

IMPLEMENTATION OF HALAL PRODUCT ASSURANCE IN PROVIDING LEGAL PROTECTION FOR MUSLIM CONSUMERS IN INDONESIA AFTER THE DECISION OF THE CONSTITUTIONAL COURT NUMBER 91/PUU-XVIII/2020

Lukman Hakim Rangkuti^{1a*}, Dhiauddin Tanjung^{2b}, Ramadhan Syahmedi Siregar^{3c}

¹²³ Universitas Islam Negeri Sumatera Utara, Medan, Indonesia

^a lukman.ray@gmail.com

^b dhiauddintanjung@uinsu.ac.id

^c ramadhansyahmedi@uinsu.ac.id

(*) Corresponding Author

lukman.ray@gmail.com

ARTICLE HISTORY

Received : 18-07-2025

Revised : 22-07-2025

Accepted : 24-07-2025

KEYWORDS

Certification;
Food;
Halal Products;
Legal umbrella.

ABSTRACT

Consuming halal food and drinks is a must for Muslims, so it is very important to be able to identify whether the products to be consumed are halal. Indonesia as a country with a majority Muslim population must continue to strive to improve its guarantees as a form of legal protection for its people. In this study, we will discuss the urgency of implementing halal product assurance and implementing halal certification for products circulating in Indonesian society. To answer these problems, the researcher uses a legal research method, using a legislative approach and a conceptual approach. As a form of legal protection for the Muslim community, it is very important for the State to create a legal basis regarding halal certification in various laws and regulations, but with the existence of the Job Creation Law, many legal bases have been eliminated, changed or replaced so that they become more systematic. The implementation of the implementation of halal certification applies to self-declaration, where business actors, especially small and micro, can submit *self-declaration* as long as the raw materials and product manufacturing process do not contain materials and processes that are not risky or not halal.

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INTRODUCTION

Indonesia, as a country with the largest Muslim population in the world, has a constitutional and moral obligation to provide guarantees for the halalness of products consumed by the public. The need for halal products is not only concerned with religious aspects, but also related to the constitutional right of Muslim consumers to feel safe and protected in consuming products that are in accordance with their religious beliefs. Therefore, the state needs to be present through effective regulation and implementation to ensure the halalness of products circulating in the market, both domestically and internationally. (Arrasyid et al., 2024)

Law Number 33 of 2014 concerning Halal Product Assurance (JPH Law) is an important milestone in the state's efforts to provide legal protection to Muslim consumers. In this law, it is emphasized that every product that

enters, circulates, and is traded in Indonesian territory must be halal certified. This provision puts the state in an active position to guarantee that the products consumed by the public do not contradict sharia principles. The Halal Product Assurance Agency (BPJPH) as a technical implementer under the Ministry of Religion is the spearhead in the realization of halal product assurance nationally. (Zaldi & Cape, 2023) (Munawar et al., 2024)

The 1945 Constitution as the constitution in the nation and state in Indonesia, states that the State guarantees the freedom of each citizen to embrace his or her own religion and to worship according to his religion and belief. Indonesian society is dominated by Muslims/Muslims, which is 86.9%, the rest is divided into Protestants, Catholics, Hindus, Buddhists and Confucians. As a Muslim, consuming halal food and drinks is an obligation and cannot be negotiated. Therefore, the government is obliged to prepare all its organs to provide legal certainty for food and beverage products circulating in Indonesia. With the birth of Law Number 33 of 2014 concerning Halal Product Assurance (hereinafter abbreviated as UUJPH), there is a bright spot in providing legal protection to the Muslim community for products and services consumed and used by the Indonesian Muslim community. (Siregar et al., 2021) (Esfandiari & Al-Fatih, 2022)

