

# GLOBALIZATION AND COUNTRIES' FAILURE TO GUARANTEE HALAL PRODUCTS

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**ABSTRACT:** This article will discuss the philosophical underpinnings of halal product assurance regulation and the relationship between global cultural, political, and economic variables and halal product assurance in Indonesia. The research method employed is normative legal research, which is prescriptive in nature, particularly how halal product guarantees should be regulated in Indonesia. The method is legislative and conceptual in nature. Secondary data were gathered through a review of the literature. The deductive syllogism approach is used to analyze data, with Pancasila and cybernetic theory serving as essential axioms. In comparison, the minor premise is based on legal facts and laws governing halal certification in Indonesia. The findings indicate that, first and foremost, the regulation of halal product guarantees should be based on Pancasila's philosophy. Second, economic globalization, which is dominated by capitalist ideology, demonstrates that economic and political power combined with a high degree of energy can condition the Halal Product Guarantee Act (UUJPH), which is subsequently changed by the Job Creation Act. One of the revisions to the Halal Product Guarantee Law is that the obligation for micro and small company actors to be certified halal is based on their own statements without scrutiny by the Halal Inspection Agency (LPH). By reducing inspections by LPH, the government makes it easier for micro and small company players to register halal certificates, demonstrating that economic interests can influence legal rules with little effort. Due to the existence of this policy, Muslim consumers' rights in halal products may face less legal certainty.

**KEYWORDS:** globalization; state failure; halal; product.

## 1. INTRODUCTION

Halal issues are a sensitive issue in Indonesia and have become the international community's attention. Muslim consumers are starting to realize the importance of halal aspects of food, beverage, drug, and cosmetic products resulting from biological chemical processes and genetic engineering. All these products require a normative response from the state to guarantee the constitutional rights of citizens based on the 1945 Constitution and the state's philosophical norm, Pancasila.

Halal certificates have several functions for Muslim consumers, including protecting Muslim consumers from consuming food, medicine, cosmetics, genetic engineering, and other processed foods that are not halal. Secondly, psychologically and mentally, the consumer will be calm; thirdly, to defend body and soul from the downturn due to illicit products; and fourth will provide legal certainty and protection. UUJPH, as a part of national legislation, is a type of official accommodation to the interests of Indonesia's Muslim

majority. The 1945 Constitution's Article 28E paragraph (1) and Article 29 (2) guarantee the state and government the right to carry out teachings consistent with their faith and beliefs. Religious people's natural conclusion is to uphold their religious law.

It is critical for Muslims in Indonesia to adhere to Islamic religious law, which in this situation is to consume halal food products. Incorporating Islamic law into the national legal system is quite logical and fulfills contemporary needs. UUJPH is a collaborative effort including a variety of stakeholders, including government, legislature, and civil society. The community's participation in both official and informal venues demonstrates that necessary negotiations and participation in the establishment of this UUJPH occurred. This demonstrates that the certification of halal products is a matter of religion or consumer and commercial interests.

The Halal Product Guarantee Act seeks to preserve and ensure the halal status of items consumed and utilized by the general population. Warranties for halal products should be based on conservation, justice, legal certainty, accountability and openness, efficacy and efficiency, and professionalism (Article 2 UUJPH). Thus, the guarantee for the implementation of halal products strives to provide the public with comfort, security, and assurance regarding the availability of halal products when consuming and using products, while also boosting the added value of business actors that make and sell halal products (Article 3 UUJPH).

Prior to the UUJPH becoming effective, the government amended it with the distribution of UU Number 11 of 2020 about Job Creation. Article 48 of the UUJPH contains the Job Creation Law. In UUJPH, there are 24 points of change in the form of amendments to existing articles and the inclusion of new ones. Government initiatives outlined in the Job Creation Law are implemented to attract domestic and foreign businesses and to make investing in Indonesia easier. The issue with the investment climate that is deemed an impediment is regulatory. By enacting the Omnibus bill, the government altered investment regulations. In countries with a civil law legal system, omnibus law is non-existent normatively. This omnibus law is derived from common law countries' customs. The government, on the other hand, has developed all of the regulations contained in the omnibus law in order to stimulate domestic investment.

