

ABSTRACT

Holilatul, Maghfiroh, 11220091. **THE EFFECTIVENESS OF BPOM'S SUPERVISION IN CENTRAL JAKARTA ON THE HALAL-LABELLED FOOD PRODUCTS.** Undergraduate thesis from the Department of Syariah Business Law, The Faculty of Syariah, Islamic State University of Malang. Advisor: H. Alamul Huda, M.H.I

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The majority of Indonesian citizen is Muslim. In Islam a Muslim is obligated to eat halal food. Therefore, Indonesian government should give primary attention to to guarantee any halal food. Particularly for food products, government established an institution to supervise food product circulated in Indonesia, which is BPOM (Badan Pengawas Obat dan Makanan). The supervision of halal-labelled food product is the task of BPOM of Republic of Indonesia. Up to now, there are many halal-labelled food product but they are not licensed based on procedures set in Indonesia. So that, it is obviously important to know the effectiveness of BPOM's supervision toward halal-labelled food product as the assurance for consumers especially for Muslims.

This study investigated two research problems: 1) How is the effectiveness of BPOM's supervision to the circulation of halal-labelled food product? 2) What are the obstacles faced by BPOM RI in supervising the circulation of halal-labelled food product? This study is an empirical-juridical research. It is because one of the empirical law research is defined for the effectiveness of law investigating how law operates in society. This study used juridical sociologic approach. Meanwhile the data collection is gathered through observation and interview. The data was analyzed using descriptive qualitative data analysis technique.

The result of the study showed that the supervision of BPOM RI is still not effective. The measure used for evaluating the effectiveness of supervision is using an analysis of the regulation regarded halal label. The supervision which is not effective is caused by some obstacle confronted by BPOM in conducting supervision. Those obstacles can be classified to be two group, which are internal and external factors. Internal obstacles emerge, while external obstacles come from the company or society.

Food is the basic of human needs that cannot be left out in life. Without eating and drinking sufficient standard of quantities and quality, human will not be productive in their activities.¹ Therefore, foods that circulate in the society must be the qualified food. In the provisions of article 1 (3) of the 1945 Constitution of the Republic of Indonesia, says that "Indonesia adalah negara hukum". Based on the text of the article 1, paragraph (3), it can be seen that, in Indonesia, everything related to society of Indonesian aspects either by the government or individual must be consistent and based on the provisions from the existing law applied in Indonesia.

The majority of Indonesian people is Muslim. In this case, this state also guarantees based on a constitution in the 1945 Constitution of the Republic of Indonesia of article 29 paragraph (1) the State based on the Almighty God (2) The State guarantees the independence of each resident to embrace their religion and to worship according to the religion and belief. Therefore, the state must give attention to guarantee that any product is halal. The protection of country, despite as a form of obligation to protect Indonesian people and the country of Indonesia and to bring social welfare into reality, it is, also, as the form of state's guarantees in providing the independence of each population to embrace their religion and to worship according to the religion and belief. As a concrete manifestation, the government regulates the labeling of halal products through some regulations.

Halal food is a part of faith or religious beliefs.² So, Muslim have their right to get an assurance of halal food. The regulation of halal and haram should be referred to sources of Islamic law: Qur'an and al-Sunnah. In addition, *ijma'* and *qiyas* are also important in Islamic law.³ In Islam, a Muslim must ensure that all food he eat are halal, not only halal, but also

¹ Celina Tri Siwi Kristiyanti, *Hukum Consumer Protection* (Jakarta: Sinar Grafika, 2011), p. 169.

² Amirsyah Tambunan, "Problem Dan Solusi Lembaga Sertifikasi Halal Di Indonesia," *Jurnal Halal LPPOM MUI*, 109 (September-Oktober, 2014), p. 25.

³ Yumi Zuhanis, *Halal All That You Need To Know* (Malaysia: Institut Terjemahan & Buku Malaysia Behard, 2013) h. 3

thayyib (good). The Ulama interpret thayyib as nutritious food in accordance with the standards of hygiene science. Allah said on the holy Qur'an :

يَا أَيُّهَا النَّاسُ كُلُوا مِمَّا فِي الْأَرْضِ حَلَالًا طَيِّبًا وَ لَا تَتَّبِعُوا خُطُوَاتِ الشَّيْطَانِ
إِنَّهُ لَكُمْ عَدُوٌّ مُبِينٌ

Meaning: *"O mankind, eat the halal and good from what is contained in the earth, and do not follow the steps devil, for surely the devil is a clear enemy."* (Q.S. al-Baqarah: 168).⁴

In 2007, Halal Journal magazine conducted a survey for products labeled halal without halal certificate. The result shows that there are many products labeled halal but have not a halal certificate. Most products are derived from small and medium industries. From last surveys, it is also found that there are companies that have halal labels on all of its products, but they just get halal certificate only for one product. In fact, in accordance with the provisions of Law and Government Regulation (PP), labeling halal license on the product packaging, should be with the permission of the official government. Concerned with this case, the Medicine and Food Supervisory Institution (BPOM)⁵ should not be passive. Supervision should be done regularly by BPOM as a government agency that has the authority related to these problems.

