

## THE IMPLEMENTATION OF LEGAL PROTECTION AND CERTAINTY PRINCIPLES FOR CONSUMER OF FOOD AND BEVERAGE RELATED TO MICRO AND SMALL BUSINESSES IN ACEH

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### ABSTRACT

The Special Province of Aceh government has legal pluralism in its administrations. In its governance system, Islamic law and customary law are also applied besides the state law. *Ulama* (Islam Scholars) also have important roles in determining regional policies. Actually, against Islamic law, the process of food and beverage trade by micro and small business actors still uses hazardous and prohibited materials such as formaldehyde, borax and *RhodamineB*. This study aims to analyze and to explain the application of protection and legal certainty of food consumers and beverages marketed by Micro, Small and Medium Enterprises (MSMEs) associated with the halal product guarantee concept. It also explains the concrete policies adopted by the Government of Aceh as a competitive consumer protection standard. This type of research is sociological juridical, which observes reactions and interactions when the norm system relating to consumer protection and the guarantee of halal products works in the community. The approach was used sociologically and qualitatively. Primary research data was gathered from social facts processed by using descriptive analysis methods and was presented in a qualitative form. The research results show factors of the lack of consumer's protection, namely: business actors' difficulties in obtaining capital, knowledge, and skills, lack of product innovation, difficulties in distributing goods, no product-branding, no consumer-loyalty program, lack of understanding of the rules of consumer protection and halal product guarantees, the traditional accounting records, not having business license, lack of local government supervision and the disharmonized between laws and regulations. Concrete policies stipulated by the Government of Aceh are the ease of business licensing procedures and acceleration of ownership of non-paid halal certificates, especially for processed food business actors produced by home industry. Thus it is recommended to establish a Dispute Settlement Agency (BPSK), Non-Governmental Protection Institutions (LPKSM) in each regency/city; to conduct socialization, education as well as promotion of halal product guarantees in various events; to collaborate with the private sector as an assisting partner that can be used as a mentor for micro and small business actor in anticipating the industrial revolution 4.0.

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**Keywords:** Application of the protection and legal certainty principle, Consumer protection, Micro and small businesses, Halal product guarantee in Aceh.

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## 1. Introduction

Food and drink are one of the basic human needs. The availability of adequate, safe, quality, nutritious food and drinks is the main prerequisite to realize dignified human beings and quality human resources. The quality of human resources is determined by the quality of the food and drinks they consume. Thus, it is necessary to optimally provide safe and nutritious foods and drinks that are affordable, healthy, and halal guaranteed for consumers. The halal-ness of food and beverage products can be applied without ethnic, ethnic, cultural and religious restrictions.

The progress of science and technology in the food industry has affected domestic and international food trade, leading to an increasingly diverse type of food circulating in society, either locally produced or imported. Food consumed by the public passes through a chain of processes of production, storage, transportation, circulation until consumption by consumers.

The Government has empowered Micro, Small and Medium Enterprises (MSMEs), and formed Law Number 20 of 2008 concerning Micro, Small and Medium Enterprises (MSME Law) to realize the economic growth, equity, job creation, and poverty alleviation.

The business development of MSME players was obtained from the Office of Cooperatives and Small and Medium Enterprises in Aceh Province 2016. There were 75,207 MSME units in Aceh, increased fairly high compared to 2014, which only amounted to 48,882 units. On December 31, 2016, there were total 53,216 Units of micro-business operators. Of which, 20,258 units (71%) were small business groups and 1,733 units (27%) were medium-sized businesses ([diskopUMKMAceh: 2017](#)).

Indonesia also has Law No. 8 Year 1999 concerning Consumer Protection (The Consumer Protection Act). However economical efforts in Indonesia are considered insufficient to realize prosperity for all Indonesian people. In its implementation of the substance, both in terms of norms and economic development goals, does not put consumers of food and beverage in an advantages condition. They have not received maximum protection.

