
The Consumer Protection Dynamics of Halal Products in Indonesia

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Abstract

Legal protection for consumers of halal products has occurred since the old order. At that time, halal regulations did not guarantee legal certainty. The state passed a regulation that specifically regulated the guarantee of halal products. However, it continues to change now. This research aims to analyze the development and direction of legal protection for consumers of halal products after the ratification of Halal Product Guarantee Law. This research was a normative domain using primary and secondary legal materials. Legal materials that have been collected were analyzed by explaining existing theories logically and systematically to obtain significant and scientific results. Furthermore, a transcript was carried out. The results of the research showed that the state has attempted to guarantee legal protection for consumers of halal products through the establishment of regulations. However, the regulation of the halal guarantee system continues to change and tends to be influenced by economic interests so the basic rights of consumers are not fulfilled. Therefore, the government needs to reform the legal system in protecting consumers of halal products based on the principle of balance of rights to provide a sense of justice, and benefit and guarantee legal certainty.

1. Introduction

Islam is a religion that encourages mankind to consume halal food. The teachings are intended to provide benefits for humans in general, health, safety, and faith.¹ Staying away from unclean food for Muslims is God's commandment that must be conducted as a form of human piety to its creator.

Consuming halal food is a religious order. It has been guaranteed by the state as a basic right that must be protected as stipulated in Article 29 of the 1945 Constitution of the Republic of Indonesia. Therefore, for the continuity of national development, the state plays an active role in protecting consumers from all the issues that arise in this digital era.

The advancement of digital technology is inevitable as it provides convenience for both consumers and entrepreneurs. Entrepreneurs are free to offer products without limitations of space and time, while consumers can easily find products to meet their needs. However, the communication gap between consumers and entrepreneurs has become more distant, making it difficult for consumers to ascertain the halal status of a product.² Politically, legal protection for consumers of halal products is generally regulated in Law no. 8 of 1999 concerning Consumer Protection hereinafter abbreviated as Consumer Protection Law. Consumer Protection Law is expected to provide a sense of comfort and security in consuming halal food. However, the formulation of Consumer Protection Law norms related to halal certification has not been completed. Thus, it does not guarantee legal certainty.³ Before, the ratification of Law No. 33 of 2014 concerning Halal Product Guarantee, the government passed several laws and regulations that regulate halal food to protect consumer rights. Research results in several articles show that halal regulations are considered not to

¹ Asep Syarifuddin Hidayat and Mustolih Siradj, "Sertifikat Halal Dan Non Halal Pada Produk Pangan Industri," *Jurnal Ahkam*, XV (2), 2015, 199-210.

² R. Muhtadi Tien, *Tehnologi Proses Pengelolaan Pangan* (Bandung: Alfabeta, 2010).

³ Yusuf Shofie, "Jaminan Atas Produk Halal Dari Sudut Pandang Hukum Perlindungan Konsumen," *Journal of Islamic Law Studies Journal of Islamic Law Studies* 1, no. 1 (2015): 28-69.

guarantee protection and certainty for consumers because the legal substance is still sectoral, partial, and inconsistent.⁴

Juridically, halal food has not been regulated in a specific provision. Hence, the existing regulations do not guarantee legal certainty. Therefore, halal regulations need to be regulated in a statutory regulation. In 2014, the government then passed Law no. 33 of 2014 concerning the Guarantee of Halal Products hereinafter referred to as Halal Product Guarantee Law.

Halal Product Guarantee Law is the first rule that *lex specialis* and explicitly regulates the implementation of halal product guarantees in Indonesia. The formation and ratification of the Halal Product Guarantee Law is a responsive attitude of the state in responding to all demands from society to ensure the availability of halal products. In addition, the ratification of the Halal Product Guarantee Law is the government's effort to fill the legal void and guarantee legal protection for consumers of halal products. Thus, it is expected that Halal Product Guarantee Law will provide utility value for consumers.

Asep Saepudin Jahar in his article argued that the formation of Halal Product Guarantee Law norms was the result of contestation from interested institutions. The formation of the Halal Product Guarantee Law is inseparable from the existence of important issues in the process, such as the economy, religious interests, the political interests of the government, and even the Majelis Ulama Indonesia.⁵ Halal certification is problematic because the Draft Bill of Halal Product Guarantee has not been passed proportionally.⁶ It resulted in conflict in its implementation.

