

Legal Compliance in the Registration and Issuance of Halal Certificates in Indonesia: A Comparative Study with Malaysia

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Abstract: This research comparatively analyzes the legal compliance frameworks governing the registration and issuance of halal certificates in Indonesia and Malaysia, two leading nations in the global halal market. It focuses on the normative juridical aspects, examining statutory provisions, institutional roles (BPJPH-MUI in Indonesia, JAKIM in Malaysia), and procedural mechanisms. The study highlights the challenges faced by Micro, Small, and Medium Enterprises (MSMEs) in Indonesia in navigating these regulations, particularly in light of Law No. 33 of 2014 and its implementing regulations. Employing a qualitative approach with statutory, case study, and literature review analyses, the research identifies key differences in regulatory centralization, enforcement strategies, and MSME support systems. Findings indicate that while both nations strive for robust halal assurance, variations in legal implementation significantly impact compliance accessibility and economic implications for businesses. The study concludes with recommendations for enhancing legal certainty and streamlining compliance, particularly for Indonesian MSMEs, drawing lessons from Malaysia's more integrated system.

Keywords: Halal Certification; Legal Compliance; Indonesia; Malaysia; MSMEs.

Introduction

The global halal industry has transformed from a niche religious market into a formidable economic force, with a value projected to reach trillions of dollars.¹ At the heart of this dynamic landscape are Indonesia and Malaysia, two powerhouse nations that not only represent the largest Muslim consumer bases in Southeast Asia but also harbor aspirations to become global hubs for the halal economy. Halal certification, the formal process of verifying that a product or service complies with Islamic Sharia, serves as the linchpin of this industry. It is no longer merely a religious obligation but has evolved into a critical instrument of consumer protection, a recognized standard of quality and safety, and a non-negotiable passport for businesses seeking access to both domestic and international markets.²

However, beneath this shared ambition, distinct and contrasting phenomena are unfolding within the societies of Indonesia and Malaysia, reflecting their divergent legal pathways. In Indonesia, the enactment of Law No. 33 of 2014 concerning Halal Product Assurance (JPH Law) initiated a seismic shift from a voluntary, civil society-led certification model to a mandatory, state-administered regime. This

¹Mohamed Syazwan Ab Talib, and Siti Norida Wahab. "Halal logistics in a rentier state: an observation." *Modern Supply Chain Research and Applications* 3.2 (2021): 155-170.

²Ferry Khusnul Mubarok and Muhammad Khoirul Imam, "Halal Industry in Indonesia; Challenges and Opportunities", *Journal of Digital Marketing and Halal Industry*, 2.1 (2020): 55-64.

transition has triggered significant social and economic tremors.³ A palpable sense of urgency, often bordering on confusion, now pervades the business community, particularly among the nation's 60 million Micro, Small, and Medium Enterprises (MSMEs). The approaching mandatory certification deadline, despite a recent postponement to 2026 for some sectors, has created a "halal rush." This rush has exposed a stark digital divide, where countless small entrepreneurs struggle to navigate the complexities of the mandatory online registration platform, SIHALAL.⁴ This situation has also spurred the emergence of a new "facilitator" economy, where third-party consultants (Pendamping Proses Produk Halal-P3H) offer assistance, yet their variable quality introduces a new layer of uncertainty. For consumers, the transition has brought confusion between the long-trusted logo of the Indonesian Ulema Council (MUI) and the new logo of the Halal Product Assurance Organizing Agency (BPJPH), sometimes leading to skepticism about the rigor of the new system, especially the "self-declare" mechanism for MSMEs.

In stark contrast, the phenomenon in Malaysia presents a picture of a mature and deeply integrated halal ecosystem. For decades, the Malaysian government, through the Department of Islamic Development (JAKIM), has cultivated its halal certification not just as a religious standard but as a powerful national and global brand. The JAKIM logo is widely perceived by Malaysian consumers and international markets alike as a symbol of high quality, safety, and unwavering religious integrity.⁵ This has fostered immense consumer confidence and created powerful market-driven incentives for compliance. For businesses in Malaysia, including those owned by non-Muslims, obtaining JAKIM certification is less a regulatory burden and more a commercial imperative crucial key to unlocking mainstream consumer markets and leveraging the "Halal Malaysia" brand for export competitiveness.⁶ The government's proactive role, channeled through bodies like the Halal Development Corporation (HDC), provides clear and structured pathways for training, funding, and international market access, further embedding the halal industry within the national economic fabric.

So far, research discussing halal certification has been conducted by previous researchers. Ismail Muzamiru Nandala and Tawfik Azrak discuss halal certification in general through legal and ethical considerations in Islamic jurisprudence.⁷ As for halal certificates, they are discussed critically by Muhammad Aziz et al.,⁸ while the implementation was discussed by Wahyudin Darmalaksana.⁹ Likewise, Lukman Santoso and Abdul Rachman are interested in the digitalization of halal certification by studying the dynamics of halal certification regulations and policies in Indonesia.¹⁰

³Nadia Fatima, Ipah Ema Jumiati, and Rina Yulianti, "Implementasi Undang-Undang Nomor 33 Tahun 2014 Tentang Jaminan Produk Halal", *JDKP Jurnal Desentralisasi Dan Kebijakan Publik*, 4.1 (2023).

