

Food Buying and Selling without Halal Labels: Case Review in BPJPH of South Sumatera

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Abstract

This study has conducted a small survey at the mini market in Palembang. There are so many foods in circulation that do not yet have a halal label and there are also foods that are labelled halal but contain many dangerous ingredients. This case should be questioned to the Halal Product Guarantee Agency known as BPJPH so that the aim of this study is to examine the legality of purchasing and selling non-halal food products and demonstrate it under the perspective of Sharia Economic Law. In this study, field research was used, using data through interviews with related parties and collecting documentation, then the data was built and analysed using qualitative research methods. The finding of the study discloses that the opinion of the Halal Product Guarantee Agency of the Ministry Religious Affairs in South Sumatera, still allows food that has not been halal-labelled to be sold. Products that do not yet have a halal certificate are not immediately punished but are still given the opportunity to take care of halal certification until 17 October 2024 and have been regulated in Article 33 of the Law of the Republic of Indonesia No. 33 of 2014. The Halal Product Guarantee policy is needed by the community. Therefore, the government continues to strive to accelerate Halal Certification, especially MSME perpetrators. Also, this certification aims to benefit the community so that they consume food and drinks that have legal certainty.

Keywords: Buying, Selling, Food, Halal, Sharia Economic Law

INTRODUCTION

Nowadays, food products both raw and ready-to-eat are widely available on the market. The distribution of these products requires strong control from the government and related parties to ensure that food products circulating on the market meet standards and are suitable for consumption. This control functions to provide protection to consumers regarding the products they consume and also encourage producers to distribute food in accordance with applicable standards. In the Indonesian context, food protection is a standard that needs to be met.

In Islamic, all Muslims are required to always consume halal food, because all food that enters our bodies becomes ingrained in our flesh and becomes a very important source of energy for our bodies. However, now there are many culinary and culinary tourism spots where the raw materials, auxiliary materials, additional ingredients and processing are sometimes unclear (Zulham, 2018). Consuming haram products, whether in the form of food (food and drinks), medicines and cosmetics, is something that must be avoided. Avoid it by every Muslim, because consuming haram products will not only be physically dangerous for the person concerned but will also have economic consequences. Therefore, Muslim communities must be more careful in choosing food and avoid food that does not have a halal label (Fartini, 2019).

One of the problems that Muslims often face is that there are too many and varied food and drink products in circulation. Muslims are required to consume products whose halal and purity are guaranteed. Consuming everything that is halal, holy and good is a religious command and legally obligatory. To help and make it easier for Muslims in choosing food products, people can look at the halal label on the product packaging. The label is a part of a product that contains product information in the packaging. On the label, consumers can find information about the name of the product, the ingredients used, the name and address of the manufacturer, the product's expiry date, and information about halal products (Agustina et al., 2019). In accordance with the content, consuming halal products is the right of every individual as a citizen guaranteed by the 1945 Constitution, and consuming halal food is an obligation for every Muslim. If a product does not carry a halal label, it may have fatal consequences for those who produce it. The requirement to include halal information on a product is contained in Law Number 33 of 2014 concerning Halal Product Guarantees (known as UU JPH). This law clearly regulates that every product that enters, circulates and is traded in Indonesian territory must be halal certified.

Concerns arise for Muslim consumers who may unknowingly consume food lacking Halal labels and potentially containing non-Halal ingredients. Given this background, the author aims to delve deeper into the analysis of halal product regulations. These regulations, as outlined in various legislative documents including Law Number 33 of 2014 regarding Halal Product Guarantees, Law Number 11 of 2020 regarding Job Creation, and most recently Government Regulation (PP) Number 39 of 2021 concerning the Implementation of the Halal Product Guarantee Sector, play a pivotal role. Particular interest is the collaboration between BPJPH and the Indonesian Ulema Council (hereinafter abbreviated as MUI) in determining the halal status of products. This collaboration involves BPJPH making decisions regarding halal certification based on the guidance provided by MUI (Hartati, 2019). Through this regulatory mandate, products entering, circulating and being traded in Indonesian territory must be certified halal.

