



THE URGENCY OF REGULATING THE FORM OF WRITTEN AGREEMENT FOR UMRAH

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ABSTRACT

This research aims to discover the urgency of regulating written agreements for Umrah pilgrimage departures. The chosen theme is motivated by the absence of positive law governing written agreements for Umrah pilgrimage departures. Numerous issues have arisen, including cases where Umrah travel agencies fail to fulfill their obligation of sending prospective pilgrims or provide facilities and services as promised to the prospective pilgrims. This study adopts a juridical-normative method with the statutory approach and analytical approach. Legal materials obtained by the author will be analyzed using a descriptive-analytical technique, which involves determining the content and meaning of the legal rules regarding the organization of Umrah pilgrimages and the Civil Code. Based on the results of the research using the aforementioned method, an urgent written agreement is proposed with the aim of facilitating smooth cooperation between travel agencies and Umrah pilgrims, while also reducing the risk of fraud or any detrimental actions to either party. The written agreement serves as a guide for both the travel agencies and pilgrims to act in accordance with the promises made in the agreement and the established regulations.

Keywords: *Agreements, Umrah Travel Agencies, Umrah Pilgrimage.*

1. INTRODUCTION

The Umrah is a Sunnah pilgrimage that can be performed in months other than Zulhijjah.¹ Umrah, often referred to as the minor Hajj, shares similar requirements and implementation conditions with the Hajj, with the exception of certain aspects such as Wuquf (standing) at Arafah, Mabit (staying) at Mina, and the act of stoning the Jamarat. Umrah involves visiting the city of Mecca to perform specific rituals, such as the intention for Umrah, Tawaf (circumambulation around the Kaaba), and Sa'i (walking between Safa and Marwah) following a prescribed procedure. Despite having some differences in its pillars, Umrah can be performed at any time, making it more flexible and potentially allowing multiple Umrah pilgrimages in a single year. However, both Hajj and Umrah share common aspects: they are acts of worship carried out by Muslims who undertake a significant journey, leaving their homeland for a specified period.

The Umrah pilgrimage is organized by Umrah Travel Organizers or abbreviated as PPIU (Penyelenggara Perjalanan Ibadah Umrah). PPIU refers to travel agencies that have obtained permission from the minister to organize Umrah pilgrimages.² The series of Umrah pilgrimage activities take place outside the Hajj season and involve guidance, services, and protection for the pilgrims, all of which are carried out by the Umrah travel organizers. There are three parties involved in the organization of the Umrah pilgrimage: the Umrah Travel Organizers (PPIU), which are travel agencies authorized by the Minister to arrange Umrah pilgrimages, the Umrah Pilgrims

¹ Muhammad Noor, "Haji dan Umrah". Jurnal Humaniora Teknologi, 2018 4(1), p 38

² Article 10, Article 57, and Article 87 Undang-Undang Republik Indonesia Nomor 8 tahun 2019 tentang Penyelenggaraan Ibadah Haji dan Umrah

(Jamaah), who are individuals of Islamic faith who have registered themselves to perform Umrah according to the specified requirements, and the Government, including the Ministry of Religious Affairs, the Directorate General of Umrah Organizers, and the Regional Office of the Ministry of Religious Affairs of the respective province.

Umrah travel agencies are entities or institutions that provide services and everything related to the departure of prospective Umrah pilgrims, as well as all matters related to Umrah travel arrangements. The provision of travel agency services is naturally based on various requirements and agreements between prospective pilgrims and the travel agency. A well-functioning travel agency service will undoubtedly bring a sense of satisfaction to prospective Umrah pilgrims.³ In practice, anyone intending to embark on an Umrah pilgrimage must register and handle their administrative and logistical needs through an Umrah travel agency. The organization and management of Hajj and Umrah are directly carried out by the state. The law delegates the implementation of special Hajj and Umrah pilgrimages to private entities, namely travel agencies. Many companies provide Hajj and Umrah travel services, seeing it as a lucrative business opportunity to attract pilgrims. This has led to a significant growth in the number of Umrah travel agencies each year. The business opportunities present in Umrah and special Hajj travel agencies need to ensure security and protection for prospective pilgrims who choose their services. Special Hajj and Umrah are organized by private entities, where all rights and obligations are mutually agreed upon by the travel agencies and prospective pilgrims.

