

An Analysis of Rice Management in Indonesia: From Law Enforcement Perspective to PT Indo Beras Unggul

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Abstract: In 2017, the Indonesian government subsidized IDR32.5 trillion for agricultural sector, including seed and fertilizer subsidy for rice. This is due to the Government's duty to maintain the rice price because rice is often used by business actors as an object to seek more profit in a way contrary to the rules and regulations, such as the case of PT Indo Beras Unggul (PT IBU). In that case, the suspect TW is considered responsible for a number of frauds that mislead the consumers. The deceitfulness is proved through the quality indices of Nutrition Adequacy Ratio (NAR) table which says the percentage of nutrient requirement can be fulfilled if the rice is consumed. This study shows that: 1) The national rice production management has not been properly performed which opens an opportunity for bad business actors to get more profit; 2) Law enforcement against PT IBU conducted by the Police of the Republic of Indonesia is the ultimate resort (*ultimumremedium*); 3) Unlawful act committed by PT IBU was followed by other companies. However, since there was a legal action against PT IBU, other companies stopped such activities.

1 INTRODUCTION

As an agrarian country, Indonesia is endowed with abundant natural resources in addition to its highly strategic position. Geographically, Indonesia lies in the tropical zone with such high rainfall that many types of plants can survive and grow quickly. Some Indonesian people obtain their livelihoods from agriculture or farming. Agricultural sector in Indonesia produces a wide range of export commodities including rice.

In 2017, the Indonesian government subsidized IDR32.5 trillion for agricultural sector, comprising IDR1.3 trillion for seed and soybean and IDR31.2 trillion for fertilizer (Director of National Budget Arrangement, 2017). Through such a very large amount of subsidies, the Government intends to reduce the operational costs of farmers and to get a maximum rice production.

In addition to maintaining national rice production, the Government must also maintain the price, which is intended to maintain the inflation rate caused by staple goods. Rice is often used by business actors for more profit gain. Based on the data in 2016, producing 79.3 million tons of rice from the dry unhusked rice (GKG) requires around

IDR278 trillion. The selling price from farmers to traders is IDR352.7 trillion, so farmers earn a profit margin of IDR65.7 trillion. If such amount is distributed to 56.6 million farmers from 14.1 million rice farming households, then each of them will only earn a profit margin of 1 to 2 million rupiahs per year. While on the downstream side, consumers buy medium-class rice from intermediary traders or middlemen on the average of IDR10,582/kg equivalent to IDR488 trillion. Thus, the profit margin earned by the intermediary traders or middlemen after subtracted with the purchasing cost is at IDR133 trillion. There are about 400 thousand intermediary traders or middlemen, so each of them gets a profit margin of about IDR333 million (Santosa, 2018)

The distribution of profit margin amongst these actors does not contain justice values, and becomes one of the problems in the rice trading system in Indonesia where middlemen get a large amount of profit, but producers get a very small amount. Such calculation only involves the price of medium rice. The profit margin will even get higher for premium rice or packaged rice because people pay more for that type of rice. The price of premium/packaged rice in the modern market is on average of more

than IDR20,000/kg. Business actors of premium/package rice are willing to buy the grain at a slightly higher price. Then, they process it using a certain machine and pack it to be sold as premium rice with a very high price. Such practice is conducted by PT Indo Beras Unggul (PT IBU) (Movanita, 2017).

In PT IBU case, the suspect TW is considered responsible for a number of frauds that mislead the consumers. The deceitfulness is proved through the quality indices of Nutrition Adequacy Ratio (NAR) table which says that the percentage of nutrient requirement can be fulfilled if the rice is consumed. Necessarily, the rice composition should be stated in the label, not the NAR table, because the NAR table is only presented in ready to consume processed food packages (Movanita, 2017).

In addition, there is a problem in the 2008 edition of Indonesian National Standard (SNI) label in the packaging. PT IBU claims their product as premium rice. As a matter of fact, the provisions of SNI 2008 defines that the quality of rice is determined by Quality Level indicators from 1 to 5. Meanwhile, medium and premium rice indicators are defined in the SNI of 2015 edition. After passing a laboratory test, the quality of PT IBU rice is below the good quality level. The quality is not comparable with the price set for Maknyuss brand (IDR13,700/kg) and Ayam Jago brand (IDR20,400/kg). Moreover, the two brands did not also include PT IBU as the manufacturing company on the packaging. It says PT Sakti as the manufacturer. Against such deeds, the suspect TW is imposed with Article 382 of the Criminal Code on Fraud and Article 144 in conjunction with Article 100 paragraph (2) of Law Number 18 of 2012 on Food. Furthermore, the suspect TW is also imposed with Article 62 in conjunction with Article 8 paragraph (1) e, f, g or Article 9 h of Law Number 8 of 1999 on Consumer Protection (Movanita, 2017).

