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THE IMPLEMENTATION OF HALAL PRODUCT GUARANTEES FOR TRADITIONAL FOOD ENTREPRENEURS BY THE INDONESIAN ULEMA COUNCIL ACCORDING TO ISLAMIC LAW AND LAW NUMBER 33 OF 2014 CONCERNING HALAL PRODUCT GUARANTEES IN BENGKULU CITY

by

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ABSTRACT

The writing of this research aims to (1) find out and analyze the implementation of halal product guarantees for traditional food entrepreneurs by the Indonesian Ulema Council in Bengkulu City, (2) find out and analyze the obstacles to the implementation of halal product guarantees for traditional food entrepreneurs by the Indonesian Ulema Council in Bengkulu City, and (3) find out and analyze the efforts to overcome the obstacles to the implementation of halal product guarantees for traditional food entrepreneurs by the Indonesian Ulema Council in Bengkulu City. This research used a descriptive approach and the data were gathered through primary, secondary, and tertiary legal materials. The results of the research explained that the implementation of halal product guarantees for traditional food entrepreneurs by the Indonesian Ulema Council in Bengkulu City is begun with traditional food entrepreneurs carrying out online registration at the Bengkulu Provincial Regional Office of the Ministry of Religious Affairs. The obstacles to the implementation of halal product guarantees for traditional food entrepreneurs by the Indonesian Ulema Council in Bengkulu City included; a lack of legal awareness of traditional food businesses to obtain halal product guarantee certificates, and the efforts made by the Institute for the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council of Bengkulu Province to socialize Halal Certification and the importance of halal food and increase the number of Halal Inspection Agencies to all regions in Bengkulu province, as well as increase the number of auditors of the Institute for the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council to the regions of Bengkulu Province.

Keywords: Halal product guarantee, entrepreneurs, traditional food, the Indonesian Ulema Council, Islamic law, Law Number 33 of 2014.

A. INTRODUCTION

1. Background Research

The Indonesian Ulema Council (Indonesian: Majelis Ulama Indonesia, abbreviated MUI) is a forum in which Muslim scholars, (Islamic zu'ama people), intellectuals in Indonesia gather. This forum is based on Islamic rules and it aims to actualize a quality society (khaira ummah), and a safe, peaceful, fair, and prosperous country spiritually and physically that please Allah S.W.T (Arabic: Subhanahu Wa Ta'ala -Glory to him, the Exalted). The organization was established on 17 Rajab 1375 Hijriah/ July 26th, 1975, Jakarta, Indonesia.¹ In the service outline of the Indonesian Ulema Council, five main functions and roles of the Indonesian Ulema Council have been formulated as follows:

- a. As heir to the duties of the Prophets (Warasatul Anbiya).
- b. As fatwa giver (*mufti*).
- c. As a guide and servant of the people (History of wa khadim al-ummah).
- d. As the *Islah wa al Tajdid* movement (Islamic and reform movement)

e. As an enforcer of amar ma'ruf nahi munkar (Special Taskforce for commanding the right and Forbidding the Wrong)

In the rules (law) of Islam, halal (permitted in Islam) and haram (forbidden in Islam) are very important issues because every Muslim who is going to do or use something, consume food, drink, and medicine is highly demanded by religion to ensure in advance its halal and haram.² In general, the notion of halal is a matter or action that is allowed, permitted, or justified by Islamic law.3 Islamic rules attach great importance to goodness and cleanliness in all aspects. For example, in terms of food or goods and their use. Islam commands its followers to eat and good, holy, and clean use ingredients.4 Legislation that regulates the issue of halal packaged food products is Law Number 33 of 2014 concerning halal product guarantees. provision of Article 4 of Law Number 33 of 2014 concerning halal product guarantees is stated as follows:

Sertifikasi Halal Kn. Sofvan Hasan. Hukum Positif Regulasi Implementasi Di Indonesia, Aswaja Pressindo, Yogyakarta, 2014, p.176.

² *Ibid*, p. 136.

