



TRENDS IN SOUTHEAST ASIA

THE HALAL PROJECT IN INDONESIA

**Shariatization, Minority Rights
and Commodification**

Syafiq Hasyim

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FOREWORD

The economic, political, strategic and cultural dynamism in Southeast Asia has gained added relevance in recent years with the spectacular rise of giant economies in East and South Asia. This has drawn greater attention to the region and to the enhanced role it now plays in international relations and global economics.

The sustained effort made by Southeast Asian nations since 1967 towards a peaceful and gradual integration of their economies has had indubitable success, and perhaps as a consequence of this, most of these countries are undergoing deep political and social changes domestically and are constructing innovative solutions to meet new international challenges. Big Power tensions continue to be played out in the neighbourhood despite the tradition of neutrality exercised by the Association of Southeast Asian Nations (ASEAN).

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The Halal Project in Indonesia: Shariatization, Minority Rights and Commodification

By Syafiq Hasyim

EXECUTIVE SUMMARY

- The government of Indonesia in the second term of the Jokowi presidency has fully endorsed the concept of halal to become not only a sharia-driven state law but also an incentive for the advancement of the national economy and market. In addition, Jokowi wants Indonesia to become the centre of the global halal industry.
- In the history of Indonesian Islam, although the issue of halalness, being an unseparated part of Islamic doctrine, is not new, it had never been the role of the state to formalize it into state law prior to the legislation of State Law No. 33/2014 on Halal Product Assurance.
- From the 1990s to 2014, halal matters including halal certification had been unofficially handled by the Council of Indonesian Ulama (MUI). Then, the Ministry of Religious Affairs (MORA) proposed that halal certification be officially handled by the government of Indonesia, not by Muslim organizations. The legislation of State Law No. 33/2014 reflects contestation between MUI and MORA regarding which institution should serve as the authority in certifying halal products.
- Promoting and advancing the halal project of Indonesia are related not only to commodification but also to theology. The choice of the Islamic method for determining halal can become a barrier to improving inclusive economic and market performance. The halal system in Indonesia follows the Shafi'i school of thought in Islamic law, which is very strict in defining the halalness of relevant

products. However, a more flexible method of *ijtihad* (Islamic legal reasoning), which can accommodate the development of the halal market, is needed.

- Despite claims that the formalization of halalness through State Law No. 33/2014 accommodates universal and inclusive values, some religious minority groups worry that the law will shore up the shariatization agenda of the Muslim majority and marginalize religious minorities in terms of their lifestyle preferences.
- The legislation of State Law No. 33/2014 has allowed shariatization to be not merely an issue associated with political Islam, but one that through commodification is grounded in the everyday lives of Muslims and non-Muslims alike.

The Halal Project in Indonesia: Shariatization, Minority Rights and Commodification

By Syafiq Hasyim¹

INTRODUCTION

Discussions on halal are not newly invented in the context of Indonesia only since the formalization of the halal issue in the 1990s. The matter has been recognized since the coming of Islam to the archipelago. As with other religions such as Judaism, Islam also has regulations on the lawfulness and the unlawfulness of consuming and producing goods, which are classified as halal (permissible) and haram (impermissible or forbidden). In addition, halal and haram are considered important distinctions in Islam.² Because halal and haram have doctrinal positions in Islam, all Muslims are committed to upholding that difference in their daily life. Other than taking part in mandatory prayers, Muslims are regulated in what is permissible and impermissible in eating, drinking and other behaviours. Those who do not obey are categorized as sinful Muslims. Propagators of this doctrine, such as the Council of Indonesian

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² The concept of halal and haram is not only identical with Islam, but also with other religions. Yusuf Qaradawi states that halal and haram has been long recognized by all old religions in the world, see Qaradawi (2012), p. 12.

Ulama (Majelis Ulama Indonesia, or MUI), have proposed that what constitutes halalness and haramness for Muslims should be made transparent. They consider access to information on halal and haram on the labels of products to be a right for Indonesian Muslims. Based on this, they have long lobbied for the formalization of halalness in the legal and public sphere of Indonesia.

Jokowi's push for halal formalization is understandable, given the economic and market benefits that Indonesia would potentially gain. His government has however not given sufficient consideration to the fact that halal formalization can generate injustices and discrimination against non-Muslims. State Law No. 33/2014 on Halal Product Assurance hints that Indonesia has agreed to use sharia as part of the national law, and this phenomenon can be perceived as Indonesian partiality to that tradition. In this regard, marginalization and subordination of non-Muslims could result. In short, the Jokowi government seems to have only considered the political-economic interests rather than the national interests of Indonesia. The formalization of halal can cause social segregation and polarization for those Indonesians who hold different faiths and consumption patterns.

