

Effectiveness of the Implementation of Halal Product Guarantee Act to Provide Consumer Protection

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Abstract-This study aims to determine whether or not the regulation of halal product collateral is effective and to describe what requirements are required by law for effective regulation of halal product guarantees. To answer the problem of this study used a normative method with a conceptual approach. The findings of the study and review were first received, the Halal Product Guarantee Law has not been successful to date, and there are still many challenges that BPJPH faces in achieving the Act 's objectives. The drawback is, the incomplete institutions involved in issuing Halal certificates and incomplete legislation as UUJPH is enforced. Second, by implanting new elements in the form of halal certified obligations, the prerequisites provided by law for institutionalizing halal product guarantees. The transmission of information obtained by business entities in the form of rules relating to halal obligations must be subject to strict restrictions in order to be successful. If there is still a large element of opposition from the business actors, then the institutionalization of halal product guarantees will be ineffectual.

Keywords- Effectiveness, Halal Products, Consumer Protection.

I. INTRODUCTION

Food, clothes, and shelter are basic human needs. To meet these basic needs, the State must have sufficient assurances to be fulfilled. In the Constitution of 1945, which is the constitution of the state, the fulfillment of these needs was guaranteed and the state got protection. Food which is a basic necessity may be in the form of fruit, beverages or other manufactured materials produced as a result of developments in technology.[1] Numerous foods, beverages, medications, and cosmetics are on the market today. Consumers still don't know if the drug that they are using is halal or haram. Halal signs are often misused by business actors to attract consumers' interest in purchasing a product, even though the product has never been examined by a halal inspection agency and does not yet have a halal certificate so that consumers feel disadvantaged because illicit goods are given halal marks.[2]

In order for citizens and purchase and use goods that circulate to the community and avoid non-halal products, the state must provide the halal goods with a guarantee.

During this time the information that consumers receive in order to get a image of the goods they buy is secure, found in advertising, labeling and other information that reflects product information. Lack of halal knowledge, and whether or not a product causes consumers to question halal products.[3]

Halal food is easily recognizable via the raw materials used in the past period. But it is not easy to decide halal food alongside the advancement of science and technology in the food field. Currently developing techniques for food production, storage technology, packaging technology, food genetic engineering and the use of chemicals in food products. There are also numerous packaged food items on the market, from both small and medium-sized enterprises as well as imported food. Such manufactured goods often use additives in the manufacturing process, auxiliaries from pig elements for economic reasons. The mixing of halal products with illicit goods renders the product illegal. The government therefore appoints an authorized institution to conduct halal certification in order to provide consumers with guarantees of safety, holiness and peace of mind.[4]

Furthermore, consumers also have the right to receive true, clear and honest information about the conditions and guarantees of goods and/or services. This provides an idea that the company's halal information has to be accurate, or has been first checked. Thus, the business actor can not claim immediately that his product is halal before going through the halal payment determined. MUI was the approved institution to issue Halal certificates prior to the enactment of UUJPH.[5]

However, despite the implementation of JPH Law No. 33 of 2014, BPJPH under the Ministry of Religion exercised the authority to issue halal certificates. The issuance of the JPH Law has legal implications, firstly, there is an requirement for business actors to distribute and sell their goods in Indonesia, both domestic and international business actors. Second, institutions which have the authority to issue halal certificates when the UUJPH move from MUI to BPJPH is enacted. Thirdly, MUI still has a role to play in issuing halal certificates, but now the function is no longer to issue halal certificates but to provide halal fatwas previously examined by the Halal Examining Institution (LPH).[6]

BPJPH cooperates with MUI and halal inspection institutions (LPH) in the exercise of authority as controlled at UUJPH. BPJPH must have been established no later than 3 years after UUJPH was enacted. Whereas

UUJPH's implementing regulations must have been laid down no later than 2 years after promulgation. It has been more than five years since the enactment of the latest PP No. 31 of 2019 on the application of the Halal Food Guarantee Act. While there are still some other implementing regulations for UUJPH which have not yet been issued, such as PP concerning certain products which will gradually be phased in with halal-certified obligations.[7]

