



REGULATION OF HALAL PRODUCT CERTIFICATION IN THE DYNAMICS OF INDONESIAN LEGAL POLITICS

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Abstract: This study aimed to explore how the regulation of halal product certification in the dynamics of Indonesian legal politics, especially since the institutionalization of the halal certification system in 1975, then continued with the issuance of Law No. 8 of 1999 concerning Consumer Protection (UUPK), which transformed with the establishment of Law no. 33 of 2014 concerning Guarantee of Halal Products (UU JPH). By using a doctrinal research typology and qualitative data analysis, this research produces the following conclusions: First, the regulation of halal certification presents a political configuration, especially during the discussion of the JPH Law, resulting in pros and cons between the MUI, the government including the faction of the DPR faction regarding the institution authorized to carry out the certification, including whether or not business actors must carry out certification. Second, the shift in authority for halal certification, which was initially carried out by the MUI, after the arrival of the JPH Law, the transition and implementation of halal certification by BPJPH have triggered a political configuration that needs to be harmonized and consolidated immediately so as not to cause institutional disharmony.

Keywords: Legal Politics; Halal Product Regulation; Halal Product Certification; BPJPH

Abstrak: Tujuan penelitian ini untuk mengeksplorasi bagaimana regulasi sertifikasi produk halal dalam dinamika politik hukum Indonesia, khususnya sejak dilembagakannya sistem sertifikasi halal pada 1975, kemudian berlanjut terbitnya UU No. 8 Tahun 1999 Tentang Perlindungan Konsumen (UUPK), hingga mengalami transformasi dengan dibentuknya UU No. 33 Tahun 2014 tentang Jaminan Produk Halal (UU JPH). Dengan menggunakan tipologi penelitian doktrinal dan analisis data kualitatif, maka penelitian ini menghasilkan simpulan: *Pertama*, pengaturan sertifikasi halal menghadirkan konfigurasi politik terutama saat pembahasan UU JPH, hingga terjadi pro-kontra antara

MUI, Pemerintah termasuk fraksi-fraksi di DPR terkait lembaga yang berwenang dalam pelaksanaan sertifikasi, termasuk wajib atau tidaknya bagi pelaku usaha melakukan sertifikasi. *Kedua*, pergeseran kewenangan sertifikasi halal yang awalnya dilakukan MUI, maka setelah hadirnya UU JPH, transisi dan implementasi sertifikasi halal oleh BPJPH telah memicu konfigurasi politik yang perlu segera dilakukan harmonisasi dan konsolidasi agar tidak menimbulkan disharmoni kelembagaan.

Kata Kunci: Politik Hukum; Regulasi Produk Halal; Sertifikasi Produk Halal; BPJPH



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INTRODUCTION

Indonesia, with a Muslim-majority population, has the potential to become the center of the world's halal industry.¹ Regulations on the use of halal products have two interrelated matters, namely certification and labeling. Before Law No. 33 of 2014 Concerning Halal Product Guarantee (UU JPH), the primary role in certification was carried out by the Indonesian Ulema Council (MUI) through LPPOM-MUI (MUI Assessment Institute for Food, Drugs, and Cosmetics). Certification is carried out voluntarily at the request of business actors who wish to have a halal certificate. Apart from carrying out certification, the MUI also supervises products in circulation. Still, when the halal label is misused, the MUI cannot provide legal sanctions for business actors. MUI can only give warnings and warnings. As in the case of placing a halal label on a product that has not been certified or a business actor changing the composition of the material proposed in the certification process, the MUI cannot provide legal witnesses.²

Law No. 8 of 1999 Concerning Consumer Protection has not provided specific and detailed protection for Muslim consumers regarding halal products, even though the law contains an explanation regarding halal products in Article 8 paragraph (1) letter h,³ which substantially explains that business actors must follow existing halal provisions before trading products on the market and those who do not comply are subject to criminal sanctions and or fines.⁴

¹ Aminudin Yakub and Fitriyani Zein, "Halal Certification in Government and Non-Governmental Organizations: A Comparative Analysis of Indonesia, Malaysia, and Thailand," *Jurnal Cita Hukum* 10, no. 1 (April 30, 2022): 153-76, <https://doi.org/10.15408/jch.v10i1.25747>.

² Iffah Karimah. "Perubahan Kewenangan Lembaga-Lembaga yang Berwenang dalam Proses Sertifikasi Halal." *Journal of Islamic Law Studies*, 1 no.1 (2018): 107-131.

