

## THE LEGALLITY OF DESTROYING ILLEGAL IMPORTED GROCERIES: A STUDY OF ISLAMIC ECONOMIC LAW'S PERSPECTIVE

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### Abstract

This article aims to examine the perspective of Islamic economic law on the destruction of illegally imported foodstuffs. This research uses an empirical juridical approach, where the main data is obtained from interviews and observations in the field, as well as studies of legal doctrine, and analysis of statutory norms. In addition, the author also uses secondary data sourced from various sources related to this research. The results of the study show that: first, the practice of destroying illegally imported groceries is carried out on groceries that have met the criteria for destruction, including groceries in rotten, expired, and unfit for use conditions. *Second*, the legal basis for destruction is Minister of Finance Regulation Number 240 / PMK.06 / 2012 concerning Procedures for the Management of State Property Originating from Ex-Customs and Excise Assets. *Third*, in terms of Islamic law, the destruction of illegal imported groceries at the Banda Aceh Customs is in accordance with sharia economic law.

**Keywords:** Aceh, Islamic law, illegal imports, and basic necessities.



### Abstrak

Artikel ini bertujuan untuk mengkaji perspektif hukum ekonomi syariah terhadap pemusnahan bahan pangan impor ilegal. Penelitian ini menggunakan pendekatan yuridis empiris, dimana data utama diperoleh dari hasil wawancara dan observasi di lapangan, serta kajian terhadap doktrin hukum, dan analisis terhadap norma-norma perundang-undangan. Selain itu, penulis juga menggunakan data sekunder yang bersumber dari berbagai sumber yang berkaitan dengan penelitian ini. Hasil penelitian menunjukkan bahwa: pertama, praktik pemusnahan bahan pangan impor ilegal dilakukan terhadap bahan pangan yang telah memenuhi kriteria pemusnahan, antara lain bahan pangan dalam kondisi busuk, kadaluarsa, dan tidak layak pakai. *Kedua*, dasar hukum pemusnahan adalah Peraturan Menteri Keuangan Nomor 240/PMK.06/2012 tentang Tata Cara Pengelolaan Barang Milik Negara yang Berasal dari Aset Eks Kepabeanaan dan Cukai. *Ketiga*, ditinjau dari hukum Islam, pemusnahan sembako impor ilegal di Bea Cukai Banda Aceh telah sesuai dengan hukum ekonomi syariah.

**Kata kunci:** Aceh, hukum Islam, impor ilegal, dan kebutuhan pokok.

### INTRODUCTION

Illegally imported food in Indonesia is still a serious problem and needs attention from many parties, starting from the government as well as non-governmental organizations and institutions. Importing groceries and various goods from outside the country must follow the export-import provisions stipulated in the legislation, including Regulation of the Minister of Trade No. 40 of 2022 concerning Amendments to Regulation of the Minister of Trade No. 18 of 2021 concerning Export Prohibited Goods and Import Prohibited Goods. However, in practice, traders or importers who import basic necessities illegally and without permission from the relevant ministries are still found in the midst of society. The

Minister of Trade has carried out efforts to destroy imported goods in various forms, one of which is in the form of basic necessities such as food and drinks.<sup>1</sup>

The destruction of illegal imported groceries was also carried out by the Aceh government through the Aceh Customs in 2014 to 2015. The Aceh Customs carried out the destruction of state property (BMN) and state controlled goods (BDN) ex customs and excise.<sup>2</sup> The BMN that were destroyed were ex-customs and excise goods from several places such as Sultan Iskandar Muda Airport, Lalu Bea Post Office, and Ulee Lheue Port from 2014 to 2015. The goods include 2.3 tons of glutinous rice in 93 25 kg sacks, 1.8 tons of rice in 73 25 kg sacks, and several other goods.<sup>3</sup>

Problems that arise in the context of Islamic law regarding the law of destroying illegally imported foodstuffs are seen from the perspective of Islamic economic law (sharia). In the context of Islamic law, the government is indeed authorized to prevent various types of unlawful acts such as closing all intermediaries or media that open up opportunities for the practice of illegally importing basic food. This kind of pattern in the Islamic context is called *sadd al-zarī'ah*.<sup>4</sup> The concept of *sadd al-zarī'ah* is related to efforts to close the doors of sin.<sup>5</sup> *Sadd al-zarī'ah* is simply understood as closing the way or closing the intermediary (*wasilah*), especially intermediaries that can bring about sin and harm.<sup>6</sup> Its application in the context of illegal food imports is that the government through the ministry or related agencies in the regions can take precautions, and can even take action.

