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## The Urgency of MUI Halal Fatwa about Food, Beverage, Medicine and Cosmetic Products for the Consumer Protection

Article	Abstract
<p><b>Author</b> Diky Faqih Maulana<sup>1*</sup>, Makhrus<sup>2</sup>, Hamidatul Hasanah<sup>3</sup></p> <p><sup>1,2</sup> Faculty of Sharia and Law, Universitas Islam Negeri Sunan Kalijaga Yogyakarta, Indonesia <sup>3</sup> Al Azhar University Cairo, Egypt</p> <p><b>Corresponding Author:</b> *Diky Faqih Maulana, Email: <a href="mailto:dikyfm@uin-suka.ac.id">dikyfm@uin-suka.ac.id</a></p> <p><b>Data:</b> Received: Apr 18, 2022; Accepted: Des 01, 2022; Published: Des 19, 2022.</p> <p><b>DOI:</b> <a href="https://doi.org/10.24090/volksgeist.v5i2.6421">doi.org/10.24090/volksgeist.v5i2.6421</a></p>	<p>This study examines how important it is to determine the halal fatwa of MUI for food, beverage, pharmaceutical and cosmetic products. Given that there are still many fraudulent practices committed by business actors or producers in the product manufacturing process, causing harm to consumers. While Law no. 8 of 1999 concerning Consumer Protection has guaranteed the safety of every citizen as a consumer. Then what is the form of legal protection by the state for consumers? And how important is the determination of the MUI's halal fatwa for consumer protection? This type of research is qualitative research with a normative juridical approach. Data collection techniques through exploration and documentation, namely collecting data regarding the establishment of halal fatwas, legal protection and Law no. 8 of 1999 concerning Consumer Protection. The results of this study indicate that the form of legal protection for consumers in Indonesia includes preventive, repressive and juridical legal protection as well as institutions whose role is to audit products such as LPPOM MUI, BPOM and other inspection agencies. The halal certification process can be carried out when a business actor applies for a halal certificate, then verification and validation, inspection by the LPPOM MUI halal auditor, the process of meeting the MUI fatwa commission, issuing a halal decree and issuing a halal certificate. Determination of MUI halal fatwa for each product is very important because it is ensured that it has passed the stages and procedures designed to provide protection to consumers. So that in the context of product transactions that occur in the field, no party benefits or is harmed and has applied the principle of balance and the principle of justice.</p> <p><b>Keywords:</b> <i>Halal fatwa; MUI; consumer protection.</i></p>

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## INTRODUCTION

The phenomenon of business, economic and industrial development can have a positive impact on the country's economy and business actors. Unfortunately, the state and business actors are not always able to synergize with the condition of consumers. This is because consumers often become victims of the actions of irresponsible business actors. The purpose of the business is to seek

profit only. Many business actors, including processed food traders, are not concerned with what consumers should get. They only think about how their food products sell and generate multiple profits.

In food products, for example, it is not uncommon for food products consumed by consumers to be far from being safe and hygienic. Some examples of cases of fraud committed by business actors against processed food goods that are detrimental to consumers, such as the case of the discovery of processed meatballs using a mixture of pork<sup>1</sup>, “tyren chicken” (the chicken that died yesterday)<sup>2</sup>, rat meat, meatballs containing borax and or formalin, in the case of dendeng and shredded meat made from pork.<sup>3</sup> Or snacks and drinks such as wet noodles and cendol drinks which contain formalin and textile dyes. As well as cases of children’s snacks containing harmful substances such as rhodamine B, cyclamate, formalin, methanyl yellow and borax.<sup>4</sup>

In addition to the case of processed food, other things such as damage to the packaging of a product, the expiration date is missing, the sterilization stage is not perfect, the material is contaminated with other hazardous substances or materials. In addition, the entry of bacteria, microbes, and fungi into the product due to cracks, dents or holes in the packaging so that it contaminates, interferes with or contaminates the contents of the canned packaging, the presence of coloring agents, preservatives, synthetic sweeteners or other chemicals also often occurs. . Even though this is clearly prohibited for use in food, of course because it can be a big problem for consumer safety.<sup>5</sup>

Another factor that causes fraud in business actors to persist is the lack of knowledge and concern for consumers about food safety. Tarr revealed that consumers do not receive complete information about an item and/or service due to limited knowledge and technical complexity contained in an item and/or service.<sup>6</sup> According to Abdul Ghofur Anshori, the government should be obliged to provide legal protection for all products or goods consumed in order to maintain their halal status, because the majority of the population in Indonesia are Muslims, this legal certainty and guarantee must be provided by the state.<sup>7</sup> The fatwa is a halal fatwa issued by the MUI (Indonesian Ulama Council) on products or goods that will be consumed by the public.

Previous studies specifically and in depth about the importance of establishing a halal fatwa for every product produced by business actors in the context of consumer protection, especially after the promulgation of the Halal Product Guarantee Law, to the best of the researcher’s knowledge, no one has discussed it in detail. However, there are several studies that discuss consumer protection and the determination of halal fatwa from various aspects and approaches. Several studies include research by Panji Adam Agus which analyzes the position of halal certification in the national

<sup>1</sup> Abdullah Sani, ‘Pedagang Bakso Mekar Sukajadi Campur Daging Sapi Dengan Babi’, *Merdeka.Com* (blog), Oktober 2021, <https://www.merdeka.com/peristiwa/pedagang-bakso-mekar-sukajadi-campur-daging-sapi-dengan-babi.html>.

