

Halal Regulation: Halal Self-Declare in Halal Certification

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Abstract

Article 4A Halal Product Assurance Cluster Law No. 11 of 2020 on Job Creation states "For micro and small enterprise the obligation to be certified halal is based on statements by micro and small enterprise" this regulation aims to provide ease of doing business, especially in halal certification for micro and small enterprises. The study of the existence of this regulation is needed by many perspectives. Two of them are by halal product assurance and *maslahah mursalah*. This paper uses a normative legal research method and aims to examine the harmony between Article 4 of Law no. 33 of 2014 on Halal Product Assurance and Article 4A of Halal Product Assurance Cluster Law no. 11 of 2020 on Job Creation and how to review the *maslahah mursalah* regarding halal self-declaring in the halal certification process. Based on the results of the study, it can be seen that, first, there is a harmonization between Article 4 of Law no. 33 of 2014 and Article 4A of the Halal Product Assurance Cluster Law no. 11 of 2020 on Job Creation. Conformity between the concept of *maslahah mursalah* and halal self declare. To create a climate of ease of doing business and assuring consumer rights, the synergy is needed between the government, businessman, and consumers.

Keywords: Halal Product Assurance; Halal Certification; Halal Statement

Introduction

Indonesia is a country based on the law (*rechtstaat*) and a Pancasila democracy, whose main character should be to provide freedom for citizens' civil and political rights, including religion. This has substantively become the main value of the rule of law, democracy and Pancasila itself. Legal politics is closely related to legal policy in a country¹. Also a country with the largest Muslim population in the world². As we know, every Muslim is required to use and consume halal products. So it is natural that the issue of the halalness of a product such as food, medicine or cosmetics takes the attention of consumers. Most of Muslim consumers will buy halal certified products. It caused the businessman to register their products as halal-certified and halal-labeled products to increase consumers' confidence and their products to sell in the market. In this case, the government's role is needed to realize the ideals of the country. As stated in the 1945 Constitution

¹ Maghfirrotun dan Wirnyaningsih, *Kedudukan Penyelia Halal Dalam Sertifikasi Halal Setelah Berlakunya Undang-Undang Cipta Kerja Pada Sektor UMK*, jurnal. Volume 08, Nomor 01, (Januari-Juni 2022). Doi: 10.33751/palar.

² Michael Lipka, *Muslims and Islam: Key findings in the U.S. and around the world*, (<https://www.pewresearch.org/fact-tank/2017/08/09/muslims-and-islam-key-findings-in-the-u-s-and-around-the-world/> accessed February, 2 2020).

of the Republic of Indonesia, which states that the Government of the State of Indonesia shall protect the whole nation and the entire native land of Indonesia and to advance the public welfare. And the state assures independence for every citizen to embrace his religion and carry out worship according to his religion and beliefs.

Humans need food for their survival. So that food is one of the primary needs. As a primary need, there are many food products, ranging from raw products to processed products. The existence of followers of other religions make food products circulation is varied, some of these products are not allowed to be consumed by Muslim so they must be careful in choosing food products. Currently, most of Muslim population are aware to consume halal food and has a tendency to choose halal-certified and halal-labeled products. This is in line with the guidelines of Muslims, namely the Holy Qur'an, Surah Al Baqarah: 178: *"O mankind, eat from whatever is on earth [that is] lawful and good and do not follow the footsteps of Satan. Indeed, he is to you a clear enemy"*.

This argument focuses on the halalness of food products consumed by humans, especially Muslim. The halalness of these food products has also been regulated in Islamic law in detail. To avoid the consumption of products that are forbidden in Islam by Muslim consumers, the government's Law no. 33 of 2014 on halal products assurance. The law regulates things related to halal, including halal products, halal product processes, halal product assurances, halal certificates, halal labels, and so on. Halal products are products that are declared halal according to Islamic law. Not only are the products halal, but the supply of materials, processing, storage, packaging, distribution, sales and product presentation must be assured to be halal.

The public can find out whether a product is halal or not, it can be seen from the halal label attached to the packaging. Halal label is obtained after businessman carry out halal certification for their products and obtain halal certificates. The other information includes; the benefits of a product, side effects of using the product, expiration date, and the identity of the manufacturer. This is in line with the objectives of consumer protection. One of them is creating a consumer protection system that contains elements of legal certainty and information disclosure as well as access to information. Consumers' right to get this information is very important. If the given information is limited, it can be a form of product defect. The right to get the correct information is expected to give a correct picture of a product, because with this information consumers can choose products based on their needs and avoid losses due to errors in product use.

