

BUILDING LEGAL CONSTRUCTION IN IMPLEMENTING JUSTICE VALUE-BASED ON HALAL PRODUCT GUARANTEE

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ABSTRACT

This study aims to analyze the weaknesses of the legal construction of the implementation of the Halal Product Guarantee and to develop the legal construction of the implementation of the Halal Product Guarantee based on the value of justice. This research is a normative juridical research which is a combination of normative research and empirical research. Normative research here is a doctrinal legal research because this research is only aimed at written regulations. The empirical research is a model of legal research that seeks to see the law in a real sense, to examine how the law works in society and how the implementation of the law works. The legal theory used as an analytical mean is the theory of justice and the theory of the legal system. The results of the study show that in three aspects of legal substance/norm aspects, aspects of legal structures/institutions and aspects of legal culture. Injustice in the legal substance/norm aspect occurs: (1) there is a legal substance/norm that is inappropriate and violates the Islamic legal aspect (sharia), (2) There is a conflict between legal norms (conflicterende norm) and there are vague or unclear legal norms (vage norm) and (3) There is a conflict of authority between ministries and state institutions. Injustice in the aspect of the legal structure (institution) occurs because (1) there is disproportion between the functions, duties and authorities of BPJPH and the capacity of the institution. (2) The existence of structural limitations in the BPJPH institution, (3) the absence of BPJPH organs in the regions, and (4) the limitations of professional and dedicated human resources, injustice in the legal culture aspect occurs due to a lack of awareness, understanding and legal literacy regarding halal certification in some parts of the world. state administrators, business actors and the public. Based on this, it is necessary to carry out an ideal legal construction of a number of norms in the laws and regulations regarding the implementation of the Halal Product Guarantee based on the value of justice.

Keywords: Halal Product Guarantee; Building Law; Justice;

INTRODUCTION

In the era of globalization and economic liberalization, the free trade applies and begins to be implemented, such as the Asian Economic Community (AEC)¹, the inflow and outflow of food, beverage, drug and cosmetic products circulating in the world community is increasing rapidly. Indeed, the halal products circulated and traded cannot be confirmed so that they do not give a sense of peace, security, comfort, and are suitable for consumption by Muslim consumers.

The circulation of various products on the market, both in the form of finished products and raw materials, especially those sourced from animals, either directly or derived from animals, has made it difficult for the Muslim community to trace the halalness of a product. People are also weak in understanding the ingredients and the production process of a food product. Thus, efforts to provide consumer protection, especially Muslim consumers, are very important and urgent. Therefore, it is the duty of the state to protect its citizens, according to the mandate of the constitution above. With this condition, the need for halal certification is getting stronger considering that Muslim consumers are increasingly critical and need certainty of the halalness of the food products they consume, both in terms of materials and production processes to packaging and distribution.²

For this reason, halal certification of food, beverage, drug and cosmetic products is very important. Halal certification is a necessity to provide certainty about the halalness of a product so that the rights and interests of Muslim consumers to carry out their religious sharia not to consume non-halal products will be guaranteed.³ This regulation on the protection of Muslim consumer rights has also been mandated in Law Number 18 of 2012 concerning Food. Furthermore, food safety, quality, nutrition and halal are the rights of Muslim consumers which are protected by law and become a government program in food development to meet the most important basic human needs and their fulfillment is part of the human rights of every Indonesian people.⁴

The promulgation of Halal Product Guarantee in Law Number 33 of 2014 concerning Halal Product Guarantee (hereinafter referred to as the JPH Law) and its amendments in Law Number 11 of 2020 concerning Job Creation (hereinafter referred to as the Job Creation Law) and Government Regulation Number 39 of 2021 are a form of state recognition and fulfillment of the rights of citizens to practice religious beliefs. In the JPH laws and regulations, there are two fundamental changes in the implementation of JPH.

First, there was a shift in implementing halal certification which was originally carried out entirely by Indonesian Ulama Council, as a non-government institution, to Halal Product Guarantee Agency (BPJPH) which is a state institution. It is known that

¹Anis Mashdurohatusun Gunarto, Lathifah Hanim, The Urgency of Legal Protection to the Trademarks in the Global Era, Jurnal Pembaharuan Hukum Volume V, Issue 3, September – Desember 2018 p.259.