In classical *fiqh*,³ halal is often understood as permission to consume goods mostly associated with food and drinks. In the modern era, the halal status is defined to extend to other sectors such as cosmetics, hotels, tourism and fashion. The expansion of the definition of halal also means the expansion of religion in determining consumption patterns in different spheres of life.

Especially under the presidency of Joko Widodo, Indonesia seems to be putting serious effort into the enhancement of halal projects.⁴ The

³ *Fiqh* is the discipline of Islam that contains rulings on specific cases of Islamic law. See Hallaq (2011).

⁴ <https://katadata.co.id/ameidyonasution/berita/6170fad8b12e3/jokowi-targetkan-ri-jadi-pusat-industri-halal-dunia-pada-2024> (accessed 29 January 2022).

Jokowi government aims to make Indonesia the largest halal market in the world by 2024.⁵

This article focuses on the halal project in Indonesia based on the author's direct observation and analysis of books and journal articles as well as information that especially covers and highlights the halal issue. This article highlights three issues related to halal: halal as part of the process of shariatization; its impact on minority rights; and its relationship with identity politics.

CONTESTING THE HALAL ISSUE

Towards the end of the presidency of Susilo Bambang Yudhoyono (SBY) (2014), there was a public discussion regarding which institution was appropriate for issuing halal certificates. This debate was driven by the Ministry of Religious Affairs (MORA) which proposed a state law to regulate halal product assurance. The Minister of Religious Affairs Suryadarma Ali⁶ proposed the provocative idea that issues regarding halalness should become the domain of the government, not civil society. He directly stated that the issuance of halal certificates should become the task of the government of Indonesia and the role of MUI in this regard was to provide legal opinions (*fatwa*) about the halalness of products. This touched on the role of MUI in halal certification. So far, halal certification had fully been done by MUI, and it has been because of the intensity of MUI's public endorsement of the issue that many goods producers have felt obliged to obtain a halal certificate.

Historically speaking, the first initiative towards halal certificates was made by MUI in 1989. From 1989 onwards, MUI through LPPOM (MUI

⁵ <https://www.cnbcindonesia.com/news/20211021135226-4-285485/jokowi-ingin-ri-jadi-pusat-industri-halal-dunia-di-2024>

⁶ Suryadharma Ali was the Minister of Religious Affairs in the second term of SBY's presidency (2009–14). Towards the end of his period as minister, Suryadharma was arrested by KPK (Corruption Eradication Commission) on corruption charges. See <https://nasional.tempo.co/read/657651/kpk-periksa-7-saksi-kasus-suryadharma> (accessed 29 January 2022).

Institute for the Study of Food, Drugs, and Cosmetics) has acted as the sole issuer of halal certificates.⁷ MUI did halal certification without being authorized by state law because MUI is not a state institution, but from its cultural position as a *fatwa*-issuing authority and in its role as the umbrella body for Muslim organizations in Indonesia.⁸ MUI being an umbrella body is actually continuing with its role from the Suharto era.⁹ Back then, MUI was a clearing house for various Muslim organizations on the affairs of Muslims. Those who could join the clearing house had to be leaders of Muslim organizations. Suharto put his trust in MUI. After the public controversy of *Dancow* milk and lard product contamination in the 1990s, Suharto asked MUI to set up a body to scrutinize the halalness of ingredients in food and drinks.¹⁰

The issuing of halal certificates by MUI poses a dilemma for the Indonesian government, however. On the one hand, MUI's monopoly in issuing halal certificates since the 1990s can be seen as being unfair to other Muslim organizations such as Nahdlatul Ulama (NU) and Muhammadiyah, which like MUI, have social and political functions to carry out as well. On the other hand, if all Muslim organizations were entitled to issue halal certificates, it could lead to excessive competition and difficulties in governance. Because of this, MORA argues that it is more expedient for halal certification to be directly under the supervision of the government.¹¹ Moreover, legally speaking, the execution of state law or policy should come under a government agency rather than MUI, which is not a state organ.¹²

⁷ Girindra (2008).

⁸ Hasyim (2016).

⁹ Mudzhar (1993); Adams (2004); Hasyim (2014).

¹⁰ Yakin and Christians (2021).

¹¹ <https://nasional.tempo.co/read/558954/pemerintah-ambil-alih-sertifikasi-halal-dari-mui/full&view=ok> (accessed 30 December 2021).

¹² Although MUI received strong endorsement from the Suharto regime when it was established, this *ulama* organization was not formed as part of the state.

Another important reason behind MORA's proposal is that MUI did not pay taxes from its halal certification income, which it should have done.¹³ This argument resonated with the public, leading to support for MORA to take over the halal certification process. In addition, there was increasing public criticism over MUI's monopoly of halal certification and how the process had become complicated.

