

DEVELOPING HALAL MINERAL AND COAL MINING LICENSES THROUGH A FAIR CRIMINAL SANCTIONS POLICY

Archipelago Tarigan Silangit

Sultan Agung Islamic University, Indonesia

zulaikasilangit@yahoo.com

Abstract. In the era of the Industrial Revolution 4.0, it is very easy for business people to manage halal food, both process and sales, namely through complex machines, complete laboratories, modern halal valleys, artificial intelligence tools and applications. All of this has an impact on the increasingly popular presence of halal food in Indonesia, more efficient and wider sales, more effective ordering and production processes, faster menu updates, and a more open market, so that the halal food industry is increasingly being demanded to have competitiveness. So that to enter the era of the industrial revolution 4.0, proper application of the Halal Product Assurance Law which regulates halal certificates for food and beverage industry products is needed. The purpose of this study is to analyze the application of the Halal Product Guarantee Act during the 4.0 industrial revolution. The research method in this research is normative juridical. The result of this research is that since the enactment of the Law. No. 33 of 2014 concerning Halal Product Guarantee, the authority was transferred to the Halal Product Guarantee Agency (BPJPH). Criminal sanctions for violations of Article 4, which are contained in Articles 56 and 57 of the JPH Law, only apply to individual perpetrators. Therefore, the provisions or criminal norms for the Halal Product Guarantee are regulations regarding penalties for violating the moral hazard obligations of private or corporate legal subjects.

1. Background

Since 2011, Indonesia has entered the industrial revolution 4.0 which is marked by increased connectivity, interaction, and boundaries between humans, machines, and other resources that are increasingly converging through information and communication technology. The first generation industrial revolution (1.0) was marked by the use of steam engines to replace human and animal power. Then the second generation (2.0) was marked by the application of the concept of mass production and the use of electric power. The third generation (3.0) is marked by the use of automation technology in industrial activities. Until the fourth industrial revolution (4.0) was marked by the full utilization of information and communication technology not only in the production process, but also throughout the industrial

value chain, giving birth to a new business model on a digital basis in order to achieve high efficiency and higher product quality. good.⁴³

National industry players must be able to seize opportunities in the development of digital technology in the 4.0 industrial revolution, such as artificial intelligence, robotics, and 3D printing. The goal is to be more efficient and increase productivity.⁴⁴ A number of large manufactures are prepared to enter the industrial era 4.0, including the food and beverage industry, the automotive industry, the chemical industry, the electronics industry, and the textile and apparel industry.⁴⁵ The focus of this research is the food and beverage industry.

The application of industry 4.0 in the food and beverage industry is able to have a positive effect on the Indonesian economy. The benefits of using technology in the industrial era 4.0 in the food and beverage industry are improved production speed-flexibility, increased service to customers, and increased income, with the main objective of implementing the Industry 4.0 concept, namely to increase the competitiveness of each country's industry in facing a global market that is changing very dynamic. In addition, the National Research Council said that the purpose of implementing the industrial 4.0 concept in the food and beverage industry is to increase exports in Indonesia.⁴⁶

One way to increase the competitiveness of the food and beverage industry is to include halal certification. This is also needed as a form of the state to protect the rights to comfort, security, and safety of its people as consumers in using products spread across Indonesia. This is a consequence of the majority of Indonesian people who are Muslim. This halal certificate is a requirement to include a halal label so that a product is suitable for consumption by Muslim consumers. Business actors must meet certain requirements and go through a series of processes that have been determined by the MUI to obtain a halal certificate. After obtaining a halal certificate, business actors obtain a halal label from the MUI to then be included on

⁴³Ministry of Industry of the Republic of Indonesia, 2018, *Making Indonesia 4.0: RI's Strategy for Entering the 4th Industrial Revolution*, Press Release Article, accessed via <https://kemenperin.go.id/article/18967/Making-Indonesia-4.0:-Strategi-RI-Enter-The-4th-Industrial-Revolution> on March 4, 2022.

⁴⁴Arlyta Dwi Anggraini, 2019, *Indonesia Towards Industry 4.0*, Article, accessed via <https://indonesiabaik.id/infografis/indonesia-menuju-industri-40> on March 4, 2022.

⁴⁵Kominfo, 2019, *What is Industry 4.0 and How Indonesia Meets It*, Article, accessed via https://kominfo.go.id/content/detail/16505/apa-itu-industri-40-dan-how-indonesia-menyongsongnya/0/highlight_media on March 4, 2022.