According to Florence Bergeaud-Blackler, Halal Product Guarantee Law is a product of Indonesian Islamic law legislation. It is very controversial but has benefits for both

⁴ Kn Sofyan Hasan, "Kepastian Hukum Sertifikasi Dan Labelisasi Halal Produk Pangan," *Jurnal Dinamika Hukum* 14, no. 2 (May 25, 2014), <https://doi.org/10.20884/1.jdh.2014.14.2.292>.

⁵ Asep Saepudin Jahar and Thalhah Thalhah, "Dinamika Sosial Politik Pembentukan Undang-Undang Jaminan Produk Halal," *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 12, no. 2 (January 10, 2018): 385, <https://doi.org/10.19105/al-ihkam.v12i2.1232>.

⁶ Shofie, "Jaminan Atas Produk Halal Dari Sudut Pandang Hukum Perlindungan Konsumen."

consumers and business actors, especially in the field of socio-economic growth.⁷ With all the interests, the system for implementing halal guarantees in Halal Product Guarantee Law continues to have changes in various forms of laws and regulations including Law no. 11 of 2020 concerning Job Creation and Government Regulations as implementing regulations. However, the emergence of the omnibus law caused a lot of debate and resistance from the public.⁸ Therefore, in 2022, the government passed Legislation No. 2 of 2022 which canceled the Job Creation Law after a judicial review by the Constitutional Court.

This article attempts to complement previous research by uncovering and reviewing the development of legal regulations on halal product guarantees and the direction of changes in the substance of regulations on halal product guarantees after the enactment of the Halal Product Guarantee Law. The description of the legal dynamics of halal products will be used as material for review in carrying out legal reforms as an effort to guarantee consumer rights as emphasized in the constitution and Halal Product Guarantee Law as specific rules.

2. Problem Statement

From the description above, the author is interested in expressing ideas regarding the dynamics of legal protection for consumers due to changes in the system for implementing halal product guarantees in the laws and regulations after the Halal Product Guarantee enactment. This is intended so that the government harmonizes and reformulates regulations on the implementation of halal guarantees as a legal basis for ensuring legal protection for consumers.

3. Methods

The type of research used 2qw normative research. This research attempted to reveal the dynamics of guaranteed legal protection for consumers regarding the availability

⁷ Siti Rohmah, Ilham Tohari, and Moh. Anas Kholish, "Menakar Urgensi Dan Masa Depan Legislasi Fiqih Produk Halal Di Indonesia," *Al-Manahij: Jurnal Kajian Hukum Islam* 14, no. 2 (December 3, 2020): 177–90, <https://doi.org/10.24090/mnh.v14i2.3811>.

⁸ Abdul Hakim Siagian, "Omnibus Law Draft in the Perspective of Constitutionality and Legal Politics," *Jambura Law Review* 3, no. 1 (January 28, 2021): 93–111, <https://doi.org/10.33756/jlr.v3i1.7222>.

of halal products in society. Meanwhile, the approach in this research was a statute approach, a conceptual approach, and a historical approach.⁹

This research used primary and secondary legal sources. Primary legal materials consist of basic principles, namely the 1945 Constitution of the Republic of Indonesia, Law no. 8 of 1999 concerning Consumer Protection, Law no. 33 of 2014 concerning Guarantees for Halal Products, Legislation No. 2 of 2022 concerning Job Creation and other regulations related to the object of study. Meanwhile, secondary legal materials were providing explanations regarding primary legal materials and were obtained from library research and documentation following the object of study.

Furthermore, the legal materials that have been collected were analyzed qualitatively based on theoretical presentations, and logical principles to find descriptive scientific results.

4. Consumer Protection Regulations for Halal Products After Halal Product Guarantee Law Enactment

Islam is a religion that regulates human life comprehensively, including the law on eating and drinking. The command to consume halal food is an effort to protect humanity as stipulated in the Al-Qur'an and Hadith as the source of the law.

These provisions do not only civilly protect individuals, but also guarantee the interests of humans in general with theological and humanist essences. Hence, the state needs to guarantee legal protection of the basic rights of citizens as an implication of the rule of law concept adopted in Indonesia.

Legal protection for consumers of halal products is a consequence of the rule of law. The state is obliged to protect people's lives by guaranteeing halal products in the form of norms. Thus, the state has guaranteed the basic human right to consume halal products in a legal basis, namely Precepts 1 of Pancasila and Article 29 of the 1945 Constitution of the Republic of Indonesia. These provisions are the legal basis for the inception of legal regulations based on religious norms.