It is regrettable that the growth of Hajj and Umrah plus (additional services) organizers has not been accompanied by a sufficient number of professional human resources, both in providing guidance and in the managerial aspect of running such businesses. This can be observed from the numerous cases of violations that occur in the organization of Umrah by private travel agencies. The issues in Umrah organization are not solely caused by human resource factors but also by the business competition among Umrah organizers, which triggers other problems, such as offering very cheap travel packages to attract a large number of pilgrims. Extremely low prices, even below standard, result in poor services provided to the pilgrims.⁴ There are several obstacles and issues in the Umrah pilgrimage agreement between prospective pilgrims and travel agencies. One of the main issues is the absence of detailed written contracts that clearly outline the rights and obligations of the prospective Umrah pilgrims and the travel agencies, which are signed by both parties. During the implementation of the Umrah pilgrimage, various fraudulent practices or manipulations may occur, particularly involving middlemen or agents, as well as ticket and visa scalpers. This may result in the non-receipt of tickets or visas according to the predetermined schedule, leading to delays or even the failure of the Umrah pilgrimage departure for the pilgrims. Additionally, there have been instances where the services provided by the organizers did not match what was promised beforehand, leading to dissatisfaction and disappointment among the Umrah pilgrims.

The cases that have occurred include situations where the pilgrims did not receive the NPU (Umrah Quota Number), experienced delayed departures, faced neglect during the pilgrimage, did not receive refunds for Umrah travel fees (BPIU) after trip cancellations, encountered failed departures, received inadequate guidance or manasik (pre-pilgrimage orientation), lacked travel insurance, received services below the minimum service standards (SPM), faced difficulties in being repatriated after the pilgrimage, and other related issues.⁵ These problems arise due to the high level of trust prospective Umrah pilgrims place in the Umrah organizers. However, many companies do not take responsibility for the proper organization of the

³ Danya Maharani, "Analisis Tanggung Jawab Manajemen Travel Haji Dan Umrah Terhadap Calon Jamaah Menurut Akad Ijārah Bi Al 'Amal" (Doctoral dissertation, UIN AR-RANIRY, 2020,) p. 1.

⁴ Dani, A. A. "Problematika Pengelolaan Penyelenggaraan Umrah di Kota Surakarta", Ilmu Dakwah: Academic Journal for Homiletic Studies, 2018, 12(1), p. 23-45.

⁵ Statistik Data Pengaduan, <https://simpu.kemenag.go.id/home/statistik>



pilgrimage, and there is no authentic evidence of a written agreement between the Umrah travel agencies and the prospective Umrah pilgrims.

Stated in Article 88 letter d of the Republic of Indonesia Law Number 18 of 2019 concerning the Organization of Hajj and Umrah, "Providing services to pilgrims in accordance with a written agreement agreed upon by the organizer and the pilgrim"; therefore, Umrah travel agencies are obligated to provide services according to the written agreement between the agency and prospective pilgrims as referred to in Article 88 letter d of the Republic of Indonesia Law Number 18 of 2019 concerning the Organization of Hajj and Umrah. Hence, a written agreement is essential and should be made by all parties to ensure that the obligations of service by the travel agency can be carried out. However, there are still numerous Umrah travel agencies that do not create a written agreement with prospective pilgrims, leading to a lack of authentic evidence to claim the rights of the prospective pilgrims against the Umrah travel agency, as agreed upon by both parties. Umrah travel agencies only provide a personal data form that must be filled out by prospective pilgrims, and it does not contain information about rights and obligations. In the Law on the Organization of Hajj and Umrah, there is no explicit "obligation" for a written form of Umrah agreement. So far, no specific provision has mandated such an agreement to be in writing, even though previously Article 88 letter d of the Republic of Indonesia Law Number 18 of 2019 concerning the Organization of Hajj and Umrah stated that travel agencies are required to provide services "according to a written agreement." This could be interpreted as travel agencies having the option to make a written agreement with prospective pilgrims. However, it appears that this is not being implemented, as it cannot be construed that the law mandates both travel agencies and pilgrims to enter into a written agreement. There seems to be an uncompleted norm in the Law on Hajj and Umrah, where the law states that travel agency services should be in accordance with a written agreement, but there is no specific provision requiring the agreement between the agency and the pilgrims to be documented in written form.

