

## CHAPTER I

### INTRODUCTION

#### A. Background Of Research

Food is anything that comes from biological sources and water, whether treated or untreated. 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.<sup>1</sup> 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 is a Law Country". 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. Basically, the state has guaranteed the prohibition of ommissioning the circulation of food products that are not qualified in the society.

Halal food is a part of faith or religious beliefs.<sup>2</sup> 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.

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

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

In addition, *ijma'* and *qiyas* are also important in Islamic law.<sup>3</sup> In Islam, a Muslim must ensure that all food he eat are halal, not only halal, but also 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 وَلَا 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).<sup>4</sup>

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

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

<sup>4</sup> Syamil Al-Qur'an Terjemah Tafsir Per-Kata (Bandung: Syamil Qur'an)

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.

Although it is not clearly described in the specific law, the government still regulates the halal label in some related regulations. For example, government regulates that any person who manufactures or supplies food packaged into Indonesian territory for commercial and state that the food permitted for Muslim, is responsible for the statement, including a description of halal mark on the label. Consumer Protection Law mentions that prohibition on halal label business to manufacture and trade of goods and / or services which are not in accordance with agreements stated in the label, information, advertising or sales promotion of goods and / or services.<sup>5</sup>

Halal food according to Article 1 paragraph 5 of Law No. 69 of 1999 is food that does not contain haram elements or materials or prohibited for Muslim to consume both included food raw materials, food additives, auxiliary materials and other additional materials including food abundance that is processed through the genetically process and food irradiation processing performed in accordance with Islamic law. Besides,

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<sup>5</sup> Article 8 Act No. 8 year 1999 on Consumer Protection.

halal food products are halal products qualified in accordance with Islamic law, among others, such as:<sup>6</sup>

1. It does not contain pork and material derived from pork
2. It does not contain prohibited materials such as materials derived from human organs
3. All materials is derived from halal animals that slaughtered according to the procedure of Islamic law.
4. All storage area, sales data, the processing and transport should not be done where pigs are slaughtered and used for other haram goods. If so, they must be cleared with the procedures of Islamic law.
5. All foods and beverages containing alcohol.

Basically, the Muslim really need guarantee about any halal food products using halal label. In that consumer protection efforts, the government is also doing efforts with the LP-POM MUI (The Assessment Institute for Food, Drugs, and Cosmetics – Indonesian Council of Ulama) and BPOM. Terms used for halal products in Indonesia have two related things that is certification and labeling. Halal certification is written MUI fatwa which states about the products which follow Islamic law through a detailed inspection by the LP-POM MUI. Halal certificate is a requirement

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<sup>6</sup> Departemen Agama RI, *Panduan Sertifikasi Halal*, (Jakarta: Direktorat Jendral Bimbingan Masyarakat Islam dan Penyelenggaraan Haji, 2008) p. 2

to get the permission of halal labeling on the package of the product by government authorities.<sup>7</sup>

The labeling is license of the use of the word "halal" on the package of the products from any company by B POM. The license of halal labeling on the package of the food products asserted by B POM MUI based on recommendations in the form of halal certificate. Halal certificate incurred by the MUI based on inspection of LP POM MUI.<sup>8</sup> In terms of supervision Halal certification, LP POM MUI only requires the company to sign an agreement to accept any sudden inspection LP POM MUI at any time and the company is obligated to submit the report of the internal audit every six months after the issuance of halal certification.<sup>9</sup> Meanwhile, the supervision of Halal food products circulating in society is the authority of government agency which is Medicine and Food Supervisory Institution (BPOM).

