



***CONSTRUCTION OF LAW NO. 33 OF 2014 AS A MEANS OF PROTECTING
MUSLIMS IN INDONESIA***

La Ode Faiki

Sekolah Tinggi Agama Islam Ibnu Sina Batam, Indonesia

Email: laodefaiki0@gmail.com

ABSTRAK

The Constitution of the Republic of Indonesia Year 1945 expressly states that the State: protect the entire Indonesian Nation, and all Indonesian bloodshed promote general welfare and educate the life of the Nation, and Participate in creating world peace (ayat 4 of the 1945 Constitution). To protect all Nations, the State through the Government has full authority to make regulations or policies so that the objectives of the State are achieved. One form of the State's commitment to protect the community is the birth of regulations regarding the protection of the community in general and the protection of Muslims in particular. The two regulations are Law No. 8 of 1999 concerning Consumer Protection and Law No. 33 of 2014 concerning Halal Product Guarantee. The main purpose of these two laws is certainly very noble, namely to protect consumers against manipulative business actors. In rumsan, its articles have explicitly determined consumer rights and obligations for business actors. Although the two laws above have been implemented, the reality is the community has not been able to realize its goals, because there are still business actors who sell products that are not fit for consumption according to Law No. 8 of 1999 concerning Consumer Protection, and according to Law No. 33 of 2014 concerning Halal Product Guarantee.

Keywords: Construction, Means of Protection, Indonesian Muslims

INTRODUCTION

Indonesia as a country has a constitution that serves as a means of controlling the Government's policies in managing the State (Ridwan & Sudrajat, 2020). In the constitution, the State has full sovereignty in determining the fate of the State and its citizens and has a noble goal of protecting citizens. The purpose of the State is explicitly spelled out in the 1945 Constitution of the Republic of Indonesia, where the 1945 Constitution also acts as a constitution. In the Preamble of the 1945 Constitution of the Republic of Indonesia in the 4th ayat, there is a sentence "to protect the entire Indonesian nation and the entire Indonesian homeland, to advance the general welfare and to educate the life of the Nation" (Preamble of the 1945 Constitution of the Republic of Indonesia in the Fourth ayat).

The philosophical sentence above means that the State must protect all Indonesian people regardless of ethnicity, religion, race, and intergroup (SARA). Indonesian society as a population is indeed very heterogeneous, consisting of various ethnic groups, religions, and cultures. Indonesian society is a religious society, consisting of various religions and even agnostics. This is positively correlated with the Pancasila State Foundation (SALAFUDDIN, 2018). The first principle (I), namely Belief in One God, means that Indonesian people adhere to various religions and beliefs and respect and appreciate each other. Of the many religions embraced by the

Indonesian people, which are based on the beliefs and beliefs of each member of the community, namely Islam, Christianity, Catholicism, Hinduism, Budah and Confuchu, and even Agnosticism. Among the religions mentioned above, Islam is quantitatively more in number when compared to religions in Indonesia (Rahma, 2020). In Islamic belief, all forms of needs must fulfill 3 elements, namely: The element of goodness, the element of health, and the element of halal (Halal) (Researcher Argument).

When using products to fulfill needs must meet the above elements, but what Muslims highlight most is the halalness of a product needed. The products needed must be guaranteed halal, but getting halal products is often difficult, because there are still business actors who produce the needs of the community, especially food and drinks, there are no halal signs or labels, thus creating ambiguity for the Islamic community, thus ensuring the halalness of a particular product is not guaranteed. To provide certainty about the halalness of a product, of course, the assertiveness of the government is needed to suppress business actors, of course with the right policy mechanism (Firdaus, Ma'arif, & Rouf, 2022).

