

**WHAT ARE THE REQUIREMENTS FOR OBTAINING A HALAL
CERTIFICATE?
AN ANALYSIS OF LEGAL CERTAINTY OF PRODUCT BRAND
CRITERIA RULES**

Karimatul Khasanah ^{a,b}
Wahyu Intan Kusuma ^a
Jumailah ^a
Lilis Setiawati ^a

^a Universitas Islam Negeri K.H. Abdurrahman Wahid Pekalongan

^bkarimatul.khasanah@uingusdur.ac.id

Abstract

Law Number 33 of 2014 concerning Halal Product Assurance (JPH Law) aims to provide legal certainty related to the halalness of a product as evidenced by a halal certificate. In it, everything related to the implementation of Halal Product Assurance is regulated, especially the halal certification mechanism, starting from the submission of applications, to the issuance of halal certificates. One of the requirements that must be met in submitting an application for halal certification is that the product must have a product name (brand). In the implementation of halal certification, many business actors whose applications for halal certification are rejected on the grounds that their product brands are not in accordance with Islamic law, in fact, in the JPH Law or other rules that regulate halal certification, there are no specific rules related to how product brand criteria are a requirement for obtaining halal certificates. This raises indications that legal certainty has not been reflected in this regulation. This study aims to find out the rules and ideal formulation of product brand criteria in order to be halal certified. To answer the formulation of the above problem, the methodology used in this thesis is a normative juridical research method with a legal and conceptual approach, namely examining the rules related to product brand criteria as a condition for obtaining halal certificates. The results of the study show that the rules regarding the criteria for product names (brands) in obtaining halal certificates have actually been regulated in two regulations, namely in the Decree of the Halal Product Assurance Agency No. 20 of 2023 concerning Amendments to the Decree of the Halal Product Assurance Agency No. 57 of 2021 concerning the Criteria for the Halal Product Assurance System and the Fatwa of the Indonesian Ulema Council (MUI) No. 44 of 2020 concerning the Use of Names, Forms and Packaging of Products That Cannot Be Certified Halal. However, the two regulations only regulate in general or have not regulated expressly and specifically related to the criteria for product brands that can or cannot be certified halal. This means that the two regulations above still have gaps to be interpreted differently or multi-



interpreted, and it can be said that the formulation is not ideal, which is not in accordance with the principle of legal certainty.

Keywords : *Legal Certainty, Halal Certification, Brand Criteria Rules.*

INTRODUCTION

Regulations related to halal certification are a form of rules that aim to provide security to Muslim customers that should be properly implemented. Law No. 33 of 2014 concerning Halal Product Assurance is one of several regulations that regulate matters related to halal certification. The birth of Law Number 33 of 2014. Regarding Halal Product Assurance (JPH Law) aims to provide legal certainty related to the halalness of a product as evidenced by a halal certificate. In it, everything related to the implementation of Halal Product Assurance is regulated, especially the halal certification mechanism, starting from the submission of applications, to the issuance of halal certificates. To obtain a halal certificate, all aspects of the criteria for halal products must be met by the producer because it will affect the consideration of BPJPH to issue halal recognition for products registered to obtain halal certification from the MUI.

One aspect of halal product criteria that affects BPJPH's consideration to issue halal recognition for a product is the product name (brand). However, in the existing regulations related to halal certification, there are no specific rules governing the criteria for product brands in obtaining Halal Certificates, both those that are allowed and those that are not allowed to be certified halal. On the other hand, these regulations require that the product must have a brand. This is a problem in itself, because in practice, many businesses do not pass halal certification because product brands are considered inappropriate, this of course requires a strong basis, namely in the form of detailed and binding regulations regarding product brands that are allowed and not allowed as one of the criteria for obtaining a halal certificate.

This is in line with the principle of legal certainty must be applied. Legal certainty itself is one of the 3 purposes of law. The three objectives of law in the book "einfuhrung in die rechtswissenschaften" by Gustav Radbruch are justice, usefulness, and certainty (Rahardjo, 2012: 45). Legal certainty is very important for the development of laws and regulations because it is the central principle of the principles of the rule of law. Maxeiner argues that legal certainty has two purposes: to protect citizens from arbitrary actions of the government who have the power to establish and enforce the rule of law and encourage people to obey the law (Indratanto et al., 2020)

Departing from the above presentation, the researcher wants to discuss further related to the legal certainty of product brand criteria rules as a condition in obtaining a Halal Certificate to then explain the rules of product brand criteria in order to be

halal certified and find and explain at the same time the ideal formulation of product brand criteria rules in obtaining halal certification.

RESEARCH METHOD

The methodology used in this study is a normative juridical research method with a legal and conceptual approach. The legislation studied in this study is regulations related to product brand criteria as a condition for obtaining halal certificates. The conceptual approach applied by the researcher in this study is because the researcher does not move away from existing regulations, the context in this study is because the rules for product brand criteria as a condition for obtaining halal certificates have not been regulated in certain laws. The concept of legal certainty is also used as a guideline in this study because it is in accordance with what is discussed in this study. This study uses secondary data as the data source, because the focus of this research is to examine data sources derived from literature, namely regulations that regulate halal certification in Indonesia. In addition, legal journals, theses related to the topic, and books on legal science are used as secondary legal materials in this research. The data source is then collected using the literature study method and then analyzed and then drawn into a conclusion.

