

THE ROLE OF INDONESIAN ULEMA COUNCIL ON HALAL CERTIFICATION POST-ISSUANCE OF LAW NO. 33 OF 2014

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ABSTRACT

The issuance of the law of republic of Indonesia No. 33 of 2014 concerning on Halal Product Assurance has impacted on the role of Indonesian Ulema Council in issuing halal certificate. This research focuses on the regulations of the law and the roles of Indonesian Ulema Council in Halal certification upon the issuance of the law. Regulations constituted in the law shall be studied further regarding halal assurance which is very mandatory for Muslim in Indonesia. An analysis of statute approach is employed to sharpen this study in achieving its objectives. The study on this topic is essential due to Indonesia, with Muslim societies as the majority of the state, have the freedom of religions that should be guaranteed by the state. The issuance of the law has significantly impacted to the role of Indonesian Ulema Council in halal certification by establishing a new government agency to be in charge of halal and related matters. This study contributes as an academic guidance on issues related to halal certification process in Indonesia upon the issuance of the law by examining whether or not the issuance of the law no. 33 of 2014 has put aside the authority of Indonesian Ulema Council regarding halal matters. It is necessary to know how the role of Indonesian Ulema Council regarding halal matters as constituted by the law due to its authority over halal matters which has been with it for more than twenty years.

Keywords: Halal, Indonesia, Islam and Indonesia, Halal Certification, MUI

Introduction

Indonesian Ulema Council or originally known as *Majelis Ulama Indonesia* (hereinafter referred to as MUI) is the forum or council for ulema, *zuama* and Indonesian Muslim Intellectuals to unite the visions for Indonesian Muslim to achieve common goals, was founded on 26 July 1975 as the result of the meeting among the ulema, leaders and Indonesian Muslim Intellectuals from all around Indonesia (Profil MUI, 2009). As the biggest Islamic Council in Indonesia, MUI itself had managed Halal certification for more than twenty years before the Law No. 33 of 2014 was issued by the government of Indonesia. This law has begun to have its binding power upon the completion of the registration in the State Official Gazette of Indonesia (known as *Lembaran Negara Republik Indonesia*) (Marida Farida Indrati Soeprapto, 2007). The Law No. 33 of 2014 is a statute legalized in 2014 concerning on Halal Product Assurance in which halal certification is taken back by the government under the ministry of religious affairs (Law of Republic of Indonesia No. 33 of 2014 Concerning on Halal Product Assurance, 2014). The issuance of the law itself has caused many arguments between MUI and the government. These arguments arose due to many factors of the internal systems of MUI, in which one of them is that MUI is a non-government organization, but having the authority on halal certification as one of the products. Considering bigger impacts on the assessment of MUI and its reliability towards the products it issues, the government of Indonesia decided to ‘take over’ the authority on halal products assurance (Sufa, 2014).

This research has theoretically come up with a review of the role of MUI post-issuance of the law regarding the certification of halal in Indonesia. A ‘distribution’ of authorities between the government of Indonesia and MUI regarding halal has become the most essential part of the law which shall be understood. MUI itself still has its capacity relating to halal certification as determined by the law, in which fatwa becomes its authority to assess a product upon the completion of initial assessments by the government. As a state of law, Indonesia with *Pancasila* (the five principles) as the state foundation which respects and acknowledges Islam as a religion (Presidential Decree No. 1 of the republic of Indonesia, 1965), has given a space to MUI in performing its role as a council for Indonesian Islam by having a part of the distribution in halal certification.

This study is essential to be expounded due to the obligations of Muslims in consuming halal products as a part of the exercises of Islam. For almost more than 20 (twenty) years, Halal certification matters is under the authority of Indonesian Ulema Council which is then taken back by the government. This paper significantly discusses the role of Indonesian Ulema Council on halal matters post-issuance of law no. 33 of 2014 with the objective to examine the content of the law regarding Indonesian ulema council’s position in halal matters.

In-depth analysis has been employed to theoretically examine the content of the law. This research has resulted that Indonesia as a state, is just merely taking back its role in every binding-decision which was earlier made by MUI on halal matters within its jurisdiction that impacts its people and the nation.

This paper aims to contribute as an academic review which can also be used for practical purposes on halal matters by individuals and/or legal entity with interests on relevant issues. This study provide detailed information on the role of Indonesian ulema council as well as an analysis on authority of halal matters post-issuance of the law as said. The study is essential due to many parties with focuses on halal matters may have no idea regarding the impact of the law issued on halal matters and whether or not halal certification previously issued is still valid and has legal power upon the issuance of law no. 33 of 2014.

This paper is organized in 4 sections; section 1 which consists of brief introduction to Indonesian Ulema Council and halal certification in Indonesia before and post-issuance of the law no. 33 of 2014, which is followed by section 2 concerning on the analysis of the statute approach used as the method to achieve the objectives of this research and discussion on distribution of authority as constituted by the law through its significant articles. In section 3, discussion on the role of ministry of religious affairs and MUI is deeply analyzed and expounded to see the comparison between each authority regarding halal certification. Section 4 which aims to explore halal certification in Indonesia today by expounding the authority of MUI, and eventually, section 5 comes with the concluding remarks which consists of the summary of this study.