One of the amendments to UUJPH is the insertion of Article 4A, which states that the obligation to be halal certified for micro and small business actors is dependent on the business actors' statements. Article 4A is being added to facilitate the acquisition of halal certificates by micro and small company players. However, as a result of the policy outlined in the standards governing halal product guarantees, when micro and small business actors apply for a halal certificate, no inspection by the Halal Inspection Agency (LPH) is required, but only a statement from the business actor regarding the halalness of the registered product is required. This statement by business actors is based on the BPJPH standard, which requires business actors to provide information in the form of a contract/pledge containing halal products and materials, halal manufacturing procedures, and PPH assistance (Article 79 Paragraph (4) PP PBJPH).

The statement of the business actor in the form of a pledge or contract demonstrates that the government's responsibility for conducting halal product inspections is transferred to the business actor. This demonstrates a delegation of responsibility for the halal production process's material accuracy to commercial players. The government's role in protecting Muslim consumers is minor, as duty for inspection is delegated to corporate actors through statements or commitments that are not subject to scrutiny by the LPH.

The transfer of responsibility for the certainty of halal food products referenced to in Article 4A is consistent with the libertarian view of justice, which holds that the state's engagement in citizens' affairs should be minimal (a minimalist state). Libertarians defend the free market and call for a restriction on the state's use in social policy. The state imposes constraints on responsibilities for implementing public welfare, which can result in the under-delivery of services to the community. Meanwhile, the Muslim community's freedom to consume halal food is a fundamental human right.

The fundamental rights that the welfare state is responsible for ensuring. As specified by Article 28E paragraph (1) and Article 29 paragraph (2) of the 1945 Constitution, as well as the ideological foundations of Pancasila. Pancasila, being the source of all legal sources, requires that the norms it creates match the legal principles embodied in the five precepts. Of Pancasila's five principles, the first principle underpins and animates the next four. The One Godhead's precepts demonstrate that humans are God's creations who must obey their teachings. Muslims, who constitute the majority of the population in Indonesia, have fundamental rights to practice their religion. Consuming halal food is one of the essential rights associated with adopting Islamic education. Thus, the state should ensure that Muslims consume halal cuisine. To ensure halal food, the state establishes rules inspired from Pancasila. The notion of consumer safety and security is one of the factors that must be adhered to while drafting regulatory standards regulating halal food guarantees. As a result, this principle should be incorporated into numerous articles establishing halal food assurance as a legal framework. Thus, the objective is to provide legal certainty and assurances to the community on halal food that enters and circulates within the Indonesian territory.

Globalization's influence on daily life is unavoidable. The process is rapid and comprehensive, encompassing all facets and pervading all spheres of human life. Economic globalization is characterized by free trade, which allows for the rapid entry of items from one country into another. Indonesia, as a developing country that is now integrating into the global economy, must be able to participate in international trade. In Indonesia's regulation of halal certification, economic globalization exerts influence over government laws governing halal product guarantees.

The purpose of this study is to explore the global economy's influence on Indonesia's regulation of halal certificates. The fundamental premise is that Indonesia's control of halal certificates is necessary. Nonetheless, the legal facts demonstrate the influence of globalization, prompting the state to adopt rules governing halal product guarantees through the establishment of the Halal Product Guarantee Law (UUJPH), which was updated in the Job Creation Law. According to Article 4 of the UUJPH, all items distributed in Indonesia must be certified halal. The change to UUJPH adds a new point to Article 4A, namely the requirement for micro and small company actors to be certified halal based on their statements. As a result, this study will analyze the regulation of halal product assurances in Indonesia utilizing Pancasila's philosophical foundation and Talcott Parson's cybernetic theory.

## **2. RESEARCH METHODS**

The research method employed is normative legal research, which is prescriptive in nature, particularly how halal product guarantees should be regulated in Indonesia. The method is legislative and conceptual in nature. Secondary data were gathered through a review of the literature. The deductive syllogism approach is used to analyze data, with

Pancasila and cybernetic theory serving as essential axioms. In comparison, the minor foundation is the legal reality that Indonesia regulates halal product guarantees.

### **3. RESULTS AND DISCUSSION**

#### ***1. Philosophical Ratio of Halal Product Guarantee Arrangements in Indonesia***

Pancasila is the state's foundation and ideology; it is a magnificent agreement envisioned by the nation's founding fathers that is impossible to replace with others. Pancasila serves as a guiding star in terms of legal ideals (*rechtsidee*). Positive legislation must be founded on the fundamental concepts revealed in Pancasila. As a result, the law's creation and implementation cannot be divorced from the Pancasila values. Understanding the significance of Pancasila is necessary for facilitating the formulation and elaboration of legal instruments' rules of power. The resulting legal system should demonstrate a ramification of Pancasila into a lawful procedure governed by principles and regulations. To that end, the government develops a legal standard that mirrors Pancasila's first, second, and fifth principles.