Due to the absence of a requirement for a written agreement, many Umrah travel agencies do not create written agreements, leading to numerous issues. There have been many cases where Umrah travel agencies fail to send prospective pilgrims or provide facilities and services as promised to the prospective pilgrims. However, prospective pilgrims also face difficulties in claiming their rights because they lack a written agreement as authentic evidence containing the rights and obligations of each party. Based on the issues that have been elaborated, it is necessary to conduct further examination regarding the "Urgency of Regulating the Form of Written Agreement for Umrah"

2. THEORETICAL BASIS

The research conducted employs normative juridical research, which involves a systematic process of locating legal rules, principles, and doctrines to address the legal issues at hand and generate novel arguments, theories, and concepts for problem-solving. The research employs various approaches, such as statutory, conceptual, and historical, tailored to the specific fields being investigated, aiming to gain insights into the purpose, urgency, and reasons behind overlapping roles within these arrangements. The data collection techniques adopted for this research involve literature studies, which entail a thorough examination of relevant literature related to the problem, serving as a theoretical foundation and analytical tool for the ensuing discussions."

3. RESEARCH METHOD

This paper employs a normative juridical method with the approach of legislation (statute approach) and analytical approach. The legal materials obtained by the author will be analyzed using the descriptive analytical analysis technique, which is a method of analyzing legal materials by determining the content or meaning of legal rules in terms of the Law on the Organization of

Umrah and the Civil Code. The data collection technique is obtained by examining primary, secondary, and tertiary legal materials as a basis for the detailed analysis conducted.⁶

4.RESULTS AND DISCUSSION

4.1.Umrah Implementation in Indonesia.

Umrah is a pilgrimage to the Kaaba outside the Hajj season, with the intention of performing Umrah rituals, including Tawaf, Sai, and Tahalul. This is stated in Article 1, Clause 2 of Law Number 8 of 2019 concerning the Implementation of Hajj and Umrah. In Indonesia, the organization of Umrah is regulated by Law Number 8 of 2019 concerning the Implementation of Hajj and Umrah, Director General of Hajj and Umrah Decree Number 337 of 2018 concerning the Accreditation Guidelines for Umrah Travel Organizers, and Minister of Religious Affairs Regulation Number 6 of 2021 concerning the Organization of Umrah and Special Hajj Pilgrimage. The organization of Umrah rituals in Law Number 8 of 2019 concerning the Implementation of Hajj and Umrah is regulated in Chapter VII, where Article 86 mentions that the Umrah pilgrimage can be undertaken individually or in groups through PPIU (Umrah Travel Organizers). In addition to PPIU, Umrah can also be organized by the government in case of extraordinary circumstances or emergencies determined by the president.

The organization of Umrah rituals, as stated in Article 1, Clause (19) of Law Number 8 of 2019 concerning the Implementation of Hajj and Umrah, can be conducted by the government and/or designated travel agencies appointed by the Minister. The term 'Umrah organization' refers to travel agencies that have been granted authority by the Minister to conduct Umrah pilgrimages.. In this context, PPIU (Umrah Travel Organizers) is a travel agency, typically registered as a Limited Liability Company (PT). Travel agencies that handle hajj and umrah pilgrimages are also known as commercial agents or travel agents. The Ministry of Religious Affairs, as the executor and responsible party for hajj and umrah rituals, also oversees the numerous umrah travel agencies in each city or district. To ensure the legal certainty of hajj and umrah pilgrimage arrangements, the travel agencies providing umrah services must fulfill the requirements for organizing umrah rituals, as stipulated in Article 86 of Law Number 8 of 2019 concerning the Implementation of Hajj and Umrah:

"Article 86:

- (1) Umrah pilgrimage can be conducted individually or in groups through PPIU.
- (2) The organization of Umrah pilgrimage is carried out by PPIU."

