

## CHAPTER II

### REVIEW OF RELATED LITERATURE

#### A. Previous Research

1. The first research was taken from a student thesis, namely:

Title :THE EFFECTIVENESS OF SUPERVISION BY  
BPOM THE CIRCULATION TRADITIONAL  
MEDICINE THAT CONTAIN CHEMICALS  
CIRCULATING IN YOGYAKARTA "

Compiled by : Norita Palita Silalahi

This research has the following aims:

1. To know the effectiveness of the implementation mechanism of BPOM supervision to the circulation traditional medicine containing chemicals medicine.

And findings are:<sup>1</sup>

1. Mechanism of food and medicine supervision conducted by BPOM Yogyakarta have done by the general supervision of the three majors or sectors, namely the production sector, the distribution sector, and the sector of health care facilities. Supervision is done by the respective BPOM Deputy area that are

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<sup>1</sup> Norita Palita Silalahi, *The Effectiveness Of Supervision By Bpom The Circulation Traditional Medicine That Contain Chemicals Circulating In Yogyakarta*, Thesis SH ( Yogyakarta : University of Atma Jaya Yogyakarta, 2011), p. 29

interrelated to one other. In traditional medicine control of industry, BPOM establish criteria Traditional Medicine Production Good Method (CPOTB) as a benchmark for supervision. In the control of medicine manufacturers do at least 2 (two) twice a year. Manufacturers are required to register in accordance with applicable regulations. Supervision conducted by the preventive, namely by providing counseling, training to producers the provision, perhaps education or exhibition and services to consumer complaints. But if BPOM find irregularities or fraud committed by producers/entrepreneurs, BPOM can provide both administrative sanctions and pro justitia. Implementation conducted by BPOM can be said to have the maximum, but less effective. Although it has been done supervision in basic sectors, but the frequency of supervision to the medicine manufacturers are not focused, in particular the supervision of traditional medicine is herbal medicine. Required supervision periodically and regularly to supervise the chains of traditional medicine circulation containing BKO itself.

The differences between the Research above and this research are:

1. The focus of research in the above is a traditional medicine that contains chemicals, while this research focuses on halal food products

2. The research above was in Yogyakarta, while the research was conducted in the In central Jakarta.

2. The second research was taken from a student thesis, namely:

Title : "CONSUMER PROTECTION ACT IN FOOD PRODUCTS LABELING"

Compiled by : Anak Agung Ayu Diah Indrawati

Research Program : Act Science

Institution : Udayana University Graduate

This research has two aims are:<sup>2</sup>

1. To analyzes the provisions of labeling food products as regulate in Act Number 69 year 1999 on does it has been fulfilling the principles of consumer protection.
2. To knows what the legal consequences for infringement from provisions of the food label for businesses/manufaturens.

And the results of this research are:

1. The provision of food product labeling as regulate in Act Number. 69 year 1999 on has not fulfilled the principles of consumer protection that the principle of utility, fairness, balance, safety and legal certainty. Which could be seen from the definition of own

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<sup>2</sup> Tulus Abadi, *Peran Serta Masyarakat Dalam Pemberian Informasi Produk Halal*, Tim Pengkajian Hukum (Jakarta : Kementerian Hukum Dan Hak Asasi Manusia Ri Badan Pembinaan Hukum Nasional), p, 116

label which is still causing problems. The regulation use the word label affixed to the understanding, give the impression that the label can be affixed at any time, but basically the label is an integral part of the packaging. The utilization of the word was also impressed affixed separately and can be faked. Besides can be faked, just a sticker label / sticker can be easily removed, replaced and then labeled back by businesses that cheat. There is still the possibility for exceptions to the utilization of Indonesian also cause the principles of consumer protection to be ignored.

2. Dimensions of legal protection for consumers can include a variety of aspects and can be done with various instruments, namely instrument of civil act, criminal act instruments and administrative and legal instruments. Therefore infringement by businesses to the provisions of the food label can be worn liability or sanctions in civil, criminal and administrative. Civil and criminal sanctions are often less effective if Not accompanied by administrative sanctions. Administrative sanction is often more effective than civil or criminal sanctions, therefore first, administrative sanctions can be applied directly and unilaterally, second civil sanctions and/or criminal often do not bring effect "deterrent" for the people, the value of compensation and criminal imposed may be nothing compared to the benefits achieved from negative actions manufacturer. Not to mention the imposition mechanism verdict

convoluted and requires a long process, so that consumers often become impatient. For a civil lawsuit, consumers are faced with bargaining power is not always advantageous compared with the manufacturers.

