

CHAPTER I INTRODUCTION

A. Background

Along with the increasing awareness and demand of Muslim consumers for halal products, the halal product industry has grown rapidly in various countries. The halal industry covers various fields, including food and beverages, cosmetics, pharmaceuticals, banking, and tourism. Products or services categorized as halal must meet a number of criteria that have been set by Islamic religious authorities or legal halal certification bodies, namely the Indonesian Ulema Council / MUI, the Indonesian Ulema Council / LPPOM MUI Food, Drug and Cosmetics Assessment Institute, and the Halal Product Guarantee Agency (BPJPH).

Halal certification is important because it provides assurance to Muslim consumers that the product meets the halal standards set by the competent authority. Halal certification is a guarantee that products consumed or produced by producers have met halal standards recognized by the authorities. In Law Number 33 of 2014 concerning Halal Product Guarantee, hereinafter referred to as the JPH Law, it has been regulated that every product that enters, circulates, and is traded in the territory of Indonesia must be halal certified, except for haram products.¹ This is important for Muslim consumers who want to ensure that the food or products they use are in accordance with the rules of their religion. Halal certification can increase consumer confidence in products produced by halal-certified producers.

Therefore, manufacturers must pay attention to the importance of halal certification as one of the important factors in marketing their products. Manufacturers need to carry out obligations after their products obtain a halal certificate, as described in Article 25 of the JPH Law, namely;

- a. *include the Halal Label on Products that have received Halal Certificate;*
- b. *maintain the halalness of Products that have obtained a Halal Certificate;*
- c. *separating the location, place and slaughter, processing equipment, storage, packaging, distribution, sale, and presentation between Halal and non-halal Products;*
- d. *renew the Halal Certificate if the validity period of the Halal Certificate expires; and*

¹ Article 4 Law Number 33 of 2014 Concerning Halal Product Guarantee

e. report changes in Ingredient composition to Halal Product Guarantee Agency.

Business actors, the government, and halal certification bodies need to work together to ensure that the products produced and consumed by the public are guaranteed halal. That way, consumer health and safety can be maintained and provide added value to the products produced by producers. In this case, of course, the role of Halal Product Guarantee Agency is very important. With halal certification, the public or consumers can easily know that the products they consume are guaranteed halal.

However, this growth is also accompanied by challenges in ensuring compliance with strict halal standards. In 2023 Halal Product Guarantee Agency noted that there were 1,021,457 MSME products that were halal certified and there were 633,917 self-declare halal certificates. Makassar City as an economic center in eastern Indonesia, the MSME sector plays a vital role in supporting regional economic growth. Based on data from the Ministry of Religious Affairs of South Sulawesi Province (Halal Service Task Force) in 2025, there were 32,739 active business actors consisting of 31,350 micro businesses, 910 small businesses, 479 medium businesses, and 9 large businesses.²

From the survey, it was also found that there were companies that had put halal labels on all their products, even though they had only obtained a halal certificate for only one product. This number is certainly still far from the number of products on the market.³ Lack of information about the IKRA program or the SEHATI (Free Halal Certification) program is not received by business actor. The existence of business actor spread throughout Indonesia from big cities to remote areas causes not all information about the ease of halal certification to be conveyed.⁴

One of the cases that has occurred is the case of Nabidz products which claim to be halal-certified wine. Based on research, it was found that unscrupulous business actors and Halal Product Process Assistance (PPH) deliberately manipulated Nabidz's halal certification application data. This case originated from a consumer on behalf of Adi with Police report Number LP / B/4975 / VIII / 2023 / SPKT / POLDA METRO JAYA, dated August 23,

² Interview with Dr. Muhammad Nur, S.Pd.I., SE, MM. as Secretary of the Regional Office of the Ministry of Religious Affairs of South Sulawesi Province, on July 4, 2025.

³ BPJPH, 2023, *Afirmasi UMK*, Kemenag: *Pengawasan Sertifikasi Self Declare Diperketat*, <https://bpjph.halal.go.id/detail/afirmasi-umk-kemenag-pengawasan-sertifikasi-halal-self-declare-diperketat>, accessed on November 12, 2024.