According to Director General Decree Number 337 of 2018 concerning the Guidelines for Accreditation of Umrah Travel Organizers, PPIU (Umrah Travel Organizers) are travel agencies that have obtained permission from the minister to organize Umrah pilgrimages. To become a PPIU, a travel agency must go through a certification process conducted by the Umrah Travel Organizer Certification Institution (LS PPIU), accredited by the National Accreditation Committee (KAN). The PPIU certification is a process related to granting a certificate that confirms the PPIU has been evaluated and deemed to meet the criteria.

The PPIU certification process includes evaluations to assess the fulfillment of the following requirements:

- a. Operational permits
- b. Financial guarantees
- c. Changes in shareholding (if applicable)
- d. Ownership of branch offices (if applicable)
- e. Fee structures
- f. Registration and cancellation processes for pilgrims
- g. Service aspects

⁶ Soekanto, S., & Mamudji, S. *Penelitian Hukum Normatif Suatu Tinjauan Singkat*. (Depok: Rajawali Pers, 2018) p



h. Handling of pilgrim complaints.

a) Requirements for Umrah Travel Organizers

According to Article 1, Clause 2 of the Minister of Religious Affairs Regulation Number 6 of 2021 concerning the Organization of Umrah and Special Hajj Pilgrimage, "The Organization of Umrah Travel is a series of activities for Umrah pilgrimage outside the Hajj pilgrimage, including guidance, services, and protection for pilgrims, conducted by Umrah travel organizers and/or the Government." In Article 1, Clause (4), it is further explained that "Umrah Travel Organizers," abbreviated as PPIU, are travel agencies that have obtained a business license to organize Umrah pilgrimages. This is related to Article 3, which states that the organization of Umrah Travel is carried out by PPIU after fulfilling the business licensing requirements in accordance with the provisions of the laws and regulations.

To obtain a permit to become a PPIU, as stated in Article 89 of Law Number 8 of 2019 concerning the Implementation of Hajj and Umrah, which has been amended by the Omnibus Law on Job Creation, the following conditions apply:

- a. A PPIU, which is a travel agency, must be owned and managed by Indonesian citizens (WNI) who are Muslims and meet the requirements according to the standards, norms, procedures, and criteria set by the central government.
- b. The provisions containing the standards, norms, procedures, and criteria mentioned in point one are regulated in Government Regulations (in this case, the applicable government regulations are Government Regulation Number 5 of 2021, Government Regulation Number 38 of 2021, Minister of Religious Affairs Regulation Number 5 of 2021, and Minister of Religious Affairs Regulation Number 6 of 2021).

The requirements for obtaining operational permits for a travel agency to become a PPIU (Umrah Travel Organizer) are outlined in the Minister of Religious Affairs of the Republic of Indonesia Decree Number 167 of 2021 on the Guidelines for the Electronic Granting of Operational Permits for Umrah and Special Hajj Pilgrimage Organizers through the following stages:

- a. Issuance of a recommendation letter
- b. Registration
- c. Inputting the required documents
- d. Verification and validation of documents
- e. Submission of the permit application

With the enactment of Law Number 11 of 2020 concerning Job Creation, which amended certain provisions in Law Number 8 of 2019 concerning Hajj and Umrah, travel agencies are given greater ease in obtaining permits to become PPIUs. The ease of obtaining a PPIU permit is regulated in Article 146 of Government Regulation Number 5 of 2021. It is stated that a Travel Bureau (Badan Perjalanan Wisata - BPW) that has been operational for at least one year can apply for a PPIU permit. This is different from the previous regulation, which required a minimum of two years of operation. The approval process has also been simplified, as it can now be done online through the Online Single Submission (OSS) system under the Investment Coordinating Board (BKPM).