³ Article 8 Ayat (1) paragraph h Law No. 8 of 1999

⁴ Article 62 paragraph (1) Law No. 8 of 1999

The existence of the UUPK, which has not explicitly regulated related to this halal product guarantee, requires additional, more comprehensive regulations related to halal product guarantees (JPH), namely the JPH Law. In connection with the law, the parliament has political dynamics in the deliberation process. The political development of the JPH Law legislation has even found a deadlock regarding the authority to grant halal products between the Government and MUI. The Ministry of Religion wants the Government to issue certificates, whereas the MUI still wants halal certification to be its authority.⁵

Even the Indonesian Democratic Party of Struggle (F-PDIP) faction in parliament supports halal product certification being handed over to the Indonesian Ulema Council (MUI). However, other factions want the issuance of halal certificates to be handed over to the government or special agencies under the auspices of the government.⁶

Thus, it is undeniable that the birth of the JPH Law was in an unusual political and legal configuration. The MUI's role has been very urgent. LPPOM MUI has issued at least 5,896 halal certificates, totaling 1,292,392 products from 19,517 companies from 2015 to December 2021.⁷ This figure will undoubtedly increase if it is added to the halal certificates issued by regional LPPOM MUI spread across 33 provinces in Indonesia for more than 23 years. So, transferring halal certification to other institutions or even the government's hands certainly raises pros and cons.⁸

The existence of the Halal Product Guarantee Law (UU JPH), which is the basis for implementing the current halal product guarantee, as well as the establishment of the Halal Product Guarantee Agency (BPJPH)⁹ as a technical institution that is given the authority to manage halal guarantees as mandated by the law. Several changes in the operationalization of the JPH Law were also made as a response to the presence of the Job Creation Law (omnibus law). Several provisions/norms were amended as an effort to structure regulations on ease of business permits, including authority for Halal Inspection Agency (LPH) accreditation, authority for Halal

⁵ Even according to Suad Fikriawan, MUI's authority leads to symptoms of contestation. See Suad Fikriawan, "Sertifikasi Halal di Indonesia (Analisis Kuasa Simbolik dalam Kontestasi Fatwa Majelis Ulama Indonesia)," *El-Barka: Journal of Islamic Economics dan Business*, 1 no. 1 (2018): 27.

⁶ "FPDIP: Serahkan Sertifikasi ke MUI", *Republika*, Kamis, 27 Januari 2011.

⁷ "Data Statistik Produk Halal LPPOM MUI," <https://halalmui.org/> accessed May 10 2022.

⁸ "PDI-P Dukung MUI Pegang Sertifikasi Halal," <http://nasional.news.viva.co.id/news/> accessed May 12 2022.

⁹ The Halal Guarantee Organising Agency (BPJH) according to Article 1 paragraph (6) is an agency formed to organise halal product guarantees and in accordance with article 64 states that "BPJH must be formed no later than 3 (three) years from the enactment of this law.

Auditor certification, involvement of Islamic organizations in LPH implementation, simplification of bureaucracy and timing of issuance of Halal certificates and changes in sanctions for violating norms.¹⁰

With the presence of the JPH Law, halal certification as the core of the implementation of halal product guarantees for all products circulating and traded in the territory of Indonesia must be practical after 5 (five) years from the promulgation of the JPH Law.¹¹ The intended product halal certificate is officially issued by the Halal Product Guarantee Agency (BPJPH),¹² an institution formed explicitly by the government to administer Halal Product Assurance whose position is under and responsible to the Ministry of Religion.¹³

The obligation of halal certification for all products circulating and traded in Indonesia has ideally been enforced since October 17, 2019. However, the implementation could not be carried out properly due to several problems. The synergy between BPJPH and MUI, the lack of existence of LPH and Halal Auditors, certification costs, socialization of halal certification, and the absence of several regulations implementing the JPH Law are some of the problems that must be resolved.¹⁴

Moreover, the issuance of Government Regulation (PP) No. 31 of 2019 concerning Guidelines for the Implementation of the JPH Law in terms of time is also very late when referring to Article 65 of the JPH Law, which states that the Implementation Regulations for the JPH Law must have been promulgated no later than 2 (two) years from the time the law was enacted. The JPH law was promulgated.¹⁵ Ahmad Suaedy said that PP No. 31 of 2019 should have been issued by issuing a Minister of Religion Regulation (PMA) to regulate guidelines, tariffs, and provisions for halal inspection agencies (LPH).¹⁶

¹⁰ Mashudi, *Konstruksi Hukum Dan Respons Masyarakat Terhadap Sertifikasi Produk Halal* (Yogyakarta: Pustaka Pelajar, 2015); Hayyun Durrotul Faridah, "Halal Certification in Indonesia; History, Development, and Implementation," *Journal of Halal Product and Research (JHPR)* 2, no. 2 (December 21, 2019): 68-78, <https://doi.org/10.20473/jhpr.vol.2-issue.2.68-78>.

