

The Government's Role in Indonesian Halal Industry to Protect Muslim Consumer

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Abstract The era of free trade makes Indonesia a destination in the trade of foreign products, thus halal certification is important in the distribution of food and medicine in Indonesia. For the Indonesian Muslim community, knowledge of halal and haram with regards to a product is critical. With halal label, the Muslim community can be sure which products they can consume, namely products that have and include a halal label on their packaging. The Muslim community must have the right to know whether a product has a halal label or not, especially every product distributed in Indonesia. The word 'guarantee' as stated in Article 29 paragraph (2) of the 1945 Constitution denotes support for protection and obligations at the same time, all of which require arrangements to be implemented in the form of legal action. Hence, constitutional guarantees describe the support, protection, and obligation of the state for the independence of every citizen to embrace and practice their belief according to their respective religions and this is carried out with all efforts to fulfil the rights, including the right to consume halal food for Muslims.

Keywords: halal industry, governments role, consumer.

1 Introduction

It is becoming a mandatory requirement for consumable products to be 'halal' for consumers, especially Muslim consumers, whether it is product in the form of food, medicines, or other consumer goods. Based on data from the Global Islamic Economic Report in 2020, Muslim in Indonesia is estimated to be 232.5 million people or 87.18% of the total Indonesian population,¹ hence, the Indonesian market automatically became a huge Muslim consumer market. Nowadays, halal is not only important for Muslim consumers but also global consumers because it reflects the products' quality.²

In the Qur'an, Allah commands all human beings to consume food and drink that is not only halal but also good as in Surah Al Maidah (5):88

مُؤْمِنُونَ بِهِ أَنْتُمْ الَّذِي اللَّهُ وَاتَّقُوا طَيِّبَاتِ اللَّهِ رَزَقَكُمْ مِمَّا وَكُلُوا

Translation: Eat of the good, lawful things provided to you by Allah, and be mindful of Allah in Whom you believe.

In this verse, Allah commands His believers to eat the halal and good sustenance that has been given to them. Halal can be understood as an object that is halal and, in the way, to obtain it.³ Meanwhile, good is in terms of its benefits that contain utility and advantage for the body, containing nutrients, vitamins, protein and so on. Besides, food that is neither good nor containing nutrients, if consumed, will harm the body and deteriorate the health.

¹ State of the Global Islamic Economy Report 2020/21, Thomson Reuters, 2020

² Rokshana Shirin Asa, *An Overview Of The Developments Of Halal Certification Laws In Malaysia, Singapore, Brunei And Indonesia*, Jurnal Syariah, Jil. 27, Bil. 1 (2019) 173-200

³ Salwa, S., Md Sawari, Ghazali, M. A., & Jumahat, T. (2020). DETERMINANTS OF CONSUMER Demeanors WITH REGARD TO HALAL FOOD. *International Journal of Information, Business and Management*, 12(2), 179-184. Retrieved from <https://search.proquest.com/scholarly-journals/determinants-consumer-demeanors-with-regard-halal/docview/2348381387/se-2?accountid=17242>

Nowadays, with the advent of processing technology⁴ for food and beverage, cosmetics, as well as medicine that have involved complex processes and contain a variety of ingredients, it is becoming more difficult to determine whether a product is halal or not.⁵ Recent advances in science and technology on food processing make it increasingly complicated to determine halal and haram. Increasing distribution of processed food products requires halal labels that are determined not only from their raw materials but also including material supply, processing, storage, packaging, distribution, sales and product presentation. Therefore, sufficient knowledge of the guidelines or standards of Islamic law is required.

Lifestyle, culture, religion, and diet are usually reflected in the food consumed. For the Muslim community, the main choice of food is halal as stipulated in the Koran; for instance, for meat products for the Muslim community, counterfeiting is rare because the meat that Muslims will consume is meat that is fresh and has a recognizable texture and shape.⁶

The issue of halal certification and labelling for products in the international trade system has received good attention in the framework of providing protection for Muslim consumers around the world, as well as a strategy to face the challenges of globalization and a free-market system within the framework of ASEAN-AFTA, NAFTA, the European Economic Community, and World Trade Organization. The international trade system has long recognized halal provisions in CODEX that are supported by influential international organizations including WHO, FAO and WTO. Even the halal lifestyle has become a worldwide trend. This is not only symptomatic of countries where the majority of the population is Muslim but also countries with the majority of non-Muslim populations. Global companies are also currently implementing a halal system, such as Japan Airlines, Singapore Airlines, Qantas, and American Airlines that start providing a halal menu (Moslem meal). This halal phenomenon has also penetrated the United States, Australia, Japan, China, India, and Latin American countries.