Against the deeds of the suspect TW, the Public Prosecutor at the trial in the Bekasi District Court has filed a lawsuit of two years imprisonment (Nugroho, 2018). Then, the judges stated that the defendant TW has been proven legally and convincingly committing a fraudulent crime in the rice label and pronounced a year and four months imprisonment. The basis of judges' consideration is that it has been completely proven by the law before the trial that PT IBU has produced and traded Maknyuss and Ayam Jago rice with the quality that did not match to the quality as listed. In addition, the incriminating factor was that the defendant's actions

are considered to have harmed the people (Noersativa, 2018).

The problem of this research is formulating into question: how rice management in Indonesia: from law enforcement perspective to PT Indo Beras Unggul?

2 RESEARCH METHODOLOGY

This was a normative juridical research using a descriptive analysis as the method. The data were secondary data taken from primary, secondary and tertiary legal materials. The secondary data were collected through a literature review and a field study. Then, the data were analyzed using a qualitative analysis method.

3 RESULT AND DISCUSSION

3.1 Government Policy in Rice Trading in Indonesia

3.1.1 Policy of Ministry of Agriculture of the Republic of Indonesia on Rice Commodity, Rice Import Policy versus Food Self-sufficiency Policy

Food self-sufficiency is a state in which a country is able to fulfill its own needs for food. In 1980s, Indonesia had achieved food self-sufficiency, although it was only for rice self-sufficiency. However, in the current reform era, the economic sector has been colored by socio-political factors that make food self-sufficiency policy begin to be neglected. As a result, until today food self-sufficiency in Indonesia cannot be fulfilled. This is due to the fact that the government continues applying import policies (National Development Planning Board, 2011).

In addition, the government budget does not favor the agricultural sector. Incapability of food self-sufficiency happens due to some inhibiting factors, such as reduced land for farming due to more widespread buildings, imported foreign products with a better quality, less quality seeds, reduced number of farmers, unpredictable weather, increasing price of fertilizers and so forth. As a matter of fact, Indonesia almost achieves rice self-sufficiency, but the government continues applying import policies (Deliarnov, 2006). Responding to the previously mentioned facts, if Indonesia wants to

achieve food self-sufficiency, the Government must pay more attention to the farmers' welfare. The government should also expand agricultural land. Nevertheless, it is not only the government's duty, all of Indonesian people should also take a part to support the domestic production, and should not be too proud of imported products. Furthermore, Indonesian people must be satisfied with the quality of their own products, which can therefore help increasing the farmers' welfare. As Indonesian people, we must always support, improve and upgrade our own domestic production.

3.1.2 Policy of Ministry of Trade of the Republic of Indonesia on Rice Commodity

The policy of the Ministry of Trade on rice commodities defines the Highest Retail Price (HRP) of Medium and Premium Rice applicable to traditional and modern markets. In Java, Lampung, South Sumatra, Bali, West Nusa Tenggara and Sulawesi, the HRP of Medium Rice is at IDR9,450/kg and Premium Rice at IDR12,800/kg. Meanwhile, in Sumatera areas (excluding Lampung and South Sumatera), Kalimantan and East Nusa Tenggara, the HRP of Medium Rice is at IDR9,950/kg and Premium Rice at IDR13,300 due to leniency of distribution cost as much as IDR500/kg. In Maluku and Papua, the granted leniency of distribution cost is at IDR800/kg, so the HRP of Medium Rice is at IDR10,250/kg and Premium Rice at IDR13,600/kg (Press Release of Public Relation Bureau of Ministry of Trade of the Republic of Indonesia, 2017).

Enggartiaso Lukita, the Minister of Trade, states that "The determination of HRP is intended to control the price which recently tends to increase. With this HRP, consumers get a price certainty and keep their purchasing power. In addition, rice HRP can also prevent price speculation" (Setiawan et.al, 2018).

3.2 Law Enforcement against PT Indo Beras Unggul (PT IBU)

3.2.1 Case of PT IBU

Food Task Force Team, composed of Investigators of Detective and Crime Agency of Indonesian National Police, Ministry of Agriculture of the Republic of Indonesia and other related institutions established in January 2017, had succeeded in raiding PT Indo Beras Unggul (PT IBU) in Kedungwaringin, Bekasi

Regency. The raid is related to the violation of the selling price stipulated by the Government of the Republic of Indonesia. The Minister of Agriculture said, "The Company (PT IBU) put on a high selling price that clearly harms the consumers and the public. In addition, the purchasing price from the farmers is very cheap. PT IBU bought government subsidized rice at IDR7,000/kg, then sold it at IDR20,000/kg to consumers. If this continues, the two parties are mistreated, the farmers and the consumers"

(<https://economy.okezone.com/read/2017/07/28/320/1745906/mengurai-kusutnya-kasus-beras-oplosan-pt-ibu-bagaimana-solusinya>).

