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Table of Contents

Articles

- 1** **Heru Susetyo, et.al**
*Regulating Halal Products in Indonesia:
Between Religious Needs and Socio-Economic
Challenges*
- 43** **Dian Mustika & Siti Marlina**
*Integrated Marriage Itsbat in Jambi City:
Analyzing the Problems behind Its Implementation*
- 75** **Alfarid Fedro, et.al**
*Legal Analysis on the Fatwa of
Sharia National Council on Rahn:
Between Legal Philosophy and Its Implementation in
Indonesia Sharia Pawnshop*
- 117** **Syaikhu**
*The Dispute Settlements of Inheritance in Palangka
Raya:
A Legal Anthropology Approach*
- 143** **Hervina**
*The Development Strategy of Intellectual Property
Rights and the Quest for Materials Copyrighted in
Islamic Higher Education*



REGULATING HALAL PRODUCTS IN INDONESIA: Between Religious Needs and Socio-Economic Challenges

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Abstract

As the most populous Muslim country in the world, Indonesia needs to spend seven decades until finally enacted the Halal Product Assurance Law in 2014. There are mixed responses in welcoming this law. Many Muslims are incredibly pleased with this law, while others believe that this law would create social and economic problems, instead. Four years have lapsed and the law is still difficult to be implemented, since the state has produced none of the implementing regulations of the said law. Meanwhile, the National Agency for Halal Product Assurance is newly established in 2018. Therefore, the law on halal product assurance is really at stake. It seems that the state enacted it half-heartedly. This paper discusses the dynamic of regulating halal products in

Indonesia, between spiritual needs and socio-economic challenges. Less Muslim argued that halal is not part of Islamic teaching, yet many people believe that halal product in Indonesia is not merely a religious issue but also a social, economic and even political issue. The methods for this research are both normative and qualitative. Data are collected mainly through documents, library materials, and field research. To sharpen the findings, comparative studies with Malaysia and Thailand we re conducted. In the end, this research reveals the socio-economic dynamics of halal product regulation in Indonesia amid which is beyond religious issues.

Keywords: *halal product, Indonesia, regulation*

Abstrak

Sebagai negara dengan jumlah penduduk Muslim terbanyak di dunia, Indonesia memerlukan tujuh tahun proses pembentukan sebelum disahkannya Undang-Undang Jaminan Produk Halal pada tahun 2014. Berbagai respon muncul menyambut kehadiran Undang-Undang tersebut. Banyak umat Muslim yang bergembira dengan adanya Undang-Undang ini, namun ada juga beberapa kalangan yang berpendapat kehadiran Undang-Undang ini dapat menyebabkan masalah di bidang sosial dan ekonomi. Empat tahun sejak disahkannya Undang-Undang ini, penerapannya masih sulit dilakukan secara efektif karena tidak ada Peraturan Pelaksana yang di keluarkan pemerintah. Sementara itu, Badan Penyelenggara Jaminan Produk Halal baru didirikan pada tahun 2018. Oleh karena itu, status Undang-Undang Jaminan Produk Halal masih tidak jelas, seolah-olah UU ini dibuat dengan setengah hati. Artikel ini mendiskusikan dinamika regulasi produk halal di Indonesia diantara kebutuhan agama dan tantangan dari kondisi sosial-ekonomi. Sebagian Muslim percaya bahwa isu produk halal di Indonesia bukan hanya permasalahan

agama tetapi juga menyangkut masalah sosial, ekonomi, bahkan politik. Metode penelitian ini menggunakan metode normatif dan kualitatif. Data yang digunakan adalah dokumen, materi kepustakaan, dan studi lapangan. Untuk mempertajam hasil penelitian, penulis juga melakukan studi komparasi dengan Malaysia dan Thailand. Kesimpulan dari penelitian ini menunjukkan bahwa isu sosial-ekonomi menjadi dinamika tersendiri dari regulasi produk halal Indonesia, lebih dari sekedar isu religius.

Kata Kunci: *produk halal, Indonesia, regulasi*

A. Introduction

The discourse about halal product assurance in Indonesia has started since around three decades ago, right during the development of Islamic Laws in Indonesia and the revival of Indonesian Muslim since the beginning of the 1990s. At that time, Islamic laws and Islamic values have been institutionalized into specific institutions (banking, insurance, Muslim organization, etc.). The enactment of halal product assurance in 2014 has enlivened this discourse. Public welcome it with mixed responses. From strongly support to vehemently refuse.

Islam is the religion embraced by the majority of the Indonesian people. In 2010, the Muslim population in Indonesia amounted to 207.8 million people out of 237.6 million (or 87.3 per cent)¹. On the other hand, the Pew Research Center estimated that the Muslim Population in Indonesia was 219.960.000 people in 2015 or equal to 87.1% of the total population.² With this large number,

¹ Based on survey conducted by Badan Pusat Statistik (Central Agency for Statistics) in 2010. Other religious groups are Christians (16,528,513), Catholics (6,907,873) Hindu (4,012,116), Buddhists (1,703,254) Confucianists (117,091) and others (around 1.3 million).

² Please see <https://www.pewresearch.org/fact-tank/2019/04/01/the-countries-with-the-10-largest-christian->

Indonesia considered as the most populous Muslim country in the world to surpass Pakistan, India, Turkey and Egypt. However, the large number of the Muslim population does not reflect that Indonesia is an Islamic country.

In the case of Indonesia, the relation between Islam and the state is rather unique. The way Indonesian people practising Islam are more in *Indonesian way* (adjustable to Indonesian culture)³, rather than the *Arabian way* (adjustable to Arabian culture).⁴ Some Indonesian Muslim

populations-and-the-10-largest-muslim-populations/ accessed on 9 June 2019.

³ Indonesian Way means that the adoption of Islam by local peoples does not necessarily mean that they have to give up all of their old traditions. Acculturation seems to be the norm rather than the exception in the Islamization process in Java and Sulawesi. Pre-Existing cultural and religious patterns, together with local configurations of social and economic power, influence how universalistic texts, including the Koran and the Hadith, are interpreted. Local communities have been able to synthesize elements of different origins and reject others. We can call this a process of selective adaptation in which local peoples are not merely passive receptors. See Muhammad Ali, "Muslim Diversity: Islam and Local Tradition in Java and Sulawesi", *Indonesian Journal of Islam and Muslim Societies* (Vol. 1 No. 1 June 2011).

⁴ It wasn't that religion was less of a "problem" in Indonesia and Malaysia; it's that the solutions were more readily available. Islam might have still been exceptional, but the political system was more interested in accommodating this reality than in suppressing it. There wasn't an entrenched secular elite, in the same way, there was in many Arab countries. In Southeast Asia, then, democratization went hand in hand with Islamization. To put it more simply, where many assume that democracy *can't* exist with Islamism, it is more likely the opposite. What distinguishes Indonesia and Malaysia, as well as their electorates, isn't some readiness to embrace the gradual privatization of religion. The difference is that their brand of Islamic politics garners much less attention in the West, in part because they aren't seen as strategically vital and, perhaps more importantly, because the passage of Islamic legislation merely is less controversial domestically. There has been a coming to terms with Islam's role in public life, wherein much of the Middle East, there hasn't—at least not yet (See Shadi Hamid, "What's Different About Islam in Indonesia and Malaysia?", available at <https://www.brookings.edu/blog/markaz/2016/07/07/whats->

scholars are irritated by the Western inclination to identify Islam per se with the Middle East and Arabism. Former President Wahid, for example, repeatedly pointed out that 'Islam and Arab culture are not the same' (Woodward 1996: 136 in Kolig, 2009). Wahid is said to have demanded that Islam be 'indigenized' in Indonesia; i.e., it should be 'deeply planted in modern Indonesian soil' by adapting it to Indonesian conditions and shedding the Arabic precedence (Abdullah, 1996: 69 in Kolig, 2009).

