religion in this case can be represented by the Head of Umrah and Hajj. The Ministry of Religion must be more active in resolving Umrah disputes on the principle that Umrah consumers and Umrah travel companies (travel) must be protected fairly. because the Ministry of Religion substantially has the responsibility for granting Umrah travel permits, guidance, and supervision of the implementation of Umrah in Indonesia.
- 3) If there is a failure in the departure of the Umrah pilgrims or something that is detrimental to the Umrah pilgrims or detrimental to the Umrah travel, the principle used is the completion of good etiquette, with more efforts to resolve kinship, peace and deliberation. Civil settlement must take precedence over criminal settlement.
- 4) The civil principle is that the Umrah pilgrims as consumers entrust travel fees to the holy land which are then stored in the Umrah travel company. If there is a dispute, the consumer's money must be saved, it can be done by BPSK, or at the request of the Ministry of Religion. And the settlement is carried out by deliberation.
- 5) Umrah dispute resolution options are carried out more wisely in accordance with the spirit of worship and it can be decided that the money is returned, departed if the company is able to dispatch, depart by another travel. or the Ministry of Religion takes over travel that is problematic. If the funds in the

travel company account are lacking, it can be confiscated and sold by the travel umrah owner. If it is still lacking, the Ministry of Religion or the disputing parties can find another way. With this settlement pattern, criminal settlement will not be carried out.

Criminal settlement can be carried out by the police of the Republic of Indonesia in the event of fraud, manipulation or other criminal activities that are contrary to the law committed by Umrah service providers and do not rule out criminal acts can also be committed by consumers or Umrah pilgrims.

CONCLUSION

From the description above, it can be concluded that the settlement of negligence on Umrah Travel in Indonesia, does not refer to the consumer dispute justice system and consumer protection in Indonesia. The resolution by the government by involving the police has turned the consumer dispute issue into a criminal case with indications of fraud and embezzlement. Criminal court should be resolved after settlement through consumer disputes, mediation is resolved through consumer dispute courts and mediation of consumer rights protected, especially economic rights can be returned. Settlement through Criminal will eliminate all consumer rights because the property in dispute becomes evidence that is seized by the State and cannot be returned.

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