⁴Khairul Hafiz, "Analisis Proses Bisnis Sertifikasi Halal Di Era Baru Sertifikasi Badan Penyelenggara Jaminan Produk Halal", *JMPS: Jurnal Ilmiah Mahasiswa Pendidikan Sejarah*, 8.3 (2023).

⁵Siti Fatimah Abdul Razak et al., "Smart Halal Recognizer for Muslim Consumers", *Indonesian Journal of Electrical Engineering and Computer Science*, 14.1 (2019).

⁶Dianwicaksih Arieftiara, Jubaedah Nawir, and Indri Arrafi Julianisa. "Halal food certification, financial performance, and sustainability reporting: Comparative study of food and beverage firms in Malaysia and Indonesia." *AgBioForum* 24.2 (2022): 12-22.

⁷Ismael Muzamiru Nandala, and Tawfik Azrak. "Halal Certification: Legal and Ethical Consideration in Islamic Jurisprudence." *International Journal of Islamic Business* 9.2 (2024): 43-60.

⁸Muhammad Aziz, Abdul Ghofur, and Niswatin Nurul Hidayati. "Regulation on the implementation of halal product assurance in Indonesia: Statute approaches study." *Ulul Albab: Jurnal Studi dan Penelitian Hukum Islam* 4.2 (2021): 209-230.

⁹Wahyudin Darmalaksana, "How is the halal certification policy implemented? Perspective analysis of small and medium enterprises (SMEs) in Indonesia." *Journal of Islamic Accounting and Business Research* (2023).

¹⁰Lukman Santoso, and Abdul Rachman. "Digitalising Halal Certification: The Dynamic of Regulations and Policies Concerning Halal Certification in Indonesia." *Supply Chain Management* 14.2 (2023): 265-293.

Next, Aishath Muneeza and Zakariya Mustapha are more interested in the halal certification process¹¹, while Christian Bux et al. delved deeper into the sustainability of halal food between certification and blockchain.¹² Meanwhile, Bima Muhammad and Mohammad Nizarul Alim focused on the reliability of the implementation of halal certification through a qualitative study of the perceptions of halal supervisors and micro-business actors.¹³ However, comparative research by comparing halal certification policies implemented in Muslim countries is still rare. By making a comparison with other Muslim countries, the advantages and disadvantages of halal certification policies in Indonesia can be measured. Therefore, this study discusses the comparison of halal certification policies and registration in Indonesia and Malaysia. Malaysia is classified as a Muslim majority country in the form of a kingdom, so it is interesting to compare it with Indonesia in terms of halal certification policies.

The divergence between the turbulent transition in Indonesia and the stable, market-integrated system in Malaysia presents a compelling legal and social issue. Despite drawing from the same Sharia principles, the distinct legal philosophies and institutional architectures adopted by each state have produced vastly different realities on the ground.¹⁴ This raises critical questions about the effectiveness, accessibility, and economic impact of their respective legal frameworks. This article therefore seeks to dissect these contrasting phenomena by focusing on three fundamental aspects that are at the heart of the issue: the fundamental differences in Indonesia's legal and institutional structures involving BPJPH, LPH, and MUI, versus Malaysia's centralized and integrated model under JAKIM. Furthermore, the real-world consequences of these different legal frameworks on the accessibility and practicality of compliance for MSMEs, which are the backbone of both countries' economies but have limited resources to navigate complex regulatory demands. The final discussion concerns the variations in enforcement mechanisms, perceived market value of issued certificates, and the overall clarity of the legal process that influence the level of legal certainty for businesses and trust among consumers in each country.

By undertaking a normative juridical and comparative analysis of these three interconnected aspects, this research aims to move beyond a surface-level description of laws. It seeks to understand the root causes of the compliance challenges in Indonesia and to identify actionable legal and policy lessons that can be drawn from the Malaysian model. The ultimate goal is to contribute to the discourse on how to build a halal assurance system that is not only legally robust and Sharia-compliant but also equitable, accessible, and empowering for all economic actors. It is hoped that this will provide comparative analysis results from both countries in implementing halal certification rules and processes.

Method

This research employs a normative juridical research methodology. This approach is selected due to the study's primary focus on the analysis of legal norms, principles, statutes, and regulations that

¹¹Aishath Muneeza, and Zakariya Mustapha. "Halal certification process for fisheries products in Maldives." *Journal of Islamic Marketing* 12.2 (2021): 451-466.

¹²Christian Bux, et al. "Halal food sustainability between certification and blockchain: A review." *Sustainability* 14.4 (2022): 2152.

¹³Muhammad Bima, and Mohammad Nizarul Alim. "Assessing the Reliability of Halal Certification Implementation: A Qualitative Study on Perceptions of Halal Supervisors and Micro Business Actors." *Journal of Islamic Economic Laws* 8.1 (2025): 79-105.

