

Bureaucratic Reform in The Area of Legislations: A Study on Halal Product Guarantee Law

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Abstract

Bureaucratic reform in the area of halal product legislation in Indonesia is important because Indonesia's population with a majority of Muslims (87.2%) makes the need for halal products very large. One of the areas of bureaucratic reform in Presidential Regulation 81/2010 on The Grand Design of the 2010-2025 Bureaucratic Reform is a reform of the bureaucracy in the area of legislation. It is necessary to guarantee halal products that enter or circulate in Indonesia. Guarantee of halal products in Indonesia is regulated by the Law No. 33/2014 on Halal Product Guarantee (Halal Product Guarantee Law). The aim of this research is to analyse bureaucratic reform in the area of halal product legislation in Indonesia. By using qualitative methods, the data in this study were obtained by in-depth interviews and literature studies. This research finds that before the Halal Product Guarantee Law was passed, there were many laws and regulations that had long been used to regulate the circulation of halal products. Unfortunately, these regulations are not systemically made, overlapping, partial, and inconsistent.

Keywords: *bureaucratic, halal, law, product, reform*

Abstrak

Reformasi birokrasi di area peraturan perundang-undangan produk halal di Indonesia penting karena penduduk Indonesia dengan mayoritas muslim (87,18 persen) menjadikan kebutuhan terhadap produk halal sangat besar. Salah satu area reformasi birokrasi dalam Perpres No. 81 Tahun 2010 tentang *Grand Design* Reformasi birokrasi 2010-2025 adalah reformasi birokrasi di area peraturan perundang-undangan. Perlu adanya jaminan produk halal terhadap produk yang masuk maupun beredar di Indonesia. Jaminan produk halal di Indonesia diatur oleh Pemerintah melalui Undang-Undang Nomor 33 tahun 2014 tentang Jaminan Produk Halal (JPH). Penelitian ini bertujuan untuk mendeskripsikan reformasi birokrasi di area peraturan perundang-undangan yang mengatur produk halal di Indonesia. Dengan menggunakan metode kualitatif, data dalam penelitian ini diperoleh dengan wawancara mendalam dan studi literatur. Temuan penelitian ini menunjukkan sebelum UU JPH disahkan, ada banyak regulasi yang mengatur produk halal. Namun regulasi tersebut dibuat secara tidak sistemik, tumpang tindih, parsial, dan tidak konsisten.

Kata Kunci: birokrasi, halal, undang-undang, produk, reformasi

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INTRODUCTION

Based on World Population Review data, the current Muslim population in Indonesia (2020) reaches 229 million people or 87.2% of the total population of 273.5 million. So that the demand for halal products is quite large (Fatmawati, 2011). Indonesia is a country that pays attention to guaranteeing religion and worship for all of its citizens. Based on the provisions in Article 29 paragraph (2) of the 1945 Constitution, the State guarantees the independence of each resident to embrace their respective religions and to worship according to their respective religions and beliefs.

According to Zulham (2015), "guaranteeing" as referred to in Article 29 paragraph (2) of the 1945 Constitution has the meaning of support, protection, and obligation at the same time, all of which require regulation to be implemented in the form of legal action. That is, constitutional guarantees describe the support, protection and obligation of the state for the independence of every citizen to embrace and worship according to their respective religions, and this is carried out with various efforts to fulfill the rights of citizens to practice their religion, through all regulations.

The Government of the Republic of Indonesia has responded positively to the

problem of halal, especially related to food, medicines and cosmetics with the issuance of several regulations such as Law No. 8/1999 on Consumer Protection, Law No. 36/2009 on Health, Law No. 18/2012 on Food etc.

Unfortunately, they cannot be used as a strong legal umbrella and can specifically bind the issue of halal products to producers (business actors) and guarantees to consumers. This is why there is no guarantee of legal certainty regulating halal products, even though the need for guaranteed halal products is a necessity and is very urgent, especially in relation to consumer protection and the global trade scene.

Based on these conditions, bureaucratic reform in the area of legislation of halal product is needed. According to Presidential Regulation No. 81/2010 on Grand Design Bureaucratic Reform 2010-2025, bureaucratic reform aims to create a professional government bureaucracy with adaptive characteristics, integrity, high performance, clean and free of corruption, collusion and nepotism, capable of serving the public, neutral, prosperous, dedicated, and upholding the basic values and code of ethics of the state apparatus. The areas of change that are the goals of bureaucratic reform include all aspects of government management, as shown in the table below.