<sup>2</sup> Ragil Ajiyanto, ‘Polisi Ungkap Perdagangan Ayam Tiren Di Boyolali’, *DetikNews* (blog), 5 October 2021, <https://news.detik.com/berita-jawa-tengah/d-4884557/polisi-ungkap-perdagangan-ayam-tiren-di-boyolali>.

<sup>3</sup> Anton Apriyantono, ‘Lingkaran Kasus Dendeng Dan Abon Babi’, *NahiMunkar.Org* (blog), November 2021, <https://www.nahimunkar.org/lingkaran-kasus-dendeng-dan-abon-babi/>.

<sup>4</sup> Nidia Zuraya, ‘BPOM Temukan 42 Jajanan Anak Mengandung Zat Berbahaya’, *Republika* (blog), May 2021, <https://www.republika.co.id/berita/n68k5m/bpom-temukan-42-jajanan-anak-mengandung-zat-berbahaya>.

<sup>5</sup> Adrian Sutedi, *Tanggung Jawab Produk Dalam Hukum Perlindungan Konsumen* (Jakarta: Ghalia Indonesia, 2008).

<sup>6</sup> Anthony A Tarr, ‘Consumer Protection Legislation and the Market Place’, *Otago L. Rev.* 5, no. 3 (1981): 397.

<sup>7</sup> Hasan Sofyan, *Sertifikasi Halal Dalam Hukum Positif, Regulasi Dan Implementasinya Di Indonesia* (Yogyakarta: Aswaja Press, 2014).

legal system in Indonesia.<sup>8</sup> Susilowati Suparto et al analyzed the institutional arrangements for implementing halal certification in Indonesia in relation to Law no. 33 of 2014 concerning Halal Product Assurance and to find out and analyze how best the institutional model for implementing halal certification by BPJPH.<sup>9</sup> It is different from Witanti Astuti Triyanto who wants to know how to regulate halal product guarantees and their relationship with the Consumer Protection Law and what are the procedures and legal consequences of halal product guarantee certificates.<sup>10</sup> The urgency of the MUI Halal Certificate was also mentioned by Al Fatih, but it has not been confirmed concretely in terms of consumer protection and is still limited to food and beverage entrepreneurs only.<sup>11</sup>

Irena Revin explained that there are still many people who are not aware of the importance of the halal label on imported packaged food products. So it is very important the role of the Indonesian Ulema Council and the Government in supervising halal labeling on imported food products for consumer protection, as well as the responsibility of importers against counterfeit halal labeling.<sup>12</sup> Then Sheilla Chairunnisyah stated that the halal certification and labeling that has been carried out so far has only reached a small number of products, such as food products, beverages, medicines, cosmetics, and other products circulating in the community so that a massive movement is needed for other products to be aware of halal certification.<sup>13</sup> Ahmad Bahiej et al also explained that the halal industry does not only accommodate Muslims, but is not limited by differences in ethnicity, religion, race, and between groups. If there are restrictions, of course it is counterproductive or contrary to the basic nature of Islamic teachings which are rahmatan lil ‘alamin for all life in the world.<sup>14</sup>

The several cases above are only some of the many existing problems involving the relationship between consumers and business actors. Ideally, the relationship between the two should be in a balanced position. But in practice, consumers need to get protection, especially legal protection. Meanwhile, according to “Law Number 33 of 2014 concerning Guarantees for Halal Products, article 1 number (10), a halal certificate is an acknowledgment of the halalness of a product issued by BPJPH based on a written halal fatwa issued by the MUI”.

The 1945 Constitution of the Republic of Indonesia mandates that the state guarantees independence for every individual to embrace their religion and worship according to their religion or beliefs. In addition, the state is also obliged to provide protection and guarantees to the community,

<sup>8</sup> Panji Adam Agus, ‘Kedudukan Sertifikasi Halal Dalam Sistem Hukum Nasional Sebagai Upaya Perlindungan Konsumen Dalam Hukum Islam’, *Amwaluna: Jurnal Ekonomi Dan Keuangan Syariah* 1, no. 1 (2017): 149–65.

<sup>9</sup> Susilowati Suparto et al., ‘Harmonisasi Dan Sinkronisasi Pengaturan Kelembagaan Sertifikasi Halal Terkait Perlindungan Konsumen Muslim Indonesia’, *Mimbar Hukum-Fakultas Hukum Universitas Gadjah Mada* 28, no. 3 (2016): 427–38.

<sup>10</sup> Witanti Astuti Triyanto, ‘Sertifikasi Jaminan Produk Halal Menurut Undang-Undang Nomor 33 Tahun 2014 (Perspektif Hukum Perlindungan Konsumen)’, *Lex Administratum* 5, no. 1 (2017).

<sup>11</sup> Sholahuddin Al-Fatih, ‘Urgensi Sertifikasi Halal MUI Bagi Pengusaha Makanan Dan Minuman Di Kota Malang’, *Jurnal Dedikasi Hukum* 2, no. 1 (2022): 64–74.

<sup>12</sup> Irena Revin and Islamiyati Suradi, ‘Perlindungan Hukum Bagi Konsumen Terhadap Adanya Pemalsuan Labelisasi Halal Pada Produk Pangan Impor’, *Diponegoro Law Journal* 6, no. 2 (2017): 1–14.

<sup>13</sup> Sheilla Chairunnisyah, ‘Peran Majelis Ulama Indonesia Dalam Menerbitkan Sertifikat Halal Pada Produk Makanan Dan Kosmetika’, *EduTech: Jurnal Ilmu Pendidikan Dan Ilmu Sosial* 3, no. 2 (2017).