³ *Ibid*, p. 138 Farid Wajdi Dan Diana Susanti,

Kebijakan Hukum Produk Halal Di Indonesia, Sinar Grafika, Jakarta, 2021, p. 1

"Products that enter, circulate, and trade in the territory of Indonesia must be halal certified".

Based on the elucidation of the article above, it implies that all or every product (food, drink, Drugs, and cosmetics) that enters, circulates, and is traded in the territory of Indonesia is required to have a halal certificate.⁵

Law Number 33 of 2014 product concerning guarantees explains that the Determination of Halal Food is a sign of the halalness of a product, the problem of the halalness product is not only the responsibility of individuals and religious leaders but also responsibility of local governments. However, what happened later was that there were still many violations and food and beverage cases that harmed the Muslim religious society, one of them was still found in traditional food that did not have a Halal Food Determination in Bengkulu City.

Juridically, in determining halal certification for traditional food products in Bengkulu City, the

⁵ Farid Wajdi, *Jaminan Produk Halal Di* Indonesia Urgensi, Sertifikat Dan Labelisasi Halal, Rajawali, Pers, Depok, 2019, p, 17 Indonesian Ulema Council has the authority to determine the halal status of traditional food products, because based on the Decree of the of Religious Minister Affairs Number 518 of 2001 concerning Guidelines and Procedures for Inspecting and Determining Halal Food, and Law Number 33 of 2014 Halal concerning Product Guarantees. The Indonesian Ulema Council is an institution certifies the halalness of a food product. Thus, it is clear that halal certification in the determination of traditional food products in the city of Bengkulu is highly dependent on the Indonesian Ulema Council.

2. Identification of the Problems

Based on the background as aforementioned, the problems of this research are formulated as follows:

- a. How is the implementation of Halal Product Guarantees for traditional food entrepreneurs by the Indonesian Ulema Council in Bengkulu City?
- b. What are the obstacles to the implementation of halal product guarantees for traditional food entrepreneurs by the Indonesian Ulema Council in Bengkulu City

c. What are the efforts to overcome obstacles to the implementation of halal product guarantees for traditional food entrepreneurs by the Indonesian Ulema Council in Bengkulu City?

B. RESEARCH METHODOLOGY

1. Type of Research

The type of research used in this research was descriptive. Descriptive research is intended to provide as accurate data as possible about people, conditions, or other phenomena.6 Therefore. research aimed to describe a symptom and event that happened in the field to explain how was the implementation of Halal product guarantees for traditional food entrepreneurs by the Indonesian Ulema Council in Bengkulu City, what were the obstacles to the implementation of Halal product by the guarantees Indonesian Ulame Council in Bengkulu City, and what were the efforts to overcome obstacles implementation of Halal product guarantees for traditional food entrepreneurs by the Indonesian Ulema Council in Bengkulu City.

2. Research Design

This research was designed as empirical legal research. This empirical legal research aimed to describe and analyze the implementation of halal product guarantees for traditional food entrepreneurs by the Indonesian Ulema Council in Bengkulu City, the obstacles to the implementation of Halal product guarantees by the Ulame Council Indonesian Bengkulu City, and the efforts to overcome obstacles implementation of Halal product guarantees for traditional food entrepreneurs by the Indonesian Ulema Council in Bengkulu City.

3. Data Sources of the Research

There were two data sources that the researchers used in this research; primary data and secondary data.

a. Primary Data

Primary data were obtained from the field research by interviewing respondents based on the list of the questions that had been before arranged and developed in the process of the interview by limiting the

⁶ Soerjono Soekanto, *Metode Penelitian Hukum*, UI Press, Jakarta, 2010, p. 10.

questions based on the aspects that were being studied.

b. Data Secondary Data

Secondary data are data that are obtained from library research, for example, official documents, books, research reports, daily books, and others. Secondary data were the data that were obtained through library research by reviewing books, legal theories, and regulations that related to the objects of this research that were suitable with the title of the thesis.