¹⁴Muhammad Hafeez Zakaria, Mohd Haniff Mohammad Yusoff, and Mohammad Nidzam Abdul Kadir, "Jaringan Rangkaian Organisasi Dalam Memperkuat Pembangunan Industri Halal Malaysia", *Malaysian Journal of Social Sciences and Humanities (MJSSH)*, 7.10 (2022).

constitute the framework for halal certification in Indonesia and Malaysia. The core of the investigation lies in the examination of legal texts and doctrines rather than the collection of primary empirical field data, beyond the contextual information regarding MSME challenges in Indonesia provided within the foundational research proposal.

Complementing the normative juridical type, a qualitative research approach is adopted. This allows for an in-depth understanding, interpretation, and nuanced analysis of the complex legal texts, institutional structures, and the multifaceted nature of compliance processes associated with halal certification. The qualitative approach facilitates a rich exploration of the legal meanings and implications embedded within the regulatory frameworks of both nations.

The sources of data for this study are categorized as follows

1. Primary legal materials form the bedrock of the analysis. For Indonesia, these include: Law No. 33 of 2014 concerning Halal Product Assurance (JPH Law); Government Regulation (PP) No. 39 of 2021 concerning the Organization of Halal Product Assurance; Law No. 11 of 2020 on Job Creation (Omnibus Law) and its subsequent amendments, notably Law No. 6 of 2023, which bear relevance to halal certification processes, particularly for MSMEs; Regulation of the Minister of Religious Affairs No. 20 of 2021 concerning Halal Certification for Micro and Small Enterprises; and pertinent decrees and circulars issued by BPJPH. For Malaysia, primary legal materials include the Trade Descriptions Act 2011; relevant JAKIM guidelines; the Malaysian Halal Certification Procedure Manual (MPPHM); the Malaysian Halal Management System (MHMS); and applicable Malaysian Standards (MS), such as MS 2634:2019 for halal cosmetics.
2. Secondary legal materials comprise academic legal journals, both national and international, with a preference for publications from the last five years to ensure contemporary relevance, as stipulated by the research parameters. Books on Islamic law, halal studies, legal commentaries, and reputable research reports also constitute secondary sources. The initial literature scan has identified several pertinent sources that will inform this review.
3. Tertiary legal materials, primarily for contextual understanding, include the research proposal document. This document provides essential background information on the collaborative nature of this research, the identified problem statement concerning MSME difficulties in Indonesia, and the overall scope and aims of the study.

The analysis of these data sources will be conducted using a combination of methods:

1. A statutory analysis (statute approach) will involve a detailed examination, interpretation, and exegesis of the relevant laws, regulations, and legal provisions in both Indonesia and Malaysia. This will aim to understand their precise content, intended scope, and direct implications for halal certification compliance.
2. A comparative analysis (comparative approach) will be systematically undertaken to compare and contrast the legal frameworks, institutional architectures, certification processes, compliance mechanisms, and enforcement strategies operative in Indonesia and Malaysia. This comparative lens will serve to identify similarities, crucial differences, relative strengths, and potential weaknesses within each national system.
3. A literature review analysis (conceptual approach) will be conducted to synthesize and critically evaluate existing scholarly literature, expert opinions, and documented research on halal certification, legal compliance issues, and the specific challenges prevalent in Indonesia and Malaysia. This will provide the necessary theoretical grounding and contextual depth for the study.

4. A case study analysis (case approach), limited to the context provided by the research proposal 5, will treat the identified "problems" – such as the lack of awareness, insufficient information, and the need for clear standards faced by Indonesian MSMEs 5 – as illustrative instances of compliance challenges arising within the Indonesian legal framework.

The mechanism to analyze Sharia issues within this legal study involves examining how core principles of Islamic law, such as *halālan tayyibān* (permissible and wholesome), the protection of consumers from *ḥarām* (forbidden) items, and broader Islamic legal maxims related to justice (*al-‘adl*), public interest (*maṣlahah*), and legal certainty (*yaqi‘n*), are translated into, and enforced through, the national legal and regulatory instruments of both Indonesia and Malaysia. This includes an analysis of the formal roles played by religious bodies, such as the MUI in Indonesia and the religious scholars within JAKIM in Malaysia, in interpreting Sharia requirements and issuing the fatwas or standards that underpin the legal certification process.

Results and Discussion

Juridical-Institutional Disparity: A Tale of Two State Architectures

The foundational legal philosophies underpinning halal governance in Indonesia and Malaysia have cultivated profoundly different institutional ecosystems. The analysis reveals a stark contrast between Indonesia's recently instituted, fragmented, multi-stakeholder model and Malaysia's long-established, centralized, state-integrated system. This divergence is not merely procedural but reflects a deeper variance in the state's relationship with religious regulation and the market, fundamentally shaping legal compliance and the exercise of regulatory authority.