¹¹ Law No 33 of 2014 Concerning Halal Product Guarantee, Article 67

¹² Halal Guarantee Organising Agency (BPJH) is an agency formed to organise halal product guarantees and must be formed no later than 3 (three) years from the enactment of the JPH law.

¹³ Law No 33 of 2014 Concerning Halal Product Guarantee, Article 5 paragraph (3)

¹⁴ "BPJPH Tuding MUI Perlambat Proses Sertifikasi Auditor Halal," <https://indonesiainside.id/> accessed June 3 2022.

¹⁵ Law No 33 of 2014 Concerning Halal Product Guarantee Article 65 states: The implementing regulations of this Law shall be stipulated no later than 2 (two) years as of the enactment of this Law, i.e. on 17 October 2014.

¹⁶ "Pelaksanaan UU Jaminan Produk Halal Dinilai Serba Terburu-buru," <https://today.line.me/id/> accessed June 2 2022.

Besides, implementing regulations requires a long process, and adequate human resource readiness, including building trust among the public, locally and in the country of export destination for a product. In addition, the transfer of authority from halal certification issued by the MUI to halal certification issued by BPJPH has sparked a new polemic among the public, with the existence of a halal label issued by BPJPH, which is far from Islamic nuances as issued by the MUI.¹⁷

To sharpen the discussion around halal certification policies, researchers present several relevant related studies, one of which was written by Panji Adam Agus Putra,¹⁸ May Lim Charity,¹⁹ and Muhammad Syarif Hidayatullah.²⁰ These three studies conclude that halal certification's position in Indonesia's legal system is crucial. Today, halal and hygienic products are mandatory for every Muslim consumer. Even in the international trade system, the issue of certification and marking of halal products has received serious attention, especially in facing the challenges of globalization.

While research on the problems of guaranteeing halal products was written by Siti Rohmah et al.,²¹ Mutiara Fajrin Maulidya Mohammad,²² Aminudin Yakub, and Fitriyani Zein.²³ Rohmah et al.'s research show that efforts to legislate fiqh on halal products through the JPH Law are a constitutional necessity for Indonesian citizens, where the majority of the population is Muslim. The regulation of halal certification in the JPH Law is a form of legal certainty and constitutional protection for most Muslims as consumers in Indonesia. In addition, the JPH Law is also considered to provide economic, social, and health benefits that apply universally regardless of religion. Even the accusation that the JPH Law is a product of authoritarianism that harms non-Muslims cannot be justified. This is because manufacturers of food and medicines widely circulated in supermarkets and minimarkets in Indonesia own

¹⁷ "Polemik dibalik Logo Halal," <https://www.republika.co.id/> accessed February 3 2023.

¹⁸ Panji Adam Agus Putra, "Kedudukan Sertifikasi Halal Dalam Sistem Hukum Nasional Sebagai Upaya Perlindungan Konsumen dalam Hukum Islam, *Amwaluna: Jurnal Ekonomi dan Keuangan Syariah*, 1 no. 1 (2017): 150.

¹⁹ May Lim Charity, "Jaminan Produk Halal Di Indonesia," *Jurnal Legislasi Indonesia* 14, no. 1 (May 3, 2018): 99-107.

²⁰ Muhammad Syarif Hidayatullah, "Sertifikasi dan Labelisasi Halal Pada Makanan Dalam Perspektif Hukum Islam (Perspektif Ayat Ahkam), *Yudisia: Jurnal Pemikiran Hukum dan Hukum Islam*, 11 no 2 (2020): 251.

²¹ Siti Rohmah et al., "Menakar Urgensi dan Masa Depan Legislasi Fiqih Produk Halal di Indonesia: Antara otoritarianisme Mayoritas dan Jaminan Konstitusiaonal Mayoritas Muslim", *Al-Manahij: Jurnal Kajian Hukum Islam*, 14 no 2 (2020): 177.

²² Mutiara Fajrin Maulidya Mohammad, "Pengaturan Sertifikasi Jaminan Produk Halal di Indonesia", *Jurnal Kertha Wicaksana*, 15 no 2 (2021): 157.

²³ Yakub and Zein, "Halal Certification in Government and Non-Governmental Organizations," 153.

non-Muslims. Even with halal certification, these products can enter the world market, especially in Muslim countries.²⁴

Mutiara Fajrin Maulidya Mohamad's research states that the formation of Law No. 33 of 2014 concerning Guarantees for Halal Products, Government Regulation Number 31 of 2019, and Regulation of the Minister of Religion Number 26 of 2019 concerning Organizers of Halal Product Guarantees makes it more apparent that the urgency of the issue of halal and haram is in Indonesia. The regulation indicates that three urgent institutions have the authority to carry out halal certification in Indonesia: BPJPH, LPH, and MUI.²⁵ Meanwhile, the research by Asep Syarifuddin Hidayat and Mustolih Siradj stated that the issuance of UUJPH answered problems related to halal guarantees. The status and position of the institution as the person in charge of halal guarantees become transparent so that its implementation when dealing with societal problems remains following the aspired vision.²⁶

