

**THE LEGAL UNDERSTANDING OF RESTAURANT ENTREPRENEURS  
ON HALAL CERTIFICATION AFTER THE ENACTMENT OMNIBUS  
LAW AND GOVERNMENT REGULATION NO. 39 OF 2021**

**(Study in Lowokwaru District, Malang City)**

**THESIS**

**BY:**

**YUNIAR IKA SUKMAWATI**

**SIN 18220116**



**SHARIAH ECONOMIC LAW DEPARTMENT (MU'AMALAH)**

**SHARIAH FACULTY**

**STATE ISLAMIC UNIVERSITY MAULANA MALIK IBRAHIM**

**MALANG**

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**MALANG**

**2022**

## STATEMENT OF THE AUNTENTICITY

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In the name of Allah,

With consciousness and responsibility toward the development of science, the writer declares that thesis entitled:

**THE LEGAL UNDERSTANDING OF RESTAURANT ENTREPRENEURS  
ON HALAL CERTIFICATION AFTER THE ENACTMENT OMNIBUS LAW  
AND GOVERNMENT REGULATION NO. 39 OF 2021**

**(Study in Lowokwaru District, Malang City)**

Is truly writer's original work which can be legally justified. If this thesis is proven result of duplication or plagiarism from another scientific work, it as precondition of degree will be stated legally invalid.

Malang, April 07<sup>th</sup>, 2022

Author,



Yuniar Ika Sukmawati

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## APPROVAL SHEET

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**THE LEGAL UNDERSTANDING OF RESTAURANT ENTREPRENEURS  
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LAW AND GOVERNMENT REGULATION NO. 39 OF 2021**

**(Study in Lowokwaru District, Malang City)**

The supervisor stated that this thesis has met the scientific requirements to be  
proposed and to be examined on the Assembly Board of Examiners.

Malang, April 07<sup>th</sup>, 2022

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**THE LEGAL UNDERSTANDING OF RESTAURANT  
ENTREPRENEURS ON HALAL CERTIFICATION AFTER THE  
ENACTMENT OMNIBUS LAW AND GOVERNMENT REGULATION  
NO. 39 OF 2021 (Study in Lowokwaru District, Malang City)**

Telah dinyatakan lulus dengan nilai: A











Malang, 19 Mei 2022

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ENTREPRENEURS ON HALAL CERTIFICATION  
AFTER THE ENACTMENT OMNIBUS LAW AND  
GOVERNMENT REGULATION NO. 39 OF 2021  
(Study in Lowokwaru District, Malang City)

No.	Day/Date	Subject of Consultation	Signature
1.	Thrusday, 4 <sup>th</sup> November 2021	Mini proposal correction	
2.	Friday, 12 <sup>th</sup> November 2021	Revised mini proposal	
3.	Tuesday, 30 <sup>th</sup> November 2021	Correct the thesis proposal	
4.	Wednesday, 1 <sup>st</sup> December 2021	Revised thesis proposal	
5.	Tuesday, 11 <sup>st</sup> January 2022	Proposal seminar result	
6.	Monday, 17 <sup>th</sup> January 2022	List of interview and questionnaires question	
7.	Monday, 6 <sup>th</sup> February 2022	Chapter I, II, III	
8.	Monday, 7 <sup>th</sup> March 2022	Chapter IV	
9.	Thrusday, 31 <sup>st</sup> March 2022	Chapter IV, V	
10.	Monday, 4 <sup>th</sup> April 2022	Revised Chapter IV, V	

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## MOTTO

وَمَنْ سَلَكَ طَرِيقًا يَلْتَمِسُ فِيهِ عِلْمًا سَهَّلَ اللَّهُ لَهُ بِهِ طَرِيقًا إِلَى الْجَنَّةِ

*“Whoever treads a path to gain knowledge, Allah will make easy for him/her the path to Heaven”* HR. Muslim.

*“Today must be better than yesterday”*

**FIGHTING!**

## ACKNOWLEDGMENT

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Alhamdulillahirabbil'alamin, have given His rahmat and servan, so we can finish this thesis entitled **“The Legal Understanding Of Restaurant Entrepreneurs On Halal Certification After The Enactment Omnibus Law and Government Regulation No. 39 of 2021 (Study in Lowokwaru District, Malang City)”**. Peace be Upon into The Rasulullah Prophet Muhammad SAW who has taught us guidance (*uswatun hasanah*) to do activity correctly in our life. By following Him, may we belong to those who believe and get their intercession on the last day of the end. Amien.

From all the teaching, advice, guidance, and helps of service for us to finish this thesis, then with all humility the writer will expresses the gratitude which is unequaled to:

1. Prof. Dr. M. Zainuddin, M.A., as the Rector of The State Islamic University Maulana Malik Ibrahim of Malang.
2. Dr. Sudirman, M.A., as the Dean of Syariah Faculty of The State Islamic University Maulana Malik Ibrahim of Malang.
3. Dr. Fakhruddin, M.HI., as the Head of Shariah Economic Law Department of Shariah Faculty of The State University Maulana Malik Ibrahim of Malang.
4. Hidayatul Firdaus, S.HI.,M.SI. as as my thesis supervisor. The writer thanks for his spending time to guide, direct, and motivate to finish writing this thesis. The writer hopes that he and his family will be blessed by Allah.

5. Ramadhita, M.HI as supervisor lecturer of the writer during study at Shariah Economic Law Department of Shariah Faculty of The State University Maulana Malik Ibrahim of Malang.
6. All lecturers at Syariah Faculty of the State Islamic University of Maulana Malik Ibrahim Malang who have provided learning to all of us. With sincere intentions, may all of their charity be part of worship to get the pleasure of Allah SWT.
7. Staff of Syariah Faculty of The State Islamic University Maulana Malik Ibrahim of Malang, the author thanked for his participation in the completion of this thesis.
8. The author 's parents, Mr. M. Ali Imron and Mrs. Atmawati who always pray, give motivation, and support both morally, materially, and spiritually so that the author can complete this thesis well and on time.
9. Mr. Handjiono Soesetyo as the BPJPH in the Ministry of Religion of Malang, the author thanked for allowing and providing information during research.
10. Restaurant Entrepreneurs in Lowokwaru District, Malang City, the author thanked for being to be respondents, allowing and providing information during research.
11. All my friends in arms of Sharia Economic Law of 2018, ICP-HES 2018, PP Al-Fadholi, organization, and GenBI community who have provided many memories, experiences, and motivation to the author during study.
12. All parties who have helped the author in completing this thesis, can't be mentioned one by one. Thank you so much.

13. Last but not least, I wanna thank me, I wanna thank me for believing in me, I wanna thank me for doing all this hard work, I wanna thank me for having no days off, I wanna thank me for never quitting, I wanna thank me at all times.

With the completion of this thesis report, the hope that knowledge which we have gained during our studies can provide the benefits of life in the world and the hereafter. As a human who has never escaped fault, the author is very hopeful for the forgiveness, criticism and suggestions from all parties for future improvement efforts.

Malang, March, 8<sup>th</sup> 2022

Author,



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## TRANSLITERATION GUIDENCE

The Latin Arabic Transliteration Guidelines which are the result of a joint decision (SKB) of the Minister of Religion and the Minister of Education and Culture of the Republic of Indonesia. Number: 158 of 1987 and Number: 0543b/U/1987.

### A. Consonants

A list of Arabic letters and their transliteration into Latin letters can be seen on the following page:

Arab Letters	Name	Latin Letters	Name
ا	Alif	Not Symbolized	Not Symbolized
ب	Ba	B	Be
ت	Ta	T	Te
ث	S/a	S/	Es (with the dot above)
ج	Jim	J	Je
ح	H[a	H[	Ha (with the dot above)
خ	Kha	Kh	Ka dan Ha
د	Dal	D	De
ذ	Z/al	Z/	Zet (with the dot above)
ز	Ra	R	Er
س	Zai	Z	Zet
ص	Sin	S	Es

غ	Syin	Sy	Es dan Ye
ص	S[ad	S[	Es (with the dot above)
ض	D[ad	D[	De (with the dot above)
ط	T[a	T[	Te (with the dot above)
ظ	Z[a	Z[	Zet (with the dot above)
ع	'Ain	'	Apostrof backwards
غ	Gain	G	Ge
ف	Fa	F	Ef
ق	Qof	Q	Qi
ك	Kaf	K	Ka
ل	Lam	L	El
م	Mim	M	Em
ن	Nun	N	En
و	Wau	W	We
هـ	Ha	H	Ha
ء/أ	Hamzah	'	Apostrof
ي	Ya	Y	Ye

Hamzah (ء) which is located at the beginning of the word follows the vowel without any marking. If it is in the middle or at the end, it is written with a sign (').

## B. Vocal

Arabic vowels, like Indonesian vowels, consist of a single vowel or monophonic and multi vowels or diphthongs. The Arabic single vowel whose symbol is a sign or vowel, the transliteration is as follows:

Sign	Name	Latin Letters	Name
اَ	Fath[ah	A	A
اِ	Kasrah	I	I
اُ	D[ammah	U	U

Arabic double vowel whose symbol is a combination of vowels and letters, the transliteration is a combination of letters, namely:

Sign	Name	Latin Letters	Name
اي	Fath[ah dan ya	Ai	A dan I
اوي	Fath[ah dan wau	Au	A dan U

Example:

كيف : kaifa

حول : haula

### C. Maddah

*Maddah* or long vowels whose symbols are vowels and letters, transliteration in the form of letters and signs, namely:

Harakat and Letters	Name	Letters and Sign	Name
اَ / اِ	Fath[ah and <i>alif</i> or <i>ya</i>	a>	a and the line above
اِ / اِ	<i>Kasrah</i> and <i>ya</i>	i>	i and the line above

و & ُ	D]ammah and <i>wau</i>	u>	u and the line above
-------	------------------------	----	----------------------

Example:

mata: مات

rama: رام

qila: قيل

#### D. Ta' Marbututhah

There are two transliterations for ta' marbutah, namely ta' marbutah who live or get the letters fathah, kasrah, and d]ammah, the transliteration is [t]. While ta' marbutah who dies or gets a sukun harakat, the transliteration is [h].

If the word ending with ta' marbutah is followed by a word that uses the article al- and the reading of the word is separate, then ta' marbutah is transliterated with [h].

al-madinah: المدينة

#### E. Sandang word dan Lafdh al-Jalalal

The word sandang is "al" ( ال ) is written in lower case, unless it is located at the beginning of the sentence, while "al" in lafadh jalalah which is in the middle of the sentence that is supported ( idhafah ) is then removed. Consider the following examples:

1. Al-Imâm al-Bukhâriy said.....
2. Al-Bukhâriy in the opening of his book explains.....
3. *Masyâ'Allah kânâ wa mâlam yasyâ lam yakun.*
4. *Billâh 'azza wa jalla.*

## F. Writing Arabic Words Commonly Used In Indonesian

Words, terms, or sentences in Arabic must basically be written based on the use of a transliteration system. If the sentence or word is a form of an Arabic name from an Indonesian or an Arabic language that has been translated into Indonesian, then there is no need to rewrite it using the system transliteration, such as the words of the Qur'an, Sunnah, special, and general. However, if the word or sentence becomes part of a series of Arabic texts, then it must be fully transliterated such as Al-Sunnah qabl al -tadwin, etc.

## G. Word Writing

Basically each word, whether fi'il (verb), noun or letter, is written separately. Only certain words that are written in Arabic letters are commonly linked with other words, because there are Arabic letters or harakat that are omitted, so in this transliteration the writing of the word linked also with other words that follow it.

Example: khairar-râziqîn خري الرازقني

Although in the Arabic writing system the capital letters are not known, in this transliteration the letters are used as well. The use of capital letters as occurs in EYD, among which capital letters are used to write by the word sandang, then those written with capital letters remain the beginning of the personal name that, not the first letter of the sandang word.

example: وما محمد الآ رسول = wa maâ Muhammadun illâ Rasûl

ان اول بيت وضع الدرس = inna awwala baitin wu dli"â linnâsi

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## ABSTRACT

Sukmawati, Yuniar Ika, 18220116, 2022. **The Legal Understanding of Restaurant Entrepreneurs on Halal Certification After The Enactment Omnibus Law and Government Regulation No. 39 of 2021 (Study in Lowokwaru District, Malang City)**. Thesis. Shariah Economic Law Department. Faculty of Sharia. The State Islamic University of Maulana Malik Ibrahim Malang. Supervisor: Dwi Hidayatul Firdaus, S.HI., M.SI.

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**Keywords:** Legal Understanding; Restaurant Entrepreneurs; Halal Certification

Islam regulates the command to work and consume halal food and *thayyib*. It is important for restaurant entrepreneurs to pay attention halal nature of their food. However, still many restaurants haven't been certified halal. Whereas halal certification is an obligation (*mandatory*) as protection and certainty consumer law.

Halal certification is regulated in Law No. 11 of 2020 concerning Job Creation (Omnibus Law) and PP No. 39 of 2021 concerning the Implementation of Halal Product Assurance. This study aimed to know the legal understanding of restaurant entrepreneurs on halal certification and to determine the legal consequences of entrepreneurs who haven't halal certification perspective Omnibus Law and BPJPH. This research method used juridical-empirical.

The results of this study showed that the legal understanding of restaurant entrepreneurs in Lowokwaru District, Malang City on the obligation of halal certification was less understood. They haven't understood the provisions of free of charge (Self Declare) according to article 4A of Job Creation Law and the period of termination according to article 139-140 PP No. 39 of 2021. Entrepreneurs who haven't been certified halal will get social consequences excluded from business actors who have been certified halal. So far no one article regulated the legal consequence. Administrative sanctions of written reprimand in advance become a possible alternative conducted by The Halal Product Assurance Agency (BPJPH) so that restaurant entrepreneurs immediately take care of halal certification.

## ABSTRAK

Sukmawati, Yuniar Ika, 18220116, 2022. **Pemahaman Hukum Pelaku Usaha Rumah Makan Terhadap Sertifikasi Halal Pasca Disahkan Undang-Undang Cipta Kerja dan PP No. 39 Tahun 2021 (Studi di Kecamatan Lowokwaru, Kota Malang)**. Skripsi. Program Studi Hukum Ekonomi Syariah. Fakultas Syariah. Universitas Islam Negeri Maulana Malik Ibrahim Malang. Pembimbing: Dwi Hidayatul Firdaus, S.HI., M.SI.

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**Kata Kunci:** Pemahaman Hukum, Pelaku Usaha Rumah Makan, Sertifikasi Halal

Islam mengatur perintah mencari rezeki dan mengonsumsi makanan halal nan *thayyib* (baik). Penting bagi pelaku usaha rumah makan memperhatikan kehalalan makanannya. Namun, masih banyak rumah makan yang belum bersertifikasi halal. Padahal sertifikasi halal merupakan suatu kewajiban sebagai perlindungan dan kepastian hukum konsumen.

Kewajiban sertifikasi halal dimuat dalam Undang-undang No. 11 Tahun 2020 tentang Cipta Kerja dan PP No. 39 Tahun 2021 tentang Penyelenggaraan Bidang Jaminan Produk Halal. Tujuan penelitian ini untuk mengetahui pemahaman hukum pelaku usaha rumah makan terhadap kewajiban sertifikasi halal dan mengetahui konsekuensi hukum pelaku usaha yang tidak memiliki sertifikasi halal perspektif UU Cipta Kerja dan BPJPH. Metode penelitian ini adalah yuridis-empiris.

Hasil penelitian menunjukkan pemahaman hukum pelaku usaha rumah makan di Lowokwaru, Kota Malang terhadap kewajiban sertifikasi halal kurang paham. Mereka belum memahami ketentuan kemudahan bebas biaya (*Self Declare*) menurut pasal 4A UU Cipta Kerja dan jangka waktu penahanan menurut pasal 139-140 PP No. 39 Tahun 2021. Terhadap pelaku usaha yang belum bersertifikasi halal, akan mendapat konsekuensi sosial tersisih oleh pelaku usaha yang telah memiliki sertifikasi halal. Konsekuensi hukumnya sampai saat ini belum ada pasal yang mengaturnya. Sanksi administratif teguran tertulis terlebih dahulu menjadi alternatif yang dapat dilakukan BPJPH agar pelaku usaha rumah makan segera mengurus sertifikasi halal.

## ملخص البحث

سوكماواقي، يونيو ١١٦، ١٨٢٢٠، ٢٠٢٢، الفهم القانوني لمثلي أعمال المطاعم بشأن شهادة الحلال بعد قانون خلق فرص العمل و اللوائح الحكومية رقم ٣٩ عام ٢٠٢١ الدراسة في منطقة لوووكوارو ، مدينة مالانج .(البحث الجامعي . برنامج دراسة القانون الاقتصادي الشرعي. كلية الشريعة جامعة مولانا مالك إبراهيم الإسلامية الحكومية مالانج .المشرف.:دوي هداية الفردوس الماجستير

### الكلمات المفتاحية: التفاهم القانوني ، أعمال المطاعم ، شهادة الحلال

ينظم الإسلام أمر طلب الرزق واستهلاك الطعام الحلال و الطيب. من المهم لمثلي الأعمال في المطاعم الانتباه إلى حلال طعامهم .ومع ذلك ، لا يزال هناك العديد من المطاعم غير شهادة الحلال. أن شهادة الحلال هي التزام لحماية المستهلك واليقين القانوني.

الإلتزام بشهادة الحلال وارد في القانون رقم ١١ عام ٢٠٢٠ بشأن خلق فرص العمل و اللوائح الحكومية رقم ٣٩ عام ٢٠٢١ بشأن تنفيذ قطاع ضمان المنتجات الحلال. الغرض من هذه الدراسة هو معرفة الفهم القانوني للجهات الفاعلة في مجال المطاعم تجاه الإلتزام بشهادة الحلال ومعرفة العواقب القانونية للفاعلين التجاريين الذين ليس لديهم شهادة حلال بعد التصديق على اللائحة .المنهج البحث في هذا البحث الجامعي هي قانونية - تجريبية.

تظهر نتائج الدراسة أن الفهم القانوني للجهات الفاعلة في مجال المطاعم في لوووكوارو ، مدينة مالانج بشأن الإلتزام بشهادة الحلال لم تكن واضحًا. بأنهم لا يفهمون توفير الراحة المجانية (Self Declare) وفقًا للمادة A٤ من قانون خلق فرص العمل وفترة التنفيذ وفقًا للمو ١٣٩ - ١٤٠ اللوائح الحكومية رقم ٣٩ عام ٢٠٢١. سيكون للفاعلين التجاريين الذين لم يتم اعتمادهم شهادة الحلال، عواقب اجتماعية تتمثل في استبعادهم من الجهات التجارية التي لديها شهادة الحلال. لا تزال العواقب القانونية ممكنة لأنه لا توجد مادة تنظم ذلك .العقوبة الإدارية للتحذير الكتابي مقدمًا يمكن تنفيذه بواسطة BPJPH بحيث يهتم ممثلو المطاعم على الفور بشهادة الحلال.

# CHAPTER I

## INTRODUCTION

### A. Background of Research

The number of Indonesian majority Muslims, makes products that have been certified halal will be the main choice of the majority of Indonesian. The amount of halal product consumption based on data from the Ministry of Industry, Indonesia occupies the 10 top position with the predicate of the world's halal food consumer country known for the amount of consumption up to US \$ 144 billion of the total global halal food consumption of US \$ 1.17 trillion contained in the report The State of Global Islamic 2020/2021. So, it is important for business actors to complement their products with halal logos that have obtained halal product certification in order to expand the consumption of halal products in Indonesia.

Islam regulates the rules and prohibitions in life, one of which is about consuming halal and *thayyib* food. It has been explained in the words of Allah QS. Al-Baqarah (2): 168.

يَا أَيُّهَا النَّاسُ كُلُوا مِمَّا فِي الْأَرْضِ حَلَالًا طَيِّبًا وَلَا تَتَّبِعُوا خُطُوَاتِ الشَّيْطَانِ إِنَّهُ

لَكُمْ عَدُوٌّ مُّبِينٌ

*“O mankind, eat from whatever is on earth [that is] lawful and good and do not follow the footsteps of Satan. Indeed, he is to you a clear enemy.”*

The word of Allah above reinforces the command to consume halal and *thayyib* food. And Allah is specially intended for the believers.<sup>1</sup>

Prophet Muhammad SAW in one hadith explains the command to seek halal sustenance because the law is obligatory, after the religious obligation in worship: “*Tholabul halaali fariidhotun ba'dal fariidhoh.* (Seeking halal sustenance is an obligation after obligatory worship).” (HR. Ath-Thabrani and Al-Bayhaqi).

