

Consumer Protection of Halal Meat under Islamic Law and Indonesian Regulation

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Abstract

This paper provides understanding of consumer protection of halal meat under Islamic law and Indonesian regulation. State protection authority over its people in term of the safety of food consumption is a constitutional obligation. It has to run under constitutional mandate as stipulated in the Preamble of the 1945 Constitution. It is to become crucial issue in Indonesia because the most of population are Muslim. Thus, Indonesian people needs to consume halal and good (halalan thoyiban) meat. In the perspective of food consumption protection, meat consumption has become a matter to which a serious attention should be given as the total meat consumption in 2011 was 506,653,006 kg. Therefore, the government, as the regulator, has formed a legal umbrella by enacting the Consumer Protection Act and Food Act which regulate protection over the safety, convenience, and health of consumed food. However, in practice, there are still many cases found to violate consumers' right for having halal and good meat, such as unprotected consumers' right, low quality slaughter houses, and over-supplied imported meat with uncertain halal principle. This study recommended that a halal advocacy and audit institution be formed, the quality of slaughter houses be improved, and legal umbrella in production, serving, and processing of halal food be formed.

Keywords: consumer protection, halal meat, halal and good (*halalan thoyiban*), halal food

A. BACKGROUND

The word of protection has a meaning of the human rights protection in order to be able to live safely, fairly, in order, peace and welfare. While, the food¹ is one of the source human's life, with availability of food, the supply of vitamin, nutrient, and significant substance in humankind to build their personality, health, soul and body, in order to be healthy, strong, smart, and having good character, as an important assets to build the nation, especially forming the nations' character.

As a State manager, the government has responsibility to the defense, security as well as comfort in consuming the food for all peoples in Indonesia. The important part of food for increasing the human nutrient is meat that has a main role to form the part of human body which is healthy, strong and smart. According to Joni Liano the Executive Director of Indonesia Beef Producer and Feedlot Association (Asosiasi Produsen Daging dan Feedlot Indonesia) the cow consumption of Indonesian peoples reached as much as 506.653.006 kg in 2011.²

According to the data that size comprises of 100.000 ton is imported meat.³ Based on the Official Gazette of husbandry Statistic the total of import food raw material on the period of July 2009 compared to the similar period in 2008 increased as amount to US\$ 512.111,24 thousands from US\$ 490.634,09 thousands or increased 4,38%. This growth is caused by the import value of meat cow as amount to US\$ 94.678,88 thousands from US\$ 81.590,71 thousands or increased 16,04 %; the other poultry meat as amount to US\$ 632,86 thousands from US\$ 285,68 thousands or increased 121,53 %; liver/organ non cow as amount to US\$ 20.571,11 thousands from US\$ 186,10 thousands or increased 10.954,09 %.⁴ a very significant number.

The imported meat coming from Australia, New Zealand, America and Japan, as the slaughtered cow meat exporter countries, the communities have consumed the slaughtered and processed meat from those countries, of course according to the slaughtering management and slaughtered meat administration having been prevailed in these countries. Indonesia is not an Islam country; however Indonesia is a State with the largest Islam devotee in the world, whereas Indonesia is the biggest Moslem State in the world with more or less 90% of 237.556.363 peoples.⁵ Consequently, the State surely has responsibility to protect its Moslem citizen, especially for food will be consumed by Indonesian peoples and populations of Indonesia. Conversely, the peoples and

¹ See Article 1 number 1 Laws Number 7 of 1996 concerning Food is mentioned, that food is anything derived from biological and water resource, either the processed or unprocessed one, utilized for food and drink for human consumption, including the food addition, food raw material, as well as other materials used in the process of preparation, production, and or manufacturing food and beverage.

²The Import Meat and Cow is not a manipulated numbers, see http://www.trobos.com/show_article.php?rid=7&aid=2831. Accessed on April 12, 2011, at 14:00 West Indonesia Time.

³ <http://industri.kontan.co.id/v2/read/1298193012/59413/Mentan-Import-daging-sapi-untuk-tutupi-kekurangan-dalam-negeri>. accessed on April 12, 2011, Pkl. 14:37 WIB.

⁴ Official Gazette of Husbandry Statistics, Edition December 2009, Number : 68/12/of 2009, p. 5.