In line with the consumer's right to get clear information, there is an obligation for the government to check the safety of food ingredients whose impact on human health during the production processes and before the products are distributed. This is written in Article 74 of Law no. 18 of 2012 ON Food. It can be understood that the Act is very accommodating of consumer protection. This is in line with the aim of consumer protection and providing legal certainty to consumers regarding the halalness of products as evidenced by halal certificates and halal labels affixed to product packaging.

The issuance of Law no. 11 of 2020 on Job Creation brings many changes. One of the regulations is related to assuring halal products, especially the submission of halal certificates. This change raises juridical problems. In Article 4A of the Law on Creation of Halal Product Assurance Clusters on the obligation for halal certification for micro and macro enterprises, it is carried out through a statement by businessman. The statement is made according to the standards from the Halal Product Assurance Administration. However, according to the Indonesian

Consumers Foundation, self-declaration by businessman can violate consumer rights because the supervision is difficult to carry out. If supervision is difficult, it is difficult to punish.

Mandate of Law No. 33 of 2014 on Halal Product Assurance. The implementation of the mandatory halal certification starting October 17, 2019 will be carried out in stages. The government must also immediately complete the incomplete equipment for the implementation of the certification process in accordance with the mandate of the law. Regarding the imposition of sanctions, it is still difficult to implement, especially with the existence of self-declaring which makes it easier for businessman to obtain halal certification. It is possible for businessman to commit fraud. So the role of the government in this case law enforcement and legal instruments must be ready in order to create a healthy business climate and accommodate consumer protection.

From the description above, this writing aims to know the implementation of halal self declare based on Law no. 33 of 2014 on Halal Product Assurance and also analyse halal self declare in *masalah mursalah* perspektive. To examine the harmony between the regulation of self-declaring halal product for micro and small enterprise and Law no. 33 of 2014 on Halal Product Assurance.

The Research Methods

The type of research used in this article is normative legal research. Normative legal research discusses doctrines or principles in legal science.³ The research approach used is the statue approach, the laws studied in this research are Law no. 11 of 2020 on Job Creation and Law no. 33 of 2014 on Halal Product Assurance. The legal materials used are primary legal materials, namely Law no. 11 of 2020 on Job Creation and Law no. 33 of 2014 on Halal Product Assurance. While the secondary legal materials are journal and books related to halal certification. The analytical instrument used is legal interpretation, which is interpreting the law as a part of the whole legislation by connecting articles in one legislation or with other legislation or reading the explanation.⁴ Legal interpretation of this study is the connecting between Law no. 11 of 2020 on Job Creation and Law no. 33 of 2014 on Halal Product Assurance.

Results and Discussion

Halal Certification According to Law no. 33 of 2014 on Halal Product Assurance

Mandatory Halal Product Assurance, halal certification is contained in Article 4 of Law no. 33 of 2014 on Halal Product Assurance "Products that enter circulation and are traded in the territory of Indonesia must be certified halal". The legal consequence of this mandatory is that all products traded in Indonesia must be certified halal. This is done to protect consumers, considering that Indonesia has a Muslim majority population where a Muslim is required to consume halal products. Previously, halal certification was voluntary through the LPPOM MUI (Institution for the Study of Food, Drugs, and Food of the Indonesian Ulema Council). The government began to realize the importance of halal certification after research by Dr. Ir. Tri Susanto, Lecturer at Brawijaya University Malang, East Java in 1987. The research was conducted on several food products, such as noodles, milk, snacks, and so on. From this study, it was found that these products

³ Zainuddin Ali, *Metode Penelitian Hukum*, (Jakarta: Sinar Grafika, 2011), 24.

⁴ Mohamad Nur Yasin, *Politik Hukum Ekonomi Syariah di Indonesia*. (Malang: UIN-Maliki Press, 2018) 6.

contain gelatin, shortening and lecithin and fat that does not rule out pork.⁵ The research was conducted by observing the products traded in markets, supermarkets, and grocery stores. The circulation of these issues makes people worried and very selective in choosing products, this is a form of prudence and public obedience to their religion. Consumers' purchasing power has decreased for several types of food products, thus affecting the company's turnover. This event also had an impact on several food and beverage companies. This is enough to shake the country's economy, because many Muslim consumers end up abandoning these products.

