

QUESTIONING THE CONSTITUTIONAL OBLIGATION OF THE STATE IN PROTECTING CITIZEN'S FUNDAMENTAL RIGHTS IN RELIGION

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ABSTRACT

The Indonesian state, in the 1945 Constitution (Undang-Undang Dasar 1945) has a constitutional's obligation to protect the citizen's rights of their religious activities. This study aims to find appropriate legal protection about the implementation of religious activities which is umrah conducted by the Muslim people in Mecca, Saudi Arabia. The type of research for this study is normative research with a statutory approach, a legislative approach, and a conceptual approach. The study uses primary, secondary, and tertiary law materials. Those law materials are discussed, criticized, and analyzed with prescriptive analysis. Through this study, several reforms may be required and suggested such as regulation/substantive reform, institutional reform, and practical operational reform.

Keywords: The State, The Constitutional Obligation, Citizen's Rights.

INTRODUCTION

Does the state oblige to protect the fundamental rights which are the freedom of religion¹ including the implementation of religious activities of its citizens in Indonesia? What is the essence of constitutional state responsibility in the constitution about the freedom of religion? How is the implementation from a regulation that is stipulated under the 1945 Constitution in reality? Adnan Buyung Nasution in his dissertation said that

"The constitution establishes the normative direction for the policies to be pursued by the state"
(Adnan, 1992).

It is also said that the constitution² is "a ticket for entry to a civilized nation" and "the noble agreement" between the state and its citizens (Daniel, 2017). The constitution is a constitutional contract and mother agreement between the citizens/people and the state. Citizens/people gave a sort of "mandate" or "power of attorney" towards the state so that the state will implement the content of the Contract consists of the constitution. As such, the state as the recipient of the mandate or power of attorney and citizens as the authorizer. In short, if there is a "right" of the people then there must be an "obligation" of the state. The right of the citizen has to be fulfilled/received and the obligation of the state has to be provided (Hayyan, 2011).

With regards to religion, the 1945 Constitution in Article 28E paragraph 1 (one) until 3 (three) and Article 29 (twenty-nine) paragraph 1 (one) until 2 (two) which states that:

“(1) Any person has the right to embrace a religion and worships based on its religion, choose education and teachings, choose work, choose citizenships, choose a residence in the territory of the state and leaving and to return; (2) Any person has the right towards the freedom to have their beliefs, expressing their thoughts and attitudes based on their conscience. (3) Any person has the right to freedom in forming a union, an assembly, and to express their opinions”.

Article 29 is the following:

“(1) State based on the belief in the one and only God; (2) the State shall guarantee the independence of each resident to embrace their respective religion and to worship according to their religion and belief”.

The freedom of religion is also protected under Law No 39 the Year 1999 on Human Rights especially in articles 4, article 22 (2) (Law, 1999).

METHODS OF RESEARCH

Normative research with a statutory approach and conceptual point of view will be used in this study. The study uses primary, secondary, and tertiary law materials. Those law materials are discussed, criticized, and analyzed with prescriptive analysis.

RESEARCH AND DISCUSSION

The question is how the 1945 Constitution becomes a living constitution so that relevant at all the time? How to create a living constitution as written by David A. Strauss:

“A living constitution is one that evolves, changes over time, and adapts to new circumstances, without being formally amended” (Idris, 2012; Strauss, 2010).

Does the state has the obligation and compulsion to protect its citizens in conducting their religious activities including conducting Umrah³. Umrah is the religious (advisable) obligation conducted by Muslims in Mecca, Saudi Arabia as an important religious obligation for Muslims who are capable to conduct such religious obligation, physically, or materially/financially. Umrah is often referred to as small Hajj (pilgrimage) because, in the implementation of umrah, there is no Wukuf⁴ to be conducted in Plain of Arafah⁵ as those who conduct Hajj. Wukuf in Plain of Arafah is the core point of Hajj.

The increase of the number of Muslims in the whole world that intends to conduct Hajj from all over the world causes every year, the government of Saudi Arabia to restrict and provide a quota (limits the number of people) for every state that is willing to deliver its pilgrims to conduct Hajj. The policy to restrict the number of pilgrims of Hajj with a quota system and putting umrah as a suggestable religious activity causes many of the Muslims to choose to conduct umrah instead of hajj where the queue can be up to years. The result is that many states with a high population of Muslims choose to conduct umrah where the queue is shorter instead of waiting to depart for Hajj. By companies (corporations) this situation is regarded as a business opportunity to increase their profits. Therefore, in Indonesia, umrah organizer companies have

rooted everywhere. The Government has also regulated the existence of umrah organizer companies or Penyelenggara Perjalanan Ibadah Umrah (PPIU) (Umrah Travel Organizer) (Law, 2007). Through the Government Regulation or Ministry Regulation.

