

THE EFFECTIVENESS OF GUIDANCE AND SUPERVISION OVER HALAL FOOD PRODUCT BASED ON THE QANUN ACEH NUMBER 8 OF 2016 CONCERNING HALAL PRODUCT GUARANTEE SYSTEM

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Abstract

Qanun Number 8 of 2016 regulates the Halal Product Guarantee System, but there are still many business actors in Banda Aceh who do not have halal certificate for the food they sell. This journal aims to further examine the protection for Muslim consumers regarding food products or places of business that do not have a halal certificate and logo given by LPPOM Aceh and to find out the effectiveness of LPPOM MPU Aceh in providing guidance and supervision over food products distributed in Aceh. The method and type of writing is empirical-legal by conducting interviews with the Aceh MPU LPPOM. This writing approach is known as an empirical socio-legal study. Based on the research results, the legal protection for Muslim consumers regarding food products or places of business that do not have a halal certificate and logo is regulated in the Qanun SJPH. The inclusion of the halal logo is mandatory. However, there are business actors who still have not applied to obtain halal certification. This happened because LPPOM experienced obstacles in terms of guidance and supervision over halal food sold in Aceh and the absence of regulations concerning the Qanun SJPH implementation.

Qanun Nomor 8 Tahun 2016 bertuliskan tentang Sistem jaminan Produk Halal, namun masih banyak pelaku usaha makanan di Banda Aceh yang tidak melakukan sertifikasi makanan halal terhadap makanan yang dijual. Tujuan penulisan jurnal ini adalah untuk mengkaji lebih lanjut terhadap perlindungan konsumen muslim pada produk atau tempat usaha makanan yang tidak memiliki sertifikat dan logo

halal LPPOM Aceh efektivitas LPPOM MPU Aceh dalam melakukan pembinaan dan pengawasan terhadap produk makanan yang beredar di Aceh. Metode dan jenis penulisan ini bersifat yuridis empiris dengan melakukan wawancara kepada pihak LPPOM MPU Aceh. Pendekatan penulisan ini disebut dengan penelitian empirik dan hukum sosiologis. Berdasarkan hasil penelitian Perlindungan hukum konsumen muslim terhadap produk atau tempat usaha makanan yang tidak memiliki sertifikat dan logo halal di atur dalam Qanun SJPH. Pencantuman logo halal bersifat wajib. Namun kenyataannya masih ditemukan pelaku.usaha yang belum melakukan sertifikasi.halal. Hal tersebut terjadi karena LPPOMI mengalami hambatan dalam hal pembinaan dan pengawasan. terhadap makanan halal. yang beredar di Aceh dan tidak adanya peraturan pelaksana Qanun SJPH.

Keywords: effectiveness, guidance, halal products or eating places, supervision

Introduction

The memorandum of understanding between Indonesian government and the Free Aceh Movement, known as GAM, on August 15 in 2005 highlighted the agreement to end the conflict between both parties peaceably. After the appeasement has been held, the situation in Aceh has become more peaceful and conducive during the regional autonomy implementation. The Aceh Government Law Number 11 of 2006 has become the basis for implementing each regulation concerning regional autonomy in Aceh, including the special regulation about the custom institutions.¹

Before the Aceh Government Law Number 11 of 2006 is determined, Aceh has been granted the regional autonomy by the Indonesian government through Law Number 44 of 1999 concerning the privileges of Aceh. It refers to the privilege or specificity given to Aceh in terms of education, custom, and religion. Through this regulation, the Indonesian government grants the government of Aceh the freedom to develop its creativity and to make Aceh region better since it has many potentials and abilities. The privilege of Aceh is then reasserted by defining the Law that regulates the Special Autonomy for the Province of Aceh Special Region as the Nanggroe Aceh Darussalam (NAD) Province Number 18 of 2001.²

The implementation of Islamic law in Aceh has been legally regulated in Law Number 44 of 1999 concerning the implementation of privilege of Aceh Special Province and Law Number 11 of 2006 concerning the Aceh government. The enactment of this privilege or specificity is set by the Law Number 44 of 1999 that comprises the implementation of religious life, custom, education, and the role of the

1 Leena Avonius & Sehat Ihsan Shadiqin, *Adat dalam Dinamika Politik Aceh* (Aceh: ICAIOS, Universitas Syiah Kuala, 2010), 3.

2 Leena Avonius & Sehat Ihsan Shadiqin, *Adat dalam Dinamika Politik Aceh*, 13.

ulema or Islamic scholars in determining the regional policy.³ The implementation of religious life through the comprehensive (*khaffah*)⁴ enactment of Islamic law indicates that the prevailing regulations in Aceh are all set based on Islamic law. In implementing Islamic law, the government of Aceh defines *Qanun Aceh* Number 8 of 2014 concerning the essentials of Islamic law. Based on Article 23 of *Qanun*, the government of Aceh holds the obligation to manage the implementation of Halal Guarantee System on the food produced and sold in Aceh.