However, the action in the form of destroying illegally imported groceries includes the practice of *tabzir* or waste, especially on groceries that are still suitable for consumption. Islamic law views actions and actions that lead to wastefulness as forbidden. Based on this problem, this study is written with considerations.<sup>7</sup> *First,*

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<sup>1</sup>Fuji Pratiwi, "Minister of Trade Destroys Illegal Import Products Worth Rp 12 Billion". Accessed via: <https://ekonomi.republika.co.id/berita/ryag7c457/mendag-musnahkan-produk-impor-ilegal-valued-rp-12-billion>, July 28, 2023.

<sup>2</sup>Bea-Cukai Web Admin, "Aceh Customs Destroys Thousands of Kilograms of Illegal Imported Goods". Accessed via: <https://www.beacukai.go.id/berita/bea-cukai-aceh-musnahkan-ribuan-kilogram-of-illegal-imported-goods.html>, dated July 28, 2023.

<sup>3</sup>*Ibid.*

<sup>4</sup>Yusuf Al-Qaradhawi, *Madkhal li Dirasah Al-Syari'ah Al-Islamiyyah*, (Editors: Ade Nirdin and Riswan), (Bandung: Mizan Pustaka, 2018), p. 166. 166.

<sup>5</sup>Moh. Ali Aziz, *Science of Da'wah*, Ed. Revised, Cet. 6, (Jakarta: Kencana Prenada Media Group, 2017), pp. 125.

<sup>6</sup>Abd Al-Hayy 'Abd Al-'Al, *Ushul Al-Fiqh Al-Islami*, (Transl: Muhammad Misbah), (Jakarta: Pustaka Al-Kautsar, 2014), p. 326. 326.

<sup>7</sup>Erwandi Tarmizi, *Haram Treasure of Contemporary Muamalat*, (Bogor: Berkat Mulia Insani Publishing, 2017), p. 163. 163.

from the aspect of Islamic economics, Muslim traders are obliged to be honest and not manipulate their merchandise, including by importing illegally. However, in reality, illegal import practices are still found in the midst of society. *Second*, the practice of destroying illegal groceries is often carried out by the government as a form of legal action because it does not comply with statutory provisions, but the destruction still leaves problems in terms of Islamic economic law, namely not paying attention to the principles of expediency, benefit, and shari'ah. *Third*, it is interesting to study the perspective of Islamic economic law in responding to the existence of illegally imported basic necessities.

## RESEARCH METHODS

The type of this research is empirical legal research or juridical empirical. Empirical legal research is research that examines law from an external or external perspective with the object of research being attitudes, social behavior towards law.<sup>8</sup> There are two data sources needed for this research, namely primary and secondary. Primary data is the main data that provides information directly, obtained from interviews and documentation studies, while secondary data is obtained from library materials in the form of books, fiqh books, journals, articles, dictionaries, encyclopedias, and other relevant library materials.

## RESULTS AND DISCUSSION

### Theoretical Foundation

The term basic food import is composed of two words, import and basic food. The term import is an element of absorption from English, namely *import*.<sup>9</sup> The term *import* is called *istirād* in Arabic,<sup>10</sup> meaning to bring in.<sup>11</sup> In the *Big Indonesian Dictionary*, import is defined as the entry of goods and others from abroad, or entering merchandise from a foreign country.<sup>12</sup> Referring to this meaning, it can be

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<sup>8</sup>I Made Pasek Diantha, *Normative Legal Research Methodology in Justifying Legal Theory*, Cet. 2, (Jakarta: Kencana Prenada Media Group, 2017), pp. 12.

<sup>9</sup>John M. Echols, and Hassan Shadily, *Indonesian English Dictionary*, Third Edition, (Jakarta: Gramedia, 1992), pp. 221.

<sup>10</sup>J. Milton Cowan (Edt), *Arabic English Dictionary*, Third Edition, (New York: Spoken Language Services, 1971), pp. 1061.

<sup>11</sup>Achmad Warson Munawwar and Muhammad Fairuz, *Al-Munawwir Dictionary*, (Surabaya: Pustaka Progressif, 2007), pp. 1551.

