



# The Urgency of Halal Product Certificates in the Context of Consumer Protection

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**Abstract.** The halal of a product as proven by a halal certificate is very important in providing legal guarantees and protection to Muslim consumers, especially in consuming products on the market. On this basis, this study aims to discuss the types of products that require halal certificates, the mechanism for issuing halal certificates and legal sanctions for business actors whose products are not halal certified according to Law Number 33 of 2014. This research uses normative legal research, namely research on secondary data in the form of primary, secondary and tertiary legal materials that are relevant to the subject matter. These legal materials were collected through library studies. Then the legal materials are processed and analyzed descriptively qualitatively. The results of the study indicate that products that are required to have a halal certificate are products that enter, circulate and are traded in Indonesia. Then products that come from halal ingredients and meet PPH. Halal certificates are issued by BPJPH based on the MUI fatwa at the request of business actors whose products are required to be certified halal. Business actors who do not maintain the halal of their products are subject to imprisonment or fines.

**Keywords:** Certificate · Halal Product

## 1 Introduction

Food is one of the most needed needs by humans to survive, so everyone is expected to pay more attention to the food products that they will consume. Indonesia is a country whose population is predominantly Muslim. In the teachings of Islam, there are orders to eat halal food and a prohibition to eat haram food.

Along with the development of the times, science and technology, the ways of processing food or food are also increasingly varied. In the market, you can find a variety of processed products from various basic ingredients, both those produced by local food factories and imported from foreign companies. In addition, many makers of processed foods are complex and these foods are made from various ingredients that are not all grades its halal<sup>1</sup>. Some ordinary people think that healthy and good food is enough to

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<sup>1</sup> Rachmadi Usman. *Hukum Ekonomi Dalam Dinamika*. Jakarta: Djambatan, 2004, page. 74.

meet nutritional intake<sup>2</sup>. Whereas all healthy and good intake will not increase health and goodness if it is not equipped with halal factors<sup>3</sup>.

Halal food is food that fulfills Islamic religious law, both in terms of raw materials, additional materials used and the method of production so that the food can be consumed by Muslims without sinning<sup>4</sup>. Therefore, the food or food consumed must not be contaminated with any dubious ingredients, especially with those that are haram, thus causing the food product to become doubtful or its halal is doubtful<sup>5</sup>.

To respect and guarantee the human rights of Muslims in implementing and complying with Islamic religious teachings, such as the prohibition of consuming non-halal food or food, it is the obligation of the state (government) to provide legal protection in accordance with applicable legal regulations. This is in accordance with the Preamble to the 1945 Constitution in the fourth paragraph which states, among other things, that the state protects the entire Indonesian nation. Based on the mandate of the Preamble to the 1945 Constitution, the government has provided legal protection to every Indonesian citizen, especially Muslims in consuming food and beverages circulating in the market through Law Number 8 of 1999 concerning Consumer Protection, Law Number 33 of 2014 regarding Halal Product Guarantee, and others.

According to Article 1 point 1 of Law Number 8 of 1999 that Consumer Protection is “all efforts that guarantee legal certainty to provide protection to consumers”. Then according to Article 1 number 2 of the law that consumers are “every person who uses goods and/or services available in the community, both for the benefit of themselves, their families, other people and other living creatures and not for trade”.

In principle, the law provides protection to consumers from the use of goods of sub-standard quality or lower quality than the value of the price paid. With this protection, consumers will not be given goods of lower quality than the price they pay<sup>6</sup>.

The provisions that protect consumers from the use of goods that are not in accordance with the specified standards are stated in Article 8 paragraph (1) letter a of Law Number 8 of 1999, namely that business actors are prohibited from producing and/or trading goods and/or services that do not meet or not in accordance with the required standards and laws and regulations.

Based on the above provisions, it can be said that Law Number 8 of 1999 only provides protection to consumers for the use of goods whose quality is not in accordance with the specified standards, so that consumers are harmed by the purchase of the goods. Because the quality of the goods purchased is lower than the value of the price paid.

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<sup>2</sup> Karniawan Budi Sutrisno, *Tanggung Jawab Pelaku Usaha Terhadap Pemberian Label Pada Produk Makanan Dan Minuman Perspektif Hukum Perlindungan Konsumen*, “Jurnal Penelitian” Universitas Mataram, Vol.18 No.1, 2014, page. 90.

<sup>3</sup> Muhammad Ibu Elmi As Pelu. *Label Halal: Antara Spiritualitas Bisnis dan Komoditas Agama*. Malang: Madani, 2009, page. 22.

