

IMPLEMENTATION OF HALAL CERTIFICATION IN CONSUMER PROTECTION LEGAL PERSPECTIVE

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Abstract

The purpose of this paper is to find out and analyze the application of halal certification in the perspective of consumer protection law as legal certainty in the production process until it reaches consumers, the approach method used is normative juridical, the result of the understanding states that the halal certification process based on the Halal Guarantee Act, can be described as the following: First, the company submits an application for submission of halal certification to the Halal Assurance Organizing Agency (BPJH) which is under the Ministry of Religion. Second, filling out files and administrative completeness along with supporting data by the company to be submitted to BPJH. Third, the application file after being reviewed by BPJH is transferred to an accredited Halal Guarantee Agency (LPH) for audit. Fourth, audit by LPH. Fifth, the results of the LPH audit will be transferred to the MUI Fatwa Commission for trial and determine whether the law is halal or haram. Sixth, the Fatwa Commission session, if it is found that the product contains elements of pork or unclean objects that have not gone through a purification process that is accepted by shara, the Fatwa Commission will reject the application for certification and recommend changes to the ingredients.

Keywords: *Consumer Protection; Halal certification; Halal products;*

A. Introduction

The national development that has been carried out is a sustainable development effort to realize a just and prosperous society in accordance with Pancasila and the 1945 Constitution of the Republic of Indonesia.¹ In the 1945 Constitution of the Republic of Indonesia, Article 1 paragraph (3) states that the State of Indonesia is a legal state based on Pancasila and the 1945 Constitution which contains the meaning of all actions, patterns of behavior of citizens which must also be synchronized with the norms set by the state.²

Indonesia is a country where the majority of consumers are Muslim, with the entry of these goods from non-Muslim countries, it will cause problems for Islamic consumers. Halal and haram are important things in Islam, because they are part of the substance of Islamic law. The command to consume halal food in the Qur'an is the basis for every Muslim to pay attention and choose to consume only halal food.³ Worries about whether the food and/or beverage products are halal or not are still a matter of debate among Muslims. And it is the duty of the state to provide protection to users of products originating from outside Indonesia.

Halal assurance of a food product can be realized in the form of a halal certificate that accompanies a food

- 1 Andri Winjaya Laksana, Ida Musofiana, *Pandangan Kritis Terkait Pertanggungjawaban Korporasiperbankanterhadap Tindak Pidana Pembobolan Rekening Nasabah*, *JPM : Jurnal Purnama Media*, Vol 1 No 1, Agustus 2022, Page 50-64
- 2 Batara Pareto Deddi, Jawade Hafidz, and Andri Winjaya Laksana, *The Domination of National Criminal Law in Law Enforcement of Illegal Fishing by Foreign Ship in Indonesian Waters*, *Ratio Legis Journal* Vol 1 No 3, September 2022, Page. 314-321
- 3 Muhammad Aziz, *Perspektif Maqashid Al-Syariah Dalam Penyelenggaraan Jaminan Produk Halal di Indonesia Pasca Berlakunya Undang-undang Nomor 33 Tahun 2014 Tentang Jaminan Produk Halal*, *AL HIKMAH Jurnal Studi Keislaman*, Volume 7, Nomor 2, September 2017, page.78-94

product so that producers can include a halal logo on the packaging.⁴ In order to guarantee legal certainty over protection for users of food products, both those originating from domestic production and those originating from imports from other countries, the government stipulates the enactment of Law No. 33 of 2014 concerning Halal Product Guarantee, with the aim that the sustainability of the halal production process is guaranteed by producers by implementing the Halal Assurance System, meaning that a producer must be able to guarantee that the food and/ beverage products produced and/or traded must have a halal certificate. This means that it creates an obligation for every producer to carry out halal certification for their products, in order to create legal protection for users of these products.⁵