<sup>12</sup>Editorial Team, *Indonesian Dictionary*, (Jakarta: Language Center, 2008), pp. 549: W.J.S. Poerwadarminta, *General Indonesian Dictionary*, Cet. 2 (Jakarta: Ministry of Education and Culture College, 1954), pp. 271.



understood that import can be said to be an activity or activity of bringing something from one region into another. According to Article 1 number 13 of Law No. 10 of 1995 concerning Customs, import is the activity of entering goods into customs areas or regions. According to Adrian Sutedi, import is a trade by entering goods from abroad into the customs territory that meets the applicable legal provisions.<sup>13</sup> Meanwhile, according to Deliarnov in his explanation, import is the trading activity of a company to enter goods from abroad into the country to be traded or traded domestically. In other words, imports are the flow of goods and services from abroad into the country.<sup>14</sup>

The next term is sembako, the word sembako is an acronym (a shortening or abbreviation consisting of a combination of several words that are pronounced into a natural word). Sembako is an acronym for nine basic ingredients.<sup>15</sup> These three words are combined into one term that is commonly used in the community. According to Birusman, nine basic necessities consist of rice, eggs, wheat flour, cooking oil, vegetables, fruits, side dishes, milk, oil/gas or LPG which function as fuel for cooking.<sup>16</sup>

Referring to this definition, it can be understood that the import of basic foodstuffs is a trading activity or activity based on the law in the form of actions to enter goods classified as nine basic ingredients from abroad into the country, which aims to fulfill the supply of domestic needs. In another definition, it can be formulated that basic food imports are trading activities carried out by and on behalf of the government or the company by bringing in goods classified as basic food needs of the community from abroad into the country based on applicable legal provisions.

Imported foodstuffs can be said to be illegal if they do not fulfill the conditions stipulated in the laws and regulations, especially in two aspects, namely the requirements for the importer's administrative documents and the requirements regarding the quality of the goods. The Trade Law or Food Law, as mentioned earlier, as well as several Minister of Trade Regulations, explicitly state that all basic foodstuffs can be imported subject to and limited by the terms of importation. Domestically-imported staple foods that do not meet the aforementioned conditions are said to be imported staple foods that are not in accordance with the provisions of the law or in other terms are called illegal.

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<sup>13</sup>Adrian Sutedi, *Import-Export Law*, (Jakarta: Raih Asa Sukses Penebar Swadaya Group, 2014), pp. 39.

<sup>14</sup>Deliarnov, *Social Science: Economics*, (Jakarta: Erlangga, 2007), pp. 51.

<sup>15</sup>Sentot Imam Wahjono et al., *Introduction to Business*, (Jakarta: Kencana, 2018), p. 47.

<sup>16</sup>M. Birusman Nuryadin, *Learning Econometrics*, Cet. 1 (Palembang: Bening Media Publishing, 2022), pp. 22.

The cause of this illegal import of basic necessities is that the level of supervision from the relevant agencies is still lacking, then the problem of community development welfare is still not maximized and inadequate. In the context of export-import of goods including basic necessities, at least three motives or factors are behind illegal imports, namely:

1. Cultural attachment factor
2. Weak supervision factor
3. The welfare factor of community development is not maximized.<sup>17</sup>

The government through the minister of trade has issued a statement regarding the ban on illegally imported groceries. The ban came about because it could result in losses from two general aspects, namely:

1. Losses in terms of economy and domestic production
2. Losses from the health aspect.

By law, these unauthorized or illegal imported goods or groceries can be destroyed. The destruction of illegal imported goods is regulated in Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs. In accordance with the regulation of the Minister of Finance of the Republic of Indonesia Number 182 / PMK.04 / 2016 concerning Provisions for the Import of Consignment Goods, it is stated that Customs and Excise Officers are authorized to conduct customs inspections which include document research and physical inspection of goods (*official assessment*).

