



# Halal Certification After the Decision of the Constitutional Court Number 91/PUUXVIII/2020 Facing the Industrial Revolution 5.0

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**Abstract.** This research is motivated by the existence of one of the important instruments in the implementation of halal product quarantess, namely the certification of goods and services. The purpose of this research is to find out and examine the legal consequences halal certification after the decision of Constitutional Court Number 91/PUU-XVIII/2020 in the Industrial Revolution 5.0. The method of research the legal study of the normative juridical use analysis of analytically descriptive analytics. The result of this study are the legal consequence og halal certification after the decision of the Constitutional Court Number 91/PUU-XVIII/2020 in the Industrial Revolution5.0 highly dependent on changes from Law Number 11 of 2020 concerning Job Creation which underwent conditional cancellation as the Constitutional Court's decision. It takes time and people's participation in the amendment of Law Number 11 of 2020 as a form of respect and compliance with the constitution and Law Number 12 of 2011 which affect the formal and material aspects of the formation of a law.

**Keywords:** Certification · Halal · Constitutional Court · Industrial Revolution 5.0

## 1 Introduction

The guarantee of halal products is closely related to the independence of Indonesian citizens in embracing their respective religions. Muslims who make up the majority of Indonesia's population are very interested in halal products as part of the obligation to carry out religious law.

The need for halal products for consumer goods is a form of obedience for every Muslim to his religion. The needs of Muslims are very attractive to those who are engaged in the sharia-based business sector. Sharia businessmen certainly do not want to be left behind in getting halal guarantees for their various goods and services. Departing from this fact, the guarantee of halal products is absolutely necessary for Muslims in Indonesia.

One of the important instruments in the implementation of halal product guarantees is the certification of goods and services. This halal certification is the focus of Muslims in utilizing goods and services in order to remain in obedience to their religion.

On the sharia business side, halal certification is the main key to convince consumers that their products are up to standard. Juridically, halal product certification is a necessity because Article 2 paragraph (1) of Government Regulation Number 39 of 2021 concerning the Implementation of the Halal Product Assurance Sector has emphasized that “Halal products that enter, circulate, and are traded in Indonesian territory must be certified halal.”

Facing the current era of the Industrial Revolution 5.0, the public interest requires fast handling, such as product certification. To answer the public interest, electronic services are needed. The speed of the certification service will be implemented in the form of digitization as a solution. The number of business actors in various regions in Indonesia is obliged to market halal products. Of course, to certify these products becomes impractical if handled manually, must go through a digitization system.

Digitizing halal certification is an anticipatory step for fast work with mass products. This is in line with the plan of the Ministry of Religion of Indonesia (KEMENAG) which will issue 10 (ten) million halal certifications for Micro and Small Business Actors (UMK) in 2022. As quoted by Kompas.com<sup>1</sup>, Monday, January 24, 2022, Minister of Religion Yaqut Cholil Qoumas, stated: “In 2022, the Ministry of Religion through the Halal Product Assurance Agency (BPJPH) plans to target 10 million free halal certifications for UMK through *a self-declare scheme*,” said Yaqut in a joint working meeting with the 8<sup>th</sup> Commission of Indonesian House of Representatives (DPR).

Halal certification for the benefit of the people today is not difficult to implement a digitalization system. On the other hand, the demands of the times that require the digitization of the halal certificate process require adequate legal instruments.

Law Number 11 of 2008 concerning Information and Electronic Transactions, has determined how to behave with digital media. However, this legal instrument only deals with information and electronic transactions. Has not reached the digitalization of halal product guarantees, including halal product certification. The enactment of the digitalization of halal product certification as a form of implementation of Law Number 33 of 2014 concerning Halal Product Guarantee. In the field of implementing the digitization of halal products, it requires legal instruments which are delegates of Law Number 33 of 2014.

After the decision of the Constitutional Court Number 91/PUU-XVIII/2020, it has a big influence on the continuity of halal certification. Law Number 11 of 2020 concerning Job Creation, which regulates halal product certification, certainly has the impact of the Constitutional Court Decision Number 91/PUU-XVIII/2020. This decision annuls Law No. 11 of 2020 if improvements are not made for two years. This means that the regulation of halal certification will also experience cancellation if there is no improvement within two years of Law Number 11 of 2020.

The impact of the decision of the Constitutional Court Number 91/PUU-XVIII/2020 has a major influence on halal certification facing the current era of the 5.0 industrial revolution. The sustainability of this halal certification is largely determined by this conditional constitutional decision. From the legal aspect, it is very interesting to examine whether or not changes to Law No. 11 of 2020 can be made. In this regard, the problem

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<sup>1</sup> <https://nasional.kompas.com/read/2022/01/24/11475921/menag-target-terbitkan-10-juta-ser-tifikat-halal-gratis-bagi-umk-pada-2022>, diakses Selasa 21 Februari 2022

that arises is what are the legal consequences of halal certification after the decision of the Constitutional Court Number 91/PUU-XVIII/2020 in the industrial revolution 5.0. The purpose of this study is to find out and examine the legal consequences of halal certification after the decision of the Constitutional Court Number 91/PUU-XVIII/2020 in the Industrial Revolution 5.0

## **2 Research Methods**

This research is a normative juridical law research so that it uses secondary data which is library material. Collecting data through literature study by researching and digging legal materials or written data which includes legislation, reference books, journals, papers and other scientific works that are closely related to the problems to be studied. The analytical method used is descriptive analytical, by providing an overview analysis related to the problems studied.