The enactment of Law Number 33 of 2014 concerning Guaranteed Halal Products has actually emphasized the urgency of the issue of halal-haram in the production chain from business actors to consumers and consumed by consumers, where there is also the role of intermediaries such as distributors, sub-distributors, wholesalers, and retailers before reaching the final consumer. The enactment of the law on halal product guarantees aims to ensure that consumers (the wider community) get legal certainty for food products and other consumer goods. While for business actors, the presence of the halal product guarantee law provides guidance on how to process, produce, and market products to the consumer community, as well as how to provide information on halal products to consumers.⁶

The Halal Product Guarantee Act is not only intended to provide protection and guarantees to consumers only by providing halal certification. Producers also reap the benefits of this law, namely with legal certainty for all goods produced, so that the law on halal product guarantees will have a positive impact on the business world. Guaranteed halal products for each product can also provide benefits for the company, considering that halal-certified products will be preferred and favored by consumers so that they can increase sales. This is not only in demand by Muslims but also non-Muslims, because non-Muslims think that halal products are proven to be of high quality and very good for the health of the human body.⁷

The amount of food that is spread in the community without heeding the provisions regarding the inclusion of halal labels is considered disturbing. Food labels and advertisements that are dishonest and/or misleading have a negative impact on the development of human health.⁸ Meanwhile, halal food labeling, so far, is only an obligation if the producer/importer declares halal for Muslims.⁹ The label in question can be in the form of information on the name of the goods, size, net, composition, rules of use, date of manufacture, side effects, names and addresses of business actors, halal information, as well as other information for use which according to the provisions must be made.¹⁰

Halal labels contain juridical aspects to provide consumer protection. This means that legally including the halal label means protecting consumers and implementing consumer protection laws. In Article 4 of Law Number 8 of 1999 concerning Consumer Protection, there are a number of consumer rights that are protected by law, including: First, the right to comfort and safety in consuming goods and services. Second, the right to choose goods or services and their compatibility between goods and services with exchange rates, and no less important is the guarantee that is promised. Third, the right to obtain correct, clear and honest information regarding the condition and guarantee of the goods used. Fourth, the right to obtain compensation or compensation if the goods or services received are not

4 Suwardi Muhammad Erfan Muktasim Billah, Undang-Undang Jaminan Produk Halal Sebagai Bentuk Internalisasi Nilai Syari'ah Dalam Hukum Nasional, *JEBLR*, Vol. 1, No. 2, November 2021, page.72-81

5 Ralang Hartati, Peran Negara Dalam Pelaksanaan Jaminan Produk Halal, *ADIL: Jurnal Hukum* Vol.10 No.1 2019, page.72-92

6 May Lim Charity, Jaminan Produk Halal di Indonesia, *Jurnal Legislasi Indonesia*, Vol. 14 No. 01 Maret 2017, page.99-108

7 Ma'ruf Amin, *Fatwa Produk Halal Melindungi dan Menentramkan*, Jakarta: Pustaka Jurnal Halal, 2010, page 79.

8 Departemen Agama, *Petunjuk Teknis Pedomas Sistem Produksi Halal*, Dirjen Bimas Islam dan Penyelenggaraan Haji, 2003, page.455.

9 Ahmad Miru dan Sutarno Yodo, *Hukum Perlindungan Konsumen*, PT. Raja Grafindo Persada, Jakarta, 2004, page. 80.

10 Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen (Lembaran Negara Nomor 42, Tambahan Lembaran Negara Nomor 3821, Pasal 8 ayat (1) huruf h dan i).

in accordance with the agreement or as they should be.¹¹

Meanwhile, consumers are generally still weak in various aspects, and on the other hand, business actors are dishonest and/or misleading, so that many food products are spread in the community without heeding the provisions regarding the inclusion of the halal label.¹² This is because, among other things, the supervision factor is still not optimal, especially considering that BPJPH is burdened with tasks and functions other than supervision. In fact, there should be a special agency that handles supervision. Because without strict supervision, the regulations that have been enforced will feel less effective.

The purpose of this paper is to find out and analyze the application of halal certification in the perspective of consumer protection law as legal certainty in the production process until it reaches consumers.