4. Research Respondents

In determining respondents, this research applied purposive sampling technique. In the purposive sampling technique, respondents were determined firstly based on the considerations of the respondents' ability in terms of skills and positions that could represent the population research. Based on those criteria, the respondents of this research were as follows:

a. The Chairperson of the FatwaCouncil of the Indonesian

- Ulema Council of Bengkulu Province.
- b. The Chairperson of the Institute for the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council (Indonesian: Lembaga Pengkajian Pangan, Obatobatan, dan Kosmetika Majelis Ulama Indonesia, abbreviated LPPOM MUI) of Bengkulu Province.
- c. The Auditors of the Institute for the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council of Bengkulu Province.
- d. Three traditional food entrepreneurs in Bengkulu City.
- e. The Chairperson of the Industry and Trade Office of Bengkulu City.

5. Data Collection Techniques

The procedure of collecting data used in this research was in terms of interviews. The type of interview used in this research was a semi-structured interview. The aim of carrying out interviews was to obtain oral explanation through question-and-answer between the researcher and the respondents

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⁷ Ibid.

being studied. A good interview is a person being interviewed does not feel that he is being interviewed so that he is able to provide broad and in-depth information⁸.

This interview technique was addressed to respondents who were the samples of the research on the implementation of halal product guarantees for traditional food entrepreneurs by Indonesian Ulema Council in Bengkulu City according Islamic law and Law Number 33 of 2014 concerning halal product guarantees. Further, the supporting data were obtained through documents, books, legal journals, legal theories, and regulations related to the object of this research which was under the title of the thesis.

6. Data Processing Techniques

The data obtained through either primary data or secondary data were then grouped and classified based on the discussion topics. Then, the data were studied and checked again whether all of the questions had been answered or had relevance between the questions

and the answers. Next, the data that had been obtained were processed and analyzed through *editing* steps (*to edit* means to correct). In other words, editing is checking or studying data that had been obtained to make sure whether they can be accounted for based on the facts or not⁹.

C. RESULTS AND DISCUSSION

1. The Implementation of Halal Product Guarantees for Traditional Food Entrepreneurs by the Indonesian Ulema Council in Bengkulu City

To create peace in the community and obtain halal certainty for one product at all levels in each region, the Institute for the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council in each province was established. It is based on the decision of the **National** Coordination Meetings (Indonesian: Rakornas - Rapat Kerja Nasional) of the Indonesian Ulema Council with Chairpersons of the Indonesian Ulame Council on August 13th, 1994 in Jakarta concerning the

⁸ Ade Saptomo, 2009, *Op. Cit.* 86.

⁹ Rony Hanitijo Soemitro, *Metode Penelitian Hukum*, Ghalia Indonesia, Jakarta, 1990, p. 81.

Institute of the Study of Food, and Cosmetics of the Drugs, Indonesian Council. Ulema Following up on this decision, the Indonesian Ulema Council Bengkulu Province held a plenary meeting on November 20th, 2000 after receiving suggestions and inputs from all members resulting in an agreement to establish the Institute for the Study of Food, and Cosmetics of Drugs, Indonesian Ulema Council Bengkulu Province. Finally, April 28th, 2001, the Institute of the Study of Food. Drugs, Cosmetics of the Indonesian Ulema Council of Bengkulu Province was officially established.

The results of the Interview with Firjoni Afrianto, the Chairperson of the Industry and Trade Office of Bengkulu City showed that the process of the Halal Certificate was carried out through the synergy of parties, not only by the Indonesian Ulema Council but also by other parties. There were three parties involved in the process of a Halal Certificate for a product that was proposed by the entrepreneur. "There are officers regulated in Law Number 33 of 2014 in the issuing the Halal process of

Certificate: Halal Product
Guarantee Organizing Agency
(Indonesian: *Badan Penyelenggara Jaminan Produk Halal*, abbreviated
BPJPH), Halal Inspection Agency
(LPH), and the Indonesian Ulema
Council.¹⁰

In addition, the results of the interview with Edwar Suharnas, the Chairperson of the Institute of the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council of Bengkulu Province revealed that the process of Halal Certification was carried out through the synergy of parties, not only the Indonesian Ulema Council but also other parties.

