



THE LEGAL PROTECTION OF THE SPIRITUAL RIGHTS OF MUSLIM CONSUMERS IN THE HALAL INDUSTRY DEVELOPMENT THROUGH SELF-DECLARE

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Abstract: The end of the Government Regulation in Lieu Law No. 2 of 2022 concerning Job Creation significantly changes the Halal Product Guarantee Law. The Indonesian Ulema Council is no longer authorized to issue fatwas on products filed under the Self Declare program. The transition from the Fatwa Commission to the Fatwa Committee, whose members are academics and ulama, as well as the accelerated halal certification program for institutions under the Ministry of Religion, may provide opportunities for violations for both business actors and PPH assistants, potentially affecting the spiritual rights of consumers. This article examines the government's strategy for promoting the halal business through self-declaration and comprehending the notion of ensuring Muslim customers' spiritual rights in the self-declare halal certification program. This normative legal research article has a conceptual, statutory, and case approach. This research is classified as library research since it relies on library materials as a normative legal research data source. According to the study's findings, the self-declare program is one of the government's methods for achieving 10 million halal certificates by 2024. However, this program needs further evaluation, particularly in terms of supervision. If PPH assistants and business actors apply the provisions of the Law, the spiritual rights of consumers as part of their religious rights granted by the Constitution can be fulfilled.

Keywords: strategy; spiritual rights protection; self-declare.

Abstrak: Muara dari Perpu No. 2 Tahun 2022 tentang Cipta Kerja membawa perubahan yang cukup signifikan bagi Undang Undang Jaminan Produk Halal. Majelis Ulama Indonesia tidak lagi diberikan wewenang untuk mengeluarkan fatwa terkait produk yang diajukan melalui skema *Self Declare*. Peralihan dari Komisi Fatwa ke Komite Fatwa yang anggotanya terdiri dari unsur akademisi dan ulama, serta program percepatan sertifikasi halal bagi institusi di bawah Kementerian Agama dapat menjadi celah tersendiri untuk melakukan pelanggaran baik bagi Pelaku Usaha maupun Pendamping PPH sehingga bisa berpengaruh terhadap penjaminan hak spiritual konsumen. Artikel ini bertujuan untuk menganalisis strategi pemerintah dalam pengembangan industri halal melalui *self declare* serta untuk mengetahui konsep penjaminan hak spiritual konsumen muslim dalam program sertifikasi halal skema *self declare*. Artikel ini merupakan jenis penelitian hukum normativ, dengan pendekatan konsep, pendekatan perundang-undangan, dan pendekatan kasus. Penelitian ini dikategorikan sebagai penelitian kepustakaan karena menggunakan bahan bahan kepustakaan sebagai sumber data penelitian yang terkait dengan hukum normativ. Hasil penelitian menunjukkan bahwa program *self declare* merupakan salah satu strategi pemerintah untuk percepatan perwujudan 10 juta sertifikat halal di tahun 2024. Meskipun program tersebut masih perlu dievaluasi khususnya dalam hal pengawasan. Jika pendamping PPH dan Pelaku Usaha menjalankan ketentuan yang sudah ditetapkan dalam Undang Undang, maka pemenuhan hak spiritual konsumen sebagai bagian dari hak beragama yang telah dijamin dalam Konstitusi dapat terpenuhi.

Kata Kunci: strategi; perlindungan hak spiritual; *self-declare*.



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INTRODUCTION

The domestic development of the halal product industry must be capable of creating a business network in the global market that will present the Indonesian halal product industry to the entire world. In the era of society 5.0, society must be prepared to promote and grow the halal product business so that the Muslim community's absolute needs can be addressed. The Indonesian government needs help making the halal product business a superior program in Muslim-majority countries.¹

Islam has clearly defined halal and haram in the al-Quran and Hadith. As a result, halal (lawful) is necessary for every Muslim.² It is not only about human-to-human relationships but also about human-to-God ties. The vast Muslim population in Indonesia has resulted in the country being a sizeable Muslim consumer market, with Muslims accounting for around 87.2% of the overall population of 276,556,113

¹ Hesti Hermaningsih, Nita Kuswardanhi, and Khodijah Hayati, "Prosiding Seminar Nasional Hasil Penelitian Dan Pengabdian Masyarakat," *IbM Kelompok Usaha Bersama Aneka Cemilan "Dua Putera,"* no. 1 (2021): 1.

² Nadirsyah Hosen, "Hilal and Halal: How to Manage Islamic Pluralism in Indonesia?," *Asian Journal of Comparative Law* 7 (2012): 1-18.

people; halal labeling is a primary need for every consumer, especially Muslims, and must be a government priority.

Micro, small, and medium-sized enterprises (MSMEs) are the key economic drivers in Indonesia. According to data from the Central Statistics Agency, the number of MSMEs reached 64.2 million units in 2018. The figure then rose to 65.5 million units in 2019.³ However, following the COVID-19 pandemic, Indonesia witnessed a slowdown, particularly in Micro, Small, and Medium Enterprises. Many business owners have gone bankrupt. Increasing the competitiveness of halal products is one of the government's initiatives to revitalize the community's economy following the Covid-19 pandemic, precisely by combining production, logistics, and certification processes into a single integrated and complete solution readily available to business actors.

Digitalization of business has become an order and an obligation in the period of Society 5.0, which the government, society, and business actors must implement. Even though digitization is merely a tool, the government (human) is the primary player in ensuring the success of the halal sector program through the legislation it enacts. As business players, the community recognizes the importance of introducing Indonesia to the world market through its halal industry.

