

The Construction of Islamic Law on the Law on Halal Product Assurance from the Maqashid Sharia Perspective (Law No. 33 of 2014 and Law No. 11 of 2020 Article 48)

¹Fachri Fachrudin, ²Sujian Suretno, ³Muslim, ⁴Ade Kohar, ⁵Agus Mailana
¹²³⁴⁵ Sekolah Tinggi Agama Islam (STAI) Al-Hidayah Bogor

Abstract

This article describes the construction of Islamic law on the halal product guarantee law that applies in Indonesia. The shifting of operators in the field of halal product guarantees from private institutions to the government has strong legitimacy which requires business actors to comply. The status of halal certified has increased from voluntary to mandatory in line with the 1945 constitution and sharia principles should be achieved, but the weakness of this law is that there are no strict sanctions for business actors who do not certify their products. This type of research is an explanatory qualitative with a maqashid sharia approach and a review of Islamic law. The research findings that sharia obligations that do not contain legal sanctions cause individuals or groups to not comply, this has implications for Muslim consumers being unprotected from the need for halal products because there are still many products that are not halal certified. In conclusion, the construction of Islamic law regarding the guarantee of halal products in Indonesia is still weak but better than before.

Keywords: Islamic law construction, JPH Law, maqashid sharia, sharia compliance

Kontruksi Hukum Islam Pada Undang-Undang Jaminan Produk Halal Perspektif Maqashid Syariah (Undang-Undang No. 33 Tahun 2014 dan Undang-Undang No 11 Tahun 2020 Pasal 48)

Abstrak

Artikel ini menjelaskan kontruksi hukum Islam pada undang-undang jaminan produk halal yang berlaku di Indonesia. Beralihnya penyelenggara bidang jaminan produk halal dari lembaga swasta ke pemerintah memiliki legitimasi kuat yang mengharuskan pelaku usaha comply. Status halal certified meningkat dari voluntary menjadi mandatory hal tersebut selaras dengan undang-undang dasar 1945 dan prinsip-prinsip syariah, seharusnya maqashid syariahnya tercapai, namun kelemahan dari undang-undang ini adalah tidak ada sanksi yang tegas bagi pelaku usaha yang tidak mensertifikasi produknya. Jenis penelitian ini adalah kualitatif eksplanatif dengan pendekatan maqashid syariah dan tinjauan hukum Islam. Temuan penelitian bahwa kewajiban syariat yang tidak mengandung sanksi hukum menyebabkan individu atau kelompok tidak comply hal itu berimplikasi pada tidak terlindunginya konsumen muslim dari kebutuhan produk halal karena masih banyak produk-produk yang belum bersertifikat halal. Simpulan, kontruksi hukum Islam tentang jaminan produk halal di Indonesia masih lemah namun lebih baik dari sebelumnya.

Kata kunci: . kontruksi hukum Islam, UU JPH, maqashid syariah, syariah compliance.

Author correspondence

Email: _fachrudinfachri74@gmail.com

Available online at <http://journal.iaingorontalo.ac.id/index.php/au/index>

A. Introduction

Indonesia is the country with the largest Muslim population in the world. The number of Muslims in Indonesia reached 87% or around 225 million people in 2022. There is a high demand for halal products, and the country needs to ensure the availability of halal products for its Muslim citizens. The 1945 Constitution mandates this responsibility, Article 29, Paragraph 2, which states that "the state guarantees every citizen the freedom to embrace their religion and worship according to their faith and beliefs." After a long process, Indonesia now has explicit legal provisions regarding the assurance of halal products.¹

On October 17, 2014, Law Number 33 of 2014 concerning Halal Product Assurance was enacted. This law regulates the implementation of halal product assurance, including examining product halalness, issuing halal fatwas, and certification. The law came into effect five years after its enactment. Subsequently, Law Number 11 of 2020 concerning Job Creation was issued, which amended several provisions in the halal product assurance law, particularly in Article 48. On February 2, 2021, the government issued Government Regulation Number 39 of 2021 regarding the implementation of halal product assurance.

In principle, regulations regarding halal product assurance in Indonesia have made significant progress.² Previously handled by private institutions voluntarily, it is now directly managed by the government and is mandatory. However, there needs to be more clarity in the halal product assurance law in Article 4. The article states that "products entering, circulating, and traded in Indonesian territory must be halal certified," but there are no strict sanctions for businesses that fail to certify their products. Any loopholes or weaknesses in regulation can have negative consequences for society. As a result, many non-halal labeled products are still in the market.³

¹ Miftahul Hasanah dan Abd. Rohman Fahrudin, "Analisis Halal Supply Chain Management (SCM) Dalam Perspektif Maqashid Syariah," *At-Tasharruf "Jurnal Kajian Ekonomi dan Bisnis Syariah"* 2, no. 2 (8 Oktober 2020): 73–80, doi:10.32528/AT.V2I2.5424.