⁵ Monthly Report of Social Economic Data, Edition 5, October 2010, Statistic Center Body, p. 34.

populations must have security guarantee from healthy and security especially good halal (halalan thayiban) in each food going to be consumed.

The State responsibility could also be mentioned as fundamental obligation of the State toward the peoples and population living in Indonesia. As it is known that Indonesia also open the gate for the foreign citizen to visit in frame of touring, living and making investment in Indonesia, regarding that the halal and goodness are not only for Indonesian nation, but also for the foreign citizen who visits or lives in Indonesia. For Islam devotee, each of food being consumed must be obvious its *halal* (legal) and *haram* (illegal), good or bad. It means for the Islam devotee, food is not something simple, food is something sacred and related to transcendental either its source and process and its material.

B. HALAL MEAT IN ISLAMIC LAW PERSPECTIVE

In Islam the meaning of Halal is: anything which is used does not cause any torture punishment (sin). While Haram is anything that prohibited by Allah, firmly prohibited where anyone who breaches shall be threatened by torture punishment of Allah in the hereafter. Thus, the meaning of halal food is any food if consumed does not cause any sin and torture punishment from Allah SWT.

In Islam, halal and good is called with a term "*halalan thayiban*". There is some halal food, but not always good, and there some good food but not always *halal*, so both words must be feasible in understanding and mentioning these. There so many cases of expired commodities selling that are infeasible for being consumed discovered, either discovered by the Indonesian Consumers Foundation (YLDI), government, society or university, and these commodities are still displayed in super market and shop. Aside of quality and type of animal, Islam also regulates the procedure of mammal slaughtering that is permissible (*halal*) to be consumed.

Concerning the serve and processes of halal product, this is not released from any basic conception of the human obligation, especially a Moslem, to consume and constantly make use of the permissible (*halal*) products as regulated in the Al-Qur'an and Hadits. Consequently, the optimal attempt to create a system of processing and serving the halal product is the thing which is absolutely be carried out, even Indonesia as the country with the populations as biggest Islam devotee in the world. Subsequently the products being distributed in Indonesian societies must pass a firm scrutiny system in order that the product quality especially food must be halal other than the consumed product that is well kept its halal quality.

In the meat issue, there are three aspects that must be taken into account¹ as follows:

1. The way to slaughter;
2. The mixing of any meat of the impermissible (*haram*) animal, and
3. Imported meat.

These three aspects may not be merely determined at glance, but it must be hunted down from its basic, from the slaughtering procedure up to the processes.

Discussing about whether a product is halal or not, surely especially for the Moslem the legal underpinning is the law as contemplated in Al-Qur'an and hadits wherein many clauses mentioning the definition of the halal as mentioned in Al-Qur'an there are verses as a guideline concerning what is being used as the basic conception of the halal product. The followings are the mentioned verses:

1. Surah: Al-Baqarah : 168

"O' mankind! Eat of that which is lawful and wholesome in the earth, and follow not the footsteps of the devil; because, actually he is an open enemy for you".

2. Surah: Al-Baqarah : 173

He had forbidden you only carrion, and blood, and swine flesh, and that which had been immolated to (the name of) any other than Allah...

3. Surah: Al Maidah : 3

Forbidden unto you (for food) are carrion and blood (394) and swine flesh, and that which had been dedicated unto any other than Allah, and the strangled, and the dead through beating, and the dead through falling from a height, and that which had been killed by (the goring of) horns, and the devoured of wild beasts saving that which you slaughtered it.....

4. Surah: Al An'am : 121

And do not eat of that whereon Allah's name had not been mentioned, when slaughtered. Truthfully, It is abomination.....

¹ Aisjah Girindra, LP POM MUI : History Maker of Halal Certification, Food Learning Institution, Drugs and Cosmetics Indonesian Ulema Council, Jakarta, 2005, Page 27.

C. CONSUMER PROTECTION IN INDONESIAN REGULATION

1. Laws of Consumer Protection

Consumer protection in Indonesia is regulated under Laws Number: 8 of 1999 concerning on Consumer Protection (consumer protection Law). The Laws is mentioned that the more open the national market as a result of economic globalization process, it must always guarantee the people welfare enhancement as well as certainty of the quality, quantity and safeness of goods/services obtainable in the Market.

