



Regulation on the Implementation of Halal Product Assurance in Indonesia: Statute Approaches Study

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Abstrak

Penelitian ini difokuskan pada regulasi penyelenggaraan jaminan produk halal di Indonesia perspektif pendekatan perundang-undangan dan isu krusial yang melingkupinya. Dalam konteks penyelenggaraan jaminan produk halal, keberadaan regulasi merupakan dasar legalitas bagi seluruh unsur-unsur lembaga pemerintah dalam menyelenggarakan Negara. Kesimpulan penelitian ini antara lain: Pertama, terdapat beberapa isu krusial yang berkaitan dengan penyelenggaraan jaminan produk halal di Indonesia, yaitu; (1) sertifikasi/labelisasi halal; (2) kewajiban atau sukarela dalam sertifikasi halal; (3) ketentuan pidana; dan (4) lembaga pengelola jaminan produk halal. Kedua, regulasi jaminan produk halal ketika ditinjau dari Statute Approach dapat dianalisis dengan menggunakan tiga asas hukum, yaitu (1) bahwa segala aturan jaminan produk halal yang memiliki posisi tinggi harus menggantikan segala aturan jaminan produk halal yang rendah. (2) bahwa UU JPH merupakan regulasi spesifik yang mengatur jaminan produk halal. dan (3) bahwa aturan jaminan produk halal yang termaktub dalam UU JPH menggantikan aturan jaminan produk halal yang ada pada periode sebelumnya.

Kata kunci: regulasi, jaminan produk halal, sertifikasi halal, mandatory dan voluntary

Abstract

This research was focused on the regulation of halal product assurance implementation in Indonesia on statute approaches study and the crucial issues associated with it. In the context of providing halal product assurance implementation, regulation is the basis of legality for all elements of the state in organizing the State. This research method used was juridical normative. The data used in this research were secondary data. This research was analytical descriptive which facts made systematic description. The conclusions of this research included; first, there were several crucial issues and topics related to the implementation of halal product assurance in Indonesia, they were; (1) halal certification/labelling; (2) mandatory (obligation) or voluntary in halal certification; (3) criminal provisions; and (4) halal product assurance management institutions. Second, halal product assurance regulations when viewed from the Statute Approach can be analysed using three legal principles, consisting of (1) that all halal product assurance rules that have a high position must replace all lower halal product assurance rules. (2) that the Halal Product Assurance

(JPH) Law was a specific regulation governing the assurance of halal products, and (3) that the halal product assurance provisions contained in the Halal Product assurance (JPH) Law replaced the existing halal product assurance rules in the previous period.

Keywords: regulations, halal product assurance, halal certification, mandatory and voluntary

Introduction

In 2014, the implementation of halal product assurance in Indonesia found its momentum; this was marked by the ratification of Law Number 33 of 2014 concerning Halal Product assurance by Indonesian Parliament.¹ The Halal Product assurance Regulation has been passed a long journey, from the 2004-2009 Indonesian Parliaments to the 2014-2019 Indonesian Parliament periods. This shows that ratification of this regulation requires two active periods of members of the Indonesian Parliament. The long journey of the product of this regulation shows that there is a *vested interest*² from religious groups, politicians and business people³. In addition, debates among Indonesian parliaments about this regulation are basically more formalistic procedural, not on the social aspects of community needs that must be assurance by the state in obtaining product protection.⁴ However, this period was not the beginning of halal product assurance regulations in Indonesia.

Historically, the footprint of the halal product assurance regulation in Indonesia can be started since the early days of the new order period, marked by the emergence of the decree of Minister of Health Number

¹ An interesting note about the dynamics of ratification of Law Number 33 of 2014 concerning Halal Product Assurance in writing; Asep Saepudin Jahar dan Thalhah, *Dinamika Sosial Politik Pembentukan Undang-Undang Jaminan Produk Halal*, in *Jurnal Al-Ihkam*, Vol. 12, No. 2 Desember 2017, 386. Compare with the report written by Kompas.com below: “*Debat Sengit RUU Produk Halal Terkait Siapa yang Harus Menangani Sertifikasi*”, di Kompas.com - 27/02/2014, 15:02 WIB. Access on 25 April 2019.

² Vested interest is the existence of interests that have been firmly entrenched. This group is very difficult to let go of its position, power or influence. One of them is the MUI which explicitly asked to be given more authority in halal certification, when the Law was first drafted. As quoted from the website, the Directorate General of the Republic of Indonesia Ministry of Law and Human Rights, *RUU Jaminan Produk Halal, MUI Minta Kewenangan Sertifikasi*, in <http://ditjenpp.kemenkumham.go.id/kilas-berita-perkembangan-peraturan-perundang-undangan/1320-ruu-jaminan-produk-halal-mui-minta-kewenangan-sertifikasi.html>. Access on 04 Juli 2019.

³ Look at the report of detik.com media, “*RUU Jaminan Halal Ditarget Selesai dibahas Februari 2013*”, in <https://news.detik.com/berita/2150155/ruu-jaminan-produk-halal-ditarget-selesai-dibahas-februari-2013>, on 23 Januari 2013, Access on 10 Mei 2019. In addition, on January 23, 2013, the National Rubric with Contributors: the Dakwatuna Team online news from one of the House of Representatives Commission VIII member Nasir Djamil based on detikcom sources, Rabo (1/23/2013), stated that the Draft Law (The RUU on Halal Product assurance (JPH) has now reached the final round of discussions in the Indonesian Parliament. The bill is targeted for completion in February 2013. However, there are still two crucial points, namely the Agency or Institution for Halal Product assurance and the nature of halal product registration. Is it mandatory or voluntary? See on <http://www.dakwatuna.com>, Access on 3 Mei 2013.

⁴ Asep Saepudin Jahar dan Thalhah, *Dinamika Sosial Politik Pembentukan Undang-Undang* 387

280/Men.Kes/Per/XI/1976 dated November 10, 1976 concerning the Provisions for Distribution and Marking of Foods Containing Pork-originating Materials.⁵ After that the regulation of halal products in Indonesia is spread on several ministerial regulations, governmental regulations and laws, including; (1) Regulation of Minister of Health of The Republic of Indonesia Number 76/Menkes/Per/III/78 concerning Food Labeling and Advertising; (2) Joint decree of the Minister of Health and the Minister of Religious Affairs of the Republic of Indonesia Number 427/menkes/VIII/1985 and Number 68 of 1985 concerning the Inclusion of "Halal" Writing on Food Label;⁶ (3) Joint Decree (SKB) of the Minister of Religious Affairs and Minister of Health Number 472/MENKES/SKB/VIII/1985 and Number 68/1985 concerning the regulation of the "halal" Writing on food labels;⁷ (4) Minister of Agriculture Decree Number 555/Kpts/TN.240/9/1986 concerning the Requirements for Abattoirs and Slaughterhouses;⁸ (5) Decree of the Minister of Agriculture Number 557/Kpts/TN-520/9/1987 concerning the Requirements for Poultry Slaughterhouses and Poultry Slaughtering Businesses;⁹ (6) Presidential Instruction (Inpres) Number 2 of 1991 concerning the Improvement of Development and Supervision of the Production and Distribution of Processed Foods;¹⁰ (7) Law Number 23 of 1992 concerning health, this Health Law has been perfected by Health Law Number 36 of 2009;¹¹ (8) Law Number 8 of 1999 concerning Consumer

⁵ See, Surat Keputusan Menteri Kesehatan No. 280/Men.Kes/Per/XI/1976 tanggal 10 November 1976 tentang Ketentuan Peredaran dan Penandaan pada Makanan yang Mengandung Bahan Berasal dari Babi (Decree of Minister of Health Number 280/Men.Kes/Per/XI/1976 dated November 10, 1976 concerning the Provisions for Distribution and Marking of Foods Containing Pork-originating Materials).

