

Law of Warranty of Halal Products As a Protection of Muslim Consumers In Indonesia

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ABSTRACT

The law that provides legal protection for Muslim consumers in Indonesia has long been missed. This is because the number of products sold and circulated in Indonesia is questionable as halal, while Muslims are the largest community in Indonesia. Based on these facts, it is a necessity that Muslims need protection for what they consume and the State is obliged to provide that protection. The basis for the need for regulations related to halal products is the existence of an order from the Al-Quran for Muslims to consume halal and good food. The Draft Law on Halal Products itself is in the process of discussing fiercely, because there are several parties who state that there is no need for the state to interfere too much with the halal or haram that is consumed by the public. Finally, Law Number 33 of 2014 concerning Guarantee of Halal Products was issued, even though it was at the end of Susilo Bambang Yudhoyono's reign. The issuance of Law Number 33 of 2014, at most gives an order to producers to immediately process their halal guarantees to the Indonesian Ulema Council to issue halal certificates.

Keywords: *products, halal, protection, consumers, Muslims*

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1. INTRODUCTION

The proliferation of food and beverage products on the market for consumption by consumers is still questionable their hygienic and halal status. Another side that must be considered is the process of making food and beverage products, for example, the concoction of food and beverage spices. Tri Susanto, a lecturer at the University of Brawijaya Malang caught that anxiety in the 1980s. Based on the research results, it was found in products such as milk, noodles, snacks, containing gelatin, shortening and lecithin and fat which most likely came from pork.

Subsequently, it turned out that the list of products that were announced as published by Ummat magazine, which previously only amounted to 34 kinds of food and beverages, had grown to such a degree that many products that were not in the original list became available. This all caused a big stir in what became known as the "lard issue". (Al-Asyhar, 2003: 141). The issue of lard then had a long impact on national economic stability, which was almost paralyzed. To reduce this issue, in 1989, the Indonesian Ulema Council (MUI) held a meeting to discuss the issue. At that time, MUI decided to go directly to the problem because it was feared that there would be an even bigger upheaval. (Al-Asyhar, 2003: 141).

These situations and conditions prompted MUI to intervene in pacifying the people by establishing the Institute for the Study of Food, Drugs and Cosmetics (LPPOM), which was established on January 6, 1989. The tasks assigned by MUI to LPPOM include: conducting investigations, classification and study of food, medicines and cosmetics circulating in society, assesses and compiles concepts related to regulations regarding the operation of restaurants, hotels, dishes on a cruise or flight of various types of materials for processing food, medicines and cosmetics which are used by the community, especially Muslims to be guaranteed halal.

The development of food processing technology, beverages, medicines, cosmetics, and other products as well as taking lessons from the case of lard, the case of instant noodles, the case of soap, the case of food flavoring, which is strongly suspected of containing haram elements for the Muslim community to be sensitive and very selective in choosing halal products so that people only consume and use products that are truly halal with a guaranteed halal mark that is recognized by the government because the majority of Indonesian consumers are Muslim. (Section of the Halal Product Facilities and Infrastructure Project, Directorate General of Islamic Community Guidance and Hajj Implementation, Ministry of Religion, 2003: 13)

Referring to the constitution of the Republic of Indonesia, Article 28E paragraph (1) and Article 29 paragraph (1) and paragraph (2) of the 1945 Constitution (UUD 1945) *mutatis mutandis*, the State guarantees the independence of each resident to embrace their respective religions. and to worship according to his religion and belief. Likewise, the Muslim population of Indonesia, they have the constitutional right to obtain legal protection for the halalness of products in accordance with their religious beliefs. Therefore, Muslims need to be given legal protection in the form of guarantees of the halalness of the food consumed and other products used. (Shofie, 2015: 31)

Consuming halal products according to religious (Islamic) beliefs and / or for the quality of life and life, is a citizen's right guaranteed by the 1945 Constitution, especially Law Number 8 of 1989 concerning Consumer Protection. (Tambunan, 2013: 16). Consuming halal is an obligation for every Muslim. (Apriyantono, 2013: 48)

On the basis of this constitutional approach, since 2005 the Halal Product Guarantee Bill (RUU JPH) has begun to be submitted as an initiative of the People's Representative Council (DPR) of the Republic of Indonesia. (Anonymous, <http://www.jpnn.com/read/2014/02/28/219189/Problem-Halal-Certification,-Golkar-Ask-MUI-Stay-Involved->, accessed February 2, 2021). The JPH Bill aims to provide legal certainty to the Indonesian Muslim community regarding the halal products circulating in Indonesia. The JPH Bill changes the provisions for halal product certification. If previously halal certificates were voluntary, then through this bill, business actors must have halal certificates. Business actors who violate this provision are proposed to be subject to criminal sanctions.

2. THE URGENCY OF HALAL PRODUCTS FOR MUSLIM CONSUMERS

Public awareness to consume food or drinks that are guaranteed to be halal is quite high. For this reason, the Indonesian government is obliged to protect the public from consuming halal food. The 1945 Constitution of the Republic of Indonesia (UUD 1945) provides constitutional foundations for all Indonesian citizens in living life, both worldly and ukhrowi. In carrying out human-human relations, everyone at the same time cannot escape from the influence of His God as found in the state's philosophical norm, Pancasila.

Strictly speaking, every citizen of the Republic of Indonesia is guaranteed constitutional rights by the 1945 Constitution such as human rights, the right to religion and worship, the right to legal protection and equal rights and position in law, as well as the right to obtain a decent life including the right to consume food and use products. others that can guarantee the quality of life and human life.

The need for halal food products is a necessity for Muslims because consuming halal is a basic right of every Muslim and the implication of the obligations of the Shari'a. The availability of food that is sufficient, safe, nutritious, varies according to people's purchasing power and does not conflict with religious, cultural or belief values is the right of citizens guaranteed by the 1945 Constitution (UUD 1945) and the Consumer Protection Law No. 8 of 1999. This is also a form of government effort in protecting the rights of citizens as stated in the fourth paragraph of the preamble to the 1945 Constitution, namely the Indonesian State protects the entire Indonesian nation and all Indonesian bloodshed. (Rohayati, www.digilib.uinsby.ac.id, accessed February 2, 2021).

Consumers' protection of halal food has been carried out by MUI, where in 1989 the LPPOM-MUI established (Bisri, 1995: 81,89, 242, 249) to coordinate development and supervision of processed food production as a follow-up to halal certification, INPRES was born. Number 23 of 1991 which was coordinated by the Coordinating Minister for People's Welfare together with MUI. (Siradjuddin, 2013: 103). It was only in 1992 through Law Number 23 of 1992 that the problem of halal food began to take place.

The provisions regarding consumer protection are actually contained in the fourth paragraph of the Preamble to the 1945 Constitution which states that the Indonesian State protects the entire Indonesian nation and all Indonesian bloodshed. Therefore, the birth of the Halal Product Guarantee Law, represents the responsibility of the State, especially for Muslims, to protect and provide a sense of

calm and safety in consuming / using products that are in accordance with Sharia, namely halal and thoyyib. (Juwaini, 2012: 30)

The Al-Quran suggests that in consuming not only halal asaja, but also thoyyib. This is provided by the words *halalan thayyiban* (Q.S 2: 168). Because not all halal food will become thoyyib for consumers. For example, a person with diabetes, is sick with high sugar levels in his body, but he still consumes sugar. This of course endangers the health of the consumer of sugar, even though the sugar is halal for consumption, it is not good / thoyyib for the consumer. (Adam, 2017: 151)

Basically, Muslim consumers have an interest in holding religious orders, namely obeying the obligation to always consume halal and thoyyib (good) products. These two standards are conditions stipulated in the Al-Quran and the hadith of the Prophet. The Word of Allah in QS. al-Maidah (5): 88:

This means: "And eat from what Allah has given you as a lawful and good sustenance, and fear Allah, whom you have faith in Him."

The above verse of the Koran emphasizes that obeying Allah's commands regarding halal and tayib consumption is a form of piety and faith in Allah. According to M. Quraish Shihab, in the Tafsir al-Mishbah Message, Impression, and Harmony of the Qur'an, "The word eating in this verse is meant as all human activity. The choice of the word eat, not only because it is a basic human need, but also because food supports human activities. Without eating, humans are weak and unable to carry out activities." (Shihab, 200: 173). Therefore, halal and tayib provisions are not limited to food alone, but include all human activities in the production, trade and consumption of products that are used daily.