It takes the government's seriousness to protect the Muslim community. Protecting the public from various frauds possibly committed by certain business actors, especially those related to food and beverages (Hermanu, 2016), especially Muslim communities who are very sensitive to consumption materials (halal). The Muslim community highly prioritizes the halal level of a product, therefore the Muslim community needs the seriousness of the Government to prevent certain business actors from circulating their products without clear eligibility and halal status. The phenomenon that occurs in the community regarding the circulation of products without clear eligibility status, especially halal, must be a priority for the Government to stop its circulation (Researcher Argument) (Gultom, 2024).

The phenomenon of fraud of some business actors, of course, encourages the government and is supported by the Indonesian Ulema Council (MUI) to protect the public in general and the Muslim community in particular. Evidence of the Government's seriousness in protecting the public from the fraudulent behavior of some business actors, and legal and political policies was taken by issuing Law No. 8 of 1999 concerning Consumer Protection and Law No. 33 of 2014 concerning Halal Product Guarantee (JPH).

Pasal 4 of Law Number 33 of 2014 is confirmed, that products that enter, circulate, and are traded in the territory of Indonesia must be halal certified. implementing the implementation of JPH, according to this Law, a Halal Product Guarantee Agency ((BPJPH) is formed which is domiciled under and responsible to the Minister of Religion. The Halal Product Guarantee Agency (BPJPH) has issued a Decree of the Head of BPJPH No. 33 of 2022 concerning Technical Guidelines (Juknis) for Assisting the Halal Product Process in Determining the Obligation to be Halal Certified for Micro and Small Business Actors based on the Statement of Business Actors. Head of the Halal Registration and Certification Center at BPJPH Mastuki' said the decree is intended for micro and small businesses (UKM) to carry out halal certification obligations with

the criteria that the product is not at risk or uses materials and production processes that have been confirmed halal (Mairinda, 2021).

In the decision, said Mastuki, that the determination of halal-certified obligations for MSEs based on the statement of business actors is determined using the following criteria:

- a. Products are not risky or use ingredients that have been confirmed halal
- b. Production process that is halal and simple
- c. Have annual sales or turnover of a maximum of IDR 500 million as evidenced by an independent statement
- d. Have a business identification number (NIB)
- e. Have a location, place, and halal product process equipment (PPH) that is separate from the location, place, and process equipment for non-halal products
- f. Have a location, place, and halal product process equipment (PPH) that is separate from the location, place, and process equipment for non-halal products
- g. Have outlets and/or production facilities in at most one location
- h. Actively in production one year before the application for halal certification
- i. Products produced in the form of goods, not services or restaurants, canteens, caterers, and stalls/houses/eateries
- j. The ingredients used have been confirmed halal. Proven by a halal certificate, or included in the list of ingredients according to Decree of the Minister of Religion Number 1360 of 2021 concerning Materials exempted from the Obligation to be Halal Certified.
- k. No use of hazardous materials
- l. Has been verified for halalness by the halal product process assistant
- m. The type of product/group of products that are certified halal does not contain elements of slaughtered animals unless they come from producers or slaughterhouses/poultry slaughterhouses that are halal certified.
- n. Using production equipment with simple technology or done manually and/or semi-automatically for home-based businesses, not factory businesses.
- o. The preservation process of the products produced does not use radiation techniques, genetic engineering, the use of ozone or ozonization, or a combination of several preservation methods or hurdle technology.
- p. Complete halal certification application documents with an online business actor statement mechanism through SIHALAL.

The criteria for illegal halal labels are as follows:

- a. No certification from BPJH
- b. Logo without certification ID number
- c. Halal logo outside the logo that has been issued by the Ministry of Religious Affairs of the Republic of Indonesia

The use of illegal halal logos in food labels still occurs in several MSMEs spread across Indonesia, this has become the attention of researchers to conduct research with the title "Halal Label as a Protection Advice for Muslims in Indonesia. The research focuses on the use of illegal halal labels in Jaya Aflaha Printing Film Tiban Batam City (Febrianto, Thesis Hesy Study Program STAI Ibnu Sina 12-2023).