The Laws is also mentioned for increasing the value and dignity of the consumer need to increase awareness, knowledge, care, capability and independence of the consumers to protect themselves as well as developing a responsible attitude of business executor.

In Article 1 number 1 of consumer protection law mentioned that the consumer protection is an endeavor to guarantee the legal security to protect consumer. One of the consumer protections is carried out toward the imported commodities entering into the customs of Indonesia. This mean there is available a foreign service providers who enter the goods going to be consumed by Indonesian population, either the domestic citizen or foreign citizen in this case including meat, especially cow meat or goat.

The objectives of consumer protection law are for to enhance the integrities and values of the consumers by avoiding negative excess of using the goods and/or services. The goods and services predestined in this text shall comprise of animal trade, especially the slaughtered cow or usually known as cow carcass not alive cow (cow mammal). To keep integrity and values, the consumer protection desire to build a system containing aspects of law certainty and information openness as well as access to obtain information. Eventually it could keep the quality of healthy goods and/or services that keep the production progress of goods and/or services production business in healthy, comfortably, safety and always keep the consumers' safety.

Several rights of the consumers are regulated in Article 4 of the Laws, they are :

- a. Rights of comfort, security and safety in using or consuming the goods and/or service;
- b. Rights to choose the goods and/or services and obtain Point b the said goods and/or services in accordance with the promised conversion value and condition and warranty;
- c. Rights of the correct, clear and honest information on the condition and warranty of the goods and/or services;
- d. Rights to be hear any expressing opinion and complaints on the goods and/or services they use or consume;
- e. Rights to obtain proper advocacy, protection and settlement in the consumer's protection dispute;
- f. Rights to obtain consumer's training and education;
- g. Rights to receive proper and honest and nondiscriminatory treatment or service,
- h. Rights to obtain compensation, redress and/or substitution, if the goods and/or services received are not in accord with the agreement or not received as requested,
- i. Rights as regulated in the other provisions of the laws.

In addition to the rights of consumer as above mentioned, in the Laws of Consumer protection is also regulated concerning the obligation of the entrepreneur (Article 7) as follows:

- a. To act in good faith in conducting the business;
- b. To provide correct, clear and honest information with regard to the condition and warranty of the goods and/or services and provide explanation on the use, repair and maintenance;
- c. To treat and serve the consumers properly and honestly and non-discriminatively;
- d. To guarantee the goods and/or services produced and/or traded based on the prevailing quality standard provisions of the goods and/or services;
- e. To provide the opportunity to the consumers to test and or/try on certain goods and/or services and provide warranty and/or guarantee on the produced and/or traded goods;
- f. To provide compensation, redress and/or substitution for the damages caused by the use, consumption and application of the goods and/ or services;
- g. To provide compensation, redress and/or substitution if the goods and/ or services received or used do not accord with the agreement

2. Laws of Food

The meaning of food shall be anythings derived from biological and water resources, either the processed or unprocessed one, that is utilized for food or beverage for human consumption, including food additive material, food raw material, and other materials used in the process of preparing, processing, and or manufacturing food and beverage.

In the Laws of Food is regulated a food system in connection with the regulation, development or supervisory. In which they are related to the activity or food production process and food distribution up to ready to be consumed by the human. The meaning of the processes shall comprise of activity or processes to produce, prepare, process, manufacture, preserve, packing, repacking and or changing into food form. In Article 3 Laws of Foods, the regulation, development and supervisory have the following objectives:

- a. The availability of food completing the requirements of safety, quality and nutrient for the peoples' health;

- b. Being created of honest and responsible food trading; and
- c. Being realized of food adequacy level in proper and reachable price in compliance with societies' requirements.

In order to guarantee the food quality, the government determine the requirements concerning evaluation onto the entire traded foods, as well as in order to apply the accountability of the produced food products, anyone who produce or bring into the territory of Indonesia, any food which is packed for being traded shall be obligated to put a label on to, in to and/or at the food packing as recommended in the Article 30 Laws of Food. Meanwhile the labels that must be applied on the food product at least contain the verification concerning:

- a. Name of product;
- b. List of ingredients used;
- c. Net weight or net content;
- d. Name and domicile of the producer who produce or bring the food into the territory of Indonesia;
- e. Verification of *halal* (permissible); and
- f. Date, month and year of expired.