In fact, society is still lack of trust regarding halal labelling. Circulation of food or beverage product that is met some demands of laws and regulations, make consumers restless. Society as consumers, often feel cheated for having purchased a product in packaging labeled halal, but in fact it does not obtain a halal certificate from MUI and the legalization of government. Many products does not have halal certificate, and it gives a negative impact to the society especially Muslim consumers. It is difficult

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<sup>7</sup> Aisjah Girindra, *Pengukir Sejarah Sertifikasi Halal*, (Jakarta: Lp POM MUI, 2005) p. 20

<sup>8</sup> Zulham, *Hukum Consumer Protection* (Jakarta: Kencana Prenada Media Group, 2013) h. 112

<sup>9</sup> Zulham, *Hukum*, p.131

to distinguish which products are truly halal and can be consumed in accordance with Islamic law with a product that are not. From the data held by LPPOM MUI 2007, amount of product which have been registered on average are from well-known company in the market. In addition to products that have not been certified, the case of some haram product circulation of food this year added a restless Muslim consumers seeking to obey their religion's law. It would be said halal in the sense of the manufacturing process in ways that are not halal or food derived from non-halal ingredients or contain ingredients that are not halal. Starting from the commotion of Ajinomoto case in 2001 which turned out to contain pork in it. Ajinomoto products is declared containing material which is considered haram by the Indonesian Ulama Council (MUI) (Solopos, January 15, 2001). It also happened in the case of "gelonggongan" beef, meatballs which are made from mouse meat, the use of formaldehyde or other dangerous chemical substances in food, the use of pork oil, and many others.<sup>10</sup>

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,

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<sup>10</sup> Anung Ranzaini Firmansyah, *Tinjauan Yuridis Pengaturan Perlindungan Hukum Terhadap Pemalsuan Sertifikasi dan Labelisasi Halal Sebagai Bentuk Legitimasi Kehalalan Produk DI Indonesia*, Thesis SH, (Surakarta: Universitas Sebelas Maret, 2010), p. 8

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)<sup>11</sup> should not be passive. Supervision should be done regularly by BPOM as a government agency that has the authority related to these problems. Nevertheless, there will be an authority change in Law JPH later.

Indonesia, in fact, has had the regulation about halal labelling, namely Act No. 7 year 1996 on Food and the Act No. 8 year 1999 on Consumer Protection and Government Regulation No. 69 Year 1999 on Food Label and Advertisement. In Article 30 paragraph (1), Act No. 7 of 1996 on Food mention every person who produces or enter it to Indonesian territory to be traded packaged food should put a label on , in and or on the packaging and labeling of food, including halal label.<sup>12</sup> Those regulations have not been able to provide legal certainty and legal guarantees to the Muslim to recognize food and other products which are halal. The government also continues striving to protect Muslim consumers with the Draft Law of JPH.

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<sup>11</sup> Direktorat LPK Nasional, “Unsur Pidana! Waspada Label Halal Palsu Pada Produk”, <http://direktoratlpknasional.blogspot.com/2011/05/unsur-pidana-waspada-label-halal-palsu/>, accessed on 30<sup>th</sup> November 2014

<sup>12</sup> Anung Ranzaini Firmansyah, *Tinjauan Yuridis Pengaturan Perlindungan Hukum Terhadap Pemalsuan Sertifikasi dan Labelisasi Halal Sebagai Bentuk Legitimasi Kehalalan Produk DI Indonesia*, Thesis SH, (Surakarta: Universitas Sebelas Maret, 2010), p. 10



After the Draft Law Halal Product Guarantee on 25 September 2014 by the Parliament was legalized, the labeling and supervision mechanisms labeled halal food products have new regulations. In Law of JPH who have gone through the harmonization mentioned that the supervision of collateral kosher products made by BNP2H (National Agency for Halal Product Guarantee) was set up by the government.<sup>13</sup> Chairman of the Working Committee (Panja) Bill JPH Commission VIII Ledia Amaliah Hanifa said that through internal auditors, supervision instruments in halal products circulating in the country will also establish special committee. Under the draft law proposed by the government JPH to Parliament, to organize JPH, the government will establish a National Agency for Halal Product Guarantee (BNP2H). "The agency is in the administrative authority under the Minister of Religion," he told Bisnis, Thursday (10/07/2014).<sup>14</sup> He explained that BNP2H has an obligation to conduct outreach to various parties in addition to supervise the products circulating in the society.