There were several attempts to reduce the chaos and restore public trust, one of which was carried out by a team from the Ministry of Religion and MUI. MUI feels the need to hold a meeting to discuss this problem and find a solution so that people's conditions return to normal. This incident became a turning point for the importance of halal certification. There must be an assurance of halal food in Indonesia, where the majority of the people are Muslim. To reduce public concern about the circulation of lard in 1988, the Institute for the Assessment of Food, Drugs, and Cosmetics, the Indonesian Ulema Council (LPPOM MUI), was formed. This institution was established based on the MUI Decree Number Kep./18/MUI/I/1989 on January 6, 1989 which has the main task of conducting inspections of products in circulation and conducting halal certification. In its implementation, MUI was only able to issue a halal certificate in 1994, five years after the formation of LPPOM. This certificate is issued based on the results of the inspection conducted by LPPOM.

In its development, the regulation of halal certification so far still seems sectoral, partial, inconsistent and not systemic and voluntary, which results in halal certification not having strong legal legitimacy. In addition, there are still many products circulating in the community, not all of which are assured to be halal, thus requiring a comprehensive arrangement that includes goods and services. Based on these factors, the implementation of halal certification is regulated in Law Number 33 of 2014 on Halal Product Assurance (UUJPH).⁶ After the UUJPH was ratified, the obligation for halal certification moved to the Halal Product Assurance Organizing Agency (BPJPH) which no longer belonged to LPPOM-MUI. BPJPH has the authority to issue and revoke halal certification and halal labels on products. Previously, this authority was exercised by LPPOM-MUI. The current position of LPPOM MUI; as a Halal Examination Agency hereinafter abbreviated as LPH), namely an institution that carries out inspection and or testing activities on the halalness of Products. Halal certification is an acknowledgment of the halalness of a product issued by BPJPH based on a written halal fatwa issued by the MUI. Meanwhile, the halal label is a sign of the halalness of the product attached to the packaging. The establishment of BPJPH is an effort by the government to protect consumers and must also be seen as a system. Law as a system is an order or unit consisting of interrelated parts or elements, interacting with each other, which are organized and work together to achieve the goal of that unity. Law is not just a collection of laws that each stand-alone, but must be seen about other parts of the system.⁷

The authority of BPJPH is regulated in Article 6 of Law Number 33 of 2014 on Halal Product Assurance. Based on Article 6 of Law Number 33 of 2014, *In organizing JPH, BPJPH is*

⁵ Sejarah LPPOM MUI. (<https://halalsumut.org/sejarah-lppom-mui/> accessed on June, 1 2022).

⁶ Indah Fitriani Sukri, *Implementasi Undang-Undang Cipta Kerja Terhadap Penyelenggaraan Sertifikasi Halal dan Produk Halal di Indonesia*, (Majalah Hukum Nasional: Volume 51 Nomor 1 Tahun 2021) DOI : 10.33331/mhn.v51i1.139 h. 78.

⁷ Sudikno Mertokusumo, *Penemuan Hukum: Sebuah Pengantar*, (Yogyakarta: Liberty, 2006), 18.

authorized to: (a) formulate and stipulate JPH policy; (b) stipulate the norms, standard, procedure, and criteria of JPH; (c) issue and revoke Halal Certificate and Halal Label on Product; (d) perform registration of Halal Certificate on foreign Product; (e) socialize, educate, and publicize Halal Product; (f) perform accreditation of LPH; (g) certificate Halal Auditor; (h) control of JPH; (i) develop Halal Auditor; and (j) collaborate with domestic and foreign institutions in organizing JPH.

In carrying out its duties, BPJPH supervises JPH, JPH supervision is carried out on: (a) LPH; (b) the validity period of the Halal Certificate; (c) product halalness; (d) the inclusion of the Halal Label; (e) inclusion of non-halal information; (f) separation of location, place and means of slaughter, processing, storage, packaging, distribution, sale, and presentation between Halal and non-halal Products; (g) presence of a Halal Supervisor; (h) and/or other activities related to JPH.

The Halal Certification in Law No. 33 of 2014 on Halal Product Assurance

In Article 4 UUJPH “*Products that enter, circulate, and are traded in the territory of Indonesia must be halal-certified*”. It requires all products without exception. From small businesses to large companies the obligations are equal. The flow in obtaining a Halal Certificate begins with a submission. Halal Certificate by Businessman to BPJPH in writing accompanied by the following documents: data on businessman, name and type of product, list of product materials used and product processing process. BPJPH will then check the completeness of the documents. After the file is declared complete by BPJPH, then the process is continued at LPH (which has been accredited by BPJPH in collaboration with MUI) so that product halal examine and/or testing is carried out by a Halal Auditor who has been certified by MUI. BPJPH instructs the community to participate in the implementation of JPH.

