



THE ROLE OF INVESTIGATORS IN CRIMINAL ACTS OF UMRAH SCAM

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Abstract: The research objective is to find out the role of investigators in the umrah scam in Gorontalo and the factors causing the umrah scam in Gorontalo. The method used in this current research is empirical legal research. The research findings show that the Umrah scam cases in Gorontalo increase in, and they are not only committed by unlicensed travel agencies but also those who have obtained permits. There are various forms of scam, ranging from cancellation of departure, abandonment of pilgrims to promise breaking of Umrah travel service providers so that pilgrims experience disappointment. In this case, there has been an increasing number of detrimental cases against Umrah pilgrims, including in Gorontalo. In addition, the factors that cause hajj and umrah travel scam are divided into several types including: factors originating from the perpetrator, family factor, economic factor, environmental factor, cultural factor, and community factor or victims. In the meantime, the roles of police or investigators in dealing with hajj and umrah travel scam are to conduct examination of potential suspects and witnesses who corroborate a report, and conduct a review of the scene of the case after having a strong testimony from witnesses and then carry out an investigation. Also, the police's efforts are to enlighten and do socialization from the Ministry of Religious Affairs and the people related to the office regarding the list of travel that has a permit as an Umrah Travel Organizer.

Keywords: Hajj; Scam; and Umrah Travel

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How to cite (Chicago Style):

Puluhuawa, W., Puluhulawa, M.R., Nggilu, N.M., Apripari. 2022. " The Role Of Investigators In Criminal Acts Of Umrah Scam", *Estudiante Legal Journal*. 4 (2): 120-131

1. Introduction

Law is political products , because the character of the contents of each legal product will be largely determined or colored by the balance of power or political configuration that gave birth to it.¹ Constitutional affirmation towards the choice of the form of the state as a unitary state (*eenheidsstaat, unie*) of Indonesia is a supreme agreement, despite having to experience a constitutional test when the 1945 Constitution was changed to the Constitution of the Republic of the United States of Indonesia in 1949.²

One of the mandates of the Preamble to the 1945 Constitution of the Republic of Indonesia as a *modus vivendi* (sublime agreement) for the formation of the Indonesian state in the fourth paragraph, it says that one of the purposes of the state is “to protect the entire nation of Indonesia”, this has provided a bridge to the existence of a holistic and comprehensive protection which is the responsibility of the state and its elements that are inherent and present in it.³

Work has a very important meaning in human life so that everyone needs a job. Work can be interpreted as a source of one's income, it can also be interpreted as a means to actualize oneself so that one feels that his life becomes more valuable both for himself, his family and the environment, as well as work makes humans prosperous.⁴ As a result of the unemployment rate in Indonesia, which continues to increase, the number of workers is abundant while employment is reduced, resulting in a slowing economy in Indonesia which also affects national economic welfare.⁵ Not only that, the unemployment rate and lack of job opportunities also have an impact on corruption. Where people justify all ways to be able to get money so that they can meet their daily needs and their families.

Eradication of corruption is still the focus of the government and is a national strategic issue in this era. To eradicate corruption, an integral and systemic corruption eradication strategy is needed. Eradication of corruption is integrally carried out in an integrated manner by involving all state apparatus, government and society as one unit. Systemic means that the eradication of corruption is one of the subsystems of a clean and transparent government system.⁶

¹ Wijaya, Ahmad, dan Nasran. (2021). “Comparison Of Judicial Review: A Critical Approach To The Model In Several Countries”. *Jurnal Legalitas*: 14(2), 88.

² Nggilu, N. M. (2020). Juridical Review of Criminal Sanction Arrangements in Gorontalo Provincial Regulations. *Lambung Mangkurat Law Journal*, 5(2), 110.

³ Alhasni, M. R., Badu, L. W., and Nggilu, N. M. (2019). “Measuring the Role of the Police in Preventing the Crime of Obscenity Against Minors”. *Journal of Legality*, 12(2), 11.

⁴ Mandjo, Julius, T., and Imran, Suwitno, Y. 2020. “Implementation of the 1945 Constitution of the Republic of Indonesia Article 27 Paragraph (2) Concerning the Right to Get a Job and a Decent Livelihood for Humanity”. *Majelis of Journal*. Edition 08. September 2020. Pg 82.

⁵ Ibid.