The provision of imported groceries in the context of Islamic law is part of a form of muamalah recognized in Islam. During the time of the Prophet and his companions, they often imported goods from outside the Islamic region. According to Ibn Taimiyah, as quoted by Rozalinda, that the goods sold in Medina, at the time of the Prophet mostly came from imports. So, the Prophet appreciated import activities by saying that someone who brings goods needed for daily life, for someone who clearly hinders it is prohibited. In fact, at that time the people of Medina did not need price fixing because their basic needs were met.<sup>18</sup>

The legal basis for importing basic necessities in Islam is not found in detailed and explicit arguments, but there are several general arguments in both the Qur'an and hadith verses. Among them is the verse about the prohibition of eating other people's property by false means, meaning that every muamalah activity, in this case including the import of basic necessities, must not carry out fraudulent

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<sup>17</sup>Longgina Novadino Bayo et al, *Local Regimes in Indonesia: Reinterpreting Our Democracy*, (Jakarta: Yayasan Pustaka Obor Indonesia, 2018), pp. 332-333.

<sup>18</sup>Rozalinda, *Sharia Economic Jurisprudence: Principles & Implementation in the Islamic Financial Sector*, Cet. 3, (Depok: Rajawali Pers, 2019), pp. 385.



activities, oppression because everything is included in eating other people's property by false means. The text of the verse is QS. In addition to the legal basis of the Qur'an, there is also general evidence during the time of the Prophet Muhammad Saw regarding the import of goods as explained earlier. The commodities sold in Medina at the time of the Prophet were mostly imported. The Prophet appreciated import activities and forbade anyone from obstructing them.<sup>19</sup> In one of the traditions, it is also mentioned that there is a prohibition for people to collect taxes from Muslims from the proceeds of imports.<sup>20</sup>

In addition, during the time of the Companions, import practices were also carried out. During the reign of Umar bin Khattab ra, using a check to take or buy wheat in Baitul Mal, which at that time the wheat was imported from Egypt.<sup>21</sup> The legality of import activities is also understood from the emergence of the law of 'usyur. 'Usyur is a tax on imported goods that foreign traders bring into Islamic territory.<sup>22</sup> The term 'usyur is also called 'usyur al-tijarah, which is a tax that applies in trade imposed on non-Muslim traders who conduct business transactions in Islamic countries,<sup>23</sup> which tax is one tenth of the zakat portion.<sup>24</sup>

The destruction of illegally imported foodstuffs in Islam basically has its own rules and must refer to the general provisions and principles of Islamic economic law. In this context, the basic foodstuffs or groceries that are illegally imported basically have two aspects that must be considered. The first is the aspect of the import permit, and the second is the aspect of the quality of the imported product. In terms of the import permit aspect, the provisions of Islamic law are clear that all matters concerning the import of goods are under the authority of the government. Therefore, the fiqh rule states that the government's policy towards the community as its people is based on benefit. Here, the act of importing goods is part of government policy that must be based on goodness and benefit. So it is necessary to regulate permits in the import of goods. On the aspect of the quality of imported goods, Islamic law stipulates the prohibition of waste in terms of wealth. If the illegally imported goods or groceries can still be used, and are proven to be free from things that can interfere with health, then the destruction of these groceries is part of the act of waste (QS. Al-Isra' verses 26-27).

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<sup>19</sup>Rozalinda, *Sharia Economic Jurisprudence: Principles & Implementation in the Islamic Financial Sector*, Cet. 3, (Depok: Rajawali Pers, 2019), pp. 385.

<sup>20</sup>Nurul Hidayati, "Usyur and Jizyah in Islamic Economic Studies", *Tawazun: Journal of Sharia Economic Law*, Vol. 1, No. 1, 2018, pp. 75.

<sup>21</sup>M. Ma'ruf Abdullah, *Sharia Financial Law*, (Yogyakarta: Aswaja, 2016), pp. 20.

<sup>22</sup>Agus Triyanta, *Islamic Economic Law*, (Yogyakarta: FH UII Press, 2012), p. 61.

<sup>23</sup>Muhammad Iqbal, *Fiqh Siyasa*, (Jakarta: Kencana Prenada Media, 2016), pp. 325.

<sup>24</sup>Abd Al-Sami' Ahmad Al-Imam, *Introduction to Comparative Mazhab Studies*, (Terj: Yasir Maqosid), (Jakarta: Pustaka Al-Kautsar, 2016), pp. 100.