The Indonesian Model: A Fragmented Authority and Its Legal Reverberations. The enactment of Law No. 33 of 2014 concerning Halal Product Assurance (JPH Law)¹⁵ represented a paradigm shift in Indonesia, moving from a voluntary system dominated by the Indonesian Ulema Council (MUI) to a mandatory, state-administered regime. A statutory analysis of the JPH Law and its implementing regulation, Government Regulation (PP) No. 39 of 2021,¹⁶ reveals a tripartite institutional structure. Authority is distributed among three key bodies

The Halal Product Assurance Organizing Agency (BPJPH). Established under the Ministry of Religious Affairs, BPJPH acts as the primary government regulator. Its functions include formulating policy, registering and certifying products, issuing the final halal certificate, and overseeing the entire system. Its authority is administrative and governmental. The Halal Inspection Agency (LPH - Lembaga Pemeriksa Halal): These are independent institutions, which can be state-owned, university affiliated, or private tasked with conducting the technical inspection and auditing of product materials and processes to verify compliance with halal standards. The Indonesian Majelis Ulama Council (MUI): Despite the state's new central role, the MUI retains the exclusive and critical religious authority to issue the final fatwa (religious edict) that determines a product's halal status. BPJPH cannot issue a halal certificate without a preceding a halal fatwa from the MUI.

This separation of powers, while perhaps intended to maintain a check and balance between state administration and religious authority, has inadvertently created significant legal and bureaucratic friction.

¹⁵Republik Indonesia, Peraturan Pelaksanaan Undang-Undang Nomor 33 Tahun 2014 Tentang Jaminan Produk Halal.

¹⁶Sariah Sariah, et al. "Comparison of Halal Product Assurance System Criteria Arrangement in Indonesia and Malaysia." *International Journal of Environmental, Sustainability, and Social Science* 4.2 (2023): 417-429.

The transition has been described as a "contested terrain of halal governance," where institutional roles and historical legacies collide. The sequential process application to BPJPH, audit by an LPH, and fatwa determination by MUI before the certificate is finally issued by BPJPH creates multiple potential choke points, leading to protracted timelines and bureaucratic uncertainty for businesses. The formal transfer of administrative power from MUI, which had built decades of public trust and operational experience, to the newly formed BPJPH has been anything but seamless.¹⁷ This has led to a palpable "institutional void" in the early years of implementation, characterized by a lack of coordination and clarity.¹⁸

A study by Anzellyta and Fitria shows that the Halal Product Assurance Law (UU JPH) has not been able to significantly encourage business actors in Indonesia to register for halal certification. Although the JPH Law aims to increase the availability of halal products, in fact, many business actors are still not aware of this obligation. The study highlights the low level of legal awareness among business actors, which includes a lack of knowledge about regulations, legal content, and appropriate attitudes and behaviors towards halal certification obligations. In other words, many business actors do not fully understand or comply with the provisions of the JPH Law, which results in minimal registration of halal certification.¹⁹

The Indonesian government is working hard to accelerate the issuance of halal certification, especially with the implementation of this certification obligation in 2024. One concrete step is the launch of the Free Halal Certification (SEHATI) program since 2022, which allows small businesses to obtain halal certificates through the Self-Declare scheme. A study by Maisyarah Rahmi Hasan and Munawar Rizki Jailani highlights the implementation of this self-declare scheme, which has provided a quota of 1 million certificates for Micro and Small Enterprises (MSEs) since 2022, in accordance with the criteria stipulated in Law Number 33 of 2023. However, in the field, this process has not run smoothly. Various obstacles have emerged, both from the organizers such as BPJPH, and from related institutions such as LP3H and Halal Product Process (PPH) assistants, to the MSE actors themselves. Internal obstacles that are often faced by MSEs include complex requirements, digital application procedures, and problems that arise after the issuance of certificates.²⁰

Furthermore, this fragmented structure directly impacts legal certainty. For businesses, navigating three separate entities with distinct procedures and timelines complicates the compliance journey. For consumers, the emergence of the new BPJPH halal logo alongside the deeply entrenched MUI logo has shown confusion and, in some quarters, skepticism. The public's long-standing association of halal assurance with the religious authority of the MUI is now challenged by a state-issued certificate, raising questions about whether the new system prioritizes bureaucratic process over religious rigor.²¹ This situation highlights a fundamental challenge in translating Sharia principles into state law: while the state

¹⁷Humas BPJPH, "Lima Tahun BPJPH, Ini Capaian Jaminan Produk Halal di Indonesia", *Kementerian Agama Jateng*, (2022).

¹⁸Alexander B. Kinney, "Sumptuary administration: How contested market actors shape the trajectory of policy when regulated under fragmented governance." *Law & Policy* 45.4 (2023): 507-529.

¹⁹Tasya Anzellyta, and Anis Fitria. "The Effectiveness of The Halal Product Guarantee Law on Business Awareness in Registration of Halal Certification in Indonesia". *Walisongo Law Review (Walrev)* 4.1 (2022): 97-120.

²⁰Maisyarah Rahmi Hasan, and Munawar Rizki Jailani. "The Problem of Implementing Self Declared Halal Certification for Micro and Small Enterprises". *Jurnal Ekonomi Syariah, Akuntansi Dan Perbankan (JESKaPe)* 8.1 (2024): 94-120.