For the Indonesian Muslim community, knowledge of halal and haram with regards to a product is critical.⁷ With a halal label, the Muslim community can be sure which products they can consume, namely products that have and include a halal label on their packaging.⁸ The Muslim community must have the right to know whether a product has a halal label or not, especially every product distributed in Indonesia. With the right to know whether a product has obtained a halal label, it is certain and guaranteed that products circulated in Indonesia are safe and give a sense of awareness of the Muslim community towards the products. However, along the way, Muslim communities have different perceptions in deciding to buy a product. Some do not care about the halal label of a product and the others adhere to the principle that a product must have a halal label.⁹

Halal certification is issued by Halal Product Assurance Agency (*Badan Penyelenggara Jaminan Produk Halal/BPJPH*) through the Indonesian Ulema Council (*Majelis Ulama Indonesia/MUI*) as a halal certificate in the form of a fatwa from MUI stating that a food product is in accordance with Islamic law. The inclusion of halal labels on food product packaging is based on the halal certificate issued by MUI, in other words, the MUI Halal certificate is an absolute requirement that must be fulfilled to obtain a halal label.

The era of free trade makes Indonesia a destination in the trade of foreign products, Thus halal certification is important in the distribution of food and medicine in Indonesia. halal certification is deemed inadequate and not convincing because each country has its institution to provide halal certification. Many food imports from other countries also raise concerns for the Muslim community, especially in Indonesia Malaysia's products with the Malaysian halal logo are not from the Indonesian Ulema Council (MUI).

⁴ Idris, S.H., Abdul Majeed, A.B. & Chang, L.W. Beyond Halal: *Maqasid al-Shari'ah* to Assess Bioethical Issues Arising from Genetically Modified Crops. *Sci Eng Ethics* **26**, 1463–1476 (2020). <https://remote-lib.ui.ac.id:2116/10.1007/s11948-020-00177-6>

⁵ Fuseini, A., Hadley, P. and Knowles, T. (2020), "Halal food marketing: an evaluation of UK halal standards", *Journal of Islamic Marketing*, Vol. ahead-of-print No. ahead-of-print. <https://remote-lib.ui.ac.id:2116/10.1108/JIMA-02-2020-0037>

⁶ Vandendriessche, F, "Meat products in the past, today and in the future", *Meat Science Journal*, vol.78, No.2, 104–113

⁷ Even in Muslim minority countries, it is important to regulate halal products, Li An Thio explained, to accommodate minority races and religions in society, it is necessary to pay attention to both constitutional and non-constitutional solutions, because it will build the economy within the framework of national unity. Li-ann Thio, *Constitutional Accommodation of the Rights of Ethnic and Religious Minorities in Plural Democracies: Lessons and Cautionary Tales From Southeast Asia* (Pace University School of Law: Pace International Law Review, 2010) p. 100-101

⁸ Muhammad Muflī, *Perilaku Konsumen dalam Perspektif Ilmu Ekonomi Islam* (Jakarta: RajaGrafindo Persada, 2006) p. 279.

⁹ Syaiful Amri, M. Jamil, Ardiansyah, *Analisis Yuridis Kewenangan Majelis Ulama Indonesia dalam penyelenggaraan Jaminan Produk Halal*, Fakultas Syari'ah dan Hukum UIN Sumatera Utara Medan, accessed on 7 December 2020.