² Khabib Solihin, "Analisis Kebijakan Sertifikasi Produk Halal Dalam Perspektif Perlindungan Kemaslahatan Umat," *Islamic Review: Jurnal Riset dan Kajian Keislaman* 9, no. 1 (25 April 2020): 1–37, doi:10.35878/ISLAMICREVIEW.V9I1.188.

³ Ulya Fuhaidah Ramlah, "Implementasi jaminan produk pangan halal di Jambi," t.t., doi:10.18326/ijtihad.v18i2.211-226. Ari Mariyana Angriyani dan Elisatris Gultom, "Peran Negara Dalam Memberikan Perlindungan Pada Konsumen Atas Penggunaan Produk Pangan Tidak Berlabel

Indeed, the halal product assurance law aims to encourage the mass production of halal products in Indonesia and ultimately promote a halal lifestyle as a culture.⁴ This law possesses significant advantages compared to previous halal product regulations. However, its construction and legal framework weaknesses render the regulation less effective.⁵ The legal conception and operational aspects must address these weaknesses and close any loopholes. While these loopholes may disappear if businesses comply with and adhere to this law, the current socio-economic phenomenon is complex. Many business operators argue that regulations are only implemented after experiencing tangible impacts.

The impacts vary, such as businesses that have certified their products experiencing increased sales due to consumer trust and comfort in purchasing them. On the other hand, businesses with uncertified halal products witness declining sales in the market. Consequently, business operators are compelled to certify their products. Another example is the revocation of business permits for those whose products are not halal certified, serving as a lesson and concern for other business operators. Conversely, some businesses may not certify their products but still thrive because there are no sanctions, their products remain in demand, or they believe all ingredients used are halal.

Such a regulatory model would be effective if public and business awareness increases. Consumers, as buyers, will only purchase products with a halal label, leading to a decrease in demand. Meanwhile, business operators recognize the opportunity the government is developing in the halal industry, prompting them to seek certification for their products to add value, ensure quality, and supply the domestic and international halal market. Empirically, halal is a sensitive issue, especially for Muslims. Society will be disturbed if a product is non-halal, mainly if

Halal Berdasarkan Undang-Undang Nomor 33 Tahun 2014 Tentang Jaminan Produk Halal," *Widya Yuridika* 4, no. 1 (17 Mei 2021): 19–26, doi:10.31328/WY.V4I1.2299.

⁴ Rina Darajatun, "Tren Produk Halal, Gaya Hidup Syar'i Dan Kesalehan Simbolik: Studi Tentang Muslim Kelas Menengah," *Wardah* 19, no. 2 (14 Desember 2018): 135–57, doi:10.19109/WARDAH.V19I2.2816.

⁵ Fajaruddin Fajaruddin, "Efektivitas Undang-Undang Nomor 33 Tahun 2014 Tentang Jaminan Produk Halal Dalam Perlindungan Konsumen," *DE LEGA LATA: Jurnal Ilmu Hukum* 3, no. 2 (20 Juli 2018): 204–16, doi:10.30596/DLL.V3I2.3151. Indah Fitriani Sukri, "Implementasi Undang-Undang Cipta Kerja Terhadap Penyelenggaraan Sertifikasi Halal Dan Produk Halal Di Indonesia:," *Majalah Hukum Nasional* 51, no. 1 (31 Juli 2021): 73–94, doi:10.33331/MHN.V51I1.139.

the general population consumes it.⁶ The issue of halal products is urgent and requires a solid legal framework.⁷

B. Literature Review

Sharia Objectives

Introduction: The Halal Product Assurance Law in Indonesia aims to ensure the availability of halal products for the Muslim population and promote a halal lifestyle. This literature review explores the effectiveness of this law based on the theory of legal effectiveness and its alignment with the objectives of Sharia law.

Theory of Legal Effectiveness: According to Lawrence M. Friedman's theory, the effectiveness of law enforcement depends on three elements: legal structure, legal substance, and legal culture. The legal structure refers to how the law is implemented based on formal provisions. Legal substance represents the output of the legal system, including regulations and decisions that must be operationalized. Legal culture refers to how society perceives the importance of complying with the law to benefit individuals and the community.⁸

C. Maqasid al-Shariah:

The concept of Maqasid al-Shariah asserts that every Islamic law aims to benefit humanity, even if those benefits are not explicitly mentioned. Each command from Allah and His Messenger in the Quran and Hadith contains significant benefits, while prohibitions prevent harm and adverse consequences.⁹ Specifically, the Sharia law is clear regarding halal food and beverages: Muslims should consume only halal

⁶ Asep Syarifuddin Hidayat dan Mustolih Siradj, "Argumentasi Hukum Jaminan Produk Halal," *Jurnal Bimas Islam* 8, no. 1 (30 Maret 2015): 31–66.

