Proliferation of Halal Regulation and Enforcement in Indonesia and Malaysia

Jalaluddin Jalaluddin[a,*], Alias Azhar [b], Gusti Muzainah [a], Muhsin Aseri [a], M. Fahmi Al Amruzi [a]

[a] Antasari State Islamic University,Banjarmasin, Indonesia
[b] Universiti Utara Malaysia, Sintok, Kedah, Malaysia.

* corresponding author: jalaluddin@uin-antasari.ac.id

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ABSTRACT

As part of safeguarding human rights, Indonesia has issued regulations on halal products that encourage entrepreneurs to certify their products. To facilitate this effort, the country has implemented several policies. Adopting a human rights perspective, this article aims to elucidate the government's policies on halal products at the regulatory and implementation levels. To attain a more comprehensive understanding, this research employs a legal comparative approach, using Malaysia as a benchmark. The findings of this study indicate that normatively, Indonesia has generated a range of legal instruments serving as the foundation for halal products. These legal instruments are systematically implemented, from the central government down to the grassroots level. However, this implementation encounters challenges such as normative ambiguity and the expansive interpretation of products that require halal certification. This is in contrast to Malaysia, which regulates halal products in a more dynamic and flexible manner.

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1.Introduction

In the Quran, the term "halal" refers to objects and practices deemed valid and permissible. Its antonym is "haram," often translated as "prohibited," "unlawful," and "sinful." The Quran employs this term or its derivatives to make statements regarding the permissibility and impermissibility of specific economic transactions, ritual practices, sexual and familial interactions, as well as dietary matters—issues of paramount importance for early Muslim communities.[1] It can be asserted that the word 'halal' and its derivatives bear a general meaning of

[1] Febe Armanios and Boğaç A Ergene, *Halal Food: A History* (New York: Oxford University Press, 2018).

declaring something as 'permissible.'[2] Furthermore, the term can also signify discernment or analysis. In essence, it serves as the foundation or basis for righteous actions, those considered valid or permissible. Before evolving into positive law, regulations concerning halal functioned as Islamic legal norms and were practiced by Muslims as integral aspects of Islamic teachings.

Law Number 33 of 2014 serves as the legal foundation regulating the assurance of halal products in Indonesia. This law introduces a halal product assurance system that involves certification and evaluation processes conducted by government-recognized institutions. Products seeking halal status must undergo the halal certification process. Government-recognized halal certification bodies in Indonesia will assess and ensure that the product meets the halal requirements in accordance with applicable regulations. Once certified, the product is granted a halal label, indicating compliance with established halal standards. This label instills confidence in Muslim consumers, assuring them that the product is consumable in accordance with Islamic teachings.[3] From this brief mechanism, an assumption can be drawn that, on one hand, the state is striving to fulfil the religious needs of Indonesian Muslims. On the other hand, it appears that the state binds its citizens by mandating producers to undergo the certification process. It is as if the certification process holds the same legal weight as consuming halal food in Islamic teachings. These two aspects differ; for the Muslim community, consuming halal food is a religious rule, while obtaining halal certification is a state rule. Despite the distinction, there is no debate to counter the significance of the latter. This means that halal certification is the state's way of guaranteeing the freedom (open access) of Muslims to consume halal food in accordance with Islamic legal norms. The state undertakes this in the context of ensuring the realization of human rights as stipulated in the 1945 constitution.

In addition to the perspective of human rights, from an economic standpoint, the 'halal' trend is evidently on the rise day by day. For instance, Syarif demonstrates that the halal trend is no longer confined to food products in predominantly Muslim countries; rather, it has evolved globally. The concept of the halal economy has expanded beyond the boundaries of dietary considerations in Islam. In fact, the halal industry has become a competitive player in the international trade balance.[4] For example, Putri elaborates that in European