The differences between the Research above and this research are:

1. The focus of research above is the legal protection of consumers in the labeling of food products, while this research focuses on supervision of government institution, namely B POM to the halal food products.
3. The third research was taken from the thesis, namely:

Title : CONSUMER PROTECTION FOR FOOD  
PRODUCTS IN PACKAGING WITHOUT  
HALAL LABEL

By : Inayatul Aini

This study has the following objectives:<sup>3</sup>

1. How the form of regulation for halal food products in relation to consumer protection?
2. What kind of that can do consumers in obtaining the protection of their rights violated by businesses as a result of eating halal food without labels in the pack on small businesses?

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<sup>3</sup> Inayatul Aini, *Perlindungan Hukum Bagi Konsumen Produk Pangan dalam Kemasan Tanpa Label Halal Pada Usaha Kecil*, Thesis S.H ( Jakarta : Universitas Islam Negeri Syarif Hidayatullah, 2011), p. 77

And findings are:

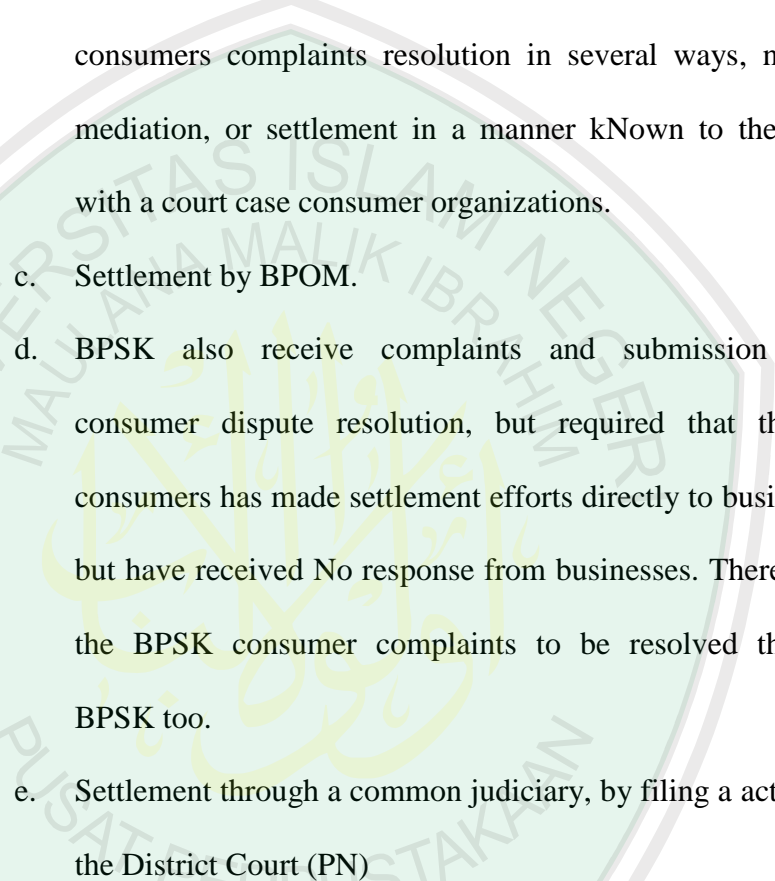
1. Regulation of Halal food products in relation to consumer protection that businesses must include halal label on every food product that is manufactured and traded. This is in accordance by Act Number 8 year 1999 on consumer protection contained in Article 8 Paragraph (1) is as follows:

Article 8

- a. Business actors are prohibited to producing and/or trading of goods and/or services:

(h) Do Not follow the provisions of halal production, as the statement "halal" are included in the label. With the settings businesses must Not violate existing regulations, so consumers especially Muslim consumers are Not harmed by the business and can choose the desired food product with a clear and comfortable because of the inclusion of halal label on the packaging, then there is No doubt about halal.