²Asri, "Legal Protection For Consumers Against Food Products Not Certified Halal", IUS Journal., Vol. IV., Number 2., August 2016., P. 2

³Halal Regulations In Law Number 18 Of 2012 Concerning Food Are Contained In Article 37 (Explanation), Article 69, Article 95 And Article 101. These Regulations Are Only Related To Food Imports, Labels And The Duty Of The State As A Halal Supervisor. The Detailed Regulation On Halal In The Food Law Is Only Found In Article 95 Which Reads: (1) The Government And Regional Governments Supervise The Implementation Of The Halal Product Guarantee System For Those Required For Food. (2) The Application Of The Halal Product Guarantee System For Those Required As Referred To In Paragraph (1) Is Carried Out In Accordance With The Provisions Of The Legislation.

⁴KN. Sofyan Hasan., "Legal Formulation And Importance Of Legal Assurance For Halal Food Products In National Law", NURANI, VOL. 15, NO. 2, Desember 2015.Pp 47-74.

the Indonesian Ulema Council (MUI) for more than 30 years has carried out halal certification in Indonesia. Halal certification carried out by MUI is as a moral responsibility to the people, because MUI as a forum for deliberation and gathering of scholars, zuamas, leaders of Islamic organizations, and Muslim scholars - has the obligation to maintain and protect the people both in terms of creed and sharia (*himayatul ummat wa ri'ayatul ummat aqidatan wa shari'atan*).

Halal certification was carried out by MUI (Indonesian Ulema Council) which began with a horrendous event that occurred at the end of 1988, namely the issue of the presence of lard in a number of well-known products.⁵ At that time, MUI took the initiative to conduct a study on these issues and products. Departing from this incident and in order to see the development of food science and technology as well as the importance of protecting Indonesian Muslims from consuming non-halal products, the MUI then formed the Institute for the Study of Food, Drugs and Cosmetics (LPPOM MUI) on January 6, 1989 as an institution that contains the Muslim scientists (scientists) who are experts in the fields of food technology, chemistry, bio-technology, pharmaceuticals and others with the task of inspecting food products, beverages, drugs and cosmetics, where the results of the examinations are reported to the Fatwa Commission for trial, discussion, and it is determined to be halal if convincingly is halal, and then issued a halal certificate by MUI.

In the course of implementing halal certification, MUI has succeeded in building a JPH system that is credible, accountable and recognized both at the national and international levels. MUI through LPPOM MUI has collaborated with various ministries and institutions such as the Ministry of Religion, the Ministry of Agriculture, the Ministry of Health, the Ministry of Cooperatives and SMEs, the Ministry of Trade and Industry, the Ministry of Maritime Affairs and Fisheries, the Ministry of Tourism and Creative Economy, the Food and Drug Supervisory Agency (*Badan Pusat Statistik*-Indonesian). POM), the National Standardization Agency (BSN), and the Indonesian Chamber of Commerce (KADIN).⁶ MUI has also established Regional LPPOM in 32 (thirty-two) Provinces and conducted international cooperation with Foreign Halal Institutions (LHLN) in various continents, including Asia, America, Europe and Australia, so that the existence of MUI halal certification has accepted and in Indonesia and also the world.⁷

Second, changes to the provisions of halal certification which were originally only voluntary in nature have changed to mandatory/obligatory.⁸ The provisions for the obligation for halal certification in Law Number 33 of 2014 concerning Guaranteed Halal Products were decided after a long debate.⁹

With this obligation, all food, beverage, drug and cosmetic products that are circulated and traded in the community that have not yet been certified halal are required to be certified halal. This halal certification covers all aspects, starting from the procurement of production materials, the process to packaging and distribution must be guaranteed halal. In the JPH Law, it is also emphasized that what must be certified halal is not only food, beverages, drugs and cosmetics, but also consumer goods, chemical products, biological products, genetically engineered products, and even services.¹⁰