<sup>14</sup> Ahmad Bahiej, Makhrus Munajat, and Diky Faqih Maulana, ‘The Lifestyle and Halal Industry Methods with Local Culture: Study of Tourism and Halal Products in Nusa Tenggara Timur 2020’, *Jurnal Ilmiah Al-Syir’ah* 19, no. 1 (2021): 46–70.

especially regarding the halal products that are consumed and used by the community, so that all adherents of religions can consume them safely and securely. Guarantee of Halal Products should be carried out based on the principles of protection, fairness, legal certainty, accountability and transparency, effectiveness and efficiency, and professionalism.<sup>15</sup> This study will use consumer protection theory as a scalpel, thus raising several research questions to be discussed, studied and analyzed. How is the legal protection carried out by the state for consumers? what is the mechanism for halal certification by MUI? And how important is the determination of the MUI's halal fatwa for consumer protection?

## RESEARCH METHODS

This research is a library research that is descriptive analytical. The author first describes the problem regarding the establishment of a halal fatwa by the MUI against business actors in the context of consumer protection. Then after reviewing from the perspective of positive law and Islamic law, conclusions are drawn. The research approach used is normative juridical, which is used to understand the contents of regulations or policies relating to consumer protection in Law no. 8 of 1999.

## ANALYSIS AND DISCUSSION

### Forms of Legal Protection by the State

Forms of legal protection in Indonesia can be divided into preventive and repressive protections. Preventive legal protection is protection provided by the government with the aim of preventing violations before they occur. This is contained in laws and regulations with the intention of preventing a violation and providing signs or limitations on an obligation.<sup>16</sup> Preventive legal protection aims to prevent the occurrence of disputes that direct the government's actions to be careful in making decisions based on discretion.<sup>17</sup>

Repressive legal protection can also be referred to as coercion or coercive protection. Muchsin defines that repressive legal protection is the final protection in the form of sanctions such as fines, imprisonment and additional penalties given if a dispute has occurred or a violation has been committed, including handling it in the judiciary.<sup>18</sup> The purpose of repressive legal protection is to resolve a dispute. The handling of legal protection by the Courts in Indonesia is included in the category of repressive legal protection.<sup>19</sup> The principle of this protection is based on the concept of recognizing and protecting human rights. This principle underlies the legal protection of acts of rule of law.<sup>20</sup>

The regulation also regulates the form of protection or it can be called from a juridical aspect. These regulations include Law no. 8 of 1999 concerning Consumer Protection in Article 8 paragraph (1) letter "h" reads:

<sup>15</sup> 'Undang-Undang Republik Indonesia Nomor 33 Tahun 2014 Tentang Jaminan Produk Halal' (2014).

<sup>16</sup> M Muchsin, 'Perlindungan Dan Kepastian Hukum Bagi Investor Di Indonesia' (Surakarta, Universitas Sebelas Maret, 2003).

<sup>17</sup> M Hadjon Philipus, *Perlindungan Hukum Bagi Rakyat Indonesia* (Surabaya: Bina Ilmu, 1987).

<sup>18</sup> Muchsin, 'Perlindungan Dan Kepastian Hukum Bagi Investor Di Indonesia'.

<sup>19</sup> Philipus, *Perlindungan Hukum Bagi Rakyat Indonesia*.

<sup>20</sup> Mabarroh Azizah, 'Peran Negara Dalam Perlindungan Konsumen Muslim Di Indonesia', *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 4, no. 2 (12 November 2021): 153–65.

*“Pelaku usaha dilarang memproduksi dan/atau jasa memperdagangkan barang dan/atau jasa yang tidak mengikuti ketentuan berproduksi secara halal, sebagaimana pernyataan halal yang dicantumkan dalam label”*

(Business actors are prohibited from producing and/or trading goods and/or services that do not comply with the provisions for halal production, as stated in the halal statement on the label).

The existence of this article means that business actors also play a role in increasing the dignity of consumers, by selling products that are guaranteed to be proven by halal certificates from authorized institutions. The existence of this article aims to increase awareness, knowledge, concern, ability and independence of consumers to protect themselves and develop attitudes of responsible business behavior.

As for in Law no. 12 of 2012 concerning Food in Article 95 reads:

- (1) *Pemerintah dan Pemerintah Daerah melakukan pengawasan terhadap penerapan sistem jaminan produk halal bagi yang dipersyaratkan terhadap Pangan*
- (2) *Penerapan sistem jaminan produk halal bagi yang dipersyaratkan sebagaimana dimaksud pada ayat (1) dilaksanakan sesuai dengan ketentuan peraturan perundang-undangan*
- (1) The Government and Regional Governments supervise the application of the halal product guarantee system for those required for Food
- (2) The implementation of the halal product guarantee system for those required as referred to in paragraph (1) is carried out in accordance with the provisions of the statutory regulations

Article 101 Paragraph (1) reads:

*Setiap orang yang menyatakan dalam label bahwa Pangan yang diperdagangkan adalah halal sesuai dengan yang dipersyaratkan bertanggung jawab atas kebenarannya.*

Everyone who states on the label that the Food being traded is halal according to the requirements is responsible for the truth.

This article generally stipulates that the implementation of food safety for production process activities must go through the food sanitation stage. The sanitation is through the process of regulating food additives, engineered products and food irradiation, setting packaging standards, guaranteeing food safety and quality and guaranteeing the required halal products. The explanation in Article 95 of Law No. 12 of 2012 also explains that food fulfills mandatory domestic consumption in the country must meet safety, quality, nutritional requirements and does not conflict with religion, beliefs and community culture.