⁶ Makrun, Makrun, Puluhulawa, Fenty, U., and Tijow, Lusiana, Margareth. 2020. “Considering the Strengthening of the Prosecutor's Office of the Republic of Indonesia in

In Indonesia, Islam is the dominant religion embraced and believed by most of the Indonesian people, in worshipping the state is obliged to create a sense of security for citizens in carrying out religious worship and beliefs in accordance with the mandate to protect human rights as contained in the 1945 Constitution of the Republic of Indonesia. Article 29, namely, "the state guarantees the independence of each resident to embrace his own religion and to worship according to his religion and belief."⁷

As Muslims, being able to perform Umrah is inherently desirable. Every year, the number of Muslims who want to perform Umrah increases. At that time, every Indonesian looks forward to it because in performing Umrah, Muslims do not have to wait for the time of departure to the holy land. Hence, many Indonesian want to visit *Baitullah* through the practice of Umrah.

The implementation of Umrah as explained in Article 4 paragraph (1) of the Regulation of Minister of Religion Number 8 of 2018 that "the organization of Umrah can be carried out by the government and travel bureaus determined by the minister" This is based on the consideration that the implementation of Umrah is one of the national tasks as well as the dignity and reputation of the organizers of Umrah.

In addition to the Regulation of Minister of Religious Affairs (PMA) Number 8 of 2018, the government also made several rules to regulate the implementation of Umrah. That is Law Number 13 of 2008 concerning the Organization of Hajj, which also regulates the implementation of Umrah, along with Government Regulation Number 34 of 2009 concerning the implementation of Law Number 13 of 2008 concerning the Organization of Hajj.

The high number of Muslims who want to perform Umrah in the holy land becomes a lucrative opportunity for a business player. It is proven that more scams have occurred under the guise of cheap Umrah travel. Umrah travel agencies are increasingly attracting customers with various promotions and strategies that can attract customers. As many as 60 prospective Umrah pilgrims from Gorontalo in 2019 carried out the Umrah pilgrimage and experienced a scam.

Bureau of Umrah organizers offer prices below the standard which will automatically make many prospective Umrah worshipers tempted by the offer of only paying a low cost, they can go to the holy land.

It actually does not make sense at all due to the fact that it cannot meet the standards set by the Ministry of Religious Affairs. The reality is that there are still many economically low Muslims, thus, it is effortless to be tempted by Umrah packages that are far below the standard price.

Safeguarding and Overseeing Development to Prevent Corruption Crimes". *Borneo Law Review*: 4(2), 124.

⁷ Fauzi, Engrina. 2019. "The Concept of Legal Protection for Prospective Consumers of the Umrah Organizing Committee Congregation". *Journal of Legal Studies: Lex Librum* 6 (1), 78.

The following data below are from Gorontalo Regional Police regarding a case of Umrah scam occurring in Gorontalo Province.

YEAR	2018	2019
CASE	64 Candidates for Umrah Pilgrims	60 Candidates for Umrah Pilgrims

Source: field data (Gorontalo Regional Police)

Some of the problems that occurred in the implementation of the Umrah were various acts of scam or manipulation by candidates or agents of ticket which resulted in tickets not being obtained based on the specified schedule and led to delays in the departure of Umrah pilgrims. Everything promised by the agents is not in accordance with what has been previously agreed.⁸

The scam case carried out by Umrah travel in Gorontalo is one of the cases that must be followed up immediately. It is the broken promises, and the general nature is that people make a mistake and are willing to give up their goods or money. The scam includes "*materieel delict*" meaning that its perfection must occur as a result, as regulated in the second book of Chapter XXV Article 378 of the Criminal Code (Book of the Criminal Law), which states:

“Whoever with the intent to benefit himself or others against the law, by using a false name or false dignity, by deceit or by a series of lies to induce another person to hand over something to him, is threatened with scam with a maximum imprisonment of four years.”

Crimes in the form of scam are threatened with criminal sanctions in their enforcement, which still lacks a deterrent effect on violators because in the enforcement of criminal law, it is not only enough to regulate an act regulated by law, but also legal apparatus as implementers of the provisions of the law and institutions authorities to deal with a crime such as the police, prosecutors and courts.

Scam modes under the guise of cheap Umrah but getting good facilities or irresponsible Umrah travel agents are certainly not an obstacle to the developments in the field of information technology in Indonesia, which in general are very helpful for individual’s activities and work. However, it is needed to pay more attention and follow-up from authorized institutions such as the police agency as stipulated in Law Number 2 of 2002 concerning the Indonesian National Police to provide legal protection, which is an act of protection or an act of protection from certain parties aimed at certain parties by using certain ways too.⁹

⁸ Afrila, N. (2016). *A Juridical Analysis of the Responsibilities of the Umrah Service Organizing Company to Its Prospective Pilgrims (Study at PT Makkah Wal Madinah Tour Medan Branch)*. *Premise Law Journal*, 2.