RESEARCH METHODS

Researchers used the "Juridical Normative" research method with a Qualitative research approach to obtain accurate data in the study. The "Juridical Normative" research method is intended to determine the effectiveness of Law No. 8 of 1999 concerning Consumer Protection and Law No. 33 of 2014 concerning Halal Product Guarantee (JPH). In protecting consumers from cheating some business actors. The qualitative research approach is intended to determine more valid and accurate data. The qualitative approach is carried out to determine the data to be used through the data selection process.

RESULTS AND DISCUSSION

Law No. 8 Year 1999 on Consumer Protection

Section Dictum number 3 of Law No. 8 of 1999 on Consumer Protection explains that the opening up of the national market as a result of the process of economic globalization must still guarantee the improvement of people's welfare and certainty over the quality, quantity, and safety of goods and/or services obtained in the market, Number 4, that to improve the dignity of consumers it is necessary to increase awareness, knowledge, concern, ability and independence of consumers to protect themselves and foster the attitude of responsible business actors (Law No. 8 of 1999).

The two points above implicitly mean that every citizen must obtain goods and services with a certain quality of quality that is suitable for use. Demanding awareness, knowledge, and concern, the ability to protect themselves from the products needed, and demanding business actors to increase awareness not to be manipulative in the business activities of distributing products, both services and goods (Widyani, 2019). As described in pasal 3 below:

Pasal 3 Consumer protection aims to:

- a. Increase consumer awareness, ability, and independence to protect themselves.
- b. Raising the dignity of consumers by preventing them from the negative excesses of using goods and/or services.
- c. Increase consumer empowerment in choosing, determining, and demanding their rights as consumers.
- d. Creating a consumer protection system that contains elements of legal certainty and information disclosure and access to information.
- e. Raising the awareness of business actors about the importance of consumer protection to develop an honest and responsible attitude in business.

- f. Improve the quality of goods and/or services that ensure the continuity of the business of producing goods and/or services, health, comfort, security, and safety of consumers.

Law No. 33 of 2014 concerning Halal Product Guarantee (JPH)

Section weighing letter b of Law No. 33 of 2014 concerning Halal Product Guarantee (JPH), explains that to guarantee every religious believer to worship and carry out their religious teachings, the state is obliged to provide protection and guarantees about the halalness of products consumed and used by the community.

Pasal 1 ayat 2 and 3. Halal Products are Products that have been declared halal by Islamic law. The Halal Product Process, hereinafter abbreviated as PPH, is a series of activities to ensure the halalness of the Product including the provision of ingredients, processing, storage, packaging, distribution, sales, and presentation of Products pasal 4, Products that enter, circulate, and are traded in the territory of Indonesia must be halal certified.

Certification is carried out by a series of examinations carried out by auditors who are competent in their fields to determine the halal status to create a written fatwa stating the halalness of the product in the form of a halal certificate (Hasan, 2014b).

The purpose of the Halal certificate label is:

- a. Provide protection and legal certainty for the rights of Muslim consumers against products that are not halal.
- b. Preventing Muslim consumers from consuming products that are not halal. Regarding consumer protection of halal products, in addition to Law No. 33 of 2014 concerning Halal Product Guarantee (JPH), there is a Ministerial Decree (Kepmen) of Agriculture Number 745/KPTS/TN.240/12/1992. Based on the Decree of the Minister of Agriculture Number 745/KPTS/TN.240/12/1992 concerning Requirements and Supervision of the Entry of meat from abroad which is accommodated in Law Number 18 of 2012 concerning Food, in pasal 97 which reads "every person who produces food domestically for trade must include a label on the packaging including a halal label or halal mark for those required". The entry of meat for public consumption must be based on livestock slaughtered according to Islamic law and stated in the halal certificate (Syafriada, 2016).