Islamic Laws in Indonesia had been developed long before the Indonesian independence in 1945, precisely during the Dutch Colonialization. For instance, *Staatsblad* 1835 No. 56 which specified that disputes arising from marriage, inheritance, or other cases of Islamic family law among the Muslims of Java and Madura should be settled by a *Penghulu*, while any claims concerned with payment should be brought to the regular court. *Staatsblad* 1882 No. 152, establishing religious courts in Java and Madura (*Bepaling Betreffende de Priesterraaden op Java en Madoera*). *Staatsblad* No. 348 of 1929 which designated the *penghulu* as a government official subject to the regent's control. *Staatsblad* No. 53 of 1931, a bill which impacted on Islamic law in a most severe fashion. Three new provisions were proposed in this enactment: (1) the *Priesterraaden* were to be abolished and superseded by *penghulu* courts, wherein a single judge would preside over cases subject to Islamic law; (2) the *penghulu* would have the status and salary of a government servant; (3) a court of appeal would be established to review the decisions of the *penghulu* Court; and the *Staatsblad* No. 116 of 1937 stipulated the jurisdiction over inheritance was transferred from the religious courts to the native courts "where dams

were to be adjudicated not according to Islamic law but to *adat* (customary law). *Staatsblad*No. 638 of 1937 stipulated the creation of Kadi Courts in Southern and Eastern division of Borneo/ Kalimantan (Lukito, 1997).

The first milestone and significant national law heavily influenced by Islamic law was Indonesian Marriage Law No. 1 the Year 1974. The law is actually a national law, but many of its provisions are clearly derived and greatly influenced by Islamic Marriage Law.⁵ Following marriage Law, the country also enacted Indonesian Law on Islamic Court No. 7/1989, Islamic Family Law Compilation year 1991, the Law on Zakat No. 38/1999 (later amended by Law No. 23/2011), the Law on *Wakaf* (endowment) No. 41/2004, the Law on Islamic Banking System No. 21/2008 and Law No. 19/2008 on State Sharia Obligation (or *Sukuk* in Arabic Language), the Law No. 3/2006 (amended by Law No. 50/2009) on extensification of jurisdiction of Islamic court.

While the aforementioned laws deal mostly with family and economic affairs, the Islamic laws in Aceh have gone further by introducing local ordinances/local bylaws in Islamic Criminal Laws (or Qanun Jinayah) started in 2002 and 2003) which have specific jurisdictions on certain areas, namely: adultery (*zina*), gambling (*maisir*), alcohol (*khamr*), and *khalwat* (man and women out of wedlock intimately conjoined together in a remote place), and also (in 2009 and 2014) revised the previous laws by applying harder sentences for some offences. A Qanun on Criminal Procedures (or Hukum Acara Jinayah) was also enacted through Qanun No. 7 the year 2013.

⁵ The nationalist and democratic party of Indonesia (PDI or Partai Demokrasi Indonesia) disapproved this Marriage Bill of 1974. Their MP's walked out from the forum for following reasons: the bill was regarded as heavily influenced by Islamic values or Islamic interest, and it was incompatible to nationalism spirit embraced by the party.

The law on *Halal Product Assurance* or *Jaminan Produk Halal* (JPH) was passed by Indonesian parliament in September 2014 and subsequently signed by President Susilo Bambang Yudhoyono on 17 October 2014. It took almost eight years to draft and finally enact this law through two different parliamentary periods. There were a lot of debates and controversies during the legislation process, which ignited by various interests and different political and economic goals. Hence, this law was passed and enacted just several days before the MP's, and President Susilo had ended their term.

The Law on Halal Product Assurance is the first law on halal labelling in Indonesia. This law intends to provide protection and assurance of halal products consumed by Indonesian citizens. Before the issuance of the *Halal Product Assurance Law*, halal registration is applied voluntarily and held by the Indonesian Ulema Council (Majelis Ulama Indonesia). In addition, the Halal Product Assurance Law needs around twenty implementing regulations which must be issued within two years after 17 October 2014.⁶

Under the Halal Product Assurance Law, the halal certification obligation will become mandatory five years after 17 October 2014. Therefore, it will be interesting to see how the Indonesian Government will structure this halal certification obligation and related procedures under the required implementing regulations since quite several parties would be involved. Several involving parties among others is (i) the Indonesian Ulema Council, (ii) a new body that will be established to issue halal certification (to be known as the Halal Product Assurance Implementing Board,

⁶ See

http://www.hhp.co.id/files/Uploads/Documents/Type%202/HHP/al_jakarta_halalproductassurance_jan15.pdf

or *Badan Penyelenggara Jaminan Produk Halal*, abbreviated as "BPJPH"), and (iii) new institutions that can be established by the Indonesian Government or Islamic religious institutions that have obtained legal entity status (to be known as a *Halal Audit Institution*, or *Lembaga Pemeriksa Halal*, abbreviated as "LPH").⁷

According to Law Article 6 to Article 10 Law No. 33/2014 the BPJPH is responsible for issuing and revoking the halal certificate and halal label of a product, registering a halal certification of foreign products, accreditation Halal Investigator Agency (LPH), monitoring the halal products, and registering/ educating the Halal Auditor. The BPJPH cooperates with LPH in investigating and examining the product. The BPJPH also works with MUI in certifying the halal auditors, determining halal products and accrediting the LPH.

While the Indonesian Council of Ulema (MUI) welcomed the new law, since it would give comfort to the Muslim community to consume the halal product, both the international and local business community appeared anxious over whether it would mean extra costs for them to secure the correct halal certification.⁸

The MUI and LPPOM MUI exist at all over Indonesia (33 provinces). However, in Aceh, MUI has transformed into MPU (Majelis Permusyawaratan an Ulama or Ulama Consultative Assembly) and LPPOM MPU, as a consequence of specific law on Aceh.

The Halal labelling law will affect most consumable products, including food and beverages, medicines, cosmetics, chemicals and biological products. It will also apply to functional goods that can be worn, used, utilized,

⁷ Ibid.

⁸ American Chamber of Commerce in Indonesia. 18 December 2014. Accessed in <http://www.amcham.or.id/fe/4839-indonesia-s-halal-food-law-pros-and-cons>

imported and circulated in Indonesia's territory. Under Islamic law, some materials are considered *haram* (forbidden, the opposite of *halal*) for consumption, including pork, alcohol, blood and other things considered as containing impurities. The law was enacted to protect the nation's Muslim population from being exposed to non-halal products. The new law states that halal checking will also include the manufacturing process, packaging, distribution, sales and serving. Muslims need to ensure that halal products are not mixed with non-halal products during production and distribution.⁹

Previously, halal certification was supervised by the MUI. However, the new law now mandates the establishment of a new agency, the Halal Product Assurance Agency, known as BPJPH. This agency, which will be supervised by the Ministry of Religious Affairs, will be responsible for issuing halal certificates to producers.¹⁰

The enactment of Halal Product Assurance Law, therefore, has presented dynamics in social, economic and even political affairs. The Halal Product is not merely a religious issue. This is beyond religious issue. Fewer people argue that halal product is not part of Islamic teaching. Therefore, to conclude that regulating halal in Indonesia is free from socio-economic dynamics is incorrect. This paper, therefore, would like to explore the dynamics of halal product regulation in Indonesia, by study comparison with halal product regulation in Malaysia and Thailand.