⁴ Faranita dkk, 2024, *Sertifikasi Halal Melalui Self Declare Oleh UMKM Untuk Mendukung Industri Wisata Halal*, Jurnal SNPK, Vol.3, p. 644.

2023. The reporter's attorney reported the perpetrator with the initials BY, who is known to be a wine maker and seller who claims his product is halal. The reporter's attorney said his client bought 12 bottles of wine with halal claims via an online shop. Then, the reported party sold each bottle for Rp. 250,000 (two hundred and fifty thousand). Adi admitted that he bought the wine because it was registered as a halal product at the Ministry of Religious Affairs.⁵

However, the Ministry of Religious Affairs and Indonesian Ulema Council since August 15, 2023 have revoked the halal certification of the product through the fatwa commission by means of lab tests at PT Saraswanti Indo Genetech.⁶ The plaintiff's attorney also said that his client found on the halal corner website that they conducted a lab test and the results were proven to contain 8.84% ethanol.⁷

Furthermore, Halal Product Guarantee Agency formed a Supervisory Team to examine after complaints and viral news in the community related to claims about halal wine with the Nabidz trademark. Products with the Nabidz trademark certified by Halal Product Guarantee Agency are juice or fruit juice products. Juice or fruit juice, is one type of product that can be certified through a self-declaration mechanism.⁸ This is because fruit juice is included in one of the non-risk products. However, based on the results of the Supervisory Team's investigation, the verification process through this assistance was not carried out by one of the individuals as a Halal Product Process Assistance Facilitator. Meanwhile, business actors commit violations in the form of inclusion of halal labels on different products on the halal certificate. The halal label for grape fruit juice products is deliberately included by business actors in wine products under the Nabidz brand.⁹

For violations committed by business actors in accordance with Article 27 of the JPH Law, Halal Product Guarantee Agency has imposed sanctions in the form of revocation of halal certificates with the number ID311100037606120523 with Grape Fruit Juice products starting from August 15, 2023.¹⁰ Meanwhile, for violations committed by Halal Product Process Assistance Facilitators, Halal Product Guarantee Agency has imposed sanctions by revoking the Halal Product Process Assistance

⁵ *Laporan Nabidz Wine*, <https://megapolitan.kompas.com/read/2023/08/24/10291011/penjual-wine-nabidz-yang-klaim-halal-dilaporkan-konsumen-ke-polisi>, accessed on April 3, 2024.

⁶ *Ibid.*

⁷ *Uji Lab Produk Nabidz*, <https://halalcorner.id/rilis-hasil-uji-lab-produk-nabidz/>, accessed on April 3, 2024.

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ Article 27 Law Number 33 of 2014 Concerning Halal Product Guarantee

Facilitator Registration Number.¹¹ This policy has been regulated in Article 17 Paragraph 2 (b) of the Regulation of the Minister of Religion of the Republic of Indonesia Number 20 of 2021 concerning Halal Certification for Micro and Small Business Actors, which stipulates that the revocation of the Halal Product Process Assistance companion registration number as intended has violated his duties as a Halal Product Process Assistance.

Based on the description above, the author is interested in further examining whether halal certification and labeling of products has strong legitimacy as a form of protection against the many counterfeits that occur.

B. Problem Formulation

1. How is legal protection for consumers against the use of halal labels registered through self-declaration by business actors?
2. How is the supervision of products that include halal labels through a self-declaration mechanism?

C. Purpose and Benefit of Research

The purpose of this research are:

1. To analyze the form of legal protection for consumers against the use of halal labels registered through the self-declaration mechanism by business actors.
2. To analyze the form and effectiveness of supervision of products that include halal labels through a self-declaration mechanism, and evaluate the contribution of this supervision in ensuring legal certainty for consumers on the halalness.

