Dharmawangsa: International Journals of The Social Science, Education and Humanities
P - ISSN : 2716-5132, E - ISSN : 2723-0783 Vol. 6 Number 3 November 2025 Page: 475-482

Criminal Law Review Of Criminal Acts Of Fraud In Hajj And Umrah Travel

Khofifah Aulia Nisa[1], Muhyi Mohas[2], Mohamad Noor Fajar Al Arif[3]
1,2,3 Faculty of Law, Sultan Ageng Tirtayasa University
Email :khofifahaulianisa26@gmail.com

ABSTRACT

Fraud in the organization of Hajj and Umrah travel in Indonesia has become a recurring and alarming legal issue. As one of the countries with the largest Muslim population, Indonesia sees a growing interest in Hajj and Umrah pilgrimages. However, this demand is often exploited by unscrupulous travel agencies that offer low-cost pilgrimage packages without fulfilling their obligations. This study aims to examine the enforcement of criminal law against fraud perpetrators in the Hajj and Umrah travel sector and to analyze the objectives of criminal sentencing in such cases. The research employs a normative juridical method with a statutory and case approach, focusing on two court decisions: Bontang District Court Decision No. 91/Pid.B/2019 and Palangka Raya District Court Decision No. 313/Pid.Sus/2023. The findings indicate weaknesses in the criminal justice process, including inappropriate prosecutorial demands and judges' lenient verdicts, which fail to reflect the severity of the offenses. Moreover, the sentencing does not effectively implement the purposes of punishment as described in both absolute (retributive) and relative (preventive) theories. As a result, the punishments imposed lack deterrent power and do not provide sufficient justice for the victims.

Keywords: Criminal Law, Fraud, Hajj and Umrah Travel, Sentencing Objectives.

INTRODUCTION

Indonesia is the country with the largest Muslim population in the world. Every year, public enthusiasm for performing the Hajj and Umrah pilgrimages continues to grow, but limited departure quotas have led to high interest in Umrah travel services as an alternative. Various travel agencies have exploited this phenomenon by offering travel packages promising quick departures at affordable prices. Unfortunately, many of these agencies have been found to be committing fraud, either by failing to send pilgrims or by providing services that do not meet the agreed-upon terms. Cases such as those involving First Travel, Abu Tours, PT Solusi Balad Lumampah, and PT Hanien Tour are clear examples of the rampant fraudulent practices in the pilgrimage travel industry. Thousands of prospective pilgrims have fallen victim, with total losses reaching billions of rupiah. This demonstrates that this problem is not merely a financial one, but also reflects a weak oversight and law enforcement system in a religious sector that should be based on trust.

In criminal law, fraud is included in the category of offenses regulated in Article 378 of the Criminal Code 1. (SH Moeliatno, 2021) However, reality shows that the criminal sanctions imposed often do not reflect substantive justice for victims. Many court decisions give light sentences to perpetrators of pilgrimage travel fraud, despite the extensive impact and harm to thousands of people. This raises questions about the effectiveness of law enforcement and the achievement of the objectives of criminal punishment, namely providing a deterrent effect, protecting the community, and providing justice for victims. Furthermore, law enforcement practices are often colored by subjective considerations from judges and weak demands from public prosecutors, thus failing to create an adequate deterrent effect.

The importance of addressing this issue also relates to the increasing role of social media as a promotional tool for travel agencies. Many agents use fake testimonials and misleading digital campaigns to deceive prospective pilgrims.

Therefore, the legal system is not only required to provide strict sanctions, but must also be able to respond to new challenges in the form of digital crime modes. (Luthfi Ansori, 2017) Through a normative juridical approach, this study aims to analyze how criminal law is enforced in cases of Hajj and Umrah travel fraud and the extent to which the objectives of punishment have been implemented effectively. This study also highlights the importance of legal policy reform, especially in sentencing and supervision of pilgrimage travel agencies. In this way, it is hoped that the public can be protected from fraudulent practices that exploit the spiritual aspects of society as a commercial commodity, and ultimately the law truly functions as a tool of justice and public protection.