According to Edward Suharnas, the procedures of the Halal certification, the Institute of the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council of Bengkulu Province had made some procedures as follows:

- a. Producers propose a halal certification request letter.
- b. Producers complete requirement requests.
- c. Producers make a halal specification list for materials, additional

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¹⁰ Interview with Dengan Firjoni Afrianto, on December 28th, 2022, at 11. 40 WIB

materials, and helper materials as well as the production process procedure part.

- d. Producers sign a contract letter and carry out the payment.
- e. The Institute of the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council checks the completeness of documents.
- f.The Institute of the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council carries out an audit in the location.
- g. The Institute of the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council carries out evaluations with an expert team.
- h. The Fatwa commission of the Indonesian Ulema Council carries out the review from the shari'ah legal perspective.
- i.The provincial IndonesianUlema Council as the institution issues a halal certificate
- j.Enterprises /Small and Medium Enterprises whose

products have received halal certificates must appoint internal halal auditors as part of the halal guarantee system.¹¹

If then there is a change in the use of raw materials, additional materials, or auxiliary materials in the production process, the internal halal auditor is required to report immediately to get "the objection to their use."

The results of the interview with M. Nesbah, an auditor of the Institute of the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council Bengkulu Province revealed that traditional food entrepreneurship carried out online registration to the Bengkulu Province Regional Office of the Ministry of Religious Affairs. After filling out the registration form, the next steps were carried out and processed by the Ministry of Religious Affairs officers. If all has been completed, all of the registration requirements for the traditional food would be submitted to the Institute of the Food, Study of Drugs, Cosmetics of the Indonesian Ulema

 $^{^{11}}$ Interview with Edward Suharnas, on December $28^{th},\,2022$ at $11.\,40~WIB$.

Council to be processed. Next, the auditor of the Indonesian Ulema Council would create an audit schedule (Field survey) to equate/synchronize what was in the field with documents. The results of the investigation from auditors would be submitted to the Chairperson of the Fatwa Council. A fatwa trial was held and this fatwa commission determined the halalness of the traditional food product itself. After the traditional food business actors follow the stages of determining the halalness of traditional food products, the Indonesian Ulema Council officials issued a halal certificate which was only valid for four years with a different registration number for each traditional food product.¹²

The results of the interview with Nesbah, an Auditor of the Institute of the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council of Bengkulu Province showed that the form of supervision of traditional food entrepreneurs in Bengkulu City does not yet have a Halal Guarantee System (Indonesian: *Sistem Jaminan Halal*, abbreviated SJH) by the Indonesian

Ulema Council of Bengkulu City. In each traditional food entrepreneur, there is an internal auditor, the internal auditor is an extension of the Institute of the Study of Food, Drugs, Cosmetics of the Indonesian Ulema Council, the internal auditor is responsible for products produced by traditional food, if there is a change in processed food ingredients, the traditional food business actor must report monthly to the Indonesian Ulema Council concerning material changes of traditional food preparations.¹³

The results of Interviews with Yanti Floriza, Sinar Utami, and traditional food Anggik, entrepreneurs in Bengkulu City revealed that every traditional food entrepreneur who submitted a letter to obtain halal certification must fill out a form or checklist for an audit of halal products. In addition, the consistency of the use of these materials included the type, product name, and supplier. When there is consistency, is there any written form? If there is a change in raw materials, is it known by the person

¹² Interview with M. Nesbah on December 26, 2022, at 14, 23 WIB.

¹³ *Ibid*.

in charge of the internal halal business (halal internal auditor). 14

In this regard, in the rules (law) of Islam, halal and haram are very important issues and are seen as the core of diversity because every Muslim person who is going to do or use and consume something is very much guided by religion to ensure in advance its halal and haram. If it is halal, he may (halal) do, use, or consume it, and vice versa. Therefore, the determination of halal food is the main thing that is seen by Muslims in buying food products, including packaged snacks.

