



Neo Hisbah Institution: Capturing the Halal Supervision Mechanism at Badan Penyelenggara Jaminan Produk Halal (BPJPH) Indonesia

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ABSTRACT

All forms of economic activity must run fairly and in accordance with Islamic law. The purpose of this paper is to conduct an in-depth study of the suitability between the supervisory mechanism of the Hisbah institution in the past and the supervisory mechanism carried out by the Halal Product Guarantee Agency (BPJPH). This research is qualitative with data collection techniques using documentation. Data analysis using content analysis method. The conclusion of this study shows that the supervisory mechanism implemented by BPJPH is in accordance with the principles of hisbah in the past, both in terms of procedures and regulations. In contrast, the scope of supervision at BPJPH are narrower than the scope of supervision tasks in the past.

ABSTRAK

Segala bentuk kegiatan perekonomian harus berjalan secara adil dan sesuai dengan syariat Islam. Tujuan dari tulisan ini adalah melakukan telaah mendalam tentang kesesuaian antara mekanisme pengawasan lembaga hisbah yang dilakukan di masa lalu dan mekanisme pengawasan yang dilakukan oleh Badan Penyelenggara Jaminan Produk Halal (BPJPH). Penelitian ini adalah kualitatif dengan menggunakan teknik pengumpulan data menggunakan dokumentasi. Analisis data menggunakan metode analisis konten. Kesimpulan penelitian menunjukkan bahwa mekanisme pengawasan yang dilakukan oleh BPJPH sesuai dengan prinsip-prinsip hisbah di masa lalu, baik secara prosedur maupun aturannya. Hanya saja ruang lingkup dan cakupan tugas hisbah pada BPJPH lebih sempit dibanding ruang lingkup dan cakupan tugas hisbah di masa lalu.



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INTRODUCTION

All forms of economic activity must run in an Islamic manner in accordance with Islamic law, both in production, consumption and distribution in order to realize the welfare of the world and the hereafter (Hakim, & Syaputra, 2013; Hakim, 2016). In Islam, monitoring (hisbah) of economic activity has existed since the time of Rasūlullāh SAW, which is an attempt to call for good, and to leave evil (*al-Amru bi al-Ma'rūf wa nahy an al-*

munkar) (Drahman & Rahman, 2019). The Hisbah Institute is a supervisory agency that has an important role in the economy of the Muslim community which functions as a supervisor so that various frauds and irregularities in economic activity do not occur, so that economic activities run fairly in accordance with shari'ah (Noviyanti, 2016; Khan, 1990; Chapra, 2001).

Hisbah comes from Arabic, the root word 'ha-sa-ba' means to do a calculating task (Djakfar, 2009). There are several words related to hisbah that are rooted in this verb, namely *ihṡāb* means computation, calculation, consideration, reflection; debiting; crediting; contentedness, satisfaction, *mu'tasib* means bursar, treasurer (al-Zawi & Wajdi, in Rohman, 2010). Lexically, hisbah means telling goodness if it is proven that goodness is left to be practiced, and prohibiting from *munkar* if it is proven that it is done (Al-Mawardi, 2011; al-Jauziyah, n.d). It can also mean the function of government control over one's actions, especially in the scope of morals, religion and economy in the area of public interest (Islahi, 2004).

This institution actually has a very broad function covering various aspects of human life, be it political, social, economic or religious. However, the researcher limits the discussion of the hisbah only to its function in the field of economic activity. The functions of the hisbah institution in economic activities include; (1) ensuring that products marketed are halal and in accordance with the Shari'ah, (2) preventing fraudulent practices, fraud in economic activities (especially in goods and prices), (3) preventing the practice of usury in transactions, (4) preventing attempts to manipulate prices, (5) guarding price fixing of goods (Mamat, 2010).