Amidst the highly competitive market landscape in Indonesia, which is known for its fierce competition, micro and middle-class entrepreneurs (MSMEs) face significant challenges. This is particularly true given the intense competition not only from domestic counterparts but also from foreign products. In order to thrive in this competitive environment, MSME players must not solely rely on market dynamics but also prioritize the quality of their products, ensuring they are certified as Halal. Halal certification is integral for business sustainability, and therefore, it should be made mandatory for all entrepreneurs. Indonesia is a country that has a majority Muslim population (Faizal & Saly, 2022). This reality is certainly an advantage for this nation and country to become a major player in halal products, especially for MSMEs. Moreover, currently halal has become a trending topic not only in Indonesia but also in the world. Halal is a golden bridge to support

economic, trade and industrial development (Abdulrahman & Abbas, 2023). Therefore, with halal certification, halal products grow and strengthen national, regional and international market share (Abbas et al., 2023). This means that global consumption of halal products is increasing. Where the indicators of halal products are in the form of halal certificates and also halal labels which are approved in international trade. This means that Indonesia has the opportunity to take part not only in fulfilling halal products in the domestic market, but also in global trade. Thus, the global halal product market is considered attractive for Indonesia. For this reason, the Indonesian government, through the BPJPH, must take responsibility for the Halal Product Guarantee (Angriyani, 2020). This means that the market potential and halal guarantee have been protected and of course these regulations must be adhered to not only for domestic products, but also for foreign products.

Some previous studies only investigate the implementation of halal certification amidst of society (Disemadi, 2024; Bintoro & Muthoifin, 2024; Effasa & Rochmayanti, 2024; Lestari & Kamariyanti, 2024; Nafis et al., 2024; Sholikhah, 2024). However, numerous food items are circulating without halal labels, and some products labeled as halal may contain harmful ingredients. To investigate this, this study already conducted a survey at nearby Mini Markets such as Alfamart, focusing on products like Adem Sari Ching Ku, Pringles Sour Cream & Onion, and Pempek Palembang in Kampung 26 Ilir Palembang. These items lack halal certification from BPJPH but are still traded and consumed. This poses concerns for consumers, particularly Muslim consumers, who may inadvertently consume non-Halal ingredients. Therefore, this study aims to examine the sale and purchase of food without Halal labeling, addressing the following aims 1) to demystify the opinion of the BPJPH of the Ministry of Religious Affairs in South Sumatera Province regarding the buying and selling of food without Halal labeling; 2) to reveal the Sharia Economic Law perspective on buying and selling food without Halal labeling.

METHOD

This study adopts a field research, utilizing data obtained through interviews with relevant stakeholders and collecting documentation. Qualitative research methods are employed to analyze the BPJPH's stance on food without Halal labeling and to describe its compliance with Islamic law. The BPJPH comprises 10 heads and staff members. The informants for this study include three key individuals: The Head, Deputy Head, and a Staff member. These individuals are pivotal as they are directly involved in providing the Halal Product Guarantee. Given the significance of their roles, selecting an appropriate research location to collect accurate data is crucial.

This study employs a qualitative approach, characterized by its continuous nature, where both data analysis and collection occur simultaneously throughout the research process (Sugiyono, 2018). The collected data is then meticulously processed through categorization or classification, based on several predefined themes aligned with the research focus. Subsequently, the data undergoes thorough analysis to derive meaningful conclusions. Given its nature, the research methodology employed herein is descriptive analytical. This involves creating a descriptive portrayal of the relationship between the investigated phenomenon, its attributes, and factual observations.

RESULTS AND DISCUSSION

Viewpoint of BPJPH Concerning Halal Certification

The demand for halal products among Muslims necessitates assurance. Yet, in Indonesia, not all products in circulation carry halal guarantees. This shortfall adversely affects Muslim consumers. Abstaining from haram and consuming only halal items is integral to Muslim worship and reflects their obedience to religious principles. Every Muslim really wants inner peace and security when using medicines, cosmetics and food

products (Ayunda & Kusuma, 2021). The presence of halal food product guarantees serves as an assurance that the company selling food or beverages maintains transparency and safety in both quantity and quality of the products consumed. The primary objective of ensuring halal products is to provide individuals with confidence, safety, security, and peace of mind when using and consuming food items. This assurance is typically documented through a certificate, indicating that the product's raw materials and processing adhere to Islamic law criteria, hence obtaining halal certification. The Republic of Indonesia's Law Number 33 of 2014 concerning Halal Product Guarantees defines these guarantees as legal confirmation regarding a product's halal status, substantiated by halal certification. Halal products, by definition, comply with Islamic law. The process of ensuring halal products encompasses various activities, including product presentation, sales, distribution, packaging, storage, processing, and supply of materials, collectively referred to as the Halal Product Process (PPH).