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[2] Farah Ahmed, 'Semantic Study of the Word Halal Based on Minor and Supreme Derivation', *AL-BURHĀN: JOURNAL OF QUR'ĀN AND SUNNAH STUDIES*, 7.1 (2023), 58–80 https://doi.org/10.31436/alburhn.v7i1.288; Johan Fischer, 'The Halal Frontier BT - The Halal Frontier: Muslim Consumers in a Globalized Market', ed. by Johan Fischer (New York: Palgrave Macmillan US, 2011), pp. 1–30 https://doi.org/10.1057/9780230119789_1

[3] Heru Susetyo and others, 'Regulating Halal Products in Indonesia: Between Religious Needs and Socio-Economic Challenges', *Mazahib*, 18.1 (2019), 1–43 https://doi.org/10.21093/mj.v18i1.1372

[4] Fazlur Syarif and Naif Adnan, 'Pertumbuhan Dan Keberlanjutan Konsep Halal Economy Di Era Moderasi Beragama', *Jurnal Bimas Islam*, 12.1 (2019), 93–122 https://doi.org/10.37302/jbi.v12i1.97

countries, the halal trend is increasingly embraced by various segments of society,[5] not only by Muslims but also by non-Muslims, as found by Nugraha.[6] In ASEAN countries relatively close to Indonesia, such as Malaysia and Singapore, emerge as nations with a leading reputation in halal product management.[7] Al-Shami concludes that the halal industry has significantly contributed to strengthening the country's economy, increasing employment opportunities, and enhancing the welfare of the Malaysian society.[8] Therefore, Malaysia is recognized as one of the effective countries in the food industry and is a leader in halal food brands that emphasize the importance of food quality in operations and supply chains.[9] Nevertheless, some researchers, such as Zaina, found that despite Malaysia's leadership in halal sector management, the administrative burden is not as efficient as envisioned, especially when dealing with legal issues.[10]

To illustrate the rapid pace of the halal trend, various sectors of the economy have adopted the halal nomenclature for branding and local government programs. For instance, in the tourism sector, numerous countries have issued national and local policies on halal tourism. Besides Malaysia, examples include Japan[11] and Indonesia.[12] In the local context, several regions in Indonesia have embraced halal tourism as a supplement to empower social communities.[13] In

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[5] Such as in UK, see Johan Fischer, "The Halal Frontier BT - The Halal Frontier: Muslim Consumers in a Globalized Market," ed. Johan Fischer (New York: Palgrave Macmillan US, 2011), 1–30, https://doi.org/10.1057/9780230119789_1; for other european countries, see Ni'mah Izati Atiko Putri and others, 'The Potential of Halal Food Business in Asia and Europe with Majority of Non-Muslim Communities', *Al-Kharaj: Jurnal Ekonomi, Keuangan & Bisnis Syariah*, 3.3 (2021), 335–49 https://doi.org/10.47467/alkharaj.v4i1.396

[6] Widya Satya Nugraha, Dennis Chen, and Shang Ho Yang, 'The Effect of a Halal Label and Label Size on Purchasing Intent for Non-Muslim Consumers', *Journal of Retailing and Consumer Services*, 65.October 2021 (2022), 102873 https://doi.org/10.1016/j.jretconser.2021.102873

[7] Johan Fischer, *Islam, Standards, and Technoscience: In Global Halal Zones* (New York: Routledge, 2015), XXVIII https://doi.org/10.4324/9781315667065

[8] Hamzah Ali Al-Shami and Shariman Abdullah, 'Halal Food Industry Certification and Operation Challenges and Manufacturing Execution System Opportunities. A Review Study from Malaysia', *Materials Today: Proceedings*, 80 (2023), 3607–14 https://doi.org/10.1016/j.matpr.2021.07.331

[9] Al-Shami and Abdullah.

