

The Legal Understanding of Restaurant Entrepreneurs On Halal Certification After The Enactment Omnibus Law and Government Regulation No. 39 of 2021

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Abstract

Halal certification is an obligation as protection and certainty consumer law that is regulated in Job Creation Law and PP No.39 of 2021 concerning Implementation of Halal Product Assurance. One of the provisions is about Self Declare. However, still many restaurants in Lowokwaru district, Malang City haven't been certified halal. This study aimed to know the legal understanding of restaurant entrepreneurs on halal certification and to determine the legal consequences of entrepreneurs who haven't halal certification perspective Job Creation Law and BPJPH. This research method used a juridical-empirical with a sociological-jurisprudence approach. Data collection with questionnaire and interview. The results showed that the legal understanding of restaurant entrepreneurs on halal certification was less understood. They haven't understood the provisions of Self Declare and the period of termination of halal certification. So far no one article regulated the legal consequence, but entrepreneurs who haven't been certified halal will get social consequences excluded from entrepreneurs who have been certified halal. Administrative sanctions of written reprimand in advance become a possible alternative conducted by Halal Product Assurance Agency (BPJPH).

Key Words: Legal Understanding; Restaurant Entrepreneurs; Halal Certification.

Introduction

Islam regulates the rules and prohibitions in life, one of which is about consuming halal and thayyib food. It has been explained in the words of Allah QS. Al-Baqarah (2) verse 168: *"O mankind, eat from whatever is on earth [that is] lawful (halal) good (thayyib) and do not follow the footsteps of Satan. Indeed, he is to you a clear enemy."* The verse reinforces the command to consume halal and thayyib food. Allah is specially intended for the believers.¹ Islam emphasizes the importance of consuming halal and good food (thayyib). Halal is more oriented to sharia law, while both are oriented in terms of health, nutrition, economy, and others.² Therefore, as a Muslim, it is very important to choose and pay attention to halal and good composition in choosing food.

¹ Muchtar Ali, "Konsep Makanan Halal Dalam Tinjauan Syariah Dan Tanggung Jawab Produk Atas Produsen Industri Halal," *AHKAM : Jurnal Ilmu Syariah* 16, no. 2 (2016): 293, <https://doi.org/10.15408/ajis.v16i2.4459>.

² Muhammad Jaya, *Ternyata Makanan dan Minuman Anda Mengandung Babi dan Khamar* (Yogyakarta: Rizma, 2009), 17.

The number of Indonesian majority Muslims³, make products that have been certified halal will be the main choice. The amount of halal product consumption based on data from the Ministry of Industry, Indonesia occupies the 10 top positions with the predicate of the world's halal food consumer country known for the amount of consumption up to the US \$ 144 billion of the total global halal food consumption of US \$ 1.17 trillion contained in the report The State of Global Islamic 2020/2021. So important for business actors to complement their products with a halal logos that have obtained halal product certification in order to expand the consumption of halal products in Indonesia.

Malang city is the city with the second largest population in East Java.⁴ This is due to a large number of immigrants, both students and people looking for a livelihood. Malang city which has the potential for tourism will strive to become a Halal Destination. East Java has become a priority area for halal tourism destinations.⁵ This is in line with the Halal Value Chain which is an effort to strengthen Indonesia to become the center of the world's sharia economy and development programs driven by the People's Economic Empowerment Commission (KPEU) MUI East Java. One of the supporters economic came from restaurant businesses that are scattered in several points in Malang. Lowokwaru district is one of the areas located around several campuses and student residences with both Muslim and non-Muslim students present. This increases food consumption quite high. Becoming restaurant entrepreneur has great potential to improve the economy. To support Malang City Halal Tourism and also optimize the economy of the surrounding community, halal certification must be obtained in order to be proof of a restaurant business that has met halal. The existence of halal certification also serves to protect consumers from consuming not halal food.⁶ The implementation of halal certification obligations has a positive impact and provides economic benefits to improve the Indonesian economy.⁷

One of the substances regulated in the Job Creation Law derived from Law No. 33 of 2014 on Halal Product Assurance and PP No. 39 of 2021 on The implementation of Halal Product Assurance as Implementation regulations is halal certification products. The existence of the Halal Product Assurance (JPH) Law in Job Creation Law is actually a step to resolve issues that have not been resolved in the previous JPH regulations, one of which is the obligation of halal certification in Indonesia. The obligation to certify halal products that are being traded in the territory of Indonesia is regulated in Article 4 of JPH Law No. 33 of 2014, article 2 paragraph (1), and article 135 PP No. 39 of 2021 to then have the right and obligation include the halal label in the product. After the promulgation of the rules on halal certification in Job Creation Law, there are several articles have been changed and added. Among others, in accordance with the mandate of the Job Creation Law has provided facilities with the

