

# TRANSFORMATION OF ISLAMIC SHARIA VALUES IN THE ESTABLISHMENT OF REGIONAL REGULATIONS OF HALAL PRODUCTS

Muhammad Junaidi, University of Semarang

## ABSTRACT

*Certification of halal products that have been authorized by the Government of the Republic of Indonesia to the Indonesian Ulama Council is of course a good benefit to the business world and society in general. However, the authority of the Indonesian Ulama Council is of course very limited. For example, in terms of mentoring and enforcement of halal labeling which is still found imitation in the community, of course it has shown the limited authority exercised by the Indonesian Ulama Council. Departing from these problems, the role of local government is needed in transforming the values of Islamic law which are poured into the formation of regional legal products related to halal products.*

**Keywords:** Transformation, Islamic Law, Regional Law and Halal Products

## INTRODUCTION

In a state, implementing relations between citizens and the government, citizens with corporations and the state is one of the important instruments for the substance of state administration today. Therefore, understanding and belief in carrying out something that is understood by citizens is one of the parameters that must be fulfilled in the welfare of society.

One of the things that is the center of our attention today is related to the implementation of the teachings of Islamic law as a form of religious concept which is owned by more than 80 percent of the population of Indonesian citizens. Islamic Sharia itself, which is not a law, must of course be understood not as a form of rule that can be directly applied as existing laws. The basis of Islamic sharia is not law which can be explored from Law Number 12 of 2011 concerning the Formation of Laws and Regulations which does not mention Islamic sharia at all. However, as a note, the idea of a legal system opens up opportunities to adopt the ideas of Islamic law into national law (Yunus, 2015) through the principles of transforming its values into national law.

The transformation of the values of Islamic law is very interesting when discussed in the matter of the need for national law for Muslims in daily activities, one of which is related to consuming halal products. For Muslims consuming halal food means carrying out religious law, this is by considering if halal is another form of the path that is traversed to Allah SWT (Iryani, 2017).

The regulation of halal food products does not contradict the principles of world trade and is recognized by the World Trade Organization as part of the regulation of food products regulated in the CODEX Alimentarius Commission, a commission established by the Food and Agriculture Agency of the United Nations (Food and Agriculture Organization) and the World Health Organization. This is of course very optimistic to implement guaranteed halal products in Indonesia.

Apart from that, another optimism is the characteristic of Muslims who are very careful in choosing and consuming food and other products that are sold and bought in the market, either packaged or unpackaged. Muslim communities, including non-Muslims who sometimes have the same belief, will not buy goods that are of doubtful halalness and are not clean (hygienic). The Muslim community does not hesitate to consume and use products with the halal logo from a halal certifying agency that has received recognition from the government. The condition of this phenomenon shows an increase in the awareness of the ummah towards the implementation of Islamic law, which must be responded well and proportionally by the local government by issuing a regulation on the Regional Regulation for Halal Products. This is important to implement, because the Regional Regulation on Halal and Hygienic Products is very supportive of government programs as stated in the provisions of Presidential Regulation Number 59 of 2017 concerning the Implementation of Achieving the Sustainable Development Goals.

On the other hand, the potential for such a large domestic halal market, it is feared that the Indonesian market will be flooded with food products whose halalness is not guaranteed, either due to unsafe slaughter techniques, processing, storage, handling, and packaging or use of food additives (BTP). Which contains elements of haram in Islam. This is of course a threat if applied carelessly.

The Government of the Republic of Indonesia itself has issued a regulation enforcing the obligation to certify halal products traded in the territory of Indonesia as referred to in the provisions of Article 4 of Law Number 33 of 2014, which is a form of legal certainty guarantee regarding the circulation of goods (food) as well as evidence that the state carries out its obligation to protect citizens (Muslims) from products that are not halal according to sharia. Therefore, every producer of the product industry must have an understanding and awareness in ensuring that the halal nature of their products is circulated consciously and seriously to implement the Halal Assurance System (SJH) (Ali, 2016). This is what makes the conclusion that through the existence of halal certification it is expected to have a significant effect on halal awareness (Pramintasari & Fatmawati, 2017) in society.

Apart from the serious role of the central government in encouraging halal certification, of course in creating an obligation for products circulating, entering, and being traded in the territory of the unitary state of the Republic of Indonesia, it must be halal certified, but if this is not possible to carry out well if it is not further elaborated in the regulations under it, among others, are local regulations. Given, the implementation and implementation and consistency that is carried out in the implementation of halal product guarantees must be carried out by way of synergy, based on existing cross-powers.