Furthermore, in Law no. 33 of 2014 concerning Guarantee of Halal Products. As the main legal umbrella for consumers, especially Muslims, legal protection for Muslim consumers is stated in Article 2 of the Halal Product Guarantee Law (JPH) which states that the implementation of JPH is based on (a) protection, (b) justice, (c) legal certainty, (d) accountability and transparency, (e) effectiveness and efficiency and (f) professionalism. The existence of the JPH Law is intended to guarantee consumers, especially Muslims, in carrying out their religious teachings, so the State is obliged to provide protection and guarantees regarding the halal products that are consumed and used by the public. Guarantees regarding halal products should be carried out in accordance with the principles of protection, fairness, legal certainty, accountability and transparency, effectiveness and efficiency and professionalism.



The guarantee of the implementation of halal products aims to provide convenience, security, safety and certainty of the availability of halal products for the public in consuming and using products, as well as increasing added value for business actors to produce and sell. This goal is important, considering that advances in knowledge and technology in the fields of food, medicine and cosmetics are growing rapidly. This has had a significant effect on the shift in the processing and utilization of raw materials for food, beverages, cosmetics, medicines and other products from those which were originally simple and natural to the processing and utilization of scientifically engineered raw materials.

Government Regulation no. 69 of 1999 article 2 concerning Food Labels and Advertising explains;

- (1) *Setiap orang yang memproduksi atau memasukkan pangan yang dikemas ke dalam wilayah Indonesia untuk diperdagangkan wajib mencantumkan label pada, di dalam, dan atau di kemas pangan.*
- (2) *Pencantuman label sebagaimana dimaksud pada ayat (1) dilakukan sedemikian rupa sehingga tidak mudah lepas dari kemasannya, tidak mudah luntur atau rusak serta terletak pada bagian kemasan pangan yang mufah untuk dilihat dan dibaca.*
- (1) Everyone who produces or imports packaged food into the territory of Indonesia for trading is required to include a label on, inside and/or on the food packaging.
- (2) The labeling as meant in paragraph (1) is done in such a way that it is not easily separated from the packaging, is not easily faded or damaged and is located on a part of the food packaging that is easy to see and read.

These regulations are not only health-related issues that must be informed correctly and not misleading through food labels and or advertisements, but internal protection needs to be given to the public. However, the interests of religion or other beliefs are still protected through the responsibility of those who produce food. It is mandatory to include halal information on food labels, if the party producing or importing food into Indonesian territory claims that the product is halal for consumers.

### **Legal Awareness of Business Actors Regarding Halal Certification**

Legal awareness according to Soerjono Soekanto is an assessment of existing or expected law.<sup>21</sup> In line with other understandings, legal awareness is awareness or values that exist in humans related to law, either existing or expected.<sup>22</sup> Furthermore, Krabbe stated that the existing law or the law that is expected to exist in humans is the understanding of awareness or legal values.<sup>23</sup> The values emphasized in legal awareness are not only for evaluating concrete events in the community concerned, but also related to the function of law.<sup>24</sup>

<sup>21</sup> Hariyanto Hariyanto, 'Public Legal Awareness of the Fixed Object Waqf Paradigm Towards Progressive Waqf', *International Journal of Social Science and Religion (IJSSR)*, 4 July 2022, 149–58, <https://doi.org/10.53639/ijssr.v3i3.69>.

<sup>22</sup> DP Tagel, 'Kesadaran Hukum Masyarakat Pengguna Jalan Di Kota Denpasar (Road Users' Obedience in the City of Denpasar, in Indonesian)', *Master's Thesis*, 2013.

<sup>23</sup> Achmad Ali, *Menjelajahi Kajian Empiris Terhadap Hukum* (Yarsif Watampone, 1998).

<sup>24</sup> Soerjono Soekanto, 'Kesadaran Hukum Dan Kepatuhan Hukum', *Jurnal Hukum & Pembangunan* 7, no. 6 (1977): 462–70.

There are four indicators of legal awareness, each of which constitutes a subsequent stage, namely:

1. Legal Knowledge, is a person's knowledge of certain behaviors regulated by law.
2. Legal understanding, in the sense here is the amount of information that is owned by a person regarding the contents of the regulations of a particular law.
3. Legal attitude, is a tendency to accept the law because of an appreciation of the law as something useful or profitable if the law is obeyed.
4. Legal Behavior, is the pattern of legal behavior is the main thing in legal awareness because here it can be seen whether a rule applies or not in society. Thus, to what extent legal awareness in society can be seen from the pattern of legal behavior in a society.

The high or low level of legal awareness of business actors regarding the inclusion of the composition on the labels of processed food products by business actors can be classified based on the assessment of:

1. Very high if all of the four indicators affecting legal awareness are met.
2. High if three of the four indicators affecting legal awareness are fulfilled.
3. Low if two of the four indicators affecting legal awareness are met.
4. Very low if one of the four indicators affecting legal awareness is met.
5. None if the four indicators affecting legal awareness are not met.

The four groups above can be used as a benchmark for the level of legal awareness of business actors. The first factor that affects legal awareness is the lack of knowledge about the rules for ownership of Halal Certificates, from the results of the analysis conducted by researchers on the factors that affect legal awareness of business actors, namely because there is no curiosity about the purpose and importance of halal certificates. The second factor that affects the legal awareness of business actors is avoiding sanctions related to regulations on the ownership of Halal Certificates. There are no sanctions given by the government itself which causes a lot of processed food that is not halal certified.