Formulation of the problem

Based on the background outlined previously, the research problem is formulated as follows:

1. How is criminal law enforced against Hajj and Umrah travel fraud?
2. What is the purpose of criminalizing the crime of fraud in Hajj travel and Umrah?

RESEARCH METHOD

This research uses a normative juridical method with a statutory regulatory approach and case studies. Data were collected through literature review, including primary legal materials (the Criminal Code and the Hajj/Umrah Law), secondary legal materials (books, journals), and tertiary legal materials. The two main cases analyzed are Bontang District Court Decision No. 91/Pid.B/2019 and Palangka Raya District Court Decision No. 313/Pid.Sus/2023/PN Plk.

RESULTS AND DISCUSSION

Law Enforcement Against Hajj and Umrah Travel Fraud Perpetrators

In this study, an analysis of two court decisions related to Hajj and Umrah travel fraud cases reveals a disparity between the magnitude of the losses suffered by the victims and the sentences handed down by the panel of judges against the defendants. The Bontang District Court Decisions No. 91/Pid.B/2019 and the Palangka Raya District Court Decisions No. 313/Pid.Sus/2023 serve as concrete examples of weak law enforcement in similar cases. In the Bontang case, the defendants were found guilty of accepting funds from prospective pilgrims through personal accounts without official operating permits and failing to send the pilgrims as agreed. Despite the significant number of victims and losses, the panel of judges only sentenced them to three years in prison. Similarly, in the Palangka Raya case, two defendants who jointly collected pilgrim funds illegally and caused billions of rupiah in losses were sentenced to only two and three years in prison, far below the prosecutor's demand of seven years.

The light sentences handed down in the two decisions raise major questions about the effectiveness of the criminal justice system in providing a sense of justice, both for victims and society in general. (Soerjono Soekanto, 2011) Decisions that are not commensurate with the level of crime and the impact of the losses caused show that the function of punishment as a form of retribution and prevention has not been carried out optimally. The deterrent effect that should arise from criminal punishment is not achieved if the perpetrator is only given a light sentence, while the victim experiences severe financial and psychological losses. In this case, the purpose of criminal law as a tool to create justice and protect society is questionable in its effectiveness.

The judges' overly lenient attitude and the public prosecutor's inappropriate considerations in compiling the charges or articles imposed are factors that weaken the law enforcement process. (SH Barda, 2016) In the case of criminal acts of fraud committed under the guise of organizing religious services, the court should consider aspects of public trust and the moral dimensions that are violated. Public trust in legal institutions can also be eroded if perpetrators of serious crimes like this are not given appropriate punishment. (Mardjono, 1994) Therefore, efforts are needed to strengthen the integrity and professionalism of law enforcement officers in handling similar cases, so that they can reflect the principles of substantive justice and prevent the recurrence of similar crimes in the future.

Implementation of the Purpose of Criminalization

One of the main problems identified in this study is the suboptimal implementation of the objectives of criminal punishment in cases of fraud by Hajj and Umrah travel agencies. Ideally, criminal punishment should not only function as a form of punishment, but also contain certain objectives, both in terms of retaliation against the perpetrator (absolute theory) and efforts to prevent future crimes (relative theory). (SH Barda Nawawi A, 2016) In absolute theory, punishment is imposed as a form of appropriate retribution for actions that violate the law and harm others. Meanwhile, in relative theory, punishment is aimed at preventing criminal acts from occurring either by the same perpetrator (specific prevention) or by the wider community (general prevention). (M ali Zaidan.et al, 2021) However, in practice, the two court decisions analyzed—namely the Bontang District Court Decision No. 91/Pid.B/2019 and the Palangka Raya District Court Decision No. 313/Pid.Sus/2023 shows that the sentence handed down to the perpetrator was very light when compared to the losses and social impacts caused.