The form of responsibility of the Aceh government in providing protection for Muslim consumers in Aceh can be seen from the provision of *Qanun Aceh* concerning the *Halal* Product Guarantee System Number 8 of 2016 (SJPH).⁵ This *Qanun* is the legal foundation of *halal* guarantee aiming to give the legal protection for Muslim consumers in Aceh. The 1945 State Constitution of the Republic of Indonesia (UUD 1945) regulates the mandate given to the state to guarantee the protection for the food the people consumed. Besides, Article 3 of the Consumer Protection Law states that consumers possess the right to get the protection regarding the food they consume and information about the food products' condition clearly, correctly, and honestly.⁶

The doctrine about the *halal* food ought to be informed to the business actors and Indonesian society. One of the efforts to implement the doctrine is providing the legal certainty through the regulation that regulates the *Halal* Product Guarantee. The *Halal* Product Guarantee Law Number 33 of 2014 (UUJPH) becomes the legal foundation for *halal* food in Indonesia. This legal foundation is essential since the legal certainty of *halal* food for Muslim consumers has not previously been established, and the distribution of food that are sold in the market is hard to control, which is caused by the development of food technology, engineering technology, as well as biological and chemical process.⁷ Lahirnya UUJPH semakin mempertegas betapa mendesaknya permasalahan mengenai pentingnya sertifikasi halal pada makanan. hadirnya UUJPH juga memberikan kepastian hukum bagi pelaku usaha mengenai tata cara bagaimana mengolah, memproduksi, memasarkan, dan memproses makanan kepada konsumen muslim.

3 Leena Avonius & Sehat Ihsan Shadiqin, *Adat dalam Dinamika Politik Aceh*, 13.

4 Syahrizal Abas, *Analisis terhadap Qanun Hukum Jinayah dan Qanun Hukum Acara Jinayah* (Banda Aceh, Dinas Syariah Islam Aceh, 2015), 32.

5 Akyunul Jannah, *Gelatin Tinjauan Kebalalan dan Alternatif Produksi* (Yogyakarta: Sukses offset, 2008), 263.

6 Zulham, *Hukum Perlindungan Konsumen* (Jakarta: Prenada Media, 2016), 71.

7 Fatimah Nur, Jaminan Produk Halal di Indonesia terhadap Konsumen Muslim, *Jurnal Likuid* Vol. I No. 01, July 2020, 47.

Using the Law Number 33 of 2014 concerning the *Halal* Product Guarantee (UUJPH), BPJPH or the *Halal* Product Certification Agency cooperates with the *Halal* Audit Agency (LPH) and Indonesian *Ulema* Council (MUI). Article 29 of UUJPH regulates the process to obtain the *halal* certificate. The application is submitted by the business actors to BPJPH, and data documents must be attached as what have been determined by UUJPH. Meanwhile, BPJPH has assigned LPH to inspect the *halal* products since it has the authority to do the job. The inspection is conducted by the auditor right on the places of business where the food is processed. After the inspection process has been completed, LPH sends the result to BPJPH. Next, BPJPH hands it to MUI to obtain the *halal* certificate through the *fatwa* (legal opinion on a matter of Islamic law) council attended by the *ulemas* and experts. After the decree on the *halal* certification has been signed by MUI, it is then delivered to BPJPH so that they can issue the *halal* certificate. The micro business actors are given the ease to do this procedure by receiving the help from the State Budget and Regional Budget as what has been regulated in UUJPH.⁸ Besides, Article 4 of UUJPH also controls the distribution of food that are sold in Indonesia, and implements the requirement for all food to apply for *halal* certifications.⁹

Meanwhile, the majority of people living in Aceh embrace Islam along with the density of the religious ritual. Religion has become inseparable from the daily life of the people in Aceh. For them, the implementation of Islamic law in Aceh is in accordance with the life values that have been applied.¹⁰ In reference to the guarantee of food consumed by Aceh people, Article 5 of *Qanun* SJPB mentions that the Aceh government possesses the right to do the SJPB supervision and management. Article 6 of *Qanun* SJPB states that the management carried out by the Aceh government is a form of supervision, and the *halal* certification of food product needs this management. The management of *halal* food is made starting from the staple supplies selection up to the activity of selling food labelled with *halal* certificate and logo. Regarding this matter, the Aceh government has commanded the business actors in Aceh to separate the *halal* and non-*halal* food. The *halal* food management and supervision are performed by the Assessment Institute for Foods, Drugs and Cosmetics (LPPOM) of the Aceh's *Ulema* Council

8 Ma'ruf Amin, *Fatwa Produk Halal Melindungi dan Menentramkan* (Jakarta: Pustaka Jurnal Halal, 2010), 79.

9 Aal Lukman Hakim, Dissecting The Contents of Law of Indonesia on Halal Product Assurance, *Indonesia Law Review*, Vol. 5. (2015), 89.

10 Rahmat Saleh dan Nur Anisah, Pariwisata Halal di Aceh: Gagasan dan Realitas di Lapangan, *Sabaja: Journal of Islamic Communication*, Vol. 1 No. 2 (2019): 87.

(MPU) as the institution that has the authority in implementing the *halal* food certification.