However, it should be noted that the ease of obtaining permits for travel agencies as PPIUs is not necessarily accompanied by regulations that ensure the alignment of services provided by Umrah travel agencies to prospective Umrah pilgrims with what has been offered or promised by these agencies.

b) Obligations of Umrah Travel Organizers

As known, every obligation of one party becomes the right of the other party. Article 88 of Law Number 8 of 2019 concerning the Implementation of Hajj and Umrah regulates the rights of Umrah pilgrims, which include:

"Umrah pilgrims have the right to receive services from PPIU, including:

- a. Guidance services for Umrah rituals;
- b. Health services;
- c. Assurance of departure and return in accordance with the validity of the Umrah visa in Saudi Arabia and in accordance with the provisions of the laws and regulations;
- d. Other services according to the written agreement agreed upon between PPIU and Umrah pilgrims; and
- e. Reporting any deficiencies in the services of Umrah pilgrimage to the Minister."

From this article, it is clear that the rights of Umrah pilgrims must be fulfilled or become obligations that must be carried out by Umrah travel agencies.

Regarding the obligations imposed on PPIU, as stipulated in Article 94 of Law Number 8 of 2019 concerning the Implementation of Hajj and Umrah, PPIU is obliged to:

- a. Provide at least 1 (one) pilgrimage guide for every 45 (forty-five) Umrah pilgrims.
- b. Provide travel documents, accommodation, meals, and transportation services to pilgrims according to the written agreement agreed upon between PPIU and Umrah pilgrims.
- c. Have a cooperation agreement with healthcare facilities in Saudi Arabia.
- d. Depart and repatriate Umrah pilgrims according to the validity of the Umrah visa in Saudi Arabia.
- e. Submit the Umrah travel plan in writing to the Minister before departure.
- f. Report to the Republic of Indonesia's Representative in Saudi Arabia upon arrival in Saudi Arabia and when returning to Indonesia.
- g. Make a report to the Minister no later than 10 (ten) days after returning to the homeland.
- h. Depart Umrah pilgrims registered in the current Hijri year.
- i. Adhere to the minimum service standards and reference prices.
- j. Comply with the principles of Sharia.

4.2. Agreement between Prospective Umrah Pilgrims and Umrah Travel Agency

An agreement is one of the origins of legal obligations, where one or both parties commit to fulfilling the agreed-upon obligations. Agreements can take the form of written or unwritten contracts. According to Subekti, an obligation is described as a legal relationship between two individuals or parties, where one party has the right to demand something from the other party, who is obliged to fulfill that demand. The party with the right to demand is called the creditor or the party owed, while the party obligated to fulfill the demand is called the debtor or the party owing.⁷ According to the new theory proposed by Van Dunne, an agreement is defined as "a legal relationship between two or more parties based on mutual consent to create legal consequences."⁸ Thus, the agreement between prospective Umrah pilgrims and the Umrah travel agency establishes a binding legal relationship in which both parties commit to fulfilling the agreed-upon obligations. The agreement can be in written form, providing clear evidence of the rights and obligations of each party in case of disputes or issues in the future. This written agreement ensures that the rights and obligations of both parties are well-defined and can be relied upon as authentic evidence if needed.

As a source of legal obligations, the agreement plays a crucial role in establishing the legal relationship between the prospective pilgrims and the travel agency, clarifying the responsibilities of each party. Whether written or unwritten, the agreement forms the basis for the fulfillment of the obligations set forth in the agreement, ensuring a lawful and accountable commitment between the parties involved. Legal relationship refers to the relationship between two or more legal subjects concerning their rights and obligations.⁹ This relationship can occur between legal subjects, including individuals with individuals, individuals with legal entities, legal entities

⁷ Ketut Oka Setiawan, *Hukum Perikatan*, (Jakarta: Sinar Grafika, 2015) p. 1

⁸ *Ibid*, p. 26.