The issue of halal and haram is very important for Muslims, it is not only regulated in the Qur'an but also explained in the hadith. Islam emphasizes the importance of consuming halal and good food (*thayyib*). Halal is more oriented to sharia law, while both are oriented in terms of health, nutrition, economy, and others.<sup>2</sup> Therefore, as a Muslim it is very important to choose and pay attention to the halal and good composition in choosing food.

Malang city is the city with the second largest population in East Java. This is due to the large number of immigrants, both students and people looking for a livelihood. Malang city which has the potential for tourism, will strive to become a *Halal Destination*. East Java has become a priority area for halal tourism destinations.<sup>3</sup> This is in line with the Halal Value Chain which is an effort to strengthen Indonesia become the center of the world's sharia economy

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<sup>1</sup> Muchtar Ali, “Konsep Makanan Halal Dalam Tinjauan Syariah Dan Tanggung Jawab Produk Atas Produsen Industri Halal,” *AHKAM: Jurnal Ilmu Syariah* 16, no. 2 (2016): 293, <https://doi.org/10.15408/ajis.v16i2.4459>.

<sup>2</sup> Muhammad Jaya, *Ternyata Makanan dan Minuman Anda Mengandung Babi dan Khamar* (Yogyakarta: Rizma, 2009), 17.

<sup>3</sup> Ahmad Enda, *Koordinasi Pembangunan Kemitraan Pariwisata (Coffee Morning) 2016*. Kementerian Pariwisata: Asisten Pengembangan Destinasi Budaya, 2015), 43.

and development programs driven by the People's Economic Empowerment Commission (KPEU) MUI East Java. The concept of *Halal Destination* refers to the *Global Muslim Travel Index* (GMTI) one of which is halal food. So it is important to pay attention to the halal nature of food.

One of the supporters of the economy came from food businesses that are scattered in several points in Malang. Lowokwaru district is one of the areas located around several campuses and student residences with both Muslim and non-Muslim students present. This increases the amount of food consumption is quite high. So becoming restaurant entrepreneur has great potential to improve the economy. To support Malang City Halal Tourism and also optimize the economy of the surrounding community, halal certification must be obtained in order to be proof of a restaurant business that has met halal. The existence of halal certification also serves to protect consumers from consuming not halal food.<sup>4</sup>

One of the substances regulated in the Omnibus Law or Job Creation Law derived from Law No. 33 of 2014 on Halal Product Assurance and PP No. 39 of 2021 on the implementation of the Halal Product Assurance as Implementation regulations in Law No. 11 of 2020 on Job Creation Law is the Certification of halal products. The existence of the Halal Product Assurance (JPH) Law in Job Creation Law (Omnibus Law) is actually a step to resolve issues that have not been resolved in the previous JPH regulations, one of which

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<sup>4</sup> Muhammad Ibnu Elmi As Pelu. *Label Halal: Antara Spiritualitas Bisnis dan Komoditas Agama* (Malang: Madani, 2009), 31-35.

is the obligation of halal certification for halal food businesses in Indonesia. With the above legal instruments governing, this is a form of response from the Government to legal certainty and consumer protection of halal products. The obligation to certify halal products that are being traded in the territory of Indonesia is regulated in article 4 of JPH Law No. 33 of 2014, article 2 par chart (1), and article 135 PP No. 39 of 2021 to then have the right and obligation include the halal label in the product.

After the promulgation of the rules on halal certification included in the Job Creation Law (Omnibus Law), there are several articles that have been changed and added. Among others, in accordance with the mandate of the Job Creation Law has provided facilities with the insertion of article 4A which states that micro and small businessmen, halal certified obligations are based on the statement of micro and small businessmen based on halal standards set by BPJPH or called Self Declare.<sup>5</sup>

Then in article 139 PP No. 39 of 2021 states the obligation of halal certification to be done gradually. Article 140 describes the stipulation of halal certified obligations for food products, beverages, slaughter products, and slaughter services, namely 5 (five years) starting from October 19<sup>th</sup>, 2019 until October 17<sup>th</sup>, 2024.<sup>6</sup> The existence of this policy, then restaurant entrepreneurs who have not been certified halal must immediately take care of halal certification within this 5 year period. Some restaurant entrepreneurs in Malang

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<sup>5</sup> Pasal 4A ayat (1) dan (2) UU No. 11 Tahun 2020 tentang Cipta Kerja.

<sup>6</sup> PP No. 39 Tahun 2021 tentang Penyelenggaraan Bidang Jaminan Produk Halal.

have been certified halal and some have not yet. For restaurants that are not halal certified, it means violating the regulations that state the certification obligation for halal products. So there needs to be a legal consequence to realize the legal certainty of the community of consumers of halal products. In addition, legal understanding is very necessary in order to know the legal awareness that shows the community's assessment of an existing law.

Based on the above problematics, the author is interested in researching the legal understanding of restaurant entrepreneurs on the obligation of halal certification in Lowokwaru District, Malang City and to know the legal consequences of restaurant entrepreneurs who have not been halal certified after the enactment Job Correction Law and PP No. 39 of 2021 on the Implementation of Halal Product Assurance. Then the author writes in a research title “**The Legal Understanding of Restaurant Entrepreneurs On Halal Certification After The Enactment Omnibus Law and Government Regulation No. 39 of 2021 (Study in Lowokwaru District, Malang City)**”.

## **B. Problem Limitation**

Based on the explanation background of research, there are limitations of the problem in this study, namely in terms of analysis of the legal understanding of halal certification obligations of restaurant entrepreneurs on the provisions of halal product warranty after its implementation in the Job Creation (Cipta Kerja) Law and PP No. 39 of 2021 on Implementation Halal Product Assurance. The provisions that are researched here are only in terms of the halal certification obligation which is regulated in article 4A of the Job Creation (Cipta Kerja) Law and article 139-140 Government Regulation No. 39 of 2021.

### **C. Statement of Problem**

Based on the background of research, the author has two formulations of the problem that will be examined as follows:

1. How the legal understanding of restaurant entrepreneurs on halal certification after the enactment Omnibus (Job Creation) Law and Government Regulation No. 39 of 2021 on the Implementation of Halal Product Assurance?
2. What are the legal consequences for restaurant entrepreneurs who have not yet been certified halal perspective Omnibus (Job Creation) Law and Halal Product Assurance Agency (BPJPH) Malang City?

### **D. Objective of Research**

Based on the background of research and statement of problem, the author have two goals that will be achieved in this study, namely:

1. To know the legal understanding of restaurant entrepreneurs on halal certification after the enactment Omnibus (Job Creation) Law and Government Regulation No. 39 of 2021 on the Implementation of Halal Product Assurance.
2. To find out and reveal the legal consequences for restaurant entrepreneurs who have not yet been certified halal perspective Omnibus (Job Creation) Law and Halal Product Assurance Agency (BPJPH) Malang City.

### **E. Benefits of Research**

The achievement of research results that the author hopes will be useful for the benefit of both theoretical and practical in accordance with the exposure of

two statement of problems and research objectives that the author has described above. The benefits are:

1. Theoretically

On the theoretical aspect, the benefits of the research that will be produced are:

- a. To be able one of the references in the future development of science in the assurance of halal products through halal certification obligation.
- b. Provide discussion related to Law No. 11 of 2020 on Job Creation and PP No. 39 of 2021 on the implementation of the Halal Product Assurance Sector which regulates halal certification obligations.
- c. Contribute in realizing legal certainty and legal protection of business actors and consumers through halal certification obligations.
- d. Provide convenience for other researchers and be a reference on the relationship of halal product assurance through halal certification obligations who want to research further on the issue of halal certification obligations and legal consequences for business actors who are have not halal certified.

2. Practically

In this aspect, the benefits of this research are intended to be able to include the purpose are:

- a. To fill one of requirements for a Bachelor of Law (S.H) Degree.
- b. Provide insight to all readers and the public in Indonesia about the importance of halal certified business obligations because this has been

regulated in the guarantee of halal products contained in Law No. 11 of 2020 on Omnibus and PP No. 39 of 2021 on the implementation of the Halal Product Assurance Sector.

- c. Provide understanding for consumers and businessmen to pay attention the certification of halal products in order to provide legal protection for halal food consumers on the certainty of halal or non-halal food.
- d. So that if the public have understood and realized the importance and legal consequences of halal product certification can help the Malang Halal program that can realize the Indonesian Halal Value Chain as the world's sharia economic center.

## **F. Operational Definition**

It takes an explanation that is important to be understood by the reader because it is a keyword and will often appear in the discussion of this research. Therefore the author pours out the following operational definition:

### **1. Halal Value Chain**

Halal Value Chain is an effort to strengthen Indonesia to become the center of the world's sharia economy, one of them is by paying attention to the aspect of halal food.

### **2. Legal Understanding**

is the condition of society in understanding and knowing the provisions of orders and prohibitions that must be complied with in a written or unwritten law in legislation. Also understand the purpose of a piece of legislation.

### 3. Halal Certification

is an effort to obtain recognition of the legitimacy of the product being traded where the authorities are by Halal Product Assurance Agency (BPJPH) and still issued in writing based on the halal fatwa of the MUI. A halal certificate is a requirement for a business actor to obtain a permit to include a halal logo. Halal certification absolute or mandatory that must be implemented by every entrepreneur with staging.

### 4. Omnibus Law/Job Creation Law

is a regulation formed as a Omnibus effort some way through some things with efforts to facilitate, protection, and empowerment, increase the central government in terms of investment and accelerate national projects. This law is also called omnibus law and the “sapu jagad” law where in one law contains many provisions, one of which is regarding the guarantee of halal products.

### 5. Government Regulation No. 39 of 2021 on The Implementation of Halal Product Assurance

is a regulation set by the President for the implementation of a law, this government regulation refers to implementing the provisions of one of the substances contained in the copyright law, especially the guarantee of halal products.

### 6. Legal Consequences

is a legal consequence accrued from an act by anyone who violates the law.

## G. Structure of Discussion

Systematics of research is very important to be organized systematically so that the results of this research are clearer and more focused in the discussion. The thesis research systematics used by the author are:

**CHAPTER I: Introduction.** This section is an introduction that consists of several sub-chapters including: *first*, an explanation of the background of research; *second*, it contains problem limitation; *third*, contains a statement of problem; *fourth*, contains the objective of the research; *fifth*, it contains research benefits which the author shares to be of theoretical and practical benefit; *sixth*, it contains operational definitions to make it easier for the reader to understand the keywords, and the *seventh* sub-chapter contains a structure of discussion. This chapter aims to show accurate research.

**CHAPTER II: Literature Review.** This section describes the literature review which consists of the first sub-chapter of previous research that is relevant to contain information related to this research in both journals and dissertations. Then the second sub-chapter of the theoretical framework that is the basic concept answers the formulation question problems to be discussed clearly according to the subject matter in order to make it easier for the reader to understand the basic concepts of the problem being discussed. Includes review of legal understanding, review of halal products, restaurant entrepreneurs, halal certification, review of halal product warranty.

**CHAPTER III: Methode of Research.** This section describes the research methods used by the author ranging from the type of research used that is

empirical juridical with juridical sociological and quantitative approach, location of research in the District Lowokwaru Kota Malang and BJPPH which met at the Ministry of Religion Kota Malang, then data collection techniques, also analysis data.

**CHAPTER IV: Discussion of Research Findings.** This section describes the results of research and main discussion that discusses the formulation of the problem, namely the legal understanding of restaurant entrepreneurs in Malang City on obligation of halal certification after the enactment Job Creation Law and PP No. 39 of 2021 also an analysis of the legal consequences for business actors who have not yet certified halal. The researcher displays a general charts, displays the data obtained, then analyzes it.

**CHAPTER V: Closing.** This section contains a conclusion that is contained in the conclusions and suggestions for readers and government related to the obligation of halal certification to be better in future.

## CHAPTER II

### LITERATURE REVIEW

#### A. Previous Research

Relevant research that has been previously related with halal certification obligations. However, the authors have differences from previous research so as to avoid the similarities of plagiarism with related previous research. The following is previous research that the author's reference:

1. Journal research entitled “*Pelanggaran Kewajiban Pendaftaran Sertifikat Halal: Dapatkah Dibuat Sanksi?*” by Iffaty Nasyi’ah in 2018. UIN Maulana Malik Ibrahim Malang Lecture.<sup>7</sup>

The results of this study explain that the criminality of violation of article 4 of the JPH Law is still possible. Therefore, this article not yet have a specific violation status; civil, administrative or criminal.

The research similarity is both find out punishment or appropriate legal consequences for halal certification violations. The difference in the type of research and regulatory analysis used. In this research using Omnibus Law and perspective BPJPH Malang City.

2. Thesis research entitled “*Tingkat Pemahaman Hukum Pengusaha Rumah Potong Ayam Di Kota Malang Terhadap Kewajiban Sertifikat Halal Perspektif Fiqih Muamalah dan Undang-Undang No. 33 Tahun 2015*”

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<sup>7</sup> Iffaty Nasyi’ah, “Pelanggaran Kewajiban Pendaftaran Sertifikat Halal: Dapatkah Dibuat Sanksi?,” *Jurisdictie: Jurnal Hukum dan Syariah* vol.09, no.1 (2018):84-108.

*tentang Jaminan Produk Halal*” by Umi Kulsum in 2019. UIN Maulana Malik Ibrahim Malang student.<sup>8</sup>

The explanation of the results of this study explains the level of legal understanding of chicken slaughter house entrepreneurs is relatively high on halal certification from the perspective of fiqh muamalah, while the opposite is relatively low from the perspective of Law No. 33 of 2014 due to lack of understanding of the contents of the regulation.

The similarity is both examine the legal understanding of business actors regarding the obligation of halal certification and the city where the research is the same. The difference of the research lies in the object of the research that is the previous research on the business actors of chicken butchery, and the author is now the business of restaurants. The perspective used is also different, the author now uses Job Creation Law (Omnibus Law) and PP No. 39 of 2021.

3. Journal article entitled “*Analisis Perspektif Hukum Pengurusan Sertifikasi Halal Dalam Upaya Perlindungan Konsumen*” by Parningotan Malau and Irene Svinarky in 2020. Putera Batam University student.<sup>9</sup>

The results of the study describe the main rules discussed in Law No. 33 of 2014 on Halal Product Guarantee.

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<sup>8</sup> Umi Kulsum, “Tingkat Pemahaman Hukum Pengusaha Rumah Potong Ayam Di Kota Malang Terhadap Kewajiban Sertifikat Halal Perspektif Fiqih Muamalah Dan Undang-Undang No. 33 Tahun 2015 Tentang Jaminan Produk Halal” (Undergraduate thesis, UIN Maulana Malik Ibrahim Malang, 2019), uri:%09http://etheses.uin-malang.ac.id/id/eprint/15989.

<sup>9</sup> Parningotan Malau and Irene Svinarky, “Analisis Perspektif Hukum Pengurusan Sertifikasi Halal Dalam Upaya Perlindungan Konsumen,” *JUSTITIA : Jurnal Ilmu Hukum Dan Humaniora* 7, no. 3 (2020): 547–59, <https://doi.org/10.31604/justitia.v7i3.547-559>.

The research similarity in the legal protection efforts that will be achieved on the formulation of the second problem, namely the legal consequences of halal certification obligations in order to protect the interests of consumers of halal products. In contrast to the previous research above, the author will now examine the legal consequences of business actors who are not halal certified through analysis after the enactment of the Job Creation Law in order to provide consumer protection of halal products.

4. Thesis entitled “*Analisa Undang-Undang Jaminan Produk Halal Dan Cipta Kerja (Antara Kenyataan Dan Keberlanjutan)*” by Andar Zulkarnain Hutagalung in 2021. UIN Syarif Hidayatullah Jakarta Magister student.<sup>10</sup>

The results of the study explained that Law No. 33 of 2014 on Halal Product Guarantee whose derivatives are now regulated in the Job Creation (Omnibus Law), its implementation is still constrained, many philosophical, sociological, and juridical factors are still ignored.

The similarity is the discussion of halal product guarantee regulations that are currently included in the Job Creation (Omnibus Law). The difference lies in the focus of the research, the previous research was on the analysis of the law, but the author now examines the behavior of

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<sup>10</sup> Andar Zulkarnain Hutagalung, “Analisa Undang-Undang Jaminan Produk Halal Dan Cipta Kerja (Antara Kenyataan Dan Keberlanjutan)” (Thesis, UIN Syarif Hidayatullah Jakarta, 2021), [https://repository.uinjkt.ac.id/dspace/bitstream/123456789/56239/1/ANDAR\\_ZULKARNAIN\\_HUTAGALUNG\\_-\\_FSH.pdf](https://repository.uinjkt.ac.id/dspace/bitstream/123456789/56239/1/ANDAR_ZULKARNAIN_HUTAGALUNG_-_FSH.pdf).

society after the enactment Omnibus Law so that the research methods used are not only normative but also empirical.

5. Journal article entitled “*Kesadaran Hukum Sertifikasi Halal Pelaku Usaha Rumah Makan Di Kota Malang*” by Hassanalwildan Ahmad Zain, Fifik Wiryani, Idaul Hasanah in 2021. Muhammadiyah Malang University student.<sup>11</sup>

The results of this study explain that it still has not shown the maximum results for the legal awareness of businessmen to have halal certification of restaurants.

The similarity is the research subject of halal restaurant entrepreneurs. However, there are many differences with the author's current research. Location in previous studies only 4 samples of restaurants and the author take 36 samples from each sub-district in Lowokwaru. The formulation of the problem between previous studies is also different. The rules under review are also different the author now reviews from the rules of Job Creation Law and PP No. 39 of 2021.

6. Thesis entitled “*Perlindungan Konsumen Terhadap Produk Makanan dan Minuman Usaha Rumahan Tanpa Sertifikasi Halal yang Dijual Melalui Media Sosial*” by Muhammad Syafrudin in 2021. Sumatera Utara Medan University student.<sup>12</sup>

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<sup>11</sup> Hassanalwildan Ahmad Zain, Fifik Wiryani, and Idaul Hasanah, “Kesadaran Hukum Sertifikasi Halal Pelaku Usaha Rumah Makan Di Kota Malang,” *Indonesia Law Reform Journal* 1, no. 1 (2021): 122–42, <https://doi.org/10.22219/ilrej.v1i1.16130>.

<sup>12</sup> Muhammad Syafrudin, “Perlindungan Konsumen Terhadap Produk Makanan Dan Minuman Usaha Rumahan Tanpa Sertifikasi Halal Yang Dijual Melalui Media Sosial” (Undergraduated Thesis, Universitas Sumatera Utara, 2021).

The results showed that the consequences of not having halal certification lead to violations of rights such as inappropriate goods, advertising fraud, and forgery of halal logos.

The similarity with this study is that the object of the same discussion is food products without halal certification. It also concerns the formulation of the author's current problem in terms of the consequences of non-halal certified businessmen. The difference is research location that is not on social media but a restaurant in Malang City. The previous research still uses the criteria of Law No. 33 of 2014 in knowing its legal protection, but the author will analyze through the regulation of the Job Creation Law and PP No. 39 of 2021..

7. Journal article entitled "*Penerapan Sanksi Bagi Pelaku Usaha Yang Mengedarkan Produk Pangan Tanpa Label Halal Pada Kemasan Di Kota Padang*" by Widya Sari, Iyah Faniyah, dan Ferdi in 2021. Ekasakti University, Padang student.<sup>13</sup>

The results of the study explain that the form of sanctions for violations by businessmen on the inclusion of halal products is regulated in legislation. In the application of sanctions in the city of Padang is still very low in the form of administrative sanctions written reprimands.

The similarity is in the discussion of looking for sanctions violations of halal products by businessmen. The author now wants to examine the

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<sup>13</sup> Widya Sari, Iyah Faniyah, dan Ferdi. "Penerapan Sanksi Bagi Pelaku Usaha Yang Mengedarkan Produk Pangan Tanpa Label Halal Pada Kemasan Di Kota Padang," *Swara Justisia* 5, no. 2 (2021): 223–39. <http://www.swarajustisia.unepadang.ac.id>.

aspects of sanctions or legal consequences of the perpetrators of the restaurant business not halal certified after the enactment of Job Creation Law (Omnibus Law) which contains of halal product guarantee.

**Table 1.** Similarities and Differences with Previous Research

No.	Name and Year	Title	Similarities	Differences
1.	Iffaty Nasyi'ah, 2018.	Pelanggaran Kewajiban Pendaftaran Sertifikat Halal: Dapatkah Dibuat Sanksi?	Both seek sanksi or appropriate legal consequences for violations of halal certification.	Types of research and regulatory analysis used in this research using the Job Creation Law and PP No. 39 of 2021.
2.	Umi Kulsum, 2019.	Tingkat Pemahaman Hukum Pengusaha Rumah Potong Ayam Di Kota Malang Terhadap Kewajiban Sertifikat Halal	Examining the legal understanding of halal certification obligations and the city where the research took place.	The object of the author's current research is the restaurant entrepreneurs. Perspective post has the legitimacy of the regulation of Job Creation Law and PP No. 39 of 2021.