Table 1.
Areas of Change and Expected Results

Area	Expected Results
Organization	The right organization functions and the right size (right sizing)
Management of systems	processes and work procedures that are clear, effective, efficient, measurable and in accordance with the principles of good governance
Invitation Laws	More orderly, non-overlapping and conducive regulations
Human Resources	Human resources with integrity, neutral, competent, capable, professional, high performing and prosperous
Supervision	The improvement of clean and free governance corruption, collusion and nepotism
Accountability	Increased capacity and accountability for bureaucratic performance
Public service	Public service Excellent according to community needs and expectations
Mindset and Work Culture	Bureaucracy with high integrity and performance

Source: Presidential Regulation No. 81/2010 on Grand Design Bureaucratic Reform 2010-2025

Issues regarding the quality and quantity of regulations in Indonesia has often been in the spotlight from various parties, both nationally and internationally. In 2012, the OECD published the Report Study on Indonesian Regulatory Reform. This report states that the quality of current regulations is still low. The low regulatory quality is indicated by still much overlap, disharmony between regulations legislation at the central and regional levels, and regulations ineffective legislation.

This low quality of regulation requires the government to conduct an evaluation against existing laws and regulations. The problem of low regulatory quality is still coupled with the problem of the quantity of regulations in Indonesia which very large.

The definition of regulatory reform is included in the Guidelines Implementation of Regulatory Reform compiled by the Directorate of Analysis Legislation (DAPP, 2011) Ministry of Planning National Development. In these guidelines, reform regulation is defined as changes intended

to improve quality statutory regulations, namely statutory regulations legislation that is in accordance with the principles of forming legislation invitation, can support the implementation of social dynamics in an orderly manner, as well as the implementation of state administration and development effectively and efficiently. Apart from regulatory quality laws and regulations must also be orderly and simple.

In addition, a definition of regulatory reform can also be found in the 2007 Semester One Regulatory Reform Report compiled by the Business Competition Supervisory Commission (KPPU, 2007). This report defines regulatory reform as changes aimed at improving the quality of regulations in order to improve economic performance, cost effectiveness and government administration. Reforms can take the form of revisions and rearrangements of the framework regulation and process improvement.

The two definitions formulate changes in reform regulations to improve the quality of laws and regulations invitation. However, the scope of the regulatory reform has a target scope difference in formulation. Regulatory reform in the view of DAPP has a goal to support the implementation of dynamics social order, as well as the implementation of state administration and development

effectively and efficiently. Meanwhile, KPPU is more directed at supporting the improvement of economic performance, cost effectiveness and government administration. DAPP has general targets for the statutory system, meanwhile KPPU puts more emphasis on the economic scope. The difference formulation in the objectives of this regulatory reform shows that the scope of regulatory reform is very broad and adaptive to needs each sector. However, what needs to be emphasized is regulatory reform requires change or improvement quality of laws and regulations.

According to DAPP (2011) regulatory reform aims at realizing statutory regulations quality invitations, simple and orderly. While the benefits which is expected to be produced by implementing the reforms of regulations include: (a) the realization of a better working climate for state administrators in carrying out their duties and functions; (b) achieving performance in state administration and development which is supported by more laws and regulations orderly and simple; (c) state budget efficiency; (d) increase investment; (e) increased employment opportunities; (f) increasing levels of well-being.

After the amendment to the 1945 Constitution, there was a change in the pendulum of power in producing laws (UU)

in which the position of the DPR is much stronger than the President. Article 20 Paragraph (1) mandates that the DPR holds the power to form laws. Article 5 Paragraph (1) which is amended to position the President only has the right to submit a draft law (RUU) to the DPR. Then the position of the DPR is strengthened again through Article 20 Paragraph (5), in the event that a bill which has been mutually approved is not ratified by the President within 30 days of being approved, the draft is valid to become law (UU) and must be promulgated. The provisions in Article 20 Paragraph (5) implicitly compel the President to enact every bill that has been approved by the DPR, even though there are certain materials that the government does not accept during the deliberation process.