⁴⁶VE Satya, 2018, *Indonesia's Strategy for Facing Industry 4.0.*, Indonesian House of Representatives Expertise Body: Brief Information, Vol. 10, p. 19.

the product label. This halal certification is only valid for a certain period of time and business actors must make an extension to obtain halal certification of their products again.⁴⁷

The regulation of product halal certification, especially in the food and beverage industry, is carried out by the Indonesian government by issuing several laws and regulations, namely Law Number 36 of 2009 concerning Health, Law Number 7 of 1966 concerning Food, Law Number 6 of 1967 Regarding Basic Provisions and Animal Health, Law Number 8 of 1999 concerning Consumer Protection, Law Number 33 of 2014 concerning Guaranteed Halal Products and several implementing regulations related to product halalness.⁴⁸

However, the existence of these regulations, in their implementation, still causes overlapping, inconsistent, and not systemic. Because it still uses a sectoral and partial approach. Therefore, these laws and regulations have not provided legal certainty and legal guarantees for Muslims in recognizing halal products that are spread in the global market, so that in the end the government issued Law Number 33 of 2014 concerning Guaranteed Halal Products in the hope that the government can try to fulfill trust as a guarantor of halal certificates in food and beverage products.

2. Formulation of the problem

How is the implementation of Law Number 33 of 2014 concerning Halal Product Guarantee in entering the industrial revolution?

3. Research methods

This research is included in legal research which is a research activity to solve legal issues faced, with the ability to identify problems that occur.⁴⁹ The type of research used is a normative legal research method. Normative legal research is research conducted by examining library materials and secondary materials.⁵⁰ In this type of research, law is conceptualized as what is written in legislation or regulations.

⁴⁷Diana Candra Dewi, 2007, *The Secret Behind Haram Food*, UIN, Malang, p. iii.

⁴⁸Lies Afroiyani, 2014, *Analysis of the Political Economy of Halal Certification by the Indonesian Ulama Council*, Journal of Policy and Product Analysis Vol. 18, p. 37.

⁴⁹Peter Mahmud Marzuki, 2010, *Legal Research, Revised Edition IV*, Kencana, Jakarta, p. 63.

⁵⁰Soerjono Soekanto and Sri Pamudji, 2006, *Normative Legal Research*, Rajawali Press, Jakarta, p. 18.

The types of legal materials used in this study consist of primary and secondary legal materials as follows:

1. Primary Legal Material

Primary legal materials are legal materials that have the main authority, namely the Minutes of Law Number 33 of 2014 concerning Guaranteed Halal Products.

2. Secondary Legal Material

Secondary legal materials are legal materials that strengthen primary legal materials and can be used to clarify concepts in research. In this study, secondary materials consisted of books related to halal product guarantees, halal certification, legal politics, and journals and related laws and regulations, namely Law Number 36 of 2009 concerning Health, Law Number 7 of 1966 concerning Food, Law Number 6 of 1967 concerning Basic Provisions and Animal Health, Law Number 8 of 1999 concerning Consumer Protection, Law Number 33 of 2014 concerning Guaranteed Halal Products and several implementing regulations related to halal products.

3. Tertiary Law Material

Tertiary legal material is a source of data as an explanation of primary legal materials and tertiary legal materials. In this case some tertiary legal materials such as dictionaries, encyclopedias, bibliographies related to research.

The method of analysis in this study was carried out in several steps, namely:

1. Re-examination of the data obtained by checking the validity of the data, the goal is that the data obtained is complete and guaranteed.
2. The process of classifying the data is then matched with the existing problems, the purpose of which is to facilitate the analysis presented.
3. Recording data systematically and consistently, the data obtained is poured into a concept design to then be used as the main basis in providing analysis so that in the end there is alignment of the data with the given analysis.
4. As the last stage of this research is data analysis. Researchers have organized the data in order to interpret the data qualitatively.

In this case, the researcher uses descriptive-qualitative data analysis, namely presenting the data and information and then analyzing it using several conclusions as the findings of the research. Descriptive-qualitative research is research that seeks

to describe and interpret existing conditions or relationships, growing opinions, ongoing processes, ongoing consequences or developing trends.⁵¹

4. Discussion

The Industrial Revolution 4.0 not only gave changes to the manufacturing industry, but also greatly impacted globalization, disguising international boundaries and competition. As explained below. First, globalization, the development of technology outside and inside the factory has an impact on the globalization of the manufacturing industry until it starts operating internationally. In particular, advances in technology and transportation have a very large impact, by improving communication and trade, the availability of halal food is getting wider. Companies spread their reach at sea as well as on land, daily halal food shipped worldwide or cargo shipping by air and shipping. Indonesia should play a big role in the globalization of halal food and should be a subject for other countries. With globalization, it is easy for Indonesian people to switch to halal fast food from abroad which is more unique and practical, if this continues, traditional halal food will fade and the next generation will not know authentic Indonesian food. Thus, the government plays a role in preserving the nation's culture, to introduce regional halal food so that our ancestral heritage remains, the influence of outside culture on Indonesian culture actually depends on each person whether they should be carried away by outside cultural currents or prefer traditional Indonesian food culture.⁵²