		Perspektif Fiqih Muamalah dan Undang-Undang Nomor 33 Tahun 2015 tentang Jaminan Produk Halal		
3.	Parningotan Malau dan Irene Svinarky, 2020.	Analisis Perspektif Hukum Pengurusan Sertifikasi Halal Dalam Upaya Perlindungan Konsumen	Legal protection efforts that will be achieved on the formulation of the second issue in order to protect the interests of consumers of halal products.	The author will now examine the legal consequences of businessmen who are not halal certified through analysis after the enactment of the Job Creation Law (Omnibus Law).
4.	Andar Zulkarnain Hutagalung, 2021.	Analisa Undang-Undang Jaminan Produk Halal Dan Cipta Kerja (Antara Kenyataan dan	Discussion of halal product guarantee rules.	The focus of research, the author now examines the behavior of society after the enactment

		Keberlanjutan)		of the Job Creation (Omnibus Law).
5.	Hassanalwildan Ahmad Zain, Fifik Wiryani, Idaul Hasanah, 2021.	Kesadaran Hukum Sertifikasi Halal Pelaku Usaha Rumah Makan Di Kota Malang	The object of research is the same but refers to the JPH Law in 2014.	The formulation of the problem is different, the author will examine the legal consequences. The previous research location only took 4 samples, the author take 36 samples from each subdistrict in Lowokwaru. The rules under review different.
6.	Muhammad Syufrudin, 2021.	Perlindungan Konsumen Terhadap Produk Makanan dan Minuman Usaha Rumah Tanpa	The object of the same discussion in the author's second formulation is a product without	The author 's current research location is at a restaurant in Malang. Previous research

		Sertifikasi Halal yang Dijual Melalui Media Sosial	halal certification.	still use Law No. 33 of 2014 in knowing its legal protection, but the author analyze through the Job (Omnibus Law) and PP No. 39 of 2021.
7.	Widya Sari, Iyah Faniyah, dan Ferdi, 2021.	Penerapan Sanksi Bagi Pelaku Usaha Yang Mengedarkan Produk Pangan Tanpa Label Halal Pada Kemasan Di Kota Padang.	Discussion of sanctions for violations of halal products by businessmen in accordance with the purpose of the formulation of the problem of the two authors.	The focus of the problem will be to examine the aspects of sanctions or legal consequences for restaurant entrepreneurs who are haven't halal certified after the enactment Job Creation Law (Omnibus Law) .

## **B. Conceptual Framework**

### **1. Halal Value Chain Concept**

Halal Value Chain is one of the concepts that can advance the economy through the development of halal in every aspect of the economy as well as classify elements that are still non-halal to apply the concept of halal in accordance with sharia. Halal Value Chain or halal supply chain management aims to make Indonesia a global halal industry producer. To increase the development of the halal industry in some areas, several efforts can be made namely to educate and increase public literacy to implement the halal lifestyle as a halal lifestyle so as to be able to develop the sharia economy in Indonesia. Halal Value Chain as to be able to develop the sharia economy in Indonesia.<sup>14</sup>

One of the main drivers of the Halal Value Chain according to the National Development Planning Agency with the National Committee on Sharia Finance is from UMKM. So that the restaurant business owner also became his supporter. The reason for choosing micro, small, and medium businesses is because these businesses are close among the community.

### **2. Legal Basis of Obligation to Consume Halal Food**

1.) Q.S. Al-Baqarah (2): 168.

يَا أَيُّهَا النَّاسُ كُلُوا مِمَّا فِي الْأَرْضِ حَلَالًا طَيِّبًا وَلَا تَتَّبِعُوا خُطُواتِ الشَّيْطَانِ إِنَّهُ لَكُمْ عَدُوٌّ مُبِينٌ

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<sup>14</sup> Oktaviana Banda Saputri. "Pemetaan Potensi Indonesia Sebagai Pusat Industri Halal Dunia," *Jurna; Masharif al-Syariah*, no. 2 (2020): 23–38. <http://journal.um-surabaya.ac.id/index.php/Maqasid>.

Meaning:

*“O mankind, eat from whatever is on earth [that is] lawful and good and do not follow the footsteps of Satan. Indeed, he is to you a clear enemy.”*

2.) Q.S. Al-Baqarah (2): 172.

يَا أَيُّهَا الَّذِينَ آمَنُوا كُلُوا مِن طَيِّبَاتِ مَا رَزَقْنَاكُمْ وَاشْكُرُوا لِلَّهِ إِن كُنتُمْ إِيَّاهُ تَعْبُدُونَ

Meaning:

*“ O you who have believed, eat from the good things which We have provided for you and be grateful to Allah if it is [indeed] Him that you worship.”*

3.) Q.S. Al- Mu'minun (23): 51.

يَا أَيُّهَا الرُّسُلُ كُلُوا مِنَ الطَّيِّبَاتِ وَاعْمَلُوا صَالِحًا إِنِّي بِمَا تَعْمَلُونَ عَلِيمٌ

Meaning:

*“ (Allah said), "O messengers, eat from the good foods and work righteousness. Indeed, I, of what you do, am Knowing.”*

4.) Hadist.

*“Tholabul halaali fariidhotun ba'dal fariidhoh. (Looking for halal sustenance is an obligation after obligatory worship).”*

(HR. Ath-Thabrani and Al-Bayhaqi).

### 3. The Concept of Halal Certification

#### a. Halal Certification Overview

The word “Halal” comes from “*Al-Hal*” which is defined as something that is allowed by the Shariah.<sup>15</sup> Halal is something that by Islam can be done, developed, cultivated, and consumed as long as in the process of obtaining it by way of good mu'amalah and not harmful. So that halal food is food that is allowed to be consumed in Islamic law.<sup>16</sup> According to regulations on labels and advertising, halal food is food that is allowed to be consumed by Muslims and does not contain anything that makes it haram either from raw materials, ingredients supplements, or auxiliary materials.<sup>17</sup> About “*Tahyyib* (good)” always associated with halal food. The meaning of *thayyib* (good) is something that is worth consuming for the body and is made lawful by Allah.<sup>18</sup>

Halal certification is an obligation that must be performed by entrepreneurs of halal products that are circulating and sold in Indonesia as a legal certainty of consumers, especially Muslims. Halal certificate is a form of written recognition issued by BPJPH based on the approval of the Indonesian Ulema Council which has issued a written halal fatwa an owned product.<sup>19</sup> The provision of information on the legality of a

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<sup>15</sup> Muhammad Rawas Qal'aji dan Muhammad Shadiq Qanaybi, *Mu'jam Lughah al-Fuqaha* (Bayrut: Dar al-Fikr, 1405H-1985M), Cet. I, 184.

<sup>16</sup> Quraish Shihab, *Wawasan Al-Qur'an* (Bandung: Mizan, 2000), 151.

<sup>17</sup> Pasal 1 ayat 5 Peraturan Pemerintah No. 69 Tahun 1999 Tentang Label dan Iklan.

<sup>18</sup> Abu Bakar Muhammad Ibnu Abd Allah Ibn al-'Arabi, *Ahkam Al-Qur'an* (Bayrût: Dâr al-Fikr, t.th), jilid II, 32.

<sup>19</sup> Pasal 1 ayat 10 Undang-undang No. 33 Tahun 2014 tentang Jaminan Produk Halal.

food product is important because it must be in accordance with the implementation of sharia. So, it can be concluded that halal certification is an effort made by business actors so that the products sold have a halal certificate.

b. Halal Certification Registration Mechanism.

The principle of Halal Certification is to ensure that none of the materials used in the production process is not halal, meaning that all materials used are halal, ensuring that there is no contamination or mixing with unclean /haram materials on the product during production. In halal certification process each business actor must have 3 complete documents that are interrelated when they will register to BPJPH and then to LPH LPPOM MUI, among others:

1. STTD (Document Receipt Letter), which is the basis of LPH for further processes (examination and submission).
2. Halal regulation is valid for 4 years by MUI.
3. Halal Certificate is valid for 4 years issued by BPJPH.

The halal certification stage consists of 2 important activities, namely the preparation and process of halal certification. Stages of preparation for halal certification are:

1. Understand the requirements of halal certification by searching for information through websites, reading, attending halal training or socialization, etc.

2. Make sure that the materials used are guaranteed to be halal. The easiest way is to see and check the halal logo on the Halal MUI website.
3. Make sure that the production equipment used is not used to process illegal products.
4. Prepare simple bookkeeping.
5. Preparing people (Muslims) to become halal supervisors.
6. Prepare registration documents, namely business licenses, list of materials used, written production flow, and Halal Assurance System (SJH) manual.

Registration of halal certification for Small Micro Enterprises (UMK) to LPPOM MUI is generally done by LPPOM MUI Province. The data required include; material data, products, product matrix, kitchen, SJH application documents. The registration is done based on the product. Financing of certain eligible MSE entrepreneurs currently with the regulation of the Job Creation Law (Omnibus Law) is not charged in the halal certification process.

According to PP No. 39 of 2021, there are 3 schemes for submission/registration of halal certification, namely: regular submission, extension, and statement of UMK actors (self declare). The halal certification obligation of UMK actors is based on a statement in the form of a pledge about the halal of the materials and products used and PPH.



**Picture 1.** Halal Certification Registration Flow

(Source: [halalmui.org](http://halalmui.org))

c. Benefit of Halal Certification

Halal certification has benefits both felt by business actors, consumers, and the government. The implementation of halal

certification obligations has a positive impact and provides economic benefits to improve the Indonesian economy.<sup>20</sup> The benefits are:

- a. Guarantee the legality of a product for consumption.
- b. Can provide Uniq Selling Point or uniqueness so that the product is more valuable to the consumer.
- c. Convenience and trust for consumers.
- d. Provides an advantage over products that have not been certified halal.
- e. Provide protection of domestic products from global competition.
- f. Provide company management and administration system.
- g. Gain access to the global.

Fulfilling the consumer 's right to consume halal food is one of the benefits of halal certification. In addition, it is also a form of compliance of business actors to state rules, so as to avoid violations of the law that every halal product must be certified halal. If it is certified halal then it becomes the basis for the inclusion of halal logo permits as per article 38 of the JPH Law.

#### **4. Review of Legal Understanding**

The term “hukum” in Arabic is *qonun* atau *ahkam/hukm* which is the origin of the term law. The legal term in English is “*law*”, in Dutch and German it is called “*recht*” and in French it is called “*droit*”.

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<sup>20</sup> Warty Warty and Samsuri Samsuri, “Sertifikasi Halal Dan Implikasinya Bagi Bisnis Produk Halal Di Indonesia,” *Al Maal: Journal of Islamic Economics and Banking* 2Warty, W., no. 1 (2020): 103-105, <https://doi.org/10.31000/almaal.v2i1.2803>.

According to legal experts, Van Kan and JH Beekhuis interpret the law as the regulation of its existence to protect society so that in practice it is coercive.<sup>21</sup> Umar Said Sugiarto also concluded, law is all the rules and norms of law that govern public life and those who violate it are acted upon the authorities seem to be subject to sanctions and demands.<sup>22</sup>

Comprehension is a person's ability to understand something that already exists. An attitude that shows an understanding of the content and purpose of a particular law is the understanding of the law, So understanding and understanding this is very important. The most important thing is how applying normative behavior in society. Understanding of the law can be proven if a rule is simple and has been understood by the Indonesian people.<sup>23</sup>

Understanding the law is one of the many indicators used in influencing public legal awareness. According to the theory of Soerjono Soekanto, legal understanding is one of the four indicators to determine legal awareness.<sup>24</sup> Legal awareness is a state of knowing, understanding, and implementing orders or prohibitions that violate the law. Legal awareness can be an indicator of whether the legal product has been accepted and works or not in society. So the understanding of the law is very

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<sup>21</sup> Van Kan dan Beekhuis. *Pengantar Ilmu Hukum*. (Jakarta: Pembangunan, 1972), 13.

<sup>22</sup> Umar Said Sugiarto, *Pengantar Hukum Indonesia*. (Jakarta: Sinar Grafika, 2016), 9.

<sup>23</sup> Kulsum, "Tingkat Pemahaman Hukum Pengusaha Rumah Potong Ayam Di Kota Malang Terhadap Kewajiban Sertifikat Halal Perspektif Fiqih Muamalah Dan Undang-Undang No. 33 Tahun 2015 Tentang Jaminan Produk Halal."

<sup>24</sup> Soerjono Soekanto dan Mustafa Abdullah. *Sosiologi Hukum Dalam Masyarakat* (Jakarta: CV Rajawali, 1987), 228-229.

important to know the legal awareness that shows the public's assessment of an existing law.

Furthermore, in increasing legal awareness, do not forget the need for legal counseling and information. Information aims to make the public aware and counseling aims to make the public understand certain legal rights and obligations to be obeyed. So that the applicable law is reflected in the values of society's behavior.<sup>25</sup>

Legal understanding is closely related to a legal awareness of the community. This is also the same as the relationship between legal awareness and legal fiction theory. This legal fiction theory applied in Indonesia can be seen in Article 81 of Law no. 12 of 2011 concerning the Establishment of Legislation. Legal fiction states that everyone is aware of the existence of the law. If a norm has been enforced, then at that time everyone will know the existence of the law. And if someone does not know the existence of the law, then that ignorance cannot free someone from the bondage of the law.<sup>26</sup>

In Latin, legal fiction is known as "*ignorantia iuris neminem excusat*" or in English as "*ignorance is no defense under the law*". The legal fiction is based on a reason that humans have interests that must be protected, one of them is by the rule of law. The rule of law must be obeyed to protect human interest. So that it will raise awareness to obey the law so

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<sup>25</sup> Ishaq, *Dasar-dasar Ilmu Hukum* (Jakarta: Sinar Grafika, 2009), 249-250.

<sup>26</sup> Jimly Asshidiqie, "Peran Advokat Dalam Penegakan Hukum," 15 Desember 2013, diakses 10 Mei 2022, Jimly.com.

that the protection is realized.<sup>27</sup> It means that everyone must know, understand, and have awareness of a law that applies in Indonesia.

## **5. Restaurants Entrepreneurs**

The definition of a business actor is an individual or a business entity that stands alone or cooperates in conducting economic activities in the territory of Indonesia, whether legally or not.<sup>28</sup> A restaurant entrepreneur is every entrepreneur who sets up a business in the culinary field and set up a restaurant.

Business actors have a relationship with consumers because they both need each other in terms of the economy. One of the legal certainties that can be given to consumers, especially Muslims, is the presence of a halal logo in business products. The Job Creation Law (Omnibus Law) states that every business actor is obliged use the halal logo on the goods sold. Every business actor is guaranteed his rights and obligations which are protected by the Consumer Protection Law. Business actors according to Law No. 33 of 2014 on Halal Product Guarantee, Job Creation Law, and PP No. 39 of 2021 has the right and obligation to obtain halal certification. Terms of rights and the obligations of business actors regarding halal certification are further regulated in articles 23-27 of the Halal Product Guarantee Law.

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<sup>27</sup> Agus Surono, *Fiksi Hukum dalam Pembuatan Peraturan Perundang-undangan*, Universitas Al-Azhar Indonesia, (Jakarta: 2013) 112.

<sup>28</sup> Pasal 1 ayat 3 Undang-undang No. 8 Tahun 1999 tentang Perlindungan Konsumen.

## 6. Review of Halal Product Guarantee Regulations

### a. Omnibus Law/ Job Creation Law

Law No. 11 of 2020 on Job Creation is a law that contains several substances, one of which is the certification of halal products. This law is an improvement or renewal of Law No. 33 of 2004 on Halal Product Guarantee to be a step to resolve unresolved issues on Halal Product Guarantee in Indonesia, one of which is related to the obligation of halal certification for halal food entrepreneurs. There are a total of 22 articles that were changed and the addition of several new articles.

In addition to halal certification, the Omnibus Law also updates regulations on the simplification of licensing, businesses, business processes, acceleration of halal certification services, halal auditors, halal certification procedures, and even halal certification for MSEs. The purpose of the change is to speed up and expand the service of halal certification. This is a response from the Government to the importance of realizing legal certainty and consumer protection of halal products through halal certification. This law is also a legal certainty for consumers who consume halal products.

As for the provisions as well as the insertion of articles listed in the Job Creation (Omnibus Law) and used in this research is related to article 4A paragraph (1) which reads:

*“Untuk Pelaku Usaha Mikro dan Kecil, kewajiban bersertifikat halal sebagaimana dimaksud dalam Pasal 4 didasarkan atas pernyataan pelaku usaha Mikro dan Kecil.”*

*“For Micro and Small Business Actors, the halal certified obligation as referred to in article 4 is based on the statement of Micro and Small Business Actors.*

Therefore, this article is used to determine the understanding of restaurant entrepreneurs in taking care of halal certification which has actually been given the convenience of free of charge.

b. Government Regulation No. 39 of 2021

Government Regulation No. 39 of 2021 on the implementation of the Halal Product Assurance as a regulation for the implementation of Law No. 11 of 2020 on Job Creation. This government regulation contains 16 chapters and 172 articles. One of the substances regulated in it that is related to the halal certification obligation is the implementation of the halal certification obligation for the type of product.

Article 139 PP No. 39 of 2021 states the obligation of halal certification to be done gradually which reads:

*“Kewajiban bersertifikat halal bagi jenis produk sebagaimana dimaksud dalam pasal 136 dan pasal 137 dilakukan secara bertahap.”*  
*“The obligation to be halal certified for the type of product as referred to in article 136 and article 137 is done gradually.”*

Article 140 explains:

*“Penahapan kewajiban bersertifikat halal bagi produk makanan, minuman, hasil sembelihan, dan jasa penyembelihan sebagaimana dimaksud dalam pasal 139 ayat (2) huruf a dan huruf c dimulai dari tanggal 19 Oktober 2019 sampai dengan tanggal 17 Oktober 2024.”<sup>29</sup>*

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<sup>29</sup> Pasal 140 Peraturan Pemerintah No. 39 Tahun 2021 tentang Penyelenggaraan Bidang Jaminan Produk Halal.

*“The stipulation of halal certified obligations for food products, beverages, slaughter products, and slaughter services as referred to in article 139 paragraph (2) letter a and letter c begins from October 19, 2019 to October 17, 2024.”*

There is a policy in article 139-140, then business actors who have not been certified halal are obliged to immediately take care of halal certification within this 5-year period.

## **CHAPTER III**

### **METHOD OF RESEARCH**

Legal research is an activity to find answers a legal issues of both an academic and practical nature that are evolving in society. According to Soejono Sukanto, defining legal research is a scientific activity through certain methods, systematics, and thinking with the aim of examining certain legal symptoms.<sup>30</sup> Peter Mahmud Marzuki also defines legal research as an effort to find rules of law, legal principles, and legal doctrine to provide answers to existing legal issues.<sup>31</sup> To study a legal symptom legal research methods are needed to solve the problem and produce the desired goal.

#### **A. Type of Research**

The type of research used by the author in this study is empirical juridical research. With empirical research or law field research, conducting an assessment in processing data looking at aspects of policy implementation, conducting field research related to principles, conceptions, and legal norms in order to look at facts and real work of the law in a community environment, especially the legal understanding of restaurant entrepreneurs on halal certification in Lowokwaru District, Malang City after the enactment of the Job Creation Law and PP No. 39 of 2021 on the Implementation of Halal Product Guarantee. Empirical type research or research Sociological law can reveal all

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<sup>30</sup> Soeryono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: UI Press. 1981), 43.

<sup>31</sup> Peter Mahmud Marzuki, *Penelitian Hukum* ( Jakarta: Kencana, 2011), 35.

the issues behind the implementation and enforcement of law. The results of using this type of research can later also be used for the preparation of a legislation.<sup>32</sup> As the author will examine that is how the legal consequences for restaurant entrepreneurs who have not been certified halal because in the legislation that governs it, namely the Job Creation Law, there is nothing related to this matter. The author's hope is that one day it can be used as a reference for the preparation of regulations to regulate it in order to create a legal certainty of halal products.

## **B. Research Approach**

The research approach is very important in research procurement. The research approach is adapted to the type of research and the formulation of the problem in a study. The type of approach that will be used is quantitative (measurement and then interpretation) to answer the level of legal understanding and qualitative to answer legal consequences of non-halal certified restaurant entrepreneurs.