Although the certification is similar to any halal certification, the Muslim communities in Indonesia do not know how the halal certification process is in Malaysia and other countries.¹⁰

Based on population census data conducted by the Central Intelligence Agency (CIA) from 2010 to 2015, the total Southeast Asian Muslim population is about 256,250,448 people from the total Southeast Asian population of 634,875,762 people or around 40.4% of the Southeast Asian Muslim population. This number is spread across all Southeast Asian countries, such as Indonesia (87.2%), Brunei Darussalam (78.8%), Malaysia (61.3%), Lao PDR (31%), Singapore (14.3%), The Philippines (5%), Thailand (4.9%), Myanmar (4%), Cambodia (1.9%), and Vietnam (0.1%). This number will continue to increase by the projection made by the Pew Research Center's Forum on Religion and Public Life that the world's total Muslim population will increase from 1.6 billion in 2010 to 2.2 billion in 2030.¹¹

Findings of the State of the Global Islamic economic Report indicated that Indonesia is the country with the highest expenditure on halal food consumption, at 197 billion USD. Meanwhile, Malaysia has a total import of meat of 0.80 billion USD. This shows that most of Southeast Asian countries need a halal food industry to meet their country's needs for food. This potential can be used as a form of regional cooperation within the framework of the ASEAN Economic Community (AEC).¹²

Certificates and labelling are required to show consumers and buyers that the products are produced according to the halal certification method.¹³ The halal logo is one of the attributes¹⁴ used in product selection for the Muslim community in ASEAN, conformity of the logo/label of halal certification for the ASEAN region, and the country logo where products are sold are important factors that must be met, conformity of the ASEAN halal logo and the country halal logo will reduce consumers' confusion with regards to a food product.

Halal certification is a problem among Muslims. Each Islamic country or country with a majority Muslim population has a halal certification body. Most of the halal certification bodies do not issue halal certificates for companies selling alcohol, but certification bodies do. Saudi Arabia is listed as a country that provides stringent requirements for issuing halal certificates. The manufacture, sale and distribution of non-halal food and beverages is prohibited. Meanwhile, because Japan does not have its own halal certification body, Japanese companies are working with JAKIM (Malaysian Islamic Progress), JMA (Japan Muslim Association), the Japan Islamic Center, JHA (Japan Halal Association), or other organizations to obtain a halal certificate for the product.¹⁵

In Indonesia, there are also problems in the halal industry such as the applicable regulations. After the issuance of the Job Creation Law, several regulations on halal industry have been amended, including the provision that for Medium and Small Enterprises (MSEs) business actors, Self-declare can be carried out. This will be a separate problem because it contradicts to the issuance of the halal certification stipulated in the Law on Halal Product Assurance that the issuance time is 7 days after the halal decision is received by MUI, Job Creation Law, it is only 1 day. Then, with regards to the issuance of the halal certification, there are also changes, such as that if the MUI has not issued a halal fatwa within the specified time period, BPJPH can immediately issue the fatwa (automatically halal), and one is related to MSEs business actors i.e., that it becomes free of charge. With these various problems, the problem question of this study is with regards to knowing how the government should be able to protect Muslim consumer in relation to halal certification.

2. Discussion

One of the fundamental concepts that are the subject of discussion in the philosophy of Islamic law is the concept of *al-maslahah*. It asserts that Islamic law is prescribed to realize and maintain the

¹⁰ Dian Ihsan Siregar, BPOM Ragukan Peredaran Produk Halal di Perdagangan Bebas MEA, <http://ekonomi.metrotvnews.com/mikro/yNly1p2b-bpom-ragukan-peredaran-produk-halal-di-perdagangan-bebas-mea>, Downloaded on 5 December 2020

¹¹ Beastudi Indonesia, Halal Village sbagai Bentuk Sentralisasi Industri Pangan ASEAN dalam kerjasama Masyarakat Ekonomi ASEAN (MEA), <https://www.beastudiindonesia.net/halal-village-sebagai-bentuk-sentralisasi-industri-pangan-asean-dalam-kerjasama-masyarakat-ekonomi-asean-mea/>, Downloaded on 5 December 2020

¹² ibid

¹³ M.Van der Spiegel, H.J.van Der Fels-Klerx, P. Sterrenburg, S.M.Van Ruth, IMJ. Scholtens-Toma and E.J. Kok, Halal Assurance In food Supply Chain: Verification of Halal certificates Using Audits and Laboratory Analisis, Trends in Food Science & technology 27, 2012, p.109-119

¹⁴ Shafiq, A, Haque, A.K.M. and Omar, A, Multiple Logos and malay's beliefs : a case of Mix Signal, International Food Research Journal, Vol 22 (4), 2015, p.1727-1735

¹⁵ Sugiyama, Shigehiko. (2014). Consideration of the nature of halal and food safety: In order to greet the tourist from ASEAN countries. JAFIT International Tourism Review, 21, p.129-136. (in Japanese)

welfare of mankind. This concept has been recognized by Islamic scholars, namely by formulating the rules (theory of law) that where there is *maslahat*, there is the law of God.