To be sure, MUI had also proposed that halal certification receive the mandate of the state, but through the institutional transformation of LPPOM into a state organ rather than through setting up a new agency. This idea was mooted by MUI frequently in its important meetings like Ijtima' Ulama and many others. From the perspective of MUI, halal certification was the domain of the *ulama*, being a religious matter. As Amidhan (chairman of MUI) argued, the *ulama* were the religious experts, after all.¹⁴

At that time, representatives of certain political parties had agreed that halal certification should be handled by MUI rather than MORA.¹⁵ The PDI-P, which was in opposition when Suryadharma Ali proposed this plan, for instance, argued that MORA was already been overwhelmed by affairs related to the haj, and it should therefore be MUI that should handle halal certification. Nevertheless, Suryadharma Ali went ahead with his agenda and delegated authority over halal certification to a new state *fatwa* agency by introducing State Law No. 33/2014 under the SBY presidency. While this ended the monopoly of MUI in halal certification, such state intervention into religious affairs also introduced sharia elements into the state law of Indonesia.

¹³ <https://nasional.kompas.com/read/2014/02/27/1357178/MUI.Tak.Pernah.Laporkan.Pendapatan.dari.Sertifikasi.Halal> (accessed 30 December 2021).

¹⁴ https://www.bbc.com/indonesia/forum/2014/03/140303_forum_sertifikat_halal (accessed 21 January 2022).

¹⁵ <https://nu.or.id/amp/warta/polemik-hak-sertifikasi-halal-kembali-mengemuka-1KJVx> (accessed 21 January 2022).

DEEPENING HALAL ISSUE IN JOKOWI'S ERA

Although State Law No. 33/2014 on Halal Product Assurance was legislated under the SBY presidency and signed by the President on 17 October 2014, it was under the Jokowi administration that this law was implemented in a more concrete form. When this State Law was legislated in 2014, a transitional period was allowed before the full implementation of the law in 2019 under the State Agency for Halal Product Assurance (Badan Penyelenggara Jaminan Produk Halal, or BPJPH).¹⁶ During this period, MORA under Jokowi's first term in office had to prepare related or supporting regulations and policies to implement the law. While halal certification continued to be executed under LPPOM of MUI in the interim period, MORA was establishing its own halal institution, the BPJPH, to take over as the government's halal certification authority. This section elucidates the measures taken under the Jokowi administration to implement the 2014 legislation.

THE ENACTMENT OF STATE LAW NO. 33/2014

State Law No. 33/2014 contains 11 chapters and 68 articles that focus on all aspects of implementing halal product assurance. In contrast to the previous process of halal certification, which was not mandatory, this law (in article 4) states that halal certification is mandatory for all products imported, distributed and traded in Indonesia. Despite this being mandatory, the state law does not indicate what the legal sanction is for those who refuse to acquire a halal certificate. This law also excludes products which are forbidden in Islam, such as pork, from getting halal certification. Furthermore, non-halal products should explicitly state on their labels that they are haram.

The law then states the important institutions managing halal product assurance. The first is BPJPH, the government agency established under

¹⁶ See <https://halal.unair.ac.id/2019/10/04/bpjph-kemenag-kewajiban-sertifikasikan-halal-diberlakukan-bertahap/> (accessed 11 July 2022).

MORA. The second is MUI as a forum of *ulama* and community leaders (Arabic: *zu'ama*); MUI remains the sole *fatwa*-issuing authority. The third is the Institute of Halal Investigation (Lembaga Pemeriksa Halal, or LPH). This section gives attention to the role of MUI and LPH, while a separate section elaborates on the role of BPJPH. When this law was discussed and examined in public, there was a debate on whether MUI should remain in a strategic position with respect to halal certification. Eventually, MUI was given an important role. First, after the halal investigations and audits have been done by the LPH, all resulting documents are collected by the BPJPH. The BPJPH then submits the result to MUI for a halal *fatwa*. Article 33 of State Law No. 33/2014 states that MUI has full authority to determine the halalness of products through “*Sidang Fatwa*” (*fatwa* meeting). In this *fatwa* meeting, MUI can invite experts, and representatives of government or ministerial and institutional representatives for consultation, after which MUI has 30 days to issue a halal *fatwa*. After *Sidang Fatwa* agrees to issue a *fatwa*, this *fatwa* is signed by MUI. Based on this *fatwa*, the BPJPH issues a halal label.