These light sentences demonstrate the disproportionate nature of the criminal sanctions relative to the severity and impact of the crimes. In both cases, the perpetrators were found guilty of defrauding tens to thousands of prospective pilgrims, resulting in losses totaling billions of rupiah. Despite this, the sentences imposed ranged from two to three years in prison, far below the prosecutors' demands and the public's expectations of justice. These light sentences have the potential to undermine public trust in the criminal justice system and reduce the deterrent effect on the perpetrators and potential perpetrators. Furthermore, there were no remedial or rehabilitation measures aimed at changing the perpetrators' behavior to prevent them from repeating their crimes in the future.

The purpose of criminal punishment should also be to protect society from similar crimes by providing a stern warning through proportionate punishment. In the context of pilgrimage travel fraud cases, the victims are generally from the lower middle class and have sacrificed their wealth to carry out their religious obligations. When perpetrators receive only light sentences, this not only harms the victims materially and emotionally but also undermines the broader sense of social justice. Therefore, punishment in such cases should be both educational and repressive to provide a deterrent effect and serve as a lesson for the wider community.

The lack of optimal implementation of the objectives of sentencing also reflects the weak integration between legal theory and judicial practice. Courts and prosecutors should more deeply examine the sociological impact of crime and apply the principles of substantive justice in sentencing. The application of a combined theory, which combines elements of retribution and deterrence, needs to be prioritized so that sentencing becomes not merely a legal formality but also an instrument for creating a more just and secure social order. Therefore, improvements to the sentencing system and evaluation of judicial policies are essential to achieve the objectives of sentencing comprehensively and comprehensively.

Criminalization not only functions as a form of punishment, but also has specific objectives, both in terms of retaliation against the perpetrator (absolute theory) and efforts to prevent future crimes (relative theory). In absolute theory, punishment is imposed as a form of appropriate retribution for actions that violate the law and harm others. Meanwhile, in relative theory, punishment is aimed at preventing criminal acts from occurring either by the same perpetrator (specific prevention) or by the wider community (general prevention). (M ali zaidan, 2021) However, in practice, the two court decisions analyzed, namely the Bontang District Court Decision No. 91 / Pid.B / 2019 and the Palangka Raya District Court Decision No. 313 / Pid.Sus / 2023, show that the sentences imposed on the perpetrators are very light when compared to the losses and social impacts caused.

The light sentences demonstrate a disproportionate relationship between the criminal sanctions and the severity and impact of the crimes. In both cases, the perpetrators were found guilty of defrauding tens to thousands of prospective pilgrims, resulting in losses totaling billions of rupiah. Despite this, the sentences imposed ranged from two to three years in prison, far below the prosecutors' demands and the public's expectations of justice. These light sentences have the potential to undermine public trust in the criminal justice system and reduce the deterrent effect on the perpetrators and potential perpetrators. Furthermore, there were no remedial or rehabilitation measures aimed at changing the perpetrators' behavior to prevent them from repeating their crimes in the future.

The purpose of criminal punishment should also be to protect society from similar crimes by providing a stern warning through proportionate punishment. In the context of pilgrimage travel fraud cases, the victims are generally from the lower middle class and have sacrificed their wealth to carry out their religious obligations. When perpetrators receive only light sentences, this not only harms the victims materially and emotionally but also undermines the broader sense of social justice. Therefore, punishment in such cases should be both educational and repressive to provide a deterrent effect and serve as a lesson for the wider community.

The lack of optimal implementation of the objectives of criminal justice also reflects the weak integration between legal theory and judicial practice. Courts and prosecutors should more deeply examine the sociological impact of crime and apply the principles of substantive justice in sentencing. The application of a combined theory, which combines elements of retribution and deterrence, needs to be prioritized so that criminal justice becomes not merely a legal formality but also an instrument for creating a more just and secure social order.