Etymologically, *al-maslahah* can be understood as goodness, usefulness, appropriateness, feasibility, harmony, appropriateness, benefit, and interest.¹⁶ The opposite of *al-maslahah* is *al-mafsadah* or *al-madarrah* that means damage or harm.¹⁷ In terms of terminology, some scholars of *usul fiqh* define *al-maslahah* as an effort to realize benefits and avoid harm (*jalbu al masalih wa dar'u al mafasid*). That *al-maslahah* is identical with *al-khair* (virtue), *al-naf* (usefulness), and *al-husn* (goodness). An Islamic scholar, al-Syatibi states that the purpose of the Sharia is to create benefits for mankind, both in this world and the hereafter.¹⁸

Realizing *maslahat* is the main purpose of Islamic law (Sharia) because the purpose of *al-syari* is to place *al-maslahah* to produce goodness and avoid evil (*mafsadah*), in the end, creating prosperity and well-being for human beings. Because the concept of *al-maslahah* aims and is also the core of the effort to maintain and observe the goals of Islamic law (*maqashid syariah*).¹⁹ Thus, Islamic law stands on the foundation of *al-maslahah* that every norm of Islamic law is always based on the idea of *al-maslahah* so that there are several methods of taking the law (*istinbat al hukm*) that originate from and lead to *al-maslahah*.²⁰ Abu Zahra also states that the true purpose of Islamic law is *al-maslahah*, not a single law prescribed in the Koran and sunnah but for a benefit/goodness.²¹

Al Syatibi is seen as the systematic founder of Maqashid al Syariah. Al Syatibi explicitly says that the main purpose of Islamic law is to realize of *al-maslahah* in human life. Al Syatibi divides the order and scale of priority of *al-maslahah* into three levels, called "God's purpose in establishing the Sharia", namely *al-daruriyat* (primary), *al-hajjiyat* (secondary) and *al-tahsiniyat* (tertiary).²² Al Syatibi argues that what is meant by *al-maslahah* is to maintain the five main things (*al-daruriyat al-khamsah*) namely religion, soul, reason, lineage and property.²³

The scholars of *usul fiqh* divide *al-maslahah* into 3 categories²⁴:

1. *Al-maslahah al-mu'tabarah*: is *al-maslahah* that is directly commanded both in the Koran and hadith such as the command to eat halal food and *tayyiban*.
2. *Al-maslahah al-mulghah*: is *al-maslahah* that is directly prohibited both in the Koran and hadith such as the prohibition of eating food that is forbidden.
3. *Al-maslahah al-mursalah*, often also called *istislah* is *al-maslahah* that is not specified in the two sources of Islamic law, and also does not contradict the two, such as certification or labelling of food products.

With regards to *al-maslahah al-mursalah*, also often referred to as *istislah*,²⁵ it is explicitly not found in the Koran or sunnah because it has never happened before. This theory was developed by Imam Maliki who then gave the conditions for this theory, namely:

1. It must be reasonable (*ma'qul*) and relevant (*munasib*);
2. It must be in line with the Sharia and must not conflict with any of its sources;
3. It must be urgent and essential; and

¹⁶ Mohammad Hashim Kamali, Principles of Islamic Jurisprudence (Kuala Lumpur: Ilmiah Publisher Sdn, 1998) p. 267

¹⁷ The goodness can be material or spiritual. It is fundamentally realizing benefit and avoiding harms. Iyad bin Nami al Silmi p. 204. Abd Al Karim bin Ali Muh Al Namlati, hereinafter referred to as Namlati, Al Muhazzab fil ilmi Usuli al Fiqhi al Muqaran (Riyad: Maktabah Rusydi, 1999) p. 1003

¹⁸ Abu Ishaq Ibrahim al Syatibi, Al Muwafaqat fi usul al Syariah, Juz II (Beirut: Dar Kutub al Ilmiyah) p. 168.

¹⁹ Asafri Jaya Bakri, Konsep Maqashid Syariah menurut Syatibi (Jakarta: Raja Grafindo Persada, 1996) p. 168.