⁹ Sasongko, W. (2007). *Basic Provisions of Consumer Protection Law*. *Journal of LPPM Unila*, 31.

Furthermore, taking action to protect prospective pilgrims who experience cases of scam committed by irresponsible travel agencies or the rule of law, it then must be applied in tackling and providing legal certainty protection for the people of Gorontalo as well as punishment for anyone who abuses the advances in technology and telecommunications to offer convenience. Therefore, the researcher is interested in conducting this study entitled "The Role of Investigators in Umrah Scam (Case Study of Gorontalo Regional Police)".

Based on the previous section of background above, this study will first discuss the role of Gorontalo Regional Police investigators in the case of Umrah scam? And *second*, what are the factors which caused the perpetrator to commit a criminal act of Umrah scam?

2. Method

The research methods in this study are empirical legal research. The types of data used are primary and secondary data which were analyzed qualitatively. This research is descriptive-analytical, which seeks to describe and elaborate on the problems related to the two problems.

3. Findings and Discussion

3.1 The Role of Gorontalo Regional Police Investigators in the Case of Umrah Scam

In criminal law, police are law enforcement officers tasked with maintaining order and ensuring public security, maintaining state safety and public safety, providing protection and assistance, and seeking the obedience of citizens and society against all forms of regulation. Therefore, the role of the police is to protect the community, they should carry out their duties under the provisions stipulated in the law so that the implementation of police duties does not deviate and the community will not always blame the police if there are things that are outside of the functions and powers of the police themselves. One of the duties of the police is to investigate an event that is considered a crime.

According to Article 2 of Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia, the function of police is the function of the state government in the fields of security and order, law enforcement, protection, shelter, and service to the community, which in building itself must always be in line with the development agenda which contains the vision, mission of development strategy, policies and targets as well as programs and activities.

Investigations into criminal cases of Umrah scam that the police have carried out tend to prioritize articles of scam or embezzlement in the investigation process.¹⁰

¹⁰ Mahmud Mulyadi and Andi Sujendral, *Community Policing: Discretion in Democratic Policing*. (Medan: PT. Softmedia, 2011), 3.

If referring to this principle, then the criminal act of scam against prospective Umrah pilgrims that have occurred in Indonesia so far is more appropriate when using Law Number 13 of 2008 concerning the Implementation of the Hajj which also regulates the existence of criminal sanctions for those who violate the related provisions in organizing Umrah.

Chapter XV of Law Number 13 of 2008 concerning the Organization of the Hajj regulates the criminal provisions for each individual and the Bureau for the Organization of Umrah who commits violations related to the implementation of the Umrah pilgrimage. Article 63 paragraph (2) states that:

“Everyone who intentionally and without rights acts as the organizer of an Umrah pilgrimage by collecting or dispatching Umrah pilgrims as referred to in Article 43 paragraph (2) shall be sentenced to a maximum imprisonment of 4 (four) years.”

Article 43 paragraph (2), in accordance with Article 63 paragraph (2) above, reads as follows:

“Umrah travel organizers are carried out by the government or a tourism travel agency determined by the minister.”

Whereas for the Bureau of Umrah Organization, the criminal provisions is regulated in Article 64 paragraph (2), namely:

“Umrah pilgrimage organizers who do not carry out the provisions as referred to in Article 45 paragraph (1) shall be punished with imprisonment for a maximum of 6 (six) years.”

Article 45 paragraph (1) in relation to the article above reads as follows.

“The organization of Umrah worship must meet the following conditions:

- a. Providing worship advisors and health workers.
- b. Departing and repatriating pilgrims in accordance with the validity period of the Umrah visa in Saudi Arabia and the provisions of the legislation.
- c. Providing services to the congregation in accordance with the written journey agreed between the organizer and the congregation.
- d. Reporting to the representative of the Republic of Indonesia in Saudi Arabia upon arrival in Saudi Arabia as well as returning to Indonesia.”

Based on the data that the researcher obtained, the investigation carried out by the Gorontalo Regional Police against the perpetrators, namely:¹¹

¹¹ Interview with Mr. Arif Rahman as the Directorate of General Criminal Investigation (Ditreskrim) of the Gorontalo Police, on 28 September 2021 at the Gorontalo Police.

1. Seizing evidence, the evidence taken is a sign of the victim's transaction to the perpetrator of the scam or the agency which organizes hajj and umrah pilgrimages.
2. Arresting suspects.