2. Legal efforts that can do for consumers in obtaining protection for their rights are violated by businesses as a result of consuming food without the halal label on the packaging business has got regulation in the UUPK. UUPK provides an opportunity for consumers and businesses to resolve consumer disputes through two ways, namely by peaceful means or through a court case or BPSK. Ways of solution is as follows:

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- a. Completion directly to businesses.
  - b. Complaints by YLKI, which can be done directly both verbally or in writing, by mail, telephone, e-mail, fax, print and electronic media. Furthermore YLKI can take for consumers complaints resolution in several ways, namely mediation, or settlement in a manner known to the court with a court case consumer organizations.
  - c. Settlement by BPOM.
  - d. BPSK also receive complaints and submission from consumer dispute resolution, but required that the for consumers has made settlement efforts directly to businesses but have received No response from businesses. Thereby on the BPSK consumer complaints to be resolved through BPSK too.
  - e. Settlement through a common judiciary, by filing a lawsuit in the District Court (PN)

The differences between the Research above and this research are:

1. This study discusses the regulation of food products halal label, while this study focuses on supervision of the circulation of foods labeled halal
2. The above research is a Normative study which reviewed the regulation. while this study is the empiric research

4. The fourth research taken from the empiric research the Ministry of Act and Human Rights Development, namely:

Title : SOCIETY PARTICIPATION IN THE PROVISION OF  
HALAL PRODUCT INFORMATION

Compiled by : Tulus Abadi

This research has the following objectives:

1. Is the existence of acts and regulations related to halal products can for provide the protection to consumers Guarantees are secured Muslims?
2. What is the role and mechanisms of government for supervision on the circulation of a product on the market that can be kNown of the halal and Non-halal?

And findings are:

1. Inclusion of information or halal information on food labels is Not an obligation, but only voluntary. In fact, the actual substance of the rule of act there is Now eNough. However, it is necessary to strengthen the regulatory aspects of a more comprehensive. Processed food which will include a description or halal information must fulfill the standards and requirements of safety, quality, and nutritional food issued by medicine and food supervisory institution (BPOM).
2. Statement or halal information should be based on the results of audit institutions that have been accredited by the KAN (National Accreditation Committee) in accordance with the guidelines and procedures established by the Minister of Religious Affairs to consider



and advice the Indonesian Ulema Council. Businesses (manufacturers) have to keep halal products are consistent. In an effort to realize this, it is necessary to build a system of legal guarantees and also formed the company's internal auditors who have actful authority to approve and ban the production based halal.

The differences between the Research above and this research are:

1. The research above analyzes the halal labeling regulations, while this research will analyze the real shape of the BPOM supervision of food products labeled as halal.
2. The Research above analyzes of the role of the BPOM contribution to food labeled halal, while this research will analyze BPOM supervision of the food products labeled as halal.

## **B. Theoretical Framework**

### **1. General Review on Consumer Protection**

#### **a. Definition of Consumer Protection**

In terms of Article 1 Act Number. 8 year 1999 on consumer protection is all the effort that ensure the legal certainty to provide the protection to consumers. Consumer protection coverage that can be divided into two aspects, namely:<sup>4</sup>

a. Protection for goods

b. Protection for certain conditions

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<sup>4</sup> Adrianus Meliala, *Praktik Bisnis Curang* (Jakarta: Pustaka Sinar Harapan, 1993) h. 152

Consumer protection is a term used to describe the absence of a act that provides protection to consumers from harm on of goods and / or services.<sup>5</sup> According to the legislation, consumer protection is all the effort that ensure legal certainty for give protection to consumers.<sup>6</sup>

The scope of consumer protection acts to contain it hard to contain only one type of legislation, such as to the Act on Consumer Protection are always in touch and interact with a variety of fields and other branches of act, because in each asped and the legal branch of the party there is always predicated "consumers".<sup>7</sup> Consumer protection has a very broad coverage includes protection against any loss resulting from the use of goods and / or services. Although it is intended for consumer protection, but Not necessarily the interests of businesses do Not get attention. Because, however, to create a climate of fair competition and conducive, the existence of business as a producer of goods and / or services must also be fair to the carrying position them as consumers in partner the company needed according to their rights and obligations arising under an engagement.

To achieve these objectives, the implementation of all the rules in the middle of the community should have a solid legal basis

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<sup>5</sup> Burhanuddin, *Pemikiran Hukum Perlindungan Konsumen*, (Malang: UIN Maliki Press, 2011), p.1

<sup>6</sup> Article 1 UUPK

<sup>7</sup> Shidarta, *Hukum Perlindungan Konsumen*, ( Jakarta: PT Grasindo, 200p), p. 1

in view of the Shari'a. Protection should be given to the consumer because of the general existence always be in a weak position.<sup>8</sup>

Consumer is any person that user of goods and services available in the society, both for the benefit of themselves, their families, other people and other living beings and Not for sale.<sup>9</sup> In the ecoNomic terms between the final consumer and the consumer. The final consumer is who use or utilization of the final of a product, whereas the consumer is the consumer who uses a product as part of a production process of other products.<sup>10</sup> Therefore understanding contained in this regulation is the final consumer. Business operators is any individual or legal entity, whether in the form of legal entity or No a legal entity established and domiciled or conducting activities within the jurisdiction of the Republic of Indonesia, either alone or together by agreement for business activities in various fields of ecoNomy. Thus, businesses that are included in this definition is a corporation, state enterprises (BUMN), cooperatives, importers, traders, distributors, and so on.