2. The Obstacles to the Implementation of Halal Product Guarantees for Traditional Food Entrepreneurs by the Indonesian Ulema Council in Bengkulu City

To ensure that every adherent of religion can worship and carry out his/her religious rules, the state is obliged to provide protection and guarantees regarding the halal products that are consumed and used by the public, that not all products circulating in society are guaranteed to be halal.

Based on the results of the interview with Suwarjin, Chairman of the Fatwa Council of the Indonesian Ulema Council of Bengkulu Province, obstacles to the implementation of halal product guarantees for traditional food entrepreneurs by the Indonesian Ulema Council in Bengkulu City were a lack of legal awareness of traditional food entrepreneurs to obtain halal product guarantee certificates. Their awareness was the main determinant certificate and the to get determination merupakan penentu dalam untuk utama upaya mendapatkan sertifikat dan halal food determination. However, today, most traditional food entrepreneurs Bengkulu City do not have the legal awareness to register their traditional food products with the Ministry of Religious Affairs and the Institute of the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council to obtain a certificate and halal food determination.¹⁵

Moreover, based on the results of the interview with Edwar Suharnas, the Chairperson of the Institute of the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council of Bengkulu Province, obstacles to the

¹⁵ Interview with Suwarjin on December 26th, 2022 at 19.33 WIB

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¹⁴ Interviews with Yanti Floriza, Sinar Utami, and Anggik on December 20th-28th, 2022.

implementation of halal product traditional guarantees for food Indonesian entrepreneurs by the Ulema Council in Bengkulu City was the lack of dissemination of halal product guarantee certification traditional food entrepreneurs, as well as the limited number of halal product Guarantee Inspection Agencies in Bengkulu province. Human Resources of the Institute of the Study of Food, Drugs, and Cosmetics of Indonesian Ulema Council and the Indonesian Ulema Council itself were still limited because they are not permanent employees of the Indonesian Ulema Council. They generally have a main job outside the Indonesian Ulema Council, example, lecturers and teaching staff, ministries, and others. Thus, if the survey is carried out for several administrators or the audit team, it will be difficult to determine a schedule because of each other's busyness.¹⁶

Furthermore, based on the interview with Nesbah Auditor of the Institute for the Study of Food, Drugs, and Food of the Indonesian Ulema Council of Bengkulu Province, the obstacle to the implementation of halal product guarantees for traditional food

entrepreneurs by the Indonesian Ulema Council in Bengkulu City is the lack of knowledge of traditional food entrepreneurs regarding halal product guarantee certificates. ¹⁷

Next, based on the results of interview with Yanti Floriza, Sinar Utami, and Anggik, traditional food entrepreneurs in Bengkulu City, they stated that the obstacles to the implementation of traditional food product guarantees were the entrepreneurs' knowledge in the food field about the content (substantial) of the regulation on the certification of halal products. Thus, the researcher concluded that three of the traditional food entrepreneurs as the respondents of this research did not know the regulation of the halal determination from the Indonesian Ulema Council concerning certification halal product guarantees. 18

The last, the results of the interview with Firjoni Afrianto, the Chairperson of the Industry and Trade Office of Bengkulu City revealed that the obstacles to the implementation of halal product guarantees for traditional food entrepreneurs by the Indonesian Ulema Council in Bengkulu City were

¹⁷ Op.Cit. M. Nesbah

¹⁶ Op. Cit. Edwar Suharnas

Anggik on December 20th-28th, 2022.

the low submission of applications for the halal determination of traditional food entrepreneurs at the Indonesian Ulema Council of Bengkulu Province was also due to the lack of knowledge of the public and especially traditional food entrepreneurs in Bengkulu City regarding the procedures procedures for submitting applications for certification and determination of halal food. The low knowledge of traditional food entrepreneurs regarding halal product guarantee certification causes a lack of public desire to register their products to obtain a halal product guarantee certificate. In addition, sometimes because of ignorance, traditional food businesses often use Halal Food Determination without a certificate or permit from the Institute of the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council of Bengkulu Province. 19

3. The Efforts to Overcome Obstacles to the Implementation of Halal Product Guarantees for Traditional Food Entrepreneurs by the Indonesian Ulema Council in Bengkulu City

To guarantee that every adherent of a religion worships and carries out

¹⁹ Op. Cit. Firjoni Afrianto

his rules, the state is obliged to provide protection and guarantees regarding the halal products that are consumed and used by the public. Guarantees regarding halal products should be carried out under the principles of protection, fairness, legal certainty, accountability, transparency, effectiveness and efficiency, Therefore, professionalism. the guarantee of the implementation of products 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 entrepreneurs to produce and sell halal products.

