

Implementation of MSEs Certification for Encouraging Inclusively Halal Economy: Analysis from Legal Substance, Structure, and Culture

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Abstract

Mandatory halal certification leaves 2 years more for all businesses, especially food and beverage to implement Law No. 33 of 2014. To encourage an inclusive halal economy, one must find relevant in-depth about these mandatory rules comprising legal substance, structure, and culture. The purpose of this research is to analyze this mandatory rules from the legal system perspective. A qualitative descriptive research method is used with a normative legal approach and depth-interview of implementation of halal certification with companions from the halal product process from Walisongo Halal Center. This study shows that the mandatory rules of halal certification have a hierarchy regulation that has a clear process and strong derivative rules for applying, including a self-declare for MSEs. Companions from Halal Center have contributed to encouraging this. Otherside, MSEs are very responsive in getting these services to establish their product and commit to guaranteeing their outcome keeping halal as the goal mandatory.

Keyword: *Mandatory halal certification, Self-declare, Legal system*

A. Introduction

The government continues to promote mandatory halal certification for all products circulating in Indonesia. As a form of effort to offset the halal ecosystem which has continued to increase over the last two years. One way is through the establishment of the Halal Product Guarantee Agency (BPJPH) as stipulated in law no. 11 of 2020 concerning work creation law helps economic actors easily obtain halal certificates. According to The Royal Islamic Strategic Studies Area (RISSC), Indonesia's Muslim population in 2022 will reach 237.56 million people or 85.9% of Indonesia's total population resulting in more demand for halal products in line with the growth of halal lifestyle among Muslims. However, this potential to compete globally has not been maximized by Micro, Small and Medium Enterprises (MSMEs), based on data from the Ministry of Finance of the Republic of Indonesia at the end of 2021 only one percent of MSMEs of the total number have halal certificates. But recently based on *Sehati*¹ by BPJPH until November 2022, the amount of 250151 from 349834 is available to be facilitated (sehati.halal.go.id).

¹The *Sehati* program is aimed at accelerating the growth of halal products in Indonesia. The encouragement and efforts made by the government to provide financial assistance for Micro and Small Business (MSEs) toward the center of world halal producers in 2024 (Fedro et al., 2022). *Sehati* is an effort to accelerate halal certification given to MSEs who meet the criteria.

In Job Creation law, this law also accelerates the potential success of the free halal certification program. However, there are arguments this law has the potential to exceed the provisions in the constitution due to limited participation and lack of prudence in discussing the material of the law inside. Another side, this law has the purpose of harmonizing the regulations and was originally intended as legal protection to harmonize other laws as an approach in the framework of simplifying regulations due to hyper regulations that cause overlapping, and conflicts (Azizah, 2022, p. 138-147). A large number of MSEs and consumers are starting to realize the importance of halal branding. Several rules have been created and implemented to be an umbrella-changing certification from voluntary to mandatory for all products (Kasanah & Sajjad, 2022, p.28-41). Policymakers have been recommended regarding the convenience of halal certification for MSMEs through simplifying the registration process and accelerating the issuance of MSME certification by BPJPH - Ministry of Religion without compromising existing standardization (Santoso et al., 2021).

Of course, from a legal perspective, one cannot conclude about the effect of the law simply by reading the sentences written in the law or included in court decisions. Therefore, it is necessary not only to pay attention to studying normative legal science concepts with a dogmatic approach but within itself, there is a social system with various requests, various responses, role players, and moving parts. So in this study, the researcher agrees with the author of a book on legal theory and judicial theory, Achmad Ali, that the legal system is more than structure and rules. But within it, there is legal behavior, where if it is not implemented, the rules are mere writing, and the structure is like a dead city, not a living city. It also includes how the process of implementing this rule requires the readiness of stakeholders and education for industry players throughout Indonesia (Latifah, 2022).