There are less than optimal conditions between the regulations that have been implemented namely UUJPH with the intention of providing security to Muslim consumers on the one hand, but on the other hand there are so many hurdles both in terms of the implementing regulations and those who will be directly involved in the issuance of halal certificates themselves are lacking in line. Therefore, critical work is carried out to find out the feasibility of UUJPH implementation and to identify the conditions imposed by law in order for UUJPH to become successful. The problem with this study is how efficiently the Halal Product Guarantee Act is applied and what preconditions are required by law to understand the efficacy of the Halal Product Guarantee Act.[8]

II. RESERCH METHOD

The measures are as follows, to solve the research problem. First, work is conducted into literature to find hypotheses to address the issue. Second, Anthony Allot 's theory of legal efficiency was chosen to address the first question.[9] Third, the two writers chose Steven Vago's legal theory of institutionalization to include a prescription on effective law to address the issue. Fourthly, deduction syllogism is used where Steven Vago and Camblis and Seidman 's theory of legal effectiveness and the theory of legal institutionalization are put as main assumptions, while the lesser premise is the application of UUJPH.[10]

III. FINDINGS AND DISCUSSION

1. *Effectiveness of the Halal Product Guarantee Act*

The law's usefulness according to Anthony Allot is how the law can achieve its goals or, in other words, how the law can accomplish its goals. However, it is difficult to assess or measure the effectiveness of the law because firstly, the purpose of the law is sometimes not clearly stated by the formation of the law, because the law develops according to the development of society. Second, people have unwritten laws and the law is not enacted under state law. It can be seen from the objective of enacting UUJPH or not, to measure the effectiveness or failure of the Halal Product Guarantee Act. [11]

The aim of UUJPH as stated in Article 3 is to provide the public with comfort, health, protection and certainty of the availability of Halal Products in the consumption and use of Products; and to increase the added value for the production and sale of Halal Products by the business actors. Halal product warranties should be carried out in accordance with the principles of protection, fairness,

accountability and transparency, effectiveness and efficiency and professionalism. The goal of enacting UUJPH in this case can be clearly captured.[12]

The law is said to be effective when the law is having a positive effect. To determine whether or not a rule of law is successful, by analyzing the various factors that influence it. Among the factors influencing the efficacy of a legal norm is whether a individual obeys the rule of law. When most people follow the law then it's said that the law is successful. By comparison, if most people violate these legal requirements then the rule is considered to be ineffective.[13]

In Article 4 of the UUJPH it is specified that goods entering, circulating and trading in the territory of Indonesia must be halal-certified to guarantee the security of halal products. The sentence editorial shows that all products which circulate in the community, whether food, drink, medicine, cosmetics, etc., must be halal-certified. This brings legal implications because if there is a business entity who is selling the commodity in Indonesia and is not certified halal, then legal penalties must be enforced. In addition , the government must be ready with this obligation to issue legal instruments relating to the issuance of halal certificates. The government must also establish institutions related to the issuance of halal certificates, in addition to the legal instruments.[14]

Halal certification requirement as provided for in Article 4 UUJPH is not followed by stringent state penalties for business entities who do not register their goods. In UUJPH, Article 56, what is regulated is the provision of sanctions for business actors who are already halal-certified but not halal-producing. Which demonstrates which UUJPH has a significant weakness as a legal structure. According to William M. Evan, many conditions are required for the law to be effective in bringing about progress, the sixth prerequisite being positive and negative penalties in its enforcement. Since halal-certified obligations are not enforced by legal sanctions, this has the effect that business actors are not bound by such obligations in such a way that the objective of social change sought by UUJPH is not achieved, even though it takes some time for the business actor to be self-aware.[15]

A halal product guarantee scheme from the company is required to guarantee the halal product. Companies who have issued halal certificates would have to hold the certificates before they expire. So it has to be extended after that runs out. This halal guarantee scheme reflects an attempt to ensure customer loyalty. Companies that have received Halal certificates are not permitted to illegally produce.[16] UUJPH becomes ineffective because there are no strict sanctions accompanying halal certified obligations. Whereas we need a strong and convincing approval to achieve the aim of legal effectiveness. Strict punishments are levied on someone who violates legal rules, and people follow them. Yet enforcement of breaches of legal standards often relies on law enforcement officers. Hence UUJPH has been unsuccessful in terms of legal sustainability.[17]

