



# **Comparing Indonesian Former and Current Halal Regime in Protecting Muslim Consumers**

A study on Behavioural Insights Applied to Policy

Olivia Andriyan Pratama

Halal logo was retrieved and modified from <https://www.pngdownload.id/dmca.html>.

# Comparing Indonesian Former and Current Halal Regime in Protecting Muslim Consumers

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Student Thesis Report

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*“Tom said to himself that it was not such a hollow world, after all. He had discovered a great law of human action, without knowing it -- namely, that in order to make a man or a boy covet a thing, it is only necessary to make the thing difficult to attain.”*

**Mark Twain, The Adventures of Tom Sawyer**

## ABSTRACT

Indonesia changed its legal framework on halal food assurance from the scattered rules under the Former Halal Regime into a single and unified regulation, called Halal Law (*Undang-Undang* No. 33/2014) on 17<sup>th</sup> October 2014. This law aimed to protect Muslim consumers by guaranteeing genuinely-halal food because its predecessor seemingly failed to do so. However, it remains unknown whether these regimes have addressed the behavioural issues arising from Muslims consumer characteristics when buying halal food. Therefore, this thesis aims to examine the capability of the current Halal Law and its predecessor in addressing this matter. Behavioural insights (BIs) were employed to identify the consumers' behavioural issues while BIAP (Behavioural Insights Applied to Policy) concept was employed to evaluate the capability of both regimes. Six issues were identified, associated with Muslim consumers characteristics in purchasing halal food. Two among them were chosen as the foundation for legal evaluations, i.e., (1) relying on cues other than a halal label and (2) low halal label reading behaviour. Based on the comparative analysis, Halal Law is expected to better protect Muslim consumers through simplification of product choice and making halal food the default option in the market. However, it potentially results in some severe problems for “minority” consumers and business operators. In contrast, the predecessor was better in preserving the consumer freedom of choice and had lenient rules for business operators but did not adequately protect Muslim consumers. Therefore, it is suggested to take other initiatives that adequately protect Muslim consumers without any significant shortcomings.

Keywords: halal regime, halal label, behavioural insights, Muslim consumer, consumer protection.

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## List of Abbreviations

<b>BIAP</b>	Behavioural Insights Applied to Policy
<b>BIs</b>	Behavioural Insights
<b>BPKN</b>	National Consumer Protection Authority (In Bahasa: <i>Badan Perlindungan Konsumen Nasional</i> )
<b>BPSK</b>	Indonesian Consumer Dispute Settlement Body (in Bahasa: <i>Badan Penyelesaian Sengketa Konsumen</i> )
<b>CAC</b>	Codex Alimentarius Commission
<b>COO</b>	Country of Origin
<b>HAPAS-B</b>	Halal Product Assurance Body
<b>HPA</b>	Halal Product Assurance
<b>HIA</b>	Halal Inspection Agency
<b>LPPOM</b>	Institute for the Study of Food, Medicines, and Cosmetics (in Bahasa: <i>Lembaga Pengkajian Pangan, Obat-obatan, dan Kosmetika Majelis Ulama Indonesia</i> )
<b>MMC</b>	Muslim Majority Country
<b>MORA</b>	Ministry of Religious Affairs
<b>MUI</b>	Indonesia Ulama Council (In Bahasa: <i>Majelis Ulama Indonesia</i> )
<b>MSEs</b>	Micro and Small Enterprises
<b>NADFC</b>	National Agency of Drug and Food Control
<b>SPS</b>	Sanitary and Phytosanitary
<b>TBT</b>	Technical Barrier to Trade
<b>EU</b>	European Union
<b>WTO</b>	World Trade Organisation

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# 1 Introduction

## 1.1 Background

Following the current development of policymaking, particularly in the field of consumer protection, Behavioural Insights (BIs) have increasingly become the main indicator in the policy designation, implementation, and assessment process. Scholars Bavel, Herrmann, Esposito, & Proestakis (2013) have explored this concept, especially about incorporating BIs in the formulation, execution, as well as evaluation of the European Union (EU) policies. The notion was further described as Behavioural Insights Applied to Policy (BIAP). By definition, “*Behavioural Insights are a result from multidisciplinary research in the fields of economics, psychology, and neuroscience to understand how individuals behave and make their decision in every day’s life*” (Lourenço, Ciriolo, Almeida, & Troussard, 2016).

