

Certification for Small Scale Products: Review of Fiqh Rules and Sharia Maqasid

Makrum¹

IAIN Pekalongan, Indonesia
makrum@iainpekalongan.ac.id

Ahmad Asrof Fitri²

IAI AL-AZIS Indramayu, Indonesia
asroffitri@gmail.com

Abstract

This study aims to: (1) explain the status of the halal label issued by Micro, Small and Medium Enterprises (UMKM) from the viewpoint of fiqh principles; (2) explains a review of the principles of fiqh and maqâshid sharia related to the urgency of MUI halal certification for UMKM actors. Its writing is motivated by the fact that in Indonesia many products have not been certified by MUI for various reasons, mainly economic, because the scale of the business is still small, so that some producers still use self-made halal labels. This research uses literature study, with the results that: (1) When the owners of UMKM is unable to process halal certification through MUI due to cost constraints, their actions that still include the halal label can be seen as ikhtiyar, even though the levels are not yet optimal. In terms of fiqh, this is following the principles of *mâ lâ yudraku kulluhu lâ yutraku kulluhu*; (2) In terms of negative impacts (*madharat*) that can arise from two conditions experienced by UMKM activists: between using the halal label independently with the possibility of withdrawal of distribution permits from the market OR carrying out halal certification with additional costs incurring losses, then the second choice is more worth taking, because the consequences are considered much lighter. In the maqâshid sharia review, MUI halal certification includes efforts for *hifzhu ad-din* and *hifzhu al-mâl*, as such this halal certification is categorized as a primary need (*dharuriyât*).

Keywords

Halal Certification, UMKM Products, Fiqh Principles, Sharia Maqâshid

To cite this article: Makrum.; and Fitri, A. A. (2020) Certification for Small Scale Products: Review of Fiqh Rules and Sharia Maqasid. *Review of International Geographical Education (RIGEO)*, 10(4), 770-780. doi: 10.33403/rigeo.791619

Submitted: 20-07-2020 • **Revised:** 15-09-2020 • **Accepted:** 25-11-2020

Introduction

Consumption of halal products is an order that is stated explicitly in several verses of the Quran, including Al-Baqarah verse 168, Al-Maidah verse 88, Al-Anfal verse 69, and An-Nahl verse 114. In line with that, the Al-Quran also mentions various types of food and ingredients that are forbidden to be consumed, as explained in the Surah Al-Maidah verse 3 and 90, Al-Baqarah verse 173, and Al-A'raf verse 157. For Muslims, this provision becomes a life guideline in terms of food fulfillment which absolutely must be followed.

Moreover, in terms of regulation, there is statutory support for Muslims to be able to carry out their religious teachings completely, as stipulated in Article 29 of the 1945 Constitution. This is also strengthened by Law Number 18 of 2012 concerning Food which states that the guarantee of food supply and safety which are related to its halal status are the responsibility of the central and local governments. In this case, the central and local governments are obliged to supervise the implementation of the required Halal Product Guarantee (JPH) system. The form of government supervision is then further regulated in Law Number 33 of 2014 concerning Halal Product Guarantee.

Article 4 of the law states explicitly that products that enter, circulate, and are traded in the territory of Indonesia must be halal certified. What is excluded from this article are products that are clearly prohibited, as stated in article 26. Legalization of the JPH Law Number 33 of 2014 provides legal certainty in ensuring comfort, security and safety in the use and utilization of halal products (Ilyas, 2017, p. 374). Legal certainty is manifested in the form of a halal certificate which in Article 1 of Law Number 33 of 2014 is defined as an acknowledgment of the halalness of a product issued by the Halal Product Guarantee Agency (BPJPH) based on a written fatwa issued by the MUI. Thus, it can be said that the halal certificate is a written fatwa from the MUI which states the halalness of a product, under Islamic law. This halal certificate is a requirement for obtaining a permit for the inclusion of a halal label on the product packaging, which is factually issued by the MUI and its Institute for the Assessment of Food, Drugs, and Cosmetics (LPPOM) because the existence of the Halal Product Guarantee Agency (BPJPH) has not been realized.

Although in terms of regulations there is an obligation for halal certification, in reality, there are still many products that contain halal labels that are printed by the producers themselves without being processed through MUI. According to the 2012-2019 LPPOM MUI halal product statistics, of the hundreds of thousands of products circulating in the market, only 10% have already processed their halal certification at LPPOM MUI. In fact, in 2019, for example, out of 274,796 products sold in Indonesia, only 15,495 products were certified halal or equivalent to 5.6% (<http://www.halalmui.org/mui14/main/page/data-statistik-produk-halal-lppom-mui-indonesia-2012-2019>, accessed on 19 November 2020, at 08.38 WIB). This happens due to various factors, including economy, due to the small scale of the business. The use of self-made halal labels, for some UMKM entrepreneurs, aims to reduce production costs (Watson, 2020). This study uses a library research approach to: (1) explain the status of halal labelling issued by UMKM actors from the viewpoint of fiqh principles; (2) describes a review of the principles of fiqh and *maqāshid* sharia related to the urgency of MUI halal certification for UMKM actors. The data is obtained through literature search from various books, research, books, and news in various mass media.

Results And Discussion

Halal Consumption Obligation

Etymologically, the word halal comes from the Arabic word "*halla-yahillu-hillan*" which means halal, to let go, to disentangle (Manzhur, n.d., p. 163). In the fiqh dictionary, halal is understood as something that can be done or eaten. Generally, halal is closely related to food and drinks that can be consumed according to Islam (Al-Qaradhawi, 2016, p. 1). In a broader context, the term halal refers to everything that is permitted according to Islamic law, whether in the form of activities, behavior, ways of dressing, or anything that can be consumed (Dahlan, 2006, p. 505-506). The word halal is also used for certain actions, as mentioned in the letter Al-Baqarah verse 275, "Allah makes buying and selling legal and usury forbidden." This means that Muslims are allowed to earn a living by trading. Thus, halal means something by which dangerous ties / knots are untied and Allah allows them to be done (Al-Qaradhawi, 2016, p. 1).

