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Juridical Aspects of Issuance of Halal Certification in Indonesia

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Abstrak

Aktifitas bisnis dalam Islam dikendalikan oleh aturan-aturan syariat yakni tentang halal dan haram, baik dari cara memperoleh harta maupun cara memanfaatkannya. Aturan dan prinsip halal dan haram ini tidak ada dalam kegiatan bisnis di luar dari selain Islam. Secara ekonomi Potensi Undang-undang JPH, sangat besar. Apalagi dalam indikator global ekonomi Islam, yang diterbitkan oleh *State of the Global Islamic economy Report* (GIER) 2018/19. Malaysia dan UEA mendapat skor 127 dan 89. Mereka unggul jauh dari Bahrain (65), Arab Saudi (54), Oman (51), Yordania, Qatar, dan Pakistan (49), Kuwait (46), serta Indonesia (45) Bahkan secara khusus, Indonesia disebut telah berhasil melakukan lompatan sehingga masuk dalam jajaran 10 (sepuluh) besar negara yang memegang peranan dalam perekonomian Islam di dunia. Metode yang digunakan dalam penelitian hukum ini adalah metode penelitian hukum yuridis normatif, yang hanya menggunakan data kepustakaan. Sedangkan sifat penelitian adalah bersifat diskriptif, yang menggambarkan norma hukum dan perundang-undangan yang berkaitan dengan Aspek Yuridis Kewenangan Sertifikasi Halal di Indonesia. Hasil penelitian yang dilakukan tentang Aspek Yuridis Kewenangan Serifikasi Halal di Indonesia disimpulkan, Sebelum berlakunya Undang-Undang Nomor 33 Tahun 2014 tentang Jaminan Produk halal secara aspek yuridis, pergeseran pengaturan sertifikasi halal telah terjadi beberapa. Anantara lain pada Tahun 1967, Penandaan Label Haram menjadi otoritas Pemerintah melalui Depatemen Kesehatan Republik Indonesia (BPOM). Sampai Akhirnya terjadi gejolak ekonomi tentang halal produk minuman dan makanan. Dimana ummat Islam di Indonesia tidak percaya tentang kehalalan suatu produk makanan dan minuman kemasan. Pada Tahun 1985 Melalui SKB Menetri Agama dan Menteri Kesehatan Nomor 472/Menkes/SKB/VIII/1985. Melibatkan Majelis Ulama Indonesia (MUI). Kemudian mengalikan sertifikasi Halal kepada MUI. Setelah lahirnya Undang-Undang Nomor 33 Tahun 2014 tentang Jaminan Produk Halal di Indonesia. Kembali mengalami perubahan, secara aspek yuridis pengaturan kewenangan sertifikasi halal, yang mulai sejak tahun 1985 dipegang oleh MUI, kemudian efektif berlaku pada tahun 1994, maka setelah 2014, Kewenangan penerbitan sertifikasi halal berdasarkan Undang-Undang Nomor 33 Tahun 2014 tentang Jaminan Produk Halal. Kembali menjadi

kewenangan Pemerintah melalui Kementerian Agama dalam hal ini Badan Pengelola Jaminan Produk Halal (BPJPH).

Kata Kunci: *Aspek Yuridis, Kewenangan, Sertifikasi Halal*

Abstract

Business activities in Islam are controlled by the rules of sharia, namely about halal and haram, both from how to obtain property and how to utilize it. These rules and principles of halal and haram do not exist in business activities outside of other than Islam. Economically, the potential of the JPH Law is very large. Especially in the global indicators of the Islamic economy, published by the State of the Global Islamic economy Report (GIER) 2018/19. Malaysia and the UAE scored 127 and 89. They are far superior to Bahrain (65), Saudi Arabia (54), Oman (51), Jordan, Qatar, and Pakistan (49), Kuwait (46), and Indonesia (45) Even in particular, Indonesia is said to have made a leap so that it is included in the ranks of the top 10 (ten) countries that play a role in the Islamic economy in the world. The method used in this legal research is normative juridical legal research method, which only uses library data. While the nature of the research is descriptive, which describes the legal norms and legislation relating to the Juridical Aspects of Halal Certification Authority in Indonesia. The results of research conducted on the Juridical Aspects of Halal Certification Authority in Indonesia are concluded, Prior to the enactment of Law Number 33 of 2014 concerning Halal Product Guarantee in juridical aspects, several shifts in halal certification arrangements had occurred. Among others, in 1967, Haram Labeling became the authority of the Government of Indonesia.