[10] Che Rosmawati Che Mohd Zaina and others, 'Jurisdiction and Prosecution of Halal Related Matters in Malaysia: Challenges and Prospects', *Procedia - Social and Behavioral Sciences*, 172 (2015), 294–300 https://doi.org/10.1016/j.sbspro.2015.01.367

[11] Zakiah Samori, Nor Zafir Md Salleh, and Mohammad Mahyuddin Khalid, 'Current Trends on Halal Tourism: Cases on Selected Asian Countries', *Tourism Management Perspectives*, 19.Part B (2016), 131–36 https://doi.org/10.1016/j.tmp.2015.12.011

[12] Dwi Suhartanto and others, 'Holistic Tourist Experience in Halal Tourism Evidence from Indonesian Domestic Tourists', *Tourism Management Perspectives*, 40.September (2021), 100884 <https://doi.org/10.1016/j.tmp.2021.100884>

[13] Abdul Kadir Jaelani, 'The Standardization of Halal Tourism Management in West Nusa Tenggara', *Pena Justisia: Media Komunikasi Dan Kajian Hukum*, 20.2 (2022), 74–87 https://doi.org/10.31941/pj.v20i2.1720; Abdul Kadir Jaelani and others, 'Halal Tourism Sector and Tax Allowance Policy: A Case Study Observed from Normative Problems to Effective

terms of policy, for example, in 2016, three regions (West Sumatra, Aceh, and West Nusa Tenggara) were designated as halal tourism destinations.[14] Even at a smaller level, tourist villages can be packaged and articulated with a halal label, as seen in East Java and West Java.[15]

Various research on halal, besides highlighting the essential position of halal branding, also reflects a paradigm shift. Initially, the halal labelling was a state action to ensure the realization of human rights (for Muslims), then it evolved into a driving force in the economic sector, and even became a lifestyle and cultural phenomenon for certain communities. This indicates that the massive development of the halal project is not solely dependent on religious values but also on non-religious aspects.[16]

Based on the above description, this paper aims to investigate how the labelling of halal has shifted from the paradigm of fulfilling human rights to becoming a policy in the economic sector. To obtain a more comprehensive picture, two countries, namely Indonesia and Malaysia, will be juxtaposed to compare whether these two countries have similar approaches, considering their differences in the concepts of statehood and legal systems but similarity in being predominantly Muslim.

2.Research Method

This research employs normative approach. Legal sources include the constitutions of both countries, Indonesia and Malaysia. Primary date also sourced from other legal materials on the two countries, such as Law No. 33 of 2014 on Halal Product Assurance, Trade Description 2011, and all regulations mentioned in the this paper either from Indonesia and Malaysia. Data were completed throughout legal investigation toward secondary legal materials containing or explaining primary legal materials, such as scientific journal articles and books.

Implementation', *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan*, 23.2 (2023), 185–210 https://doi.org/10.18326/ijtihad.v23i2.185-210

[14] Slamet, Irwan Abdullah, and Nur Quma Laila, 'The Contestation of the Meaning of Halal Tourism', *Heliyon*, 8.3 (2022), e09098 https://doi.org/10.1016/j.heliyon.2022.e09098

[15] Dwi Ariady Kusuma, Ridan Muhtadi, and Fitriyana Agustin, 'Strategi Pengembangan Desa Wisata Halal Berbasis Bumdesa Di Jawa Timur; Peluang Dan Tantangan', *Ulumuna: Jurnal Studi Keislaman*, 8.1 (2022), 156–85 https://doi.org/10.36420/ju.v8i1.6234; Diza Izet Islamy, Malida NurAnnisa, and Iasha Nabila Harahap, 'Potential and Prospects of Halal Tourism in Improving Regional Economy (Case Study: Ciletuh Geopark, Sukabumi-West Java)', *TSARWATICA (Islamic Economic, Accounting, and Management Journal)*, 1.2 (2020), 1–9 https://doi.org/10.35310/tsarwatica.v1i2.383

[16] Anom Sigit Suryawan, Shuji Hisano, and Joost Jongerden, 'Negotiating Halal: The Role of Non-Religious Concerns in Shaping Halal Standards in Indonesia', *Journal of Rural Studies*, 92.May (2022), 482–91 https://doi.org/10.1016/j.jrurstud.2019.09.013