As for the benefit of this research are:

1. This research is expected to contribute to the development of legal science, especially in the fields of consumer protection law and halal product guarantee law, by adding to the study of the self-declaration mechanism in halal certification and its implications for legal protection and legal certainty for consumers.
2. Practically, this research is expected to contribute to various parties involved in the halal certification system. For the government, especially the Halal Product Guarantee Agency (Halal Product Guarantee Agency), the results of this study can be an evaluation and consideration in formulating and optimizing supervisory policies on halal labeling through a self-declaration mechanism, so as to guarantee consumer protection

¹¹ *Temukan Pelanggaran, BPJPH Cabut Sertifikat Halal Nabid*, <https://www.kemenag.go.id/nasional/temukan-pelanggaran-bpiph-cabut-sertifikat-halal-nabidz-RuQuo>, accessed on April 3, 2024.

more effectively. For business actors, this research provides an understanding of the legal responsibility for the use of halal labels, as well as the importance of commitment to honesty and transparency in declaring product halalness. Meanwhile, for consumers, this research is expected to increase legal awareness regarding the right to correct information regarding the halal status of products, as well as encourage active participation in demanding certainty and legal protection for consumed products.

D. Originality of Research

Table 1. 1 Originality of Research

Writer's Name	Saeful Amin	
Post Title	PERLINDUNGAN HUKUM BAGI KONSUMEN MUSLIM TERHADAP PRODUK PANGAN YANG TIDAK BERSERTIFIKAT HALAL MENURUT UNDANG-UNDANG NOMOR 33 TAHUN 2014 TENTANG JAMINAN PRODUK HALAL	
Category	Thesis	
Year	2022	
College	Faculty of Law, University of Islam Sultan Agung	
Description	Previous Research	Research Plan

Issues and Problems	<ol style="list-style-type: none"> 1. Bagaimana perlindungan konsumen atas produk pangan yang tidak bersertifikat halal menurut Undang-Undang Nomor 33 Tahun 2014 Tentang Produk Halal? 2. Bagaimana akibat hukum terhadap pelaku usaha yang tidak mencantumkan sertifikat halal pada produk pangan? 	<ol style="list-style-type: none"> 1. How is legal protection for consumers against the use of halal labels registered through self-declaration by business actors? 2. How is the supervision of products that include halal labels through a self-declaration mechanism?
Research Methode	Empiris	
Result and Discuss	<p>Hasil penelitian menunjukkan bahwa akibat hukum terhadap pelaku usaha yang tidak mencantumkan sertifikat halal pada produk pangan diatur dalam UUPK, bagi pelaku usaha yang melanggar akan dikenakan sanksi pidana penjara paling lama lima tahun dan dikenakan sanksi pidana paling banyak Rp. 2.000.000.000</p>	<p>The difference in the author's research is in the object of the problem, the halal certification process for nabidz products is assisted by unscrupulous Halal Product Process Assistance assistants, this research is focused on how protection and legal certainty for Muslim consumers of halal certification products through self-declaration.</p>

Table 1. 2 Originality of Research

Writer's Name	Adjie Farhan Pangestu
Post Title	PERTANGGUNG JAWABAN PIDANA BAGI PEMILIK USAHA MIKRO KECIL DAN MENENGAH (UMKM) YANG MEMALSUKAN LABEL HALAL PADA PRODUK MAKANAN

Category	Thesis	
Year	2022	
College	Faculty of Law, University of Islam Negeri	
Description	Previous Research	Research Plan
Issues and Problems	<ol style="list-style-type: none"> 1. Bagaimana pertanggungjawaban pidana bagi pemilik Usaha Mikro Kecil dan Menengah (UMKM) yang memalsukan label halal pada Produk Makanan? 2. Bagaimana tinjauan hukum pidana islam terhadap Usaha Mikro Kecil dan Menengah (UMKM) yang memalsukan label halal pada Produk Makanan? 	<ol style="list-style-type: none"> 1. How is legal protection for consumers against the use of halal labels registered through self-declaration by business actors? 2. How is the supervision of products that include halal labels through a self-declaration mechanism?
Research Methode	Empiris	
Result and Discuss	<p>Hasil penelitian menunjukkan bahwa pertanggungjawaban pidana bagi pelaku UMKM yang memalsukan label halal pada Produk Makanan dikenakan sanksi penjara paling lama lima tahun dan drnda paling banyak sebesar Rp. 1.000.000.000 (satu miliar rupiah). Pelaku UMKM</p>	<p>The difference in the author's research is in the object of the problem, the halal certification process for nabidz products is assisted by unscrupulous Halal Product Process Assistance, this research is focused on how protection and legal certainty for Muslim consumers of halal</p>

