



The Effectiveness of Implementing Criminal Sanctions on the Law Number 33 Years 2014 About Guarantee Product Halal

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Abstract

This research focuses on the Halal Product Guarantee Act (JPH) which contains and regulates several new methods of process certification as well as penalty criminal. Becomes focus discussion. This research explains about product halal assurance both in the implementation of the certification process before and after promulgation, and learn application of articles criminal which contained in it. This study examines how public awareness in consume culinary halal on object tour Berastagi. Study this aim for analyze implementation certification halal and also knowing view sharia Islam about application penalty consequence violation occurs in terms of Constitution. A doer effort or producer which has get certificate halal from BPJPH, so perpetrator effort has not quite enough answer for guard halal its products. If at any time it is proven that the formula changes or is inconsistent in its application ingredients so that it changes the halal status of the product. So, business actors will be subject to sanctions, as stated in Article 56 of Law No. Law Number 33 of 2014 concerning Halal Product Guarantee which states that perpetrators of effort which no guard halal product which has get certificate halal as referred to in Article 25 letter b shall be sentenced to a maximum imprisonment of 5 (five) year or a maximum fine many Rp. 2,000,000,000, 00 (Two Billion Rupiah).

Keywords: *Penalty Criminal; Guarantee Product Halal*

Introduction

Humans as living beings have basic needs in the form of food and drink for their survival, but food (*Ar-ta'am*) and drink (*As-syarbun*) is an important issue and must be considered. Islam has regulated the food ingredients that can be eaten and those that are not cannot be eaten, in this separation it is identical to the use of halal and forbidden. In other words, halal is anything that is free from things which forbidden for the people Islam. (Zalina, 2015)

Halal food is a type of food that does not contain haram items or elements which according to Islamic law are prohibited from managing or processing them, because the food in the human body reflects his actions. Islam recommends for its people to look for halal food as which mentioned in hadith Prophet which taken care of by HR ath-Tabarani which reads:

It means: "Seeking lawful (wealth) is obligatory for every Muslim."

Say halal originated from language Arab which means "release" and "no" related." by etymology things which character can and could conducted because free or no bound with provision which forbid it. Halal problem and forbidden for people Islam very important and have meaning which big, because received something practice by God SWT very depend on what halal which consumed. Activity people Islam from time to time always growing, along with the development of these activities, various kinds of case or problem new which appear in circles people Islam which must resolved in Islam. Consciously or not, the law must continue to adapt and updated keep up with the times.

In the era of the nation state as it is today, regulations and protection systems an agency dealing with this issue is a must. On some country majority Muslim like Indonesia, Arab Saudi, and Malaysia, each country has institution special which have authority for accommodate needs people Islam, especially on problems halal something product or goods which consumed with legality and confession in the form of certificate and also halal label.

Constitution Base Country Republic Indonesia Year 1945 mandates the state to guarantee the independence of every citizen to hug religion each and worship as well as operate teachings religion and trust. So, country obliged give protection and guarantee to halal continuity process production halal guaranteed by producer with how to apply the Halal Assurance System (SJH) on products that are consumed and used by appropriate society with religious teachings Islam.

In Islam, a Muslim is required to consume something halal, be it food or drink. This can be seen in QS Al-Baqarah: 168, 172-173, QS Al-Maidah: 1-5, QS Al-An'am: 121, and a number of other verses. Starting from the recommendation of the scholars of *ijtimā'* fatwa. commission throughout Indonesia in 2003, followed by studies, seminars, massive outreach by NGO, until formation DPR Panja for planning and formulation law JPH.

Judging from the number of verses which contains the rule, then urgency the obligation to consume halal products and the application of the law has been regulated in Law No. 34 of 2014 concerning the next Halal Product Guarantee abbreviated (UU JPH) by President and DPR is struggle which very commendable length. Unfortunately, the situation on the ground is not supportive. Determining halal products is not an easy thing. The JPH Law has a purpose certain services provide comfort, security, safety, and certainty in availability of halal products for the public in consuming a product as well as increasing added value for business actors producing and selling halal products.

Change main which published in in law JPH is change Halal certificate which from voluntary to mandatory for food, drink, medicines, and cosmetics. According to the JPH Law Number 33 of 2014 after the Law on JPH applies only there is 2 (two) types of products circulating in Indonesia, namely halal products and non-halal products. For non-halal products party industry must write on the label writing production no lawful.