Several research has been found the implementation of self-declaration halal for small and micro business actors based on Islamic sharia law that provides a sense of trust, comfort, and legal certainty for Muslims. In its application, they use easily recognizable ingredients such as rice, sago, and cassava, therefore, it is easier to differentiate halal and haram products. Public awareness about halal products has significantly correlated with the behavior of seeking information on halal food among Muslim people through the halal logo (Azizah, 2022, p. 138-147). The concept of halal products or food is now the talk of the world because it is known as an alternative benchmark for safety, cleanliness, and quality assurance of what we consume or drink daily (Ambali & Bakar, 2014) also the halal self-declaring policy for MSEs is in line with the syar'i goals that five and to achieve benefit and eliminate/reject harm (Istianah & Dewi, 2022, p.84-109). Among them is giving stronger confidence to consumers that the food is truly halal (al-halal bayyinun) (Jafar, 2022) because it has been verified by a competent institution and complies with it.

Other studies have also found problems that arise in implementing Sehatu such as a lack of awareness of halal and socialization of Sehatu among MSEs, the role of stakeholders is not optimal, MSEs are not responsive to Sehatu regulations and digital services, assistance is not yet optimal in implementing Sehatu. As a

government program, *Sehati* is a real form of accelerating the halal certification program for MSEs actors in the work copyright law, which echoes the involvement of collaborative efforts from various parties such as Halal Product Process assistants (PPH assistants), campuses, and community organizations that establish Halal Inspection Institutions Halal Inspection Agency (LPH) to fulfill the target of 10 million halal-certified products by the Ministry of Religion in March 2022 have not shown optimal results (Kasanah & Sajjad, 2022, p. 28-41).

Mandatory halal certification leaves 2 years more for all businesses, especially food and beverage to implement Law No. 33 of 2014. To encourage an inclusive halal economy, one must find relevant in-depth about these mandatory rules. The existence of this obligation establishes a phenomenon as law, for the achievement of halal inclusion growth in Indonesia where obedience is achieved through reciprocal service based on the expectation of mutual benefits in the future. Is it from a legal perspective, is this regulation of obligation the right step, effectively enforced by complying with practices and leading to the goal of achieving legal success? This question is important to answer and makes the author want to examine how the application of certification for MSEs to encourage halal inclusion through an analysis of legal success (in a structural, substance, and cultural sense) that other scholars have or have not answered. What is the substance of this mandatory rule, what is the structure that also processes and contributes to the success of this rule, and how is the legal culture of this rules for halal certification? The purpose of this research is to analyze this mandatory rules from the legal system perspective by comprising legal substance, structure, and culture. By a qualitative descriptive research method with a normative legal approach and depth-interview of the implementation of halal certification with companions from the halal product process from Walisongo Halal Center. Reviewing these mandatory rules to examine the problems from their implementation of them to accelerate the halal economy as the goal of mandatory rules.

B. Discussion

The success of law (in structural, substantive, and cultural terms) is an indicator of the ability of the law to create "harmonization" among members of the community, and when harmonization is realized, then the realization of the idea of justice, as well as peace which always gives birth to benefits for society as a totality (Ali, 2009). Law enforcement in its implementation is not something that stands alone but is related to different aspects/factors. Law enforcement is not only related to the law itself, but also humans, both law enforcers, and society. Lawrence M. Friedman & Stewart Macaulay said to see the legal system as an integral part of the larger social system, rather than as an asset of rules, procedures, and activities of officials sealed off and isolated from the rest of society.

Conceptually core and meaning of the rule of the law lies in harmonizing the activities that span the hierarchy of values in the context of steady and manifest and attitudes act as the final stage of the value chain elaboration to

create, maintain and sustain social peace alive (Handayani, 2012). In otherwords, Achmad Ali explains law of the abstract is in a static state and not powerless in the absence of human action. The law seems to do something and hence the mutual interaction of behavior and human action. The law itself cannot act. Operation of law in society depends on human action. The provisions of the law often cannot be implemented due to human action. Lawrence M. Friedman & Stewart Macaulay said to see the legal system as an integral part of the larger social system, rather than as an asset of rules, procedures, and activities of officials sealed off and isolated from the rest of society, including the rules regarding the obligation of halal certification.

