



## Halal food in the perspective of Consumer Law Protection

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### ABSTRACT

Indonesia is a muslim majority country in the world. As Muslims, it is mandatory to comply with religious prohibitions that must be obeyed, namely by not consuming food and drinks (food) that are made/have kandungantidak halal. Several laws, namely: Consumer Protection Law, Health Law, Food Law and Halal Product Guarantee Law(UUJPH)are a form of legal protection for halal food products that can provide guarantees for consumption by Indonesian muslim communities.This paper is a descriptive qualitative that seeks to provide an overview of the problems of regulation of halal food products in relation to consumer protection and legal protection of consumers in consuming halal food products. The results of this study that the regulation of halal food products for companies or business actors who will trade their products in Indonesia based on Uujphif associated with consumer protection has provided legal certainty for the consumer community (Muslims) to consume halal food, namely with Halal Certification Marks and Halal labels. Likewise, several laws and regulations concerning halal food products that have been enacted provide legal protection for consumers in consuming food and drinks. Consumers must get information, safety and security of a food product that will be consumed in accordance with their choices.

### INTRODUCTION

Article 1 of Law No. 18 of 2012, states that food is everything that comes from biological sources of agricultural products, Plantations, forestry, fisheries, livestock, waters, and water, both processed and untreated, which is intended as food or drink for human consumption. Food from the meaning of this provision can be interpreted as materials that are processed into food and beverage products.

Meanwhile, products under the provisions of Article 1 Number 1 of Law No. 33 of 2014

concerning Halal Product Guarantee (UU-JPH) are goods and/or services related to food, beverages, drugs, cosmetics, chemical products, biological products, genetic engineering products, and consumables that are used, used, or utilized by the community. Further to this provision in number 2 states that Halal products are products that have been declared halal in accordance with Islamic law.

It is the food of the soul, and it is the food of the soul, and it is the food of the soul, and it is the food of the Soul.halal essence, b.how to get it, c.in the process, d.in storage, e.in the air, and in his carriage, and in his

So, as a halal food product in producing it as an activity or process of producing, preparing, processing, making, preserving, packaging, repacking, and / or changing the shape of food is not polluted from elements that can prohibit it.

Halal food products are products that meet the halal requirements in accordance with Islamic law, namely:

1. It does not contain pork and ingredients derived from pigs.
2. It does not contain ingredients that are forbidden such as ingredients derived from human organs, blood, dirt, and so forth.
3. All ingredients are derived from halal animals slaughtered according to Islamic Shari'a ordinances.
4. All storage areas, points of sale, processing and transportation must not be used for pigs and/or other non-halal goods. If it has ever been used for pork and/or other non-halal items, it must first be cleaned by Islamic Shari'a procedures.
5. All foods and drinks that do not contain khamar.

The promulgation of the UU-JPH as a positive law that binds to the entire Indonesian nation on halal products, 8 then for Muslims, the majority of consumers as much as about 88% have obtained guarantees on halal food in circulation.

As consumers who use any product goods/services, entitled to get comfort, security, and safety in consuming goods / services. As well as correct, clear, and honest information about the condition and warranty of goods/services. For food to be affirmed in the Health Act, food and beverages used for the public must be based on standards and/or health requirements.

In addition, consume halal food products according to religious beliefs (Islam) according to the word of Allah SWT in surat Al-Baqarah/2: 168, States: "O mankind, eat from what is on Earth all that is lawful and good (thayib), and do not follow the footsteps of Satan, for he is a clear enemy to you". Also for the sake of quality of life and life, it is a citizen's right guaranteed by the Constitution.

In the context of the above, the enactment of Law No. 8 of 1999 on Consumer Protection, Law No. 36 of 2009 on Health, Law No. 18 of 2012 on food, and Law No. 33 of 2014 on Halal Product Guarantee, is the role of the state in providing real legal protection to its citizens to consume halalan thoyiban food products.

But in reality, there are many problems related to consumer protection (Muslims), namely the

absence of provisions that require every food (including restaurants) to provide information about halal. Similarly, there are still many food products that can cause harm and damage when consumed, 16seperti: the issue of formula milk products for infants containing *Enterobacter sakazakii*, and the issue of Prohibition of Ajinomoto cuisine flavoring.

In addition, there were cases of illegal meat circulation and trade in some areas of West Java, such as in Bandung, Bogor, Cikampek, and Karawang, which resulted in unrest in the community.