According to Article 1 of the Decree of the Minister of Religion of the Republic of Indonesia

Number 518 of 2001 concerning Food Inspection and Determination, halal means not containing elements or ingredients that are haram or prohibited for consumption by Muslims, and their processing is not against Islamic law. Halal also means permitted. All types of food and drink are by Islamic Law halal, except for those specifically mentioned as haram in the Qur'an and the hadith of the Prophet Muhammad (Sakr, 2006, p. 37-38). Delicious and tasty food is not necessarily good for the body and it is not necessarily halal. Therefore, Islam regulates in detail the types of food and drinks that are not allowed to be consumed in the Al-Qur'an and hadith. According to Dahlan, as quoted by Fauzi (2018, p.53), the food referred to as halal is all food that is materially or physically halal, for example, rice, vegetables, and so on. Likewise, food that is haram is any food that is materially haram. The requirements for food to meet halal standards in the view of Islamic law, according to Aisjah Girindra (1998, p. 124-125), include:

- a. Does not contain pork and ingredients derived from pork.
- b. Does not contain khamr and its derivative products.
- c. All ingredients of animal origin must come from halal animals slaughtered according to the procedures of Islamic law.
- d. Does not contain other materials that are prohibited or classified as unclean (*najis*), such as carcasses, blood, materials derived from human organs, feces, and so on.
- e. All storage, sales, processing, management, and transportation means for halal products may not be used for pork or non-halal goods. If it has been used for pork or other non-halal products and then later will be used for halal products, it must first be cleaned according to the method regulated by Islamic law. Alternate use of production facilities for halal and non-halal products is not allowed.

In several verses, the word halal is often juxtaposed with the lafaz *thayyib*, as contained in Al-Baqarah: 168, Al-Maidah: 88, Al-Anfal: 69, and An-Nahl verse 114. Thus, there are two standards to be considered by a Muslim in consuming everything. The first standard is related to halal products which are based on the arguments of the Al-Qur'an and hadith. The second standard is related to the goodness of the product (*thayyib*) which is based on scientific arguments: food science and medical considerations.

Prohibition of Haram Consumption

The word haram is etymologically derived from the word "*harama-yahrumu-harâman*" which means to prevent, forbidden (Munawwir, n.d., p. 256). In terminology, according to *ushul fiqh's* point of view, the word haram means something that is forbidden by Allah and His Messenger, where those who violate it are considered disobedient and sinful, and those who leave it because they obey Allah, are rewarded. Something is not prohibited or forbidden except because it contains a danger or bad impact on humans (Effendi, 2005).

According to Yusuf Al-Qaradhawi (2016, p. 1), haram is something that Allah forbids to do with a strict prohibition, everyone who opposes it will face Allah's torment in the hereafter. Sometimes he even faces sanctions in the world. In line with this, according to Alaidin Koto (2010), haram is an act that is forbidden to be done. Those who do it will be tormented, has sinned, and those who leave it will be rewarded. For example, stealing, killing, not providing sustenance for people under his/her ward, and so on. This discussion of haram also includes several aspects, including the types of food that are forbidden by Allah SWT and His Messenger, such as alcohol, blood, and carcasses of land animals. Koto (2010) divides haram laws into two types:

- a. Haram because of the act itself, or haram because of the substance. Such haram is basically something that is forbidden in the first place. For example, killing, adultery, and stealing.
- b. Haram because it is related to other actions, or haram because of other factors that come later. For example, trade, which is *mubah* (permissible), turns into haram when the Friday call to prayer has rung. Likewise with the fasting of Ramadan, which was originally an obligation, turn into haram if fasting causes an illness that threatens the safety of life.

The prohibition of consuming what is haram is found in several verses of the Al-Qur'an, including:

QS. Al-Maidah: 3

Among the types of food that are prohibited in this verse are carcasses, blood, pork, (animal meat) that were slaughtered in the name of other than Allah, those who were choked; those who

were beaten; who fell; who were gored; and were attacked by wild animals except those that still had time to be slaughtered, and animals slaughtered for idols.

QS. Al-Maidah: 90

The things that are forbidden in this verse include drinking wine, gambling, sacrificing for idols, and drawing fate with arrows. These all fall into the category of evil deeds, so they must be avoided.

Al-Baqarah: 173

What is forbidden in this verse includes carcasses, blood, pork, and animal meat slaughtered by mentioning names other than Allah. However, there is tolerance for people who are forced to eat it in an emergency, provided they do not exceed the limit.

Al-A'raaf: 157

In this verse, Allah forbids everything bad. Rasul Ullah explains what is bad that falls into this category in several hadiths, including the hadith narrated by Abdullah bin Abbas that Rasul Ullah PBUH forbids eating any wild animal that has fangs and every bird that has gripping nails (Narrated by Abu Dawud, nd, p.270). From the explanation of this hadith, it can be seen that including animals that are unclean for consumption are carnivorous wild animals such as tigers, lions, wolves, and so on; and birds that use their sharp nails to grip their prey, such as eagles, hawks, and so on. As for food that has no clarity about its halal or haram status, there are two choices of attitude that can be taken, namely:

a. The legal status is *di-ma'fu* (forgiven), so it can be consumed, as explained in the hadith:

حَدَّثَنَا إِسْمَاعِيلُ بْنُ مُوسَى السُّدِّيُّ حَدَّثَنَا سَيْفُ بْنُ هَارُونَ عَنْ سُلَيْمَانَ النَّبِيِّ عَنْ أَبِي عُمَانَ النَّهْدِيِّ عَنْ سَلْمَانَ الْفَارِسِيِّ قَالَ سُئِلَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنِ السَّمْنِ وَالْجَبْنِ وَالْفِرَاءِ قَالَ الْحَلَالُ مَا أَحَلَّ اللَّهُ فِي كِتَابِهِ وَالْحَرَامُ مَا حَرَّمَ اللَّهُ فِي كِتَابِهِ وَمَا سَكَتَ عَنْهُ فَهُوَ مِمَّا عَفَا عَنْهُ (رواه ابن ماجه)