⁶ See, Keputusan bersama Menteri Kesehatan dan Menteri Agama RI No.427/menkes/VIII/1985 dan No. 68 tahun 1985 Tentang Pencantuman Tulisan "Halal" Pada Label Makanan (Joint decree of the Minister of Health and the Minister of Religious Affairs of the Republic of Indonesia Number 427/menkes/VIII/1985 and Number 68 of 1985 concerning the Inclusion of "Halal" Writing on Food Label).

⁷See, Surat Keputusan Bersama (SKB) Menteri Agama dan Menteri Kesehatan No. 472/MENKES/SKB/VIII/1985 dan No. 68/1985 tentang pengaturan tulisan "halal" pada label makanan (Joint Decree (SKB) of the Minister of Religious Affairs and Minister of Health Number 472/MENKES/SKB/VIII/1985 and Number 68/1985 concerning the regulation of the "halal" Writing on food labels).

⁸ See, Surat Keputusan Menteri Pertanian No. 555/Kpts/TN.240/9/1986 tentang Syarat-syarat Rumah Pematangan Hewan dan Usaha Pematangan Hewan (Minister of Agriculture Decree Number 555/Kpts/TN.240/9/1986 concerning the Requirements for Abattoirs and Slaughterhouses).

⁹ See, Surat Keputusan Menteri Pertanian No.557/Kpts/TN-520/9/1987 tentang Syarat-syarat Rumah Pematangan Hewan Unggas dan Usaha Pematangan Unggas (Decree of the Minister of Agriculture Number 557/Kpts/TN-520/9/1987 concerning the Requirements for Poultry Slaughterhouses and Poultry Slaughtering Businesses).

¹⁰ See, Instruksi Presiden (Inpres) Nomor 2 Tahun 1991 tentang Peningkatan Pembinaan dan Pengawasan Produksi dan Peredaran Makanan Olahan (Presidential Instruction (Inpres) Number 2 of 1991 concerning the Improvement of Development and Supervision of the Production and Distribution of Processed Foods)

¹¹See, Undang-undang No. 23 Tahun 1992 tentang Kesehatan, this Health Act has been perfected with Undang-Undang Nomor 36 Tahun 2009 tentang Kesehatan (Law Number 23 of 1992 concerning health, this Health Law has been perfected by Health Law Number 36 of 2009).

Protection;¹² (9) Law Number 18 of 2009 concerning Animal Husbandry and Health;¹³ (10) Law Number 18 of 2012 concerning Food;¹⁴ (11) Law Number 33 of 2014 concerning Assurance of Halal Products;¹⁵ 12) Government Regulation Number 69 of 1999 concerning Food Labels and Advertisements;¹⁶ (13) Decree of the Minister of Religious Affairs Number 518 of 2001 concerning Guidelines and Procedures for Examination and Determination of Halal Foods;¹⁷ and (14) Decree of the Minister of Religious Affairs Number 519 of 2001 concerning Implementing Institutions for Inspection Halal Food.¹⁸

When it is viewed periodically, the regulation of halal product assurance in Indonesia from the period of its emergence until the period of the ratification of the Halal Product Assurance (JPH) Law, the regulatory instruments used are almost the same, between one period and another. Some use the form of minister of health regulation, joint regulation of Minister of Religious Affairs and Minister of Health, Decree of Minister of Religious Affairs, Government Regulations and some are in the form of law.¹⁹ Everything is indeed aimed at the effort of organizing the halal products assurance in Indonesia.²⁰

All forms of law and regulations relating to the assurance of halal products in Indonesia are part of the legal formation process and are the basis of legality for all elements of the State in administering and managing the State. In a democratic country such as Indonesia, regulations and legislation are made by the people through their representatives in the legislative body based on the aspirations and

¹² See, Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen (Law Number 8 of 1999 concerning Consumer Protection).

¹³ See, Undang-Undang Nomor 18 Tahun 2009 Peternakan dan Kesehatan Hewan (Law Number 18 of 2009 concerning Animal Husbandry and Health).

¹⁴ See, Undang-Undang Nomor 18 Tahun 2012 tentang Pangan (Law Number 18 of 2012 concerning Food).

¹⁵ See, Undang-Undang Nomor 33 Tahun 2014 tentang Jaminan Produk Halal (Law Number 33 of 2014 concerning assurance of Halal Products).

¹⁶ See, Peraturan Pemerintah Nomor 69 Tahun 1999 tentang Label dan Iklan Pangan (Government Regulation Number 69 of 1999 concerning Food Labels and Advertisements).

¹⁷ See, Keputusan Menteri Agama Nomor 518 Tahun 2001 tentang Pedoman dan Tata Cara Pemeriksaan dan Penetapan Pangan Halal (Decree of the Minister of Religious Affairs Number 518 of 2001 concerning Guidelines and Procedures for Examination and Determination of Halal Foods).

¹⁸ See, Keputusan Menteri Agama Nomor 519 Tahun 2001 tentang Lembaga Pelaksana Pemeriksaan Pangan Halal (Decree of the Minister of Religious Affairs Number 519 of 2001 concerning Implementing Institutions for Inspection Halal Food).

¹⁹ For a more comprehensive study of this, see the text; Azmi Siradjuddin, *Regulasi Makanan Halal di Indonesia*, in Jurnal TAPIS Vol. XIII, No. 01 Januari-Juni 2013.

²⁰ Likewise, to arrive at the point of the formation of Law No. 33 of 2014 concerning Halal Product Assurance, there are a lot of dynamics, dialectics and interesting interests between various community groups and components of community organizations, which have an interest in the formation of a halal product assurance system that applies in Indonesia, through the ratification of the JPH Law. A detailed description of the socio-political dynamics in the establishment of the Halal Product Assurance Act, can be seen in writing of Asep Saepudin Jahar dan Thalbah, *Dinamika Sosial Politik Pembentukan Undang-Undang Jaminan Produk Halal*, in Jurnal al-Ihkâm, Vol. 12, No. 2, Desember 2017.

wishes of the people.²¹ According to Mahfud MD, as quoted by Abdul Ghofur, it is through this legislative body that the people's aspirations are aggregated and then set forth in legislation that is binding and must be obeyed. For this reason, ideally regulations and laws are the formalization or crystallization of norms and rules that are desired or in accordance with the aspirations of the community.²²

Normatively, the ideal process of administering the State and society is always based on law not on power (*machtstaat*). The principle of legality is held in high esteem, the law guides the administration of political power.²³ Law in the State of Indonesia has a very basic and supreme position, so that power, whatever and whoever holds it, must comply with applicable law. This is understandable, because Indonesia is a State of law rather than a state of power.²⁴

Recognizing the significant development of halal products, this research was focused on researching regulations on halal product assurance in Indonesia starting the new order period. This topic was taken with a view to describe the development of halal product assurance regulations from the new order to post-reformation marked by the birth of Law Number 33 of 2014 concerning halal product assurance that were quite revolutionary. A number of regulations applicable which are administrative translations of this Law are also explained in detail in this research.