The first precept, Belief in One God, serves as the foundation for and animator of the values of just and civilized humanity, Indonesian unity, democracy guided by wisdom in deliberation/representation, and social justice for all Indonesians. This is because the state is a cohabitation institution as a humanitarian institution, and humans are creations of God Almighty, meaning that humans exist as a result of God Almighty's existence as the primary reason. All things originate with God. God is ultimate, perfect, omnipotent, unchanging, and limitless, and he is the natural order's regulator.

Additionally, the precepts of a just and civilized humanity include the virtues of independence and community, as well as the significance of justice and civility. Monoplural human nature is innately incarnated in bodily and spiritual activities, specifically pious character, pious personality, and pious character. To begin, human nature contains an inherent ability to perform physical and spiritual actions on the impulse of the will, based on rational decisions, and in harmony with the sense of fulfilling desires as oneness, namely bodily, psychological, individual, social, and living beings with distinct personalities. Lord. Each human activity is composed of the constituents of its essence, forming a single compound or monopluralist nature. Cooperation between intellect, taste, and well-being is an absolute necessity, according to the intrinsic nature of human beings.

Social justice refers to equity in all spheres of life, both material and spiritual. Justice is not a formal justice derived from legislation, but rather a justice related with its social habitat, namely the Indonesian people, under the framework of justice founded on the One Supreme God. How distinct, the Pancasila idea of justice is from positivism's definition of justice and is, in fact, compatible with legal science's realistic and theistic nature via a holistic paradigm. In terms of ensuring halal products, the Muslim requirement for halal meals is a must. To ensure that the state, as the community's representative, accommodates these interests in its legal products, in this case, the issuance of UUJPH and amendments to the Job Creation Law, the government should adopt policies that facilitate investment while not disregarding the interests of Muslim consumers by delegating product inspections to business actors (especially for micro and small business actors).

The statement of the business actor who accepts the pledge or contract demonstrates that the government's responsibility for conducting halal product inspections is transferred to the business actor. This also demonstrates a delegation of responsibility for the halal production process's material accuracy to business actors. The government's participation in

protecting Muslim consumers is minor, as inspection authority is delegated to corporate actors through statements or commitments made without assessment by the LPH.

## ***2. Globalization and State Failure in Halal Product Certification***

Globalization is a term that is frequently used to refer to present world phenomena. As we enter the third millennium, the world has transformed at a breakneck pace, with complex consequences—the emergence of dependency on practically all elements of existence in international interactions and transnational links. Lodge defines globalization as a process that connects or connects the world's inhabitants in all spheres of their existence, including cultural, economic, political, and technological, as well as environmental. Thus, the globalization of the world's inhabitants has resulted in an era in which the majority of their lives are substantially dictated by global processes. Meanwhile, globalization, according to Amal, is the process by which a global society emerges, namely a physically integrated world that transcends national boundaries, both intellectually and in terms of international political institutions.

Globalization can be identified by the nature of the shift or its characteristics, specifically the expansion of social, political, and economic activity in faraway places, regions, and continents. Second, there is an intensity or expansion of the flow of trade, investment, finance, migration, and cultural interaction, as well as increased connectivity. Thirdly, the acceleration of interaction and communication with the rest of the world through the development of a sophisticated transportation system capable of accelerating the exchange and dissemination of ideas, goods, information, capital, and society. Fourth is a surge in the intensity and speed of global interaction, which results in local or far-flung occurrences with global ramifications. This implies that domestic and international issues are becoming more inextricably linked (becoming increasingly fluid).

However, the amount of globalization's influence on domestic life in a country Globalization has a beneficial effect. Among the beneficial impacts of globalization is that the flow of commodities in society becomes more diverse, and the quality of goods becomes more competitive. This is advantageous from a consumer protection standpoint. Business competition from within the country and goods imported from overseas will intensify, and consumers will place a premium on products of high quality at competitive costs. However, it cannot be denied that globalization's detrimental impact poses a threat to indigenous traditions and wisdom, which may be eroded as a result of foreign influence. The culture of a country, which is its defining feature, may be lost as a result of another country's major cultural influence.