The process for obtaining halal certification involves several mechanisms that business entities can utilize. This process, facilitated by BPJPH, closely resembles that of MUI, consisting of five main stages:

- 1) Submission of required documents and registration.
- 2) Examination of the submitted requirements by BPJPH.
- 3) Product inspection and audit.
- 4) Provision of examination results to MUI for the issuance of a fatwa.
- 5) Issuance of a halal certificate upon successful completion of the audit.

Certification is not immediately mandated by law. Instead, businesses will receive guidance and socialization regarding the certification process, along with the opportunity to register their products for halal certification. Consequently, certification will be gradually implemented over a five-year period.

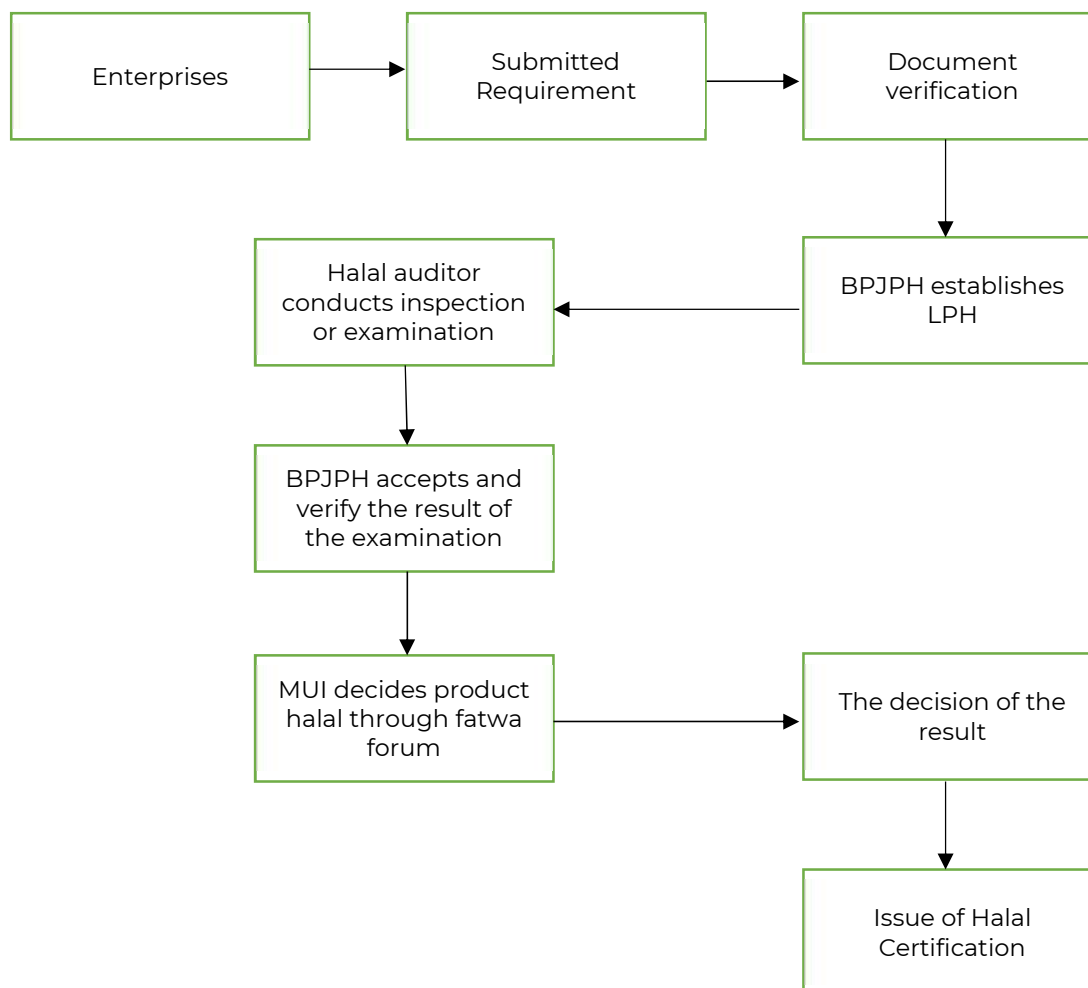


Figure 1. Halal Certification Scheme

Several changes have occurred concerning the institutions involved in certification, including:

- 1) BPJPH and MUI collaborate in issuing certification for halal auditors and accrediting LPHs.
- 2) While MUI continues to provide fatwas, its authority in the halal certification process is limited.
- 3) The entity responsible for auditing or inspecting halal products is the Halal Inspection institution. LPPOM MUI is a part of the LPH alongside other LPHs established by both the community and the government.
- 4) The primary institution with authority in the certification process is the Halal Product Guarantee Organizing Agency (BPJPH).

In 2017, the government established BPJPH with the mandate to issue halal certification for products, a responsibility previously held by MUI. According to Law 33 of 2014, halal certification is compulsory for all food products. Any violation or absence of certification incurs administrative sanctions post-transition period after 2024, and certificates may be revoked. Halal certification ensures product certainty (Charity, 2017). Implementation of the halal certification obligation, based on the JPH Law, commenced on October 17, 2019, with a phased approach. Initially focusing on food and beverages, it will extend to medical devices, medications, and cosmetics. Over the five-year transition, BPJPH will emphasize guidance and outreach to business actors, who have until October 17, 2024, to obtain certification (Hosen et al., 2022).

Table 2. Differences in the JPH Law

| Before the JPH Law | After the JPH Law |
|--|---|
| The nature of certification is voluntary | The nature of the certification is mandatory |
| MUI is the main institution that has authority in the halal certification process | BPJPH is the main institution that has authority in the halal certification process |
| Certification is carried out by governmental or non-governmental organizations | Certification is carried out by institutions under the Ministry of Religious Affairs |
| LPPOM MUI is the institution that audits or checks halal products | The halal inspection institution (LPH) is the institution that audits or inspects halal products |
| The certificate is valid for 2 years and does not yet have strong legal legitimacy | The certificate is valid for 5 years, has a strong guarantee of legal certainty. There are sanctions, both criminal and fines, for those who do not maintain the halal status of products that have been certified as halal |
| Halal auditors can come from educational backgrounds that are less suited to the audit field | Auditors must come from an appropriate scientific background, namely biology, pharmacy, food, biochemistry, industrial engineering and chemistry. |
| Short certification flow: Business perpetrators → LPPOM → MUI → MUI | Longer certification flow: business perpetrators → BPJPH → LPH → BPJPH → MUI |

Source: Authors' Summary

Efficient use of this transition period is crucial to accelerate halal certification for all products. Outreach, particularly to small and medium enterprises (MSMEs), is essential. Government support is needed to assist businesses in certification registration and enhance certification process infrastructure. Transparent certification details, with proportional tariffs that don't burden micro-businesses, are necessary.

Enforcing halal guarantees on traded products requires collaboration among the government, businesses, and the community. This ensures compliance and fulfills the

government's obligation to provide halal-certified products. It enhances consumer confidence, boosts production and sales, enhances competitiveness, and broadens market reach. Additionally, Muslim consumers gain reassurance in purchasing and consuming products labeled halal. The table 2 explains the differences in certification before and after the issuance of the JPH Law.

The government is accelerating Halal Certification for MSME players and this program is free for MSME players, called the SEHATI Program. This program is to facilitate the community, especially MSME players, to obtain Halal Certification for MSME products. Business undertakers must make the best use of this transition period so that they can obtain Halal certification in every socialization, especially for SMEs. Apart from that, they must also be accompanied to help business actors register their products to get a certificate. And the hope is that the certification rates will be as soon as possible with clear details, so that it will not be a burden for micro business actors. In accordance with some of the explanations above, the conclusion that the author has reached is that one of the obligations for Muslims is to consume Halal food. This is not only aimed at avoiding haram and good health, but it has also made us follow what Allah Swt has commanded not to consume haram food according to the Sharia. Food that is not labeled Halal may be consumed, if there is no harm or harm caused.

