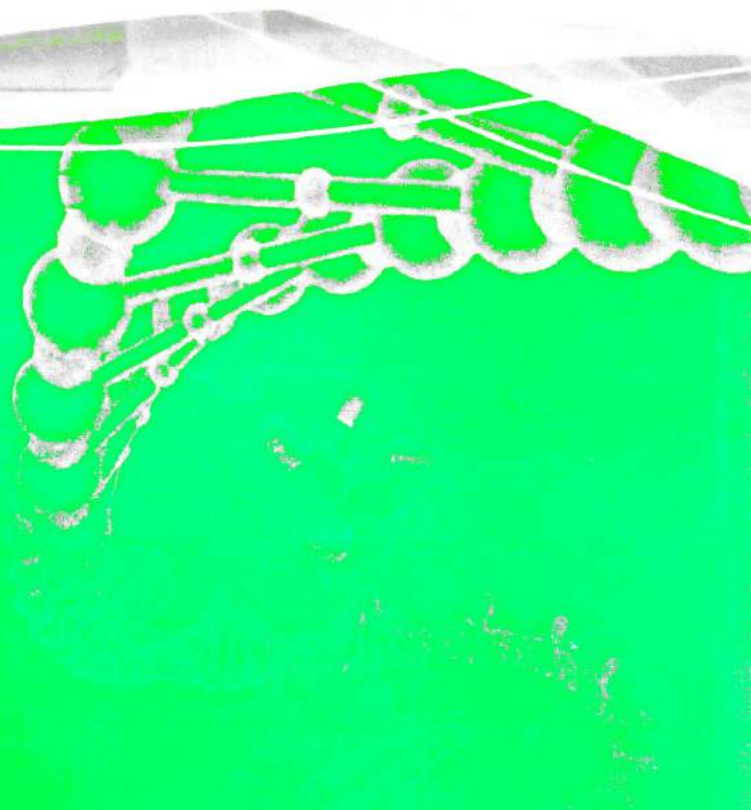




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*"Halal industry and its challenge toward global safety and prosperity"*



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# Government Intervention in Certification of Halal Product Comparative Study Between Western and Islam Paradigm

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**Abstract**—In the Islamic concept, muslim should be eaten halal foods, it is meets Islamic Shari'a, which are foods that do not contain ingredients that are forbidden. however, the current era of globalization makes it difficult to determine the clean and unclean foods, because many substances are included in the diet, on the other hand for the residents of Muslim-majority Indonesia, eating kosher food is worship, as a form of implementation of the teachings of Islam, so that the state is obliged to protect as mandated by the 1945 Constitution, while the western countries (Muslim minority) certified halal food no more than advertising to boost exports to Muslim countries, halal sertifikat no different from the ISO, based on many studies, higher quality food compared halal certified food quality standards, in this paper the authors try to compare and analyze the interference of the state in regulating kosher certification due to differences in the paradigm.

**Key words:** sertifikasi, halal, konstitusi, hukum, makanan, pangan, barat, timur, Islam

## I. INTRODUCTION

One form of food security for the Muslims is to eat kosher food, foods that are allowed to be eaten for Muslims, in the reality food which has been certified by ISO / HACCP still can not be said to be a halal food, in Islamic law halal foods must meet some requirements, not enough just tasty, nutritious and hygienic alone but must meet the elements of 'halal' in Islam. Al-Qur'an Al Maidah 88 'And Eat halal and good food of what God has given to you, and fear Allah that you believe in him' the verse explains that God told Muslims only eat kosher and good food, the two of a unity that can not be separated, which can be interpreted in terms of sharia and lawful both in terms of health, nutrition, aesthetics and others.