B. Halal Regulation and Halal Legislation in Indonesia

To fulfil the needs of Muslims to Sharia compliance in consuming halal food, Muslim society requires

⁹ Ibid

¹⁰ Ibid.

government's authority to create regulation regarding halal products. Moreover, based on the survey of the Institute for Food, Drugs, and Cosmetics of Indonesian Ulama Council (Lembaga Pengkajian Pangan Obat-obatan dan Kosmetika Majelis Ulama Indonesia or LPPOM MUI), Indonesian society awareness of the halal products amounted to 92.2%.¹¹ Research conducted by the Training and Development Agency (Badan Litbang dan Diklat) the Ministry of Religious Affairs said that 95% of respondents want all the products in the market is Assurance as halal, as well as supporting the Halal labelling on food products and beverage packaging, including in restaurants.¹²

Unfortunately, only a few products in Indonesia were guaranteed as a halal product. The total percentage of products which have a Halal certificate from 2011 until 2014 is around 26.11%. The number is even fewer when it comes to halal certification applied by small and medium enterprises (SMEs). Lukmanul Hakim, Chairman of LPPOM MUI mentioned that until 2018 only 12.000 SMEs (out of four million) that have had obtained halal certification.¹³ It means that the amount of food, cosmetics, and pharmaceuticals products which have not been certified from 2011 to 2014 amounted of 73.89%.¹⁴ It can be seen that many products circulating in Indonesia that

¹¹ *Pemantapan SJH Indonesia Menuju Kelas Dunia*, 5 January 2011, accessed in <http://www.pusathalal.com/berita/berita-seputar-halal/item/99-pemantapan-sjh-indonesia-menuju-kelas-dunia>.

¹² Muchith A. Karim, *Perilaku Konsumen Muslim Perkotaan dalam Mengonsumsi Produk Halal*, (Jakarta: Badan Litbang dan Diklat Kementerian Agama, 2013), p. 60-61.

¹³ Please see <https://www.republika.co.id/berita/dunia-islam/islam-nusantara/18/11/01/phi5xb384-ppom-mui-sertifikasi-halal-umkm-masih-minim>, accessed on 10 June 2019.

¹⁴ Siti Aminah, *Peluang Indonesia Sebagai Pusat Halal Dunia*, dipresentasikan dalam seminar Implementasi Undang-Undang Jaminan Produk Halal di Fakultas Kesehatan Masyarakat Universitas Indonesia, Depok, 30 April 2015.

still don't have Halal certificate yet. The absence of Halal Certificate will impact the lack of Halal Label which listed in the product's packaging. It can cause Consumers to hesitate about the status of a product, Halal (lawful) or haram (unlawful)?

Problem with halal certification lies with the cost of certification, particularly for most of SMEs that are unaffordable to fund the process. Also, the certification valid only for two years. They need to renew after two years. Another problem is the awareness of both producers and customers who do not care with halal certification.

In Indonesia there are several regulations related to halal products issues, i.e. Law No. 8 of 1999 on Consumer Protection, Law Number 18 the Year 2009 on Animal Farming and Animal Health, Law No. 18 the Year 2012 on Food, and Government Regulation No. 69 on Food Label and Advertisement. Consumer Protection Act 1999 prohibits producers for producing and trading goods and/or services that do not follow the rules of production as indicated in the label 'halal'.¹⁵ Besides, the Act also states that consumers are entitled to clear, correct, and honest information¹⁶ While the Law on Animal Farming and Animal Health state that animal products in the production and incorporated into Indonesian territory for distribution shall be accompanied by a certificate of veterinary and halal certificate¹⁷. The provisions in the Law on Food stated that the implementation of food security is done through the "Assurance of halal products to products which required."¹⁸ Moreover, the provisions regarding to the halal

¹⁵ Indonesia, Consumer Protection Law, Article 8 paragraph (1) point h.

¹⁶: *Ibid*, Article 4 point c.

¹⁷ Law Number 18 the Year 2009 on Animal Farming and Animal Health, Article 58 paragraph (4).

¹⁸ Law No. 18 the Year 2012 on Food, Article 69.

label is also included in Article 10 paragraph (1) which states that "any person who produces or importing food that is packaged into Indonesian territory to be traded and state that the products are halal for Muslims, is responsible for the truth of the statement and shall include a description or word 'halal' on the label."

Although the regulation about halal certification and the halal label is already mentioned by the rules above, there is no particular Act regarding halal products in Indonesia. Seeing the needs of Muslim society on legal certainty of halal products, the House of Representatives of the Republic of Indonesia filed Halal Product Assurance Act. However, draft Halal Product Assurance was become a controversy in Indonesia society because Majelis Ulama Indonesia (Indonesian Ulama Council), the institution which previously held the authority to assurance halal product certification is neither a state institution nor a fully private agency.¹⁹

Finally, on 25 September 2014 Act No. 33 the Year 2014 on Halal Product Assurance approved by the House of Representatives to becomes law. House of Representative and the Government agreed to hands the authority of a halal products Assurance to the Ministry of Religious Affairs through *Badan Penyelenggara Jaminan Produk Halal* (BPJPH, Halal Product Assurance Implementing Board), based on a written fatwa issued by the Indonesian Ulama Council. This Act ensures that the Halal certificate is obligatory for the products that are imported and traded in Indonesia, which came into force five years since the Act was enacted.²⁰

¹⁹ Nashih Nashrullah, "Sertifikasi Halal Meningkatkan", *Republika*, Selasa 1 November 2011, 12.

²⁰ Arief Setyadi. "Kewenangan Tunggal Produk Halal di Tangan Kemenag." *Okezone.com*. Kamis, 25 September 2014. Diakses 14 April

The Law No. 33/ 2014 has really strengthened the previous laws which govern halal assurance, such as Law No. 8 of 1999 on Consumer Protection, Law Number 18 the Year 2009 on Animal Farming and Animal Health, Law No. 18 the Year 2012 on Food, and Government Regulation No. 69 on Food Label and Advertisement since the previous laws did not govern the process and mechanism of halal certification and the agencies which manage the accreditation.

The latest development of law on halal product assurance was the enactment of Government Regulation (*Peraturan Pemerintah*) No. 31 the year 2019 in May 2019. This law is an executing regulation of Law No. 33/ 2014.

Halal Product Assurance Act aims to provide legal certainty to halal products for the sake of the Muslim community in Indonesia. If previously, the Halal certification is voluntary, the Halal Product Assurance Act stipulated that the Halal Certification is mandatory on each product.²¹ Meanwhile, for products that are not halal, producers are required to provide disclosure of information regarding the status of products which are not halal.²²

1) Implementation of Halal Product Assurance in Indonesia

The Law No. 33 of 2014 on Halal Product Assurance mandates the establishment of National Agency for Halal Products Assurance (Badan Penyelenggara Jaminan Produk Halal/ BPJPH) by the Government. BPJPH set up to carry out the

2015 di <http://news.okezone.com/read/2014/09/25/339/1044256/kewenangan-tunggal-produk-halal-di-tangan-kemenag>

²¹ Indonesia, *Undang-Undang Jaminan Produk Halal*, UU No. 33 Tahun 2014, LN Tahun 2014 No. 295, TLN No. 5604, Article 4.