As Bavel et al. (2013) explained, the concept of BIAP was grounded in the fact that individuals in their decision-making process were not thinking rationally and were influenced by heuristics or biases. They processed the information according to the so-called System 1, where people based their decisions on fast, intuitive, and effortless information processing instead of System 2 thinking, where people opted to think critically, slowly, effortfully, and reflectively — implying that an individual would take into account all the available information and always made a consistent decision (Kahneman, 2011). System 1 often led individuals to systematic errors in their decision-making when the given information was not carefully designed by the lawmakers. Interestingly, instead of making the regulation by acknowledging the System 1; lawmakers often designed the rules based on the assumption that the individuals behaved rationally (System 2), which thus, potentially resulted in less-effective implementation (Bavel et al., 2013).

In addition, Silber (1990) stated that consumer protection regulations should be formulated to overcome any problems resulting from consumer’s cognitive limitations. BIs, thus, served as a way to identify the existing consumer behavioural problems (or so-called consumer behavioural biases<sup>1</sup> in a more technical term) as a result of their tendency to use System 1. The biases would help to inform future policy initiatives. Besides, they might also be important in evaluating existing regulations as to whether the rules have addressed the problems in society (Bavel et al., 2013).

The way to protect consumers may vary in different countries, depending on the societal value or condition of the individual state. Looking at Indonesia, the 1945 Constitution<sup>2</sup> or known as *Undang-Undang Dasar 1945*, which serves as the basis of Law in the country stipulates that the nation is naturally obliged to guarantee the freedom of worship of all citizens. Despite the various present religions within the country, i.e. Islam, Christianity, Catholicism, Hinduism, Buddhism, and Confucianism, it is worth noting that 87% of Indonesia’s population is Muslims<sup>3</sup> (Badan Pusat Statistik, n.d.). Statistically speaking, Muslims make up the majority of the Indonesian population. Because of this situation, the protection of Muslim worship is ingrained in the country’s culture and laws. As a part of worship for Muslims is eating halal food, the country must, therefore, protect the Muslim population’s ability to obtain authentic halal food.

Generally, consumer protection in Indonesia was outlined under Law or *Undang-Undang*<sup>4</sup> No. 8/1999 on Consumer Protection. The law, however, was flawed for not stipulating a specific approach

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<sup>1</sup> Behavioural biases are “behavioural features at odds with the *homo oeconomicus* artefact” or we may also state as anomaly of people’s behaviour. *Homo oeconomicus* is depicted as consistently a rational person, however, in fact, people do not reflect that simplistic character and often show behavioural biases. See Lourenço, J. S., Ciriolo, E., Almeida, S. R., & Troussard, X. (2016). Behavioural insights applied to policy: European Report 2016.

<sup>2</sup> Article 29(2), *Undang-Undang Dasar 1945*.

<sup>3</sup> Muslims are Islam religion adherents.

<sup>4</sup> For the purpose of this thesis, “*Undang-Undang*” means “Law”.

to protecting Muslim consumers practising halal. Muslim consumer protection was later set out under several legal patchworks of the Former Halal Regime, but this has been criticised for failing to provide thorough protection. Hence, as a response to the criticisms, Indonesia adopted a single and stringent nationwide Halal Law, named *Undang-Undang* No. 33/2014 concerning Halal Product Assurance (HPA). However, it is still questionable as to whether the changes of the halal regime have considered BIs (particularly behavioural biases) as mentioned above.

Therefore, this thesis aims to examine whether the changes to the new halal regime (Halal Law) have addressed the behavioural biases of Indonesian Muslim consumers in purchasing halal food products. The result of this thesis serves as an evaluation of both the Former Halal Regime and Halal Law in protecting Muslim consumers.

## 1.2 Problem statement

As the adaptation of the Halal Law in Indonesia enters its fifth year in 2019, the question remains as to whether it can solve the behavioural biases of Muslim consumers. Many deemed the previous halal regime failure in accommodating consumers through its voluntary halal labelling scheme. On the other hand, the prevailing halal regime with its mandatory halal certification scheme is not fully implemented until the culmination of this thesis. Hence, a comparison to see which regime serves Muslim consumers better is necessary and in order.

The highlight of this thesis is the comparison between the former and current halal regime in addressing the behavioural biases of Muslim consumers in Indonesia when buying halal food products. Since there are no relevant studies concerning the matter, this thesis will examine the different approaches taken in protecting Muslim consumers by the Former Halal Regime and Halal Law, and thus, see which one has better capabilities in addressing behavioural biases deriving from Muslim consumer BIs.

## 1.3 Research objective

This study examines the different approaches taken by the Former Halal Regime and Halal Law in protecting Muslim consumers when buying halal food. The aim is to determine which regime provides better protection for Muslim consumers in Indonesia through its capability to address the consumer behavioural biases.