The UUJPH was promulgated on October 17, 2014 in the Statute Book of the Republic of Indonesia Number 295 of 2015. The advancement and sophistication of today's technology, which continues to develop rapidly, also has an impact on the products consumed by the community. The methods, methods and ingredients that are processed in such a way that food and beverage products must receive the attention of the State in order to ensure their halal. It is possible to process it into raw materials derived from genetic, biochemical, and other technologies that may be able to mix ingredients or even compounds that are categorized as haram and mixed in products or raw materials for food and beverage products. This is the background for the emergence of regulations regarding halal product assurance in Indonesia. With the birth of Law Number 11 of 2020 concerning Job Creation, promulgated on November 2, 2020, several provisions of the articles in the UUJPH were amended. The UUCK is a legal product made using the Omnibus Law method, and does not use Law Number 12 of 2012 concerning the Establishment of Laws and Regulations. (Fig. & Ilyas, 2021)

In its decision, the Constitutional Court stated that the law was declared conditionally unconstitutional, on the grounds that the law was made without listening to the aspirations of the community, even though the aspiration screening had been carried out, but *the walkout action* was not accommodated in its implementation. In addition, the principle of information disclosure related to the UUCK is not applied properly, as evidenced by the difficulty of accessing the draft UUCK. Although there was a *dissenting opinion* in the Constitutional Court's decision, the final conclusion decided that the UUCK is not allowed to make derivative regulations within the next 2 years until improvements are made in the UUCK. With the birth of the UUCK, it is necessary to examine whether the Government Regulation issued as a derivative of the UUJPH and the UUCK on Halal Product Assurance can be used and implemented as a basis for the implementation of the implementation of halal product assurance itself. Furthermore, the problems that will be studied in this study are related to the urgency and implementation of the implementation of certification in Indonesia, considering that after this pandemic many residents have begun to be independent by selling various processed foods and circulating them in Indonesian territory. The purpose of this research is to analyze the urgency of implementing halal certification in protecting the Muslim community and the implementation of halal certification in Indonesia as stated in the Job Creation Law. (Mohammad, 2021)

However, the dynamics of law and policy in Indonesia are inseparable from the challenge of regulatory constitutionality. One of the important events that needs to be observed is the issuance of the Constitutional Court Decision Number 91/PUU-XVIII/2020 which states that Law Number 11 of 2020 concerning Job Creation (Job Creation Law) is formally contrary to the 1945 Constitution, because its formation process is considered not to meet the principles of openness and public participation. This decision has a major impact on various sectors, including the provisions on Halal Product Assurance which have undergone substantial changes due to the merger and simplification of regulations in the Job Creation Law.

Prior to the decision, the Job Creation Law had amended several provisions in the JPH Law, including regarding the simplification of the halal certification process, the role of halal inspection agencies, and the involvement of third parties. While intended to encourage efficiency and speed up services, these changes raise concerns about the effectiveness of Muslim consumer legal protections. Some parties consider that the change actually opens up space for commercialization of the certification process and weakens the principle of prudence in ensuring halal products. In the context after the Constitutional Court Decision Number 91/PUU-XVIII/2020, questions arise regarding the legal position and effectiveness of the implementation of halal product guarantees in providing complete protection to Muslim consumers.

In addition, legal protection for consumers is not only administrative and technical, but also concerns the fulfillment of human rights to practice religious teachings according to their beliefs. In this case, the implementation of halal product assurance is not only a legal-formal state obligation, but also a tangible manifestation of the protection of the constitutional rights of Muslims in Indonesia. Therefore, it is important to review how the JPH Law was implemented after the changes by the Job Creation Law and what its legal position is after the Constitutional Court's decision.

Thus, this study is relevant to critically and comprehensively examine how the implementation of halal product guarantees after the Constitutional Court's decision is able or unable to provide adequate legal protection for Muslim consumers. This study is expected to contribute to the development of sharia-based consumer protection laws in Indonesia and become a reference for policymakers in formulating halal regulations that are fair, participatory, and ensure legal certainty.

METHOD

This research uses a normative legal or juridical research method, which will answer legal issues by prioritizing laws and regulations and legal principles. This research uses two approaches, namely, the legislative approach and the conceptual approach. The statute *approach* is an approach that is carried out by examining all laws or regulations related to the legal issues being handled. Conceptual approach (Greetings & Makhtum, 2022) is an approach that moves from the views and doctrines that have developed in law by studying the views and doctrines in law. So that the researcher will find ideas related to the meaning of law, legal concepts and legal principles that are relevant to the legal issues at hand. (Nur, 2021)

RESULTS AND DISCUSSION

The Urgency of Implementing Halal Certification in Protecting the Muslim Community

In Islamic teachings, consuming halal products is part of a religious obligation. Food, beverages, medicines, cosmetics, and other consumables must be ensured to be halal in accordance with sharia principles. Therefore, halal certification cannot be seen as an additional option, but rather as an important instrument to guarantee that any product consumed by the Muslim community is in accordance with the teachings of their religion.

