



CONSUMER PROTECTION OF UMRAH PILGRIMS IN MALAYSIA

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Research Highlights

In Malaysia, Umrah is an industry that records tremendous growth every year. Despite Muslim showing a great interest to perform the Umrah, there have been many consumer complaints related to Umrah service in Malaysia. Ministry of Tourism and Culture received 214 complaints involving Umrah travel fraud between 2012 to 2016. In the same period, 3,482 cases involving over RM21 million had been referred to the Tribunal for Consumer Claims (The Sun Daily, 2017). The question arises as to whether the rights of Umrah pilgrims are well protected under relevant laws in Malaysia. The study examines the adequacy of existing laws in providing protection to Umrah pilgrims. The study discovers the lacunae in the existing legal protection which renders the protection to be inadequate. As such the study proposes improvement to the existing laws so that it will be able to provide adequate protection to Umrah pilgrims as consumer.

Research Objectives

Umrah is an act of devotion, recommended on any capable Muslims. Umrah is also relatively easier to perform as Umrah neither has restricted quotas nor time constraints. However, industry reputation became tarnished by fraud and abuse (Hidir, 2017; Kumar, 2018). Cases of Malaysians becoming victims of Umrah travel fraud are not new. Like a recurrent disease, they have surfaced every year in the last 10 years. The increasing number of complaints against Umrah travel package confirmed the assertion that their businesses are vulnerable to fraudulent practices (Nuraisyah Chua, n.d.). Therefore, it is timely to study consumer protection issues on the Umrah services in Malaysia. The aim of the article is to analyse the extent to which the relevant laws protect the rights of Umrah consumers in Malaysia. This study thus examines the laws, regulations and guidelines which are related to Umrah services. This study begins by explaining about the Umrah industry in Malaysia. It will then proceed to identify the complaints against Umrah travel agencies which have been reported by consumers to the various relevant agencies. The main focus of the article is to analyse the adequacy of the existing laws and regulations in providing protection to Umrah consumer against the malpractice of Umrah travel agencies.

Methodology

The legal study conducted was indeed qualitative in nature. Being so, research methodologies of library research and critical analysis were used in analysing relevant materials, data and information. This legal study has collected relevant materials, data and information on Umrah service matters especially those involving pilgrims protection issues. Figures from relevant governmental bodies such as Ministry of Tourism and Culture Malaysia and the Tribunal for Consumer Claims were critically assessed and analyzed. The approach to be applied involves a content analysis of existing laws, regulations and guidelines on the legal protection of Umrah pilgrims as consumer in Umrah travel package service. This includes an examination of relevant provisions of Malaysia Contract Act 1950, Consumer Protection Act 1999, as well as the Tourism Industry Act 1992. By doing so, an evaluation could be carried out to discover related legislation which can be applied to protect Umrah pilgrims in Malaysia.

Results

In Malaysia, the legal protection for Umrah pilgrims can be found in various laws. As contractual relationship involve in Umrah services, therefore, the Contracts Act 1950 and the





law of tort are applicable. The Contracts Act 1950 provides protection to the Umrah pilgrims against fraud and the right to terminate the contract. Under the law of tort, travel agents are under a duty of care to carry out their services with all reasonable care and skill. However, Gan and Goh (2014) say that the basic element of duty of care, breach of duty and damage need to be established. Due to the limitation in both laws, it is advisable for the consumer to file cases under the Consumer Protection Act 1999. Consumer Protection Act 1999 is the main legislation that provides protection to the Umrah pilgrims in Malaysia. This act deals with misleading and deceptive conduct, false representation and unfair practices (Rahmah et al, 2012). Since Umrah services are part of Islamic religious tourism, the Tourism Industry Act 1992 and its regulations are very relevant. The purpose of this act is only to ensure that all Umrah related travel agent to register their business and be licensed.

Findings

The study reveals that there are a number of existing laws which can be applied to protect the Umrah pilgrims in Malaysia. However, the increasing number of complaints against Umrah travel agencies is an alarming indicator that the existing laws are inadequate. Therefore, it is imperative for the government to ensure that the current laws are fully enforced and if there are loopholes in those laws, reviews and amendments must be made. It is desirable that a clear and definite legal instrument to be in place to balance between supporting the growth of the sector and for protecting the Umrah pilgrims as consumers.

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