For comparison in the United States, China, and India, with the largest population in the world have been serious in providing protection against food products, although these countries are not the majority of the population believes in Islam, but in policy has required to choose food products or food consumed must pay attention to food products that do not cause harm and damage on an individual or social level.

Now this halal culture in consuming halal products, is no longer a security issue but has become a global trend as a "New Global Life Style". Even Din Syamsudin, stated: "Halal as a new clean lifestyle globally, and continues to be the concern of the international community". Because the products are halal and thoyyib it shows the quality of food that is guaranteed safety, health and goodness.

It needs firmness from the government to provide protection to the community (Muslims) to be safe and comfortable and give inner peace in consuming any halal food products. Although regulations to provide protection to the community have been realized by the health law, Consumer Protection Law, Food Law, and Halal Product Guarantee Law, but without a serious policy as a political will, the law will become a mere wishful thinking.

Based on the description of the background of the problem above, can be formulated as a problem in this paper are as follows: 1. What is the regulation of halal food products in relation to consumer protection? 2. How is the legal protection of consumers in consuming halal food products?

## METHOD

In conducting the study, the authors used normative juridical research methods supported by data obtained from the library (library research) and then performed a qualitative analysis of the results presented in descriptive analytical writing on the

existence of laws relating to Health, Consumer, Food, and Halal Product Assurance.

## RESULTS AND DISCUSSION

### A. Legal Regulation On Halal Products

The existence of the Health Law, Consumer Protection Law, Food Law and UU-jph is a form of legal protection provided by the state to the community (Muslims) as the purpose of protecting the consumption of healthy food and halal food products circulating in Indonesia. The Consumer Protection Act protects consumers in transactions with business actors and encourages business actors to be responsible, honest and open in providing correct information related to the goods (food) they market and also ensures quality/quality, processing methods and access to other information.

Likewise, the Food Law and the UU-JPH, namely to ensure the fulfillment of: the rights of consumers to feel safe consuming food from possible biological, chemical, and harmful contamination and harm to health and not contrary to religion, belief and culture and obtain legal certainty on the Halal of a halal food product as evidenced by Halal certificates and Halal labels.

The form of the implementation of UU-JPHdi above is a form of regulation in an effort to protect the community (legal subjects) and things that are protected objects. So the legal protection of muslim consumers in consuming halal food products is the obligation of the state to protect its citizens from consumption that is not halal thoyiban.

Generally, the understanding of the food industry producers towards halal does not differ from each other, they interpret halal in the sense of exemption on products from elements that are expressly prohibited in Islamic law. The goal is that there is a guarantee of certainty from the manufacturer that the food products they produce will be able to free consumers from doubts about the availability of ingredients that are prohibited by Islamic law for consumption.

The liberation of consumers from doubts about things that contain elements of doubt (not clear halal and haram) maupnharam proven by certification and Halal label. Through certification and labeling, this is a state intervention on halal food products. The existence of the provisions of production information (product information regulation), 34As required in the UU-jph is a guarantee of the Halal of a product by optimizing consumer protection (muslim). Because of this halal food product information, if viewed from religious

and juridical aspects, it can be a private right of citizens as individuals related to morality and personal integrity as Muslims.

In relation to the guarantee of Halal products, in the Consumer Protection Law, it is regulated that entrepreneurs or producers are prohibited from not following the provisions of producing halal, as the statement "halal" is included in the label.<sup>40</sup> because one of the objectives of consumer protection is to create a consumer protection system that contains elements of legal certainty and information disclosure and access to information. Information is important for consumers. A food packaging, information is usually in the form of labels.

In Article 97 paragraph (3) of the Food Law, food labels and advertisements for those traded in Indonesia, at least provide information about: a. The name; b. List of materials used; c. Net weight or net content; d. Name and address of the party producing or importing; e. For the purposes of the foregoing; f. Date and production code; g. Date, month, and year of expiration; h. Marketing license number for processed food; dani. The origin of certain foods.

Based on the label information, consumers will be given the freedom to choose whether consumers will consume food products. According to Gunawan Wijaya and Ahmad Yani, information provided by businesses or producers is important for consumers, because through this information consumers can use their voting rights correctly. The right to vote is a basic right that cannot be abolished by anyone. With the inclusion of the label "Halal " on food packaging, consumers who will consume food products have been given and protected their rights in choosing and determining the products they will consume, by choosing products that contain ingredients that are haraam or prefer halal food products.