Previous research related to this topic has been carried out, Rakhmawati (2016) found that hisbah functions to protect the community from damage and ensure the welfare of the community both in terms of religion and daily behavior in accordance with Allah's law. Bakar, Zakaria & Salleh, (2016) found that the implementation of this hisbah is important in the daily life of humans even though what reasons are given and what are the obstacles that strike for mutual benefit. Some economists argue that Hisbah will be played by the state in general through its various institutions. Thus, Hisbah adheres to the function of the state in maintaining market equilibrium when market distortions occur (Rozi, 2019).

The basic formation of hisbah is together all regions and territories as for them to unite and have faith in upholding the words of Allah SWT by leaning on *al-amr bi al-ma'ruf wa al-nahy 'an al-munkar*. It is very important towards the construction of civilized humans to do good and to stay away from bad deeds (Azrin, 2019). The realization of the elements of halal, hisbah and integrity in Islamic-based development institutions' management that can elevate the image of Islam simultaneously able to elevate the status of the institution encompassing all aspects (Ibrahim, 2018).

On the other hand, Noviyanti (2017), states that hisbah has a function as an evaluator of economic activities that ensure economic activities run in accordance with Islamic Shari'a, such as prohibiting the practice of usury and *ihṡikar* in economic activities, guarding pricing, prohibit the sale and purchase of money.

To enhance business performance of Muslims in business, Attahiru, Al-Aidaros, & Md Yusof, (2016) using Islamic culture and Islamic work ethics (IWE) with a moderating role of Hisbah institution to employ a new framework based on Islamic approach and also develop a new relationship between religiosity. Ibrahim & Poad (2018), found that self-hisbah practices in human management make it a control in the organization and thus able to produce employees who can fulfill the requirements of the Shari'a to achieve the pleasure of Allah SWT in each of their duties.

Anwar, Ridwan, & Muzaki, (2020), found that the function of *Al-Hisbah* in the Wonokromo market has been going well despite some shortcomings that might able to be managed by supervision in terms of price, size/scale, and quality of goods. Baehaqi & Suyanto (2019), stated that the LKS internal audit has not been supported by adequate sharia competence and inspection guidelines related to sharia aspects. Internal audit plays a role in assisting the Sharia Supervisory Board (DPS) in the process of examining aspects of compliance with sharia.

The rapid growth of the Islamic economy, especially the Halal Industry in Indonesia, presents a problem of its own. In order to guarantee economic practices that are in accordance with sharia guidelines, Badan Penyelenggara Jaminan Produk Halal (BPJPH) (a Halal Product Guarantee Agency) was formed. However, with the existence of this institution, a question arises whether the supervision technique used by BPJPH is compatible with the supervision technique of hisbah institutions in the past? Thus, this research is a very urgent research to be carried out so that it will be discussed in more detail about the application of hisbah supervision technique at BPJPH.

RESEARCH METHOD

This research is a qualitative study based on actual events in society (Sugiyono, 2014). The data collection technique in this study uses documentation techniques (Bungin, 2005), by conducting in-depth studies related

to the concept of hisbah in Islamic history contained in the works of Muslim intellectuals in the past and the concept of halal supervision at BPJPH.

The data analysis technique uses qualitative data analysis (Miles & Huberman, 2003), namely by presenting a description related to a systematic and comprehensive picture of the practice of monitoring halal food inspection in the past, including the principles, functions and implementation in the past and standard operational procedures that have been carried out at BPJPH, and also data reduction and display of data to identify the result of this study.