⁹ Peter Mahmud Marzuki, *Penelitian Hukum*, Cet. 13, Edisi Revisi (Jakarta: Kencana Prenada Media Grup, 2017).

4.1. Law Number 8 of 1999 concerning Consumer Protection

The implementation of halal product guarantees has been around for a long time in Indonesia. The state through the government has passed laws and regulations as a basis for guaranteeing halal products. However, it has not been followed by specific provisions so that Consumer Protection Law remains a legal umbrella for protecting consumer rights in an integrated and comprehensive manner.

Consumer Protection Law is a rule that generally regulates consumer rights.¹⁰ Consumer rights are regulated in Article 4 of the Consumer Protection Law and are part of basic rights as stated by John F. Kennedy in his speech. The basic consumer rights are the right to safety; the right to be informed; the right to choose; the right to be heard.¹¹

In the context of legal protection for consumers, ensuring the availability of halal products will provide convenience and security for consumers. Therefore, consumers feel secure in determining purchase preferences. Consuming halal food as part of worship is obligatory to carry out. For non-Muslim consumers, halal products are a guarantee of product quality.¹²

Normatively, consumers' rights to consume halal products have not been specifically accommodated in Consumer Protection Law. Article 4 letter a stipulates that consumer rights are rights to comfort, security, and safety in consuming goods and/or services. Whereas letter (c) stipulates the right to correct, clear and honest information regarding the conditions and guarantees of goods and/or services. These provisions are general consumer rights. Therefore, the legal system for consumer protection needs to be revised to accommodate consumer rights for halal products to provide a sense of justice for consumers and entrepreneurs.

In Article 8 paragraph (1) letter h, the state requires entrepreneurs to produce goods following quality standards, including a halal label based on the order of the law. This

¹⁰ Ridwan Arifin et al., "Protecting the Consumer Rights in the Digital Economic Era: Future Challenges in Indonesia," *Jambura Law Review* 3 (April 30, 2021): 135–60, <https://doi.org/10.33756/jlr.v3i0.9635>.

¹¹ Ewoud Hondius, "The Innovative Nature of Consumer Law," *Journal of Consumer Policy* 35, no. 2 (June 1, 2012): 165–73, <https://doi.org/10.1007/s10603-012-9190-0>.

¹² Fauziah Sheikh Wibowoa, Mas Wahyu; Ahmada, "Non-Muslim Consumers' Halal Food Product Acceptance Model," *Procedia Economics and Finance Jurnal*, 2016, 277.

norm is the state's effort to protect consumers to avoid losses due to consuming products that do not comply with quality/halal standards. Thus, the Consumer Protection Law becomes one of the juridical foundations for business actors in implementing the Halal Product Guarantee Law's mandatory halal orders.

On the other hand, Consumer Protection Law has guaranteed the halalness of a product. However, producing new halal products becomes an obligation that is imperative after an entrepreneur obtains a halal certificate. In addition, this provision does not oblige entrepreneurs to apply for halal unless they have obtained a halal certificate. Thus, they are deemed not to have protected consumer rights. Therefore, Consumer Protection Law normatively is still partial in supporting the implementation of Halal Product Guarantee Law norms.

4.2. Law Number 33 of 2014 concerning the Guarantee of Halal Products

In 2014, the government passed Law no. 33 of 2014 concerning the Guarantee of Halal Products. The regulation is a rule that specifically regulates the implementation of halal product guarantees. Halal Product Guarantee Law is a government policy that supports the implementation of the Consumer Protection Law. Therefore, the ratification of the Halal Product Guarantee Law is the government's effort to guarantee legal protection for consumers of halal products.

Normatively, the ratification of the Halal Product Guarantee Law provides significant changes in the implementation of halal product guarantees. Halal Product Guarantee Law has changed the halal product guarantee system that was implemented previously, the first is the implementation of halal product guarantees was taken over by the state through the Ministry of Religion (BPJPH); the second is the application for halal certification has been transformed from voluntary to mandatory (mandatory); the third is, there is a change in the stages of halal certification; the fourth is, the validity period of the halal certificate; the fifth is, supervision of halal products; the sixth is sanctioning.