This research used an approach to study the problems and process the data to be more focused. The research approach is sociological jurisprudence. Through the sociological judicial approach means observing the interaction in a society by directly conducting field research.<sup>33</sup> It is hoped to be able to describe and relate, test, and critique the occurrence of a particular rule in

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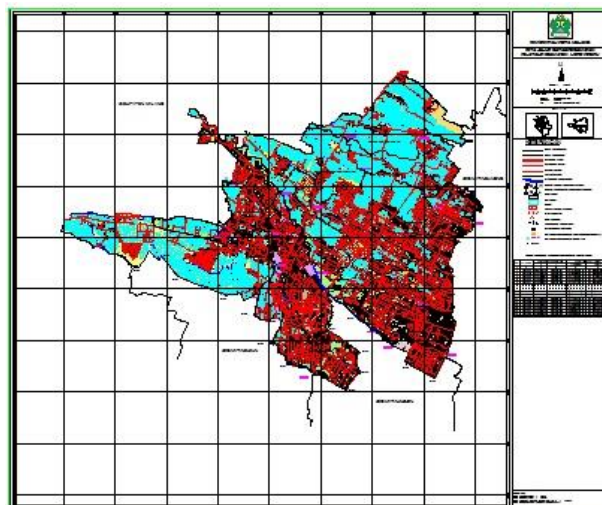
<sup>32</sup> Zainal Asikin, Amiruddin, *Pengantar Metode Penelitian Hukum*, ed. PT RajaGrafindo Persada (Depok, 2020), 134-135.

<sup>33</sup> Mukti Fajar, dan Yulianto Achmad, *Dualisme Penelitian Hukum Normatif dan Empiris*(Yogyakarta: Pustaka Pelajar, 2019), 47.

society.<sup>34</sup> The work of the law is inseparable from society, so it is expected that a society will behave in accordance with the law.<sup>35</sup> So it is necessary to know the behavior of restaurant entrepreneurs related to the obligation of halal certification because this has been regulated in the regulations that should be followed by businessmen.

### C. Research Location

Researchers will conduct research in Lowokwaru District, Malang City because it is considered that the area is a crowded area visited by immigrants both from students, to be a place to seek livelihood, as well as tourists. The area of Lowokwaru is approximately 2,089,513 Ha. To get the data the author will take some samples from each of the 12 subdistricts namely Merjosari, Dinoyo, Sumber Sari, Ketawanggede, Jatimulyo, Lowokwaru, Tulusrejo, Mojolangu, Tanjungsekar, Tasikmadu, Tunggulwulung, and Tlogomas. Each sub-district sample consists of 3 samples of restaurant entrepreneurs.



**Picture 2.** Lowokwaru District Map.

<sup>34</sup> Umar Sholahudin, “Pendekatan Sosiologi Hukum Dalam Memahami Konflik Agraria”, *Jurnal Dimensi*, Vol. 10 No. 2 (2017): 52.

<sup>35</sup> Bachtiar, *Metode Penelitian Hukum* (Tangerang Selatan: UNPAM PRESS, 2018), 90-91.

This research was also conducted at the Halal Product Assurance Agency (BPJPH) located at the office of the Ministry of Religion in Malang, located at Jl. Raden Panji Suroso No. 2, Malang City. The position of BPJPH is to be the institution that regulates and maintains halal certification.

#### **D. Sample and Subject**

The determination and sampling in the study is very important because the research conclusion is a generalization of the sample. In some research literature it is not mentioned how many samples should be taken, but it would be good to adapt to the population in an area to be used as a research site.<sup>36</sup> This research sampling technique uses nonrandom/ nonprobability means that the people studied have been determined in advance.

To facilitate the research and achieve the objectives of the study, the following criteria of business actors who will be informants in this study:

- a) The restaurant business is located in 12 sub-districts in the Lowokwaru district of Malang City. Each sub-district will take 3 samples.
- b) Restaurant entrepreneurs who provide food menus that are considered halal.
- c) Restaurant entrepreneurs who are included in the criteria of small and micro enterprises as regulated in article 6 of law No. 20 of 2008 on UMKM.
  - (1) Criteria for Micro Enterprises are as follows:
    - a. has a net worth of at most Rp. 50,000,000.00 (fifty million rupiahs) excluding land and building for business; or
    - b. has annual sales of a maximum of Rp.300,000,000.00 (three hundred million rupiahs).

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<sup>36</sup> Zainal Asikin, Amiruddin, *Pengantar Metode Penelitian Hukum*, 97.

- (2) The criteria for Small Business are as follows:
- a. has a net worth of more than Rp. 50,000,000.00 (fifty million rupiahs) up to a maximum of Rp. 500,000,000.00 (five hundred million rupiahs) excluding land and buildings for business; or
  - b. have annual sales of more than Rp.300,000,000.00 (three hundred million rupiah) up to a maximum of Rp.2,500,000,000.00 (two billion five hundred million rupiah).

(1) Kriteria Usaha Mikro adalah sebagai berikut:

- a. memiliki kekayaan bersih paling banyak Rp50.000.000,00 (lima puluh juta rupiah) tidak termasuk tanah dan bangunan tempat usaha; atau
- b. memiliki hasil penjualan tahunan paling banyak Rp300.000.000,00 (tiga ratus juta rupiah).

(2) Kriteria Usaha Kecil adalah sebagai berikut:

- c. memiliki kekayaan bersih lebih dari Rp50.000.000,00 (lima puluh juta rupiah) sampai dengan paling banyak Rp500.000.000,00 (lima ratus juta rupiah) tidak termasuk tanah dan bangunan tempat usaha; atau
- d. memiliki hasil penjualan tahunan lebih dari Rp300.000.000,00 (tiga ratus juta rupiah) sampai dengan paling banyak Rp2.500.000.000,00 (dua milyar lima ratus juta rupiah).

Then to find out the legal consequences of restaurant entrepreneurs who have not been halal certified, the subject of the researcher is the BPJPH or Malang halal task force in the Ministry of Religion of Malang because it has the authority to regulate and conduct halal certification of business actors in Malang. Also because in government regulations it has been mentioned that BPJPH has the authority to impose administrative sanctions related to violations of the guarantee of halal products.

#### **E. Type and Data Sources**

Data source is a source from which researchers can obtain data. This research requires and comes from 3 types of data sources, namely:

a. Primary Data

The primary data source is the data that is directly collected from the primary source and the regulations governing the Halal Product Guarantee. As for the primary data or the subject of research, which consists of food house business actors in the city of Malang and BPJPH who are in the Ministry of Religion in the city of Malang. Then that becomes the object research things that will be examined here related to the understanding of halal certification law and the legal consequences of business actors who have not been halal certified.

b. Secondary Data

Secondary data is the required supporting data obtained from other sources to understand the legal understanding of halal certification obligations of business actors, researchers will use laws, books, research journals, articles, and related research that deals with the discussion of certification halal as a secondary data source. In revealing the legal consequences of not being halal certified, researchers will use relevant journals and previous research as secondary data.

c. Tertiary Data

Tertiary legal data that will be used are clues or various relevant explanations derived from dictionaries, news, webinar, websites, etc.<sup>37</sup>

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<sup>37</sup> Zainuddin Ali, *Metode Penelitian Hukum* (Jakarta: Sinar Grafika 2009), 224.

## **F. Technique of Data Sources Collection**

Obtaining data of course need to know the steps taken to collect data. The data collection techniques that will be used by the authors are field observations, interviews supported by questionnaires and documentation as well as literature studies.

### **a. Observation**

Observation is a step of data collection by researchers with the observation of ongoing activities. Researchers sought, visited, and saw directly the activities of restaurant entrepreneurs at Lowokwaru area of Malang City on the obligation of halal certification after the ratification of the Job Creation Law and PP No. 39 of 2021.

### **b. Interview and Questionnaire**

Interview is one of the steps to get information by revealing questions-statements to people who are familiar with the subject to be studied.<sup>38</sup> Interviews were conducted with conversations between researchers and entrepreneur and the BPJPH of Malang City. In conducting interviews with sources using interview techniques in structured means asking questions based on questions that we have prepared in advance before conducting an interview with the source.

Researchers also prepare questionnaires so that it is easier for business actors to answer some research related questions. The form of

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<sup>38</sup> Joko Subagyo, *Metode Penelitian Dalam Teori Dan Praktek*, ( Jakarta: PT Rineka Cipta, 2004), 39.

questionnaire that is distributed in the form of physical documents and through googleform that is shared through a link to the respondents. This is in order to effectively facilitate the respondent to fill in your free time and simply use the gadget.

c. Dokumentasi

Through documentation, namely by collecting data in the form of images or written sources that are relevant to the problem.<sup>39</sup>

Documentation at the time of the study as evidence supports this study.

## **G. Data Analysis Technique**

After obtaining the data, the next step is to process or analyze the data in a systematic and systematic manner. Data processing is done through several stages, namely:

a. Editing

Data examination is to examine and confirm the data obtained both primary, secondary, and primary data obtained after the research will then be attributed to the problem not excessive to avoid errors. Through editing the researcher checks the completeness and correctness of the data obtained.

b. Classifying and Coding

Data classification is to group systematically based on the order of the problem to make it easier to analyze the data.<sup>40</sup> The classification also grouped the answers of the sources so that the data obtained were valid later

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<sup>39</sup> Sudarto, *Metodologi Penelitian Filsafat* (Jakarta: PT RajaGrafindo Persada, 2002),71.

<sup>40</sup>Abdulkadir Muhammad, *Hukum dan Penelitian Hukum*, (Bandung: PT. Citra Aditya Bakti, 2004), 90.

to calculate the percentage of the level of legal understanding of the research subjects. Data grouping is performed by grouping the sample by subdistrict. The sample from the questionnaire directly, the author will enter into googleform in accordance with the respondent's answer to be one with the answer of the online questionnaire.

c. Verifying

Data verification is to check the data and then compare it with the reality of events in the field in order to obtain the validity of the data. It can also be said to prove the truth of the data. After the coding is completed and the data has been collected, then then calculate the frequency of data distribution by tallying and using google forms. To facilitate and make easy the reader, the data results will be presented in the form of charts.

d. Analysing

Data analysis is the analysis and analysis of data so that conclusions emerge. The data collected will be used to solve problems in research.<sup>41</sup> In empirical research, data analysis is carried out in a structured manner through 3 stages namely data processing, data analysis, and conclusions.<sup>42</sup>

This research uses quantitative data analysis techniques, which means extracting information by revealing and presenting data in the form of numbers.<sup>43</sup> Then it is explained descriptively qualitatively so that in

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<sup>41</sup> Elisabeth Nurhaini Butarbutar, *Metode Penelitian Hukum (Langkah-Langkah Menemukan Kebenaran Dalam Ilmu Hukum)* (Bandung: PT Refita Aditama, 2018), 146.

<sup>42</sup> Amiruddin dan Zainal Arifin, *Pengantar Metode Penelitian Hukum*, 262.

<sup>43</sup> Moch. Kasiram, *Metodologi Penelitian Kualitatif-Kuantitatif* (Malang: UIN Maliki Press, 2010),149.

explaining the research results in the form of numbers followed by a descriptive explanation in order to make more understanding of the research results.

e. Concluding

Conclusion is the final stage of research by concluding the results. Conclusions are obtained by drawing an answer from an existing problem. The data is described in sentences that are sequential, logical, and clear so that it is easier for the reader to understand the data.<sup>44</sup>

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<sup>44</sup>Aji Damanuri, *Metode Penelitian Mu'amalah*, (Ponorogo: STAIN Press, 2010), 84.

## CHAPTER IV

### DISCUSSION OF RESEARCH FINDINGS

#### **A. The Legal Understanding of Restaurant Entrepreneurs on Halal Certification After The Enactment Omnibus Law and Government Regulation No. 39 of 2021 on The Implementation of Halal Product Assurance.**

Understanding the law becomes important in order to know the legal awareness that shows the public's assessment of an existing law. One of them is how the legal understanding related to the obligation of halal certification for restaurant entrepreneurs. Halal certification becomes important to ensure legal certainty and consumer protection of halal food. This has been regulated in Job Creation Law/Omnibus Law and PP No. 39 of 2021.

Halal food is much sought after by consumers, especially those who are Muslims because this is an obligation as described in QS. Al-Baqarah (2): 168.

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

*“O people, eat what is lawful and good from what is on earth, and do not follow the footsteps of the devil; for the devil is a real enemy to you.”*

Ali ra said, Rasulullah SAW said,

إن الله - تعالى - يحب أن يرى عبد يسعى في طلب الحلال

“Indeed, Allah SWT. happy to see His servants trying to find halal sustenance.”

HR Thabrani and Dailami.

Managing halal certification is also a form of our obedience by implementing the verses of the Qur'an and the sunnah of the Prophet Muhammad SAW as explained above so that we pay more attention to halal in consuming and buying and selling halal food. Having a halal certification is one of the ethics in doing business according to Islam. According to the Islamic view, it is not allowed for its people to get a job in an illegal way also for its people to eat halal food.<sup>45</sup>

The halal status of food is also seen from the ingredients, the production process to the buyer. This is serves in halal certification as a sign related to the halal status of food. So that the business actors who sell halal food must pay attention to the halal of the food and proven by the halal certificate. Of course this is noticed by people who want to consume halal wealth, earn a good income, and gain human trust and the pleasure of God.<sup>46</sup>

In Islam, the concept of halal certification can also be reviewed from the purpose of its legal purpose or *maqashid syariah* as a method of finding law in establishing Islamic law.<sup>47</sup> There are five trees in the *maqashid syariah* that

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<sup>45</sup> Dewi Rahmi Fauziah, “Analisis Implementasi Jaminan Produk Halal Terhadap Pelaku UMKM,” *Jurnal Aksioma Al-Musaqoh*, no. 2 (2021): 100-101.  
<https://ejurnal.latansamashiro.ac.id/index.php/JAM/article/view/559>.

<sup>46</sup> Sayyid Sabiq, *Fiqh Sunnah Jilid 5*, (t.tp: t.p, 2004), 897.

<sup>47</sup> Sitti Nurfaika dan Musyfika Ilyas, “Kewajiban Pendaftaran Sertifikasi Halal Pada Badan Penyelenggara Jaminan Produk Halal; Perspektif Maqāshid al-Syarī’ah,” *Shautuna*, vol.2, no.2 (2021):456.

need to be observed in order to create benefits and avoid *haram*. Halal certification is associated with the *maqashid of sharia*, are:

- *Hifdz al-Din* (maintaining the religion) that the majority of Indonesians are Muslims so it is important to pay attention to the halal food in accordance with the command of God for us to consume halal food both from produced to sold to consumers which is proven by the existence of halal certification by the restaurant business.
- *Hifdz al-Nafs* (preserving the soul) that with halal certification means starting from the ingredients until the sales process has been checked by BPJPH and MUI so that the safety of halal food is guaranteed, good, and doesn't harm the body. With a healthy body will be able to survive.
- *Hifdz al-Nasl* (preserving offspring) that consumers in consuming food choose halal and good to be consumed by himself and his family so as not to endanger the health of himself and his family. Teach his descendants to always pay attention to the legality of food.
- *Hifdz al-Mal* (maintaining property ) that restaurant bussineses who already have a halal certificate are more in demand by consumers because they certainly sell halal food, so they get more profit. This is also supported by the statement of BPJPH Kota Malang, Mr. Handji who gave a statement that business actors who do not yet have halal certification will be shifted and unable to enter a larger market share, so that one day they will inevitably take care.<sup>48</sup>

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<sup>48</sup> Handji Soesetyo, wawancara, (Malang, 31 Januari 2021).

- *Hifdz al-Aql* (maintaining the intellect ) that the intellect is the differentiator of human beings with other creatures created by God, the rational person can then think one of them thinks to choose food that is truly halal that has been proven with halal certification.

The importance of understanding community law on a provision that has been regulated in regulations. Legal understanding as one of the indicators in a society's legal awareness. To determine the level of legal understanding of restaurant entrepreneurs, researchers have obtained data from 36 respondents according to the criteria and fill out questionnaires both online and directly that have been shared. Questionnaire questions include legal knowledge, legal understanding, patterns of legal behavior, legal attitudes, and a few short questions. Researchers use a linear scale to measure the level of legal understanding with provisions;

- Rating Scale 1: Don't Understand
- Rating Scale 2: Less Understand
- Rating Scale 3: Sufficient Understanding
- Rating Scale 4: Understand
- Rating Scale 5: Very Understand

### **1.) Legal Knowledge**

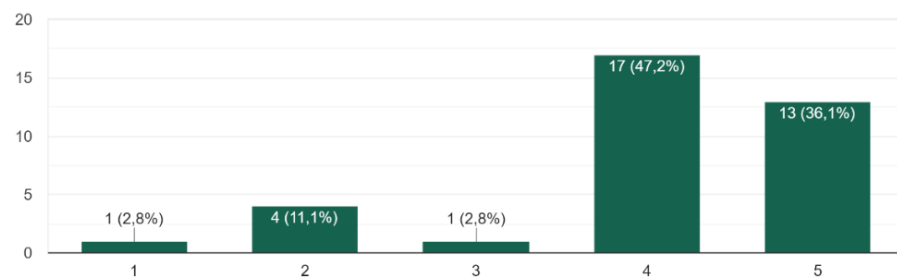
Legal knowledge means that a form of public knowledge of certain behaviors has been enshrined in written law both prohibited and permitted.

Islam commands us to consume halal food and *thayyib* also forbids consuming haram food. This has been regulated in the Qur'an and Hadith.

A halal food can be illegal due to the wrong way of obtaining it, such as

from the proceeds of theft, buying from the proceeds of corruption, buying and selling that is not in accordance with the shari'ah (accepting bribes, buying and selling illegal goods, taking wages that are not his right), and so on. As Muslims, we should understand this because all human activities come from good food for growth, work, and worship. Food is a must kosher, contains adequate and balanced nutrition, proportional, and safe.<sup>49</sup>

Dalam Islam mengatur perintah dan larangan untuk mencari rezeki dan mengonsumsi makanan yang halal juga thayyib (baik).  
36 jawaban



**Chart 1.** Legal Knowledge of Halal Food.

Based on the chart above, the results show on a rating scale of number 4 with a percentage of 47.2 %, so that the restaurant entrepreneurs **have understood** that Islam has set orders and prohibitions to look for sustenance and halal food is also thayyib (good).

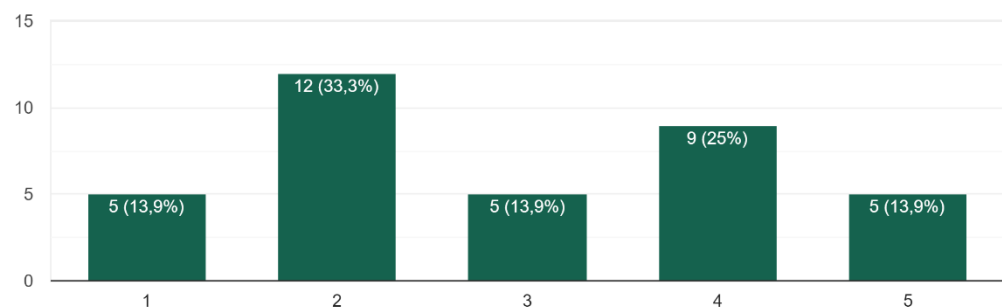
Before the ratification of the Job Creation Law/Omnibus Law, which contains the substance of the provisions of halal products, there was

<sup>49</sup> Halim Setiawan, "Karakteristik Makanan Halalal Thayyiban dalam Al-Qur'an," *Jurnal Kajian Manajemen Halal dan Pariwisata Syariah*, no.02 (2020): 43-51.

Law No. 33 of 2014 on Halal Product Guarantee which regulates all provisions on halal products, one of which is halal certification. The expectation of the Halal Product Guarantee Law is to provide legal certainty halal food consumers.<sup>50</sup> The Job Creation Law/Omnibus Law contains several changes and additions to articles previously regulated in the Halal Product Guarantee Law.

UU No. 11 Tahun 2020 tentang Cipta Kerja memuat substansi sertifikasi produk halal turunan dari UU Jaminan Produk Halal.

36 jawaban



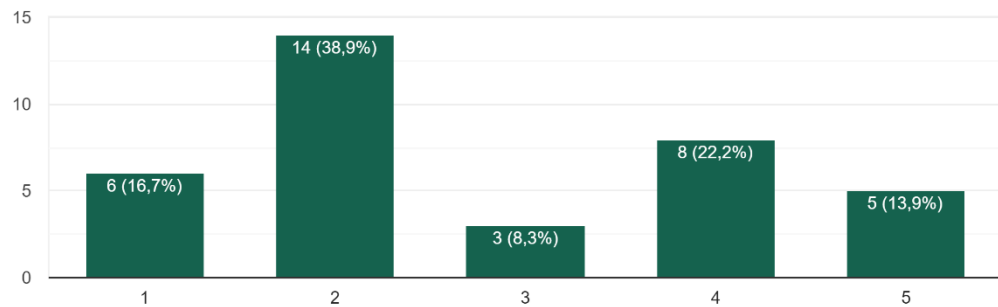
**Chart 2.** Legal knowledge of Omnibus Law derivative substances JPH Law.