During this time in Indonesia, halal certificate issued by an institution which is having authority, namely the Institute for Food, Drugs, and Cosmetics Indonesian Ulema Council (LPPOM-MUI). In abroad many kosher certification agency in a country. Riaz and Caudry in 20014 recorded 40 kosher certification agencies in the US in 2001, only 16 are recognized by Position Islamic Development Malaysia (Jakim). even just five are recognized by MUI. Kosher certificate from kosher certification agency of a country, are often denied by Ulema Council and or other countries kosher certification agency. Kosher certification agencies which are believed by the importing country must conduct recertification. This leads to

inefficiencies for all parties. For example, in 2012, a product that has been certified halal by MUI (Indonesian Ulema Council) when entering Malaysia has to be re-test, thereby is also occurs in the United Arab Emirates Indonesian canned food products is not recognized as a kosher food even though it held halal certificate from MUI, while in June 2009 MUI had detained dozens containers of meat from Australia and New Zealand.

## II. PROBLEM FORMULATION

Based on the above background, this paper intends to discuss about how the state intervenes in halal certification, ranging from state interference in the constitutional order, rule of law up to institutional and community participation, that efforts to obtain legal protection certainly desired by humans is in order to get orderliness and regularity among the basic values of law that is legal certainty, the usefulness of the law and legal justice, although in general the practice of the three basic values are still in arguing, but must be sought for all three of the basic values simultaneously.

## III. SETTING HALAL CERTIFICATION IN WESTERN PARADIGM (AUSTRALIA)

Australia is a secular and federal state, referring to section 116 of the Australian Constitution prohibited government support or funding religion or expressing religious (kosher arrangement is considered one of the religious propaganda, because the halal standard is what has been prescribed religion of Islam, not as integrated quality management as which applies to ISO), regulations on Halal Assurance Certification continues to be supported, but in the capacity as a cultural practice. In the context of maintaining the economy and promote indigenous culture or as in many cases, be allowed in Australia because it is regarded as 'a distinct competitive advantage in the global economy', the fact proves that 80% of Australian meat penetrated markets of countries with a majority Muslim population since it has already pocketed halal certificate.

So, setting the halal certification in Australia refers to food in general rules, meanwhile regulations on food standards used is The Australia New Zealand Food Standards Code this law is a translation of the Legislative Instruments Act, 2003. In 1953 the National Health Medical Research Council (NHMRC) assumed to evaluate national food standards, as a continuation of the evaluation of the food standards 1980 The Model Food Act as a standardization for food, The Model Food Act does not apply simultaneously in Australia, because Australian state is in the form of state so that Tasmania has



implementing the Model Food Act in 1962, Queensland in 1991 and the last state to implement the Model Food Act is Australian Capital Territory in 1992.

The Model Food Act contains regulations for food standards beginning from the time of production, up to packaging and sales, it also contains rules about the food categories in which a breach such as:

1. Food which is not decent for human consumption

2. Polluted Food

3. The food that could damage, or kill humans.

In Australia, the number of Muslim population is only 1.8 percent of the total population, the agency that handles typically comes from private companies or associations of Muslim or mosque, in Australia Halal institution like MUI does not exist, because under the Australia Constitution propaganda against religion is prohibited, the existence of halal agencies are regarded as a culture, and a global economy benefits. The kosher certification agency recognized by MUI on 2009 are: 1. The Australian Federation of Islamic Council Inc. (AFIC). 2. The Supreme Islamic Council of Halal in Australia Inc. 3. The Islamic Coordinating Council of Victoria (ICCV). 4. Al-Iman Islamics Society Inc. 5. Halal Sadiq Services. 6. Adelaide Mosque. 7. The Islamic Society of Australia. 8. The Islamic Association of Katanning. 9. Perth Mosque Inc. 10. Australian Halal Food Services. 11. Halal Certification Authority Australia.

#### IV. SETTING HALAL CERTIFICATION IN EAST PARADIGM (INDONESIA)

The Constitution of the Republic of Indonesia 1945 (UUD 1945) provides constitutional basis for all citizens. At the opening of the 1945 Constitution stated the government to guarantee and protect the entire community and the country of Indonesia. Article 28 E of paragraph (1) and Article 29 paragraph (1) and (2) of the Constitution of the Republic of Indonesia Year 1945 establishes the constitutional obligation of the State in this case is the Government to protect the rights of citizens to carry out the beliefs and religion teaching without any hindrance and interference that can disrupt the growth of religion in Indonesia.