²²*Ibid.*, Article 26, ayat (1) dan 2.

implementation of Halal Product Assurance under and responsible to the Minister of Religion.²³

The BPJPH has authority in the administration of Halal Product Assurance, i.e.²⁴ a) formulate and determine policies of Halal Product Assurance; b) establish norms, standards, procedures, and criteria of Halal Product Assurance; c) issue and revoke the Halal Certificate and Halal Label on the product; d) registration Halal products certificate abroad; e) dissemination, education, and publication of Halal product issues; f) accreditation of the Halal Audit Institutions (Lembaga Pemeriksa Halal/LPH); g) registration of Halal Auditor; h) supervise the implementation of Halal Product Assurance; i) fostering Halal Auditor; and j) cooperate with domestic and foreign institutions to organizing Halal Product Assurance.

To implement its authority, BPJPH cooperates with:²⁵ (a) The Ministry and institutions; (B) Halal Audit Institution (LPH), the body is conducting the examination and/or testing of halal products. LPH perform their duties in cooperation with BPJPH.²⁶ Government or society can establish LPH which have the same opportunity in helping BPJPH inspection or testing of halal products.²⁷ If the community wants to establish LPH, the establishment of LPH must be filed by the Islamic religious institutions, which are legal entities;²⁸ (C) Majelis Ulama Indonesia in cooperation with BPJPH

²³ Indonesia, *Undang-Undang Jaminan Produk Halal*, *Op.Cit*, Article 5, ayat (3).

²⁴ *Ibid.*, Article 6.

²⁵ *Ibid.*, Article 7.

²⁶ *Ibid.*, Article 9.

²⁷ *Ibid.*, Article 12, ayat (1) dan (2).

²⁸ *Ibid.*, Article 13 ayat (2).

to certify Halal Auditor, the decision of halal products status, and accreditation of Halal Audit Institutions.²⁹

Before the existence of Halal Product Assurance Act, there are some institutions that hold the authority to organizing halal-related issues, namely: a) the Fatwa Commission of Majelis Ulama Indonesia as the giver of Fatwa Halal and the issuer of Halal Certificate; b) LPPOM Majelis Ulama Indonesia as an auditor of halal products from the science aspect; c) BPOM as the licenser of Halal Label, d) Ministry of Religious Affairs as a party which make policy, socialization and education to the public; and e) other related ministries. With the existence of Halal Product Assurance Act, BPJPH which is under the Ministry of Religious, replace the role of the Majelis Ulama Indonesia as the holder of Halal certification authority. While the Halal Audit Institutions (LPH) replace the role of LPPOM MUI in charge of examining halal products.³⁰

However, the authority replacement does not eliminate the role of the Majelis Ulama Indonesia and LPPOM MUI. With this arrangement, the authority of the Majelis Ulama Indonesia expanded further.³¹ Majelis Ulama Indonesia still has authority to give a Halal Fatwa for a product that has been inspected by the LPH, along with BPJPH in the assembly. Also, MUI, together with BPJPH authorized to perform certification and accreditation to Halal Auditor and Halal Audit Institutions (LPH) to be established. If previously the only

²⁹ *Ibid.*, Article 10, ayat (1).

³⁰ Iffah Karimah. "Change of Authority Of Authorized Institutions In Halal Certification Process", *Jurnal Syariah Lembaga Kajian Islam dan Hukum Islam*, Edisi III, November 2015.

³¹ Sumunar Jati in Iffah Karimah, "Protection of Right to Information for Muslim Consumers in Act Number 33 of 2014 about Halal Product Assurance", *Bachelor Thesis*, Universitas Indonesia, 2015: 83.

institutions authorized to audit halal products (from the scientific aspect) is LPPOM MUI, later on, the LPPOM MUI position will be one of the *Halal Audit Institution*. Other LPH may have such authorities. Also, people can also establish an LPH as long as it meets the requirements. Given the history of LPPOM MUI as the oldest Halal Audit Institutions in Indonesia, LPPOM MUI also tasked to assist MUI in the accreditation of new LPH's established and accredited auditors to comply with halal standards.³²

Therefore, Law No. 33/ 2014 is a right solution since it has expanded and strengthened halal certification management in Indonesia.

2) The Process of Halal Certification and Halal Labeling

Halal Certification Process as stipulated by the Halal Product Assurance Act as follows:³³

1. The producer filed written application to the BPJPH with a document: the data of business, the name and type of product, a list of product ingredients are used, and the processing of products.
2. By BPJPH orders, LPH conducts inspecting and testing of products within 5 (five) working days since the application documents declared complete.
3. Auditor of LPH examination the halal status of products and if there is a material doubt as halal, LPH conduct test in the laboratory.
4. The results of the halal examination and testing by LPH was reported to BPJPH.
5. BPJPH then submit the report to MUI to obtain halal determination products through Halal Fatwa assembly.

³² *Ibid.*

³³ Siti Aminah, *Peluang Indonesia Sebagai Pusat Halal Dunia...*;

6. Majelis Ulama Indonesia together with experts, the element of the Ministry or Institution, and related agencies convened in Fatwa Halal assembly to set decisions of Determination Halal Products which are the basis for the issuance of the halal certificate. Decisions of Determination Halal Products issued no more than 30 (thirty) working days from receiving MUI file examination results or testing of BPJPH.
7. After the status of a product stated as Halal, BPJPH issue Halal Certificate no later than 7 (seven) days since the Decision of Determination Halal Products received from MUI. Halal Certificate valid for 4 (four) years since the issuance by BPJPH, unless there is a change in the composition of the material. At least 3 (three) months before its expired date, the Halal Certificate shall be extended by the producer by applying for Halal Certificate renewal.

Moreover, BPJPH has the authority to issue and revoke Halal Label on the product. BPJPH also set Halal Label forms which used nationally.³⁴ Producer who have obtained Halal Certificate should attach Halal Label on the packaging of the product, where the label should be easily seen and read and can not be deleted, removed and destroyed quickly.³⁵

This halal certification is indeed quite clear. The role of BPJPH, LPH and MUI have been mentioned.

C. Halal Products Regulation in Malaysia

Malaysia's halal food industry has become the leader in the economic sector, both national and international. The demand for halal food in Malaysia has been increasing

³⁴ Indonesia, *Undang-Undang Jaminan Produk Halal*, Article 37.

³⁵ *Ibid*, Article 37, dan 38.

dramatically due to the increase in social awareness among Malaysian Muslim. The number of Malaysian Muslim is 60.4% of the total population, which means about 16 million Muslim people in Malaysia seeks for food with halal certification.³⁶ Malaysian Muslim realizes that halal products are not only meeting their basic needs but also come up with a vast potential market economically. Halal industry, in general, has a vast market potential that never been used effectively. In prediction, more than USD 2.3 million as a market value of Halal Industry. Malaysia is the first country that established the "Halal Industry office" to manage the potential market of the halal industry in Malaysia. Furthermore, Malaysia also made "blueprint" of the Halal Industry as a master plan to strengthening the halal industry in Malaysia.