## **b. Principles and Objectives of Consumer Protection**

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<sup>8</sup> Posisi konsumen sebagai pihak yang lemah juga diakui secara internasional sebagaimana tercermin dalam resolusi Majelis Umum PBB, No. A/RES/39/248 Tahun 1985, tentang Guidelines For Consumers Protection, menyatakan bahwa "Taking into account of interests and needs of consumers in all countries, particulaly those in developing counties, recognizing that consumers often face imbalances in the ecoNomics terms, educational levels, and bargaining power, and bargaining in the mind the consumers should have the right of acces to Non-hazardous product, as well as the right to promote just, equietable and sustainable ecoNomic and social development.

<sup>9</sup> Article 1 (2) ActNo. 8 year 1999 on Consumer Protection

<sup>10</sup> Zulham, *Hukum*, p.17.

"The principle is something that is used as a base or foundation of thought, speech and action". The principles forming the basis of acts and regulations means or something that made a footstool in drafting the legislation. Principles of act is the foundation of a act and its implementation regulations. Consumer protection was organized as a joint effort of all parties concerned, society, businesses, and government based on five principles, which according to Article 2 of UUPK is:<sup>11</sup>

1. Utility Function

The principle benefit is intended to mandate that all efforts in the implementation of legal protection for the consumer must provide the greatest benefit for the benefit of consumers and businesses overall principle has a meaning that in applying UUPK should provide benefits to the parties concerned that consumers and businesses so, No one party feels a higher position among others.

2. Principle of Justice

The principle of fairness is so that the participation of all people can be realized to the fullest and give an opportunity to consumers and businesses to obtain their rights and perform its obligations equitably. The principle of justice that has meaning between businesses and individual consumers to

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<sup>11</sup> Ahmadi Miru & Sutarman Yodo, *Hukum Perlindungan Konsumen*, (Jakarta: PT. Raja Grafindo Persada, 2004) p. 25-26

obtain justice in doing justice to accept the obligations and rights, because it, UUPK regulate the rights and obligations of consumers and businesses.

### 3. Principle of Balance

The principle of balance is meant to provide a balance between the interests of consumers, businesses, and government. With the existence of this principle is expected between the interests of consumers, businesses, and governments can be realized in a balanced manner. No party feel more protected than others.

### 4. Principle of Security and Consumer Safety

Principles of security and safety of consumers is intended for members of the security and safety assurance to consumers in the use, handling, and use of goods and / or services consumed or used. This principle has the meaning of the existence of a guarantee for the security and safety of consumers in the use, handling, and use of goods and / or services to be exploited or used. That the product will be used or used will Not make bad impact for consumers who consume/ use it.

### 5. Principle of Legal Certainty

The principle of legal certainty is intended to both businesses and consumers obey the acts and justice in the provision of legal protection for consumers, the state in this case also

ensure legal certainty. This principle is intended to both consumers and businesses comply with applicable acts and implement them in everyday life in order to obtain justice. Therefore, the state will guarantee legal certainty.

Attention to the substance of Article 2 of Act Consumer Protection as well as the explanation, it appears that the formulation refers to the whole Indonesian of human development philosophy which is based on the philosophy of the Republic of Indonesia.<sup>12</sup>

Consumer Protection Objectives, in the provisions of Article 3 of Act Number. 8 of 1999 on Consumer Protection aims:

1. Increase awareness, ability and independence of consumers to protect themselves
2. Raising the dignity of consumers by the use of good/ servim from the negative access of goods and / or services
3. Increasing the empowerment of consumers in selecting, specifying, and assert their rights as a consumer
4. Creating a system of consumer protection that contain elements of legal certainty and transparency of information and access to information

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<sup>12</sup> Ahmadi Miru, *Hukum Perlindungan Konsumen*, (Jakarta: PT Grafindo Persada, 2004), p. 26

5. Raise awareness on the importance of businesses legal protection for consumers, so the growing attitude of honest and responsible in trying
6. Improving the quality of goods and / or services that ensure the continuity of the production of goods and / or services, health, comfort, security, and safety of consumers.