Law enforcement cannot be separated from the concept Lawrence Meir Friedman says about the three elements of the system of law consists of structure of law (legal structure), substance law (legal substance), and culture law (legal culture) (Ali, 2009). This research will discuss more mandatory halal certification, especially for MSEs from a legal system perspective.

1. Substance law (legal substance) of mandatory halal certification

The legal substance of this rule has formed a set of existing legal principles and has to be implemented. Halal certification has been regulated by several laws which have their respective hierarchies and substances. Which have historically and have regulated and changed from voluntary or *sukarela* or perhaps only for the obligatory specific product in Indonesia to be mandatory or *wajib* for all product.

There also regulated the derivative as simplified in the following table;

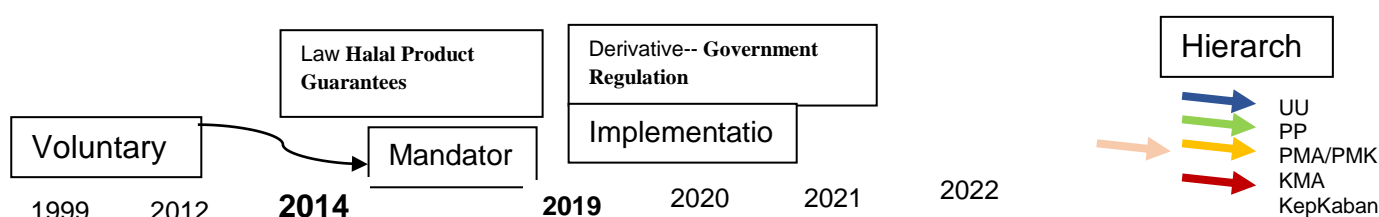
Table.1. Legal Substance of Mandatory Halal Certification

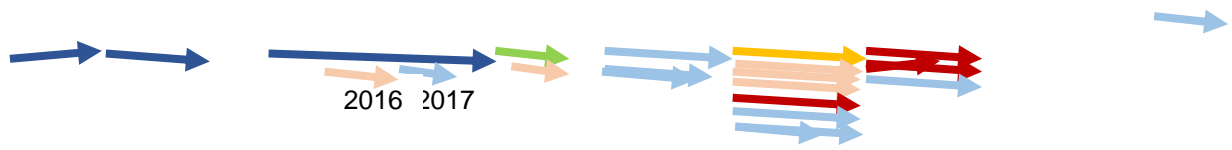
Law	Substance	Consequence
Law (UU) Number 8 of 1999	Consumer Protection Consumer protection is an important element in realizing security and legal certainty for consumers so that consumers will feel comfortable when consuming a product	Certification is voluntary
Law (UU) Number 18 of 2012	As the legal regulations that are applied in the implementation of halal product guarantees. concerning Food Regulations related to food are closely related to halal certificate policies	Certification is voluntary
Law (UU) Number 33 of 2014	Halal Product Guarantees after the implementation of the consumer protection law. This law has started to be implemented in 2019. In a law, to implemented this not in a punctual time, because a law	Have 5 years to be mandatory (2019-2024)* for product: food and