²⁰ Asmawi, Teori Maslahat dan Relevansinya dengan perundang-undangan pidana khusus di indonesia (Jakarta: Badan Litbang dan Diklat Kementerian Agama RI, 2010) p. 4

²¹ Muhammad Abu Zahra, Usul al Fiqh (Mesir : Dar al Fikri al Arabi, 1958) p. 366.

²² Mohammad Hashim Kamali, Shariah Law an Introduction (Oxford: Oneworld Publications, 2008) p. 134. Mohammad Hashim Kamali calls it "the essential" to *al-daruriyat*, the complementary to *al-hajjiyat*, and the desirable to *al-tahsiniyat*.

²³ Al Syatibi mentions ways to keep *al-daruriyat al-khamsah* in 2 ways, firstly from the perspective of preservation by keeping or taking after conditions that can make it prevails. Secondly, from the perspective of extinction by preventing from things that cause it perish. Abu Ishaq Ibrahim al Syatibi, Al Muwafaqat fi Usul al Syariah, Juz II p. 16-25.

²⁴ Wahbah al Zuhaili, Usulu al Fiqhi al Islami (Bairut : Dar al Fikri, 1986) p. 752-754

²⁵ As stated by Kamali, "The sariah thus recognizes independent reasoning (*ijtihad*) and its sub categories such as considerations of public interest (*istislah*) juristic preference (*istihsan*), analogical reasoning (*qiyas*) and so forth for the very purpose of adapting the law abreast of the changing needs of society" Mohammad Hashim Kamali, Shariah Law an Introduction, Op Cit. 49

4. It must be for the public interest.²⁶

For Namlati, the implementation of *al-maslahah* has three conditions, namely: (1) that *al-maslahah* must guarantee the true benefits; (2) *al-maslahah* must be general, not specific and (3) *al-maslahah* is not contrary to the sharia.²⁷ In the Indonesian legal system related to the regulation of halal products, the protection of Muslim consumers and MSEs becomes interesting to be studied if linked to the theory of *al-maslahah* as one of the reference frameworks of Islamic law legislation.

Halal can be defined as "free" and "not bound", besides, etymologically, it means things that can be done because it is free or not bound by the provisions of sharia that prohibits it or is defined as everything free from the material and spiritual dangers.²⁸ Thus, the halal product referred to in this study is the entire production that meets the halal requirement²⁹ as stipulated by Islamic law.

Islamic Sharia means Islamic law (*al hukm al Islami*) that is not found in the Koran and Sunnah. This term is also known as Islamic Law,³⁰ that has a broad meaning and can refer to several terms, namely Sharia,³¹ *usul al fiqh*,³² or *al fiqh*.³³ Hasbi ash Siddieqy argues that the Sharia are the laws and rules established by Allah for His believers to be followed in relation to Allah and fellow humans.³⁴ Jasser Auda states that the word Sharia in the Koran means a way of life. He explicitly mentions "my translation of the word sharia to mean a way of life". According to Audah, the word *syar'I* is the name for Allah that means "The Legislator" and cannot be used for humans except the Prophet, when he delivered Allah's message.³⁵

Al Ghazali explains that food in religion can be seen as a foundation in a building. If the foundation is firm, then the building will stand tall and strong. Conversely, if the foundation is weak and unstable, the building will disintegrate and collapse. The urgency of halal food for humans was explained by Al Ghazali that every human being is obliged to look for halal food. Based on this view, the authors added that Al Ghazali linked the obligation to find halal food with the obligation to study. That means that the obligation to find halal food means an effort to know whether the food is halal that must be tested with science and technology, the process is called certification.³⁶

To deeper understand the *illah al hukm* of halal food products, it is necessary to re-analyze some verses that explain the purpose of halal food, including those contained in Surah Al Maidah (5): 4 and 5. The author argues that halal food is good food (*thayyib*). Thus food that is good and/or provides goodness becomes *al-maslahah al mu'tabarah* contained behind the norm of the command to consume halal food.