⁷ May Lim dkk., "Jaminan Produk Halal Di Indonesia (Halal Products Guarantee In Indonesia)," 2017.

⁸ Ana Aniza Karunia, "Penegakan Hukum Tindak Pidana Korupsi Di Indonesia Dalam Perspektif Teori Lawrence M. Friedman," *Jurnal Hukum dan Pembangunan Ekonomi* 10, no. 1 (30 Juli 2022): 115–28, doi:10.20961/HPE.V10I1.62831.

⁹ Moh Toriquddin, "Teori Maqâshid Syarî'ah Perspektif Al-Syatibi," *De Jure: Jurnal Hukum dan Syar'iah* 6, no. 1 (30 Juni 2014), doi:10.18860/J-FSH.V6I1.3190. Usman Betawi, "Maqashid Al-Syariah Sebagai Dasar Hukum Islam Dalam Pandangan Al-Syatibi Dan Jasser Audha," *Jurnal Hukum Responsif* 6, no. 6 (21 Januari 2019): 32–43.

products, as stated inclusively in Surah Al-Baqarah, verse 68. Halal food and beverages Allah provides to His servants are undoubtedly beneficial.¹⁰

D. Alignment between

Theory of Legal Effectiveness and Maqasid al-Shariah: The theory of legal effectiveness and Maqasid al-Shariah are fundamentally aligned. Both emphasize the need for a robust legal framework that operates effectively and substantially benefits individuals and society. To achieve this, the conceptual and operational aspects of the legal framework must be in line, leaving no room for violations. A robust Islamic legal construction within the Indonesian legal system should foster compliance among the public, thereby realizing the objectives of Sharia law.

E. Research Method

This research adopts a qualitative explanatory approach, utilizing the theories of legal effectiveness and Maqashid Shariah. The researcher aims to analyze the legal construction of Islamic law in the field of halal product assurance, covering various aspects such as the LPPOM MUI regime, relevant laws, government regulations, ministerial decisions, as well as the Halal Product Assurance Law No. 33 of 2014, the Job Creation Law No. 11 of 2020, and Government Regulation No. 39 of 2021.

This study aims to explain the Islamic legal construction within the framework of the halal product assurance laws, both conceptually and operationally. The researcher intends to delve into the effectiveness of these laws and their alignment with the principles of Maqashid Shariah, which emphasize the benefits and welfare of individuals and society. Through a comprehensive analysis of the legal landscape and its practical implementation, this research aims to shed light on the Islamic legal framework concerning halal product assurance.

F. Findings and Discussion

¹⁰ Agung Kurniawan dan Hamsah Hudafi, "Konsep Maqashid Syariah Imam Asy-Syatibi Dalam Kitab Al-Muwafaqat," *Al-Mabsut: Jurnal Studi Islam dan Sosial* 15, no. 1 (1 April 2021): 29–38. Abdurrahman Kasdi Penulis adalah Dosen STAIN Kudus, "Maqasyid Syari'ah Perspektif Pemikiran Imam Syatibi Dalam Kitab Al-Muwafaqat," *YUDISIA: Jurnal Pemikiran Hukum dan Hukum Islam* 5, no. 1 (18 Januari 2016), doi:10.21043/YUDISIA.V5I1.693.

LPPOM MUI has implemented the halal certification in Indonesia for the past 33 years. LPPOM MUI was established on January 6, 1989, and has been operating since then. As a private institution, LPPOM MUI can only recommend manufacturers to certify their products. On the other hand, the demand for halal products among Muslims is substantial. The position of LPPOM MUI as a private halal certification body needs to be stronger, as it does not have any authority to mandate certification for products. The availability of certified halal products in the market is still limited. However, the Muslim community welcomes these halal products, so the Halal Product Assurance Law No. 33 of 2014 was enacted. This law became the world's first Halal Law, although it was issued too late.

Before the halal product assurance law was enacted, there were several regulations related to halal, including Law No. 7 of 1996 on Food, Article 30 Paragraph 2, which emphasized labeling. Law No. 8 of 1999 on Consumer Protection, Article 8, explained the prohibited actions for business actors who do not follow the provisions of halal production processes as stated in the halal label. Government Regulation No. 69 of 1999 on Food Labeling and Advertising, Article 10 Paragraph 1, stated that anyone who produces or imports packaged food into Indonesia for trading and claims that the food is halal for Muslims is responsible for the truth of that statement and must include a halal statement on the label. Law No. 18 of 2009 on Livestock and Animal Health, Article 58 Paragraph 4, stated that veterinary and halal certificates must accompany animal products produced or imported into the territory of Indonesia for distribution. Law No. 36 of 2009 on Health, Article 4, stated that everyone has the right to health. Head of the National Agency of Drug and Food Control Regulation No. HK. 03.42.06.10.4556 of June 30, 2010, on the Inclusion of Information on Certain Ingredients and Alcohol Content. Law No. 18 of 2012 on Food, Article 69, explained the implementation of food through various aspects, including the assurance of halal products as required.