³ Viva Budy Kusnandar, "Sebanyak 86,88% Penduduk Indonesia Beragama Islam," *Databoks*, 30 September 2021, diakses 27 Mei 2022, <https://databoks.katadata.co.id/datapublish/2021/09/30/sebanyak-8688-penduduk-indonesia-beragama-islam>.

⁴ Website BPK RI, diakses 27 Mei 2022, <https://jatim.bpk.go.id/kota-malang/#:~:text=Kota%20Malang%20merupakan%20kota%20terbesar%20kedua%20di%20Jawa,Malang%20Raya.%20Kota%20Malang%20memiliki%20luas%20110%2006%20Km%C2%B2>.

⁵ Ahmad Enda, *Koordinasi Pembangunan Kemitraan Pariwisata (Coffee Morning) 2016*. Kementerian Pariwisata: Asisten Pengembangan Destinasi Budaya, 2015), 43.

⁶ Muhammad Ibnu Elmi As Pelu. *Label Halal: Antara Spiritualitas Bisnis dan Komoditas Agama* (Malang: Madani, 2009), 31-35.

⁷ Wartyo and Samsuri, "Sertifikasi Halal Dan Implikasinya Bagi Bisnis Produk Halal Di Indonesia," *Al Maal: Journal of Islamic Economics and Banking* 2Wartyo, W., no. 1 (2020): 103-105, <https://doi.org/10.31000/almaal.v2i1.2803>.

insertion of Article 4A which states that micro and small businessmen, halal-certified obligations are based on the statement of micro and small businessmen based on halal standards set by BPJPH or called Self Declare.

Then article 139 PP No. 39 of 2021 states the obligation of halal certification to be done gradually. Article 140 describes the stipulation of halal-certified obligations for food products, beverages, slaughter products, and slaughter services, namely 5 (five years) starting from October 19th, 2019 until October 17th, 2024. So restaurant entrepreneurs who haven't been certified halal must immediately take care of halal certification within this 5 years period. Some restaurant entrepreneurs in Malang have not been certified halal. For restaurants that are not halal-certified, it means violating the regulations that state the certification obligation for halal products. The criminality of violation of article 4 of the JPH Law is still possible. Therefore, this article doesn't yet has a specific violation status; civil, administrative, or criminal.⁸ To realize the legal certainty of consumers halal products needs find out the legal consequence. Legal awareness of restaurants in Malang city on halal certification has not shown maximum results⁹. In addition, legal understanding is very necessary in order to know the legal awareness that shows the community's assessment of existing law. Legal understanding is important. Understanding the law is one of the many indicators used in influencing public legal awareness. According to the theory of Soerjono Soekanto, legal understanding is one of the four indicators to determine legal awareness.¹⁰

Based on the problematics, this study aimed to know the legal understanding of restaurant entrepreneurs on halal certification after the enactment of Job Creation Law (Cipta Kerja) and Government Regulation No. 39 of 2021 on the Implementation of Halal Product Assurance and to determine the legal consequences entrepreneurs who have not halal certification perspective Job Creation (Cipta Kerja) Law and Halal Product Assurance Agency (BPJPH) Malang City.

Research Method

This study used juridical-empirical or law field research. Legal research is an activity to find answers a legal issue of both an academic and practical nature that is evolving in society. The results of using this type of research can later also be used for the preparation of legislation. The research approach used a sociological jurisprudence and a quantitative approach, which means observing the interaction in society by directly conducting field research. Data source collecting is done by observation, questionnaires and interviews, and documentation. Location of sample this research at Lowokwaru district, Malang City, and Halal Product Assurance Agency BPJPH at the Ministry of Religion in Malang City. The data analysis technique used editing, classifying, coding, verifying, and analyzing. The following criteria of business actors who will be informants in this study: (1) The restaurant is located in 12 sub-districts in the Lowokwaru district of Malang City. Each sub-district will take 3 samples; (2) Restaurant entrepreneurs who provide food menus considered halal; (3) Restaurant entrepreneurs who are included in the criteria of small and micro enterprises as

⁸ Iffaty Nasyi'ah, "Pelanggaran Kewajiban Pendaftaran Sertifikat Halal: Dapatkah Dibuat Sanksi?," *Jurisdictione: Jurnal Hukum dan Syariah* vol.09, no.1 (2018):84-108.