**c. Rights and Obligations of Business Manufacturer**

Obligations of businesses, there are :<sup>13</sup>

1. Good faith in conducting its business activities
2. Providing accurate information, clear and honest about the condition and guarantee of the goods and / or services as well as members of explanation use, repair, and maintenance.
3. Treat or serve customers properly and honestly and Not discriminatory.
4. Ensure the quality of goods and / or services produced and traded under the provisions of the standard or quality of goods and / or services are applicable.
5. Provide opportunities for consumers to test, and / or try the goods and / or services as well as members of the guarantee and / or traded.

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<sup>13</sup> Article 7 UUPK

6. Giving compensation, restitution and / or compensation for damages resulting from the use, consumption and utilization of goods and / or services that circulate in society.
7. Provides compensation, damages of goods / services received or used does Not comply with the agreement.

Obligation of good faith effort to conduct business is one of the principles recognized in the treaty<sup>14</sup> agreement In UUPK appears that businesses are required good faith in the conduct of its business, while for consumers acting in good faith required to make purchases of goods and / or services<sup>15</sup>. In addition to the consumer obligations, UUPK also regulate consumer rights as formulated in the later chapters, which is about the rights of businesses, namely:<sup>16</sup>

1. The right to receive payment in accordance with an agreement on the conditions and the exchange rate of of goods and / or services traded.
2. Right to have legal protection of consumer action that bad faith.
3. The right to defend themselves properly on the legal settlement of consumer disputes.

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<sup>14</sup> Pasal 1338 BW : Agreement conducted based on goodwill

<sup>15</sup> Ahmadi Miru, Perlindungan Konsumen, p. 54

<sup>16</sup> Article 6 UUPK



4. The right to rehabilitation of reputation if legally proven that consumer harm is Not caused by the goods and / or services traded.
5. The rights set forth in the provisions of other legislation.

#### **d. Rights and Obligations of Consumer**

The term "consumer protection" is concerned with the protection of the act. Therefore, it contains aspects of consumer protection acts. The material of which the protection is Not just physical, but most of all their rights that abstract. In other words, the real consumer protection<sup>17</sup> syNonymous with protection given by act to the rights of consumers. Generally kNown there are four basic rights of consumers, namely:

1. The right to get security (the right to safety)
2. The right to obtain information (the right to be informed)
3. The right to vote (the right to choose)
4. The right to be heard (the right to be heard).

Four basic rights are recognized internationally. During its development, consumer organizations are joining in the International Organization of Consumers Union (IOCU) add a few rights, such as the right to education of consumers, the right to compensation, and the right to obtain a good and healthy

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<sup>17</sup> Ahmadi Miru & Sutarman Yodo, *Hukum Perlindungan Konsumen*, (Jakarta: PT. Raja Grafindo Persada, 2004) p. 25-26

environment. While consumer rights in Indonesia as stated in Article 4 of Act Number 8, year 1999 are as follows:

1. The right to comfort, security, and safety in consumption of goods and / or services.
2. The right to choose the goods and / or services as well as goods and / or services in accordance with the exchange rate and the conditions and guarantees promised.
3. The right to correct information, clear, and honest about the condition and guarantee of the goods and / or services.
4. The right to be heard opinions and complaints over the goods and / or services used
5. The right to advocacy, protection, and mediation in consumer protection is worth.
6. The right to receive guidance and consumer education
7. The right to be treated or serviced properly and honestly and Not discriminatory
8. The right to obtain a dispensation, compensation and / or replacement if the goods and / or services received are Not in accordance with the agreement or Not as it should be
9. The rights set forth in the provisions of other acts and regulations.

Consumer obligations as set out in Article 5 of BFL Act Number. 8 year 1999 are as follows:

1. Read or follow instructions and procedures for the use of information or use of the goods and / or services, for security and safety
2. Good faith in making purchases of goods and / or services
3. Pay in accordance with the agreed exchange rate
4. Following legal remedies are appropriate consumer protection disputes.