Keywords: *Juridical Aspect, Authority, Halal Certification*

INTRODUCTION

Business activities in Islam are controlled by the rules of sharia, namely about halal and haram, both from how to obtain property and how to utilize it. These rules and principles of halal and haram do not exist in business activities outside of other than Islam. Economically, the potential of the JPH Law is very large. Especially in the global indicators of the Islamic economy, published by the State of the Global Islamic economy Report (GIER) 2018/19. Malaysia and the UAE scored 127 and 89. They are far superior to Bahrain (65), Saudi Arabia (54), Oman (51), Jordan, Qatar, and Pakistan (49), Kuwait (46), and Indonesia (45) Even in particular, Indonesia is said to have made a leap so that it is included in the ranks of the top 10 (ten) countries that play a role in the Islamic economy in the world. Muslims in Indonesia are estimated to have spent US\$218.8 billion to consume all halal goods and services in 2017. Indonesia is among the most Islamic countries.

Authority is equated with the word authority which is defined as the right and power, to do something, act to make a decision, order or delegate power to others. According to

H. D. Stout, authority is a notion derived from the law of government organization, which is in the form of understanding all the rules relating to the use of government authorities by public law subjects in public law.

Based on Law Number 6 of 2023, concerning omnibus law (copyright work) there are changes and shifts in halal product guarantees in Indonesia. The authority of BPJPH only cooperates with halal inspection institutions (LPH) and MUI only stipulates halal Fatwa in writing. Based on Law Number 6 of 2023 concerning copyright work, besides MUI, it involves other Islamic organizations issuing halal Fatwas.

RESEARCH METHOD

The method used in this legal research is normative juridical legal research method, which only uses library data. While the nature of the research is descriptive, which describes the legal norms and legislation relating to the Shifting Authority of Halal Certification in Indonesia.

RESULT AND DISCUSSION

Before the enactment of Law Number 33 of 2024 concerning Halal Product Guarantee. Efforts to give birth to laws and regulations regarding halal certification long before the JPH law existed, it had been planned but a specific law regarding halal product guarantees had never been made. This is as in the following description:

Law Number 18 of 2009 concerning Animal Husbandry and Animal Health Law Number 6 of 1967 concerning Basic Provisions for Animal Husbandry and Health. Based on Article 21 of Law Number 6 of 1967, it is explained that this law aims to ensure human health from diseases transmitted from animals. In its implementation, among others:

1. At the place of production at the time of slaughter
2. Guarding food ingredients in a fresh state
3. Supervision of fresh to preserved food processing
4. Supervision of food that has been preserved.

Furthermore, Article 58 of Law Number 18 Year 2009 states:

1. In order to guarantee safe, healthy, whole, and halal animal products, the Government and local governments in accordance with their authority carry out supervision, inspection, testing, standardization, certification, and registration of animal products.

2. Supervision and inspection of animal products consecutively carried out at the place of production at the time of slaughter, shelter, and collection at the time in a fresh state, before supervision and circulation time after preservation.
3. Standardization, certification, and registration of animal products are conducted on animal products produced and/or introduced into the territory of the Unitary State of the Republic of Indonesia.
4. Animal products produced in and/or introduced into the Republic of Indonesia must be accompanied by a veterinary certificate and halal certificate if required by the importing country.
5. Animal products issued from the Republic of Indonesia must be accompanied by a veterinary certificate and halal certificate.
6. Further provisions as referred to in paragraph (1) to paragraph (5) shall be regulated by Ministerial Regulation.
7. For processed food of animal origin, in addition to being obliged to fulfill the provisions of paragraph (5) must fulfill the provisions of legislation in the field of food.

Law Number 23 of 1992 concerning Health, which has been amended by Law Number 36 of 2009 concerning Health. Based on Article 21 of Law Number 23 of 1992, it states that:

1. Food and beverage safety is organized to protect the public from food and beverages that do not meet the provisions regarding health standards and or requirements.
2. Every packaged food and beverage must be marked or labeled which contains. (a) the ingredients used, (b) the composition of each ingredient, (c) expiration date, month and year, (d) other provisions.
3. Food and beverages that do not meet health standards and / or requirements and / or endanger health as referred to in paragraph (1) are prohibited from being circulated, withdrawn from circulation, and confiscated for destruction in accordance with the provisions of applicable laws and regulations.
4. Provisions regarding food and beverages as referred to in paragraph (1), paragraph (2), and paragraph (3) shall be stipulated by Government Regulation.