Second, blurring boundaries, at the beginning of Industry 4.0 companies used more accessible data networks worldwide in their operations, which used to only sell halal food in affordable areas now can penetrate various corners of the world, and cooperation around the world is more possible than previously. Every staff member in Indonesia by using the software can improve the design of halal food more quickly, and develop ideas more broadly. By using a digital connection whose expertise can offer halal food remotely quickly, businesses can get maximum results. Operating in this way means that in the future international companies will not need the presence of important people around the world but operate only from a few groups. Halal food is increasingly popular because of the many sophisticated tools

⁵¹Sunarto, 1990, *Descriptive Research Methods*, National Enterprises, Surabaya, p. 47.

⁵²Aminatuz Zahrah and Achmad Fawaid, 2019, *Halal Food in the Industrial Revolution Era 4.0: Prospects and Challenges*, HAYULA: Indonesian Journal of Multidisciplinary Islamic Studies, Vol. 3, Mr. 2, p. 132-133.

that can briefly promote halal food in all corners of the world that can choose various kinds of halal food so that many halal foods from abroad enter Indonesia.⁵³

Third, international competition, Industry 4.0 has revolutionized the operation of the halal food business both outside and inside the factory, pushing the globalization process forward and improving relations between international businesses. With the smooth running of activities that are increasingly advanced, halal food companies must compete worldwide and cannot rely on physical locations to win the halal food business, meaning halal food companies must focus on meeting changing consumer demands such as variations in taste, brand and so on. In the 4.0 era, halal food competition is higher than abroad, therefore, halal food companies must maintain production, with other applications and technologies, companies must respond to consumers more quickly, production must be flexible and incorporate automatic technology, so as not to lose competitiveness with foreign countries. In addition, halal certificates are the main thing in world competition because with a halal certificate marked with a halal stamp, the food ingredients used must be halal and will greatly affect the purchase value in all corners of the world, halal food is growing rapidly because not only people Islam is tempted by halal food but also non-Muslims because of the fact that halal food is more guaranteed in terms of hygiene and health. The invasion of imported food is a fairly formidable challenge, especially since Indonesia is a Muslim-majority country, other countries will compete to reach consumers in order to achieve company profits.⁵⁴

To meet the industrial 4.0 resolution, it is necessary to implement Law no. 33 of 2014 concerning Halal Product Guarantee. If all this time halal certification has been handled by LPPOM MUI which is a non-governmental organization, since the birth of the Halal Product Guarantee Act, the handling of certification has become the authority of the state through the Halal Product Guarantee Agency (BPJPH). MUI still has the authority to determine halal and haram. However, the formal process, both the scientific examination and the issuance of certificates, is under the authority of BPJPH.⁵⁵

In order to guarantee that every believer of religion worships and carries out his religious teachings, the State is obliged to provide protection and guarantees

⁵³*Ibid* .

⁵⁴*Ibid* , p. 134.

⁵⁵Ralang Hartati, 2019, *The Role of the State in the Implementation of Halal Product Assurance*, ADIL: Jurnal Hukum Vol. 10, No. 1, p. 77.

regarding the halalness of the products consumed and used by the community. Guarantees regarding Halal Products should be carried out in accordance with the principles of protection, justice, legal certainty, accountability and transparency, effectiveness and efficiency, and professionalism. Therefore, the guarantee for the operation of Halal Products aims to provide convenience, security, safety, and certainty of the availability of Halal Products for the public in consuming and using the Products, as well as increasing added value for Business Actors to produce and sell Halal Products.⁵⁶

In Indonesia, awareness of halal products has become part of the life needs of people who are predominantly Muslim, so it is very easy to find halal products in Indonesia. It is even easier to get halal than haram. However, in the midst of the abundance of halal products, it is not uncommon for haram products to appear, especially those produced by modern factories. People do not easily recognize halal and haram, thus the orientation of halal certification in Indonesia is dominated by the motivation to protect the Muslim community. Considering that the majority of the Indonesian people are Islamic people, who urgently need protection from the State against goods that are not halal and do not have a halal label, the State invites the public to participate in supervising products circulating in the market both from outside and within the country. , even the State will give awards to the people who actively participate in the Supervision. However, the sanctions for violating the halal provisions of a food product in Article 27 of Law Number 33 of 2014 are only in the form of verbal warnings, written warnings, and administrative fines.⁵⁷

Law Number 33 of 2014 concerning Halal Product Assurance (UU-JPH) strengthens and regulates various halal regulations that have been scattered in various laws and regulations. On the other hand, UUJPH can be referred to as the legal umbrella (umbrella act) for the regulation of halal products. The Halal Product Guarantee (JPH) in this law covers various aspects, not only medicine, food, and cosmetics, but is broader than that, including chemical products, biological products, genetically engineered products, as well as goods used, used, or utilized by the public.⁵⁸

⁵⁶*Ibid* .