## **2. General Review On Label for Halal Food Products**

One of the way for communication between producers and consumers is through the label. With this media related manufacturers can explain things about product to the buyer/ consumers, among other information producers and addresses, ingredients, expiry date, nutritional value, and information halal.<sup>18</sup>

Consumer protection has been regulated specifically in the various regulations issued by the government, such as Act Number. 8 of 1999. Consumer protection in this act contains a very broad meaning. Start of effort to get the needs of manufacturers that include information, choose the price, up to the consequences caused by a product. Halal label contains juridical aspects to provide consumer the protection. That is legally labeling halal

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<sup>18</sup> Aisjah Girindra, *Dari Sertifikasi Menuju Lebelisasi Halal* (Jakarta: Pustaka Jurnal Halal, 2008) p. 86

means to protect consumers and implement the Consumer Protection act.<sup>19</sup>

Different with other religions, Islam is one religion that is unbelievably attention to food for the muslim. Thus, the issue of halal and haram arranged in such detail Not only in the Qur'an but also the hadith. Because Islam aims to create good in the world and the hereafter.<sup>20</sup> The Republic of Indonesia is the country with the largest Muslim population in the world. Total population reached around 220 million people, including 8.7% of Muslims that around 200 million people are Muslims. And to rule the use of halal products in Indonesia, has two things are interrelated, namely certification and labeling<sup>21</sup>

#### **a. Halal Certification**

In an effort to fulfill the expectations of the Muslim society in legal certainly for halal food products, the LP POM MUI halal certificate issued recommendations on its packaging. The aim of Halal certification for food products, medicines, cosmetics and other products made to give certainty halal status of a product, that can to reassure consumers mind. Continuity

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<sup>19</sup> Ibnu Elmi, *Label HALal: Antara Spiritualitas Bisnis dan Komoditas Agama* (Malang: Madani, 2009) p. 73

<sup>20</sup> Muhammad Jaya, *Ternyata Makanan & Minuman Anda Mengandung Babi & Khamr !*, (Yogyakarta: Riz'ma, 2009) p, 17

<sup>21</sup> Zulham, *Perlindungan Konsumen*, p. 112

of halal production process guaranteed by the manufacturer by applying Halal Assurance System.<sup>22</sup>

Article 1 Paragraph 11 government regulation No. 102 year 2000 on national standardization mentions that certification is a series of activities and the issuance of certificates for goods or services.<sup>23</sup> Quality certification of halal food are the conditions that must be fulfill in the process of quality control of food, which can be performed in a laboratory or other means in accordance with techNological developments. Quality Certification enacted to further provide assurance to the public, that food purchased has fulfill certain quality standards, without reducing to the responsibility of food producers.

Hereinafter, Article 1 paragraph 12 Government Regulation Number. 102 year 2000 on national standardization mention that the certificate is a written guarantee given by the institution / laboratory has been accredited to certify that the goods, services, processes, systems, or personnel have fulfill the required standards. Based on the understanding of the above article, it can be said, that the certification is a process associated with the provision of a certificate, while the certificate itself means a document stating that a product and /

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<sup>22</sup> Aisjah Girindra, *Dari Sertifikasi Menuju Labelisasi*, (Jakarta: LPPOM MUI, 2008) h. 99

<sup>23</sup> Peraturan Pemerintah RI. No 69 Tahun 1999 tentang Label dan Iklan Pangan

services in accordance with the requirements of specific standards or technical specifications.

In order to conduct the certification, then the business must first implement the standardization. Article 1 paragraph 2 of Government Regulation Number. 102 year 2000 on national standardization states that: Standardization is the process of formulating, establishing, implementing and revising the standard, which is carried out in an orderly manner and cooperate with all parties'. If it formulated in a nOther form, satandarisasi associated with standard-setting process and the application is done in an orderly manner in a work 78 Explanation of Article 25 Paragraph (1) of Act Number. 7 year 1996 on Food at which involves all parties.

One form of awarding certificates are certified halal. Understanding halal certificate, can be seen in artichel 1 Letter decision of Minister of Religion Number. 518 year 2001 on the guidelines and procedures for the examination and determination of halal food which states that the halal certificate is written fatwa stated about the food product that is issued by the inspectors.<sup>24</sup>

If food inspected by the Institute inspectors has fulfill the requirements of halal food and have given fatwa of halal,

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<sup>24</sup> Endang Sri Wahyuni, *Aspek Hukum Sertifikasi & keterkaitanya Dengan Perlindungan Konsumen*, p. 104.

then the next inspection agency will issue halal certification. Halal certificate can be revoked by the inspection agency, if businesses were in violation of the certificate holder in the field of halal food, because inspection agency has the right to undertake spot checks to businesses halal certification holders. Therefore, if future changes in the production process, raw materials, additives, or auxiliary materials, the internal halal auditor shall immediately report to the audit institution for evaluation and approval obtained before use. Procedures and the mechanism for setting Halal Certification on the same principle with the determination of the fatwa in general. It is just before the problem (the product requested fatwas) brought to LPPOM MUI first do research and audit to the plant concerned.<sup>25</sup> The procedure for obtaining halal certification as follows:<sup>26</sup>