Aside from introducing Indonesia to the global market, halal labeling is also a means of ensuring the spiritual rights of Indonesia's Muslim consumers, of which there is a significant number. The ratio of halal-certified products from micro, small, and medium firms must be enhanced. This is the context for the passage of No. 33 of 2014 concerning the Halal Product Guarantee (UU JPH). With this rule, it is envisaged that all products on the market in Indonesia will be halal certified. Given that numerous UMK-M products continue to circulate in the community without a halal label, this indicates that their constitutional rights as Muslim consumers have not been met. Consuming halal goods and avoiding haram goods is one of a series of forms of worship for a Muslim. Inner peace and security when using halal products, including food, cosmetics, and medicines, are highly desired by every Muslim.

Consumers should also receive legal certainty regarding the products being distributed, namely products guaranteed to be halal.⁴ Halal is essential in preserving maqasid al-sharia accomplishment. Good and halal economic behavior must be applied before, during, and after the process, and always refer to maqasid al-sharia. The state, as a protector of every citizen's constitutional rights, especially Muslim

³ Istianah Istianah and Gemala Dewi, "Analisis Masalah Pada Konsep Halal Self-Declare Sebelum Dan Pascaenactment Undang-Undang Cipta Kerja," *Al-Adl: Jurnal Hukum* 14, no. 1 (2022): 85, <https://doi.org/10.31602/al-adl.v14i1.5870>.

⁴ Hayyun Durrotul Faridah, "Halal Certification in Indonesia; History, Development, and Implementation," *Journal of Halal Product and Research* 2, no. 2 (2019): 67, <https://doi.org/10.20473/jhpr.vol.2-issue.2.68-78>.

people, must be able to ensure that production and distribution operations are founded on notions derived from the Koran and Hadith.

To execute Law No. 33 of 2014, the government introduced a new program, halal certification, through a statement by business actors, also known as self-declaration, through the Halal Product Guarantee Organizing Agency (BPJPH). This program is also a form of BPJPH's support and commitment to Indonesia's presidency of the G20 to make Indonesia the No. 1 Halal Producer. 1 in the World in 2024. Through the free halal certificate program "SEHATI," BPJPH aims to provide free halal certificates for 10 million MSE products with a Business Actor statement or self-declare.⁵

The lack of awareness among Muslim customers about the need to consume halal products is a barrier to the implementation of Law No. 33 of 2014. Producers, not just consumers, play a crucial role because producers are responsible for halal certification. Meanwhile, customers have the right to get security guarantees and certainty that the products they consume are halal. As of October 2023, there were still 2,817,219 halal-certified MSE items within the 10 million MSE products BPJPH aims for in 2024.⁶ Thus, there is still a target of around 7 million more MSE products that do not have halal certificates spread throughout Indonesia.

Several studies related to protecting the spiritual rights of Muslim consumers have been carried out, such as Bambang Sugeng Ariadi Subagyono's study,⁷ which examined Muslim Consumer Protection for Halal Products. Khotibul Umam Razanah Nur Amalina⁸ reviewed the legal analysis of the plan to implement self-declaration in halal certification by micro and small business actors to protect the spiritual rights of Muslim consumers. Kautsar Azhari Noer⁹ examined the problem of the relationship between spirituality and human rights. Herdifa Pratama¹⁰ discussed stakeholder synergy in accelerating MSMEs (UMKM) halal certification through halal self-declaration. Musataklima with a study of self-declaring halal products for small and micro enterprises: between ease of doing business and assurance of consumer spiritual rights. The last one belongs to Istianah,¹¹ which

⁵ "Menag Launching Program 10 Juta Produk Bersertifikat Halal", accessed September 11, 2022, <https://sulsel.kemenag.go.id/>

⁶ <https://www.instagram.com/halal.indonesia>

⁷ Bambang Sugeng Ariadi Subagyono, *Perlindungan Konsumen Muslim Atas Produk Halal* (Surabaya: Jagad Media Publishing, 2020).

⁸ Khotibul Umam Razanah Nur Amalina, "Analisis Hukum Terhadap Rencana Penerapan Self Declaration Pada Pelaksanaan Sertifikasi Halal Oleh Pelaku Usaha Mikro Dan Kecil Bagi Perlindungan Hak Spiritual Konsumen Muslim" (Universitas Gajah Mada Yogyakarta, 2021).

⁹ Kautsar Azhari Noer, "Spiritualitas Dan Hak Asasi Manusia," *Ushuluna: Jurnal Ilmu Ushuluddin* 3, no. 1 (2020): 130-44, <https://doi.org/10.15408/ushuluna.v3i1.15192>.

¹⁰ Herdifa Pratama, "Stakeholders Synergy In Accelerating Msme (Umkm) Halal Certification Through Halal Self-Declare," *Raushan Fikr* 11, no. 2 (2022): 271-87.

¹¹ Istianah and Dewi, "Analisis Masalah Pada Konsep Halal Self-Declare Sebelum Dan Pascaenachment Undang-Undang Cipta Kerja."

examines explicitly the problem analysis regarding halal self-declaration before and after the Job Creation Law. However, some of the studies mentioned above go into greater detail about Muslim consumer protection through the circulation of halal-certified food, either through the regular halal certification route or the self-declaration route, which will be implemented or are currently being implemented in 2022. This differs from the author's previous study, namely making self-declaration a strategy and means of adaptation for Muslim communities as economic actors in the era of society 5.0, and is a form of realization of Muslim citizens' constitutional rights to obtain guaranteed legal certainty for products consumed daily.

