



The Future of Halal Products Warranties Following the Passage of Law Number 11 of 2020 about Job Creation Based on Wael B. Hallaq

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Abstract

This article aims to photograph the arrangements for guaranteeing halal products in Indonesia after the birth of the Job Creation Law. Then this paper will also look at the future of halal product assurance in Indonesia from the perspective of Fiqh of Priority. This article is a normative legal study with a statutory and conceptual approach. This article concludes that 24 Halal Product Guarantee Law provisions have changed after the Job Creation Law's passage, which includes the halal certification process, halal inspectors and auditors, halal supervisors, and threats of sanctions. Changes to some of these provisions do not fundamentally change the spirit of the protection of the halal guarantee itself, and the changes are only at the technical level of the process of implementing halal products. The changes make it easier for businesses to obtain halal certification for their products. In Wael B. Hallaq's perspective, one form of change and development of Islamic law includes efforts to positivise Islamic law into state law. The positivization of halal law in the form of a law on halal products which has never been implemented in the past is a form of change and continuation of Islamic law itself in the present which is faced with the urgent needs of modern Muslim society.

Keywords: *Halal Product Guarantees; Job Creation Law; Fiqh of Priority*

Introduction

The birth of the 2014 statute no. 33 on koproducts has become the hope for Indonesian Muslim societies in terms of guaranteed assurance and protection of law in their access to clean products. This kosher product assurance act is one of the state's responsibilities to protect and provide safety for consumers, especially Muslim consumers in consuming products in accordance with the requirements of Islamic doctrine. After 8 (eight) years since notarized, kosher product guarantees laws have not been properly implemented. Studies are done by hosen, etc. The list of problems and obstacles that lead to, among them, is: sectoral and overlapping regulation, government competence which leading to a secure sector (BPJPH) as leading sector, as well as overlapping of interests.¹

¹ Muh. Nadrattuzaman Hosen, Andar Zulkarnain Hutagalung, and Muhammad Amin Suma, "Analisis Undang-Undang Tentang Jaminan Produk Halal Dan Undang-Undang Tentang Cipta Kerja (Antara Kenyataan Dan Keberlanjutan)," *Yudisia: Jurnal Pemikiran Hukum Dan Hukum Islam* Vol. 13, No. 1 (2022).

The stakeholders appear to see these obstacles. And so, in the face of government's hard efforts to achieve regulatory regulation by publishing employment products of omnibus law, some provisions within the law guaranteed clean products enter the password. As it is known, that 2020's number 11 act on job creation is the government's effort in shaping and regulation regulation, expanding investment facilitations and job creation for communities. Though in recent times, the copyright law of the work regenerates a polish in the community and is now declared "constitutional unconstitutional" by the constitutional court.²

The provisions in the clean product assurance act that comes in the cluster are as much as 24 provisions, among which are 2 adding 2 new chapters and altering 22 chapters. The addition of the chapter is under section 4A between chapters 4 and 5 and section 35A between chapters 35 and 36. As to chapters 10, 13, 14, 16, 22, chapters 27 through 33, chapters 35, chapters 40 through 42, chapters 44, 48, 53, 55 and 56. The terms of these changes appear to set out several important matters from the process of certification, clean auditors and auditors, clean supervisors, to the threat of sanctions.

Clean product guarantees act is indeed a good response from the government in providing comfort to the people especially Muslim consumers. As well as other legal products that pay attention to consumers such as the 1999 statute number 8 on consumer protection. It means that the effort of the country manifested through existing legislation is an effort to bring benefits to all Indonesian people. Where it is specifically addressed to muslims whose life-forms are included in connection with the halcacy of an item to be consumed or used has been strictly regulated by religious teaching.

In the teaching of Islam, the halterity is a very important aspect because of concerns is a direct order from Allah S.W.T., including those relating to the product, whether the product is used or consumed such as food and drink. To that end, for muslims, consuming clean food and beverage products is an obligation in which violating them is a violation of the Lord's command. Sources of islamic law for example mention many of such obligations, as is seen in the qur 'an of the epistle of Al-Baqarah verse 172 and also the 88 of Al-maidah, which mentions god's command to eat clean food again. So, too, the gifts of the prophet nabi muhammad S.A.W That explain the importance of things, as the gifts of ibn majah and tirmidzi refer to "that which god bestows in his book is clean and that which is rebuke of god in his book is unclean, and that which is condemned (unexplained), that which is included."

The religious requirements relating to clean and unclean matters as presented above are part of the discussion on the discipline of the fiqh sciences. Fiqh development or the product of islamic law would also respond to the rapid development of society and The Times it is today. For if we do not, fiqh will be thought obsolete and unable to answer the problems of The Times. Whereas islamic law as divine law will always be either "shli kulli of the time of meal" or "shli of the era of wal" or as good as time and place. To that end, scholars, fuqaha, modern mujtahid, scholars and mujtahid are required to continue to develop scientists and develop the problems that arise in order to provide solutions to the problems that people face through fiqh thinking and products that are issued..

The thought of one of the experts in islamic law, wael b. hallaq appeals to a lens of perspective. Wael b. hallaq sees that islamic law is continuing and is experiencing change in every age and place. Hallaq assesses that the development of various problems in the lives of Muslim societies over time has resulted in development of legal inventions and formulations (ijtihad) with various models and patterns. With historical approach (approach approach), hallaq concluded that islamic law was indeed evolving and changing and adjusting so that it could never stagnate. That change in islamic law if drawn out in this context includes efforts to positive islamic law. A positive of the halctuous laws in the state of the past is one of the current forms of change and the continuity of islamic law amid the urgent needs of modern Muslim society.

² Humas MK, "MK: Inkonstitusional Bersyarat, UU Cipta Kerja Harus Diperbaiki Dalam Jangka Waktu Dua Tahun," n.d., <https://www.mkri.id/index.php?page=web.Berita&id=17816>.

Formulation of the Problem

- 1) How do Indonesia's post-birth work law that adjusts some of the terms in the koval-delivery act?
- 2) How does the future ensure an honest product in Indonesia from a continuity and continuity of islamic law (continuing and change) set forth by Wael b. Hallaq?

Research Methods

This paper is a study of normative law, which is a law study or research being done by examining library material or secondary data.³ The approach used was the leaning approach and conceptual approach.⁴ Legislation approaches are conducted by reviewing and analyzing the legal regulations of bail products in both the clean and occupational guaranteeing laws that contain a change in the law on kosher products. While conceptual approaches are used to analyze the future of clean product guarantees laws with a perspective on the sustainability and development of islamic law Wael b. Hallaq.

The sources of data or legal materials used in this writing are divided in three parts, as is the legal material used in the normative law study, that is, the primary legal material, the secondary legal material, and the tertiary material.⁵ Primary materials include the 1945 constitution, the 33 year 2014 statute on guaranteed clean products and the no. 11 year 2020 labor inventive law. A secondary legal item used includes the work of Wael b. Hallaq, the book authority, continuity and change of islamic law and other literature containing concepts of development and continuity of islamic law. But the judicial material of the tertiary law included dictionaries and encyclopedias. As for the collection of legal materials in this study, it is by searching through literature, reading and examining legal materials obtained for complete yet secure data and systematic, consistent record of legal material.⁶

Discussion

1. Problematic Legislation on Islamic Law into National Law

The starting point of legislation on islamic law into national law in Indonesia can actually be seen from legislation on marriage records, talak and reference a year after Indonesia's release (act no. 22 in 1946). Efforts to positive islamic law into state law then find its momentum after the 1974 marriage statute no. 1. In the last 48 years, from 1974 to 2022, at least 19 products of islamic law became law. This process is, of course, irrevocable from the islamic political parties' increasingly vocal application of islamic law in nationalistic and state-run life that is one way through the legislation line. However, the existence of the islamist parties loudly voiced the positivity of islamic law, in various circles, is thought to have given rise to a rather symbolic pattern rather than to the application of a universal, subannual law of Islam.⁷

Theoretically, the pattern of acceptance and application of islamic law into the laws of the world can be seen from the typology presented by JND Anderson. Anderson divides the typology into three, which is: (1) a country that regards islamic law as a basic law and is still completely applicable; (2) a country that overshadows islamic law and replaces it with an entirely secular or western law; (3) a country that pursues a compromise between islamic law and secular law.⁸ If based on Anderson's

³ Noeng Muhajir, *Metode Penelitian Kualitatif* (Yogyakarta: Rake Surasin, 1998).

⁴ Johny Ibrahim, *Teori Dan Metode Penelitian Hukum Normatif* (Malang: Bayumedia Publishing, 2007).

⁵ Amiruddin and Zainal Asikin, *Pengantar Metode Penelitian Hukum* (Jakarta: Raja Grafindo Persada, 2006).

⁶ Cak Hasan Bisri, *Pilar-Pilar Penelitian Hukum Islam Dan Pranata Sosial* (Jakarta: Raja Grafindo Persada, 2004).

⁷ Siti Rohmah, "Rekonstruksi Teoritis Penyerapan Hukum Islam Ke Dalam Hukum Nasional Di Indonesia," *Ijtihad: Jurnal Hukum Dan Ekonomi Islam*, Vol. 12, No. 1 (n.d.).

⁸ JND Anderson, *Hukum Islam Di Dunia Modern* (Surabaya: Amar Press, 1991).

typology, then Indonesia's position is in the third typology, where Islamic law is one of the ingredients for creating national law besides traditional law and the current colonial legacy law.

In the context of Indonesia, there are various theories on the imposition of Islamic law. The theory presented by Lodwijk Willem C. Van Den Berg, known as *Receptie in complexu*, states that before the arrival of the Dutch colonial government, Islamic law was in force for Muslims because they had embraced its religion, even though its implementation contained deviations. Van den Berg's proposed theory comes after he has paid attention and attention to the legal facts that occur in indigenous communities. Based on this theory, he then pursued his *staatsblaad* 1882 number 152 in favor of indigenous or subjugated peoples in his environment.⁹

In addition to Van den Berg, another theory is presented by Christian Snouck Hurgronje. As an advisor to the current colonial government, Hurgronje defied the theory presented by Van Den Berg and then presented the *receptie* theory. The *Receptie Hurgronje* theory states that for Indonesians it is essentially the law of custom, Islamic law will apply only if the norms of Islamic law are accepted by society as the law of custom. The theory was later acquired by Van Vollenhoven and Ter Haar Barn.¹⁰ This Hurgronje theory had a powerful impact even to freedom of Indonesia. Islamic scholars have even seen the theory drive Indonesians away from Islamic law. That's why many Indonesian Islamic lawyers are opposed to the *receptie* theory.

One of the experts in Islamic law who oppose the *receptie* theory is a Hazairin with the *room exit* theory. He claimed that after Indonesia was free, through article 2 of the amended rule of the 1945 constitution stating the Dutch colonial law of inheritance that based on the *receptie* theory was no longer in force because it contradicted the constitution of 1945. For that it must be out of national legislation. Another expert who spoke out against Hurgronje's theory was Sayuti Talib. He proposes the theory of *receptie a contrario*. Called the *receptie* theory a *contrario* for containing the theory of the opposite (*contra*) of the *receptie* theory. This theory contains these points: (1) for Muslims applies Islamic law; (2) this harmonizes with confidence and legal ideals, ideals, and morals; (3) traditional laws apply to Muslims if not contrary to Islam and Islamic law.¹¹

After reform, the process of absorption of Islamic law into national law is granted wide opportunities for new order. The effort to transform religious values into national law has had greater opportunities than ever before. By *karenaya*, according to Azizy, the construction of national law, which includes the three sources of the law of Western law, traditional law and Islamic law compete openly and have a possible legal exorcism, thereby avoiding the coercion of application of the law from one source.¹²

There are, by examination, several products of Islamic law that have been passed into legislation through the process of post-reform legislation. The product of the law, based on zakat management act number 38 in 1999, the 1999 act of hajj management, act 41 in 2004 on wakaf, act number 3 in 2006 on the change to act number 7 in 1989 on the judicial system of religion, The 2001 prefectural law of special autonomy for the province of Aceh (the law specifically grants the enforcement of Islamic faith in Aceh), the 2008 13th act of holding the haji worship in place of law number 17 in 1999, the 2008 number 21 law on banking sharia, Until the 2014 statute of no. 33 on guaranteed clean products, some of the Settings in it were amended with omnibus law rule, 2020's no. 11 in labor inventiveness.

Islamic law legislation is a product of national law that rose as reforms inevitably rose in favor and counter. As already noted earlier, some value that legislation on Islamic law being a law is likely to

⁹ Muh Tahmid Nur, "Maslahat Dalam Hukum Pidana Islam," *Diskursus Islam* 1, no. 2 (2013).

¹⁰ Siti Rohmah, Moh Anas Kholish, and Siti Zulaichah, "The Pattern Of Absorption Of Islamic Law Into National Law: Study of The Halal Product Guarantee Law in The Perspective of Maqashid Shari'ah," *Jurisdictie: Jurnal Hukum Dan Syariah* 12, no. 1 (2021).

¹¹ Sayuti Thalib, *Resepsi a Contrario: Hubungan Hukum Adat Dengan Hukum Islam* (Jakarta: Bina Aksara, 1980).

¹² A. Qodri Azizy, *Hukum Nasional: Eklektisisme Hukum Islam Dan Hukum Umum* (Jakarta: Teraju, 2004).

fall into purely symbolic patterns. This view assesses that islamic law legislation's efforts with the "islamization of law" pattern as it has, is worried that it will further strengthen an exclusive sectoral ego and abandon the heterogeneous moral standards of Indonesian society.¹³

One recent example involved kosher product guarantees laws. On the legislature, the pros and cons of both the elite and the public. In society, the public groups that point to counter current clean product plans include the Indonesian halal association (APPHI), the beef importer (Aspidi), the food and beverage information center (PIPIMM), and the Indonesian food and drink combination (GAPMMI). As for the elite, criticism of the law on guarantees of honest products is a against the background of the view that regulations regarding clean products are a sensitive religious matter. So if these laws were enforced it would be feared that there would be a "religious offense," for there was the notion that kosher product management was simply a matter of religion and that governments or states should not interfere¹⁴

Despite the ensuing issues, the transformation of islamic law with legislative, cost-effective authors remains. This is because legislation on islamic law is a product of national law is an objective and urgent requirement that supports the definite implementation of islamic law and has a formal juridical power. But, of course, legislation in the process must pay close attention to aspects ranging from current constitutional and constitutional requirements, cultural norms of living, to active civic engagement, to the implementation of islamic law into national law is not merely as symbolic as is criticized.

Ematica of islamic law and national law is always an interesting topic for legal counseling in Indonesia. When it comes to the basic norms (groundnorm) of pancasila, it is obvious that the state facilitates the creation of laws that are derived from religious norms or laws. For this reason, scholars refer to Indonesia as the nation state religion, or national state.¹⁵ In this context, borrowing fanani terms, legislation on islamic law being a product of national legislation should be drafted with regard to civic realities.¹⁶ Given that, of course, legislation on islamic law produced is of quality and is widely accepted by society.

2. Legal Enforcement of Pre and Post Kosher Products Legislation Copyright Work

Indonesia's clean bond regulations can actually be tracked long before the issuance of the 2014, 2014 statute on kosher product guarantees. The regulation of health minister ri's rule number 280/Men.Kes/Per/XI/76 on circulation provisions and the impurities on food-contained foods came from pigs. This rule was issued in 1975 that specifically arranged the posted logo/ picture to claim that products or foodstuffs were contained in pigs. Ten years earlier, a decree was issued with the ministry of health and religion. with the number 42/Men. Kes/SKB/VIII/1985 about the label of kosher writing. These regulations only emphasize the clean label/logo Settings on the packaging where the emphasis is not yet based on the audit /audit and the charitable laws of religious authority.

Then in 1989, the Indonesian council of islamic scholars (MUI) as a religious entity screened over islamic society groups in Indonesia, through a decree no. 018/MUI/I/1989 set up the production audit (LPPOM-MUI) that the results of the audit are submitted to the fatwa mui commission for its security. While certified certification is under mui's authority through the lppom-mui and the fatwa commission, the authorization authority to label clean on packaged products remains under the health ministry, which is the food and drug control agency. So, the process of establishing and labeling a kosher product was done with mui's cooperation with the government in this health ministry.

¹³ Muhyar Fanani, *Membumikan Hukum Islam: Nasionalisasi Hukum Islam Dan Islamisasi Hukum Nasional Pasca Reformasi* (Yogyakarta: Tiara Wacana, 2009).

¹⁴ Siti Rohmah, Moh Anas Kholish, and Ilham Tohari, "Authoritarianism in the Halal Product Guarantee Act of Indonesia: A Contribution to an Ongoing Debate," *Indonesia Law Review* 10, no. 3 (2020).

¹⁵ Rohmah, "Rekonstruksi Teoritis Penyerapan Hukum Islam Ke Dalam Hukum Nasional Di Indonesia."

¹⁶ Fanani, *Membumikan Hukum Islam: Nasionalisasi Hukum Islam Dan Islamisasi Hukum Nasional Pasca Reformasi*.

The new era of kosher guarantees began in 2014 with the legalization of the 2014 law on kosher products (subsequently called the kosher product bail act) in parliament. Generally, the guaranteeing law of kosher products regulates certain fundamentals regarding the bail of kosher products of 68 chapters. Some important stipulations that ensure clean products (the body and the society of inspectors), clean products and processes, businesses, ordinances to obtain clean certificates, international cooperation, supervision, community participation, criminal and transitional provisions. From this provision, it is seen that some aspects have been made that have been changed in the appearance of kosher product guarantees laws. They are associated with institutional aspects of the arrangements, the technical aspects of the arrangements, and the content of the management of the kosher products.¹⁷

Not long since effective enforcement, legal guarantees law has been passed through the omnibus law policy with an statute of 11 in 2021 for creating work (subsequently called labor copyright law). Some of the provisions in the kosher product guarantee act that can be given by the classifying of the work act are as much as 24. These requirements included the process of certification, clean auditors and auditors, clean supervisors, to the threat of sanctions.¹⁸

Among other things, the addition and change in employment requirements for copyright law includes chapters 4A between chapters 4 and 5 that specifically regulate legally certified legal requirements for micro and small businesses, with a statement which has a hall-to-the-dollar guarantee system (BPJPH). Under article 10, the provision for mui's cooperation with the clean auditor certification of the auditors, the stipulation of product efficiency and the accreditation of the halal examination institute (LPH), was converted into cooperation only in the preparation of product.

Then, too, the target of change is the LPH policy. In the preceding article article 13 states that: (1) to set up the LPH must meet requirements: a. has his own office and his equipment; B. has accreditation from BPJPH; C. has honest auditors at least 3 (three) people; And d. has a labora cooperation agreement with other agencies that own the lab. (2) in terms of LPH as in verse (1) being founded by society, LPH must be brought forth by the established islamic religious body of law. The terms are changed to:¹⁹

Chapter 13

- 1) To set up the LPH as referred to in chapter 12, there must be requirements: a. having his own office and equipment; B. Had at least 3 (three) honest auditors; And c. has a laboratory or cooperation agreement with other agencies that own the lab.
- 2) In regard to LPH as in verses (1) is meant by society, LPH must be raised by the islamic religious body of law, and the private colleges that are under the islamic religious body are legally established or established.
- 3) In the case of an area no LPH is established by society as indicated by verses (2), islamic religious organizations with laws and private colleges that are under islamic religious institutions are under the law or islamic foundation can cooperate with state-owned enterprises or food and drug administration.

Furthermore, the requirements regarding honest auditors are changing, where the removal of an honest auditor must qualify for a certificate from mui. But the stipulation is removed, so that an halal auditor may be appointed by LPH without having to recover the certificate from mui under under article 14 of the article (2) work copyright law. Additionally, the conditions for administrative sanctions under chapters 22, chapter 27, chapters 41 and article 48 of the kosher product guarantee act have also been

¹⁷ Aminuddin Yakub, "Rekonstruksi Hukum Penyelenggaraan Jaminan Produk Halal Berbasis Nilai Keadilan" (Disertasi, Semarang, Universitas Islam Sultan Agung, 2021).

¹⁸ "Salinan Undang-Undang Nomor 11 Tahun 2021 Tentang Cipta Kerja" (n.d.).

¹⁹ Salinan Undang-Undang Nomor 11 Tahun 2021 tentang Cipta Kerja.

changed. The requirements for administrative sanctions include written warnings, administrative fines or removal of clean certificates are eliminated and only the application of administrative penalties for businesses that violate the stipulation of kosher products. The explanation of the administrative sanction of both the criteria, the type, the magnitude of the fine and the application of the sanction ordinance will then be explained in the executive rule which is in government regulations.

Other technical stipulations regarding the clean product assurance made by revision of the work copyright law included the provision for kosher supervisors in chapter 28, the ordinance of obtaining a kosher certificate in chapters 29, chapters 30, chapters 31, chapters 32, chapters 33 and chapters 35. Also a chapter, section 35a, is added on evaluation and/or implementation of administrative sanctions for LPH, which cannot meet the assigned time limit in the kosher certification process. Associated with the kosher certificate, article 42 of the guarantee law of kosher product is also changed by adding one verse that used 3 verses to 4 verses, thus saying:²⁰:

- 1) Halal certificates last for 4 (4) years since published by BPJPH, unless there is a change in the composition of the material.
- 2) Compulsory kosher certificates are extended by business by extending an extension of the kosher certificates no later than 3 (three) months before the valid certificate is expired.
- 3) If in the application for an extension as indicated by the text (2), the business owner includes a statement that fills the process of kosher production and does not change composition, the BPJPH may release an appropriate extension of the certificate.
- 4) Further requirements regarding the ordinance of extending kosher certificates are set up in government regulations.

In addition to the terms of the past and the renewal of the kocertificate, the requirements for the application of the valid certificate were also changed, in which micro and small businesses were no longer required in the application for the certificate as seen in article 44. As the terms on society's participation in the kodo product guarantee come to a slight change in that article 53 verses (2) regarding public participation include socialization and education on clean products, chaperoning, publications that the products are in chaperoning, marketing on islamic products are incorporated and the control of kodie-based products.

The policy of koval-approved products amended into the work copyright law may seem to provide benefits for people in particular to micro and small businesses and obtain clean certification. In this context, stakeholder efforts of both the government and the legislators in developing the clean product policy change must be appreciated, although then on implementation must indeed provide adequate protection and supervision to ensure legal and legal rights for citizens on a lawful and lawful basis.

3. The Future Guarantees Legal Products in Indonesia Perspective on Sustainability and Development of Islamic Law Wael B. Hallaq

The universal teaching of Islam governs various aspects of human life, including those concerning consumption. An authoritative source of islamic law, the qur'an and the hadiths, regulates consumption and includes the process of obtaining it through clean and unclean legal mechanisms. The qur 'an of Al-Maidah verse 88 reads: "and eat clean food again good from that which god hath made sustenance unto you, and fear the god whom ye have faith in." In another verse, the qur 'an commands all humans to consume something clean, as god says. : "o men, eat clean again good of that which is in the earth, and follow not the steps of evil; For the devil is, indeed, a real enemy to you.. (Q.S. al-Baqarah/2:168)

²⁰ Salinan Undang-Undang Nomor 11 Tahun 2021 tentang Cipta Kerja.

Relying on the Nash rules, scholars have ruled that the halterity of what is consumed, including the process, is compulsory. In islamic law, consuming more kosher foods and drinks is a duty for any Muslim, which is within the maqashid sharia framework, is listed as a safeguard against the purposes of the preservation, particularly the maintenance of religion, reason and soul. Clean and good eating and avoiding clean and harmful consuming are also the implementation of the "*ad-daroru yuzal*" (the "let out" of the land) and "*dar'ul mafasid muqaddamu jalbil masalih*" (preventing harm of mass must be prefixed from bringing good) in the concept of the *ushuliyah* code.²¹ Therefore, it is one manifestation of the application of the doctrine of islamic law that guarantees it legally to be circulated and consumed by Muslim societies.

Legal legislation on guaranteed products, while giving assurance of the law, actually gives a broader share of societal economic growth in society. However, as previously noted, the positive efforts of islamic law, which in this context is viewed as formalistic and symbolic, have even been considered by some to be the act of majority authoritarianism.²² This assumption is not without reason, according to muttaqin, the positivity of islamic law tends to lead people to have no choice but to implement the established islamic law into a positive law, whereas that law is only a mere human interpretation that could be included in the case of the caliphate. If a law is imposed on a society that may have different interpretations of the law, then coercion is a form of authoritarianism.²³

Wael b. Hallaq views either islamic law or Syari 'ah as a paradigm of muslims bringing forth morals and laws and at the same time an anti-thesis on the western paradigm that is supposed to place man as the beginning and the end of all, at the same time separating something that is supposed to be (das sollen) of moral values and that is reality (das sein) of reality and reality (reality) of reality and life. In its primitive form, hallaq asserted that muslims based on Shari 'ah could not have built a country that was basically a western enlightenment based on an enlightenment paradigm. Hallaq saw that the paradigm was different even against the Syari'ah paradigm.²⁴

In today's modern era, the difficulty of islamic law in dealing with the challenges of modernity is because sharia is viewed as the ideal work of jurists (*mujtahid and mufti*) and not by judges. Meaning that they are the product of the creativity of idealistic Muslim scholars who are independent from the country. In the view of Wael b. Hallaq, social context changes and political shifts involving religious and state relationships have changed the future of islamic law. So that islamic law is a unique entity built by the sacred and authentic episcopalian foundations and ontologists of islamic sources.²⁵ Scholars or mujtahid were considered most appropriate to take the juridical authority from islamic law. However, the developments have led to islamic law becoming not just a domain of scholars, but also by the state. That is, in the modern state as it is today, it is no less a part of its implementation of islamic law, one of which is through its legal product.

In Hallaq's view, islamic law is continuing and constantly changing at all times and places. Hallaq assesses that the development of various problems in the lives of Muslim societies over time has resulted in development of legal inventions and formulations (*ijtihad*) with various models and patterns. With historical approach (approach approach), hallaq concluded that islamic law was indeed evolving and changing and adjusting so that it could never stagnate.²⁶ That change in islamic law if drawn out in this context includes efforts to positive islamic law. The positivisation of halcety laws in the past is one of the

²¹ Duski Ibrahim, *Al-Qawaid Al-Fiqhiyyah* (Palembang: Noerfikri, 2019).

²² Rohmah, Kholish, and Tohari, "Authoritarianism in the Halal Product Guarantee Act of Indonesia: A Contribution to an Ongoing Debate."

²³ Labib Muttaqin, "Positifisasi Hukum Islam Dan Formalisasi Syari'ah Ditinjau Dari Teori Otoritarianisme Khaled Abou El-Fadl," *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 11, no. 1 (2016).

²⁴ Wael B. Hallaq, *Sharia: Theory, Practice and Transformation* (Cambridge: Cambridge University Press, 2008).

²⁵ Wael B. Hallaq, *Authority, Continuity and Change in Islamic Law* (Cambridge: Cambridge University Press, 2001), h. 63.

²⁶ Hallaq, *Authority, Continuity and Change in Islamic Law*.

new forms of change and the continuity of islamic law itself in the present day, faced with the urgent needs of modern Muslim society.

The change of some provisions in the law guaranteeing kosher products into the copyright work is fundamentally not changing the spirit from its own kosher guarantee protection. As already noted, changes only speak more on the technical basis of the kosher products. The changes also tend to make things easier for communities and business people.

Conclusion

Kosher product assurance laws govern matters in the process of providing bail of kosher products consisting of 68 chapters. After the termination of the work copyright law, there are changes in conditions, of which there are 24 provisions, in which these include the process of certification, clean auditors and honest auditors, clean supervisors, to the threat of sanctions. The change in some of these terms does not in essence change the spirit of the kosher guarantee protection itself, the change only speaks more in the technical order of kosher products. Even these changes tend to make it easier for business people to get clean certification of their products.

The kosher product security laws, in a sensible perspective, provide broad gains especially in the field of socio-economic growth of society. The change in some of the provisions guaranteeing kosher products in the work copyright law can be seen as part of the state's efforts in meeting and protecting the rights of citizens in obtaining verification of clean products guaranteed by the constitution. Within Hallaq's framework of thought, one of the forms of change and development of islamic law includes efforts to positivize islamic law into state law. A positive in the form of clean product laws never done in the past is one of the forms of change and the continuity of islamic law itself in the present day that are faced with the needs of the urgent modern Muslim society.

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