METHODS AND MATERIALS

This paper employs theoretical approach through statute approach and content analysis to achieve the study objectives.

Statute approach involves gathering and interpreting facts about significant rules and regulations as constituted by relevant laws in Indonesia. This approach is appropriate to be employed to help achieving the objectives of this study due to the legal status which are governed by statutes and related legal instruments under the legal system of Indonesia as a state. This approach is used to be analytically studied in each and every regulations as governed to come up with a result of this study's objectives.

Content Analysis will also be employed to analyze related significant contents to contribute to answer the study by first emphasizing the theoretical aspects and in-depth analysis on related legal instruments. Content as in the legal instruments are taken as the major materials to be analyzed deeply through a legal interpretation on its regulations governing relevant issues as discussed in this paper.

The methods as said are combined to produce a comprehensive approach in achieving the objectives of this study. Main materials used in this paper are limited to legal instruments as follows:

1. Law no. 33 of 2014;
2. Law no. 12 of 2011;

ANALYSIS OF STATUTE APPROACH ON THE LAW NO. 33 OF 2014

We begin by specifying the terms used in this research which are also used in the law itself. The mark ‘=’ is used as ‘hereinafter referred to as’ for these following terms:

Halal Product Process	= PPH
Halal Product Assurance	= JPH
Halal Product Assurance Organizing Agency	= BPJPH
Halal Examination Agency	= LPH

A new regulation regarding halal certification as constituted in the law is the establishment of BPJPH under the ministry of religious affairs as stated in article 1 point number 6 in which authorized BPJPH as the agency in charge of organizing JPH. This regulation has limited the function of MUI from its authority in granting JPH.

BPJPH as the only authorized agency in performing halal certification as stated in article 6 of the law, has clearly shown that the authority regarding halal matters which was under MUI, is taken back by an agency formed by the government.

Despite the new agency which functions as the one organizing halal related matters, MUI is appointed to be the council as stated in article 7 of the law to collaborate with BPJPH in performing the authorization. This has shown clearly that MUI still can function itself in halal certification through a way as given by the law.

Both national and international institutions have been used to the system of JPH under the rules and regulations of MUI for the past twenty years, the issuance of the law has put MUI aside by not constituting MUI as the major agency assessing halal matters. Article 10 of the law has specified the role of MUI regarding halal matters, namely: certification of Halal Auditor, stipulation of the product halalness (which also appoints MUI to be the one issuing halal fatwa in the form of a decree), and LPH accreditation.

As a state of law, the hierarchy of the law in Indonesia as shown by article 7 section 1 of the law of republic Indonesia No. 12 of 2011, stipulates the third position of the law (known as *undang-undang*), MUI as an Islamic organization, has no binding power and position in any of the hierarchy as constituted in the state.

This has reflected the different views between governmental institution which are given legal authorities as given by laws and MUI as an Islamic council which is an independent organization established on behalf of Islam, a religion acknowledged in Indonesia.

MINISTRY OF RELIGIOUS AFFAIRS AND MUI ON HALAL CERTIFICATION

Ministry of Religious Affairs (hereinafter referred to as MRA) is appointed by the law No. 33 of 2014 as shown in article 1 point number 15 in which authorizes a minister who organizes government religious affairs to be involved in JPH, which refers to MRA as the ministry organizing religious affairs in Indonesia. The article stipulates the role of MRA which has never been a part of halal certification during the authority held by MUI. The role is specified through article 7 in form of collaboration with

BPJPH in organizing JPH. This issue has then turned out to be more than a collaboration itself, BPJPH as an agency authorized for halal issue will be established under MRA and the agency shall be responsible to the Minister of MRA.

MUI, which had been performing as the only agency regarding halal matters before the law was issued, is currently having no dominant role in the registration of JPH. However, MUI as one of the collaborators with BPJPH is given authority to issue fatwa concerning on halal that acts as a foundation for halal certificate to be issued (Kantor Wilayah Kementerian Agama Provinsi Nusa Tenggara Timur, 2016). This causes questions regarding the decision of the government to 'take over' JPH from MUI, whether or not, the government decided to issue the law regarding the role of the government to maintain the concept as a state of law, in which halal authorization as an assurance for Muslim in Indonesia shall be under the responsibility of the state, not MUI as a non-government organization, or the law issued is merely the result of the work of MUI regarding halal certification.

It has to be agreed that the decision of the issuance of the law has shown the capacity of Indonesia as a state which shall perform its role and function to any issues, particularly the ones given by the constitution.

As a constitutional state as shown in article 1 section 3 of the constitution 1945, Indonesia through article 29 section 2 of the constitution which specifies the guarantee to freedom of religions. Islam, as one of the religions acknowledged, requires the state to take the responsibility of implementing the guarantee. In this case, the guarantee of Islam as officially acknowledged religion is the assurance of the halalness of products.