Global capitalism's hegemony over world trade is the outcome of a long history in western Europe. According to Roberto Unger, nineteenth-century jurists in western Europe attempted to establish a legal structure based on democratic and free market principles. As a result, there is a symbiotic relationship between democratic demands and the free market process. If democracy is ensured, the free market will benefit capitalism. Globalization, as a new mode of capitalism's spread, will thrive in any region where democracy has developed. Globalization, which was intended to foster the expansion of democratic, community-based government, has resulted in a proclivity for poor management. The causes of inadequate management are typically domestic issues connected to global economic interests that are neoliberal in nature and must be explicitly stated in government legislation, despite the fact that they affect the environment and human beings. The approach was followed to adhere to the policies of donors such as the IMF, the World Bank, and other organisations. It makes no

difference if it is capable of resolving poverty or establishing the rule of law and culture that the nation and state have never fully prepared.

In the economic sector, the Government's policy as outlined in the 2020-2024 RPJMN is that the Government is developing the Priority Program (Quick Wins) and the 2020-2024 Work Program. Four kinds of initiatives are being addressed under the concept of inclusive, sustainable, and competitive economic growth in Indonesia. To begin, a program to promote high-quality economic growth (growth). Second, a program aimed at promoting economic equity and lowering inequality (inclusiveness). Thirdly, programs promoting economic viability (sustainability). Fourthly, policies aimed at enhancing economic competitiveness (competitiveness).

State economic policies frequently benefit capitalist interest groups. State regulations serve the interests of capital owners rather than the public interest, as enshrined in the Employment Creation Law, which is included into the Omnibus Law. Omnibus Law is not a novel concept in the realm of legal science. It is simply that in Indonesia, it was first necessary to resolve inconsistencies in laws and regulations. Along with the aforementioned hurdles, the process of harmonising norms and regulations takes a long time. The concept of Omnibus Law enables the resolution of principles that are deemed irrelevant or troublesome.

However, some scholars believe that implementing the Omnibus Law concept would violate democratic values, as the Omnibus Law concept is viewed as anti-democratic by some. The critical question, though, is whether we should continue to tolerate contradicting rules and regulations. The government must make legal strides in order to settle the overlapping issues created by several of these laws and regulations. Economic globalization and capitalism have an impact on government legislation governing halal product assurances. The state's policy on halal product certification is a component of its legal policy. The Indonesian state's objective is to build a just and wealthy society, and economic development has been elevated to a national political priority in order to accomplish this goal. The RPJM/RPJP (previously GBHN) development strategy demonstrates a commitment to achieve the maximum feasible degree of economic growth. Development is accomplished through the use of foreign help as a supplement, and throughout the course of its following development, Indonesia has become extremely reliant on foreign aid. The political subsystem's principal function is to pursue objectives. Every civilization is a political entity, which means that it is constantly pursuing goals it deems to be beneficial.

Pancasila (culture sub-system) is employed as the intellectual and practical basis for constructing national economic politics, the state's defense against the community's interests is prioritized. The interests of consumers, particularly Muslim customers, in halal products are at stake in this case. The promise of state protection for Muslim consumers is explicitly mentioned in Articles 28E and 29 of the 1945 Constitution (2). The purpose of the Halal Product Guarantee is to protect consumers, not just Muslim consumers, but also the Indonesian populace. Because the certificate demonstrates that the products distributed in Indonesia are safe to consume. UUJPH demands that all items distributed in Indonesia be certified halal. Of course, from the consumer's perspective, this is quite beneficial because consumers are relieved of the responsibility of conducting their own research on the food. On the other hand, business actors have an obligation to view these commitments as regulations that could jeopardize their interests. Indeed, by regulating halal product assurances, it is possible to boost the added value of business players.

With the addition of Article 4A, which states that the obligation for micro and small business actors to be certified halal is based on a statement by business actors adhering to BPJPH standards and without any inspection by the Halal Inspection Agency, consumer

confidence in the halalness of the product may be eroded. Even after the statement, the MUI must test the product in a halal fatwa session to receive a halal certificate; this demonstrates the transfer of responsibility for product halalness to the MUI based on the statement of business actors.

The regulation of halal certificates as part of the government's assurance of halal products is intended to offer customers with a sense of confidence, comfort, and legal clarity regarding the products they consume, thereby avoiding illicit products. On the other side, the purpose of regulating halal certification is not just to safeguard Muslim consumers, but also to encourage business actors to maximize the value of their products. In principle, protecting Muslim consumers entails enforcing citizens' constitutional rights under Article 28J and Article 29 paragraph (2) of the 1945 Constitution, which provide that the state guarantees each resident's independence to practice their respective religions and worship according to their religion and beliefs. As a result of the amendment of Article 4A, when micro and small company actors request for a halal certificate, the Halal Inspection Agency (LPH) does not perform an inspection but instead relies on a statement from the business actor verifying the halalness of the goods being registered. This statement by the business actor is based on the BPJPH standard, which requires the business actor to submit information in the form of a contract/pledge containing the halal products and materials utilized, as well as PPH assistance for the halal production process.