⁹ Hassanalwildan Ahmad Zain, Fifik Wiryani, and Idaul Hasanah, "Kesadaran Hukum Sertifikasi Halal Pelaku Usaha Rumah Makan Di Kota Malang," *Indonesia Law Reform Journal* 1, no. 1 (2021): 122-42, <https://doi.org/10.22219/ilrej.v1i1.16130>.

¹⁰ Soerjono Soekanto dan Mustafa Abdullah. *Sosiologi Hukum Dalam Masyarakat* (Jakarta: CV Rajawali, 1987), 228-229.

regulated in article 6 of law No. 20 of 2008 on UMKM. Research uses a linear scale to measure the level of understanding of law with provisions: Rating Scale 1: Don't Understand; Rating Scale 2: Less Understand; Rating Scale 3: Sufficient Understanding; Rating Scale 4: Understand; Rating Scale 5: Very Understand.

Results and Discussion

The Legal Understanding of Restaurant Entrepreneurs on Halal Certification After The Enactment Job Creation Law and Government Regulation No. 39 of 2021 on The Implementation of Halal Product Assurance

Halal food is much sought by consumers, especially those who are Muslims. The halal status of food is also seen from the ingredients and the production process to the buyer. This serves in halal certification as a sign related to the halal status of food. Managing halal certification is also a form of our obedience by implementing the verses of the Qur'an and the sunnah Prophet Muhammad SAW. So that we pay more attention to halal in consuming and buying and selling halal food. Halal food can be illegal due to the wrong way of obtaining it, such as from the proceeds of theft, buying from the proceeds of corruption, buying and selling that is not in accordance with the shariah (accepting bribes, or buying and selling illegal goods, taking wages that are not his right), and so on. As Muslims, we should understand this because all human activities come from good food for growth, work, and worship. Food is a must kosher, contains adequate and balanced nutrition, is proportional, and is safe.¹¹ Having a halal certification is one of the ethics in doing business according to Islam. According to the Islamic view, it is not allowed for its people to get a job in an illegal way also for its people to eat halal food.¹²

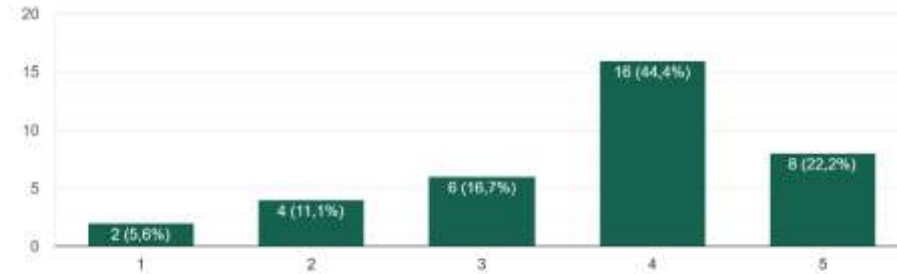
Legal understanding is important in order to know the legal awareness that shows the public's assessment of existing law. Halal certification ensures legal certainty and consumer protection of halal food. This has been regulated in Job Creation Law and PP No. 39 of 2021. To determine the level of legal understanding of restaurant entrepreneurs, researchers have obtained data from 36 respondents according to the criteria and filled out questionnaires.

Since Law No. 33 of 2014 on Halal Product Guarantee passed, article 4 explains halal certification which was previously only voluntary became an obligation (mandatory). Then the Job Creation Law and PP No. 39 of 2021 also states every halal product circulating and traded in Indonesia must be halal certified. Because of an obligation regulated in the regulations, restaurant entrepreneurs who sell halal food are required to take care of halal certification.

¹¹ Halim Setiawan, "Karakteristik Makanan Halalal Thayyiban dalam Al-Qur'an," *Jurnal Kajian Manajemen Halal dan Pariwisata Syariah*, no.02 (2020): 43-51.

¹² Dewi Rahmi Fauziah, "Analisis Implementasi Jaminan Produk Halal Terhadap Pelaku UMKM," *Jurnal Aksioma Al-Musaqoh*, no. 2 (2021): 100-101.
<https://ejournal.latansamashiro.ac.id/index.php/JAM/article/view/559>.