²¹Abdul Rahman, "Obligation to Register Halal Certification of Pharmaceutical Products as Guarantee of Halal Products Based on the Perspective of Maqashid Al Syariah." *5th Legal International Conference and Studies (LICS 2022)*. Atlantis Press, (2023).

can legislate process, it cannot easily legislate religious trust, which is earned over time. The principle of *maṣlaḥah* (public interest), a key objective of Islamic law, is at risk if the legal framework designed to protect the public creates confusion and operational hurdles that undermine its very purpose.

The Malaysian Model: Centralized Authority as a National Brand

In stark contrast, Malaysia's halal governance model is a study in centralization and integration. The legal framework, primarily anchored in the Trade Descriptions Act 2011, empowers a single federal agency, the Department of Islamic Development Malaysia (JAKIM), as the paramount authority for halal certification in the country.²² A detailed review of the Malaysian Halal Certification Procedure Manual (MPPHM) and the Malaysian Halal Management System (MHMS) reveals a 'one stop shop' model where JAKIM functions as the regulator, auditor, certifier, and a key player in enforcement.

This centralized structure offers unparalleled legal and procedural clarity. Businesses, whether local MSMEs or multinational corporations, interact with a single, authoritative body. The standards are uniform, the procedures are clearly documented, and the lines of authority are unambiguous. This institutional efficiency has been instrumental in transforming the "Halal Malaysia" logo into what is arguably the world's most recognized and trusted halal brand.²³ It is perceived not merely as a religious marker but as a comprehensive guarantee of quality, hygiene, and safety, a concept closely aligned with the Islamic principle of *halālan tayyibān* (permissible and wholesome).

The Malaysian government has strategically reinforced this model by creating complementary, non-regulatory institutions. The Halal Development Corporation (HDC), an agency under the Ministry of Investment, Trade and Industry, is a prime example.²⁴ Its mandate is not to regulate but to develop the halal industry by providing training, financial support for MSMEs, and facilitating international market access. This clear division of labor JAKIM for regulation and integrity, HDC for industry development and commerce creates a synergistic ecosystem. This integrated approach, as noted by researchers, avoids the "jurisdictional ambiguity" that can plague multi-agency systems.

A comparative analysis underscores the profound impact of these differing institutional architectures. Indonesia's model, born from a political compromise to shift power to the state while preserving the MUI's religious role, is still navigating the complexities of inter-agency coordination. This has resulted in a system that is legally complex and perceived as burdensome by many economic actors.²⁵ Malaysia's model, a product of a decades-long, state-led initiative to integrate Islamic governance with national economic planning, provides a stable and predictable legal environment. This stability has fostered immense business and consumer confidence, making halal certification a commercial imperative rather than just a regulatory obligation.

²²Muhammad Hafeez Zakaria, Mohd. Haniff Mohammad Yusoff, and Mohammad Nidzam Abdul Kadir, "Jaringan Rangkaian Organisasi dalam Memperkuat Pembangunan Industri Halal Malaysia," *Malaysian Journal of Social Sciences and Humanities (MJSSSH)* 7.10 (2022).

²³Muhammad Raqib Mohd Sofian and Amer Qasem, "Counter-Hegemonic Discourse on Islam in Malaysia: A Case Study of Malaysiakini's Coverage Regarding the Issue of Halal Certification by Jakim", *Global Journal Al-Thaqafah*, 10.2 (2020).

²⁴Setiyawan Gunardi, Ahmad Fakhrusy, and Syakirin Hashim, "Pengajaran Dan Pembelajaran Halal Di Halal Industry Development Corporation (Hdc) Halal Teaching and Learning in Halal Industry Development Corporation (Hdc)", *Journal of Islamic, Social, Economics and Development (JISED)*, 4.19 (2019).

²⁵Nurulhuda Noordin et al, "Value Chain of Halal Certification System: A Case of the Malaysia Halal Industry", in *Proceedings of the European and Mediterranean Conference on Information Systems, EMCIS 2009*, 2009.

For Muslim consumers, halal certification is increasingly vital as a guarantee of product compliance with Islamic law.²⁶ A comparative study by Supriyadi et al. outlines the differences and similarities between the approaches of Indonesia and Malaysia. In Indonesia, Law Number 33 of 2014 and Government Regulation Number 31 of 2019 changed the status of halal certification from voluntary to mandatory since October 17, 2019. Uniquely, Indonesia also accommodates a special self-declaration mechanism for micro and small businesses. In contrast, Malaysia maintains a voluntary halal certification system under the Trade Deed (APD) 2011, without any self-declaration provisions. However, both countries have alignment in the principles of product material inspection.²⁷ Despite the differences in procedures, Indonesia and Malaysia both have a strong commitment to popularizing halal products and ensuring their widespread availability.

Implementation and Accessibility for MSMEs: Bridging the Regulatory Chasm

The legal frameworks of both nations have profound and divergent consequences for MSMEs, which constitute the economic backbone of their societies. While both Indonesia and Malaysia aim to integrate MSMEs into the halal economy, their approaches coercive mandate versus market-led incentive produce vastly different realities on the ground. The analysis of the implementation frameworks reveals that legal design is a critical determinant of accessibility and practicality for resource-constrained enterprises.