⁵⁷*Ibid* , p. 81.

⁵⁸May Lim Charity, 2017, *Guarantee of Halal Products in Indonesia*, *Indonesian Legislation Journal* Vol. 14, No. 1, p. 105.

The regulation also covers product halalness from upstream to downstream. Halal Product Processing, hereinafter abbreviated as PPH, is defined as a series of activities to ensure product halalness including the supply of materials, processing, storage, packaging, distribution, sales, and product presentation. This aims to provide comfort, security, safety, and certainty of the availability of halal products for the public in consuming and using the product as well as increasing added value for business actors to produce and sell their products. The technical guarantee of halal products is then translated through a certification process. Previously, halal certification was voluntary, while UUJPH was mandatory. Therefore, all products that enter, circulate, and are traded in the territory of Indonesia must be certified halal. This is the main difference between the products of the previous legislation. Later, as the person in charge of the halal guarantee system, the government will organize it by the Minister of Religion by establishing the JPH Organizing Agency (BPJPH) which is located under and responsible to the Minister of Religion. BPJPH has the following authorities:⁵⁹

1. formulate and determine JPH policies;
2. establish JPH norms, standards, procedures, and criteria;
3. issue and revoke Halal Certificates and Halal Labels on Products;
4. registering Halal Certificates on foreign Products;
5. conduct socialization, education, and publication of Halal Products;
6. Accrediting LPH (halal guarantee institution)
7. registering Halal Auditors;
8. to supervise JPH;
9. conduct training for Halal Auditors; and
10. cooperate with domestic and foreign institutions in the field of JPH implementation.

In carrying out its authority, BPJPH cooperates with relevant Ministries and/or institutions, the Halal Inspection Agency (LPH and the Indonesian Ulema Council (MUI). BPJPH cooperates with LPH for product inspection and/or testing. BPJPH cooperation with MUI is carried out in the form of certification Halal Auditor, determination of product halalness; LPH accreditation.⁶⁰

⁵⁹*Ibid* , p. 105-106.

⁶⁰*Ibid* .

To assist BPJPH in conducting inspection and/or testing of product halalness, the government and the community can establish LPH. The requirements for establishing an LPH include:⁶¹

1. have their own office and equipment;
2. have accreditation from BPJPH;
3. have at least 3 (three) Halal Auditors; and
4. have a laboratory or cooperation agreement with other institutions that have laboratories.

The UUBPJH opens opportunities for institutions other than LPPOM MUI to open LPH. Islamic organizations that have integrity at the central and regional levels, such as: Muhammadiyah and Nahdlatul Ulama (NU) as well as campuses in regions that have scientific capabilities in the food sector can be included in the context of the implementation and/or availability of halal products for Muslim consumers in Indonesia. .⁶²

UUJPH mandates that BPJPH must be established no later than 3 (three) years from the promulgation of this Law. Implementing regulations for this Law must be enacted no later than 2 (two) years from the promulgation of this Law, however, until now the Implementing Regulations for this UUJPH have not been made. The obligation to be certified halal for products circulating and traded in the territory of Indonesia shall come into effect 5 (five) years from the promulgation of this Law. Before the obligation to be certified halal applies, the types of products that are certified halal are regulated in stages.⁶³

5. CONCLUSION

Implementation of Article 4 of Law No. 33 of 2014 concerning Guaranteed Halal Products, Initially by the MUI (Indonesian Ulema Council) institution. However, since the enactment of Law No. 33 of 2014 concerning Halal Product Guarantee, this authority has been transferred to the Halal Product Guarantee Agency (BPJPH) since October 2017. In order to guarantee the implementation of the implementation of Halal Product Assurance, BPJPH supervises the Halal Guarantee Agency; Halal Certificate validity period; product halalness; inclusion of Halal

⁶¹*Ibid* .

⁶²*Ibid* .

⁶³*Ibid* .

Label; inclusion of non-halal information; separation of locations, places and processing equipment, storage, packaging, distribution, sales, and presentation between Halal and non-halal Products; presence of a Halal Supervisor; and/or other activities related to JPH To ensure law enforcement against violations of this Law, administrative sanctions and criminal sanctions are stipulated. Community participation in Halal Product Assurance is highly expected by the government. It is proven that there are 2 articles that regulate and invite the public to participate in supervising the circulation of halal products. Criminal sanctions for violations of the JPH Law, Article 56 and Article 57 of the JPH Law. The results of the author's research are that the public is willing to assist the government in administering the guarantee of Halal Products. And the community's enthusiasm for this program can be seen from the data that the author obtained where 75% of the Muslim community is willing to become LPH members, and 100% are willing to support government programs related to the socialization of halal product certification.

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