LPPOM MPU Aceh is authorized to protect the *halal* food product from the dangerous material or food ingredients that did not meet the requirements defined by the Islamic law. Article 12 of *Qanun SJPH* states that the jobs of LPPOM are labelling and supervising the products' *halalness*. The main jobs and functions of LPPOM are inspecting and studying the products that will be certified based on the science perspective.¹¹ The duties of LPPOM are mentioned in Article 12 of *Qanun SJPH* in detail. Those comprise the implementation of registration stages, *halal* certification, and the issuance of *halal* logo for the products or eating places that have been certified. Moreover, the training, information delivery, and technical guidance to the consumers and business actors in terms of distributing *halal* products. Additionally, LPPOM also manages the computer-based information technology that provides information concerning *halal* food products precisely and easily¹²

Related to *Halal* Product Guarantee, a study discussing *Qanun SJPH* of MPU Aceh has previously been conducted. However, only a few studies discussing the effectiveness and legal protection for *halal* products for consumers were found.¹³ A study entitled an Analysis on the Obstacles Found in Consumer Protection Performed by the MPU Aceh on the Products' *Halal* Label Certification once focused on the factors causing the distribution of a Samyang noodle product that contains *haram* or forbidden substances. Moreover, it also tries to discover the core problem of the responsibilities of LPPOM MPU Aceh, which has the role as the Aceh government's official institution.

Based on the study carried out by the Aceh's *Ulema* Council (MUA), there are many products or restaurants that haven't been certified. In fact, the *halal* food products in Aceh are absolute, which means that the *halalness* of all materials used in the process of producing *halal* food must be certain. The *Halal* Guarantee System does not count the food with a low risk status into account. Whereas, Article 34 of *Qanun SJPH* requires all business actors to apply for the

11 KN. Sofyan Hasan, Kepastian Hukum Sertifikasi dan labelisasi Halal Produk Pangan, *Jurnal Dinamika Hukum*, Vol.1 No. 2 (2014), 228.

12 Sailendra Wangsa, Sri Walni Rahayu, M.Jafar, Analisis terhadap Kendala Perlindungan Konsumen oleh Majelis Permusyawaratan Ulama Aceh terhadap Sertifikasi Halal Produk, *Jurnal Magister Hukum Udayana*, Vol.8 No.4: (2019), 483.

13 Sailendra Wangsa, Sri Walni Rahayu, M.Jafar, Analisis terhadap Kendala Perlindungan Konsumen oleh Majelis Permusyawaratan Ulama Aceh terhadap Sertifikasi Halal Produk, 485.

halal certification for *halal* food that have not been certified.¹⁴ The absence of *halal* certification, which should be applied on food products, is a great concern for Aceh's people, who are Muslims in majority, and the business actors since it is considered as the unsupportive element for *Qanun* SJPH. This article further studies the protection for Muslim consumers regarding the products or eating places that have no *halal* certificate. In addition, it analyzes the effectiveness of LPPOM MPU Aceh in carrying out the guidance and supervision over food products distributed in Aceh.

Research Methods

This article is an empirical-legal study in which law acts as the humans' signs and the social institution or a pattern of attitude. The approach of this study is known as an empirical and socio-legal study.¹⁵ The secondary data used in this article are obtained through a library research, which involves books and articles about *Halal* Certificate in Positive Law, consumer protection theory, and legal effectiveness theory. The primary data are obtained from the field research through the interview conducted with the LPPOM MUA Aceh, which are then analyzed using a qualitative approach.

Muslim Consumers Protection Regarding the Halal Guarantee of Food Products Based on Qanun Aceh Number 8 of 2016 Concerning Halal Product Guarantee System

The majority of Aceh people embrace Islam along with the density of its religious ritual. Religion has become inseparable from the daily life of the people in Aceh. For them, the implementation of Islamic law in Aceh is in accordance with the life values that have been applied.¹⁶ In reference to the guarantee of food consumed by Aceh people, Article 5 of *Qanun* SJPH mentions that the Aceh government possesses the right to do the SJPH supervision and management. Article 6 of *Qanun* SJPH has further stated that the management carried out by the Aceh government is a form of supervision over the *halalness* of food. The management is made starting from the staple supplies selection up to the activity of selling the food that already have *halal* certificate. The implementation of *halal* food certification has the objectives to provide safety, comfort, and security when consuming food products. The implementation has become beneficial to protect

14 Paisol Burlian, Reformulasi Yuridis Pengaturan Produk Pangan Halal Bagi Konsumen Muslim Di Indonesia, *Jurnal Abkam*, Vol.14 No. 1 (2014), 44.

15 Ronny Hanitijo Soemetro, *Metode Penelitian Hukum dan Jurimetri* (Jakarta: Ghalia Indonesia, 2006), 34.

16 Rahmat Saleh dan Nur Anisah, *Pariwisata Halal di Aceh: Gagasan dan Realitas di Lapangan*, 87.

the consumers from non-*halal* food.