RESULTS AND DISCUSSION

1. Legal Certainty Overview
 - a. Definition of Legal Certainty

Certainty is a fixed condition. The law should be definitive, because the law is a guideline in carrying out something that must be obeyed. Legal rules, both written and unwritten, serve as general guidelines for how a person should behave in society and set limits on how much society can act on a particular individual. From that rule, legal certainty is obtained. Therefore, normative legal certainty can be interpreted as certainty of making and implementing a regulation because it is rational and unambiguous (multi-interpretation), prevents ambiguity, confusion, and uncertainty and is logistically reasonable and predictable (Sirait, 2020).

Rechtszkerheid or legal certainty by the National Law Development Agency is interpreted as a guarantee to the public that the law will be enforced appropriately and fairly (BPHN, 1997, p. 122). According to the Great Dictionary of the Indonesian Language (KBBI), certainty is defined as a certain, fixed state (with a stipulation), or provision., while legal certainty is defined as a legal system that allows a nation to guarantee the rights and obligations of every citizen (DPN, 2005, p. 835), Therefore, a clause or decision issued by a country's



legal system that is able to guarantee the rights and obligations of every citizen can be interpreted as legal certainty (Manan and Magnan, 2017, p. 23).

Legal certainty is when human behavior, whether a person, a group, or an organization, is limited and remains within the limits of legal regulations. Legal certainty is a statement that can only be explained normatively, not sociologically. If a law is made and implemented with certainty because it regulates something clearly and logically, then this is called normative legal certainty (Kansil, 2009, p. 270).

Legal certainty was first stated by Gustav Radburch in his book entitled "einfuhrung in die rechtswissenschaften". Radburch said, that there are 3 (three) basic values of law, namely: (1) Gerechtigkeits or justice, the justice that is talked about is justice in a narrow sense, meaning that everyone has the same rights in the eyes of the law, (2) Zweckmassigkeit or utility, this represents the content of the law itself, because the content of the law in question is indeed in accordance with what is the purpose of the law, (3) Rechtssicherheit or Legal Certainty, which is a condition in which the law can function as a law that must be obeyed (Rahardjo, 2012, p. 19).

In accordance with the fundamental value of Gustav Radburch's law, legal certainty demands that the law function as a rule that must be obeyed in all respects—not only in terms of how the law is practiced, but also in terms of how its standards or substance embody the fundamental ideas of law. Under the rule of law in Indonesia, laws and regulations as written norms serve both as a foundation for state administration and as a set of guidelines (Dimiyati, 2015, p.14)

Legal experts have given many opinions regarding legal certainty. The following are some definitions of legal certainty according to experts: Van Appeldoorn defines legal certainty as having two components: first, the ability to create (bepaalbaarheid) and second, the determination of law in a certain sense. This means that the justice seeker wants to know the law in detail before starting the legal process. Legal security is synonymous with legal certainty. This protects the parties from arbitrary court decisions. This shows that before filing a case and seeking protection for himself, the justice seeker needs to know what law applies in that specific situation (Shidarta, 2006, pp. 82-83).

In addition, Reinhold Zippelius distinguishes two types of legal certainty: (Suseno, 2001, p. 79) certainty in its application and certainty in direction (orientation). First, certainty in its implementation, namely the certainty of the implementation of a law formally issued by the state. Everyone has the right to demand that the law be enforced, and these demands will definitely be met. Any violation of the law will also be punished and punished accordingly. Second,

certainty of direction (orientation): the law must be clear so that it can be a guideline for the general public and judges. This means that all legal provisions must be disclosed appropriately and clearly to ensure that the intended action can be understood. Legal regulations must also be drafted strictly and appropriately so that subjective assessments and judges' preferences do not become the basis for decision-making in court.

Then, in Maxeiner's view, legal certainty has two purposes: first, to make people more likely to obey the law; second, it protects the public from the arbitrary use of government authority to make and enforce laws (Maxeiner, 2008, p. 36)

Regarding legal certainty, Sudikno Mertokusumo expressed his views. According to him, legal certainty guarantees the correct application of the law. To ensure legal certainty, it is necessary to make efforts to regulate the law through laws and regulations made by legitimate and authorized parties. This will provide a juridical aspect to the regulations that will ensure that the law functions as a regulation that must be obeyed. One of the requirements for law enforcement is legal certainty, which is the ability to justify actions against arbitrary actions and guarantee that a person will be able to achieve what is expected of him under certain conditions (Mertokusumo, 1993, p. 1-2)

b. Principles in Legal Certainty

The main principle that must be built to create a clarity of legal norms in the formation of legal rules is the principle of legal certainty. Legal certainty is related to the community's right to justice, therefore the principle of legal certainty is the main and most important foundation for all applicable laws and regulations in society. Since legal certainty is the basis for many other types of principles of the rule of law, this principle needs to be taken into consideration when making laws and regulations (Kordela, 2008, p. 596). The situation in which the law is certain because the real force of the law is understood is included in the sense of the principle of legal certainty. Justice seekers are protected from altered or arbitrary actions by the principle of legal certainty, which can be interpreted as a person's willingness to get what is expected in certain circumstances.