These studies are still focusing on highlighting halal certification partially, especially before and after the enactment of Law No. 33 of 2014 concerning the Halal Product Guarantee. However, no study has comprehensively explored the legal and political dynamics of the halal certification system since the MUI managed it until the presence of BPJPH. This is doctrinal research and qualitative analysis with a conceptual and juridical approach. The research procedure was carried out by identifying and inventorying legal materials, including primary legal materials, namely laws and regulations. Secondary legal materials, namely legal literature and scientific works related to regulations on halal product certification in Indonesian legal politics, will be analyzed qualitatively.

POLITICAL CONFIGURATION OF HALAL PRODUCT CERTIFICATION IN INDONESIA

The formation of statutory legal products as part of legal politics is always in a configuration space that cannot be value-free. Values rooted in social, cultural, economic, political, legal, and other aspirations interact and influence one another. Thus, the formation of legal products for halal product guarantees in the political

²⁴ Siti Rohmah et al., "Menakar Urgensi dan Masa Depan Legislasi Fiqih Produk Halal di Indonesia: Antara Otoritarianisme Mayoritas dan Jaminan Konstitusional Mayoritas Muslim", *Al-Manahij: Jurnal Kajian Hukum Islam*, 14 no 2 (2020): 177.

²⁵ Mutiara Fajrin Maulidya Mohammad, "Pengaturan Sertifikasi Jaminan Produk Halal di Indonesia", *Jurnal Kertha Wicaksana* 15 no. 2 (2021): 157.

²⁶ Asep Syarifuddin Hidayat and Mustolih Siradj, "Argumentasi Hukum Jaminan Produk Halal", *Jurnal Bimas Islam*, 8 no. 1 (2015): 32.

concept of Indonesian law in the context of protecting Muslim consumers and regulating halal products does not only experience one configuration but varies. So political configurations, sociocultural configurations, socio-economic configurations, globalization configurations, and so on emerge.²⁷

The need for protection and guarantees for halal products is necessary for Muslims because consuming halal is a fundamental right of every Muslim and the implication of sharia obligations.²⁸ The availability of sufficient, safe, nutritious food that varies according to people's purchasing power and does not conflict with religious, cultural, or belief values is a citizen's right guaranteed by the 1945 Constitution (UUD 1945) and Law No. 8 of 1999 concerning Consumer protection. This is also a form of the government's efforts to protect the rights of citizens, as stated in the fourth paragraph of the 1945 Constitution, namely, the State of Indonesia protects the entire Indonesian nation and all of Indonesia's bloodshed.²⁹

However, ironically, the problem of unclear halal status of food products is still severe in Indonesia today. Law no. 33 of 2014 concerning Halal Product Guarantee (UU JPH), included in the Job Creation Law cluster, is a new hope and challenge for Muslims regarding Indonesia's halal product guarantee system. The presence of the JPH Law is expected to be able to become a reference for the government and producers to provide guarantees for product halalness and become a legal umbrella that guarantees consumers according to the principles of protection, justice, legal certainty, accountability, and transparency, effectiveness and efficiency and professionalism.³⁰

Indonesian consumers are often victims of unfair trade practices. The variety of goods and/or services producers offer consumers does not fully protect consumer rights. This is proven by the many product findings that use haram substances, or even the processes and purposes of their production are also illegal. Consumers are controlled by five basic principles, namely: the principles of truth, cleanliness, simplicity, benefit, and morality. Explanation of the five basic principles, two of which are: The principle of truth, this principle regulates that consumers use goods and/or services that are lawful in Islam, both in terms of substance,

²⁷ Lukman Santoso, "Dinamika Hukum Ekonomi Syariah Di Indonesia: Telaah Politik Hukum," *Jurnal Hukum Ekonomi Islam* 6, no. 1 (July 31, 2022): 74-89, <https://doi.org/10.55577/jhei.v6i1.110>.

²⁸ Muhammad Cholil Nafis, "The Concept of Halal and Thayyib and Its Implementation in Indonesia," *Journal of Halal Product and Research (JHPR)* 2, no. 1 (June 2, 2019): 1-5.

²⁹ Siti Nur Azizah, *Towards Halal: Dinamika Regulasi Produk Halal Di Indonesia* (Bandung: Mizan, 2022).