The reform of the halal product guarantee system is the government's political will in fulfilling the interests of consumers and business actors in ensuring the availability of halal products and increasing the selling value of products. Changes in the

implementation of halal guarantees are part of legal adaptation according to developments and community needs.¹³

In 2019, the government issued Government Regulation No. 31 of 2019 concerning Implementing Regulations for Law Number 33 of 2014 concerning Guarantees for Halal Products. PP/Government regulations are prepared as a rule for implementing the Halal Product Guarantee Law to guarantee legal certainty for consumers of halal products and to implement the provisions of Article 11, Article 16, Article 21 paragraph (3), Article 44 paragraph (3), Article 46 paragraph (3), Article 47 paragraph (4), Article 52, and Article 67 paragraph (3) Halal Product Guarantee Law.¹⁴ However, the stipulation of Government regulations is not following the Halal Product Guarantee Law's order that the Regulations implementing this Law must be stipulated no later than 2 (two) years from the enactment of this Law. It means that the stipulation of Government regulations on the Halal Product Guarantee Law should have been enacted in 2016, but it was realized in 2019.

In terms of legal compliance, the government does not comply with state orders through Halal Product Guarantee Law. Thus, it does not guarantee legal protection of consumer rights. The delay in establishing Government regulations on Halal Product Guarantee Law is a form of the government's failure to guarantee the protection of consumer rights. As a result, the implementation of the Halal Product Guarantee Law has not been optimal and resulted in legal uncertainty.

In addition, in the closing provisions of Article 67 (1), it is stipulated that the obligation to obtain halal certificates for products distributed and traded in the territory of Indonesia shall take effect 5 (five) years from the promulgation of this Law. This means that the state has determined the implementation of the mandatory halal certification on October 17, 2019. However, the Government Regulation of the Republic of Indonesia Number 31 of 2019 concerning Implementing Regulations for Law Number 33 of 2014 concerning Guarantees of Halal Products tolerates the existence of stages in the implementation of halal certification obligations. Meanwhile, Regulation of the

¹³ Satjipto Rahardjo, *Ilmu Hukum*, Cet. 8 (Bandung: Citra Aditya Bakti, 2014).

¹⁴ Preamble, Republic of Indonesia, "Law Number 33 of 2014 Concerning Halal Product Guarantees" (2014).

Minister of Religion Number 26 of 2019 stipulates that the mandatory halal is extended until 2024.¹⁵

Thus, the substance of Minister Regulation of Religion No. 26 of 2019 contradicts a higher regulation where the Halal Product Guarantee Law stipulates that mandatory halal starts on October 17, 2019, but was annulled in Minister Regulation of Religion No. 26 of 2019. This means that mandatory halal regulations are still partial and overlapping. Hence, the existence of regulations as new legal products sometimes does not accommodate the interests of society but instead creates new problems, because there is conflicting or overlapping norms.

4.3. Law Number 11 of 2020 concerning Job Creation

Halal Product Guarantee Law should be used as a legal instrument in the implementation of mandatory halal. However, in 2021, the government passed the Job Creation Law. This provision is a substance renewal of the Halal Product Guarantee Law to ensure the availability of halal products to fulfill consumer rights.

In total, 22 articles have changed norms, and 2 additional articles in the Job Creation Law as stipulated in Article 48 from number 1 to number 24 of the Omnibus Law. Article 48 of the Omnibus Law consists of 24 numbers that change the provisions of the Halal Product Guarantee Law, namely regarding the obligation of halal certificates, the process of applying for halal certification, the cost of halal certification, the validity period of halal certificates, Halal Product Assurance Organizing Agency/BPJPH cooperation, the establishment of Legal aid, community participation, and legal sanctions.

The Job Creation Law is a complementary regulation of the Halal Product Guarantee Law. The legal materials for the Job Creation Law are more in favor of the interests of business actors, including, first: the ease of applying for halal certification for business actors; second; exemption from halal certification application fees for Upper Middle Enterprises (low-risk); third, derivative rules on the Job Creation Law are regulated in

¹⁵ Ali Akhmad Noor Hidayat, "Pelaksanaan UU Jaminan Produk Halal Dinilai Serba Terburu-Buru," *Tempo*, October 18, 2019, <https://bisnis.tempo.co/read/1261354/pelaksanaan-uu-jaminan-produk-halal-dinilai-serba-terburu-buru>.

the PP as implementing regulations to avoid overlapping regulations and contesting norms.