Other regulations relating to consumer protection, are Law Number 33 Year 2014 concerning Halal Product Guarantee (JPH Law), Law Number 7 Year 2014 concerning Trade (Trade Law), Law Number 23 Year 2014 concerning Regional Government (Local Government Law), Law Number 18 Year 2012 concerning Food (Food Law), Law Number 36 Year 2009 regarding Health.

The implementation of the principles in law of consumer protection and certainty in the context of the organizing system in the Province of Aceh has started with Law Number 44 Year 1999 concerning the Implementation of the Privileges of the Province of the Special Region of Aceh (Privileges Province Aceh Law), Law Number 11 Year 2006 (UUPA Year 2006), Government Regulation Number 28 Year 2004 concerning Food Safety, Quality and Nutrition, Aceh Qanun Number 11 Year 2002 concerning the Implementation of Islamic Sharia in the Field of Aqeedah, Worship and Symbols Islamic (Islamic Law Qanun), Aceh Qanun Number 8 Year 2016 concerning Halal Product Guarantee System (Qanun SJPH), and other regulations relating to MSMEs and consumer protection and halal product guarantee systems. This shows that there are adequate written norms in Indonesia, especially in the Province of the Special Region of Aceh.

The basis for the issuance of Law Number 44 Year 1999 regarding the Implementation Privileges Provincial of Aceh (Aceh Privileges Law) is Article 18B paragraph (1) of the 1945 Constitution. In Aceh applied are the state law system, the Islamic legal system, the customary law system, and the ratified international legal system ([Constante, Daniel, & Flor, 2019](#); [Rahayu et al., 2016](#); [Rahayu, 2018](#)).

Based on the Islamic legal system (*sharia law*), and the Islamic Sharia Qanun, Qanun Number 8 of 2016 concerning Halal Product Guarantee System was established. Qanun (SJPH Qanun). The SJPH Qanun regulates the Aceh *Ulama* Consultative Assembly (MPU), coordinating with the Food, Drug and Cosmetic Assessment Institute of the Aceh *Ulama* Consultative Assembly (LPPOM MPU Aceh). This is done in the role of issuing halal certificates and guaranteeing the halal status of all food and beverage products circulated and traded in Aceh Province, (KN Sofyan, 2014).

Concerning halal product produced by MSMEs, a product of public policy, the Halal Product Guarantee Act (JPH Law) has created legal loopholes and problems. Since halal certificates are not compulsory for all business actors, MSME players generally do not take care of halal certification, especially small and medium scale industries ([Khushnud, & Qingjie, 2020](#); [Sudarmiati, 2019](#); [Widodo, 2010](#)). In addition, since Indonesia as a participating country of the ASEAN Economic Community (AEC), the negative impact of food and beverage businesses controlled by large business actors most likely happens. This study aims to analyze and to explain the application of protection and legal certainty of food consumers and beverages marketed by Micro, Small and Medium Enterprises (MSMEs) associated with the halal product guarantee concept. It also explains the concrete policies adopted by the Government of Aceh as a competitive consumer protection standard.

## 2. Methods

This research is a sociological juridical study, observing the reactions and interactions that occur when the norm system works in society (*law in concreto*) and what is behind it from various applications of various legislation (*behind the law*) ([Fajar & Achmad, 2010](#)), and the EMSM Law as well as the Consumer Protection Act so that the principle of protection and legal certainty for food and beverage consumers in the Province of Aceh can be approached sociologically and qualitatively ([Fajar & Achmad, 2010](#)). Using a qualitative approach to gather descriptive-analytical data, the researchers used data stated by respondents in writing or verbally and studied behaviors as an intact object of research. Data taken through a qualitative approach were validated from its quality and relevance so that it can be reliable.

Field data collection through observation, in-depth interviews (*depth interviews*) with respondents and informants was performed by using interview guidelines as a research instrument ([Soekanto & Mamudji, 1990](#)). Data processing and analysis were done by drawing conclusions based on Primary Data and Secondary Data and then analyzing by using qualitative and sociological methods. As a research procedure that produces descriptive data in the form of words and oral descriptions of people and observable behavior ([Moleong, 2007](#)).