The principle of legal certainty contains several principles, including (Hanifah, 2020, p. 205):

- 1) The principles of legality, constitutionality and the rule of law; The principle of legality in the state constitution is part of the fundamental principle and should not be eliminated so that legal certainty is achieved (Rahayu, 2014, p.1) The purpose of the principle of legality is to protect the interests of individuals so that justice runs as it should;



- 2) The principles of the law, various regulations on how the government and its representatives carry out government operations are determined based on the principles of the law;
- 3) The principle of nonretroactive legislation, laws cannot be considered binding until they are properly published;
- 4) The principle of nonliquet, the judge cannot cancel a case on the grounds that the law is ambiguous or does not exist

According to Fuller in Satjipto Rahardjo, it states that in order for the law to be certain, it must meet 8 (eight) conditions, including (Rahardjo, 2006, p. 139):

- 1) A legal system must be based on regulations and not ad hoc decisions
- 2) The regulation must be made public;
- 3) This regulation cannot be applied retroactively, as it will endanger the integrity of the system;
- 4) It must be formulated in such a way that it can be understood by the public;
- 5) There should be no conflicting rules;
- 6) Unable to request an action that is beyond the scope of possible execution;
- 7) It should not be replaced frequently; and
- 8) There must be harmony between daily implementation and existing regulations.

Based on these principles, a law is said to have a certainty value if the law is created or existed before the acts regulated in the law exist (the principle of legality). The law seeks to achieve this certainty in addition to other purposes such as justice and utility. One of the important elements in the state of law is the principle of legality that provides legal certainty. Thanks to the principle of legality, all human activities and all legal things in the life of the nation and state are based on the law (Remaja, 2014, p. 21-22)

c. Elements of Legal Certainty

Legal certainty can be realized when the elements that support it are met. According to a Professor at Stanford University, Lawrence M. Friedman, to achieve legal certainty it is at least necessary to be supported by the following components (Halilah and Arif, 2021, p. 62):

- 1) Legal substance, an important factor that determines whether or not a law can be implemented is the legal substance. In addition, substance is defined as a product published by an institution that is under its authority that contains new decisions or rules that they have prepared (Moho, 2019);

- 2) The legal apparatus, or commonly called law enforcement officials, is a legal institution that has the authority to order the state of society so that it is always safe and peaceful by complying with the regulations that have been in force in our country (Jainah, 2011);
- 3) Legal culture, as defined by Friedman, is a set of beliefs and practices that shape how the law is applied. This legal culture serves as a link between the law and the behavior that is expected to be carried out by all citizens (Friedman, 1977).

The conditions for the value of legal certainty to be achieved include:

- 1) There are rules that are accessible, logical (clear), and consistent, issued by the government;
- 2) The government is subject to and complies with these laws, and applies them consistently;
- 3) The majority of people follow the rules because in principle they agree with the content;
- 4) The judiciary, which consists of independent and impartial judges, consistently applies the law in resolving disputes;
- 5) The court's decision can be put into practice.

The five conditions submitted show that if the substance or content of the law is in accordance with the demands of the community, then legal certainty can be achieved. A law that originates from and reflects the culture of a society is a law that has the power to provide legal certainty. This kind of legal certainty is called realistic legal certainty or practical legal certainty and requires cooperation between the government and the community so that the public can understand and navigate the legal system.

d. Purpose of Legal Certainty

One of the efforts in realizing justice is the existence of legal certainty where this is one of the 3 goals of law. The true sign of legal certainty is when the law is applied and enforced against an action regardless of who does it. It can be said that legal certainty is very important to achieve justice because legal certainty allows everyone to predict the outcome of a judicial action.

Mochtar Kusumaatmadja stated that "another purpose of law besides order is to achieve justice that varies in content and size according to society and the times. Legal certainty is needed to achieve public order in the association between people in society" (Kusumaatmadja, 2006).

According to Jimly Ashiddiqie, a regulation must be fair and have legal certainty, this is intended so that people do not experience confusion in implementing what is in the regulation. Justice and legal certainty are like two sides of a coin, because they are interrelated and inseparable, so justice and legal certainty must be equated with fair certainty and do not need to be contested.

The purpose of law is to provide justice and order in addition to providing legal certainty. To foster a harmonious life, justice, legal certainty, and order must be realized simultaneously (Ashiddiqie, 2022).

e. Consequences of Legal Uncertainty

Normatively, if a regulation is made and issued with certainty, legal certainty can be achieved because it can be regulated logically and clearly. Obviously, what is meant is not having much understanding (multiple interpretations) or causing doubts and the logic in question is that between one norm and another norm becomes a unified norm system, interrelated with each other, without clashing so as not to cause norm conflicts. Norm conflicts arise when laws or regulations are unclear (no legal certainty), these conflicts can manifest as norm competition (contestation), norm reduction (reduction), or change in norm meaning (distortion) (Arizona, 2008).