Violation by businesses or producers of the obligation not to provide correct information about food products (halal) is a violation of human rights because the right to information is the right of consumers as human beings. The 45 rights are guaranteed by the state of Indonesia as a sovereign state through the 1945 Constitution and Law Number 39 of 1999 on Human Rights. Consumers get the right information about halal food products is a legal right (private) or a right that is born from a legal relationship, which is guaranteed by legislation.<sup>46</sup> thus, the obligation for businesses to provide correct information to consumers (the public) is indirectly a recognition of the law made by a sovereign state (sovereignty) as a form of state

to protect the nation. This is in accordance with the purpose of the state of Indonesia contained in the Preamble to the 1945 Constitution, that "...protect the entire Indonesian people...". The existence of obligations to business actors is closely related to the safety and health of consumers (people) in consuming food products (halal) that they receive as an effort to provide a sense of security.

The regulation of criminal provisions in the JPH Act applies to business actors who do not maintain the halalness of products that have obtained Halal certificates in criminal with a maximum imprisonment of 5 (five) years or a maximum fine of Rp. 2,000,000,000.00 (two billion rupiah). However, this law also provides protection for confidentiality for business actors to keep their trade secrets. If a person or who is involved in the JPH process by not keeping it or leaking it, then in criminal with a maximum imprisonment of 2 (two) years or a maximum fine of Rp. 2,000,000,000.00 (two billion rupiah).

Regulations governing consumer protection of halal food products are currently adequate, but in order to be more integrated in providing protection to the muslim consumer community in the event of certification and labeling of halal food products submitted by producers or business actors to be circulated to consumers, it should be mandatory for any business actor. Thus, supervision of food products or halal food becomes the absolute authority of the government.<sup>49</sup>This is one of the oversight functions that the government needs to think about creating.

## **B. Legal Aspects Of Consuming Halal Food**

Law No. 8 of 1999 on Consumer Protection (Consumer Protection Law) is regulated against the fulfillment of consumers' rights to correct information about goods related to the production process.<sup>50</sup> right to clear, honest information about the condition and warranty of the goods.<sup>51</sup> Hakatas information is very important, because the inadequacy of the information presented to consumers, then it can be said that the product is a defective product due to inadequate information.<sup>52</sup>the public also needs to get clear information about each packaged food product before buying and consuming food

In addition, the right of consumers to obtain comfort, security, and safety in consuming goods is closely related to the right of information, so consumers can get the right picture of a product to be consumed and can choose the product they want

according to their needs and avoid losses because they feel comfortable, safe, and secure.

The right of consumers to guarantee Food Products (Food Safety), to prevent the adverse effects of consuming food from these food products, food safety needs to be closely monitored for food products that are not fit for circulation. Fulfillment of consumers' right to correct information about halal food products due to ignorance of food products, caused by several factors, namely:

1. The level of accuracy of consumer Human Resources who still do not understand the processed food and beverage products they want to buy. In general, it is still oriented to offering low prices than the quality offered.
2. Manufacturers do not explain or put labels/etiquette on each package, some even tend to deliberately not include or obscure the Label / etiquette of their products.
3. The role of the Ministry of Industry and trade and BPOM as an authorized institution and has the authority in granting marketing licenses supervision of these products is still often overlooked for bad behavior of business actors

so that food products that do not provide information or do not put labels / etiquette on these processed products, resulting in food goods that are not fit for circulation, such as:

1. Does not include production/processed industry permits from related institutions/agencies.
2. Does not include expiration date / ED.
3. Not following the provisions of producing "Halal".
4. Do not put labels/etiquette or explain the size, content of the product, composition, rules of Use, date of manufacture, side effects and addresses of business actors are clear.
5. Does not include clear information relating to the importer/distributor responsible for the import of the product, especially for imported food and beverage products.
6. It should be suspected of using the addition of harmful substances in the production process, for example using Rhodamin B clothing dyes or Borax food preservatives or the addition of MSG flavoring.