These regulations complement and strengthen each other regarding halal product assurance, covering food, consumer protection, halal labeling, animal health, and alcohol content. Food, beverages, and cosmetics receive significant attention in each regulation related to these matters. From 1996 to 2012, there was

a conception to realize a robust halal product assurance law, leading to the issuance of the halal product assurance law two years later.¹¹

The slowness in enacting the Halal Product Guarantee Act positioned Indonesia as the 10th largest halal producer in the world. However, it is still appreciated that the halal industry in Indonesia finally has clear legal protection. Law Number 33 of 2014 concerning Halal Product Guarantee consists of eleven chapters and 62 articles. Articles 1-4 contain general provisions, articles 5-16 discuss the implementation of halal product guarantee, articles 17-22 cover halal ingredients and processes, articles 23-28 address business operators, articles 29-45 outline the procedures for obtaining halal certification, articles 46-48 deal with international cooperation, articles 49-52 discuss supervision, articles 53-55 focus on public participation, articles 56-57 cover criminal provisions, articles 58-63 address transitional provisions, and articles 64-68 provide concluding provisions.

Six years after the enactment of that law, the Job Creation Law Number 11 of 2020 was issued. Article 48 of this law amended several provisions in Law Number 33 of 2014. The changes were made to clarify the authority in the halal certification process and facilitate the certification process for producers. This article transferred the authority for halal certification from LPPOM MUI to BPJPH. Since January 6, 1989, LPPOM MUI has been Indonesia's sole halal certification institution. At that time, LPPOM MUI had full authority to issue halal certification for products, including product examination, halal fatwa, and halal certification. With the establishment of BPJPH, the authority was regulated accordingly. The community establishes LPH (Halal Inspection Agency) and must be a legal entity. Private universities can also establish LPH under the auspices of Islamic legal entities or Islamic foundations. The community can establish LPH if they have their own office and equipment, at least three halal auditors, and a laboratory or cooperation with other parties that have a laboratory.

LPH is authorized to conduct halal product inspections. Once the products have been inspected and meet the halal qualifications, a halal fatwa is requested

¹¹ Desi Indah Sari, "Perlindungan Hukum Atas Label Halal Produk Pangan Menurut Undang-Undang," *Repertorium: Jurnal Ilmiah Hukum Kenotariatan* 7, no. 1 (6 April 2019): 1, doi:10.28946/RPT.V7I1.264.

from MUI. In this case, MUI still has the authority to issue halal fatwas. After the halal fatwa is issued, BPJPH issues the halal certificate for the product. The halal certification process, which previously took 100 days, was reduced to 21 days with the Job Creation Law. The composition of the Halal Product Guarantee Law is similar to the Sharia Banking Law, and the performance of both laws involves MUI in ensuring compliance with Islamic principles.

The synchronization of the halal product guarantee law and the Job Creation Law Article 48 is accommodated in Government Regulation 39 of 2001 concerning the implementation of halal product guarantee. Article by article, this government regulation provides detailed provisions related to the Indonesian halal product guarantee system.

The Islamic legal framework in the Halal Product Guarantee Law is in harmony with positive law. Article 29, paragraph 2 of the 1945 Constitution guarantees every individual's freedom to practice their religion and worship according to their beliefs. Indonesia, with the largest Muslim population in the world, has a significant need for halal products, especially in the food and beverage industry. Halal and haram are considered *await* (unchanging) rather than *mutaghayyirat* (changeable). Therefore, halal and haram principles remain applicable to Muslims until the Day of Judgment. Just as the Sharia Banking Law emphasizes the prohibition of usury, the Halal Product Guarantee Law emphasizes the importance of consuming halal and good food and beverages for Muslims.

The state must ensure the halal needs of Muslims, which is considered *masalah dharuriyah* (essential welfare).¹² Allah SWT has commanded all human beings to consume halal and good food and beverages. Allah says, "O mankind, eat from whatever is on earth [that is] lawful and good" (Al-Baqarah 2:168). This command is inclusive and not limited to Muslims but applies to all human beings. The need for halal products offers excellent quality, hygienic, clean, healthy, and safe products for human consumption. Additionally, halal products provide added value

¹² Musyfikah Ilyas Dosen Fakultas Syariah dan Hukum UIN Alauddin Makassar, "Sertifikasi dan Labelisasi Produk Halal Perspektif Maslahat," *Jurnal Al-Qadau: Peradilan dan Hukum Keluarga Islam* 4, no. 2 (9 Januari 2017): 357–76, doi:10.24252/AL-QADAU.V4I2.5682.

for producers, as certified ones are more preferred by the public than non-certified ones.