<sup>4</sup> Ahmadi Miru dan Sutarman Yodo. *Hukum Perlindungan Konsumen*. Jakarta PT. Raja Grafindo Persada, 2007, page. 34.

<sup>5</sup> Az Nasution. *Tinjauan Sosial, Ekonomi dan Hukum Pada Perlindungan Konsumen Indonesia*. Jakarta: Pustaka Sinar Harapan, 2000, page. 55.

<sup>6</sup> Ahmadi Miru. *Prinsip-Prinsip Perlindungan Hukum Bagi Konsumen Di Indonesia*. Jakarta: PT. Raja Grafindo Persada, 2013, page. 197.

Consumer protection is not only aimed at the quality or standard of the goods, but also from the halal aspect and this is certainly very much needed by Muslim consumers. To meet the needs of Muslims for the halal of a product such as food, Law Number 33 of 2014. With this law will provide legal certainty about the halal of a product circulating in the market, so that consumers who are Muslim are protected from consuming products that are not permitted.

According to Article 1 point 1 of Law Number 33 of 2014 that 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 used by the community”. Then in Article 1 number 2 of the Law it is stated that halal products are “products that have been declared halal in accordance with Islamic law”. The guarantee of the halal of a product is proven by a Halal Certificate. According to Article 1 number 10 of Law No. 33 of 2014 that Halal Certificate is “a recognition of the halal of a product issued by BPJPH based on a written halal fatwa issued by MUI”. Thus, a halal certificate for a product is issued by the Halal Product Guarantee Agency (BPJPH) based on the halal fatwa stipulated by the MUI in the MUI Fatwa Commission Session. BPJPH is an institution established by the government and has the authority to register applications and issue Halal Certificates.

With regard to Halal Product Guarantee (JPH) as a form of protection for consumers who are Muslim, this journal will present several topics, namely the types of products that must be certified halal, the mechanism for issuing a halal certificate for a product, and legal sanctions for business actors whose products are not Halal certified according to Law Number 33 of 2014. Based on the above background, the objectives of this research are: To find out and analyze the types of products that must be certified halal. To find out and analyze the mechanism for issuing a halal certificate for a product. To find out and analyze the legal sanctions for business actors whose products are not certified halal.

## 2 Research Method

This research uses normative legal research. According to Peter Mahmud Marzuki, normative legal research is “a process to find the rule of law, legal principles and legal doctrines in order to answer the legal issues faced”.<sup>7</sup> Meanwhile, according to Soerjono Soekano and Sri Mamuji, normative legal research is legal research conducted by examining library materials or secondary data.<sup>8</sup>

Based on this understanding, it can be said that what is meant by normative legal research in this paper is legal research on secondary data in the form of legal materials which according to that contain legal rules and legal principles as contained in Law Number 33 of 2014 and its implementing regulations governing the guarantee of the halal of a product.

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<sup>7</sup> Peter Mahmud Marzuki. *Penelitian Hukum*. Jakarta: Kencana Prenada Media Group, 2010, page. 35.

<sup>8</sup> Soerjono Soekanto dan Sri Mamuji. *Penelitian Hukum Normatif Suatu Tinjauan Singkat*. Jakarta: PT. Raja Grafindo Persada, 2003, page. 13.

### 3 Results and Discussion

#### 3.1 Types of Products that Must be Certified Halal

Article 2 paragraph (1) of Law Number 33 of 2014 stipulates that products that enter, circulate, and are traded in the territory of Indonesia must be certified halal. Halal certification is one of the things considered by Muslim consumers, especially in owning a product. Because not all consumer products circulating in the market meet the halal category as prescribed by Islam. On this basis, every company or producer needs to understand which products are included in the product category that must be certified halal to support its business continuity. On the other hand, it will also provide a sense of security and comfort to consumers in fulfilling their daily needs through products that take advantage of the value.

The existence of general cesarean halal certification is one form of fulfilling the state's obligations in providing protection to its citizens. As mandated by Article 29 of the 1945 Constitution of the Republic of Indonesia, that the state guarantees independence for every citizen to embrace their own religion and perform worship according to their religion and beliefs. This then becomes the basis that the state also needs to provide protection and guarantees for the halal of the products consumed or used by the community. In addition, the Muslim population in Indonesia reaches more than 87%. Considering that not all products circulating in the community are guaranteed to be halal, then the existence of legal certainty regarding the halal of a product is considered more important.

For Muslims, the halal of a product, both in the form of goods and services, is very important, because it is related to the teachings of Islam which prohibits consuming unlawful food and drinks and if the law is violated, the sin will be held accountable in the hereafter.