## **3 Result and Discussion**

Amendments to Law Number 33 of 2014 concerning Halal Product Guarantee (hereinafter referred to as the JPH Law) through Law Number 11 of 2020 concerning Job Creation (hereinafter referred to as the Job Creation Law) have provided positive benefits for the implementation of halal product guarantees. The Job Creation Law has encouraged the acceleration of halal certification of goods and services. The conditions created will increase competitiveness and add value for business actors. In addition, there are various conveniences for Micro and Small Business Actors (UMK) because there are many convenience procedures for halal certification that are free or free.

The fall of the Constitutional Court's decision Number 91/PUU-XVIII/2020 has a big influence on the continuity of halal certification. The various positive benefits of the Job Creation Law regarding halal certification are threatened to no longer be enjoyed when changes to the Job Creation Law cannot be completed after two years of the Constitutional Court's ruling. On the other hand, the need for halal certification is an important instrument in facing global competition facing the 5.0 industrial revolution. Through halal certification, goods and services products will receive official recognition through Halal Product Assurance Agency (BPJPH) as a state institution.

The benefits provided by Article 48 page 301 of the Job Creation Law on halal certification for Micro and Small Business Actors (UMK) are theoretically in the understanding of the rule of law an implementation of people's sovereignty. Business actors in the UMK sector as part of the people enjoy this facility in order to face business competition, especially in the era of the industrial revolution 5.0. faced. This is a positive lesson from people's sovereignty within the framework of the rule of law.

The other side of the fall in the decision of the Constitutional Court Number 91/PUU-XVIII/2020 indicates that the checks and balances function of the judiciary over other branches of power has been running well. However, from the investment aspect, including investment in the sharia business sector, it is less profitable. There must be a guarantee

that the implementation of the decision of the Constitutional Court Number 91/PUU-XVIII/2020 is completed within two years so that halal certification as part of sharia business is not disrupted in the face of the industrial revolution 5.0 era.

The decision of the Constitutional Court Number 91/PUU-XVIII/2020 which must be obeyed from the aspect of the rule of law is a form of respect for the rule of law. Although conditional, the Constitutional Court's decision has illustrated that the legal politics carried out by the state is still far from ideal. The formal aspect of the establishment of the Job Creation Law was considered to have significant weaknesses and was therefore annulled.

The current issue of halal certification cannot be separated from one of the weak points of the Job Creation Act, which was made in a hurry and did not involve public participation, so that the Constitutional Court's decision to conditionally cancel the Job Creation Act. This weak point can be seen from a number of mass actions and the opinions of a number of parties.<sup>2</sup> This weak point must be a concern in repairs during the two-year period given the decision of the Constitutional Court Number 91/PUU-XVIII/2020.

The hasty formation of the Job Creation Law and does not involve public participation does not reflect the respect for the sovereignty of the people that prevails in a state of law. The laws that are formed in a hierarchical manner are the implementation of the constitution as a result of the people's agreement. Implicitly the honor of the people violated is very contrary to the constitution from this aspect the decision of the Constitutional Court can be justified. Legislation theory has also determined that the formation of legislation must involve community participation. Community participation in terms of legal politics will give birth to a responsive law where the laws that are formed will not experience resistance in the community which in the end has an impact on the certification of halal product guarantees that are ready to face the 5.0 industrial revolution.

The Omnibus Law method adopted in the formation of the Job Creation Act has not yet been regulated in the regulations for the formation of legislation as regulated in Law Number 12 of 2011 concerning the Establishment of Legislative Regulations. Adjustment to this regulation is felt as a necessity, considering that the judicial review at the Constitutional Court also questioned the formal aspects of the formation of legislation as happened in the review of the Job Creation Law at the Constitutional Court in 2020.

In the rule of law theory, the principle of equality before the law applies, which means that everyone is equal before the law. The law does not apply to citizens only but also to state administrators. The Job Creation Law which adopts the Omnibus law system which is not regulated in Law Number 12 of 2011 reflects that the legislators as state administrators do not reflect the principle of equality before the law. Such actions that continue to be repeated will tarnish Indonesia's image as a state of law. The legal politics carried out in the formation of the Job Creation Law which guarantees the implementation of halal certification to face the industrial revolution 5.0 continuously does not work as it due to the Law Number 12 of 2011 does not accommodate the omnibus law system in the Job Creation Law.

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<sup>2</sup> <https://www.pikiran-rakyat.com/nasional/pr-01855327/bongkar-kelemahan-omnibus-law-uu-cipta-kerja-dpr-ri-pemerintah-gagal-atasi-masalah-fundamental?page=2>, diakses Kamis 23 Februari 2022

## 4 Conclusion

Based on the data collection & analysis as described above, the legal consequences of halal certification after the decision of the Constitutional Court Number 91/PUU-XVIII/2020 in the Industrial Revolution 5.0 are highly dependent on changes from Law Number 11 of 2020 concerning Job Creation which are subject to conditional cancellation as the decision of the Constitutional Court. It takes time and people's participation in the amendment of Law Number 11 of 2020 as a form of respect and compliance with the constitution and Law Number 12 of 2011 which affect the formal and material aspects of the formation of a law.

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