The Law Enforcement of Guarantees Halal Products in Indonesia

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ABSTRACT
Law No. 33 of 2014 concerning GUARANTEEES Halal Products states that products that enter, circulate, and are traded in the territory of Indonesia must be halal certified, except for products with ingredients that are prohibited. Business actors who do not carry out their obligations in halal certification can be subject to administrative sanctions and criminal sanctions. Based on the provisions above, law enforcement for Halal Product Guarantee must at least look at the factors of legal certainty, enforcement officers, facilities, culture and society. The main problem in this research; First, how is the JPH law enforcement process considering that until now there are still many industrial products that have not carried out halal certification. Second, how are the procedures for applying criminal or administrative sanctions applied to products that violate the provisions of halal certification. This study aims to determine the law enforcement of halal product guarantees in Indonesia in terms of the aspects of legal certainty, justice and benefits for all economic actors in Indonesia. This study uses the method of literature review (library research), namely research based on the opinions of legal experts. The research results conclude that; first, in the process of enforcing the law on halal product guarantees, it refers to other provisions that have been presented by the government, such as PP No. 31 of 2019, PP no. 39 of 2021, Minister of Religion Regulation No. 26 of 2019, Law no. 21 of 2000, Law no. 8 of 1999. As of October 17, 2024, the imposition of sanctions on business actors who do not yet have halal certification has not been enforced, however,
products that already have halal certification but commit serious violations by using illegal substances can be subject to criminal provisions since Law Number 33 of 2014 was declared effective (5 Years after stipulation). Second, criminal provisions for violations of halal-certified products can refer to Article 4a, Article 7, Article 8f, and Article 62 paragraph (1) of the Consumer Protection Law. Settlement of the criminal case also refers to the provisions of the criminal procedural law which are the territory of the general court.

**Keywords**: Law, enforcement, halal, guarantees,

**ABSTRAK**


**Kata Kunci**: Hukum, penegakan, jaminan halal
A. Introduction

Etymologically, Halal comes from Arabic which means permissible, liberating, solving and dissolving. Halal is everything including food and drink which is permissible according to the provisions of the Islamic religion for consumption. Food here includes plants, fruits, animals, both land and sea animals that can be eaten. While halal drinks are anything that can be drunk except for intoxicating drinks.\(^1\)

Halal provisions are inseparable from the arguments of the Qur'an which explains "O people, eat what is lawful, better than what is on earth, and do not follow the steps of the devil, that is a real enemy for you" (QS. al-Baqarah [2]: 168) Some types of food and drink that are categorized as non-halal can be seen based on the word of Allah SWT: "Verily, Allah only makes it forbidden for you to carrion, blood, pork, and animals that when slaughtered are called other than Allah's names. However, whoever is forced to eat it, while he does not want it and does not exceed the limit, then there is no sin for him. Indeed, Allah is Forgiving, Most Merciful" (Surah al-Baqarah [2]: 173)

The definition of halal food and beverage products in Article 1 point 2 of Law Number 33 of 2014 concerning Guarantees for Halal Products states that "Halal products are products that have been declared halal, based on the provisions of Islamic law." Halal in general is not only limited to goods, but also relates to how to obtain them in a lawful way, not food obtained from theft, and also relates to the way food is processed, stored and served.

The grouping of food, drink, medicine and halal food in Law no. 33 of 2014 concerning GUARANTEES Halal Products oriented to the substance of the product, ingredients, product processing procedures and slaughter of animals such as chickens, goats, cows, camels and others.\(^2\) The product ingredients that fall into the non-halal category include:\(^3\)

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\(^3\)Yazid Abu Fida, Op.Cit., pp. 27 22 2
a. Animals whose cause of death is not due to slaughter, for example due to falling, being attacked by other animals or being strangled so that they become carcasses except for insects and fish.
b. Material derived from flowing blood, except for the remains of blood attached to the flesh.
c. Various materials derived from pigs include fur, bones, offal, meat, fat, blood, skin and others.
d. Animals slaughtered in a way that is contrary to the Shari'a. In the case of slaughter using mechanical devices, the provision applies that mechanical devices only assist in the process of eliminating the consciousness of the animal to be slaughtered.

The entire halal process carried out by business actors is carried out to provide certainty and convenience to every consumer in obtaining halal products from ongoing business activities. One of the rights of every consumer is to obtain correct, honest, clear information in consuming food, drinks, medicines, and using cosmetics. This right is granted because economically consumers are in a weak position.\(^4\)

This information guarantee is a right that needs to be protected by the constitution and is currently embodied in the Halal Product Guarantee Law. It is stated in Article 4 of Law Number 33 of 2014 concerning Guarantees for Halal Products which states that: "Every product circulating in Indonesia must be halal certified". Halal certification is a form of written fatwa from the MUI to certify the halalness of a product in accordance with the provisions of Islamic law. The Halal Certification of the Indonesian Ulema Council is a requirement for business actors to include a halal label on the product packaging they produce.