This law mandates every producer to obtain halal certification for their products, including imported products entering Indonesia. Micro and small businesses are exempted from halal certification fees. The obligation to obtain halal certification for products circulating and traded in Indonesia took effect five years after the enactment of this law. The law became effective in 2019. In Islamic Sharia, when the government establishes regulation, it must be obeyed, as stated by Allah, "O you who have believed, obey Allah and obey the Messenger and those in authority among you..." (An-Nisaa' 4:59). Ulil Amri, in this case, refers to the government. The obligation to comply with this law is emphasized for producers. Maqasid al-Shariah can be achieved if all producers in Indonesia produce goods or services labeled as halal and imported products circulating in Indonesia are also labeled as halal.

Article 26 explains that business operators producing prohibited goods are exempted from applying for halal certification but must label the products as non-halal, and violations will be subject to sanctions. This article provides clear benefits, as prohibited products must be labeled non-halal. While something halal, such as pork, can be easily recognized in its physical form, it is challenging to identify and control halal products in processed goods due to the large number of food and beverage products circulating in society.

Differences in halal certification before UUJPH and after UUJPH

There are nine fundamental differences regarding halal certification before the existence of the law on halal product guarantees and after the law on halal product guarantees.

Table 1 Differences in Halal Certification Before and After UUJPH

	Before UUJPH	After UUJPH
1.	Certification Nature	Voluntary
2.	Implementing Authority	MUI (Indonesian et al.)
3.	Legal Status of Implementing Authority	Private Institution

4.	Halal Examination Body	LPPOM MUI
5.	Halal Auditor	Designated by LPPOM MUI
6.	Halal Standards	HAS 23000
7.	Determining Halal Status	MUI's Fatwa Commission
8.	Halal Certificate Duration	2 Years
9.	Legal Aspect	Weak

After the Halal Product Guarantee Law was enacted, halal certification, which was previously voluntary, became mandatory. The obligation for halal certification applies to products that enter, circulate, and are traded within the Indonesian territory, as stated in Article 4. The implementation of halal certification, previously handled by MUI (Indonesian et al.), is now entrusted to BPJPH (Halal et al. Agency), transitioning from a private institution to a government body. The government's certification authority carries more significant benefits for the Muslim community. In the context of Islamic law, every citizen, especially Muslims, must comply with this law. The halal examination body, previously LPPOM MUI, is now LPH (Halal Inspection Agency). In contrast, the halal auditors, previously appointed by LPPOM MUI, are now required to possess adequate competency as halal auditors and be certified by MUI.

The previous halal standard was HAS 23000; now, it is SPJPH (Halal et al.). The determination of halal status still rests with MUI, and the validity period of halal certificates has increased from 2 to 4 years. There is a significant shift in the legal aspect, as the implementation of halal product assurance is now under the government's authority, making it stronger. These fundamental changes in halal certification are significant because Indonesian halal products serve two primary interests: firstly, meeting the domestic demand for halal products, and secondly, supplying halal products globally. To cater to the global halal market, the halal certificate issued by LPPOM MUI does not meet the requirements, and Indonesia needs a halal certificate issued by the government.

Article 4 on the obligation of Halal certification

Based on the Halal Product Guarantee Law, the Job Creation Law Article 48, and Government Regulation No. 39 of 2021, which regulates three types of products. The first type includes products made from halal ingredients, the second type includes products made from haram ingredients, and the third type consists of products exempted from the previous two categories. Products made from halal ingredients must be certified based on Article 4 of the Halal Product Guarantee Law, which states, "Products entering, circulating, and traded within the Indonesian territory must be halal certified." The rule in Article 4 establishes the obligation for halal certification. The negotiation process from voluntary to mandatory status took considerable time.¹³ In Islam, something obligatory entails two consequences: the command must be implemented to the best of one's ability, and those who neglect it will be sinful.

Obligations in Islamic law are divided into four categories: the obligation of the timing of implementation, the obligation of the person performing it, the obligation regarding the measurement and degree of implementation, and the content of the obligation. The obligation of halal certification falls into the category of mandatory implementation, which is further divided into two types: absolute obligation and highly recommended obligation. The absolute obligation must be performed at a specific time and is invalid if performed before the designated time. The obligation of halal certification is absolute because its timing has been determined. The Halal Product Guarantee Law was enacted on October 17, 2014, and the obligation for products circulating and traded within the Indonesian territory, as mentioned in Article 4, takes effect five years from the promulgation of this law. This means that the obligation became effective on October 17, 2019.

In this case, the obligation to obey the will *amri* is mentioned in the Quran, Surah An-Nisa, Verse 59. Some interpretation scholars argue that until *amri* refers to rulers or the government. Based on this argument, every producer must comply

¹³ Asep Saepudin Jahar dan Thalhah Thalhah, "Dinamika Sosial Politik Pembentukan Undang-Undang Jaminan Produk Halal," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 12, no. 2 (10 Januari 2017): 385–404, doi:10.19105/AL-LHKAM.V12I2.1232.

with the Halal Product Guarantee Law and obtain halal certification. In a hadith, it is stated, "Hearing and obeying the ulil amri (those in authority) is a right, as long as they do not order disobedience. If they order disobedience, then there is no obedience." (Hadith Bukhari No. 2955).