With these two fundamental changes, it is hoped that the existence of the Halal Product Guarantee Act (JPH) can fulfill the rights of Muslim consumers. The promulgation of JPH was initially based on consideration of a noble desire to protect the community, especially Muslims. The public has the right to protection and correct, clear and complete information both in quantity and quality of the products they consume.¹¹ The Law on Halal Product Guarantee is prepared in accordance with the principles of protection, justice, legal certainty, accountability and transparency, effectiveness and efficiency, and professionalism. The implementation of halal product guarantees aims to provide comfort, security, safety, and certainty of the availability of halal products for the public in consuming and using halal products, as well as increasing added value for business actors to produce and sell their products.¹²

In practical reality, the regulation of JPH in the legislation, both the JPH Law and the Job Creation Law, has given rise to various new problems in the implementation of JPH. A number of problems, such as problems with the substance or legal norms of the law, institutional issues, institutional structure and institutional authority, legal culture issues, and bureaucratic and regulatory issues, and various other basic problems have caused the implementation of JPH to be ineffective and difficult to implement. In the view of Ihsan Abdullah, a legal expert and Director of Indonesian Halal Watch, the regulation of JPH in the existing laws and regulations is not able to raise substantial issues related to the implementation of halal product guarantees. The emergence of the JPH Law, according to Ihsan, has actually created new social problems in the community because the JPH Law has repealed a law that has existed in society for 30 years. In fact, until now the laws and regulations related to the implementation of JPH are difficult to implement.

⁵ The Incident Occurred In 1988 When A Number Of Media Published The Research Results Of H Tri Susanto, Lecturer Of Food Technology, Faculty Of Agriculture, Brawijaya University, Malang. The News Reports That Several Types Of Food Circulating In Indonesia, Such As Milk, Biscuits, Chocolate, Ice Cream, Soy Sauce And Others Are Indicated To Contain Lard. The News Made People Nervous. To Ease The Public's Unrest, The Government Gave A Mandate To The Indonesian Ulema Council (MUI) To Review It. MUI Then Collaborated With The Bogor Agricultural Institute (IPB) To Conduct A Study On The Food That Was Rumored To Contain Pork Ribs.

⁶ All Forms Of Cooperation Are Aimed At Making The Process And Implementation Of Halal Certification Run In A Systematic, Legal And Accountable Manner. For More, See The History Of LPPOM MUI At <https://www.halalmui.org/mui14/main/page/sejarah-lppom-mui>.

⁷ MUI Halal Certification Has Also Been Recognized By 45 Foreign Halal Certification Bodies From 25 Countries <https://economy.okezone.com/read/2017/10/11/320/1793316/sejarah-certification-halal-mui-berkiprah-sejak-1988> See Also List Of Foreign Halal Certification Bodies In <https://www.halalmui.org/images/stories/pdf/LSH/LSHLN-LPPOM%20MUI.pdf>

⁸ In Article 4 Of The Law On Halal Product Assurance, It Is Emphasized That "All Products That Enter, Circulate, And Are Traded In The Territory Of Indonesia Must Be Certified Halal".

⁹ The Discussion Of The JPH Bill Took Place During Two DPR Periods, Namely The 2004-2009 Period And The 2009-2014 Period. The Dynamics Of The Discussion Of The JPH Bill Are Very Tough Because In This Bill There Are 3 Sensitive Issues, Namely Economic Issues, Religious Issues And Political Issues Of Interest Of The Parties Involved In The Halal Certification Process. See Asep Saefuddin Jahar And Talhah, In The Socio-Political Dynamics Of The Establishment Of The JPH Law, https://www.researchgate.net/publication/323190892_Dinamika_Sosial_Politik_Pemunjukan_Undang-Jaminan_Produk_Halal

¹⁰ See The Law Of The Republic Of Indonesia Number 33 Of 2014 Concerning Halal Product Guarantee Article 3

¹¹ Halal Food Development Project, Directorate General Of Community Guidance And Hajj Organization, Guidebook For Social Campaign Strategy For Halal Products, Ministry Of Religion RI, Jakarta, 2003, P. 5

¹² See The Elucidation Of The Law Of The Republic Of Indonesia Number 33 Of 2014 Concerning Halal Product Guarantee.