PPIU established in various cities in Indonesia has offered and promote to attract as many consumers as they can. To achieve such a goal, it is often that PPIU used marketing through many print or electronic media also making named celebrities to attract consumers. Two famous cases of travel umrah that became the writer's reference in this article are PT First Anugerah Karya Wisata (the famous name as "*First Travel*"/FT) and PT Amanah Bersama Umat (the famous name as "*Abu Tours*"/AT) wherein such cases it utilizes the ways of marketing as stated above to attract its consumers. Both First Travel and Abu Tours are limited companies or Perseroan Terbatas (PT) (Law, 2007).

The sum of payment for umrah varies based on the program made by FT. For example, birthday program (Milad), Urgent May Program, Ramadhan Program, Carter Flight program, etc. The fee of the programs is ranging from Rp.8,888,888 (eight million eight hundred eighty-eight thousand eight hundred eighty-eight rupiah) to Rp. 14,500,000 (fourteen million five hundred thousand rupiah). In reality, the programs are the ways for FT to collect and dredge the money of the pilgrims because, in reality, only a few of the pilgrims were sent off for Umrah such as officials, State-owned companies' officials, or legal enforcement officials. What is conducted by FT when is billed or questioned concerning the certainty of departure, FT only promised to conduct reschedule. However, in reality, such promised has never been fulfilled. The result of such uncertainty to send off the pilgrims, therefore few of the agents made an effort to conduct a discussion with the owners of FT however never succeeded; always promised. The agents also have conducted a series of mediation but failed and became a dispute. Were there any dispute settlement efforts? Eventually, the agent (which was appointed by FT to find much more people for umrah) lost its patience (and based on the suggestion of the Investment Alarming Task Force/Satgas Waspada Investasi under Otoritas Jasa Keuangan or Financial Service Authority as the coordinator and consists of 13 state ministerial/agencies. This task force has an obligation to settle the dispute) on August 2017, officially through its attorneys made the criminal report to the Bareskrim Mabes Polri (Criminal Investigation Agency National Police Headquarter) for the alleged conduct of embezzlement, fraud and money laundering also violation of UU ITE (Electronic Information and Transaction Law) towards the President Director and Directors of FT which are, Anniesa Desvitasari Hasibuan (AH) and Andika Surachman (AS) as the president director and director of the company also the treasurer of FT which is Kiki Hasibuan (KH). In short, the three persons were arrested and detained by the Bareskrim Mabes Polri. The three of them became suspects and was brought to the court as defendants in the District Court of Depok, West Java with some pilgrims who failed to depart; around 63.000 (sixty-three thousand) pilgrims, and financial loss around Rp. 900,000,000,000 (nine hundred billion rupiahs).

In the trial, the prosecutor charged the three have conducted fraud, embezzlement, and money laundering. Many of the witnesses presented in the trial from FT, pilgrims, department of religion, the Financial Service Authority (Otoritas Jasa Keuangan/OJK), Bank also manager of a restaurant in London which is reportedly owned by Andika Surachman. Most of them confirmed that the money deposited by AH and AS are for personal use, such as organizing fashion shows in New York, visited various countries, buying luxurious cars, buying apartments also to buy a restaurant in England. The point is the money of the pilgrims was misused not as it should be.

For the charge and allegations of the prosecutor, the Depok District Court ruled the following matters:

1. Declare that Defendant I which is Andhika Surachman and Defendant II which is Anniesa Hasibuan have based on the law and convince the judge that they are guilty and jointly have conducted the criminal act of stealing and money laundering as a subsequent act;
2. Convict the Defendant I which is Andhika Surachman, for 20 (twenty) years imprisonment and Defendant II Anniesa Hasibuan for 18 (eighteen) years imprisonment, and fine to each defendant in the amount of Rp. 10,000,000,000 (ten billion rupiah), with the condition that if the fine is not paid, then it shall be substituted by the detainment of 8 (eight) months;
3. Determine the period of arrest and detention that has been carried out by the defendants used entirely from the convicted sentence;
4. Determine the defendants to remain under detention, and
5. Determine the number of assets and money (pilgrims) to be seized by the state.