Sertifikasi halal merupakan kewajiban (mandatory) sehingga harus dilakukan oleh pelaku usaha dan telah diatur dalam regulasi.
36 jawaban

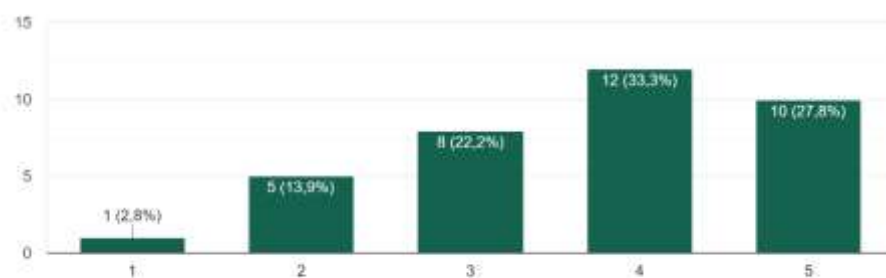


Graph 1. Legal understanding of halal certification obligation

Based the graph above shows the highest rating scale at number 4 with a percentage of 44.4%. Its means some restaurant entrepreneurs **have understood** that halal certification is an obligation (mandatory), so it has been regulated and must be done. This indicates that the business actor has known that having a halal certification is an obligation.

The existence of halal certification is evidence and valid information for consumers on the restaurant that actually sells halal food. Article 23-27 Law No. 33 of 2014 on Halal Product Guarantee and articles 48-49 PP No. 39 of 2021 regulate the rights and obligations of business actors. It is the obligation of business actors to create protection for consumers. Consumers have the right to personal defenses as well. Consumer protection is also a form of appreciation of their rights that must be obtained.¹³ The halal certification that has been regulated in the regulations is expected to create a legal goal of justice, certainty, and legal utility.

Setifikasi halal menjadi kewajiban pelaku usaha rumah makan untuk menjamin dan perlindungan hukum bagi konsumen muslim.
36 jawaban



Graph 2. Legal understanding of halal certification as consumer protection.

¹³ Sopa, *Sertifikasi Halal Majelis Ulama Indonesia, Studi atas Fatwa Halal MUI terhadap Produk Makanan, Obat-obatan dan Kosmetika*,(Jakarta: Gaung Persada Press Group, 2013), 34.

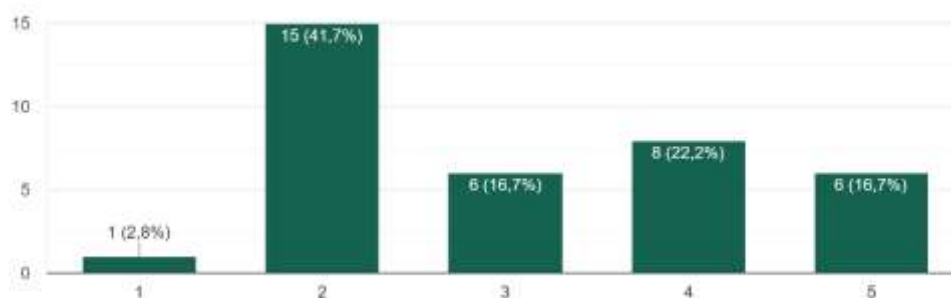
Based on the graph shows the highest rating scale at number 4 with a percentage of 33.3%, so that some restaurant entrepreneurs **have understood** that halal certification is the obligation of restaurant entrepreneurs to guarantee and legal protection for Muslim consumers.

Job Creation Law contains a substance of the guarantee of halal products that has been amended 22 articles and the addition of several new articles from the previous regulation (Law No. 33 of 2014 on Halal Product Guarantee). One of the articles is article 4A which states:

"For Micro and Small Business Actors, the halal-certified obligation as referred to in Article 4 is based on the statement of Micro and Small Business Actors."

With the enactment of Job Creation Law, restaurant entrepreneurs who belong to micro and small business actors with an income of less than Rp. 1 billion a year get free charge to register halal certification.¹⁴ The provisions of this self declare requirement is regulated in the Decree of the Head of BPJPH No. 33 of 2022 on Halal Product Process Companion in the Determination of Halal Certified Obligations for Micro and Small Business Actors Based on the Statement of Business Actors. This facility should bring new opportunities and can be used by restaurant entrepreneurs to register for halal certification.