Thus, it is interesting to conduct in-depth research on the weaknesses of the legal construction of the implementation of the Halal Product Guarantee, to develop the legal construction of the implementation of the Halal Product Guarantee based on the value of justice.

RESEARCH METHOD

The approach method used in this research is doctrinal and non-doctrinal.¹³The data used are primary and secondary.¹⁴Data collection techniques are carried out in two ways, namely library research and field studies.¹⁵ Furthermore, the collected data was analyzed using descriptive analysis.¹⁶

RESEARCH RESULTS AND DISCUSSION

1. Weaknesses in the legal construction of the current Halal Product Guarantee.

Indonesia is a state of law,¹⁷ guaranteeing halal products is a form of legal protection for Indonesian citizens. This legal protection is realized by the enactment of the halal product guarantee law.

Article 2 of the JPH Law states that the implementation of JPH is based on: (1) Protection, (2) Justice, (3) Legal Certainty, (4) Accountability and Transparency, (5) Effectiveness and Efficiency, and (6) Professionalism. Based on these six principles, it is hoped that a JPH implementation system can be created that can provide comfort, security, safety, and certainty of the availability of halal products that can be consumed and used by the community and can provide added value for business actors to produce and sell halal products.¹⁸

These six principles are ideal principles to formulate a regulation related to the public. However, have these six principles been realized in the regulation of the JPH Law, the Job Creation Law and its implementing regulations? Based on the results of this study, researchers found legal injustice in the regulation of JPH implementation. This injustice has become a weak point in the regulation of JPH implementation. This injustice has an impact on the absence of legal certainty, unprofessionalism in the implementation of JPH and the ineffective and inefficient implementation of these regulations. Injustice occurs in the legal system for the implementation of halal product guarantees.

Hans Kelsen's¹⁹ view of the legal system does not actually cover all matters related to the legal system itself because the legal system is not limited to legal products but also includes components of the application of law.

The legal system theory was further developed by Lawrence Meir Friedman, a legal expert and historian from Stanford University USA. According to Friedman, there are four main elements of a legal system, namely:

- a. Legal Structure/structure of the law.
- b. Contents of the Law (Legal Substance/Substance rule of the law).
- c. Legal Culture (Legal Culture/culture of the law).
- d. Legal Impact/impact of the law.

Furthermore, according to Friedman, of the four elements above, there are three elements that determine the success or failure of law enforcement, namely elements of legal substance, legal structure or legal institutions and legal culture.

These three things are the soul or spirit of a legal system that moves law into a social system. Friedman said that the legal system is a process that begins with an input in the form of raw materials in the form of a concept which is then processed by parliament into a decision or law. The three elements that determine law enforcement are further elaborated by Friedman as follows:

First, the legal structure or legal institutions. In Friedman's theory it is said: "To begin with, the legal system has the structure of a legal system consist of elements of this kind: the number and size of courts; their jurisdiction ... Structure also means how the legislature is organized ... what procedures the police department follow, and so on".²⁰

So according to Friedman, the legal system has a legal system structure consisting of elements such as the number and size of courts and their jurisdiction. Structure also means how the legislature is organized, what procedures are carried out by the police as law enforcers, and so on. Structure is a pattern that shows how the law is carried out according to its formal provisions. This structure explains how the courts, lawmakers and law enforcement agencies or institutions as well as the legal process run and run. This is what is referred to as a structural system that determines whether or not the law can be implemented properly.

In every law, the institution (structure) is always determined as the implementer of the law. In Indonesia, in the context of criminal law, for example, based on Law No. 8/1981 on criminal procedural law, the legal structure includes; starting from the police, prosecutors, courts and criminal implementing agencies (prisons). The authority of law enforcement agencies is guaranteed

¹³Anis Mashdurohaturun, Hayyan Ul Haq, Sony Zulhuda, Social Function Reconstruction Of Intellectual Property Rights (Ipr) Based On Justice Values, International Journal Of Law Reconstruction Volume I, Issue 1, September 2017. P.143.