	<p>yang memalsukan label halal pada Produk Makanan dalam Hukum Pidana Islam itu termasuk kedalam kategori Jarimah Ta'zir yang hukumannya diserahkan kepada hakim.</p>	<p>certification products through self-declaration.</p>
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E. Theoretical Foundation

1. Legal Protection Theory

The law functions as a protector of human interests. In order for human interests to be protected, the law must be implemented. The implementation of the law can take place normally, peacefully, but it can also occur due to violations of the law. In this case the law that has been violated must be enforced. It is through this law enforcement that the law becomes a reality. In enforcing the law, there are three elements that must always be considered, namely legal certainty (*rechtssicherheit*), expediency (*zweckmassigkeit*) and justice (*grechtigkeit*).¹²

Philipus M. Hadjon said that legal protection is the protection of dignity, as well as recognition of human rights owned by legal subjects based on legal provisions from arbitrariness or as a collection of rules or rules that will be able to protect one thing from another. It's always about power. There are two powers: governmental power and economic power. In relation to government power, the issue of legal protection for the people (the governed), against the government (the governor). In relation to economic power, the issue of legal protection is the protection of the weak (economy) against the strong (economy), for example protection for workers against employers.¹³

Opinions regarding the understanding of the meaning of law stated by Dr. O. Notohamidjojo, SH Law is a whole of written and unwritten rules that are usually coercive for human behavior in state society and between states that are oriented towards two principles, namely justice and effectiveness, for the sake of order and peace in society.¹⁴

Fitzgerald explains Salmond's theory of legal protection that the law aims to integrate and coordinate various interests in society because in a traffic of interests, protection of certain interests can only be done by limiting various interests on the other side. The interest of law is to take care of human rights and interests, so that the law has the highest authority to determine human interests that need to be regulated and protected. Legal protection must see the stages, namely legal protection born from a legal provision and all legal regulations given by the community which is basically an agreement of the community to regulate behavioral relationships between

¹² Sudikno Mertokusomo, 2016, *Teori Hukum*, Cet. 6, Yogyakarta: Cahaya Atma Pustaka, p. 160.

¹³ Philipus M. Hadjon, 2007, *Perlindungan Hukum Bagi Rakyat di Indonesia*, Ed. Khusus Cet. I, Surabaya: Peradaban, p. 2-5.

¹⁴ Syamsul Arifin, 2012, *Pengantar Hukum Indonesia*, Medan: Medan area University Press, hlm. 5-6.

members of the community and between individuals and the government which is considered to represent the interests of the community.¹⁵

Legal protection is a protection given to legal subjects in the form of both preventive and repressive devices, both oral and written.¹⁶ Legal protection provides protection to human rights that are harmed by others and this protection is given to the community so that they can enjoy all the rights provided by law or in other words legal protection is a variety of legal efforts that must be provided by law enforcement officials to provide a sense of security, both in mind and physically from interference and various threats from any party.¹⁷

The form of legal protection consists of two types that can be understood, namely preventive legal protection and repressive legal protection. Preventive legal protection gives legal subjects the opportunity to submit objections or opinions before a government decision gets a definitive form. Preventive legal protection aims to prevent problems or disputes from occurring.¹⁸ Repressive legal protection aims to resolve disputes. The handling of legal protection by the General Court and Administrative Court in Indonesia is categorized as repressive legal protection.¹⁹

In Indonesia, legal protection is realized through various laws and regulations in force. The forms of protection or categories vary, examples of legal protection include civil law protection, consumer law protection, child protection, and so on. In the context of civil law, legal protection is implicitly stated in the Burgerlijk Wetboek (BW). BW regulates the protection mechanism for parties who suffer losses, one of which is through the provision of compensation.²⁰