The position of MUI in this regard is still very important because halal *fatwa* is the essence of the whole process of halal certification. Without a halal *fatwa*, the BPJPH cannot issue a halal label. MUI can also reject the issuance of a halal *fatwa* for products for which the halalness is questionable, such as when products are seen to contain non-halal ingredients. In such cases, MUI returns the products to the BPJPH, which then asks the applicants to repeat the process of halal certification from the beginning. There were at one point issues surfacing, related to the critical position of MUI in the issuance of a halal *fatwa*. The Law on Cipta Kerja (Job Creation) led to a review of State Law No. 33/2014 that gave BPJPH the prerogative to request a *fatwa* not only from MUI but also from other Muslim organizations, like NU and Muhammadiyah (article 32, verse 2).¹⁷ But this position was eventually not accepted, and

¹⁷ <https://kliklegal.com/perubahan-jaminan-produk-halal-dalam-omnibus-law/> (accessed 9 January 2022).

MUI's status as the only issuer of a halal *fatwa* for the BPJPH remained unchanged, which was in no small part due to the strong support of Vice-President Ma'ruf Amin.

However, in the halal certification process, the LPH is an interesting variable, since it can include several institutions, universities and Islamic civil society groups that are accredited by BPJPH. The law states that BPJPH can work with any LPH to conduct a halal investigation or audit, and as mentioned, various Islamic institutions and organizations, including LPPOM, may register and function as an LPH.¹⁸

STATE AGENCY OF HALAL: BPJPH

Based on State Law No. 33/2014, the sole authority for issuing a halal certificate is the government. In this regard, the government of Indonesia has the right to establish a state agency whose main responsibility is to process halal certification.¹⁹ The law states that the Minister of Religious Affairs is responsible for implementing halal product assurance through the establishment of BPJPH. Structurally speaking, the BPJPH, therefore, is unlike LPPOM under MUI. The BPJPH is a state institution which is under MORA while LPPOM is a non-state institution. BPJPH is led by a Head of Agency (*Kepala Badan*) who is answerable to MORA while LPPOM did not have any responsibility to report to the government. In short, the law places the BPJPH as the leading sector in implementing halal product assurance. However, in carrying out its duties, the BPJPH should work together with MUI and the LPH.

The BPJPH was established in October 2017, three years after the legislation of State Law No. 33/2014. However, the establishment of BPJPH does not mean that this state halal agency can directly do the process of halal certification. From October 2014 to October 2019,

¹⁸ <https://republika.co.id/berita/dunia-islam/islam-nusantara/20/02/20/q602p8327-wapres-selain-ormas-perguruan-tinggi-bisa-pemeriksa-halal> (accessed 8 January 2022).

¹⁹ Hasyim (2022).

the issuance of halal certificates remained in the hands of MUI since BPJPH was not yet ready.²⁰ The Minister of Religious Affairs issued the Ministerial Decision of MORA No. 982/2019 which states that MUI remains the implementing agency of halal certification until the BPJPH can fully function.²¹ This happened because the BPJPH was discussing and determining the tariff for halal certification and preparing for the anticipated high volume of halal certification.

In handling the halal certification process, the BPJPH wants to implement a system that is professional and responsive to business demands. An important aspect of this is a fixed timeframe for halal certification, which has been set at twenty-one days.²² From the perspective of business interests, the certainty this affords is definitely welcome.

ROAD MAP FOR THE ISLAMIC AND HALAL ECONOMY

The Jokowi government seems to have prepared concrete strategic ways to bring the Islamic economy and halal industry to an ideal situation, at least with regard to state needs. It can be seen, for instance, in a document entitled “Indonesia Islamic Economic Masterplan 2019–2024”,²³ which defines Islamic economics as a system based on the principles of Islam.

²⁰ <http://halal.go.id/beritalengkap/242> (accessed 9 January 2022).

²¹ <https://www.suara.com/news/2019/12/06/021000/menag-fachrul-razi-terbitkan-aturan-layanan-sertifikasi-halal> (accessed 9 January 2022).

²² The flow of halal certification: first, a businessman proposes a halal certification to BPJPH; second, the BPJPH scrutinizes the proposal and decides on the LPH that will carry out the investigation process; third, the LPH investigates or examines the halalness of the product; fourth, MUI holds a *fatwa* meeting and issues a *fatwa*; and fifth, the BPJPH issues a halal label, based on the halal *fatwa* made by MUI. See <http://halal.go.id/layanan/sertifikasi> (accessed 19 January 2022). However, at the practical level, keeping the halal certification process to no more than twenty-one days may be difficult.

²³ Indonesian Ministry of National Development Planning (2018).

The scope of Islamic economics is broad, stretching from finance to cosmetics and from insurance to beverage. The document produced by the Ministry of National Development Planning (Bappenas) was intended to accomplish the implementation of sharia or halal economy in Indonesia. It wants to achieve, first, an increase in the scale of the Islamic economy; second, improvements in the Islamic Global and National Economic Index; third, an increase in economic independence; and fourth, an improvement in the country's standing in the Economic Welfare Index.