## 3. Results

### ***3.1 The application of the principle of consumer's protection and legal certainty of food and beverage are associated with the concept of halal product guarantee***

The openness of the national market as a result of the process of economic globalization requires a guarantee of the improvement of people's welfare as well as certainty over the quality, quantity, and safety of goods and/or services in the market. Although a set of rules has been held in consumer protection in Indonesia, awareness, knowledge, care, ability, and independence of consumers to protect themselves and foster the attitude of responsible business actors are still not optimal and optimal in practice.

The existence of Law No. 23 of 2014 concerning Regional Government (UU Pemda) results in the transfer of authority over sub-affairs of standardization and consumer protection to the authority of the Provincial Government. Therefore, the Government must pay special attention to national trade activities.

Another thing is the protection of consumers in the field of food and drink must meet the safety and quality standards of food, as regulated in Health Act Article 111. This is done to fulfill consumer rights, namely the right of comfort, security and safety in consuming goods and / or services.

Article 155 paragraph (1) of Law Number 11 Year 2006 concerning Aceh Government (UUPA 2006) states that "The economy in Aceh is directed at increasing productivity and competitiveness for the realization of prosperity and welfare of the people by upholding the values of Islam, justice, equity, people's participation and efficiency in sustainable development patterns. This causes the Government of Aceh and District and City Governments in Aceh to have broad authority for economic development in Aceh, including the strengthening of business actors ".

Therefore, the Aceh Government is obliged to protect the public from consuming non-halal food, drinks, and medicines as well as non-halal cosmetics, biological chemical products, and genetic engineering products. Norms of the rules contained in the 2006 BAL are followed up through Article 23 of the Aceh Qanun Number 8 Year 2014 concerning the Principles of Islamic Sharia (Islamic Law Qanun), "The Government of Aceh is obliged to implement a halal guarantee system for goods and services produced and circulating in Aceh whose implementation is regulated by the Aceh Qanun ".

The implementation of consumer protection by the Government of Aceh for Muslims under the Islamic Sharia Qanun and all Acehnese people residing in Aceh without looking at certain religious and ethnic groups issued Qanun Number 8 Year 2016 concerning Halal Product Guarantee System (Qanun SJPH).

The SJPH Qanun is a form of responsibility for the Government of Aceh for halal products traded, both from and outside Aceh. The SJPH Qanun also regulates traded products to meet hygienic standards. Qanun SJPH in protecting and providing guarantees to consumers and goods traded by business actors based on the principles of protection, justice, legal certainty, accountability and transparency, effectiveness and efficiency, and professionalism. The guaranteed implementation of Halal Products is aimed at providing comfort, security, safety, and certainty in the availability of consumer Halal Products as well as increasing added value for Business Actors to produce and sell Halal Products.

Business actors in the Halal Assurance System Qanun cover all business activities from upstream to downstream. Business actors are required to submit applications for halal certification for products that have not been halal certified; Provide true, clear and honest information; Maintain the halal process of the product; Renew the halal certificate of expiration; Report changes to the composition of the material to the Aceh MPP LPPOM; Display the LPPOM MPU Aceh Halal Certificate to easily read by consumers; and Include the halal logo of the Aceh MPP LPPOM on the product packaging with a visible size, (Article 33 SJPH)

Prohibition for Business Actors is regulated by Article 35 of the SJPH Qanun, Producing and/or trading products that are not halal/not halal-certified; Include a Halal Logo on product packaging that has not been halal certified; and/or Provide information that is not following the laws and regulations.

Business actors who do not meet the provisions referred to in Article 34 and Article 35, are subjected to administrative sanctions in the form of verbal reprimands; written warning; not granted or revoked the production license; no distribution permit has been granted or revoked in Aceh; revocation of halal certificate; no business license is revoked or revoked; and/or administrative fines. Further provisions regarding administrative sanctions are regulated by a Governor Regulation. (Article 36 SJPH Qanun).