To provide a sharp analysis, this research presented a comparison between one regulations with other regulations in Indonesia. This comparison included the presentation of similarities and differences of each statutory regulation which was then analyzed using the *statute approach* theory of Peter Mahmud Marzuki.²⁵ The theory of legislation approach was chosen as an analytical tool because this theory was considered appropriate to place each legal rule in an equal and balanced manner so as to obtain a picture of the legal viability from time to time, especially the new order and post-reform era regarding halal certification regulations.

Based on the background mentioned above, what will be analyzed in this research were; 1). What are the crucial issues relating to the implementation of halal product assurance in Indonesia? (2). What are the regulations relating to the halal products assurance in Indonesia until the enactment of Law Number 33 of 2014 concerning Halal Product Assurance based on *statute approach*?

²¹ Abdul Ghofur, *Pergumulan Politik Legislasi Undang-Undang Nomor 21 Tahun 2018 tentang Perbankan Syariah*, Disertasi Program Doktor Pascasarjana IAIN Walisongo Semarang 2013, 8-9

²² Abdul Ghofur, *Pergumulan Politik Legislasi*, 8-9

²³ Ahmad Gunaryo, *Dari Peradilan Pupuk Bawang Menuju Peradilan Yang Sesungguhnya (Studi Sosio-Legal Tentang Pergumulan Politik Pelembagaan Peradilan Agama dan Hukum Islam di Indonesia)*, Disertasi Universitas Diponegoro, 2004.

²⁴ Such an affirmation can be seen in the 1945 Constitution. In the explanation section it explicitly states that; "Indonesia is a country based on law not based on mere power. In the following explanation it is emphasized; "The government is based on a constitutional system, it is not absolutism.

²⁵ Besides those mentioned above, this statute approach theory was chosen, because what will be examined is to focus on a rule of law, as well as being a central theme in this study. See, Johni Ibrahim, *Teori & Metodologi Penelitian Hukum Normatif, cet. III*, (Banyumedia Publishing: Malang), 302

Research Methodology

This research method used was juridical normative,²⁶ which included an inventory of positive law, research on legal principles and legal research *in concreto* (in certain legal events), law systematic research, legal history research and comparative law research.²⁷ The data used in this research were secondary data, in the form of primary legal materials, secondary legal materials and tertiary legal materials.²⁸ This research was analytical descriptive, which made systematic description of facts,²⁹ including describing and analyzing applicable regulations in Indonesia,³⁰ especially regarding halal products.

Halal certification and labelling as a form of protection for Muslim consumers

According to Law Number 8 of 1999 concerning Consumer Protection Article 4³¹ (a) states that consumer rights are rights to have comfort, security and safety in consuming goods and/or services. This article states that every consumer, including Muslim consumers, constitutes the majority of consumers in Indonesia. Entitled to get goods that are comfortable for consumption. One convenient part for Muslim consumers is that the goods do not conflict with the rules of religion which in other terms is halal.

Before Law Number 33 of 2014 concerning Halal Product Assurance was passed, the obligation of producers to carry out halal certification was based on Law Number 7 of 1996 concerning Food³² and Law Number 8 of 1999 concerning consumer protection.³³ Basically, halal certification does not only benefit consumers but also producers (Teti Indrawati Purnamasari, 2005: 48).³⁴ With halal

²⁶ Meaningful normative law research, research focused on examining the application of rules or norms in positive law. See, Johnni Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif*, (Malang: Bayumedia Publishing, 2006), 295. Further explanation of Normative Juridical research, an approach that uses the positivist legis conception. This concept views the law as identical with written norms created and promulgated by authorized institutions or officials. This conception views the law as a normative system that is independent, closed and independent of real community life. See, Ronny Hanitijo Soemitro, *Metodologi Penelitian Hukum dan Jurimetri*, Jakarta: Ghalia Indonesia, 1988), 13-14.

²⁷ Ronny Hanitijo Soemitro, *Metodologi Penelitian Hukum dan Jurimetri*, (Ghalia Indonesia: Jakarta: 1990), 9-10

²⁸ See, Soerjono Soekanto, et al, *Penelitian Hukum Normatif suatu Tinjauan Singkat*, (Rajawali, Jakarta: 2006), 13-14

²⁹ Ronny Hanitijo Soemitro, *Metodologi Penelitian*, 22

³⁰ Sumadi, *Metode Penelitian*, (Rajawali, Jakarta: 1988), 19

³¹ See, Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen (Law Number 8 of 1999 concerning Consumer Protection).

³² See, Undang-Undang Nomor 7 Tahun 1996 tentang Pangan (Law Number 7 of 1996 concerning Food).

³³ See, Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen (Law Number 8 of 1999 concerning Consumer Protection).

³⁴ Halal certification and labeling aim to provide legal certainty and protection of consumers, as well as increase the competitiveness of domestic products in increasing national income. The three main objectives to be achieved are: 1). Benefit consumers by providing legal protection and certainty; 2). Benefit producers with increased competitiveness and production turnover in sales; and 3) Benefit the government by getting additional revenue from the state treasury. See, Teti Indrawati

products, consumer trust and loyalty will increase, besides that if the product is halal, the market can reach all circles, both Muslim and non-Muslim.³⁵

Statute Approach Theory

In his popular book entitled "Penelitian Hukum", Peter M Marzuki describes several approaches in legal research, one of which is the statute approach. With this approach, researchers can obtain information from various aspects of the issue being studied. In a normative legal research, in fact many approaches that can be used, of which consists of five types³⁶, statute approach,³⁷ case approach, historical approach,³⁸ comparative approach,³⁹ and conceptual approach.⁴⁰

In the statute approach research, researchers need to understand the hierarchy and principles in statutory regulations. According to article 1 number 2 of Law Number 10 of 2004 concerning the Establishment of Regulations of Legislation, statutory regulations are written regulations established by institutions state or authorized officials and are generally binding.⁴¹ From this understanding, it can be said briefly that what is meant as a statute is in the form

Purnamasari, *Sertifikasi dan Labelisasi Produk Pangan Halal dalam Rangka Perlindungan konsumen muslim di Indonesia*, in *Jurnal-Istinbath*, No 1 Vol. 3 Desember 2005, 48.

³⁵ Ramlan dan Nahrowi, *Sertifikasi Halal Sebagai Penerapan Etika Bisnis Islami Dalam Upaya Perlindungan Bagi Konsumen Muslim*, in *Jurnal Ahkam*, XIV, (2014, Januari 01), 147.