¹⁴ Anis Mashdurohaturun, Indra Yuliawan, Adhi Budi Susilo, Andri Winjaya Laksamana, M. Ali Mansyur. The Effectiveness Of Intellectual Property Rights Protection To Improve Creative Economy Realization In Semarang District. Journal of Southwest Jiaotong University / Vol.56 No.2 Apr. 2021. pp.385-393.

¹⁵ E. Warassih, "Socio-legal Studies, History and Development Dynamics," in The Workshop on Research Methodology Updating Law, 2006, p. 6.

¹⁶ Sugiyono, Understanding Qualitative Research, Equipped with Sample Proposals and Research Reports, Alfabeta, Bandung, 2015, pp. 25.

¹⁷Article 1 paragraph 3 of the 1945 Constitution of the Republic of Indonesia. See too Mukthie Fajar, Constitutional Reform during the Paradigmatic Transition Period, Intrans, Malang, 2001, p.11., Aidul Fitriaciada Azhari, Indonesian State of Law: Decolonization and Reconstruction of Traditions, Jurnal Hukum IUS QUIA IUSTUM NO. 4 VOL. 19 OKTOBER 2012: 489-505.

¹⁸ JPH Law Articles 2 And 3

¹⁹ Hans Kelsen, "Teori Umum Tentang Hukum Dan Negara", Bandung: Nusa Media, 2008, P.159

²⁰ Lawrence Mier Friedman, "Sistem Hukum Perspektif Ilmu Sosial", Bandung: Nusa Media, 1984, P. 5-6.

by law so that in carrying out their duties and responsibilities, they are free from the influence of government power and other influences. However, in the context of state administrative law, such as the implementation of halal product guarantees, the legal structures (institutions) in the JPH Law are the Halal Product Guarantee Agency (BPJPH), MUI, and other institutions involved in the implementation of JPH.

The institutions that are mandated by law to implement the law, Friedman continued, must be supported by good and competent officials, otherwise justice will not be achieved and the enforcement or application of the law will not work effectively. Law enforcement factors play an important role in the functioning of the law. In addition, the quality factor of the regulation (legal substance) is also decisive.

Second, the legal substance. In Friedman's theory this is also referred to as a substantial system that determines whether or not the law can be implemented. Substance also means the products produced by people who are in the legal system which includes the decisions they make, the new rules they make. Substance also includes living law, not just the rules contained in law books.²¹

Third, legal culture. Legal culture according to Lawrence Meir Friedman is human attitudes towards the law and the legal system-beliefs, values, thoughts, and expectations. Legal culture is the atmosphere of social thought and social forces that determine how the law is used, avoided, or abused. Legal culture is also closely related to public legal awareness. The higher the legal awareness of the community, a good legal culture will be created and can change the mindset of the community regarding the law so far. In simple terms, the level of community compliance with the law is one indicator of the functioning of the law.²²

The relationship between the three elements of the legal system above is like mechanical work, where the legal structure is likened to a machine, the substance is what the machine does and produces. While legal culture is anything or anyone who decides to turn on and turn off the machine, and decides how the machine is used. The three elements of the legal system initiated by Friedman serve as a basis and analytical tool for researchers to assess how the implementation of Halal Product Guarantee in the JPH Law and the Job Creation Law.

The law on the implementation of Halal Product Assurance in the Indonesian laws and regulations, especially in the 3 main/basic regulations, is unfair. Legal injustice in the implementation of halal product guarantees occurs due to weaknesses in three aspects that make up the legal system, namely aspects of legal substance or norms (legal substance), legal structures or legal institutions (legal structure) and legal culture (legal culture). As a result of injustice and weakness in these three aspects, the law for implementing JPH does not run effectively and efficiently and experiences many legal obstacles in its implementation.