This case becomes more interesting when PT IBU, as a subsidiary entity of PT Tiga Pilar Sejahtera Food Tbk (AISA), refused to be said falsifying the quality of its products (Press Release of Business Competition Supervisory Commission, 2014). The company used a different measurement standard from the one defined by the Food Task Force for determining the category of premium rice. According to PT IBU, in defining the rice category, SNI uses rice physical characteristics. Meanwhile, the Food Task Force set the premium standard based on the type of its varieties. PT IBU denied of producing IR64 rice. However, they claimed of producing premium quality rice in accordance with SNI standards (i.e. based on visual parameters), not the type of varieties.

To obtain grain/rice, PT IBU has recruited around 3,400 farmer partners scattered throughout Indonesia who are assigned to purchase grain/rice from the farmers. In addition, PT IBU also employs Bulog (Indonesian Bureau of Logistics) Officers who have many partners by providing them a larger salary. For the price, PT IBU purchases grain/rice at a higher price (around IDR200/Kg higher) than other business actors including the Bulog. Referring to the Regulation of the Minister of Trade Number 27/M-DAG/PER/5/2017 concerning Determination of Purchasing Price from Farmers and Selling Price to Consumers, the price for dry unhusked rice (GKG) is at IDR4,600/kg and at IDR7,300/kg for rice. By buying at a higher than the price determined by Bulog, farmers sell their rice to PT IBU.

The Bureau of Logistics (Bulog) as a State-Owned Enterprise (SOE) is also harmed by the actions of PT IBU. Due to buying the grain/rice above the price regulated by the government, Bulog cannot compete with PT IBU. Bulog cannot buy the grain/rice from farmers for national reserves, resulting in the decreasing amount of national rice

stocks and inability to meet the stipulated target. If Bulog pays at IDR4,600 for a kilo of GKG, PT IBU pays at IDR4,800; and if Bulog pays at IDR7,300 for a kilo of rice, PT IBU pays at IDR7,500.

Buying grain/rice with a higher price than Bulog's and other small-scale business actors does not really affect PT IBU. Since it can process and package the rice for sale in the modern retailers at a higher price, i.e. IDR20,000 to IDR30,000 per kilogram.

The greatest losses are certainly experienced by the public because, as consumers, they must buy the rice at a very high price. People are deceived by the promise as stated in the rice packaging label. It says SNI 6128-2008 which certifies the Quality I of PT IBU rice production especially under the Maknyuss and Cap Ayam Jago Merah brands. However, based on a laboratory test, the quality of Maknyuss is at Quality III and Cap Ayam Jago Merah at Quality II.

On the packaging, PT IBU presents misleading information to consumers such as the inclusion of Nutrition Adequacy Ratio, unusual Nutrition Facts and unsuitable production sites. The investigation reports that PT IBU produces 21 brands; and after the laboratory tests, 20 brands of rice did not match to the specification as presented in the packaging label. This is certainly very detrimental to consumers who bought the rice at a very high price but at a lower quality.

Such practice is mostly conducted by the rice industry using packaging brands. Almost all packaged rice in the modern retail are sold at a higher price of more than IDR20,000/kg. Imposing penalty for PT IBU is a good example of law enforcement that has exactly disrupted the rice mafia in Indonesia.

3.2.2 Legal Aspects of Business Competition

From the legal aspects of business competition, PT IBU has violated the Law Number 5 of 1999 on Prohibition of Monopolistic Practices and Unfair Business Competition because the selling price (at IDR20,400/kg) was very much higher than the purchasing price (at IDR7,500/kg). In the upstream (purchasing of GKG), there has been a monopoly practice where PT IBU raised the purchasing price of grain, i.e. at IDR4,800/kg. Meanwhile, the permitted price based on the Regulation of the Minister of Trade Number 27/M-DAG/PER/5/2017 concerning Determination of Purchasing Price from Farmers and Selling Price to Consumers is at IDR4,600/kg for dry unhusked rice (GKG) and at

IDR7,300/kg for rice. By buying with a higher than the price determined by Bulog, farmers sell their rice to PT IBU.

In the upstream, there has been a fraudulent practice through monopoly practices by raising prices that are not in accordance with the provisions. Such fraudulent practice is an unfair business competition amongst the business actors of similar fields. Thus, the small-scale rice producers are no longer able to buy at a price that larger-scale rice producers offer. Small-scale business actors cannot buy rice higher than the price offered by PT IBU.