1) The History of Halal Regulation in Malaysia

Halal Regulation in Malaysia started from social awareness of Muslim people in Malaysia through the fact that most of the food entrepreneur in Malaysia is a Non-Muslim.³⁷ Until 1968, the Conference of Kings Council Malaysia decided to establish a new department which can develop Islam in Malaysia. The new department, namely "Bagian Hal Ehwal Agama Islam" (BAHEIS) established officially on July 1st 1969. After established BAHEIS, the Malaysian government also made new provision in 1972 regarding the Trade Description Act.³⁸ Under the Trade Description Act (TDA) 1972, Malaysia officially regulate about halal regulation. However, there

³⁶ Mahiah Said et al, "Assessing Consumers' Perception, Knowledge and Religiosity on Malaysia's Halal Food Products",(*Procedia – Social and Behavioral Sciences*, 2014); 121.

³⁷ J. Bidin, *Development of Halal Industry in Malaysia*, (Halal Products Research Institute, University Putra Malaysia, Kuala Lumpur, 2009)

³⁸ Based on the results of interviews with Dr Sirajuddin Suhaimie, Director of the Halal Hub Division, of JAKIM, Malaysia, on August 18th, 2016.

are only two sections which specifically regulates about halal products.

As time goes by, TDA 1972 cannot work anymore due to new circumstances. For instance, under TDA 1972, there was no single “halal certificate” that recognized by the government. As a consequence, there are so many “halal certificate” and “halal logo” in Malaysia at that time. Considering the situation, the Government took immediate action to enact new provision regarding Trade Description Act, 2011 (TDA 2011). The new rule provides better regulation, including Halal Regulation. Halal Regulation under TDA 2011, stated in section 28 & 29, which mention that Halal Regulation in Malaysia is Voluntary based. It means that food entrepreneur is not required to register their products to get the halal certificate.

Interestingly, many food entrepreneurs voluntarily register their products to get halal certification. They realize that halal certification will provide value added for their products. Moreover, public awareness in Malaysia also relatively high with regard to consuming halal products.³⁹ TDA 2011 also mention that halal logo, which is recognized by the government only issued by authorized department, namely "Jabatan Kemajuan Islam Malaysia" (JAKIM).⁴⁰

The development of halal certification in Malaysia is quite impressive. Even though halal certification in Malaysia is voluntary-based, but it is in high demand. Public awareness is a crucial success of this significant development.

³⁹ Based on the results of interviews with Dr Zalina Binti Zakaria from Sharia Law Department, Academy of Islamic Studies, University of Malaya, Malaysia on August 17th, 2016.

⁴⁰*Ibid*

2) **The Implementation of Halal Regulation in Malaysia**

As mentioned above, many departments can issue halal certification under previous regulation (TDA 1972). Consequently, there were so many cases of misuse of the halal logo. In most cases, the halal logo used in products which contained non-halal ingredients. Malaysian government established new regulation to replace TDA 1972. Under the new management (TDA 2011) mentioned that JAKIM is the only authorized department to issued Halal Certification in Malaysia as written as follows:

“JAKIM and MAIN/JAIN (States Religious Councils/Departments) as the competent authorities: illegalizes self-declaration; all halal declared products/consumables must obtain halal certification, imported products bearing halal logo must be issued by halal CB recognized by JAKIM and creates offences and penalties.”⁴¹

Moreover, through the regulation, any form of misuse of information, misuse of Halal Logo, or any type of deception that potentially harm consumer can be offences or even sentenced to prison. One of the famous cases was misuse information by selling a non-halal product with Islamic attribute such as a scarf (hijab).⁴² Through this regulation, the Halal protection regime in Malaysia has begun. Generally, the Halal certificate process covers every single step of production, from preparation to distribution. Everything becomes unity as one unique process, namely Halal Food Chain.

Malaysia government, through JAKIM supervises every step of production of Halal Products. Moreover,

⁴¹ *Trade Description (Certification and Marking of Hala) order*; 2011.

⁴² The results of interviews with Dr Zalina, August 17th, 2016

JAKIM also established Halal Hub Division, which has responsibility to manage everything related to the halal certification process. Halal Hub Division generally has four main functions, namely: 1) Creating policies relating to halal certification process;⁴³ 2) Issuing a halal certificate following the requirement; 3) Supervision and Law Enforcement, and 4) Accreditation/Validation.

The role and position of JAKIM are similar to BPJPH in Indonesia. The different is, the JAKIM has worked since several years ago, while BPJPH is about to start and still tidying up the management and mechanism of halal certification (at least until mid-2019, at the time of writing this article).

3) **Malaysia Halal Standard**

Malaysia, as a Muslim majority country officially declared the development of the halal industry as a potential industry which can give economic benefits to the country. This is proof that Malaysian government take serious action to make Malaysia as a centre of Halal in the world⁴⁴. Government introduce “the blueprint” namely “Malaysia Halal Standard” as guidance for the halal industry in Malaysia. The primary function of the Malaysian Halal Standards is to introduce the standards, standardization, and accreditation to continue the national economy, protect the consumer, health and safety benefits, as well as facilitate trade both domestically and internationally.⁴⁵ There are 13 (thirteen) category of Malaysia Halal Standard, but only 7 (seven) that already have regulation, namely 1) Food/Drinks

⁴³ *Ibid*

⁴⁴ Zalina Zakaria and Siti Zubaidah Ismail, *The Trade Description Act 2011: Regulating ‘Halal’ in Malaysia*, International Conference on Law, Management and Humanities, 2014.

⁴⁵ Interviews with Dr Sirajuddin Suhaimie, on August 18th, 2016.

Supplements; 2) Food Premises/Restaurants/Kitchen (Hotel)/Catering; 3) Consumables/Consumer Goods; 4) Cosmetics and toiletries, 5) Slaughterhouses; and 6) Pharmaceuticals and Logistics.

Besides establishing the Standard, the Malaysian Government actively stipulates 8 (eight) industrial zones to produce halal products and services. The government also offers incentives for business enterprises to join in the halal industry in Malaysia. The incentives include investment tax allowance for halal food production, special subsidies for export of halal products, and import duty exemption of raw materials. Besides, the Malaysian government also increase consumer awareness of the importance of Halal products with the campaign, Halal Expo, and dissemination through the media.

Learning from Malaysia experience, support from government is significant in developing the halal assurance program, although Malaysia situation is different from Indonesia and the population of Malaysia is only 12 per cent of the Indonesian population.

D. Halal Products in Thailand⁴⁶

Thailand is among the top ten of the world's biggest exporting countries and top five of biggest exporting countries of non-pork and non-alcoholic foods to OIC (with and without halal certificate). It is also among high rank in a world tourist destination and top medical hub in Asia for foreign patients and relatives.⁴⁷

Regarding the halal product, Thai laws guarantee freedom of religion and the Royal Thai Government generally respects this right in practice. Muslims enjoy full

⁴⁶ <http://www.thaihalalfoods.com/EN/industry-thai.php?id=11>

⁴⁷ Pakorn Priyakorn, Thailand: Muslim Friendly Destination available at http://www.tatnews.org/pdf/Thailand%20Muslim%20Friendly%20Destination_Dr.%20Pakorn%20Priyakorn.pdf

state support and free to teach and observe their faith according to their tenets. In 2013, there are around 6 million Thai Muslims of out 67 million Thai populations.