The legal problems and weaknesses in the implementation of JPH in these three aspects²³ occur in the following matters:

- a. Aspects of Legal Substance or Norms (legal substance):
 - 1) There are legal substances or norms that are inappropriate and violate aspects of Islamic law (sharia). In addition, there are also legal norms that have the potential to violate sharia aspects and can cause uncertainty about the halalness of the product.
 - 2) There is a conflict of legal norms (conflicterende norm/antinomy norm) and there are also vague legal norms or unclear norms (vage norm) in the JPH laws and regulations. Norm conflicts also occur in the form of excessive regulations, ultra vires and even contrary to higher laws and regulations,
 - 3) There is a conflict of authority. Norm conflicts that occur between JPH legislation and other laws give rise to conflicts of authority between ministries and state institutions, such as between BPJPH and BSN/KAN.
- b. Legal Structural Aspects:
 - 1) Disproportionate between the functions and duties as well as the authority mandated to BPJPH with the existing capacity of the institution. With the 10 Authorities given to BPJPH, BPJPH becomes a super body institution with various functions ranging from regulator, operator, education, socialization, accreditation, supervision and enforcement functions. Meanwhile, the capacity of the institution is very limited in terms of the structure and organization of the BPJPH institution as well as its human resources.
 - 2) There is no BPJPH Organ in the Region. The implementation of JPH in the regions (provinces) is carried out by a Task Force (Satgas), where this Task Force is held by the Heads of the Islamic Community Guidance Division or the Head of the Islamic Religious Affairs and Sharia Guidance Division at the Provincial Office of the Ministry of Religion. In addition, there is no BPJPH organ at the Regency/City level. This condition is one of the main factors that makes the implementation of the Act not going well and ineffective.
 - 3) Limited professional and dedicated human resources. The existence of BPJPH, which is structurally under the Minister, makes the human resources in this agency often rotate and transfer so that the human resources who handle the implementation of JPH are not dedicated and unprofessional. Likewise, changes and changes in agency leaders who do not pay attention to aspects of competence and experience in the field of halal certification make the implementation of JPH not managed professionally.
- c. Aspects of legal culture (legal culture)
 - 1) Lack of legal awareness and understanding of halal certification in some state administrators.
 - 2) The lack of knowledge and understanding of the urgency of halal certification for business actors.
 - 3) Lack of legal awareness and literacy about halal in the community.

²¹ *Ibid.* P. 6-7

²² *Ibid.* P. 8-9

²³ Anis Mashdurohaturun, Gunarto, Oktavianto Setyo Nugroho, Concept Of Appraisal Institutions In Assessing The Valuation Of Intangible Assets On Small Medium Enterprises Intellectual Property As Object Of Credit Guarantee To Improve Community's Creative Economy, *Jurnal Pembaharuan Hukum* Volume 8, Number 3, December 2021, pp.485-502.

2. Building a legal construction for the implementation of the Halal Product Guarantee based on the value of justice

Justice in the context of Islamic law,²⁴ that what is meant by law (al-hukm), in the study of Usul fiqh, is the khitab of Allah SWT (kalam Allah or revelation), either directly (matlu) namely the Qur'an or indirectly (ghairu matluw), namely the hadith or sunnah of the Prophet related to the actions of a mukallaf. Based on this definition, in Islamic law, it is Allah SWT who becomes al-Hakim (Determinant or Law-Maker) so that the source of law (masdar al-hukm) in Islamic law is the word of Allah SWT (Al-Qur'an and Sunnah). Scholars or mujtahids do not make or determine laws but only do istinbath al-hukm (conclude the law) and tathbiq al-hukm (excavate and apply legal messages from their sources in order to answer the legal questions asked).²⁵

Based on that, justice in Islamic law (shari'ah) in the sense of putting something in its place means putting and placing the revelation or word of Allah SWT (Al-Qur'an and Sunnah) in its place as a source of law [masdar al-hukm] and put reason (ratio) under revelation. Intellect must be subject to revelation, but in understanding revelation, reason (ratio) also plays a very important role.

Building a legal construction for the implementation of Halal Product Guarantee based on the value of justice must be carried out so that the implementation and implementation of the JPH law is effective, efficient and applicable. This is in line with the decision of the Constitutional Court Number 91/PUU-XVIII/2020 which granted the Judicial Review of the Job Creation Law and decided that the formation of the Act was contrary to the 1945 Constitution. Therefore, the Constitutional Court ordered that a revision of the Job Creation Act should be made within 2 years after the Constitutional Court's decision is made.

Building the legal construction of the JPH implementation is carried out in three forms.