Based on the issues raised above, this article seeks to ascertain the government's strategy for carrying out the mandate of the 1945 Constitution to guarantee the constitutional rights of every citizen, which in this case is the spiritual right of the Muslim community to obtain legal certainty from industrial products, particularly food, as part of religious rights, Through the self-declaration program. In addition, this study examines the execution of the halal certification program through self-declaration as a type of digitalization program carried out by the government in growing the halal business to adapt to the era of society 5.0. This article is the outcome of a normative legal study using a conceptual, statutory, and case approach. This type of research is categorized as library research because it uses library materials as a source of research data related to normative law, which places law as a building system of norms.

SELF-DECLARE AND PROBLEMS IN THE FIELD

Halal certification is acquiring a halal certificate by passing through multiple phases of inspection to establish that a company's materials, production process, and halal assurance system conform with the requirements specified by BPJPH.¹² To obtain halal certification from BPJPH, business actors must apply BPJPH. Based on PMA No. 20 of 2021, article 24 states that Micro and Small Business Actors use, and it is free of charge or the same as free, considering the State's financial capacity. This program is called SEHATI (free halal certificate) through a self-declare scheme.

Since the publication of Law No. 33 of 2014 concerning JPH, the halal certification process has effectively shifted to the Halal Product Guarantee Organizing Agency (BPJPH). However, the certification process involves several parties consisting of 3 central institutions, namely BPJPH, which has administrative authority; the Halal Inspection Institute (LPH) has scientific management; and the Indonesian Ulema Council (MUI) has religious authority.¹³ Thus, the legitimization

¹² Faridah, "Halal Certification in Indonesia; History, Development, and Implementation," 72.

¹³ "Akselerasi Layanan BPJPH & Sertifikasi Halal Rp 0 Untuk UMK", Accessed Oktober 4, 2022, <https://www.youtube.com/watch?v=RBUIzwmOFv8&t=1412s>

process for implementing the JPH Law is fully implemented by BPJPH with a one-stop principle to make it easier for business actors to issue halal certificates.¹⁴

However, since the publication of Perpu No. 2 of 2022 concerning Job Creation (which has now been changed to Law No. 6 of 2023), there have been at least 32 changes to improve Law No. 33 of 2014. Precisely in Article 48 of the Job Creation Perpu, namely that the MUI Fatwa Commission no longer carries out the provision of halal determinations, then with this Government Regulation instead of Law, it is stated that the process of self-declaring halal decisions is carried out by the Halal Fatwa Committee, which was formed and responsible to the Minister of Religion. To expedite the self-declaration program, halal certificates have been issued to the Fatwa Committee, which comprises Ulama and Academics.

This is a new issue that has arisen as a result of the Fatwa Committee's assumption of MUI authority. Even though this self-declare program promises to accelerate MSEs to obtain halal certification, it does not rule out the possibility that the various conveniences provided include expanding product categories that can be certified through the self-declare route, such as ice cream and bakeries must become critical points for PPH assistants and the Fatwa Committee to check the production process starting from providing materials, processing, storage, packaging, distribution, sales, to product presentation. Because it was previously known that products that can be included in the self-declare category are simple and risk-free products with ingredients that can be guaranteed to be halal, as stated in the Decree of the Head of BPJPH No. 33 of 2022 concerning Technical Guidelines for Accompanying Halal Product Processes in Determining Halal Certified Obligations for Micro and Small Business Actors Based on Business Actors' Statements.

Aside from that, human resources must be a priority for BPJPH; more human resources while supporting the halal product process is an impediment in and of itself to ensure consistency in the assistance process later on. PPH Facilitator Training must meet implementation criteria and focus not just on accelerated programs but also on the quality and quantity of PPH companions. The lack of a monitoring system and no unique guidelines addressing the Code of Ethics for PPH assistants allows for deviations committed by PPH assistants that will subsequently impair the quality of halal certification.

Since 1996, self-declaration has been governed by the Minister of Health's Decree No. 82/Menkes/SK/I/1996. It specifies that halal labels can be granted unilaterally to business actors if they contain information on the materials used. However, it was felt that this regulation was ineffective, so the Minister of Health issued Ministerial Decree No. 942/Menkes/SK/VIII/1996, which changed the halal certification mechanism, requiring permission from the Director General of POM

¹⁴ Indah Fitriani Sukri, "Implementasi Undang-Undang Cipta Kerja Terhadap Penyelenggaraan Sertifikasi Halal Dan Produk Halal Di Indonesia," *Majalah Hukum Nasional* 51, no. 1 (2021): 01.

based on a fatwa from the MUI.¹⁵ However, the MUI is no longer issuing halal certification for the self-declare scheme. MUI only has the right to issue fatwas to business actors who apply for halal certification through the regular route.

Apart from determining the standards for PPH Companions and the Fatwa Committee, Business Actors also have specific measures to be able to apply for halal certification through the self-declare scheme, namely several criteria must be met by actors to be able to take part in the Free Halal Certificate (SEHATI) program through the self-declare route, among the requirements are:¹⁶ Business actors must have an NIB (Business Identification Number) with low risk (single license), the business they own is in the micro or small scale business category, the Indonesian Business Field Classification or KBLI must be in accordance with the type of product in the Decree of the Head of BPJPH Number 33 of 2022, Has no more than 1 outlet and/or production facility, Has never received a halal certificate facility from another party, Uses production materials that have been confirmed to be halal, proven by a halal certificate, or included in materials that comply with KMA No. 1360 of 2021 concerning materials that excluded from the obligation to be halal certified, simple production process (home business, not manufacturer), products submitted for halal certification through self-declaration do not contain elements of slaughtered animals, unless they come from producers or slaughterhouses that already have halal certification.

To meet the halal certification requirement for food and beverage products, the Minister of Religion, Yaqut Cholil Qoumas, issued the Instruction of the Minister of Religion of the Republic of Indonesia Number 1 of 2023 concerning Halal Certification of Products and Canteens within the Ministry of Religion Work Unit. This minister's directives severely underlined the obligation of halal certification, particularly for all agencies under the Ministry of Religion. This is a tangible step forward by the government in expanding the halal industry, particularly inside the Ministry of Religion.

According to the stages described above, the self-declaration program involves many parties. It must undergo several verification and validation steps to produce results that meet the criteria that can guarantee spiritual rights and provide protection for Muslim consumers. To be successful, this self-declare program requires strong collaboration among related institutions, ranging from business actors as proponents of halal certification to ministries of religion, Halal Product Process Assistance Institutions, the Fatwa Committee, and BPJPH participating actively in the self-declare process. This synergy from stakeholder institutions'

¹⁵ Fitri Rafianti, Robi Krisna, and Erwin Radityo, "Dinamika Pendampingan Manajemen Halal Bagi Usaha Mikro Dan Kecil Melalui Program Self Declare," *Jurnal Sains Sosio Humaniora* 6, no. 1 (2022): 641.

¹⁶ Indah, "Ini Syarat Daftar Sertifikasi Halal Gratis Kategori self declare", accessed 05 Oktober, 2022, <https://kemenag.go.id/>

contributions can maximize the self-declare program to accelerate halal certification for MSEs.¹⁷

Apart from releasing Halal Canteen regulations, the Ministry of Religion has taken several actions, including holding online PPH Facilitator training for all Religious Counselors throughout Indonesia. This three-day online seminar describes mentorship approaches for aspiring PPH partners. Could a three-day online training with no prior experience develop PPH assistants who understand and truly understand the process of applying for halal certification? This has an indirect impact on the quality of halal certification. This must be the focus of the self-declaration program; the synergy and contribution of stakeholder institutions must continue to be maintained and improved. Some of these steps are a real effort to make Indonesia the No. 1 Halal Producer in the World in 2024.

The more PPH Assistants BPJPH hires, the more opportunities for Business Actors to receive a halal certificate through self-declaration. This is becoming more apparent as the number of items obtaining halal certification through the self-declare program grows. The table below shows the progress of the self-declare program in Indonesia:

The Implementation of Self-Declare in Indonesia Year 2022-2023¹⁸

No	Total Gain Until Date	Total Published Certificate
1.	21 March 2022 – 11 July 2022 (The First Stage of Self Declare)	10.164
2.	24 August 2022 – December 2022	945.795
3.	2 January 2023 – December 2023	Target 1 Million
4.	31 May 2023	177.730
5.	28 June 2023	319.524
6.	06 July 2023	361.648
7.	04 August 2023	515.891
8.	08 September 2023	650.349
9.	25 September 2023	730.110

SPIRITUAL RIGHTS OF MUSLIM CONSUMER

According to Adler, humans are creatures aware of all the reasons for their behavior and inferiority. They can guide their behavior and are fully aware of all their actions so they can actualize them.¹⁹ Humans are made up of three elements: spirit, soul (lust), and body. Lust occupies a space between the soul and the body. That is, when

¹⁷ Pratama, "Stakeholders Synergy In Accelerating Msme (UMKM) Halal Certification Through Halal Self-Declare," 271.

¹⁸ <https://www.instagram.com/halal.indonesia>

¹⁹ Endahing Noor Iman Pustakasari, "Hubungan Spiritualitas Dengan Resiliensi Survivor Remaja Pasca Bencana Erupsi Gunung Kelud Di Desa Pandansari Ngantang Kabupaten Malang," *Skripsi* (UIN Malang, 2014), 20.

the physical element (body) dominates passion, humans are drawn to worldly pleasures and profits. When the spiritual part dominates lust, humans are drawn to its source, namely God. Thus, there will always be a tug-of-war between bodily tendencies that lead to evil and spiritual tendencies that lead to goodness.²⁰

Morphologically and etymologically, spirituality can be understood. The morphological meaning of spiritual is nearly identical to the importance of offerings, a supernatural dimension distinct from the physical size, a statement of the soul or feelings, something sacred, a development of thoughts and feelings, or a change in life, and is associated with religious organizations. Meanwhile, etymologically, spirituality refers to anything essential, significant, and capable of influencing a person to think and act.²¹

Spiritual rights fall within religious rights, as defined in the 1945 Constitution. Religion and spirituality are privileges that must be protected. Being spiritual entails having a stronger connection to spiritual or psychological things than bodily things. Collective rights are fulfilled by fulfilling everyone's spiritual requests. Even though religion and belief are distinct concepts, both are constitutionally protected rights of citizens.²²

As theoretical constructs, religion and spirituality can describe a person's attitudes, behavior, beliefs, and perspective on sacred things. However, religion and spirituality are sometimes seen as simultaneously different, overlapping, and occurring constructs. According to Thoresen 1998 religion is an organized system of beliefs, rituals, and practices and is a (religious) symbol. Meanwhile, spirituality must involve a person's transcendent relationship with a higher form of power.²³

Jalaludin Rahmat defines spirituality in more detail by creating several aspects. This aspect states that there is a close connection between spirituality and religion. This can be seen from the spiritual element, which is said to have scope:²⁴

1. The ideological part is a set of beliefs.
2. The ritualistic aspect is carrying out rituals/worship of a religion.
3. The experiential element is affective: emotional and sentimental involvement in implementing religious teachings.

²⁰ Noer, "Spiritualitas Dan Hak Asasi Manusia," 131.

²¹ Rof'ah Setyowati, "Perlindungan 'Hak Spiritual' Dalam Penyelesaian Sengketa Perbankan Syariah: Praktik Di Malaysia Dan Indonesia," *Share: Jurnal Ekonomi Dan Keuangan Islam* 5, no. 2 (2016): 124-54, <https://doi.org/10.22373/share.v5i2.1235>. 130.

²² Muwaffiq Jufri and Mukhlis Mukhlis, "Akibat Hukum Pemisahan Hak Beragama Dengan Hak Berkepercayaan Dalam Undang-Undang Dasar Negara Republik Indonesia Tahun 1945," *Jurnal Konstitusi* 16, no. 2 (2019): 278, <https://doi.org/10.31078/jk1624>.

²³ Beverly Rosa Williams, Cheryl L. Holt, Daisy Le, and Emily Shultz, "Characterizing Change in Religious and Spiritual Identity among a National Sample of African American Adults," *Physiology & Behavior* 176, no. 3 (2017): 2, <https://doi.org/10.1080/15528030.2015.1073208>. Characterizing.

²⁴ Setyowati, "Perlindungan 'Hak Spiritual' Dalam Penyelesaian Sengketa Perbankan Syariah: Praktik Di Malaysia Dan Indonesia," 130.

4. Intellectual aspect, namely knowledge about religion.
5. Consequential aspects are also known as social aspects.

The preceding definition demonstrates that the spiritual side cannot be separated from religion. Regarding the necessity for halal products for Muslim customers, spiritual rights refer to rights based on the religious teachings of Muslim consumers, specifically the teachings of the Islamic religion. Religious rights must be legally protected and fulfilled with clarity.

Fundamentally, rights are an element whose function is to provide guidelines for behavior, protection of freedom, and immunity in guaranteeing opportunities for humans to maintain their dignity and worth.²⁵ Human rights issues are not only a legal aspect. The most crucial aspect that determines human rights protection is the spiritual aspect. If the spiritual quality is good, the quality of life will be good. And conversely, if the spiritual quality is terrible, the quality of life will also be wrong.²⁶

Spiritual rights are a new concept. This word is closely related to consumer protection research. Spiritual rights are different from the previously common term consumer rights. Even though these two rights are part of a sequence, spiritual rights are the culmination of various societal conceptions. This new term's existence can be understood as an attempt to raise notice of something vital that exists around consumers but does not gain general attention.²⁷

From the consumer protection standpoint, two categories of consumer rights must be protected: material and spiritual rights, both of which are stated in the consumer protection law. Material rights relate to the secrecy of consumer data, customer cash, and advocacy in Islamic economics. Meanwhile, what is meant by spiritual rights are religious rights that must be preserved and given the ability to practice what they believe.²⁸

Many people still need to learn about the importance of spiritual rights in their daily lives. Assuring the halalness of a product is a concrete illustration of a spiritual entitlement that Muslim consumers must fulfill. Nonetheless, the phrase halal is typically used to refer to food permissible to consume; nevertheless, there are many other factors to consider, such as dress, travel, grooming, and socializing.

It is mentioned in the al-Qur'an, Surah al-Baqarah verse 168, which orders to eat halal food but also orders to eat good food. Some foods are halal but have no

²⁵ Zeehan Fuad Attamimi, Hari Sutra Disemadi, and Budi Santoso, "Prinsip Syariah Dalam Penyelenggaraan Bank Wakaf Mikro Sebagai Perlindungan Hak Spiritual Nasabah," *Jurnal Jurisprudence* 9, no. 2 (2019): 126, <https://doi.org/10.23917/jurisprudence.v9i2.8897>.

²⁶ Noer, "Spiritualitas Dan Hak Asasi Manusia," 130.

²⁷ Setyowati, "Perlindungan 'Hak Spiritual' Dalam Penyelesaian Sengketa Perbankan Syariah: Praktik Di Malaysia Dan Indonesia," 131.

²⁸ Hari Sutra Disemadi and Ayup Suran Ningsih, "Efforts To Protect Consumer'S Spiritual Rights in Organizing Islamic Microfinance Institutions in Indonesia," *Diponegoro Law Review* 5, no. 2 (2020): 184, <https://doi.org/10.14710/dilrev.5.2.2020.172-187>.

nutritional value, so they are considered unhealthy if consumed under certain conditions. What the Koran commands is halal and suitable, according to KN. Sofyan Hasan, to identify the halalness of a product, it must not only be seen in terms of its substance, but it must also be seen in terms of its nature, halal process, place, instruments and storage, and even its presentation.²⁹ It becomes a positive necessity if the product halal guarantee system is directly proportional to a product's *tayyiban* (pure; good) guarantee.³⁰

The preceding stanza also elucidates the correlation between spirituality and religion. The spirit of daily living should derive more from Islamic religious ideas for a Muslim. Spiritual issues are crucial for deeply religious people because every religion has rules in the form of orders or prohibitions that apply at all times and are not restricted by area. As a result, spiritual rights are universal and inherent in every individual who practices their religion.³¹

The term spiritual is also used to introduce the scope of coverage of the Consumer Protection Law, which has spiritual aims. Spiritual rights are the rights of all people because spirituality is a universal feature of humanity. Ignoring spiritual rights can lead to difficulties because consumers' spiritual needs must be protected and fought for. Because there is no express recognition of spiritual rights under statutory regulations. Even though the Consumer Protection Law (UUPK) essentially accepts this.³² This is stated in Article 2 of Law No. 8 of 1999 concerning UUPK principles. In the explanation of number 3, article 2, UUPK states:

Consumer protection is carried out as a collaborative effort based on 5 (five) principles vital to national development: the guide of balance is designed to provide a material or spiritual harmony between the interests of consumers, business actors, and the government.