Legal certainty must be guaranteed by the law implemented by law enforcement organizations that are given this responsibility to maintain justice and order in society. People's lives will be chaotic because of the ambiguity of the law, and they will act vigilantly and act as they please. Such circumstances create an atmosphere of social chaos or social instability (Shidarta, 2006, p. 85).

Indonesian law becomes unpredictable as a whole if there is no legal certainty in it. In the normative system, the rule of law does not regress; On the contrary, the law continues to evolve naturally towards the improvement of the legal system. Many laws and regulations have been made, both new ones and just improvements or replacements of existing regulations. The goal of consistently developing such regulations is to produce a better legal instrument (Hanifah, 2020, p. 207).

The value of certainty must exist in a law, because without the value of certainty itself, the law will no longer have meaning because it can no longer be used as a universal guideline of behavior. In addition to having strong social application, the law must also be transparent enough so that everyone can understand the meaning of each legal provision. Laws must not contradict each other and must be in harmony so that they do not become a source of doubt (Remaja, 2014, p. 1).

2. Halal Product Assurance Regulations in Indonesia

a. Legal Basis for Halal Product Assurance in Indonesia

Halal Product Assurance (JPH) is legal certainty on the halal status of products whose proof is in the form of a halal certificate (Indonesia, 2014). The fatwa issued in writing by the Indonesian Ulema Council where it is in the form of a statement of the halalness of a product in accordance with Islamic shari'a is

the meaning of halal certification (MUI, 2014). To get a halal label on product packaging from an approved government agency, business actors must obtain MUI halal certification. The purpose of this halal certification is to ease consumers concerns in consuming it by offering confidence in halal status. Producers ensure the smooth halal production process by implementing a halal assurance system (Tamara, 2022).

Muslims are obliged to consume foods that are thoyyiban (beneficial) and halal (permissible), as stated in the Qur'an, surah Al-Baqarah verse 168. This verse is the basis for halal certification. This verse gives the impression to Muslims everywhere that whatever they consume must be beneficial to them and is permissible according to Islamic law. The fundamental problem of halal certification comes from the teachings and practices of Islam, which indicate that a product must be of high quality, safe, and suitable for consumption by Muslims. Certification of a halal product guarantees its safety for consumption by muslims.

Here are two benefits of halal certification: 1. From an ethical perspective, halal certification is a means of accountability of producers to customers. 2. Increasing customer satisfaction and trust in the context of corporations as a marketing tool (Izuddin, 2018, p. 102).

Halal certification plays an important role in assessing the value of a product, both from the perspective of business actors and customers (the general public). Customers need food products that are disease-free, nutritious, healthy, and able to instill inner peace; They must also be free of non-halal components. In terms of business, they need loyal customers to be used as marketing targets for the goods they produce.

With the consideration of the urgency and function of halal certification above, it is concluded that a regulation is needed that is the basis for the implementation of halal certification itself. Regulations are very important to maintain the public interest as a reference for standards, norms, and quality of behavior accepted by the community. Therefore, it is necessary to have rules that must be established and obeyed by the parties concerned (Sup, 2019, p. 37-59). With good rules, the community and the surrounding environment are expected to obtain a fair, safe, and sustainable living environment. In order to safeguard the public interest and establish standards of behavior recognized by the community, regulations are essential. (Sup, 2020). Therefore, a rule is needed that must be applied evenly and obediently from the central to the regions (Sup, 2019).

The halal certification law began as a way to facilitate the implementation of halal standards, where halal certification is a prerequisite. In addition, the halal

certification procedure is designed to eliminate public concerns by establishing explicit guidelines for the granting of halal certificates (Fuadi et al., 2022, p. 120).

In accordance with Law Number 33 of 2014 concerning Halal Product Assurance (JPH Law) in Article 4 Chapter 1 which states that goods entered, distributed, and traded in Indonesian territory must be halal certified, business actors are required to certify their own companies. There are other regulations that better regulate the implementation of halal product guarantees. These regulations include:

- 1) Law (UU) No. 33 of 2014 concerning Halal Product Assurance (JPH Law);
- 2) Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law;
- 3) Government Regulation (PP) No. 31 of 2019 concerning Implementation Regulations of Law No. 33 of 2014 concerning Halal Product Assurance (JPH Law);
- 4) Government Regulation (PP) No. 39 of 2021 concerning the Implementation of the Halal Product Assurance Sector;
- 5) Regulation of the Minister of Religion No. 26 of 2019 concerning the Implementation of Halal Product Assurance;
- 6) Regulation of the Minister of Religion No. 20 of 2021 concerning Halal Certification for Micro and Small Businesses;
- 7) Decree of the Minister of Religion (KMA) No. 982 of 2019 concerning Halal Certification Services;

b. Product Halal Certification Mechanism

Sertifikat halal diperoleh setelah melakukan serangkaian kegiatan, hal ini diatur dalam Bab 5 UU JPH, dengan mekanisme diantaranya:

- 1) Business actors register an application for a halal certificate in writing to BPJPH, by including additional documents such as information on business actors, names and types of products, a list of products and materials used, and product processing procedures.
- 2) Products are inspected and tested for halal by the Halal Inspection Agency (LPH) determined by BPJPH within a maximum period of 5 (five) working days from the time the application documents submitted by business actors are declared complete.
- 3) Products are inspected and tested for halal by halal auditors directly at the business location during the production process, here business actors are obliged to provide information to halal auditors related to their business.