The word halal comes from Arabic from lafaz, halla which means "free" or "not bound". In the dictionary of fiqh terms, the word halal is understood as anything that can be done or eaten. The term halal usually relates to issues of food and drink, for example eating rice and drinking water. The word halal is always opposed and associated with the word haram, which is something or things that are prohibited by syara.<sup>9</sup>

The principle that must be held by a Muslim business person is to sell halal products. The presence of halal products is mandatory in the life of every Muslim. On the other hand, haram products should be avoided as far as possible. If you continue to use haram goods, it will result in sin, because every Muslim is always reminded not to eat what is haram and only eat what is lawful and good. As the word of Allah SWT in the Qur'an Surah Al-Maidah verse (88) which translation is: "And eat lawful and good food from what Allah has provided for you, and fear Allah in whom you believe".

As for what is meant by haram and halal food and drink, it refers to the substance (substance), and not because of external factors, such as the results of looting, stealing and others. Because the stolen property and confiscation in terms of substance is lawful and the prohibition is only an insertion because there is an act of plundering and stealing.

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<sup>9</sup> Abdul Manan. *Peranan Hukum Dalam Pembangunan Ekonomi*. Jakarta: Kencana, 2014, page. 159.

Among the madhhab fiqh experts mention that knowing what is lawful and what is unlawful in terms of food and the issues related to this, such as feeding people who are forced to, are among the most important religious matters. Because knowing what is lawful and what is unlawful is fardhu'ain, and there is a serious threat to those who eat the food of unlawful wealth.<sup>10</sup>

In principle, not all products circulating in the market must be halal certified. Therefore, what types of products are included in the group that must be certified halal. Based on Article 68 of Government Regulation Number 31 of 2019 concerning Implementing Regulations of Law Number 33 of 2014 concerning Halal Product Guarantee that products that are required to have halal certification basically consist of two main types, namely:

- a. Goods that must be certified halal are: food and beverages, drugs, cosmetics, chemical products, biological products, engineered products and goods used, used or exploited. The intended use goods are goods originating from and/or containing animal elements, whether their use is for clothing, accessories, household appliances, food and beverage packaging, stationery and office supplies, to equipment used as medical devices.
- b. Services that must be certified are slaughtering, processing, storage, packaging, distribution, sales and presentation.

To realize halal-certified products, since October 17, 2019 the first stage has been carried out for food, beverage, and slaughter products and services. In this first stage, BPJPH has certified 27,188 business actors' products. Then the Ministry of Religion will carry out the second phase of halal product certification starting October 17, 2021 until October 17, 2026. Based on Article 141 of Government Regulation Number 39 of 2021, the list of types of products must be certified halal in the second phase:

- a. Traditional medicine, quasi medicine and health supplement;
- b. Over-the-counter drugs and limited over-the-counter drugs;
- c. Psychotropic drugs are excluded;
- d. Cosmetics, chemical products, and genetically engineered products;
- e. Goods used in the category of clothing, headgear and accessories;
- f. Goods used in the category of household health supplies, household appliances, worship equipment for Muslims, stationery, and office supplies;
- g. Goods used for risk class A medical device category are in accordance with the provisions of the legislation;
- h. Goods that are used are category C risk class Medical devices in accordance with the provisions of laws and regulations.

The above mentioned halal product certification program must be realized by the government through BPJPH and MUI as appropriate. With the implementation of the program, it will certainly provide protection and legal certainty to Muslim consumers in particular to meet their needs for a halal product that is in accordance with Islamic law.

The existence of a product obligation that is certified halal is basically an effort by the government to protect consumers in fulfilling their life needs in accordance with what is prescribed by religion (Islam). If viewed from the business aspect, product certification

<sup>10</sup> Abdul Azis Muhammad Azzam. *Fiqh Muamalat*. Jakarta: Sinar Grafika, 2014, page. 463–464.

can be a factor that supports business growth because it will encourage public confidence to buy the product. Considering the types of production that are certified halal are quite limited and viewed from several aspects in accordance with Islamic law, both in the form of goods and services.

### 3.2 Mechanism of Halal Product Certification

Halal product certification is an acknowledgment of the halal of a product issued by BPJPH based on a written fatwa from the MUI. Companies that wish to obtain halal certification for their products must meet the requirements and follow the specified procedures. As for the benefits and advantages of having a halal certification, the main thing is having a halal guarantee so that Muslims who want to consume the product are no longer anxious.