Other than the mentioned verifications, the government shall be able to determine any other compulsory or prohibited to be contemplated on to the food labels wherein the verification must be written or printed or firmly and obviously displayed in order to be easily understood by the peoples as well as written or printed by using Indonesian language, Arabic numbers and Latin characters.

In Laws of food it is compulsory for each label and/or advertisement concerning the traded foods to put in any food concerns correctly and is not misleadingly. Therefore, the Government shall regulate, make supervisory and take any required measures in order that the advertisement concerning the traded food does not contain any misleading description. Including for anyone stating in the label or advertisement that the food being traded is in compliance with the requirements of religion or other certain belief, shall be responsible for the accuracy of the statement based on the requirements of the religion or faith.

In connection with the numerous imports indication on food materials in any form of products, the Laws of Food shall regulate any food brought in to the territory of Indonesia for being distributed have to complete the requirement as mentioned in the Laws of Food and its implementation provisions. Every one shall be prohibited to bring any foods into the territory of Indonesia and or distribute these into the territory of Indonesia, in the event of the related foods do not fulfill the requirements as mentioned in the Laws of Food and its implementation provisions.

To any foods brought into the territory of Indonesia, the Government shall be able to determine the requirements, whereas:

- a. The foods shall have been examined and or inspected as well as have been stated as passed in the aspects of safety, quality and or nutrient by the authorized institutions at the country of origin;
- b. The food shall be completed with the documents of examination and or inspection results; and or
- c. The food shall have to be previously examined and or inspected in Indonesia from the aspects of safety, quality and or nutrient prior to be distributed.

D. LEGAL CONSUMER PROTECTION OF HALAL MEAT IN INDONESIA

1. Developing the Role of Slaughterhouses

A Slaughterhouse is a building complex with special design and construction that fulfill the technical requirements utilized as a place for slaughtering any slaughtered animal to fulfill the communities' consumption. In Indonesia, the Slaughterhouse is a facility for public service, the essential principal followed by the Slaughterhouse is to provide Safety, Healthy, Full and Halal (ASUH) carcasses.

In this position the government has responsibility to have control to the Slaughterhouse in order to ensure the slaughtering performance of *ante-mortem* (prior to death) and *post-mortem* (after death) along with the principal of consumer protection, in order to keep the value and integrity and secure the accomplishing of animal slaughtering which is accountable, responsible and fair in order to provide halal and good (*halalan thayyiban*) carcasses.

The communities are accessible to know the slaughtering processes, facilities and infrastructures of the Slaughterhouse are in compliance with the standard as determined by government. In order to obtain the Safety, Healthy, Full and Halal (ASUH) carcasses therefore the carcasses production process in the Slaughterhouse must fulfill technical requirements either physical (building and equipments), human resources as well as the implementation technical procedure.

According to the source Directorate of Communities' Health Veterinary Directorate General of Husbandry Ministry of Agriculture,¹ after having evaluation and monitoring, it transpires that most of the

¹ Technical Guideline of Slaughterhouse Arrangement Activity Budget Year 2010, accessed from <http://www.ditjennak.go.id>, accessed on April 11, 2011.

Slaughterhouses in Indonesia currently have been adequately unfavorable and do not have any technical requirements, therefore they need to be relocation, renovation, or even rehabilitee.

It seemed that the government is not so interested in developing the Slaughterhouses, this is proven from the Budget Plan of P2-SDS in 2010, for Slaughterhouses development was only available Rp. 11 milliard, decreased from year of 2009 as amount to Rp. 13,5 milliard.¹ For the size of Indonesian population, this amount is relatively low. It is required evaluation to increase the budget through the State Budget to increase the Slaughterhouses performance, it is also required a priority scale arrangement for renovation the physical building and equipments that complete the technical requirement of *well hygiene-sanitation* Slaughterhouses.