Based on the estimation of the FT attorney, the value of the asset of FT amounted to Rp. 300,000,000,000 (three hundred billion rupiah). The Defendant's attorney; named, Wirananda told that the transfer of an asset of First Travel to third parties is conducted illegally, for example, deed of purchase and sale no. 870/2017 made in front of the notary Lidiwati Evi Sutiono dated 10 August 2017, where Anniesa Hasibuan and Andhika Surachman was supposedly already arrested by Bareskrim Mabes Polri on 8 August 2017. In such deed, it is made as if there is a transaction between the directors of FT with the purchaser which is Halid Umar. Also, there is a transaction involving office, land in Radar Auri Cimanggis, Depok, luxurious house in Sentul, a house in Cimanggis, and some luxurious cars such as Velfire, Fortuner, Pajero, and Hummer. Peculiarly, there are some luxurious cars seized in front of the Prosecutor Office of Depok, West Java disappeared and unknown of its location. After it was caught by the mass media, the cars were returned to the prosecutor with reasons that the cars were lent to various parties.

Towards the dispute decided by the Depok District Court, the prosecutor and attorneys of the defendants appealed to the High Court of Bandung, West Java. After the examination is conducted, a decision is issued by the High Court of West Java in Bandung and strengthened the decision of the Depok District Court. The case had also been examined by the Supreme Court (SC) with a result that the Supreme Court judges rendered their verdict to strengthen the District Court and the High Court with an additional judgment that all the assets of FT are confiscated and taken over by the state. It is a controversial judgment. Why? First, the asset of FT is not the assets of the corruption case. Those assets were purchased from the money of the people who wanted to perform umrah. Therefore the state does not entitle such an asset. Second, the Supreme Court is the lawmaker, thus the judges should be impartial and make a decision based on the truth and justice. If such assets are confiscated and taken over by the state then the state has a constitutional responsibility to add the money to send those people to do umrah. The promise to return the money or to send them for umrah has been repeatedly announced by the Ministry of Religion, Fahrul Rozi, during the formal meeting with the Parliament as well as in front of media. Furthermore, according to Zainal Asikin (2013) the prosecutor must exercise his authority to file a bankruptcy petition through the Commercial Court based on the article 2 of Law No 37 Year 2004 regarding The Bankruptcy.

In addition, Abu Tours (AT) is the biggest umrah organizing company in the Eastern part of Indonesia established based on a notarial deed. The licenses of AT were completed by

Tourism License (SUK) Registration Letter (TDP), Ordinance Right (HO), Nuisance Permit, and an official letter from the department of religion. AT also own Bank Guarantee given by the Department of Religion through government Banks.

Although it is not the same, however, experienced by the pilgrims for umrah of AT is not completely different than what was experienced by FT. The difference is limited. If the payment of pilgrims of FT is directly paid to the account of the company, in the case of AT, the agent deposited the money to the company's account and is used to purchase seats or seat booking. The agents that have purchased a quota from AT then would sell it to the candidate of pilgrims. For example, if AT sells per package, per person is Rp. 14,500,000 (fourteen million five hundred thousand rupiah) to agents, whereas the agents will sell to the pilgrims in the amount of Rp. 16,000,000 (sixteen million rupiah). The agents purchased to AT with various packages. For example, a package at the price of Rp. 10,000,000,000 (ten billion rupiah) for some seats. This means that the relationship between the company and the agent is a business relationship for profit. From the explanation above, it is shown that there is a business dimension from the beginning, whereas in the case of FT the pilgrims deposited the money directly to the account of the company. AT persuaded the agents to purchase as many seats as they can with the promise of a bonus, for example, the promise of bonus of a car, vacation bonus, or will be sent off to Hajj and other familiar bonuses. AT often increases the various bonuses. Similar to FT, after the report was made, the owner of AT was arrested and became the suspect by the police officials and the case brought to the court.

Based on Law No. 40 of 2007 concerning Limited Liability Company which stated that what is done by the Company, any legal consequences shall be the responsibility of the Board of Directors. The strategy of AT is to find partners therefore they can open up branch offices with the condition to deposit money in the amount of Rp.100,000,000 (one hundred million rupiahs) to Rp.200,000,000 (two hundred million rupiahs). With such amount, therefore an entity can be appointed as a partner, the partners can then appoint or recruit agents as well as determine by themselves the fee or charge of umrah per person. Meaning that the position of the partner is higher than the agents.