Menurut UU Cipta Kerja, permohonan sertifikasi halal oleh pelaku usaha mikro dan kecil tanpa dikenakan biaya (gratis) harus didasarkan atas pernyataan pelaku usaha.
36 jawaban



Graph 3. Legal understanding of Self Declare.

Based on the graph shows the highest rating scale at number 2 with a percentage of 41.7% which means that each entrepreneur **less understood** the existence of this rule. After interview some of restaurant entrepreneurs, one of the reasons why it is still not understood is due to lack of information knowledge, socialization, and ignorance of business actors with this regulation. In fact, the restaurant entrepreneurs who are the respondents of this study are classified into the category of business entrepreneurs who receive self declare facilities.

As for free charge of registering halal certification, according to BPJPH Malang free is intended for small and medium business actors in accordance with Law No. 20 of 2008 on UMKM and participate in self-declare registration (free). Mr. Handjiono said:

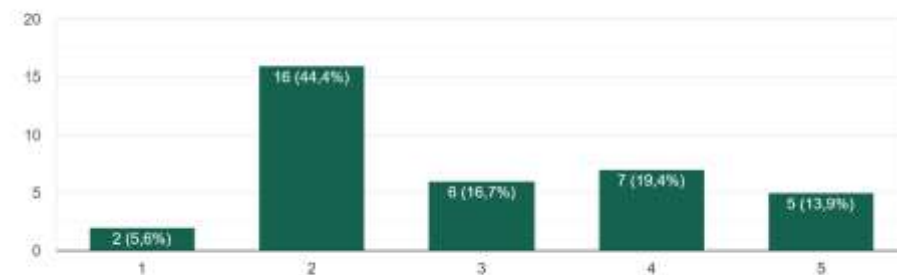
"Actually, for the financing of halal certification, it has been made easier for micro-businesses, there is a relief in financing. It is necessary to know the type of

¹⁴ "Sertifikasi Halal Gratis bagi UMKM," *Indonesia.go.id*, 29 Oktober 2020, diakses 14 Maret 2022, <https://www.indonesia.go.id/narasi/indonesia-dalam-angka/ekonomi/sertifikasi-halal-gratis-bagi-ukm>.

*halal certification registration, namely regular or independent, self declare (free), and facilitation. If you register independently, the cost will be more expensive. Business actors who enter the micro category or participate in self declare will be integrated with the NIB (Business License Number) of business actors, if it does not enter the small and medium category, it cannot automatically be free because it is already systematized in the halal (halal certification registration application). Then also facilitated financing through facilitation that is sometimes held by certain departments such as Dispora. The free program is tailored to your existing budget. If there is a service that holds Facilitation is free, if you are independent you pay.*¹⁵

As an implementation of JPH Law, PP No. 31 of 2019 states the obligation of halal certification to be done gradually. This phase is also further discussed in the latest implementing regulation, precisely in article 139-140 of PP No. 39 of 2021 which states the stipulation of halal certification obligations starting from October 17th, 2019 to October 17th, 2024. Meaning that within a period of 5 years food and beverage products must take care of halal certification. Mean, food and beverage products, as well as restaurants, must have a halal certificate in 2024.

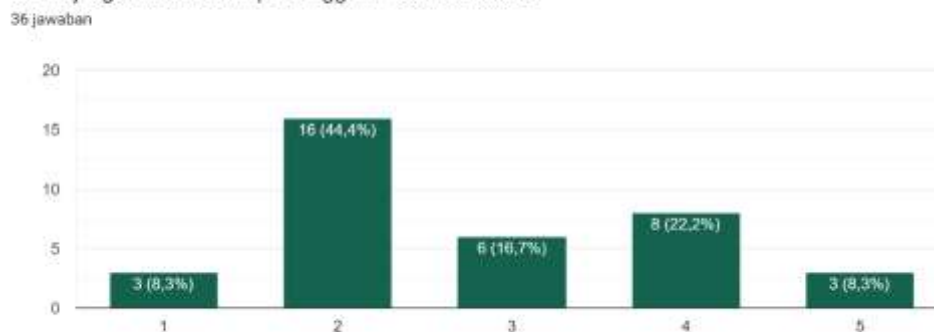
Pasal 139 PP No. 39 Tahun 2021 menyatakan kewajiban sertifikasi halal dilakukan secara bertahap.
36 jawaban



Graph 4. Legal Understanding of Halal Certification Obligation Stages.