In addition, considering the total of Slaughterhouses² in Indonesia in 2007 are as many as 990 units in 33 provinces all over Indonesia, this means averagely having 32 units or for each province, such numbers are absolutely inadequate, the new Slaughterhouses construction considered have been urgent with the priority of cities and regencies with dense population. The government could also involve the *stake holder* of Slaughterhouse such as Indonesian Ulema Council (MUI), Universities, Slaughterhouses Association, Animal Slaughterer Association, Livestock Cultivator Association, Livestock Research and Learning Center as well as interested peoples and wide societies to formulate the model of Slaughterhouse standard which is modern by prioritizing the cleanliness and able to secure the product quality in order to be consumed by the communities.

Basically, University of Djuanda has had formulation of a Tauhid Base Slaughterhouse that has been offered to the City Government of Payakumbuh. In the future will also be able to develop a mutual cooperation with LP-POM MUI to give some inputs to the government for making better the Slaughterhouses, in order to produce the *halalan thayyiban* meats.

In the frame of renovating the Slaughterhouses there are several steps that could be taken by the government they are; blueprint arrangement on Slaughterhouses development, comprising of the laws and regulations reorganization, administering and management, arranging the general guideline, developing Slaughterhouse, the minimum technical requirement of Slaughterhouse that comprises of deciding the location, administration management, management technical, educating and training for human resources by building animal slaughterer training, having publication to the societies concerning the pattern and system that have been formulated, where necessary involve the private role in building the Slaughterhouses, eventually it is the struggle onto the budget or availability from the sufficient sources, as well as creating the availability of foreign assistance or loans or investment.

2. Reorganizing the Meat Import

Referring to the numbers of meat requirement is as much as 506.653.006 kg in 2010.³ From that size of amount the 100.000 tons of that is imported meat.⁴ The escalation of meat requirement was indicated by the period of 2008, the escalation of imported cow meat value as amount to US\$ 94.678,88 thousands from US\$ 81.590,71 according to the writer's opinion such amount should be able to trigger the domestic livestock production. Even though according to the Minister of Agriculture such escalation is purposed for covering the domestic insufficiency.⁵ Such government's statement could be understood due to the low of the interest and lack of understanding of Indonesian peoples onto the husbandry sphere.

According to A.S.Sudarmono⁶ Several hindering factors becoming the obstacles in developing the slaughtered cow livestock, they are of still traditional care features and capital limitation. The other obstacle is unwillingness of the university graduation especially the husbandry scholar to engage in the husbandry field. There are many husbandry scholars who works in banking field, become a journalist, or back to campus to be a lecturer without any endeavor to have dealings with their sphere. In addition, there is a long progressed tradition, where the husbandry deemed to be a side work and seasonally, such as by the coming up of holydays of Lebaran, Idul Adha, Christmas or New Year celebration. The communities' economic limitation is also become one of the causes of inadequacy development of husbandry sector.

The other obstacles such as uninterested Marketing, tropical climate of Indonesia, limitation of facility and government's coaching, limitation on communication and transportation instruments is a part of the production obstacles on local cow production.⁷

¹ Technical Guideline of Cow Meat Self Supporting Achievement Acceleration (P2SDS) Ditjenak, followed from <http://www.ditjennak.go.id>, accessed on April 14, 2011.

² <http://www.bimasislam.kemenag.go.id/>, accessed on April 11, 2011.

³ Imported Meat and Cow Is not manipulated numbers, refer to, http://www.trobos.com/show_article.php?rid=7&aid=2831. accessed on April 12, 2011, On. 14:00.

⁴ <http://industri.kontan.co.id/v2/read/1298193012/59413/Mentan-Import-daging-sapi-untuk-tutupi-kekurangan-dalam-negeri>. accessed on April 12, 2011, on 14:37.

⁵ Ibid.

⁶ A.S. Sudarmono and Y. Bambang Sugeng, *Slaughtered Cow*, revision edition, Swadaya, Jakarta, 2009, p 16.

⁷ Ibid.

Due to such kind of obstacles the cow import becomes difficult to be limited, at last Indonesia required cow import that gradually gets greater from year to year. The most fundamental problem is on the Indonesian Consumer Protection, wherein under Consumer Protection Law must obtain a transparent security, honesty and law certainty concerning the process of slaughtering, the cow slaughtering itself as well as the facilities and infrastructures in foreign countries, in addition how about the animal slaughtering process, could it be guaranteed its halal quality? This is a big question that has never been answered, up to now. How strong the Indonesia bargain position to the cow or goat meats exporter countries in order that the communities are protected from eating the food prohibited by their religion, in case of the Moslem societies accused by the Alqur'an and Hadits to keep themselves from eating of any haram food, either type and the slaughtering methods.