All these are implemented through four strategic steps. The first is to strengthen halal value chains covering the food and drink industry, the fashion industry, the halal tourism industry and others. The second is to strengthen Islamic finance. The third is to strengthen micro, small and medium enterprises, and the fourth is to strengthen the digital economy.²⁴ Halal, in this regard, is an important part of the Islamic economy.

The halal masterplan refers to data released by the Global Islamic Economy Report 2018–2019 that place Indonesia in the top ten ranking of consumers in the halal industry. This report also states that Indonesia is at the first rank of Muslim countries in food expenditure, fifth in travel expenditure, and sixth in pharmaceutical expenditure.²⁵

At the practical policy level, in creating a more favourable environment for the rapid development of the Islamic economy, Jokowi establishes BSI (Bank Syariah Indonesia), the largest state-owned sharia bank.²⁶ BSI is the first sharia bank among the ten largest Indonesian banks.²⁷ Besides that, the endorsement of the Jokowi government is evident in the presence of Jokowi's ministers working side by side with

²⁴ Indonesian Ministry of National Development Planning (2019).

²⁵ *Ibid.*, p. 6.

²⁶ <https://www.republika.co.id/berita/qnucyv370/lima-pesan-jokowi-untuk-bsi-yang-beroperasi-hari-ini> (accessed 14 January 2022).

²⁷ <https://www.cnbcindonesia.com/market/20210921132018-17-277931/erick-di-era-jokowi-ri-punya-bsi-yang-masuk-10-besar-bank> (accessed 14 January 2022).

professional associations and organizations for the development of the sharia economy. The appointment of some important ministers in state-sponsored sharia finance institutions is not without reason. Erick Thohir (Minister of State Owned Enterprises, or BUMN) for instance is now the head of Sharia Economic Society (Masyarakat Ekonomi Syariah, or MES,), 2021–24.²⁸ His appointment as the head of MES is of course expected to have a direct impact on the development of the Islamic economy, considering his position as the Minister of BUMN. Before that, Sri Mulyani (Minister of Finance) had been appointed leader of the Association of Islamic Economy Experts (Ikatan Ahli Ekonomi Islam, or IAEI). Mulyani believes that the Islamic economy can be implemented if it is set up inclusively.²⁹

Based on the above explanation, the road map of Indonesia towards the advancement of the Islamic or halal economy has been laid out by the Jokowi government; the effectiveness of the masterplan, however, is not only driven by the readiness of policy, but by how this policy is implemented by all stakeholders in the Islamic economy. This is to say that the Islamic economy is not only related to sharia but also to the political economy of the state.

THE WORLD HALAL CENTRE AND A QUESTION OF THE *IJTIHAD* METHOD

President Jokowi states that Indonesia aims to become the world centre of the halal industry and fashion by 2024.³⁰ His statement seems to

²⁸ <https://money.kompas.com/read/2021/01/23/195530126/erick-thohir-terpilih-jadi-ketua-umum-masyarakat-ekonomi-syariah> (accessed 14 January 2022).

²⁹ <https://ekonomi.bisnis.com/read/20191213/9/1181101/jadi-ketua-iaei-sri-mulyani-kembangkan-ekonomi-islam-yang-inklusif> (accessed 14 January 2022).

³⁰ This statement was stated by Jokowi when he opened Trade Expo Indonesia (TEI) and Digital Edition 2021, on 21 January 2021. See <https://www.cnbcindonesia.com/news/20211021135226-4-285485/jokowi-ingin-ri-jadi-pusat-industri-halal-dunia-di-2024> (accessed 8 January 2022).

refer to the report of the State of Global Islamic Economy 2020–2021 stating that the Muslim population in the world spent US\$2 trillion on food, cosmetics, fashion and medicine. Jokowi views this as a great opportunity, given that Indonesia is the largest Muslim country in the world.³¹ The question to ask is whether Indonesia is ready to become the centre of the world’s halal industry.

To become the world centre of the halal industry, Indonesia should consider many aspects including religion. The halal industry not only relates to massive halal production and consumption but also to how this industry is supported by the Islamic notion of halal. One important issue that the Jokowi government has not considered enough is the role of the *ijtihad* method in determining halalness. Is there any authoritative Islamic method (*ijtihad*) for determining halalness as espoused by Indonesia and which readies Indonesia to become the world centre of the halal industry?