Article 1 Paragraph (8) of Law Number 36 of 2009 concerning Health, states that drugs are materials or animal alloys, including biological products, which are used to affect or investigate the physiological system or the state of fatology in the context of determining diaknosis, prevention, healing, recovery, health improvement and contraception, for humans. Thus there is a strong relationship between consumer protection and health because drugs are one type of goods as regulated in the Consumer Protection Act.

Law No. 7/1996 on Food and amended by Law No. 18/2012 on Food. Article 30 Paragraph (1) of Law No. 7/1996 states that every person who produces and imports into the territory of Indonesia food packaged for trade is obliged to put a label on, in, inside, and/or on the food packaging.

The Explanation of Paragraph (2) of Law Number 7 of 1996 in point e, states: Halal description of a food product is very important for the Indonesian people, the majority of whom are Muslims. However, its inclusion on the food label is only an obligation if every person who produces food and/or imports food into the territory of Indonesia for trading declares that the food concerned is halal for Muslims.

Article 100 of Law Number 18 Year 2012 states:

1. Every food label that is traded must contain information about the panag correctly and not misleadingly.
2. Every person is prohibited from providing false and/or misleading information or statements on labels.

Article 101 of Law No. 18/2012 on Food:

1. Any person who declares that the food traded is halal in accordance with the requirements shall be responsible for the truth.
2. Any person who states on the label that the food traded is in accordance with certain claims shall be responsible for the veracity of such claims.
3. Labels on certain processed foods traded shall be required to contain information on the designation, method of use, and/or other information that needs to be known about the impact of food on human health.

Law Number 18 of 2012 concerning Food, has been stipulated by the Government and local governments to supervise the Halal Product Guarantee system for those required for food. Every food product produced domestically or imported for trade must include a label in and / or on food packaging printed using the Indonesian language. The inclusion of the label at least contains information including those related to halal for those required.

Decree of the Minister of Religious Affairs No. 518 of 2001, concerning Guidelines and Procedures for Examining and Determining Halal Food stipulates that halal certification holders are required to include halal labels on product packaging. Based on this determination, it can be seen that the obligation to include a halal label on the packaging cannot be separated from halal certification. Halal labeling on new products can be done after entrepreneurs obtain halal certification.

Without halal certification, entrepreneurs are not allowed to load halal certification on their products. If the validity period of the halal certification has expired and has not been renewed, the inclusion of the halal label is automatically prohibited. The inclusion of the halal label without halal certification is a violation of the label provisions. The exception to this rule for food trade is that which is wrapped or packaged in front of the buyer. The inclusion of this halal label on packaging or products is an implementation of consumer protection, so as to avoid haram food products.

Law Number 8 Year 1999 on Consumer Protection

The Consumer Protection Law has provided protection to Muslims in Indonesia. As Article 8 Paragraph (1) letter h, states that business actors are prohibited from producing and / or trading goods and / or services that do not follow the provisions of halal production, as a halal statement included in the label.

Based on consumer protection, there is a maxim associated with the community to be careful in choosing buying and selling between producers and consumers, namely *caveat emptor* and *caveat venditor*. This maxim relates to transactions between business actors and consumers, especially if problems arise between producers and consumers. *Caveat emptor* means let the buyer beware *caveat venditor* means let the seller beware.

Caveat emptor buyers as consumers are in a low position or even as objects that are required to always be vigilant or careful in the sale and purchase of goods and / or services to meet their needs, so that they bear all the risks that occur. Conversely, with Maxim *caveat venditor*, the business actor as the one who must be vigilant or careful of the products he produces to always be in accordance with the demands and interests of consumers. The position of consumers is a subject whose interests must be taken into account by business actors as producers. The enactment of GCPL has made a change from *caveat emptor* to the enforcement of *caveat venditor*.

Consumers have several rights mentioned in Article 4 of the GCPL, including the right to comfort, security, safety, in consuming goods or services. Consumers have the right to correct, clear and honest information regarding the condition and guarantee of goods and/or services. Thus, consumers have the right to obtain sufficient information on the halalness of products issued by business actors as producers. So that consumers feel comfortable, safe and secure to enjoy the product and avoid products that are not halal or haram. UUPK is the legal basis for consumers to sue business actors who harm the interests of the transactions that occur. Consumers are entitled to compensation, compensation

and/or replacement if the goods and/or services received are not in accordance with the agreement or not as they should be.