³⁶ Compare with Johni Ibarhim's explanation, that there are 7 approaches that can be used in normative legal research, namely: 1). *statute approach*; 2). *case approach*; 3). *historical approach*; 4). *comparative approach*; 5). *conceptual approach*; 6). *analytical approach*; and 7). *philosophical approach*. See, Johni Ibrahim, *Teori & Metodologi Penelitian Hukum Normatif, cet. III*, (Banyumedia Publishing: Malang), 300-322. The same explanation was also explained by Fajar Muchti and Yulianto Achmad, who shared the approach in normative legal research into 7 sections. See, Fajar Muchti dan Yulianto Achmad, *Dualisme Penelitian Hukum Normatif & Empiris*, (Pustaka Pelajar, Yogyakarta, 2009), 185-192.

³⁷ A normative study of course must use a statutory approach, because what will be examined are various legal rules which are the focus as well as the central theme of a study. For this reason, researchers must see the law as a closed system that has the following characteristics: 1). *Comprehensive*; 2). *All-inclusive*; dan 3). *Systematic*. Fajar Muchti dan Yulianto Achmad, *Dualisme Penelitian Hukum* 185-192.

³⁸ Each legislation has a different historical background. From a historical perspective, there are two kinds of interpretations of the rule of law. First, interpretation according to the history of law and second, interpretation according to the history of the stipulation of legislation. See, Fajar Muchti dan Yulianto Achmad, *Dualisme Penelitian Hukum* 185-192.

³⁹ The importance of the approach of jurisprudence because in the field of law does not allow an experiment, as is usually done in empirical science. Comparative approach is one of the methods used in normative research to compare one legal institution (legal institution) from one legal system with another legal institution (which is more or less the same than the legal system). From this comparison can be found the elements of similarities and differences between the two legal systems. See, Fajar Muchti dan Yulianto Achmad, *Dualisme Penelitian Hukum* 185-192.

⁴⁰ Concepts in the relevant sense are abstract elements that represent classes of phenomena in a field of study that sometimes refer to universal things extracted from particular things. One logical function of the concept is to bring up objects that attract attention from the point of view of the practical and the angle of knowledge in the mind and certain attributes. Thanks to this function, concepts succeed in combining words appropriately and using them in thought processes. See, Fajar Muchti dan Yulianto Achmad, *Dualisme Penelitian Hukum* 185-192.

⁴¹ See, pasal 1 angka 2 Undang-Undang Nomor 10 Tahun 2004 tentang Pembentukan Peraturan Per-Undang-Undangan

of legislation and regulation. If so, the statutory approach is an approach using legislation and regulation. A product that is a *decree*, a decision issued by a concrete and special administrative officer, for example a presidential decree, ministerial decree, regent's decision, or a decision of a particular body cannot be used in the legislative approach.

This understanding has important meaning in understanding the principle of *lex superior derogat legi inferiori*⁴² (the newer law overrides the older law). According to this principle, if there is a conflict between legislation which is hierarchically lower and higher, the laws and regulations that have lower hierarchy must be set aside.

In addition to this principle, in approaching the statutory regulations, researchers can also understand the principle of *lex specialis derogat legi generali*⁴³ (specific laws take precedence over general laws). This principle refers to two statutory regulations which have the same hierarchical position. However, the scope of material content between the two laws and regulations is not the same, one is a special arrangement of the other.⁴⁴

The next principle of legislation is *lex posterior derogat legi priori*⁴⁵ (the newer law overrides the older law). That is, the later laws and regulations set aside the previous legislation. This principle is related to two laws and regulations that govern the same problem, for example Law Number 14 of 1970 concerning the Principal Provisions of Judicial Power and Law Number 4 of 2004 concerning Judicial Power. As what happened there is the principle of *lex specialis derogat legi generali*, the use of this principle requires that two confronted laws and regulations in the same hierarchy.

Crucial Issues in Halal Product Assurance Regulations in Indonesia

There are several crucial and important issues/topics in the halal product assurance regulation that have existed in Indonesia, at least which we have listed below: (1) halal certification/labelling; (2) mandatory or voluntary in halal certification; (3) criminal provisions; and (4) halal product assurance management institutions. The following explanation is below:

1. Halal certification/labelling

Starting from the regulations that are considered the earliest regarding certification and halal labelling, it is then in the Minister of Health Regulation of the Republic of Indonesia Number 280/Menkes/Per/XI/1976 concerning Provisions on Circulation and Marking on Foods containing Ingredients originating from Pigs. In this regulation requires that all foods and drinks containing the element of pork be affixed with a label that reads "contain pigs" and is given a picture of a whole red pig on white background. In cooperation with the Food and Beverage Association of Indonesia (GAPMMI), a label

⁴² Higher laws override lower-level laws.

⁴³ Specific laws take precedence over general laws.

⁴⁴ Peter Mahmud Marzuki, *Penelitian*, 98-99

⁴⁵ The newer law overrides the old law.

distributed free of charge to companies that require this.⁴⁶ Why is the label given for food containing pork? "The consideration at that time was that 99 percent of the food and drinks circulating in Indonesia were halal," said Sunarto. "So, it is more practical to secure the one percent (1%) that is not halal first, including food in restaurants and hotels." However, continued Sunarto, companies that want to put the halal label on can only be responsible.

Even though at that time there was no specific law to regulate this matter, the company that stated that the product was halal but was proven to be unlawful could be prosecuted as a fraud according to the existing law. In addition, while waiting for halal labelling regulations that will take time, Sunarto proposes that companies that believe their products do not contain animal or alcohol ingredients are given leeway to include the label "does not contain animal and alcohol ingredients". "Thus 90 percent of the problems can be overcome," said Sunarto.⁴⁷

This fact explains that what is urgently emphasized in the regulation is the labelling of images of pigs to foods (products) that contain pigs, is the anticipation that the Muslim community is awake not consuming cases that are prohibited in Islam. The fact, this regulation also explains, that the granting of this label, without going through the halal certification process first, is only a recommendation from the government to carry out a declaration personal from the producer.

Next is a joint decree of the Minister of Health and the Minister of Religious Affairs of the Republic of Indonesia Number 427/menkes/VIII/1985 and Number 68 of 1985 concerning the Inclusion of Writing "Halal" on Food Label; and Joint Decree (SKB) of the Minister of Religious Affairs and Minister of Health Number 472/MENKES/SKB/VIII/1985 and Number 68/1985 concerning the regulation the word "halal" on food labels;

Presidential Instruction (Inpres) 1991 concerning Improvement of Development and Supervision of Processed Food Production and Distribution. Through Presidential Instruction (Inpres) Number 2 of 1991 published June 12, 1991, the President instructed the Coordinating Minister for People's Welfare, the Minister of Home Affairs, the Minister of Health, the Minister of Industry, the Minister of Agriculture, the Minister of Trade, the Minister of Religious Affairs and the Governors/Regional Heads Level I, to improve the guidance and supervision of the production and distribution of processed foods (Inpres Number 2 of 1991).⁴⁸ In the Presidential Instruction which was signed on June 12, 1991, among others, it was stated; that the community needs to be protected

⁴⁶ See, Hendri F. Isnaeni, *Sejarah Awal Label Halal*, dalam <https://historia.id/agama/articles/sejarah-awal-label-halal-PNRMZ>, (14 October 2016), Access on 24 October 2018.