Producers violating this law sin because if their products are halal certified, their status becomes clear and specific. At the same time, humans are commanded to consume halal and good food. The greater the number of producers aware of halal certification, the more halal products circulate in society, significantly benefiting Muslims and Indonesian citizens.¹⁴ Halal products are of higher quality, healthier, more hygienic, and safe for consumption by anyone. However, Article 4 of the Halal Product Guarantee Law needs to improve. There are no clear and firm sanctions for those business entities that violate it. The article should contain explicit commands and prohibitions. The absence of sanctions for business entities that do not obtain halal certification leads to the circulation and trade of non-halal-labeled products.

The legal construction of Islamic law regarding halal product assurance needs to be more robust.¹⁵ The lack of clear sanctions for business entities that violate the law makes them non-compliant with the regulations. This contrasts the Islamic banking law, Law No. 21 of 2008, where Article 51 states that Islamic banks must adhere to Sharia principles. Article 56 of the same law stipulates strong sanctions imposed by Bank Indonesia for Islamic banks that violate Sharia principles. Therefore, it can be concluded that the legal construction of Islamic law in Islamic banking law is vital, as the implementation of Islamic banking is overseen by the Sharia Supervisory Board to ensure that all business activities comply with Sharia principles, thus protecting customers from usury, uncertainty, and gambling.

The legal construction of Islamic law regarding halal product assurance only emphasizes the obligation of halal certification for products made from halal ingredients. This rule applies to micro, small, medium, and large enterprises, with certification costs waived for micro and small businesses. Micro and small business

¹⁴ Salma Salma, "Masalah Dalam Perspektif Hukim Islam," *Jurnal Ilmiah Al-Syir'ah* 10, no. 2 (9 September 2016), doi:10.30984/AS.V10I2.261.

¹⁵ Moh Kusnadi, Uin Sunan, dan Kalijaga Yogyakarta, "Problematika Penerapan Undang-undang Jaminan Produk Halal di Indonesia," *ISLAMIKA* 1, no. 2 (31 Juli 2019): 116-32, doi:10.36088/ISLAMIKA.V1I2.213.

owners are expected to be more compliant with this rule, as it is free. The provision in Article 4 emphasizes the identity of halal-certified products, making it easier for the public to make choices. As the demand for halal products increases in society, this article should be revised to include additional clauses on sanctions for business entities that do not obtain halal certification.

Articles 26 and 27 Concerning the Obligation to Provide Non-Halal Information for Products Containing Haram

In Article 26, it is stated, "Business operators who produce products from ingredients that are prohibited are exempt from applying for halal certification. In paragraph 2, it is stated that business operators must indicate halal information on their products. Article 27, paragraph 2 mentions that business operators who fail to fulfill the obligations stated in Article 26, paragraph 2, may face administrative sanctions such as verbal warnings, written warnings, and administrative fines.

The Islamic legal construction in Article 26, paragraphs 1 and 2, and Article 27, paragraph 2, is apparent. It stipulates that business operators who do not indicate non-halal information on their products will be subject to sanctions. This article compels business operators to comply with the regulations because there are clear and specific sanctions. Non-halal products circulating in Indonesia have clear identities as they have non-halal information, whether in writing or images. Ideally, this article should prohibit Muslims from buying and consuming products labeled as non-halal. If there is no explicit prohibition, it may seem like the government allows anyone to consume halal and haram products. This situation is similar to the distinction between Islamic and conventional banks. There is no explicit prohibition for Muslims from using conventional banks, which leads to a low interest in Islamic banking.

The Islamic legal construction in the Halal Product

Guarantee Law needs to be more robust due to the absence of clear and specific sanctions for business operators who do not certify their products made from halal ingredients. This legal loophole allows non-compliant behavior from the mentioned business operators. In the Islamic legal construction, every obligation

has two consequences: fulfilling the obligation brings reward while neglecting it results in sin. When the state applies these rules, anyone who violates the law should face sanctions according to the applicable rules.

No sanctions are mentioned in Article 4 for business operators who do not certify their products. This clause weakens the obligation for certification. An obligation without accompanying sanctions becomes a complex matter to comprehend. If halal certification, which was previously voluntary, becomes mandatory, the mandatory status should be reinforced with clear and specific sanctions. The enforcement of sanctions in this law is limited to two aspects: imposing sanctions on business operators who fail to fulfill their obligations under Article 25 and imposing sanctions on business operators who fail to fulfill their obligations under Article 26. However, there are no sanctions mentioned in Article 4.