Halal food provides benefits to consumers. For Muslims, their life is oriented to the attainment of piety that Sharia can achieve, and Sharia has a goal that must always be cared for, namely *maqashid al-sharia*. Halal and good food is a prerequisite for achieving piety. Therefore, the authors argue that halal food is good and gives goodness to the implementation of *maqashid al-sharia*. The realization of *maqashid al-sharia* is the philosophical basis for the command to consume halal food because halal food is good food (*tayyib*). Halal food that is good and provides goodness for improving the quality (and does not harm or even damage) *maqashid al-sharia*, in this case, are the five primary goals of sharia (*al-darariyah al-khamsah*), namely that the command to consume halal food is because it is good and beneficial and does not damage and dangerous to safeguard: religion, life, reason, lineage and property.

The obligation to consume halal food is regulated in the Qur'an, Hadith, *Ijma*, *Qiyas* and even in the form of fatwas by ulema decided based on these Islamic sources. On the other hand, the obligation to consume halal food is stated in a different command word (*lafaz*), namely "*kulu*" meaning "to eat". For these reasons, the authors focus on *al-ahkam al-khamsah*, the five principles of law or the five values. Hence, the author considers that obligation is the Syar'I (lawgiver) doctrine that demands and forces the legal subject

²⁶ Mustafa Ahmad al Zarqa, *hukum Islam dan perubahan Sosial*, terjemahan Ade Dedi Rohayana (jakarta:Riora Cipta, 2000) p. 37-39.

²⁷ Namlati, *al Jamiul al masailu Usulu al Fiqhi wa Tatbiqiha alaa al Mahzabi al Rajih*, (Riyad: Muqtabah Rusydi, 1999) p. 386

²⁸ See Louis Ma'luf, *Al Munjid fi alLugah* (Beirut-Lebanon: Dar El Machreq Sarl Publisher, 1986) p. 146.

²⁹ Aisjah Girindra, *Pengukir Sejarah Sertifikasi Halla* (Jkaarta : LPPOMMUI , 2005) p 24

³⁰ Abdur Rahman Ibn Salih al Mahmood, *Man Made Laws vs Shari'ah* (Saudi Arabia: International Islamic Publishing House, 2003) p. 375.

³¹ Rifyal Kabah, *Hukum Islam di Indonesia* (Jakarta"Universitas Yarsi, 1999) p. 12

³² Abd Al Wahab Khallaf, *Ilmu Usulu al Fiqhi*, op cit p. 12

³³ Imran Ahsan Khan Nyazee, *Theories of Islamic Law, the Methodology of Ijtihad*, Kuala Lumpur: The Other Press, 2002) p. 20-22

³⁴ Hasb ash Siddieqy, *Filsafat Hukum Islam* (Semarang:Pustaka Rizqi Putra, 2001) p. 29

³⁵ Jasser Auda, *Maqasid Syariah as Philosophy of Islamic Law*, (London:The International Institute of Islamic Thought, 2008) p. 57

³⁶ Al Ghazali, *Rahasia Halal-Haram, Hakikat Batin Perintah dan :arangan Allah*, Terjemahan Iwan kurniawan (Bandung: Mizania Pustaka, 2007) p. 12-15

(*mukallaf*) to perform an action through firm and definite commands, determined by *lafaz* that can be understood as compulsory. Where the ones who do will get rewarded and those who don't, will sin, even those who do not perform the action as determined by *al-dalil al qat'I* (definitive rulings) will be categorized as an infidel.

Furthermore, regarding the applicable laws and regulations in Indonesia, in Article 1 paragraph (3) of the 1945 Constitution the fourth amendment: "The State of Indonesia shall be a state based on the rule of law." This principle was originally (before the amendment) contained in the Elucidation.³⁷ Thus, the relationship between the government and its people should be regulated by law.

Normatively, the foundation of the Indonesian economic system is Pancasila and the 1945 Constitution. Justice in the Indonesian economic system development is a starting point, a process, and a goal that must be achieved all at once. Chapter XIV, Article 33 of the 1945 Constitution, the fourth amendment is an article on the national economy and social welfare.

According to Sri Edi Swasono,³⁸ social welfare is an inseparable part of the ideals of independence. Social welfare contained in the 1945 Constitution means that national economic development must improve social welfare. Article 33 of the 1945 Constitution is a noble article, an article that prioritizes the common interests of the people, without neglecting the interests of individuals. Article 33 of the 1945 Constitution is an article on economic restructuring, an article to address economic structural inequalities.

