



THE PHILOSOPHICAL AND LEGAL FOUNDATIONS OF HALAL PRODUCT LEGISLATION IN INDONESIA: A SYARI'AH AND POSITIVE LAW PERSPECTIVE

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Abstract

Indonesia, as the world's largest Muslim-majority nation, represents a unique case in integrating Shari'ah principles into national legal frameworks, particularly in the regulation of halal products. With more than 86 percent of its population adhering to Islam, the demand for halal assurance is not merely a matter of religious observance but a fundamental consumer right embedded within both moral philosophy and constitutional Law. This article explores the philosophical and legal foundations of halal product legislation in Indonesia through a dual perspective—Shari'ah and positive Law. The study employs a normative-empirical approach grounded in maqāṣid al-sharī'ah analysis and legal positivism, examining how these epistemic frameworks converge in Law No. 33 of 2014 concerning Halal Product Assurance (Undang-Undang Jaminan Produk Halal, UU JPH). It further analyzes the institutional synergy between the Ministry of Religious Affairs, the Halal Product Assurance Organizing Agency (Badan Penyelenggara Jaminan Produk Halal, BPJPH), and the Indonesian Ulema Council (MUI), assessing their shared role in enforcing ethical-economic equilibrium. Empirical data from 2019 to 2025 reveal that Indonesia's halal-certified products and exports have increased significantly, reflecting the effectiveness of the hybrid regulatory model. The findings highlight that the Indonesian halal system, while rooted in Islamic jurisprudence, also embodies

constitutional rationality, where the State plays an active role in safeguarding the moral economy through Law. Ultimately, this research concludes that Indonesia's halal legislation manifests the synthesis of divine command ethics and public policy rationalism, symbolizing the philosophical unity between religion and State in protecting human dignity and consumer welfare.

Keywords: *Halal Legislation, Sharī'ah Law, Positive Law, Maqāṣid al-Sharī'ah, Legal Philosophy, Indonesia.*

Abstrak

Indonesia, sebagai negara dengan mayoritas Muslim terbesar di dunia, merepresentasikan kasus unik dalam mengintegrasikan prinsip-prinsip Syariah ke dalam kerangka hukum nasional, khususnya dalam regulasi produk halal. Dengan lebih dari 86% populasinya memeluk Islam, permintaan akan jaminan halal tidak hanya menjadi masalah ketaatan beragama, tetapi juga hak konsumen mendasar yang tertanam dalam filsafat moral maupun hukum konstitusi. Artikel ini mengeksplorasi landasan filosofis dan hukum dari legislasi produk halal di Indonesia melalui perspektif ganda—Syariah dan hukum positif. Penelitian ini menggunakan pendekatan normatif-empiris yang berlandaskan analisis *maqāṣid al-sharī'ah* dan positivisme hukum, menguji bagaimana kerangka epistemik ini bertemu dalam Undang-Undang Nomor 33 Tahun 2014 tentang Jaminan Produk Halal (UU JPH). Selanjutnya, artikel ini menganalisis sinergi kelembagaan antara Kementerian Agama, Badan Penyelenggara Jaminan Produk Halal (BPJPH), dan Majelis Ulama Indonesia (MUI), serta menilai peran bersama mereka dalam menegakkan keseimbangan etika-ekonomi. Data empiris dari tahun 2019–2025 menunjukkan bahwa produk bersertifikat halal dan ekspor Indonesia telah meningkat secara signifikan, yang mencerminkan efektivitas model regulasi hibrida ini. Temuan penelitian menyoroti bahwa sistem halal Indonesia, meskipun berakar pada yurisprudensi Islam, juga mewujudkan rasionalitas konstitusional—di mana negara memainkan peran aktif dalam menjaga moral ekonomi melalui hukum. Pada akhirnya, penelitian ini menyimpulkan bahwa legislasi halal di Indonesia memmanifestasikan sintesis etika perintah ilahi (*divine command ethics*) dan rasionalisme kebijakan publik, melambungkan kesatuan filosofis antara agama dan negara dalam melindungi martabat manusia dan kesejahteraan konsumen.