The rationality of spiritual rights derived from religion stems from the fact that every religious doctrine contains provisions for good and evil in commandments and prohibitions. This lesson is applicable anywhere and at any time. Spiritual readings are inherent in consumers who practice religion, both Muslim and non-Muslim. Thus, it is a right that should be protected as well.

²⁹ Tuti Haryanti, "Peningkatan Kesadaran Hukum Pelaku Usaha Terhadap Sertifikasi Halal Dalam Menjamin Hak Konsumen Muslim (Studi," *Tahkim* XII, no. No. 1 (2016): 74.

³⁰ Musataklima Musataklima, "Self-Declare Halal Products for Small and Micro Enterprises: Between Ease of Doing Business and Assurance of Consumer Spiritual Rights," *De Jure: Jurnal Hukum dan Syar'iah* 13, no. 1 (2021): 46.

³¹ Setyowati, "Perlindungan 'Hak Spiritual' Dalam Penyelesaian Sengketa Perbankan Syariah: Praktik Di Malaysia dan Indonesia," 132.

³² Disemadi and Ningsih, "Efforts To Protect Consumer's Spiritual Rights in Organizing Islamic Microfinance Institutions in Indonesia."

GOVERNMENT STRATEGY TO PROTECT THE SPIRITUAL RIGHTS OF MUSLIM CONSUMERS THROUGH SELF-DECLARE

Indonesia, being a country with a Muslim majority, is highly concerned about preserving the continuity of religion and worship for its people. This is mentioned in Article 29, paragraph 2 of the 1945 Constitution, which states, "The State guarantees the freedom of each resident to embrace their religion and to worship according to that religion and belief."³³ As stated in the preamble to the 1945 Constitution of the Republic of Indonesia, the State must protect the entire Indonesian nation and all of Indonesia's blood and realize general prosperity.³⁴

In English, it is said as a consumer, while in Dutch, it is *Consument*, which is meant by Consumer in Law no. 8 of 1999 concerning consumer protection; in article 1 number 2, a consumer is every person who uses goods or services provided by society, whether for the benefit of themselves, their family, other people or other living creatures that are not for trade.³⁵

Consumer protection includes a legal aspect in which consumers who get protection receive both physical and abstract protection. This indicates that consumer protection is the same as the legal protection for consumer rights. Rights are protected interests, whereas interests are individual demands that are supposed to be met. In their application, interests contain powers guaranteed and protected by law.³⁶ Preserving religious communities' beliefs is included in the abstract protection of non-physical rights. Consuming halal and good meals is considered obligatory by the Islamic Ummah. As a result, its accomplishment is the government's obligation as the protector of its citizens' fundamental rights.

Consumer rights that must be satisfied by the government as policymakers are spiritual. Spirituality is essential, meaningful, and capable of moving people to think and act. In truth, spiritual rights are not limited to Muslims because spiritual rights are universal. However, suppose it is related to the main topic of the discussion, namely the protection of Muslim consumers' spiritual rights in obtaining halal products through the self-declaration halal certification program. In that case, the spiritual rights in this paper are aimed at a Muslim who acts as a consumer who receives halal product guarantees.

Indonesia adheres to the concept that religious rights and belief rights must be separated. Measures like this produce a variety of issues. Because believing is not a religion, intimidation and anarchism are frequently used against adherents of particular views. Although every individual has spiritual rights from birth, these

³³ Constitution of the Republic of Indonesia Year 1945

³⁴ S.indonesia, "Jaminan Produk Halal Di Indonesia," *Jurnal Legislasi Indonesia* 14, no. 1 (2017): 99-108.

³⁵ Muthia Sakti, Dwi Aryanti, and Yuliana Yuli W, "Perlindungan Konsumen Terhadap Beredarnya Makanan Yang Tidak Bersertifikat Halal," *Jurnal Yuridis* 2, no. 1 (2015): 63.

³⁶ Siti Muslimah, "Label Halal Pada Produk Pangan Kemasan Dalam Perspektif Perlindungan Konsumen Muslim," *Yustisia* 1, no. 2 (2012): 87.

spiritual rights, like human rights, are fundamental because spiritual rights might compel people to behave according to their level of spirituality.