Being the world centre of the halal industry means that Indonesia would become a huge marketplace in which halal production and consumption can be openly and easily conducted. It must mean that people from many countries will be able to sell and buy halal products from Indonesia. It also means that flows of production and consumption in Indonesia have no barriers, including theological ones. So far, many *fatwa* institutions in Indonesia, especially MUI, follow the *ijtihad* method of the Shafi’i school of Islamic law. This school of Islamic law has very strict principles for determining halalness. This school holds a fundamental doctrine which states that all products that use non-halal ingredients are essentially haram. This line of thought is adopted by MUI’s halal certification process.

The strictness of this *ijtihad* method can directly influence the flow of halal goods from and into Indonesia. Many products—pharmacological, food and cosmetics—from other parts of the world still use non-halal ingredients such as pork-derived gelatine. If the halal *fatwa* of Indonesia

³¹ <https://www.cnbcindonesia.com/news/20211021135226-4-285485/jokowi-ingin-ri-jadi-pusat-industri-halal-dunia-di-2024> (accessed 8 January 2021).

only allows non-pork-derived gelatine products, then the sale of imported products in Indonesia would be severely limited.³²

How about the situation that countries like Singapore, Thailand and the United Arab Emirates have different Islamic methods for determining halal? This is an important question. If other countries are, for instance, using the *ijtihad* method that opens more adaptation and follow the Hanafi school of Islamic law, then they would have a better chance to become the centre of Islamic market and trade than Indonesia. In the Hanafi school of Islamic law, through *istihalah* (transmutation), the use of non-halal ingredients early in the process of product-making is tolerable if these can no longer be detected in the final product.³³ It means that the non-halal ingredient has transmuted from non-halal to halal. Singapore, for instance, allows the *istihalah* method for pharmacological products. It is mentioned by the Islamic Religious Council of Singapore (MUIS) that, “in Muslim jurisprudence, these processes are similar to *istihalah* where the original substance changes its form and nature and no longer becomes prohibited. In such situations, the final product (drug or vaccine) is deemed as permissible for Muslim use.”³⁴ Malaysia, which also generally follows the Shafi’i school of Islamic law is more flexible on some goods such as medicine and vaccine products. Concerning COVID-19, for instance, Malaysia applies the method of *istihalah* to accommodate the relevant drugs and vaccines.³⁵ In 2013, Majma al-fiqhi al-islami al-dualy stated that “added composites that come from a prohibited or defiled animal origin and undergo transmutation as indicated above are considered immaculate and can permissibly be used as food or medications.”³⁶ For a more inclusive opinion on the use of pork, Yusuf al-Qaradawi (a famous global mufti living in Qatar) states that Islam

³² Aris et al. (2015), p. 378.

³³ Ibid.

³⁴ <https://www.muis.gov.sg/officeofthemufti/Irsyad/Part-11-Religious-position-on-COVID-19-vaccine-English>, (accessed 30 January 2022).

³⁵ Pejabat Menteri di Jabatan Perdana Menteri (2020), p. 28.

³⁶ <https://iifa-aifi.org/en/33063.html> (accessed 15 January 2021).

prohibits the consumption and use of pork meat, but parts other than meat, like bone marrow are allowed for medicinal purposes.³⁷ If Yusuf al-Qaradawi's legal opinion can be used, it will allow the adoption of more global halal products in Indonesia's market.

The best way for Indonesia to deal with this issue is to adopt a more inclusive *ijtihad* method of deciding the status of halal. At the very least, Indonesia could allow the implementation of two *ijtihad* methods which are based on the tradition of the Shafi'i school of Islamic law on one hand and the tradition of the Hanafi school of Islamic law on the other hand. In this way, the idea of making Indonesia a world halal economic centre becomes more possible.

MINORITY RIGHTS

The legislation of State Law No. 33/2014 on Halal Product Assurance demonstrates that the halal project is not seen by the lawmakers of Indonesia to be a serious problem for minority groups in this country. In addition, many argue that the State Law on halal does not create discrimination and marginalization for non-Muslims. Jusuf Kalla (Indonesian vice-president 2014–19) believes that non-Muslims could accept the formalization of halal certification into state law because its goal was to produce good products.³⁸ This view shows him to be insensitive to cultural issues. Halal regulation is applied even in non-Muslim countries such as European countries, Australia, Japan, Singapore and others. Based on this, many claim that halal regulation in Indonesia should be understandable and tolerable. Unfortunately, they do not realize that halal regulation in Western and non-Muslim countries is driven by the need to protect the rights of minority Muslims. For instance, Germany allows halal certification, but it is done to protect the rights of Muslims to eat and drink products that are lawful in Islam. Another reason for

³⁷ See Qaradawi (2012).