⁴⁷ See, Hendri F. Isnaeni, *Sejarah Awal Label Halal*, dalam <https://historia.id/agama/articles/sejarah-awal-label-halal-PNRMZ>, (14 October 2016), Access on 24 October 2018.

⁴⁸ See Instruksi Presiden Nomor 2 Tahun 1991 tentang Peningkatan Pembinaan dan Pengawasan Produksi dan Peredaran Makanan Olahan.

from products and food circulation 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 production, distribution, and/or marketing of processed foods which is carried out continuously and, in a manner, coordinated (May Lim Charity, 2017: 103).⁴⁹ This shows that in fact, the government at that time was very concerned about the issue of product assurance halal in Indonesia, although it was not very strong in the realm of making regulations in the field of halal product assurance, either through certification or halal labelling.

Law Number 23 of 1992 concerning health, this Act has been perfected with Health Act Number 36 of 2009; which is one of the main topics about; To give authority to the Minister of Health to carry out food inspection and research, both in terms of health and halal (Law Number 23 of 1992).⁵⁰

Decree of the Minister of Health of the Republic of Indonesia Number: 82/MENKES/SK/I/1996 concerning the inclusion of the words "Halal" on Food Labels, amended by Decree of the Minister of Health of the Republic of Indonesia Number 924/MENKES/SK/VIII/1996 concerning Amendments to the Republic of Indonesia Decree Number 82/Menkes/SK/1996. Technical provisions regarding the implementation of Labelling based on halal certification results were issued in 1996 with a Decree of the Minister of Health of the Republic of Indonesia Number 82/Menkes/SK/I/1996 concerning the inclusion of writing "Halal" on Food Labels amended by Decree of the Minister of Health of the Republic of Indonesia Number 924/Menkes/SH/VIII/1996 concerning Amendment to the Republic of Indonesia Decree Number 82/Menkes/SK/1996.

The writing and the logo "Halal" based on the Decree of the Minister of Health of the Republic of Indonesia, may be included if the food does not contain elements or ingredients prohibited or unlawful and has obtained Halal Certification from the Ulema Council (MUI Indonesian) as well as the Approval Letter of Halal Writing on the Label from the Ministry of Health, now BPOM (The Regulation of the Minister of Health of the Republic of Indonesia Number 82 of 1996).⁵¹ Based on articles 10 and 11 of The Regulation of the Minister of Health of the Republic of Indonesia Number 924/Menkes/SK/VIII/1996 concerning Minister of Health Decree amendments to the Number 82/Menkes/SK/I/1996, in 1996 the Ministry of Health, Ministry of Religious Affairs, and MUI made an agreement on halal labelling. The agreement is essentially that the request for certification and Halal Label is carried out through a single inspection door conducted by the Joint Team of the elements

⁴⁹ May Lim Charity, *Jaminan Produk Halal di Indonesia*, in Jurnal LEGISLASI INDONESIA, Vol. 14 N0. 01 - Maret 2017; 103

⁵⁰ See, Undang-Undang Nomor 23 Tahun 1992 tentang Kesehatan

⁵¹ Halal food (based on Permenkes RI No. 82 of 1996) is all types of food and drinks that do not contain prohibited / unlawful elements or ingredients that are processed/processed according to Islamic religious law.

of the third party. The examination results are then tried by the MUI Expert Team to be further discussed in the Commission MUI Fatwa⁵² Based on the MUI Fatwa as outlined in Halal Certification, the Ministry of Health granted a Halal Label permission for the product concerned.

Law Number 7 of 1996 concerning food was passed on 4 November, 1996. Several issues relating to the assurance of products halal and concerns in this regulation include; (1) strictly declare that foreign and domestic products must include labels on, inside, and or in food packaging. In addition, the label must at least include halal information; (2) Whether or not the halal status must be proven in terms of raw materials, supplementary materials, to the manufacturing process. Therefore, the halal label cannot be given by the manufacturer itself, but must go through a series of laboratory tests (halal certification process); (3) Does not specify specifically from which party has the right to provide halal certification. This has become a polemic between MUI, Ministry of Health, Ministry of Religious Affairs, and Ministry of Trade and Industry (Law Number 7 of 1996 jo Law Number 18 of 2012).⁵³ In relation to the assurance of halal products, this regulation is quite significant in the context of strengthening assurance halal production Indonesia.

Law Number 8 of 1999 concerning Consumer Protection. In the Consumer Protection Act (Consumer Law) the principle of protection consumer covers the principles of benefits, justice, balance, security and safety consumer, and legal certainty (Law Number 8 of 1999).⁵⁴ Here the consumer is explicitly entitled to a assurance of legal protection from the existence of the law.

Based on the articles Number 4 and 5 on Law Number 8 of 1999, it is clear that consumers have the right to obtain true, clear, and honest information about the conditions and assurance assurance s of goods and/or services, and are obliged to read and follow information instructions and procedures for the use or utilization of goods and/or services, for security and safety. In this case, the entrepreneur's obligation as a producer is to provide true, clear and honest information about the condition of the goods or services, as well as to explain the use, repair, and maintenance of the product produced.

Based on these consumer rights, the delivery of information related to the product must be able to provide certainty to consumers. This was done to protect consumer rights. So, it should be emphasized that the delivery of information relating to food products must provide assurance that the food product is halal. This is important for Muslims, because consuming halal

⁵² See Saung Kulo: Problem Sertifikasi Halal, 2008 (<http://saungkulo.wordpress.com/2017/09/15/problem-sertifikasi-halal>. Access on 23 October 2018.

⁵³ See Undang-Undang Nomor 7 tahun 1996 tentang Pangan, di kemudian hari, regulasi ini disempurnakan dengan undang-undang yang baru, yaitu; Undang-Undang Nomor 18 Tahun 2012 tentang Pangan.

⁵⁴ See Undang-Undang Nomor 8 tahun 1999 tentang Perlindungan Konsumen

products is a non-syariah provision-negotiable.⁵⁵

Government Regulation Number 69 of 1999 concerning Food Labels and Advertisements. The regulation on PP food labels is contained in Chapter II, which consists of fifteen parts. The same mandate as the Food Law is also mentioned in this government regulation, which is in Article 2 paragraph (1) which instructs that anyone producing or importing into Indonesian food-packed food must attach a label to, inside, and or in packaging food (PP Number 69 of 1999).⁵⁶

In the Government Regulation on Food Labels and Advertisements, the regulation for the inclusion of information on halal on food labels is regulated in separate articles, they are Article 10 and Article 11. However, in order to avoid any separation between food labels and halal information as part of information which at least must be contained in the label, this government regulation makes a common thread by stating that the halal statement is an inseparable part of the Label.