³⁰ Rr Cahyowati and Galang Asmara & LM Hayanul Haq, "Legal Politics of Halal Certificate in Strengthening Industries in Indonesia," *Journal of Legal, Ethical and Regulatory Issues* 24, no. 2S (May 21, 2021): 1-5.

production process, distribution, and the purpose of consuming these goods and/or services. So in the Islamic economy, goods and/or services that are lawful in terms of substance can become haram when the way of production and the purpose of consuming them violates the provisions of *syara'* (sharia). The principle of cleanliness is that consumers, based on Islamic teachings, must consume goods and/or services that are clean, good, not dirty or disgusting, and not mixed with unclean. Because goods and/or unlawful, dirty, and unclean services bring worldly and *ukhrawi* harm.³¹

Referring to the post-amendment 1945 Constitution, Article 28E paragraph (1) and Article 29 paragraph (1) and paragraph (2), it is explained that "The state guarantees the freedom of each resident to embrace their respective religions and to worship according to their religion and beliefs." Likewise, the Indonesian Muslim population has a constitutional right to obtain legal protection for halal products following their religious beliefs. Therefore they need to be given legal protection in the form of guaranteed halal food consumed and other products used.³²

For Indonesian citizens whose majority population is Muslim. The products produced should have a halal certificate and/or a halal label on the packaging so that the goods sold to consumers, especially Muslim consumers, are safe for consumption. In this case, not only Muslim consumers are protected, but non-Muslim consumers will also benefit. Because it is related to consumer safety, both spiritually and physically, in consuming food products, it is very dependent on information on these food products.³³

The language on product packaging must be used in conjunction with Indonesian and Latin letters. Information on the halalness of food has a significant meaning and is intended to protect the Muslim community from consuming food that is not halal (*haram*). The truth of a halal statement on a food label is not only proven in terms of raw materials, food additives, or auxiliary materials used in food production. Still, it must also be proven in the production process.¹⁴, namely, the materials used to make the product. Because only the label affixed to the package does not guarantee the product is halal.

³¹ Yuyut Prayuti, "Muslim Food Consumer Protection Through The Regulation Of Halal Labels In Indonesia," *Jurnal IUS Kajian Hukum Dan Keadilan* 8, no. 1 (April 28, 2020): 17-25, <https://doi.org/10.29303/ius.v8i1.716>.

³² Isti Nuzulul Atiah, Najmudin Najmudin, and Syihabudin Syihabudin, "A Halal Certification and Its Effect on Sales Growth; A Case of Halal Certified Food Producers in Banten Province," *Al Qalam* 39, no. 1 (June 17, 2022): 1-12, <https://doi.org/10.32678/alqalam.v39i1.6337>.

³³ Mokhamad Zainal Anwar, Yuyun Sunesti, and Ihsan Ihsan, "The Politics of Halal Label: Between Economic Piety and Religious Ambiguity," *Al-A'raf: Jurnal Pemikiran Islam dan Filsafat* 17, no. 1 (2020): 25-44.

Article 7 letter d UUPK explains that business actors "guarantee the quality of goods and/or services produced and/or traded based on the provisions of the applicable quality standards of goods and/or services."³⁴ Business actors who will trade their products must be of good quality, and the packaging has no defects. If the business actor violates the provisions mentioned, the business actor must be responsible for compensating for the negligence committed. This explanation is emphasized in Article 19 paragraph (1), which states, "Businesses are responsible for providing compensation for damage, pollution and or consumer losses as a result of consuming goods and or services produced or traded." While paragraph (2) states, "Compensation can be in the form of a refund or replacement of goods and/or services of the same or equivalent value, or health care and/or the provision of compensation following the provisions of the applicable laws and regulations."³⁵

Moreover, the polemic on the transition of the halal assurance system became even more complicated when the Halal Product Guarantee Organizing Agency (BPJPH) of the Ministry of Religion replaced the Indonesian Halal Label logo with a new, much different logo. The determination of the Indonesian Halal Label is stated in the Decree of the Head of BPJPH Number 40 of 2022 Concerning the Determination of Halal Labels on 10 February 2022, which will become effective on 1 March 2022.



Figure 1. MUI and BPJPH halal labels

The determination of the halal label became controversial, and various arguments and good views emerged from the MUI, the government (BPJPH), observers, academics, and the public. Responding to the ongoing polemic, the Head of the MUI for Halal and Sharia Economics, KH Sholahuddin Al Aiyub, explained that the change process had been carried out since 2019 when the Minister of

³⁴ Article 7 letter d Law No. 8 of 1999

³⁵ Article 19 paragraph (1) and (2) Law No. 8 of 1999

Religion was Fachrul Razi.³⁶ At that time, the halal logo agreed upon between the MUI and the Ministry of Religion was round, like the current MUI halal logo. However, the circular writing of the Indonesian Ulema Council on the outside was changed to the Ministry of Religion of the Republic of Indonesia. The circular Arabic script of the Indonesian Ulema Council remains. At the same time, the halal logo is clear with Arabic writing, located inside the rhombus. Under Arabic halal writing, there is Indonesian Halal writing. According to Kiai Aiyub, such a halal logo can accommodate various parties. The Ministry of Religion as a party to register and issue halal certification is straightforward. The MUI as the party issuing the halal fatwa is also evident.³⁷