## 1.4 Research framework

The followings are this thesis' research and sub-research questions:

### *Research Question*

*Is the Indonesian Halal Law better<sup>5</sup> than its predecessor in addressing problems arising from Muslim consumer characteristic?*

### *Sub-research Questions*

1. What are the characteristics of Indonesian Muslim consumers in buying halal food products? And what are the problems identified with these characteristics?
2. Which consumer problems are necessary to be addressed?
3. What are different measures of Muslim consumer protection under the Former Halal Regime and Halal Law?
4. Which regime better addresses the selected problems according to the second question?

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<sup>5</sup> "Better" in this thesis means whether the regime has a higher capability to address the Muslim consumer problems arising from their characteristics when buying halal food products.

## 1.5 Outline of the thesis

The procedure to complete this research begins in Chapter 2 with an exposition of the research methods of this thesis. Chapter 3 follows with background information regarding halal in general terms, halal food and its valid criteria, halal market, and consumer protection in Indonesia. Chapter 4 describes BIAP by Lourenço et al. (2016) as the concept used in this thesis and the theory from Kotler, Armstrong, Harris, & Piercy (2013) as the basis in obtaining Behavioural Insights (BIs). The latter serves as the foundation of Chapter 5 to identify the behavioural characteristics of Muslim consumers and then their behavioural biases when purchasing halal food products. Subchapter 5.1 describes Muslim consumer characteristics and then identifies their problems. Chapter 5.2 selects the identified issues considered as necessary which will be subjected as the foundation for the comparative legal analysis in Chapter 7.

Before conducting legal analysis, Chapter 6 gives a technical outlook by identifying the consumer protection approaches between the regimes, the Former Halal Regime and Halal Law. Lastly, Chapter 7 compares the approaches of each regime on its capability in addressing the problems selected in Chapter 5. The BIAP concept is applied in this chapter. The result of this analysis serves as an answer to the research question, whether Halal Law is better than its predecessor in addressing problems with Muslim consumer characteristics. Chapter 8 then serves the conclusion of the research. The outline of this thesis is depicted in Figure 1 below.