The prosecution of illegally imported groceries in Islamic economics ideally pays attention to the condition of the goods, whether they are still suitable for use or not. The initial stage in carrying out the prosecution of destruction, then first assess the condition of the goods, rotten conditions, expired and imported prohibited goods. This is done to ensure the benefit (*mashlahah*) and harm (*mafsadah*) aspects of the goods. The destruction of illegally imported groceries in Islam must fulfill the rules in the form of consideration of the aspects of benefit and harm. This is regardless of whether the imported groceries have complete import permits or not. This is because the provision of destruction of illegally imported groceries is a separate issue, while whether or not the import is valid is another issue. Thus, whether or not the import is legal does not affect whether or not the food is allowed to be destroyed. The most important aspect in Islam is about the *maslahah/manfa'ah* side and the *mafsadah/madharrah* side. These two aspects are the scales in making a decision whether illegal groceries can be done or not.

### **The Practice of Destruction of Illegal Imported Tobacco at Customs in Banda Aceh**

The destruction of illegal imported groceries is one type of enforcement carried out by the Banda Aceh City Customs and Excise Office. Other forms of enforcement are grants and auctions. So, the prosecution of illegal imported goods generally consists of destruction, grants, and auctions. Related to that, not all illegal imported goods are subject to destruction, but can fall into the category of being granted or auctioned.<sup>25</sup> According to Muhammad Sahal Savana, as a Skilled Customs and Excise Examiner (PBC), the action against all illegal imported goods consists of five categories, namely destruction, grants, and auctions, deletion, and determination of use status.<sup>26</sup>

Specifically related to the destruction of illegal groceries, the Banda Aceh Customs and Excise Office has several times carried out the destruction of imported goods in the basic food category, among the illegal imported groceries that were destroyed at the Banda Aceh Customs and Excise Office were onions, oil and rice. The practice of destroying illegal groceries is carried out with a certain process. Before the destruction is carried out, the stages or *flow chart* that must be passed are the determination of goods as State Property (BMN), the next stage is the application for BMN designation, then the administrative verification process at the

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<sup>25</sup>Interview with Rasyid Arfi, Executing Inspector at the Banda Aceh City Customs Office, November 16, 2023.

<sup>26</sup>Interview with Muhammad Sahal Savana, Skilled PBC, at the Banda Aceh City Customs Office, November 16, 2023.



State Wealth and Auction Service Office (KPKNL) and physical inspection, and the implementation of destruction.

The practice of destroying illegal goods is generally carried out in different ways according to the commodity of the goods. Especially for basic necessities, such as onions or cooking oil, a crushing process is carried out or by pouring oil or crushing oil bottles. The steps of the illegal food destruction practice can be organized as follows:

- a. The first step is to administer the illegal imported food. In this case, the imported groceries are first included as illegal objects, meaning the determination of the status of illegal imported groceries.
- b. The second step is for the Banda Aceh Customs and Excise Office, through the Executing Inspectors, to identify the types of basic necessities that have been declared illegal imports.
- c. The third step is for Banda Aceh Customs and Excise to designate the illegal imported groceries as State Property or BMN.
- d. The fourth step is for the Customs and Excise Office to carry out an enumeration action, which is to count the number of illegally imported groceries including determining the types of illegally imported groceries.
- e. The fifth step is the documentation process, which is a recording step, if needed, a photo, video process will also be carried out, as evidence for the Banda Aceh City Customs and Excise Office.
- f. The sixth step is that after the documentation of all illegal imported groceries is carried out, the next step is to submit a letter to the KPKNL or the relevant State Property and Auction Service Office for the action to be taken by Customs and Excise to carry out the destruction of illegal imported groceries or a letter to carry out the donation action.
- g. The seventh step is that after obtaining approval from the KPKNL, the final step is to carry out destruction actions so that the form or form and nature of the illegal imported groceries cannot be utilized. In terms of this destruction action, there are terms and conditions, namely:
  - a. Illegally imported staple foods are declared to have been inspected, which meet the criteria of rotten, expired, and prohibited from being exported or imported.
  - b. Destruction for the illegal imported food category can be carried out by burning and other actions that can eliminate the original form.