3.Results and Discussion

Halal Regulation and Authorities in Indonesia

In Indonesia, the process of regulating halal labelling and certification involves the participation of three institutions: the Ministry of Health, the Indonesian Ulama Council (MUI), and the Ministry of Religious Affairs. Throughout the history of halal labelling, these three institutions have held authority in formulating legal policies regarding halal labelling and certification. Initially, halal labelling was not regulated by the Ministry of Health. However, on November 10, 1976, the Ministry of Health issued regulations on the labelling of food containing 'elements' of pork.[17] The regulation was in the form of Minister of Health's Decree Number 280/Men.Kes/Per/XI/76 concerning Circulation and Labelling on Food Containing Ingredients Derived from Pigs. According to this decree, if a product contains pork or similar substances, it is mandatory to label the packaging with a red-printed label stating "MENGANDUNG BABI" (containing pork). This is outlined in articles 2 to 4. According to some sources, the labelling of pork gradually transformed into halal labelling, for example, in 1985, through the Joint Decree (SKB) of the Minister of Religious Affairs and the Minister of Health Number: 427/MENKES/SKB/VIII/1985 and Number 68/1985.[18] According to these regulations, the Ministry of Health is responsible for affixing the halal label and overseeing halal products. Meanwhile, the evaluation during registration involves the Ministry of Religious Affairs. Although regulations 472 and 68 are joint decrees between the Ministry of Health and the Department of Religious Affairs, the dominant oversight authority lies with the Ministry of Health.

It was only in 1996, through the Minister of Health Decree Number 82/Menkes/SK/I/1996 and later 924/Menkes/SK/VIII/1996, that halal certification from the Indonesian Ulama Council (MUI) became the basis for halal labelling.[19] According to Article 7 of Decree 924, approval for writing the halal label is granted based on the fatwa (religious edict) from the Fatwa Commission of the Indonesian Ulama Council. Subsequently, Article 8 states that, based on this fatwa, the Director General of the Ministry of Health grants approval for those who have obtained halal certification and rejects those producers who do not have halal certification from MUI. It is noteworthy that in this 1996 regulation, halal certification is done voluntarily based on the initiative of the producers

[17] Eva Achjani Zulfa and others, 'Regulation and Law Enforcement on the Protection of Halal Products in Indonesia', *Cogent Social Sciences*, 9.2 (2023), 2273344 https://doi.org/10.1080/23311886.2023.2273344

[18] Gilang Ramadhan and Amy Yayuk Sri Rahayu, 'Bureaucratic Reform in the Area of Legislations: A Study on Halal Product Guarantee Law', *Kolaborasi: Jurnal Administrasi Publik*, 7.1 (2021), 13–28 https://doi.org/10.26618/kjap.v7i1.4954

[19] Nurul Fibrianti and others, 'Halal Certification Systems: A Comparison Between Indonesia and Turkey', *Pandecta Research Law Journal*, 18.2 (2023), 424–56 https://doi.org/10.15294/pandecta.v18i2.48095

themselves. Additionally, the authority evaluating the halal status is the MUI. Certification work during this era is a collaboration among the three authorities: the Ministry of Health, the Ministry of Religious Affairs, and the MUI.

Post-1996 until the enactment of the Halal Product Assurance Law in 2014, MUI played a central role in providing halal certification. In 1999, Article 8(1)(h) of Law No. 8 on Consumer Protection also regulated the prohibition of trading products that do not comply with halal production requirements, as indicated by the term "halal" on the label. In the same year, Government Regulation No. 69 of 1999 more comprehensively addressed the same matter. In this regulation, halal provisions are outlined in Articles 10 to 13. The explanation mentions that the obligation to include a halal label is essentially a voluntary effort by the producer or entrepreneur, except if they claim their product is halal, in which case labelling becomes mandatory. In such cases, the evaluation of halal status must be checked based on guidelines and procedures established by the Minister of Religious Affairs, considering the considerations and recommendations of religious institutions competent in the field. The religious institution referred to is none other than the MUI.