The "Halal Rush" in Indonesia: Mandatory Compliance Meets Practical Reality

The introduction of mandatory halal certification in Indonesia has created what can be described as a "halal rush," a frantic and often confusing scramble for compliance among the nation's 64 million MSMEs. Using the challenges faced by these MSMEs as an illustrative case,²⁸ the analysis identifies several critical points of failure where the legal intent of the JPH Law is undermined by its practical implementation.

First, the mandatory online registration platform, SIHALAL, has become a significant barrier. While intended to streamline applications, it has exposed a stark digital divide. Many MSME owners, particularly in rural areas or among the older generation, lack the digital literacy and consistent internet access required to navigate the complex online forms and document submission processes.²⁹ This digital hurdle effectively disenfranchises a large segment of the very population the law is meant to regulate, creating a bottleneck that contradicts the law's objective of universal compliance.

Second, in an attempt to alleviate the burden on "micro" and "small" enterprises, the government introduced a "self-declare" mechanism through the Minister of Religious Affairs Regulation No. 20 of 2021. This scheme allows eligible businesses to obtain certification based on a declaration of halal compliance, verified by a Halal Product Process Assistant (P3H), without undergoing a full audit by an LPH. While

²⁶Hulwati Hulwati, et al. "Navigating Halal Certification Standards: A Comparative Analysis of The Food Industry in Indonesia and Malaysia". *Journal of Fatwa Management and Research* 30.1 (2025): 1-22.

²⁷Supriyadi Supriyadi, et al. "Legal Effectiveness of Halal Product Certification in Improving Business Economics in Indonesia and Malaysia". *Al-Ahkam* 34.1 (2024):193-220.

²⁸Muhammad Saiful, L M Samsu, and Aswian Editri Sutriandi, "Sistem Pendukung Keputusan Dalam Menentukan Strategi Manajemen Resiko UMKM Berbasis Web Dengan Metode Certainty Factor", *Infotek: Jurnal Informatika Dan Teknologi*, 7.1 (2024).

²⁹Luluk Latifah, Muhammad Anas, and Andre Ridho Saputro, "Pendampingan Proses Produk Halal (PPH) Hingga Penerbitan Sertifikasi Halal Dengan Aplikasi Si-Halal Melalui Mekanisme Halal Self Declare Pada Pelaku Usaha Bumbu Hikmah", *Multidisiplin Pengabdian Kepada Masyarakat*, 2.3 (2023).

well-intentioned, this policy has introduced new layers of legal uncertainty. For consumers, the self-declare certificate carries a perception of lesser rigor compared to a full MUI/LPH audited product, potentially creating a two-tiered market and eroding trust. For businesses, the legal liability in case of a product's non-compliance remains ambiguous. Does the liability rest with the business owner, the P3H who verified the declaration, or the state (BPJPH) that issued the certificate? This lack of clarity undermines the principle of legal certainty (*yaqīn*), a cornerstone of Islamic jurisprudence aimed at preventing disputes and ambiguity.

Third, the emergence of the P3H assistants has created a new, unregulated "facilitator economy." These assistants are intended to guide MSMEs through the process, but their quality, knowledge, and ethical standards are highly variable. The absence of a robust, standardized training and accreditation system for P3Hs means that MSMEs are vulnerable to misinformation or even predatory fees from unqualified consultants. This creates an additional layer of risk and cost, further complicating the compliance landscape for the most vulnerable economic actors. The Indonesian approach, in its current form, appears to be a classic case of "law in the books" diverging from "law in action." The legal mandate for universal certification, when imposed without sufficient and accessible support infrastructure, risks becoming a punitive barrier rather than an empowering tool for MSMEs.

In contrast, Malaysia's approach to MSME integration is fundamentally market-driven and supportive rather than top-down and coercive. There is no sweeping legal mandate forcing every small food stall to be certified overnight. Instead, the government has focused on building the commercial value of the JAKIM halal logo to such an extent that obtaining it becomes a powerful "pull" factor for business growth.³⁰ For an MSME in Malaysia, being uncertified means being locked out of the vast majority of the mainstream consumer market, including supermarket shelves, food delivery platforms, and export opportunities.

This market-driven incentive is supported by a robust and accessible ecosystem. The Malaysian Halal Certification Procedure Manual is complemented by specific guidelines tailored for small and medium enterprises, providing clear, step-by-step instructions.³¹ More importantly, government agencies like the HDC and SME Corp Malaysia offer a suite of integrated support services. These include:

Financial Assistance: Grants and soft loans specifically earmarked for the costs associated with obtaining halal certification, such as facility upgrades and consulting fees. Structured Training: Subsidized training programs on the Malaysian Halal Management System (MHMS), good manufacturing practices (GMP), and other prerequisite standards. This builds internal capacity within the MSMEs. Market Access Platforms: The HDC actively promotes Malaysian halal-certified MSMEs at international trade fairs, connecting them with global buyers and creating tangible export opportunities.