Administration of Muslims Affairs in Thailand is managed by the Central Islamic Committee of Thailand (CICOT) and Sheikhul Islam. His Majesty the King (who has just passed away this October 2016) appoints a Sheikhul Islam as the leader of Islamic affair in Thailand. It is a long legal tradition for more than four centuries. Central Islamic Council of Thailand (CICOT) consists of 39 elected plus 13 appointed members. The 39 members represent 39 provincial Islamic committees (out of 76 provinces in Thailand). The number of masjids in Thailand is 3600, and in Bangkok alone, there are 160 masjids.⁴⁸

The Islamic Committee of Thailand has provincial offices in 39 provinces of the country. As such, food manufacturers in the region, requiring their services can go directly to their respective provincial offices to file their application request for the needed certification service and label. In provinces with no provincial Islamic Committee office, manufacturers may then apply to the Islamic Committee of Thailand. For the past five years, an increase of about 20% per year in the number of requests received for halal certification was noted. The record of the Islamic Committee of Thailand's Halal section has shown that there were 2,188 applications for Halal certification in 2011, 90% of which were for foods and 10% were for useful items such as cosmetics, toothpaste, medicines, herbs, and others. Of the 90% of applications for meals, 72% were for manufactured foods, 13% for restaurant food products, 3% for slaughtered foods and 2% were for imported food. The number of products for halal certification has also been increasing at the rate of 30% on the average, reaching

⁴⁸ *ibid*

64,588 in 2011, the majority of which were for food products

Halal certification in Thailand was initiated in 1969. The CICOT authorized single halal logo. Up to 2014 halal certified of 4000 factories have covered 120.000 products (10% for export). Halal products increased by 12% a year.⁴⁹ Halal certification is required for the following products: (1) Food and food products for everyday consumption; (2) Slaughtered product; (3) Processed halal food and drinks; (4) Imported Halal food products and meats.

The success story of halal product assurance in Thailand are owing to the facts that: (1) Muslims are vital and integral parts of Thailand development for centuries (2) Equality of rights and freedom plus harmonization among religious and faith groups; (3) The full and sole legal authority of the Central Islamic Council of Thailand based on the Royal Act of Islamic Administrative Organization 1997; (4) The strongest and best Halal Science research and development; lead by Halal Research Center Chulalongkorn University⁵⁰, they are followed by the same centre at Prince of Songkla University in Hat Yai and Pattani⁵¹; (5) The convergence between “Religious or Shariah Certifies and Halal Science Supports”; (6) The continual improvement of National Halal Standards for more than six decades; (7) The network and coordination of Halal certification bodies throughout the country; (8) The comparative advantage of close-knit between agricultural industrial sectors: From Farm to Products and Services; (9) the active and continual

⁴⁹ Ibid

⁵⁰ Research and interview at Halal Research Center Chulalongkorn University, Bangkok on 21-22 August 2016.

⁵¹ Research conducted at Halal Research Center Prince of Songkla University at Pattani on 19 August 2016.

supports from public and private sectors: Kitchen of the World; (10). The cultural relativity between the tourism industry and medical and health care services.⁵²

Different to Indonesia and Malaysia, Muslim in Thailand is a minority. The government and private sector pay serious attention to these issues. Not only because they respect to Thai Muslim inhabitants, but also because this is a good business and halal market is always growing. Cooperation with a Halal Research Centre in universities and Thai Muslim organization (under Sheikhu Islam) are also essential to develop halal product assurance in Thailand.

1) Dynamic of Halal Product in Thailand

Thailand government has launched an industrial promotion policy for the export of Halal food and ardently implements it both in terms of raw material development, product promotion, market search, and the improvement of halal food certification standard to earn trust among foreign and Thai consumers. The certification and authorization authority for the halal food certification mark is the sole responsibility of the Islamic organ. Therefore, it is tri-party cooperation, namely, Muslim consumers, producers, and the government in the following aspects:

1. Muslims can have hygienic halal food that is complied with Islamic laws, contained no haram and any intoxicants;
2. Producers can gain business benefits while duly meeting with Islamic halal food producing process and Regulations of the Central Islamic Committee of Thailand regarding the Halal Products Standard

⁵² Pakorn, *ibid.*

Certification as well as maintain food standard according to the Halal Food Standard;

3. The country can develop its economy by way of government industrial promotion policy for halal food in terms of raw material development, product promotion, market search, and the improvement of certification standard of "Halal food" by Islamic organization to export halal food to the global market.

Halal food standard is an integrated standard system where the process from its start to its end through "production chain" must be "halal", or lawful according to Islamic laws, free from "haram", or intoxicants according to Islamic laws namely, raw materials, ingredients, addictive, contaminants, etc., to ensure hygienic, nutritious and body-benefited (thoyyib) food and comply with GMP, HACCP, and ISO standards.⁵³

Procedures to obtain a halal certificate in Thailand is as follows:⁵⁴

1. Apply for the use of the Halal logo utilizing the form of the Halal Affairs Department, The Central Islamic Committee of Thailand along with one set of copies at the Central Islamic Committee of Thailand/send by mail.
2. The Halal Affairs Department staff must examine the application documents.
3. Pay the inspection fees and transportation according to the invoice received by FAX.
4. Wait for the letter of notification by Fax setting forth dates, times and the list of names of the auditor who will come to audit the factory.

⁵³ Interview with Prof Winai Dahlan, head of Halal Research Center Chulalongkorn University on 21 August 2016 in Bangkok.

⁵⁴ See <http://www.thaihalalfoods.com/EN/industry-thai.php?id=11>

5. The Audit Committee will inspect the production facilities/raw materials used in production to assure compliance with Islamic principles (in cases where raw materials or items used in the
6. production contain suspicious details according to the Islamic religion, product samples must be sent for laboratory testing wherein the manufacturer shall be the party responsible for expenses incurred in said testing and analysis.
7. The Audit Committee will report on the results of the inspection for product certification by the Central Islamic Committee of Thailand and the Provincial Islamic Committee in the Halal Affairs Department sub-committee meeting for consideration of certification approval.
8. The Halal Affairs Department will take the results of the approval consideration in the sub-committee meeting for further presentation in the meeting of the Central Committee.
9. Wait to receive invoice notification (by fax) of service fees for documents necessary for the use of the Halal logo.
10. Contact (the Office) to receive necessary documents and pay service fees according to the invoice notification received or transfer to a bank account and send transfer slip by FAX to the Financial Department so documents can be sent by mail.

However, regulating the halal product in Thailand is not free from challenges as well. There is a movement to boycott halal product by slandering halal product as part of Islamization and fundraising to support violence and

terrorism. Here are some expressions founded at Facebook:⁵⁵

Halal Funds Terrorists: ZAKAT If you buy halal certified products, you are indirectly funding terrorists, because 1/8 of the Zakat money collected is given to the unpaid Fighters For Islam... in other words - the Terrorists.

ALL Devout Muslims pay Zakat from the proceeds of the halal industry, which is given to charitable organizations, which send the funds on to those who 'fight in the Cause of Allah'

The problem is where the halal certification money ends up. Every time you buy a halal-certified product, you are funding Islamic expansion. Do you want to support Islam with your everyday food purchases?

Therefore, halal certification and halal market development in Thailand are not free from obstacles and challenges. Those obstacles do not the government and private parties refrain from expanding this program.