The requirements that must be met in the process of applying for halal product certification according to Law Number 33 of 2014 and its Implementing Regulations are:

- a. Business Actor Data Business actors who produce a product must be clear, and this can be proven through documents in the form of a Business Identification Number or other business licenses owned.
- b. 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 listed.
- c. Product Data and Materials Used A product is declared halal, if the products and materials used are also guaranteed to be halal, and this is proven by a halal certificate. For materials that come from nature and do not go through a processing process, there is no need to use a halal certificate. These materials are included in the category of not at risk of containing haram ingredients.
- d. Product Processing of products can also be one of the gaps in which a product is not halal. For this reason, the documents submitted to BPJPH need to contain information such as how to purchase, receive, store, process, pack and store the finished product.
- e. Halal Product Assurance System The halal product guarantee system is the authority of the head of BPJPH. Therefore, in addition to completing the documents to obtain halal certification, they must also pass the examination test conducted by halal auditors. The halal auditor is part of the Halal Examination Agency (LPH) which will send the test results as well as their recommendations to BPJPH.

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

- a. Application Business actors submit applications to BPJPH. In this case, the business actor must come with a number of the required documents mentioned above.
- b. Inspection After receiving the required documents, BPJPH will then carry out inspections for a period of 10 (ten) days. If there are incomplete documents, BPJPH will give business actors 5 (five) days to complete them. After the deadline, the application will be completely rejected by BPJPH.
- c. Determination BPJPH will provide information to business actors regarding the results of checking documentation. In addition, business actors are asked to choose

- an LPH that will provide the audit. This determination process takes a maximum of 5 (five) days.
- d. Testing LPH will carry out inspection and testing of products, 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 halal of the product. The time required for this test is approximately 40 (forty) working days or 60 (sixty) working days if it has not been completed.
  - e. Checking The results of the tests conducted by the halal auditor on the company's products are submitted to BPJPH. BPJPH then checks the completeness of the report, other auditors of the products and materials used, the results of the analysis, as well as the minutes of the inspection. In addition, halal auditors must also include their recommendations on the results of the examination.
  - f. Fatwa After BPJPH considers that the halal auditor through LPH has completed all the documents, it is submitted to MUI. The task of MUI is to hold a halal fatwa meeting with experts, government elements, and related institutions. The period of this process is 30 (thirty) working days until a decision is made regarding the halal of the product.
  - g. Publishing Within 7 (seven) working days, BPJPH will issue a halal fatwa based on a decision from the MUI halal fatwa session. If you have not succeeded in obtaining halal certification, you can submit a re-application after making improvements to the product.

According to Law Number 33 of 2014, business actors who have obtained a halal certificate are required to put a halal label on the product packaging of certain parts of the product, and/or certain places on the product. The inclusion of halal labels must be easy to see and read and not easily removed, removed, and damaged. The halal certificate is valid for 4 (four) years from the date of issuance by BPJPH, and must be extended by business actors by submitting a halal certificate renewal no later than 3 (three) months after the validity period of the halal certificate.

Parties who are obliged to carry out halal certification on their products are business actors whose business products enter, circulate, and are traded in the industry. In addition, products that must be certified halal are products that come from halal materials and meet PPH. As stipulated in Article 2 paragraph (1) and Article 3 of Law Number 33 of 2014. Based on this provision, micro and medium enterprises or MSMEs that meet the industrial world are required to certify their products.

With regard to MSMEs in carrying out product certification, there has been a polemic related to financing issues, considering that obtaining halal product certification requires costs, and this is certainly quite burdensome for MSME business actors. Nevertheless, referring to Article 62 of Government Regulation Number 31 of 2019 has implied the green light regarding financing facilities as follows:

- a. In the event that the business actor is a micro and small business, the cost of halal certification can be facilitated by another party.
- b. Facilities by other parties as referred to in paragraph (1) are in the form of facilitation by:
  - 1) Central completion through revenue budgets from various countries.
  - 2) Local government through regional revenue and expenditure budgets

- 3) Company
- 4) Social institutions
- 5) Religion institution
- 6) Association, or by the government or other related parties.
- 7) Community

The provisions of Article 62 of Government Regulation Number 31 of 2019 must be effectively required with the realization of these provisions, on the one hand, MSME business actors can fulfill their obligations to certify the halal of their products, and their business activities continue to operate as they should. On the other hand, consumers get legal certainty and legal life for products on the market that are clearly halal.

### **3.3 Legal Sanctions for Business Actors Against Products that are not Halal Certified**

Halal Product Guarantee (JPH) is legal certainty regarding the halal of a product as evidenced by a halal certificate. Halal certificate is an acknowledgment of the halal of a product issued by BPJPH based on a halal fatwa issued by the MUI. Thus, to guarantee the halal of a product as well as legal certainty, a certificate issued by BPJPH is required.