There are still many obstacles faced in implementing UUJPH. First, the legal instruments in the form of government regulations, ministerial regulations and other technical regulations that should have been issued and promulgated have not yet been established. Institutions involved in issuing halal certificates in every district / city are also not yet completely operational. Like Halal Examination Institutions that can be formed by both the government and the community, there are still very few institutions that previously belonged to the MUI, namely LPPOM MUI. Failure to support law enforcement instruments, such as implementing regulations, makes law enforcement institutions ineffective.[18]

Hence UUJPH can not be successfully enforced. If the intention of the law is understood the law will be successful. In this case one of UUJPH 's goals is to give Muslim consumers protection over non-halal goods. The goal has not yet been realized, however. There are many factors driving this. The legal frameworks under it and the institutions relating to the issuance of halal certificates are among the factors that have affected the realization of UUJPH 's objectives. Halal certification requirements are not currently feasible because the existing legal instruments and institutions are not ready, other than that the institutions or entities concerned with issuing halal certificates are also not completely functional. Though this is the only central-level BPJPH and the current MUI in every district / city. Although the LPH has not yet been established, there are no Halal Auditors, as well as BPJPH at district or city level.[11]

2. Legally Approved Prerequisites for Understanding the Efficacy of UUJPH 'S Implementation.

UUJPH aims to provide comfort , safety, security and certainty in the availability of Halal Products to the public in the consumption and use of Products, and to increase added value for the production and sale of Halal Products by business actors. To attain these goals, preconditions were needed which are requirements that must be fulfilled in order to achieve that goal. Such prerequisites apply to law as a way of bringing about social change. The intended change is to guarantee the halal of the products that circulate in the community by registering halal certificates before distribution of the products. Conditions in the situation are needed for the change to be effective.[19]

According to William M. Evan, in order for the law to succeed in bringing about change, several conditions are needed, namely (1) the law must come from authoritative and prestigious sources; (2) the law must be comprehensible and in harmony with the values that live in society; (3) advocates of change must make a guide to the community where the law will be enforced; (4) the enactment of the law. An institutionalization process is required to realize social change. The process of institutionalizing halal certificates as a social shift is affected by the efficacy of planting new elements, the community's opposing powers and the pace with which new elements are planted.[20]

According to Satjipto Rahardjo, Cambliss and Seidman, the legal role as a social manipulation needs modifications that will be institutionalized as new forms of conduct in society. Any attempt to plant something new will encounter a backlash from many groups of people who feel underprivileged. The community's competing powers have a detrimental impact on the likelihood of a positive phase of institutionalisation. Another impact in the process of institutionalization stems from the plant speed factor.[21]

The effectiveness or failure to incorporate new elements is affected in the process of institutionalizing halal product certificates in the Society. The new item in question is the duty that is certified halal. The drawback of information transmission, according to Steven Vago, is that very few of the business operators are aware of the duty to sell halal-certified goods to the public. BPJPH's socialization isn't ideal, so it's not well conveyed to business actors.[22]

Many food and drink companies, as well as restaurants and restaurants are unaware of any Halal-certified obligations. This low transmission of knowledge rendered the process of institutionalizing halal paroduk guarantee certificates ineffective. Disregard for the law is not seen as an announcement of failure to comply. But that still does not go well. There are no stringent penalties for violating the presence of halal-certified obligations, both as regards UUJPH itself and its compliance. This influences stubborn business actors who are going to ignore the halal-certified obligations. In addition, there are no strict state sanctions, both administrative and criminal sanctions, the neglect of halal certified is considered as an announcement of failure to comply.[23]

The legislation is seen in the regulation of halal product guarantees affecting stakeholders, in particular businesses and customers, not just from the state level but also from the society level. That the state regulates all products circulating in halal-certified communities in terms of the state dimension. The process of issuing and monitoring halal certificates is conducted by BPJPH through the Government.[24] While viewed from the dimensions of the business actors, halal product regulation guarantees to increase the selling power of their products. Because it can foster consumer confidence with the Halal certificate. Similarly, regulating halal product guarantees provides consumers with protection of legal certainty over halal products, in terms of consumers. From the elements of planting effectiveness in regulating halal product guarantee, it can be said that it was not effective because relatively large is the transmission of information and the neglect of the law. This can lead to the planting of new elements which were not effective.[15]