The Consumer Protection Law Number 8 of 1999 has become legal foundation for other regulations related to consumers and consumer protection as well as the regulation integration. Thus, it strengthens the law enforcement for consumer protection, particularly the protection for Muslims from the distribution of food that do not have *halal* certificates. It will guarantee the Muslim consumers about the composition of food written on the food product distributed in the society and eating places for Muslims.¹⁷ In performing and guaranteeing legal protection for the customers, a space or medium is needed, which is called as legal protection efforts.

The rapid development of technology triggers the consumers to be more thorough and careful in choosing food products or eating places because of numerous main ingredients and additional materials used in food processing.¹⁸ In protecting food products and preventing them not to be contaminated with particular substances produced by the advanced technology, people must notice the *halalness* of food products or eating places before consuming food by recognizing the *halal* logo. The word '*halal*' means unattached or free, signifying a whole thing that is freed from any worldly and otherworldly things; meanwhile, the word '*halal*' in the legal field means "permitted." Therefore, '*halal*' is something that is allowed in Islamic law, and '*haram*' means something that is not allowed in Islamic law. The law concerning *haram* and *halal* regarding the food consumed by Muslims is made based on Islamic law. According to the substances, the basis of categorizing something as *haram* are as follows:¹⁹ Animal slaughter that is not carried out based on the procedure determined by the Islamic law; Blood, dead animal, and pork; Alcoholic drinks; Malevolent and wild animals with fangs as well as birds that have sharp claws; *Al khabaits* (Animals that are assumed as disgusting ones based on people's instinct.; *Jalalah* (Animals that consume filth or *najsi*); Everything that is harmful.

The standard of food production applied for all business actors in Aceh has been decided by *Qanun* Aceh concerning *halal* product guarantee system Number 8 of 2016. Regarding this, the Aceh government, through the help of

17 Akyunul Janah, *Gelatin Tinjauan kehalalan dan Alternatif Produksi* (Yogyakarta: Sukses Opset, 2008), 72.

18 Mashudi, *Konstruksi Hukum dan Respons Masyarakat terhadap Sertifikasi Produk Halal*, Seri Disertasi, (Semarang: Pustaka Pelajar in cooperation with LP2M UIN Walisongo, 2015), 93.

19 Panji Adam, Kedudukan Sertifikat Halal Dalam Hukum Nasional Sebagai Upaya Perlindungan Konsumen Dalam Hukum Islam, *Ammaluna: Jurnal Ekonomi dan Keuangan Syariah*, Vol.1 No. 1: (2017), 153.

LPPOM MPU, always encourages the people in Aceh to carry out the *halal* product guarantee system implementation in their daily life in order to realize the implementation of Islamic law in a *kaffah* (complete and correct) way. LPPOM tries to order the business actors to only sell products that have *halal* certificate to ensure the protection of food consumed by the consumers. It is done in order to protect the consumers' physical health, and it is needed to increase the Muslim consumers' faith.

For guaranteeing and protecting the food products or eating places from the effect of food ingredients that are *haram* or forbidden by the Islamic law, LPPOM demands the consumers to be more careful and thorough in assessing a product or an eating place. The *halal* guarantees of products or eating places can be seen from the *halal* logo adhered to the product package or eating places.²⁰ The *halal* guarantee label is a form of giving the consumers their right to choose and consume food. Hence, the *halal* guarantee label adhered to the food products or eating places ought to be seen clearly and noticeably by the consumers. It indicates that the business actors have a good intention in running their business. Beside the guarantee of food products' *halalness* for Muslim consumers, the guarantee of information authenticity of the food product can be obtained by the non-Muslim consumers as seen from the health and society satisfaction guarantee point of views.

The *halal* guarantees of food or eating places contain a meaning or significance that is necessary to protect the society or Muslim consumers. The adherence of *halal* logo is not only needed for the food ingredients or additional materials used in food, but also the food processing.²¹ Based on *Qanun* SJPH, consumers must receive law protection because Article 35 of *Qanun* SJPH regulates the business actors' obligation, and Article 42 regulates the role of the society and complaints regarding products that do not have *halal* certificates. It indicates that the consumers also actively participate in the implementation of *halal* product guarantee for the sake of the Muslim consumers' safety and security. Furthermore, Article 34 of *Qanun* SJPH requires the business actors to apply for *halal* certification and adhere the *halal* logo on their products and eating places in order to provide protection for Muslim consumers.

20 Kurniawan, Budi Sutrisno, dan Dwi Martini, 'Tanggungjawab Pelaku Usaha Terhadap Pemberian Label Halal pada Produk Makanan dan Minuman Perspektif Hukum perlindungan Konsumen', *Jurnal Penelitian Unram*, Vol. 18 No.1 (2014). 411.

21 Faiyadh Musaddaq, *Pandangan MUI Terhadap Sertifikat Halal Produk Home Industry di Kota Banda Aceh*, *Journal of Islamic Business Law*, No.2 (2018) 17.

Based on the explication of Article 2 of *Qanun* Aceh regarding SJPH, the implementation of *halal* product guarantee should comply with these principles:

The Principle of Justice, which states that the implementation of legal certainty of *halal* food product guarantee must create justice. The justice does not only mean providing guarantee for *halal* product but also the non *halal* product. The production and marketing of *halal* food products have to be separated from the *halal* products. Aceh clearly does not create any prohibition for non *halal* products since these products have their own market, which is aimed for non-Muslim consumer;

The protection principle, which states that the consumer protection in Aceh is not only given to the Muslim consumers, but also the non-Muslim ones since *Qanun* SJPH regulates both products' *halalness* and product supervision to protect it from any bacteria or other harms.