In another statement, as stated by Damar Aji Muhammadiyah and Iqlima, each as an Executing Examiner at the Banda Aceh City Customs Office, they stated that related to illegal imported goods, in general, it is divided into two parts, namely prohibited goods and restricted goods. Prohibited import goods are goods that all types of goods may not be imported into the country, such as used clothing. The restricted illegal imported goods include basic necessities such as rice, onions and others. Basically, there are basic necessities that can be imported but are included in the category of goods that are restricted to be imported, if importers import basic necessities such as onions, rice or cooking oil that exceed the amount or limit set by the state, then the basic necessities that are not counted in the official importer record will be confiscated, then destroyed, except for basic necessities that can still be used.<sup>27</sup>

According to Dila Muna Fadjria and Syifa Thahira, both of whom served as Executing Inspectors, they gave the same information that the illegal basic necessities that could be destroyed were all basic necessities, because the categories were rotten, time-sensitive and condition-sensitive. Time-sensitive and condition-sensitive means that basic necessities that are often destroyed such as shallots will eventually rot and cooking oil will also experience decay and are not suitable for consumption.<sup>28</sup>

Regarding the practice of destruction, the author also had the opportunity to conduct interviews with members of the Aceh Ulama Consultative Assembly (MPU), one of which was with Abdul Gani Isa who served in Commission B of the Aceh MPU Office. In his statement, it was stated that one of the considerations in destroying illegal groceries is that it must be seen from the aspects of *maslahat*, benefits and harms. If there is more harm, such as it is not suitable for consumption, then it must be destroyed, while if it can still be utilized, then the illegal imported groceries will be redundant if destroyed, and it is better to give or donate to *fakir muskin*, the *dhuafa*, or to orphans.<sup>29</sup>

MPU Aceh basically disagrees if all objects of illegally imported groceries are destroyed before further examination regarding aspects of use value, the condition of the feasibility of the food concerned. MPU Aceh considers that two important aspects must be considered when destroying illegally imported food. These two important aspects are the consideration of *mudarat* and *maslahat*. Thabrani,

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<sup>27</sup>Interview with Damar Aji Muhammadiyah and Iqlima, Executing Inspectors at the Banda Aceh City Customs Office, November 16, 2023.

<sup>28</sup>Interview with Dila Muna Fadjria and Syifa Thahira, Executing Inspectors at the Banda Aceh City Customs Office, November 16, 2023.

<sup>29</sup>Interview with Abdul Gani Isa, Member of MPU Aceh Commission B at MPU Aceh Office, November 17, 2023.



Director of LPPOM MPU Aceh, explained that from a religious point of view, destroying illegally imported groceries is a waste of wealth, especially if the illegally imported groceries still have use value and conditions that can be utilized.<sup>30</sup> Another explanation was given by Cut Rafiqah, Head of Legal and Public Communication of MPU Aceh.<sup>31</sup>

Referring to the MPU's explanation, it can be understood that not all illegally imported groceries can be destroyed. Before destroying them, the most important thing here is to check the condition of the groceries whether they are still suitable for consumption or not. If the condition is still suitable for consumption, then the destruction of these groceries is an act of wasting wealth or waste. This is in accordance with the explanation of several informants from the Banda Aceh Customs and Excise Office previously, that the illegal imported groceries that have been confiscated have been destroyed and some have also been donated to related agencies, especially social services, food agencies and other related agencies in accordance with the provisions of Article 12 paragraph 3, namely in the event that BMN is proposed for grants, it can be carried out to local governments, social institutions, cultural institutions, religious institutions or humanitarian institutions that will receive grants which are first signed by the regional secretary or chairman of the institutional management of the local government / institution concerned.

### **Legal Basis for the Enforcement of Destruction of Illegal Imported Foodstuffs Applicable in Aceh Customs**

The destruction of illegally imported food at the Banda Aceh City Customs and Excise Office has been carried out several times each year. As far as reviews and information submitted by research informants, not all illegal imported groceries are destroyed, because there are imported groceries that can be utilized by the community.<sup>32</sup> For example, the Banda Aceh Customs has donated 60 tons of confiscated illegal onions, the results of the prosecution of the May and June 2017 period to the Social Service. Even so, there are also many illegal imported groceries that are destroyed, for example what happened in 2016, that Banda Aceh Customs and Excise destroyed 15.8 tons of granulated sugar in 316 sacks of 50 kg, 2.3 tons of glutinous rice in 93 sacks of 25 kg, 1.8 tons of rice in 73 sacks of 25 kg, all of which

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<sup>30</sup>Interview with Thabrani, Director of LPPOM at MPU Aceh, on November 17, 2023.