The presence of the Law on Halal Product Guarantee in Indonesia provides new rules in the implementation of halal products for the community. The inclusion of the halal logo on products that was originally voluntary has now become an obligation. This is regulated in Article 4 of Law Number 33 of 2014

concerning Guarantees for Halal Products which states that: "Every product circulating in Indonesia must be halal certified". The consequence of not implementing these provisions is that there are administrative sanctions for products that do not pay attention to the mandate of the law. Even further it is stated in Article 56 of the GHP Law that: "Businesses who do not maintain the halalness of products that have obtained halal certificates as referred to in Article 25 letter b,

Until 2023, there are still many food and beverage products circulating in the community that do not yet have halal certification, or in another sense have not carried out the mandate of the Halal Product Guarantee Law. This of course threatens the comfort and safety of Muslim consumers because halal provisions are something that producers can simply circumvent. Considering that there are still many business actors on the micro and small scale who have not been recorded and registered as individual businesses or business entities at the ministry of investment oss, this will be a challenge for organizers of halal product guarantees in encouraging the participation of micro and small business actors to obey the guarantee rules. halal product. Besides that,

The effectiveness of Law Number 33 of 2014 concerning guarantees for halal products is greatly influenced by the law enforcement efforts that are carried out. The discussion on legal effectiveness always begins with law enforcement steps consisting of laws, law enforcers, society and culture in the area.

Based on this description, in this study the author will try to provide an explanation regarding the law enforcement of halal product guarantees in Indonesia in terms of the aspects of legal provisions, law enforcement, law culture. This is very important considering that public awareness and law enforcement related to halal product guarantees are still not optimal.

B. Literature Review

This research has relevance to previous studies. Among them is research from KN. Sofyan Hasan in 2015 in his research entitled Supervision and Law Enforcement of Halal Certification and Labeling of Food Products, which states
that first, until now there has been no law enforcement and protection of consumer rights collectively for the certification and labeling of these halal products. As well as the lack of coordination between ministries and institutions by the Indonesian Ministry of Religion. Second, several factors have caused business actors to delay obtaining halal certification for their products: i) UUJPH cannot be implemented operationally because a Government Regulation (PP) has not yet been issued; ii) BPJPH which is mandated by UUJPH has not yet been established; iii) Business actors find it difficult to certify some types of their products, for example pharmaceutical products.

Research from Muh. Nadratuzzaman Hosen, et al in 2022, which explains that the Law on Guarantees for Halal Products must be intervened by the government in order to safeguard the interests of maslahah, especially consumer protection for the halal product, the government is also required as a facilitator, regulator and supervisor. Other factors that cause derivative regulations from the Law on Halal Product Assurance are also constrained, namely: sectoral ego and overlapping regulations, government competence where BPJPH is the leading sector, overlapping interests.

What distinguishes the author's current research from previous research is the theoretical point of view which is used as the basis of the research. The author in this study uses law enforcement theory by Lawrence M. Friedman, who looks at law enforcement from the aspects of legal structure, law enforcement, and legal culture. The theory of law enforcement will be connected with the implementation of halal product guarantees in Indonesia.

C. Method

This research is Library research was carried out using literature in the form of books, notes and research reports from previous studies related to Guarantees Halal Product in Indonesia.

Approach of this research is normative legal with a legal theory approach. Normative legal research is defined as research that refers to legal norms contained in statutory regulations and court decisions. Normative legal research
can also be referred to as doctrinal legal research. This research method is used to analyze the law enforcement of halal product guarantees in Indonesia so that explanations can be drawn that can increase legal awareness for the public regarding halal product guarantees.

D. Discussion

1. Law Enforcement of Halal Product Guarantee

Law enforcement is broadly interpreted as an effort made to realize the functioning of law as a guideline of behavior for society. These law enforcement efforts involve all legal subjects. Anyone who carries out normative rules or does something based on the applicable norms, then he is upholding the law.

Meanwhile, in a narrow sense, law enforcement is defined as the efforts of certain law enforcement officials to guarantee and ensure the upholding of the law. If necessary, law enforcement officials are allowed to use force.