In the context of Indonesia, where more than 87% of the population is Muslim, the state has a moral and constitutional responsibility to provide protection through a system that guarantees the halalness of products. Halal certification is a form of preventive protection against potential violations of Muslim consumer rights, namely the right to obtain products that are safe, healthy, and in accordance with their beliefs.

The urgency of halal certification is further emphasized through the birth of Law Number 33 of 2014 concerning Halal Product Assurance (JPH Law). This law stipulates that every product entering, circulating, and being traded in Indonesian territory must be halal certified. This regulation not only emphasizes the protection of Muslim consumers, but also encourages business actors to comply with halal standards in the production, distribution, and marketing processes.

The JPH Law puts the state in an active position as a supervisor and facilitator of halal product assurance. Through the Halal Product Assurance Agency (BPJPH), halal certification is an integral part of the consumer protection system in Indonesia.

Halal certification has a preventive function, namely preventing the entry and spread of non-halal products to the Muslim community. Products that have been certified halal indicate that the production process has been supervised, tested, and ensured in accordance with sharia. Thus, consumers do not need to doubt the halalness of the products they buy.

In addition, halal certification also has a repressive function, because products that do not comply with halal standards can be subject to administrative and criminal sanctions, as stipulated in the JPH Law and its derivative regulations. This has a deterrent effect on business actors who ignore the principle of prudence towards halal products. The urgency of implementing halal certification is very high in the context of Muslim consumer protection in Indonesia. Halal certification is not only an administrative obligation, but also a form of legal protection for the constitutional right of Muslims to practice their religious teachings. Therefore, the implementation of halal regulations needs to be strengthened with socialization, subsidies for MSMEs, and equitable access to halal certification services throughout Indonesia.

Indonesia is a country inhabited by the majority of Muslim/Muslim people and will be the largest Muslim

country in the world in 2022. The number of Indonesian Muslims is estimated at 237.56 million people or equivalent to 86.7% of the population in the country. With so many Muslims, it is the government's obligation to provide protection for Muslims in accordance with the teachings of Islam which is the majority in their country. One of the observances of Muslims in religion is not to eat haram/non-halal food. In the "Halal Certificate Guide" issued by the Ministry of Religious Affairs, it is described that halal products are products that meet halal requirements according to the provisions of Islamic law, including: (Febriyanti, 2023)

1. Does not contain pork and ingredients of pig origin;
2. It does not contain prohibited substances such as substances derived from human organs, blood, and feces;
3. All materials derived from animals whose slaughter process is in accordance with Islamic law;
4. All storage places, places of sale, processing places, places of management and transportation must not be used for pigs and/or other non-halal goods. If it has been used for pigs and/or other non-halal goods, before use, it must be cleaned using Islamic sharia procedures; and
5. All foods and drinks that do not contain khamar in it. (Astiwar, 2024)

Thus, it can be concluded that haram food and drink consist of animals, plants, namely:

1. Animals: carcasses, blood, pigs and animals slaughtered in names other than Allah. Animals that were initially halal can change their status to haram if they die because they are suffocated, bumped, fall on their horns, pounced on wild animals and those slaughtered for idols, in addition to fish and grasshoppers can be consumed without being slaughtered. Animals that are seen as disgusting or dirty according to human instincts. Animals and wild birds that have fangs and have claws, animals that according to Islamic teachings are ordered to be killed such as snakes, crows, rats, ferocious dogs and eagles and the like, animals that are not allowed to be killed such as ants, bees, owls, woodpeckers, animals that live in two types of nature such as frogs, turtles, crocodiles.
2. Plants, vegetables, and fruits can be eaten other than those that can cause harm or intoxication either directly or through the process. So, any type of plant that contains poison or that can cause intoxication is haram to consume.
3. All types of drinks are halal other than drinks that cause intoxication such as alcohol and that are mixed with unclean objects, either a little or a lot. (Rohman & Sudiro, 2023)