Before the enactment of Law Number 33 of 2014, regulations regarding the halal status of products in Indonesia were more fragmented. Various rules and policies were dispersed across different sectors and lacked coordination. Law Number 33 of 2014 provides a legal foundation for the establishment of the Halal Product Assurance Organizing Agency (Badan Penyelenggara Jaminan Produk Halal or BPJPH). This law also imposes the obligation of halal certification on producers and business actors who wish to market their products in Indonesia.

Regulations on halal in Indonesia strengthened with the enactment of Law Number 33 of 2014 concerning Halal Product Assurance (Jaminan Produk Halal or JPH). This law covers fundamental aspects, including the determination of halal-declared product materials, encompassing materials derived from animal, plant, microbial sources, as well as materials produced through chemical, biological, or genetic engineering processes. Additionally, the law outlines the Halal Product Assurance (PPH) process, a series of activities to ensure the halal status of products, covering the provision of materials, processing, storage, packaging, distribution, sale, and presentation of products. The law also regulates the rights and obligations of business actors, providing exceptions for businesses producing products from materials that are prohibited, with the obligation to explicitly state "not halal" on the product packaging or on a visible, readable part of the product that is not easily erased and is inseparable from the product.[20]

[20] Michelle Limenta, Bayan M Edis, and Oscar Fernando, 'Disabling Labelling in Indonesia: Invoking WTO Laws in the Wake of Halal Policy Objectives', *World Trade Review*, 17.3 (2018), 451–76 https://doi.org/10.1017/S1474745617000167

From a juridical standpoint, several regulations pertaining to halal continue to undergo updates and are promulgated. At the legislative level, for instance, Law Number 33 of 2014 was issued. The contents of this law were subsequently revised through Law Number 3 of 2023, particularly in Article 48. Subsequently, at a lower regulatory level, there exist Government Regulation Number 39 of 2021 concerning the implementation of halal product assurance, and Government Regulation Number 6 of 2023 concerning the halal certification of pharmaceuticals, biological products, and medical devices.[21]

The aforementioned regulatory changes subsequently triggered the emergence of even lower-level regulations, including: (1) Minister of Religious Affairs Regulation No. 42 of 2016 regarding the organization and working procedures of the Ministry of Religious Affairs; (2) Minister of Religious Affairs Regulation No. 8 of 2021 concerning the appointment and dismissal of halal product assurance supervisors; (3) Minister of Religious Affairs Regulation No. 12 of 2021 concerning the accreditation team for halal inspection institutions; (4) Minister of Religious Affairs Regulation No. 20 of 2021 concerning halal certification for micro and small businesses; (5) Minister of Religious Affairs Regulation No. 2 of 2022 regarding international cooperation in halal product assurance; (6) Minister of Religious Affairs Regulation No. 12 of 2022 concerning training and certification of competence for halal auditors and supervisors; and (7) Minister of Religious Affairs Regulation No. 72 of 2022 regarding the organization and working procedures of the Ministry of Religious Affairs. Since 2016 and reaffirmed in 2022, BPJPH has been the youngest-level unit under the Ministry of Religious Affairs, overseeing various aspects of halal product assurance in Indonesia.

In addition to the aforementioned regulations, the administration of halal product assurance under the authority of the Ministry of Religious Affairs is governed by various Decisions (KMA) issued from year to year. For instance: (1) KMA 1103 of 2019 concerning the designation of the halal product assurance organizing agency as a level I unit within the Ministry of Religious Affairs implementing the financial management pattern of Public Service Agency [BLU]; (2) KMA 748 of 2021 regarding products that are required to have halal certification; (3) KMA 1360 of 2021 concerning materials exempted from the obligation to have halal certification; and (4) KMA 297 of 2023 concerning the task force for the halal product fatwa committee. Furthermore, BPJPH has issued several substantive regulations governing halal products, such as the determination of halal labels (in the Chief of the Agency's Decision No. 40 of 2022) and the use of halal labels (in the Chief of the Agency's Decision No. 88 of 2022).