⁹ Soeroro R, *Pengantar Ilmu Hukum*, (Jakarta: PT. Rajagrafindo Persada, 2006) p. 269.



with legal entities, and so forth. Generally, the relationship between consumers and businesses occurs continuously or continuously. Both consumers and businesses mutually rely on each other to carry out transactions or provide goods and services. Consumers need goods or services from businesses to be utilized and consumed, while businesses need profits and remuneration in the form of payment from consumers. From its position, the legal relationship that occurs between prospective Umrah pilgrims and Umrah travel agencies is a consumer-business relationship bound by a service agreement. The Umrah travel agency acts as a business entity offering its services, while the prospective Umrah pilgrims act as consumers utilizing the services provided by the Umrah travel agency. This relationship occurs continuously and continuously. It takes place because both parties desire it, and there is a significant level of interdependence between them.¹⁰

A person who wishes to perform Umrah entrusts everything to the Umrah travel service provider. Consumers are often advised to choose Umrah packages offered by Umrah travel agencies. Once the consumer has selected the desired Umrah package, they will make the payment. From this payment, we can say that there is an agreement that results in a contract between the Umrah travel agency and the consumer. Obligations, rights, and responsibilities arise from this payment for each party. Furthermore, the legal relationship between the Umrah Travel Agency and the Umrah Pilgrims is a business-consumer relationship. The service provider, which is the Umrah travel agency as a commercial agent, has entered into an agreement with the consumer (the pilgrims as consumers) and is responsible for legally acknowledging the existence of the service agreement between the two parties. The activity of organizing Umrah between the tour operator and the consumers entails a legal relationship that creates responsibilities, rights, and obligations between the parties, resulting in an agreement. A contract is a legal relationship between two or more parties involving assets, where one party has rights, and the other party is obliged to perform certain actions. Contracts create obligations for the parties in the legal relationship. The concept of contracts originates from Article 1233 of the Civil Code, which stipulates that "every contract arises either from an agreement or from the law." Contracts resulting from an agreement have legal consequences based on that agreement, whereas contracts resulting from the law are established by legal provisions.

A direct relationship occurs when businesses and consumers are directly bound by an agreement.¹¹ The transfer of goods usually starts with a purchase and sale agreement, which can be done either orally or in writing. The agreement regarding the purchase and sale is stipulated in Article 1457 of the Civil Code, which defines a purchase and sale as an agreement in which one party undertakes to deliver something and the other party pays the agreed price. Therefore, the responsibilities arising from the agreement can be considered as contractual liability. Contractual liability is civil liability based on a contract from businesses offering goods or services for any losses incurred as a result of consuming goods or utilizing the services offered. Currently, the majority of agreements between consumers and businesses use standard-form contracts.¹² Based on the explanation above, the legal relationship between consumers and businesses occurs when the business provides information and promises regarding goods or services, as it is from that moment that obligations and rights of both the business and the consumer arise. This is also stipulated in Article 1338 of the Civil Code concerning the moment when the business has agreed to what is promised when displaying advertisements or promotions in the form of brochures, where the

¹⁰ Sri Redjeki Hartono, makalah Aspek-Aspek "Hukum Perlindungan Konsumen", in Shidarta, Hukum Perlindungan Konsumen. (Jakarta : Grasindo , 2006) p. 36.

¹¹ Ahmadi Miru dan Sutarman Yodo, *Hukum Perlindungan Konsumen*, (Jakarta: PT Raja Grafindo Persada, 2004) p. 34-35

¹² Rusli, T. "Tanggung Jawab Produk Dalam Hukum Perlindungan Konsumen", (Pranata Hukum, 2012) 7(1). p. 82.

promises presented become law and are binding.¹³ Therefore, when a travel agency includes or writes various offers in advertisements or pamphlets and brochures, at that moment, everything stated becomes a binding obligation for the umrah travel agency.