Government Regulation No. 69/1999 on Food Labels and Advertisements

The purpose of this law is to enable the public to obtain correct and not misleading information about the food products they will consume, especially those conveyed through food advertisements by entrepreneurs. As for the obligations of entrepreneurs, they are obliged to inform at least:

1. Product name
2. List of ingredients used
3. Net weight or net contents
4. Name and address of the party who produces or imports into the territory of Indonesia
5. Expiration date, month, and year.

Every business actor who produces or imports packaged food products into the territory of Indonesia for trading and states that the food is halal for Muslims, is responsible for the truth of the statement and must include halal information or writing on the label.

The definition of halal food in the regulation is that it does not contain elements or ingredients that are prohibited for consumption by Muslims, both with regard to food raw materials, food additives, auxiliary materials and other auxiliary materials including food ingredients processed through genetic engineering products and pangandan irradiation whose management is carried out in accordance with Islamic provisions.

The truth of the halal statement, business actors who produce or make packaged food that is entered into the territory of Indonesia for trade must first check the food at the inspection institution established by the Ministry of Religion. Therefore, in 2001 a Decree of the Minister of Religion Number 518 of 2001 was issued concerning Guidelines and Procedures for Examining and Determining Halal Food. This decree was formed in order to provide certainty of packaged food products traded in the territory of Indonesia.

Article 10 Paragraph (1) states that every person who produces or enters food into the territory of Indonesia for trade and states that the food is halal for Muslims, is responsible for the statement of truth and must include halal information or writing. The inclusion of halal writing or halal label on the halal label is an obligation if the party who produces and / or enters food into the territory of Indonesia states (claims) that the product is halal for Muslims.

Presidential Instruction No. 2 of 1991, concerning the Improvement of Guidance and Supervision of the Production and Distribution of Processed Food, the Minister of Health,

the Minister of Industry, the Minister of Agriculture, and the Minister of Trade, in accordance with their respective authority to establish regulations, carry out guidance and supervision of processed food production and circulation in accordance with the integrated policy as stated in the second dictum, so that the selection of ingredients, processing, packaging and labeling as well as circulation or distribution actually meet the requirements, quality, health, safety, and clarity to the public in making choices in accordance with their religious provisions.

As an implementer of Government Regulation No. 69/1999, the Ministry of Religious Affairs issued Minister of Religious Affairs Decree No. 518/2001. The Ministry of Religious Affairs then appointed MUI as the implementing agency for food inspection which is declared halal based on the Decree of the Minister of Religious Affairs Number 519 of 2001. Furthermore, the Minister of Religious Affairs appointed the General Company for Printing Money of the Republic of Indonesia (Perusi) as the implementer of halal label printing to be affixed to each halal food package that will be traded in the territory of Indonesia based on Decree of the Minister of Religious Affairs Number 252 of 2001.

Article 2 of the Decree of the Minister of Religious Affairs No. 525 of 2001 states that the food inspection conducted by MUI is as follows:

1. Examination and/or verification of applicant's data
2. Examination of production process
3. Laboratory examination
4. Inspection of packing, packaging and product storage
5. Inspection of transportation, distribution, marketing and presentation systems
6. Ordering and determining halal certification.

Joint Decree of the Minister of Health and the Ministry of Religion of the Republic of Indonesia Number 427 / Men.Kes / SKBMII / 1985 (Number 68 of 1985) concerning the Inclusion of Halal Writing on Food Labels, states among others:

1. Producers include halal writing on the label / food marking, the producer is responsible for the halalness of the food for Muslims.
2. Producers as referred to in Article 2, in this SKB of the Ministry of Health and the Ministry of Religion of the Republic of Indonesia, are obliged to submit reports to the Ministry of Health of the Republic of Indonesia by including information about the processing process and the composition of the ingredients used.
3. Preventive supervision of the implementation of the provisions of this SKB of the Ministry of Health and the Ministry of Religious Affairs is carried out by the Food

registration assessment team at the Ministry of Health cq. Directorate General of Food and Drug Supervision.

Regulation of the Minister of Health of the Republic of Indonesia Number 76/Menkes/Per/1978, concerning Food Labels and Advertising. In its considerations, among others, it states:

1. That food is one of the staple foods in the framework of the growth and life of the nation has an important role in national development.
2. That the community needs to be protected by health and safety and health against the production and circulation of food that does not meet the requirements.
3. That the way food is produced is one of the important factors to meet the quality standards or requirements set for food.
4. That therefore it is necessary to establish guidelines on good production methods for food.