LPH to examine and test Products for 5 working days after the documents are declared complete. The Halal Auditor checks the halalness of the product, if there are doubtful ingredients, then LPH conducts testing in the laboratory. After the examination and testing have been carried out by LPH, the results of the inspection are reported to BPJPH. Subsequently, BPJPH submits the results of the LPH audit to MUI to obtain a product halal determination through the Halal Fatwa Session. The Ulema Council together with experts, elements of the ministry or institutions, and related institutions conduct a halal fatwa session to determine a Decision on Determining Halal Products which is signed by MUI and becomes the basis for the issuance of Halal Certification. BPJPH. With the stipulation of the status of a Halal product, BPJPH issues a Halal Certificate no later than 7 (seven) working days from the receipt of the Decision on Determination of Halal Products received from MUI. The Halal Certificate is valid for 4 (four) years from the date of issuance by BPJPH, unless there is a change in the composition of the Ingredients. The Halal Certificate must be extended by Businessman by submitting a renewal of the expired Halal Certificate. And fees charged by Businessman who apply for Halal Certification. To facilitate the implementation of JPH implementation.

Halal certification costs consist of; the cost submission of application for the halal certificate, fees for inspecting and/or testing product halalness, the cost of scientific review of the results of the examiner and/or product halal testing, costs implementation of the halal fatwa trial, and costs certificate issuance. The cost of Halal Certificate is charged to business operators that submit Halal Certificate application In case the Business Operator is a micro and small business, the cost of

Halal Certificate can be facilitated by other party. The other parties such as the Government through the revenue budget and state spending, local governments through regional revenue and expenditure budget, companies, social institutions, religious institutions, associations, and communities.

Halal Self-Declare Flow in The Implementation of Halal Certification Pasca Enactment Law No. 11 of 2020 on Job Creation

The insertion of article 4A in the Law on Job Creation has legal implications for the implementation of halal certification for small and micro enterprises. This regulation only for small and micro enterprises. Micro and small enterprise based on Article 1 of Law Number 20 of 2008 on Micro, Small, And Medium Enterprises are *“(1) Micro enterprises means a productive enterprise owned by individuals and/or business entity/enterprise which fulfill the criteria of the micro enterprise as regulated in this Law. (2) Small Enterprise means an independent productive enterprise, which is run by individuals or a company which is not a branch companies owned, controlled, or becoming direct or indirect part of the Medium or Large Enterprises fulfilling the criteria of the Small Enterprises as referred to this Law.”* The criteria of small and micro enterprises on Article 6 of Law Number 20 of 2008 on Micro, Small, And Medium Enterprises are *“(1) The criteria of the Micro Enterprises are the followings: (a) possessing the net asset of maximum Rp 50,000,000.00 (fifty millions rupiahs), excluding the sites and buildings of the enterprise; (b) possessing the annual sale income of maximum Rp 300,000,000.00 (three hundred million rupiahs). (2) The criteria of the Small Enterprise are the followings: (a) owning the net capital of more than Rp 50,000,000.00 (fifty million rupiahs), excluding the sites and the buildings of the enterprise; or (b) owning the annual sale income of more than Rp300,000,000.00 (three hundred million rupiahs) up to the maximum Rp2,500,000,000.00 (two billion five hundred millions rupiahs).”*

The halal statement made by the businessman must comply with the halal standards set by BPJPH. The halal standard at least consists of a statement by businessman in the form of a contract/pledge that contains a pledge of product halalness, a list of materials used, and a halal product process (PPH) as well as halal supervisor. This halal supervisor can be carried out by Islamic organizations or Islamic religious institutions that have legal entities, universities, and government agencies or business entities that partner with Islamic organizations. The function of this assistance is to verify and validate halal statements made by businessman. The technical implementation of this assistance will be regulated in the BPJPH regulations. This provision is regulated in Government Regulation Number 39 of 2021 on the Implementation of the Halal Product Assurance Sector. (1) STTD (Document Receipt Letter), which is the basis of LPH for further processes (examination and submission). (3) Halal regulation is valid for 4 years by MUI. (3) Halal Certificate is valid for 4 years issued by BPJPH. The halal certification stage consists of 2 (two) important activities, namely the preparation and process of halal certification.

The stages of preparation for halal certification are: (1) Understand the requirements of halal certification by searching the information through websites, reading, attending halal training or socialization, etc. (2) Make sure that the materials used are guaranteed to be halal. The easiest way is to see and check the halal logo on the Halal MUI website. (3) Make sure that the production equipment used is not used to process illegal products. (4) Prepare simple book-keeping. (5)

Preparing people (Muslims) to become halal supervisors. (6) Prepare registration documents, namely business licenses, list of materials used, written production flow, and Halal Assurance System (SJH) manual.