The weak implementation of the objectives of punishment in these cases also shows the lack of sensitivity of law enforcement officials to the values of moral and spiritual justice violated by the perpetrators. Fraud in the context of worship is not only about financial losses, but also touches on aspects of the religious beliefs of the community. (M Sholehuddin, 2003) Deceiving prospective pilgrims who intend to perform sacred worship is a form of violation that is morally very serious, and therefore requires a commensurate legal response. When crimes like this are only met with light punishment, the state appears to be not siding with the victims and failing to show a firm stance against violations of public trust.

If the criminal justice system is not reformed, it is feared that the public will become apathetic towards the legal process and lose trust in the judiciary. Therefore, reforms in the criminal justice system are absolutely necessary. Judges and prosecutors need to be trained to have a broader perspective on the meaning of justice, not just from a legal perspective but also from a social and psychological perspective on the victims. A multidisciplinary approach that combines law, sociology, and public ethics can help produce more just decisions and promote the achievement of the ideal goals of criminal justice.

Lack of Specific Regulations and Supervision of Pilgrimage Travel Agencies

One of the main root causes of the rampant fraud cases by Hajj and Umrah travel agencies in Indonesia is the lack of specific regulations and the weak oversight system carried out by the government towards these travel agencies. Although Law No. 8 of 2019 concerning the Organization of the Hajj and Umrah Pilgrimages has been enacted as a form of legal reform in the governance of the organization of pilgrimages, in practice the implementation of this law has not been running optimally and still leaves many loopholes that can be exploited by irresponsible individuals. (Optarina Yeni, 2019) Many travel agencies that do not have official permits from the Ministry of Religious Affairs, but continue to operate and even actively conduct large-scale promotions to prospective pilgrims through social media and unofficial agents in the regions. The lack of law enforcement against these illegal travel agencies provides ample room for perpetrators to commit fraud against the public, most of whom do not properly understand the legal requirements for a pilgrimage travel organizer. (M Oscar Dharma, 2023)

Oversight from relevant agencies, particularly the Ministry of Religious Affairs, remains very limited, both in terms of personnel and the systems used. Oversight mechanisms are often purely administrative, namely checking the completeness of documents or formal permits, without further verification of the bureau's operational capabilities, financial credibility, and previous service track record. As a result, many bureaus, despite having initial permits, continue to engage in manipulative practices such as delaying departures, unilaterally changing facilities, or even not sending pilgrims at all. These gaps in oversight create the potential for large-scale crime, as seen in the cases of First Travel, Abu Tours, and various other travel agencies that have been proven to have defrauded tens of thousands of prospective pilgrims, resulting in losses reaching billions of rupiah.

The lack of strong legal protection for prospective pilgrims. Although Law No. 8 of 2019 states that the public can report violations to the Ministry of Religious Affairs, the reporting procedures and follow-up are still not transparent and responsive. (Mulya, 2023) Many victims find it difficult to obtain justice because the relevant bureau has disappeared, cannot be contacted, or is in the process of bankruptcy. The state does not yet have a guarantee system that can protect pilgrims' funds, such as a special insurance system or a bridging fund that can be immediately used to save prospective pilgrims from total loss. This is certainly ironic, considering that the Hajj and Umrah pilgrimages are spiritual journeys that should be based on a sense of security and trust, but instead become fertile ground for crime due to weak oversight and protection from the state.

Illegal travel agencies operate using highly convincing methods. They use social media, fake testimonials, and collaborations with local agents to attract prospective pilgrims, especially in rural areas with limited access to information. Low levels of public legal literacy also exacerbate the situation. Many people fail to verify the agency's legality, fail to read contracts in detail, or are overly trusting of agents' persuasive offers and low prices. In this situation, the government should not rely solely on formal regulations but should also conduct extensive education and outreach regarding the rights and obligations of pilgrims and the characteristics of legal and illegal travel agencies.