## DISCUSSION

In the discussion of this paper, if examined directly from the authority, local governments do not have absolute authority over the certification of halal products in accordance with Law Number 33 of 2014 concerning Halal Assurance Products. However, as a note, the issue of local government authority in organizing halal and hygienic products is one of the authorities and affairs owned by local governments that must be carried out in accordance with the orientation of regional interests and progress. Regional authority which refers to the principles of autonomy is of course very important because it is related not only to the economic side, but the interests of the sustainability of the people's welfare and guarantee of legal certainty.

This value of legal certainty has been conceived as a form of the actualization of the rule of law. The responsibility of local governments is an inseparable part of the efforts to synergistically build an integrated and connected government system for the welfare of the people. One of the reasons for this is the birth of the idea that halal guarantee products should also be part of the responsibility of local government policies. A study shows that there is empirical evidence showing that decentralization has a significant effect on capital, growth, and welfare (Badrudin, & Siregar, 2015) which means that if the guarantee of halal products is re-optimized through instruments of authority in the regions, then it has the potential to have a big influence in the country's efforts to improve the welfare of society.

Of course, the actualization needs to be clearly stated in local regulations. The authority of the regional government is clearly stated in the regional government law that forms regional regulations as a guarantee of legal certainty that exists in the community. The involvement of the community is of course an effort to guarantee the protection of safety, health and comfort of the community as well as a parameter of the competitiveness of products in the regions. But what is the author's affirmation is that if the formation of regional legal products is not merely considered as a form of sharia law product, the mention is written in an article by Dian Bakti which mentions the term Shari'ah Regional Regulation as Legislation at the Regional Level (Setiawan, 2018). Regional regulations are still national legal products, but what is appropriate in the author's perspective is if the regional law products raise issues of Islamic sharia, it is merely a manifestation of a legal transformation that exists in society into positive national law.

The importance of regional legal products is to be present considering that in actualization, halal assurance through halal certification that is implemented is still a lot or lacks optimization. In fact, halal products are one of the religious institutions besides waqaf as the teachings of Islam in this case which have the principles of direct and functional relationship as an effort to resolve social and human problems that occur (Oktarina & Asnaini, 2018). This requires a solution to this problem so that the implications of halal product certification actually achieve the expected benefits.

For example, according to the data in 2018, the number of food, medicine and cosmetic entrepreneurs who have halal certificates in Central Java is still low. Based on the number of active entrepreneurs, there are only around 1,400, which in this case is very small, which only reaches 10 percent based on the total number of companies or industries (Jawa Pos, 2018). This number does not represent the number in Semarang city and other city districts in Central Java which are so dominant.

Whereas the obligation for halal product certification in the provisions of the halal product guarantee regulation has been clearly regulated in Law Number 33 of 2014 concerning Halal Product Guarantee. This indicates that the halal guarantee system is an inseparable part of the system structure how the actualization of halal should be part of the tradition that must be created in the labeling of existing products.

The mandate of the provisions above even requires guarantees of halal products to be implemented in accordance with the provisions of the Halal Product Guarantee Law. The basic principle in these provisions is that there are juridical aspects that must be implemented from the quality of halal products. As stated in Article 25, Business Actor who has obtained a Halal Certificate, compulsory including including the halal label, separating the location, maintaining halalness, renewing the Halal Certificate and making a report on changes in composition.

The above, of course, is an objective effort in maintaining the quality of halal guaranteed products so that the sustainability of these products can clearly be enjoyed by consumers or the public. In addition, the provisions in Law Number 8 Year 1999 concerning Consumer Protection are a form of protection guarantee for consumers to obtain quality products to be consumed.

The absence of regulations that guarantee legal certainty regulating the obligations of producers, this is not to mention the expensive financing of halal certification which is still the main obstacle for micro-small businesses. This is where the role of local governments can carry out intervention as mandated by the Law on Halal Product Guarantee Article 4 paragraph (2) emphasizes, "In the event that the Business Actor is a micro and small business, the cost of Halal Certificate can be facilitated by other parties". Then in Article 4 Paragraph (3) mandates "Further provisions regarding the cost of halal certification are regulated in a Government Regulation". Even though the government regulation has been published, it is still unable to guarantee a solution to the existing problem if intervention by other parties cannot be carried out seriously. The implication is that in practice cases of deviation of the existence of halal products in the community, one of which is from micro and small entrepreneurs, still occur, such as fake halal labeling. Whereas research (Nurlatifah, Imam & Nova, 2020) shows that all factors have a positive and significant effect on the Intention to Buy Halal Products.