[21] Dedah Jubaedah and others, 'Halal Certification in Indonesia: Study of Law Number 6 of 2023 on Job Creation', *Jurisdictie: Jurnal Hukum Dan Syariah*, 14.1 (2023), 154–84 https://doi.org/10.18860/j.v14i1.19948

In the pursuit of delivering public services, the government assumes the responsibility of organizing halal product assurance, with its implementation entrusted to the Halal Product Assurance Organizing Agency (BPJPH) since its establishment in 2017. In exercising its authority, BPJPH collaborates with relevant ministries and/or institutions, MUI (Indonesian Ulema Council), LPH (Halal Certification Body), and various other organizations. To facilitate the implementation of halal product assurance, this Law assigns roles to other parties such as the government through state budget allocation, local governments through regional budget allocation, companies, social institutions, religious institutions, associations, and communities to support the halal certification costs for micro and small businesses. In order to ensure the implementation of halal product assurance, BPJPH oversees LPH; the validity period of halal certificates; the halal status of products; the inclusion of halal labels; the inclusion of explicit non-halal statements; the separation of locations, places, and equipment for processing, storage, packaging, distribution, sale, and presentation between halal and non-halal products; the presence of halal supervisors; and/or other activities related to halal product assurance. To ensure legal enforcement against violations of this Law, administrative and criminal sanctions are also stipulated.

Among the authorities of BPJPH are: (a) formulating and establishing halal product assurance policies; (b) establishing norms, standards, procedures, and criteria for halal product assurance; (c) issuing and revoking Halal Certificates and Halal Labels for products; (d) registering foreign Halal Certificates for products; (e) conducting socialization, education, and publication of Halal Products; (f) accrediting Halal Certification Bodies (LPH); (g) registering Halal Auditors; (h) conducting oversight of halal product assurance; (i) providing guidance to Halal Auditors; and (j) collaborating with domestic and international institutions in the field of halal product assurance. In the implementation of halal assurance, BPJPH collaborates with relevant ministries and/or institutions, Halal Certification Bodies (LPH), Halal Process Product Support Institutions (LP3H), Indonesian Ulema Council (MUI), and the Halal Product Fatwa Committee. BPJPH also engages in international cooperation. BPJPH collaborates with various stakeholders to strengthen the implementation of halal product assurance, including Ministries/Agencies, local governments, state-owned enterprises, regional-owned enterprises, universities, business associations, communities, non-governmental organizations (NGOs), training institutions, halal canters. Furthermore, BPJPH continues to expand its synergy with various stakeholders to enhance the implementation of halal product assurance.

Up to this point, it can be stated that the regulations mentioned above have placed the Ministry of Religious Affairs in a complete monopoly over halal product affairs in Indonesia, a domain that was originally under the authority of the Ministry of Health. Various efforts and strategic breakthroughs have been undertaken by BPJPH to expedite the halal product certification process and

strengthen the halal ecosystem in Indonesia, aiming to establish Indonesia as the world's leading producer of halal products. In this context, the regulation of halal products in Indonesia is no longer confined to the realization of human rights but has evolved into an economic regulation. In other words, the current halal policy in Indonesia can be seen as the state's ambition in the economic domain rather than merely an actualization of human rights.

Halal Product Assurance Agreements in Malaysia

In contrast to Indonesia, which implements a civil law legal system, according to some research, the regulation of halal products in Malaysia initially originated from the Trade Descriptions Act (TDA) of 1972.[22] Laterally, this law did not explicitly mention 'halal' or 'haram'. Despite the difficulty in explicitly describing the term 'halal,' the law is believed to have allowed the Minister of Domestic Trade, Cooperatives, and Consumerism to issue Orders related to Halal food products.[23] Later, in 2011, the TDA 1972 was amended, making the halal regulations in Malaysia more explicit.