The Aegis Principle, which states that the government is responsible in embracing and protecting the whole society in Aceh, both the Muslims and non-Muslims. Hence, *Qanun* SJPH is determined not to trigger any conflict between one and other religions, but to create a peaceful and safe atmosphere for all people in Aceh.

The openness principle, which states that the openness of information is essential to make it possible for the consumers to know what and how the food processing is carried out so that the consumers can differentiate the *halal* products and the products that are hygienic only.

The Aceh government tries to enforce the legal certainty and legal protection to the Muslim consumers well. Nevertheless, the research conducted in Banda Aceh shows that people still consume food with no *halal* certificate labelled on them. It indicates that the majority of Muslim consumers did not select the food products that they will consume and the eating places they will visit carefully. The unawareness of the importance of information about food is one of the primary factors that cause the consumers to be unselective in consuming food.

The form of the *halalness* of food products or eating places is the detail, correct, and clear information attached to the products or eating places. This information can be obtained by noticing the attached *halal* logo given by LPPOM MPU Aceh. The *halal* logo provides guarantee and protection to the consumers so that the consumers' rights for choosing food products and eating places can be granted. Thus, the attachment of *halal* logo has to be obvious and clear to be seen, which will show the business actors' good intention in fulfilling the consumers'

right as the form of presenting the guarantee of health and the satisfaction of the Muslim consumers' soul and heart. Accordingly, the consumers are expected to select the food they will consume carefully as Muslims. The mistake in selecting products or eating places will lead to the physical and spiritual loss since the matter of consumer protection in Islam is not only related to humans, but also the God Almighty.

The food containing harmful substance will affect humans' physical health. On one hand, if the food consumed are not made based on the procedure defined in Islam, humans' spiritual will be tainted with sin since this matter is directly associated with Allah, the God Almighty. Hence, Muslim consumers really have to know the information about the food they consume. It highlights the concept that Muslim consumers do not only fulfill their appetite by consuming certain food, are not only interested by the fascinating food package, and are not only attracted by the low price of food. On the other hand, psychologically, consumers choose food that are cheap, tasty, and instant. Consequently, it will bring physical and spiritual loss for Muslim consumers if no efforts are done.

The advance of technology for food processing do not always result in producing *halal* and healthy food.²² There are actually three requirements that should be met for choosing food products or eating places, which are nutrition, *halal*, and *thayyiba* (good or pure) as determined by LPPOM MPU Aceh. In addition, another requirement is related to the food ingredients standard, the food processing, and the animal slaughter procedure that needs to be complied with the requirements set by the Islamic teaching. Basically, food that is processed by ignoring the procedure defined in the Quran is categorized as *haram* although it is only a little part or composition of the food involved. The little addition of non-*halal* food can also cause the food to be considered haram. Beside the main ingredients of food, additional materials both produced from the chemical process of natural materials and the chemical process of synthetic material are often used.

According to the results of interview conducted with LPPOM MPU Aceh, a statement is obtained. It says "The matter about protection has actually been explicated in the Law and *Qanun*. All food consumed by Muslim consumers must be *halal*; hence, we have to buy *halal*-labelled food only. However, the comprehensive inspection has not been performed yet, so the business actors are unwilling to register their products. Consequently, many foods that have no *halal* certificate are freely sold. These are particularly sold by the non-Muslim food sellers, and it causes discomfort for the Muslim consumers. The efforts that we can do

22 Aulia Muthiah, *Dimensi Hukum Positif dalam Hukum Perlindungan Konsumen* (Bandung: Pustaka Baru, 2018), 40.

are informing or demanding the Muslim customers to observe the food carefully before buying and suggest them to avoid buying the food if they are hesitating about its *halalness*. Buy the products only if you are sure about its *halalness*.²³

Business actors that produce or trade food products in Aceh are obliged to obtain *halal* certificate and provide a statement or information that the food products or eating places they run are *halal* as set by *Qanun* SJPH. Article 34 mentions that it is compulsory for the business actors to adhere *Halal* logo to their product packages or eating places, and the logo should be printed in appropriate sizes to be clearly visible for the customers to see in order to guarantee the accuracy of the *halalness*. It is also necessary for the business actors to be able to carry on and develop their business. Furthermore, administrative sanction will be given to the business actors, such as receiving written or spoken notice or warning, having the production and marketing license annulled, and getting fine as an administrative sanction.

The legal certainty for Muslim consumers can be acquired because of the existence of *Qanun* SJPH, which also protects the Muslim community from the products distribution or eating places that have not been certified and have no *halal* logo. This *halal* logo, which is a written form of *halal* statement proving that the products or eating places possess the *halal* status, indeed functions as a protection for Muslim consumers to implement legal certainty and guarantee the consumers' right. This logo attachment is mandatory or compulsory, so the LPPOM MPU Aceh still actively attempts to promote or conduct a training and encourage the business actors to certify their products or eating places in order to guarantee the Islam community's protection.