1. Any manufacturer who apply for Halal Certification for its products, must fill out Form provided. The accreditation form contains information about the company's data, the type and name of the product and the materials used
2. Form was completed, along with the supporting documents are returned to the secretariat of LP POM MUI for

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<sup>25</sup> Sistem dan Prosedur Penetapan Fatwa Produk Halal Majelis Ulama Indonesia (Jakarta: Bagian Proyek Sarana dan Prasarana Produk Halal Direktorat Jenderal Bimbingan Masyarakat Islam dan Penyelenggaraan Haji Departemen Agama RI, 2003) p. 19

<sup>26</sup> Aisjah Girindra, *Dari Sertifikasi Menuju Labelisasi*, p. 106

completeness checked, and if Not adequately company must complete accordance with the provisions.

3. LPPOM MUI will inform companies about the audit schedule. Team LPPOM MUI Auditor will conduct inspection / audit to the location of the manufacturer and at the time of the audit, the company must be in a state to produce products that are certified.
4. The results of inspection / audits and laboratory results (if necessary) evaluated in LPPOM MUI Auditor Fulfilling. The audit results are Not yet fulfill the requirements Notified to the company through the audit memorandum. If it have fulfill the requirements, the auditor will make the audit report submitted to the Assembly for the MUI Fatwa Commission decided halal status.
5. Audit report submitted by the LPPOM MUI and Commission Mui at a predetermined time.
6. Session MUI Fatwa Commission may reject the audit report if deemed Not fulfill all the requirements that have been determined, and the results will be communicated to the applicant producers halal certification.
7. Halal Certificate issued by the Indonesian Ulema Council as defined by the halal status of MUI Fatwa Commission.



8. Halal Certificate is valid for two (2) years from the date of the fatwa.
9. Three months before the validity period of the Halal Certificate ended, the manufacturer must apply for an extension of the halal certificate in accordance with established rules LPPOM MUI.

**b. Halal labeling**

Labeling is licensing the installation of the word "Halal" on the packaging of the product of a company by BPOM. Permission halal labeling on the packaging of food products issued by BPOM based on MUI. MUI Halal certification issued by the MUI based on inspection of LP POM MUI.<sup>27</sup>

Label in Government Regulation Number. 69 Year 1999 on Food Labeling and Advertisement is any information about the food in the form of pictures, writings, a combination of both, or other forms that are included in food, put in, of posting on, or is part of food packaging. The food label at least contain the following information:<sup>28</sup>

- a. Product Name
- b. List of materials used

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<sup>27</sup> Aisjah Girindra, *Sejarah Sertifikasi Halal*, (Jakarta: LPPOM MUI, 2005) h. 69

<sup>28</sup> Article 30 Act Number. 7 year 1996 on Food

- c. The net weight or net content
- d. Name and address of the party producing or importing food into Indonesian territory
- e. Description of Halal
- f. Date, month and year expired

For technical provisions concerning the implementation of the labeling that is based on the results of a new halal certification was issued in 1996 that the Minister of Health Decree No. 924 / Menkes / SK / VII / 1996 on the Amendment to the Decree of the Minister of Health No. 82 Menkes / SK / I / 1996 on the Inclusion Posts Halal Food Labels. Health Ministerial Decree Number. 924 / Menkes / SK / VII / 1996 on the Amendment to the Decree of the Minister of Health Number. 82 Menkes / SK / I / 1996 on the Inclusion of Posts Halal Food Labels mentioned in several articles, namely:<sup>29</sup>

Article 8: Producers and importers will apply for the inclusion of the word "halal" shall be ready inspected by a joint team of officers from the Indonesian Ulema Council and medicine and food supervisory institution (BPOM) designated by the Director-General".

Article 10: 1. The results of the audit referred to in Article 8 of the results of the laboratory tests referred to in Article 9

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<sup>29</sup> Anung Razaini, *Tinjauan Yuridis Pengaturan Perlindungan Hukum Terhadap pemalsuan Sertifikasi Dan Labelisasi Halal Sebagai Bentuk Legitimasi Kehalalan Produk Di Indonesia*, Thesis S.H ( Surakarta: Universitas Sebelas Maret, 2010) h. 35

to be evaluated by a team of Indonesian Ulama Council.