- a. Amend the law on JPH administration, especially the three basic JPH regulations, namely the JPH Law, the Job Creation Law and PP 39 of 2021. The amendments to the three laws and regulations are carried out by:
 - 1) Revise problematic legal norms contained in a number of articles in the JPH legislation. The regulations that must be revised are Article 5 paragraph (1), 6, 10 paragraph (1) letter c, 13, 14 paragraph (2) letter c, 17, 18, 19, 20 21, 22, 28, 29 paragraph (2), 30, 33, 34, 37, 46, and 47 of the Halal Product Guarantee Act and the Job Creation Law Article 48 Numbers 1, 3, 5, 9, 11, 14 and 19.
 - 2) Revise the legal provisions containing the following problems:
 - a) Legal provisions that are not in line and have the potential to violate aspects of Islamic law, such as provisions relating to halal fiqh in the JPH Law, self declare, automatic certificate extension, requirements for halal auditors, halal supervisors, halal supervisors, halal production process companions and foreign halal institutions country.
 - b) The legal provisions related to the functions, duties and authorities of BPJPH are overloaded and disproportionate to the capacity of the institution. In addition, there are conflicts of authority with other state institutions.
 - c) Legal provisions in which there is a conflict of norms (conflicterende norm/antinomy norm), both conflicts of norms between articles in the JPH legislation and conflicts of norms that occur between one law and another. In addition, revisions were also made to articles containing vague legal norms or vage norms in the JPH laws and regulations. Revisions are also made to regulations that are excessive, ultra vires and even contrary to higher laws and regulations.
 - 3) Granting certain regulatory authorities to the competent institutions in their fields. For example, related to aspects of Islamic law (sharia) it does not need to be regulated in the law but is left to the authoritative institution to determine it, namely the MUI. Likewise, aspects of accreditation and preparation of norms, standards, assessment and conformity are left to the authoritative institution for that, namely BSN (KAN). The norms regarding the duties, functions and authorities of BPJPH must be revised by limiting the duties and functions as well as the authority of BPJPH.
- b. Building legal construction through the legal and institutional structure of BPJPH. The position of BPJPH needs to be repositioned in the state institutional structure. With the large and strategic tasks, functions and authorities of BPJPH, BPJPH needs to be appointed as a Non-Ministerial Government Institution (LPNK) which is directly responsible to the President. With the structural reconstruction of BPJPH to become an LPNK, there will be many advantages and advantages in implementing JPH when compared to being an agency under the ministry.
- c. Building legal construction through legal culture. Socialization, education and literacy are carried out systematically, integrated and programmed about the urgency of halal certification, both to state administrators in various ministries and related institutions as well as to business actors and the community. Halal certification is not only a protection for Muslim consumers but also an added value that can increase product marketing which in turn can advance the national economy.

CONCLUSION

The law on the implementation of Halal Product Assurance in the Indonesian laws and regulations, especially in the 3 main/basic regulations, is unfair. Legal injustice in the implementation of halal product guarantees occurs due to weaknesses in three aspects that make up the legal system, namely aspects of legal substance or norms (legal substance), legal structures or legal institutions (legal structure) and legal culture (legal culture). This has an impact on the implementation of the Halal Product Guarantee not running effectively and efficiently. Building a legal construction for the implementation of the Halal Product Guarantee based on values and principles of justice must be carried out so that the implementation and implementation of the JPH law is effective, efficient and applicable. The necessity to carry out this reconstruction is in line with the decision of the Constitutional Court Number 91/PUU-XVIII/2020 which granted the Judicial Review of the Job Creation Law and decided that the formation of the Act was contrary to the 1945 Constitution. Therefore, the Constitutional Court ordered that a revision of the Job Creation Law be made in 2 years after the Constitutional Court's decision is issued. Building a legal construction for the implementation of Halal Product Guarantee through three laws and regulations, namely the JPH Law, the Job Creation Law and PP 39 of 2021.

²⁴ Ahmad Rofiq, *Islamic Law in Indonesia*, Raja Grafindo Persada, Jakarta, 1998, p. 181

²⁵ Satria Effendi M. Zein, *"Ushul Fiqh"*, Jakarta: Prenada Group, 2005, P. 34, 64 And 68.

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