Human rights are fundamental rights that persons have by their existence. The State must legitimize the recognition of human rights. If the Constitution grants religious rights in clause 28 E paragraph 1, this clause indirectly protects the right of Muslim customers to receive legal certainty regarding the food they consume. Because halal items are a must-have for any Muslim consumer. Even in international trade, halal product certification gets quite good attention. This is done to protect Muslim consumers worldwide and as a strategy to face the challenges of globalization. The Law regarding JPH also emphasizes the importance of halal and haram issues in the production chain from business actors to consumers.³⁷

A Muslim must balance worldly and religious concerns in everyday life, precisely by abstaining from activities contrary to Islamic beliefs. Islamic law has governed the order of human life to realize the interests of a blessed life and promote goodness to others. This is consistent with business actors' activity in processing and producing items conforming to Islamic law and meeting halal and *tayyib* (pure) requirements.³⁸ This tries to protect consumers by guaranteeing their rights and providing legal certainty. Spiritual rights can be implemented in various ways, including ensuring the quality of items on the market that are authentically halal and *tayyib*, which is the government's and commercial players' responsibility.³⁹

Halal product guarantees can also create a sense of assurance, comfort, and safety for all Muslim consumers. Food is a basic necessity for every human being, and meeting that need is a human right, according to the explanation of Law No. 18 of 2012. Food must also be available in sufficient, safe, high-quality, nutritious, and diverse at affordable prices by people's purchasing power and not conflict with the teachings of the people's religion, beliefs, and culture.⁴⁰ From the sound of this Law, it may be determined that food that does not contradict religious principles is halal and *tayyib*, allowing Muslim customers to fulfill their spiritual rights because spiritual rights are based on the principles of the Muslim consumer religion, specifically the Islamic faith.

The JPH Law protects and ensures consumers and applies to business actors, ensuring that the items produced are more popular and famous with customers. Halal certification was initially voluntary, but it became mandatory with the passage of the JPH Law. As a result, all products entering and circulating in Indonesia must be certified as halal.

³⁷ S.indonesia, "Jaminan Produk Halal Di Indonesia," 99.

³⁸ Sakti, Aryanti, and Yuli W, "Perlindungan Konsumen Terhadap Beredarnya Makanan Yang Tidak Bersertifikat Halal," 64.

³⁹ Muhammad Cholil Nafis, "The Concept of Halal and Thayyib and Its Implementation in Indonesia," *Journal of Halal Product and Research* 2, no. 1 (June 2, 2019): 1, <https://doi.org/10.20473/jhpr.vol.2-issue.1.1-5>.

⁴⁰ KN Sofyan Hasan, "Kepastian Hukum Sertifikasi Dan Labelisasi Halal Produk Pangan," *Jurnal Dinamika Hukum* 14, no. 2 (2014): 227, <https://doi.org/10.20884/1.jdh.2014.14.2.292>.

The intellectual foundation of the JPH law is clearly expressed in the general preamble and explanation, specifically in the first and second preambles, which declare that implementing halal products is one aspect of carrying out religious instructions worthy of devotion. In this case, the state is obligated to provide it. This is a constitutional right that its citizens have when the state recognizes it and enshrines it in statutory rules. As a result, access to halal products is a spiritual privilege granted explicitly by law to Muslim consumers.

To fulfill constitutional rights and its duty as a guarantor of the rights of all its citizens, the government is attempting to guarantee the spiritual rights of all Muslim customers in Indonesia through the self-declaration program or statements by business actors. A business actor statement is a declaration made by micro and small company actors on the halalness of a product they manufacture.⁴¹ As a result, all products manufactured by small and micro-businesses must receive a halal certificate. With the many facilities and conveniences provided for applying for halal certificates for MSEs, the business mentioned above actors' statements must also be carried out by the requirements specified by BPJPH. The standards at issue are: First, there is a statement by the business actor in the form of a contract/pledge containing the halalness of the products and materials used and the halal product production process; Second, there is a Halal Product Process (PPH) companion.

Aside from that, PPH assistants must be able to commit to safeguarding the confidentiality of data and information given by business actors during the PPH support procedure at all times. PPH partners who cannot achieve as defined in Article 57 of the JPH Law will face up to two years in prison or a fine of IDR 2,000,000,000 (2 billion rupiah). So, even though it is merely through a statement from the business actor, the business actor must meet various conditions to receive a halal certificate.

The Government continues to endeavor to avoid the risk of fraud and irregularities that create gaps among the companion and LP3H institutions based on many laws connected to the companion's commitment to ensure the halalness of the products they accompany. Government initiatives such as frequent coordination meetings between BPJPH and LP3H, refreshment activities, and companion activation are also standard BPJPH programs.

According to Article 4 of Regulation of the Minister of Religious Affairs (PMA) No. 20 of 2021 regarding certification for MSEs via a business statement or self-declaration, products that can be submitted for halal certification via the business statement route are products that are risk-free or use materials whose halal quality has been confirmed or have been included in the positive list, do not use hazardous materials, and have been verified as halal by the PPH assistant.

⁴¹ Regulation of the Minister of Religious Affairs of the Republic of Indonesia No 20 of 2021

Furthermore, in the production process, there are separate criteria that business actors must meet, namely: a production process that has been confirmed as halal and is simple, the equipment uses simple technology or is semi-automatic, the production process does not undergo irradiation, genetic engineering, ozonation, and use of hurdle technology, or location, place and PPH equipment by the JPH system.

The self-declared route is used to apply for halal certification. If they have an NIB (Business Identification Number), business actors must create a SIHALAL account on the website <https://ptsp.halal.go.id/>. Following the creation of a report on the website, business players must execute the following steps:

1. Apply for halal certification by submitting supporting documentation such as business actor data, product name and type, list of items and materials utilized, and product processing.
2. Business actors choose the Halal Product Process Inspection Institution and PPH Assistant closest to the production area.
3. The PPH assistant verifies and validates the complementary documents that the Business Actor has submitted via the website <https://ptsp.halal.go.id/> with each companion's account.
4. The PPH companion will transmit the documents to the Fatwa Committee once the documents are complete and the companion has performed a field visit to the production site to directly check the conformance of the production process with the documents supplied by the business actor.
5. Fatwa Hearing by the Fatwa Committee
6. BPJPH Issues a Halal Certificate if the Fatwa Committee accepts the application, or the Fatwa Committee returns it to the Business Actor if there are still several things that need to be corrected.
7. Business actors can download halal certificates on their respective accounts.
8. It can be returned to the Business Actor at any stage if it does not fit the stipulated terms and standards. As a result, the period necessary for each business actor to apply for halal certification by self-declaration varies.