Thus, law enforcement of halal product guarantees can be interpreted as efforts made by various legal subjects to guarantee and ensure that halal product guarantees can be enforced. The legal subjects in question can come from production actors, Halal Product Assurance Organizing Bodies, halal process assistants, Fatwa Commissions, Halal Supervisory Agencies, law enforcement officials and others who have an interest in realizing halal products.

Lawrence M. Friedman stated that the success or failure of law enforcement is determined by three factors, including legal substance, legal structure, and legal culture.

Legal substance can be interpreted as products produced by people who are in the legal system which includes the decisions they issue or the rules they compose. The substance of the law can be in the form of living law or written law in the form of statutory regulations. Whether law enforcement is effective or not can be influenced by the substance of the law itself, if the rules made have very

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broad beneficiary values but sanctions for violations are not balanced against the consequences of these violations, it is certain that the law will not be upheld optimally.

Reviewing the substance of the law, guarantees for halal products have been comprehensively explained in several provisions in Indonesia. The enactment of Law Number 33 of 2014 concerning Halal Product Guarantee emphasizes how urgent the issue of halal-haram is in the production chain from business actors to consumers and consumed by consumers, where there is also the role of intermediaries such as distributors, sub-distributors, wholesalers, and retailers before reaching the final consumer. Explicitly Law Number 18 of 2012 concerning Food has also emphasized that the provision of food may not conflict with religion, beliefs, and this is the responsibility of the Central and Regional Governments. Food safety is meant to keep food safe, hygienic, of good quality, nutritious, and does not conflict with the religion, beliefs and culture of the people. In addition, food safety is intended to prevent the possibility of biological, chemical and other contaminants that can disturb, harm and endanger human health.

If you look at the reality, the two rules have existed since almost ten years ago. Even so, there are still many micro and small industry players who have not implemented the provisions for halal product guarantees in their production activities. What's more, the number of these business actors cannot be identified because they are not registered on the OSS website of the investment ministry. The disorganization of the community in the implementation of micro and small-based businesses has an impact on the halal certification registration process. Because one of the requirements in applying for halal certification is a Business Permit Number and also a Taxpayer Identification Number for individual business owners/business entities.

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7Article 95 of the Food Law states: The Government and Regional Governments supervise the implementation of the halal product guarantee system for those required for Food. The implementation of the halal product guarantee system for those required as referred to in paragraph (1) is carried out in accordance with the provisions of the laws and regulations
According to the author's observations, the sanctions contained in the provisions for guaranteeing halal products can be clearly understood and are quite burdensome for violators. In Article 4 of Law Number 33 of 2014 Concerning Halal Product Guarantees it is stated that: "Every product circulating in Indonesia must be halal certified". Then in Article 56 of the Law on Halal Product Guarantee it also states that: "Business actors who do not maintain the halalness of products that have obtained halal certificates as referred to in Article 25 letter b, shall be punished with imprisonment for a maximum of 5 (five) years or a fine of up to Rp. 2 billion (two billion rupiah)." Thus the substance aspect of the halal product guarantee rules has a very good impetus to implement.

Based on information from the Minister of Religion of the Republic of Indonesia, as of October 17, 2024, the imposition of sanctions on business actors who do not yet have halal certification has not yet been implemented, but for products that already have halal certification but commit serious violations by using haram materials, criminal provisions can be imposed since Law Number 33 2014 declared effective (5 years after stipulation).

Law enforcement does not only look at the aspect of legal substance, the second factor is that law enforcers also play an important role in the course of enforcing the law on halal product guarantees in Indonesia. Law enforcers are parties who form or apply the law. One of the keys to success in law enforcement is the mentality or personality of the law enforcement itself. In the context of law enforcement by every law enforcement agency, justice and truth must be expressed, felt, seen and actualized.

Law enforcers or people in charge of implementing the law have a very broad scope, because they include both directly and indirectly involved in law enforcement. However, in this paper what is meant by law enforcers is limited to those who are directly involved in law enforcement, which does not only include "law enforcement", but also "peace maintenance", these groups include those in charge of guaranteeing halal products. such as the Halal Product Assurance Organizing Agency, Halal Inspection Agency, Halal Fatwa Commission, Halal Process Assistant and also halal supervisors.
The role of the Halal Product Assurance Organizing Agency is to formulate and establish policies on halal product guarantees; establish norms, standards and procedures in guaranteeing halal products, as well as issuing and revoking halal certification. In carrying out this role, BPJPH is assisted by other devices such as the Halal Inspection Agency whose job is to carry out inspections or tests on product halalness; Halal process assistant whose role is to ensure that the product produced by a company or manufacturer meets the halal standards set by the halal product guarantee organizing body.