Decree of the Minister of Religious Affairs Number 518 of 2001 concerning Guidelines and procedures for examination and Determination of Halal Food and Decree of the Minister of Religious Affairs Number 519 of 2001 concerning the Institute for Examining Halal Food. Somethings important that become the substance of this rule include; The Minister of Religious Affairs appoints the MUI as the Implementing Agency to examine halal food. This food inspection covers: (1) Examination and/verification of applicant data; (2) Inspection of the production process; (3) Laboratory examination; (4) packaging checks of Product and storage; (5) Inspection of transportation, distribution, marketing systems and presentation; and (6) Processing and stipulation of halal certification.⁵⁷

Law Number 18 of 2009 concerning Animal Husbandry and Health. Regulations regarding halal products are not explicitly regulated by the Health Act. This regulation only provides general guidelines for producing, processing and distributing food and beverages resulting from technology genetically engineered that is assurance to be safe for humans, animals that are eaten by humans, and the environment.⁵⁸ In addition, every person and/or legal entity that manufactures and promotes food and beverage products and/or which is treated as processed food and beverage technology is prohibited from using words that are deceiving and/or accompanied by claims that cannot be verified.

Law Number 18 of 2012 concerning Food (the new Food Law)⁵⁹ which

⁵⁵ Tulus Abadi Dkk. *Tim Pengkajian Hukum tentang Peran Serta Masyarakat dalam Pemberian Informasi Halal*, Kementerian Hukum dan Hak Asasi Manusia Badan Pembinaan Hukum Nasional, Jakarta: 2011, 22.

⁵⁶ See, Peraturan Pemerintah Nomor 69 Tahun 1999 tentang Label dan Iklan Pangan

⁵⁷ See, Keputusan Menteri Agama No.518 Tahun 2001 tentang Pedoman dan tata cara pemeriksaan dan Penetapan Pangan Halal. Keputusan Menteri Agama No. 519. Tahun 2001 tentang Lembaga Pelaksana Pemeriksaan Pangan Halal

⁵⁸ See Undang-Undang Nomor 18 tahun 2009 tentang Peternakan dan Kesehatan Hewan

⁵⁹ See, Undang-Undang Nomor 18 Tahun 2012 tentang Pangan

is a substitute for Law Number 7 of 1996 concerning Food states in its consideration that food is the most basic human need and its fulfilment is part of human rights assurance in 1945 Constitution as a basic component to create human resources quality. Therefore, the state is obliged to realize the availability, affordability, and fulfilment of food consumption that is sufficient, safe, quality, and balanced nutrition. Explicitly in the Food Law even states that the provision of food that is not contrary to religion, beliefs, is the responsibility of the Central and Regional Governments. Food safety is intended to keep food safe, hygienic, quality, nutritious, and does not conflict with the religion, beliefs, and culture of the community. In addition, food safety is intended to prevent the possibility of biological, chemical and other contaminants that can interfere with, harm and endanger human health.

Law Number 33 of 2014 concerning Halal Product assurance. Next is Law Number 33 of 2014 concerning Halal Product assurance? This regulation, which was born in the era of President Susilo Bambang Yudoyono, strengthens and regulates various halal regulations that have been scattered throughout various laws and regulations. On the other hand, the Halal Product assurance Law can be referred to as the legal umbrella for the regulation of halal products. Halal Product Assurance (JPH) in this law covers various aspects of not only medicine, food, and cosmetics but it is broader than that to reach chemical products, biological products, genetic engineering products, as well as used goods that are used, used or utilized by Public.

The regulation also reaches the halal products from upstream to downstream.⁶⁰ The Halal Product Process, hereinafter abbreviated as PPH, is defined as a series of activities to ensure the halal-ness of the product including the supply of materials, processing, storage, packaging, distribution, sale and presentation of the product. This aims to provide comfort, security, safety and certainty of the availability of halal products for the public in consuming and using products and to increase added value for businesses to produce and sell their products. Technical assurance for halal products is then elaborated through a certification process. Previously halal certification was *voluntary*, while Law Number 33 of 2014 concerning Halal Product Assurance was *mandatory*. Therefore, all products that enter, circulate and trade within the territory of Indonesia must be halal-certified.

This is the main differentiator with the legislation product previous. Later, as the person in charge of the halal assurance system, the government will run the Minister of Religious Affairs by forming a Halal Product Assurance Agency (BPJPH) which is located below and is responsible to the Minister of Religious Affairs.

In carrying out the authority of BPJPH collaboration with relevant Ministries and/or institutions, Halal Examination Institution (LPH and Indonesian Ulema Council (MUI). BPJPH cooperation with LPH is carried out for product inspection and/or testing. BPJPH cooperation with MUI is carried

⁶⁰ See pasal 1 ayat (1) Undang-Undang Nomor 33 tahun 2014 tentang Jaminan Produk Halal

out in the form of Halal Auditor certification, determination product halal; LPH accreditation.⁶¹ To assist BPJPH in conducting inspection and/or product halal testing, as stated in the government and the public can establish LPH.

In Law Number 33 of 2014 concerning Halal Product assurance opens opportunities for other institutions besides LPPOM MUI to open LPH Islamic organizations that have integrity at the central and regional levels, such as: Muhammadiyah and Nahdlatul Ulama (NU) as well as campuses in regions that have scientific capabilities in the field of food can be included in the framework of the implementation and/or the availability of halal products for consumers (especially Muslims) in Indonesia.

2. Mandatory and voluntary in halal certification

In the context of certification and labelling, the issue of mandatory for this halal product certification activity is considered as category an important. Because with the mandatory binding, the legal implications of all products traded in Indonesia must be certified and labelled halal.

Before Law Number 33 of 2014 on Halal Product Assurance passed, that the arrangements for halal products in Indonesia today contain three norms at once, including: (1) voluntary; (2) mandatory for animal products; and (3) mandatory if recommended).

3. Criminal provisions

For the several regulations relating to halal certification/labeling in Indonesia, starting with the Minister of Health Decree Number 280/Men.Kes/Per/XI/1976 dated November 10, 1976 concerning Provisions on the Distribution and Marking of Foods Containing Pork-originating Materials; Decree of Joint the Minister of Health and Minister of Religious Affairs Number 427/Men.Kes/SKB/VIII/1985 and Number 68 of 1985 concerning Inclusion of Writing "Halal" on Food Labels; Presidential Instruction (Inpres) Number 2 of 1991 concerning Improvement of Development and Supervision of the Production and Distribution of Processed Foods; Law Number 23 of 1992 concerning Health, which is one of the topics main concerning; To give authority to the Minister of Health to carry out food supervision and research, both in terms of health and halal status; Law Number 7 of 1996 concerning Food; Decree of the Minister of Health of the Republic of Indonesia Number 82/MENKES/SK/I/1996 concerning the inclusion of the words "Halal" on Food Labels, amended by Decree of the Minister of Health of the Republic of Indonesia Number 924/MENKES/SK/VIII/1996 concerning Amendments to the Republic of Indonesia Decree Number 82/Menkes/SK/1996; Law Number 8 of 1999 on Consumer Protection; Government Regulation Number 69 of 1999 concerning Food Labels and Advertisements; Decree of the Minister of Religious Affairs Number 518 of 2001 concerning Guidelines and procedures for examination and Determination of Halal Food and Decree of the Minister of Religious Affairs Number 519 of 2001 concerning the Institute for Examining Food Halal; Law Number 18 of 2009 concerning Animal Husbandry and

⁶¹ See Pasal 10 Undang-Undang Nomor 33 tahun 2014 tentang Jaminan Produk Halal

Health; Law Number 18 of 2012 concerning Food; Law Number 33 of 2014 concerning Halal Product Assurance. For the many existing regulations, only certain regulations explicitly mention criminal provisions for those who violate halal certification/labelling.