- 4) LPH submits to BPJPH the results of the inspection and/or testing of the halalness of the product, then BPJPH submits the results to the MUI to then obtain a determination of the halalness of the product.
- 5) At the Halal Fatwa Session, the MUI determines the halalness of a product no later than 30 (thirty) working days after receiving the findings of testing and/or product inspection from BPJPH.
- 6) The Halal Product Determination Decision signed by the MUI and submitted to BPJPH is the basis for the Halal Certificate.
- 7) If at the Halal Fatwa session the product is designated as a halal product, BPJPH will issue a Halal Certificate no later than 7 (seven) working days from the decision on the halalness of the Product. The issuance of Halal Certificates must be published by BPJPH.
- 8) In the event that the product is found to be non-halal at the Halal Fatwa Session, BPJPH will return the application for a Halal Certificate to the Business Actor accompanied by an explanation.
- 9) Companies holding Halal Certificate are required to include Halal labels on product containers, on certain product components, or at certain locations on products.
- 10) Business actors who use the Halal label in violation of the rules can be subject to administrative sanctions such as verbal or written reprimands or cancellation of their Halal certificates.
- 11) Until there is a change in the composition of the ingredients, the Halal Certificate is valid for four years from the date of issuance by BPJPH. Business actors are required to renew their Halal Certificate by submitting an extension form no later than 3 (three) months before the certificate expires.
- 12) There is a certification fee for business actors who want to apply for a Halal Certificate. Regarding micro and small businesses, third parties may be able to ease the payment of Halal Certification fees.

c. Product Brand Rules in the Halal Certification Application

In relation to the submission of an application for halal certification, business actors must fill out certain forms in a written application addressed to BPJPH to apply for halal certification. The form includes information about business actors, product names, types of products, a list of products and materials used, and product processing procedures (Indonesia, 2014). The product brand is one of several requirements that must be present in the halal certification application form.

The rules for product brands in general in the process of applying for halal certification are regulated in several regulations, including, first, in Law No. 33



of 2014 concerning Halal Product Assurance (JPH Law), namely in Chapter 5 article 29, where the steps to obtain a halal certificate are discussed in this chapter, in the application submission section. It is stated that business actors must submit a written application for a halal certificate to BPJPH and provide supporting documents, one of which is the product brand.

Rules related to product brands in general in the second halal certification application process are contained in Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law, precisely in the amendment to article 29 where business actors register an application for a halal certificate with BPJPH, and one of the documents required in the application is a product brand. Applications for halal certificates are subject to a maximum verification time of one working day (Indonesia, 2023).

Product brands in general in the process of applying for halal certification are also regulated in the third rule, namely in Government Regulation (PP) No. 39 of 2021 concerning the Implementation of the Halal Product Assurance Sector, namely in Chapter 6 Articles 59 and 61 related to the submission of applications and extensions of halal certificates, it is stated that business actors send written applications in Indonesian online to BPJPH to obtain halal certificates. One of the required documents is the product brand which must match the product name in order for certification to be granted (Indonesia, 2021).

The fourth rule related to product brands in general in the process of applying for halal certification is the Regulation of the Minister of Religion No. 26 of 2019 concerning the Implementation of Halal Product Assurance, namely in Chapter 9 articles 91 and 93 concerning the process of applying for and extending halal certificates, business actors submit a written application to BPJPH in Indonesian electronically, with the product brand being one of the required documents. The name of the product must match the application so that the certificate can be halal certified (MA RI, 2019).

Product brands in general in the process of applying for halal certification are also regulated in the fifth rule, namely the Decree of the Halal Product Assurance Agency No. 20 of 2023 concerning Amendments to the Decree of the Halal Product Assurance Agency No. 57 of 2021 concerning the Criteria for the Halal Product Assurance System, in which business actors are not allowed to apply for halal certification registration for products whose names violate Islamic law, ethics of application and development as well as propriety in the community, or do not comply with the rules for prohibiting product names in

Appendix B Table B1 SNI 99004:2021 concerning general requirements for halal food provisions (BPJPH, 2023).

Rules related to product brands in general in the sixth halal certification application process, namely the Fatwa of the Indonesian Ulema Council (MUI) Number: 44 of 2020 concerning the Use of Names, Forms and Packaging of Products That Cannot Be Halal Certified, that products with the following product names cannot be registered for halal certification (MUI, 2020):

- 1) Products that use names and/or symbols of disbelief, disobedience, and/or have negative connotations;
- 2) Products that contain the names of prohibited goods or animals, except for names that have a long history ('urf) and the ingredients have been proven not to be haram; According to the general view, there is no concern about the interpretation of the ability to consume the prohibited animal. And those that have other relevant and empirically used meanings have been used in general.

d. Halal Analysis of Product Brand Criteria to Become Halal Certified

In relation to product brand rules in the halal certification application process, it has been regulated in several regulations, however, the above regulations only contain rules limited to the obligation to have a product brand on the product that will be applied for a halal certificate, namely that the product brand is a mandatory thing as one of the required documents for applying for a halal certificate to BPJPH that must be fulfilled by business actors and has not regulated in detail regarding product brand criteria in terms of Halal certification because the rules mentioned are still general.