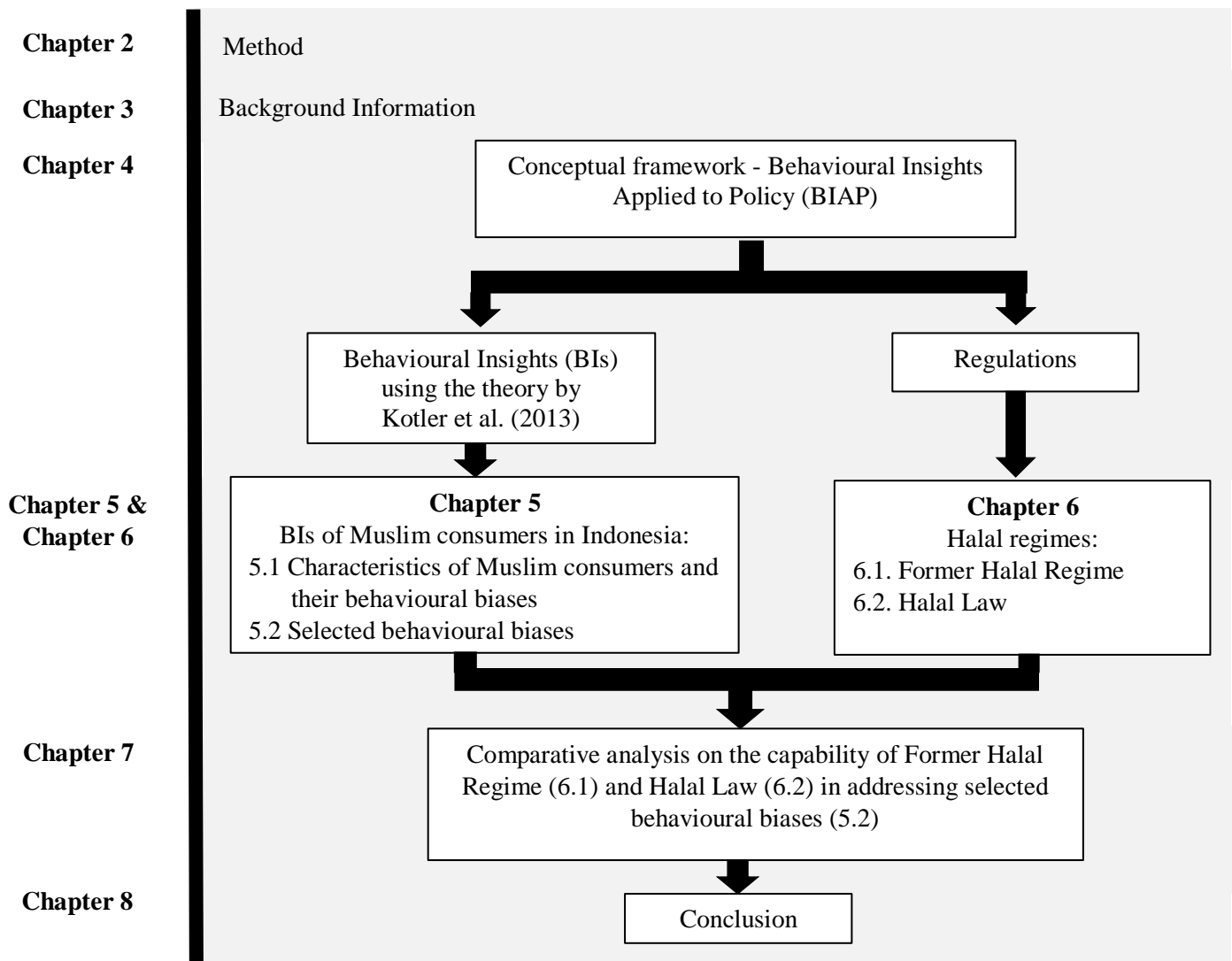


Figure 1. The outline of this thesis.

## 2 Method

### 2.1 Research method

To answer the research question, the thesis employed three methodologies; i.e., literature review, doctrinal method, and comparative analysis. The literature review was employed to obtain BIs, i.e., Muslim consumer characteristics in Indonesia and their behavioural problems resulting from those characteristics. Two databases used for this thesis were WUR Library Search and Scopus. In collecting the relevant literature, a Boolean operator was employed by combining and excluding certain terms to make specific and relevant search keywords. The used keywords are “halal” AND “food” AND “Indonesia”. Furthermore, a snowball search from the references of selected journals or articles followed through. Also, two books from Soesilowati (2009) and Karim (2013) were employed as the source in collecting data. Here, the obtained consumer characteristics were linked to the theory by Kotler et al. (2013). The behavioural problems resulting from the characteristics were then selected as the basis for further legal evaluation.

Secondly, this thesis employed a doctrinal review in identifying any approaches used in the Former Halal Regime and Halal Law to protect Muslim consumers in Indonesia. At last, a comparative analysis was useful to compare the capability of the approaches for each regime in tackling selected consumer behavioural problems. If the analysis discovered the existence of legal shortcomings, this thesis suggests a possible policy initiative to address the problem of Muslim consumer behaviour.

### 2.2 Inclusion criteria

The literature review focused on articles that contain any Muslim consumers’ characteristics or behaviour in Indonesia in buying halal food products. The thesis also focused on both literature in English and Bahasa (Indonesian language). Other than that, this thesis referred to a book from Kotler et al. (2013) and an article about BIAP from Lourenço et al. (2016) to develop a conceptual framework.

### 2.3 Exclusion criteria

The thesis excluded journals or articles of other than halal (packaged) food products, i.e., halal restaurants, halal cosmetics, and other halal non-food products. It also excluded articles published before 1990 since it was considered outdated. This thesis also limited its subject area to social science.

### 2.4 Search strategy

This thesis purposefully employed general and simple keywords when using Boolean operator due to the difficulties in finding the relevant literature with specific and intricate keywords. This search strategy was specifically applied to Chapter 5 and was conducted from August to December 2018.

*Table 1. Search strategy specific for Chapter 5.*

Search keywords	Database	Hits	First selection	The selection from reading the abstract
“halal” AND “food” AND “Indonesia”	WUR Search Library	125	29	9
“halal” AND “food” AND “Indonesia”	Scopus	502	23	7
Total				16

According to Table 1, 16 articles were downloaded. The researcher then read the full-text. This resulted in the exclusion of six articles. The remaining 10 relevant articles were subjected to a snowball

search from the references and four additional articles were selected. A total of 14 articles were used in Chapter 5. The selected articles were also supplemented by two books by Soesilowati (2009) and Karim (2013). The books provided complete and comprehensive behavioural insights of Indonesian Muslim consumers when purchasing halal food products.