RESULT AND DISCUSSION

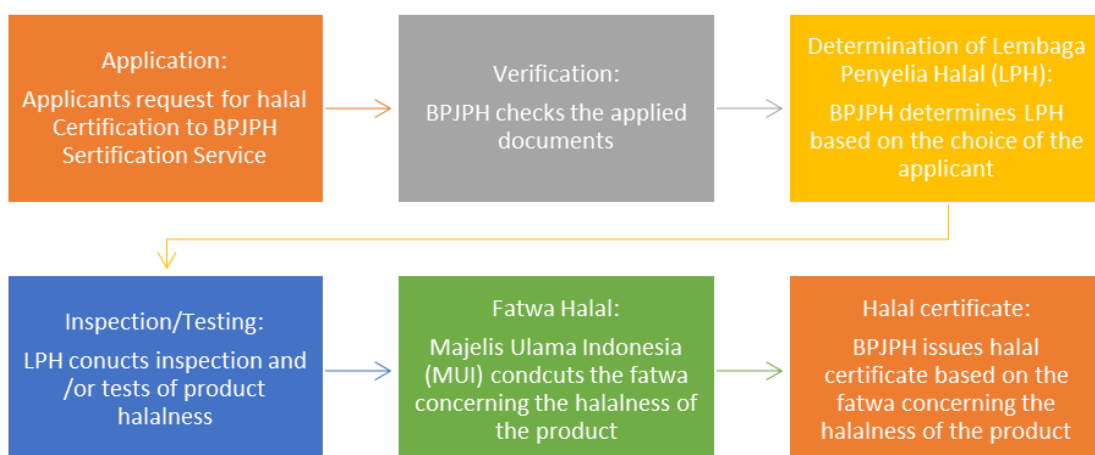
HALAL PRODUCT GUARANTEE MANAGEMENT AT BADAN PENYELENGGARA JAMINAN PRODUK HALAL (BPJPH)

Badan Penyelenggara Jaminan Produk Halal (BPJPH) is one of the supporting elements in the Ministry of Religion of the Republic of Indonesia which is under and responsible to the Minister of Religion who is in charge of implementing halal product assurance in accordance with the provisions of laws and regulations. The Agency for Policy Assessment and Development is chaired by the Head of the Agency. This institution was established on October 11, 2017 based on Act Number 33 year 2014, with the task of certifying halal products.

The vision of this institution is to become the world's leading halal product guarantee operator. While the missions are: (1) Realizing a Quality Halal Registration and Certification Service System, (2) Realizing an Effective Development and Supervision System, (3) Creating a Network of Institutional Cooperation and Standardization of Halal Product Guarantee, (4) Realizing Quality Organizational Management in Support of Bureaucratic Reform

As for the flow in checking the halalness of a product and finally getting a halal certificate at the Ministry of Religion BPJPH, the flows as follows: *first*, the applicant registers himself by attaching a number of required documents (consisting of data on business actors, name and type of product, list of products and materials used, and product processing). *Second*, BPJPH examines all your proposed requirements. *Third*, the applicant determines a halal inspection agency to inspect the products that are sold or eaten. *Fourth*, the halal inspection agency checks or tests the products that are sold or eaten, then the results are submitted to the Indonesian Ulema Council (MUI) to obtain the halal fatwa of a product. Halal Inspection Agency is an agency that carries out inspection and / or testing activities on the halalness of a product. *Fifth*, the results of the examination by the Halal Inspection Agency, the Indonesian Ulema Council (MUI) shall determine the halalness of the product through the halal fatwa session. *Sixth*, BPJPH will then issue halal certificates and labels based on the fatwa results of the Indonesian Ulema Council (MUI).

Procedure and Mechanism of Halal Certification Process at Badan Penyelenggara Jaminan Produk Halal (BPJPH)



Source: <http://www.halal.go.id>. Accessed 19/03/2020; 06.48 WIB

The required document for the application of Halal certificate:

- 1) Data of Business Operator
 - a) Business licence (For example: Nomor Induk Berusaha (NIB), and so forth);
 - b) Internal Halal Auditor documents such as ID Card / Citizenship ID, Curriculum Vitae, Certificate of Internal Halal Auditor, Decree of Internal Halal Auditor
- 2) Names and Types of Product
The names and types of the product must be appropriate with the product for which the halal certification is applied
- 3) List of Products and Materials
 - a) Name of Product: the name of the product submitted for the halal certificate application
 - b) Name of Materials: the name of the materials used in the production of the product
 - c) Materials include Main Materials, Additive/Supplementary Materials and Supporting Materials
- 4) Process of Production
Purchasing, receiving, storing materials, processing, packaging, storing products, distributing
- 5) Halal Assurance System Document
A Management system developed, implemented and maintained by halal certificate holders to maintain the continuity of the halal production process.