Obtaining halal certification in the culinary business world, both small and large MSMEs such as restaurants and restaurants, is very important to have a halal logo and halal certificate, especially for product marketing and will also generate customer trust in the products being sold (Qomaro, Hammam, & Nasik, 2019). MSME players need to know this to maintain the trust and halalness of their products. A legally valid halal label certificate is issued by the Indonesian Ulema Council (MUI). Keep in mind and be aware that on product packaging there is also an illegal halal label. This is done by business actors who only pursue profit by manipulating the halal logo.

For ordinary people, of course, they cannot distinguish between legal halal logos and illegal halal logos, therefore the results of this study can provide accurate information about illegal and legal halal labels. The difference can be seen in the form of writing as follows:



Legal halal logo



Legal halal logo



Illegal halal logo

Every business actor who attaches a halal logo to each product packaging must first obtain a halal certificate. Regulations regarding halal certification in providing Muslim consumer protection are contained in Law Number 33 of 2014 concerning Halal Product Guarantee (JPH). This law regulates the rights and obligations of business actors as contained in Article 23 through Pasal 27. Pasal 23 of Law Number 33 of 2014 concerning Halal Product Guarantee. Business actors have the right to obtain:

- a. Information, education, and socialization regarding the JPh system;
- b. Guidance in producing Halal Products, and
- c. Services to obtain Halal Certificates quickly, efficiently, affordable costs, and non-discriminatory

Political Policy of Government Law in Efforts to Protect Muslim Consumers Against Non-Halal Products

The Government's political-legal policy to protect Muslim consumers against non-halal products is issued by a law formulated by the Government and passed by the Indonesian Parliament. The law in question is Law No. 33 of 2014 concerning Halal Product Guarantee. This law stipulates that all business actors related to food must be certified and have a halal logo as stipulated in pasal 1 numbers 10 and 11 below:

A halal certificate is a recognition of the halalness of a product issued by BPJPH based on a written halal fatwa issued by the Indonesian Ulema Council (MUI) (Agus, 2017). The halal label is a sign of the halalness of a product.

pasal 3. The implementation of JPH aims to

- a. Provide comfort, security, safety, and certainty of the availability of Halal Products for the public in consuming and using Products.
- b. Increase added value for Business Actors to produce and sell Halal Products.

Law No. 33 of 2014 concerning Halal Product Guarantee determines the obligations of business actors whose business activities concern food. This is specified in pasal 24, Business Actors who apply for a Halal Certificate must:

- a. Provide correct, clear, and honest information.
- b. Separating the location, place, and means of slaughter, processing, storage, packaging, distribution, sale, and presentation between Halal and non-halal Products.
- c. Has a Halal Supervisor, and
- d. Reporting changes in the composition of Ingredients to BPJPH.

Business actors who have obtained a Halal Certificate are obliged:

- a. Include a Halal Label on Products that have received a Halal Certificate.
- b. Maintain the halalness of Products that have obtained a Halal Certificate.
- c. Separating the location, place of slaughter, processing equipment, storage, packaging, distribution, sale, and presentation between Halal and non-halal Products.
- d. Renew the Halal Certificate if the validity period of the Halal Certificate expires, and
- e. Report changes in the composition of the Ingredients to BPJPH.

Pasal 26, (1) Business Actors who produce Products from ingredients derived from prohibited ingredients are required to include a non-halal description on the Product.

Effectiveness of Law No. 33 of 2014 concerning Halal Product Guarantee to Protect the Muslim Community

The effectiveness of Law No. 33 of 2014 concerning Halal Product Guarantee to protect the Muslim Community against manipulative Some business actors are certainly still a polemic in the community, this is because the birth of Law No. 33 of 2014 concerning Halal Product Guarantee aims to protect Muslim consumers in particular and discipline business actors so as not to manipulate in the distribution of food products. However, in reality, the Law has not been able to realize its objectives, it is proven that there are still business actors who do not have halal certificates and food and beverage products that do not have halal logos, and there are even some business actors who are manipulative by attaching illegal halal logos to product packaging that is circulated in the community. This also occurs due to the lack of supervision by MUI against business actors, coupled with the lack of concern of some Muslim communities for the certainty of halal products or not. In Law No. 33 of 2014 concerning Halal Product Guarantee, Pasal 4 expressly states that products that enter, circulate, and are traded in the territory of Indonesia must be halal certified (Charity, 2017).

