

THE AGREEMENT OF UMRAH PILGRIMAGE WITH UMRAH TRAVEL OPERATORS (According to PMA Number 8 Year 2018 and Sharia Economic Law)

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Abstrak

Minat masyarakat untuk melaksanakan ibadah umrah semakin meningkat. Pelayanan perjalanan ibadah umrah menjadi bisnis yang menjanjikan. Pemerintah telah menetapkan PMA No 8 tahun 2018 tentang Penyelenggaraan Perjalanan Ibadah Umrah (PPIU). Namun kasus penipuan terhadap Jemaah umrah oleh PPIU semakin meningkat. Tulisan ini memaparkan hasil penelitian mengenai perjanjian antara jemaah umrah dengan PPIU menurut Peraturan Menteri Agama dan Hukum Ekonomi Syariah serta perjanjian antara jemaah umrah dengan PPIU dihubungkan dengan Prinsip Syariah. Penelitian dilakukan dengan pendekatan yuridisnormatif, sifat penelitian deskriptif analitis, data sekunder, teknik pengambilan data dengan studi pustaka dan analisis data kualitatif. Hasil penelitian menunjuk kanbahwa PMA No 8 tahun 2018 tidak menetapkan jenis perjanjian antara Jemaah dengan PPIU. Dari aspek Hukum Ekonomi Syariah perjanjian Jemaah dengan PPIU termasuk perjanjian *Ijarah musytarak*. Dihubungkan dengan Prinsip Syariah, perjanjian tidak boleh mengandung unsur *riba*, *ghahar*, *maisir*, *haram*, dan *zalim*.

Kata kunci: Perjanjian, Jemaahumrah, Ekonomi Syariah

Abstract

The community interest to perform umrah is increasing and resulting the existence of umrah service becomes as a promising business. The government determines PMA No. 8 year 2018 on Umrah Travel Operators (PPIU). However, the case of fraud toward Umrah pilgrims by PPIU is increasing. This paper aims at describing the agreement between Umrah pilgrims and PPIU based on the regulation of Religious Affairs Minister and Sharia Economic Law and the agreement between Umrah pilgrims and PPIU based on Sharia Principles. The research is conducted by normative juridical approach consisting of descriptive analytical research and

secondary data type. Data collection technique uses literature study and qualitative data analysis. The result shows that PMA No. 8 year 2018 does not specify the type of agreement between Umrah pilgrims and PPIU. Based on Sharia Economic Law, the agreement between Umrah pilgrims and PPIU is Ijarahal 'amal musytarak. Related to Sharia Principles, the agreement should not contain the elements of usury, ghahar, maisir, haram, and zalim.

Keywords: Agreement, Umrah Pilgrims, Sharia Economics

INTRODUCTION

The concept of Sharia Economic Law was introduced and applied to almost every business and strata. Initially, it was applied to microeconomics, which later developed in all sectors and business fields. Islamic economic activities rely on the provisions of Islamic law, namely about how people should behave. By the arrival of the Islamic economic system, it is hoped that Indonesian economic law will experience positive developments that build togetherness to create prosperity for the state and nation towards fair and prosperous society⁴⁴. The emergence of Sharia Economic Law phenomenon is the result of the interaction of Islamic Law with National Law System, which was initially limited to family law or in the field of special civil law⁴⁵.

The term Sharia Economics can be seen in the laws and regulations, namely Law on Religious Courts. According to the explanation of Article 49 letter i of Law Number 3 Year 2006 concerning Religious Courts, what is meant by Islamic Economics is

“acts or business activities carried out according to sharia principles, including Sharia Banks, Sharia Microfinance Institutions, Sharia Insurance, Sharia Reinsurance, Sharia Mutual Funds, Sharia Bonds and Sharia Futures, Sharia Securities, Sharia Financing, Sharia Pawnshop, Sharia Financial Institution Pension Funds Sharia, and Sharia Business”.

Sharia economics is an integral part of Islamic teachings. Islamic economics and finance are not new. Islamic economics has existed since the emergence of Islam itself⁴⁶. Broadly speaking, Islamic teachings are classified into three parts, namely *aqidah* (Islamic creed), moral, and sharia. Sharia aspects are further divided into two parts, namely the field of worship and the field of muamalah (social duties). The field of worship emphasizes all aspects related to self-worship to Allah SWT. Meanwhile, the field of muamalah is related to the relationship between humans and each other as the implementation of *hablumminannas* (the relationship among human beings), which is a command from Allah

⁴⁴ Sri Redjeki Hartono, *Hukum Ekonomi*, Bayu Media Publishing, Malang, 2007, hlm. 25.

⁴⁵ Amin Suma dalam Neni Sri Imaniyati, *Asas dan Jenis Akad dalam Hukum Ekonomi Syariah : Implementasinya pada Usaha Bank Syariah*, *Mimbar Unisba*, Vol. XXXVII, No. 2 Desember 2011, hlm. 151.

⁴⁶ Darsono, Ali Sakti, Ascarya, dll, *Perbankan Syariah di Indonesia : Kelembagaan dan Kebijakan serta Tantangan ke Depan*, Raja Grafindo Persada, Jakarta, 2017, hlm. 31