With the ratification of the Job Creation Law, it is deemed necessary to stipulate a Government Regulation as implementing regulations. The government then issued Government Regulation No. 39 of 2021 concerning the Implementation of Halal Product Guarantees. The Government Regulation is a delegation of the Job Creation Law which aims to provide legal certainty and guarantee the halal products circulating in the community. In addition, Government Regulation is determined to implement the provisions of Article 48 and Article 185 letter b of the Job Creation Law. After the establishment of the Government Regulation of Job Creation, the Government Regulation of Halal Product Guarantee Law was revoked and declared invalid.

4.4. Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation

In decision No. 91/PUU-XVIII/2020, the Constitutional Court ruled that the Job Creation Law is contrary to the 1945 Constitution. Thus, it does not have binding legal force. The Constitutional Court mandates the legislators to make improvements over 2 years.¹⁶ If the legislators cannot complete the amendments to the Job Creation Law within 2 (two) years, then the law, articles, or the contents of the law are declared permanently unconstitutional.

Based on this decision, the Constitutional Court wanted an amendment to the Job Creation Law. Yet, the President issued Legislation No. 2 of 2022 concerning Job Creation to replace the Job Creation Law which was previously declared conditionally unconstitutional and legally flawed.¹⁷ However, Legislation still has binding power in society because Legislation has the same position or degree as amendments to the Law.¹⁸

¹⁶ Republic of Indonesia, Constitutional Court Decision Number 91/PUU-XVIII/2020 (Constitutional Court of the Republic of Indonesia 2020).

¹⁷ Siagian, "Omnibus Law Draft in the Perspective of Constitutionality and Legal Politics."

¹⁸ Emir Yanwardhana, "Simak Penjelasan Utuh Mahfud MD Soal Perpu Cipta Kerja Jokowi," CNBC Indonesia, accessed February 3, 2024, <https://www.cnbcindonesia.com/news/20230103135959-4-402408/simak-penjelasan-utuh-mahfud-md-soal-perpu-cipta-kerja-jokowi>.

Substantially, the implementation of halal product guarantees has changed the Legislation. Thus, it is considered a regulation that perfects the Halal Product Guarantee Law. The fundamental changes to the halal product guarantee after the Legislation enactment are:

The first is the establishment of the Halal Products Fatwa Committee. Before the inception of the Job Creation Legislation, the MUI as a representative of the clergy was given the authority by the state to issue fatwas on halal and haram. After the issuance of the Legislation, the state formed a Fatwa Committee consisting of MUI and Academics and was given the authority to issue halal-haram fatwas. Although the MUI is still part of the Halal Fatwa Commission, the presence of the Legislation reduces the MUI's authority as a representative of the clergy in issuing halal-haram fatwas.

The second is changes to the process and timeframe for establishing a halal fatwa through self-declaration. The process and timeframe for establishing halal fatwas continue to have changes, both regulated in the Job Creation Law and Legislation. Yet, changes in the Legislation are faster than before. Provisions regarding changes to the process and period are regulated in Article 33 paragraph 6, Article 33a, and Article 33b of the Job Creation Legislation.

The third is the validity period of the halal certificate. Article 42 paragraph 1 of the Job Creation Legislation stipulates that halal certificates are valid forever as long as there are no changes to materials and processes. Before the ratification of Halal Product Guarantee Law, halal certificates were valid for 2 years and changed to 4 years as stipulated in Article 42 of the Halal Product Guarantee Law. These changes will affect the halal status of products because the sophistication of food technology cannot be stopped, business actors continue to innovate to produce food that does not have clear halal-haram status.¹⁹

In Malaysia, halal certificates are issued by the Government (JAKIM) and are valid for 2 years. Entrepreneurs are required to submit product inspections when the

¹⁹ Imelda Fajriati, "Teknologi Pangan Hewani dalam Wacana Halal dan Haram," *Al-Qanun: Jurnal Pemikiran dan Pembaharuan Hukum Islam* 13, no. 2 (2010): 394-423, <https://doi.org/10.15642/alqanun.2010.13.2.394-423>.

certificates validity period expires.²⁰ Therefore, the government needs to limit the validity period of halal certificates, and must still be renewed to maintain the product to comply with the halal declaration.

Fourth, electronic-based services. Through Articles 52a and 52b of the Halal Product Guarantee Law, the State wants the service of implementing halal product guarantees based on electronics and integrated Halal Product Assurance Organizing Agency with Legal Aid, Halal Fatwa Committee, and MUI. An integrated electronic system provides convenience in communication and coordination. Thus, halal services are more effective and efficient.