B. Research Methods

To answer the writing questions that have been formulated above, the authors will use the normative research method.¹³ This design is also called doctrinal law research. The definition or meaning of doctrinal legal research is as legal doctrine research through analysis of statutory provisions and cases with the application of the power of thought. It places emphasis on the analysis of the rule of law, principle or doctrine. “The doctrinal approach was adopted by looking at the existing literatures in the field of legal research and examining the extent, if any, to which the survey method of research is embraced by lawyers and legal researchers to improve on the outcome of their research and to reflect the reality or impact of law on the society.”¹⁴ The pattern of thinking and analysis based on deduction is that normative legal research that examines the norm system as an object of study can use deductive logic with a syllogism tool to build a perspective of legal truth.¹⁵ The research specifications used in this study used descriptive analytical.¹⁶

C. Research and Discussion

1. Implementation of Halal Certification in Indonesia after the Law on Halal Product Guarantee comes into effect

The law on halal product guarantees is in line with various regulations and laws governing halal products. For example, Law No.18 of 2009 concerning Livestock and Animal Health which has now been revised, and Law NO.8 of 1999 concerning Consumer Protection. Another consideration is that the halalness of a product is one of the most urgent aspects of international trade, because it is related to aspects of inter-country marketing. Therefore, the issue of halal certification must receive attention, both in order to provide protection for consumers, especially Muslims, as well as in facing the challenges of globalization and the enactment of regional and international free market systems, in addition to increasing the competitiveness of a product.¹⁷

The issuance of the Law on Halal Product Assurance, is an urgency for halal certification, is no longer the responsibility of the MUI alone but is a shared responsibility between the government and MUI. Responding to this need and being encouraged by the responsibility to protect the community, the Indonesian Ulama Council (MUI) established the MUI Food, Drug and Cosmetics Research Institute (LPPOM MUI) on

11 Muhammad Ibnu Elmi As Pelu, *Label Halal*, Madani, Malang, 2009, page.73-74

12 Penjelasan Umum PP Nomor 69 Tahun 1999 tentang Label dan Iklan Pangan

13 Bimo Bayu Aji Kiswanto, and Anis Mashdurohatun, The Legal Protection Against Children Through A Restorative Justice Approach, *Law Development Journal*, Volume 3 Issue 2, June 2021, Page 223-231

14 Michael Sunday Afolayan, Omolade Adeyemi Oniyinde, Interviews and Questionnaires as Legal Research Instruments, *Journal of Law, Policy and Globalization*, Vol.83, 2019, page.51-59

15 Mukti Fajar ND, Yulianto Achmad, *Dualisme Penelitian Hukum Normative & Empiris*, Cet III, Pustaka Pelajar, Yogyakarta, 2015, page.122

16 Julizar Bimo Perdana Suka, Bambang Tri Bawono, and Andri Winjaya Laksana, The Implementation of Code of Conduct for Members of Police as Accurators of Murder, *Law Development Journal*, Vol 4 No 2, June 2022, Page 197-204

17 Muhammad Hamdan Rasyid, Peranan Undang-Undang Jaminan Produk Halal dalam Menjamin Kehalalan Makanan dan Minuman, *Journal of Islamic Law Studies*: Vol. 1 No. 1, page.4-27

January 6, 1989 as an effort to provide certainty regarding the halalness of a food product, medicine or food, medicine and cosmetics.¹⁸ The implementation of the Halal Assurance system is a step to share responsibility, as a manifestation of sharing responsibility, so that it should not be interpreted that the halal certificate is entirely the responsibility of the MUI.¹⁹

The halal certification process based on the Halal Assurance Law, can be described as follows: First, the company submits an application for halal certification to the Halal Assurance Organizing Agency (BPJH) which is under the Ministry of Religion. Second, filling in files and administrative completeness along with supporting data by the company to be submitted to BPJH. Third, the application file after being reviewed by BPJH is transferred to an accredited Halal Guarantee Agency (LPH) for audit. Fourth, the implementation of audits by LPH. The results of the audit in the form of an inspection report (BAP) are submitted to BPJH for follow-up. If during the audit, LPH finds materials or processes contaminated with halal or unclean goods, then LPH will provide recommendations to BPJH for replacement of materials to be followed up on to the applicant. Fifth, the results of the LPH audit will be transferred to the MUI Fatwa Commission for trial and determine whether the law is halal or haram. Sixth, the Fatwa Commission session, if it is found that the product contains elements of pork or unclean objects that have not gone through a purification process that is accepted by shara,,(tathîr), the Fatwa Commission will reject the application for certification and recommend changes to the ingredients or processes that are in doubt. As an effort to carry out internal control and supervision of products, the company appoints a Halal Supervisor who is responsible for the Halal Product Process (PPH).²⁰