In this regard, many products circulating in public are not all guaranteed to be halal. Meanwhile, various laws and regulations related to the regulation of halal products have not provided legal certainty and guarantees for Muslim society. Therefore, arrangements regarding Halal Product Guarantee need to be regulated in a law that comprehensively covers Products that include goods and/or services related to food, drink, medicine, cosmetics, chemical products, biological products, and genetic engineering products as well as consumer goods used or exploited by the public. Interview with Edwar Suharnas, Chairperson of the Institute for the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council of Bengkulu Province. This institution continues to socialize halal certification and the importance of halal food.²⁰

Regarding the issue above, sometimes the management of the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council of Bengkulu Province received reports from the public about a business whose halalness is doubtful, especially not having a halal certification let alone a Halal Food Determination from the Indonesian Ulema Council. In response to the report, the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council Bengkulu Province sent a letter to producers or entrepreneurs to arrange for halal certification to be audited by the Institute for the Study of Food, Cosmetics Drugs, and of the Indonesian Ulema Council.

D. CLOSING

1. Conclusion

a. The implementation of halal product guarantees for

traditional food entrepreneurs by the Indonesian Ulema Council in Bengkulu City is begun by the traditional food entrepreneurs who carry out online registration the Bengkulu Province Regional Office of the Ministry Religious Affairs. After filling out a registration form, the Ministry of Religious Affairs Officials will check for the If completion. all of the registration requirements for traditional food have been completed, the documents will be submitted to the Institute of the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council to be processed. Furthermore. the Indonesian Ulema Council auditor will create a schedule to audit (field that aims survey) to equate/synchronize what is in the field with documents. The audit results of the Indonesian Ulema Council officers were submitted to the Fatwa Commission, a fatwa meeting was held and it was this fatwa commission that determined the halalness of the traditional food After product itself. the traditional food entrepreneurs

²⁰ Op. Cit, Edwar Suharnas.

- follow the stages of determining the halalness of traditional food products, the Indonesian Ulema Council officials issue a halal certificate which is only valid for four years with a different registration number for each traditional food product.
- b. Obstacles to the implementation of halal product guarantees for traditional food entrepreneurs by the Indonesian Ulema Council in Bengkulu City include; a lack of legal awareness of traditional food entrepreneurs to obtain halal product guarantee certificates, lack of knowledge of traditional food entrepreneurs regarding halal product guarantee certificates, and lack of dissemination of halal product guarantee certification traditional food business actors, and the limited number of Halal Inspection Agencies in Bengkulu Province.
- c. Efforts to overcome obstacles to
 the implementation of halal
 product guarantees for
 traditional food entrepreneurs by
 the Indonesian Ulema Council in
 Bengkulu City are; the Institute
 for the Study of Food, Drugs,
 and Cosmetics of the Indonesian

Ulema Council of Bengkulu Province conducted outreach about halal certification and the importance of halal food and increased the number of Halal Inspection Agencies to all regions of Bengkulu Province, as well as increased the team of the Institute of the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council auditors to regions of Bengkulu Province.

2. Suggestion

The Institute of the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council and the Food and Drug Monitoring Agency (Indonesian: Badan Pengawas Obat dan Makanan, abbreviated BPOM) of Bengkulu Province in holding their duties as supervisor agencies should be active in supervising traditional food entrepreneurs who have not used certificates of halal product guarantees. They should enhance their legal awareness to use certificates of halal product guarantees traditional food for products.

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