	must have to derivative rules for applying with no more than 2 years after trial.	beverage
Regulation of the minister of religion (<i>PMA</i>) No.42/2016	Organization and work procedures of the Ministry of Religion. BPJPH manages BLU Finance (UU No.33 of 2014, article 45)	
Decree of the Head of the Halal Product Assurance Organizing Agency (<i>KepKaban</i>) Number 2 of 2017	The Establishment of the Implementation Committee for the Launching of the Halal Product Assurance Organizing Agency	
Government Regulation (PP) Number 31 of 2019 as derivative	The Implementation of Halal Product Guarantees. Regarding the obligation to implement halal certification, it is contained in article 2 which states that: "Products that enter, circulate, and apply in the territory of Indonesia must be halal certified. Products originating from prohibited materials are exempt from those that must be halal certified."(Hasan, 2022).	Certification is mandatory
Regulation of the Minister of Religion (<i>PMA</i>) Number 26 of 2019	The Implementation of Halal Product Guarantees and Implementation of Halal Product Assurance	
Decree of the Head of the Halal Product Assurance Organizing Agency (<i>KepKaban</i>) Number 12 of 2020	Procedures for Implementing Halal Certification Services Bpjp and Regional Halal Certification Service Task Forces (Simplification of service processes: in PTSP/ Kanwil in district)	
Decree of the Head of the Halal Product Assurance Organizing Agency (<i>KepKaban</i>) Number 88 of 2020	The Establishment of Technical Guidelines for the Facilitation of Halal Certificate Assistance for Micro and Small Business Actors in 2020 (Including the form and value of MSEs facilitation provided to LPH)	
Decree of the Head of the Halal Product Assurance Organizing Agency (<i>KepKaban</i>) Number 96 of 2020	Amendments to the Decree of the Head of the Halal Product Assurance Organizing Agency Number 88 of 2020 concerning Stipulation of Instructions for Technical Facilities for Halal Certification for MSEs	
Minister of Finance Regulation (PMK) No. 57/PMK.05/2021	Service rates for public service agencies BPJPH at the Ministry of Religion	Service rates
Regulation of the Minister of Religion (<i>PMA</i>) Number 8 of 2021	Appointment and Dismissal of Halal Product Assurance Supervisors	
Regulation of the minister of religion of Indonesia (PMA) Number 20 of 2021	Halal certification for micro and small enterprises (MSEs)	Self-declare for MSEs
Regulation of the Minister of	Halal Certification for Micro and Small Business Actors	

Religion (PMA) Number 20 of 2021	The obligation to protect halal for Micro Business Actors and small as referred to in paragraph (1) based on the Statement of Micro and Business Actors ketch
Decree of the Minister of Religion (KMA) Number 1360 of 2021	Materials that are exempt from the Obligation to be Halal Certified
Decree of the Head of Bpjp (KepKaban) Number 100 of 2021	Stipulation of Technical Guidelines for Facilitation of Free Halal Certification for Micro and Small Business Actors in 2021. regarding amendments to the Decree of the Head of the Halal Product Assurance Organizing Agency Number 77 of 2021
Decree of the Head of the Halal Product Assurance Organizing Agency (KepKaban) Number 77 of 2021	Technical Instructions for Providing Halal Certification Facilities for Micro and Small Business Actors in 2021
Decree of the Head of the Halal Product Assurance Organizing Agency (KepKaban) Number 57 of 2021	Criteria for the Halal Product Guarantee System
Decree of the Minister of Religion (KMA) Number 341 of 2022	Management Officers of the Public Service Agency for Halal Product Assurance Organizing Agency
Decree of the Minister of Religion (KMA) Number 82 of 2022	Provincial Halal Product Assurance Service Task Force
Decree of the Minister of Religion (KMA) Number 395 of 2022	Amendments to Decree of the Minister of Religion Number 82 of 2022
The Decree of the Head of the Halal Product Assurance Organizing Agency (KepKaban) Number 33 of 2022	The system governing the registration of halal certificates has been stipulated. This program aims to prosper micro-entrepreneurs so that they can compete internationally with products from other Muslim countries. It also aims to protect Muslim consumers, especially in Indonesia.
source: processed from the official website halalmui.org , sihalal , sehati , jdih.kemenag.go.id *bold text is included as a rule governing self-declaration	

Graphic.1. Histories Legal Halal Certification





Source: processed by writer from the table data

Of the various regulations above accommodating the obligation of halal certification, various derivative regulations also strengthen and encourage the acceleration of the implementation of the Law on the obligation of halal certification. The hierarchy of rules above also shows a clear process in which the law on the mandatory of halal certification continues to be updated which encourages ease of application, including self-declaration for MSEs. This is in line with what is commonly known in law books as a legal system that is rational, transparent, democratic, autonomous, and responsive to the development of people's aspirations and hopes, not an oppressive, autodox, and reductionistic legal system. In this legal halal certification, several law that encouraging and make more applicable to implement, because always responsive to the development of need.