In the process of investigating the criminal case of Umrah scam in Gorontalo City, which is included in the jurisdiction of the police, there are three stages, as follows.

1. Examination

The examination is an important basis in resolving a crime, examination is carried out on potential suspects and witnesses who corroborate a report in a criminal act. Based on the research results, the police have investigated one of the people in the Umrah scam related to reports of victims and witnesses.

2. Inspection at the Crime Scene

Inspection at the crime scene is carried out after witnesses' strong descriptions and confessions from the suspect. This is related to the location where the suspect committed a criminal act of Umrah scam carried out by the suspect.

3. Investigation

According to the investigators' results of interviews at the police office of the Republic of Indonesia, the disclosure of criminal acts of Umrah scam in the city of Gorontalo can be reached by the police using the following ways:

- a. Reporting information on criminal acts of scam from the public.
- b. Appointment of authority to investigate cases and arrests to members of the police who have competence and fields.
- c. Investigation by members of the police to reveal the identity of the perpetrator and check the truth of the scam report of prospective Umrah pilgrims through identification of the truth.

Cooperation between the police and related agencies such as the immigration office to find passport information and the validity of the travel agency for prospective Umrah pilgrims and the urban village where the suspect is domiciled.¹²

3.2 Factors Causing Perpetrators to Perform Umrah Scam

In accordance with Law Number 13 of 2008 concerning the Organization of the Hajj, Umrah pilgrimages can be carried out individually and in groups through the organization of Umrah by the government or tour travel agencies that have permission from the minister of religion. According to the provisions of Law

¹² *Ibid.*

Number 13 of 2008, “the organization of a special Umrah pilgrimage must have requirements, among others, to be registered as the organizer of the Umrah pilgrimage, have the technical and financial capabilities to organize Umrah and have a commitment to improving the quality of Umrah worship.¹³

There are various forms of scam, ranging from cancellation of departures to abandonment of pilgrims. In terms of the defection of pilgrims, cases that pilgrims often experience are being abandoned in a transit city or not providing a return ticket after performing Umrah. Other cases, such as not fulfilling promises from Umrah travel service providers, so that pilgrims experience disappointment.¹⁴

In the implementation of Umrah worship, some scams violate authority and abuse rights, even though the government has issued Law Number 13 of 2008 concerning the implementation of Umrah worship, which has been in effect for approximately 11 years. However, in reality, many Umrah travel agencies still commit scam against prospective Umrah pilgrims.

As the average perpetrators of this consumer crime is executives and corporations, therefore the type of crime is included in the category of *white collar crime* and *corporate crime* occurs either because of an oversight or because of a crime or intentional pursuit of profit so that they do not obey business ethics and even often ignore and violate existing laws.¹⁵

Moreover, there are several characteristics of an Umrah and Hajj travel service company or agency that aim to deceive or lack good credibility. The following are the characteristics of a fake Umrah trip that need to understand.¹⁶

- a. Often offers unreasonably low prices.
- b. No offices or fake locations.
- c. Does not have an official website.
- d. Pay in advance and promise to leave at a certain time.

The factors causing the occurrence of hajj and umrah travel scams are: *first*, the internal factors of the perpetrators. Basically, this happens because of factors that come from the perpetrator. Factors originating or contained within the perpetrator means that what influences a person to commit a crime arises from within the perpetrator himself, based on the faith factor and the perpetrator's desire factor.

Second, the factor in the belief of the perpetrator is one of the most basic factors causing this crime. Religion plays a role in shaping people's attitudes and culture.

¹³ Article 39 of the Law of the Republic of Indonesia Number 13 of 2008 concerning the Organization of the Hajj.

¹⁴ Interview with Mr. Arif Rahman as the Directorate of General Criminal Investigation (Ditreskrim) of the Gorontalo Police, on 28 September 2021 at the Gorontalo Police.

¹⁵ Moh. Hatta, *Criminal Law and Economic Activities*. (Yogyakarta: Calpulis, 2016), 131.

¹⁶ Dyah, P. (2016). *Umrah Scam Keeps Recurring*. JOM Faculty of Law, 3(2), 5.

Belief in religion is the most remarkable culture in the history of human life. Religion cannot just come out of the human soul. Religious symbols that are used as a means of communication with God are the first culture born in humans.

Third, a powerful will factor encourages someone to commit a crime. *Fourth*, the opportunity factor is a condition that allows or is very supportive of a crime's occurrence. Commonly, this factor occurs because the victim is easy to deceive, or this factor also occurs because the perpetrator sees that he is capable of defrauding the victim so that the desire to earn fast money against the law can be fulfilled.