E. Discussion: Socio-Economic Challenges

Food and drinking is a basic need for human beings. Very important for the human to consume clean, excellent and healthy eating. For Muslims, the obligation to consume their foods must be under Allah's guidance. In other words, Muslims must eat *halal* food. Halalan means things that can be wasted due to it are free from specific prohibitions.⁵⁶

The Holy Qur'an regulates everything of human affairs, including eating and drinking. The Holy Qur'an in surah al-Baqarah: 168 says: " O you people, eat what is on

⁵⁵ See <https://www.facebook.com/BH.Thailand/>

⁵⁶ Ledia Hanifa Amaliah, *Menata Jaminan Halal di Indonesia*, (Jakarta: Beebooks Publishing, 2016): 18.

earth, Lawful and good; and do not follow the footsteps of the evil one, for he is to you an avowed enemy”.

It is also mentioned in the Surah al Baqarah: 172: “ *O you who believe, Eat of the good things that we have provided for you, and be grateful to Allah if it is Him you worship*”.

From these injunctions which designated to Muslims, the Muslims need to know that the rules of eating in Islam not only lawful (Halal) but also good things (thayyib). In another surah of an-Nahl: 114 say that: “So eat the sustenance which Allah has provided for you, lawful and good; and be grateful for the favours of Allah, if it is He Whom you serve”. For example, eating cow flesh is halal but if the cow to be slaughtered not in the name of Allah, it becomes unlawful.

The role of Government is essential factor to drive the development of Halal Product Assurance.⁵⁷ Article 29 paragraph (2) of the 1945 Constitution obliges the state to accommodate the society needs to perform their belief—⁵⁸In this case, Muslims belief to consume halal products—with an active role to form policies and regulations to conduct certification and labelling Halal and implement them.

The Law No. 33 the year 2014 aims to accommodate Halal Industry *stakeholders* in Indonesia. Furthermore, it also creates the opportunity of Halal Industry development in Indonesia. Through the new regulation, Government established “*Badan Penyelenggara Jaminan Produk Halal (BPJPH)*” as the only authorized agency to manage the halal certification process. Its position directly under the

⁵⁷ Dwi Purnomo, et al., “ASEAN Halal Agro-Industry Products and Institutional Competitiveness Mapping”, *Proceedings International Conference on Food Science and Nutrition 2012*, (The Pacific Sutera Hotel Kinabalu-Sabah-Malaysia 2nd-4th April 2012).

⁵⁸Muhammad Siddiq Armia, Implementing Islamic Constitutionalism: How Islamic Is Indonesia Constitution? *Journal Al 'Adalah*, Vol.15, No.2 (2018); 437-450.

supervision of the Government makes the legitimation of BPJPH stronger than MUI, which previously held the authority. However, the new regulation is not perfect yet. There are still some challenges in the implementation of the law in practice. However, the philosophy of the new regulation is to create symmetric information, which is a balance in information between food producer and consumer. The new law aims to not only to fulfil Muslim consumer needs but also to protect the consumer in general and to strengthening economic potential in Indonesia.⁵⁹

Furthermore, the enactment of Law on Halal Product Assurance must also meet with political, social and economic challenges. In Indonesia, Halal product is beyond the religious issue. For instance, Muslim in Indonesia is a complete mixture. Some groups are very liberal to the halal product, while another group is susceptible about the halal product.

Generally speaking, Indonesian Muslim People are not really into the halal product. Living in the largest Muslim country in the world and surrounded with Islamic atmosphere render Indonesian Muslim sensitivity to the halal product are not that high (comparing to Malaysian or Thailand Muslims). Many people believe that all products are already halal, even though without a certificate, due to the producers or sellers are Muslim.

On the other hand, some Indonesian Muslim groups are pretty sensitive to the halal product. If a product was found or indicated using non-halal ingredients, it will cause a decrease in the consumption of the products. This situation will not only give impacts on social condition but

⁵⁹ Zulham, Academician of Consumer Protection Law from IAIN North Sumatra in the Focus Group Discussion at the Faculty of Law of the University of Indonesia, 14 October 2016.

also affects economic condition. There were several cases as a proof of the effect of using non-halal ingredients in Indonesia, such as Ajinomoto case (2001), Carcass Chicken (*Ayam Tiren*) (2000), and Solaria Restaurant case in (2013).

Not all consumers in Indonesia are aware of the halal label in a product. As mentioned above, living in Indonesia as the most significant Muslim population in the world makes Muslim consumer believe that every product in Indonesia is halal products. As a consequence, not all consumers will check the halal label of the products. The consumer will react if it was discovered later that the products contain non-halal ingredients.⁶⁰ Owing to the current situation, the Government should take immediate action through the policy to raise the awareness of Muslim consumer in Indonesia about halal products.

According to research conducted by Dwiwiyati Astogini about consumers in Purwokerto, mostly consumer still believes in the halal label. Half of the respondents stated that they do not trust the halal products that do not include a halal label on the product. Halal label become one of the indicators that the product is halal to eat. If there is no halal label in the product, some respondents assume that the product contains non-halal ingredients.⁶¹ However, others still think that even if the product does not have a halal label, every product in Indonesia is halal because Indonesia is a Muslim majority country.⁶² Therefore, the Government needs to socialize and educate the consumer

⁶⁰ Iffah Karimah, "Perlindungan Hak atas Informasi Bagi Konsumen Muslim dalam Undang-Undang Nomer 33 Tahun 2014 tentang Jaminan Produk Halal", *Undergraduate Thesis*, Universitas Indonesia, 2015; 53.

⁶¹Dwiwiyati Astogini, et.al. "Aspek Religiusitas dalam Keputusan Pembelian Produk Halal: Studi tentang Labelisasi Halal pada Produk Makanan dan Minuman Kemasan" *Jurnal Ekonomi Bisnis dan Akuntansi*. (Vol 13, No.1 2011)

⁶² *Ibid*; 4

in Indonesia about halal product issues, not only the basic concept of halal itself but also about the importance of halal certificate in Indonesia.

However, religious and cultural diversity in Indonesia can also be a challenge to the new regulation. Some people rejected the existence of this Act because it will affect social segregation in Indonesia society, which is multi-religious and multi-ethnicity.⁶³ This statement is exaggerated because the new regulation is not an imposition of religious beliefs but for the fulfilment of the rights of Muslim consumers to know all the information related to the product⁶⁴ Even Thailand, which has a minority Muslim population already has halal tourism program, to achieve more enormous market from the middle-east region. The government of Thailand also protects and develop the halal product, not merely to respect religious needs but because of they even aware that halal product/halal services will boost the economy, trade, business, creating good quality products, as well as will invite more foreign tourists to come to Malaysia.

In addition, the new regulation does not prohibit the non-halal product, as long as the product is honest about the ingredients and clearly stated that the product is non-halal.⁶⁵

As mentioned above, Indonesia is the most prominent Muslim county in the World, which is 87.8% of the total population in Indonesia. The number of Muslim consumers in Indonesia proof that Indonesia has a huge potential

⁶³ Tulus Abadi, et.al., *Peran Serta Masyarakat dalam Pemberian Informasi Produk Halal*. (Jakarta: Ministry of Law and Human Rights, National Law Development Board, 2011); 45.

⁶⁴ *Ibid*; 51.