The implementation of the mandatory halal certification encourages Indonesian halal inclusion by offering various conveniences and benefits that can be obtained by complying with this obligation rule. Even though they have not provided a detailed description of the punishment it has not been able to comply with the rules regardless of the problem. The 4 legal attributes proposed by Pospisil have also been fulfilled, for example in this case the rule of obligation to have authority attributes (decisions from those in power in society), universal application intention attributes (an attribute that law is useful for universal application, and decisions must be long-term for the future), then the attribute of obligation (which in nature means that the supervisory decision must contain the obligations of the first party to the second party and vice versa) (Achmad Ali, 2009) even though this mandatory rule not emphasizes sanction yet but is more inclined to persuasion in determining the obligation of halal certification.

This is for example in the regulations in 2020, the process for registering a certification for business actors begin when MSEs come to the Regency Ministry of Religion to register by supporting evidence, Then the district-level Ministry of Religion assesses the completeness, and the next file sent to the Ministry of Religion Regional Office (Kanwil) Province then from the Kanwil had to go to the Central BPJPH, and now the process from the Regional Office does not have to go to the Central BPJPH first. After the Kanwil is granted the right to make a letter of introduction to register at LPPOM (as LPH) for audit and verification. After LPH conducts an audit or verification, it is sent from LPPOM to MUI to obtain a Halal fatwa recommendation. Finally, after MUI is sent to BPJPH to issue Halal certificates (Latifah, 2022). But now based on depth-interview (Diyah, 2022) the process of registering more simplifying, especially for MSEs, provisions related to product halalness are conveyed orally. Gaining access to many MSMEs, convenience for assistants in the process of digitalizing product registration, and in-field verification. The companion visits the business actor or

business actor who registers to be assisted, then the process of recognizing the obligation of halal certification and agreements related to the self-declaration process, as well as completing and verifying data by the assistant, then field verification is carried out. As for the field verification of the production process, the emphasis is on meeting the requirements according to the standard *halal-thoyyib* rules², for example, the production process may not be combined with household production, hygiene, etc.

During the mentoring, important information was also conveyed to business actors, for example regarding differences in applying for halal certification for dry products or wet snacks after verification. It also includes how to include the halal logo after issuing a certificate, and what are the requirements for issuing certification for different products. The certification is valid for 4 years, after it is finished the companions is not accompanied again but the assistant continues to provide his commitment to helping with data if it is needed the next day. Those who are not willing to register companions, also adhere to the principle of willingness in encouraging business actors to register certification for their products. Apart from that, the obligation of halal certification has hierarchical rules that have a clear process and strong derivative rules to apply. *Das Sein* (law in action) shows the application or implementation of the law in line with *Das Sollen* (law in book) which has been regulated.

2. Structure of law (legal structure) of mandatory halal certification

The legal structure created by the legal system makes it possible to provide services and enforce the law. What is institutional power under the umbrella of law? Mrs. Penny, Head of the Food and Drug Supervisory Agency, said that the legislature must be independent, not subordinated, and must not be interfered with by anything. A solid legal umbrella provides self-enforcement, there is a time lag, and others so that it can optimize the existing functions of both human resources and funding sources. Not supervising also helps MSMEs. There needs to be institutional strengthening so that priorities can be maximized, related to resources. Whereas in the implementation of the certification obligation rules include BPJPH, MUI, LPH (including halal assistants). This paper wants to focus on PPH Assistant (Halal product which is contributing to certification in district Pati).

The process of implementing the halal certification obligation for MSEs based on the power of attorney for business actors (self-declared) must have non-risk product criteria or use materials that have been confirmed as halal. Therefore a team of companions was formed who would witness (the process of halal products) running as it should. The PPH Assistant has the task of ensuring the process of making halal products, where halal and *thoyyib* are made, halal product ingredients and product names used do not use the names of elements of pork, dogs or their derivatives which incidentally include the haram star.