Meaning: "Ismail bin Musa As-Suddy told us, Saif Ibn Harun told us from Salman An-Naimy from Abi Usman An-Hahdiy from Salman Al-Farisi said: Rasul Ullah PBUH was asked about butter, cheese and wild soybeans? He replied: whatever has been allowed by Allah in His book (Al-Qur'an) is lawful; whatever he forbids, is haram; and whatever Allah leaves/does not explain the law, then it is something that is forgiven" (Narrated by Ibn Majah, n.d., p. 133).

b. Its legal status is *syubhat* (still vague), so it is better to abandon it, referring to the following hadith:

حَدَّثَنَا أَبُو نُعَيْمٍ حَدَّثَنَا زَكَرِيَّا عَنْ عَامِرٍ قَالَ سَمِعْتُ النُّعْمَانَ بْنَ بَشِيرٍ يَقُولُ سَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ الْحَلَالُ بَيِّنٌ وَالْحَرَامُ بَيِّنٌ وَبَيْنَهُمَا مُشْتَبِهَاتٌ لَا يَعْلَمُهَا كَثِيرٌ مِنَ النَّاسِ فَمَنْ اتَّقَى الْمُشْتَبِهَاتِ اسْتَبْرَأَ لِدِينِهِ وَعَرْضِهِ وَمَنْ وَقَعَ فِي الشُّبُهَاتِ كَرَّاعَ يَزْعَى حَوْلَ الْجَمِيِّ يُوشِكُ أَنْ يُوَاقِعَهُ أَلَا وَإِنَّ لِكُلِّ مَلِكٍ جَمِيٍّ أَلَا إِنَّ جَمِيَّ اللَّهِ فِي أَرْضِهِ مَحَارِمُهُ أَلَا وَإِنَّ فِي الْجَسَدِ مُضْغَةً إِذَا صَلَحَتْ صَلَحَ الْجَسَدُ كُلُّهُ وَإِذَا فَسَدَتْ فَسَدَ الْجَسَدُ كُلُّهُ أَلَا وَهِيَ الْقَلْبُ (رواه البخاري)

Meaning: "Abu Nu'aim told us. Zakariyya told us, from Amir. He said: I heard Nu'man bin Bashir say: I heard Rasul Ullah PBUH say, "What is lawful is clear, and what is haram is clear, while what lies between the two (halal and haram) is something that is still vague (*syubhat*), which most people don't know (the law). Whoever shuns the *syubhat*, then he has guarded his religion and honour. Whoever falls into *syubhat*, (as a parable) is like a shepherd who shepherds (his animals) around the forbidden area, and is afraid they will enter the forbidden area. Remember, in fact every ruler has a forbidden area. The areas where Allah forbids on this earth are the things that He forbids. Remember, actually in the body there is a lump of flesh, which if it is good, the whole body will be good, and if it is corrupt / bad, then the whole body is bad. Remember, that lump of meat is a heart." (HR. Al-Bukhari, n.d., p. 90)

It's just that, in *Sunan At-Tirmidziy* it is explained that the first hadith narrated by Ibn Majah with this Sanad is included as *gharib*, and there is no other way of transmission which states this hadith has the status of *marfu'* except from this sanad route. When asked to Al-Bukhariy, he replied that this hadith has the status of *mauquf* (At-Tirmidziy, n.d., p. 335). Meanwhile, the second hadith narrated by Al-Bukhariy is included in the category of authentic hadiths which were also reported by other

mukharrij such as Muslim, Abu Dawud, At-Tirmidziy, An-Nasa'iy, Ibnu Majah, and Ahmad. So, from the point of view of its verity, the second hadith is stronger than the first hadith. Therefore, when there is confusion about the halalness of a product, it is suggested that Muslims do not consume it as a form of caution (*al-ihthiyāth*).

Maqasid Sharia and Fiqh Rules of Halal-Haram

In his magnum opus, *Al-Muwāfaqat fi Ushūl al-Syari'ah*, Imam Asy-Syathibi (nd, p. 374) argues that one of the objectives of implementing sharia (*maqasid sharia*) in general is to realize the prosperity of mankind, both in religious and worldly affairs. This is as stated by Asy-Syathibi:

هَذِهِ الشَّرِيعَةُ وَضِعَتْ لِتَحْقِيقِ مَقَاصِدِ الشَّارِعِ قِيَامِ مَصَالِحِهِمْ فِي الدِّينِ وَالْدُنْيَا مَعًا

Meaning: "In fact, the Sharia was revealed to realize Allah's intention in realizing the benefit of religion and the world simultaneously."

According to Najmuddin Ath-Thufi, as quoted by Mushthofa Zaid (1964, p. 211), in *urfi* (custom), *maslahat* can be interpreted as a cause that brings goodness and benefit. From the point of view of the Sharia, *maslahat* is the cause that leads to the goal of *Ash-Syāri'* (Allah), both related to worship and muamalah.

In general, *maslahat* is divided into three types: First, *maslahat* whose legal basis is contained in the text of the sharia and is accepted (*maslahah mu'tabarah*). Second, *maslahat* which has a legal basis in the text of sharia, but is rejected (*maslahah mulghah*). Third, *maslahat* who do not get justification of the sharia texts, whether related to acceptance or rejection (*maslahah mursalah*). (Ash-Salih, n.d., p. 466).

According to Al-Ghazali (1998, p. 416-417), *maslahah* is to guarantee the realization of the purpose sharia (*maqashid sharia*) upon human, which is divided into 5 points. Those are to guard religion, self/soul, mind, progeny, and property. Everything that support the realization of those 5 points, is categorized as *maslahat*. While those that disturbs those 5 points are grouped as *mafsadat*, and rejecting *mafsadat* is a form of preserving *maslahat*.