4. Institution of management/organizer of halal product assurance

Institution of certification/labelling managed in this study is a body/institution authorized by an official regulation to manage and hold halal certification/labelling in Indonesia. In the period until the ratification of Law Number 33 of 2014 concerning Assurance Halal Product, there has been no official institution authorized by regulations at the level of law as the manager and organizer of certification/labelling halal in Indonesia. It's just that in 2001 the Ministry of Religious Affairs (then the Ministry of Religious Affairs) issued a regulation in the form of Decree of the Minister of Religious Affairs Number 519 of 2001 concerning the Institute for Examining Halal Food.

The main point in the regulation was passed on November 30, 2001 by the then Minister of Religious Affairs, Prof. Dr. H. Said Agil Husin Al-Munawar, MA, said that the government (cq the Ministry of Religious Affairs) appointed the Indonesian Ulema Council as the executing agency for food inspection that was declared halal, which was packaged for trade in Indonesia (Article 1 Decree of the Minister of Religious Affairs Number 519 of 2001).⁶² In further explanation, the details of the implementation of inspection activities food as referred to in Article 1, include: (a) examining and/or verifying applicant data; (b) inspection of the production process; (c) examination laboratory; (d). inspection of product packaging and storage; (e). inspection of transportation, distribution, marketing and presentation systems; (f). processing and stipulation of Halal Certification (Article 2 Decree of the Minister of Religious Affairs Number 519 of 2001).⁶³

In a further development, finally the Ministry of Religious Affairs, MUI (through LPPOM MUI) and BPOM collaborated in handling certification/labelling halal in Indonesia (article 3 of the Minister of Religious Affairs Decree Number 519 of 2001),⁶⁴ and this model certification was successful until Law emerged regarding Halal Product Assurance in 2014. The granting of Department of Religious Affairs access to MUI (via LPPOM MUI) to carry out halal certification/labelling in Indonesia makes MUI as the only religious institution that handles halal certification activities.

The ratification of the Halal Product Assurance Law during President Susilo Bambang Yudiyono gave several differences in the management of halal

⁶² See, Pasal 1 Keputusan Menteri Agama No. 519. Tahun 2001 tentang Lembaga Pelaksana Pemeriksaan Pangan Halal

⁶³ See, Pasal 2 Keputusan Menteri Agama No. 519. Tahun 2001 tentang Lembaga Pelaksana Pemeriksaan Pangan Halal

⁶⁴ This spirit of cooperation is carried out based on the provisions of the rules in article 3 of the Decree of the Minister of Religion No. 519. 2001 concerning the Institute for Examination of Halal Food, which has: "Further provisions regarding the implementation of activities as referred to in Article 2, are regulated by the Minister of Religion of the Republic of Indonesia and the Indonesian Ulema Council, both individually and jointly".

certification/labelling in Indonesia. One of them is in terms of halal certification/labelling management institutions which were originally under the authority of LPPOM MUI, then turned into the authority of the Halal Product Assurance Agency (BPJPH) (Article 1 paragraph 6 of Law Number 33 of 2014).⁶⁵ This change is certainly an endeavor so that the implementation of halal certification/labelling in Indonesia is getting better.

Based on the above study, it can be concluded, there are several issues and topics crucial related to the implementation of halal product assurance in Indonesia, namely; (1) halal certification/labelling; (2) *mandatory* (obligation) or *voluntary* (voluntary) in halal certification; (3) criminal provisions; and (4) halal product assurance management institutions.

Regulations on the Implementation of Halal Product Assurance in the Statute Approach Perspective

Regulations on the implementation of halal product assurance from the new order to the reform era can be reviewed in terms of the legislative approach. The approach used is the approach of legislation that delivered Peter Mahmud Marzuki in his book "Legal Research". In the book as elaborated broadly in chapter II, Peter Mahmud Marzuki mentions three principles of law that can be used as a knife of analysis, including the principle of the *Lex Superior Derogate Legi Inferiori*, the principle of the *Lex Specialis Derogat Legi Generali*, and the principle of the *Lex Posterior Derogat Legi Priori*. The following describes the use of the three principles to view and analyse regulations on the assurance of halal products in Indonesia.

Principle *Lex Superior Derogat Legi Inferiori*. This principle states that higher legal rules replace lower legal rules. If this principle is applied in the regulation of the implementation of halal product warranties in Indonesia, it can be concluded that all regulations for the operation of halal product assurance that have a high position must replace all the rules for implementing halal product assurance lower.

Thus, the substance, content and rules for the operation of halal product assurance are listed in: (1) Decree of the Minister of Health Number 280/Men.Kes/Per/XI/1976 dated November 10, 1976 on provisions Circulation and Marking on Food Containing Materials Derived of Pigs; (2) Decree Joint Minister of Health and Minister of Religious Affairs Number 427/Men.Kes/SKB/VIII/1985 and Number 68 of 1985 concerning Inclusion of "Halal" Writing on Food Labels; (3) The Presidential Instruction Number 2 of 1991 on Improving the Development and Supervision of Production and Distribution of Processed Foods; (4) Decree of the Minister of Health of the Republic of Indonesia Number 82/MENKES/SK/I/1996 concerning the inclusion of the words "Halal" on Food Labels, amended by Decree of the Minister of Health of the Republic of Indonesia Number 924/MENKES/SK/VIII/1996 concerning Amendments to RI Minister of Health Decree Number 82/Menkes/SK/1996; (5) Decree of the Minister of Religious Affairs

⁶⁵ See, Pasal 1 ayat 6 Undang-Undang Nomor 33 tahun 2014 tentang Jaminan Produk Halal, which reads: "Halal Product assurance Agency, hereinafter referred to as BPJPH, is a body established by the Government to administer JPH.

Number 518 of 2001 concerning Guidelines and procedures for examination and Determination of Halal Food and Decree of the Minister of Religious Affairs Number 519 of 2001 concerning the Institute for Examining Halal Food; and (6) Government Regulation Number 69 of 1999 concerning Food Labels and Advertisements, replaced by regulations governing the assurance of halal products that have high positions, including: 1) Law Number 23 of 1992 concerning Health; 2) Law Number 7 of 1996 concerning Food; 3) Law Number 8 of 1999 concerning Consumer Protection; 4) Law Number 18 of 2009 concerning Animal Husbandry and Health; 5) Law Number 18 of 2012 concerning Food; and 6) of Law Number 33 of 2014 on Halal Product assurance.

Principle of *Lex Specialis Derogat Legi Generali*. This principle asserts that specific legal rules replace more general legal rules. In the context of regulations for the implementation of halal product assurance in Indonesia, the rules for the implementation assurance of halal product specifically replace the rules for the operation of halal product guar assurance antees general. If this principle is applied in the context of the law, then Law Number 33 of 2014 concerning Halal Product assurance Is a specific regulation governing the operation of halal product assurance in Indonesia. Law Number 33 of 2014 concerning Halal Product Assurance replaces the previous halal product assurance provisions, for example: 1) Law Number 23 of 1992 concerning Health; 2) Law Number 7 of 1996 concerning Food; 3) Law Number 8 of 1999 concerning Consumer Protection; 4) Law Number. 18 of 2009 on Livestock and Animal Health; and 5) Law Number 18 of 2012 concerning Food.