External factors that cause scam acts of prospective Umrah pilgrims are caused by the large number of enthusiasts who want to go for Umrah and Hajj, so it is caused by the symptoms of an irrational "religious way". They assume that there is no way to misappropriate the pilgrimage because it is related to religious matters, so trust in the providers of Hajj and Umrah service facilities is very high, which causes pilgrims to trust their funds to be managed by the company easily.¹⁷

Factors that influence law enforcement against criminal acts of scam that occur in the community, namely:¹⁸

a. Law Enforcement Factors

The legal function, mentality or personality of law enforcement officers plays an important role. If the regulations are good, but the quality of the officers is not good, then this causes problems. Therefore, one of the keys to success in law enforcement is the mentality or personality of law enforcement.

b. Factors of Supporting Facilities

Factors of supporting facilities or facilities, in general, include software and hardware. One example of software is education. The education received by the police today tends to be practically conventional things, so in many cases, the police experience obstacles in their goals, including crimes in the crime of scam.

c. Community Factors

Law enforcement comes from the community and aims to achieve peace in society, every member of the community or group at least has legal awareness, the problem that arises is the level of legal compliance, namely high, moderate or less legal compliance.

¹⁷ Interview with Mr. Arif Rahman as the Directorate of General Criminal Investigation (Ditreskrim) of the Gorontalo Police, on 28 September 2021 at the Gorontalo Police.

¹⁸ Soerjono Soekanto. *Factors Affecting Law Enforcement*. (Jakarta, King Grafindo Persada, Fifth Printing, 2008), 8.

d. Cultural Factors

Based on everyday concepts, people often talk about culture. Thus, culture is a primary line of behavior that establishes rules about what to do and what not to do.

There are 3 (three) steps that must be taken to stop and prevent cases of Umrah fraud:¹⁹

- a. In the short term, it is carrying out repressive law enforcement, this has been done by the police and the courts. The step is to impoverish those who are strongly suspected of embezzling Umrah pilgrims' funds.
- b. In the medium term, it is necessary to establish an anti-umrah fraud task force. The personnel are a combination of various related institutions such as the ministry of religion, police, attorney general, KPPU (Business Competition Supervisory Commission), BPKN (National Consumer Protection Agency), OJK (Financial Services Authority), and PPATK (Center for Financial Transaction Reports and Analysis). The Umrah anti-fraud task force must be formed immediately because Umrah criminal cases have the potential to be repeated if they are handled like this.
- c. The long term is that Law Number 13 of 2008 concerning the implementation of Hajj is revised. Many of these laws are not compatible with the current problems. The Ministry of Religion often says that its regulations regarding the implementation of Umrah are limited. Therefore, Law No. 13 of 2008 must immediately be revised to address the long-term problem of Umrah.

Efforts made by police investigators in overcoming the obstacles that arise in the investigation of criminal acts of fraud of hajj and umrah travel organizers in the city of Gorontalo based on the results of interviews with investigators at the Gorontalo Regional Police Directorate of Criminal Investigation, said that this obstacle can be overcome in several ways, namely:²⁰

- a. Provide socialization.
- b. Provide knowledge and socialization from the ministry of religion and the ranks below it about the list of travel that has a permit as the implementation of Umrah worship.
- c. Clarify the division of tasks between units in the Gorontalo Police.
- d. Umrah travel agencies must also provide information to protect the public from Umrah scams.

¹⁹ Purwitosari, Dyah. *Op.cit*, 15.

²⁰ Interview with Mr. Arif Rahman as the Directorate of General Criminal Investigation (Ditreskrim) of the Gorontalo Police, on 28 September 2021 at the Gorontalo Police.

4. Conclusion

First, the role of police investigators in dealing with criminal acts of hajj and umrah travel scam is to conduct examinations of suspects and sanctions, conduct a review of the crime scene after a vital confession from the suspect, and then carry out an investigation with a report of information on criminal acts of scam from society.

Second, the factors causing the occurrence of scam acts of Hajj and Umrah travel come from within the perpetrator such as family factor, environmental factor, and community factor in the form of victims who do not understand and are often trapped with cheap Umrah travel services and good facilities, but do not consider the background of the pilgrimage journey.

First, people should learn from the experiences of the victims of Umrah scam. They must be more careful in choosing the implementation of Umrah pilgrimages so that there will be no more criminal acts of scam under the guise of Umrah.

Second, the police should put more emphasis on prevention by collaborating with the relevant government to prevent many hajj and umrah travels without permission from the relevant agencies.

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