Before the TDA 2011, halal affairs posed a challenge between the federal government and the state government in Malaysia.[24]As a federation, the Malaysian Constitution delineates authority between the federal government and state governments. This division of powers is articulated in Article 74 of the Federal Constitution, and the comprehensive breakdown of these powers is elucidated in the Ninth Schedule of the Federal Constitution. According to Article 74 (1), the federal Parliament possesses the authority to legislate on subjects enumerated in the Federal List and Concurrent List.[25] In the other hands, the State Legislative Assembly holds the prerogative to enact laws pertaining to matters delineated in the State List and Concurrent List. Halal-related issues are encompassed within six subject matters under the Federal List, two subject matters under the State List, one subject matter under the Concurrent List, and one subject matter under List IIIA – the Supplement to the Concurrent List for Sabah and Sarawak.[26]

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[22] Anis Najiha Ahmad and others, 'Overview of the Halal Food Control System in Malaysia', *Food Control*, 90.August (2018), 352–63 https://doi.org/10.1016/j.foodcont.2018.02.035

[23] Aspalella A Rahman, Che Thalbi Ismail, and Nor Anita Abdullah, 'Regulating Halal Food Consumption: Malaysian Scenario', *International Journal of Law, Government and Communication*, 3.13 (2018), 313–21.

[24] Nurhafilah Musa and Faridah Jalil, 'Halal Products–Malaysian Constitution Perspective', *Cogent Social Sciences*, 9 (20AD) https://doi.org/10.2139/ssrn.2162296

[25] Mohamed Azam Mohamed Adil and Nisar Mohammad Ahmad, 'The Status and Implementation of Islamic Law in Malaysia BT - Religious Rules, State Law, and Normative Pluralism - A Comparative Overview', ed. by Rossella Bottoni, Rinaldo Cristofori, and Silvio Ferrari (Cham: Springer International Publishing, 2016), pp. 263–76 https://doi.org/10.1007/978-3-319-28335-7_16

[26] Musa and Jalil.

Tabel 1: List of subject matter on Federal-State on Halal[27]

Federal List	State List	Concurent List
Item 8: Production, supply and distribution of goods; adulteration of foodstuffs and other goods; Trade Commerce , Industry	Item 1: the determination of matters of Islamic law	Item 4. Animal husbandry; prevention of cruelty to animals; veterinary services; animal quarantine.
Item 12: Scientific research	Item 4. Local government	Item 11. Adulteration of foodstuffs and other goods (List IIIA—Supplement to Concurrent List for States of Sabah and Sarawak)
Item 14: Medicine, health and pharmaceutical		Item 18. Medicine and health

Based on table 1, it is evident that the term 'halal' can be a subject of regulation for both federal and state authorities. Items 8, 12, 14 (List-I) fall under federal jurisdiction, indicating that the majority of halal product assurance is under federal authority. However, it allows states to regulate matters related to halal under item 1, 4 (List II), item 4 (List III), and item 11, 18 (List IIIA).

It was just after the TDA 2011 that this jurisdictional debate seemed to find a more appropriate solution with the strengthening of JAKIM and the State Islamic Religious Councils (MAIN) as authorities responsible for halal certification. The Minister issues regulations in this regard. Trade Descriptions (Definition of Halal) Order 2011 and Trade Descriptions (Certification and Marking of Halal) Order 2011. The laws offer protection to consumers from unethical trade practices relating to Halal products and services.[28]

Trade Descriptions (Definition of Halal) Order provides the definition of halal, including the Shariah definition as the benchmark for halal. On the other hand, the Trade Descriptions (Certification and Marking of Halal) Order 2011 outlines the authorities responsible for conducting halal certification. In this context, the halal certification authority is managed by the Department of Islamic Development Malaysia (JAKIM) and the State Islamic Religious Council (MAIN) in their

[27] Table is modified from Musa and Jalil.
[28] Wan Rusni Binti Wan Ismail and others, 'Halal Malaysia Logo or Brand: The Hidden Gap', *Procedia Economics and Finance*, 37 (2016), 254–61 https://doi.org/10.1016/S2212-5671(16)30122-8

respective states. The debate over authority between the federal and state levels appears to have led to the establishment of these two bodies.[29]l