³⁸ <https://ekonomi.bisnis.com/read/20191016/9/1159805/wapres-jk-jaminan-produk-halal-untuk-muslim-dan-non-muslim> (accessed 21 January 2022).

recognizing halal certification is to tap into opportunities offered by the global halal market, which is growing very fast in European countries. As Pether Grothues suggests, “the halal trend is unstoppable”,³⁹ offering Germany opportunities for business and economic growth, with the potential for becoming an important pillar of trade for Germany.⁴⁰

In contrast, in Indonesia, halal certification is introduced to impose the rights of the Muslim majority. Minority groups perceive halal certification as a kind of social control whereby all goods are subject to halal certification, or even as a strategy by Indonesian Muslims to implement sharia law in the country. Although Indonesia will not become an Islamic state, non-Muslims continue to fear the enforcement of sharia law—a fear based on the ascendancy of Islamic conservatism in Indonesia.⁴¹ The gradual shariatization of Indonesia, through the partial implementation of sharia, is a phenomenon that many of them witness in the legal and public sphere of Indonesia. So, the rhetoric of the Muslim majority that Indonesia will not become an Islamic state does not abate concerns about shariatization.

At the cultural and social level, halal certification may contribute to social segregation. Since the passing of State Law No. 33/2014 on Halal Product Assurance, there has been an increasing erosion of trust among different religious communities where the communal sharing of food is concerned. In North Sumatra, for instance, where there has been a long tradition whereby Muslims and non-Muslims have *makan bersama* (eating together), there is an increasing tendency among Muslims to question if the food and drinks provided by their non-Muslim family and friends are halal.

In general, the halal project in Indonesia has not considered the plurality of the Indonesian people. Formalizing halal and haram as part

³⁹ <https://www.spiegel.de/international/germany/halal-is-big-business-germany-waking-up-to-growing-market-for-muslim-food-a-653585.html> (accessed 11 October 2021).

⁴⁰ Ibid.

⁴¹ Sebastian, Hasyim, and Arifianto (2021).

of state law means marginalizing the traditions and culture of minorities. Inadvertently, by incorporating the consumption norms of the majority into the law, the norms of the minority are also being regulated.

IDENTITY POLITICS

Another impact of the law that has not been deeply considered is the promotion of identity politics for the Muslim majority. The formalization of halal into state law is synonymous with the imposition of sharia in the legal sphere of Indonesia. It can happen because halal is an Islamic doctrine and when this doctrine is officialized as state law, it promotes Islamic identity to all citizens of Indonesia, regardless of their diverse religious affiliations.

Claiming that halal law is inclusive and also acceptable by all religious groups becomes difficult when the halal regulation is implemented at mentions that a halal auditor is required to be a Muslim.⁴² Based on this, what defines a halal auditor is religion rather than professional attributes, such as a degree in a discipline related to the process of halal auditing and investigation, like food technology. In other words, Muslims are more likely to benefit from halal regulations compared to non-Muslims, such that economically and politically speaking, the halal project creates advantages for the Muslim community.⁴³

At the community level, the impact of the identity politics of halal policy is visible in non-Muslim communities. If non-Muslims want to do business in production, consumption, and lifestyle, the tradition of sharia on these matters would become the standard reference for them. At the

⁴² <https://mediaindonesia.com/humaniora/353346/anggapan-non-muslim-bisa-jadi-auditor-halal-kemenag-info-sesat> (accessed 11 October 2021).

⁴³ When the Law on Job-Creation was discussed, there was a public aspiration that a halal auditor should not be open to Muslims only, but also allow non-Muslims to apply. However, the law states that the auditor should be a Muslim. The halal auditor should understand *fatwa* on halal-related issues in Islam. Based on this, non-Muslims are assumed as being incapable to be a halal auditor as they are perceived as not having knowledge on this aspect of Islam.

same time, Muslim groups often use their way of consuming, producing and dressing to express “their Islamic identity”. This is referred to by Yael Navaro-Yashin⁴⁴ as the “market for identities” in the case of Turkey. From this perspective, the establishment of a halal market, selling only halal goods, the mushrooming of halal restaurants, tourism and fashion are actually driven by the identity politics of Islam.⁴⁵

HALAL AND THE LAW ON JOB CREATION: MAKING HALAL INCLUSIVE?

Some argue that the Law on Job-Creation can be a strategy to reform State Law No. 33/2014 on Halal Product Assurance that gives sole authority for *fatwa*-making. The Law on Job-Creation itself was designed as one of the main agendas during Jokowi’s presidential campaign in 2019. Jokowi and Ma’ruf clearly stated that the Omnibus Law should become the priority in the first 100 days of their government.⁴⁶ Although this law was officially legislated in 2020, protests against the law remain,⁴⁷ including objections regarding some important changes created by this law on State Law No. 33/2014. One such change sought to end MUI’s monopolization of halal *fatwa*-making for the BPJPH by opening the role to other Islamic organizations. However, such efforts were not successful, and MUI remains the sole halal *fatwa* issuer for the BPJPH.