At this point there is a kind of transfer of function and authority in producing laws before amendments, Article 5 Paragraph (1) states, the President holds the power to form laws with the approval of the DPR. Article 20 Paragraph (1), each law requires the approval of the DPR. The fact before the amendment to the 1945 Constitution shows that the position of the President is stronger than the DPR (executive heavy), but after the amendment of the 1945 Constitution, the position of the DPR is stronger than the president (legislative heavy).

This constitutional phenomenon actually teaches that the DPR's function is very strategic in determining the round shape of a law. The quality of legislative products is definitely the responsibility of the DPR. Because in fact in the context of the institutionalization of democracy through legislative products the function of the DPR is very influential in completing the direction of democratic consolidation. The urgency of this function can be started by measuring the quality level of a law product. It is the key to the success of democratic consolidation. (Ball & Peters, 2005).

When we look at the statements of a number of groups in rejecting the product of legislation, it is unable to reflect justice, overlaps, fosters empathy and benefits for certain groups, but discriminates against other groups. There is a kind of "resistance" due to the inequality between law (UU) and society (Backer, 2007).

Halal products refer to products that meet the syar'i requirements that prevent prohibition, both in terms of substance and non-substance (Burhanuddin, 2011). According to Ghazali (2007), which results in food (objects) becoming haram because of the types that are haram, such as khamar, pork, and so on, including products from their derivatives (alcohol, gelatin, etc.), and haram because how to get it which

includes the assets to get it and the process of making it.

Muslim population in Indonesia is a large market share of halal products. The increasing awareness of Muslims around the world on their obligation to consume foods that meet the requirements of Islamic consumption patterns has created a greater demand for halal food and products (Ambali & Bakar, 2013).

Nowadays, halal is no longer purely a religious issue, but also falls into the realm of business and trade (Borzooei & Asgari, 2013). Halal can be a differentiating factor and by seeking, highlighting and communicating Halal certification it is possible to expand to world markets (Rajagopal et al, 2011).

The halal food trade has increased rapidly while more and more countries have adopted Islamic Finance in their banking systems (Ahmad, 2014). Benefits of halal products have an effect on consumer attitudes and behavior in terms of intention to buy products and they are willing to pay for halal products (Aziz & Chok, 2013). On the other hand, companies that ignore this halal issue will be left by consumers.

Research on halal buying interest does cover a broad area of consideration: halal awareness (Qaradhawi, 2013; Aziz & Chok, 2013; Apriyantono, 2005), perceived value (Apriyantono 2005), halal

certification (Aziz & Chok 2013, Apriyantono 2005, Husain et al., 2016), food safety (Husain et al., 2016), perceived value (Wang & Tsai 2014, Husain et al 2016), brand image (Wang & Tsai 2014), health (Husain et al., 2016).

The aim of this research is to analyses bureaucratic reform in the area of halal product legislation in Indonesia. As far as the literature review has been carried out by the author, there has been no research on the Halal Guarantee Law from the perspective of bureaucratic reform. It is hoped that this research will enrich the treasury of knowledge in the field of bureaucratic reform and halal product.

METHOD

This research uses qualitative methods because in qualitative research, knowledge is built not only from the researcher, but through the interpretation of the multiple perspectives of all the informants (Creswell, 1994).

Key person in this research is Chairperson of The Working Committee on Halal Product Guarantee Draft Law. Beside her, there are representation of the factions in DPR RI as informans in this research. They were chosen because they were involved in the formulation of the Halal Product Guarantee Law. The location of this research is DPR RI. DPR

RI was chosen because the Halal Product Guarantee Law was formulated.

Primary data were collected by in-depth interviews and secondary data collected by carried out by taking data and information from a number of books, research results, journals, magazines, websites and other reliable documentation sources.

The research data processing begins by examining all data from the results of research activities, such as the results of interviews, documents, photos, and others. After the analysis was carried out, the data was reduced by summarizing the core, process, and statements of the research results. Furthermore, categorization is carried out by means of coding.

Data triangulation runs by comparing one data and another to see the trend of the research data.

The technique of data analysis in this research is interactive data analysis from Huberman and Miles (2012). Activities in qualitative data analysis are carried out interactively and continue to completion so that the data is saturated. The measure of data saturation is indicated by no longer obtaining new data or information. Activities in data analysis include data reduction, data display and conclusion drawing/ verification.

RESULTS AND DISCUSSION

As a tangible manifestation of the state's presence in protecting consumers from non-halal products, there are many laws that have long been used to regulate the circulation of halal products. These regulations were even long before the draft of Halal Product Guarantee Law was discussed in the DPR. Unfortunately, these regulations are not systemically made, overlapping, partial, and inconsistent (Charity, 2017).