Barriers factors that can be changed into challenges for MSMEs in the food and beverage sector in Aceh Province face the industrial revolution 4.0 as follows:

### 3.1.1 Capital difficulties

MSMEs often have difficulty finding funding capital from banks due to the many requirements that have not yet been met. Even though the MSME Law regulates the ease of obtaining business capital from banks by regulating the absence of collateral/collateral, banks make clauses that require collateral for MSMEs in credit agreement contracts.

### *3.1.2 Knowledge and skills for raising enterprises*

The lack of knowledge of MSME entrepreneurs about good business management makes it difficult to develop businesses. MSMEs only focus on producing goods, without thinking about how the business expansion strategy is even greater.

### *3.1.3 Lack of product innovation*

One of the reasons for the difficulty of MSME products competing in foreign markets is the low competitiveness of products. Regarding the price offered, MSME products in Aceh are still far from the quality offered by national or foreign products.

### *3.1.4 Difficulties in distributing goods*

Many MSMEs have not had the network to distribute their products. Most only focus on distributing goods to relations.

### *3.1.5 Un-maximized online-marketing*

How to do online marketing is still a challenge for MSMEs today in Aceh. This is due to the lack of knowledge of using the internet and adapting technological developments. Even though many MSME players had marketed their products online through social media, sites, marketplace but the effort as not as much as they need to gain the optimal result.

### *3.1.6 Lack of understanding of branding (registered trademarks)*

Although maintaining the quality of branding is very important, not many MSME entrepreneurs are aware of the importance of branding for their products and businesses. Thus, MSMEs only focus on selling, without thinking about how the quality of the brand of its products.

### *3.1.7 Not conducting consumer loyalty programs*

MSMEs do not put great attention in creating consumer loyalty programs, such as regular promos, registration member, and the consumer community. Maintaining customer loyalty is very important. The more often the MSMEs do the customer loyalty program, the stronger customer loyalty will be. Customers will repeat orders and even voluntarily promote MSME perpetrators' products individually. MSMEs have not understood nor practiced the rights and obligations of consumers and business actors.

### *3.1.8 Still relying on manual accounting*

UMKM performers still do accounting manually. This manual bookkeeping is prone to lose, damage, and even recap errors.

### *3.1.9 Not having a mentor*

Without having a business mentor, an MSME entrepreneur will have difficulty to develop and make product innovation.

### *3.1.10 Not having a business license*

Many of the MSMEs business have not had a business license. The majority of MSMEs also face challenges in the field of knowledge regarding aspects of legality and licensing, including requirements to how the process is taken in the process of managing their business license.

### *3.1.11 Enforcement of weak sanctions*

Even though Indonesia nationally has several regulatory instruments concerning Consumer Protection, food security guarantees, the Halal Product Guarantee Act, and Trade Laws that strongly protect consumers, the effectiveness of these laws requires commitment, synergy, and socialization continuous education involving various sectorial elements.

The eleven things that have been described above are the application of the principle of protection and legal certainty for consumers in the Province of Aceh during the industrial revolution era 4.0. Number 44 of 1999, Qanun of Islamic Sharia and Qanun of Halal Product Guarantee Systems.

## ***3.2 Application of policies of the concrete government of aceh as competitive consumer protection standards***

The enactment of special autonomy in Aceh, regulated by the BAL 2006, Article 125 paragraph (1) and (2), mentioned that *Syari'at Islam* (Islam principles) implemented in Aceh include Aqidah, Syariah and morals. Furthermore, *Syari'at Islam* as referred to in paragraph (1) includes worship, *ahwal al-syakhshiyah* (family law), *muamalah* (civil-law), *jinayah* (criminal law), *qadha'* (justice), *tarbiyah* (education), *da'wah* (preach), *syiar* (talk), and the defense of Islam.