In relation to the principle of legal certainty, which is included in the 7 things that underlie the Halal Product Assurance System (SJPH) that the legal certainty of the halal status of a product itself is the purpose of the implementation of the Halal Product Assurance, the author concludes that the above regulations have not met the principle of legal certainty, because if returned to the meaning of the term "legal certainty" itself in a normative connotation, means a situation where regulations are made and implemented with certainty because they are logical and clear, so that they can prevent ambiguity, doubt, and multiple interpretations (Sirait, 2020).

It is said that it has not met the principle of legal certainty or has not reflected the existence of legal certainty, as seen in the rules governing product brands in the halal certification process, namely the Decree of the Halal Product Assurance Agency No. 20 of 2023 concerning Amendments to the Decree of the Halal Product Assurance Agency No. 57 of 2021 concerning the Criteria for

the Halal Product Assurance System that uses the word Islamic Sharia, where the word Islamic Sharia is a word that is still common and has a gap to be interpreted differently between one individual and another (multiple interpretation).

Legal uncertainty in a similar context is also reflected in the Fatwa of the Indonesian Ulema Council (MUI) Number: 44 of 2020 concerning the Use of Names, Forms and Packaging of Products That Cannot Be Certified Halal, where there are rules that use terms in the Islamic religion that have not been interpreted or defined in detail and straightforwardly such as the terms kufr, immorality, and others, where this can be a gap to be interpreted differently in interpreting the law own (multi-interpretation).

The existence of legal uncertainty can also be seen when it is connected with the meaning of legal certainty itself, namely the concept where the law is certain because the law has real power. In this case, the Fatwa of the Indonesian Ulema Council (MUI) Number: 44 of 2020 concerning the Use of Names, Forms and Packaging of Products That Cannot Be Certified Halal does not yet have concrete legal force, because the nature of the fatwa itself is not binding unless it has been absorbed in laws and regulations.

If a law has not reflected a legal certainty, it will have an impact on the situation where the law becomes unpredictable which of course will harm the person who is required to comply with the law itself, which in the context of halal certification, the disadvantaged parties are business actors and the community as consumers. The law is also required to have a certainty value, because without the certainty value, the law will lose its meaning, because it cannot be used as a guideline for behavior where it is the actual function of law.

If compared with several existing rules aimed at regulating product brand criteria in the process of applying for halal certification, the author sees that the closest to clear and detailed rules is actually the Fatwa of the Indonesian Ulema Council (MUI) Number: 44 of 2020 concerning the Use of Name, Form and Packaging of Products That Cannot Be Certified Halal, because in it it is mentioned 2 criteria for products that cannot be certified halal because of the product brand, In this case, according to the author, this fatwa has not yet become a binding source of law, because considering the nature of the fatwa itself which is not binding if it has not gone through the process of legal positivization, namely absorbing the fatwa in a law, then when it has not been absorbed in a law in Indonesia, the fatwa will not be binding, while the law in Indonesia must be binding so that it can be used as a guideline and can be obeyed by the community.

e. Analysis of the Ideal Formulation of Product Brand Criteria in Obtaining Halal Certificate

Based on the analysis related to the legal certainty of the regulation of product brand criteria in halal certification above, it was concluded that the rules related to product brands in halal certification that are not detailed cause confusion, this is not in line with the principle of legal certainty which aims for a regulation or law to have clear rules, so as not to cause confusion for the public as a related party, both as business actors, and consumers.

Rules must be made in detail and clearly because this is in accordance with the mandate of Law Number 12 of 2011 concerning the Formation of Laws and Regulations in Chapter II, namely the Principles of Formation of Laws and Regulations, that in forming laws and regulations must be based on the principle of good Formation of Laws and Regulations, one of which includes clarity of formulation. The principle of clarity of formulation means that each Legislation must meet the technical requirements for the preparation of Laws and Regulations, systematics, choice of words or terms, as well as clear and easy-to-understand legal language so that it does not give rise to various kinds of interpretations (multiple interpretations) in its implementation.

In addition, the rules must be made in detail and clearly because this is in line with what is enshrined in Law Number 12 of 2011 concerning the Formation of Laws and Regulations in Chapter II, namely the Principles of Formation of Laws and Regulations, that the content of the Laws and Regulations must reflect the principles, one of which is the principle of order and legal certainty. The principle of order and legal certainty means that every Legislative Content Material must be able to realize order in society through the guarantee of legal certainty.