Tabel 1. Engaged Parties in Halal Product Certification at BPJPH

No	Name of Institution	Rule or Function
1	Badan Penyelenggara Jaminan Produk Halal (BPJPH)	Administration and Certification
2	Lembaga Pemeriksa Halal (LPH)	Auditing the products Ingredients and Materials
3	The Indonesian Ulema Council (MUI)	Issuer of fatwa of Product halalness
4	Minister of Finance, Republic of Indonesia	Processing fee rates of Certification

Source: <http://www.halal.go.id>. Accessed 19/03/2020; 06.48 WIB

THE PILLAR OF HISBAH AND ITS FUNCTION

There are pillars in hisbah, including muhtasib, muhtasab alaih, muhtasib fih, nafs al-ihtisab, as explained by al-Ghazāli, (1991); "...that the pillars of hisbah relating to the implementation of what is ma'rūf and preventing evil includes four pillars, namely: mu'tasib (one who prevents evil deeds), muhtasab alaih (one who commits evil deeds), mu'tasib fih (actions that are prevented) and nafs al-i'tisab (how to prevent evil)...".

Based on this definition, it is explained that there are four pillars of hisbah, namely (Al-Ghazali, 1991): *first, muhtasib* is a person who carries out the tasks of the hisbah in an Islamic society and country. He is appointed formally by the priest or government to ensure that goodness is done and evil is abandoned (Ahmad & Omar, 1991). *Second, muhtasib 'alaih*, a person who poor behaviour in their business (*al-munkar*). *Third, muhtasib fih* is an act that is prevented. It is all forms of munkar which are forbidden to do and must be prevented, whether they are converted or not (all ages). *Fourth, nafs al-Ihtisab* is a way of preventing evil.

From this point of view, the halal supervision mechanism at BPJPH has fulfilled the four principles in hisbah as stated by al-Ghazali above, where there is a supervisory element (muhtasib) which in this context is the Halal Product Guarantee Agency (BPJPH) and the Halal Supervisory Agency (LPH) to carry out supervision in terms of completeness of documents legally, and supervision of the materials used.

The second element is *muhtasib 'alaih*, where the object to be monitored is the behavior of a person who has business potential that is not in accordance with the predetermined halal standards, in this position the applicant or entrepreneur who applies for halal certification for his business products.

The third element is *muhtasib fih* is an act that is prevented, where in the context of hearing halal supervision at BPJPH, the actions that are avoided are the elements of materials that are prohibited for consumption in Islam, such as alcohol, pork, dogs and slaughter technic of the animal that are not in accordance with the guidance of Islamic law. This standard was issued by LPPOM-MUI so called General Guidelines of Halal Assurance System LPPOM MUI (2008)

The fourth element is *nafs al-Ihtisab* is a way of preventing evil. There are standard operating procedures and requirements that must be fulfilled by halal certification applicants to be fulfilled. After fulfilling the predetermined requirements, an examination of the halalness of a product is carried out. If the results of the inspection show that there are no prohibited ingredients in the food, then a halal certificate will be given to the product by BPJPH.

Tabel 2. The Pillar of Hisbah and its practices at Badan Penyelenggara Jaminan Halal (BPJPH)