In short, food consisting of plants, animals, including fish, is halal to consume and some is haram. In fact, food or food that is lawful to eat is food that is *halalaan*, *thayyiban* plus *mubaarakan* and does not consist of being unclean or mixed with impurity. To get food products as intended, at least there is a *halalaat khamsu* that must be considered. First, the substance is lawful. In terms of its halal substances, the food consumed by humans is divided into three types, namely vegetable, vegetable and processed types. (Qaradawi, 2003: 69-85). Second, lawful way to get it. Food that is halal in substance to be consumed, must also be obtained legally. Because even though the food is halal in substance, if the method of obtaining it is haram, then it is assumed that the food is also haram. For example, rice which the ulama considers halal to eat (the substance is halal), but if the rice is stolen, it means that the method of obtaining the rice is haram, then the law of consuming it is also haram. Third, lawful way to process it. As it is understood, animals that are lawful to eat cannot be eaten immediately, but must go through a process of slaughtering, skinning and so on. Fourth, halal in storage. All foodstuffs that are stored should be stored in a safe place, such as in a refrigerator, so that they do not rot and are not stored in places that can be mixed with unclean, such as palm wine, or other haram objects. In the production process, it is not mixed with or close to or attached to things or materials that are unclean such as unclean and so on. Fifth, halal in its presentation. In distributing and serving food, the presentation must be clean from unclean and dirt. Suppliers and suppliers or sales people must be healthy and dressed clean and holy. Equipment for packaging or wrapping or the like must be hygienic, sterile, clean, holy and lawful. Utensils or dishes such as plates, bowls and so on must be holy, clean and lawful. (Murjani, 2015: 206)

According to Mashudi, the Government has responded positively to the importance of certification and inclusion of halal signs or writing on products (halal labeling) through several regulations. (Mashudi, 2015: 5). However, this regulation still seems sectoral and partial. In fact, food as a basic human need whose fulfillment is the basic right of every Indonesian people must always be available sufficiently at all times, safe, quality, nutritious, and varied at prices that are affordable to the purchasing power of the people (Ministry of Religion of the Republic of Indonesia, 2008: 310). law and legal certainty guarantee for halal consumption, especially Muslims who must be protected and given the right to practice worship in accordance with the mandate of the 1945 Constitution, especially Articles 28 and 29. (Hazairin, 1990: 33-35).

The interest of Muslim consumers is urgent because there is an appeal from the Indonesian Ulema Council (MUI) for Muslims to be aware of food, beverages, and the use of cosmetics imported from abroad because many of them contain ingredients from lard. (Hosen, 2007: 2). In addition, MUI also identifies that currently there is a growing food and culinary tourism industry, which is sometimes unclear about raw materials, auxiliary materials, additives, and processing. According to MUI, food products, medicines, and cosmetics that are not legally clear must be avoided until they are clear. Every

food, beverage, drug and cosmetic product which is produced through a legal technological process is subhat. (MUI, 2011: 916-917)

With the issuance of Law no. 18 of 2012 concerning Food, Law Number 8 of 1999 concerning Consumer Protection, then followed by the regulations below, namely Government Regulation Number 69 of 1999 concerning Food Label and Advertising, Decree of the Minister of Religion Number 518 of 2001 concerning Guidelines and Procedures for Examination and Stipulation Halal food, then halal food, beverages, medicines, cosmetics and other products that were originally only regulated in the jurisprudence are now regulated in laws and government regulations which are a new paradigm in regulating halal products. (Section of the Halal Product Facilities and Infrastructure Project, Directorate General of Islamic Community Guidance and Hajj Implementation, Ministry of Religion, 2003: i-ii). However, until now, halal certification is still being managed based on the interests of business people. The Director of LPPOM-MUI, Lukmanul Hakim, admitted that in general there are still many producers who are still not aware of the importance of halal certificates. (Judge, 2011: 9). In fact, many still consider halal certification as a burdensome process for producers. Furthermore, Lukmanul Hakim said that in the future halal certificates will increasingly become a necessity for producers and consumers so that more producers will apply for halal certificates. Products that have a halal certificate have quite high selling points because currently halal products are a trend in the world of trade.