The concept bureaucratic reform in the area of legislation according to Presidential Regulation No. 81/2010 on Grand Design Bureaucratic Reform 2010-2025 is to produce more orderly, non-overlapping and conducive regulations. The conditions of halal products regulation before and after The Halal Product Guarantee Law will described below.

Halal Product Regulation Before The Halal Product Guarantee Law

Based on Law No. 8/1999 on Consumer Protection (Consumer Protection Law), it is clear that consumers have the right to be true, clear, and honest regarding the conditions and guarantees of goods and / or services, and are obliged to read and follow information instructions and procedures for the use or use of goods and / or services, for security and safety. In this case, the entrepreneur's obligation as a

producer is to provide and provide true, clear and honest information regarding the condition of the goods or services, as well as to provide an explanation of the use, repair and maintenance of the products produced.

Based on these consumer rights, the delivery of information related to products must be able to provide certainty to consumers. This is done to protect consumer rights. So it needs to be emphasized that the delivery of information related to food products must guarantee that the food product is halal. This is important for Muslims, because consuming halal products is a non-negotiable provision of Sharia (Abadi et al., 2011).

Regulations on halal products are not explicitly regulated by the Health Law. The Health Law only provides general guidelines for producing, processing and distributing food and beverages resulting from genetic engineering technology that is circulated guaranteed to be safe for humans, animals eaten by humans, and the environment.

In addition, every person and/or legal entity that produces and promotes food and beverage products and/or which is treated as food and beverage processed by technology is prohibited from using misleading words and/or accompanied by claims that cannot be proven. Food and

drink used for the community must be based on health standards and/or requirements. Food and beverages can only be circulated after obtaining a distribution permit in accordance with the provisions of statutory regulations.

Law Number 18/2012 on Food (Food Law) which is a substitute for Law Number 7/1996 concerning Food states in its preamble that food is the most important basic human need and its fulfillment is part of human rights guaranteed in The 1945 Constitution of the Republic of Indonesia (UUD 1945) is a basic component of realizing quality human resources. Therefore, the state is obliged to realize the availability, affordability and fulfillment of sufficient, safe, quality, and nutritionally balanced food consumption.

The Food Law explicitly states that the provision of food that does not conflict with religion or belief is the responsibility of the Central and Regional Governments. Food safety is intended to keep food safe, hygienic, of high quality, nutritious, and not against the religion, belief and culture of the community. In addition, food safety is meant for prevent possible contamination of biological, chemical and other objects that can disturb, harm and endanger human health. Regarding the guarantee of food supply and safety related to halal food, it is stated that it is the

responsibility of the central and local governments to supervise the implementation of the required Halal Product Guarantee system.

As for halal labeling, food business actors are required to include halal labels on and/or on food packaging. This applies to both domestic producers and imported food producers entering Indonesia. The inclusion of this label on and/or on food packaging is displayed in Indonesian clearly and clearly so that it is easily understood by the public.

Regarding the promotion/advertisement of halal labels on food products, the producers/business actors must be responsible for the halalness of the product. Likewise, in relation to Food advertisements which state the halalness of food products, everyone must be responsible for its accuracy.

The truth of a halal statement on a food label is not only proven in terms of raw materials, food additives or auxiliary materials used in producing food, but must also be proven in the production process. To support the correctness of the halal statement, every person who produces or imports packaged food into the territory of Indonesia to be traded is obliged to first check the food at an accredited inspection agency in accordance with the provisions of the applicable laws and regulations.

The Presidential Instruction, among others, states that the community needs to be protected from food products and distribution that do not meet the requirements, especially in terms of quality, health, safety and religious beliefs. In order for the implementation of these instructions to be achieved, it is necessary to increase and supervise the activities of production, distribution and/or marketing of processed food which are carried out continuously and in a coordinated manner.