From the explanation above, can be concluded that it is necessary to know the effectiveness of control efforts by institutions obligated with supervising the circulation of halal products in society conducted by the Central Jakarta BPOM to evaluate the Muslim consumer protection efforts made by the government that is expected by the public. For this reason researchers interested in conducting research on BPOM and businesses

⁴ Syamil Al-Qur'an Terjemah Tafsir Per-Kata (Bandung: Syamil Qur'an)

⁵ Direktorat LPK Nasional, "Unsur Pidana! Waspadai Label Halal Palsu Pada Produk", <http://direktoratlpknasional.blogspot.com/2011/05/unsur-pidana-waspadai-label-halal-palsu/>, accessed on 30th November 2014

associated with halal food products in society. The aims of this research are to find out the effectiveness of supervision by medicine and food supervisory institution (BPOM) in central Jakarta on the halal food products and find out the obstacles on the circulation of halal food products by BPOM.

The Effectiveness of Supervision by Medicine and Food Supervisory Institution (BPOM) RI on The Halal Label for Food Products

Measuring the effectiveness of the organization is not a very simple, because effectiveness can be reviewed from various viewpoints, and depend on who is judging and interpreting them. The level of effectiveness can also be measured by comparing the predetermined plan with tangible results that have been realized. However, if the business or the results of the work do not act right, causing the target goal is not achieved or expected, then it is said to be ineffective.

In this study, the authors measure the effectiveness of the supervision by BPOM by comparing the results of research in the field with the regulations relating to food products labeled as halal. The data have been obtained by the author through observation, and interviews will be presented clearly. After that, the author will compare the results of the exposure to the legal basis of food products labeled as halal. This is done to facilitate the author's conclusion on the first formulation of the problem.

Basically there are no specific rules governing the supervision of kosher products to date. Although The Regulation of Halal Warranty was legalized by Parliament on 25 September, but it is not applicable yet.⁶ Therefore, the provisions regarding the supervision of halal products still follow the rules of supervision on food labels. This because halal logo is part of the label.

⁶ Appendix 12

In measuring the effectiveness of supervision of food products labeled as halal, there are some rules that will be used as a measure of the effectiveness of supervision BPOM to label food products. Among them are Law No. 8 of 2012 on Food, Charter Cooperation Ministry of Health, Ministry of Religious Affairs and the Indonesian Ulema Council in 1996 on the Implementation of Halal Labeling on Food, Law No. 8 of 1999 on Consumer Protection, and Government Regulation No. 58 Year 2001 on the Development and Control of Consumer Protection.

For more details, here is a measurement of the effectiveness of supervision by BPOM RI halal labels that have been studied with some of the rules that the legal basis labeled halal product assurance.

Analysis Based on Law No. 8 of 1999 on Consumer Protection

Consumer protection is said to be effective if consumers' rights are met. In Article 4 of Law No. 8 of 1999 on Consumer Protection mentioned consumer rights are:

- a. Right to comfort, security and safety in the consumption of goods and or services
- b. The right to choose the goods and or services as well as goods and or services in accordance by exchange rate and conditions and warranties of goods or services
- c. The right to get correct information, clear and honest about the condition and guarantee of goods and or services
- d. The right to be heard of opinions and complaints over the goods and / or services used
- e. The right to advocacy, protection, and mediation in consumer protection is worth.
- f. The right to receive guidance and consumer education
- g. The right to be treated or serviced properly and honestly and not discriminatory
- h. The right to obtain a dispensation, compensation and / or replacement if the goods and / or services received which are not in accordance with the agreement or not as it should be
- i. The rights which is set in the provisions of other laws and regulations.

This regulation is issued to protect consumers from bad actions conducted by businesses. In reality, with still many products labeled halal food but do not meet the legal requirements applied in Indonesia, so the consumer protection aspects related to the right of consumers to obtain comfort, security and safety to consume goods or services that have not been fulfilled. The right of consumers to obtain a clear and honest information about the condition and guarantee of goods and or jacket also have not fulfilled. This is because BPOM is often late in providing clarification regarding the truth of the rumors circulating in the community. For example in the case of Ajinomoto which became the main news in the year 2010. POM also is often late in conducting the examination or assessment of halal food products.