Based on the chart above shows the highest rating scale at number 2 with a percentage of 33.3 %, so that the restaurant entrepreneurs still **less understood** that Law No. 11 of 2020 on Job Creation contains the substance of the certification of halal products derived from the Halal Product Guarantee Law.

<sup>50</sup> Indah Fitriani Sukri, "Implementasi Undang-undang Cipta Kerja Terhadap Penyelenggaraan Sertifikasi Halal dan Produk Halal di Indonesia," *Majalah Hukum Nasional*, no. 01 (2021): 76. <https://doi.org/10.33331/mhn.v51i1.139>.

Omnibus Law is a form of regulation that unites various subjects of provisions into a legal container in one law. Omnibus law contains rules that have been previously regulated in a regulation that is then amended and refined.<sup>51</sup> As for Provisions related to halal certification are also regulated in this Job Creation Law/Omnibus Law.

Substansi sertifikasi halal diatur dalam UU No. 11 Tahun 2020 tentang Cipta Kerja.  
36 jawaban



**Chart 3.** Legal knowledge of halal certification is regulated in Omnibus Law.

Based on the chart above shows the highest rating scale at number 2 with a percentage of 38.9 %, so that restaurant entrepreneurs still **less understood** that the substance of halal certification is regulated in Law No. 11 of 2020 on Omnibus.

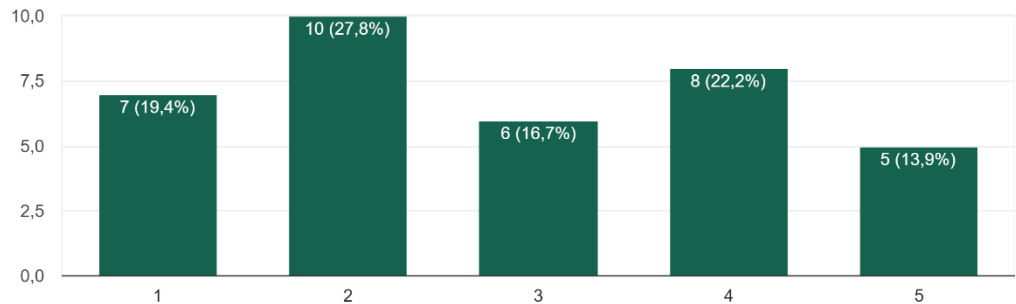
In addition Job Creation Law which contains the substance of halal certification, there is also Government Regulation No. 39 of 2021 on the Implementation of Halal Product Assurance. This government regulation is the latest regulation that replaces PP No. 31 of 2019 on Implementation Law

<sup>51</sup> Munadhil Abdul Muqsith, "UU Omnibus Law yang Kontroversional," *Adalah: Buletin Hukum dan Keadilan*, Vol.04, no. 03 (2020):110. doi: [10.15408/adalah.v4i3.17926](https://doi.org/10.15408/adalah.v4i3.17926).

No. 33 of 2014 on Halal Product Guarantee. So the change in this Government Regulation is not much different from the previous Government Regulation. Such differences or changes lie in the cooperation between the Halal Product Assurance Agency (BPJPH) and the Indonesian Ulama Council (MUI)<sup>52</sup> and also the timing of halal certification obligations.

Substansi sertifikasi halal diatur dalam PP No. 39 Tahun 2021 tentang Penyelenggaraan Bidang Jaminan Produk Halal.

36 jawaban



**Chart 4.** Legal knowledge of halal certification is regulated PP No. 39 of 2021.

Based on the chart above shows the highest rating scale at number 2 with a percentage of 27.8%, so that the restaurant entrepreneurs still **less understood** that the halal certification substance is regulated in PP No. 39 of 2021 on the Implementation of Halal Product Assurance.

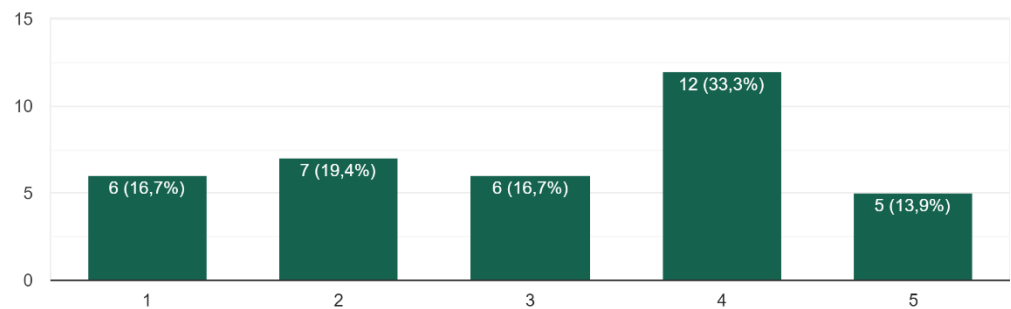
<sup>52</sup> Lise Nandini, “Penerapan Peraturan Pemerintah Nomor 39 Tahun 2021 Tentang Penyelenggaraan Bidang Jaminan Produk Halal Di Wilayah Nusa Tenggara Timur” (Undergraduate thesis, Universitas Islam Negeri Syarif Hidayatullah Jakarta, 2021), <https://repository.uinjkt.ac.id/dspace/bitstream/123456789/56705/1/LISE%20NANDINI%20-%20FSH.pdf>.

Discussing about halal food we should also know about Halal Lifestyle and Halal Value Chain. This is an effort to always develop the sharia economy continues to grow in Indonesia. The halal lifestyle can be started by realizing the importance of paying attention halal nature of food. Then we also grow in other fields such as finance, banking, fashion, medicine, and cosmetics. Halal Value Chain can be included in all areas.

This change in the halal lifestyle must be well served by the halal industry sector, the way to maintain the quality of the chain from the supply of halal products, the production process to the production to the consumer must all be guaranteed halal.<sup>53</sup> Therefore, the government developed it to enhance the development of sharia economy.

Halal Value Chain Kota Wisata Halal merupakan salah satu program pemerintah untuk meningkatkan perkembangan ekonomi syariah.

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**Chart 5.** Knowledge restaurant entrepreneurs about Halal Value Chain.

<sup>53</sup> Arna Asna Annisa, "Kopontren dan Ekosistem Halal Value Chain," *Jurnal Ilmiah Ekonomi Islam*, no.01(2019):4. <http://jurnal.stie-aas.ac.id/index.php/jei/article/view/398/252>.

Based on the chart above shows the highest rating scale at number 4 with a percentage of 33.3%, so that some restaurant entrepreneurs **have understood** that Halal Value Chain, Halal Tourism is one of the government programs to improve sharia economic development. So it can be seen that the business actors have learned about the concept of Halal Value Chain, one of them in the field of food, but in terms of regulations that regulate the obligation of halal certification is still lacking.

Restaurant entrepreneurs who have understood the concept of halal value chain to pay attention to the halal of their food and manage halal certification. It is hoped that with this, restaurant entrepreneurs as micro, small, and medium enterprises that are certainly close to various sections of society can be the driving force to support the development of sharia economy. Especially supporting the city of Malang to become a Halal Destination.

**Table 2.** Legal Knowledge Level

<b>Question Number</b>	<b>Highest Percentage (%)</b>	<b>Legal Knowledge Category</b>
1	47.2%	have understood
2	33.3%	less understood
3	38.9%	less understood
4	27.8%	less understood
5	33.3%	have understood
<b>Average legal knowledge</b>		<b>less understood</b>

From the table above, it is obtained that entrepreneurs don't understand the regulations that govern the obligation of halal certification. Three of the five questions showed **less understood** results. Although there are some entrepreneurs who understand, but most are still public and do not understand the halal certification there are rules that should be followed.

## 2.) Legal Understanding

Understanding the law contains some information about the public's understanding of the content of a rule of law both from its content, purpose, and benefits. Understanding the law is central to the discussion of this study.

Since the promulgation of Law No. 33 of 2014 on Halal Product Guarantee, halal certification which was previously only voluntary became an obligation (mandatory).<sup>54</sup> Then in the latest regulation of Law No. 11 of 2020 on Job Creation and PP No. 39 of 2021 also states every halal product circulating and traded in Indonesia must be halal certified. Because of an obligation regulated in the regulations, restaurant entrepreneurs who sell halal food are required to take care of halal certification.

A halal certificate is also a condition to obtain a permit to put a halal label on a product. Products are said to be halal if they meet the halal requirements in accordance with the principles of sharia.<sup>55</sup> Therefore, if a restaurant wants to include a halal logo, it must have a halal certificate first.

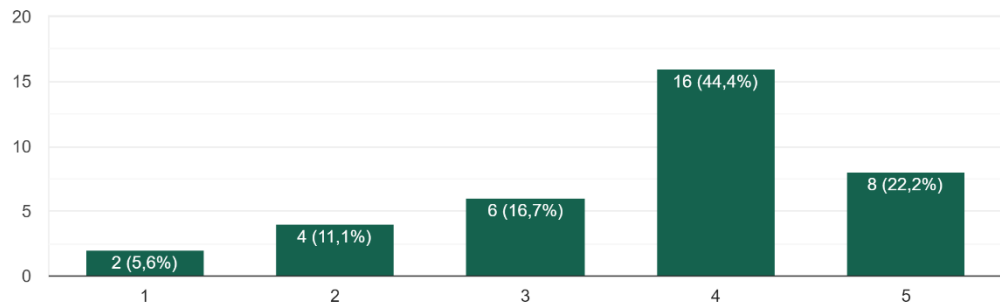
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<sup>54</sup> pasal 4 Undang-undang No. 33 tahun 2014 tentang Jaminan Produk Halal

<sup>55</sup> Burhanuddin, *Pemikiran Hukum Perlindungan Konsumen dan Sertifikat Halal* (Malang: UIN Maliki Press, 2011), 148.

Sertifikasi halal merupakan kewajiban (mandatory) sehingga harus dilakukan oleh pelaku usaha dan telah diatur dalam regulasi.

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**Chart 6.** Legal understanding of halal certification obligations.

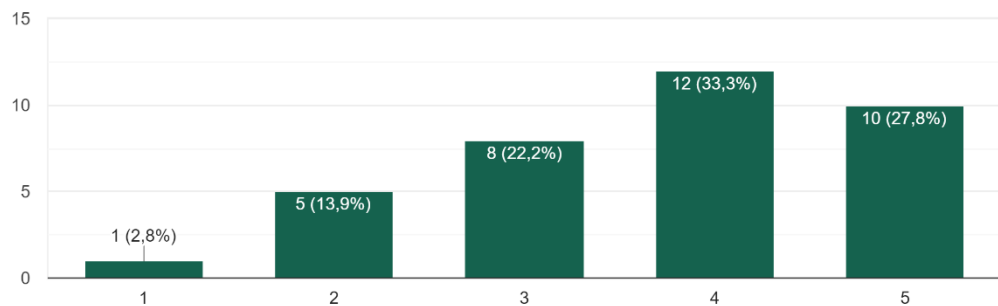
Based the chart above shows the highest rating scale at number 4 with a percentage of 44.4%, so that some restaurant entrepreneurs **have understood** that halal certification is an obligation (mandatory) so it must be done by business and has been regulated in regulations. This indicates that the business actor has known that having a halal certification is an obligation.

The existence of halal certification is evidence and valid information for consumers on a food product or restaurant that actually sells halal food and does not harm consumers. Regulation regulates in the article signifies the existence of consumer protection. Law No. 33 of 2014 on Halal Product Guarantee article 23-27 and PP No. 39 of 2021, articles 48-49 regulate the rights and obligations of business actors. It is the obligation of business actors to create protection for consumers. Consumers have the right to

personal defenses as well. Consumer protection is also a form of appreciation of their rights that must be obtained.<sup>56</sup>

The halal certification that has been regulated in the regulations is expected to create a legal goal of justice, certainty, and legal utility. So that this should be complied with and done by business actors. The restaurant entrepreneurs understanding of the obligations Halal certification is shown in the following chart.

Setifikasi halal menjadi kewajiban pelaku usaha rumah makan untuk menjamin dan perlindungan hukum bagi konsumen muslim.  
36 jawaban



**Chart 7.** Legal understanding of halal certification as consumer protection.

The results of the chart above shows the highest rating scale at number 4 with a percentage of 33.3%, so that some restaurant entrepreneurs **have understood** and even close to fully understand that halal certification is the obligation of restaurant entrepreneurs to guarantee and legal protection for Muslim consumers.

<sup>56</sup> Sopa, *Sertifikasi Halal Majelis Ulama Indonesia, Studi atas Fatwa Halal MUI terhadap Produk Makanan, Obat-obatan dan Kosmetika*,(Jakarta: Gaung Persada Press Group, 2013), 34.

Guaranteeing halal products to protect Muslim consumers in Indonesia is nothing but a development of the application of halal product certification which is inseparable from the rise of awareness of Islam on the importance of consuming halal food that has not been responded to by the government and business actors as an important matter in developing business nationally as well as internationally.<sup>57</sup>

It should be noted that in the Job Creation Law is the latest regulation which contains the substance of the guarantee of halal products, there are a number of 22 articles that have been amended and the addition of several new articles from the previous regulation (Law No. 33 of 2014 on Halal Product Guarantee). One of the articles is article 4A which states:

*“Untuk Pelaku Usaha Mikro dan Kecil, kewajiban bersertifikat halal sebagaimana dimaksud dalam Pasal 4 didasarkan atas pernyataan pelaku usaha Mikro dan Kecil.”*

*“For Micro and Small Business Actors, the halal -certified obligation as referred to in Article 4 is based on the statement of Micro and Small Business Actors.”*

With the enactment of the Job Creation Law, restaurant entrepreneurs who belong to micro and small business actors with an income of less than Rp. 1 billion a year gets aid from the government for free.<sup>58</sup> The provisions of this self declare requirement are further regulated in the Decree of the Head of BPJPH No. 33 of 2022 on Halal Product

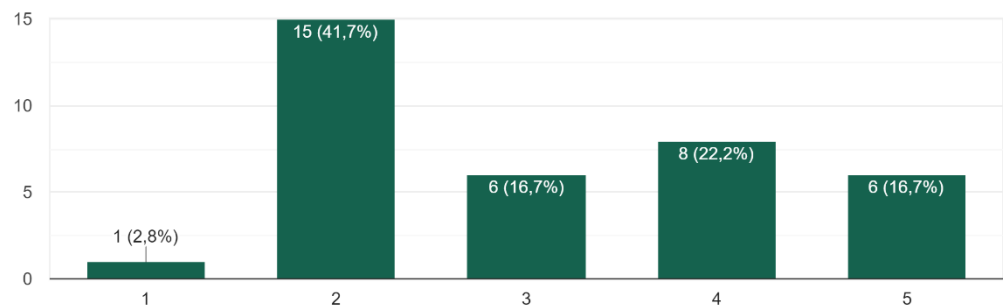
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<sup>57</sup> Abdurrahman Konoras, *Jaminan Produk Halal di Indonesia Perspektif Hukum Perlindungan Konsumen* (Depok: PT. RajaGrafindo Persada, 2017), 90.

<sup>58</sup> “Sertifikasi Halal Gratis bagi UMKM,” *Indonesia.go.id*, 29 Oktober 2020, diakses 14 Maret 2022, <https://www.indonesia.go.id/narasi/indonesia-dalam-angka/ekonomi/sertifikasi-halal-gratis-bagi-ukm>.

Process Companion in the Determination of Halal Certified Obligations for Micro and Small Business Actors Based on the Statement of Business Actors. This facility should bring new opportunities and can be used by restaurant entrepreneurs to take care of the restaurant's halal certification. Here is the response of restaurant entrepreneurs regarding the new rules:

Menurut UU Cipta Kerja, permohonan sertifikasi halal oleh pelaku usaha mikro dan kecil tanpa dikenakan biaya (gratis) harus didasarkan atas pernyataan pelaku usaha.  
36 jawaban



**Chart 8.** Legal understanding of Self Declare.

In fact, according to the results of the chart above, the rating scale shows at number 2 with a percentage of 41.7% which means that each entrepreneurs **less understood** the existence of this rule. From the results of the questionnaire answers, one of the reasons why it is still not understood is due to lack of information knowledge, socialization, and ignorance of business actors with this regulation.

It is unfortunate that there are still many restaurant entrepreneurs who do not understand this rule. In fact, the restaurant entrepreneurs who are the respondents of this study classified into the category of business

entrepreneurs receive halal certification facilities for free. If business actors understand and are aware of this regulation, simply on the basis of the statement of business actors who meet the micro and small categories can be subsidized by the government in register of halal certification.

As for free free in register halal certification, according to BPJPH Malang City which is free is intended for small and medium business actors in accordance with what is listed in Law No. 20 of 2008 on UMKM and participate in self-declare registration (free). Mr. Handjiono said:

*“Sebenarnya untuk pembiayaan sertifikasi halal sudah dimudahkan bagi usaha mikro ada keringanan pembiayaan. Perlu diketahui jenis pendaftaran sertifikasi halal yakni regular atau mandiri, self declare (gratis), dan fasilitasi. Kalau daftar mandiri biayanya pasti lebih mahal. Pelaku usaha yang masuk kategori mikro atau ikut self declare akan masuk terintegrasi dengan NIB (Nomor Izin Berusaha) pelaku usaha, kalo ternyata tidak masuk kategori kecil menengah ya otomatis tidak dapat gratis karena sudah tersistem di si halal (aplikasi pendaftaran sertifikasi halal). Kemudian juga dipermudah pembiayaan melalui fasilitasi yang terkadang diadakan oleh dinas tertentu seperti Dispora. Program gratis disesuaikan dengan anggaran yang ada. Kalau ada dinas yg mengadakan fasilitasi ya gratis, kalau mandiri ya bayar.”*<sup>59</sup>

*“Actually, for the financing of halal certification, it has been made easier for micro businesses, there is a relief in financing. It is necessary to know the type of halal certification registration, namely regular or independent, self declare (free), and facilitation. If you register independently, the cost will be more expensive. Business actors who enter the micro category or participate in self declare will be integrated with the NIB (Business License Number) of business actors, if it does not enter the small and medium category, it cannot automatically be free because it is already systematized in the halal (halal certification registration application). Then also facilitated financing through facilitation that is sometimes held by certain departments such as Dispora. The free program is tailored to your existing budget. If there is a service that holds Facilitation is free, if you are independent you pay.”*

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<sup>59</sup> Handjiono Soesetyo, wawancara, (Malang, 09 Februari 2022).

So that the self-declare program and facilitation by the department can be used for restaurant entrepreneurs who are not halal certified in order to have halal certification for free.

As an old implementing rule of the JPH Law, PP No. 31 of 2019 states the obligation of halal certification to be done gradually. This phase is also further discussed in the latest implementing regulation, precisely in article 139-140 of PP No. 39 of 2021 which states the stipulation of halal certification obligations starting from October 17<sup>th</sup>, 2019 to October 17<sup>th</sup>, 2024, meaning that within a period of 5 years food and beverage products must take care of halal certification.<sup>60</sup> Mean, food and beverage products as well as restaurants must have a halal certificate in 2024. The halal certificate has the function of removing doubts for consumers about the halal product.<sup>61</sup>

The following is the content of article 139 PP No. 39 of 2021 on the Implementation of Halal Product Guarantee:

- 1.) The obligation to be halal certified for the type of product as referred to in article 136 and article 137 is done gradually.
- 2.) The stage as referred to in parachart (1) for the first time consists of:
  - a. Food and beverage products;
  - b. Raw materials, Food additives, and Auxiliary materials for food and beverage products; and
  - c. slaughter results and slaughter services.
- 3.) In addition to the Products as referred to in parachart (2) shall be done at a later stage.
- 4.) Product Stage as referred to in parachart (2) does not apply to:

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<sup>60</sup> Pasal 140 Peraturan Pemerintah No. 39 Tahun 2021 tentang Penyelenggara Bidang Jaminan Produk Halal.

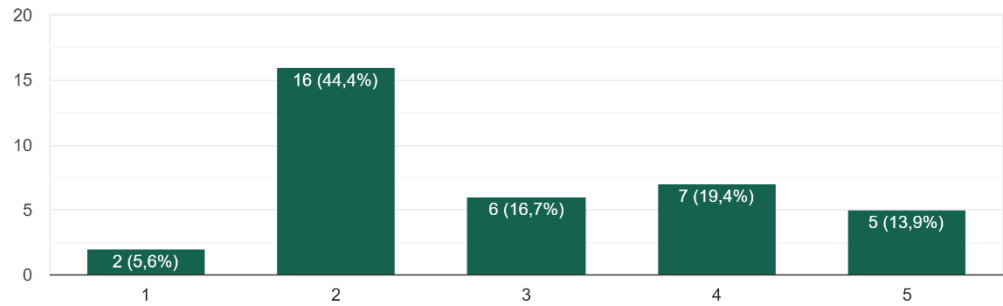
<sup>61</sup> Akim, "Pemahaman Usaha Mikro, Kecil Dan Menengah (UMKM) Di Jatinangor Terhadap Kewajiban Sertifikasi Halal Pada Produk Makanan,". *Jurnal Pengabdian Kepada Masyarakat*, vol. 01, no.01 (2018).