The implementation of Islamic Sharia in Aceh is not only the personal and community responsibility of people living in Aceh but also based on the provisions of Article 127 of the 2006 BAL Act. It states that "that responsibility also rests with the Aceh Government and district/city governments".

Following the concept, both the central government and regional governments have the authority to make arrangements so that the relationship between business actors and consumers can be realized fairly. Most importantly, the constitution of the idea of a 'welfare state' ([Asshiddiqie, 2010](#)).

Thus, healthy either competition or unfair competition can occur between business actors. Deception can be in the form of reducing the price of goods while the quality is lower than promised, or reducing the amount of the dose or reducing the quality of goods and the promised quantities. Both of which have been detrimental to consumers, since they do not get what was promised.

The following outlines the policies of the Aceh Regional Government in the field of food industry undertaken by the small and medium micro industries, as follows:

### *3.2.1 Ease of licensing*

Every business actor is obliged to have a business license from the Government, either from the central government or regional governments at the provincial or district/city. Licensing is often a barrier because of the long bureaucracy that must be taken by the MSMEs. For this reason, the regents and mayors at the research location have made efforts to anticipate this problem. Simplifying and accelerating the licensing process were done by integrating licensing services under the Investment and One-Stop Integrated Services Office. The office is specifically focused on serving requests for all permits authorized by regent/mayor to give MSME actors' integrated services for all

types of licensing. (Mursidi, SH, Head of Legal Division, Central Aceh District, interview results, Mai 2019).

This policy is expected to cut bureaucracy, which previously had many agencies to take care of the licensing. (Muchlis, SH, Head of the Banda Aceh City Investment and Integrated Services Office, interview results).

### *3.2.2 Acceleration of halal certificate ownership by business actors*

Business actors are required to apply for a halal certificate for their products. The certificates of halal guarantee that halal food and drinks are certainly healthy, while those that are safe, healthy and clean are not guaranteed as halal.

Halal food and drink is a demand in Islam. Halal food and drinks are not only in the raw material but also in the production process. (Deni Candra, Secretary of LPPOM MPU Aceh, interview results).

It includes legal requirements, as well as downstream business actors covering all businesses whose activities produce, and market, both locally processed and packaged.

One aspect of the acceleration of the realization of halal food and beverages traded in Aceh is the Government. Article 11 of the SJPH Qanun stipulates that "LPPOM MPU Aceh is functionally subordinate and responsible to the Chairperson of the Aceh MPU and administratively responsible to the Head of the Aceh MPU Secretariat". Therefore, the Government of Aceh provides human resources, facilities and infrastructure, funding sources, cooperation, and halal product assurance information systems for the LPPOM MPU Aceh.

In granting halal certificates, LPPOM MPU has not quoted fees. However, in the future, the halal certificate will incur a certificate fee (Deni Candra, Secretary of the Aceh MPP LPPOM, interview result, 19 June 2019).

The pattern of assistance from the Government of Aceh is a breakthrough. This is not regulated in the MSME Law. It only looks at the necessity of local governments to facilitate MSME actors to obtain licensing facilities and ease of obtaining credit or financing from banking institutions.

Besides, by the SJPH Qanun, the Government of Aceh has also tried to make a breakthrough by cooperating with big business players in financing halal certification for micro and small businesses. This was confirmed in Article 44 of the SJPH Qanun, "which requires companies operating in Aceh, to finance Halal Certification for micro and small businesses as a form of corporate social responsibility". This obligation is in line with the provisions of Article 74 of Law Number 40 the Year 2007 concerning Limited Liability Companies.

## **4. Conclusion**

Factors that cause MSMEs in the food and beverage sector unable to protect their consumers in accordance with positive legal norms in Indonesia are business actors' difficulties in obtaining capital, knowledge, and skills, lack of product innovation, difficulties in distributing goods, no product-branding, no consumer-loyalty program, lack of understanding of the rules of consumer protection and halal product guarantees, the traditional accounting records, not having business license, lack of local government supervision and the disharmonized between laws and regulations. Concrete policies stipulated by the Government of Aceh are the ease of business licensing procedures and acceleration of ownership of non-paid halal certificates, especially for processed food business actors produced by home industry.