In connection with that, in reality there are many products circulating in the community, not all of them are guaranteed to be halal. So the solution by issuing regional regulations in Indonesia regarding the guarantee of halal products is a clear and directed policy institutionalization for the sustainability of religious communities in obtaining their rights constitutionally.

Some of the actual problems that need to be regulated in regional regulations include the issue of law enforcement on halal certification which is often found in halal products with fake halal labeling. This role can be carried out by the local government through the Civil Service Police Unit. The Civil Service Police Unit is one of the institutions in the local government that is tasked with maintaining the mandate of regional legal products and always dealing directly with the community in the area (Hasrul, 2017). Of course this is very important considering that building public legal awareness regarding violations of halal guarantees is easier through law enforcement instruments. On the other hand, the civil service police unit is more humane, of course, in enforcing violations of Regional Regulations considering that its position will enforce criminal regional regulations by placing criminal law as the *ultimum remedium*.

Regional regulation crimes that can be humane to apply, especially those faced in falsifying halal labeling, are the lower class people, such as those who need halal guarantees but do not understand the process that is being carried out as a starting point for enforcing criminal law properly. This is also a response and a solution to the conditions so far that have given birth to a shift in political law (legal policy) regarding the application of criminal sanctions which are deliberately used as a last resort (*ultimum remedium*) to shift towards the first resort (*primum remedium*) (Anindyajati, Rachman & Onita, 2016).

Another problem that needs to be regulated in regional regulations is related to the problems of community development to obtain halal certification. Principles of Enforcement of the Halal Product Guarantee Law aim to realize safety, comfort, security, and assurance of the availability of halal products for the public to consume and use these products as appropriate (Hidayat & Siradj, 2015). So the substance of the law does not only talk about consumer comfort, but also the convenience of producers in obtaining halal certification easily.

But in fact, the certification process which requires complicated mechanisms and procedures as well as costs, especially for product testing, has constrained many producers or other products wishing to obtain halal certification. Halal certification which is a basic principle of recognizing the halalness of products issued by BPJPH based on a written fatwa issued by the Indonesian Ulama Council (Agus, 2017) should be facilitated with regard to public access to obtain this certification.

The local government in this case can facilitate through assistance to obtain halal certification. The role of local government is of course also another form of convenience for people who have a small industrial sector who hopes to have more selling value for their products through halal certification. Micro, Small and Medium Enterprises (MSMEs) have an important role in economic development and growth, considering that they absorb the most workers, as well as their large contribution to gross domestic growth (Taufik, 2017). In this case, the role of the local government is in overcoming the nature of the Halal Guarantee Law which, if not supported by other regulations, will become the existing regulations that are still sectoral, inconsistent, partial and non-systemic (Hasan, 2014).

For example, ensuring the halal of animal products is not simple by going through the production process. The existence of halal animal products does not only depend on the form of the substance, but also the processing, storage, distribution and presentation processes, all of which must be fully understood (Baharuddin, 2010). If serious assistance is provided by the local government to obtain halal certification, there will be easy access to legal certainty and legal justice in obtaining halal certification.

The involvement of the local government through the instruments of regional regulations that are regulated in relation to the above matters, of course, does not interfere with the authority of the Indonesian Ulama Council in issuing halal certification. However, the involvement of the local government is a form of strengthening the guarantee of halal products which is a manifestation of the transformation of the values of Islamic law, which are all as the principles of state goals in Aristotle's perspective (Muhammad, 2016), namely through the birth of the state, which has the intention of manifesting the interests of citizens who The ultimate goal is that citizens can live happily (prosperously).

## CONCLUSION

Regional legal products do not have to be demanded to become instruments of legalization of national legal products, but efforts to fill the legal void and ensure the actualization of legal values that live in society, one of which is the transformation of Islamic law into regional legal products. This is in line with the mandate of Article 18 of the Constitution of the Republic of Indonesia (constitution) where local governments can form regional regulations based on the principle of autonomy. The existence of regional legal products in ensuring the implementation of halal guarantees through monitoring and guidance instruments primarily for Micro, Small and Medium Enterprises (MSMEs) is of course a form of legal vacuum that is not regulated in the Halal Product Guarantee Law. In addition, the presence of regional legal products in guaranteeing halal products is also an implication of the urgency of the supervision system after the issuance of halal product certification by MUI to producers of halal products.

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