If sanctions were mentioned in Article 4, business operators whose products are made from halal ingredients would be strongly encouraged to apply for halal certification. If their products are not certified halal, they will face two losses: their products will not be marketable, and if they continue to distribute and trade those products, they will face sanctions from the Halal Product Assurance Agency (BPJPH). Additionally, the government has exempted micro and small businesses from halal certification costs.

In principle, the Halal Product Guarantee Law is almost perfect, but it needs to add a clause regarding sanctions for business operators who do not apply for halal certification. Currently, awareness of halal certification is growing due to the global halal industry. However, Indonesia needs strong regulations to increase the awareness of business operators in the halal industry and ensure compliance with the rules.¹⁶ If strong regulations are implemented, there are two possible outcomes: first, halal products circulating in society would be labeled as halal, and second, non-halal products circulating in society would be labeled as non-halal. If this condition is achieved, the identities of products in Indonesian society would be limited to halal and non-halal products. In this way, the rights of Muslim consumers, who are the

¹⁶ Zainal Arif, dan Tantangan, dan Problematika dan Solusinya Abstrak, "Halal Product Business Between Opportunities and Challenges, Problematics and Their Solutions," *Al-Ulum* 20, no. 1 (6 Juni 2020): 274–94, doi:10.30603/AU.V20I1.1170.

largest consumers of halal products, would be protected, and the objectives of Shariah would be maximized since Muslims would not consume non-halal products.¹⁷

The potential outcome if the current regulations are implemented without imposing sanctions on business operators who do not apply for halal certification would be the existence of three possibilities: labeled halal products, labeled non-halal products, and products circulating in society without any label. Furthermore, many food and beverage products still need to obtain halal certification, and the government would face difficulties in controlling the consumption of halal products by the public. This condition hampers the fulfillment of Maqasid Shariah. The weak regulations pose challenges for Indonesia to develop the halal industry, mainly because Indonesia aims to become a global center for halal production.

G. Conclusion

In conclusion, based on the discussion, the Islamic legal construction of the Halal Product Guarantee Law still needs to be stronger. The weakness lies in Article 4, which does not impose specific sanctions on business operators who do not certify their products. This leads to increasing non-certified non-halal products circulating and being traded in Indonesia. Although these products may be considered halal generally, they lack a clear identity. This situation confuses Muslim consumers in making their choices. To achieve the objectives of Shariah, it is necessary to add solid and specific sanctions for business operators who do not apply for halal certification from the BPJPH. Consequently, the number of labeled halal products circulating and being traded in society would increase, leaving consumers with a clear choice between halal products with certification and non-halal products with a non-halal indication.

¹⁷ Hayyun Durrotul Faridah, "Halal certification in Indonesia; history, development, and implementation," *Journal of Halal Product and Research* 2, no. 2 (21 Desember 2019): 68, doi:10.20473/JHPR.VOL.2-ISSUE.2.68-78.

Bibliography

- Angriyani, A. M., & Gultom, E. (2021). Peran Negara Dalam Memberikan Perlindungan Pada Konsumen Atas Penggunaan Produk Pangan Tidak Berlabel Halal Berdasarkan Undang-Undang Nomor 33 Tahun 2014 Tentang Jaminan Produk Halal. *Widya Yuridika*, 4(1), 19–26. <https://doi.org/10.31328/WY.V4I1.2299>
- Arif, Z., Tantangan, dan, & dan Solusinya Abstrak, P. (2020). Halal Product Business Between Opportunities and Challenges, Problematics and Their Solutions. *Al-Ulum*, 20(1), 274–294. <https://doi.org/10.30603/AU.V20I1.1170>
- Betawi, U. (2019). MAQASHID AL-SYARIAH SEBAGAI DASAR HUKUM ISLAM DALAM PANDANGAN AL-SYATIBI DAN JASSER AUDHA. *Jurnal Hukum Responsif*, 6(6), 32–43. <https://journal.pancabudi.ac.id/index.php/hukumresponsif/article/view/419>
- Darojatun, R. (2018). TREN PRODUK HALAL, GAYA HIDUP SYAR'I DAN KESALEHAN SIMBOLIK: STUDI TENTANG MUSLIM KELAS MENENGAH. *Wardah*, 19(2), 135–157. <https://doi.org/10.19109/WARDAH.V19I2.2816>
- Fajaruddin, F. (2018). Efektivitas Undang-Undang Nomor 33 Tahun 2014 Tentang Jaminan Produk Halal Dalam Perlindungan Konsumen. *DE LEGA LATA: Jurnal Ilmu Hukum*, 3(2), 204–216. <https://doi.org/10.30596/DLL.V3I2.3151>
- Faridah, H. D. (2019). Halal certification in Indonesia; history, development, and implementation. *Journal of Halal Product and Research*, 2(2), 68. <https://doi.org/10.20473/JHPR.VOL.2-ISSUE.2.68-78>
- Hasanah, M., & Fahrudin, A. R. (2020). Analisis Halal Supply Chain Management (SCM) Dalam Perspektif Maqashid Syariah. *At-Tasharruf "Jurnal Kajian Ekonomi Dan Bisnis Syariah"*, 2(2), 73–80. <https://doi.org/10.32528/AT.V2I2.5424>
- Ilyas Dosen Fakultas Syariah dan Hukum UIN Alauddin Makassar, M. (2017). Sertifikasi dan Labelisasi Produk Halal Perspektif Maslahat. *Jurnal Al-Qadau: Peradilan Dan Hukum Keluarga Islam*, 4(2), 357–376. <https://doi.org/10.24252/AL-QADAU.V4I2.5682>
- Jahar, A. S., & Thalbah, T. (2017). Dinamika Sosial Politik Pembentukan Undang-Undang Jaminan Produk Halal. *AL-IHKAM: Jurnal Hukum & Pranata Sosial*, 12(2), 385–404. <https://doi.org/10.19105/AL-LHKAM.V12I2.1232>
- Karunia, A. A. (2022). PENEGAKAN HUKUM TINDAK PIDANA KORUPSI DI INDONESIA DALAM PERSPEKTIF TEORI LAWRENCE M. FRIEDMAN. *Jurnal Hukum Dan Pembangunan Ekonomi*, 10(1), 115–128. <https://doi.org/10.20961/HPE.V10I1.62831>
- Kasdi Penulis adalah Dosen STAIN Kudus, A. (2016). MAQASYID SYARIAH PERSPEKTIF PEMIKIRAN IMAM SYATIBI DALAM KITAB AL-MUWAFAQAT. *YUDISIA: Jurnal Pemikiran Hukum Dan Hukum Islam*, 5(1).