The Guidance and Supervision Conducted by the Assessment Institute for Foods, Drugs and Cosmetics (LPPOM) of the Aceh's Ulema Council (MPU) for the Halal Food in Aceh

The guidance and supervision is essential for Aceh government because it will affect the management reformation of *halal* food guarantee so that it will comply with the regulation. During the *halal* food supervision, according to Article 2, the *Qanun* SJPH LPPOM MPU Aceh has the duties to conduct a training or technical guide and provide information to the business actors and the society aiming to make people realize the importance of *halal* certificate for food or eating places. Moreover, LPPOM MPU Aceh is assigned a duty to make a computer-based information system and data base for *halal* food products or eating places

²³ Deni Chandra, (*Auditor Halal Lembaga Pengkajian Pangan, Obat-obatan dan Kosmetika Majelis Permusyawaratan Ulama Aceh*), interview results, May 3, 2021.

that can be easily accessed by people. Regarding the *halal* food products or eating places supervision, Article 14 of *Qanun* SJPH LPPOM gets the right to execute the supervision. This supervision contributes to construct management activities to attain the targets and objectives efficiently and effectively.²⁴

The word 'effective' means succeed or something that is well executed. The popular scientific dictionary defines 'effectiveness' as the precision of execution, use outcome or something that supports the aim.²⁵ Likewise, law also has another function that is a tool of social engineering that is meant to be the facility for renovation within the society. Law plays the role in changing the society's thinking pattern from the traditional thinking pattern into the rational or modern. The effectiveness of law is a process that aims to ensure the law to be effective.

Some of the factors that measure the obedience towards law in general are:²⁶

- 1) The relevance of legal regulation in general, involving the legal needs of people who become the target of legal regulation in general.
- 2) The formulation clarity of the legal regulation substance presents a clear understanding for the target of the prevailing legal regulation.
- 3) The optimum effort of giving information to all targets of the prevailing legal regulation.
- 4) If the regulation being involved is the Law, it is better if the regulations are applied in form of prohibition and not an obligation because a law imposing prohibitions (prohibitor) is easier to implement than a law imposing obligations (mandator).
- 4) The sanction imposed by the legal regulation must conform to the character of the law that is being violated.
- 5) The weight of the sanction imposed by the legal regulation must be proportional and is possible to be executed.
- 6) The possibility of the law enforcement officer to manage any violation of the legal regulation is possible since any forms of violation that are imposed with sanctions as regulated by the law are concrete actions that can be seen and observed. So, the whole stages comprising inspection, investigation, prosecution, and punishment can be possibly processed.
- 7) Legal regulations containing moral norms in the form of prohibition will be far more effective than any legal regulation that is contradictory to any moral norms believed by the people who become the targets of the prevailing regulations.
- 8) The effectiveness or ineffectiveness of legal regulation generally depends on the optimum efforts and the professionalism of the law enforcement officers in enforcing the legal regulation.

24 KN Sopyan, *Sertifikat Halal dalam Hukum Positif: Regulasi dan Implementasi di Indonesia* (Jakarta: ASWAJA Presindo, 2014), 62.

25 Achmad Ali, *Mengungkap Teori Hukum (Legal Theory) dan Teori Peradilan (Judicialprudence) Termasuk Interpretasi Undang-Undang (Legisprudence)* (Jakarta: Kencana, 2009), 375.

26 Achmad Ali, *Mengungkap Teori Hukum (Legal Theory) dan Teori Peradilan (Judicialprudence) Termasuk Interpretasi Undang-Undang (Legisprudence)*, 376-377.

The effectiveness or ineffectiveness of legal regulation generally requires a certain minimum socio-economics life standard of the society, so it causes particular effects that are related to the life condition of the society. Basically, effectiveness is a level of success in achieving goals. It is the measurement of the achievement of targets or goals that have been set.²⁷ Based on the sociology of law, law functions as a tool of social control, which is an effort to create a balanced condition in the society aiming to construct a harmonious condition between stability and change within the society. In other words, the effectiveness of the law can be interpreted as the ability of the law to create or construct a situation it expected.

The LPPOM MPU Aceh holds the authority regarding the guidance and supervision of products or eating places that have obtained the *halal* certificate. It is responsible to deliver essential information, carry out trainings, conduct research, perform assessments, and do supervisions for the products or eating places. The supervision comprises several stages as the following:²⁸

The supervision is conducted before the food products sold in the market, and the investigation into the food quality is executed prior to the *halal* certificate issuance, standardization implementation for food products' *halalness*, and a research on the food. This supervision is also known as Pre Market supervision. It is a form of guidance. The supervision that is performed when the food is already sold in the market is in form of supervision conducted for the food production and inspection of the food sampling. This form of supervision is named post market supervision.