This ecosystem approach ensures that MSMEs are not simply commanded to comply but are actively equipped and empowered to do so. The legal and administrative framework provides a clear and achievable pathway, while the market provides the compelling reason. This aligns closely with the Islamic legal maxim that "what is not possible to be done in its entirety should not be abandoned in its entirety" (*al-maisūru lā yasquṭu bil-ma'sūr*), suggesting a pragmatic, phased approach to achieving compliance rather than an unyielding, one-size-fits-all mandate.

³⁰Muhammad Hafeez Zakaria et al, "Penyelidikan Dan Pembangunan Ekosistem Halal Dalam Meningkatkan Daya Saing Industri Halal Malaysia", *Malaysian Journal of Social Sciences and Humanities (MJSSH)*, 7.10 (2022).

³¹Muhammad Hafeez Zakaria, Mohd Haniff Mohammad Yusoff, and Mohammad Nidzam Abdul Kadir, "Jaringan Rangkaian Organisasi Dalam Memperkuat Pembangunan Industri Halal Malaysia", *Malaysian Journal of Social Sciences and Humanities (MJSSH)*, 7.10 (2022).

A comparative assessment reveals that Malaysia's legal and policy framework is far more attuned to the resource limitations and developmental needs of MSMEs.³² By treating halal certification as a tool for economic development and competitive advantage, Malaysia has fostered a culture of voluntary, aspirational compliance. Indonesia's mandatory framework, while ambitious, has inadvertently created a culture of distressed compliance, where the primary motivation is fear of penalty rather than the pursuit of quality or market opportunity. This fundamental difference in approach is the primary reason for the vastly different experiences of MSMEs in the two nations.

The transition to a mandatory, state-led halal regime in Indonesia has been fraught with legal uncertainty, impacting both businesses and consumers. A key source of this uncertainty has been the repeated postponement of the mandatory certification deadlines. Initially set for 2019, the deadline for food and beverage products was pushed to 2024 and subsequently postponed again to 2026 for many MSMEs. While these postponements provide temporary relief for businesses, they signal systemic unreadiness and undermine the credibility and seriousness of the legal mandate. This creates a state of legal flux where businesses are unsure whether to invest in immediate compliance or wait for further changes, hindering long-term planning.

All micro and small business actors (MSEs) are required to register their products to obtain halal certification from the Halal Product Guarantee Agency (BPJPH). In order to facilitate this process, BPJPH has introduced a self-declaration scheme. However, this convenience does not mean that there is no supervision. Research by Vinka Ananda Putri and Muthia Sakti revealed that BPJPH continues to carry out strict supervision of the halal certification process through the self-declaration scheme. Violations in the halal certification stages will be subject to administrative sanctions. However, the determination of the amount of administrative fines and types of violations is still under review.³³ This is also in line with the findings of Daud Rismana Zainudin et al., who stated that the halal certification program has been effectively implemented within the Indonesian legal framework, including Law Number 6 of 2023, Law Number 33 of 2014 concerning Halal Product Assurance, and Law Number 8 of 1999 concerning Consumer Protection. The government's efforts to improve halal certification are realized through independent declaration and mentoring programs, which include socialization and registration data collection, thus making it easier for MSMEs to obtain halal certificates and ultimately increasing consumer convenience.³⁴

The effectiveness of enforcement is another area of concern. The JPH Law contains administrative sanctions for non-compliance, ranging from written warnings to the withdrawal of business permits. However, the sheer scale of the task monitoring over 60 million MSMEs poses an insurmountable enforcement challenge. There is a high risk of what legal scholars call "symbolic legislation," where a law exists on the books but is practically unenforceable on a universal scale. This can lead to selective or arbitrary enforcement, which is antithetical to the rule of law and the Islamic principle of al-'adl (justice).

³²Lesly Saviera et al, "The Comparative Study of Muslim Friendly Homestay Programs in Indonesia and Malaysia: Social Legal Perspective", *KnE Social Sciences* (2024).

³³Vinka Ananda Putri, and Muthia Sakti. "Legal Consequences of Violating The Halal Certification Process Through A Self-Declaration Scheme." *Journal of Law, Politic and Humanities* 4.5 (2024): 1231-1238.

³⁴Daud Rismana Zainudin, et al. "Implementation of Halal Certification As an Effort to Protect Consumers and UMKM". *International Journal of Social Science and Religion (IJSSR)* 5.2 (2024): 287-304.

The lack of a clear, credible threat of enforcement diminishes the incentive for businesses, especially those in the informal sector, to undertake the costly and complex certification process.³⁵

This legal ambiguity directly affects consumer trust. The confusion between the long-trusted MUI logo and the new BPJPH logo is a significant issue. For decades, Indonesian Muslims have relied on the MUI's scholarly authority as the ultimate guarantor of halal integrity. The new system, particularly the "self-declare" mechanism for MSMEs, has yet to earn the same level of public confidence. Consumers may rightly question whether a self-declared status, verified by a P3H of unknown expertise, offers the same level of assurance as a product meticulously audited by an LPH and given a fatwa by the MUI's commission. This potential erosion of trust is a critical problem, as the entire halal ecosystem is built upon the foundation of consumer confidence in the integrity of the certification mark.