For this reason, it is very important for Muslims in consuming food/drinks to believe that the food they will consume is halal food/drinks. This, of course, really needs the role of the government in requiring business actors to clarify whether the products they produce are halal or non-halal. The government's intervention in terms of protecting the Muslim community can be seen from several regulations regarding the halalness of products. The regulation of the use of halal products in Indonesia has 2 (two) interrelated things, namely certification and labeling. Halal certification is a written fatwa of the MUI that states the halalness of a product in accordance with Islamic law through a detailed inspection by LPPOM MUI. This halal certification is a requirement to obtain a permit to include halal labels on product packaging from the authorized government agency (Badan POM). Several legal regulations regarding the obligations of business actors in conducting halal certification on their products so that they can protect Muslim consumers in Indonesia, including: (Makmur et al., 2024)

1. Law Number 17 of 2023 concerning Health Article 138 (1) explains that: "Pharmaceutical preparations, medical devices, and PKRT must be safe, efficacious/useful and of high quality, and affordable and meet the provisions of halal product assurance in accordance with the provisions of the law". Article 146 (2) states that: "In addition to fulfilling the obligation to meet standards and/or requirements, food and beverages produced, processed, distributed and consumed must meet the provisions of halal product assurance in accordance with the provisions of laws and regulations".
Article 332 (1) explains that: "The source of pharmaceutical preparations that come from the universe and have been proven to be efficacious, meet the provisions of halal product assurance in accordance with the provisions of laws and regulations, and are safe to use in prevention, treatment and/or treatment, as well as health maintenance must still be preserved".
2. Law Number 8 of 1999 concerning Consumer Protection Article 8 paragraph (1), in this Article it is explained that business actors are not allowed to produce and trade goods and/or services that do not meet the criteria for halal production, such as halal statements listed on the label. Article 62 explains that business actors who do not comply with the provisions stated in Article 8 will be sentenced to imprisonment for 5 years or a fine by paying as much as Rp.2,000,000,000 (two billion rupiah).
3. Government Regulation Number 69 of 1999 concerning Food Labels and Advertisements Article 1 point

5, This article explains the definition of halal food that halal food is that it does not contain haram elements or that is prohibited by Islamic sharia to be consumed, both food raw materials, additives, auxiliary materials, and other auxiliary materials including food that has been processed through the process of genetic engineering and food irradiation, and the processing is carried out in accordance with Islamic law. Article 2 paragraph (1), this article states that every person who produces or enters food that is packaged into Indonesian territory for sale is obliged to include a label on the product. Provisions regarding labels on products are a must so that consumers can read and understand the content of the product as well as suggestions for product presentation. Article 2 paragraph (2), This article is a continuation of the previous article which contains the inclusion of labels that must be done in such a way that they are not easily damaged, loose, faded and must be printed on the packaging that is easy to see and read. Article 10 Any person who produces or introduces packaged food into Indonesian territory for trade and declares that the food is halal for Muslims, is responsible for the truth of the statement and is obliged to include a halal statement or writing on the label. (Nabilah et al., 2024) (Hadiyanto et al., 2024)

Article 10 paragraph (2) explains that the statement about halal as referred to in paragraph (1), is an integral part of the label. In Article 11 to support the correctness of the halal statement as referred to in Article 10 paragraph (1), every person who produces or enters food packaged into Indonesian territory for trade, is obliged to first inspect the food at an accredited inspection institution in accordance with the provisions of the applicable laws and regulations. (Hydrarya & Badrudin, 2024)