- a. Products whose halal obligations have been established in legislation;
  - b. Products have been certified halal before Law Number 33 of 2014 on Halal Product Guarantee came into force; and
  - c. Products that have been certified halal since the enactment of Law Number 33 of 2014 on the Guarantee of Halal Products until the promulgation of this government regulation.
- 1.) Kewajiban bersertifikat halal bagi jenis produk sebagaimana dimaksud dalam pasal 136 dan pasal 137 dilakukan secara bertahap.
  - 2.) Penahapan sebagaimana dimaksud pada ayat (1) untuk pertama kali terdiri atas:
    - a. Produk makanan dan minuman;
    - b. Bahan baku, Bahan tambahan pangan, dan Bahan penolong untuk produk makanan dan minuman; dan
    - c. hasil sembelihan dan jasa penyembelihan.
  - 3.) Selain Produk sebagaimana dimaksud pada ayat (2) dilakukan pada tahap selanjutnya.
  - 4.) Penahapan Produk sebagaimana dimaksud pada ayat (2) tidak berlaku bagi:
    - a. Produk yang kewajiban kehalalannya sudah ditetapkan dalam peraturan perundang-undangan;
    - b. Produk sudah bersertifikat halal sebelum Undang-Undang Nomor 33 Tahun 2014 tentang Jaminan Produk Halal berlaku; dan
    - c. Produk yang sudah bersertifikat halal sejak berlakunya Undang-Undang Nomor 33 Tahun 2014 tentang Jaminan produk Halal sampai diundangkannya peraturan pemerintah ini.

Stating aims to ensure that halal certification obligations can be implemented properly in accordance with regulations and facilitate food product business actors in developing their business. According to article 139 explains the first tier consists of food and beverage products, raw materials, food additives, and auxiliary materials for food and beverage products, so that it means that the restaurant entrepreneurs are included in the scope. According to article 140 explains the staging has begun since October 17<sup>th</sup>, 2019 and will last until October 17<sup>th</sup>, 2024. Therefore, it is

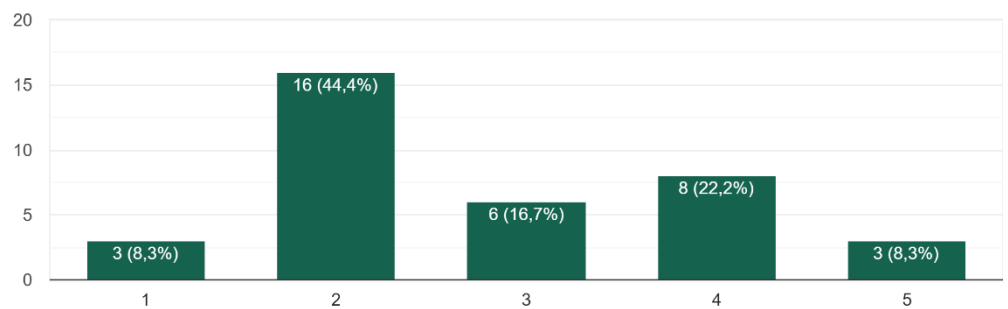
important for restaurant entrepreneurs to understand the existence of this regulation.

Pasal 139 PP No. 39 Tahun 2021 menyatakan kewajiban sertifikasi halal dilakukan secara bertahap.  
36 jawaban



**Chart 9.** Legal Understanding of Halal Certification Obligation Stages.

Penahapan kewajiban sertifikasi halal produk makanan dan minuman termasuk rumah makan dalam jangka 5 tahun sampai tanggal 17 Oktober 2024.  
36 jawaban



**Chart 10.** Legal Understanding of Halal Certification Stages.

Based on the two charts of the legal understanding of restaurant entrepreneurs on the stage of halal certification, the assessment scale both show in number 2 with a percentage of 44.4% which means that each entrepreneurs **less understood** this regulation. They still do not understand the staging and timing of the staging of halal certification obligations. This

result is also supported by the statement of the BPJPH when interviewed that it is still not optimal because many restaurant entrepreneurs have not taken care of halal certification.<sup>62</sup> According to the questionnaire, the cause of laess understanding is because there is still a lack of information and socialization related to this. Despite this, the BPJPH Malang city continues to strive to help entrepreneurs who want to manage halal certification.

From the questions of understanding this law, it is obtained that entrepreneurs **less understood** the contents of the regulations governing halal certification can be obtained at no cost. However, for the benefits and purposes of halal certification, it shows that it has understood that halal certification is mandatory because it is a certainty of consumer law.

Interview with the BPJPH of Malang, Mr. Handjiono also said that the legal awareness of business actors to take care of halal certification is still lacking.

*“Sementara kesadaran hukum pelaku usaha yang kategori besar telah mengurus sertifikasi halal. Namun, pelaku usaha kategori kecil masih belum banyak yang mengurus sertifikasi halal. Padahal kalo ada pemberitahuan dari BPJPH pusat langsung dibagikan ke pelaku usaha. Koordinator UMKM kurang menyebarkan. Sehingga masih belum banyak yang mengurus. Kesadaran hukum masih kurang maka sosialisasi harus terus diberikan.”<sup>63</sup>*

*“While the legal awareness of business actors who are a large category has taken care of halal certification. However, there are still not many small category business actors who take care of halal certification. In fact, if there is a notification from the central BPJPH, it is directly distributed to business actors. UMKM coordinators are less disseminated. So there are still not many who take care. Legal awareness is still lacking so socialization must continue to be given.”*

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<sup>62</sup> Handji Soesetyo, wawancara, (Malang, 09 Februari 2022).

<sup>63</sup> Handji Soesetyo, wawancara, (Malang, 09 Februari 2022).

In order to increase the understanding of the law, some efforts can be made, namely with information and legal counseling. Legal information is done so that business actors about a particular law. Legal counseling is done as a next step after the legal explanation in order for business actors to understand the law, have the courage, and understand how to implement rights and obligations as a form of complying with existing regulations.<sup>64</sup>

**Table 3.** Legal Understanding Level

<b>Question Number</b>	<b>Highest Percentage (%)</b>	<b>Legal Understanding Category</b>
1	44.4%	have understood
2	33.3%	have understood
3	41.7%	less understood
4	44.4%	less understood
5	44.4%	less understood
<b>Average legal understanding</b>		<b>less understood</b>

From the table above, it is obtained that entrepreneurs don't understand the regulations that govern the obligation of halal certification. Three of the five questions showed **less understood** results.

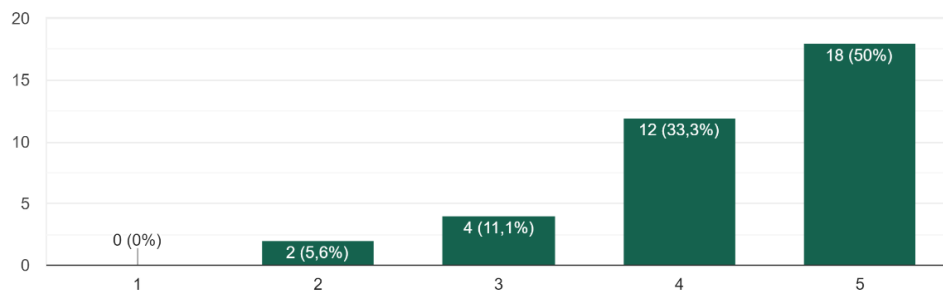
<sup>64</sup> Ishaq, *Dasar-dasar Ilmu Hukum*, 249-250.

### 3.) Legal Behavior Pattern

In the pattern of legal behavior can know the rules of law in society have applied or not. So much so that when it happens it's already the extent to which restaurant entrepreneurs understand it.

We can know that the restaurant entrepreneurs in Lowokwaru, Malang, have understood that Islam is ridiculous, it is a command and prohibition to consume and seek halal sustenance. In practice, it turns out that they have understood the definition of halal food so that they also pay attention to the halal of the food they serve in the diner. Here is a chart that shows the results of the study.

Saya telah memahami definisi makanan halal sehingga memperhatikan kehalalan pada usaha rumah makan saya.  
36 jawaban

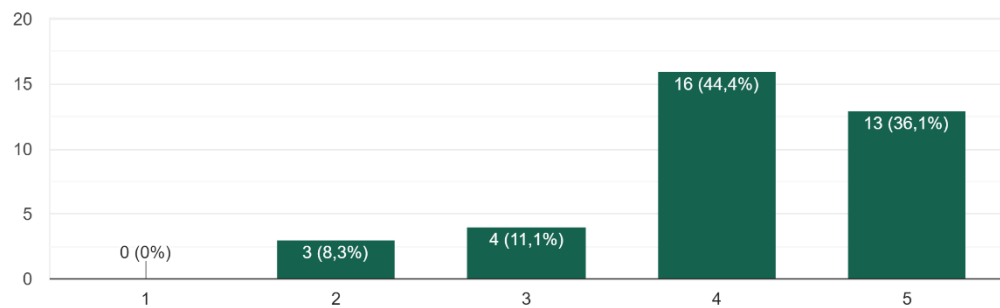


**Chart 11.** Behavior of understanding halal food in restaurants.

Although in the knowledge of regulations related to halal certification obligations, entrepreneurs still less understand. However, they are **mostly understood** of the definition of halal food so pay attention to the halal food at home meaning. This is evidenced by a chartic evaluation scale that shows the number 5 with a percentage of 50%.

Then almost the same as the previous question in terms of understanding the obligation of halal certification by entrepreneurs, the data shows an assessment scale number 4 with a percentage of 44.4% of business actors **have understood** the obligation of halal certification. This indicates that in fact business actors have known that having halal certification is an obligation even though they do not understand the regulation. The results of the data are presented in the following chart:

Saya memahami kewajiban sertifikasi halal.  
36 jawaban



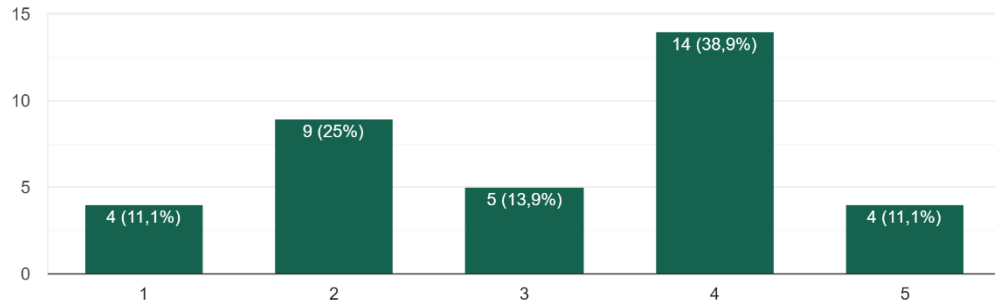
**Chart 12.** Behavior to understand halal certification.

The implementation of halal certification obligations has a positive impact and provides economic benefits to improve the Indonesian economy.<sup>65</sup> The principle of Halal Certification is to ensure that none of the materials used in the production process is not halal means that all materials used are halal, ensuring that there is no contamination or mixing with materials that are unclean/forbidden to product at the time of production.

<sup>65</sup> Wartyo and Samsuri, "Sertifikasi Halal Dan Implikasinya Bagi Bisnis Produk Halal Di Indonesia," *Al Maal: Journal of Islamic Economics and Banking* 2Wartyo, W., no. 1 (2020): 103-105, <https://doi.org/10.31000/almaal.v2i1.2803>.

Saya memahami prosedur permohonan sertifikasi halal.

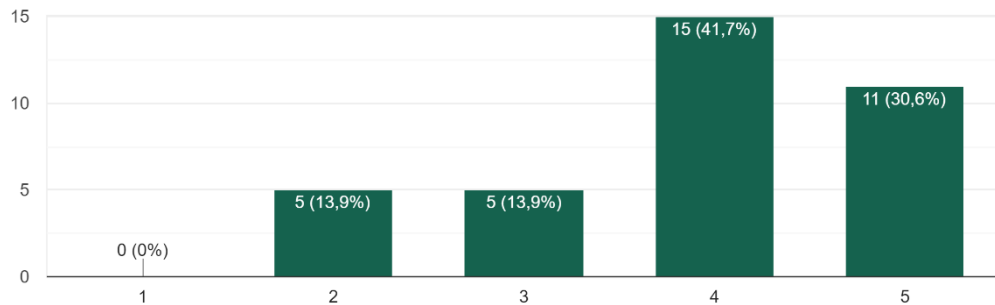
36 jawaban



**Chart 13.** Behavior procedur halal certification.

Saya memahami tujuan dan manfaat sertifikasi halal.

36 jawaban



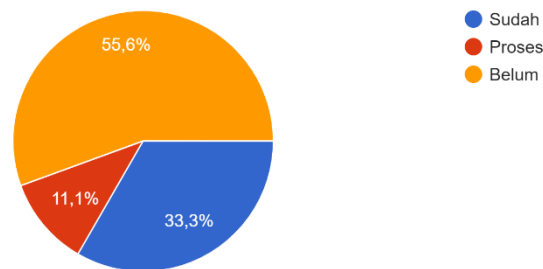
**Chart 14.** Behavior understandh benefit halal certification.

Based on the results of the study, it shows that the entrepreneurs in Lowokwaru, Malang, **have understood** the procedures and benefits of halal certification. Although in reality there are those who don't continue management or stop in the middle of the road because they feel complicated, time constrained, and cost.

Regarding compliance with the regulations on halal certification obligations, it shows that most restaurant entrepreneurs are still less compliant. This is supported by the data of respondents with a presentation

on pie chart below that 55.6% of restaurants have not been certified halal. However, it turns out that halal-certified restaurants with a percentage of 33.3% and still in the process of halal management with a percentage of 11.1%.

Apakah rumah makan ini sudah bersertifikasi halal?  
36 jawaban



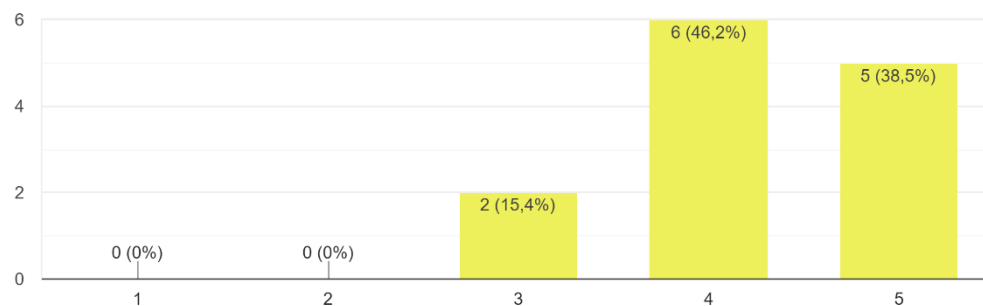
**Chart 15.** Obedience of restaurant entrepreneurs.

Some reasons why restaurant entrepreneurs are not immediately register or continue to register halal certification are because the process is complicated, bureaucratic, time and cost constrained, and didn't know where to take care, and confused do not know how to take care of it. Lack of education and socialization is also an obstacle for restaurant businesses that have not yet managed certification. Ignorance makes at least restaurants entrepreneurs have the awareness to register their products in order to have halal certification.

Then from 13 respondents or 33.3% percentages of restaurants entrepreneurs that have been halal-certified about them legal understanding obtained result with charts below:

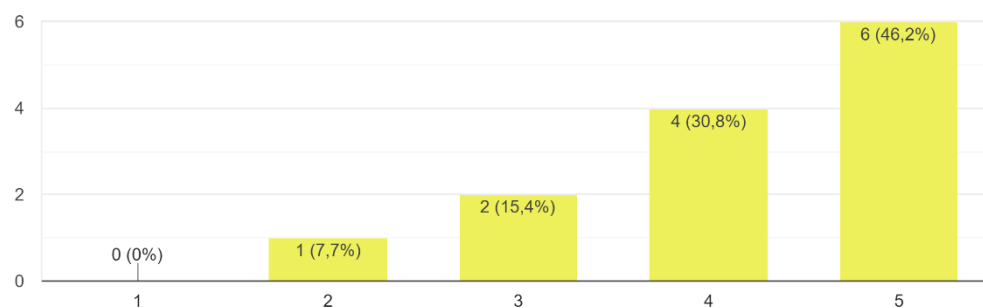
Sertifikasi halal merupakan kewajiban (mandatory) sehingga harus dilakukan oleh pelaku usaha dan telah diatur dalam regulasi.

13 jawaban



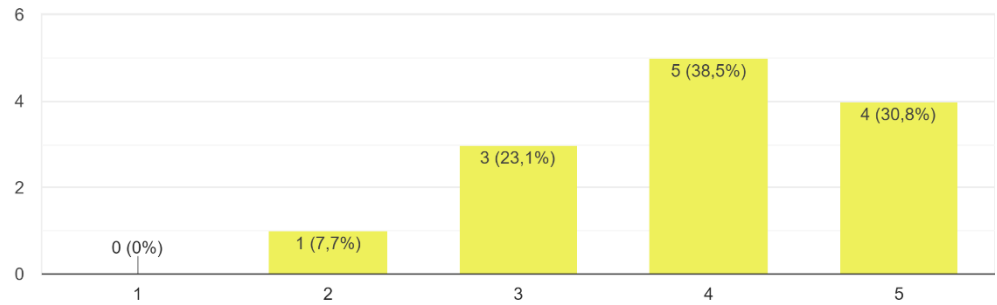
Setifikasi halal menjadi kewajiban pelaku usaha rumah makan untuk menjamin dan perlindungan hukum bagi konsumen muslim.

13 jawaban



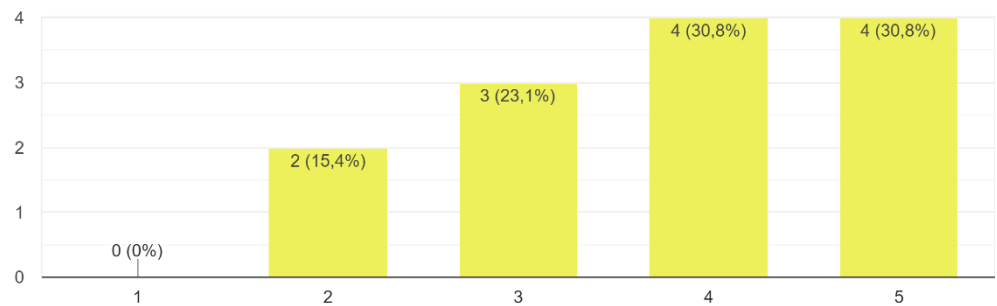
Menurut UU Cipta Kerja, permohonan sertifikasi halal oleh pelaku usaha mikro dan kecil tanpa dikenakan biaya (gratis) harus didasarkan atas pernyataan pelaku usaha.

13 jawaban



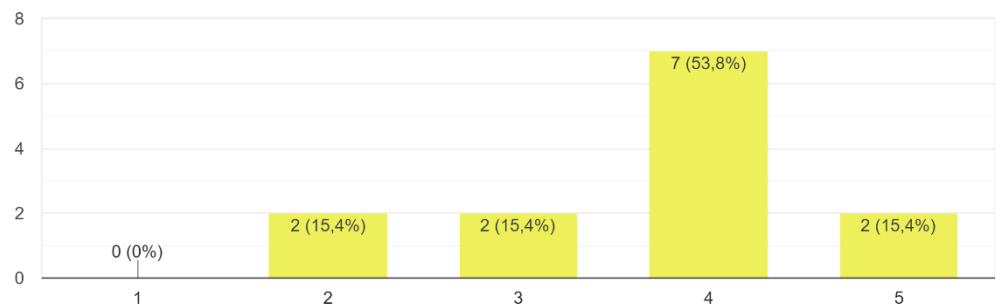
Pasal 139 PP No. 39 Tahun 2021 menyatakan kewajiban sertifikasi halal dilakukan secara bertahap.

13 jawaban



Penahapan kewajiban sertifikasi halal produk makanan dan minuman termasuk rumah makan dalam jangka 5 tahun sampai tanggal 17 Oktober 2024.

13 jawaban



**Table 4.** Table Legal Understanding respondents that have been halal-certified

Question Number	Highest Percentage (%)	Legal Understanding Category
1	46.2%	have understood
2	46.2%	mostly understood
3	38.5%	have understood
4	30.8%	have understood
5	53.8%	have understood
<b>Average legal understanding</b>		<b>have understood</b>

From the table above, restaurants entrepreneurs that have been halal-certified legal understanding different with restaurants entrepreneurs that not yet halal-certified, it is showed legal understanding restaurants entrepreneurs that have been halal-certified **have understood** results.