As what have been above mentioned the animal slaughtering method, the value shall be equal with swine that obviously haram to be eaten. The State's failure, in this case the Government to have negotiation had breach the fundamental human rights, due to the law protection toward food are secured by constitution and Laws of consumer protection and Laws of Food. How about labeling on the cutting meat, is there any guarantee for this, who will observe the labeling, did it labeled since it is in the Slaughterhouse at the Country where the meat derived or after entering the Indonesian customs, who will examine the truth and validity as it is recommended in Laws of Food at article 30 concerning label and label load.

Whatsoever the importer shall not be able to avoid from the provisions of Article 36 that regulate any food entered into the territory of Indonesia for being distributed must complete the requirements and the prevailing Laws. Anyone having an access that guarantees the accountability that the meat is halalan thayyiban, shall be the joint assignment of the stake holders to arrange these, especially LP-POM MUI and the academicians, where in this case of University of Djuanda Bogor as the Tauhid based Campus has organized a joint measure to support the realization of *halalan thayyiban* Food.

One of the conception that has been proposed by University of Djuanda Bogor to the government through The National Law Development Agency (BPHN) is to sent a conception concerning "*halal kitchen*" and "*halal serving*" that is an Audit and Advocacy onto the halal food by seeing and auditing the cooking procedure, halal food cooking appliances, subsequently the way to serve such as the usage of plates spoons, forks for hotel and restaurant who sells the non-halal food (such as swine flesh) where the food serving using similar equipment and facilities, means uncooked that means contaminated with najis.¹

The law enforcement by having audit advocacy to the cow or goat meat import the need to be immediately executed persuasively, with the intention to respect on the communities' fundamental rights without prejudice to give consumer protection in the frame of reinforcing the human rights especially Moslem societies as the largest population in Indonesia. Any breach onto the verses of Alquran intentionally and obviously have an impact of insubordination to ALLAH SWT that concurrently a denial to the Country fundamental of Pancasila (Five principals) that is The principal-I read as: Belief in One Supreme God. If the consumer protection cannot be implemented, therefore, it is better that Indonesia should be reconsidered the policy of meat import, by developing husbandry and fattening the cow either import or local.

E. CONCLUSION AND RECOMMENDATION

1. Conclusion

- a. A Consumer protection is the fundamental human rights, where a consumer shall be entitled to obtain honest and transparent and accountable information from the meat trader and importer in respect of human rights and constitutional reinforcement and obedience to the One Supreme God.
- b. The main problem of meat consumption is the low of Slaughterhouse quality that is lack of attention from the *stakeholder*, especially the government as the budget arranger, the modern Slaughterhouse development and to ensure that the slaughtering performance *ante-mortem* (prior to death) and *post-mortem* (after death) along with the principal of consumer protection, in order to keep the value and integrity and secure the accomplishing of animal slaughtering which is accountable, responsible and fair in order to provide halal and good (*halalan thayyiban*) carcasses.
- c. The Activities of Audit and Advocacy of Halal (AAH) onto the meat import that will be one of endeavor to create the law certainty toward the protection onto the societies who want to consume the imported meat, by involving the stake holder widely to achieve one of the Countries objectives of protecting the entire Indonesian peoples, societies and population of Indonesia.

2. Recommendation

- a. It is necessary to be considered of formulating the Institution of Advocacy and Audit of Halal in the form of State Agency Negara by involving stakeholder under the coordination of government and Indonesian Uelama

¹ Refer to, Martin Roestamy, Managing and Serving of Halal Food, A Paper presented on the Researchers Coordination Meeting Concerning Halal Product Management Technology, in the frame of arrangement of Academic Text of Halal Food Product Design, National Law Education Body, on September 5 2007, Jakarta.

- Council (MUI), by involving university and the relevant association.
- b. It is required the State Budget (APBN) increasing for Slaughterhouse development all over Indonesia, by forming and modeling a modern and accountable Slaughterhouse.
 - c. It is required an escalation on laws and regulation governing the production, serving and Halal Food production management.

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