Implementation of Halal Certification in Indonesia

The implementation of halal certification in Indonesia began systematically after the enactment of Law Number 33 of 2014 concerning Halal Product Assurance (JPH Law). This law requires all products entered, circulated, and traded in Indonesia to be halal certified. This obligation takes effect in stages since October 17, 2019, with an initial focus on food and beverage products. Furthermore, this regulation is strengthened by the establishment of the Halal Product Assurance Agency (BPJPH) as an institution that regulates and supervises the implementation of halal certification. The presence of BPJPH aims to realize an integrated, transparent, and accessible halal assurance system for all business actors. However, the change in substance through the Job Creation Law (Law No. 11 of 2020) to the JPH Law had caused controversy, especially related to the involvement of the private sector and the acceleration of the certification process which is considered to reduce accuracy and prudence in the implementation of halal audits. This was criticized in the Constitutional Court Decision No. 91/PUU-XVIII/2020, which stated that the Job Creation Law was conditionally unconstitutional because the formation process was not participatory.

The mandate to implement halal certification comes from Law Number 33 of 2014 concerning Halal Product Assurance (hereinafter abbreviated as UUJPH). However, halal certification on food products before the UUJPH existed, was carried out by the Ministry of Health since November 10, 1976 with the Decree of the Minister of Health of the Republic of Indonesia Number 280/Men.Kes/Per/XI/76 regarding provisions for circulation and marking on foods containing ingredients derived from pigs. Although it is not too detailed, in the decree, every food or beverage product suspected of containing pork, must include the words "Contains Pork" which is given red and is in a red square box on the food and/or beverage packaging. The Decree of the Minister of Health of the Republic of Indonesia has been valid for quite a long time in Indonesia, so that every food and beverage produced that contains pork continues to use the writing in every product packaging so that it can be marketed freely in Indonesian territory so that it can be consumed by the Indonesian people. (Salamah et al., 2024)

The implementation of halal certification in Indonesia is now clearer with the legal basis, this can be seen with the existence of the Law on JPH which was issued in 2014, promulgated in the Statute Book of the Republic of Indonesia in 2014 Number 295. The presence of the UUJPH can be seen as an answer to the long wait of Indonesian Muslims for legal certainty in consuming halal products. The main strength of the UUJPH is that it is (Faikoh & Anwar, 2025) *mandatory* for all business actors in this country to explain the status of their products through certificates and labeling.

So that Muslims who will consume these foods and or drinks can believe that the product is indeed halal for them. However, with the existence of Law Number 6 of 2023, in paragraph 8 regarding trade, *legal metrology*, halal product assurance, and health standardization and assessment, in Article 45 Jo Article 48 explains that the Government Regulation in Lieu of this Law (Law no. 6 of 2023) amends several provisions contained in Law Number 33 of 2014 concerning UUJPH. (Susilo et al., 2024)

The Halal Product Process, hereinafter abbreviated as PPH, is a series of activities to ensure the halalness of products including the provision of ingredients, processing, storage, packaging, distribution, sales, and presentation of products. In these provisions, it is clear that products that can be declared halal are not only the end result of production, but starting from the initial process to the birth of products that are ready to be marketed to the public, their halal must also be guaranteed by business actors. So that consumers will get legal certainty about the halalness of a product that they will consume. and legal certainty is obtained from the issuance of halal certificates from BPJPH (Halal Product Assurance Agency). With the issuance of halal certificates on products, business actors can include a halal logo on their product packaging so that consumers can clearly know that the product they will consume is halal. Some of the conveniences provided in this Law are, intended for micro and small business actors, the obligation to be halal certified is based on the halal declaration of micro and small business actors in accordance with the halal standards set by BPJPH. (Ramadantica, 2024) (Agustin et al., 2024)

CONCLUSION

It can be concluded that the implementation of halal certification is one of the manifestations of the form of legal protection provided by the State to the Muslim community as a mandate of the 1945 Constitution of the Republic of Indonesia as a source of all legal sources. The implementation of halal certification has been carried out with a system so that it is easier for business actors with the Job Creation Law. This is proven by the existence of self-declaration in one of the processes of issuing halal certification. Business actors in processing and producing food and/or beverages must use *non-risk* raw materials and supporting materials that are definitely halal so that actors can apply *self-declaration* to their products. The implementation of halal certification in Indonesia has been carried out systematically, which means that each institution synergizes with each other in the process of issuing halal certification. Business actors can register themselves for free in order to certify their food and drink products

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