The state plays a very minor role. The regulation of halal product guarantees frequently favors corporate players' interests. Such circumstances show that commercial concerns wield considerable influence over the policy regulating halal product guarantees. By making it easier for micro and small company actors to obtain halal certificates, adding Article 4A UUJPH is a beneficial policy. Nonetheless, the absence of third-party verification, in this example by the Halal Inspection Agency, can result in consumer interests being overlooked. At the expense of the government, reviews of proposed products should continue to be conducted to safeguard the safety and interests of customers. Consumers' position as a weak party in dealings with commercial actors has no training effect on the government. In comparison to business actors that have economic and political clout, influencing government decisions is easy. Therefore, when the interests of business actors are deemed to be unaffordable, energy can influence government policy by facilitating the registration of halal certificates for micro and small business actors and ignoring the consequences for consumers, so that the requirement for halal certificates appears to be a formality. This is accomplished by officially legalizing in state law what has shaped the perception of business actors thus far.

Globalization's impact on any country has an effect on the capitalist system's ability to prosper. In Indonesia, capitalism continues to be superior to the Pancasila economic system. Numerous evidence demonstrate that as capitalism developed, economists' interests gained greater access to the state space than the interests of society in general. The Job Creation Act is one of the most visible manifestations of capitalism's victory in Indonesia. The UUJPH was formed in 2014 and became effective in 2019. Whereas the government's willingness to implement the UUJPH has not always been perfect, changes have been made by revoking and replacing Government Regulation No31 of 2019 with Government Regulation No39 of 2021 regarding the Implementation of Halal Product Guarantees. The requirement to be halal certified begins in October 2019 and is phased in. Nonetheless, until 2021, there will be a Government Regulation implementing UUJPH, particularly Government Regulation No 31 of 2019, concerning the Implementation of the JPH Law, which was released on May 3, 2019. This Government Regulation has not been effective yet has been canceled and replaced with Government Regulation Number 39 of 2021 concerning the Implementation of Halal Product

Guarantee. As a result, various additional implementing regulations have not been issued, and the number of institutions issuing halal certificates remains limited. The Central BPJPH continues to house the BPJPH that was founded and is authorized to issue halal certificates.

In comparison, the provincial representative BPJPH and the district/city Halal Task Force do not yet have the ability to give halal certificates; they can only collect application files for halal certificates. Similarly, the MUI, which has the authority to hear appeals of halal fatwa determinations, remains at the provincial level. The MUI does not currently have the power to conduct a halal fatwa trial at the district/city level. This can add time to the process of obtaining a halal certificate. The Central BPJPH retains the authority to grant halal certificates. It has not been delegated to the provincial BPJPH or the district/city Halal Task Force. At the Regency/City and Provincial levels, the Halal Task Force is only permitted to accept registration documents and engage with business actors interested in filing for a halal certificate.

Parson's money and political clout are on display in this case. The financial interests of the upper class under their capitalist system make it simpler for major capital owners to influence and condition the government into enacting policies in their favor. Supported by political authority that retains sufficient vitality, it has the potential to make the government more accessible to corporate actors seeking halal certification. On the other side, the convenience afforded to micro and small business actors may result in reduced halal certainty for customers due to the absence of LPH inspection and reliance on company actors' assertions. Thus, following the change to the Job Creation Law, the state failed to safeguard consumers from assured halal items.

#### **4. CONCLUSION**

Based on the discussion above, the authors can conclude several things: first, philosophically, the interests of Muslim consumers for guaranteeing halal products must obtain protection from the state. This is in line with the basic philosophy of the state Pancasila in the first, second and fifth precepts. At the same time, Article 28E and Article 29 (2) of the 1945 Constitution are the constitutional basis for the right of Muslim consumers to guarantee halal products. Second, the influence of globalization in the economic field can influence government policies that support capitalism in Indonesia. The existence of the Job Creation Law shows that economic and political forces that have high energy can condition the law so that the UUPH, which has been enacted and is effective in 2019, is changed to the Job Creation Law where there are several changes to the articles in the UUPH that weaken protection for Muslim consumers.

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