As such, the five laws mentioned last were replaced by the Halal Food Assurance Law, whose memorandum is a specific (special) regulation relating to the implementation of halal product assurance. In addition, the rules for implementing halal product assurance are actually under the law, such as: (1) Decree of the Minister of Health Number 280/Men.Kes/Per/XI/1976 dated 10 November, 1976 concerning Provisions on the Distribution and Marking of Foods Containing Pork Material; (2) Joint Minister of Health Decree and Minister of Religious Affairs Number 427/Men.Kes/SKB/VIII/1985 and Number 68 of 1985 concerning Inclusion of "Halal" Writing on Food Labels; (3) Presidential Instruction (Inpres) Number 2 of 1991 concerning Improvement of Development and Supervision of the Production and Distribution of Processed Foods; (4) Decree of the Minister of Health of the Republic of Indonesia Number 82/MENKES/SK/I/1996 concerning the inclusion of the words "Halal" on Food Labels, amended by Decree of the Minister of Health of the Republic of Indonesia Number 924/MENKES/SK/VIII/1996 concerning Amendments to the Decree of the Minister of Health of the Republic of Indonesia Number 82/Menkes/SK/1996; (5) Decree of the Minister of Religious Affairs Number 518 of 2001 concerning Guidelines and procedures for examination and Determination of Halal Food and Decree of the Minister of Religious Affairs Number 519 of 2001 concerning the Institute for Examining Halal Food; and (6) Government Regulation Number 69 of 1999 concerning Food Labels and Advertisements, automatically declared invalid.

The principle of *Lex posterior derogat legi Priori*, the intent of this principle is

that the rule of law replaces the rule of law is longer. In the context of the implementation of halal product assurance, the rules for organizing halal product assurance contained in the JPH Law supersede the rules governing halal product assurance that existed in the previous period, such as: 1) Law Number 23 of 1992 concerning Health; 2) Law Number 7 of 1996 concerning Food; 3) Law Number 8 of 1999 concerning Consumer Protection; 4) Law Number 18 of 2009 concerning Animal Husbandry and Health; and 5) Law Number 18 of 2012 concerning Food, as well as other regulations whose status is lower than the five regulations in the form of the law.

Conclusion

From the explanation and analysis in the above discussion, this research concluded; The first, there are several crucial issues and topics related to the implementation of halal product assurance in Indonesia, including; halal certification/labeling; mandatory or voluntary in halal certification; provisions criminal; and halal product assurance management institutions.

The Second, the regulation of the implementation of halal product assurance when viewed from the statute approach can be analysed using three legal principles, it can be concluded; *first*, the principle of *Lex Superior Derogat Legi Inferiori* concluded that all rules halal product assurance that have a high position must replace all rules lower halal product assurance. Thus, the halal product assurance rules listed in: 1) Law Number 23 of 1992 concerning Health; 2) Law Number 7 of 1996 concerning Food; 3) Law Number 8 of 1999 concerning Consumer Protection; 4) Law Number 18 of 2009 concerning Animal Husbandry and Health; and 5) Law Number 18 of 2012 concerning Food, which is then strengthened by the Halal Product Assurance Law must take precedence over the rules below. *Second*, the principle of *Lex Specialis Derogat Legi Generali* stressed that the Halal Product Assurance Law is a specific regulation governing the assurance of halal products. Halal Product Assurance Law This replaces the previous halal product assurance rules, for example: 1) Law Number 23 of 1992 concerning Health; 2) Law Number 7 of 1996 concerning Food; 3) Law Number 8 of 1999 concerning Protection Consumer; 4) Law Number 18 of 2009 concerning Animal Husbandry and Health; and 5) Law Number 18 of 2012 concerning Food, one of which states that halal certification may be voluntary and others. *Third*, the principle of *Lex Posterior Derogat Legi Priori* requires that the halal product assurance rules contained in the Halal Product Assurance Law replaces the halal product assurance rules that existed in the previous period, such as: 1) Law Number 23 of 1992 concerning Health; 2) Law Number 7 of 1996 concerning Food; 3) Law Number 8 of 1999 concerning Consumer Protection; 4) Law Number 18 of 2009 concerning Animal Husbandry and Health; and 5) Law Number 18 of 2012 concerning Food.

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- Undang-Undang Nomor 33 Tahun 2014 tentang Jaminan Produk Halal;
- Undang-Undang Nomor 18 Tahun 2009 tentang Peternakan dan Kesehatan Hewan
- Undang-Undang Nomor 18 Tahun 2012 tentang Pangan
- Undang-Undang Nomor 23 Tahun 1992 tentang Kesehatan.
- Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen.
- Undang-Undang Nomor 7 Tahun 1996 tentang Pangan
- Undang-Undang Nomor 23 Tahun 1992 tentang Kesehatan,
- Undang-Undang Nomor 36 Tahun 2009 tentang Kesehatan
- Undang-Undang Nomor 10 Tahun 2004 tentang Pembentukan Peraturan Perundang-Undangan.
- Peraturan Pemerintah Nomor 69 Tahun 1999 tentang Label dan Iklan Pangan
- Keputusan Menteri Agama No.518 Tahun 2001 tentang Pedoman dan tata cara pemeriksaan dan Penetapan Pangan Halal.
- Keputusan Menteri Agama No. 519. Tahun 2001 tentang Lembaga Pelaksana Pemeriksaan Pangan Halal.
- Surat Keputusan Bersama (SKB) Menteri Agama dan Menteri Kesehatan No. 472/MENKES/SKB/VIII/1985 dan No. 68/1985 tentang pengaturan tulisan “halal” pada label makanan. Dalam pasal 4 ayat 1 SKB tersebut, soal “halal-haram’ produk ditangani Tim Penilaian Pendaftaran Makanan pada Depkes RI, dalam hal ini Direktorat Pengawasan Obat dan Makanan.
- Instruksi Presiden (Inpres) Nomor 2 Tahun 1991 tentang Peningkatan Pembinaan dan Pengawasan Produksi dan Peredaran Makanan Olahan.

Surat Keputusan Menteri Kesehatan No. 280/Men.Kes/Per/XI/1976 tanggal 10 November 1976 tentang Ketentuan Peredaran dan Penandaan pada Makanan yang Mengandung Bahan Berasal dari Babi.

Permenkes RI No. 76/Menkes/Per/III/78 tentang label dan Periklanan Makanan;

Keputusan bersama Menteri Kesehatan dan Menteri Agama RI No.427/menkes/VIII/1985 dan No. 68 tahun 1985 Tentang Pencantuman Tulisan "Halal" Pada Label Makanan.

Surat Keputusan Bersama (SKB) Menteri Agama dan Menteri Kesehatan No. 472/MENKES/SKB/VIII/1985 dan No. 68/1985 tentang pengaturan tulisan "halal" pada label makanan.