Looking at the structure of law enforcement on halal product guarantees, it feels very complete and synergistic. This is also supported by the existence of a halal information system that is able to display a good flow of the halal certification process. The system also makes it easier for the public to gain access to the halal certification process. Community involvement in being part of upholding halal product guarantees is also shown by the participation of various universities and community organizations in establishing Halal Inspection Agencies and Halal Process Assistance Institutions, so that the quantity and quality of human resources in the implementation of halal product guarantees have standardized good HR qualifications.

The rule of law is an inanimate object, its spirit is the enforcer of the law. No matter how good the rule of law is made, if law enforcers do not have credibility or a good mentality in carrying out the rule of law, optimal law enforcement is just wishful thinking. Likewise with Halal product guarantees, even though the legal regulations are very comprehensive, and the quantity of resources is sufficient, if the mentality of law enforcers is more oriented towards personal interests then law enforcement will not work.

The potential for fraud in the process of assistance and verification of the halal process can still be found in the process of halal products. As we can see from the Wine Nabidz case, there are attempts to manipulate the production process by business actors and assistants in the halal process. Business actors and
assistants in the halal process who are part of law enforcement in a broad sense actually take actions that are contrary to the rules of Halal Product Guarantee.\(^8\)

The third factor in law enforcement is legal culture. Legal culture is the values and attitudes that influence the operation of law. Legal culture becomes a link between legal regulations and people's behavior. Legal culture according to Friedman is divided into 2, namely internal legal culture and external legal culture. Internal legal culture is the attitude or value of law enforcement in viewing the law. This attitude will determine when he will act on behalf of the law. Meanwhile, external legal culture is the attitude and perspective of society in viewing the law.\(^9\)

Efforts to increase public awareness of halal product guarantees are realized in halal certification services for micro and small business actors free of charge for users of the self-declare scheme.\(^10\) Even though the service is free, this does not mean that the service does not require fees, but the service fee of 300 thousand Rupiah that should be paid is charged to the State and Regional Revenue and Expenditure Budget. Besides that, alternative financing for halal certification for Micro and Small Enterprises is also offered from partnership funds, grants, as well as other legal and non-binding funding sources.\(^11\) The issuance of the BPJPH Regulation concerning Procedures for Payment of BPJPH BLU Service Rates is a follow-up to the issuance of PMK No.57/PMK.05/2021 concerning BPJPH BLU Service Tariffs which was promulgated on June 4, 2021.

Another problem with the legal culture of guaranteeing halal products is related to cultural changes in halal values that are currently faced by society. As we know that halal is a term that is commonly used by Muslims in seeing the various activities carried out. Initially, halal for products and food only refers to

\(^10\)Look the Decree of the Head of BPJPH No. 141 of 2021 concerning Stipulation of BPJPH BLU Service Rates and BPJPH Regulation No. 1 of 2021 concerning Procedures for Payment of BPJPH BLU Service Rates.
\(^11\)https://kemenag.go.id/nasional/beginiaturan-tariftertifikasi-halal-bagiumk-ada-yang-gratis-dan-berpaid-w8c9i8

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Islamic teachings which refer to aspects of substances, processes, and consequences that originate from the Qur'an and Sunnah. The presence of the Law on Halal Product Guarantee in Indonesia is an obligation that must also be obeyed by Muslims as citizens of the country. The notion that the halal value of a product only refers to syar'i arguments must also be in line with the provisions of the Halal Product Guarantee as evidenced by the presence of halal certification. This is of course difficult for the Indonesian people to accept, considering that product halal claims no longer come from the point of view of business actors and consumers only. But it must also be in line with the point of view of government regulations.

2. **Legal Consequences of Violating Halal Product Guarantees**

Legal consequences are the consequences given by law for a legal event or action of a legal subject. Based on the Indonesian Dictionary, consequence means something that becomes the end or result of an event, condition, or condition that precedes it. According to Jazim Hamidi. The word legal impact / legal effect implies direct, strong, or explicit legal impact or effect.

In the legal science literature, three types of legal consequences are known, namely as follows:

a. Legal consequences in the form of the emergence, change, or disappearance of a certain legal situation;

b. Legal consequences in the form of the emergence, change, or disappearance of a certain legal relationship;

c. Legal consequences in the form of sanctions, which are not desired by legal subjects (acts against the law).

The legal consequences used in this research are legal consequences in the form of sanctions, which are not desired by the legal subject (acts against the law). The intended unlawful act refers to; First, Article 4 of Law Number 33 of 2014 Concerning Halal Product Guarantees states that: "Every product circulating in Indonesia must be halal certified". This means that products distributed in Indonesia do not carry out halal certification. The second condition refers to the

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act of violating Article 56 of the Halal Product Guarantee Law which states: "Business actors who do not maintain the halalness of products that have obtained halal certificates as referred to in Article 25 letter b, shall be punished with imprisonment for a maximum of 5 (five) years or a fine of up to a lot of IDR 2 billion-(two billion rupiah)."