The Certainty of the "Halal Malaysia" Brand and Robust Enforcement

In Malaysia, legal certainty is a cornerstone of the halal system. This is achieved through consistency, clarity, and strong enforcement. The Trade Descriptions Act 2011 provides a powerful legal basis for enforcement. Section 28 of the Act makes it a serious criminal offense to falsely label a product as halal, with severe penalties including substantial fines and imprisonment. These strict penalties, which are regularly enforced and publicized, create a powerful deterrent against fraud and misuse of the halal designation. This contrasts sharply with the administrative sanctions in Indonesia, sending a clear message that halal integrity is a matter of national importance.

The market itself acts as a potent enforcement mechanism. The JAKIM logo's immense brand equity means that any credible accusation of non-compliance against a certified company can lead to immediate and devastating commercial consequences, including consumer boycotts and delisting by major retailers. This market-driven "soft enforcement" is often more powerful than formal legal sanctions. Businesses are therefore highly motivated to maintain the strictest standards, not just to avoid legal penalties, but to protect their brand reputation and market share. This self-regulation, born from commercial incentive, is a hallmark of a mature and effective regulatory system.

Consumer trust in the Malaysian system is exceptionally high. This trust has been built over decades of consistent government policy, rigorous and transparent standards (like the MS 1500:2019 for halal food), and effective public communication.³⁶ The JAKIM logo is a universally understood symbol of religious compliance and quality assurance. This high level of trust provides the system with its ultimate legitimacy and market power. It transforms the halal certificate from a mere legal document into a valuable intangible asset for the business that holds it.

The Sharia dimension of this trust is profound. By ensuring a high degree of certainty (yaqīn) and protecting consumers from both religious transgression (ḥarām) and harm (mafsadah), the Malaysian system effectively operationalizes core objectives of Islamic law. The clarity of the law and the reliability of the certificate fulfill the public interest (maṣlahah) by fostering a stable and trustworthy market for all participants, Muslims and non-Muslims alike. A comparative view suggests that Malaysia has succeeded in creating a virtuous cycle: clear laws and strong enforcement build consumer trust, which in turn creates market value for the certificate, incentivizing businesses to comply and uphold the highest standards,

³⁵Muhammad Aziz, Abdul Ghofur, and Niswatin Nurul Hidayati, "Regulation on the Implementation of Halal Product Assurance in Indonesia: Statute Approaches Study", *Ullul Albab: Jurnal Studi Dan Penelitian Hukum Islam*, 4.2 (2021).

³⁶Nuryakin, Mohd. Shamsuri Md Saad, and Maghfira Rizky Maulani, "Purchase Intention Behavior of Halal Cosmetics. Comparing Study between Indonesia and Malaysia Millennial Generation", *Journal of Islamic Accounting and Business Research* (2023).

thereby reinforcing the entire system. Indonesia, in contrast, is still struggling to initiate this cycle, caught in a state of legal transition where uncertainty currently outweighs the market incentives for compliance.

Although the halal certification system in Indonesia and Malaysia has been running transparently and in accordance with the law, challenges remain, especially regarding quality control and supervision of halal-certified products. This indicates the need for a more comprehensive system, based on the principles of maqasid al-Shari'ah. Both BPJPH in Indonesia and JAKIM in Malaysia are responsible for managing the halal certification system. However, product supervision, especially through the self-declaration scheme, remains a challenge. Misuse of the halal label and the use of materials that do not comply with those proposed make strict supervision very necessary. The application of maqasid al-Shari'ah in halal certification aims to increase business actors' awareness of the essence of halal certification, which includes protection of religion, life, mind, descendants, and property.³⁷ This approach is also in line with the objectives of halal certification in strengthening the spiritual and worship dimensions of Muslims.

Conclusions

This research reveals a fundamental juridical disparity between the halal certification regimes of Indonesia and Malaysia, with significant implications for legal certainty and economic accessibility, particularly for Micro, Small, and Medium Enterprises (MSMEs). The primary finding is that Indonesia's transition to a mandatory, state-administered system, governed by Law No. 33 of 2014, has resulted in a fragmented institutional architecture involving the Halal Product Assurance Organizing Agency (BPJPH), Halal Inspection Agencies (LPH), and the Indonesian Ulema Council (MUI). This multi-stakeholder model creates bureaucratic friction, legal uncertainty, and significant practical hurdles for businesses, most notably a "halal rush" characterized by a digital divide and confusion surrounding the new BPJPH logo. In stark contrast, Malaysia's system, centralized under the Department of Islamic Development (JAKIM) and anchored by the Trade Descriptions Act 2011, provides a clear, efficient, and market-driven framework. This has successfully cultivated the "Halal Malaysia" logo into a trusted global brand, making compliance a commercial incentive rather than a regulatory burden. From the comparison of the two countries, although there are differences in rules and procedures, the goal remains the same, namely a strong desire to ground halal products in both countries.

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³⁷Maisyarah Rahmi Hasan, and Mohd Syahiran Abd Latif. "Towards a Holistic Halal Certification Self-Declare System: An Analysis of Maqasid al-Shari'ah-Based Approaches in Indonesia and Malaysia." *Mazahib* 23.1 (2024): 41-78.

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