The third factor that affects the low legal awareness of business actors is legal compliance. Obedience to the law can be interpreted as an obedience based on the hope of a reward and an effort to avoid punishment or sanctions that may be imposed if someone violates the provisions of the law.<sup>25</sup> Based on the research, it was found that the legal awareness of restaurant entrepreneurs who already have halal certificates is high. The level of legal awareness can be seen from the knowledge and understanding of restaurant, restaurant and catering entrepreneurs, such as:

1. See the length of time the restaurant is open with the time it makes a halal certificate.
2. Restaurant entrepreneurs always renew their halal certificates and always follow the procedures set by LPPOM MUI.
3. How to notify the public/consumers of a restaurant that has a halal certificate by placing a halal logo on the menu, business cards and displaying it in the restaurant.

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<sup>25</sup> Atang Hermawan Usman, 'Kesadaran Hukum Masyarakat Dan Pemerintah Sebagai Faktor Tegaknya Negara Hukum Di Indonesia', *Jurnal Wawasan Yuridika* 30, no. 1 (2015): 26–53.

Halal labeling has the aim of fulfilling market (consumer) demands universally. So if these demands can be met, economically, Indonesian business people will be able to host in terms of the products being marketed. Another very basic goal is to protect the faith of consumers, especially those who are Muslim.<sup>26</sup> This means that with labeling, Muslim consumers will not hesitate to consume something they need. The requirements for halal food products according to Islamic law are (a) halal in essence, (b) halal in how to obtain them, (c) halal in processing them, (d) halal in storage.<sup>27</sup>

### Implications of Determining Halal Fatwa for the Level of Consumer Confidence

A halal certificate is a requirement for obtaining a permit and obtaining a halal label on a product from the authorized agency.<sup>28</sup> Halal certificates aim to provide halal status to a product so that it can have a positive impact on consumers. The halal production process is guaranteed by the manufacturer by placing a halal label on a product.

Obligation for halal certification in accordance with the JPH Law began on October 17, 2019. Certification will be carried out in stages. At this early stage, certification is more focused on food and beverages first. Then just penetrated into cosmetic products, drugs, and medical devices. BPJPH will be more persuasive in conducting outreach and coaching to business actors. Providing opportunities for business actors to take care of halal certification. Products that do not yet have halal certification will not be immediately punished, but they will still be given the opportunity to apply for halal certification until October 17, 2024.<sup>29</sup>

The government must also immediately complete the incomplete tools for the implementation of the new certification process. Regarding certification rates, it is hoped that there will be clear details soon. The tariff is proportional and does not burden micro entrepreneurs. There needs to be synergy between the Government, business actors, and the community to realize halal guarantees for the products traded. Business actors can expand their target market, increase competitiveness, increase production and sales turnover, and increase consumer confidence in product halalness. Besides that, the Muslim community will also feel more at ease in buying and consuming products labeled halal.<sup>30</sup>

As a Muslim-majority country, Indonesia has the opportunity to become the largest halal economic center in the world. Publications made by the Indonesian Central Bureau of Statistics stated that the population of Indonesia in 2010 reached 237.6 million people, with a Muslim population of 207,176,162 people, or 87.18% of the total population of Indonesia. In 2017 the

<sup>26</sup> Mabarroh Azizah, 'Instrumen Labelisasi Dan Sertifikasi Halal Sebagai Perlindungan Hukum Terhadap Konsumen Muslim Dalam Wacana Hukum Ekonomi Islam Di Indonesia', *Al-'Adl* 10, no. 2 (2017): 138–53, <https://doi.org/10.31332/ALADL.V10I2.704>.

<sup>27</sup> Dwi Edi Wibowo and Benny Diah Madusari, 'Pengaruh Labelisasi Halal Terhadap Keputusan Pembelian Oleh Konsumen Muslim Terhadap Produk Makanan Di Kota Pekalongan', *Indonesia Journal of Halal* 1, no. 1 (2018): 73–80.

<sup>28</sup> Kementerian Agama, 'Keputusan Menteri Agama RI Nomor 518 Tahun 2021 Tentang Sertifikasi Halal MUI' (2021).

<sup>29</sup> Andry Novelino, 'Kemenag Belum Hukum Produsen Yang Tak Urus Sertifikat Halal', *CNN Indonesia* (blog), 2019, <https://www.cnnindonesia.com/ekonomi/20191016203043-92-440143/kemenag-belum-hukum-produsen-yang-tak-urus-sertifikat-halal>.

<sup>30</sup> Muhammad Ibnu Elmi As Pelu, 'Label Halal: Antara Spiritualitas Bisnis Dan Komoditas Agama', *Malang: Madani*, 2009.



population of Indonesia reached 261.9 million people.<sup>31</sup> This number increased in 2019 to reach 269.6 million people. This figure shows very rapid growth when compared to 2010.<sup>32</sup> Thus, within 7 years, the average growth of Indonesia's Muslim population in the 2010-2017 period reached 1.27% -1.46% per year.

The rapid growth of the Muslim population linearly affects the growth in demand for halal products. This can be seen from the demand for halal products. The large number of followers of the Islamic religion naturally made the government issue Law no. 33 of 2014 concerning Halal Product Guarantee to protect the interests of consumers who have the right to use products that comply with Islamic law, both in terms of ingredients, the manufacturing process to the packaging stage. Indonesia has the largest Muslim consumers in the world. At least, 87 percent of the approximately 260 million Muslims in Indonesia need guarantees of security, comfort, protection and legal certainty regarding the halalness of the products consumed or used or used.