² The duty of the parties involved in the regulation to maintain the essence of the halal certification (Istianah & Dewi, 2022)

Registering as a member of the PPH companion is not easy considering the enormous task that must be carried out. Prospective companion members will receive special training within a certain period. The training will usually be held by companion institutions in the form of Islamic organizations, Islamic universities, and other Islamic institutions. The training material contains a legal understanding of self-statutory regulations, an understanding of Islamic law regarding the requirements of halal and *thoyyib*, and an understanding of the operation of a sihalal account. 27 business actors can be held by 1 companion (Diyah, 2022)³. There is also an assumption that there is a lot of starchy MSEs but their assistants are not optimal in assisting MSEs actors. Based on the experience of the facilitators, coordination and collaboration between facilitators is needed, for example in a network of MSMEs that are broad and literate in digital technology.

PPH Facilitators who play an important role in overseeing the Sehati process (Kasanah & Sajjad, 2022) are also not working optimally, but based on this research seeing PPH Companion, especially from Walisongo Halal Center have contributed optimally to encouraging these rules can be seen from the data of PPH assistants registered at the Ministry of Religion, namely 19,884 out of 156 LPHs with has been divided into a regional sub-district with 3-4 assistants (info.halal.go.id/pendampingan. 2022) who can help and cover all existing MSEs. And also the Walisongo Halal Center has become the top assistance by PPH assistants throughout Indonesia.

3. Culture law (legal culture) of mandatory halal certification

The third element is the legal culture which is defined as ideas, attitudes, beliefs, values, hopes, and opinions/opinions held by the public about the law (Achmad Ali, 2009). Culture law also defined the climate of social thinking and social forces that determine how law is used, avoided or misused. The existence of a free halal product certification program (SEHATI) in 2021 and 2022 has received mixed responses from the public. Most people support this program because it is considered to make it easier to market their products outside the city and even outside the country. People are more optimistic in developing their products when there is a halal label on the packaging. Similar with the research from susanti, that business actors have a positive perception of time, cost, SOPs and technology usage, this research show business actors understood as an important to having better value on halal and *thoyib's* understanding and modern part of achieving fast and easy service (Susanti, 2022). So, MSEs are very responsive in getting these services to establish their product and commit to guaranteeing their outcome keeping halal as the goal mandatory to behave discipline, and to obey the rules as a process of getting recognition over halal products.

These elements have a relationship of mutual influence, in essence, the substance of the law is a norm (rules and patterns of real human behavior within

³ it is also possible that not only 27 MSMEs but up to 100-300 MSMEs are held by one companion (Diyah, 2022)

the system, concerning applicable laws and regulations which have binding power and serve as guidelines for law enforcement officials). Quoting Lawrence, legal behavior is not only law-abiding behavior but all behavior that is a reaction to something that happens in the legal system. Or mention the behavior of using (using) or not a rule of law. In this mandatory rules, there are only a few who refuse to carry out halal certification because this program is considered a mere data collection program whose impact will increase the tax imposed on their products (Achmad Ali, 2009).

In addition, the government also provided facilitation for local product exhibitions on the international scale at the Indonesian G20 Presidency activities which carried the theme/tagline Global Halal Partnership for a Romus Sustainable Future. This activity was held on 17-19 November 2022 at the Padma Hotel Semarang and was also witnessed by the Foreign Halal Institute (LHLN). The H20 International Event (Halal20) aims to strengthen, promote and develop halal product assurance cooperation in the global halal market.

C. Conclusionss

From a legal perspective, this regulation of obligation is the right step, effectively enforced by complying with practices, and leads to the goal of achieving legal success. Analysis of legal substance, structure, and culture above have to answer how the application of certification for MSEs to encourage halal inclusion. Seeing an indicator of the ability of the law to create "harmonization" among governments that always regulated and fast responses for applying to encouraging halal certification for MSEs. The data of sehati also show high progress that main harmonization is realized, by companions from Halal Center have contributed to encouraging this. People or business actors are more optimistic in developing their products and commit to guaranteeing their outcome keeping halal as the goal mandatory. This paper recommends that government also accelerate several MSEs who haven't certificate yet or who don't want to certify their product by massive socialization and regulated the effect for whom do not obey. Perhaps this socialization can be preventive and realize an understanding of MSEs for obeying these mandatory rules. Thank to the Companions from Walisongo Halal Center was supporting make your research possible.

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