BPOM should be more concerned about the community, for example by submitting a progress reports with a clear and rapid response, or publishing any results of research conducted by BPOM. Public warning should be detail about finding halal food products labeled false. BPOM should also give more appeal to the public to avoid eating foods that do not meet the requirements of good food. Hopefully the people get the knowledge that is clearly associated with the development of food products labeled as halal.

Under this regulation, supervision BPOM has not been effective, under the evidence of non-fulfillment of the rights of the Muslim community, especially as consumers.

The Obstruction to Supervise the Circulation of Halal Food

Products By BPOM

The constraints faced by BPOM in the supervision of food products labeled as halal in Indonesia are internal and external. The small number of BPOM staff who are in the center or even in

the province make the task of monitoring performance BPOM not optimal. BPOM RI has 3 Sub-Directorate, specifically for halal Sub-Directorate staff have the 3 main and 3 additional staff. Very limited number of staff will affect the execution tasks of BPOM to oversee food products labeled as halal. With a very wide working area, staff, amounting to a total of 6 people this makes the control ineffective.

The separation and labeling certification institution inhibit the implementation of supervision. LP POM MUI is a non-governmental organization that has the authority to give halal certificate. While BPOM is the government agency that has the authority to give consent halal labeling. Therefore, the separation of the two close institution inhibits the surveillance.

BPOM supervision is conducted periodically and random lead to false halal food products labeled free from supervision. Surveillance system which periodically and randomly will certainly affect the scope of controlled food products. Therefore, it affects the production of which is not affordable by any supervision by BPOM. As it cannot be treat as a certainty in the discovery of food products in one place, it also can represent the products findings in the entire place. Therefore, it is necessary to strengthen the pre-market surveillance conducted by BPOM.

The cooperation of these three institutions are not maximal. In Cooperation Charter Ministry of Health, Ministry of Religious Affairs and the Indonesian Scholar Council in 1996 on the Implementation of the Food Labeling Halal, it is clearly stated to give tasks to each agency to oversee food products. However, such cooperation is not running optimally due to differences in place and the other tasks of the agency. So time to conduct deliberations was not optimal.

While the internal constraints in BPOM surveillance are many form. The example is addresses that are not clear written. One of the violations committed by businesses is not writing the complete address of the company. As the picture below.



Figure 4.5 : The Wrong Packaging

In the example above, it stated that the company is located in Jakarta. The impact of incomplete address of some company is that it will be an obstacle BPOM to follow up on budgeting done by the company such as sending a letter of warning.

There is still a lack of knowledge from companies to register their products on the BPOM. In Indonesia so many UKM (Small and Medium Enterprises) that are able to compete independently for producing their own products. SMEs are often started by entrepreneurs who have less than perfect in education. So that they do not know the procedures in accordance with the rules to legally get halal label in the community.

The awareness of the businessmen for acting in good faith is still low. Because of a competitive market situation, businessmen are encouraged to take a lot of advantages. It happens to meet the needs of businesses themselves. The law awareness of consumer to make a complaint or report to the government or non-governmental consumer protection agencies

related to the fake halal label on the packaging of food products consumed by society is still low.

Conclusions

After going through some process of empirical research. Starting from the observation, analysis data up to the analysis discussion, this research can be summarized into two points, are:

Supervision by Medicine and Food Supervisory Institution (BPOM) in Central Jakarta on the halal label food products is less effective. This can be seen by the many obstacles faced by BPOM in conducting surveillance. In addition, the most crucial thing is about the fulfillment of the right of consumers to obtain security against products using halal label.

The constraints faced by BPOM in the supervision of food products labeled as halal in Indonesia are internal and external. One of internal constraints is the small number of BPOM staff who are in the center or even in the province make the task of monitoring performance BPOM not optimal. And one of external constraints is still a lack of knowledge from companies to register their products on the BPOM

Suggestions

The less effectiveness of BPOM's supervision because a lot of constraints than faced to supervise. And some of the suggestions offered by the authors to solve the constraints that faced by BPOM in the supervision of food products labeled as halal in Indonesia. Increase the number of staff at the Halal Sub-Directorate BPOM in order to perform scheduled uniformly and systematically in supervision Separation of certification institution and labeling institution causing some problems. Therefore, the implementation of Act on Halal Product Guarantee (JPH) should be expedited as

fast as imposible. So labeling institution and certification institution under the authority of one party only.

BPOM's should be more active and ready on companies that produce food without waiting for complaints from the public. Thus, companies that do not include the complete address can find the true address fastly. A lack of knowledge of businesses and the public about the labeling of halal approval procedure resulted them apathetic to it. Thus, halal socialization not only given to businesses, but also the people who volunteered for the local supervisor are society.