Based on a study of the Halal Guarantee Act, it is known that there have been several changes. Elimination of dualism of institutions that manage the implementation of halal certification. Prior to the issuance of the Halal Assurance Law, LPPOM MUI was in charge of carrying out the certification process, while BPOM was in charge of issuing labels. Currently, the authority lies with the Ministry of Religion, which forms an institution that administers and manages halal certification, namely BPJH. The unification of the halal certification system is expected to be able to control the monitoring and supervision system for products circulating in the community and the legal umbrella for consumer protection can be emphasized. On the other hand, the entire process that leads to the BPJH desk is a challenge for this new institution to develop an effective, efficient, credible and accountable certification system so that the demands and needs of the community can be answered. The issuance of the Halal Product Guarantee Act provides certainty that halal certification is no longer an option, but an obligation that binds every food, drug and cosmetic packaging company. The existence of an obligation for each packaging product producer to carry out a certification process is expected to guarantee peace and clarity of the legal status of products circulating in the community.²¹

In article 4 of the law on halal product guarantees, it is clearly regulated that products that enter, circulate, and are traded in the territory of Indonesia must be certified halal. And if the business actor has obtained a halal certificate, the business actor is required to attach a halal label to the product that has received a halal certificate as regulated in Article 25 letter (b) of the halal product guarantee law.

2. Law enforcement efforts and consumer rights protection for Halal Product Certification and Labeling according to the Halal Product Guarantee Act

The regulation of law enforcement and consumer protection in Indonesia has actually been stated in the preamble of the 1945 Constitution of the Republic of Indonesia Alenia IV which mandates that the Indonesian

18 Fatimah Nur, Jaminan Produk Halal Indonesia Terhadap Konsumen Muslim, *Jurnal Likuid*, Volume I Nomor 01 Juli 2020, page.44

19 Ragam Berita, Jaminan Halal Tanggung Jawab Bersama, *Jurnal Halal* No.121 tahun 2016, page.43

20 Muhammad Aziz, *Op.Cit*, page.78-94

21 *Ibid*.

state protects the entire Indonesian nation and all of Indonesia's bloodshed. So it is clear that as an Indonesian nation, consumers deserve legal protection.²²

The understanding of the words "consumer protection law" and/or "consumer protection law" should also be clarified so that they are not misinterpreted in legal politics, both at the level of legislation and law enforcement. Both are classified as new fields of law in academic discourse and law enforcement practice in Indonesia before and after the enactment of Law Number 8 of 1999 concerning Consumer Protection (abbreviated UUPK 1999).²³

Article 2 of the Consumer Protection Law (UUPK) contains the principle of consumer protection which reads "Consumer protection is based on benefits, justice, balance, consumer security and safety and legal certainty". Here, it is seen that consumers get legal protection. Article 4 regulates consumer rights and article 5 specifically regulates consumer obligations. Based on the two articles above (article 4 and Article 5), it is clear that consumers have the right to get true, clear, honest and regarding the conditions and guarantees of goods and/or services and are obliged to read and follow information instructions and procedures for the use or utilization of goods and/or services. or services, for the sake of security and safety. So the obligation of entrepreneurs who make products must provide correct, clear and honest information regarding the conditions and guarantees of goods or services as well as provide user explanations, repairs and maintenance.²⁴

For Muslim consumers, the provisions regarding halal information on a food product are important, because it involves the implementation of the Shari'a, which is also the right of Muslim consumers. So, the provision of halal certification aims to provide legal certainty and legal protection for consumers.²⁵