To receive a halal certificate, business actors must go through many processes. Legal certainty regarding consumers' spiritual rights will be attained if the established SOP follows the above procedures. Meanwhile, business actors in the categories of food and beverage products, raw materials for food additives, auxiliary materials for food and beverage products, slaughtered products, and killing services that have not been certified halal as of October 17, 2024, must be prepared to accept the sanctions that will be imposed. Sanctions will range from written warnings to administrative fines and possibly the withdrawal of goods from circulation. This is

detailed in Government Regulation No. 39 of 2021 on implementing the Halal Product Guarantee Sector.

However, various loopholes allow for deviations. Among these is that assistants have no time limit for offering assistance, allowing for data manipulation such as fabricating images, brands, materials, etc. As a result, this self-declaration program is deemed insufficient for the government to realize its residents' constitutional rights as Muslim consumers fully.

Criminal provisions have also been established in the JPH Law to maintain the conformity of halal certificates received by commercial actors. Illegal measures in this law target commercial actors who knowingly fail to maintain the halal status of certified items. Even if a business actor already has a halal certificate but fails to maintain the halal quality of their products on an ongoing basis, they will face a maximum five-year prison sentence or a fine of up to IDR 2,000,000,000 (2 billion rupiah).⁴²

However, BPJPH's supervision of the consistency of business actors who have earned halal certificates could have been better thus far. Coordination between BPJPH and LP3H or with PPH assistants via Zoom meetings is the extent of supervision. The BPJPH's emphasis on this acceleration program needs to pay attention to business actors' constancy in maintaining the halalness of their products in conformity with the proposed SJPH.

Some preventive measures that can be implemented to avoid moral hazard behavior include outreach and education to corporate actors and consumers. Also, through the self-declaration halal certification process, supervise products already on the market and hold halal certificates.⁴³ It is also stated in the Minister of Religion's Decree No. 1360 of 2021 that materials that are exempt from the obligation to be certified halal are permitted to be distributed with several conditions, including the obligation to include information about non-halal so that they can provide information and provide legal certainty and protection for Muslim and non-Muslim consumers in this country. This can also provide people with comfort, security, safety, and the knowledge that halal products are available for consumption and use.⁴⁴

Based on the preceding discussions, it is evident that the Indonesian government's concrete actions to protect Muslim customers' spiritual rights through the self-declare halal certification scheme are pretty straightforward. Guarantees of Muslim consumers' spiritual rights are not only provided by sectoral laws such as

⁴² Law No 33 of 2014 concerning Halal Product Guarantee.

⁴³ Razanah Nur Amalina, "Analisis Hukum Terhadap Rencana Penerapan Self Declaration Pada Pelaksanaan Sertifikasi Halal Oleh Pelaku Usaha Mikro Dan Kecil Bagi Perlindungan Hak Spiritual Konsumen Muslim," 1.

⁴⁴ Musataklima, "Self-Declare Halal Products for Small and Micro Enterprises: Between Ease of Doing Business and Assurance of Consumer Spiritual Rights," 39.

Law No. 8 of 1999 concerning Consumer Protection by implication, Law No. 18 of 2012 concerning food, and Law No. 33 of 2014 concerning JPH explicitly, but it is also guaranteed as part of the human right to embrace religion and worship according to one's faith and beliefs in the 1945 Constitution. Thus, halal products are a constitutional right of Muslim consumers, so the constitutional right to halal products can be interpreted as a spiritual right whose fulfillment has been carried out by the Government through the self-declare program to certify products circulating on the market and consumed by Muslim consumers.⁴⁵

The obligation of obtaining a halal certificate for products created by micro and small business actors is mainly influenced by the business actor's admission, whether spoken or not. When a business actor says on his label that his product is halal, the halal certification obligation takes effect, and consequences are imposed if he does not consistently maintain the halal status of his creation.

CONCLUSION

Halal certification is a statement made by business actors or a self-declaration made by micro and small business actors on the halalness of a product they produce. As a result, by 2024, all products manufactured by small and micro firms must be certified halal. Because self-declaration is one of the government's methods for promoting the halal industry in the global market, applications for halal certification must be completed by BPJPH requirements. If business actors breach the criteria mentioned above, criminal restrictions have been outlined in the JPH Law. However, oversight of the companion's performance must be strengthened to minimize anomalies at each level.

Religion is a constitutional right of every citizen in the context of the state, as mentioned in Article 28E paragraph 1. In this context, the state must protect its residents so they to carry out their religious commands, including the availability of halal items for Muslim citizens in Indonesia. This protection is embodied in JPH Law No. 33 of 2014 and several implementing regulations. The right to halal products is a spiritual right of Muslim consumers that is manifested in religious rights, namely the right to products that are by the principles of the Islamic religion, implicitly or explicitly, which are also stated in the law. No. 8 of 1999 concerning Consumer Protection by implication, and Law no. 18 of 2012 concerning food. However, supervision of the consistency of business actors to always guarantee the halalness of their products still needs to be carried out well. Hence, it is still very possible for deviations to occur.

⁴⁵ Musataklima, 140.

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