Apart from the laws and regulations mentioned above, there are at least 3 (three) Ministerial Decrees and Joint Ministerial Decrees which regulates halal inclusion on food, namely:

- a. Joint Decree of the Minister of Health and Minister of Religion of the Republic of Indonesia Number 427/Menkes/SKB/VIII/1985, No. 68/1985 concerning Inclusion of the words "Halal" on the food label.
- b. Decree of the Minister of Health of the Republic of Indonesia Number 82/1996 on Inclusion of the words "Halal" on the Food Label, which is changed by Decree of the Minister of Health of the Republic of Indonesia No. 924/1996 concerning Change over Decree of the Minister of Health of the Republic of Indonesia No. 82/1996.

c. Joint Decree of the Minister of Religion and Minister of Health of the Republic of Indonesia No. 472/MENKES/SKB/VIII/1985 and 68/1985 on arrangement of writing "halal" on food labels.

Based on Joint Decree of the Minister of Religion and Minister of Health of the Republic of Indonesia No. 472/MENKES/SKB/VIII/1985 and Number 68/1985 on regulating the writing of "halal" on the food label above, then LPPOM MUI was formed, which was established by MUI in 1989 as the party that issued halal certificates prior to the formation of BPJH.

Apart from the above regulations, there are many other rules, both directly and indirectly related to halal product issues. At least, there are 17 (seventeen) products of laws and regulations that can be used as a legal basis to protect Muslim consumers from products that are not halal (haram). Thus, in a normative juridical context, the existing regulations in Indonesia are sufficient to protect Muslim consumers from non-halal products. Although, indeed, these rules are still scattered or are still sectoral (Charity, 2017).

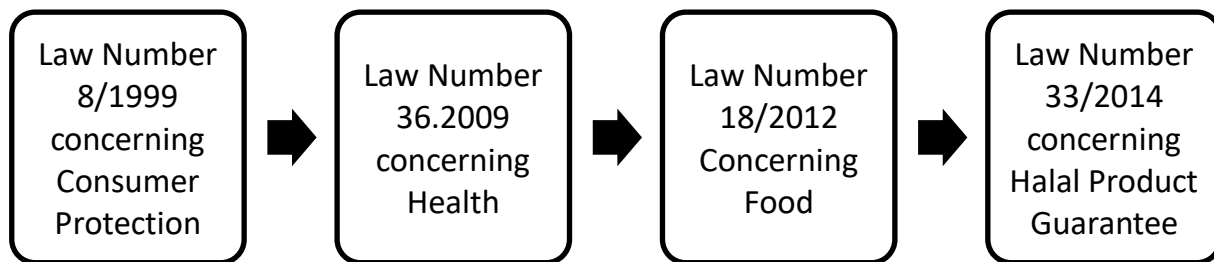


Figure 1.
Chronology of Laws regulating Halal Product Guarantee
Source: Author (2021)

Halal Product Regulation After The Halal Product Guarantee Law

Building sensitivity to guaranteed halal products in Indonesia and various countries is also a story itself. Because this becomes material for thought about the probability of the ease of implementing the Law that is being drafted. Chairperson of the Working Committee on Halal Product

Guarantee Draft Law Ledia Hanifa Amaliah said that the policies of several countries towards various products, especially food, circulating in the community and their response to them sometimes cause "jealousy"; because other countries seem to have big sides with halal products and their marketing.

According to Karimah (2015) the long debate that became controversial in the discussion of the Halal Product Guarantee Bill was about the authority that is authorized to guarantee halal products, as well as certification and labeling of halal products. One of the causes of the polemic of authority is the problem of managing revenue from halal product certification. As long as MUI manages halal certification, MUI never reports the amount of revenue from giving halal certification. So far, the income has gone to the MUI's treasury. Member of the House of Representatives Commission VIII Hasrul Azwar is of the opinion that halal certification income should be included in non-tax state revenue sources. Meanwhile, the Indonesian Ulema Council (MUI) stated that it had no obligation to deposit into the state treasury. This is because MUI is not a state institution, but an institution consisting of a group of mass organizations, which are not funded by the state. However, MUI has an obligation to pay taxes.

Law No. 33/2014 on Halal Product Guarantee (Halal Product Guarantee Law) strengthens and regulates various halal regulations that have been scattered in various laws and regulations. On the other hand, the Halal Product Guarantee Law can be called umbrella act for regulating halal products. The Halal Product

Guarantee in this law covers various aspects, not only medicine, food, and cosmetics but broader than that it covers chemical products, biological products, genetically modified products, as well as consumer goods that are used, used, or utilized by public.