Furthermore, Iman Permana, chairman of the Biotechnology and Halal Center at the University of Muhammadiyah Yogyakarta (UMY), thinks the new halal logo does not reflect diversity and Islamic values. When viewed from its shape, it looks like mountains in wayang, and it is assumed that the wayang itself is closely related to several cultures in Indonesia, for example, in Java. Therefore, the new halal logo does not seem to reflect Islamic values or plurality and does not highlight Islamic values.³⁸

While in the explanation from the Head of BPJPH, Muhammad Aqil Irham, it was explained that philosophically the new halal logo adapts Indonesian values. The shapes and patterns are cultural artifacts with unique characteristics and Indonesian solid halal characters. The form of the halal label consists of two objects, namely the shape of the *gunungan* and the *surjan* or striated *gunungan* motif on the *wayang kulit*, which is in the shape of a pyramid, pointed upwards. It symbolizes human life. The shape of the halal mountain is arranged in such a way the form of Arabic calligraphy consists of the letters ha, lam alif, and lam in a series to form the word 'halal'.³⁹

DYNAMICS OF LEGAL POLITICS IN THE REGULATION OF HALAL PRODUCT CERTIFICATION

Halal guarantee regulations established by the government aim to present statutory unification or at least efforts to synchronize and harmonize statutory regulations

³⁶ "Polemik Label Halal Indonesia, MUI: Beda dengan Kesepakatan," <https://beritasubang.pikiran-rakyat.com/> accessed 5 Juni 2022.

³⁷ Article 37 Law No 33 Of 2014 Concerning Halal Product Guarantee

³⁸ "Halal Center UMY Kritik Logo Halal Baru, Singgung Pluralitas-Nilai Islam," <https://www.detik.com/> accessed August 22 2022.

³⁹ "Polemik Label Halal Indonesia," <https://www.republika.id/> accessed July 2 2022.

related to production that must be certified "halal." And this regulation includes the realm of legal, political policy. Law No. 8 of 1999 Concerning Consumer Protection (UUPK) as the initial regulation regarding halal products, even though the explanation regarding halal products is only contained in Article 8 paragraph (1) letter h,⁴⁰ which explains that business actors must follow existing regulations before trading their products in the market, one of which is halal products.

Business actors who violate the provisions of Article 8 paragraph (1) letter h will be subject to criminal sanctions with a maximum imprisonment of 5 (five) years or a maximum fine of Rp. 2,000,000,000.00 (two billion rupiahs). While in Article 62, paragraph (1), is also explained that "Business actors who violate the provisions will be punished with imprisonment for a maximum of 5 (five) years or a fine of up to Rp. 2,000,000,000.00 (two billion rupiahs)".⁴⁰ Therefore, business actors who have obtained halal certificates from the MUI must be responsible for keeping their products halal, as emphasized in the JPH Law.⁴¹

Historically, the implementation of Halal in Indonesia started on January 28, 1975, with the issuance of Regulation of the Minister of Health of the Republic of Indonesia No.280/Men.Kes/Per/XI/76 concerning Circulation Provisions and Labeling of Foods Containing Ingredients Derived from Pork. This regulation states that all products produced domestically or imported which contain pork and its derivatives must bear a warning sign in the form of a picture of pork and an inscription that reads "CONTAINS PORK (MENGANDUNG BABI),"⁴² which is colored red and is in a red square box as shown in the following figure:



Figure 2. Warning signs for pork products
Source: Minister of Health Regulation, 1976

Then on August 12, 1985, the government issued a Joint Decree of the Minister of Health and Minister of Religion No.42/Men.Kes/SKB/VIII/1985 and No. 68 of 1985 concerning the Inclusion of Halal Writing on Food Labels. Some of the things regulated in the regulation are:

⁴⁰ Article 62 paragraph (1) Law No. 8 of 1999

⁴¹ Article 25 letter b and c Law No. 33 of 2014

⁴² Faridah, "Halal Certification in Indonesia; History, Development, and Implementation," 70.

1. Labels on products with the words "CONTAIN PORK" are changed to labels with the words "HALAL."
2. The label may be attached after the producer reports the composition of the ingredients and the product processing method to the Ministry of Health (Depkes)
3. Supervision is carried out jointly by the Ministry of Health and Religion through the Food Registration Evaluation Team of the Directorate General of Drug and Food Control, Ministry of Health.