Ideal formulation comes from two words, namely formulation and ideal. According to the Great Dictionary of the Indonesian Language (KBBI), formulation means formulation, and ideal means very much in accordance with what is aspired to or very much in accordance with what is desired. The ideal formulation of a rule must reflect the principle of legal certainty. The legal certainty in question is that the law is clear, not multi-interpreted, so as not to cause confusion, then, the ideal formulation of the product brand criteria rules in halal certification is interpreted as a more detailed and clear version of the existing product brand criteria rules in halal certification, which are as follows:

First, the name of the product must not be contrary to Islamic law. Islamic sharia means the law of Allah SWT which is an obligation for its servants. So what is contrary to Islamic law here means everything that is forbidden by Allah SWT. This rule has a relationship with the product brand rules in the subsequent

halal certification, namely that the name and/or symbols of the product must not lead to disbelief, disobedience, and/or have negative connotations.

Kufr means not believing in Allah SWT and Rasul. It can be interpreted that the names and/or symbols of products containing elements of kufr such as demons, devils, valentine, santa claus, and others are categorized as names and/or symbols of products that lead to kufr. Examples include devil noodles, devil's feet, valentine's chocolate, and others.

The immorality is behavior that is contrary to the commands of Allah SWT. Immorality also means a despicable deed. It can be interpreted that the name and/or symbol of the product that contains elements of disobedience such as disco, drunkenness, adultery, is included in the category of names and/or symbols of products that contain elements of disobedience.

In this rule, what is meant by something with a negative connotation is a bad thing or word. This means that product names and/or symbols that contain words or sentences with negative connotations, such as ugly, rotten, stupid are included in the category of product names and/or symbols with negative connotations.

Second, the name of the product should not be contrary to the ethics and propriety that prevail and develop in society. What is included in this is things that smell erotic or vulgar, of course this is very contrary to ethics in society, and is also considered very inappropriate.

Products that use the name of prohibited objects/animals, except: those that have been traditionalized ('urf) which are confirmed not to contain prohibited substances; According to the general view, there is no concern about the interpretation of the ability to consume the prohibited animal. And those that have other relevant and empirically used meanings have been used in general. This rule is quite clear, as for example, such as pletok beer and hotdogs. As for pletok beer, it is a traditional drink whose ingredients do not contain haram ingredients such as beer, the name of pletok beer comes from the manufacture of the drink which is made by shaking until it releases foam. As for hotdogs, it refers to another term from sandwich which means sausages that are eaten together with soft bread (bun).

As for the description of some of the terms above, ideally there must be or be included in the rules in the form of laws or government regulations, namely in the general provisions section, as a definite benchmark for the meaning or meaning of the terms referred to in the regulation, so as not to create gaps for different interpretations or multiple interpretations, thus, legal certainty in the rules can be said to be fulfilled.

CONCLUSION

Based on the analysis and description of the discussion related to the regulation of Halal Product Assurance in Indonesia, the following conclusion can be drawn, that the rules regarding the criteria for product names (brands) in obtaining halal certificates have not expressly and specifically regulated the criteria for product brands that can or cannot be certified halal. So it can be said that the 2 regulations above still have gaps to be interpreted differently or multi-interpreted, therefore, the rules should be made in detail and clearly. The ideal formulation of a rule is that it must reflect the principle of legal certainty. The ideal formulation of product brand criteria rules in obtaining halal certification must clearly and firmly regulate this and not create gaps to be interpreted differently or multi-interpreted, such as if the words used in a regulation have the potential to cause multiple interpretations, then these words should be explained or defined in the general provisions of a law.

REFERENCES

- Apeldoorn, L.J. Van. (1990). *Pengantar Ilmu Hukum*. Jakarta: Pradnya Paramita.
- Apeldoorn, L.J. Van dalam Darji Darmodiharjo dan Shidarta. (1996). *Penjabaran Nilainilai Pancasila dalam Sistem Hukum Indonesia*. Jakarta: Rajawali Pers.
- BPHN. (1997/1998). *Penyusunan Kamus Hukum Umum Bahasa Belanda-Bahasa Indonesia*. Jakarta: BPHN-Departemen Kehakiman dan HAM RI.
- Departemen Pendidikan Nasional. (2005). *Kamus Besar Bahasa Indonesia*. Edisi Ketiga. Jakarta: Balai Pustaka.
- Dimiyati, Khudzaifah. (2015). *Teoritisasi Hukum Studi tentang Perkembangan Pemikiran Hukum di Indonesia 1945-1990*. Surakarta: Muhammadiyah University Press.
- Fatwa Majelis Ulama Indonesia (MUI) Nomor: 44 Tahun 2020 Tentang Penggunaan Nama, Bentuk dan Kemasan Produk yang Tidak Dapat Disertifikasi Halal.
- Friedman, Lawrence M. (1977). *The Legal System: a Social Science Perspective*. New York: Russel Sage Foundation.
- Fuadi, Soemitra A, & Zuhri M. Nawawi. (2022). “Studi Literatur Implementasi Sertifikasi Halal Produk UMKM”. *Jurnal Ekonomi dan Manajemen Teknologi KITA*, 6(1).
- Halilah, Siti dan Mhd Fakhurrahman Arif. (2021). “Asas Kepastian Hukum Menurut Para Ahli”. *Siyasah: Jurnal Hukum Tata Negara*, 4(2).
- Hanifah, Ida. 2020. “Kebijakan Perlindungan Hukum Bagi Pekerja Rumah Tangga Melalui Kepastian Hukum.” *Jurnal Legislasi Indonesia*, 17(2):193. doi: 10.54629/jli.v17i2.669.
- Indratanto, S. P., Nurainun, & Kleden, K. L. (2020). “Asas Kepastian Hukum Dalam Implementasi Putusan Mahkamah Konstitusi Berbentuk Peraturan Lembaga