Another problem is the lack of inter-agency cooperation in oversight. For example, data from the Ministry of Religious Affairs is not always integrated with other agencies, such as the Financial Services Authority (OJK) or the Ministry of Communication and Information Technology, which could help block fake advertisements or websites from illegal travel agencies. In many cases, agencies whose permits have been revoked by the Ministry of Religious Affairs are still able to operate online because there is no robust cross-sector oversight system. Furthermore, legal proceedings against perpetrators are often slow and complicated. Weak law enforcement actually makes perpetrators fearless, and the public increasingly distrusts the system that is supposed to protect them.

Given this situation, comprehensive reforms are needed in the regulation and oversight of pilgrimage travel agencies. The government needs to create derivative regulations from Law No. 8 of 2019 that are more technical and adaptable to new fraud methods. Strengthening the licensing system and conducting regular digital audits of all travel agencies is also crucial. Furthermore, a financial protection system for pilgrims needs to be established in the form of an escrow account or special fund that can only be disbursed upon actual departure. Equally important, the government must encourage cross-sector integration between institutions to strengthen the overall oversight and consumer protection system. Legal education for the public and the publication of a blacklist of problematic travel agencies must also be carried out routinely and transparently.

By strengthening regulations and oversight, as well as increasing transparency and public education, it is hoped that fraud cases in the organization of the Hajj and Umrah pilgrimages can be significantly reduced. The law must be present not only as a means of enforcement after losses occur, but also as a preventive instrument that guarantees the public's rights to perform their pilgrimages in peace, safety, and dignity.

CONCLUSION

Based on the discussion and analysis as described above, the following conclusions can be drawn from this research:

1. Law enforcement against Hajj and Umrah travel fraud in Indonesia remains ineffective due to weak regulations, low public awareness, and lengthy and complicated legal processes. Many illegal agencies continue to operate without strict oversight, while victims are often reluctant to pursue legal action. Therefore, legal reforms are needed that establish sanctions for violators and increase the capacity of oversight bodies to ensure more stringent and efficient oversight.

2. The objective of criminal penalties in Hajj and Umrah travel fraud cases has not been fully achieved. The penalties imposed have not had a strong enough deterrent effect on the perpetrators or potential perpetrators. To protect the public and uphold justice, stricter, more transparent, and consistent criminal penalties are needed to create a sense of security and prevent similar crimes from recurring in the future.

REFERENCES

Ansori, Lutfil, 'Law Enforcement Reform: A Progressive Legal Perspective', Jurnal Juridical, 4.2 (2017), pp. 148–63

Barda Nawawi Arief, SH, Anthology of Criminal Law Policy (Prenada Media, 2016)

Moeljatno, SH, KUHP (Criminal Code) (Bumi Aksara, 2021)

Muladi, Arief, and Barda Nawawi, 'Criminal Theories and Policies', (No Title), 1998

Mulya, Muhammad Oscar Dharma Putra, 'The Urgency of Implementing the Digital Prison Concept to Support the Reintegration Process of Inmates Towards an Information Society and Opportunities for Its Optimization in Indonesia' 2023, 2023

Reksodiputro, Mardjono, 'The Indonesian Criminal Justice System (Viewing Crime and Law Enforcement Within the Boundaries of Tolerance)', Jakarta: Center for Justice and Legal Service, 1994

Sholehuddin, Muhammad, 'The Sanctions System in Criminal Law: Basic Ideas of the Double Track System & Its Implementation' 2003, 2003

Soekanto, Soerjono, 'Factors Influencing Law Enforcement' 2011, 2011

Yeni, Optarina, "Islamic Legal Analysis of Law Number 8 of 2019 Concerning the Implementation of the Hajj and Umrah Pilgrimages" 2021, 2021

Zaidan, M Ali, and M Sh, Criminal Policy (Sinar Grafika (Bumi Aksara), 2021)