Indonesia is a country that has a comparative advantage as an agricultural and maritime country which has enormous economic potential to be developed into value-added activities. Halal products have an average growth rate of seven percent per year, as well as growing Muslim consumer awareness of halal products and an increasing Muslim population which has reached 1.8 billion out of 6 billion people in the world's population. With the above developments, halal producers and business players already have plans to expand the market internationally, including for the expansion of the Indonesian halal product market.<sup>33</sup>

In addition, Indonesia is the 1st (one) ranked Halal Food Consumption country in the world.<sup>34</sup> Based on the records of the 2018/2020 Global Islamic Economy Report, spending by the global Muslim population on products and services in the halal economic sector reached more than USD 2.2 trillion in 2018. Indonesia ranks first as the largest consumer of halal products in the food and beverage sector, namely by total sector expenditure of USD 170 billion.<sup>35</sup>

As a country with a majority Muslim population, Indonesia has an interest in increasing non-oil and gas exports.<sup>36</sup> For this reason, Indonesia has prepared legal instruments through Law no. 33 of 2014 concerning Halal Product Guarantee which essentially regulates the halalness of a product. This regulation is useful to protect the interests of domestic consumers in imported goods that have been tested for halal status and to secure exports of commodity products so that they can be accepted, especially to Middle Eastern and OKI countries.<sup>37</sup>

There are at least several stages in consumer decision making to buy goods and services that are commonly carried out by someone, namely (a) Recognition of needs, (b) Process of consumer

<sup>31</sup> BPN, 'Penduduk Menurut Wilayah Dan Agama Yang Dianut', 2010, <https://sp2010.bps.go.id/index.php/site/tabel?tid=321>.

<sup>32</sup> Faqiatul Mariya Waharini and Anissa Hakim Purwantini, 'Model Pengembangan Industri Halal Food Di Indonesia', *Muqtasid* 9, no. 1 (2018).

<sup>33</sup> Dwi Purnomo, 'Strategi Pengembangan Agroindustri Halal Dalam Mengantisipasi Bisnis Halal Global' (Bogor, Institut Pertanian Bogor, 2011).

<sup>34</sup> Thomson Reuters, 'State of the Global Islamic Economy Report 2017/2018', *Dubai The Capital of Islamic Economy*, 2018.

<sup>35</sup> M. Shahbandeh, 'Top Five Global Muslim Consumer Food Expenditure 2017 By Country', *Statista* (blog), June 2021, <https://www.statista.com/statistics/737162/global-muslim-food-and-beverage-market/>.

<sup>36</sup> 'Ditjen PEN/WRT/56/VII/2015' (2015).

<sup>37</sup> Handoyo, 'Potensi Besar Dari Bisnis Halal', *Kontan* (blog), September 2021, <https://nasional.kontan.co.id/news/potensi-besar-dari-bisnis-halal>.

information, (c) Evaluation of products (Brands), (d) Purchases (e) evaluation, Once the consumer makes a purchase, a post-purchase evaluation occurs. If the product criteria match consumer expectations, consumers will be satisfied.

Factors that influence consumer buying behavior from consumers are strongly influenced by several important factors. These factors are important for marketers to know in order to determine the strategy to be implemented. As stated by Philip Kotler, that consumer buying behavior is influenced by cultural, social, personal and psychological factors. Each of these factors has sub-factors that become its constituent elements.

Cultural factors have the widest and deepest influence.

1. Cultural Factors, every consumer's behavior is influenced by various value systems and cultural norms that apply in a particular area, for that companies must know that their products are marketed in an area with what culture and how (conditional).
2. Social Factors, consumer behavior is also influenced by social factors such as reference groups, family, and consumer social roles and status.
3. Personal factors, a buyer's decision is also influenced by personal characteristics such as age and life cycle stage, occupation, economic conditions and lifestyle, as well as the buyer's personality and self-concept.
4. Psychological factors, psychological factors that influence purchasing choices consist of four factors, namely motivation, perception, knowledge, beliefs and attitudes.

Halal labeling and price have a relationship and simultaneously (simultaneously) have a significant influence on the decision to purchase food products. The level of awareness of halal food products and affordable prices is shown by the influence of halal labels and prices on the decision to buy food products. This can be interpreted that the halal label and affordable prices can directly provide information on product quality and quality so that it influences consumers in the decision process to buy food products..<sup>38</sup>

## Responsibilities of Business Actors in the Context of Consumer Protection

Product responsibility is a translation of the term *product liability*.<sup>39</sup> The choice of the word "responsibility" to be used in the sense of product responsibility, because the word "responsibility" has been used in general by the community for the translation of responsibility and liability. Responsibility here can be interpreted as responsibility as a result of a contractual relationship (agreement) or responsibility according to law (with the principle of tort)..

*Product Liability* by Hursh<sup>40</sup> *Product liability is the liability of manufacturer, processor or non-manufacturing seller for injury to the person or property of a buyer or third party, caused by product which has been sold.* Perkins Coie said "product liability" sebagai: "the liability of the manufacturer or others in the chain of distribution of a product to a person injured by the use of product".

<sup>38</sup> Wibowo and Madusari, 'Pengaruh Labelisasi Halal Terhadap Keputusan Pembelian Oleh Konsumen Muslim Terhadap Produk Makanan Di Kota Pekalongan'.

<sup>39</sup> Sutedi, *Tanggung Jawab Produk Dalam Hukum Perlindungan Konsumen*.

<sup>40</sup> Sutedi.