Law Number 33 of 2014 has determined that products that enter, circulate, and are traded in the territory of Indonesia must be certified halal. For this reason, the government is responsible for implementing the Halal Product Guarantee (JPH). To organize the JPH, a BPJPH is formed which is located under and responsible to the Minister of Religion.

The presence of Law Number 33 of 2014 is expected to all products circulating in the market have been certified halal, so that Muslim consumers in particular get legal guarantees and certainty for the products they consume. In this case, honesty from business actors is needed in informing the products on the market that have been certified halal.<sup>11</sup> This is in accordance with Article 7 of Law Number 8 of 1999 which stipulates that one of the obligations of business actors is to provide correct, clear and also information regarding the conditions and guarantees of goods and/or services as well as provide explanations on the use, repair and maintenance and provide compensation. Compensation, and/or replacement if the goods and/or services received or utilized are not in accordance with the agreement.

The provisions of Article 7 of Law Number 8 of 1999 have provided legal certainty guarantees that business actors are required to honestly inform about their products being marketed in the community. If the product received by the consumer is not in accordance with the agreement due to a lie, then the business actor is responsible for paying compensation or compensation to the consumer.

Law Number 33 of 2014 also regulates the rights and obligations of a business actor in implementing Halal Product Guarantee (JPH) which is carried out by BPJPH. Guarantees regarding halal products are carried out in accordance with the principles of protection, justice, legal certainty, accountability and transparency, effectiveness and efficiency, and professionalism.

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<sup>11</sup> Asri Suhardi. Perlindungan Hukum Bagi Konsumen Muslim Terhadap Produk Pangan Yang Tidak Bersertifikat Halal, "*Jurnal IUS*" No.2 Vol. IV Tahun 2016, page. 18.



The existence of Law Number 33 of 2014 will provide more guarantees to Muslim consumers for products circulating in the market, both from outside and inside, which are clearly halal. Because the presence of this law requires business actors to be certified halal.

The obligation of business actors to certify halal products must be enforced through the application of legal sanctions to business actors who neglect their obligations, causing consumer losses. The provisions for legal sanctions are stated in Article 56 of Law Number 33 of 2014 namely Business Actors who do not maintain the halal of products that have obtained Halal Certificates as referred to in Article 25 letter b shall be sentenced to a maximum imprisonment of 5 (five) years or a maximum fine of IDR 2,000,000,000.00 (two billion rupiah).

The provisions of Article 56 of Law Number 33 of 2014 stipulates criminal sanctions in prison or criminal fines for business actors who violate Article 25 letter b of the law, namely not maintaining the halal of products that have obtained Halal Certificates. Legal sanctions should also be applied to business actors who violate the obligations as stated in Article 25 letters a, b, c, d, and e of Law Number 33 of 2014.

The existence of legal sanctions is very important in the context of enforcing a law. The application of legal sanctions to perpetrators of crimes is intended to have a deterrent effect on the perpetrators of these crimes.<sup>12</sup> The functions of sanctions or punishments are:

- a. Awaken the perpetrators of crime so that he does not commit any form of crime again;
- b. Give an example to those who have not committed a crime that if they commit a crime they will get a sanction or punishment.<sup>13</sup>

The enforcement of criminal sanctions or fines for business actors who do not maintain the halal of their products will provide guarantees, protection and legal certainty for Muslim consumers, especially in the context of consuming a product on the market. For this reason, it is necessary to enforce the provisions of these sanctions in a consistent and proportional manner.

## 4 Conclusion

The enactment of Law Number 33 of 2014 concerning Guaranteed Halal Products is a form of fulfillment of the State's obligations in providing protection and guarantees for the halal products consumed and used by the community, especially Muslims whose teachings of Islam prohibit their followers from eating haram goods. For this reason, every product in the form of goods or services that enter, circulate and trade in the territory of Indonesia must be certified halal. In addition to this, products that must be certified halal are products that come from halal ingredients and meet PPH.

<sup>12</sup> *Fungsi Sanksi dan Teori Sanksi (Hukuman) Serta Tujuannya.* <http://legalstudies71.blogspot.com>. Diakses pada tanggal 23 Februari 2022.

<sup>13</sup> *Ibid.*

Halal certificate is an acknowledgment of the halal of a product issued by BPJPH based on the MUI fatwa. Business actors who have obtained a halal certificate are required to include a Halal Label on the product packaging, certain parts of the product and/or certain places on the product. Business actors who do not maintain the halal of their products are subject to imprisonment or fines.

Basically, the obligation of halal-certified products is an effort by the government to protect its people from consuming something in accordance with what is prescribed by religion. Then viewed from the business aspect, product certificates can be a supporting factor for business growth because it will encourage people's trust to buy the product.

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