3. LAW NUMBER 33 OF 2014 CONCERNING GUARANTEE OF HALAL PRODUCTS AS AN EFFORT TO PROTECT MUSLIM CONSUMERS

Indonesia is an Islamic country with the largest Muslim population in the world, around 86% of Indonesia's population is Muslim, so the law of origin of food in Indonesia is halal. The issue of halal products has been a polemic in Indonesia, including: (1) In 1970 the case of machine slaughtering animals in Jakarta, (2) 1980 cases of the legality of rabbit meat, (3) 1982 cases of legality of consuming frog meat, (4) cases of products not halal in 1988 which had caused turmoil. The issue of lard that occurred at that time was the result of Trisusanto's research with students which resulted in several processed products containing lard and (5) In 1993 the MUI deliberation on alcohol was held. (Mudzhar, 1993)

Standards for food, medicine, and cosmetics products that are needed by Muslim consumers are those that meet the provisions of Islamic teachings, namely halal and tayib. Due to the very modern production technology and the enactment of the free market era, it is not easy for every Muslim consumer to ensure the halalness of every product that is consumed easily and quickly. There is a need for a third party as a certification body that controls business actors to comply with the provisions of the halal standard at every stage of production activities. Furthermore, Muslim consumers can easily obtain information on the halalness of a product that they will consume by looking at the halal label on each product package. Standardization, certification and labeling of halal and tayib products are intended to prevent Muslim consumers from products that are non-halal (haram) and non-thayib (not good).

In an Islamic perspective, the obligation to consume halal and tayib products binds every individual who is Muslim to carry it out. Its implementation is divided into two perspectives, namely that as mahdlah worship, it is without state interference except providing facilities, whereas in the context of muamalah which is civil or public it involves state power. (Azhari, 1999: 121). Muslim societies are not free without control in utilizing all natural resources, consuming them or producing something to fulfill their needs. They are bound by the provisions of the creed and religious ethics, as well as Islamic laws in general. To make this happen in real life, the role of government is very much needed. (Masyhuri, 2005: 45-46). Yusuf al Qardhawi emphasized that the Government has an important role in implementing norms and ethics in the field of muamalah. The government has the authority to issue regulations and impose sanctions on those who break them. (Masyhuri, 2005: 45-46).

Law No. 33 of 2014 concerning Halal Product Guarantee is a legal basis or source of law applicable in the legal state of the Republic of Indonesia as written law. Assessed from Law No. 33 of 2014 concerning Halal Product Guarantee, the term "halal" itself explains that the provisions of Law no. 33 of 2014 is legal protection for Muslims with regard to using and / or consuming various products, both food, beverages, medicines and others in a halal manner. For this reason, the Jimly Asshiddiqie category is a statutory regulation that is specific in nature, because of the specificity of its material binding capacity, which only applies internally to be the place of Law No. 33 of 2014 categorically. (Triyanto, 2017: 149).

According to the substance of Law no. 33 of 2014 concerning Halal Product Guarantee, is the answer to the situation and condition so far that in reality, not all of the products circulating in the

community are guaranteed to be halal, so that legal guarantees for the Muslim community do not get their place and attention. On this basis, the presence of Law no. 33 of 2014 concerning Halal Product Guarantee, is intended to provide assurance that legal protection for Muslim consumers has been regulated and determined as an obligation, as in Article 4, states that "products that enter, circulate and are traded in the territory of Indonesia must be certified halal."

To support that Law no. 33 of 2014 is specifically designated to protect Muslims, apart from the term "halal" it is also proven in the provisions of Article 1 point 1 which states that "halal products are products that have been declared halal in accordance with Islamic sharia."

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After the enactment of Law No. 33 of 2014 concerning Halal Product Guarantee, there is a new institution that functions similarly to LPPOM MUI called the Halal Product Guarantee Agency, abbreviated as BPJPM, which according to Article 1 point 6, is formulated that "Halal Product Guarantee Agency, hereinafter abbreviated as BPJPH, is an agency that established by the Government to provide guarantees for halal products." In accordance with this formula, BPJPH is an agency established by the Government to administer halal product guarantees." In accordance with this formula, BPJPH is a new institution formed by the government so that it is different from the existing institution, namely LPPOM MUI which is a form of MUI. Thus, institutionally there is more than one institution with the same authority.