Arrangements in Law no. 18 of 2012 concerning Food, is clearer and more detailed when linked to the provisions of Law no. 33 of 2014 concerning Guaranteed Halal Products, as the scope of food according to Law no. 18 of 2012 concerning Food, which in Article 1 number 1, formulates that, "Food is anything that comes from biological sources of agricultural, plantation, forestry, fishery, livestock, aquatic and water products, both processed and unprocessed, which are designated as food or drink for human consumption, including food additives, food raw materials, and other materials used in the process of preparing, processing, and/or making food or beverages."²⁶

Law Number 18 of 2012 concerning Food contains several articles related to the halalness of food products, namely Article 97 paragraph (1), (2) and (3). The text of the article is as follows:

Article 97

- 1) Everyone who produces Food in the country for trade is obliged to include a label inside and/or on the Food Packaging
- 2) Everyone who imports food for trade is obligated to put a label inside and/or on food packaging when entering the territory of the Unitary State of the Republic of Indonesia.
- 3) Inclusion of labels in and/or on Food packaging as referred to in paragraph (1) and paragraph (2) written or printed using Indonesian language and contains at least information regarding:
 - a. Product name;
 - b. List of materials used;

22 KN. Sofyan Hasan, Pengawasan dan Penegakan Hukum terhadap Sertifikasi dan Labelisasi Halal Produk Pangan, *Jurnal Hukum Ius Quia Iustum* No. 2 vol. 22 April 2015, page.290-307

23 *Ibid.*

24 KN Sopyan Hasan, *Sertifikasi Halal dalam Hukum Positif: Regulasi dan Implementasi di Indonesia*, ASWAJA Presindo, Cetakan I, Agustus 2014, page.261

25 Asri, Perlindungan Hukum Bagi Konsumen Terhadap Produk Pangan Yang Tidak Bersertifikat Halal, *Jurnal IuS* Vol IV nomor 2, Agustus 2016, page.2-21

26 Law No. 18 of 2012 on Food (Article 1 number 1)

- c. Net weight and net contents;
- d. Name and address of the party producing or importing;
- e. Halal for those who are required;
- f. Production date and code;
- g. Expiration date, month and year;
- h. Distribution permit number for Processed Food;

Other provisions in Law no. 18 of 2012, found in Article 67 paragraph (1), which states “Food security is carried out to keep food safe, hygienic, quality, nutritious, and does not conflict with religion, belief, and culture of the community.” Other provisions explicitly state the guarantee of halal products in Law no. 18 of 2012 concerning Food, found in Article 95 the following paragraphs:

- 1) The Government and Regional Governments shall supervise the implementation of the halal product guarantee system for those required for food.
- 2) The application of the halal product guarantee system for those required as referred to in paragraph (1) is carried out in accordance with the provisions of the legislation.

According to the substance of Law no. 33 of 2014 concerning Halal Product Guarantee, is an answer to the current situation and conditions that in reality many products circulating in the community are not all guaranteed halal, so that legal guarantees for the Muslim community do not get the place and attention. On that basis, the presence of Law no. 33 of 2014 concerning Halal Product Guarantee, is intended to provide a guarantee that legal protection for Muslim consumers has been regulated and determined as an obligation, as in Article 4, stating “products that enter, circulate, and trade in Indonesian territory must be certified halal.”

D. Conclusion

The halal certification process based on the Halal Assurance Law, can be described as follows: First, the company submits an application for halal certification to the Halal Assurance Organizing Agency (BPJH) which is under the Ministry of Religion. Second, filling out files and administrative completeness along with supporting data by the company to be submitted to BPJH. Third, the application file after being reviewed by BPJH is transferred to an accredited Halal Guarantee Agency (LPH) for audit. Fourth, the implementation of audits by LPH. Fifth, the results of the LPH audit will be transferred to the MUI Fatwa Commission for trial and determine whether the law is halal or haram. Sixth, the Fatwa Commission session, if it is found that the product contains elements of pork or unclean objects that have not gone through a purification process that is accepted by shara,, (tathîr), the Fatwa Commission will reject the application for certification and recommend changes to the ingredients or processes that are in doubt.

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