Implicitly Pasal 4 above shows that every business actor must obtain or obtain a halal certificate before obtaining a halal logo. Legally, the one who has the authority to issue halal certificates is MUI. This institution exercises its authority in the form of providing or issuing halal certificates to food sector business actors based on the provisions of Law No. 33 of 2014 concerning Halal Product Guarantee and Pasal 8 of the Indonesian Minister of Health Decree No. 924 of 1996 concerning Amendments to the Indonesian Minister of Health Decree No. 82 of 1996 concerning Inclusion of Halal Writing.

Pasal 11 of the Indonesian Minister of Health Decree No. 924 of 1996 concerning Amendments to the Indonesian Minister of Health Decree No. 82 of 1996 concerning the Inclusion of Halal Writing. Approval for the inclusion of the word "halal" is given based on a fatwa from the MUI Fatwa Commission. Pasal 12 Kepmenkes RI No. 924 of 1996 concerning Amendments to Kepmenkes RI No. 82 of 1996 concerning the Inclusion of Halal Writing:

Based on fatwa from MUI. The Director General provides:

- a. Based on fatwa from MUI. The Director General provides:
- b. rejection for those who do not obtain a "halal" certificate.

The refusal as referred to in ayat (1) letter b shall be given in writing to the applicant along with the reasons for the refusal.

Pasal 17 of the Indonesian Minister of Health Decree No. 924 of 1996 concerning Amendments to the Indonesian Minister of Health Decree No. 82 of 1996 concerning the Inclusion of Halal Writing. Food that has received approval for the inclusion of the word "halal" before the enactment of this decision, must conform to the provisions in the decision no later than 3 (three) months from the date of enactment of this decision (Sup, Fahmi, Hilal, & Firdaus, 2020). Based on the above provisions, the halal labeling permit is issued by the Directorate General of Food and Drug Control of the Indonesian Ministry of Health (now BPOM) based on the halal certificate issued by MUI.

Regulations regarding halal certification in providing Muslim consumer protection are contained in Law Number 33 of 2014 concerning Halal Product Guarantee (JPH). This law regulates the rights and obligations of business actors as contained in Pasal 23 through Pasal 27. Pasal 23 of Law Number 33 of 2014 concerning Halal Product Guarantee. Business actors have the right to obtain:

- a. Information, education, and socialization of the JPh system.
- b. Guidance in producing Halal Products, and
- c. Services to obtain a Halal Certificate quickly, efficiently, at affordable cost, and non-discriminatory.

Pasal 24 of Law Number 33 of 2014 concerning Halal Product Guarantee

- a. Business Actors who apply for a Halal Certificate must.
- b. Provide information in a correct, clear, and honest manner.
- c. Separating the location, place, and means of slaughter, processing, storage, packaging, distribution, sale, and presentation between halal and non-halal Products.
- d. Has a halal Supervisor, and
- e. Reporting changes in ingredient composition to BPJPH.

Pasal 25 of Law Number 33 of 2014 concerning Halal Product Guarantee Business actors who have obtained a halal certificate are required:

- a. Include a Halal Label on Products that have obtained a Halal Certificate. Menjaga kehalalan Produk yang telah memperoleh Sertifikat Halal.

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- b. Separating the location, place of slaughter, processing equipment, storage, packaging, distribution, sale, and storage between Halal and non-halal Products.
 - c. Renewing the Halal Certificate if the validity period of the Halal Certificate expires, and
 - d. Report changes in ingredient composition to BPJPH.