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

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<sup>13</sup> Article 59 Harmonisasi Law Jaminan Produk Halal

<sup>14</sup> Ledia Hanifah, "RUU Jaminan Produk Halal : Pelaku Usaha Perlu Siapkan Internal Auditor", <http://www.lediahanifa.com/2014/10/ruu-jaminan-produk-halal-pelaku-usaha.html>, accessed on 30<sup>th</sup> November 2014



researchers interested in conducting research on BPOM and businesses associated with halal food products in society.

## **B. Research Problem**

Based on the background described above, the main problem of the study can be stated as follows:

1. How is the effectiveness of supervision by medicine and food supervisory institution (BPOM) in central Jakarta on the halal food products?
2. What obstacles can be found on supervision of the circulation of halal food products by BPOM?

## **C. Objective of The Study**

The aims of this research are to:

1. Find out the effectiveness of supervision by medicine and food supervisory institution (BPOM) in central Jakarta on the halal food products.
2. Find out the obstacles on the circulation of halal food products by BPOM.

## **D. Significance of Study**

The significance of this research are:

1. Theoretical significance

a. This research is expected to contribute ideas for the development of science, so the readers can learn the supervision by medicine and food supervisory institution (BPOM) in central Jakarta on the halal food products

b. This research is expected to be used as guidelines for parties or other researchers who want to research about supervision by medicine and food supervisory institution (BPOM) in central Jakarta on the halal food products

2. Practical significance

a. For BPOM

Results of this research are expected to provide information on the development of supervision conducted by BPOM and be an evaluation for supervision institution labeled halal food products.

b. For Government

To know the effectiveness of BPOM in supervising the circulation of Halal food products that can be taken into consideration in forming BNP2H authorized in the LawJPH.

c. For food company:

The results of this research are expected to give information for any manufacturers about the supervision from B-POM for halal labelled products.

d. For Customer/People

Results of this research are expected to provide information about Supervision on halal products. Society can also be a volunteer to be supervisor who supervise halal label products on the society.

**E. Systematics Writing**

The writing of the research will be more systematically, it is divided into five parts, and those are:

**CHAPTER I INTRODUCTION**

This chapter is the foundation of the chapters that follow, therefore, this chapter will explain the background of the problem, research problems, objectives of the study, the benefits of research, operational definitions and systematic discussion.

**CHAPTER II THEORETICAL FRAMEWORK**

In this chapter contains thoughts and juridical concept or concepts as the theoretical foundation for the research and analysis of the problem. This chapter contains the theories about consumer protection, Halal food products and related to this research. This theory is written as

material to analyze the issues raised in this research.

### CHAPTER III RESEARCH METHODS

This chapter describes the methods used in this research. In this research the method includes at least four things: (1) Type of research (2) The approach of research (3) Type of data (4) The method of data collection (5) Analysis data

### CHAPTER IV FINDING AND DISCUSSION

This chapter will explain the data that has been obtained from the field. The results of this data will be edited, classified, verified and analyzed to answer the formulation of the problem that has been set.

### CHAPTER V CONCLUSION AND SUGGESTION

This chapter is the last chapter in this research. It will be concluded by a short and precise results of research that has been done. Suggestions will also be written in this chapter to contribute to the control of halal food products.

## **F. Definition of Key Terms**

To clarify the meaning and have the same perception, this research includes the clarification of some terms as following:

### **1. Food**

Everything that comes from biological sources and water, whether treated or untreated, which is applied as a food or drink for human consumption, including food additives, food raw materials, and other materials used in the preparation, processing, and or manufacture of food.<sup>15</sup>

### **2. Food Label**

Food label is any information about the food in the form of pictures, writings, a combination of both, or other forms that are included in food, incorporated into, attached to, or is part of food packaging, hereinafter in this government regulation is called the label.<sup>16</sup>

### **3. Halal**

Food that do not contain haram material or prohibited for consumption or Muslim, whether relating to food raw materials, food additives, auxiliary materials or other supporting material including the processed of the food through the process of genetic engineering

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<sup>15</sup> Article 1 Act No. 69 1999 about Label and food Advertising

<sup>16</sup> Article 1 Act No. 69 1999 about Label and food Advertising

and irradiation of food, and they are managed in accordance with the provisions of Islamic law.