**Table 5.** Legal Behavior Pattern

Question Number	Highest Percentage (%)	Legal Behavior Pattern Category
1	50%	mostly understood
2	44.4%	have understood
3	38.9%	have understood
4	41.7%	have understood
5	55.6%	less understood
<b>Average legal behavior pattern</b>		<b>have understood</b>

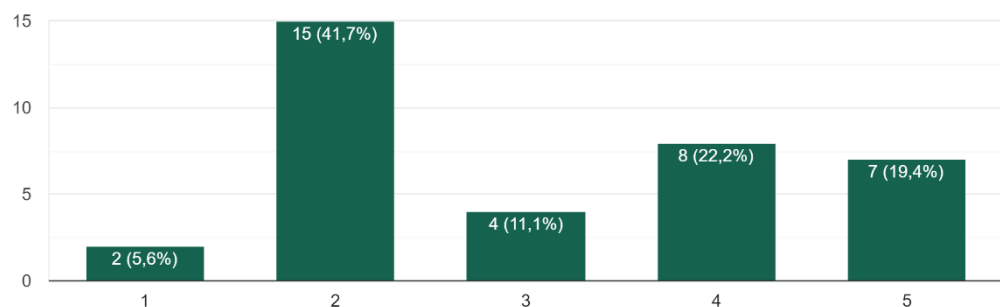
From the table above, it is obtained that entrepreneurs legal behavior pattern which three of the five questions showed **have understood** results.

#### 4.) Legal Attitudes

Legal attitudes is an attitude to accept or reject a law because the law has benefited or not to society

Referring to the article discussed in this study, namely article 4A of the Job Creation Law that the registration of halal certification for UMKM is free so that restaurant entrepreneurs should take advantage of it.

Pelaku usaha rumah makan mikro dan kecil memang harus mengurus sertifikasi halal karena menurut UU Cipta Kerja didasarkan atas pernyataan pelaku usaha (self declare) tidak dikenakan biaya .  
36 jawaban



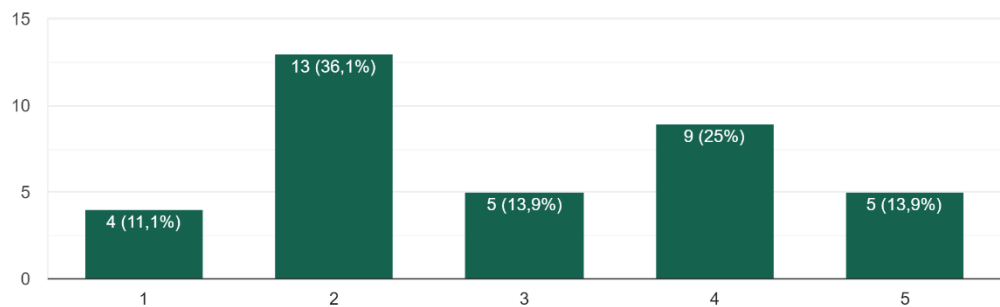
**Chart 16. Legal attitude to implement self declare.**

From the results of research shows that to implement the rules is still **less understood**. This is according to the chart data that shows the rating scale number 2 with a percentage of 41.7%.

Referring to the article discussed in this study, namely article 139-140 PP No. 39 of 2021 that the halal certification is implemented gradually

and phased out until October 17<sup>th</sup>, 2024. so that restaurant entrepreneurs who do not have halal certification should take care of it immediately.

Pelaku usaha mikro dan kecil memang harus mengurus sertifikasi halal karena menurut PP No. 39 Tahun 2021 penahapan kewajiban bersertifikasi halal sampai tanggal 17 Oktober 2024.  
36 jawaban



**Chart 17.** Legal attitude of gradually certification halal.

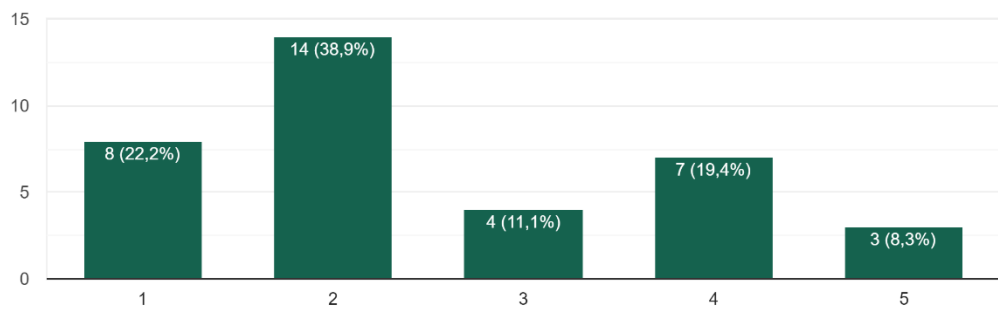
From the results of research shows that to implement the rules is still **less understood**. This is according to the data that shows on the rating scale number 2 with a percentage of 36.1%.

To make the wary of the law effectively complied with by the community, then there must be sanctions for those who violate it so that the rules are complied with in the Job Creation Law and PP No. 39 of 2021. But no sanctions were found that regulate either administrative or criminal sanctions if there are business actors who do not have halal certification. In fact, if it is obligatory in the rules, then those who violate it are subject to sanctions.

This latest regulation has yet to provide firm sanctions. The sanctions described are only relevant if there is a restaurant that has been

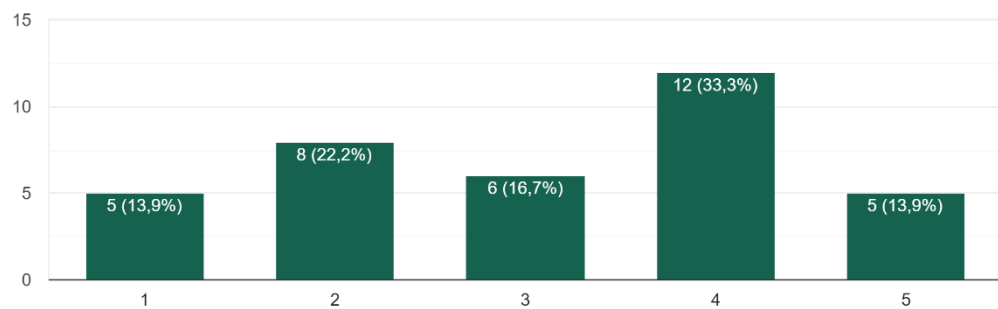
certified halal but does not run its food production process halal. As regulated in articles 149-151 discusses the sanctions for such violations. The following are the results of research on the legal attitude towards sanctions for violations of halal certification;

Pelaku usaha yang tidak segera mengurus sertifikasi halal dapat dikenai sanksi.  
36 jawaban



**Chart 18.** Legal attitude of sanctions.

Pelaku usaha yang tidak menjaga kehalalan produk yang telah memperoleh sertifikat halal memang harus dikenai sanksi.  
36 jawaban



**Chart 19.** Legal attitude of sanctions.

Based on the chart, the existence of sanctions for the case of entrepreneurs who don't immediately take care of halal certification, it turns

out that restaurant entrepreneurs according to the data show the rating scale number 2 with a percentage of 38.9% still **less understood**.

But when the sanction is allocated to restaurants who have been certified halal but can't maintain the halal of their food products, according to the data shows a rating scale number 2 with a percentage of 33.3% presented in they **have understood**.

Job Creation Law and PP No. 39 of 2021 only regulates the form of sanctions for violations of halal certification for certain violations. The Job Creation Law changes the provisions of the previous JPH Law, namely the provisions of article 27 to:<sup>66</sup>

- 5.) Pelaku Usaha yang tidak melakukan kewajiban sebagaimana dimaksud dalam Pasal 25 atau Pasal 26 ayat (2) dikenai sanksi administratif.
  - 6.) Ketentuan lebih lanjut mengenai, kriteria, jenis, besaran denda, dan tata cara pengenaan sanksi administratif diatur dalam Peraturan Pemerintah.
- 5.) Business Actors who do not perform the obligations as referred to in Article 25 or Article 26 paragraph (2) shall be sanction to administrative sanctions.*
- 6.) Further provisions on the criteria, type, amount of fines, and procedures for the imposition of administrative sanctions are set out in Government Regulations*

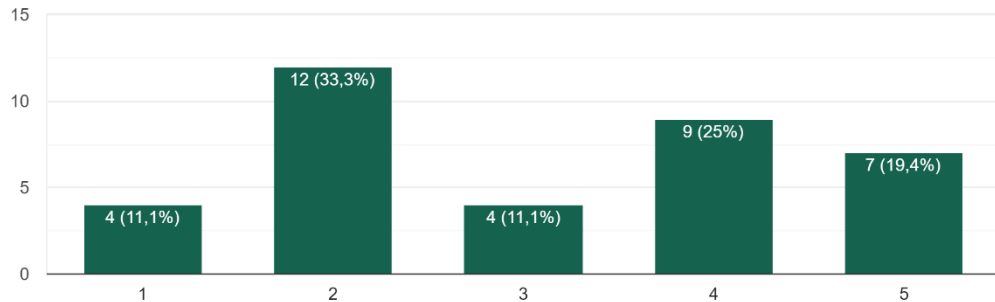
Further provisions on administrative sanctions are contained in articles 149-169 of PP No. 39 of 2021.

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<sup>66</sup> Undang-Undang No. 11 Tahun 2020 tentang Cipta Kerja.

Pelaku usaha yang melakukan pelanggaran terkait sertifikasi halal dikenai sanksi menurut UU Cipta Kerja dan PP No. 39 Tahun 2021.

36 jawaban



**Chart 20.** Legal attitude of sanctions.

Based on the chart above, the imposition of sanctions on restaurant entrepreneurs who violate the provisions of certification as regulated in the Job Creation Law PP No. 39 of 2021 shows the numerical data of assessment scale 2 with a percentage of 33.3% is still **less understood**.

**Table 6.** Legal Attitude Level

Question Number	Highest Percentage (%)	Legal Attitude Category
1	41.7%	less understood
2	36.1%	less understood
3	38.9%	less understood
4	33.3%	have understood
5	33.3%	less understood
<b>Average legal attitude</b>		<b>less understood</b>

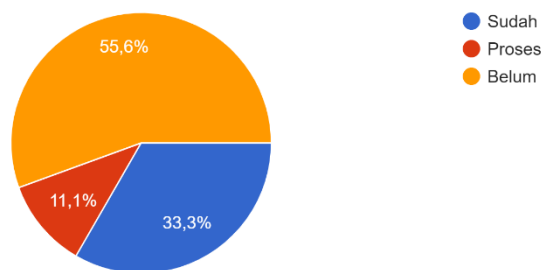
From the whole question of this legal attitude, it is obtained that business actors **less understood** the attitude of applying the rules that result in the violation and imposition of sanctions related to halal certification obligations.

**B. The Legal Consequences Restaurant Entrepreneurs Who Have Not Yet Been Certified Halal Perspective Omnibus Law and Halal Product Assurance Agency (BPJPH) Malang City.**

We know that obligation to certify halal products that are being traded in the territory of Indonesia is regulated in article 4 of JPH Law No. 33 of 2014, article 2 parachart (1), and article 135 PP No. 39 of 2021 to then have the right and obligation include the halal label in the product. Therefore, until now there are still many restaurant entrepreneurs who haven't been certified halal.

The legal compliance of restaurant entrepreneurs in Lowokwaru subdistrict on the halal certification obligation shows that it is less. This is evidenced based on research data showing that 55.6% of entrepreneurs didn't have halal certification, 33.3% have halal certification, and 11.1% are still in the process of registering of halal certification.

Apakah rumah makan ini sudah bersertifikasi halal?  
36 jawaban



**Chart 21.** Obedience of restaurant entrepreneurs.

Whereas halal certification is mandatory since explain in article 4 Law No. 33 of 2021 on Halal Product Guarantee.

*“Produk yang masuk, beredar, dan diperdagangkan di wilayah Indonesia wajib bersertifikat halal.”*<sup>67</sup>

*“Products that enter, circulate, and are traded in Indonesia must be certified halal.”*

The material above article is also exactly explains in the government regulation, namely in article 2 parachart (1) of Government Regulation No. 39 of 2021 on the Organizer of Halal Product Assurance. The government regulation provides for a period or stage of halal certification for food and beverage products 5 years, has began on 17<sup>th</sup> October 2019 until 17<sup>th</sup> October 2024.<sup>68</sup>

Because this provision has been regulated in the regulations, it is mandatory to do. Although there is no compulsion for entrepreneurs to register halal certification because it turns out that until now there is not a single article that indicates the existence of legal consequences or sanctions against business actors who haven't take care of it, if the entrepreneurs doesn't implement it within this period of 5 years or until October 17<sup>th</sup>, 2024 then it can be said to have violated the law of halal certification obligations. This event can also be said to be

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<sup>67</sup> Pasal 4 UU No. 33 Tahun 2014 tentang Jaminan Produk Halal.

<sup>68</sup> Pasal 140 Peraturan Pemerintah No. 39 Tahun 2021 tentang Penyelenggara Bidang Jaminan Produk Halal.

inconsistent with John Austin's theory of the law of positivism which states that law consists of 4 elements, namely:<sup>69</sup>

- 1) *sovereignty*
- 2) *command*
- 3) *duty*
- 4) *sanction*

Violations by entrepreneurs on the implementation of halal product guarantees are subject to administrative sanctions (written warning, a maximum fine of Rp. 2,000,000,000,00, revocation of halal certification, and/or withdrawal of products from circulation) and there are also criminal sanctions. There are several types of violations that are sanctioned in Government Regulation No. 39 of 2021, namely the violation of Article 49, Article 65, Article 82 parachart (2), Article 84 parachart (1), Article 87 parachart (1), Article 92 parachart (1), Article 93, Article 127 parachart (2), Article 132 parachart (4), article 134 parachart (2), and article 135 parachart (1). But no sanction or juridical implication is given for the violation of article 2 parachart (1) of PP No. 39 of 2021.

The lack of strict sanctions is feared to affect the legal awareness of restaurant entrepreneurs not to take care of halal certification and commit fraud. In fact, all types of violations can harm and upset the public or consumers. To minimize it, the legal consequences are necessary in order consumer certainty is guaranteed. Because there is still no legal consequence of this violation in the

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<sup>69</sup> Marwan Effendy. *Teori Hukum Dari Perspektif Kebijakan, Perbandingan Dan Harmonisasi Hukum Pidana* (Jakarta: Referensi, 2014), 21. Dikutip dari artikel jurnal oleh Iffaty Nasyi'ah, "Pelanggaran Kewajiban Pendaftaran Sertifikat Halal: Dapatkah Dibuat Sanksi?", 90.

regulation (Job Creation Law and PP No. 39 of 2021), the author digs information on legal consequences from the point of view of the Halal Product Assurance Agency (BPJPH) as a halal product assurance operator.

The Halal Product Assurance Agency (BPJPH) is an institution within the scope of the Ministry of Religion and has the authority to administer halal product assurance. BPJPH cooperates with MUI in setting the halal status of the product. According to Article of Law No. 33 of 2014 on Halal Product Guarantee stated in the maintenance halal product guarantee, some BPJPH authorities are to formulate and set halal product guarantee policy, set norms, standards, procedures, and criteria for halal product guarantee, issue and revoke halal certification and halal label on products, conduct supervision of halal product guarantee.<sup>70</sup>

So this institution has a very important role in halal certification. The structure of BPJPH includes the central BPJPH located in the capital Jakarta, then under it there is BPJPH located in the province or also called the provincial halal task force operator, and lastly BPJPH located in the district /city or called the district /city halal task force operator.

In Malang City, there is a Halal Product Assurance Organization (BPJPH) which serves as the operator of the halal task force in the city of Malang under the auspices of the Ministry of Religion of the City of Malang. The researcher conducted an interview with Mr. Handjiono Soesetyo as a BPJPH Malang City in an interview. It was conveyed by Mr. Handji as BPJPH of the city of Malang

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<sup>70</sup> Pasal 6 Undang-undang No. 33 Tahun 2014 tentang Jaminan Produk Halal.

that the role of BPJPH in assisting restaurant entrepreneurs in Malang City related to halal certification is as a halal task force for the management of halal certification in Malang City.

The following was presented by Mr. Handjiono about the role of BPJPH, namely:<sup>71</sup>

*“Perannya sebagai satgas halal yang ada di Kota Malang yakni menjadi ujung tombak pengurusan sertifikasi halal. Melayani mulai dari pengurusan dokumen pelaku usaha hingga menyediakan keperluan untuk upload persyaratan di si halal (aplikasi layanan sertifikasi halal). Kemudian juga terjun ke masyarakat, untuk sosialisasi dan mendampingi para pelaku usaha langkah-langkah pendaftaran sertifikasi halal.”*

*“ Its role as a halal task force in the city of Malang is to be the spearhead of halal certification management. Serving ranging from the management of business documents to providing the need to upload requirements in the halal (halal certification service application). Then also plunge into the community, for socialization and accompany business actors on halal certification registration steps.”*

In government regulations, BPJPH has the authority to impose administrative sanctions related to violations of the guarantee of halal products. Mr. Handji said regarding the legal consequences for restaurant entrepreneurs who have not immediately taken care of halal certification after the enactment of law No. 11 of 2020 on Job Creation and PP No. 39 of 2021 on Halal Product Assurance Operators still does not exist and the consequences obtained are only social consequences. According to Mr. Handjiono in an interview said:

*“Untuk konsekuensinya secara alami akan tersisih dengan pelaku usaha lainnya yang sudah memiliki sertifikasi halal. Konsumen juga lebih memilih yang telah bersertifikasi halal. Sehingga nantinya apabila mereka telah sadar akan kewajiban sertifikasi halal akan mengurusnya. Terkait konsekuensi hukum atau*

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<sup>71</sup> Handjiono Soesetyo, wawancara, (Malang, 31 Januari 2022).

*sanksi masih belum ada, mungkin akan ada pada tahun 2024. Saya tidak berani bicara lebih karena belum ada payung hukum yang mengatur sanksinya.*"<sup>72</sup>

*"As a consequence, it will naturally be separated from other entrepreneur who already have halal certification. Consumers also prefer those who have been certified halal. So that later when they are aware of the obligation of halal certification will take care of it. Related legal consequences or sanctions are still not yet, maybe there will be in 2024. I dare not talk more because there is no legal umbrella that regulates the sanctions."*

The absence of sanctions can also be said because it is currently still in the gradual range until October 17<sup>th</sup> 2024. This is an opportunity for restaurant entrepreneurs to take care of halal certification. Restaurants that don't yet have halal certification are not directly subject to sanctions or penalties, but given a time until a predetermined time.<sup>73</sup> In accordance with the regulations, so that if until October 17<sup>th</sup>, 2024 the restaurant entrepreneurs don't take care of the halal certification mentioned in the law "mandatory" may be subject to sanctions. Still though so the BPJPH of Malang City continues to conduct socialization and supervision related to halal certification of business actors.

Regarding the type of appropriate sanctions if imposed on entrepreneurs who have not immediately taken care of halal certification beyond the period that has been determined October 17<sup>th</sup>, 2024 is still possible because there is no violation status for article 2 parachart (1) of PP No. 39 of 202. Is a violation these can be categorized as the most effective administrative sanctions or criminal sanctions applied.

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<sup>72</sup> Handjiono Soesetyo, wawancara, (Malang, 31 Januari 2022).

<sup>73</sup> Hayyun D Farida, "Sertifikasi Halal di Indonesia: Sejarah, Perkembangan, dan Implementasi," *Journal of Halal Product an Research*, vol.2, no.2 (2019):76.

An offense can be categorized as subject to criminal sanctions if it refers to the definition of criminal law first, namely the law that governs acts that are prohibited in law and criminal sanctions for the perpetrator.<sup>74</sup> The word “mandatory (wajib)” in article 2 paragraph (1) of PP No. 39 of 2021 means a must which must be run. For business actors who do not carry out halal certification, it means that they have violated these provisions. Such violations will harm the public a lot and can be sanctioned in order to create legal certainty.

The sound of article 2 paragraph (1) of PP No. 39 of 2021 has the same substance as article 4 of law no. 33 of 2014 on Halal Product Guarantee, which requires halal certification for products that enter, circulate, and are traded in Indonesia. When the entrepreneur deliberately does not register its products, in criminal law included in crime. However, when inadvertently included in the violation. The appropriate criminal sanctions are imprisonment and or fines.<sup>75</sup>

However, criminal sanctions of imprisonment identical to criminalization are less appropriate when applied to violations of halal certification obligations. Because if there are still many business actors who do not have halal certification, then many entrepreneurs will be imprisoned. It is not right if the rules legislation deemed effective should be subject to criminal sanctions. Must see the substance first, when it comes to administrative matters, then administrative sanctions are more effective than criminal sanctions.