As stated by Arfin Hamid,³⁹ in relation to the aforementioned views, the Indonesian nation, as a great nation, carries out development in the ideological aspect in balance with other developments. Hamid added, however, this is not the case with this nation, now the ideological portrait adopted is not yet fully formed, like a five-month-old baby in the womb. He explained rhetorically, it is always echoed by every ruling order that this nation is a nation that adheres to the Pancasila ideology, not annexing any of the existing ideologies in the world.

As stated by Dumairy,⁴⁰ the economic crisis shows the failure of the Capitalist System that is currently adopted in many countries. The Islamic Economic Law System as an alternative option is started to be explored to be applied as a new economic legal system. The Islamic Economic Law System has fundamental differences from other economic legal systems.

In the Islamic economic legal system, there are moral and veneration values in every activity. The principles of Islamic economics are the existence of individual freedom, rights to property, economic inequality within limits, social equality, social safety, prohibition of accumulating wealth, a prohibition against anti-social institutions, and individual virtue in society. The Islamic economic concept takes the best rule between the two extreme views (capitalist and communist) and tries to balance between the two (material and spiritual). The success of the Islamic Economic Law System depends on the adjustments that can be made between material needs and spiritual/ethical needs that necessitated by human beings.⁴¹

The universal values of customary law that live in Indonesian society are one of the things that are highly supportive of the development of the halal industry. This is following Islamic teachings that are universal, by teaching *muamalah* (social relations), the rights and obligations of all humans are equal and according to the author's opinion, the Islamic economic legal system is also compatible with Pancasila that, in turn, can bring about social welfare.

Furthermore, with regards to the role of government, firstly, it can be explained that politically, the relationship between Islam and the state has long been included in the civil domain of Islamic constitutional scholars. The integral paradigm holds that the administration of the state is based on divine sovereignty because sovereignty comes from and is in the "hand" of God.⁴² This view also inspired the birth of the fundamentalism movement. Supporters of this paradigm include al Ghazali, Ibn Khaldun, Muhammad

³⁷According to Bagir Manan, Article 1 (3) of the 1945 Constitution : "The State of Indonesia shall be a state based on the rule of law." This principle was stated in the Elucidation of the 1945 Constitution that writes : "Indonesia is a country based on law (*rechtsstaat*) not based on mere power (*machtsstaat*)." Besides, there is another principle that is closely related to the rule of law that is also contained in the Elucidation: "Government is based on a constitutional system (basic law), not absolutism (unlimited power)." This principle implies that there is a division of state power and restrictions on power (not absolute with unlimited power. With this new provision, the legal foundation of a state has a normative character, not just a principle. *Perkembangan UUD 1945*, FH UI Press, Jakarta, 2004, p. 54.

³⁸ Sri Edi Swasono, *Sistem Ekonomi Indonesia dalam Pemberdayaan Ekonomi Rakyat dalam Kancah Globalisasi*, Sains, Bogor, 2005, p. 29

³⁹ Arfin Hamid, *Hukum Ekonomi Islam (Ekonomi Syariah) di Indonesia*, Ghalia Indonesia, Bogor, First Edition, Juli 2007, p. 3

⁴⁰Dumairy, Artikel *Islam dan Ekonomi*, 2 December 2009

⁴¹ Ibid

⁴² M Din Syamsudin, *Etika Agama dalam Membangun Masyarakat Madani* (Jakarta: Logos Wacana Ilmu, 2000) p. 58.

Rasyid Ridha, Hasan al Banna, Abu al-A'la al Maududi, Sayyid Quttub and Qardawi. Whereas the symbiotic paradigm has the view that religion needs a state to develop, and the state needs religion to guide ethics, morals and spirituality.⁴³ This symbiotic paradigm is supported by, among others: Abu al Hasan Ali Ibn Muhammad Ibn Habib al Mawardi and Muhammad Hussein Haikal. The author believes that the relationship between religion and the state is substantive, namely the process of internalizing the substance of Islamic values, principles and rules as a moral and spiritual supporter of religion.

From various roles of the state as proposed by the aforementioned Islamic thinkers, it can be concluded that the state, from an Islamic perspective, aims to create a welfare state through the protection, rights, freedoms and obligations given to its citizens. The idea of a welfare state essentially means also welfare for its citizens. The idea of the role of the state in creating a welfare state in the Islamic perspective is substantively based on Islamic values and principles.