3.2.3 Legal Aspects of Consumer Protection

The greatest losses are certainly experienced by the society because, as consumers, they must buy rice at a very high price. People are deceived by the promise as stated in the rice packaging label. It says SNI 6128-2008, and in the SNI certificate the quality of rice, especially under the brands of Maknyuss and Cap Ayam Jago Merah, is at Quality I. However, after a Laboratory Test, the rice quality of Maknyuss is at Quality III and Cap Ayam Jago Merah at Quality II.

In the label, PT IBU presents misleading information to consumers such as the inclusion of Nutrition Adequacy Ratio, unusual Nutrition Facts and unsuitable production sites. The investigation proves that PT IBU produces 21 brands; and after the laboratory tests, 20 brands did not match to the quality presented in the packaging label. This is certainly very detrimental to consumers who bought rice at a very high price but with a lower quality.

3.2.4 Aspects of Criminal Law

The criminal law aspects against the deed of the suspect, the President Director of PT IBU, in producing rice include:

- a. PT IBU produces 21 brands of rice; investigators have conducted a Laboratory Test to them. Only 1 brand is in accordance with the label, while the other 20 brands are not in accordance with the presented quality in the packaging label.
- b. PT IBU deliberately produces rice by lowering the quality. The rice in Quality I is produced in lower level of quality. For example, Maknyuss and Cap Ayam Jago brands have a certificate of SNI 6128-2008. In the certificate, the quality of the two brands is at Quality I. However, the laboratory test explains that the quality Cap Ayam Jago is at Quality II and Maknyuss at Quality III.

- c. PT IBU commits a retail company fraud by not implementing the agreement as stated in the contract. For example, PT IBU enters into an agreement with modern retailers to produce rice with a particular brand (a private brand). In the agreement, PT IBU must produce rice at Quality II, but the fact shows the rice quality produced in the packaging is at Quality IV and Quality V.
- d. PT IBU commits a public deception by listing rice variety on labels that are inconsistent with the content. In one of the brands, it says Rojolele variety, Pandan Wangi (tender, fragrant and only produced in certain area). However, the fact shows the rice belongs to the ordinary variety.
- e. The label provides misleading information to consumers. For example: the inclusion of NAR (Nutrition Adequacy Ratio) is not in accordance with the provisions of the Regulation of the Head of National Agency of Drug and Food Control Number 9 of 2016 concerning Table Reference. Inclusion of NAR is only for processed food (ready for consumption food). Meanwhile, rice is fresh food (must be processed before consuming) as regulated in the Regulation of Minister of Health Number 75 of 2013 concerning Nutrition Adequacy Ratio, so inclusion of NAR table is not allowed.
- f. PT IBU produces Maknyuss and Cap Ayam Jago Merah brands. The label says they are produced by PT Sakti, Sragen. However, the fact shows that they are produced by PT IBU in Bekasi;
- g. The inclusion of nutrition values at 2,200 kcal is not appropriate because, according to the Regulation of the Head of National Agency of Drug and Food Control Number 9 of 2016, the nutrition values should be 2,150 kcal.

The investigators' actions during the investigation process against PT IBU were only done on the rice produced and traded that are not in accordance with the provisions of the legislation. The investigators did not ask PT IBU to stop the process of rice production. The confiscation is addressed to the packed rice which is not in accordance with the provisions of the legislation; the investigators did not confiscate the machines/tools used in the production process.

4 CONCLUSION

National rice production with improper management provides opportunities for profit hunters to gain as high profit as possible. Consequently, a number of companies try to take advantage of such weaknesses

through rice processing business to gain higher profits. Therefore, the Government and the people are two parties disadvantaged by such business model. The government arranges the production using a large state cost, but the products are managed by "bad" private companies to gain huge profits; and the people should pay a higher price determined by such private companies.

Law enforcement against PT IBU by the Indonesian National Police is the ultimate option (*ultimumremedium*) after finding some unlawful acts in the criminal context (*wederrechtelijkheid*) committed by the suspect, the President Director of PT IBU.

Unlawful acts committed by PT IBU have also been imitated by other medium and largescale entrepreneurs/private companies. However, with the legal actions against PT IBU, other entrepreneurs/private companies stop conducting such business model and eventually follow the regulation set forth by the Government of Indonesia, i.e. Regulation of the Minister of Trade Number 57/M-DAG/PER/8/2017 concerning Determination of Highest Rice Retail Price and Regulation of the Minister of Agriculture Number 31/PERMENTAN/PP.130/8/2017 concerning Rice Quality Class.

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