Because Law 23 year 1992 about health, Law 7 of 1997 on Food, Law 6 of 1967 on the provisions of the basic animal husbandry and animal health, Law 8 of 1999 on consumer protection and its implementing regulations have not provided legal certainty and legal guarantees on Muslims to know and other products that are halal. In 2004 the government in this case the Ministry of Religious Affairs (MORA) took the initiative to bring the Bill (the Bill/draft of law (RUU)) on Halal Product Guarantee aimed at protecting the public from consuming food, beverages, medicines, cosmetics and other products that do not use kosher. Although it has been proposed since 2004, and planned can be enacted in 2009 but controversy bustling follow this bill (draft), so until this time this bill does not go enacted by Parliament.

Some people consider this bill (RUU) has violated

the law since it wanted all the goods are certified as kosher, but in fact this bill just want to set about the product segment is the Muslim community so that it must be certified kosher for safekeeping.

Research Institute for Food, Drug and Cosmetics Majelis Ulama Indonesia or abbreviated as LPPOM MUI is the agency tasked to investigate, assess, analyze and decide whether both food products and derivatives, pharmaceuticals and cosmetics are safe for consumption both in terms of health and on the side of Islam is kosher (halal), or permissible and good for consumption for Muslims, especially in the area of Indonesia, besides giving recommendations to formulate rules and guidance to the public. This institution was founded on the decision of the Indonesian Ulema Council (MUI) by decree number 018 / MUI / 1989, on 26 Jumada Early in 1409 Hijri or January 6, 1989.

The reason on founded of this institution is that the teachings of Islam set in such a way about food and drink. Food and drinks can be categorized as halal, haram, or doubtful. Ingredients that are forbidden in Islam is carrion, blood, pigs and animals slaughtered in the name of other than Allah (Qur'an Surah Al Baqarah verse 179), while beverages categorized forbidden are all forms of khamr (or alcohol). However, LPPOM MUI first issued halal certification in 1994, until now.

#### V. ANALYSIS OF THE ROLE OF STATE IN HALAL CERTIFICATION

Indonesia has lists their lawful in some related laws such as Act No. 23 of 1992 on Health, Law No. 7 of 1996 on Food, Law No. 6 of 1967 on Basic Provisions Livestock and Animal Health, Law Law No. 8 of 1999 on Consumer Protection, although the regulation is still vague, causing vacuum of norm.

Bill (draft) or RUU of Halal Assurance for some Muslims is a necessity for the promulgation given the increasingly restless public to halal and haram products. Firstly, controversy also accompany this bill of Halal Assurance. This bill is considered to remove the MUI's role and replaced by the government as an institution of kosher certification authority. Secondly, economic motives are also as a background for the groups concerned, because for some people haram halal certification is no longer to enforce the provisions of the religion, is no longer to enforce sharia maqasidu but rather to how much money will be recorded from many companies that take certification. Thirdly, Bill of Halal Assurance can also poses konflik of norm, because some people looked that Bill of Halal violate the 1945 Constitution and Pancasila in providing social justice for all Indonesia nation. Government have long penetrated the private sphere of religion that should not be regulated by the state. With this Halal bill, again, the state has intervened against the internal affairs of religious affairs in this regard halal-haram and has exceeded the limits of state authority.

Providing halal food business economically also be highly prospective. Because, with the halal logo can invite loyal customers. And this was not only in



demand by the Muslims, but also by many non-Muslim customers. Because, according to them, it proved that kosher food quality is good for human health. Such as meat from halal animals slaughtered in accordance with the provisions of Islam, it is more healthy to eat. Because the content of the blood in the meat is clean, flowing out when slaughtered in the neck

In the Codex Alimentarius Commission (CAC) established by the World Food Organization (FAO) and the World Health Organization (WHO) to set food standards, halal aspect has been included as one of the provisions of food quality internationally since 1997. Meanwhile, Indonesia, in 2011 this design legislation (Bill) on Halal Product Guarantee (JPH) is still under discussion in the Parliament. If it refers to the provisions of Codex can be said that the Act on the halal is late 17 years.