Regulation of the Minister of Agriculture Number 69 of 1999, concerning Food Advertisement, regulates the halalness of food as follows. First, Every person who produces or imports packaged food into the territory of Indonesia for trading and declares that the food is halal for Muslims, is responsible for the truth of the statement and is obliged to include halal information or writing on the label. Second, The statement about halal as stated in paragraph (1) is an integral part of the label.

After the enactment of Law Number 33 of 2014 concerning Halal Product Guarantee

Based on Government Regulation Number 31 of 2019 concerning the Implementation of Law Number 33 of 2014 concerning Halal Product Guarantee. Further provisions are implemented by including the following subjects. First, Mandatory halal certification. Second, Collaboration between organizers of halal product assurance. Third, Certification fee. Fourth, the place, location and equipment used when ordering halal products, halal inspection institutions, and halal auditors. Five, step-by-step halal certification. Six, Registration of halal products with foreign certification in Indonesia. Seven, Implementation monitoring for halal product assurance.

Indonesia has enacted Law Number 33 of 2014 concerning Halal Product Guarantee. The provisions for halal certification have been regulated. However, Law Number 11 of 2020 concerning Job Creation was passed. Amend several provisions that have been regulated in the JPH Law. These changes are to facilitate halal certification for micro and small businesses. Some of the points of change include:

1. Law Number 11 of 2020 related to halal for micro entrepreneurs. The Job Creation Law adds Article 4A, which states that halal certificates for MSEs are based on the statement of business actors previously carried out the Halal Product Process (PPH). The PPH mechanism is determined based on the halal mechanism carried out by BPJPJ. MSE actors also do not need to pay for halal certification.
2. Law Number 11 of 2020 removes the requirements for halal auditors. Some of the requirements for halal auditors include being Muslim, Indonesian citizen, broad knowledge related to product halalness and religious law. Auditors must also have a minimum education of S-1, in the field of food, in the fields of chemistry, biochemistry, industrial engineering, biology, or pharmacy. With the removal of this requirement, becoming a halal auditor is open to all.
3. Law Number 11 of 2020, related to PPH. Previously, business actors were required to separate, location, place, and tools used for PPH in accordance with the Halal Product Guarantee law. If implementing this regulation, entrepreneurs are threatened with administrative sanctions in the form of written warnings or denada. This sanction was changed to only administrative sanctions without any detailed explanation.
4. The length of the halal certification verification process. The maximum time for the Halal certification process is one working day. Application for Halal certification is equipped with data, business actors, name and type of product, list of products and ingredients used, as well as the product processing process, the product processing process is submitted by the entrepreneur to BPJPJ.
5. Extension of halal certification. Entrepreneurs who want to extend halal certification without changing PPH and composition. BPJPH can immediately issue an extension of halal certification without the need to conduct a Halal Fatwa hearing.
6. Regarding administrative sanctions in the Halal Product Guarantee Law, it regulates clear administrative sanctions if you do not carry out halal certification. Sanctions are in accordance with what is done. After Law Number 11 of 2020, administrative sanctions are not explained in detail.

CONCLUSION

1. Prior to the enactment of Law Number 33 of 2014 concerning Halal Product Guarantee in the juridical aspect, the shift in halal certification arrangements had occurred several times. Among others, in 1967, Halal Labeling became the authority of the Government through the Ministry of Health of the Republic of Indonesia (BPOM). Until finally there was economic turmoil about halal beverage and food

products. Where Muslims in Indonesia do not believe about the halalness of a packaged food and beverage product. In 1985 through the Joint Decree of the Minister of Religion and the Minister of Health Number 472 / Menkes / SKB / VIII / 1985. Involving the Indonesian Ulema Council (MUI). Then multiply Halal certification to MUI.

2. After the birth of Law Number 33 of 2014 concerning Halal Product Guarantee in Indonesia. Again experiencing changes, juridically regulating the authority to grant halal certification. Which began in 1985 was held by MUI, then effective in 1994, then after 2014, the authority to issue halal certification based on Law Number 33 of 2014 concerning Halal Product Guarantee. Back to the authority of the Government through the Ministry of Religion in this case the Halal Product Guarantee Management Agency (BPJPH).

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