No	Pillars	Description	Practices at Badan Penyelenggara Jaminan Halal (BPJPH)
1	<i>Muhtasib</i>	a person who carries out the tasks of the hisbah in an Islamic society and country. He is appointed formally by the priest or government to ensure that goodness is done and evil is abandoned	The halal supervision mechanism at BPJPH has fulfilled the four principles in hisbah as stated by al-Ghazali above, where there is a supervisory element (muhtasib) which in this context is the Halal Product Guarantee Agency (BPJPH) and the Halal Supervisory Agency (LPH) to carry out supervision in terms of completeness of documents legally, and supervision of the materials used.
2	<i>Muhtasib 'Alaih</i>	a person who poor behaviour in their business (<i>al-munkar</i>)	The object to be monitored is the behavior of a person who has business potential that is not in accordance with the predetermined halal standards, in this position the applicant or entrepreneur who applies for halal certification for his business products
3	<i>Muhtasib Fih</i>	an act that is prevented	the actions that are avoided are the elements of materials that are prohibited for consumption in Islam, such as alcohol, pork, dogs and slaughter technic of the animal that are not in accordance with the guidance of Islamic law. This standard was issued by LPPOM-MUI so called GENERAL GUIDELINES OF HALAL ASSURANCE SYSTEM LPPOM MUI (2008)
4	<i>Nafs al-Ihtisab</i>	a way of preventing evil	There are standard operating procedures and requirements that must be fulfilled by halal certification applicants to be fulfilled. After fulfilling the predetermined requirements, an examination of the halalness of a product is carried out. If the results of the inspection show that there are no prohibited ingredients in the food, then a halal certificate will be given to the product by BPJPH.

The function of hisbah institution in the past was very broad, as broad as understanding *amar ma'ruf nahy munkar* (Mamat, 2010; Islahi dalam Anto, 2003; Muhamad, 2005). Imam Al-Mawardi in his commentary on hisbah explains the rights related to the function of hisbah, among others: (1) cases related to the rights of Allah SWT. (2) Cases related to human rights. (3) Cases relating to collective rights. Meanwhile, according to Abdul Azim Islahi, who based on classical book studies, especially the work of Ibn Taymiyyah, explains the general function of hisbah (Islahi, dalam Anto, 2003; Muhamad, 2005), that is; first, a system that is generally described as the implementation of virtues and obligations by Muhtasib and is related to religious and juridical aspects in its management. Second, it is described as detailed monitoring practices and techniques. Principally, supervision is carried out on various forms of handicraft and trade products, including even administration and quality and product standards.

The functions of the hisbah institution in economic activities include; (1) ensuring that products marketed are halal and in accordance with the shari'ah, (2) preventing fraudulent practices, fraud in economic activities (especially in goods and prices). (3) prevent usury practices in transactions. Fourth, prevent price manipulation practices. (4) oversee the pricing of goods (Mamat, 2010). To become mu'tasib need several requirements that must be met, among others (Al-Ghazali, 1991): (1) a mukallaf, muslim and able to carry out his duties, it is not required for small children and unbelievers, (2) a faithful person, (3) just and fair conduct, (4) understand to Islamic law, (5) trustworthy and clear in the delivery of news.

HISBAH'S MECHANISM IN ISLAMIC HISTORY

Historically, hisbah has existed since the time of Rasūlullāh SAW. He was the first muhtasib in Islam. Often he entered the Medina market to oversee buying and selling activities. As narrated by Rasulullah SAW, he walked around the Medina market and passed the food seller, then he put his hand into a pile of wheat and

found the part of the wheat that was wet, then Rasulullah SAW said: “*Man Ghisna, Falaisa Minna*” (*Whoever deceives his own brother, is not part of us (Ummah of Rasulullah Saw)*) (Syamsuddin, 1991). Thus it can be concluded that Hisbah at the time of the Prophet was not yet an institution, only practices that led to the authority of hisbah were carried out individually, namely the Messenger of Allah.

The institutionalization of hisbah with a more perfect structure began at the time of Umar bin Khatāb. At that time he appointed and established Wilāyatul Hisbah as the official government department. Hisbah at the time of Umar bin Khatāb had an important role in monitoring the market and the activities carried out in it, namely economic activities. Ibn Saad has reported from Az Zuhri that Umar bin Khatāb had hired Abdullah bin 'Utbah to supervise and monitor the market. As mentioned by Ibn 'Abdil Barr that Umar sometimes employed Asyifa' binti Abdullah ar-Qurasyiyah al-Adawiyah to take care of something about market affairs (Qardhawi, 1997).