On January 28, 2019, the district court of Makassar has rendered its verdict. Hamzah Mamba is sentenced for 20 years imprisonment and the fine amounting Rp 500 million as the cause of the collective failure of Umrah pilgrims around 86.720 people with the amount of loss is Rp 1.2 trillion. The court decision read by the panel chairman Denny Lumban Tobing. Hamzah Mamba accused of violating article 372 of the Criminal Code, Article 3 Law No 8 the Year 2010 regarding Money Laundry, Article 55 paragraph 1 in conjunction with article 64 paragraph 1 No 1 of the Criminal Code regarding embezzlement⁶. The other person important person in the company has also been sentenced such as Ms. Nursyariah Mansyur with 20 years' imprisonment, Marketing Manager Mr. Chaeruddin for 18 years imprisonment, and Mr. Hasim Sanusi for 16 years imprisonment⁷.

The damage caused and suffered by the candidates of pilgrims of *umrah* including agents is definitely the financial loss. In the case of FT, the financial loss is estimated to be Rp. 900,000,000,000 (nine hundred billion rupiahs), whereas the loss in the case of AT is estimated to be Rp. 1,200,000,000,000 (one point two trillion rupiah). Other than the financial loss, they also suffered from an immaterial loss such as time, damage to a good relationship, embarrassment caused by failure to send off the pilgrims, etc. These losses should be compensated well. Moreover, in the case of FT, the governments through the Decision of

Ministry of Religion No. 589 of 2017 guarantee and stated that all of the money from the pilgrims who have failed to depart for *umrah* shall be returned and/or the pilgrims shall be sent off to the holy land (Law, 2017).

Further, the important assets of FT shall be seized by the state. To seize FT asset was also decided by the Supreme Court. The decision by the Supreme Court is controversial since the Supreme Court is the highest lawmaker and should search the truth and substantial justice in society (Mertokusumo, 2011). Meaning that if the assets are seized by the state, therefore the state shall be responsible towards such assets to be returned to the pilgrims or if such the value of assets is not enough, then it is, logically, the duty of the state to add the outstanding value and return it to the pilgrims.

At this point is needed number of judges with progressive way of thinking which according to Syamsudin (2010) must have criteria as follows:

1. Having the science competence, professional ability and a good personality as the law enforcers;
2. At this point, in fact, judges with progressive thinking is needed based on the following characters:
 1. Have competent knowledge, capability, professional and good personality as a subject (actor) of law enforcement;
 2. Have an intellectual capacity (IQ), emotional (EQ) and spiritual (SQ) capability to present justice and justification of law;
 3. Have non-conventional law paradigm in enforcing the law and justice as well as viewing the law without disregarding its social relevance;
 4. Its message and duties are not merely to read the literal meaning of the law made by the legislative body, however in its decision have responsibility and common sense and articulating justice and the complexity and dynamic of the life of the society;
 5. Can conduct change with creative meaning towards the prevailing laws and regulations without waiting for the adjustments of the laws and regulations. Bad regulation shall not be prevented for the progressive law enforcement actors to present justice to the society and justice seekers because they can do new interpretation any time to a regulation;
 6. Rejects the situation of status quo, where the situation causes decadency, corrupted and will cause huge loss to the public interests;
 7. Have the moral courage and intellectual in enforcing the truth and justice as well as free from judicial corruption.

There are three subjects of law in this case; state, corporation, and the pilgrims. The State shall be obligated to protect its citizens including conducting its religious activities as provided under Constitutional 1945. The obligation of the state provided under the constitution is a constitutional contract between the state and its people. The State shall realize its obligations under the Constitution. If the obligation of the state provided under the constitution cannot be realized then, such un-fulfillment is a violation of the constitution conducted by the State.

Companies or corporation are a legal entity in Indonesia and is regulated under Law No. 40 of 2007 concerning Limited Liability Company. A PPIU such as FT and AT are Limited Liability Companies where the legality is guaranteed by the state and is proven by the approval from the Ministry of Law and Human Rights (MOLHR), the granting of registration letter (TDP), business license (SIUP), etc. is the legality ensured by the state, therefore it shall be followed by supervision conducted by the state. That is the legal logic. As well as towards FT company and AT company who supposedly is supervised substantially by the government. For example, if the government should ensure whether the financial position of the company is healthy? If such a financial position is well enough? Regarding the financial position of the

company shall be determined by the audit of a professional public accountant. This is the supervision that shall be conducted by the government. The Government cannot with any reason, such as FT company is a business company-oriented for-profit, therefore, the state is not responsible and is released from any obligation, because the state responsibility can be implemented through the cases such as PT Lapindo in Sidoarjo regent, East Java, where the government contributes to firstly compensate the obligation of PT Lapindo towards the victims of mud flood caused by PT Lapindo which were relocated because of the mud flood. There were few villages destroyed and the person of the village is relocated permanently because of the project of PT Lapindo in Sidoarjo, East Java. For the case of Lapindo, in December 2014 the President issued the Presidential Decree to bail-out the victims in the amount of Rp. 781 in which all the citizens loss of Rp3,8 trillion. From all such amount of lost Lapindo corporation only compensated Rp. 3,03 trillion and the government provided Rp 781 billion as compensation.