Product liability can be classified in matters relating to the following:<sup>41</sup> (a) Production process, (b) Commercial promotion/advertising, (c) Dishonest trading practices, such as unfair competition, counterfeiting, fraud and misleading advertising. The principle of absolute responsibility is meant as responsibility without having to prove fault. In other words, a principle of responsibility that views mistakes as irrelevant to be questioned whether they actually exist or not. The principle of strict responsibility is often identified with the principle of absolute responsibility.<sup>42</sup>

Article 19 paragraph (1) of the Consumer Protection Act states that business actors are responsible for providing compensation for damage, pollution and or consumer losses as a result of consuming goods and/or services produced or traded. This form of compensation according to paragraph (2) is in the form of: 1) refund or replacement of goods and/or services of similar or equivalent value, or 2) compensation in the form of health care and/or compensation if the consumer suffers from illness and/ or dies, but compensation for treatment and/or compensation is still being rearranged by provisions of other laws and regulations. According to paragraph (3), the responsibility for this compensation is limited by a grace period of 7 (seven) days after the date of the transaction.

In Article 19, regulates the responsibilities of business actors who are obliged to provide compensation to consumers on condition that if the consumer's loss can meet the elements of: damage, product unfit for use due to contamination, or other losses the provisions of which are regulated in other regulations. That is, in the provisions of this article the form of product responsibility is general in nature, namely goods and/or services that are not specific to processed food products. However, if a business actor, whether producing, distributing, or retailing processed food, fulfills the elements contained in Article 19 above, then the processed food business actor can be held accountable.

The burden of proving the existence of an element of guilt is the responsibility of the business actor, because in this law what is applied is the reverse burden of proof system. In other words, the principle of product responsibility used in this Consumer Protection Act is the principle of product responsibility with the "principle of always being responsible" (presumption of liability principle), namely the defendant (business actor) is always considered responsible, until he can prove that he is innocent. So, according to this article the burden of proof lies with the defendant.

Even though the principle of "always to be responsible" (presumption of liability principle) is contrary to the legal principle of "presumption of innocence" which is commonly known in law, when applied to consumer cases, the principle of presumption of liability is sufficient. relevant, because it is the business actor who is obliged to prove wrongdoing. Islam does not justify any product that is circulated in a defective condition. This right was expressly conveyed by the Prophet Muhammad SAW in his hadith: "Muslims are brothers, it is not lawful for someone to sell a defective item to his brother without explaining the defect of the object". The principle of the hadith above, if related to this research, is that every processed food business actor who sells his processed food product is obliged to convey defects to consumers, because the form of responsibility (daman) that will be given to the processed food business actor if he acts fraudulently is in the form of responsibility

<sup>41</sup> Sabaruddin Juni, 'Aspek Hukum Perdata Pada Perlindungan Konsumen', 2003.

<sup>42</sup> Endang Saefullah Wiradiprja, *Tanggungjawab Pengangkut Dalam Hukum Udara* (Jakarta: Balai Pustaka, 1996).

for harming other people (*daman udwan*), namely civil responsibility to provide compensation that originates from harmful acts or unlawful acts.<sup>43</sup>

As for criminal sanctions (criminal liability) in cases of processed food which is defective because it is mixed with prohibited food additives (BTP) or does not apply proper processing procedures, it can be punished with threats as stipulated in Article 134 of the Food Law which states that: *a person who produces certain processed food for trading, who deliberately does not apply food processing procedures that can hinder the process of reducing or losing the nutritional content of the food raw materials used as referred to in Article 64 paragraph (1) shall be punished with imprisonment for a maximum of 1 (one) year or a maximum fine of Rp. 2,000,000,000.00 (two billion rupiah).*

As for in Law no. 8 of 1999 concerning Consumer Protection, the provision of witness criminal sanctions against food business actors is threatened with as stipulated in Article 62 paragraph (1) of the Consumer Protection Act as follows: *Business actors who violate the provisions referred to in Article 8, Article 9, Article 10, Article 13 paragraph (2), Article 15, Article 17 paragraph (1) letter a, letter b, letter c, letter e, paragraph (2) and Article 18 shall be punished with imprisonment for a maximum of 5 (five) years or a maximum fine Rp. 2,000,000,000.00 (two billion rupiah).* In Article 62 paragraph (1) above, punishment can be imposed on food business actors if they fulfill the criminal elements regulated in Article 8 paragraph (2), namely business actors who trade damaged, defective, or used and tainted pharmaceutical and food preparations, with or without providing complete and correct information. Against this violation, if it results in serious injury, serious illness, permanent disability or death, then the applicable criminal provisions will be applied.

Islam views processed food businesses as mixing processed food with Food Additives (BTP), both those that are harmful or prohibited by the state and religion and that is done intentionally, even though they know that these actions harm consumers (especially Muslim consumers). then the perpetrator of the processing business is considered to have committed a criminal act (*jarimah*) and the punishment (*'uqubah*) against him is a *ta'zir* penalty, namely a criminal act (*jarimah*) where the sanction/punishment of authority is given to the government, the punishment can be in the form of imprisonment, fines, or others. Classified as *jarimah ta'zir* because the elements of this violation are not included in the provisions of the elements of *hudud jarimah* or *qisas/diyat*.

As for the form of administrative responsibility (administrative liability) for processed food business actors who mix their processed food with prohibited Food Additives (BTP) so as to cause harm to consumers (including Muslim consumers) can be given administrative sanctions such as: written warning, temporary ban on distribution, orders for withdrawal from distribution, compensation, orders for destruction, if proven not to meet safety or quality requirements, temporary suspension of production, import and distribution activities, revocation of distribution permits, and/or closure of food production business places. This is regulated in several articles as follows:

1. Administrative sanctions in Article 60 paragraph (2) of the PK Law, namely administrative sanctions in the form of determining compensation for a maximum of Rp. 200,000,000.00 (two hundred million rupiah) for business actors who sell damaged, tainted products and/or other losses suffered by consumers as a result of consuming goods produced by business actors.