The Consumer Protection Act enacted aims to place Consumer Protection into the corridors of the consumer protection legal system which is part of the national legal system.<sup>61</sup>as well as the Food Law and the Halal Product Guarantee Law (JPH), it is the state's mandate to protect its people as mandated by the Constitution. The guarantee of the rights and obligations of the people is the government's effort to foster, renew and build a national legal politics that reflects all the common interests of all groups, by denying the priority of a particular group over other groups.<sup>62</sup>therefore, the UU-jph is to ensure that every religious person worships and practices his religious teachings, where the state is obliged to provide protection and guarantees about the Halal of the products consumed and used by the community. Although the law in question only gives authority to the government to supervise, guidance includes sanctions for a violation committed by producers who in carrying out their business activities are not in accordance with the law.

Consumer rights to food products in the United States are regulated in the Food Safety Act of 1990, where this law is a protection against people to consume safe food(the safety of food).<sup>63</sup>this law regulates safety, health, quality, food labels, demands and sanctions for those who violate them. Therefore, in every food product and goods traded in force in the United States, the existence of standardization for food safetyini.<sup>64</sup>there are several rules regarding the import of food, Customs (Customs) so that goods or food are not contaminated in the delivery of which are all carried out under the supervision of the United States Food and Drug Administration(FDA).

The enactment of legislation on food safety (food safety) is an effort of every country to protect citizens who are also consumers of the consequences or effects arising from consuming food and beverages that are not in accordance with health.

In Indonesia after the passing of Law No. 33 of 2014 on Halal Product Guarantee (UU-JPH) is a special regulation to protect consumers (Muslims) to get halal products.The guarantee of halal products is proven by halal certification, because the products that have been declared halal are in accordance with Islamic law, where the production process both includes the provision of materials, processing, storage, packaging, distribution, sale and presentation of the products in the guarantee of halal.

Regulation of certification and labeling of halal products in the UU-jph, which is regulated by Article

4, namely products traded must be certified halal. This article states, that: "products entering, circulating, and traded in the territory of Indonesia must be certified halal. Based on this formulation, it can be understood that the certificate and labeling arrangements of halal products contain mandatory norms,<sup>69</sup>because every product traded in Indonesia must be halal certified, except for food products derived from haraam ingredients but for business actors are required to include non-halal information on the product.

If food products circulating in Indonesia without halal information on the product in question, then the protection and legal certainty for consumers (Muslims) become haram for consumption. Indonesia will only be a dumping ground for substandard goods and services.<sup>71</sup>which is more worrying, the welfare of the people who are aspired to become more difficult to realize.

The importance of consumer protection law is also realized, because every consumer (muslim) always needs halal food products that are safe for their safety and soul in worship. To guarantee these things, it is necessary to have legal rules that guarantee the safe conditions of every consumer product for human consumption that must be equipped with correct, honest and responsible information. Therefore, effective supervision of the registration system that was originally carried out by BPJPH, if it can be directly organized by the government as a mandatory competent evidence provider for halal certification, meanwhile, for businesses or producers, it is only voluntary to get the certification if they trade halal products.

With this system will provide a paradigm to guarantee legal certainty on the results of halal food production and protection of consumers and producers in addition to being a personal responsibility and also the responsibility of the government run by agencies mandated for this.

The legal rules of halal food products for companies or business actors who will trade their products in Indonesia based on the Halal Product Guarantee Act if associated with consumer protection have provided legal certainty for the consumer community (Muslims) to consume halal food, namely with Halal Certification Marks and Halal labels. Although the fulfillment of the certification and the label is still voluntary (voluntary) has not become mandatory for every company and/or business actor in the field of food or food and beverage.

## CONCLUSION

Gratuities that can be classified as bribery corruption, when the gratuities were given to civil servants / state officials / officials related to their positions. The receipt of such gratuity is contrary to the obligations or duties of the state administrator. This can be seen in Article 12 B paragraph (1) of Law No. 31 th.1999 jo Act no.20 th.2001. A sign of gratitude that can lead to a gratuitous type of corruption crime is a sign of gratitude or a gift given and related to the duties and obligations of civil servants or state administrators. Salain it usually has an unnatural value. Such as giving gifts at fantastic prices or contrary to laws and regulations or giving honors that are not in accordance with standards. Legislation concerning halal food products that have been enacted, such as the Food Law and the JPH law have provided legal protection for consumers in consuming food and beverages. The Consumer Protection Act has clearly determined that consumers must obtain information, safety and security on a food product that they will consume according to their choice.

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