The registration of halal self-declare is by application, SiHalal, SiHalal application provides convenience for businessman scattered throughout Indonesia with unlimited access by working hours and can be accessed anywhere online. Directly through the media of mobile phones, laptops or computers as long as they are connected to the internet, speeding up services. This application were mandate on Article 148 GR No. 39 of 2021. The differences between the registration based on UUJPH and pasca enactment Law no. 11 of 2020 are the times of the registration shorter. The requirements for free halal certification for small enterpraises in the self-declare category⁸:

(1) Products are not risky or use ingredients that have been confirmed to be halal. (2) The production process is assured to be halal and simple. (3) Have annual sales results (turnover) of a maximum of IDR 500 million as evidenced by an independent statement. Have a Business Identification Number (NIB). (4) Have a separate location, place, and tool for processing halal products (PPH) from locations, places, and tools for processing non-halal products. (5) Having or not having a distribution permit (PIRT/MD/UMOT/UKOT). (6) Sanitation Hygiene Eligibility Certificate (SLHS) for food/beverage products with a shelf life of less than seven days or other industrial permits for products produced from related agencies/agencies (7) Have outlets and/or production facilities at most 1 (one) location. (8) Actively in production one year prior to the application for halal certification. (9) The products produced are in the form of goods (not services or businesses in restaurants, canteens, catering, and shops/houses/food stalls). (10) The ingredients used have been confirmed to be halal. (11) Evidenced by a halal certificate, or included in the list of materials according to the Decree of the Minister of Religion Number 1360 of 2021 on Materials that are exempted from the Obligation to be Certified Halal. (12) Do not use hazardous materials. (13) Halal has been verified by the halal product process assistant. (14) Types of products/product groups that are certified as halal do not contain elements of slaughtered animals, unless they come from producers or slaughterhouses/poultry slaughterhouses that are already halal-certified. (15) Using production equipment with simple technology or done manually and/or semi-automatically (home business not factory business). (16) The preservation process for the resulting product does not use radiation techniques, genetic engineering, the use of ozone (ozonization), and a combination of several preservation methods (hurdle technology). (17) Complete the app.

LPH to examine and test products for a working days after the verification of the application. The Halal Auditor checks the halalness of the product, if there are doubtful ingredients, then LPH conducts testing in the laboratory. The maximum period of the examination is 15 (fifteen) working days. After the examination and testing have been carried out by LPH, the results of the examination are reported to MUI with a copy document that sent to BPJPH. MUI with the experts, elements of the ministry or institutions, and related institutions conduct a halal fatwa session to determine a decision on determining halal products which is signed by MUI and becomes the basis for the issuance of halal certification. BPJPH. With the stipulation of the status of a halal product, BPJPH issues a halal certificate no later than 3 (three) working days from the receipt of the

⁸Indah. *Ini syarat daftar sertifikasi halal gratis kategori "self declare"*. (<https://www.kemenag.go.id/read/ini-syarat-daftar-sertifikasi-halal-gratis-kategori-self-declare-kvlva> accessed on June, 20 2022).

decision on determination of halal products received from MUI.⁹ The Halal Certificate is valid for 4 (four) years from the date of issuance by BPJPH, unless there is a change in the composition of the Ingredients. The Halal Certificate must be extended by Businessman by submitting a renewal of the expired Halal Certificate. And fees charged by Businessman who apply for Halal Certification.

The businessman obligation after gets halal certification is marking halal label in the packaging product, keeping halal product, separating the location the place the tools for processing the saving the distribution the selling the serving halal and non-halal product, renewing the halal certification when it expired, reporting the new material when it changed.

The issuance of Law no. 11 of 2020 on Job Creation brings many changes. One of the regulations is related to assuranceing halal products, especially the submission of halal certificates. The author has summarized the different rules between Law on Halal Product Assurance in Law no. 33 of 2014 on Halal Product Assurance and pasca enactment Law no. 11 of 2020 on Job Creation to make it easier for more clearly understand. 22 rules have changed to facilitate the ease doing business in Indonesia, including:

Table 1. The Different of Article 4, Article 7, and Article 10

No.	Law no. 33 of 2014 on Halal Product Assurance	Law no. 11 of 2020 on Job Creation
1.	Article 4: no obligation for micro and small enterpraise to do halal self-declare in halal certification	Article 4A: for micro and small enterparise, the obligation of halal certification based on their statements
2.	Article 7: BPJPH's authority only cooperate with LPH and MUI	Article 7 paragraph (2): BPJPH not only collaborate with LPH and MUI, but also can cooperate with community organizations an Islamic legal entity
3.	Article 10: the collaboration between BPJPH and MUI, namely halal auditor certification, stipulation of the product halalness. and LPH accreditation	Article 10 paragraph (1) and (2): collaboration between MUI and BPJPH related to halal auditor certification and LPH accreditation was removed. So, the MUI is only on the determination of product halalness and the issuance of decree of halal product stipulation

⁹Martono Anggusti, *Indonesia's Omnibus Job Creation Law No. 11 Year 2020 To Whom It's Benefit* International Journal of Business, Economics and Law, Vol. 24, Issue 3 (April 2021), 6.

Table 2. The different of Article 41 and Article 42

No.	Law no. 33 of 2014 on Halal Product Assurance	Law no. 11 of 2020 on Job Creation
1.	Article 29: Applications for halal certification to BPJPH are made in writing and there is no time period for verification of the halal certificate application by BPJPH	Article 29 : The word "written" is abolished, and there is a period of verification of the application for a halal certificate by BPJPH, which a maximum of day working is a working days
2.	Article 30: Determination of LPH as inspector of halal product which a maximum of day working is 5 days from the date of the application document is complete	Article 30: Determination of LPH which a maximum of day working is a working days
3.	Article 31: no provision for the period of inspection and/or testing of product halalness by a halal auditor	Article 31: for the period of inspection and/or testing of product halalness by a halal auditor which a maximum days is 15 working days

In enforcing the obligation to implement halal certification, the Law on Halal Product Assurance has guaranteed how to regulate criminal provisions, it can be criminal sanctions or administrative sanctions for businessman who does not comply, guarantees law enforcement JPH, and do not maintain halal products that have been obtain a halal certificate.

Table 3. The different of Article 41, Article 42, and Article 44

No.	Law no. 33 of 2014 on Halal Product Assurance	Law no. 11 of 2020 on Job Creation
1.	Article 41: administrative sanctions in the form of verbal warnings, written warnings, or revocation of halal certification for businessman who embed a halal logo that is not following applicable	Article 41: only mention administrative sanctions. In GR No. 39 of 2021 Administrative sanctions against businessman are written warnings, administrative fines, revocation of halal certificates, and/or withdrawals from circulation.

provisions	
2.	<p>Article 42: It is not stated that BPJPH can directly issue an extension of a halal certificate</p> <p>Article 42 paragraph (3): In the extension of a halal certificate, businessman include the fulfillment of the halal production process and there is no change in composition, then BPJPH can directly issue an extension of the halal certificate</p>
3.	<p>Article 44 paragraph (2): Other parties can facilitate halal certification administration fees for micro and small enterprises.</p> <p>Article 44 Paragraph (2): Halal certification for micro and small enterprises is free charge</p>

Halal Self-Declare According to *Maslahah Mursalah*

Al-Qur'an and Sunnah is a way of life for Muslims. All the provisions in it must be carried out properly to maintain his religion. One of the obligations of a Muslim is to consume halal food and leave the haram. Except, if humans are in a state of emergency, it is permissible to consume prohibited items to survive.¹⁰ As a country with a majority Muslim population, the presence of the government in ensuring the protection of Muslim consumers is very necessary. In order to assurance the rights of Muslim consumers, the government requires that all goods circulated and traded in Indonesia must be certified halal. The birth of the Law on Job Creation provides convenience for small and micro enterprises in carrying out the mandate of Article 4 UUJPH, in which the halal statement for micro and small enterprise is based on their own statement. However, this does not necessarily make the product a halal certificate, but there are still halal assistants who will conduct a survey to the production site and check the materials used. Consumer behavior such as behavior in general is influenced by aspects of cultural, social, personal, and psychological characteristics. Cultural factors are considered to have the greatest influence on a person's desires and behavior.