Writing halal on something product could use after get Halal certificate first, the certificate is issued by the Ulema Council Indonesia (MUI) for food, beverage, cosmetic and drug entrepreneurs who have first checked the origin of the raw materials, their sources and results. finally. Could interpreted as something free from danger worldly and harm physically and mentally, broadly can be interpreted as food which not healthy. The regulation of the use of halal products in Indonesia has two important things: closely related, namely certification and labeling. Halal certification is a written fatwa MUI which state something product in accordance with shari'ah Islam through detailed examination by the Institute for the Assessment of Food and Drugs and food (LPPOM MUI).²

Halal certification is one of the requirements for the inclusion of a halal label on packaging product from agency government which authorized (Body POM). Information product very in need by consumer so that could determine choice before buying an item/consuming the product, without any clear information does not rule out the possibility for producers to clumsily.

From the description described above, it shows that halal and protection the law Becomes part most important from something country for guarantee the rights of citizens in religion and maintain excellence industry and trade. Admittedly it is one indication of economic growth something country very depend on trading, which on finally also determined by the superior quality he has. Meanwhile, the advantages quality very depend on ability technology, wrong the only one in field covers halal and process organizing and implementation. So, certification and labeling halal is wrong one part strategic in activity economy a country.

Halal Certification Process in Law No. 34 of 2014 About Halal Product Guarantee

In Indonesia, the authoritative institution implementing Halal Certification prior to the enactment of the JPH Law which was carried out *voluntarily* was the Indonesian Ulema Council (MUI) which was technically handled by the Institute for the Study of Food, Drugs, and Cosmetics (LPPOM). Halal product certification is a series of processes that must be passed by business actors, both individuals and business entities in the form of legal entities or non-legal entities to obtain halal certificates. Halal certificates are obtained through several stages of inspection to prove that the raw materials, production processes, and product halal assurance system in a company are in accordance with the standards set by LPPOM MUI.

Certification is carried out by carrying out a series of examinations carried out by competent auditors in their fields to determine the halal status. If the halal conditions are met, the producer can get a halal certificate for their product. This halal certificate is then used by producers as a condition to be able to include the halal label and halal registration number on the product packaging. This halal label is usually used by business actors in order to fulfill their obligations to provide information to consumers about the halalness of their products. Companies that wish to obtain LPPOM MU's halal certificates, both processing industries (food, medicine, cosmetic), slaughterhouses (RPH), and restaurants/catering/kitchens, must register/certify halal and meet the requirements for halal certificates. The following are the stages that companies that will register for the halal certificate process go through:

1. Halal Certificate Requirements and Follow HAS Training

Companies must understand the requirements for halal certificates as stated in HAS 23000. In addition, companies must also participate in HAS training held by LPPOM MU, both in the form of regular training and online training (*e-trang*).

2. Implementing the Halal Guarantee System (HAS)

Companies must implement HAS before registering for halal certificates, including the determination of halal policy, determination of the Halal Management Team, preparation of the HAS Manual, implementation of training, preparation of procedures related to HAS, implementation of internal audit and management review.

3. Written Procedure for Kritis. Activities

Companies must have written procedures regarding the implementation of critical activities, namely activities in the production chain that can affect the halal status of the product. Critical activities may include selection of new materials, purchasing of materials, inspection of incoming materials, product formulations, production, washing of production facilities and auxiliary equipment, storage and handling of materials and products, transportation, display, visitor *rules*, menu determination, shopping, adapted to the company's business processes (processing industry, abattoir, restaurant/catering/kitchen). Written procedures for critical activities can be made integrated with other system procedures.

4. Ingredient

Materials used in the manufacture of certified products cannot come from haram or unclean materials. The company must have supporting documents for all materials used, except for non-critical materials or materials that are bought in retail.

5. Product

The characteristic/profile sensor of the product may not have a tendency to smell or taste that leads to products that are haram or that have been declared haram based on MU's fatwa. The brand/product name that is registered for cash registration may not use a name that refers to something that is forbidden or is a 'worship that is not in accordance with Islamic law. Retail food products (retail) with the same brand circulating in Indonesia must be fully registered for certificates.

6. Production Facilities

1) Processing industry:

- a. Production facilities must ensure that there is no contamination of hoses with materials/products that are unclean/unclean;
- b. Production facilities can be used interchangeably to produce certified products and non-cash certified products as long as they do not contain ingredients from chapters/derives, but there must be a procedure that ensures that no nasolabial contamination occurs.
- c. Restaurant/Caterng/Kitchen:
 - The kitchen is only dedicated to halal production;
 - Serving facilities and equipment are only devoted to serving halal products.