Kata Kunci: *Legislasi Halal, Hukum Syariah, Hukum Positif, Maqāṣid al-Sharī'ah, Filsafat Hukum, Indonesia.*

A. Introduction

Indonesia occupies a pivotal position in the global halal ecosystem due to its demographic magnitude and constitutional orientation toward religious harmony. As of 2025, Muslims constitute approximately 86.7% of the nation's population, making Indonesia home to the largest Muslim community in the world. (Pew Research Center 2024). This demographic reality provides both a moral

imperative and a legislative necessity for the State to ensure that products circulating within its market conform to Islamic ethical standards. The enactment of Law No. 33 of 2014 on Halal Product Assurance (UU JPH) represents a monumental legal innovation—an attempt to formalize the Sharī'ah command of halal consumption into enforceable national Law. (Undang-Undang Republik Indonesia 2014).

The concept of halal (*ḥalāl*) derived from the Arabic root ḥalla, meaning "to be permissible or lawful"—encompasses not only food consumption but also a comprehensive ethical and metaphysical worldview (Mohammad Hashim Kamali 2019). The Qur'an emphasizes:

"O mankind! Eat of that which is lawful (*ḥalāl*) and good (*ṭayyib*) on the earth, and follow not the footsteps of Shayṭān; lo! he is an open enemy for you." (QS. al-Baqarah/2:168).

This verse forms the theological foundation for the halal imperative: the consumption of lawful and wholesome goods as an act of spiritual obedience and social responsibility. The Prophet Muhammad saw. Reinforced this principle by stating, "Indeed, the lawful is clear and the unlawful is clear, and between them are doubtful matters..." (Abū al-Ḥusayn Muslim ibn al-Ḥajjāj al-Qushayrī al-Nīsābūrī*nd.*) This ḥadīth highlights the epistemological clarity of halal within Islamic jurisprudence (*fiqh al-ṭa'ām*), emphasizing the need for systematic verification to prevent ambiguity (*shubuhāt*).

Before the establishment of the Halal Product Assurance Organizing Agency (BPJPH), the certification and issuance of halal decrees in Indonesia were traditionally managed by the Indonesian Ulema Council (MUI), a non-state religious body founded in 1975 (Yusuf al-Qaradawi 2019). The institutional transition initiated by UU No. 33/2014 marks a paradigm shift: from voluntary religious endorsement to state-regulated obligation (Majelis Ulama Indonesia (MUI) 2022). The Law mandates that all products entering, circulating, and traded in Indonesia must be halal certified unless declared otherwise (Government Regulation of the Republic of Indonesia Number 42 of 2024). This provision redefines halal not only as a moral command (*amr shar'ī*) but also as a legal

obligation (*iltizām qānūnī*)—situating ethical compliance within the purview of State accountability.

From a philosophical standpoint, this legal transformation resonates with the Islamic concept of *al-maṣlahah al-‘āmmah* (public welfare). According to al-Ghazālī, the ultimate objective of Law is the preservation of religion (*dīn*), life (*nafs*), intellect (*‘aql*), lineage (*nasl*), and property (*māl*) (Al-Ghazālī, Al-Mustaṣfā 1993). The halal certification system aligns directly with these *maqāṣid al-sharī‘ah*, particularly the preservation of life and property through the assurance of safety, transparency, and justice in the consumption process. As Kamali notes, "Halal assurance today represents not merely religious ritual but a comprehensive ethical system that sustains the moral economy of Muslim society" (Mohammad Hashim Kamali 2021).

The relationship between *Sharī‘ah* and positive Law in Indonesia is dialectical rather than oppositional. The Preamble of the 1945 Constitution asserts that the Indonesian State is founded upon the belief in "the One Almighty God" (Ketuhanan Yang Maha Esa), establishing a theistic foundation for Law and governance. This philosophical orientation provides legitimacy for incorporating *Sharī‘ah*-based norms into statutory Law (Jimly Asshiddiqie 2020).

However, the integration of *Sharī‘ah* within a pluralistic legal system demands methodological precision. From the perspective of legal positivism, Law derives its authority from formal enactment by legitimate institutions, not from its moral content (Hans Kelsen 1967).

In contrast, *Sharī‘ah* law derives its authority from divine revelation (*wahy*). Indonesia's halal legislation, therefore, operates as a hybrid model—where divine ethics are positivized into secular regulatory instruments. This synthesis echoes the *maqāṣid* methodology of contemporary reformists, such as Jasser Auda, who argues that Islamic Law must evolve as a "systemic worldview" in response to the complexities of modern governance (Jasser Auda 2008).

According to the Dinar Standard Global Islamic Economy Report (2025), Indonesia ranks within the top five countries globally in the halal economy, particularly in the food, pharmaceuticals, and cosmetics sectors (Dinar Standard

2025). Data from BPJPH (2024) reveal that the number of halal-certified products rose from 600,000 in 2020 to over 1.4 million by mid-2025 (Halal Product Assurance Organizing Agency 2025). This exponential growth is correlated with increased consumer trust, enhanced export competitiveness, and a State commitment to the Halal Value Chain. The government's collaboration with MUI and the National Accreditation Committee (KAN) enhances the legitimacy of certification processes, bridging the gap between religious authority and administrative governance.