The business actors that have already engaged in the process of obtaining *halal* certification and received both the *halal* certificate and logo will be under supervision of the LPPOM MPU Aceh. It is done to find out whether the products or eating places have met the standards defined by the Islamic law. Additionally, a supervision for the food production is carried out to check the Good Manufacturing Practice (GMP) standard, which deals with the appropriate way of producing food.²⁹ The LPPOM MPU Aceh conducts sudden supervisions without any prior notice given to the business actors, and it is carried out once a week. LPPOM will purchase certain products of food during the activity of supervising or a field survey in order to do a further investigation through a test performed in the LPPOM

27 Achmad Ali, *Mengungkap Teori Hukum (Legal Theory) dan Teori Peradilan (Judicialprudence) Termasuk Interpretasi Undang-Undang (Legisprudence)*, 376.

28 Achmad Ali, *Mengungkap Teori Hukum (Legal Theory) dan Teori Peradilan (Judicialprudence) Termasuk Interpretasi Undang-Undang (Legisprudence)*, 63.

29 In-In Hanidah, dkk, Penerapan *Good Manufacturing Practice* sebagai Upaya Peningkatan Kualitas Produk Olahan Pesisir Eretan - Indramayu, *Agricore: Jurnal Agribisnis dan Sosial Ekonomi Pertanian*, Vol. 3 No. 1: (2012), 359.

laboratory. If there are any business actors that diverge from the plan or regulation set for the food processing or production, the LPPOM MPU Aceh then will give them a warning or notice as the first step. It is a chance for the business actors to do a change to conform to the defined regulation. If LPPOM finds another divergence or violation committed by the same business actors or eating places, LPPOM will send the notice or warning letter twice. If it is still ignored, LPPOM will proceed to the next stage, and the *halal* certificates belong to those business actors will be annulled.³⁰

Based on the results of discussion, in which the LPPOM MPU Aceh was taking part, a statement is obtained as follows;³¹ “along with the advance of technology, we indeed currently see that a great number of food with no *halal* label adhered to them are sold and bought. Regarding this, our team have always been actively informing and encouraging the society, as well as establishing a technical guidance or training, in order to make them more selective in consuming food. It is suggested to always observe or choose products that already have *halal* logo attached to the food package. The LPPOM Aceh also provides and convey information to the business actors that the production process should be executed based on the prevailing regulation in order to ensure the consistency of the products’ *halalness*. However, it is indeed expected that the producers can register the products that they will sell. As the associated party, we can only wait for the companies, that are willing to comply with the rules, to register their products.³²

Based on the aforementioned explication, it is known that the MUI’s *halal* certification has not been completely effective since the *halal* certification application submitted by the business actors or producers is only voluntary. People have a lack of awareness regarding the importance of *halal* certification, which is proven by the fact that big companies register their products to obtain *halal* certificate only when they are demanded to do so or they have certain business target. The effectiveness of LPPOM MUI in distributing information about *halal* certificate has been proven by several activities or programs. By carrying out those programs, the objective to make the importance of *halal* certificate to be more widely known has been achieved. Thus, this information can be effectively employed to encourage business actors or producers to get *halal* certificates.

30 Deni Chandra, (Auditor Halal Lembaga Pengkajian Pangan, Obat-obatan dan Kosmetika Majelis Permusyawaratan Ulama Aceh), interview results. May 3, 2021.

31 Deni Chandra, (Auditor Halal Lembaga Pengkajian Pangan, Obat-obatan dan Kosmetika Majelis Permusyawaratan Ulama Aceh), interview results. May 3, 2021.

32 Deni Chandra, (Auditor Halal Lembaga Pengkajian Pangan, Obat-obatan dan Kosmetika Majelis Permusyawaratan Ulama Aceh), interview results. May 3, 2021.

On the other hand, as mentioned in Article 34 of *Qanun* SJPH, it is obligatory for business actors to apply for *halal* certification if their food products do not have *halal* certificates. Business actors must also adhere the *halal* logo to food package clearly. In addition, Article 35 of *Qanun* SJPH states that business actors are prohibited to sell products that have not been certified and have no *halal* logo. It is clearly seen that the matter of food's *halalness* in Aceh is mandatory or compulsory. LPPOM MPU Aceh is authorized to monitor, evaluate, and inspect the products traded or sold in Aceh by collaborating with the integrated team, particularly to arrange and supervise the *halal* products in Aceh. LPPOM MPU creates this Integrated Team, and it is arranged in Article 10, Paragraph (4) of *Qanun* Aceh SJPH concerning SKPA (Aceh's Regional Working Unit) in the government level that is associated with the execution of industry, trading and cooperation, Police Force, Judiciary, the Ministry of Law and Human Right, Municipal Police Unit, the National Agency of Food and Drug Control, and other associated institutions.