On the other hand, the Law on Job-Creation divests halal accreditation from MUI to LPH. The issuing of halal auditor certificates and the accreditation of LPH come under the auspices of the BPJPH. Thus,

⁴⁴ Navaro-Yashin (2020)., p. 80.

⁴⁵ Ibid.

⁴⁶ <https://nasional.kompas.com/read/2020/01/27/06332661/100-hari-jokowi-maruf-gagas-omnibus-law-uu-sapu-jagat-untuk-investasi?page=all> (accessed 16 January 2022).

⁴⁷ The Constitutional Court of Indonesia decided that the Omnibus Law is “inkonstitusional bersyarat” (conditionally unconstitution). It means that State Law No. 11/2020 on Job-Creation (Omnibus Law) is against the Constitution of Indonesia) and becomes the object of revision two years after this decision.

although the Law on Job-Creation does not affect MUI's halal *fatwa* issuing role, it manages to intervene in the accreditation of LPH.

COMMODIFICATION OF HALAL

Although the state halal project is underpinned by religious prerogatives, it has an economic dimension, and Greg Fealy calls the phenomenon of halal commodification a part of consuming Islam.⁴⁸ In the last two decades, the domain of halal has extended beyond its conventional scope, such as food, drinks, medicine and cosmetics to include other parts of the economy and market such as tourism, fashion and hospitality. Malaysia, for instance, is one of the Muslim countries that have instituted halal tourism since the early days of its own halal project. The response of Malaysia to the demand for halal tourism from Middle East countries is an example of how the halal project since its beginning is associated with the development of the world market.⁴⁹

Historically speaking, the halal project needs not only religion but also commodification. The establishment of a halal institution as proposed by Suharto to MUI was backgrounded with a strong assumption that halal was considered a determinant factor for the development of the national economy and market. As the largest Muslim country, Indonesia also has the largest Muslim market. Naturally, Indonesian Muslims would prefer to consume halal food and drinks rather than non-halal ones.

In the Jokowi era, commodification is being strengthened. Jokowi's policy endorses the halal economy on one hand, but it should consider the needs of the market and the general economy on the other. The establishment of BPJPH is intended to safeguard the commodification aspect of the halal project. Included in the phenomenon of halal commodification is Jokowi's message on the importance of being inclusive. It means that halal institutionalization should make it possible for all Indonesian groups, regardless of religion and ethnicity, to play

⁴⁸ Fealy (2008); Kitiarsa (2008).

⁴⁹ Ab Talib, Thoo, and Abubakar (2018); Lever (2016).

a role. The halal market for instance should be open to non-Muslim players. Halal commodification needs an inclusive and open market.

Based on the explanation, Jokowi seeks to create a balance between the function of theology and that of the economy in halal issues. Besides increasing religious piety, the halal project should also increase the prosperity of Indonesian Muslims as well.

CONCLUDING REMARKS

The legislation of State Law No. 33/2014 on Halal Product Assurance has indicated that shariatization is not merely a political but also a lifestyle issue. Shariatization is not always identical to the establishment of political Islam. Regulating the lifestyle of Indonesians in production and consumption with sharia doctrine becomes to some extent more effective and impactful when done in the legal and public sphere of Indonesia.

Although the halal project is articulated as being inclusive and not impacting the lives of non-Muslim communities in Indonesia, at the practical level, halal certification creates barriers for non-Muslims. During the process of legislation of state law on halal product assurance, the views of non-Muslims on the halal project seemed to be not deeply considered. In this regard, the halal project considers only economic and political aspects on one hand and only the interests of the Muslim majority on the other hand. For the project to be accepted by all Indonesian citizens, the state should consider the implications of halal regulation on minority groups.

The commodification of halal issues is often perceived as the instrumentalization of sharia to justify economic and market agendas. However, in the case of Indonesia, the commodification of halal becomes an enabling factor for a grounded shariatization. With commodification, people feel that sharia is no longer a foreign issue, but close to their daily lives because it addresses their daily needs. Halal and commodification seem to be mutually reinforcing in this regard. This perspective is, of course, coming from the Muslim community, and not from the non-Muslim community.

The enthusiasm of the Indonesian government under the Jokowi presidency in projecting Indonesia as a global centre for halal goods

by 2024 should be accompanied by a comprehensive understanding of the complexities of halal issues. Becoming a global centre for halal goods is not only a matter for the political economy but involves key issues such as the flexibility of the theological system for determining halalness.

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