In the neighboring countries in the ASEAN region also has a lot to incorporate the provisions of this formal legally permitted. Among Brunei Darussalam and Malaysia. Singapore even as a minority Muslim population, the provision of halal food has long been established formally in government regulation. Similarly, Thailand has long brought halal tourism program, to remove the negative image that is considered tasteful as low tourism and negative connotations, as well as to achieve greater market share of the countries of the Middle East region.

During this recent time government's commitment in the development of halal products is still minimal. When compared with other countries, especially Malaysia, Singapore and Thailand, especially in comparison with Australia. Its halal agro-industry become part of the national industrial development plan. In general, in addition to looking at halal as a measure of protection against Muslim consumers, these countries actually calculate the potential business advantages that can be achieved in the long term.

Indonesian government's commitment to the national halal agro-industry tends to be low which result in kosher food security in Indonesia is quite alarming. Institutionally, institutional coordination in Indonesia (including the authority and the budget), LPPOM MUI, BPPOM, and various ministries does not yet have an efficient and effective format to serve the community. Institutional becomes difficult amplified because the political element is too strong. How the government can coordinate if "halal" is understood as traditional as the fulfillment of a particular religion rather than be seen as the highest quality stakes.

Government and his circle are also not aware of the objectives to be achieved, it is because none of the policies that guide the development of halal agro-industry in Indonesia. The need for a strategic policy that directs coverage of intergroup authority together in such institutions exist which both have a desire to build a halal Indonesian agro-industries that can compete in global market.

## VI. CONCLUSION

Basically there is no difference in the kosher food, because all must be rooted in the Qur'an and hadith, the differences that may occur only in interpretation between the state / country group / groups of miraculous branch. Different form of countries, different content of the constitution, and different idealism between the west and east lead to different arrangements in terms of halal product certification, for the western countries, adherents of minority Muslim halal certification arrangement is not more only just as one of the labels to encourage economic progress especially export in this case Australia and New Zealand can be regarded as an example. Meanwhile for the Eastern states, the majority of Muslims, countries set more specific of halal certification, Saudi Arabia that uses Islamic law totally even requires that every product entering the country must pass kosher certification, while Indonesia as the country with the largest Muslim population but not an Islamic state, still halfway between the west and east it is evident from the absence of specific legislation governing the lawful and there is no regulation requiring all goods entering Indonesia must be certified as kosher goods.

## VII. REFERENCES

- Al Qura'an dan terjemahnya, Jakarta, Depag, 2001
- Asmi Wood; Animal Welfare Under The Shari'a, jurnal Macquarie Law Journal, Vol 12.
- Dewa Ketut Sadra Swastika, "Membangun Kemandirian Dan Kedaulatan Pangan Untuk Mengentaskan Petani Dari Kemiskinan", dalam Jurnal Membangun Kemandirian Pertanian, Vol 4(2), 2011.
- Kirralie Smith, <http://food.detik.com/read/2013/09/11/153756-235594-0/901/di-australia-bagi-bagi-tas-gratis-untuk-protet-sertifikasi-halal>
- Maria Alfons, "Implementasi Perlindungan Indikasi Geografis Atas Produk-produk Masyarakat Lokal Dalam Perspektif Hak Kekayaan Intelektual", (Malang: Universitas Brawijaya, 2010)
- Naomi Rees and David Watson; International Standar and Food Safety; Aspen Publication; Maryland; 2000.
- Nurkholis Majid, Ensiklopedi Nurkholish Majid, Mizan, Bandung, 2006.
- Sudino Mertokusumo Mertokusumo, Sudikno; 2002; Mengenal Hukum Suatu Pengantar; Liberty; Yogyakarta.
- Tim BPHN, Peran Serta Masyarakat Dalam Pemberian Informasi Produk Halal, BPHN, Jakrta, 2011.
- Undang Undang Dasar 1945
- Undang-Undang Nomor 23 Tahun 1992 tentang Kesehatan
- Undang-Undang Nomor 7 Tahun 1996 tentang Pangan
- Undang undang Nomor 6 Tahun 1967 tentang Ketentuan-ketentuan Pokok Peternakan dan Kesehatan Hewan
- Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen