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The Politics of 'Halal': From Cultural to Structural Shariatisation in Indonesia

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This article seeks to explain the politics of halal *and its connection to the model of ongoing 'shariatisation' through an investigation of the institutionalisation of shariatisation of goods in Indonesia. It illustrates the historical steps of* halal *institutionalisation in Indonesia, fom from the issuance of early fatwas on* halal *to the establishment of a state* halal *body. It assesses a contest between the two models of shariatisation: first, state-enforced shariatisation, epitomised by the Ministry of Religious Affairs; and second, community-enforced shariatisation, epitomised by Council of Indonesian Ulama. This article argues that contest between the state and society over the shariatisation of goods in Indonesia is part of a dynamic process towards shariatisation. The shariatisation of goods is not merely about politics and theology but also involves lifestyle and commodification issues. I conclude that shariatisation that begins as cultural shariatisation has more sustainability and legitimacy than 'structural', that is, state-imposed, shariatisation.*

Despite the fact that Indonesia is not an Islamic state, there have long been attempts to incorporate *shari'a* (Islamic law) into state law. These attempts are contested between the state and civil society, represented by Indonesian Muslim organisations like MUI (Majelis Ulama Indonesian, Council of Indonesian Ulama), NU (Nahdlatul Ulama),[1] and Muhammadiyah.[2] This article analyses how shari'a has been incorporated into Indonesian law through a case study of what I call the '*halal* project',[3] a process described here as 'shariatisation'. The article also describes how shariatisation moves from the domain of culture to the domain of structure (the state), a process driven by both society and state. It describes a contest between society and state over the shariatisation of goods. I call shariatisation driven by civil society 'cultural shariatisation', and it is highly visible, for instance, in the way MUI promotes its views and persuades Indonesian Muslims to follow its views through its frequent *fatwa*s (Islamic legal opinions). State-driven shariatisation I label 'structural shariatisation', and it is exemplified by the establishment of BPJPH (Badan Penyelenggara Jaminan Produk Halal, the Halal Product Assurance Organising Agency). Structural shariatisation is evidence of Islamisation of the Indonesian legal and political sphere (Buehler, 2016: 9; Lindsey, 2012: 254).

In Indonesia, the categories of cultural shariatisation and structural shariatisation have their roots in public debate in the period around 1996, leading up to President Soeharto's resignation in 1998. The debate began between Abdurrahman Wahid[4] (Gus Dur) and Amien Rais[5] and their

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1 *Ulama* are Muslim religious scholars. NU, established in 1926, is the largest Muslim organisation in Indonesia, representing traditionalist Indonesian Muslims. NU asserts the authority of the *madhhab* or established schools of Islamic law (Ansyari, 2009: 299), understands that the Pancasila state is the final state form for Indonesia, and holds that therefore the creation of sharia-based state for Indonesia is not appropriate. Further detail on NU can be found in Syam (2018: 250).

2 Muhammadiyah, established in 1912, is the second largest Muslim organisation in Indonesia, representing reformist groups of Indonesian Muslims. Muhammadiyah endorses *ijtihad* (independent reasoning) for the Muslim community in Indonesia. On Muhammadiyah, see Jurdi, 2010; and Nakamura, 2012.

3 *Halal* is an Arabic term used to mean permissible or lawful, according to Islamic law.

4 Abdurrahman Wahid was a Muslim scholar and the General Chairman of NU (1984-1998) who argued that Islam in Indonesia should play a cultural, rather than structural-political, role. During his leadership of NU, Wahid rejected invitations to join ICMI (Ikatan Cendekiawan Muslim Indonesia, Association of Indonesian Muslim Intellectuals), an organisation established by B.J. Habibie to boost the role of Islam in the public sphere of Indonesia. Wahid also did not agree with the shariatisation of Indonesia, see Barton 2002; Hefner 2011. Wahid was President of Indonesia from 1999 to 2001.

5 Amin Rais is a Muslim scholar and politician who argues that Islam in Indonesia should have structural role. Rais was also an important actor in the establishment of ICMI. He was former leader of Muhammadiyah, PAN (Partai Amanat Nasional, National Mandate Party), a political party associated with Muhammadiyah, and has now established a new political party, the Ummat Party.

respective allies, who contested the most effective strategy for achieving the aspirations of Islam in Indonesia (Affandi, 1996). Gus Dur and his allies were epitomised as representing *Islam Kultural* (cultural Islam) because they rejected an overt role for Islam in the state. Amien Rais and his allies were seen as representatives of *Islam Stuktural* (structural Islam) because they wanted Islam to have a formal place in the state. Their public debate established a dichotomy that was developed and elaborated by scholars to analyse the dynamic relations between Islam and the state in Indonesia (Abdillah, 1999; Azra, 2004).

All modern processes of shariatisation in Indonesia, whether initiated by civil society or by the state, are attempts to incorporate religion as formal category in the legal and political spheres.[6] Peach (2002) argues that they are forms of legislating morality and religion. In Peach's conceptualisation, religious or moral law-making includes processes that encompass enacting, validating, interpreting and enforcing regulations, based on religious and moral respect (Peach, 2002: 12). Some of these characteristics are evident in MUI's attempts to implement shari'a by regulating halal and non-halal goods in the legal and public sphere. The shariatisation of goods here is a process of enacting, validating, interpreting and applying the shariatisation of consumable products. From Moustafa's perspective, constituting religion through the shariatisation of goods is the judicialisation of religion and, in the context of Islam, it can mean constituting Islam – shari'a – as state law for the purpose of 'legitimating the power of Islamic symbolism' (Moustafa, 2018: 2). Borrowing from Moustafa, this process happens through legal institutions, but that does not limit the role of lobbying groups such as MUI that exist outside legal institutions. These two conceptual frameworks are very useful in understanding the role of MUI in the formation of Law No 33 of 2014 on Halal Product Assurance. MUI is a non-governmental organisation (Adams, 2004, 2012),[7] but Peach's understanding of legislating morality suggests that what MUI has done in relation to halal law can nonetheless be categorised as a form of shariatisation. In the context of Indonesia, MUI has looked for way to become 'a key contributor to national level law and policy making' (Fenwick, 2017: 271), and has done so with some success.

This article argues that Indonesia's halal project comprises three aspects, namely attaching, imposing and formalising the content of shari'a at both the cultural and the structural levels. In Indonesia, the cultural shariatisation of goods has preceded structural shariatisation, which is evident insofar as the establishment of MUI's LPPOM (Lembaga Pengkajian Pangan, Obat-Obatan dan Komestika Majelis Ulama Indonesia, The Assessment Institute for Foods, Drugs and Cosmetics) preceded that of the state's BPJPH (Badan Penyelenggara Jaminan Produk Halal, Halal Product Assurance Organising Agency). LPPOM was established by MUI in 1989 and its task is to support the standardisation of halal and issue halal certificates. LPPOM is not a representative of the state, but MUI claims it is representative of the Muslim community. This is very different to BPJPH, which was established by the state.

Law No 33 of 2014 states that the BPJPH has the authority to issue halal certification. To do so, BPJPH can work together with ministers or equivalent state bodies, LPH (Lembaga Pemeriksa Halal, Halal Inspection (or Audit) Institutes), and MUI.[8] The role of MUI in this regard is to issue: certificates of halal audit, determination of halal products; and accreditation of LPHs. Members of government or the wider community can establish an LPH. According to the law, the role of the LPHs is to examine and investigate whether or not a product is halal. It should be noted here that a LPH must be proposed by Muslim organisations and be a legal entity, for example, a company.[9] Non-Islamic or non-Muslim institutions cannot participate in the process of halal certification. Halal certification is therefore a means of issuing halal certificates but also a means of enforcing Islamic doctrine about goods through state law.

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6 See Buehler, 2016; Feener and Cammack, 2007; Hefner, 2012; and Salim, 2008.

7 Although MUI is formally an NGO, it does receive significant state funding. Each year MUI receives an annual subsidy of about US$ 250,000 from the government of Indonesia. See: Tempo, 2013 and Handayani, 2016.

8 This is mentioned in art 10(1 and 2). See https://www.dpr.go.id/dokjdih/document/uu/1615.pdf.

9 See art 13(2), https://www.dpr.go.id/dokjdih/document/uu/1615.pdf.

The Shariatisation of Indonesia and Fatwa on Halal in Indonesian History

The shariatisation of Indonesia has been an ongoing issue since Indonesia's independence in 1945, and has been investigated by many researchers.[10] Since the early formation of Indonesia, Muslim groups have sought the incorporation of shari'a into Indonesian law and ideology, as was evident in the proposal to incorporate the controversial 'seven words' imposing an 'obligation on Muslim people to perform sharia' into the 'Jakarta Charter',[11] the first, discarded, draft of the Indonesian Constitution of 1945 (Anshari, 1979; Mujiburraḥman, 2006: 109). In the years immediately after Soeharto's fall in 1998, a number of Muslim political parties were motivated to revive the Jakarta Charter and its seven words: PPP (Partai Persatuan Pembangunan, United Development Party); PBB (Partai Bulan Bintang, Moon-Crescent Party); PKU (Partai Kebangkitan Ulama (Ulama Awakening Party); PNU (Partai Nahdlatul Ulama, Nahdlatul Ulama Party); and PSII (Partai Syarikat Islam, Syarikat Islam Party) (Hosen, 2007; Salim, 2008: 90-92). Although their proposal was rejected in a legislative session in 2002, attempts to introduce shari'a through various methods and strategies have continued. Muslim organisations like MUI, for example, continue to fight for the inclusion of shari'a in both the legal and public spheres. They believe that formal recognition of shari'a in Indonesia is possible not only through legal and political means, but also by exploiting cultural pathways. The shariatisation of Indonesia through halal certification, initiated by MUI, is an example of this (Ali Hidaefi and Jaswir, 2019: 100).

Although Indonesia is a country with a majority Muslim population, the shariatisation of goods only entered the public sphere in the 1990s. From Indonesian independence in 1945 to the establishment of the first halal institution, the LPPOM-MUI in 1989, halal certification was not often discussed nor debated at the state or community levels (MUI, 1982; Prodjokusumo, 1995). Indonesian Muslims then generally understood halal as a personal matter. Indonesia's Muslims were free to eat or not to eat, and to drink or not to drink, as they chose, without fear of state or religious authorities intervening. The absence of halal discourse in the Muslim community was evident in the stances of NU (Nahdlatul Ulama) and Muhammadiyah. As the largest and second largest Islamic organisations in Indonesia, respectively, NU and Muhammadiyah did not establish a special body for halal issues within their respective organisational structures. This meant that the establishment of LPPOM in the 1990s as the only body handling halal issues allowed MUI a monopoly over the public administration of halal.[12]

In 2014, Indonesian lawmakers issued Law No 33 of 2014 on JPH (Jaminan Produk Halal, Halal Product Assurance) (Humas, 2014; Suharman, 2014), reflecting a paradigmatic shift by the Indonesian state. For the first time, it was willing to intervene in the enforcement of religious doctrine in the public sphere, at least on the issue of halal. Prior this Law, the state had certainly issued regulations on some aspects of religious affairs, including the *hajj* (the pilgrimage to Mecca) and *waqaf* (charitable trusts, usually to support mosques and madrasahs) and other issues, but these regulations did not relate to doctrine; they were simply intended to ensure that doctrine can performed, for example, by providing transportation for hajj pilgrims, building places of worship, and so on. Matters of Islamic or religious doctrine were left in the hands of each individual Muslim. Mahfud MD (Coordinating Minister of Politics, Law and Human Rights) often states that many laws on the issue of religion, such as the hajj, are intended to protect and provide Muslim people the means they need to conduct the hajj, not to force them to do hajj. Every Muslim is free to do or not do the

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10 See Bowen, 2013; Buehler, 2008; Lev, 2009; and Otto, 2010: 433-91, among many others.

11 So called because the Indonesian equivalent of the phrase 'with an obligation for Muslim people to perform sharia' comprises seven words: *dengan kewajiban menjalankan syariat Islam bagi pemeluk-pemeluknya.* The Jakarta Charter was the result of negotiation between the Muslim groups and the nationalist groups in the early formation of Indonesia's state ideology. The Charter was established by the 'Committee of Nine' on 22 June 1945. The Committee itself was established by BPUPKI (Badan Penyelidikan Usaha Persiapan Kemerdekaan Indonesia, Committee for Investigation and Preparation for Indonesia's Independence. The Jakarta Charter consists of five principles: 1) Belief in Almighty God [with an obligation on Muslim people to perform shari'a] (2) Just and civilised humanity (3) the unity of Indonesia (4) democracy led by wisdom in the form of consultation/representativeness (5) social justice for all Indonesian people. The 'seven words' are commonly considered the first initiative of Muslim groups of Indonesia to insert shari'a into the Constitution of Indonesia. They were deleted from the Constitution when it was proclaimed in 1945.

12 See van Bruinessen, 2013; Hasyim, 2014; and Hosen, 2012.

hajj. The state does not assert the rights to force any Muslim to perform any religious obligation.[13] However, in the case of Law No 33 of 2014, the state has intervened to enforce Islamic notions of halal and haram. From the perspective of civil society, the state, represented by the Ministry of Religious Affairs, now seeks to regulate the operation of halal certification, previously controlled by MUI, a non-state institution. All these factors make Law No 33 of 2014 different to other regulations on the affairs of religion, and also cause the halal issue to now fall squarely in the domain of state, rather than that of civil society.

In many Muslim countries, the issuance of fatwas on halal is often understood as an initial move towards shariatisation at the levels of the legal and public spheres (Hasyim, 2019). Demand for fatwas on halal can be seen as an indication that the Muslim community want the issue of halal to be regulated at the state level, and, indeed, many people, including many state officials, consider that Indonesian Muslims should accept the guidance of fatwas, particularly MUI fatwa. This demand had not, however, emerged in Indonesia until the establishment of LPPOM in the 1990s, notwithstanding the fact that MUI issued a fatwa on halal as early as one year after its establishment in 1975 (MUI, 2011). At that time, Indonesian Muslims generally followed the classical position, which is that a fatwa is not legally binding, not even on those who had requested it.[14] This was perhaps because fatwa were then never instrumentalised by the state in the public sphere. I believe that the shariatisation of goods in Indonesia could not have occured without the issuance of a fatwa on halal to justify it, but, to be effective and change behaviour, an intermediary institution was required. NU, Muhammadiyah and other Muslim organisations had often issued fatwas on halal issues but none had set up an institution to issue halal certificates and produce and negotiate Islamic rulings on halal for the Muslim community. In other words, effect shariatisation often requires two processes: first, the issuance of a fatwa to justify it, and second, a process by which the fatwa is institutionalised and translated into the public and legal sphere. State actors, Muslim organisations, ulama and politicians are all capable of being involved in both processes.

As mentioned, the first fatwa on halal by MUI was issued on 13 October 1976, and addressed the Islamic legal status of machine-assisted animal slaughter (Ali Hidaefi and Jaswir, 2019; MUI, 2011). This fatwa was issued in response to a question posed by a Muslim who was apprehensive about coming into contact with animals slaughtered using a machine. Before issuing this fatwa, MUI conducted hearings with professional associations represented by PD Dharma Jaya (an abattoir) that had a history of stunning animals before slaughtering them, which was seen as problematic at the time. PD Dharma Jaya explained to MUI that stunning was carried out in order to reduce the pain inflicted on animals; moreover, that PD Dharma Jaya used sharp knives to cut the throat of the animal, as well as the animal's feeding channel and jugular veins, and that the slaughter was to be done by a Muslim who would reciting *basmala* (in the name of God, the first verse of the chapter of the Qur'an, *al-fatiha*), as required by shari'a. PD Dharma Jaya also said that stunning did not weaken the animal – stunned animals can still stand of their own accord, and survive the blow, if they are not ultimately slaughtered. PD Dharma Jaya also explained that stunning does not reduce or affect the animal's blood flow, but rather, ensured that the animal's blood continued to flow, thereby making the meat more hygienic. On the basis of this explanation, MUI decided that mechanical slaughtering is akin to *ihsan* (good treatment) of animals, as prescribed by the Prophet Muhammad and shari'a, and that it is therefore halal according to Islam. The fatwa reminds us that what is meant by animals in this context are live animals (Islam forbids the consumption of dead animals), such as buffalo, cows and goats. The term 'ihsan' here is adopted from a saying of the Prophet Muhammad cited in the fatwa: 'Surely, God obliges nice conduct for all things, when you kill, do kill nicely, when you slaughter, do slaughter nicely, let there be one of you who sharpens your knife and give thanks to those slaughtered' (narrated by Muslim)[15] (MUI, 2011: 597-99). MUI

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13 For Mahfud MD on relations between state and religion, see https://nasional.sindonews.com/berita/1546645/15/di-mui-mahfud-md-ceramah-soal-hubungan-agama-dan-negara.

14 See Adams, 2012; Masud, Messick, and Powers, 1996; Ṣalāh, 1986; and Sirry, 2013.

15 The Arabic version of this hadith: 'inna l-laha kataba al-ihsana 'ala kulli sha'in fa idha qataltum fa ahsinu al-qitlata wa idha dhabahtum fa ahsinu ak-dhabha walyuhidda ahadukum shafratahu falyurih dhabihatahu, rawahu Muslim.' (Al-Nawawi, 1994: 199).

concluded that this hadith demands that animal slaughter be carried out as humanely as possible. This fatwa was the first of its kind in Indonesia regarding the industrialisation and commodification of abattoirs.

MUI relied on two key concepts in this fatwa: first, that machine-based animal slaughter is a product of modernisation, and, second, that it is part of Islamic ethics to treat animals well (MUI, 2011: 598; Girindra, 2008). Through these two concepts – modernisation and ihsan – Soeharto's influence was evident in the content of the fatwa. The term 'modernisation' was frequently used by the Soeharto regime, while ihsan refers to a type of harmonious attitude that was also emphasised by the regime in its rhetoric. Soeharto's position on modernisation was evident in his national development program policy. The general policy of the regime toward national development was oriented toward farming and husbandry as a pillar of national productivity. This was combined with Soeharto's interest at this time in rising Muslim piety and the emerging Indonesian Muslim middle class, whose commitment to religion, he felt, could support national economic productivity. As Lapidus writes, however, Soeharto's concern went no further than endorsing personal piety (Lapidus, 2002: 674). This was an apt response to the general paradigm of Islamic modernism, which was more inclined toward the refinement of individual and personal piety, rather than asserting or enforcing public piety. Soeharto, however, also wanted middle class Muslims to transform their piety into a contribution to national development.

On this view, in order to advance farming and husbandry on a national scale, Muslims needed to modernise their approach to animal slaughter. The traditional mode of slaughter was no longer able to meet increasing market demands for meat. Technological advancements were required, but MUI's endorsement was necessary, given Islam's traditional position on animal slaughter. Theoretically, Muslims may only eat meat slaughtered lawfully according to Islam. If the method of slaughter deviates from what is prescribed by the sharia, that slaughter is haram. Therefore, modernised animal slaughter required a MUI-issued fatwa (Girindra, 2008; Hasyim, 2014).

In 1980, a second fatwa on halal was issued, this time regarding contaminated food and drinks. The fatwa, which was issued on 1 June 1980, determined that:

1. Muslims may not consume contaminated food and drinks;
2. all allegedly contaminated food and drinks should be avoided; and
3. all contaminated food and drinks should become the subject of a laboratory investigation, in order to determine whether they are halal, according to Islam (MUI, 2011: 607).

Although the fatwa is short and succinct, it articulated MUI's position with regard to the importance of conducting a laboratory investigation in order to determine whether such food, drinks, products and commodities are halal. Both the Soeharto regime and the community responded in an amenable and supportive fashion to these fatwas, and another halal fatwa was published in 1983, on the consumption of rabbit meat. The request for this fatwa came from the state in the form of the Director of Islamic Affairs of Islamic Guidance for Islamic Community of the Ministry of Religious Affairs and the Directorate General of Farming of the Ministry of Agriculture). The request concerned the Soeharto administration's program to endorse and encourage the Indonesian people to eat animal protein as a way of increasing the quality of the food they were consuming, as well as the prevalence of rabbit farming among rural farmers. The MUI fatwa declared the consumption of rabbit meat to be halal.

In 1984, MUI issued a further halal fatwa, this time on the Islamic legal status of breeding and consuming frogs (MUI, 2011: 615–18). This fatwa simulated a controversy in the public domain. It appears that the fatwa was issued in response to the prevalence of frog husbandry, which was also endorsed by the state at the time. Many farmers at that time had started to farm frogs rather than fish because the former was more profitable. In determining the Islamic legal validity of frog consumption, MUI invited many frog and livestock experts to contribute to its deliberations. Finally, MUI decided made two findings. First, it noted the majority opinion of Muslim jurists of the Shafi'i school of Islamic law with regard to a prohibition on consuming frogs, but endorsed the Maliki position, which permits it. In the second point of its fatwa, it therefore stated that farming frogs in

order to make profit, not for consumption, is not against Islamic law (MUI, 2011: 615-18).[16] Methodologically speaking, a dispute was unavoidable, because the majority of Muslim people believe that what is forbidden to eat is also forbidden for the purposes of seeking profit, for instance using forbidden material for the manufacture of medicine. Some Indonesian Muslim jurists, especially traditionalist groups, criticised the fatwa, saying that it was the result of piecing together of various *madhahib* (schools of Islamic law), a practice known as *talfiq*, which is used in the MUI method of *ijtihad* (independent reasoning), while traditionalist groups, such as NU, does not permit *talfiq* without very strong reason.[17]

Economically and politically speaking, the issue of these fatwas appeared to reveal MUI's support for the government's national program, which sought to advance social productivity through use of livestock. Politically speaking, in that era, the dominance of Soeharto's military-backed New Order regime meant it was impossible for MUI to release a fatwa that was contrary to state policy. Some have speculated that this fatwa was strongly influenced by the leadership of the fatwa commission by Ibrahim Hosen, who was renowned as a very liberal Indonesian Muslim jurist and had close connections with the ruling regime (Hosen, 1987).

Although the first fatwa on halal was issued in 1976, it did not move Indonesian Muslims to demand greater halal regulation. In fact, from then to the establishment of LPPOM in 1989, no significant public discourse demanding the institutionalisation of halal in the public and legal sphere of Indonesia ever emerged. This indicates that halal and haram food and drink were still understood to be private issues. As mentioned, demand for halal institutionalisation only began with the establishment of LPPOM.

Cultural Shariatisation: LPPOM-MUI

In East Java, in the early 1988, pig lard was discovered in Dancow milk powder, produced by Nestlé, and *Canopy*, the bulletin of Brawijaya University, announced that food and drink contaminated with pig enzymes had been distributed to public outlets. With the publication of this finding, sales of Dancow products declined by up to 80 per cent. Mass protests ensued, pressuring Soeharto to seek MUI assistance and this led to the establishment of LPPOM-MUI in 1989 (Girindra 2008; Hasyim, 2014).[18] The establishment of LPPOM was therefore a form of what I call cultural shariatisation - the promotion of halal-regulation here was not initiated by the state but by the *Canopy* article and MUI, a form of civil society organisation, so the imposition of shari'a on the regulation of food, beverages, drugs and cosmetics began for cultural, rather than state and structural, reasons (Girindra, 2008; Hasyim, 2014). Although MUI was close to Soeharto in its early formulation, and has always aspired to be a partner of government, it was never itself an organ of the state and government. Likewise, although MUI influences politics, it is not political party either. This makes halal institutionalisation in Indonesia very different to the rest of Muslim Southeast Asia, including, for example, Malaysia, where it driven by the interests of the state and the commodification of Islam (Ab Talib, Ai Chin, and Abdul Hamid, 2018; Lever, 2016; Fischer, 2008; Lever, 2016). In Indonesia, however, it was mostly triggered by religious cultural change, with the role of MUI pivotal.

Following the establishment of LPPOM-MUI, the demand for the shariatisation of goods via halal certification increased. It followed that MUI's role became indispensable because there were no other Islamic organisations with the capacity to investigate goods and issue halal certificates. NU and Muhammadiyah, the first and second largest Islamic organisations in Indonesia, for example, did not have a specific arm for regulating halal affairs. As a result, during its National Congress (*Muktamar*) in Makassar in 2010, NU recommended that all Islamic legal verdicts on the' halalness' of goods should be issued by MUI. Between 1975 to 2011, MUI duly issued 35 fatwas on halal (Hasyim, 2014). However, between the 1990s and 2018, the number of halal certifications issued by

[16] The MUI fatwa seems to assume that Muslims would farm frogs for sale for purposes other than consumption, because MUI does not allow Muslims to consume frogs.

[17] On the NU method of ijtihad see LTN, 2011; Mahfudh, 2011; Zahro 2004.

[18] Further information the establishment of LPPOM and its activities, see <https://www.halalmui.org/mui14/>.

LPPOM-MUI reached almost 8,000 at the national level and more than 33,000 at the provincial level.[19]

Shariatising Procedures and Goods

To strengthen its grip on the cultural shariatisation of goods, MUI published an umbrella fatwa on halal entitled 'The Standardisation of Fatwas on Halal' on 25 May 2003 (Girindra, 2008; MUI, 2011). Notwithstanding its title, this fatwa has no formal legal standing, because it was issued by MUI, not the state. However, this fatwa soon became the basic authority on which MUI relied to issue halal certification of food and drinks in general.

The first issue covered in this fatwa relates to the standardisation of liquor (*khamr*). Any type of drinkscan be categorised as 'liquor' if its ethanol content (C2H5oH) is more than 1 per cent. MUI states, however, that even if the ethanol content of a drink is below 1 per cent and is the result of an intended fermentation process, consumption of it is forbidden according to sharia, although is not categorised as an impurity.

The second issue covered in the fatwa regards the standardisation of ethanol, fuel oil, and yeast. MUI states that ethanol that is a purely compounded product of non-liquor materials is considered pure (non-*najs*). On MUI's view, the use of a non-liquor pure compound for processing food can result in two legal outcomes: first, it is permissible if, at the end of the food processing process the presence of ethanol is undetectable; and, second, it is forbidden if, at the end of the food processing process, the content of ethanol is still detectable. According to MUI, it is forbidden to use ethanol produced from liquor, but, vinegar, which is produced from liquor, is halal. The same is true of the legal status of yeast, if released from its material source (liquor).

The third issue relates to slaughterhouses. MUI standardised the procedure for slaughtering animals by stating that the butcher must be a mature Muslim. This means that even though some slaughterhouses have used a mechanical process to butcher animals, it must be a qualified Muslim butcher who leads the rite of slaughter.

A fourth issue regulated by the MUI umbrella fatwa regards the name and ingredients of products and commodities. MUI states that Muslims are not allowed to consume a product or use a brand or symbol for food or drink that leads to infidelity and vanity, or one that uses the name of things and animals that are forbidden in Islam, such as pigs, dogs, and liquor. Some food labels that have deep cultural roots and are guaranteed to not contain haram ingredients are excluded in this case, such as *bakso* (meat ball), *bakmi* (noodle), *bakwan* (fried vegetables), *bakpia* (stove-Chinese cake), and *bakpao* (steamed Chinese cake), even though these names are adopted from Chinese foods that typically use pork. Finally, MUI stresses the illegality of consuming food and drinks that use the names of forbidden products in Islam, such as whiskey, brandy, beer, and many others. This fatwa is problematic, because nowhere does Islam state that using such names is prohibited. A fifth issue regarding standardisation concerns growth mediums. MUI declared that a microbe raised and derived from a halal and pure enrichment medium is permissible. The consumption of products that derive from a microbe that uses haram and impure compounds in its enrichment medium, either in their first or final stage of development, is forbidden. MUI reminds people who consume such products to trace their halal qualities all the way to the stage of microbe development. These rulings empower MUI to conducting laboratory investigations to determine the 'halalness' of products and commodities, as it now often does.

A sixth issue regarding standardisation once again concerns the legal status of frogs. This time, MUI simply declares bluntly that Islam forbids killing and eating frogs.

A seventh issue of standardisation concerns general issues, such as the expiration date of halal certificates, international certifiers, and how to sterilise someone or something that has been licked by a dog or pig. MUI states that the expiration date of a halal certificate for imported meat is based on when it was shipped, and for local meat, the limit is six months. For food additives (products that relate to the flavour of foods and drinks), both domestic products and imports have a one-year period.

[19] For statistics about halal products, see <https://www.halalmui.org/mui14/main/page/data-statistik-produk-halal-lppom-mui-indonesia-2012-19>.

For general goods, local and imported products, MUI prescribes a six-month expiration date. With regard to the validity of those halal certificates granted by international certifiers that operate in Indonesia, MUI carefully scrutinises the standard operational procedures (SOP) and fatwas used as a legal basis by these international certifiers. If the legal validity of a halal certificate issued by an international certifier appears doubtful, MUI reviews it (Girindra, 2008). This is intended to indicate that MUI has its own halal standards and international certifiers must meet those standards. With regard to sterilising someone or something that has been licked by a dog or a pig, MUI adopts the Shafi'i position that obliges a person to wash themselves seven times, and on at least one occasion using soil or mud or other materials that have a similar effect, to get rid the saliva of the pig or dog. MUI also points out that pots or containers cannot be used interchangeably for pure and impure products, even if they are always washed after use (Ali Hidaefi and Jaswir, 2019; MUI, 2011: 698-701).

The umbrella fatwa thus offers coverage of many fundamental issues related to whether goods are halal or haram, and so provides the basic foundation for MUI's overall halal project. Although halal certification has been available in Indonesia since the 1990s, the publication of this fatwa galvanised MUI in its quest to shariatise goods (MUI, 2011). From a different angle, the publication of this fatwa can be seen as an effective cultural way for MUI to impose shari'a norms on food and drink, both vis-à-vis Indonesian Muslims and the state. Within the Muslim community, the standardisation of halal by MUI has changed eating and drinking behaviour and attitudes in the Indonesian community (Hasyim, 2014). Typically, Indonesians did not care much about the level of alcohol content, especially in traditional foods and drinks, such as *legēn* (traditional wine extracted from palm trees). That is no longer true. At the state level, the alcohol content levels of drinks, foods, medicines and cosmetics that the Indonesian government tolerates are much higher than the standards set by MUI. What MUI issued is therefore a sort of counter-discourse to the state's regulation and has gone beyond the previously-accepted norms of shari'a in Indonesia. With the umbrella fatwa, MUI wants national regulation on content levels to follow sharia, emphasising the importance of similar stance between the norm of shari'a and state regulation on the prohibition of alcohol content, to avoid confusion. Presidential Decree No 3 of 1997 allows limited distribution of drinks with alcohol content ranging from 1 per cent to 20 per cent, while the MUI fatwa calls for zero alcohol in drinks.

MUI's halal standardisation, however, also invites some criticism. Its fatwa prescribes an expiration date for all certificates of two years. This, of course, greatly enhances the income MUI earns from companies paying a fee to renew their halal certificates. It also resulted in MUI enjoying control over international certifiers because the MUI expiration date also applied for halal certificates provided by international certifiers for goods imported into Indonesia (Girindra 2008).

MUI has published more details regarding fatwas on related issues, such as rulings on alcohol, standardised certificates on halal slaughtering, and so on. A fatwa on alcohol, for instance, issued on 18 November 2009, is specific and comprehensive (Ali Hidaefi and Jaswir, 2019; MUI, 2011) and defines parameters intended to resolve debate on the content of alcohol in food, drinks, medicines, and cosmetics. The fatwa is divided into three parts. The first elaborates general issues pertaining to alcohol, such as definitions of liquor and alcohol. Liquor, according to the fatwa, is any drink that causes intoxication, whether it is extracted from grapes or other organic sources, or through a natural process. MUI defines alcoholic drinks as drinks that contain ethanol and other compounds, such as methanol, acetaldehyde, ethyl acetate and other related ingredients that result from the fermentation process. The second part addresses the Islamic legal status of alcohol consumption. MUI states that alcoholic drinks are not permitted and that the legal status of liquor is that it is 'impure'. The use of liquor-based alcohol as a solvent element in the production of food, drinks, cosmetics and medicines is therefore forbidden. MUI notes, however, that alcohol is only impure if it is extracted from liquor; it is pure if it is produced from other ingredients. Its legal status changes from halal to haram, however, when it creates danger for human beings. The third part of the fatwa contains a statement regarding MUI's efforts to persuade the Indonesian government to prohibit the distribution of alcohol by cancelling permits for factories that produce and distribute alcohol. MUI also urges scientists to develop and discover synthetic compounds that can replace the solvent

function of alcohol for the production of cosmetics, medicines, food and drinks (Girindra, 2008; MUI, 2011).

The Contest between State and Society on Halal Authority

This section presents two case studies that illustrate how the state and the Muslim community have contested the authority of halal in Indonesia: the first relates to a controversy over the salt substitute Ajinomoto, which occurred during the presidency of Abdurrahman Wahid (1999-2001) (Otto, 2010: 451). The second relates to a controversy over vaccinations that took place under the rule of Susilo Bambang Yudoyono (2004-09).

Case 1: Ajinomoto

A Japanese company, Ajinomoto, produces an MSG (monosodium glutamate) salt substitute marketed under its own name that was widely used in Indonesia (Halim, 2016: 24). This product became the focus of the first major public debate about halal between the state and the Islamic community in Indonesia (Otto, 2010: 451). The then president, Abdurrahman Wahid, represented the state, although he was a former leader of NU and a prominent scholar of Islam. MUI represented Islamic community, as the only organisation that had produced halal certificates since the 1990s. Wahid asked MUI to grant Ajinomoto a halal fatwa but MUI rejected his request. MUI maintained that its ruling declaring Ajinomoto haram would stand because haram ingredients had been found in Ajinomoto's products.

MUI had originally granted Ajinomoto a halal certificate, but then claimed that from June 1999 to November 2000 Ajinomoto changed the ingredients of MSG, allegedly mixing them with bacto soytone, which contains pork enzymes (MUI, 2011: 663). MUI therefore decided to revoke the 'halal' status of Ajinomoto's MSG product. On 9 September 2000, PT Ajinomoto requested that MUI extend its halal certificate. LPPOM then conducted a field investigation and found that the MSG produced by this company contained pork enzymes. Confirming its finding, MUI conducted an audit of the office of PT Ajinomoto in Mojokerto, East Java, on 4 December 2000. On 9 December 2000, MUI concluded that Ajinomoto MSG products were, in fact, contaminated with pig fat. Based on this finding, MUI issued a fatwa declaring as follows: first, Ajinomoto's production of MSG uses bacto soytone, which is haram for consumption. Second, those Muslim people who had consumed the product were not guilty of sin, because of their lack of knowledge. Third, the Muslim community was encouraged to be more alert about consuming food the legality of which remained unclear, that is, whether it was forbidden according to Islam. Fourth, the fatwa was effective from the time that the decision was made, but it could be corrected in the future if a mistake was found in the fatwa. The fatwa was issued on 16 December 2001.

In its reasoning supporting this fatwa, MUI cited Qur'anic verses al-Baqara [2]: 168 and 173, al-Ma'ida [5]: 3, al-An'am [6]: 145, and al-A'raf [7]: 157. All these verses pertain to the instruction in Islam to consume good (Arabic, *tayyib*), halal goods. The fatwa also refers to three arguments from the hadiths, one of which is narrated by a Muslim: 'The halal is clear and the haram is clear – between two sides there are some unclear matters that people, in general, do not know, one who is afraid of falling into that which is unclear is a person who saves his religion and dignity.' MUI then prioritises the legal argument that all parts of a pig are called 'visible impurities' to argue that, notwithstanding that the sophisticated technological processes used meant the final MSG product did not reflect its pork enzyme content, the prohibition was justified was because the original ingredients of the product were allegedly derived from a pig, which is a visible impurity. Therefore, the final Islamic legal status of this product was haram. In the fatwa, MUI also referred to an Islamic legal maxim that states: 'when the halal and the haram meet, the halal is defeated'[20] (Karni, Helmy, and Thaha, 2010).

In this case, Wahid insisted that the position of the Indonesian government was different to that of MUI, and that it was acceptable. Using the concept of *istihala* (the change of impure substance to

[20] The Arabic expression is *'idha ijtama'a al-halal wa al-haram guliba al-halal'*.

pure, either because of natural or unnatural intervention), Wahid argued that because pork enzymes were not found in the final product of MSG, the legal status of the product was halal (Liputan 6, 2001). Wahid also argued that, quite apart from religious concerns, banning Ajinimoto would result in Indonesian workers from being laid off by Ajinomoto (Karni, Helmy, and Thaha, 2010: 122). Wahid and Sahal Mahfudh, the then MUI Chairman, corresponded in an attempt to find common ground but were unable to reach agreement. Mahfudh, however permitted the Muslim public to judge for themselves whether they preferred MUI's fatwa or Wahid's opinion (Karni, Helmy and Thaha, 2010). These events reflected MUI's aim to transit from being a mouthpiece of the state as it was under Soeharto, to becoming the custodian of the *umma* (the Muslim community), and one way of achieving this was to use its fatwas as part of a populist approach.

Under Soeharto, when the president of Indonesia published a legal or policy statement, MUI almost always issued a fatwa that justified those state policies or regulations (MUI, 2011: 307-14).[21] In short, MUI's position in the New Order era had usually been in line with the ruling regime (Mudzhar, 1993). By contrast, politically and socially speaking, after Soeharto's fall in 1998 MUI fatwas became a symbol of resistance to the state. Unlike its reverence for the New Order state, MUI has endeavoured to present itself as independent of the state since the 1998 by adopting positions different from those of the state in its fatwas and other products. This has increased MUI's bargaining position vis à vis the state. Likewise, MUI Chairman Sahal Mahfudh spoke publicly about his refusal to compromise with President Wahid to demonstrate to the Muslim public how MUI had distanced itself from the state (Karni, Helmy, and Thaha, 2010: 121-123). However, during the presidency of Susilo Bambang Yudoyono MUI played different roles, as both a pressure group and a partner of the state, depending on the particular issues in question.

Despite Wahid's defence of Ajinomoto, the company opted to defer to MUI's fatwa. Soon after the publication of the fatwa, PT Ajinomoto took two important steps: first, it withdrew the bactosoytone-contaminated MSG from market circulation; and second, it substituted the bactosoytone with *mameno* (soybean). On the basis of these two actions, on 19 February 2001, MUI published a new fatwa that stated: first, Ajinomoto MSG contains mameno as its composite helper, which is permitted; second, it encouraged Muslim people to be more careful to avoid consuming what their religion regards as suspicious and haram; and third, the fatwa was effective from the date of the decision but could become the subject of revision if evidence was found in the near future. In terms of Islamic legal argument, there is no difference between this fatwa and the previous one.

What we can learn from the Ajinomoto case is that state support is not always a necessary condition for shariatisation in Indonesia to flourish. Cultural shariatisation can take place even in the face of state opposition. This tendency is reflected in MUI's success, where its relative independence from state intervention, especially in the post-New Order period, has made it more institutionally powerful and, therefore, able to pressure the state to accommodate its aspirations. The role of LPPOM-MUI as a halal certifier is perhaps the best example. MUI's position has given it more confidence vis a vis the state, which is reflected in its fatwas and recommendations. The fatwa on 'Products of Monosodium Glutamate' is the best example of this.

Case 2: Halal Vaccinations

Another case that illustrates how the state and the Islamic community have contested halal authority is the issue of halal vaccines. In 2009, the Indonesian government wanted a meningitis vaccine produced by a British company, Glaxo Smith Kline, to be accessible to the Indonesian people but MUI did not agree to the government's proposal. It objected to the vaccine on the grounds that it contained material extracted from pork (Tempo, 2009a). Like MUI, Muhammadiyah also took the official view that the meningitis vaccine is haram (Ilmi, 2010). The Ministry of Health claimed the meningitis vaccine would benefit many Indonesian pilgrims performing the hajj or *umrah* (small pilgrimage) (Tempo, 2009b) and, on 3 May 2009, claimed that the process of making the vaccine did

[21] There were some notable exceptions to this, such as a fatwa on celebrating Christmas under the Hamka leadership. In this fatwa, MUI stated that Muslim are not allowed to celebrate Christmas together with Christians. This fatwa was contrary to Soeharto's policy of creating harmony and tolerance among religious believers in Indonesia.

not use a growth medium derived from pig fat (Kemkes, 2009). MUI, however, discovered that this claim was inaccurate, and that the Meningitis vaccine did, in fact, contain pig fat. MUI came to this conclusion after hearing from vaccine expert Anna P Roswien, who cross-referenced information that showed the process of producing the vaccine did indeed involve pig enzymes (MUI, 2011).[22]

The issue was raised at a MUI board meeting of 6 June 2009, where various attendees expressed their opinions about whether the vaccination should be made a requirement for all pilgrims venturing to Mecca and Medina. Fadhilah Supari (Minister of Health, 2004-09) was critical, saying that MUI did not have authority to determine the Islamic legal status of the meningitis vaccine (Hasyim, 2014), reflecting the fact that the MUI is not a state body. Amidhan, MUI's then Chairman, countered Supari's statement, claiming that MUI had the authority to issue the fatwa under Law No 7 of 1996 on Food, even though MUI is not mentioned in this law (Antaranews, 2009).[23] Ma'ruf Amin (the head of MUI Fatwa Commission) also claimed that the Ministry of Health has authority to issue policies or regulations but determining whether something is halal or haram should be done by MUI.[24] Thecontroversy only ended when the Minister of Health visited the MUI offices in mid-July 2009, seeking clarification. The visit by Supari to MUI's office suggested that the state, as represented by the Minister of Health, was subordinate to the Islamic authority, as represented by MUI, at least as regards matters of Islamic doctrine. This was evident in the statement of Umar Shihab (then the senior chairman of MUI) that the state had requested MUI issue a fatwa.

MUI finally issued a fatwa on this issue on 16 July 2009 (MUI, 2011: 675-82) stating that the use of the meningitis vaccine containing pig fat is haram (Liputan 6, 2009a and 2009b). It adds, however, that the use of the vaccine remains tolerable, if based on need. MUI then stated that it limited halal use of the vaccine to the extent that a halal vaccine has not yet been invented or that the Kingdom of Saudi Arabia requires pilgrims to be injected with it. MUI also appealed to the Indonesian government to create a permissible meningitis vaccine and recommended that after having been injected with the vaccine, pilgrims should wash the point of injection in accordance with the rulings of the Shafi'i school of Islamic law[25] with regard to washing away impurities resulting from pig or dog saliva, as discussed above (Hasyim, 2014).

This fatwa was then revoked by MUI, and a new fatwa issued on 16 July 2010, on the grounds that the 'needs' reason used by MUI in the 2009 fatwa to allow the use of the meningitis vaccine produced by Glaxo Smith Kline was no longer valid.[26] In the new fatwa, MUI approved a halal vaccine for meningitis, produced by Zheijiang Tianyuan Bio Pharmaceutical, Co. Ltd (MUI, 2011: 792), which later changed its name to Novartis Tianyuan Bio-Pharmaceutical Co., Ltd. on 16 March 2011, and is still based in China (Zulham, 2018: 3; Suprihadi, 2010).[27] The Indonesian government later followed suit, endorsing the MUI fatwa and the use of the Chinese vaccine, which did not contain pig products. Both the Ministry of Health and the Ministry of Religious Affairs endorsed the use of this particular vaccine.[28]

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22 See MUI Fatwa Nomor: 05 Tahun 2009 tentang Penggunaan Vaksin Meningitis Bagi Jamaah Haji atau Umrah (MUI 2011, pp.675-82).

23 On the right of MUI to issue fatwa on Mengitis, see Burhani, 2009.

24 On the role of MUI in issuing fatwa on halal, see NU Online, 2009.

25 In this fatwa, MUI refers to the injunctions of the Qur'an, the sayings of the Prophet Muhammad, and the consensus of *ulama* that prohibit the consumption and use of the entirety of a pig's body because of its substantive impurity. It also cites Islamic legal maxims, including (1) 'when the halal and haram meet, the haram is defeated'; (2) 'the needs are part of an emergency either in the universal or particular context'; and (3) 'an emergency permits the consumption of forbidden things.' This is similar to MUI's approach on the legal validity of eating cicadas and frogs, namely, that when textual evidence is not available in the Qur'an, hadith or *ulama* consensus, the best route is to cite Islamic legal maxims.

26 Glaxo Smith Kline was disappointed the new MUI fatwa still prohibited the use of its meningitis vaccine because it claimed its vaccine has no longer used non-halal elements. See Anna, 2010.

27 MUI's recommendation was based on the report of an auditing team from LPPOM, which visited three companies that produced the meningitis vaccine. Glaxo Smith Kline (20-21 May 2010), MUI found, still used pig enzymes, which constitutes *intifa'* (deriving benefit) according to Islamic jurisprudence. The auditing team from LPPOM also took the advice of an auditing team from Novartis Vaccine and Diagnostics S.r.i (a company based in Italy), which found on 17 to 19 May 2010 that Glaxo Smith Kline' s vaccines contained pig enzymes.

28 Endang Rahayu Sedyaningsih, Minister of Health 2009-12, announced her happiness on hearing the MUI fatwa on the use of the meningitis vaccine produced by China. See Indonesia. Ministry of Health, 2010.

Despite the Indonesian government's decision to inoculate those performing the hajj and *umrah* with the MUI-endorsed vaccine, debate has persisted. The government of Indonesia, through Fadillah Supari, emphasised the need for transparency and honesty in deciding which vaccine should be preferred. Her statement was critical, because the decision would affect no fewer than 250,000 Indonesian pilgrims each year.[29] Seeming to doubt MUI's auditing process, Supari stated that all vaccines available to the public, including those for meningitis, had undergone a process involving a trypsin medium, which has intersected with pig enzymes. What distinguishes these cases is a purification or cleaning process, which is said to negate pig-enzymatic contamination. Strictly speaking, Supari said, both vaccines produced by the British and Chinese companies are based on germs that are typically stored for a year and then reproduced by a Dutch company. Neither the British or Chinese companies ever breed their own germs (health.detik, 2009). Supari stated that the audit MUI conducted, which resulted in it nominating the Chinese vaccine as halal, merely involved visits to the vaccine producers and MUI needed to also audit the relevant germ-breeding companies to learn more about the roots of the vaccine. Umar Anggara Jenie, a lecturer at Gajah Mada university, and Jurnalis Udin, a medical doctor from Yarsi University, suggested that MUI needed a good laboratory to test for halal certification. Both of them stated that the audit information was based on assumptions rather than scientific investigation (Tempo, 2010).

MUI also issued a fatwa on the 'Special Polio Vaccine' in 2002 (MUI, 2011: 691-97). This fatwa stated that the legal status of the vaccine was not halal, but since a halal polio vaccine had not yet been invented, Muslims could continue to use it (Karni, Helmy and Thaha 2010). MUI based its legal opinion on Muhammad Khatib al-Sharbini's *Mughn al-Muhtaj*, where al-Sharbini (d 1570, a Shafi'i scholar) wrote that medical treatment involving the use of impure medicine is allowed when pure medicine has not yet been discovered. MUI also cited a similar opinion from al-'Izz ibn 'Abd al-Salam (1181-1262, another Shafi`i scholar), who wrote: 'medical treatment using impure medicine is halal when pure medicine is not invented yet because having the goodness of health is more perfect than distancing from the impurity'. The fatwa was therefore issued based on the opinions of these two Muslim scholars (MUI, 2011: 691-97).

However, MMI (Majelis Mujahidin Indonesia, Indonesian Mujahidin Council), an Islamist hardliner organisation established by Abu Bakar Ba'asyir (Leader of Jama'ah Islamiyah), protested to MUI about whether the meningitis and polio vaccines were halal or haram. MMI claimed that the issuance of the fatwa on vaccines could not be divorced from 'the international Zionist project to destroy the Muslim world's young generation' and that MUI's fatwa was part of an international conspiracy. MMI was critical of MUI Chairman Ma'ruf Amin for his various statements about MUI's fatwa allowing the use of the polio vaccine until a new halal vaccine appeared, stating that MMI found these statements inconsistent and careless. MMI believed that Ma'ruf Amin should have consulted experts before making his opinion public, especially considering that it is public knowledge that the production of vaccines in the modern world is almost impossible without the use of pig enzymes. MMI proposed the replacement of the vaccine by adopting what it called an 'Islamic medicinal prescription', as introduced by the Prophet Muhammad (*al-tibb al-nabawi*) to cure illnesses.

What this shows is that while MUI issued a fatwa on halal vaccines to ensure shari'a justification for such products, not all Indonesian Muslim groups shared MUI's position. This reflects the plurality of concepts and opinions in Indonesia regarding the enforceability of shari'a in Indonesia. Muslim groups might agree on the need for formalisation of sharia, but they disagree on the substance of the basic issues to be used as the steppingstones to comprehensive shariatisation.

However, MUI's halal project appears to be the most effective way of implementing the sharia, at least according to MUI. An additional advantage of shariatisation through the halal project is its far-reaching impact, which goes beyond the level of the community, into law and the marketplace. The Islamic debates, outlined above, have helped MUI achieve the status of Indonesia's sole halal certifier of medicines, which has influenced the market and the state more broadly, and provided MUI with a huge income stream (the details of which it has never disclosed). Now, thousands of

[29] This statement was given on the occasion of a meeting of Tanwir II of Aisyiyah (the senior women's wing of Muhammadiyah) on13 June 2010, in Yogyakarta. See Republika, 2009; and Nugraha and Trijaya, 2009.

companies and producers apply to have their products and commodities listed by the MUI as halal certified, and this trend shows no signs of slowing down.

Another result of the project of 'halalisation' is the establishment of a vehicle to approve the invention and adoption of new sciences, technology and research. Islamic legal determinations of the permissibility of goods requires sophisticated and advanced knowledge, skills and tools because of the complicated chemical composition of such products and commodities. MUI's 'halalisation' project could therefore galvanise Indonesian Muslim scholars and scientists to advance their research, which currently lags compared to Western/non-Muslim countries. If this were to occur, the halal project has the potential to bridge the gulf between the application of shari'a, on one hand, and Western-derived scientific thought on the other hand. The extensive use of science and technology in the halal project could help Indonesian Muslim ulama accept more inclusive and rational thinking. Regardless of where the sciences and technology come from, Indonesian ulama can use and benefit from them.

One remaining issue relating to the regulation of halal issue was the domination of LPPOM-MUI, which, when it was the sole source for halal certification, could be described as 'monopolising Islam' (Lindsey, 2012). From MUI's perspective, Indonesian Muslims should only have one fatwa institution, because it provides them with a definite legal opinion. The presence of various halal institutions creates the potential for different Islamic legal opinions, which MUI says, is divisive and harmful to the unity of the *umma*. However, many disagree with MUI's perspective. They argue that the halal certification process can actually be undertaken through various and relevant institutions and LPPOM-MUI can be part of this, but not monopolise it. Law No 33 of 2014 implements this latter view by establishing BPJPH. As mentioned, halal certification is now done by this state institution, but Islamic organisations and universities can participate as Halal Inspection (or Audit) Institutions (LPH), under the coordination of BPJPH. When LPPOM was the sole issuer of halal certificates, it was also the sole halal investigator. By contrast, BPJPH allows state and related stakeholders (*ulama*, scholars, scientists) to come together and play their respective roles. The issuance of halal fatwas, however, remains in MUI's hands, and can be requested by BPJPH from the Fatwa Commission of MUI.

Structural Shariatisation: BPJPH

As mentioned, I use the term 'structural' to mean shariatisation that directly involves the role of the state (Maarif, 2001: 107; Machmudi, 2008: 67). Following Peach's framework, structural shariatisation refers the attempts to agree, legislate, enact and include shari'a in Indonesian state law, as initiated by the state through various ways and means (Peach, 2002). In structural shariatisation, there can be non-state actors, including civil society organisations and non-government organisations, but their role is to influence Indonesia's lawmakers (government and the legislature) to propose, legislate and enact sharia. State control of the halal issue, through the publication of Law No 33 of 2014 and the establishment of BPJPH[30] in the Ministry of Religious Affairs, is an obvious example of structural shariatisation responding to cultural shariatisation, and it deserves more explanation.

After its establishment in 1989, LPPOM at first received significant support from the Indonesian state (Haryono, 2011; LPPOM, 2011). While LPPOM was not established pursuant to a particular state law, the Indonesian state invested its trust in this institution to manage halal certification and LPPOM became the sole authoritative institution allowed issue a halal certificate in Indonesia. However, around 2013 and 2014, the government of Indonesia, through the Ministry of Religious Affairs, proposed a state law on halal. This initiative occurred when Suryadharma Ali was the Minister of Religious Affairs, and was assumed by MUI board-members to be intended to exclude MUI, as LPPOM, from halal certification. The Minister had a decent reason for this: he considered that in issuing halal certificates, MUI had a tendency to prioritise economic benefits for MUI over promoting the interests of religion and the state (Wijaya, 2014), not least because MUI did not pay

[30] On BPJPH, see <http://www.halal.go.id>.

tax to the state from its halal certification income, despite the huge revenues it earned (Siar Batavia News, 2014; Kuncahyo, 2014).

Unsurprisingly, Suryadharma Ali's proposal received a harsh response from MUI, which suggested that the Ministry of Religious Affairs wanted to co-opt what MUI had worked for so long to make its own. MUI rejected the initiative and hoped instead that the Ministry would strengthen LPPOM's position. The enacting of a statute on Halal Product Assurance was therefore perceived by MUI as offensive and a-historica,l because the state had previously always refrained from taking any initiative to regulate halal. The perception of MUI elites of the Ministry of Religious Affairs was that the state did not respect the leading ulama institution, MUI (Kalsum and Permadi, 2014). In other words, the elites of the Ministry and MUI clashed head-on. From the Ministry perspective, the state has the sole authority to regulate halal, as Suryadharma Ali explained to the public, while from MUI's perspective, the state could do that simply by legitimising LPPOM, as it had done in the past.

Even within MUI circles, however, there had been discussions about the need for a halal statute for a long time. In fact, at the *Ijtima' Ulama* – one of the MUI's largest meetings – in 2009, MUI recommended that lawmakers finalise the drafting of the state law on halal, proposing five provisions for inclusion in it. First, halal certification should no longer be voluntary, but obligatory. Second, halal product assurance should be issued by an authoritative and legitimate fatwa issuer and the Ijtima' Ulama, naturally, recommended MUI as the sole authoritative fatwa issuer on halal. Third, to have a reliable and guaranteed halal product, the Ijtima Ulama recommended the integration of a halal auditing agency and fatwa commission, in the way MUI had done for more than 20 years. Fourth, the agency should be clear, firm and effective in monitoring whether products, local and imported products were halal. Fifth, violations of this law should be met with administrative and/or criminal sanctions, as well as compensation (MUI, 2011: 921). On the basis of these five recommendations, the Ijtima' Ulama wanted the draft state law, whether it be proposed by the executive or the legislature, to appoint MUI the sole legitimate and authoritative halal certifier.

Because MUI is not formally part of the state, it used every opportunity it had to meet with the government and legislature to convince them of the recommendations of the Ijtima' Ulama, without success, and MUI elites criticised the state for not affording appropriate respect to Islamic authorities. In the end, the difference of opinion between MUI and the Ministry did not stop Indonesian lawmakers passing the law on halal. They finally agreed to issue Law No 33 of 2014 on Halal Product Assurance, although with the proviso that it would not come fully into force until 17 October 2019: a transitional time to manage transfer of authority to issue halal certificates from LPPOM to BPJPH. However, when October 2019 came around, BPJPH was not ready because its preparations were not complete. Fachrul Razi (then Minister of Religious Affairs) therefore published Decision No 982 of 2019 on Halal Certification Service, saying that halal certification was temporarily returned to LPPOM until such time as BPJPH was fully prepared and ready,[31] as is now the case.

Whatever the complexities of this process and problems of implementation, it is clear enough that Law No 33 of 2014 enabled the state to become involved in halal certification through the establishment of BPJPH, a state institution. Therefore, Law No 33 of 2014 is a form of structural shariatisation.

Conclusion

The contest between state and society over the authority for handling halal certification reflects an interesting dynamic within Indonesian Islam. These contests do not usually end with the complete defeat of one party but more often forces them into creative tension and dialogue, in line with Indonesia's nascent democratic standards. In this way, the contest between of state and society over the matter of halal authority, that is, between the Ministry of Religious Affairs and MUI, created a fertile soil for 'democratic shariatisation'. The Ministry and MUI could be reconciled because each was allocated a role on the basis of their capacity, with Law No 33 of 2014 on Halal Product Assurance

[31] Religious Affairs Minister Decision No 982 of 2019 on Halal Certification Service, see Heriani, 2019.

designating MUI as fatwa issuer on halal matters, and the BPJPH as the state certifying body, with other civil society organisations given the right to be accredited as halal investigation (audit) bodies (LPH or Lembaga Pemeriksa Halal) under BPJPH.

Learning from MUI's initiatives on halal, the process of shariatisation appears more effective when it is based on shariatisation of the cultural domain. The shariatisation of goods in Indonesia, which was initiated by MUI, provided the state with foundational modality for proceeding with the halalisation project. The institutionalisation of halal thus has strong legitimacy because it stems from an initiative of civil society. This cultural shariatisation paved the way for structural shariatisation, as initiated by the Ministry of Religious Affairs. This model of shariatisation takes a long time but creates added value to both the quality of democracy and the Islamist movement in the context of Indonesian Islam. For the quality of democracy, the added value is in the way the long process created public space for citizens to discuss whether or not they can accept the concept of halal. The long process also meant the Islamist movement can understand that such shariatisation is not purely a theological but also a political and cultural issue. With the structural shariatisation of Indonesia through halalisation project, the democratic system and the aspirations of Islamists in Indonesia negotiated to achieve mutual benefit.

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