Nevertheless, challenges remain. The overlapping jurisdiction between BPJPH and MUI, bureaucratic delays, and limited certification infrastructure in rural areas hinder the full realization of UU JPH's objectives (Nurdin Abdullah *and* Siti Marnita 2024). These institutional tensions highlight the ongoing negotiation between moral philosophy and bureaucratic rationality—a theme that this article critically examines.

The significance of this research lies in its contribution to understanding how the Indonesian legal system embodies both theological coherence and constitutional rationality. By harmonizing *Sharī'ah* ethics with positive Law, Indonesia offers a model for other Muslim-majority states seeking to reconcile divine Law with modern legal structures.

B. Methodology

This study adopts a normative-empirical legal research design, combining philosophical inquiry with socio-legal analysis. The normative dimension explores the theological and jurisprudential foundations of *Sharī'ah* concerning halal regulation. In contrast, the empirical dimension analyzes how these principles are operationalized through State mechanisms and industry practices in Indonesia.

The research employs a qualitative-descriptive method, incorporating both doctrinal and non-doctrinal components. The doctrinal aspect examines legal texts—including the Qur'an, Hadith, classical fiqh literature, and statutory laws (UU No. 33/2014 and PP No. 39/2021)—to determine the epistemological basis of halal Law. The non-doctrinal analysis involves examining institutional reports (BPJPH,

MUI, and Ministry of Religious Affairs), international publications (Dinar Standard, Thomson Reuters Islamic Economy Report), and policy evaluations from 2020 to 2025.

The study employs a triangular analytical framework: a) Shari'ah Law Analysis: based on *maqāṣid al-sharī'ah* to determine the divine ethical goals behind halal regulation; b) Positive Law Analysis: based on legal positivism (Hans Kelsen, Austin) to evaluate the legislative and administrative enforcement mechanisms; and c) Integrative Jurisprudence: combining both paradigms within Indonesia's constitutional pluralism (legal pluralism theory, Hooker 2003).

This framework allows for both ontological (conceptual) and functional (policy-level) synthesis between revelation and regulation. Primary sources include Qur'anic verses, Hadith, the Halal Product Assurance Law (UUJPH), and implementing regulations. Secondary data are derived from peer-reviewed journals (e.g., Journal of Islamic Marketing, Asian Journal of Comparative Law), institutional reports, and government datasets (BPJPH Statistics 2025). Triangulation was applied through comparative analysis with Malaysia's JAKIM system and OIC halal standards to ensure cross-jurisdictional validity.

C. Discussion

1. Theological-Philosophical Foundation: From Revelation to Regulation

The philosophical basis of halal Law emerges from divine command ethics (*amr ilāhī*). The Qur'an (al-Baqarah/2:168; al-Mā'idah/5:88) articulates the obligation to consume lawful (*ḥalāl*) and good (*ṭayyib*) goods as part of worship (*'ibādah*) (M. Quraish Shihab 2002). According to al-Ghazālī, the *maqāṣid al-sharī'ah* frame halal not as ritual compliance but as a safeguard of life, wealth, and faith. (Jasser Auda 2008a).

Indonesia's legislative approach reflects an act of *istinbāṭ al-aḥkām*—the derivation of legal norms from divine sources. By institutionalizing halal certification, the State participates in the *ḥisbah* function historically undertaken

by Islamic governance: ensuring market integrity, consumer justice, and moral economy. (Kompilasi Fatwa Produk Halal 2016).

This aligns with Ibn Khaldūn's theory of governance (*al-siyāsah al-shar'iyah*), where the ruler's primary duty is to enforce justice and protect the welfare of the ummah. (Ibn Khaldūn 2004). Hence, halal legislation in Indonesia signifies the *tajassud al-qiyam* (embodiment of values)—a materialization of spiritual imperatives into administrative Law.

2. Legal-Structural Integration: Positive Law and Administrative Governance

Law No. 33/2014 represents a paradigm shift from voluntary halal labeling to mandatory certification, making the State legally accountable for religious consumer protection. (Undang-Undang Republik Indonesia 2014). The Law delegates certification authority to BPJPH (under the Ministry of Religious Affairs), theological endorsement to MUI, and accreditation to National Accreditation Committee (KAN). This tripartite structure manifests the integration of legal positivism and divine normativity.