The regulation also covers the halal products from upstream to downstream. Halal Product Process, hereinafter abbreviated as PPH, is defined as a series of activities to ensure the halalness of a product, including the provision of materials, processing, storage, packaging, distribution, sales and presentation of products. This aims to provide comfort, 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 their products. The technical halal product guarantee is then translated through the certification process. Previously, halal certification was voluntary, while the Halal Product Guarantee Law was mandatory. Therefore, all products that enter, circulate and are traded in the territory of Indonesia must be halal certified. This is the main differentiator from the previous legislative products. With the enactment of Government Regulation No. 31/2019 on Implementation Regulations of Law No. 33/2014 on Halal Product Guarantee, the

government is responsible for the halal guarantee system through the Halal Product Guarantee Organizing Body

(BPJPH) which is domiciled under and responsible to the Minister of Religion.

Table 2.
Differences in Halal Certification Before and After the JPH Law is Enacted

Before the JPH Law	After the JPH Law
Certification is voluntary	Certification is mandatory
The Indonesian Ulema Council (MUI) as the main agency authorized in the halal certification process.	Halal Product Guarantee Agency (BPJPH) as the main agency authorized in the halal certification process
Certification is carried out by non-governmental organizations or non-governmental organizations	Certification is carried out by Government Institutions under the Ministry of Religion
LPPOM MUI as an institution that conducts audits or inspections of halal products	Halal Inspection Agency (LPH) as institutions that carry out audits or inspections of halal products
Certificate valid for 2 years	Certificate valid for 4 years
Not yet have strong legal legitimacy	Has a strong legal certainty. There are both criminal sanctions and fines for business actors who do not maintain the halal certification of products
Halal auditors can come from educational backgrounds that are not suitable for the audit field.	Auditors must come from suitable scientific backgrounds, namely biology, pharmacy, food, biochemistry, industrial engineering, and chemistry.
Short certification flow: Business Actors → LPPOM MUI → MUI	Longer flow of certification: Business Actors → BPJPH → LPH → BPJPH → MUI

Source: Faridah (2019)

Implementation of The Halal Product Guarantee Law

The obligation for halal certification in accordance with the Halal Product Guarantee Law began to be implemented on 17 October 2019. The implementation of certification will be carried out in stages. At this early stage, certification is more focused on food and beverages first. Then just penetrated into cosmetic products,

drugs, and medical devices. During the past five years, BPJPH will be more persuasive in disseminating and coaching business actors. Provide opportunities for business actors to take care of halal certification. Products that do not have halal certification are not immediately punished, but they are still given the opportunity to process halal certification until October 17, 2024 (Detik, 2019).

This five-year transition period must be maximally utilized to accelerate halal certification of all products circulating in the country. Starting from the socialization, especially for micro, small and medium enterprises (UMKM). In addition to socialization, there must also be assistance to help business actors register their products for certification.

Government releases Government Regulation No. 39/2021 on Implementation of the Halal Product Guarantee Sector. The birth of the new regulation as a derivative of the Job Creation Law is believed to accelerate the development of the halal ecosystem in Indonesia (Kumparan, 2021).

Along with the issuance of Government Regulation No. 39/2021, Government Regulation No. 31/2019 on Implementation Regulations of Law No. 33 of 2014 on Halal Product Guarantee is revoked and declared invalid. However, the laws and regulations that are derivatives of Government Regulation No. 31/2019 remain valid as long as they do not conflict with Government Regulation No. 39/2021. This is as stated in Articles 170 and 171 of Government Regulation No. 39/2021. Articles in Law No. 33/2014 on Halal Product Guarantee that have not been amended in the Job Creation Law also remain valid.

CONCLUSION

Before the formation of Law No. 33/2014 on Halal Product Guarantee (Halal Product Guarantee Law), there are so many regulations that regulate the halal product in Indonesia. Bureaucratic reform in the area of legislation make the regulation more integrated.

That way the Government has carried out its duties in providing halal guarantees to its citizens. Business actors can also expand their target market, increase competitiveness, increase production and sales turnover, and increase consumer confidence in the halalness of products.

In addition to providing protection and assurance to consumers, laws and regulations on guaranteeing halal products are also useful for producers in providing guidance on how to process, produce and market products to the consumer community, as well as how to make information on halal products to consumers.

ACKNOWLEDGMENT

I would like to show my gratitude to Chairperson of The Working Committee on Halal Product Guarantee Draft Law Ledia Hanifa Amaliah who gives many insights on my work.

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