Also, the government in the case of PT. Bank Century-by issuing the law and regulations-had bailed out PT. Bank Century. Bank Century delivered to the Deposit Insurance Agency (LPS) and provided the bail-out amounting Rp. 6,762 trillion involving top bankers names such as Boediono, Raden Pardede, Budi Mulya, Miranda Swaray Goeltom, Siti Fadrijah, Budi Rochadi, Hermansyah Hadad, Hartadi Agus Sarwono, and Ardhayadi Mitroatmodjo and the government had lost Rp 8,6 trillion. Even the perpetrator in this case is Robert Tantular was given remission or a decrease in his punishment to 73 months. Why in these cases, the state is pro-active whereas in the case of FT and AT the state is passive?

CONCLUSION

In conclusion, about the main question, the state should protect the fundamental rights of religious freedom of citizens. The implementations of religious activities based on respective religions are including the implementation of umrah which is a form of the fundamental right of the citizens which must be protected by the state. Meaning that the state shall ensure that the implementation of umrah is guaranteed for its citizens to conduct it. The State has all sources of power to realize the protection for the fundamental rights of its citizens; the state cannot avoid or neglect its obligation in protecting the fundamental rights because it is mandated by the constitution.

The legalistic and positivistic approach is often unable to find the essence of justice in the developing society (Putro, 2011). It is not less important than Lawmakers in Parliament imposing laws and regulations not based on an elaborative and comprehensive study. This is shown by numerous applications of judicial review to the Constitutional Court towards various laws because it is deemed partially or entirely as violating or against the Constitution 1945⁸ (Law, 1945).

During the cases, provisions concerning umrah in the hajj laws that were regulated under very few articles (only four article which was article 43, 44, 45 and 46 of the Law No 13 Year 2008 regarding Hajj). After these cases rose up, then the Law on Hajj was promulgated i.e. Law No 17 the Year 2019 regarding Hajj. The lack of protection for pilgrims shows that lawmakers are not serious in giving protection to its citizens to implement their religious activities based on their respective religions (Law, 2008; Law, 2009).

Numerous matters shall be examined and reformed related to the state's responsibility in the enactment of the law. There is a bureaucracy between institutions that implemented umrah to be complicated and difficult for the candidate for Umrah pilgrims, including PPIU, which shall immediately be corrected and simplified. This matter is to realize good governance that is not corrupt and providing service to the public fulfilling the principles, efficiency, effectiveness, and justice.

It is now the assets of FT are in the hands of the state. It means the state has to be responsible for all the assets, including returning the money to the pilgrims. The decision for the seizure by the state is also peculiar because the assets are not the state's asset, such assets are not the result of corruption that causes loss to the State's Revenues and Expenditure Budget (APBN) or Regional Revenues and Expenditure Budget (APBD), however, such assets are the deposit of the pilgrims to the account of FT. Remedies conducted by the pilgrims to find a solution by filing a complaint to the House of Representatives, Supreme Court, Presidential Institutions, etc., could not have gained serious attention to finding a solution. This is the essence of good and uncorrupted government. The restorative justice model should be an option to restore the loss suffered by tens of thousands of pilgrims. Even when the number of victims for FT and AT is combined, the total would be hundreds of thousands of victims and the loss shall be equitable to trillions of Rupiah. The restorative justice model is supposedly implemented to remedy this failure of umrah collectively. If such a model of restorative justice does not work for the case of FT, there must be a solution provided by the state⁹. At least for the sake of justice law enforcers not only arrest and detain the criminals but also to provide restitution or compensation for the victims (Desasfuryanto, 2018).

The responsibility of the company in restoring the loss suffered by the pilgrims is not limited by convicting the superiors of the PPIU companies; however, it shall also ensure that companies would not be released from its civil obligation. In the Law No. 40 of 2007 concerning Limited Liability Company, the obligation or responsibility of the Board of Directors of the involved companies shall encompass all of the company's activities that cause loss to other parties. Moreover, there is also responsible for a criminal act conducted by a corporation.