Business sectors must be responsible in producing drinks or food that will be sold primarily to Muslims because the majority of Indonesian people are Muslim (Syafriada, 2020). The hope is that the manufacturing stage and materials used must be based on Islamic law and not contradict Allah's provisions in the Koran. Meanwhile, products owned by enterprises who do not yet have a halal label must immediately register with the authorized institution to obtain halal certification in accordance with existing procedures in order to obtain Halal certification. It concludes that the opinion of the Halal Product Guarantee Organizing Agency of the Ministry of Religious Affairs of South Sumatera Province regarding the sale and purchase of food that has not been labeled halal, still allows food that has not been labeled halal to be sold, distributed and will not be disputed among the public until October 2024.

Analysis of Sharia Economic Law

Under the sharia economic law, transactions are guided by principles such as divinity, trust, benefit, justice, worship and freedom. Divinity (*ilahiyah*) means that economic legal activities must be based on divine values. All economic activities including capital, production processes, consumption, distribution, marketing and so on must always be bound by divine provisions and values and must be in harmony with the goals set by Allah SWT. This principle reflects that sharia economic law is a legal rule that integrates divine values in all human economic activities carried out by both men and women. This is a manifestation of perfect Islamic teachings and complements all aspects of human life including economic activity (*syumul*), therefore the Halal Product Guarantee policy is in accordance with divine values which aims to guarantee that all products in circulation are Halal for consumption or use.

Trust means that All economic activities must be carried out on the basis of mutual trust, honesty and responsibility. The world and its contents are a trust from Allah SWT to humans. Humans are the caliphs of Allah Swt on earth who are tasked with managing and prospering it in accordance with the mandate of their absolute owner, namely Allah SWT, all forms of muamalah must be trustworthy, especially regarding this Halal Product Guarantee, must be trustworthy in using materials that are clearly halal. As for benefits, various economic activities must be able to be felt by the community and have no detrimental impact on the community. All economic activities must be something that has a positive impact on society and the surrounding environment and is able to maintain a balance for the good of future generations. For now, I think the policy already has benefits because businessmen are given until 2024 to obtain Halal Certification for business actors, especially MSME perpetrators are free of charge.

Justice is something that brings a person closer to piety. The rights and obligations of the parties in various economic activities must be fulfilled fairly without any party being exploited, wronged or harmed. In my opinion, the Free Halal Certification Program is fair

for MSME business actors who are greatly helped by this free program (Syafriada & Hartati, 2020). Worship, namely the principle of various economic activities falls into the category of muamalah whose basic law is mubah (permissible). This is in accordance with the rules of *ushul fiqh al-ashlu fi al-muamalah al-ibahah ila ma dalla 'ala tamrihi* (the original law in muamalah is permissible until there is an argument that prohibits it). As long as the forms, types and creativity carried out and developed in the economic sector are in line with sharia principles and rules, then all forms of economics are permissible.

Freedom of transaction is free to determine the object, method, time and place of their transactions in the economic sector as long as they are carried out in line with sharia principles and rules (Sidiq et al., 2017). This freedom of transaction is in line with the Hadith of the Messenger of Allah, Muslims depend on their requirements, except for the requirements that make lawful what is haram and forbid what is halal. This means that everyone is given the freedom to transact "anything" in "any way" as long as it is done on things that are permissible. After that, in Q.S An-Nisaa' (4): 29

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوا
أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

“O you who have believed, do not consume one another's wealth unjustly but only [in lawful] business by mutual consent. And do not kill yourselves [or one another]. Indeed, Allah is to you ever Merciful.”

CONCLUSION

The sale and circulation of food items without halal labeling is still permitted until October 2024, without facing immediate repercussions. However, these products are given the opportunity to obtain halal certification by October 17, 2024, as stipulated in Article 33 of the Republic of Indonesia Law Number 33 of 2014. A review of Islamic economic law regarding the trading of unlabeled halal food states that the halal product guarantee policy is essential for the community, prompting the government to expedite halal certification procedures, particularly for micro, small, and medium-sized enterprise (MSME) players. This policy aims to ensure that the community consumes food and beverages with legal certainty, aligning with Sharia Economic Law.

Business entities engaged in buying and selling transactions, particularly involving food products, are advised to promptly register their businesses with the relevant Halal Product Guarantee Agency in their cities to avoid any allegations of impropriety. This study's findings also underscore the importance for consumers nationwide to exercise vigilance when selecting food products.

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