For the first condition where the product does not have halal certification, administrative sanctions apply. Administrative sanctions can be interpreted as sanctions imposed on administrative violations or provisions of laws that are administrative in nature. Administrative sanctions can be in the form of fines, written warnings, revocation of certain permits, and others. Administrative sanctions on halal product guarantees as referred to in paragraph (1) are imposed on Business actors in the form of written warnings, administrative fines, revocation of Halal Certificates; and/or withdrawal of goods from circulation, reads Article 149 paragraph 2.

Allegations of administrative violations can also be made for business actors who violate the provisions of article 56 of the Law on Halal Product Guarantee (does not maintain the halalness of products that have obtained halal certificates). Administrative violations can be made on reports or findings. Administrative allegation reports can be made by individual Indonesian citizens, public or private legal entities, and community organizations. Then BPJPH conducts a study and examination of the alleged violation.

BPJPH will guarantee the confidentiality of the identity of the reporter and the reported party, except for law enforcement purposes. BPJPH conducts a review of reports or findings of alleged administrative violations. The review is carried out within a maximum period of 14 days from the date the report or findings are submitted. If an alleged administrative violation is proven, BPJPH will conduct an investigation. If there is no alleged administrative violation, BPJPH will stop the inspection process. Then an examination of reports or findings is carried out within a maximum period of 10 days from the completion of the initial review. If found guilty, then the witness will be given a written warning in written form.
Administrative fines are imposed in the form of payments to the state treasury. Withdrawal of goods from circulation by business actors is carried out within 60 days after the sanctions for withdrawing goods from circulation have been determined. The imposition of sanction for the revocation of the halal certificate is determined by the head of the agency.

Apart from administrative sanctions, business actors who commit violations do not maintain the halalness of products that have been certified as halal can be reported referring to Article 1 point 24 of the Criminal Procedure Code. Article 1 number 24 of the Criminal Procedure Code states that a report is a notification submitted by a person due to rights or obligations based on law to an authorized official regarding a criminal incident that has occurred or is being or is suspected of impending. It is necessary to carry out an investigation by an authorized official in advance of the alleged violation to determine whether the act constitutes a crime or not.

Criminal provisions for violations of halal-certified products can refer to Article 4a, Article 7, Article 8f, and Article 62 paragraph (1) of the Consumer Protection Law. Settlement of the criminal case also refers to the provisions of the criminal procedural law which are the territory of the general court.

E. Conclusion

The law enforcement of halal product guarantees always refers to aspects of legal substance, legal structure and legal culture. The legal substance in guaranteeing halal products already has a strong construction in regulating, forcing, and providing sanctions for violators. Law enforcers in guaranteeing halal products are parties that form or apply the law, including BPJPH, LPH, Halal Process Assistant, Fatwa Commission and also Halal Supervisors. The halal information system that is run on Halal Product Assurance is currently sufficient considering the very good coordination between law enforcers (in a broad sense). Even so, there are still cases of fraud in the assistance of the halal process which are capable of injuring the enforcement officers of the guarantee of halal products in Indonesia. The heaviest problem lies in the legal culture in society in
responding to this halal certification. The lack of technical knowledge in applying for halal certification and the risk of non-compliance with the Halal Product Assurance Act remains a big problem in enforcing the law on halal product guarantees. It took almost a decade for this law on halal product guarantees to be accepted by business actors. Moreover, the imposition of sanctions referred to in the Halal Product Guarantee Law has not been fully implemented.

Administrative sanctions can be in the form of fines, written warnings, revocation of certain permits, and others. Administrative sanctions on halal product guarantees as referred to in paragraph (1) are imposed on Business actors in the form of written warnings, administrative fines, revocation of Halal Certificates; and/or withdrawal of goods from circulation, reads Article 149 paragraph 2. Allegations of administrative violations can also be made for business actors who violate the provisions of article 56 of the Law on Halal Product Guarantee (does not maintain the halalness of products that have obtained halal certificates). Business actors who commit violations and do not maintain the halalness of products that have been certified halal can be reported referring to Article 1 number 24 of the Criminal Procedure Code and Article 4a, Article 7, Article 8f, and Article 62 paragraph (1) of the Consumer Protection Law. Settlement of the criminal case also refers to the provisions of the criminal procedural law which are the territory of the general court.
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