It is actually not a big deal if the integrated team does not carry out the management and supervision for the *halal* food products since there no further regulation that regulates the LPPOM and the integrated team cooperation. Legally, LPPOM MPU Aceh also does not possess the right to give a warning to the integrated team if they do not implement the legalized *Qanun*. Similarly, LPPOM MPU Aceh cannot complain to that service unit team if they do not conform to the Islamic law because it is not regulated in *Qanun*. This shows the weak position that LPPOM MPU Aceh possesses in performing their duties. As the Auditor of LPPOM MPU Aceh, Deni Chandra elucidates that many obstacles and problems occurred during the field survey are caused by the lack number of people assigned to do the supervision. It happened because LPPOM MPU Aceh does not only do supervision in the site, but also in laboratory. Meanwhile, Article 10 of *Qanun* SJPH has clearly stated that the management and supervision for the *halal* food is the duty assigned to LPPOM as the Aceh's MUI autonomous body. It is further mentioned that the LPPOM MPU Aceh makes the integrated team to take part in the job as regulated by *Qanun*.

Aceh government should give a special attention to LPPOM MPU Aceh. LPPOM MPU Aceh still needs to keep arranging and supervising the *halal* food products although it is lacking of Human Resources as explained previously. Moreover, the obstacles in conducting and supervising the food products sold in Aceh are caused by the small numbers of officers assigned in LPPOM MPU Aceh who have studied Islamic science. Therefore, the officers are required to

study Islamic science comprehensively. It is particularly required for the *halal* food auditors. The huge number of people or consumers consuming food is not equal to the LPPOM officers who do supervisions. Thus, it is normal if many violations are found in the *halal* product guarantee system in Aceh. Next, the factor that inhibit the LPPOM MPU Aceh in arranging and supervising the *halal* food is the nonexistence of regulation about the implementation of *Qanun* Aceh concerning the *Halal* Guarantee System. It inhibits the LPPOM's job regarding the *halal* food products management and supervision in Aceh.

The obstacles found during the *halal* food products management and supervision are not only caused by the Aceh government, but also caused by the business actors who have low awareness or initiative to apply for *halal* certification for their food products or eating places. Whereas, the *halal* logo given by LPPOM MPU Aceh for the food products or eating places can earn the people's trust on these products or places. It can even attract the local and foreign visitors coming to Aceh to buy their products or visit their eating places. It is definitely supported by Article 28 of *Qanun* Aceh concerning SJPH, which emphasizes that *halal* certification and *halal* logo are mandatory. Article 47 of *Qanun* Aceh concerning SJPH also sets the sanction imposed on the sellers who do not maintain the *halal* standard for the products that have been certified. This article describes the sanctions, such as being whipped in front of the public 60 times, being put in jail for 60 months, or getting fine that is 600 grams of pure gold. Based on the results of study conducted in LPPOM MPU Aceh, this institution declares that they never once imposed these sanctions on the business actors who violate the prevailing regulation. They only send written warnings or notices as the first stage. After the first warning, all business actors quickly change their materials using the determined standard. It shows how LPPOM MPU Aceh lacks of firmness in doing their job in implementing the *halal* food product guarantee and the lack of human resource for imposing the sanction since *Qanun* SJPH does not describe the jobs of LPPOM in giving sanctions.

Article 42 of *Qanun* Aceh concerning SJPH asserts that consumers can participate in the implementation of *halal* food guidance and supervision. Their participation can be useful for the activities held to convey the information about *halal* product guarantee. People can supervise the food product being sold and bought by reporting any problem they noticed to LPPOM MPU Aceh. The active participation of the society is the hope for a better implementation of *halal* food guidance and supervision. Unfortunately, the role of the society is very low; whereas, Islam states that consuming *halal* food is very essential since Allah the

Almighty commands Muslims to do so. The absence of regulations that clearly regulate this cooperation causes the program of enforcing *Qanun* SJPH cannot be carried out well, and the business actors who do not have *halal* certificate cannot be given any sanction. All efforts given by LPPOM Aceh for all the business actors and Muslim consumers in Aceh are intended to ensure that the food and drinks being sold and bought in Aceh are indeed *halal* as defined by Islamic law. Hence, Muslim consumers will not be hesitant in buying those food and drinks because the *halal* logo are adhered to them.

Conclusion

The attachment of *halal* logo implemented in Aceh is mandatory, so *Qanun* SJPH prohibits any products or eating places that do not have *halal* logo to sell their food in Aceh. The business actors who have obtained *halal* certificates are obliged to attach the *halal* logo to their product package or eating places. If it is not implemented as in accordance with the determined procedure, then LPPOM can impose the administrative sanction in form of written or spoken notice or warning and the annulment of *halal* certificate and *halal* logo. The Aceh government is responsible for the guidance and supervision over the food products and eating places that do not possess *halal* certificate and logo. The guidance is executed to deliver information to and provide technical guide or training for the business actors and society to realize the importance of *halal* certification given for the food products distributed in Aceh. The supervision is performed by doing a field survey for surveying the food that have been or have not been certified as *halal*. However, LPPOM MPU Aceh met some obstacles in executing the *halal* food supervision because of the lack of number of officers for performing the supervision and the lack of business actors' awareness in selecting food they consume, which happened because the consumers do not realize the essential of *halal* product guarantee for food. In addition, another element causing the ineffectiveness of the job of LPPOM in implementing SJPH is the absence of regulations concerning the institution that is associated with the *Qanun* SJPH implementation. It causes the Aceh government to be ineffective in providing guidance and supervision over the *halal* products or eating places in Aceh.

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