The law no. 33 of 2014 comes up as the reflection of implementing the guarantee to freedom of religions, describing the role of the government in JPH organized by government agency. For the past twenty years, it has to be agreed that MUI has functioned itself as the biggest Indonesian Muslim Council to ensure halal products which have contributed in the lives of Muslim in Indonesia.

HALAL CERTIFICATION IN INDONESIA TODAY

Food products must always be available, sufficient, safe, in a good quality, and various with affordable price to be consumed by people which are not against religions, beliefs and culture (Djamil, 2013). This is believed to be the reason that halal certification is important, particularly in Indonesia, a state which has officially acknowledged Islam.

Consumption on halal products is a must for Muslim and is a part of constitutional rights as given by the constitution of the republic of Indonesia, in which has always pushed Indonesia to provide its best in guaranteeing products distributed to its people. The right of product information is also constituted in the law of consumer protection to ensure that products in society have provided sufficient information due to insufficient product information which may cause instability of the products (Mirus & Yodo, 2011).

The fact today is the issuance of the law no. 33 of 2014 which regulates halal certification and related issues in a way which has significantly changed the registration and process of halal product certification in Indonesia despite of the 'whys' *Dewan Perwakilan Rakyat Republik Indonesia* (DPR RI – People's Representative Council of the republic of Indonesia) decided to limit the authority of MUI in the matters. New agency named BPJPH has been being planned to be formed under governmental body to act for and on behalf of the state which plays important role in halal matters.

MUI has no longer becoming the only organization managing halal certification, it has been appointed as the law no. 33 of 2014 to be a collaborator with the government to assure halal on registered products before being distributed into the society in term of issuing fatwa if a product is halal based on Islamic perspective.

Issuing halal fatwa by collaborating with the governmental agency, BPJPH has seemed to be the only authority given to MUI. However, the law no. 33 of 2014 has turned out to take some more time to be fully implemented due to its preparations on some related issues which have not been made accordingly.

However, this has reflected a view on the distribution and separation of authorities between the sovereignty of a state in establishing and maintaining itself which refers to registration and process of halal certification, and religious interests which comes as the result of the obligations as required by Islam which refers to halal fatwa under MUI regarding halalness of products.

CONCLUSION

The method used expounded significant articles of the law which are considered to be the essential part of the law which regulate halal and related issue. The study has shown that the issuance of the law no. 33 of 2014 has impacted on the registration and process of halal certification, and affected MUI as the biggest Islamic Council in Indonesia.

It has to be agreed that the law has put MUI in a position which is purely in the field of Islam, issuing halal fatwa over products which are being registered for halal certification. This can be seen as the real role of MUI which is founded to ensure the rights of Indonesian Muslims are fulfilled accordingly.

In conclusion, the law distributes the authorities regarding halal certification based on the qualification of the parties, MUI with halal fatwa which explores Islamic views on halalness of a product that reflects its functions and purposes as an Islamic council, while BPJPH formed under the MRA to act as a legal body representing the government of Indonesia to ensure administrative process within its jurisdiction.

REFERENCES

- Djamil, F. (2013). Kalau Banyak Lembaga Fatwa, Umat Bisa Bingung. *Jurnal Halal*, XVI(100), 48-49.
- Kantor Wilayah Kementerian Agama Provinsi Nusa Tenggara Timur. (2016, November 10). Retrieved December 23, 2016, from <http://ntt.kemenag.go.id>: <https://ntt.kemenag.go.id/berita/424211/kawal-produk-halal-pemerintah-bentuk-bpjph>
- Law of Republic of Indonesia No. 12 of 2011 on Establishment of Laws and Regulations. (2011). Jakarta, Republic of Indonesia: State Official Gazette of the Republic of Indonesia.
- Law of Republic of Indonesia No. 33 of 2014 Concerning on Halal Product Assurance. (2014). Jakarta: Lembaran Negara.
- Marida Farida Indrati Soeprapto, S. M. (2007). *Ilmu Perundang-Undangan: Dasar-Dasar dan Pembentukannya*. Yogyakarta, Indonesia: Kanisius.
- Miru, A., & Yodo, S. (2011). *Hukum Perlindungan Konsumen* (1st ed.). Jakarta, Indonesia: PT. Raja Grafindo Persada.
- Presidential Decree No. 1 of the republic of Indonesia. (1965). Jakarta: Lembaran Negara.
- Profil MUI. (2009, May). Retrieved December 25, 2016, from www.mui.or.id: <http://www.mui.or.id/index.php/2009/05/08/profil-mui/>
- Sufa, I. G. (2014, February 28). *DPR: MUI Tak Bisa Monopoli Sertifikasi Halal*. (TEMPO.CO) Retrieved December 25, 2016, from <https://m.tempo.co/read/news/2014/02/28/173558239/dpr-mui-tak-bisa-monopoli-sertifikasi-halal>
- Undang-undang Dasar 1945 Republik Indonesia. (n.d.). Article 29 section 2.

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