Subsequent developments, the Indonesian Ulema Council (MUI) established the LPPOM-MUI institution based on licensing decree number 018/MUI/1989, dated 26 Jumadil Awal 1409 in Calendar Hijriah or January 6, 1989. This institution is an extension of the MUI with the main task of conducting circulation inspections of products and carrying out halal certification. Even though it has been established since 1989, the implementation of Halal certification by LPPOM-MUI was only carried out in 1994, and the implementation was voluntary. Even this certification is the implementation of the first certification in Indonesia. LPPOM MUI is also spread across various regions and has carried out its duties until December 2021.

The halal guarantee system has undergone significant changes since the issuance of the JPH Law. The presence of this legal product is an effort to transform and reform the governance of halal assurance in Indonesia so that it is more integrated.⁴³

The DPR RI (parliament; the House of Representatives) initiated the JPH Law for the 2004-2009 period and was then discussed by the DPR RI and the government in the 2009-2014 period. Halal product guarantees are technically then translated through the certification process. Previously, halal certification was voluntary, whereas, with the issuance of the JPH Law, halal certification was mandatory. Therefore, all products that enter, circulate, and trade in the territory of Indonesia must be halal certified. This is the main differentiator from previous legislation products. As the person in charge of the government's halal assurance system and administered by the Minister of Religion, a Halal Product Guarantee Agency (BPJPH) was formed, located under and responsible to the Minister of Religion. BPJPH has the following authorities:⁴⁴

1. establish JPH norms, standards, procedures, and criteria;

⁴³ See Draft Law of the Republic of Indonesia on Halal Product Guarantee. <http://www.dpr.go.id>, Accessed May 2 2013.

⁴⁴ Article 6 Law Halal Product Guarantee

2. issue and revoke Halal Certificates and Halal Labels on Products;
3. registering Halal Certificates on foreign Products;
4. conduct socialization, education, and publication of Halal products;
5. Accreditation of LPH (halal assurance agency)
6. Register Halal Auditor;
7. supervise JPH;
8. conduct Halal Auditor coaching; And
9. cooperate with domestic and foreign institutions in the field of JPH implementation.

In carrying out its authority, BPJPH cooperates with related ministries and/or institutions, the Halal Inspection Agency (LPH and the Indonesian Ulema Council (MUI). The collaboration between BPJPH and LPH is carried out for product inspection and/or testing –Halal Auditor certification, as well as determination of product halalness.⁴⁵

In the JPH Law, the article that still accommodates the role of MUI lies in Article 10, paragraphs 1 and 3, which state that there is cooperation between MUI and BPJPH, namely in terms of a) halal standardization; b) implementation of a halal assurance system; c) determination of fatwa; d) accreditation of halal inspection institutions; and e) halal auditor certification. In other words, the JPH Law has accommodated MUI as one of the institutions that work with BPJPH, but with slightly reduced authority from what MUI had before.⁴⁶ The following is a change in the flow of halal certification under BPJPH:

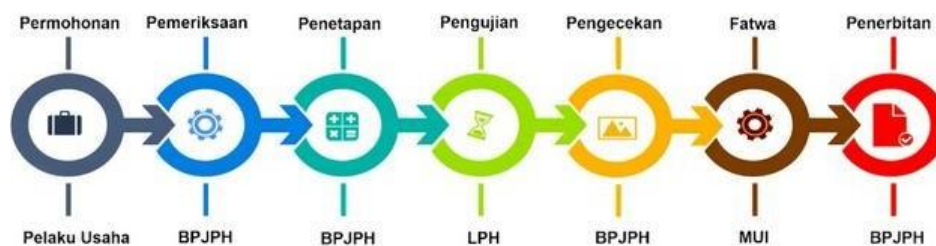


Figure 3. Halal Certification Flow ⁴⁷

⁴⁵ Article 10 Law Halal Product Guarantee; See also Istikomah Istikomah, "Peluang dan Tantangan Implementasi UU JPH (Studi Analisis Atas UU No. 33 Tentang Jaminan Produk Halal)," *At-Tasharruf: Jurnal Kajian Ekonomi Dan Bisnis Syariah* 1, no. 1 (April 18, 2019): 18-28, <https://doi.org/10.32528/at.v1i1.2486>.

⁴⁶ The article is made from the result of the debate in the Council, MUI is included as the Halal Product Guarantee Organising Agency together with the relevant Ministries and LPH. See articles 6, 7, 8, 9 and 10 of Law No. 33 of 2014.

⁴⁷ Sources BPJPH in <http://www.halal.go.id/beritalengkap/215> accessed August 2022.