2) Slaughterhouse (RPH):

- a. RPH facilities are only devoted to the production of halal animal meat;
- b. The location of the abattoir must be significantly separated from the abattoir/animal husbandry chapter;
- c. If the deboning process is carried out outside the abattoir, it must be ensured that the carcasses only come from halal abattoirs;
- d. Slaughterer must meet the requirements.

7. Written Procedure for Kritis. Activities

Companies must have written procedures regarding the implementation of critical activities, namely activities in the production chain that can affect the halal status of the product.

8. Traceability (*Traceability*)

Companies must have written procedures to guarantee the traceability of cash-certified products originating from materials that meet the criteria (approved by LPPOM MU) and are produced in production facilities that meet the criteria of CHAPTER (free from derivatives).

9. Handling of Products that Do not Meeti Krteria

Companies must have written procedures for handling products that do not meet the criteria, that is, they are not sold to consumers who require halal products and if they have already been sold, they must be withdrawn.

10. Audit Internal

The company must have written procedures for internal audit for the implementation of HAS. The internal audit is carried out at least every six months and is carried out by a competent and independent internal halal auditor. The results of the internal audit are submitted to LPPOM MU in the form of periodic reports every 6 (six) months.

11. Management Review

Top Management or its representatives must conduct a management review at least once a

year, with the aim of reviewing the effectiveness of HAS implementation and formulating sustainable improvements. Policies and procedures must be complied with by companies applying for halal certificates.

A. Halal Certificate Requirements: Policies and Procedures

An explanation of the SJH criteria can be found in the HAS 23000 document. In general, the Halal Certificate Procedure via LPPOM MUI protocol is as follows:

- a. Companies that apply for certificates, both new registrations, development (products/facilities) and extensions, can register online through the LPPOM MU website (www.halalmui.org) or directly on the website: www.e-lppommui.org.
- b. Mengisi registration data form: status certificate/cashi (new/development/extension), data on halal certificates, HAS status (if any) and product groups.
- c. Pay the registration fee and the cost of the halal certificate via the LPPOM MU Treasurer by e-mail: Bendaharalppom@halalmui.org

The components of halal certificate and cash contract costs include:

- a) Honor audit;
- b) Halal certificate fee;
- c) Cost of implementation of HAS implementation;
- d) Publication fees for Halal Journal magazine.
- d. Checking the documents required in the registration process according to the registration status (new/development/renewal) and business processes (processing industries, RPH, restaurants, and service industries), including: HAS Manual, production process flow diagrams, factory data, product data, material data and documents of materials used, as well as product matrix data.
- e. After completing the required documents, the next step is in accordance with the halal certificate process flow chart as above, namely checking the adequacy of documents.
- f. Issuance of Halal Certificate, BPJPH will issue a halal certificate after business actors carry out a series of processes, registration, inspection and audit by the authorities and are declared eligible to be given a halal certificate.

Procedure for obtaining Halal certification through BPJPH (www.halal.go.id) The thing that needs to be prepared when taking care of halal certification is complete requirements. There are a number of conditions that need to be met in order for the submission process to be smoother and faster, namely:

• Business Actor Data

Business actors who produce a product must be clear. This can be proven through documents in the form of a Business Identification Number or other business licenses owned.

• Product Name and Type

The name and type of product that will be submitted for halal certification must match the name and type of product recorded.

• Product Data and Materials Used

In order for a product to be declared halal, the products and materials used must also be guaranteed to be halal. This is evidenced by a halal certificate. However, materials that come from nature and do not go through a processing process do not need to use a halal certificate. These ingredients are included in the category of no risk of containing haram ingredients.

• Product Processing

Processing of products can also be one of the gaps in which a product is not halal. Therefore, in the documents submitted to BPJPH to apply for halal certification, it is necessary to include information such as how to purchase, receive, store, process, pack, and store finished products.

• Halal Product Assurance System

The halal product guarantee system is the authority of the Head of BPJPH. In addition to completing documents, to get halal certification, you certainly need to go through a number of important stages. One of them is passing the examination test conducted by halal auditors. As is known, the halal auditor who is part of the LPH will send the test results as well as their recommendations to BPJPH.