SUGGESTION

From the above, it can be concluded to the following: First, based on the Constitutional Law 1945 that the state is obligated to protect the fundamental rights of its citizens to conduct its religious activities in this matter, to conduct Umrah. The protection for this fundamental right cannot be derogated because this right is a fundamental right attached to every citizen of the state. The waiver or un-fulfillment of the obligation by the state serves as a severe violation towards the fundamental rights of its citizens; Second, the case of FT and AT shall be a lesson learned to the state for it to not be repeated; Third, because in the case of FT, the assets of FT are seized by the state, therefore the duty of the state is to guarantee assets and return it to the candidate of Umrah pilgrims. From the beginning it is much more important for the prosecutor (representing the state to protect the constitutional rights of the people) to be really proactive to secure the assets of the company to file bankruptcy petition at the Commercial Court based on the Law No 37 Year 2004 on the Bankruptcy; fourth, reiterating that the society is entering the era of disruption, therefore there should be a simplification in the implementation of umrah that shall be conducted through e-registration, e-payment, and e-services.

Last but not least, these are the recommendation. First, immediately improve the organization of umrah systematically or institutionally which is more effective and efficient in the case of AT and FT. Second, since the assets of FT has been seized and taken by the state, therefore it is a constitutional obligation of the state to immediately return the money to the people/pilgrims or to sell the assets to send those people/pilgrims for umrah with a certain period. Thirdly, immediately forming a more comprehensive regulation based on the development of the society in the case of implementing regulation of umrah. Such improvement may also be conducted or reformation of the institution.

ENDNOTE

1. Freedom of religion and belief (whatever religion and belief guaranteed by the 1945 Constitution 1945) is a part of human rights that has to be protected, respected and preserved. These fundamental rights are stipulated in the Universal Declaration of Human Rights. The International Covenant on Civil and Political Rights in the article 18, 20 paragraph 2 and article 27 regulates on the freedom of religion.
2. Black Law Dictionary with Pronunciations, sixth edition, ST. Paul, MINN. West Publishing Co. describes Constitution as “*the organic and fundamental law of a nation or state, which may be written or unwritten...*”
3. <https://en.wikipedia.org/wiki/Umrah> mentions as follows:’ The ‘Umrah (Arabic: عُمْرَة) is an Islamic pilgrimage to Mecca, Hijaz, Saudi Arabia, performed by Muslims that can be undertaken at any time of the year, in contrast to the Hajj (Arabic: حَجّ) which has specific dates according to the Islamic lunar calendar. In Arabic, ‘Umrah means “*to visit a populated place*”. In the Sharia, Umrah means to perform Tawaf round the Ka‘bah (Arabic: كَعْبَة, 'Cube'), and Sa'i between Safa and Marwah, both after assuming Ihram (a sacred state). Ihram must be observed once traveling by land and passing a Miqat like Zu 'l-Hulafa, Juhfa, Qarnu 'l-Manāzil, Yalamlam, Zāt-i-'Irq, Ibrahīm Mursīa, or a place in al-Hill. Different conditions exist for air travelers, who must observe Ihram once entering a specific perimeter about the city of Mecca. It is sometimes called the 'minor pilgrimage' or 'lesser pilgrimage', the Hajj being the 'major' pilgrimage which is compulsory for every Muslim who can afford it. The Umrah is not compulsory but highly recommended.
4. <http://www.oxfordislamicstudies.com/article/opr/t125/e2521>. *Wukuf* is the most important part of hajj. No hajj without wukuf. Prescribed prayers performed on the ninth day of Dhu al Hijja in the Plain of Arafat from noon until sunset.
5. Plain of Arafah is a very large field located several kilometers from the city of Mecca.
6. <https://nasional.tempo.co/read/1169667/bos-abu-tours-divonis-20-tahun-penjara/full&view=ok> Some media coverages this verdict such as <https://news.detik.com/berita/4403743/bos-abu-tours-dihukum-20-tahun-penjara-korban-bersorak>
7. <https://www.tagar.id/sidang-korporasi-abu-tour-didenda-rp-1-miliar>
8. There are some jurisdictions of the Constitutional Court in Indonesia amongst other is a judicial review of a law whether such law partially or entirely against the Constitution 1945.
9. A Citizen Law Suit may be considered as a legal action to ask the state responsibility in protecting the fundamental rights of its citizen.

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