2. The results of the evaluation referred to in paragraph (1) shall be submitted to the Indonesian Council of Ulama Fatwa Commission to obtain a fatwa.
3. Fatwa Indonesian Ulama Council referred to in paragraph (2) the provision of halal certificate for qualified or in the form of rejection.

Article 11: The approval of the inclusion of the word "halal" is given by the fatwa of the Indonesian Ulama Council Fatwa Committee

Article 12: 1. Based on the Fatwa of the Indonesian Ulama Council, medicine and food supervisory institution (BPOM) provides:

- a. agreement for obtaining the certificate "Halal"
- b. rejection of obtain a certificate that is Not" halal ".

2. The rejection referred to in paragraph (1) letter b is given in writing to the applicant along with the reasons for rejection

Article 17: Food that has been approved by the inclusion of the word" Halal "before the enactment of this decision, must conform with the provisions of the decision No later than three (3) months from the date of enactment of this decision.

Based on the above provisions, the halal labeling permits issued by medicine and food supervisory institution or BPOM based on the halal certificate issued by Indonesia Ulama Council (MUI). Operationally halal certification activities handled by LPPOM MUI. Higher regulations that houses the provisions of

halal certification and labeling, among others, Act Number. 7 of 1996 on Food and the Act Number. 8 of 1999 on Consumer Protection. The acts and regulations relating to the labeling halal is located at:

1. Act Number 7 Year 1996 About Food
2. Act 8 Thn. 1999 on Consumer Protection
3. Government Regulation Number. 69 1999 About Labeling and Advertising of food
4. Decree of the Minister of Religious Affairs of the Republic of Indonesia Number. 518 of 2001 on Guidelines and Procedures for Examination and Determination of Halal Food
5. Government Regulation 69 of 1999 on Food Labelling and Advertising, in particular Article 3, paragraph 2, article 10 and article 11.

### **3. General Review About B-POM**

Medicine and food supervisory institution or BPOM is an institution in Indonesia, which oversees the distribution of medicines and food in Indonesia. Drug and Food Control System (SisPOM) an effective and efficient way to detect, prevent and control products with the aim of protecting the security, safety and health of consumers both at home and abroad. For it has been established that BPOM has a national and international network of

act enforcement authorities and have high professional credibility.<sup>30</sup>

In Article 30 of Act Number. 8 of 1999 on Consumer Protection stated that the monitoring of the implementation of consumer protection and the application of the provisions of the regulation organized by the government, society, and Non-governmental consumer protection agencies. Objectives of Article 30 is to conduct surveillance and monitoring of goods and / or services that are circulating in society. Especially with regard to the supervision of food and drinks, in Indonesia has established a body tasked to oversee the circulation of drugs and food, namely BPOM.

BPOM is a Non-ministerial government institution established by Presidential Decree Number. 103 of 2001 on the Position, Duties, Functions, Structure and Work Non Departmental Government Institutions as amended several times, most recently by President Regulation Number. 64 year 2005, which further Officials will be called concerning the establishment of government institutions Nondepartement. Officials is a central government agency established to carry out certain government tasks and responsibilities daripresiden directly to the president. Officials BPOM is one that has duty in the field of medicine and food supervision in accordance with the provisions of the

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<sup>30</sup> Badan POM, *Fungsi Badan POM*, [http://www.pom.go.id/pom/profile/fungsi\\_badan\\_POM.php](http://www.pom.go.id/pom/profile/fungsi_badan_POM.php) accessed on 30th November 2014

legislation applicable. Based on President Decree Number. 103 on Status, Duties, Functions, Structure and Work of Non-Departmental Government Institutions<sup>31</sup>

**a. Function**

The function of BPOM:<sup>32</sup>

1. Assessment and formulation of national policies in the field of food and medicine supervision.
2. The implementation of certain policies in the field of food and medicine supervision.
3. Coordination of functional activities in the discharge of the POM.
4. Monitoring, mentoring and guidance to government agencies in the field of food and medicine supervision.
5. To provide guidance to public administration in the field general planning, administration, organization and management, personnel, finance, filing, coding, and household equipment.

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<sup>31</sup> Tiodora Sirait, *Peranan BPOM Dalam Sistem Pengawasan Obat dan Makanan Suatu Tinjauan Aspek Yuridis*, Thesis S2 (Jakarta: Universitas Indonesia, 2006), p. 8

<sup>32</sup> Badan POM, *Fungsi Badan POM*, [http://www.pom.go.id/pom/profile/fungsi\\_badan\\_POM.php](http://www.pom.go.id/pom/profile/fungsi_badan_POM.php) accessed 30th November 2014