Pasal 26 of Law Number 33 of 2014 concerning Halal Product Guarantee

- a. Business Actors who produce products from ingredients derived from ingredients that are prohibited as referred to in pasal 18 and pasal 20 are exempted from applying for a Halal Certificate.
- b. Business Actors as referred to in ayat (1) are required to include non-halal information on the Product.

pasal 27 of Law Number 33 of 2014 concerning Halal Product Guarantee

- a. Business Actors who do not perform the obligations as referred to in pasal 25 shall be subject to administrative sanctions in the form of:
 - 1. Written warning
 - 2. Administrative fine, or
 - 3. Revocation of Halal Certificate
- b. Business Actors who do not perform the obligations as referred to in pasal 26 ayat (2) are subject to administrative sanctions in the form of:
 - 1. Oral reprimand
 - 2. Written warning, or
 - 3. Administrative fines
- c. Further provisions regarding the procedures for handling administrative sanctions are regulated in a Government Regulation (Hasan, 2014a).

Legal protection of consumers does not only concern the halalness of the product. However, this law also provides exceptions for business actors who produce products from prohibited ingredients with the obligation to explicitly include non-halal information on product packaging or on certain parts of the product that are easily seen, read, not easily erased, and are an integral part of the product. Illegal Halal Label in the view of Islamic Law.

Legal protection can also be interpreted as an action or effort to protect each community from threats or arbitrary actions so that a peaceful and tranquil situation is realized (Disemadi & Prananingtyas, 2019). The meaning of consumer protection is an effort to ensure the existence of legal certainty in providing an understanding and protection of consumers in using service products and goods circulating in society (Winarso, Disemadi, & Prananingtyas, 2020). The explanation contained in the Consumer Protection Law (UUPK), to be precise pasal 2, contains several principles, namely the principles of justice, usefulness, the balance of safety and security of consumers, and also getting legal certainty in it, but currently, the five principles are divided into 3 (three) principles, namely the certainty of law, the usefulness of the law, and the balance of the law (Setyawan & Wijaya, 2018).

This has a goal, namely a will to achieve consumer protection which has the objectives of 1) increasing ability; 2) increasing awareness; 3) protecting oneself; 4) increasing independence; 5) avoiding negative impacts; 6) increasing the empowerment of consumers; 7) protecting consumers; 8) getting benefits; 9 getting legal certainty; 10) getting information; 11) getting security; 12) getting comfort; 13) getting safety (Susanto, 2008).

CONCLUSION

To protect consumers against non-halal and manipulative products of certain business actors, the Government pursues a legal policy, namely formulating and issuing legislation in the form of Law No. 8 of 1999 concerning consumer protection. This law regulates the obligations of business actors and the rights of consumers. One of the obligations of business actors is to provide information about marketed products and consumers have the right to obtain this information, the aim is that consumers can make the best choices to get the goods and services they want.

pasal 1 ayat 1. Consumer Protection Law: all efforts that ensure legal certainty to protect consumers. Consumers have the right to comfort, security, and safety in consuming goods and/or services; pasal 4 ayat 1. Consumers have the right to choose goods and/or services and obtain these goods and/or services by the exchange value and conditions and guarantees promised.

To protect Muslim consumers, the Government formulated and issued Law No. 33 of 2014 concerning Halal Product Guarantee. In this Law, it is mandatory for business actors, especially business actors engaged in the production of food and beverages, to administer and or obtain halal certificates. Using the halal logo on every package of both food and beverage products pasal 1.

In terms of implementation, the two laws mentioned above have not been effective. This is because there are still many business actors who market their products whose validity or consumption limits have expired. Food and beverage products also do not have halal certificates and halal logos, even strangely, to reap large profits and attract public sympathy there are companies or business actors who use unofficial halal labels. Without mentioning the name of the company or business actor, it can be found in several markets, shops alfamart, and indomart that sell expired products without a halal logo, and or illegal halal logos (unofficial halal logos).

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