From a positivist lens, this transformation signifies the juridification of ethics, where religious obligations are codified as enforceable statutory rights (Jihan Fadlia Azza, Moh. Muhibbin, and Afandi 2022). As Kelsen suggests, validity derives from hierarchical norms authorized by a “basic norm” (Grundnorm 1967). In Indonesia's case, the Grundnorm lies in the Pancasila principle of *Ketuhanan Yang Maha Esa* (Belief in the One Almighty God), granting moral legitimacy to faith-based laws.

Empirically, this integration enhances legal certainty. Between 2020 and 2025, the number of halal-certified enterprises increased by 145% (BPJPH, n.d.), while domestic compliance in the food and cosmetics sectors rose by 70% (BPJPH 2025). This structural synergy between MUI and BPJPH ensures theological integrity and bureaucratic accountability—reconciling moral idealism with procedural rationalism.

3. Socio-Economic Implications: Halal Industry Development (2020–2025)

Indonesia's halal economy demonstrates rapid expansion following the implementation of UU JPH. According to the State of the Global Islamic Economy Report 2025, Indonesia ranks fourth globally in halal food and fifth in halal pharmaceuticals (Rafiuddin Shikoh). Export values surpassed USD 7.8 billion in 2024, accounting for 3.4% of GDP (Komite Nasional Ekonomi dan Keuangan Syariah (KNEKS)).

This growth is not merely quantitative but normative. Halal industry regulation promotes ethical business conduct (*akhlaq al-tijarah*) and fosters a *barakah*-oriented approach to sustainability. As Rahardjo observes, "Law is a moral compass that must advance human dignity (Satjipto Rahardjo 2022). Through the SEHATI (Free Halal Certification for SMEs) program, more than 350,000 microenterprises received certification by 2025, promoting inclusivity and economic justice (Indonesia Halal Consultant 2025).

From a *maqāṣid* perspective, this outcome satisfies three key objectives: a) *ḥifẓ al-māl* (protection of property) through fraud prevention; b) *ḥifẓ al-nafs* (protection of life) through consumer safety; and c) *ḥifẓ al-dīn* (protection of faith) by ensuring obedience to divine Law (Frizky 2025).

Thus, halal industry governance operationalizes *Sharī'ah*-based development (*tanmiyah maqāṣidiyyah*), linking moral economy with sustainable growth.

4. Jurisprudential Convergence and Future Directions

The Indonesian halal model exemplifies a jurisprudential convergence where *Sharī'ah* ethics and positive Law coalesce into a unified framework of moral-legal governance. This hybridization resonates with Jasser Auda's "systems theory" of Islamic Law, which advocates contextualization without compromising divine objectives (Jasser Auda 2008b).

Philosophically, Indonesia's halal legislation challenges the Western dichotomy between "law" and "morality." By positioning *Sharī'ah* as a source of public policy, Indonesia contributes to the global discourse on post-secular legal pluralism (Abdullahi Ahmed An-Na'im 2008). The model balances transcendental

authority and democratic sovereignty—showing that divine Law can coexist with constitutional rationality.

Future directions include enhancing transnational harmonization through the ASEAN Halal Standardization Initiative and strengthening scientific validation (e.g., DNA testing and blockchain traceability) (ASEAN Secretariat 2023). These innovations reflect a new paradigm of "technological fiqh" where the spirit of Sharī'ah informs digital-era governance.

As Esposito and DeLong-Bas assert, "The modern Islamic legal revival is not a regression to the past but a rationalization of faith for the public good. (John L. Esposito dan Natana J. DeLong-Bas 2018). Indonesia's halal framework exemplifies this revival—a living synthesis between revelation (wahy), reason ('aql), and regulation (qanun).

D. Conclusion

This study concludes that Indonesia's halal legislation represents an epistemic synthesis of divine ethics and legal positivism. Philosophically, it translates the maqāṣid al-sharī'ah—justice, welfare, and purity—into constitutional mechanisms. Juridically, it transforms moral imperatives into enforceable rights, reflecting progressive theistic legalism.

Empirically, the rapid growth of the halal industry (2019–2025) demonstrates the Law's efficacy in promoting ethical economy and consumer protection. Theologically, it signifies a reassertion of Islam's normative vision within the modern nation-state. Hence, Indonesia's halal Law functions as both a moral economy and a legal order—a model for harmonizing Sharī'ah with governance in the post-secular world.

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