Law No. 33 of 2014 concerning Halal Product Guarantee instructs the Government to compile 7 government regulations and 13 ministerial regulations. There is still the possibility of arranging the implementation of halal and Thai product guarantees to improve the protection of consumers and business actors in Indonesia. This is a manifestation of the open system of consumer protection law in Indonesia which provides opportunities for the birth of new laws and regulations which substantially increase the protection of consumers and business actors.

According to Article 6 of Law no. 33/2014, states that in implementing Halal Product Guarantee, BPJPH has the authority to:

- a. Formulating and stipulating JPH policies;
- b. Establishing JPH norms, standards, procedures and criteria;
- c. Issue and revoke halal certification and halal labels on products;
- d. Registering halal certificates for foreign products;
- e. Conducting socialization, education and publication of halal products;
- f. Accrediting the halal inspection agency (LPH);
- g. Registering halal auditors;
- h. Supervise halal product guarantees;
- i. Performing halal auditors coaching; and
- j. Cooperating with domestic and foreign institutions in the field of implementing halal product guarantees.

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The law of halal and thayib products which is derived from the provisions of Islamic law has become positive law. This is in line with Abdul Ghafur Anshori's opinion, which explains that if the regulations are determined by an authorized agency, in this case the government is legitimate and determined according to applicable criteria, then these regulations are legal or legal and have juridical power (validity). (Anshori, 2006: 40)

The Halal Product Guarantee Law, ideally, intends to integrate the concepts of halal products to be consumed or used by Muslim consumers according to Islamic law, into material law and formal law in the law as a sub-national legal system. The halal aspect of a comprehensive product includes the raw materials used in product processing, product processing and product marketing. Raw materials and products according to this law adopt a broader approach, which includes food, beverages, medicines, cosmetics, biological chemical products and genetic engineering. Products produced by halal products are subject to the provisions of the entire series of production which include equipment, production space, storage, distribution and presentation that are halal according to sharia. The halal production process includes the halal production process with animal raw materials, vegetable raw materials, and biological chemical or genetic engineering processes. (Adam, 2017: 160)

The provisions regarding consumer protection have actually been stated in the preamble of paragraph IV of the 1945 Constitution which states that the Republic of Indonesia protects the entire Indonesian nation and spills Indonesian blood. So it is clear, as an Indonesian, consumers deserve legal protection. The birth of consumer organizations in Indonesia was motivated by many problems that were concerning and detrimental to consumers, while the position of consumers was very weak.

The rationale for the need for a formulation in guaranteeing the protection and legal certainty of halal food, among others: first, a philosophical basis. For Muslims, consuming food and other products is not just to meet physical needs but there are other, more important goals, namely worship and proof of obedience to Allah SWT. by upholding Islamic teachings through the disclosure of *maqâshid al-syarî'ah*. The Koran and Hadith as the source of Muslim law have clearly and clearly stipulated that there are food and other products that are lawful for consumption or use, and vice versa, there are food and other products that are forbidden to consume or use, as well as food and other products that are processed by genetically modified products. raises doubts about its lawfulness. Second, the sociological basis. The position of the Indonesian Muslim community is that they are the largest consumers of food and other products. They have constitutional rights to obtain legal protection for food and other products in accordance with their religious beliefs. Therefore, they need to be given legal protection in the form of guarantees of the halalness of the food they consume and other products used. (Burlian, 2014: 50)

This situation demands legal certainty and halal guarantee for consumers, especially the Muslim community, as the largest consumers of food and other products. The social position of the Islamic community is one of the reasons why it is necessary to regulate and organize halal product guarantees in a law.

4. CONCLUSION

The enactment of Law No. 33 of 2014, causing the institution that has the authority to issue halal certification, namely MUI, will shift to an institution called the Halal Product Guarantee Agency (BPJPH), although the function and role of MUI is still recognized because it is a BPJPH partner. Halal certification is an acknowledgment of the halalness of a product issued by BPJPH based on a written halal fatwa issued by MUI which provides legal force, guarantees of legal protection in legal relations between business actors and Muslims as consumers of a product marked with halal labeling. Government protection efforts in food matters need to be supported by juridical instruments in the form of legislation. At the technical level, the halal certification process must include parties deemed competent in this matter, namely the Indonesian Ulema Council and the Ministry of Health.

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