

CHAPTER ONE

INTRODUCTION

A. Background

The basis and the legal implementation of the *Hajj* and *Umrah* are contained in Article 1 Paragraph 2 Law No 13 Year 2008 on the Implementation of *Hajj*. The existence of Law No 13 Year 2008 has not answered the demands and expectations of the community, because the substance and scope is not fully able to present the implementation of *Hajj* professionally. Although the implementation of the *Umrah* service in Indonesia is a routine activity every month, it always has problems, such as the distance of lodgings from the Al-haram Mosque, the capacity and inadequate accommodation facilities, responsibility, chaotic distribution of catering, neglect of *Jemaah* by *Hajj* Worship Guidance Group (KBIH) or special *Hajj* organizers, ect.

Umrah implementation system in Indonesia is experiencing dynamic fluctuation over time due to the prevailing laws and regulations. *Jemaah Hajj* are protected by Law No 13 Year 2008 on the Implementation of *Hajj*. According to Sudikno Mertokusumo, the existing of laws on *Hajj* is

not completed yet.¹ In addition, the regulation that has been implemented sometimes is affected from the Saudi Arabia Government policy. Such condition is subsequently led to the amendment of Indonesian regulation for adjustment and refinement.

Nowadays, there are still number of actual issues that occur in the implementation of *Umrah*, such as: interest on savings, bailout funds, endowments of the ummah, and waiting lists.² First, the issues of interest on savings are caused by the savings of *Hajj* from the initial deposit of *Jemaah* that now reaches around IDR 40 Trillion with average interest IDR 1.5-2 trillion in each year. This is controlled by the Ministry of Religious Affairs and used to subsidize *Jemaah*. This raises the question of whether the law and the validity of interest on savings are utilized without the permission from *Jemaah*. In addition, the large amount of interest is potentially vulnerable to deviations and misappropriation, as examined by the Corruption Eradication Commission (KPK).³

Based on a series of *Jemaah Umrah*, activities outside the *Hajj* season includes the guidance, service and protection of *Jemaah* conducted by the Government or the implementation of the *Umrah* trip as set forth in Article 1 Paragraph 1 of the Regulation of the Minister of Religious Affairs of the Republic of Indonesia No. 8 of 2018 on the Implementation of *Umrah*. The regulation also regulates the implementation of *Jemaah*

¹ Sudikno Martokusumo, 1986, *Mengenal Hukum*, Yogyakarta: Liberty, p. 36.

² Nurul Hidayati, 2014, "Penerapan Fungsi Manajemen Dalam Penyelenggaraan *Umrah* di Indonesia", *Jurnal Riset Hukum Indonesia*, Vol. 23 No. 2, June 2014, p. 27.

³ *Ibid.*

Umrah conducted by First Travel in the departure of *Jemaah Umrah* starting from the preparation of the *Jemaah Umrah*, during the journey of worship lasting until returning home to Indonesia.

PT. First Anugrah Karya Wisata (First Travel) is *Umrah* bureau and tours with *Umrah* package cheaper IDR 5,000,000 (five million rupiah) from the normal price. Normal *Umrah* package price around IDR 19,000,000 – IDR 20,000,000 while *Umrah* package price at First Travel only IDR 14,000,000 - IDR 15,000,000. Some people are interested to worship in the Mecca with a relatively low cost. First Travel started its business from a tour travel business, that organized by CV First Travel Karya Utama which was established on July 1, 2009. The First Travel initially only offered domestic and international travel services for individuals and companies. Since 2011, the *Umrah* organized by PT First Anugrah Karya Wisata growing rapidly from year to year.⁴

After 6 years running, their business experienced strange activity. It was the Ministry of Religious Affairs who first monitored that there was something strange about the First Travel business model. First Travel received the attention from Religion Ministry after First Travel failed to dispatch *Jemaah Umrah* on March 28th, 2017.

The *Jemaah* who failed departing were lodged in the hotel around Soekarno Hatta Airport. The Ministry of Religious Affairs also facilitated the clarification, investigation, advocate, and mediation with the *Jemaah*

⁴ Wisnu Prasetyo, 2017, “Kronologi Tumbangnya First Travel”, taken from <https://kumparan.com/wisnu-prasetyo/kronologi-tumbangnya-first-travel>, accessed on Thursday, November 2nd, 2017 at 10.23 am.

that was first conducted on April 18th, 2017. *Jemaah* feel cheated because some failed for three times of departing *Umrah*. When *Jemaah* asked for clarity, First Travel management always rambled. During the meeting, the Ministry of Religious Affairs immediately asked the clarification of the case to the First Travel officials.

However the management did not give any answers at all, the Ministry of Religious Affairs invited First Travel to mediate with *Jemaah*. They sent a legal counsel but it did not proceed the problem. The legal team of First Travel was not equipped with a power of attorney. On the other hand, on the same date, 600 *Jemaah* of First Travel from East Java complained to Legislative Assembly. 600 *Jemaah* from East Java were abandoned in the capital for four days and never knew when to fly the Mecca.⁵

The Ministry of Religious Affairs again called First Travel for the second time on May 24th, 2017, this effort was also failed because the management did not present. On June 2nd, 2017, mediation was held between First Travel with a number of *Jemaah* from Bengkulu. For many times, First Travel official provided no solution that can be given. That day was the last mediation effort and failed because the First Travel official did not present.⁶

Based on the case above, there was an *Umrah* agency and tourism agency that cheated the consumers. Therefore, researcher wanted to

⁵*Ibid.*

⁶*Ibid.*

analyze consumer protection for cancelled departure of the *Jemaah Umrah*. Then, the researcher wants to conduct a research entitled “**THE LEGAL PROTECTION OF CONSUMERS FOR FAILURE DEPARTURE OF JEMAAH UMRAH OF “FIRST TRAVEL”**”.

B. Research Problem

Based on the background that has been described, the researcher suggests the formulation of the problem include:

1. How is the legal protection of consumers for Failure Departure of *Jemaah Umrah* of “First Travel”?
2. What is the legal remedy that can be done to provide the legal protection of consumers for Failure Departure of *Jemaah Umrah* of “First Travel”?

C. Objective of Research

The purpose of this research based on the background that has been described including:

1. To know what is the legal protection of consumers for Failure Departure of *Jemaah Umrah* of “First Travel”.
2. To know the legal remedy that can be done to provide the legal protection of consumers for Failure Departure of *Jemaah Umrah* of “First Travel”.

D. Benefit of Research

This research will provide some benefits such as:

1. Theoretical Benefit

Providing contributive thought in the development of law science, especially commerce law. Hopefully this research can be used as reference and basis for further research, especially on the legal protection of consumers for Failure Departure of *Jemaah Umrah* of “First Travel”.

2. Practical Benefit

The practical benefits for both business-consumer and consumer communities are to provide knowledge about cheap *Umrah* agency that are vulnerable to fraud or problems, so that people are aware of the negative impacts of using a cheap *Umrah* agency.