Changes to halal product guarantees in the Legislation are the government's efforts to accelerate halal products for Small and Micro Enterprises (SMEs) Normatively, the presence of Legislation are the government's (Perppu) provides convenience for entrepreneurs obtain the halal label, aiming to promote the economic growth of the country. The mandatory implementation of halal certification begins on October 17, 2024. However, in practice, only around 10% of Small and Micro Enterprises in Indonesian have obtained halal certification. This data indicates that many SMEs in Indonesian are still not halal certified.²¹ There are quite a few problems faced by SMEs in applying for halal certification, causing legal uncertainty regarding consumers basic rights.

In comparison, Malaysia's strength in driving economic growth lies in its SMEs sector. Apart from setting halal standards, the Malaysian Government carries out massive assistance activities for SMEs, with the mission of becoming a global halal exporter. The mission of the Malaysian government has been successful, turning it into a hub for the halal industry and gaining global recognition.²²

²⁰ Mohd Aliff Abdul Madjid, "Issues of Halal Food Implementation in Malaysia," *Journal of Applied Environmental and Biological Sciences*, 2015.

²¹ Nur Faridah, "Menuju UMKM Syariah Indonesia 2024 Dengan Produk Halal," *Pusat Halal, Universitas Airlangga*, 2023.

²² NA Mahiah Said, Faridah Hassan, Rosida Musa, Rahman, "Assessing Consumers' Perception, Knowledge and Religiosity on Malaysia's Halal Food Products," *Social and Behavioral*, 2014.

5. The direction of Legal Implementation Development of Halal Product Guarantee

In the concept of religion, consuming halal food is God's commandment and an obligation for mankind. The obligation must be carried out as a manifestation of human devotion to God.

In the concept of the state, consuming halal food is a consumer right. The determination of rights is based on the will of the state based on religious orders that have been accommodated in Pancasila as a source of law. Therefore, the state is obliged to guarantee and protect consumer rights to the availability of halal products.

Thus, guaranteeing the availability of halal products is the state's obligation to fulfill consumer rights, such as the right to comfort, security, and safety in consuming goods and/or services. The obligation to protect consumer rights has been regulated in several laws and regulations based on constitutional mandates.

As previously stated, in 2014, the government passed Halal Product Guarantee Law which *lex specialis* regulates the implementation of halal product guarantees. Nevertheless, the establishment of the Halal Product Guarantee Law has sparked both support and opposition within the society. The Majority of the public is in favor due to the existing legal regulations before the enactment of the Halal Product Guarantee Law being partial, overlapping, and still general in nature. On the other hand, the opposing group holds a different understanding that tends to contradict the views of the pro halal group.

The differences have led to the challenging of the norms of the Halal Product Guarantee Law through a Judicial Review at the Constitutional Court by Paustinus Siburian, with legal standing based on two points. First, the constitutional rights granted by the 1945 Constitution of the Republic of Indonesia. Second, the mandate to require all products to be halal certified is considered to infringe upon constitutional rights. Entrepreneurs will incur losses because the cost of halal certification registration is relatively high and the inclusion of the "non halal" label on product will affect sales. Another loss is that consumers will have difficulty finding traditional foods and beverages with ingredients derived from pork. Therefore, the rules on halal product guarantee are considered a

concern for the interests of a specific religion, thus harming constitutional rights as it contradicts Article 28D of the 1945 Constitution. However, the Judges Assembly, in its decision Number 49/PUU-XVII/2019, rejected the petitioners request entirely because it was deemed a quo or legally unreasonable for narrowing the purpose of the enactment of the Halal Product Guarantee Law, which is to provide comfort, security, safety and certainty of the availability of halal products for the public to consumers and use.²³

Regarding that purpose, the enactment of the Halal Product Guarantee Law inherently protects the constitutional rights of the Muslim Community in worship. On the other hand, the community using halal products is not limited to Muslims alone.²⁴ Therefore, it is not possible to impose restrictions stating that the Halal Product Guarantee Law only applies to the Muslim Community. Such provisions do not hinder non-Muslims from obtaining goods or products containing non halal elements.²⁵

The ratification of Halal Product Guarantee Law is the government's concrete step in ensuring legal protection for consumers from the existence of legal uncertainty regarding the previous arrangement of guarantees for halal products. In addition, the halal policy will increase halal productivity and the competitiveness of Indonesian products in both the domestic and international markets.