According to the Trade Descriptions (Definition of Halal) Order 2011, a product is considered halal when: (1) they do not contain any part of animal prohibited by Hukum Syarak for a Muslim to consume or that has not been slaughtered according to Hukum Syarak; (2) they do not contain any impurities according to Hukum Syarak; (3) they are not intoxicating; (4) they do not contain any part of human being; (5) they are not poisonous or hazardous to health; (6) they are not manufactured using any equipment contaminated with impurities; and (7) they are not in the process of storing, being in contact or mixed with any part of animal prohibited by Hukum Syarak or any impurities.[30] In addition to the aforementioned laws, there are several Malaysian laws related to 'halal', such as the Food Act of 1983, the Consumer Protection Act of 1999, and the Animals Rules of 1962. The Food Regulations of 1985 (under the Food Act of 1983) mandate that food containing beef, pork, its derivatives, or pork fat must be clearly labelled.[31]

4.Conclusion

In the Constitution of Indonesia, there is no provision explicitly mentioning the nomenclature 'halal.' However, Article 29 paragraph (2) of the Constitution of the Republic of Indonesia states that the state guarantees the freedom of each citizen to embrace their religion and to worship according to their religion and beliefs. Juridically, based on this norm, Law No. 33 of 2014 was enacted. Simply put, there are at least three reasons explaining the relationship between halal products and human rights. Firstly, it relates to freedom of religion and belief, as described in Article 29 above. Human rights encompass the freedom of religion and belief. Halal products become relevant in this context as they provide individuals with the right to choose and consume products that align with their religious beliefs, especially for Muslims. Halal products can be seen as a guarantee to fulfil the freedom of religion and belief for Muslims. In the considerations of the halal product assurance law, Indonesia explicitly states that the halal regulation is based on the clause of the state's responsibility to guarantee the freedom of each religious adherent to practice their respective religions. Malaysia's Federal

[29] Mohd Helmi Ali and others, 'A Sustainable Blockchain Framework for the Halal Food Supply Chain: Lessons from Malaysia', *Technological Forecasting and Social Change*, 170 (2021), 120870 https://doi.org/10.1016/j.techfore.2021.120870; see also Nor Hazirah Hasri, Mohd. Zafrullah Mohd. Taib, and Sabarinah Sh. Ahmad, 'Relevance of Regulatory Policies in Governing Adherence to Halal Concept in the Design of Food Premises in Malaysia', *Procedia - Social and Behavioral Sciences*, 222 (2016), 306–14 https://doi.org/10.1016/j.sbspro.2016.05.168

[30] Nurhafilah Musa and others, 'The Cadbury Controversy: Blessings in Disguise?', in *Contemporary Issues and Development in the Global Halal Industry*, ed. by Siti Khadijah Ab. Manan, Fadilah Abd Rahman, and Mardhiyyah Sahri (Singapore: Springer Singapore, 2017), pp. 95–104 https://doi.org/10.1007/978-981-10-1452-9_9

[31] Ahmad and others.

Constitution also addresses this in Article 11. Secondly, it relates to health and safety rights. Generally, halal products are regulated with specific cleanliness and safety standards, involving aspects such as raw materials, production processes, and packaging. This can provide consumers with assurance of safe products meeting health standards. This second argument is supported by several surveys in various countries, recognizing that halal-labelled products often exhibit high hygiene standards. Thirdly, it relates to economic empowerment. Human rights also involve aspects of economic empowerment. In the context of halal products, providing halal certification can help local producers and small and medium enterprises market their products in a broader market, including the global market. This aligns with the global trend where the demand for halal products is increasing due to the growing number of Muslims. This can support economic rights and community empowerment. Malaysia, in particular, appears to place a strong emphasis on the halal project as a means to grow the country's economy by 2030.

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