¹⁵ Handjiono Soesetyo, interview results, (Malang, 09 Februari 2022).

Penahapan kewajiban sertifikasi halal produk makanan dan minuman termasuk rumah makan dalam jangka 5 tahun sampai tanggal 17 Oktober 2024.



Graph 5. Legal Understanding of Halal Certification Stages.

Based on the two graphs above, the assessment scale both show in number 2 with a percentage of 44.4% which means that each entrepreneur **less understood** this regulation. They still didn't understand the staging of halal certification obligations within a period of 5 years until October, 17th, 2024. This result is also supported by the statement of the BPJPH when interviewed that it is still not optimal because many restaurant entrepreneurs haven't registered for halal certification.¹⁶ According to the questionnaire, its cause still a lack of information and socialization related to this. Despite this, the BPJPH Malang City continues to strive to help entrepreneurs who want to register for halal certification.

Interview with the BPJPH of Malang, Mr. Handjiono also said that the legal awareness of business actors to take care of halal certification is still lacking.

*"While the legal awareness of business actors who are a large category has taken care of halal certification. However, there are still not many small category business actors who take care of halal certification. In fact, if there is information from the central BPJPH, it is directly distributed to business actors. UMKM coordinators are less disseminated. So there are still not many who take care/register. Legal awareness is still lacking so socialization must continue to be given."*¹⁷

Table 1. Legal Understanding Level

Question Number	Highest Percentage (%)	Legal Understanding Category
1	44.4%	have understood
2	33.3%	have understood
3	41.7%	less understood
4	44.4%	less understood

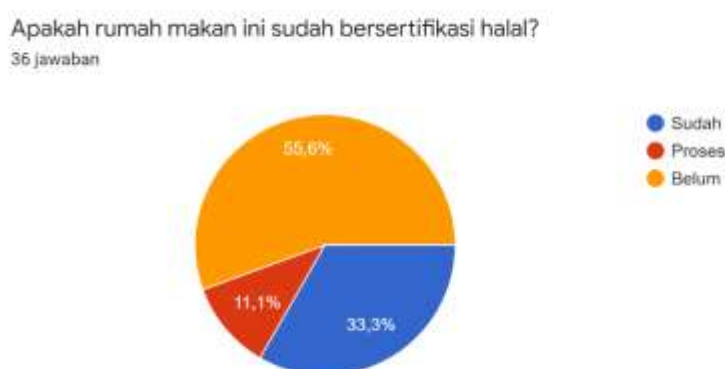
¹⁶ Handji Soesetyo, interview results, (Malang, February, 9th 2022).

¹⁷ Handji Soesetyo, interview results, (Malang, February, 9th 2022).

5	44.4%	less understood
Average legal understanding		less understood

Thus, it is obtained that entrepreneurs don't understand the regulations that govern the obligation of halal certification. Three of the five questions showed **less understood** results.

The legal compliance of restaurant entrepreneurs in Lowokwaru subdistrict on the halal certification obligation shows that it is less. This is evidenced-based on research data showing that 55.6% of entrepreneurs didn't have halal certification, 33.3% have halal certification, and 11.1% are still in the process of registering for halal certification. Based on the graph below:



Graph 6. Obedience of restaurant entrepreneurs.

Some reasons why restaurant entrepreneurs are not immediately registered or continue to register for halal certification are because the process is complicated, bureaucratic, time and cost-constrained, and didn't know where to take care, and confused do not know how to take care of it. Lack of education and socialization is also an obstacle for restaurant businesses that have not yet managed certification. Ignorance makes at least restaurant entrepreneurs have the awareness to register their products in order to have halal certification.

In order to increase the understanding of the law, some efforts can be made, namely with information and legal counseling. Legal information is done so that business actors about a particular law. Legal counseling is done as a next step after the legal explanation in order for business actors to understand the law, have the courage, and understand how to implement rights and obligations as a form of complying with existing regulations.¹⁸

The Legal Consequences Restaurant Entrepreneurs Who Have Not Yet Been Certified Halal Perspective Job Creation Law and Halal Product Assurance Agency (BPJPH) Malang City

Obligation of halal products that are being traded in the territory of Indonesia are regulated in article 4 of JPH Law No. 33 of 2014, article 2 paragraph (1), and article 135 PP No. 39 of 2021 to then have the right and obligation include the halal label in the product. Therefore, until now there are still many restaurant entrepreneurs who haven't been certified halal. Whereas, halal certification is mandatory since explained in article 4 Law No. 33 of

¹⁸ Ishaq, *Dasar-dasar Ilmu Hukum* (Jakarta: Sinar Grafika, 2009), 249-250.