From the perspective of the Indonesian constitution, the role of the government has been implemented in the process of drafting the 1945 Constitution. The formulation of the Indonesian constitution is influenced by the values that develop and live in society, and these values are abstracted into the constitution by consensus by the founding fathers. Likewise, the psychological condition of the compilers of the constitution also influenced the philosophical, sociological, political, juridical and historical views of the provisions contained in the constitution, hence, in order to fully understand the constitution and the role of the state from the perspective of the Indonesian constitution, one must also understand the values that are contained in the constitution as well as the values developing in society and the psychological condition of the founding fathers.

Muhammad Akbar Khan argues that every state must play a role to protect all fundamental rights and freedoms of the people derived from *al-daruriyah al-khamsah*, namely: (1) the state must ensure that every Muslim practices his/her religion in accordance with the first objective, (2) the state must ensure security and the welfare of all the people of that state (3) the state must provide and facilitate a condition for the growth of a healthy mind, (4) the state must create a condition for a healthy family system, and (5) the state must guarantee the economic welfare of the people as a whole.⁴⁴

From the perspective of Islamic law, consuming halal food is mandatory. This is because the verses that become the argument for consuming halal food are formulated in the form of an order (*amr/orer*) and each order aims to oblige (*al-amru li al wujub*) whereas the prohibition on the other hand aims to forbid (*al-nahyu li al tahrim*).⁴⁵

Ibn Qayyim proposed the rule of changing fatwa (law) and the difference occurs in line with the changes in times, places, conditions, intentions and customs (*tagayyuru al fatwa wa ikhtilafuha bihasbi tagayurri al azminati wa al amkinati wa al ahwali wa al awa'idi*). This rule aims to provide utility/benefit for human life, where laws can change based on the times, places, conditions and habits so that humans can get out of their adversity and risk.⁴⁶

Furthermore, related to major changes in various fields of the halal industry, such as the times, conditions, technology, consumers who are no longer able to test and evaluate whether the food products are halal or not. In this situation, Islamic law must make changes to create benefit and avoid adversity, as with the rule proposed by ibnul Qayyim, namely *tagayyuru al fatwa wa ikhtilafuha bihasbi tagayurri al azminati wa al amkinati wa al ahwali wa al awa'idi*.

Halal certification institution is not an obligation in Islamic law, but because Muslim consumers are no longer able to directly evaluate, validate and test whether a food product is halal or not, the institutional formation becomes mandatory, this is due to a changing in times and conditions. The author concludes that the entire description, namely the description of *usuliyah* principles that are systematized in such a way and applied to the certification and labelling of halal products, justifies the role of the government in halal certification. This explanation is the reason why the state, in this case, the government, must play an active role in halal certification in order to protect Muslim consumers and create social welfare.

4. Conclusion

The word 'guarantee' as stated in Article 29 paragraph (2) of the 1945 Constitution denotes support for

⁴³ *ibid*

⁴⁴ Muhammad Akbar Khan, *The Role of Islamic State in Consumer Protection*, (Pakistan:Journal of Islamic Research, Vol 8, 2011) p. 33

⁴⁵ Ibn Al Arabi, *Ahkamu Al Quran Juz II* (Bairut : Dar al Kutub al Ilmiyyah, 2003) p. 164-165.

⁴⁶ Ibn Qayyim Al Jauziyyah, *Panduan Hukum Islam, Terjemahan Asep Saifullah FM* (Jakarta:Pustaka Azzam, 2000) p. 459-460.

protection and obligations at the same time, all of which require arrangements to be implemented in the form of legal action. Hence, constitutional guarantees describe the support, protection and obligation of the state for the independence of every citizen to embrace and practice their belief according to their respective religions and this is carried out with all efforts to fulfil the rights, including the right to consume halal food for Muslims. Through the whole of the laws and regulations that substantially regulate the interests (*al-maslahah*) of Muslim consumers, and the state, in this case, the government, must play a role in halal certification in order to protect Muslim consumers and create social welfare. Integrating digital application-based data for the management of halal certification for business actors will speed up procedures, create derivative rules related to the ciptaker law on the new halal certification. With the faster and more business actors who already have halal certification, Muslim consumers will be increasingly protected in terms of their rights to information and also the right to the safety of the products they consume.

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