<sup>31</sup>Interview with Cut Rafiqah, Head of Legal and Public Communication of MPU Aceh, on November 17, 2023.

<sup>32</sup>Customs and Excise Web Admin, "Ahead of Eid, Aceh Customs Donates 60 Tons of Enforced Onions". Accessed via: <https://www.beacukai.go.id/berita/jelang-lebaran-bea-cukai-aceh-hibah-akan-60-ton-onion-results-of-enforcement.html>, dated December 9, 2023.



were not suitable for consumption.<sup>33</sup> This means that the action against illegal groceries can be destroyed, or a grant process can be carried out to related institutions.

Related to the prosecution of the destruction of illegally imported basic necessities carried out at the Banda Aceh Customs Office has a legal basis, which refers to the provisions of the Minister of Finance Regulation Number: 240 / PMK.06 / 2012 concerning Procedures for the Management of State Property Originating from Ex-Customs and Excise Assets. According to Salvana, this provision is closely related to the actions taken by Customs and Excise against BMN, including the object of illegally imported basic food items.<sup>34</sup>

Article 4 of the above Minister of Finance Regulation states:

- (1) In carrying out BMN management as referred to in Article 3, the Minister of Finance has the authority and responsibility which includes:
  - a. Order the Head of the Regional Office and the Head of the Service Office to conduct a physical inspection of BMN within their working area, taking into account its effectiveness and efficiency;
  - b. Approve the designation of BMN in the form of sale by auction, grant, deletion, destruction, or determination of use status;
  - c. Carry out other authorities and responsibilities in accordance with the provisions of laws and regulations in the field of state property management.
- (2) The authorities and responsibilities as referred to in paragraph (1) are functionally carried out by the Director General.

The article explicitly states that actions taken in terms of BMN designation, both auctions, grants, and destruction actions are functionally the responsibility of the Director General of the Customs and Excise Regional Office in the province or district / city of each region. In the context of Banda Aceh itself, the above provisions are the basis and legal basis owned by the Banda Aceh Customs and Excise Office in carrying out acts of destruction of illegal imported foodstuffs. This is further emphasized in Article 7, that in managing BMN, the Director General of Customs and Excise or a designated official has the authority and responsibility which includes:

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<sup>33</sup>Customs and Excise Web Admin, "Aceh Customs Destroys Thousands of Kilograms of Illegal Imported Goods". Accessed via: <https://www.beacukai.go.id/berita/bea-cukai-aceh-musnahkan-ribuan-kilogram-of-illegal-imported-goods.html>, dated December 9, 2023.

<sup>34</sup>Interview with Muhammad Sahal Savana, Skilled PBC, at the Banda Aceh City Customs Office, November 16, 2023.

1. Issuing a decision regarding the determination of BMN
2. Carry out proper storage of BMN in the Customs Stockpile or other places that function as TPPs.
3. Carry out recording of BMN originating from customs into the BMN customs record book and recording of BMN originating from excise into the BMN book.
4. Make an estimate of BMN value
5. Report BMN data to the Minister of Finance c.q Director General
6. Safeguarding BMN that is in its control
7. Propose applications for BMN designation, be it designation for donation, auction, destruction, deletion, and determination of use status.
8. Carry out settlement in accordance with the determination of BMN designation.

Point 7 above shows that one of the proposed BMN designation requests is in the form of BMN designation for destruction. Thus, the Customs and Excise Regional Office in Banda Aceh City has a strong legal basis in carrying out the destruction of illegal imported food. This is also in line with the statements of Damar Aji Muhammadiyah and Iqlima, that in destroying these illegally imported groceries, the provision that forms the basis for the action is the Minister of Finance Regulation.<sup>35</sup> All procedures and submission of applications for BMN designation, including designation for destruction, are regulated in this regulation.