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<sup>74</sup> Bambang Waluyo, *Pidana dan Pemidanaan* (Jakarta: Sinar Grafika, 2004), 6.

<sup>75</sup> Iffaty Nasyi'ah, “Pelanggaran Kewajiban Pendaftaran Sertifikat Halal: Dapatkah Dibuak Sanksi?”, 106.

Then to enforce the law can also be with administrative sanctions. According to Van Wijk, administrative sanctions are the imposition of punishment by the government on its people as a result of their disobedience to the obligations set out in the legislation.<sup>76</sup> In the regulation of the guarantee of halal products, administrative sanctions can be in the form of a written reprimand, a maximum fine of Rp. 2,000,000,000.00, revocation of halal certification, and/or withdrawal of products from circulation.

The granting of administrative sanctions is a form of legal consequence for the violation of a norm of prohibitions, orders, and obligations. The norm if in its enforcement is not sanctioned will experience difficulties.<sup>77</sup> The purpose of administrative sanctions as a law enforcement effort in legislation to be complied with by the public, impose punishment for business actors who do not comply with regulations on the guarantee of halal products, as a warning, and most importantly to create a deterrent to no longer commit violations.

Administrative sanctions are not always applied through the courts, but also non-courts or directly by administrative officials who in the case of halal certification the authority is the Halal Product Assurance Agency (BPJPH). This is also one of the convenience because it can be done directly by BPJPH without waiting court decision first. Meanwhile, if a criminal sanction is imposed, it must

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<sup>76</sup> Andri Gunawan Wibisana, "Tentang Ekor ang Tak Lagi Beracun: Kritik Konseptual atas Sanksi Administratif dalam Hukum Lingkungan di Indonesia," *Jurnal Hukum Lingkungan Indonesia*, vol.6, no.1 (2019):42.

<sup>77</sup> Wicipto Setiadi, "Sanksi Administratif sebagai salah satu instrumen penegakan hukum dalam peraturan perundang-undangan," *Legislasi Indonesia*, vol.6, vol.4 (2009):606.

go through the process of a court decision with permanent legal force. In terms of time it is also not effective for too long.

BPJPH in conducting supervision and imposing administrative sanctions must ensure and consider properly the violations that have a legal basis in accordance with the principles of law. Administrative sanctions in the form of written reprimands in advance of and or fines to the perpetrators of the restaurant entrepreneurs can be an alternative way done by BPJPH so that the restaurant entrepreneurs immediately perform the obligation of halal certification. It is feared that the imposition of sanctions in the form of fines will burden the business actors in paying, However, the restaurant entrepreneurs are also working to improve their economy.

## CHAPTER V

### CLOSING

#### A. Conclusion

1. Halal certification is an obligation for restaurant entrepreneurs as a protection and legal certainty of consumers. Article 4A of the Job Creation Law states that micro and small business actors are exempt from the cost of halal certification management based on the statement of micro and small business actors (Self Declare) based on halal standards set by BPJPH. Then article 139-140 PP No. 39 of 2021 explains the provisions of the stipulation of halal certification of food products conducted within a period of 5 years to October 17<sup>th</sup>, 2024. Based on research data, the legal understanding of restaurant entrepreneurs on halal certification after the approval of Job Creation and Government Regulation No. 39 of 2021 is still less understood. Until now still many restaurants have not been certified halal.
2. Legal consequences of restaurant entrepreneurs who have not been certified halal is still there is no clear status an violation and there is not a single article that indicates the existence of legal consequences or sanctions. However, according to the BPJPH Malang City as the institution authorized to organize and supervise halal certification said that business actors who are not halal certified will receive social sanctions will naturally be excluded from other business actors who are halal certified. Consumers will prefer which has been certified halal.

Currently, it is still in the period of staging, legal consequences or sanctions may exist after the staging ends in 2024. The legal consequences of halal product guarantee in the form of administrative sanctions and criminal sanctions. Administrative sanctions in the form of written reprimands first become alternatives that BPJPH can do so that restaurant entrepreneurs immediately take care of halal certification.

## **B. Suggestion**

1. To increase the legal understanding of restaurant entrepreneurs on the obligation of halal certification, for the government and BPJPH to socialize and educate widely the importance of halal certification. Then for micro and small restaurant entrepreneurs who have not been certified halal to immediately take care through statement of business actors (Self Declare) and come to BPJPH.
2. If want to enactment regulation of halal product warranty, the government should more pay attention to the legal consequences for entrepreneurs who have not taken care of halal certification in order to create certainty and legal protection of halal food consumers.

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Webinar FeSyar by Bank Indonesia.

## APPENDIXES

### A. Questionnaire

#### PEDOMAN KUESIONER

Kepada Yth.

Bapak/Ibu/Saudara/i Pelaku Usaha Rumah Makan

Assalamualaikum, wr.wb

Indonesia yang mayoritas penduduknya muslim, menjadikan produk bersertifikasi halal menjadi pilihan utama dari mayoritas masyarakat Indonesia. Islam juga mengatur mengenai perintah mengkonsumsi makanan yang halal dan *thayyib*. Selain itu, untuk mendukung program pemerintah *halal value chain* maka rumah makan yang menyediakan makanan halal dapat mendukung terwujudnya program tersebut. Untuk menjamin kehalalan suatu produk maka dibuktikan dengan sertifikasi halal. Kewajiban sertifikasi halal telah diatur dalam beberapa regulasi diantaranya yang terbaru pada UU Cipta Kerja dan PP No. 39 Tahun 2021.

Para pelaku usaha diharapkan memiliki pemahaman hukum terkait kewajiban sertifikasi halal. Diharapkan penelitian ini dapat memperoleh manfaat baik bagi pelaku usaha, konsumen, pemerintah, dan seluruh masyarakat. Saya mohon kepada Bapak/Ibu/Saudara/i pelaku usaha rumah makan untuk bersedia mengisi kuesioner penilaian pemahaman hukum kewajiban sertifikasi halal.

Kuesioner ini dibagikan guna melakukan penelitian mengenai pemahaman hukum pelaku usaha rumah makan terhadap sertifikasi halal pasca disahkan UU Cipta Kerja dan PP No. 39 Tahun 2021. Saya akan sangat menghargai kejujuran dan waktu yang telah diluangkan untuk mengisi kuesioner ini dan menjamin kerahasiaan dari jawaban dan identitas Anda. Atas kesediannya saya ucapkan terima kasih.

Hormat saya,

Yuniar Ika S

## I. IDENTITAS INFORMAN

Nama :  
Usia :  
Jenis Kelamin :  Laki-laki  
 Perempuan  
Nama Rumah Makan :  
Alamat :

## II. LEMBAR PENILAIAN

### a. Petunjuk Pengisian

- 1) Mohon membaca dan memahami pernyataan dengan cermat sebelum memberikan jawaban.
- 2) Isilah pernyataan dengan jawaban yang paling sesuai menurut pendapat Anda.
- 3) Pengisian jawaban dengan memberikan tanda (√) pada kolom yang telah disediakan.
- 4) Dalam menjawab pernyataan, mohon berdasarkan apa yang telah atau sedang dilakukan.
- 5) Gunakan bolpoint dalam melakukan pengisian.
- 6) Diharapkan jujur dalam mengisi jawaban karena tidak akan berpengaruh pada jabatan atau karir Anda.
- 7) Apabila ada hal-hal yang kurang jelas dalam proses pengisian, mohon tanyakan dan minta penjelasan pada peneliti yang mendampingi.
- 8) SP = Sangat Paham  
P = Paham  
CP = Cukup Paham  
KP = Kurang Paham  
TP = Tidak Paham

b. Pengetahuan Hukum

No.	Pernyataan	Jawaban				
		SP	P	CP	KP	TP
1.	Dalam Islam mengatur perintah dan larangan untuk mencari rezeki dan mengonsumsi makanan yang halal juga <i>thayyib</i> (baik).					
2.	UU No. 11 Tahun 2020 tentang Cipta Kerja memuat substansi sertifikasi produk halal turunan dari UU Jaminan Produk Halal.					
3.	Substansi sertifikasi halal diatur dalam UU No. 11 Tahun 2020 tentang Cipta Kerja.					
4.	Substansi sertifikasi halal diatur dalam PP No. 39 Tahun 2021 tentang Penyelenggaraan Bidang Jaminan Produk Halal.					
5.	<i>Halal Value Chain</i> Kota Wisata Halal merupakan salah satu program pemerintah untuk meningkatkan perkembangan ekonomi syariah.					

c. Pemahaman Hukum

No.	Pernyataan	Jawaban				
		SP	P	CP	KP	TP
1.	Sertifikasi halal merupakan kewajiban ( <i>mandatory</i> ) sehingga					

	harus dilakukan oleh pelaku usaha dan telah diatur dalam regulasi.					
2.	Setifikasi halal menjadi kewajiban pelaku usaha rumah makan untuk menjamin dan perlindungan hukum bagi konsumen muslim.					
3.	Menurut UU Cipta Kerja, permohonan sertifikasi halal oleh pelaku usaha mikro dan kecil tanpa dikenakan biaya (gratis) harus didasarkan atas pernyataan pelaku usaha.					
4.	Pasal 139 PP No. 39 Tahun 2021 menyatakan kewajiban sertifikasi halal dilakukan secara bertahap.					
5.	Penahapan kewajiban sertifikasi halal produk makanan dan minuman termasuk rumah makan dalam jangka 5 tahun sampai tanggal 17 Oktober 2024.					

d. Pola Perilaku Hukum

No.	Pernyataan	Jawaban				
		SP	P	CP	KP	TP
1.	Saya telah memahami definisi makanan halal sehingga memperhatikan kehalalan pada usaha rumah makan saya.					

2.	Saya memahami kewajiban sertifikasi halal.					
3.	Saya memahami tujuan dan manfaat sertifikasi halal.					
4.	Saya memahami prosedur permohonan sertifikasi halal.					
5.	Rumah makan saya telah atau sedang mengurus sertifikasi halal.					

e. Sikap Hukum

No.	Pernyataan	Jawaban				
		SP	P	CP	KP	TP
1.	Pelaku usaha rumah makan mikro dan kecil memang harus mengurus sertifikasi halal karena menurut UU Cipta Kerja didasarkan atas pernyataan pelaku usaha ( <i>self declare</i> ) tidak dikenakan biaya.					
2.	Pelaku usaha mikro dan kecil memang harus mengurus sertifikasi halal karena menurut PP No. 39 Tahun 2021 penahapan kewajiban bersertifikasi halal sampai tanggal 17 Oktober 2024.					
3.	Pelaku usaha yang tidak segera mengurus sertifikasi halal dapat dikenai sanksi.					
4.	Pelaku usaha yang tidak menjaga kehalalan produk yang telah					

	memperoleh sertifikat halal memang harus dikenai sanksi.					
5.	Pelaku usaha yang melakukan pelanggaran terkait sertifikasi halal dikenai sanksi menurut UU Cipta Kerja dan PP No. 39 Tahun 2021.					

### PERTANYAAN

**Petunjuk: Jawablah pertanyaan berikut dengan jelas dan jujur.**

- 1) Apakah Anda mengetahui mengenai *halal value chain*?

Jawab:

.....  
 .....

- 2) Sejak kapan rumah makan ini berdiri dan berapa penghasilan setiap tahunnya?

Jawab:

.....  
 .....

- 3) Apakah rumah makan ini menjual makanan halal?

Jawab:

.....  
 .....

- 4) Apakah pelaku usaha rumah makan ini memahami tentang pentingnya memiliki sertifikat halal terhadap produk halal?

Jawab:

.....  
 .....

- 5) Apakah pelaku usaha rumah makan ini telah mengetahui regulasi mengenai kewajiban sertifikasi halal?

Jawab:

.....  
.....

6) Apakah rumah makan ini sudah bersertifikasi halal?

Jawab:

.....  
.....

7) Apakah pelaku usaha mengetahui dan memahami prosedur mengurus sertifikasi halal?

Jawab:

.....  
.....

8) Apakah pelaku usaha mengetahui fasilitas bebas biaya sertifikasi halal bagi pelaku usaha kecil dan mikro dimana telah diatur dalam UU Cipta Kerja?

Jawab:

.....  
.....

9) Apakah pelaku usaha mengetahui kewajiban segera mengurus sertifikasi halal dalam jangka waktu 5 tahun (19 Oktober 2019 -17 Oktober 2024) sebagaimana diatur dalam pasal 140 PP No. 39 Tahun 2021 tentang Penyelenggaraan Bidang Jaminan Produk Halal?

Jawab:

.....  
.....

10) Apakah yang menjadi kendala pelaku usaha rumah makan belum mengajukan sertifikasi halal?

Jawab:

.....  
.....

## PEDOMAN WAWANCARA

Kepada Yth.

Kepala Kementerian Agama Kota Malang

Assalamualaikum, wr.wb

Indonesia yang mayoritas penduduknya muslim, menjadikan produk bersertifikasi halal menjadi pilihan utama dari mayoritas masyarakat Indonesia. Islam juga mengatur mengenai perintah mengkonsumsi makanan yang halal dan *thayyib*. Selain itu, untuk mendukung program pemerintah *halal value chain* maka rumah makan yang menyediakan makanan halal dapat mendukung terwujudnya program tersebut. Untuk menjamin kehalalan suatu produk maka dibuktikan dengan sertifikasi halal. Kewajiban sertifikasi halal telah diatur dalam beberapa regulasi diantaranya regulasi yang terbaru pada UU Cipta Kerja dan PP No. 39 Tahun 2021.

Para pelaku usaha diharapkan memiliki pemahaman hukum terkait kewajiban sertifikasi halal. Diharapkan penelitian ini dapat memperoleh manfaat baik bagi pelaku usaha, konsumen, pemerintah, dan seluruh masyarakat. BPJPH ialah satu lembaga yang mempunyai tugas menyelenggarakan sertifikasi halal. Saya mohon kepada Bapak/Ibu/Saudara/i bagian BPJPH Kemenag Kota Malang untuk bersedia menjadi narasumber untuk dalam penelitian ini.

Hormat saya,

Yuniar Ika S

## PEDOMAN WAWANCARA

(Kepada Lembaga BPJPH Kementerian Agama Kota Malang)

### I. IDENTITAS INFORMAN

Nama :  
Usia :  
Jenis Kelamin :  Laki-laki  
 Perempuan  
Jabatan :  
Alamat :

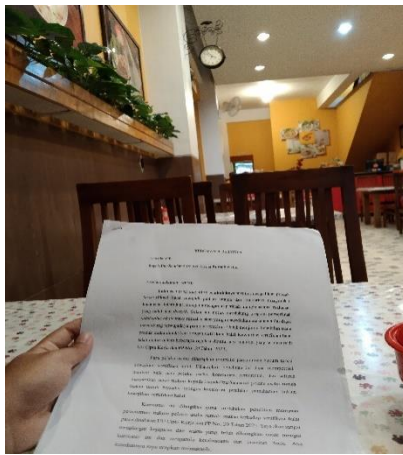
### II. PERTANYAAN

- 1.) Bagaimana peran BPJPH dalam membantu para pelaku usaha rumah makan di Kota Malang terkait sertifikasi halal?
- 2.) Bagaimana menurut Anda mengenai kesadaran hukum pelaku usaha rumah makan di Kota Malang terhadap kewajiban sertifikasi halal?
- 3.) Bagaimana implementasi regulasi UU Cipta Kerja dan PP No. 39 Tahun 2021 tentang Penyelenggaraan Bidang Jaminan Produk Halal terkait sertifikasi halal?
- 4.) Bagaimana mengenai kriteria usaha mikro dan kecil yang tidak dikenakan biaya permohonan sertifikasi sesuai yang diatur dalam UU Cipta Kerja? Gratis dalam hal apa?
- 5.) Apakah penahapan sertifikasi halal telah berjalan optimal di kota Malang?
- 6.) Bagaimana konsekuensi hukum bagi pelaku usaha yang belum mengurus sertifikasi halal?
- 7.) Adakah sanksi yang diberikan kepada pelaku usaha yang belum mengurus sertifikasi halal?

## B. Documentation Reserch




**Attachments 1.** Share Questionnaire and Interview with restaurant entrepreneurs



Attachments 2. Share Questionnaire and Interview with restaurant entrepreneurs



Attachments 3. Share Questionnaire and Interview with restaurant entrepreneurs



## KUESIONER PENELITIAN

Bapak/Ibu/Sdr (i) Pelaku Usaha Rumah Makan yang terhormat,

Mohon kesediaannya untuk meluangkan waktunya dalam mengisi kuesioner berikut.

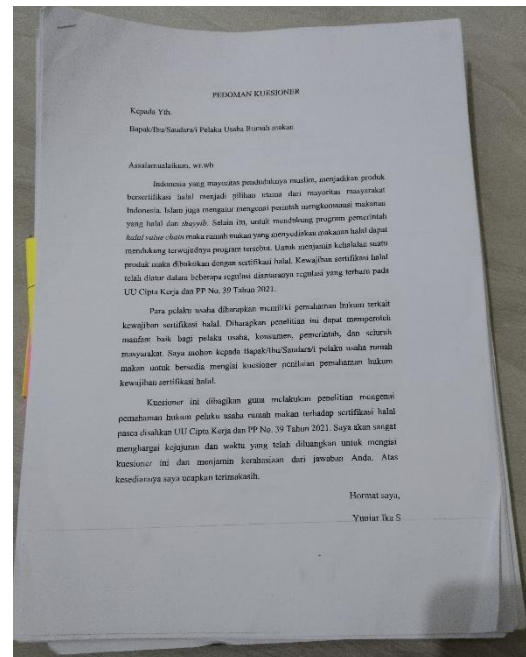
Kuesioner ini merupakan salah satu instrumen penelitian yang dilakukan oleh:

Peneliti : Yuniar Ika S.  
 Program Studi : S1 Hukum Ekonomi Syariah  
 Perguruan Tinggi : UIN Maulana Malik Ibrahim Malang

Kuesioner penelitian ini ditujukan untuk memenuhi Tugas Akhir SKRIPSI dengan judul "PEMAHAMAN HUKUM PELAKU USAHA RUMAH MAKAN TERHADAP SERTIFIKASI HALAL PASCA DISAHKAN UNDANG-UNDANG CIPTA KERJA DAN PP NO. 39 TAHUN 2021(Studi di Kecamatan Lowokwaru, Kota Malang)"

Saya akan sangat menghargai kejujuran Bapak/Ibu/Sdr (i) dalam mengisi kuesioner ini dan menjamin kerahasiaan jawaban Anda. Atas kesediaan menjawab kuesioner ini saya sampaikan Terima Kasih.

Hormat Saya,  
 Yuniar Ika S.



**Attachments 5. Questionnaire**



**Attachments 4. Interview with BPJPH Malang City**

## CURRICULUM VITAE



### B. Personal Data

Name : Yuniar Ika Sukmawati  
Place, Date of Birth : Jombang, 13<sup>th</sup> June 2000  
SIN : 18220116  
Entry Year : 2018  
Department : Shariah Economic Law (Mu'amalah)  
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### C. Education

2004-2006 : TK Dharma Wanita Gondangmanis  
2006-2012 : SD Negeri Gondangmanis  
2012-2015 : SMP Negeri 1 Kertosono  
2015-2018 : SMA Negeri 1 Kertosono  
2018-2022 : UIN Maulana Malik Ibrahim Malang

#### **D. Organization Experience**

2018	: Member of UPKM JDFI UIN Malang
2018	: Member of UKM LKP2M Malang
2019	: Student Association (HMJ) Shariah Business Law
2019-2022	: Traditional Dance Lintang Kahuripan
2020	: Secretary of UKM LKP2M Malang
2020	: Volunteer of “Klub Buku Poma” Community
2020-2021	: Generasi Baru Indonesia (GenBI) Malang
2020-2021	: Sekbend 2 GenBI Malang Commisariat UIN Malang
2021-2022	: Staff of GenBI Jatim
2021-2022	: CO of Education Devision PP Darul ‘Ulum Al-Fadholi
2022	: Volunteer LAZIS Sabilillah Malang

#### **E. Achievement**

2018	: 3 <sup>rd</sup> Winner of Maliki Festival Essay Competition
2018	: Moderator of Internal Debate GPHS Malang
2018	: 1 <sup>st</sup> Winner of Article Writing Competition by Regional Committee Nasdem
2019	: 10 Selected Essay of Cultural Festival Essay Competition
2020-2021	: Awardee of Bank Indonesia Scholarship
2021	: 1 <sup>st</sup> Winner of Book Review National Library Competition KPw BI Jateng
2021	: 2 <sup>nd</sup> Winner of Article “Gentle Competition”
2021	: 3 <sup>rd</sup> Winner of Muamalah Festival National Essay Competition