In the regime of Daulah Bani Umayyah or Umayyad Caliphate is the first Islamic caliphate after the Khulafāur Rāsyidīn era which ruled for approximately 90 years with Damascus as the center of its government. The name of this dynasty is referred to as Umayyah bin 'Abd asy-Shams, great-grandfather of the first Caliph of the Umayyads, Muawiyah bin Abu Sufyan. This is the era where power is passed down from generation to generation until the end of power in 750 AD.

This regime (Daulah Umayyah) was instrumental in the development of various fields in the country, in the government of Muawiyah bin Abi Sufyan. The specialization of the position of Qādhi or judge and of course Muhtasib. During the reign of Abdul Malik bin Marwan, reforms of government administration were carried out and enforced Arabic as the official language of Islamic government administration in addition to changing Byzantine and Persian currency by using Arabic words and writings in 659 AD. It was during this period that improvements were made to hisbah institution called 'diwan' which comes from the Persian language "diwānah" means a note or list, which was first established by the caliph Umar bin Kha'āb (As-Suyuthi, 2003).

The change in power from the Umayyad daulah to the Abbasid Daulah certainly inherited several very important aspects of the development of hisbah itself, including the vast area of power, and the formation of institutions (diwan) by the previous rulers (Noviyanti, 2017). The vast territory of the Abbasids resulted in a large amount of income to the State, this made the need for State financial arrangements so that state financial institutions were formed such as (a) diwān al-khazanah in charge of managing the state treasury, (b) diwān al-azra'u in charge of managing state assets in the form of agricultural products; and (c) diwān al-khazāin al-silat who was in charge of managing the equipment of the army. The above certainly results in the broad scope of duties and functions of the hisbah institution in terms of calling for goodness and abandoning religious prohibitions.

During the reign of al-Mahdi (158-169 H) the hisbah region became an independent institution as an institution that handled the issue of al-amr bi al-ma'rūf wa nahy 'an al munkar caliph Daulat Abasiyah. While the institutionalization of hisbah in a more modern and structured manner was carried out during the time of the Caliph al-Mansur by appointing Yahya ibn Abdullah as mu'tasib in 507 AH (Noviyanti, 2016).

On the other hand, the development of hisbah during the Abbasid Daula appears to be prominent in the scientific field compared to its practice, this is evidenced by the intense discussion of hisbah by scholars of this era, such as Abu Yusuf, Ibn Taymiyah, Imām Al-Māwardi, Imām Al -Ghazālī, Ibn Khuldun and others. These works can be used as a basis for Muslim scientists to study the practice of hisbah at that time. The importance of the role of hisbah in the economy is reflected in the number of scholars' who are interested in discussing the issue of hisbah, among others Imām al-Māwardi (w.450/1058), Abu Ya'la (w.458/1065), Imām al-Ghazālī (w.505/1111), Ibn Hazm (w.456/1064), Abdurrahman al-Syayzari (w.589/1193), Ibn Taymiyyah (w.728/1328), Ibn al-Ukhuwwa (w.729/1329), al-Nuwayri (w.732/1332), Ibn Khuldun (w.808/1406) dan al-Maqrizi (w.846-1442), (Chapra, 2001; P3EI, 2008).

CONCLUSION

The conclusion of this study shows that the supervisory mechanism implemented by BPJPH has fulfilled the four principles in hisbah as stated by al-Ghazālī above, where there is a supervisory element (muhtasib) which in this context is the Halal Product Guarantee Agency (BPJPH) and the Halal Supervisory Agency (LPH) to carry out supervision in terms of completeness of documents legally, and supervision of the materials used.

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However, this study has limitations, namely it is still limited to one research object and the use of literature related to hisbah theory is limited. Further research is aimed at expanding objects that use literature related to hisbah and the mechanism of monitoring halal products in BPJPH more massively and deeply.

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