- Negara Dan Peraturan Pemerintah Pengganti Undang-Undang”. *Jurnal Ilmu Hukum*, 16(2).
- Izzudin, Ahmad. (2018). “Pengaruh Label Halal, Kesadaran Halal, dan Bahan Makanan terhadap Minat Beli Makanan Kuliner”. *Jurnal Fakultas Ekonomi Universitas Muhammadiyah Jember*, 3(2).
- Jainah, Z. Ompu. (2011). “Membangun Budaya Hukum Masyarakat Penegak Hukum dalam Pemberantasan Tindak Pidana Narkotika”. *Keadilan Progresif*, 2(2).
- Kansil, CST. (2009). *Kamus Istilah Hukum*. Jakarta: Gramedia Pustaka.
- Keputusan Badan Penyelenggara Jaminan Produk Halal No. 20 Tahun 2023 Tentang Perubahan Atas Keputusan Badan Penyelenggara Jaminan Produk Halal No. 57 Tahun 2021 Tentang Kriteria Sistem Jaminan Produk Halal.
- Kusumaatmadja, Mochtar. (1995). *Hukum, Masyarakat dan Pembangunan Hukum Nasional*. Bandung: Binacipta.
- Kusumaatmadja, Mochtar. (2002). *Fungsi dan Perkembangan Hukum dalam Pembangunan Nasional*. Bandung: Binacipta.
- Manan, Bagir dan Kuntanan Magnar. (2017). *Beberapa Masalah Hukum Tata Negara*. Bandung: PT. Alumni.
- Maxeiner, James R. (2008). “Some Realism About Legal Certainty in the Globalization of the Rule of Law”. *Houston Journal of International Law*, 31(1). University of Baltimore School of Law Legal Studies Research Paper No. 2009-11, Available at SSRN: <https://ssrn.com/abstract=1230457>
- Mertokusumo, Sudikno. (1993) *Bab-bab Tentang Penemuan Hukum*. Bandung: Citra Aditya Bakti.
- M, Kordela. (2008) *The Principle of Legal Certainty as a Fundamental Element of the Formal Concept of the Rule of Law*. *Revue Du Notariat*.
- Moho, Hasaziduhu. (2019). “Penegakan Hukum di Indonesia Menurut Aspek Kepastian Hukum, Keadilan dan Kemanfaatan”. *Warta Dharmawangsa*, 13(1).
- Rahardjo, Satjipto. (2012). *Ilmu Hukum*. Bandung: Cakra Aditya Bakti.
- Rahayu, Sri. (2014). “Implikasi Asas Legalitas Terhadap Penegakan Hukum dan Keadilan”. *INOVATIF: Jurnal Ilmu Hukum*, 7(3).
- Remaja, Nyoman Gede. (2014). “Makna Hukum dan Kepastian Hukum”. *Jurnal Hukum: Kertha Widya*, 2(1).
- Sirait, E. (2020). *Kepastian Hukum Terkait Mekanisme Eksekusi Sita Jaminan Dalam Putusan Mahkamah Konstitusi Nomor 18/Ppu-Xvii/2019 Tertanggal 25 November 2019 Juncto Undang-Undang Nomor 42 Tahun 1999 tentang Jaminan Fidusia*. Doctoral dissertation, Universitas Komputer Indonesia.
- Sup, D. F. A. (2019). “Tinjauan Masalah Terhadap AMDAL.” *Muslim Heritage*, 4(1). Diambil dari <https://doi.org/10.21154/muslimheritage.v4i1.1724>

- Sup, D. F. A. (2020). “Mengawal Nilai-Nilai Produksi melalui AMDAL (Analisis Mengenai Dampak Lingkungan) dalam Perspektif Ekonomi Syariah.” *Tsaqafah*, 16(1). Diambil dari <https://dx.doi.org/10.21111/tsaqafah.v16i1.3953>
- Sup, D. F. A, Annas Syams Rizal Fahmi, Faridl Noor Hilal dan Muhammad Irkham Firdaus. (2020). “Dinamika Regulasi Sertifikasi Halal di Indonesia”. *Jurnal Ekonomi Syariah Indonesia*,10(1).
- Suseno, Franz Magnis. (2001). *Etika Politik*. Jakarta: Gramedia Pustaka Utama.
- Tamara, Aditya. (2022). *Pengaruh Sertifikasi Halal, Kesadaran Halal, Dan Bahan Makanan Terhadap Minat Beli Produk Makanan Halal (Studi Pada Mahasiswa*