Religion is an important element in life that will influence behavior and decisions to consume goods. In general, religion regulates what is allowed and what is prohibited, including consumer behavior. Thus it can be said that religion is a belief and value in interpreting life which is expressed as a habit. Religion can influence consumer behavior in particular on the decision to buy foodstuffs and eating habits. The decision to buy is influenced by their religious identity. Therefore, as a follower of Islam, the decision to choose and buy goods does not only consider the needs and

¹⁰ Eka Rahayuningsih dan M. Lathoif Ghazali, *Sertifikasi Produk Halal dalam Perspektif Maslahah Mursalah*, Jurnal Ilmiah Ekonomi Islam, 7(01), 2021, 135-145.

costs to be incurred but the most important thing is how much benefit the goods consumed and how far the goods will provide *maslahah* (benefits and blessings).¹¹

Maṣlahah means benefit. As for the terminology of *maṣlahah* according to Imam Ghazali that in principle *maṣlahah* is "taking advantage and leaving harm to maintain syar'i goals, Imam Ghazali added that a benefit must remain in line with syar'i goals even though it is contrary to human goals. *Maṣlahah (Istiṣlah)* is one of the methods of finding Islamic law which means something that can be seen by reason (reasonable) and is in line with the goals of syara. Important aspects that are used as a barometer in measuring benefit (*ḍawābiṭ al-maṣlahah*) are that *maṣlahah* is absolute, not relative let alone subjective which will therefore make legal products subject to lust and that benefit is universal (*kulliyyah*) which does not conflict with any part of it (*juz'iyah*).

The principle in the application of *maṣlahah* in Islamic law according to the majority of *ushul fiqh* scholars is studied with the *maqāṣid al-syarī'ah* approach, in which the objectives of the Shari'a are to protect religion, protect the soul, mind, lineage, and property. The concept of *maṣlahah* according to Imam Malik is a benefit that is following the principles and objectives as stated in the shari'a arguments to eliminate difficulties both in primary needs (*ḍarūriyyāt*) and secondary needs (*hājīyāt*). Malikiyyah and Hanabilah scholars stipulate the conditions for the application of *maṣlahah*, namely: (a) The benefit must be in line with the provisions of syara', and the benefit is included in the type of benefit that is supported by *ām* (general); (b) The benefit is rational and definite, so that legal *istinbat* obtained through *maṣlahah* can generate benefits and avoid harm; (c) The use of *maṣlahah* is intended for emergency needs and/or to eliminate various forms of difficulties in carrying out religion; (d) The intended interest in the *maṣlahah* is the public interest, not only the interests of individuals or certain groups.

Al-Qur'an as a way of life for Muslims has explained what is allowed and prohibited for Muslims. As stated in Surah al-Baqarah: 168 "*O mankind, eat what is lawful and good from what is on earth, and do not follow the steps of the devil; for verily the devil is a real enemy to you.*" Regarding halal and haram food, it has also been explained in the Qur'an, Surah al-Baqarah: 173 which means "*Indeed Allah only forbids you carrion, blood, pork and animals that (when) slaughtered are called (names) other than God. But whoever is forced to eat it when he does not want it and does not exceed the limit, then there is no sin for him. Verily, Allah is Forgiving, Most Merciful.*" In addition to food, some drinks are forbidden by Allah SWT as written in Surah Al-Maidah: 90 which means "*O you who believe, indeed drinking wine, gambling, (sacrificing for) idols, and drawing fate with arrows are the actions of Satan. So stay away from these things so that you will be lucky.*"

Article 4A of the halal product assurance cluster of the Job Creation Law "(1) For micro and small enterprise, the obligation to be certified halal as referred to in article 4 is based on the statement of micro and small enterprise. (2) The statement of micro and small enterprise as referred to in paragraph 1 is made based on the halal standard that has been set by BPJPH." The article provides convenience for business and micro actors to develop further and provides opportunities for small and micro businesses to be able to compete in the market. One of the government's commitments is to accelerate the halal certification process and free up registration fees for micro and small enterprise. Referring to the basis in muamalah. Basically, all forms of muamalah may be

¹¹ Fatimah Nur, *Jaminan Produk Halal Di Indonesia Terhadap Konsumen Muslim*, Jurnal Likuid, Volume I Nomor 01 Januari 2021.

done unless there is an argument that forbids it. And the story of *ushul fiqh* "Avoiding mafsadat (damage, danger) must take precedence over bringing benefit".

Seeking halal sustenance is also a command of Allah. This indicates that God's commandment regarding halal and haram is not only the obligation of consumers but also the obligation of producers to provide halal products. That is, by buying goods and/or services of a producer, automatically their existence as a consumer which in Islamic law must be protected, in which one of the obligations of producers is to assurance consumers to get halal goods and/or services. As previously explained, many syari arguments state the importance of a Muslim to consume halal products, so that the provision of assurances for a Muslim to be able to consume halal products is also included in the *maṣlahah mu'tabarah* category so that this is a *daruri principle of maqasid al-shari'ah*.