2021 on Halal Product Guarantee said *“Products that enter, circulate, and are traded in Indonesia must be certified halal.”* The material is also exactly explained in article 2 paragraph (1) of Government Regulation No. 39 of 2021 on the Organizer of Halal Product Assurance. The government regulation provides for a period or stage of halal certification for food and beverage products 5 years, has begun on 17th October 2019 until 17th October 2024.

Because this provision has been regulated in the regulations, it is mandatory to do. Although there is no compulsion for entrepreneurs to register for halal certification because it turns out that until now no one a single article indicates the existence of legal consequences or sanctions against business actors who haven't taken care of it. If the business actors don't implement it within this period of 5 years or until October 17th, 2024 then it can be said to have violated the law of halal certification obligations.

Violations by entrepreneurs on the implementation of halal product guarantees are administrative sanctions (written warning, a maximum fine of Rp. 2,000,000,000,00, revocation of halal certification, and/or withdrawal of products from circulation) and there are also criminal sanctions. There are several types of violations that are sanctioned in Government Regulation No. 39 of 2021, namely the violation of Article 49, Article 65, Article 82 paragraph (2), Article 84 paragraph (1), Article 87 paragraph (1), Article 92 paragraph (1), Article 93, Article 127 paragraph (2), Article 132 paragraph (4), article 134 paragraph (2), and article 135 paragraph (1). But no sanction or juridical implication is given for the violation of article 2 paragraph (1) of PP No. 39 of 2021.

The lack of strict sanctions is feared to affect the legal awareness of restaurant entrepreneurs not to take care of halal certification and commit fraud. In fact, all types of violations can harm and upset the public or consumers. To minimize it, the legal consequences are necessary in order for consumer certainty to be guaranteed. Because there is still no legal consequence of this violation in the regulation, the author digs information on legal consequences from the point of view Halal Product Assurance Agency (BPJPH) as a halal product assurance operator.

The Halal Product Assurance Agency (BPJPH) is an institution within the scope of the Ministry of Religion and has the authority to administer halal product assurance. BPJPH cooperates with MUI in setting the halal status of the product. According to Article of Law No. 33 of 2014 on Halal Product Guarantee stated in the maintenance halal product guarantee, some BPJPH authorities are to formulate and set halal product guarantee policy, set norms, standards, procedures, and criteria for halal product guarantee, issue and revoke halal certification and halal label on products, conduct supervision of halal product guarantee. In government regulations, BPJPH has the authority to impose administrative sanctions related to violations of the guarantee of halal products.

Some BPJPH authorities are to formulate and set halal product guarantee policy, set norms, standards, procedures, and criteria for halal product guarantee, issue and revoke halal certification and halal labels on products, and conduct supervision of halal product guarantee. In Malang City, there is a Halal Product Assurance Organization (BPJPH) which serves as the operator of the halal task force. The following was presented by Mr. Handjiono about the role of BPJPH, namely:

“Its role as a halal task force in the city of Malang is to be the spearhead of halal certification management. Serving ranging from the management of business documents to providing the need to upload requirements in the halal (halal certification service application). Then also plunge into the community. for

socialization and accompany business actors on halal certification registration steps."¹⁹

According to interviewed BPJPH Malang city for restaurant entrepreneurs who haven't immediately taken care of halal certification after the enactment of Job Creation Law and PP No.39 of 2021 still doesn't exist and the consequences obtained only social consequences.

*"As a consequence, it will naturally be separated from another entrepreneur who already has halal certification. Consumers also prefer those who have been certified halal. So that later when they are aware of the obligation of halal certification will take care of it. Related legal consequences or sanctions are still not yet, maybe there will be in 2024. I dare not talk more because there is no legal umbrella that regulates the sanctions."*²⁰

The absence of sanctions can also be said because it is currently still in the gradual range until October 17th, 2024. This is an opportunity for restaurant entrepreneurs to take care of halal certification. Restaurants that don't yet have halal certification are not directly subject to sanctions or penalties but are given a time until a predetermined time.²¹ In accordance with the regulations, if until October 17th, 2024 the restaurant entrepreneurs don't take care of the halal certification mentioned in the law "mandatory" may be subject to sanctions. Still though so the BPJPH of Malang City continues to conduct socialization and supervision related to halal certification of business actors.