<sup>43</sup> Syamsul Anwar, *Hukum Perjanjian Syariah: Studi Tentang Teori Akad Dalam Fikih Muamalat* (Jakarta: PT Raja Grafindo Persada, 2007).

2. Administrative sanctions in Article 65, Article 72 and Article 76 of the Food Law, namely fines, temporary suspension of activities, production and/or distribution, withdrawal of food from circulation by producers, compensation and/or revocation of permits are given for food business actors who carry out food production for distribution using Food Additives (BTP) that exceed the maximum threshold set and/or materials that are prohibited from being used as food additives.
3. The forms of administrative sanctions in Article 22, Article 27, Article 41, and Article 48 of the JPH Law are basically sanctions in the form of verbal/written warnings, administrative fines, or revocation of halal certificates. This sanction is given to business actors (including processed food business actors) where the location, place, and Halal Production Process (PPH) equipment are not separated from the location, place, and equipment for slaughtering, processing, storage, packaging, distribution, sales, and presentation of non-halal products, or business actors where the location, place, and PH equipment are not kept clean and hygienic, are not free from uncleanness; and/or not free from non-halal materials.

Guidance and supervision of food products Food is one of the basic human needs which plays an important role in improving human health in carrying out various daily activities and can also increase people's intelligence, so that in this case the community needs to be protected against the production and distribution of processed food that does not meet the requirements especially in terms of quality, health, safety, and religious beliefs. Article 30 paragraph (1) of the Consumer Protection Act states that supervision of the implementation of consumer protection and the application of statutory provisions is carried out by: 1) the Government; 2) Society; 3) Non-Governmental Organization for Consumer Protection.

Meanwhile, food business actors will always receive supervision from the government based on Law Number 18 of 2012 concerning Food to be precise in article 108, namely in carrying out food administration, the government has the authority through supervision. Supervision as referred to in paragraph 1 is carried out on the fulfillment of (a) Availability and/or adequacy of staple food that is safe, nutritious and affordable by the people's purchasing power. (b) Requirements for food safety, food quality and food nutrition, as well as labeling and advertising requirements. Supervision is carried out on the availability and/or adequacy of staple food as referred to in paragraph 2 letter a carried out by government agencies that carry out government affairs in the food sector.

Article 29 paragraph (4) of the Consumer Protection Law states that fostering the implementation of consumer protection is meant to:

1. The creation of a business climate and the growth of a healthy relationship between business actors and consumers.
2. The development of non-governmental consumer protection institutions.
3. Increasing the quality of human resources and increasing research and development activities in the field of consumer protection.

The coaching referred to in practice is carried out by the Health Service of the Republic of Indonesia. Based on the provisions of the food law, it is known that the authorities are the government, in practice this coaching task is carried out by the Ministry of Health's Environment Agency, while supervision is carried out by the Food and Drug Supervisory Agency (BPOM). To



carry out this authority, each official who is given the task must be accompanied by an order. This is to avoid arbitrary inspections or inspections by unauthorized parties.

Even though the term halal is no longer a mere religious issue and has developed into a global trade language, halal values actually encompass the meaning of being holy, clean, pure, work ethics, responsibility and honesty. Halal products have even raised the value of fulfilling aspects of sharia law, safe, nutritious, healthy, humane, appropriate and environmentally friendly. The main function of the halal label is to help consumers choose products without hesitation. Generally, every Muslim will see a product with a halal label as a guarantee that it is safe for consumption. With this guarantee, the market is not only limited in the country, but the very wide market share of Muslims abroad is wide open. In other words, halal can be used as a global marketing tool and strategy.<sup>44</sup>

It can be said that with the existence of halal certification, consumers no longer need to worry about foods that contain uncleanness such as pork or other haram things because the products they consume already have halal certification so that their halal status is guaranteed. Halal certification is a guarantee when consumers will buy a product, be it food, drinks, cosmetics, medicines and others. All products that go through the halal certification process have passed various standards designed to provide protection to consumers.<sup>45</sup>

## CONCLUSION

Forms of legal protection for consumers in Indonesia include preventive, repressive legal protection, juridical aspects and institutions whose role is to audit products such as LPPOM MUI and BPOM. The mechanism for establishing a halal fatwa by the MUI can be implemented when a business actor submits a halal certification application, then inspects the product by the LPPOM MUI halal auditor, processes the MUI fatwa hearing, issues a halal decree and issues a halal certificate. In carrying out the supervisory function, the government has the authority to take direct administrative sanctions. Determination of a halal fatwa for every product produced by business actors is considered very important because products that have pocketed a halal certificate, be it food, beverages, cosmetics, medicines and others, can be sure to have gone through various stages and procedures designed to provide protection to consumers. . So that in the context of product transactions that occur in the field, no party benefits or is harmed, so this practice has implemented the principle of balance and the principle of justice.

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<sup>44</sup> Evans AD, *Halal Market Dynamic: An Analysis* (London: Imarat Consultants, 2012).

<sup>45</sup> Sulistyo Prabowo and Azmawani Abd Rahman, 'Sertifikasi Halal Sektor Industri Pengolahan Hasil Pertanian', vol. 34, 2016, 57–70.

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