The ratification of the Halal Product Guarantee Law has brought structural changes and the mechanism for implementing halal product guarantees. However, the legal substance of Halal Product Guarantee Law has not been able to guarantee legal certainty with the assumption that: first, Halal Product Guarantee Law does not have binding force because the mandatory halal provisions (Article 4) are not followed by legal sanctions; second, the implementation of mandatory halal is not following the time stipulated by law; third, the ratification of Regulation as Halal Product Guarantee Law implementing regulation is not following the time ordered by the law; fourth, several formulations in Halal Product Guarantee Law are multi-interpreted,

²³ Republic of Indonesia, Constitutional Court Decision Number 8/PUU-XVII/2019 (Constitutional Court of the Republic of Indonesia 2019).

²⁴ Wibowoa, Mas Wahyu; Ahmada, "Non-Muslim Consumers' Halal Food Product Acceptance Model."

²⁵ Republic of Indonesia, Constitutional Court Decision Number 8/PUU-XVII/2019.

overlapping which are not following the principles of laws and regulations, giving rise to interpretations in their implementation.

The implementation of the halal guarantee system mandated by the Halal Product Guarantee Law should have been effective in October 2019. However, many obstacles were faced by the government and entrepreneurs. It was postponed until October 2024. This timeframe was used by stakeholders in making preparations for mandatory halal.

Obstacles in implementing halal product guarantees can basically be caused by 3 elements, such as substance, structure, and culture. According to Lawrence Friedman, these three elements are factors that can result in changes to the law, namely legal structure, legal substance, and legal culture.²⁶

Halal Product Guarantee Law should be used as a legal instrument in the implementation of mandatory halal. Yet, the government is reforming the substance of the Halal Product Guarantee Law in an effort to ensure the availability of halal products in order to fulfill consumer rights regulated in Article 4 of the Consumer Protection Law.

Substantially, changes to the implementation of halal product guarantees in the Job Creation Law provide convenience for business actors. Therefore, the Job Creation Law protects the interests of business actors in implementing halal guarantees. The forms of the Job Creation Law's partiality towards entrepreneurs are: first, mandatory halal provisions for entrepreneurs are not followed by legal sanctions; second, the halal certification process is relatively short; third, exemption from the cost of applying for halal certification is through self-declaration; fourth, the halal certificate is valid for 4 years; fifth, the extension of halal certificate is without re-accreditation (unless there is a change in the halal system); fifth, reducing the authority of the MUI as a credible institution in the halal field. Taking into account the weaknesses of the Job Creation Law, in the omnibus law regime, the halal guarantee system will allow for deviations

²⁶ Achmad Ali, *Menguak Tabir Hukum: Suatu Kajian Filosofis Dan Sosiologis*, Cet. 2 (Jakarta: Toko Gunung Agung, 2002).

from the halal labeling which are not following the principles of legal protection for Muslim consumers.

The Job Creation Law is a government legal instrument in realizing Indonesia as a world halal producer. Thus, it is able to meet all the needs of the domestic market (reducing imports) as well as penetrate the international market (exports).²⁷ According to the Secretary General of the MUI, the government's mission is a necessity because Indonesia is a country with a majority population of Muslims.²⁸

In 2021, Migrant CARE, the West Sumatra Nagari Customary Density Coordinating Body, the Minangkabau Customary Court, and Muchtar Said applied for a formal review of the Job Creation Law. The Constitutional Court granted part of the requests and decided that the Job Creation Law was conditionally unconstitutional. Therefore, the government issued Legislation as a substitute for the Job Creation Law.

The Legislation has added and changed some of the norms for guaranteeing halal products that were previously regulated in the Job Creation Law. The Legislation is a legal basis for accelerating halal products in Indonesia in realizing the government's dream of becoming a world halal producer.

In realizing Indonesia is a world halal producer, the government takes strategic steps by providing strengthening and coaching to MSEs. MSEs dominate in Indonesia. They have an important role in improving the economy. Therefore, the government and stakeholders synergize with each other and are committed to continuing to support MSEs in accelerating halal products by providing easy access to halal certification registration, simplifying halal certification, and providing free halal certification services for MSEs, ongoing coaching in maintaining halal guarantees, providing supervisors lawful by the Central Government, and Regional Governments.²⁹ This support has been confirmed in the Job Creation Legislation.

²⁷ Ma'ruf Amin, "Statement" (Launch of Synergy to Accelerate the Development of Halal Industry MSMEs, Jakarta, 2021).