Thus it is recommended to establish a Dispute Settlement Agency (BPSK), Non-Governmental Protection Institutions (LPKSM) in each regency/city; to conduct socialization, education as well as promotion of halal product guarantees in various

events; to collaborate with the private sector as an assisting partner that can be used as a mentor for micro and small business actor in anticipating the industrial revolution 4.0.

## REFERENCES

- Aceh's Qanun (Special Regional Law) Number 8 Year 2016 regarding Halal Product Guarantee System.
- Asshiddiqie, J. (2010). *Konstitusi ekonomi*. Jakarta, Indonesia: Kompas Penerbit Buku, 2010.
- Constante, I., Daniel, C., & Flor, V. (2019). Incidence of IFRS for SMES in the financial sustainability on the Alpaquero textile sector of Perú, 2018. *Journal of Administrative and Business Studies*, 5(6), 316-322.
- DiskopUMKM (2017). Aceh. Retrieved from <https://bit.ly/3jz1QFa>
- Fajar, M., & Achamd, N. D. Y. (2010). *Dualisme penelitian hukum: normatif & empiris*. Yogyakarta, Indonesia: Pustaka Pelajar.
- Government Regulation Number 28 Year 2004 regarding Food Safety, Quality and Nutrition.
- Hasan, K. S. (2014). Kepastian hukum sertifikasi dan labelisasi halal produk pangan. *Jurnal Dinamika Hukum*, 14(2), 227-238.
- Khushnud, Z., & Qingjie, Z. (2020). Study on banks' risk assessment of financing small-medium enterprises' project: The findings and experience from Uzbekistan banking sectors. *International Journal of Business and Administrative Studies*, 6(2), 86-96.
- Law Number 11 Year 2006 regarding the Government of Aceh Province.
- Law Number 18 Year 2012 regarding Food.
- Law Number 20 Year 2008 regarding Micro, Small and Medium Enterprises.
- Law Number 33 Year 2014 regarding Guarantee of Halal Products.
- Law Number 44 Year 1999 regarding Administration of Special Province of Aceh.
- Law Number 7 Year 2014 regarding Trading.
- Law Number 8 Year 1999 regarding Consumer Protection.
- Moleong, L. J. (2007). *Metodologi penelitian kualitatif*. Bandung, Indonesia: Remaja Rosdakarya.
- Rahayu, S. W. (2016). *Penyelesaian sengketa perdata adat oleh peradilan adat melalui mekanisme alternatif penyelesaian sengketa di aceh dalam rangka pembentukan sistem hukum peradilan adat di Indonesia*. Paper presented at Laporan Tahunan Penelitian Unggulan Perguruan Tinggi (PUPT), Universitas Syiah Kuala, Banda Aceh, Indonesia.
- Rahayu, S. W. (2018). Alternative dispute resolution through customary tribunal in the context of legal pluralism in aceh. *International Journal of Civil Engineering and Technology (IJCIET)*, 9(1), 476-483.
- Regulation of Mayor of Banda Aceh Number 17 Year 2016 regarding Organizing Halal Tourism.
- Ripain, N., Amirul, S. M., & Mail, R. (2017). Financial literacy and SMEs' potential entrepreneurs: The case of Malaysia. *Journal of Administrative and Business Studies*, 3(2), 60-68.
- Soekanto, S., & Mamudji, S. (1990). *Penelitian Hukum Normatif*. Jakarta, Indonesia: Rajawali.
- Sudarmiatin. (2019). Place Branding: Place Branding: An Alternative Model for Empowering Small and Medium Enterprises (SMEs). *International Journal of Business and Economic Affairs*, 4(2), 77-84.
- UUD 1945.
- Widodo (2010). *The halal product guarantee law must be revised*. Retrieved from <https://bit.ly/2QIRx5i>