Not just anyone can become a halal auditor. Halal auditors must go through a training and certification process before being placed in LPH and work to assist BPJPH and MUI. There are a number of conditions that must be met by the auditor in order to pass. This strict procedure makes the halal certification process on products more secure.

procedure for taking care of halal certification at BPJPH can be divided into several steps, namely:

1) Application

The first thing that business actors need to do when they are going to apply for halal certification is to submit an application to BPJPH. On this occasion, business actors must come with a number of required documents as mentioned above. Instead, you need to make sure the documents are valid and correct so that the submission process does not drag on. If it's not complete, you'll have to look at it again and this will take a long time. Installing halal labels on product packaging will be even more delayed.

2) Inspection

After BPJPH receives the documents in question, the next stage is inspection. The length of time required is usually no more than 10 days. This means that before 10 working days you will receive news regarding the continuation of the application for halal certification. If there are incomplete documents, BPJPH will give business actors 5 days to add them back. After this period, the application will be completely rejected by BPJPH.

3) Determination

Furthermore, BPJPH will provide information to business actors regarding the results of document checking. Business actors are also asked to choose the LPH that will conduct the audit. You can choose the Institute for the Study of Food, Drugs, Cosmetics, the Indonesian Ulema Council (LPPOM MUI) or another official LPH. This process takes a maximum of 5 days.

4) Test

This LPH will carry out inspection and testing of the product, starting from the materials used to the product manufacturing process. The halal auditor representing LPH will go directly to the company to see and assess the halalness of the product. The time required to carry out this process is about 40 working days or 60 working days if it has not been completed. Currently, MUI and BPJPH are encouraging the establishment of LPHs in the regions so that the testing process can take place more quickly. However, LPH must be supported by the availability of auditors who hold halal certification according to applicable regulations.

5) Checking

The results of the tests carried out by the halal auditor on the company's products will then be submitted to BPJPH. This institution then checks the completeness of the report, including the products

and materials used, the results of the analysis, as well as the inspection report. In addition, halal auditors must also include their recommendations on the results of the examination.

6) Fatwa

After BPJPH considers that the halal auditor through LPH has completed all the required documents, this document is submitted to the MUI. The task of MUI is to hold a halal fatwa session with experts, government elements, and related institutions. MUI also has the right to request additional documents if there are still doubts during the implementation of the halal fatwa trial. This period lasts for 30 working days until a decision is finally made regarding the halalness of the product. To complete the documents, there are about 10 days for business actors.

7) Publishing

Finally, BPJPH will issue halal certification based on a decision from the MUI halal fatwa session. This process takes about 7 working days. There are two possibilities that occur, namely halal or not. Whatever the result, you will receive full notification from BPJPH. If you haven't managed to get it after submitting, you can also take care of halal certification return from the beginning after making improvements to the product, besides that, business actors need to know the form of the change in the halal certificate issued by BPJPH and the halal stipulation issued by the MUI.

B. Penalty Law for Offender Law Guarantee Product Halal

Detailed and detailed arrangements regarding halal products are contained in Law Number 33 of 2014 concerning Guaranteed Halal Products (UU JPH). In the law, what is called a halal product guarantee (JPH) is legal certainty about the halalness of a product as evidenced by a halal certificate. As for what is meant by halal products and certificates, namely:

- a. Products are goods and/or services related to food, beverages, drugs, cosmetics, chemical products, biological products, genetically engineered products, as well as goods used, used, or utilized by the public.
- b. Halal certificate is an acknowledgment of the halalness of a product issued by the Halal Product Assurance Administration ("BPJPH") based on a written halal fatwa issued by the Indonesian Ulema Council (MUI). Products traded in the territory of Indonesia must be certified halal, as regulated in Article 4 of the JPH Law which reads: "*Products that enter, circulate, and are traded in the territory of Indonesia must be certified halal.*" However, this obligation is excluded for products containing ingredients that are not halal or forbidden.

Conclusion

Consumption of halal products is a must for every Muslim. In Indonesia, guaranteeing the halalness of a product is a state obligation to its people, especially those who are Muslim. The Indonesian Ulema Council (MUI) is one of the institutions that has the right to issue halal certificates for food products, beverages, medicines, cosmetics, and so on spread across Indonesia. Through Law Number 33 of 2014, the guarantee of halal products from food ingredients providers and sanctions for violators have become the main legal umbrella for halal products in Indonesia. Through this law, procedures have been regulated so that every person or institution engaged in this field can obtain a halal certificate. As a result, almost all products in Indonesia must obtain a halal certificate issued by the agency, so that the safety and cleanliness of these products can be guaranteed and enjoyed safely by the Muslim community in Indonesia.

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