2. Legal Certainty Theory

Legal certainty contains two meanings, the first is the existence of rules that have a general nature to be able to make an individual know what actions can and cannot be done. While the second sense is legal security for an individual from government arbitrariness because, with the existence of general regulations, individuals can know what can be imposed and what can be done by the state against an individual.²¹

¹⁵ *Ibid.*

¹⁶ Wahyu Simon, 2016, *Upaya Perlindungan Hukum Bagi Konsumen Ditinjau Dari Undang-Undang Perlindungan Konsumen*, Jurnal Ilmiah Advokasi, Vol. 4 No. 1, p. 53.

¹⁷ Satjipto Raharjo, 2000, *Ilmu Hukum*, Cet. 4, Bandung: Citra Aditya Bakti, p. 53.

¹⁸ Zennia Almadia, 2021, *Perlindungan Hukum Preventif dan Represif Bagi Pengguna Uang Elektronik Dalam Melakukan Transaksi Tol Non Tunai*, Private Law Journal, Vol. 9 No. 1, p. 222.

¹⁹ Wahyu Simon, *Op Cit*, p. 54.

²⁰ Article 1365 BW

²¹ Utrecht dalam Edwin Buitelaar dan Niels Sorel, 2010, *Between the Rule of Law and the Quest for Control: Legal Certainty in the Dutch Planning System*, Land Use policy 27, no. 3, p. 983-989.

There are four fundamental things that have a close relationship with the meaning of legal certainty itself, namely as follows:²²

- a. Law is a positive thing which means that positive law is legislation.
- b. The law is based on a fact, meaning that the law is made based on reality.
- c. The facts contained or listed in the law must be formulated in a clear way, so that it will avoid confusion in terms of meaning or interpretation and can be easily implemented.
- d. Positive law should not be easily changed.

According to Sudikno Mertokusumo, legal certainty is a guarantee that the law must be carried out in a good way.²³ Legal certainty requires efforts to regulate the law in legislation made by authorized and authoritative parties, so that these rules have a juridical aspect that can guarantee the certainty that the law functions as a rule that must be obeyed.²⁴

Sudikno explained that although legal certainty is closely related to justice, law and justice are two different things. Law has the characteristics of being general, binding on every individual, generalizing, while justice itself has different characteristics, namely subjective, individualistic and not generalizing. From the nature of the law and justice itself, it can be clearly seen that justice and law are different things. Thus, legal certainty is the implementation of the law in accordance with its wording.²⁵

Therefore, the community can ensure that the existing laws can be implemented.²⁶ In understanding the values of legal certainty, there are things that must be considered, namely that this value has a close relationship with positive legal instruments and the role of the state in actualizing the positive law.²⁷

Legal certainty theory is one of the objectives of the law and it can be said that legal certainty is part of the effort to be able to realize justice.²⁸ Legal certainty itself has a real form, namely the implementation and enforcement of a law against an action that does not look at who the

²² Heather Leawoods, Gustav Radbruch, 2000, *An Extraordinary Legal Philosopher*, Wash. UJL & Pol'y 2, p. 489.

²³ Sudikno Mertokusumo, 2006, *Metode Penemuan Hukum*, Yogyakarta: UI Pres, p. 28.

²⁴ Soeroso, 2011, *Pengantar Ilmu Hukum*, Jakarta: Sinar Grafika, p. 15.

²⁵ Sudikno Mertokusumo, *Op Cit.* p. 30.

²⁶ Mario Julyano, 2019, *Pemahaman terhadap Asas Kepastian Hukum Melalui Konstruksi Penalaran Positivisme Hukum*, Jurnal Crepido, Vol. 1 No. 1, p. 13.