As mentioned, in broad terms, the relationship between the prospective Umrah pilgrim (Jemaah Umrah) and the Umrah travel agency is in the form of an Umrah Departure agreement, which gives rise to rights and obligations for each party. The Umrah Departure agreement is a contract in which one party commits to the other party, with one party paying a sum of money and the other party providing services, namely the departure for Umrah.¹⁴ Such an agreement is regulated in Article 1234 of the Civil Code, which states that a contract is intended to give something, do something, or refrain from doing something. In this Umrah agreement, the promise is to do something. This Umrah agreement falls under the unnamed contracts as provided in Article 1319 of the Civil Code, which states that: "All agreements, whether specifically named or unnamed, are subject to the general rules contained in this chapter and other chapters." It can be concluded that the Umrah contract between the prospective Umrah pilgrim and the Umrah travel agency constitutes a mutual contractual relationship where the prospective Umrah pilgrim promises to pay a specified amount, and the Umrah travel agency must fulfill its performance as stated, namely providing services in the form of Umrah departure.

4.3. The Urgency of the Obligation to Form a Written Umrah Departure Agreement

A written agreement has legal force to establish a party's default. If the written agreement is challenged or not acknowledged by the alleged defaulting party, the written agreement already possesses legal force to establish the party's default, as well as providing legal certainty to bring a claim before the court. The legal force of a written agreement made or signed by the parties is provided in Article 1338 of the Civil Code, which states that an agreement that has been made or signed by the parties shall be binding as the law for those who make it, meaning its legal force is valid and binding as long as the parties acknowledge and agree to it. It should also be noted that such an agreement must be implemented in good faith. If not, the agreement may be deemed void, as stipulated in Article 1321 of the Civil Code, which states: "No agreement shall have legal force if it is given due to mistake, obtained by coercion, or through deception." Mistake, coercion, or deception are factors that can render the agreement null and void and without legal force. If proven true by the party who feels aggrieved in the agreement, it may be invalidated. Additionally, the binding legal force related to a written agreement signed by the parties may also be declared void if the agreement contradicts the applicable laws in Indonesia.¹⁵

The form of the agreement between the Umrah travel agency and its pilgrims falls under the agreement to perform a service according to Article 1601 of the Civil Code, which is an agreement to provide certain services. The agreement made between the Umrah Travel Company and the pilgrims is based on trust in the Umrah Travel Company, from the departure until the pilgrims return to Indonesia. In general, an agreement is made when there is an agreement between both parties and is proven in writing or orally. A written agreement is also called a formal agreement, and its purpose is to provide evidence of what has been agreed upon. On the other hand, an oral agreement occurs when there is a consensus from both parties regarding the essential agreement that has been reached, and from that moment, the agreement between the parties becomes legally binding and has juridical consequences.

¹³ Brahmana, D. G. A. Y., & Utari, A. A. S. "Hubungan Hukum Antara Pelaku Usaha Dengan Konsumen", (Jurnal Fakultas Hukum Universitas Udayan, 2016) p. 3-4.

¹⁴ Husni, R. M. "Perlindungan Hukum Calon Jemaah Umrah Sebagai Kreditor Dalam Kepailitan Biro Perjalanan Umrah", (Jurist-Diction, 2018) 1(1), 323-342, P.329

¹⁵ Aan Handriani, Edy M, "Kepastian Hukum Terkait Pentingnya Melakukan Perjanjian Tertulis Dalam Bertransaksi" (Journal of Law Universitas Pamulang, 2021), Volume 4, p. 8.



5.CONCLUSION

At present, positive law does not have provisions that require travel agencies and prospective Umrah pilgrims to make written agreements. Therefore, most travel agencies only make verbal agreements with prospective pilgrims. Enforcing verbal agreements can be very challenging, especially since Umrah is a religious activity that can influence the sentiments and thinking patterns of the Muslim community. When the rights of Umrah pilgrims are violated, very few of them take the initiative to report or file a complaint. The urgency of a written agreement is to facilitate a smooth cooperation process between the travel agency and the Umrah pilgrims and to reduce the risk of fraud or any other actions that could harm either party. Having a written agreement serves as a crucial guide for both the travel agency and the Umrah pilgrims to act in accordance with the promises made in the agreement and according to established regulations. To protect the rights of prospective Umrah pilgrims, specific points or clauses should be included in the written agreement between the prospective pilgrims and the travel agency.

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