<https://doi.org/10.21043/YUDISIA.V5I1.693>

- Kurniawan, A., & Hudafi, H. (2021). KONSEP MAQASHID SYARIAH IMAM ASY-SYATIBI DALAM KITAB AL-MUWAFQAT. *Al-Mabsut : Jurnal Studi Islam Dan Sosial*, 15(1), 29–38. <http://www.ejournal.iaingawi.ac.id/index.php/almabsut/article/view/502>
- Kusnadi, M., Sunan, U., & Yogyakarta, K. (2019). Problematika Penerapan Undang-undang Jaminan Produk Halal di Indonesia. *ISLAMIKA*, 1(2), 116–132. <https://doi.org/10.36088/ISLAMIKA.V1I2.213>
- Lim, M., Direktorat, C., Peraturan Perundang-Undangan, J., Hukum, K., Ham, D., Rasuna, J., Kav, S., Jakarta, K., & Indonesia, S. (2017). *JAMINAN PRODUK HALAL DI INDONESIA (HALAL PRODUCTS GUARANTEE IN INDONESIA)*. <http://www>.
- Ramlah, U. F. (n.d.). *Implementasi jaminan produk pangan halal di Jambi*. <https://doi.org/10.18326/ijtihad.v18i2.211-226>
- Salma, S. (2016). MASLAHAH DALAM PERSPEKTIF HUKUM ISLAM. *Jurnal Ilmiah Al-Syir'ah*, 10(2). <https://doi.org/10.30984/AS.V10I2.261>
- Sari, D. I. (2019). PERLINDUNGAN HUKUM ATAS LABEL HALAL PRODUK PANGAN MENURUT UNDANG-UNDANG. *Repertorium: Jurnal Ilmiah Hukum Kenotariatan*, 7(1), 1. <https://doi.org/10.28946/RPT.V7I1.264>
- Solihin, K. (2020). ANALISIS KEBIJAKAN SERTIFIKASI PRODUK HALAL DALAM PERSPEKTIF PERLINDUNGAN KEMASLAHATAN UMAT. *Islamic Review: Jurnal Riset Dan Kajian Keislaman*, 9(1), 1–37. <https://doi.org/10.35878/ISLAMICREVIEW.V9I1.188>
- Sukri, I. F. (2021). IMPLEMENTASI UNDANG-UNDANG CIPTA KERJA TERHADAP PENYELENGGARAAN SERTIFIKASI HALAL DAN PRODUK HALAL DI INDONESIA: *Majalah Hukum Nasional*, 51(1), 73–94. <https://doi.org/10.33331/MHN.V51I1.139>
- Syarifuddin Hidayat, A., & Siradj, M. (2015). Argumentasi Hukum Jaminan Produk Halal. *Jurnal Bimas Islam*, 8(1), 31–66. <https://jurnalbimasislam.kemenag.go.id/jbi/article/view/168>
- Toriquddin, M. (2014). TEORI MAQÂSHID SYARÎAH PERSPEKTIF AL-SYATIBI. *De Jure: Jurnal Hukum Dan Syar'iah*, 6(1). <https://doi.org/10.18860/J-FSH.V6I1.3190>