### **Sharia Economic Law Review of the Destruction of Illegal Imported Tobacco Goods at Banda Aceh Customs**

As is known in the previous chapter, that the teachings of Islamic law regulate the general principles of importing goods, among which are that they must fulfill the principles of honesty, halal, there must be no fraud, injustice, and must submit and obey the legal rules made by the authorities or related institutions. As for the basic necessities of illegal imports, it also has a system and mechanism in handling which is ideal in Islam. One of the teachings and principles of the value of Islamic teachings regarding the prosecution of this illegal imported food is that it must refer to the aspects of *maslahat* and *mudarat*. If the illegally imported groceries can still be utilized, then the *maslahat* aspect is to donate the groceries. The principle of *maslahat* and benefit here is to bring *maslahat* and benefit to the body and spirit

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<sup>35</sup>Interview with Damar Aji Muhammadiyah and Iqlima, Executing Inspectors at the Banda Aceh City Customs Office, November 16, 2023.



and in line with the *maqasid sharia* values. Included in this is that it must be done halal and *thayyib*.<sup>36</sup> Conversely, the act of destruction brings harm if the food is destroyed and is considered an act of waste that is prohibited in Islam, because it can still be utilized. This prohibition of waste is mentioned in QS. Al-Isra' verses 26-27 as quoted in the previous chapter.

In addition to the prohibition of redundancy, Islamic economic law on the act of illegal importation of basic necessities is also directly related to the prohibition of *tadlis* or fraud and *zulm* or injustice. The act of fraud leads to injustice, where importers who import basic necessities illegally will actually disrupt the market mechanism, where the price of basic necessities becomes unstable, because generally illegally imported basic necessities are cheaper than the basic necessities sold by traders in the market. For this reason, the action that must be taken in the perspective of Islamic economics is not only to take action against the perpetrators, for example given a sanction (*ta'zir*), but also against the illegally imported groceries themselves.

The prosecution of illegally imported basic necessities in Islamic economics should ideally pay attention to the condition of the goods, whether they are still suitable for use or not. For this reason, it can be concluded that in the review of Islamic economic law, the act of destroying illegally imported basic food items at Banda Aceh Customs is in line with the provisions of Islamic law. Before carrying out the destruction action, the Banda Aceh Customs first assesses the condition of the goods, rotten conditions, expired and imported prohibited goods. In the case of basic necessities, the criteria for these basic necessities are not included in goods that are prohibited from being imported, but are included in goods that are restricted from being imported. Therefore, the main requirement is to see whether it is rotten or not, as well as to see the expiration date of the groceries. So far, the destruction action carried out by Customs and Cukao in Banda Aceh has been carried out on illegally imported groceries that meet these criteria, namely rotten and unfit for use. That way, the destruction action carried out by the Banda Aceh Customs and Excise Office is in accordance with the provisions of Islamic economic law.

The review of sharia economic law on the destruction of illegal groceries at the Banda Aceh Customs and Excise Office is also in line with the aspect of benefit (*mashlahah*). The illegal imported groceries destroyed at the Banda Aceh Customs and Excise Office are only groceries that are not suitable for consumption or not

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<sup>36</sup>Ahmad Ifham Solihin, *Buku Pintar Ekonomi Syariah* (Jakarta: Gramdia Pustaka Utama 2010), p. 417. 417.



suitable for use. Destruction activities by fulfilling clear procedures and processes are destruction that has been determined in Islamic law, which must clearly see the aspects of *manfa'ah* (*mashlahah*) or *mafsadah* (*madharrah*).

Based on the description above, it can be concluded that the legal provisions in the consumptive aspect, including productive and distributive aspects, must fulfill the aspects of halalness and goodness. In the context of illegal imported groceries, illegal imported groceries that are considered still suitable for consumption must be utilized, therefore the act of destroying groceries that can still be eaten is prohibited, and includes wasteful acts, while if the illegal imported groceries are damaged and can no longer be utilized, then destroying them is an option that must be taken by the authorities. In this context, the action of the Banda Aceh Customs and Excise Office to destroy illegally imported food is in accordance with the concept of Islamic economic law, because what is destroyed is that which can no longer be utilized.

## CONCLUSIONS

Based on the previous discussion, it can be concluded that the practice of destroying illegal imported groceries at the Banda Aceh Customs is carried out on groceries that meet the criteria for destruction, such as in rotten, expired, and unfit for use. The legal basis for the destruction of illegal imported groceries that applies in Banda Aceh Customs is to refer to the provisions of the Minister of Finance Regulation No. 240 / PMK.06 / 2012 concerning Procedures for the Destruction of Illegal Imported Groceries: 240/PMK.06/2012 concerning Procedures for the Management of State Property Derived from Ex-Customs and Excise Assets. In terms of Islamic law, the destruction of illegally imported groceries at Banda Aceh Customs is in accordance with sharia economic law.

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