Regarding the type of appropriate sanctions, if imposed on entrepreneurs who have not immediately taken care of halal certification beyond the period that has been determined October 17th, 2024 is still possible because there is no violation status for article 2 paragraph (1) of PP No. 39 of 202. If a violation these can be categorized as the most effective administrative sanctions or criminal sanctions applied. Must see the substance first, when it comes to administrative matters, then administrative sanctions are more effective than criminal sanctions. Then enforce of the law can also be with administrative sanctions. According to Van Wijk, administrative sanctions are the imposition of punishment by the government on its people as a result of their disobedience to the obligations set out in the legislation.²²

The granting of administrative sanctions is a form of legal consequence for the violation of a norm of prohibitions, orders, and obligations. The norm if in its enforcement is not sanctioned will experience difficulties.²³ Administrative sanctions are not always applied through the courts, but also non-courts or directly by administrative officials who in the case of halal certification the authority is the Halal Product Assurance Agency (BPJPH). This is also one of the convenient because it can be done directly by BPJPH without waiting for court decisions first. Meanwhile, if a criminal sanction is imposed, it must go through the process of

¹⁹ Handjiono Soesetyo, interview results, (Malang, January, 31st 2022).

²⁰ Handjiono Soesetyo, interview results, (Malang, January, 31st 2022).

²¹ Hayyun D Farida, "Sertifikasi Halal di Indonesia: Sejarah, Perkembangan, dan Implementasi," *Journal of Halal Product an Research*, vol.2, no.2 (2019):76.

²² Andri Gunawan Wibisana, "Tentang Ekor ang Tak Lagi Beracun: Kritik Konseptual atas Sanksi Administratif dalam Hukum Lingkungan di Indonesia," *Jurnal Hukum Lingkungan Indonesia*, vol.6, no.1 (2019):42.

²³ Wicipto Setiadi, "Sanksi Administratif sebagai salah satu instrumen penegakan hukum dalam peraturan perundang-undangan," *Legislasi Indonesia*, vol.6, vol.4 (2009):606.

a court decision with permanent legal force. In terms of time, it is also not effective for too long

Halal Product Assurance Agency (BPJPH) in conducting supervision and imposing administrative sanctions must ensure and consider properly the violations that have a legal basis in accordance with the principles of law. Administrative sanctions in the form of written reprimands in advance of and or fines to the perpetrators of the restaurant entrepreneurs can be an alternative way done by BPJPH so that the restaurant entrepreneurs immediately perform the obligation of halal certification.

Conclusion

Halal certification is an obligation for restaurant entrepreneurs as protection and legal certainty of consumers. Article 4A of the Job Creation Law states the Self Declare program and article 139-140 PP No. 39 of 2021 explains the provisions of the stipulation of halal certification food products conducted within a period of 5 years to October 17th, 2024. Based on research data, the legal understanding of restaurant entrepreneurs on halal certification after the enactment of the Job Creation Law and Government Regulation No. 39 of 2021 is still less understood. Until now still many restaurants have not certified halal. For restaurant entrepreneurs who have not been certified halal so far no one article indicates the existence of legal consequences or sanctions. However, according to the BPJPH Malang City as the institution authorized to organize and supervise halal certification said that business actors who haven't halal-certified will receive social sanctions and will naturally be excluded from other business actors who are halal certified. Consumers will prefer which has been certified halal. Currently, it is still in the period of staging, legal consequences or sanctions may exist after the staging ends in 2024. Suggestion for next research, is important to know the legal understanding of halal certification when the period of staging halal certification finished (October 17th, 2024).

To increase the legal understanding of halal certification, the government and BPJPH to socialize and educate widely on the importance of halal certification. Then restaurant entrepreneurs who have not been certified halal immediately take care of it and come to BPJPH. The legal consequences of halal product guarantees are in the form of administrative sanctions and criminal sanctions. Giving administrative sanctions written reprimands first becomes alternative that BPJPH. The government should more pay attention to the legal consequences for entrepreneurs who haven't halal certification in order to create certainty and legal protection halal food consumers.

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