Meanwhile, it can be seen from the reaction, especially from the business actors, from the aspect of opposing forces from the community. There is hardly any opposition from consumers, because this halal product guarantee arrangement is basically designed to protect consumer interests. Opposition may arise from business actors, in this case the presence of halal-certified

obligations is seen as a burden on businesses, in particular small and medium-sized enterprises. However, the opposing force that emerges from these business actors can actually be minimized by giving business actors an awareness of the value of protecting consumers of non-halal and approved halal goods would increase the selling power of their goods in the Community.[7]

Another move that can be made to that resistance from the group is that the government must pay attention to the costs of issuing halal certificates. The relatively low cost of obtaining halal certificates, in particular for small and medium-sized companies, would affect the acts or behaviour of business actors, the more costly the costs, the more hesitant entrepreneurs are to register their goods to receive halal certificates.[25] This has an impact on the institutionalization of halal certificates that are no longer successful, as the new elements intended to be invested are being opposed by business actors. Business actors' actions in Halal production can vary. There are those who believe that manufacturing halal would improve the marketability of the product being sold, as well as an appreciation of the definition of halal according to religious law. There are also many business actors, however, who are only oriented towards profit-seeking, so producing Halal is considered a threat. As the ingredients used in the product being sold must be in compliance with the requirements which are defined in both health and halal aspects by halal production. Business actors who cheat will often seek to replace the raw materials used for production with cheap materials to get more benefit.[26]

The aims to be accomplished in the process of social engineering are to shift the actions of business actors to receive halal certificates or achieve specifically specified desired conditions, the strategies employed and the possibilities that may arise. UUJPH laws and enforcing legislation that are later published into the community are not the only way to control community members' behaviours. Outside the law, people are often constrained by the various elements of influence that affect them in their actions, and what is no less relevant is the workings of personal influences on themselves. Interaction with both of these can decide how well the members of the society will fulfill the demands of the rule of law. It's understandable that social engineering is seen as an evolving process focused on this complicated and not easy to decide exact state. One of the factors inhibiting the effectiveness of planting new elements is the behavior of business actors who oppose the institutionalization of Halal product guarantees. Similarly, when the non-compulsive sanctions controlled in UUJPH render the vulnerabilities of the elements that are to be instilled.[4]

The speed factor of planting new elements can be defined as the duration or short period of time during which the planting operation is performed and results are expected to be obtained. The hurrier people wanted to plant and the quicker they expected outcomes, the thinner the effect of the cycle of institutionalization of society, and vice versa. In fact, the effectiveness of the planting efforts is not seen as standing alone, but in order to instill new elements it must be related to the efficiency factor.

Adding planting pace followed by efforts to maximize productivity does not undermine the effects of the institutionalization process. These findings would be reduced if only the pace of planting is added without its effectiveness being increased.[27]

The speed at which new elements are planted influences the process of institutionalization as well. The sooner you plant new elements, the more thinly your progress in planting new elements will become. Meanwhile, it takes a long time to achieve the goal for the institutionalization of planting new elements in the form of obligations to produce halal to be effective. The socialization that was still very short and not huge resulted in the vast number of food products, cosmetics and pharmaceuticals, and genetic engineering companies not being aware of these obligations. In order to be effective in the process of institutionalizing halal-certified obligations, there is a need for BPJPH efforts to socialize continuously and massively so that businesses get answers and knowledge.[28] Socialization can be done in many ways, by social networking, mass media or liflets, and ways to make the business community aware of these responsibilities. The process of institutionalizing halal quality guarantees would be more successful if knowledge and socialisation are carried out continuously. As the pace of planting new elements is getting longer and longer, the greater the possibility that halal commodity guarantees can be effectively institutionalised.[29]

IV. CONCLUSION

Based on the analysis and discussion above, it can be concluded several things as follows, Firstly, Halal Safety Guarantee Legislation is still unsuccessful, and BPJPH still faces many challenges to achieving the Act 's objectives. The incompleteness of the entities concerned as executors of UUJPH in issuing Halal certificates and incomplete legislation. Secondly, The preconditions laid down by law for institutionalizing the assurances of halal goods.

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