²⁸ Secretary General of the Indonesian Ulema Council, "Statement" (Launch of Synergy to Accelerate the Development of Halal Industry MSMEs, Jakarta, 2021).

²⁹ Mastuki, "Statement" (Launch of Synergy to Accelerate the Development of Halal Industry MSMEs, Jakarta, 2021).

Changes in the substance of halal product guarantees that ignore the protection of consumer rights emphasize that legal arrangements for the availability of halal products are influenced by the interests of political elites and capitalists. They resulted in inequality and hegemony in people's lives. In addition, in this regime, the government seeks to accelerate halal products by providing convenience for entrepreneurs, especially MSEs, including halal recognition through self-declaration and even halal certificates are valid for all time without the need for re-accreditation. If efforts to accelerate are carried out without being based on the principle of balancing interests, then these efforts indicate that the government prioritizes the country's economic interests over sharia in implementing halal guarantees.

From this description, economic needs are able to overcome the need for a sense of comfort and safety in consuming halal products.³⁰ Different ideological interests will damage religious interests so according to the author, the Job Creation Legislation has the potential to violate the constitution because it is not in line with divine values.

Therefore, state policy in implementing mandatory halal is the government's effort to improve the country's economy. It must be admitted that the state is responsible for ensuring the greatest happiness (welfare) for the people's welfare by increasing the economy as stated in the fourth paragraph of the Preamble of the 1945 Constitution. However, in principle, the concept of welfare is not solely for economic improvement (material welfare), but how the state guarantees social justice by fulfilling basic human rights based on the rule of law concept.

The authors think that increased economic growth is a dynamic of legal politics that influences changes in the halal system, and regulation of halal product guarantees. According to Yopi Gunawan, the purpose of law can be achieved by developing law as long as it reflects the character of Pancasila as the nation's way of life. However, legal

³⁰ Muhammad Rusydi Anta, "Dinamika Hukum dan Ekonomi dalam Realitas Sosial di Indonesia (Studi Kritis Terhadap Kebijakan Hukum-Ekonomi Di Indonesia)," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 6, no. 3 (December 18, 2017): 309, <https://doi.org/10.33331/rechtsvinding.v6i3.193>.

development has only been interpreted as an effort to reform the law by replacing the old law without making changes that are in line with values.³¹

Implementation of halal product guarantees that prioritize improving the country's economy, ignoring the interests of *syar'i*, and the interests of the ummah will lead the state to apply the concept of a rule of law with capitalist characteristics. According to Firman, the ideology of capitalism is not desired by the Constitution of the Republic of Indonesia because capitalist understanding refers to an individualistic understanding with individual principles. Thus, it conflicts with the principle of equality and the principle of kinship which has long grown and lived in society.³² In addition, the economic system in the constitution requires the existence of equal rights based on the principle of kinship, not a capitalist economy based on individualism.

The rejection of capitalism is a consequence of the rule of law concept which places the 1945 Constitution of the Republic of Indonesia as the highest (*grundnorm*) law to protect the basic rights of consumers, not capitalists. According to Rousseau, people's expectations should be voiced in law (law) as a guarantee of legal certainty. Thus, if the application of the law is not following the general will, then the provision does not have binding force, absolutely because it is contrary to the spirit of the people

6. Conclusion

The regulation formation on halal product guarantees is the state's endeavor in maintaining halal products in society. However, the state made regulatory changes in support of the government's program to accelerate halal products due to the demands of the global economy. Normatively, these rules tend to protect the interests of business actors by providing all facilities in obtaining halal certificates which are considered to affect halal substances, First; submission of the halal certificate through self-declaration; Second, the timing of the halal certification process is disproportionate; Third, there is no time limit for the validity period of the halal certificate; Fourth, re-accreditation is carried out when there are changes in materials

³¹ Yopi Gunawan and Kristian, *Perkembangan Konsep Negara Hukum Dan Negara Hukum Pancasila*, Cetakan kesatu (Bandung: Refika Aditama, 2015).

³² Firman Turmantara Endipradja, *Hukum Perlindungan Konsumen: Filosofi Perlindungan Konsumen Dalam Perspektif Politik Hukum Negara Kesejahteraan* (Malang, Jatim: Setara Press, 2016).

and processes. As a result, current regulations do not guarantee legal protection for consumers because they are not following the principle of balance of rights. Therefore, changes to regulations for guaranteeing halal products after the ratification of the Halal Product Guarantee Law were dominated by issues of economic interest.

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