⁶⁵ Sumunar Jati, Vice Director of LPPOM MUI in the Focus Group Discussion at the Faculty of Law of the University of Indonesia, 14 October 2016.

market to develop halal products. In the Global era, the number of products from the outside country can quickly enter Indonesia. The Halal Product Assurance Act has become a critical regulation to support Indonesia's economic competition at world level. The presence of Halal management is give not only benefits for Muslim consumers in Indonesia, but also the business communities.⁶⁶

At this moment, the halal industry has become a prospective business. Halal logo can give Assurance of consumer to trust the product quality. For the producer, halal certificate and halal label can provide a value added for the product itself. Muslim consumers, especially in Indonesia, is a potential market to buy a product with halal label. Halal products also attract non-Muslim consumer because halal products show good quality.⁶⁷ Indeed, business communities will get benefits economically through the halal label. Besides that, through halal regulation, producers have appropriate rules and standards for producing halal products. Therefore, halal products from Indonesia can be exported to the markets around the world.

Unfortunately, several business communities still reluctant to implement halal regulation. Most of them worry that the regulation will increase food production cost. Indeed, to obtain halal certification is costly and it will increase the cost of the products. As a consequence, commodity prices also rising significantly.⁶⁸ Several communities also reject the new regulation because it will compound Small and Medium Enterprise (SME). This concern arises because of the lack of understanding from

⁶⁶ Siti Aminah, *Peluang Indonesia Sebagai Pusat Halal Dunia*

⁶⁷ Tulus Abadi, dkk., *Peran Serta ...*: 62.

⁶⁸ Indonesia, Academic Draft of Halal Product Guarantee Act, Jakarta: Secretary of Commision VIII, DPR RI. 2011. p. 114-115.

the business producer in Indonesia about the potential benefit through halal certification.

Another challenge comes from the pharmaceutical industry. Regarding Billon Halal Product Assurance, the IPMG provided the position as follows:⁶⁹

Different from other products, such as food and beverages, most drugs are not intended to be consumed upon the free choice of consumers. Medicines, in particular, prescription drugs, are prescribed to patients by doctors who have the necessary competence and expertise to choose pills appropriately and in the best interests of the patient's health. Categorizing certain pharmaceutical products as non-halal is not sensible to public health objectives and will harm patient's access to optimal health treatment and disease prevention (vaccines). Halal certification for biotechnology products, such as vaccines, risks inspiring a growing reluctance among patients to use them, illustrated by the recent controversies around meningitis vaccine to Indonesian candidates to hajj. This will lead to under-application of particular vaccines, due to either spiritual observance or doubts about its safety, which will have the unintended consequence of harming public health. Under-vaccination has severe health ramifications at national and at international levels as diseases can cross international and community borders Just as easily and as frequently as the people who carry them. In the perspective of public health, the safety of pharmaceutical products, not its

⁶⁹ IPMG Position Paper on the Bill on Halal Product Assurance.
See [file http://www.ipmg-online.com/images/file/fileA115120120928173455.pdf](http://www.ipmg-online.com/images/file/fileA115120120928173455.pdf)

halal status, is the core issue that must be guaranteed by the State. BPOM is the primary author and enforcer of the protection of human subjects in Indonesia when it comes to medicines. IPMG believes that BPOM is the competent and sufficient gatekeeper to ensure the quality, safety and efficacy of pharmaceutical products marketed in Indonesia. For the patients' interest, the mandatory halal certification would also prolong the timeline for patients to get medicine access, which may harm patients' safety. The impact to the industry will be quite significant in terms of additional cost considering that the Bill makes compulsory the requirement to physically separate premises and equipment used for processing halal pharmaceutical products from that used for processing non-halal products. Considering the distinct nature of pharmaceutical products and their importance for public health, IPMG believes that Indonesia should take the example of other countries with large Muslim population such as Malaysia and Saudi Arabia which focus on quality, safety and efficacy in the assessment of pharmaceutical products.

The local business community has also expressed its concerns. On Sept. 30, Franky Sibarani, in his capacity as the secretary general for the Indonesian Food and Beverage Association (Gapmmi), said the law could potentially place unnecessary burdens on small and medium-sized enterprises. Franky has since been appointed the chairman of the Indonesia Investment Coordinating Board (BKPM). “The business community is sticking to its stance to refuse the mandatory policy [for halal certification], even though it will only be implemented by 2019,” Franky told local media

as head of Gapmmi. He said that the cost of getting a certificate from the MUI is currently about Rp 2 million. Should the procedure under the new law be fully implemented, small businesses may be over-burdened if they are forced to pay for the examination of their raw materials that are imported from overseas.⁷⁰

Producer in Indonesia failed to see the demand of Muslim consumers about halal products. Most of them only see halal certification as an obstacle for their business. In fact, halal certification is an investment to improve the quality and value of the product. As a comparison, the producer in Malaysia and Thailand already considers halal certification as an advantage to their products, so they are voluntarily applying for halal certification. Through halal certificate, they have quality assurance of products and provide the Muslim consumers demand of the halal product. Therefore, the Government needs to take immediate action to socialize and educate business communities about the potential of Halal certification. Furthermore, the Government can play an active role by providing incentives or tax exemptions for the products.

In a note published on November 4th 2016, the European Union's Delegation to Indonesia, Brunei Darussalam and ASEAN, said that should the law be implemented "in the same spirit as its far-reaching provisions, it will no doubt put in place one of the most extensive and draconian halal regimes of any country.

"At first glance, the law would not appear to be in contradiction to Indonesia's WTO [World Trade Organization] obligations. It applies to domestic companies in the same way as it does to imported goods and is

⁷⁰ See <http://www.amcham.or.id/fe/4839-indonesia-s-halal-food-law-pros-and-cons>

therefore non-discriminatory. However, the impact will be more negative for imported products," the EU note said.⁷¹

The enactment of Government Regulation No. 31/ 2019 as an executing regulation of Law No. 33/ 2014 has also shown the complexity of halal product assurance. This regulation mentions that the halal certification will be applied gradually (to different products) and by considering specific conditions (article 68 to 71 Government Regulation No. 31/ 2019) which will be further governed by Minister Regulations.

From the discussion mentioned above, it infers that to regulate a halal product assurance in Indonesia is easier, but to implement it is another story. There are some challenges in social, cultural, political and economic factors.

F. Conclusion

Regulating halal product assurance in Indonesia, particularly before and after enactment of Law No. 33/ 2014 on Halal Product Assurance has presented socio, cultural, political and economic dynamic.

To enact the law on halal product assurance is easier, but to implement and to accommodate all parties' needs and wants are really challenging. Besides, Indonesia is not an Islamic country, that renders the institutionalization of Islamic values into national laws is not as easy as we imagine.

Whatsoever, halal product assurance without proper regulation is nothing and complicated to be implemented. Research conducted in Indonesia, Thailand and Malaysia has shown that the endorsements of law provided by the state (and by the Central Islamic Committee in Thailand) are very important.

⁷¹ See <http://www.amcham.or.id/fe/4839-indonesia-s-halal-food-law-pros-and-cons>

However, to depend only on regulation to implement halal product and halal certification nationwide are not enough. Research shows that the state must consider social, economic and political issues into account.

The halal product is beyond regulation and beyond the religious issue. The state and non-state actors must ensure those halal products are healthy, tasty, clean and affordable products. The halal product will also foster and boost business and economic development.

Also, raising public awareness of halal product must be a priority thing to be done. The success of halal product's compliance is greatly influenced by people awareness to halal product.

The enactment of Law on Halal Product Assurance of 2014 and Government Regulation No. 33 of 2019 Indonesia, therefore, is not yet a victory to halal product's adherents. On the contrary, the struggle has just been beginning, namely to raise and educate public awareness toward the halal product.

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