²⁷ *Ibid.*

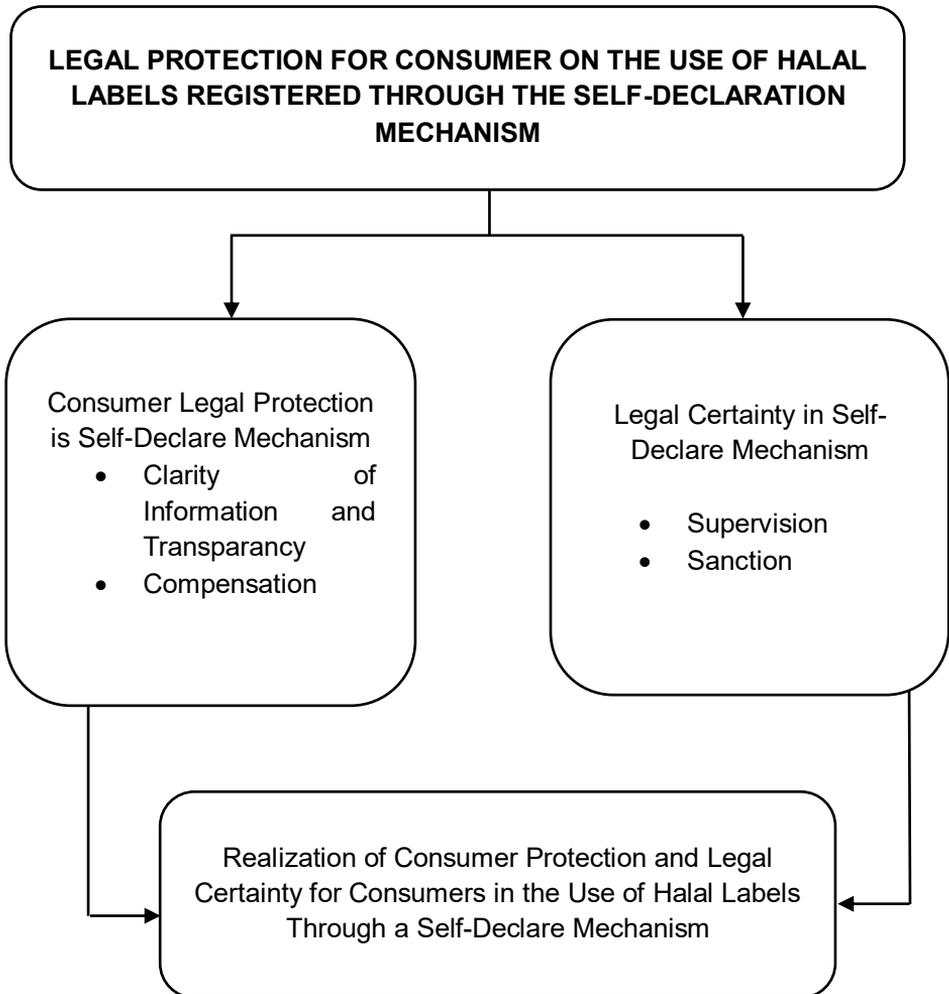
²⁸ Ana Fauzia et al., 2021, *The Revitalization of the Indonesian Legal System in the Order of Realizing the Ideal State Law*, *Progressive Law Review* Vol. 3 No. 1, p. 12–25.

individual is doing. Through legal certainty, everyone is able to predict what he will experience if he takes a certain legal action.²⁹

Legal certainty is needed to realize the principles of equality before the law without discrimination. From the word certainty, it has a close meaning with the principle of truth.³⁰ With legal certainty, it will ensure that a person can carry out a behavior in accordance with the provisions in the applicable law and vice versa. Without legal certainty, an individual cannot have a standard provision to carry out a behavior.

²⁹ Fathul Hamdani et al., 2023 *Fiksi Hukum: Idealita, Realita, dan Problematikanya di Masyarakat*, Primagraha Law Review, Vol. 1, No. 2, p. 71–83.

³⁰ Vinsensius Tamelab, 2023, *Kepastian Hukum Hak Atas Tanah Bagi Warga Baru di Lokasi Perumahan Resettlemen Kelurahan Naiboan Kecamatan Kupang Timur Kabupaten Kupang*, Student Scientific Creativity Journal, Vol. 1 No. 5, p. 115-129.