Following the mandate of the JPH Law, which is currently being amended in the Job Creation Law, the obligation for halal certification for all products circulating and traded in Indonesia must have been enforced since October 17, 2019. Still, several problems cause several obstacles. Some are related to the synergy between BPJPH and MUI, the lack of LPH and Halal Auditors, certification costs, socialization of halal certification, and the absence of several regulations implementing the JPH Law. Not to mention that the issuance of PP No. 31 of 2019 concerning Guidelines for the Implementation of the JPH Law is also very late.

This fact shows that the political configuration of legal regulations for guaranteeing halal products does not exist in a vacuum but is influenced by various configurations, including government political policies that want Indonesia to become the center of world halal producers; changes to regulations on halal product guarantees in the framework of realizing state objectives, namely to promote public welfare; and law enforcement on guarantees of halal products that have not been effective.

This means that even though the existence of the JPH Law is based on legal and political indicators from Mahfud MD's theory, it is included in the category of democratic political configuration, but the presence of Law no. 11 of 2020 concerning Job Creation of Halal Product Assurance Cluster which tries to make the JPH Law an omnibus law regime falls into the category of an authoritarian political configuration because in the process of making it many violate the principles of forming statutory regulations, especially in the aspect of meaningful participation. So it is not surprising if, later in the judicial review conducted by the Constitutional Court in its decision Number 91/PUU-XVIII/2020, it was stated that the Job Creation Law was conditionally unconstitutional due to formal defects.⁴⁸

Several fundamental points that are important to observe in the political context of halal guarantee law are: First, overlapping interests. The JPH Law substantially eliminated the MUI's authority in issuing halal certificates, which had been in effect since 1989 because it was transferred to BPJPH. This condition institutionally affects the relationship between BPJPH and MUI. Second, sectoral ego and overlapping regulations. Several PPs in the JPH Law and the Job Creation Law are related to several sectors; ministries of religion, ministries of finance, ministries of trade and industry, ministries of workforce, ministries of Cooperatives, and SMEs. The number of related sectors will lead to sectoral egos and overlapping

⁴⁸ Moh Mahfud MD, *Politik Hukum Di Indonesia* (Jakarta: Rajawali Pers, 2019).

regulations. Third, the competence of BPJPH as a leading sector. BPJPH, as the leading sector in implementing the JPH Law, does not have the competence to build synergies between sectors and related stakeholders.⁴⁹

This agrees with Agus Waluyo's study that the presence of the JPH Law still faces many obstacles in its implementation. One of them is the difficulty in obtaining halal certification faced by producers. So, synergies and optimization of implementation are needed to support the effectiveness of the JPH Law to encourage the development of the halal industry, which in the end, can strengthen Indonesia as the center of the world's sharia economy.⁵⁰

Thus, based on this analysis, as well as taking into account the broad scope of Halal products, the vast territory of Indonesia, and the capacity of LPH as a Halal Inspector, LPH should be given the authority to issue and revoke Halal certificates. It also requires the formation of technical regulations as implementing regulations for laws, the formation of laws especially those that are based on sharia principles. So the Government, the DPR, and all those interested in complying with statutory principles must also pay more attention to sharia principles.

CONCLUSION

Based on the discussion of this research, it can be concluded that legally speaking, regulations for implementing Indonesian Halal began on January 28, 1975, with the issuance of the Regulation of the Minister of Health of the Republic of Indonesia No.280/Men.Kes/Per/XI/76 concerning Provisions for Circulation and Labeling of Foods Containing Ingredients Derived from Pigs. Then followed by Law No. 8 of 1999 Concerning Consumer Protection until the issuance of Law No. 33 of 2014 concerning Guarantees for Halal Products which were later included in the Job Creation Law cluster. The dynamics and configuration of legal politics emerged during the preparation and discussion of Law No. 33 of 2014 Halal Product Assurance, including the pros and cons of authority between the MUI, the government/ministry of religion, and various factions in the DPR regarding the authority to carry out halal certification must be completed institutionally so as not

⁴⁹ Muh Nadrattuzaman Hosen, Andar Zulkarnain Hutagalung, and Muhammad Amin Suma, "Analisis Undang-Undang tentang Jaminan Produk Halal dan Undang-Undang tentang Cipta Kerja (Antara Kenyataan dan Keberlanjutan)," *Yudisia: Jurnal Pemikiran Hukum dan Hukum Islam* 13, no. 1 (June 30, 2022): 103-24, <https://doi.org/10.21043/yudisia.v13i1.13721>.

⁵⁰ Agus Waluyo, "The Developmental Policy of Halal Product Guarantee in the Paradigm of Maqāṣid Shari`ah in Indonesia," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 20, no. 1 (June 10, 2020): 41-60, <https://doi.org/10.18326/ijtihad.v20i1.41-60>.

to give rise to sectoral and institutional egos. So the MUI as the pioneer of the halal assurance system in Indonesia, must continue to be proportionally involved by BPJPH in implementing halal certification and supervising products labeled halal.

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