Halal self-declare provisions for MSEs in the author's view in its function of achieving syar'i goals, that the implementation of certification has been implemented since the beginning to protect religion, assist Muslims in choosing what is halal to consume, so that its implementation for consumers is very important. However, there is also a need for convenience for businessman as important actors in the economic system. In Indonesia, there are still many businessman, especially MSEs who do not carry out halal certification due to lack of access, education about the importance of halal certification and cost considerations. So it is hoped that the self-declared halal regulation that is specifically for micro and small businesses can raise the Islamic spirit of micro and small enterprise to participate in protecting all Muslim consumers in choosing and consuming halal and ayyib food from the smallest sector. This enforcement is also an effort to minimize the circulation of food and/or drinks that are not fit for consumption that contain ingredients that have a critical point. In this case, eliminating the harm is the goal of syara' in the concept of *maṣlahah* that must be implemented.

The balance point in achieving benefit between MSE actors and medium and large businessman is given by the government in this case, that the halal certification process is expected to be implemented by all sectors by eliminating the difficulties that have been experienced by some of the smallest business sectors, namely MSEs. This difficulty is also experienced by many consumers in choosing halal food and beverages in micro or small industries spread across Indonesia, considering that only some of the MSEs are concerned about the importance of halal certification. The balance that must be achieved in this case is that the existing regulations are also oriented to the benefit of each party, both for consumers and for businessman. In the Law on Job Creation, the rules for independent halal certification are indeed more oriented towards ease of doing business for MSEs, while the government's role in protecting all people who need clarity on the halalness of products in Indonesia in the regulation is not clearly described even though there are other derivative rules that the halal declaration not necessarily be implemented without supervision from the relevant institutions, so this is the task of the parties involved in the regulation to maintain the essence of the halal certification.

The five forms of sharia maqasid in the application of halal self-declaration are; (1) *Hifdz al-Din* (maintaining religion) where the majority of the population is Muslim, so it is important to pay attention to the halal food that is following Allah's commandment for us to consume halal food, both from which it is produced and sold to consumers, as evidenced by the existence of halal certification. (2) *Hifdz al-Nafs* (maintaining the soul) which with halal certification means starting from the ingredients to the sales process that has been checked by BPJPH and MUI so that the

safety of the food is halal, good and does not harm the body. (3) *Hifdz al-Nasl* (maintaining offspring) that consumers in consuming food choose halal and good food for consumption by themselves and their families so as not to endanger the health of themselves and their families. Teach their offspring to always pay attention to halal food. (4) *Hifdz al-Mal* (safeguarding assets), namely businesses that already have a halal certificate are more in demand by consumers because they sell halal food, so they get more profits. With the incessant socialization of halal products and increasing consumer awareness of halal-labeled food, businessman who do not have halal certification will be displaced and cannot enter a larger market share. (5) *Hifdz al-Aql* (maintaining reason) that reason is the difference between humans and other creatures created by God, intelligent people can then think one of them is thinking about choosing truly halal food that has been proven to be halal¹².

Based on the explanation above, the achievement of the 5 maqasid sharia principles shows that halal self-declare in halal certification provides benefits. The benefits is not only for consumers but also for businessman, especially for micro and small enterprises.

Conclusion

Halal certification in Indonesia has developed along with the increasing awareness of halal in the community. To assurance the existence of halal products, especially for food, cosmetics, and medicines, the government issued the Halal Product Assurance Act. The certification, which was originally the work area of MUI through LPPOM, was later transferred to BPJPH which is an official government agency under the auspices of the Ministry of Religion. This transition was also followed by several changes to the certification flow and the parties involved in the certification process. In 2020 the government passed its newest law, Law no. 11 of 2020 on Job Creation in order to facilitate the business climate in Indonesia. One of them is the halal product assurance cluster, there are 22 new rules which provide convenience, especially for small and micro businessman.

Halal statement by micro and small enterprise as regulated in Article 4A of Law no. 11 of 2020 on Job Creation brings benefits for consumers and businessman. Provisions *syara'* and complying with the prescribed regulations, the halal products circulating in Indonesia will always be assured. There is a need for synergy and collaboration between the government, businessman, and the community in supervising the circulation of products to be able to realize halal product assurances in Indonesia.

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¹²Sitti Nur Faika dan Musyfica Ilyas, *Kewajiban Pendaftaran Sertifikasi Halal Pada Badan Penyelenggara Jaminan Produk Halal; Perspektif Maqāṣid al-Syarī'ah*. Shautuna Jurnal Ilmiah Mahasiswa Perbandingan Mazhab Universitas Islam Negeri Alauddin Makassar, Vol 2 No. 2, Mei 2021.

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