تَعْنِي بِالْمَصْلَحَةِ: الْمَحَافَظَةُ عَلَى مَقْصُودِ الشَّرْعِ وَمَقْصُودِ النَّبْرِعِ مِنَ الْخَلْقِ خَمْسَةٌ وَهُوَ أَنْ يَحْفَظَ عَلَيْهِمْ دِينَهُمْ وَنَفْسَهُمْ وَعَقْلَهُمْ وَتَسْلُطَهُمْ وَمَالَهُمْ فَكُلُّ مَا يَتَضَمَّنُ حِفْظَ هَذِهِ الْأَصُولِ الْخَمْسَةِ فَهِيَ مَصْلَحَةٌ وَكُلُّ مَا يَفُوتُ هَذِهِ الْأَصُولَ فَهِيَ مَفْسَدَةٌ وَدَفْعُهَا مَصْلَحَةٌ

Meaning: "What we mean by *maslahah* is maintaining the objectives of the sharia. There are five purposes of the sharia upon creatures. Namely, maintaining their religion, self, mind, progeny, and property. So, everything that contains protection against these five basic things is *maslahah*. Everything that destroys / removes the five things is *mafsadah*. Refusing *mafsadah* is *maslahah*."

According to Izzudin Abdul Aziz bin Abdus Salam (1996, p. 11), everything that becomes an intermediary of the protection of these 5 things, can be subdivided into 3 levels of needs, which are *dharuriyyat* (primary), *hajjiyat* (secondary), and *tahsiniyyat* (tertiary). Efforts to protect and keep those 5 are classified as primary needs (*dharuriyyat*) that must exist and be fulfilled on humans. Because, if those 5 are not fulfilled, there would be an immediate negative effect. Others which are not fundamentals yet are still necessary for humans to continue living, are considered as secondary needs (*hajjiyat*). For example, muamalah or those concerning trade or loans. While those that are considered as an accessory to embellish human life can be classified as tertiary needs (*tahsiniyyat*). For example, table manners, advice for marriage based on compatibility (*kafah*), and other aspects concerning ethics and aesthetics.

In the context of food which is a daily primary need, the living benefit given to humans is guarded by rules of halal-haram concerning food. Food and drink prohibited by Allah and Rasul Ullah certainly have negative medical implications. That's why, there are limits that must be understood and followed by humans so that they have a good life that is blessed with long-lasting health, and can be enjoyed as good and as long as possible.

The concept of food halalization based on the theory of *maslahah* is mentioned in Al-Baqarah 168, which speaks about the suggestion to eat halal and good (*thayyib*) food. Regarding this verse, Imam Fakhruddin Ar-Razy (n.d., p. 21) in his tafsir book, *Mafatih Al-Ghaib*, explains that there are some issues discussed in that verse, which are: First, eating occasionally can be compulsory (*wajib*), when it is done with the purpose to reject *mudharat* or danger upon someone. Eating can also be *sunnah*, when it is done to accompany a guest, because when a guest is offered to eat alone, certainly he/she would refuse the offer. And eating also can be *mubah*, when it is beside

the previously mentioned condition.

Second, scholars opine that sustenance/fortune (*riza*) sometime could be from or in the form of something haram. Because, if the meaning of “*thayyib*” in the above verse is only halal things, then an interpretation such as “eat parts of halal food that We have made halal for you” would appear. So that there is a repeat of meaning and that deviates the law of origin. As such, scholars say that *thayyib*, linguistically means “*al-mustaladzdu al-mustathabu*”, enjoyable things (delicious) or considered good. This argues that delicious food is mubah (Ar-Razy, n. d., p. 21). So, the word *thayyib* means delicious, good, healthy, reassuring and most importantly means food with no dirty ingredients, viable (not expired), and not mixed with impure (*najis*) things. Some opinion argues that it means food that suits the appetite of the consumer and is not dangerous to either physical or mental. Some also interpret it as food that is healthy, proportional and safe. (Girindra, 2008, p. 13).

If we relate it with the view of Imam Al-Ghazali (1997, p. 416-417) who interpret *maslahat* as an effort to draw benefit and negate harm (*jalb al-maslahat/al-manfa'at wa dar'u al-mafsadat/al-madharrat*), by keeping and realizing five purpose of sharia, which are guarding religion (*hifzh ad-din*), guarding self/soul (*hifzh an-nafs*), guarding mind (*hifzh al-'aql*), guarding progeny (*hifzh an-nasl*), and guarding property/wealth (*hifzh al-mâl*); then consuming halal and *thayyib* food becomes one of the effort to realize those five.

As explained by As-Suyuthi (n. d., p.154), among the general fiqh rules (*kulliyah*) concerning halalization and haramization—which in terms of *maqashid sharia* is related to *maslahah* and *mafsadat*—is *adh-dhararu yuzalu* (الضرر يزال). This rule means things which carry danger, destruction, negative effect (*madharat*, *mafsadat*) must be eliminated. Meaning, every form of bad which appear or has potential to happen should be eliminated, if possible, because it can disturb human life. This rule is abstracted from the hadith “*Lâ dharara wa lâ dhirâara*” which means “Don't you harm yourself or others”

From the *kulliyah* fiqh principle, there exist some derivative principle. Among which is:

إِذَا تَعَارَضَتِ الْمُسَدَّتَانِ رُوعِيَّيَ أَكْثَرُهُمَا ضَرَرًا بَارِئًا بِأَخْفَاهُمَا

Meaning: “If there is a clash between 2 *mafsadat*, then the one with bigger danger should be avoided by doing the one with lighter *mafsadat*.” (As-Suyuthi, n. d., p.154)

This principle shows that there is a scale of priority in the handling of dilemmatic issues which equally bring harm. When there are 2 things or conditions where each brings bad effect, then choose the one with the most minimum effect. So that, the potential harm can be lessened, and the number of victim/sufferers can be minimalized.

In certain condition, the principle below also applies:

الْحَاجَةُ تَنْزِلُ مَنْزِلَةَ الضَّرُورَةِ عَامَّةً كَانَتْ أَوْ خَاصَّةً

Meaning: “(conditions) need to be (occasionally) assumed as emergency necessity, whether in general or specific” (As-Suyuthi, n.d., p. 162)

To find out the implementation of these rules, it is necessary to objectively understand the meaning of the conditions above. Related to this, some scholars categorize a person's condition into five parts, namely: *dharurat*, *hajat*, *manfa'at*, *ziynah*, and *fudhul*. *Dharurat* is defined as a condition when a person has reached his limit, if he does not consume something that is forbidden, he will die. This condition allows people to eat food that is forbidden. *Hajat* is likened to the condition of a hungry person, if he does not get something to eat, his life will not be lost. Unless he is in a severe condition, for example because of illness. This *hajat* does not become a reason for consuming something that is forbidden. The *manfa'at* is something that is necessary, such as eating whole wheat bread, lamb, and fatty foods. *Ziynah* is something that is desired, for example consuming sweets and sugar, or wearing clothes made of silk. Meanwhile, *fudhul* is a condition in which someone think little when they eat things that are haram and *syubhat* (As-Suyuthi, n.d., p. 157).

Halal Label: Religious Demands or Regulations? (Until now, 30 Nov 2020)

Certainty of halal is a must in Islamic teachings, as explained in several verses and hadiths above. The government then further regulates this in regulations, ranging from ministerial regulations to laws. Among these rules are:

1. Regulation of the Minister of Health of the Republic of Indonesia Number 280/Men.Kes/Per/XI/76 concerning Provisions for Distribution and Labelling of Foods Containing Materials Derived from Pigs. In this regulation, it is stated that food producers that use pork and its derivatives as one of the ingredients must include a warning sign on the packaging, either printed or pasted. The warning sign must contain at least two elements, namely a picture of a pig and the words "containing pig" in the rectangular box. The warning is coloured red for the buyer to see clearly.
2. Joint Decree of the Minister of Health and Minister of Religion No. 472/Men.Kes/SKB/VIII/1985 and Number 68 of 1985 concerning Inclusion of Writing of Halal on Food Labels. According to Joint Decree, products originating from halal materials and processed in a halal manner are allowed to label "halal".
3. Law Number 8 Year 1999 regarding Consumer Protection. In general, this law regulates consumer rights, including the right to comfort, security and safety in consuming goods and/or services, as stated in Article 4 letter a. Then it is also emphasized in letter c which states that consumers also have the right to get correct, clear and honest information regarding the condition and guarantee of goods and/or services. In this context, Muslim consumers have the right to obtain an explanation regarding the halal status of a product.
4. Government Regulation No. 69 of 1999 concerning Food Labels and Advertisements, Article 10 paragraph (1) states, people who produce or enter packaged food into Indonesian territory to be traded and declare that the food is halal for Muslims, is responsible for the correctness of the statement and is obliged to include halal information or writing on the label. In Article 11 paragraph (2) it is stated that the authority to conduct halal certification examination is mandated to the Ministry of Religion.
5. Decree of the Minister of Religion Number 518 of 2001 concerning Guidelines and Procedures for Inspection and Determination of Halal Food. In the Decree of the Minister of Religion, it is explained that what is meant by halal products are food products, medicines, cosmetics and other products that do not contain elements or materials that are haram or prohibited for consumption by Muslims, and their processing or production processes are not against Islamic law. So, referring to this regulation, there are two main tasks assigned to the Ministry of Religion, namely examining the elements used by companies and assessing the suitability of the production process with the provisions of Islamic law.
6. Decree of the Minister of Religion Number 519 of 2001 concerning the Executing Agency for Halal Food Inspection. This Decree of the Minister of Religion appointed and delegated the implementation of halal certification to the Food, Drug and Cosmetics Assessment Institute (LPPOM) of Indonesian Ulema Council (MUI).
7. Law Number 18 of 2012 concerning Food explains that the guarantee of food supply and safety related to its halal status is the responsibility of the central and local governments. In this case, the central and local governments are obliged to supervise the implementation of the required Halal Product Guarantee (JPH) system.
8. Law Number 33 of 2014 concerning Halal Product Guarantee contains legal certainty to guarantee comfort, security, safety in using and utilizing halal products. In Article 1, it is stated that the recognition of the halalness of a product issued by BPJPH is based on a written fatwa issued by MUI.

From a religious perspective, the fatwas issued by the MUI are both supporting and strengthening the positive legal basis. Mumung Mulyati noted the various roles of MUI in the development and application of Islamic law in various fields of life. In the field of faith, from 1978 to 2017, 19 fatwas were produced. In the field of worship, during the same period, 39 fatwas were passed. In the field of muamalah, 57 fatwas were issued. In the field of jinayah, 10 fatwas were made. And, the most fatwas issued by the MUI National Sharia Board (DSN) with 116 fatwas only in the time span from 2000 to 2017. In fact, this DSN fatwa is binding because it has received a recommendation from the government through Bank Indonesia (BI) in the field of Islamic banking (Mulyati, 2019, p.96). There are quite a lot of MUI fatwas related to halal-haram, including: MUI Fatwa concerning Mechanical Slaughter of Animals (stipulated in 1976), MUI Fatwa concerning Food and Drinks Mixed with Najis (stipulated in 1980), MUI Fatwa on Eating Rabbit Meat (stipulated in 1983), MUI Fatwa concerning Eating and Cultivating Frogs (stipulated in 1984), MUI Fatwa Number 2 of 2000 concerning Use of Human Organs, Placent, and Human Urine for Medicines and Cosmetics, MUI Fatwa Number 139 Year 2000 concerning Eating and Cultivating Worms and Crickets, MUI Fatwa concerning Flavoring Products (Monosodium Glutamate, MSG) from PT. Ajinomoto Indonesia Using *Bacto Soytone* (stipulated in 2000), MUI Fatwa concerning Flavouring Products (Monosodium

Glutamate, MSG) from PT. Ajinomoto Indonesia Using *Mameno* (stipulated in 2001), MUI Fatwa Number 4 of 2003 concerning Standardization of Halal Fatwa, MUI Fatwa Number 11 of 2009 concerning Alcohol Law, MUI Fatwa Number 12 of 2009 concerning Halal Slaughter Certification Standards, MUI Fatwa Number 1 of 2010 concerning Use of Microbes and Microbial Products in Food Products, MUI Fatwa Number 2 of 2010 concerning Recycled Water, MUI Fatwa Number 9 of 2011 concerning Washing of Production Equipment Affected by *Najis Mutawassithah* (Moderate Najis) with Other Than Water, MUI Fatwa Number 10 of 2011 concerning How to Wash Yeast Extract from Leftover Beer Processing, MUI Fatwa Number 33 of 2011 concerning the Law of Food and Beverage Coloring from Cochineal Insects, MUI Fatwa Number 24 of 2012 concerning Utilization of Snails for Non-Food Purposes, MUI Fatwa Number 25 of 2012 concerning the Law of Consuming Snails, MUI Fatwa Number 43 of 2012 concerning Abuse of Formalin and Other Hazardous Materials in Handling and Processing Fish, MUI Fatwa Number 47 of 2012 concerning the Use of Feather, Hair, and Horns from Halal Animals that are not Slaughtered in *Syar'i* for Food, Medicines and Cosmetics, MUI Fatwa Number 52 of 2012 concerning Law of Animal Livestock Given Feed from *Najis* Things, MUI Fatwa Number 27 of 2013 concerning the Use of Shellac as Food, Medicines and Cosmetics. This amount is sufficient to prove how the MUI's role in guarding the guarantee of halalness of products in terms of the issuance of contemporary Islamic laws. In addition, since its inception, MUI has actually shown a significant role. When there was a case of lard sticking out in the late 1980s, MUI took an important role by establishing the LPPOM MUI (<http://www.halalmui.org/mui14/main/page/sejarah-lppom-mui>, accessed on 19 November 2020, at 08.54 WIB). The issue of lard stuck out after the results of research by Trisusanto and students regarding several processed products were published. Apart from that, the polemic about the halalness of products in fact has also emerged since 1970, namely related to the slaughter of animals using machines in Jakarta. In 1980, the legitimacy of rabbit meat also made a lot of noise. Two years later, in 1982, the consumption of frog meat was also questionable (Azizah, 2017, p. 141).

From this it seems clear that the halal certificate is not only proof of whether or not a food is consumed, but also a form of compliance of producers to regulators, be it the government or MUI. In this case, the halal certificate is positioned as a document that provides legality of the product's halalness, both from the point of view of Islamic law and positive law. So, just including the halal label without going through certification by the MUI is not sufficient to be used as the basis for the halalness of the product, considering that many producers have minimal knowledge of religion, especially regarding halal-haram. Moreover, misuse of the halal label by irresponsible businessmen is also possible. So, MUI has a central role in overcoming these potential problems.

UMKM Products: Between MUI Halal Certification & Independent Halal Labelling

Entrepreneurs with provincial and national scales do not experience a dilemma in the issue of MUI halal certification because they have sufficient funds to take care of the costs. Unlike the case with micro, small and medium scale enterprises (UMKMs) which are required to reduce production costs and administrative legality to reduce the burden of expenses. So, what about the status of UMKM actors who include their own halal label without going through the MUI halal certification because of funding constraints, can this be considered as a form of violation of fiqh signs?

Consumption of halal food is included in the things that Allah commands in the Al-Qur'an. The verses containing the command to eat that which are halal are conveyed in the form of *fi'il amr* (command), which, according to the original law, indicates the existence of a mandatory decree (*al-ashlu fi al-amri lil wujub*). While halal certificates and labels are derivatives of efforts to carry out these orders, halal labels and certificates are basically a way to ensure Muslims can consume halal food. Thus, the position of halal labels and certificates is as an intermediary for the realization of halal food consumption which in this context is in line with the principles of fiqh:

الأمرُ بالشَّيْءِ أَمْرٌ يُوَسِّئِلُهُ

Meaning: "To command upon something is also a command to do its means"

It can be said that halal certification and labelling are not purely the goals referred to by the verses and hadiths regarding the consumption of halal products. The halal labelling of food, beverage, and cosmetic products, in terms of the existence of the text justification, actually does not rely on the arguments of the Al-Quran and hadith. This also had never been done at the time of the Prophet. However, because it is considered to have a great benefit if it is realized, the halal

label needs to be displayed on the product packaging.

This provision, if reviewed based on whether or not there is a clear justification of the sharia text which divides *maslahat* into three types, then the *maslahat* related to halal labelling in product packaging is included in the category of *maslahah mursalah*, namely *maslahat* whose legal basis has not been justified by the text of the law. Meanwhile, *maslahat mursalah* itself, according to the scholars, its status is still debated as a source of Islamic law and is categorized as an argument of *mukhtalaf fih*. Unlike the case with the position of Al-Qur'an, As-Sunnah, and Ijma 'which are grouped as arguments that are *muttafaq' alaih*. Therefore, in terms of legal sources, the obligation to label halal can be said to be not absolute.

Under certain conditions, for example an entrepreneur only has limited capital and is unable to process the MUI halal certification due to cost constraints, then in fiqh independent halal labelling is not questioned. Considering that the halal label is sufficient as an indication of the legality of the product for the buyer to enjoy. From the point of view of fiqh, this is more acceptable than not giving a halal label at all, while there is an urgent need to inform audiences about the halalness of the product. This method is in line with fiqh principles:

مَا لَا يُدْرِكُ كُلُّهُ لَا يُتْرَكُ كُلُّهُ

Meaning: "What cannot be completely attained, should not be completely left"

In this case, the ideal condition to be carried out is to follow the MUI halal certification process at a certain cost, because the procedure is in accordance with what is mandated by government regulations and through testing from scholars and scientists. However, when the UMKM entrepreneur is not able to meet these ideal conditions, then he does not necessarily leave his product without a halal label. In accordance with the law of fiqh above, the producer should still include his own halal label as long as the materials used and the way of processing the product are truly in accordance with Islamic law and can be accounted for.

However, if it is viewed from the motive for independent halal labelling by UMKM actors which is intended to reduce costs and increase profits, then this can be considered as an effort to bring personal benefit, even though it contains bad potential (*mafsadat*) in the form of withdrawal of distribution permits for not following applicable rules. This condition can be described as a conflict between benefit and obedience, so the following rules apply:

فَإِذَا تَعَارَضَ مَفْسَدَةٌ وَمَصْلَحَةٌ فُذِّمَ دَفْعَ الْمَفْسَدَةِ غَالِبًا

Meaning: "If there is a conflict between adversity and benefit, then generally what takes precedence is to refuse adversity." (As-Suyuthi, n.d., p. 161)

Referring to this rule, it is clear that the existence of a thing that brings *maslahat* cannot be realized if accompanied by a negative impact. So, when there is a problematic situation that leaves two options: between choosing the benefit aspect or leaving it because it has the potential to bring harm, then the last option should be chosen. This provision is in line with the following rules:

دَرْءُ الْمَفَاسِدِ أَوْلَى مِنْ جَلْبِ الْمَصَالِحِ

Meaning: "Rejecting adversity is more important than bringing benefit" (As-Suyuthi, n.d., p. 161).

When viewed from the point of view of the negative impact (*madharat*) that has the potential to arise from two conditions that may be experienced by UMKM actors: between using the halal label independently with the possibility of legal problems (withdrawing goods from the market) or carrying out halal certification with additional costs incurring losses, then the second option is considered to have far less consequences. Therefore, the second option is more feasible to take. This is in line with fiqh principles:

إِذَا تَعَارَضَتِ الْمَفْسَدَتَانِ رُوعِي أَعْظَمُهُمَا ضَرَرًا بِأَزْيَكَابِ أَحَقُّهُمَا

Meaning: "If there is a conflict between two *mafsadat*, then the greater danger must be avoided by doing something that has less negative impact" (As-Suyuthi, n.d., p. 161). In addition, additional cost to carry out MUI halal certification cannot yet be categorized as an emergency condition that makes something that is legally prohibited to be allowed. Because, these reasons do not reach a stage that can endanger lives. So, in this case, the rule of "*adh-dharuratu tubiihu al-mahzhurat*" does not apply.

In the *maqasid sharia* review, by choosing to process halal certificates through MUI, basically

UMKM actors have tried to maintain two elements of the five goals of sharia, namely protecting religion (*hifzh ad-din*) and safeguarding assets (*hifzh al-mal*). The preservation of this religious aspect can be realized when entrepreneurs entrust the issue of the halal status of their products to the experts, namely scholars. Meanwhile, this form of safeguarding property occurs because he has taken a way that makes him avoid greater losses. Thus, this halal certification is categorized as a primary need (*dharuriyat*).

Conclusion

Referring to the explanation above, UMKM actors need to make efforts to continue registering their products for processing their halal certification by MUI. This is because the consequences arising from this choice are considered lighter than using the self-made halal label, but have an impact on the revocation of distribution permits. Economically, the loss of a distribution license is certainly more detrimental than bearing the costs of MUI halal certification. Therefore, from the point of view of the principles of fiqh, giving the official halal label by the MUI is something that is recommended because it is less risky.

Reference

A. Book

- Al-Bukhārī. (n.d.). *Shahīh Al-Bukhārī*. Juz 1. Maktabah Syamilah.
- Al-Ghazali. (1997). *Al-Mustashfa min 'Ilm al-Ushul*. Beirut: Muassasah Ar-Risalah.
- Al-Qaradhawi, Y. (2016). *Halal Haram dalam Islam* (Terj. J. K. Wahid Ahmadi). Surakarta: Era Adicitra Intermedia.
- Ar-Raziy. (n.d.). *Mafatih Al-Ghaib*. Juz 3. Maktabah Syamilah.
- Ash-Shalih, M. A. (n.d.). *Mashadir at-Tasyri' al-Islamiy wa Manahij al-Istinbath*. Kairo: Daar al-Fikr.
- As-Suyuthi, J. A. (n.d.). *Al-Asybah wa an-Nazhair*. Juz 1. Maktabah Syamilah.
- Asy-Syathibi, A. I. (n.d.). *Al-Muwafaqat fi Ushul al-Syari'ah*. Jilid 2. Kairo: Musthafa Muhammad.
- At-Tirmidziy. (n.d.). *Sunan at-Tirmidziy*. Juz 6. Maktabah Syamilah.
- Abbasi, S. G., Shabbir, M. S., Abbas, M., & Tahir, M. S. (2020). HPWS and knowledge sharing behavior: The role of psychological empowerment and organizational identification in public sector banks. *Journal of Public Affairs*. <https://doi.org/10.1002/pa.2512>
- Al-Kumaim, N. H., Hassan, S. H., Shabbir, M. S., Almazroi, A. A., & Abu Al-Rejal, H. M. (2021). Exploring the Inescapable Suffering Among Postgraduate Researchers: Information Overload Perceptions and Implications for Future Research. *International Journal of Information and Communication Technology Education*, 17(1), 19-41. <https://doi.org/10.4018/ijicte.2021010102>
- Arshad, M. A., Shabbir, M. S., Mahmood, A., Khan, S., & Sulaiman, M. A. (2020). An exploration of IQ, EQ, spiritual quotient (SQ) elements in the human reengineering program (HRP) practices: A study on the drug rehabilitation Centre in Malaysia. *Journal of Human Sport and Exercise - 2020 - Winter Conferences of Sports Science*. <https://doi.org/10.14198/jhse.2020.15.proc2.32>
- Azizah, M. (2017). Instrumen Labelisasi dan Sertifikasi Halal sebagai Perlindungan Hukum terhadap Konsumen Muslim dalam Wacana Hukum Ekonomi Islam di Indonesia. *Jurnal Al-'Adl*. 10 (2). 138-153.
- Dahlan, A. A. (2006). *Ensiklopedia Hukum Islam*. Jakarta: PT Ichtiar Baru Van Hoeve.
- Dawūd, A. (n.d.). *Sunan Abī Dawūd*. Juz 10. Maktabah Syamilah.
- Effendi, S. (2005). *Ushul Fiqh*. Jakarta: Kencana Prenada Media Group.
- Fauzi, M. (2018). Fatwa dan Problematika Penetapan Hukum Halal Di Indonesia. *Jurnal Ilmiah Ekonomi Islam*, 4(01). 51-62.
- Girindra, A. (1998). *Pengukur Sejarah Sertifikasi Halal*. Jakarta: LPPOM MUI.
- Girindra, A. (2008). *Dari Sertifikasi Menuju Labelisasi Halal*. Jakarta: Pustaka Jurnal Halal.
- Ilyas, M. (2017). Sertifikasi dan Labelisasi Produk Halal Perspektif Maslahat, *Jurnal Al-Qadau: Peradilan dan Hukum Keluarga Islam*, 4(2). 357-376.
- Koto, A. (2010). *Ilmu Fiqh dan Ushul Fiqh*. Depok: RajaGrafindo Persada.
- Majah, I. (n.d.). *Sunan Ibni Majah*. Juz 10. Maktabah Syamilah.
- Manzhur, I. (n.d.). *Lisān Al-'Arab*. Juz 11. Beirut: Dār Shādir.

- Mulyati, M. (2019). Kontribusi MUI dalam Pengembangan dan Penerapan Hukum Islam di Indonesia. *Al-Mashlahah: Jurnal Hukum dan Pranata Sosial Islam*, 7(1). 83-100.
- Munawwir, A. W. (n.d.). *Kamus Al-Munawwir*. Surabaya: Pustaka Prograssif.
- Sakr, A. H. (2006). *Menyingkap Produk-Produk Haram*. Yogyakarta: Wahana Cendekia.
- Shabbir, M. S., Siddiqi, A. F., Yapanto, L. M., Tonkov, E. E., Poltarykhin, A. L., Pilyugina, A. V., Petrov, A. M., Foroughi, A., & Valiullina, D. A. (2021). Closed-loop supply chain design and pricing in competitive conditions by considering the variable value of return products using the whale optimization algorithm. *Sustainability*, 13(12), 6663. <https://doi.org/10.3390/su13126663>
- Shabbir, M. S., Mahmood, A., Setiawan, R., Nasirin, C., Rusdiyanto, R., Gazali, G., Arshad, M. A., Khan, S., & Batool, F. (2021). Closed-loop supply chain network design with sustainability and resiliency criteria. *Environmental Science and Pollution Research*. <https://doi.org/10.1007/s11356-021-12980-0>
- Shabbir, M. S., Abbas, M., & Tahir, M. S. (2020). HPWS and knowledge sharing behavior: The role of psychological empowerment and organizational identification in public sector banks. *Journal of Public Affairs*. <https://doi.org/10.1002/pa.2512>
- Shabbir, M. S., Bait Ali Sulaiman, M. A., Hasan Al-Kumaim, N., Mahmood, A., & Abbas, M. (2020). Green Marketing Approaches and Their Impact on Consumer Behavior towards the Environment-A Study from the UAE. *Sustainability*, 12(21), 8977. <https://doi.org/10.3390/su12218977>
- Siddiqi, A. F., Shabbir, M. S., Abbas, M., Mahmood, A., & Salman, R. (2021). Developing and testing student engagement scale for higher educational students. *Journal of Applied Research in Higher Education*, ahead-of-print (ahead-of-print). <https://doi.org/10.1108/jarhe-11-2020-0388>
- Salam, I. A., (1996). *Al-Qawa'id Ash-Shugra*, Beirut: Dar al-Fikr al-Mu'ashirah.
- Watson, E. (2020). #Education: The potential impact of social media and hashtag ideology on the classroom. *Research in Social Sciences and Technology (RESSAT)*, 5(2), 40-56. doi.org/10.46303/ressat.05.02.3
- Zaid, M. (1964). *Al-Mashlahah fi At-Tasyri' Al-Islamiy*, Beirut: Daar al-Fikr Al- 'Arabiy.

B. Legislation

- Decree of the Minister of Religion Number 518 of 2001 concerning Guidelines and Procedures for Inspection and Determination of Halal Food.
- Decree of the Minister of Religion Number 519 of 2001 concerning the Executing Agency for Halal Food Inspection
- Government Regulation No. 69 of 1999 concerning Food Labels and Advertisements Article 10.
- Government Regulation No. 69 of 1999 concerning Food Label and Advertisement Article 11.
- Joint Decree of the Minister of Health and Minister of Religion No.42/Men.Kes/SKB/VIII/1985 and No. 68 of 1985 concerning Inclusion of Halal Writing on Food Labels.
- Decree of the Minister of Health of the Republic of Indonesia Number 280/Men.Kes/Per/XI/76 concerning Provisions for Circulation and Marking of Foods Containing Materials Derived from Pigs.
- Law No. 33 of 2014 concerning Halal Product Guarantee.
- Law No. 33 of 2014 concerning Halal Product Guarantee.
- Law Number 18 of 2012 concerning Consumer Protection Article 95.
- Law Number 18 of 2012 concerning Consumer Protection.
- Law Number 33 of 2014 concerning Halal Product Guarantee.
- Law Number 8 of 1999 concerning Consumer Protection Article 4.
- Law Number 8 of 1999 concerning Consumer Protection Article 8.

C. Internet

- <http://www.halalmui.org/mui14/main/page/sejarah-lppom-mui>, accessed on 19 November 2020, at 08.54 WIB.
- <http://www.halalmui.org/mui14/main/page/data-statistik-produk-halal-lppom-mui-indonesia-2012-2019>, accessed on 19 November 2020, at 08.38 WIB