F. Frame of Mind

CHAPTER II RESEARCH METHODE

A. Type of Research

This type of research is empirical legal research, namely this research on how the law applies in society and how the implementation of a rule that has been applied in the reality of society.³¹ Empirical legal research methods are influenced by social variables, emphasize observation and data collection in the field, and prioritize primary data as basic data.³²

B. Research Location

The author conducted research in Makassar City. Data collection is carried out on micro, small and medium enterprises based in Makassar City. The author chose Makassar City to be the research location because Makassar City is the largest economic and trade center in eastern Indonesia, Makassar is a relevant place to study the application of halal labels on products circulating in the community.

The diversity of business actors, ranging from small to large scale, allows this study to explore a broad perspective regarding the self-declaration mechanism in halal certification. In addition, the majority of Makassar's Muslim population has a high awareness of the importance of the halal label, making this issue very relevant to study in the context of consumer protection.

C. Population and Sample

Population is a whole group or element that has certain characteristics that you want to study. The population can consist of groups of people or institutions that aim to determine the size of the sample members to be taken and set limits on the applicability of the generalization area.³³ The population in this study are MSE business actors in Makassar City.

Samples are simply defined as part of the population that is the actual source of data in a study. In other words, a sample is a portion of the population to represent the entire population.³⁴ In selecting samples, the authors used purposive sampling techniques. The purposive sampling technique is a data source sampling technique based on certain characteristics that are considered to have a relationship with the characteristics or characteristics of the population

³¹ Zainnuddin Ali, 2012, *Sosiologi Hukum*, Jakarta: Sinar Grafika, Cet VII, p. 5.

³² Irwansyah, *Op. Cit.*, p. 174.

³³ *Ibid.*

³⁴ Nur Fadilah dkk, 2023, *Konsep Umum Populasi Dan Sampel Dalam Penelitian*, Jurnal Pilar, Vol.14 No.1, p. 20.

to be studied.³⁵ The criteria used as research samples are that MSE business actors who use halal labels through self-declaration.

D. Legal Material Types

1. Primary data is data obtained through direct research in the field by conducting interviews with sources related to the object of the author's research, namely several MSE business actors who use halal labels through a self-declaration mechanism in Makassar City.
2. Secondary data are materials that can support primary legal sources which also assist the author in analyzing primary legal sources such as regulations in the Law, law books, theses, journals, magazines, mass media articles, and searches through the internet for information about the problems studied by the author.
 - a. Law Number 8 of 1999 Concerning Consumer Protection
 - b. Law Number 33 of 2014 Concerning Halal Product Guarantee
3. Tertiary data are additional materials of a non-legal nature that are used as a complement to primary and secondary legal materials. In this case, legal dictionaries, newspapers, magazines, and materials obtained through the internet related to the problems (legal issues) being studied.

E. Legal Material Collection

1. Interview is a primary data collection technique by conducting an oral question and answer process between information collectors and interviewees directly about relevant information or information that the interviewer wants to know.
2. Literature study is a secondary data collection technique by reading, quoting, and analyzing various books, laws and regulations, documents, and information relevant to the author's research.³⁶

F. Legal Material Analysis

The data collected will be analyzed qualitatively by providing arguments on qualitative data obtained through interviews and literature studies conducted to draw conclusions about a legal problem. The author will then provide an explanation and describe a legal event obtained from the research results.³⁷

³⁵ Sugiyono, 2013, *Metode Penelitian Pendidikan (Pendekatan Kuantitatif, Kualitatif dan R&D)*, Bandung: Alfabeta, p. 218.

³⁶ Sarwono, 2010, *Pintar Menulis Karya Ilmiah*, Yogyakarta: Andi Offset, Ed.1 Cet.1, p. 34-35.

³⁷ Irwansyah, 2020, *Penelitian Hukum: Pilihan Metode & Praktik Penulisan Artikel*, Yogyakarta: Mirra Buana Media, p. 229.