### 3 Background information

This chapter presents background information to support this thesis. It consists of four aspects, i.e., halal concept (see Subchapter 3.1), halal food and its criteria (see Subchapter 3.2), halal markets in Indonesia (see Subchapter 3.3), and general protection of consumers in Indonesia (see Subchapter 3.4). In order to better inform the readers about halal and consumer protection in Indonesia, this background information will be used to support the arguments made later in this thesis.

#### 3.1 Halal in general term

The word “halal” comes from Arabic “*al-halal*”, which means permissible or lawful (Ayuniyyah, Hafidhuddin, & Hambari, 2017; Bergeaud-Blackler, Fischer, & Lever, 2015; Fahmi, 2017; Nik Muhammad, Isa, & Chee Kifli, 2009). Halal criteria are set out initially under the Quran<sup>6</sup>, *Hadith*<sup>7</sup>, and *Sunnah*<sup>8</sup> (Neio Demirci, Soon, & Wallace, 2016). Anything permissible under Islamic law is considered halal. This includes halal food, halal banking, halal tourism, halal pharmaceuticals, halal cosmetics, and more.

On the opposite end, haram defines not permissible or unlawful. Haram is anything prohibited by God to be consumed, used, or utilised (Roestamy, 2015). Despite the distinction, some matters remain in a grey area between halal and haram as they are not clearly and explicitly mentioned in the Quran, Hadith, and Sunnah - commonly known and referred to as *mushboh* (Fahmi, 2017; N. S. N. M. Yunus, Rashid, Ariffin, & Rashid, 2014).

Halal is strongly associated with the concept of *thayyib* or wholesome (Neio Demirci et al., 2016; Nik Muhammad et al., 2009). Halal, not only for food but also for acts and practices, is depicted as a symbol of quality. In practice, both halal and *thayyib* principles shaped a new comprehensive definition of quality called *halalan thayyiban*. It is often used as the indicator of safety, hygiene, and quality of a product (Neio Demirci et al., 2016).

#### 3.2 Halal food and its valid criteria

Halal food is any food that can be consumed without sin for the Muslim who eats it. All food products on the Earth are halal, unless they are categorised as haram under the Quran, *Hadith*, and/or *Sunnah* (N. S. N. M. Yunus et al., 2014).

The currently applicable law in Indonesia on halal, *Undang-Undang* No. 33/2014 concerning Halal Product Assurance, does not set out a specific definition of halal food. However, it set out the definition of halal product as “*a product that has been declared halal (lawful) according to Islamic criteria*”<sup>9</sup>. To be deemed as halal, any product, including food, must satisfy the Halal Product Material and Process rules under the law.

Different types of products are subjected to different halal requirements. For animal-based food products, the rules determined which haram materials originated from animals. These are carrion, blood, pig, and animal slaughtered not in accordance with Islamic law<sup>10</sup>. For plant-based food, any intoxicating and harmful to health products are considered non-halal<sup>11</sup>. Other materials originating from microbes or obtained from chemical, biological, or genetically engineered processing are also considered haram

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<sup>6</sup> Quran is the holy book of Islam.

<sup>7</sup> Hadith is the record of saying, action, and silent approval or disapproval of the Islamic Prophet Muhammad.

<sup>8</sup> Sunnah is the literature that depicts the old-fashioned civilisations and practices of the Islamic community in terms of both social and legal aspects. Sunnah is often originated from the practices of Prophet Muhammad and sometimes from the reports of Muhammad’s companion.

<sup>9</sup> Article 1(2), *Undang-Undang* No. 33/2014 *tentang Jaminan Produk Halal*.

<sup>10</sup> Article 18(1), *Undang-Undang* No. 33/2014 *tentang Jaminan Produk Halal*.

<sup>11</sup> Article 20(1), *Undang-Undang* No. 33/2014 *tentang Jaminan Produk Halal*.

if the process is contaminated with unlawful materials<sup>12</sup>. For halal production, the location, place, equipment must be separated from those used for slaughtering, processing, storing, packaging, distributing, selling, and presenting of non-halal products<sup>13</sup>. The location, place, and equipment must be clean, hygienic, and free of the so-called *najis* (ritually unclean things) and non-halal materials<sup>14</sup>.

Apart from that, Codex Alimentarius Commission (CAC) defined halal food with more specific criteria under the General Guidelines for the term “Halal” CAC/GL 24-1997. By definition, a halal food is a permissible food under Islamic law that shall satisfy several conditions<sup>15</sup>: (1) does not contain unlawful or haram materials, (2) has not been prepared, processed, transported, or stored using any tools contaminated with unlawful materials, and (3) has not been in direct contact with food that has failed to satisfy the two previous conditions. In the case where halal and non-halal products are prepared, processed, transported, or stored under the same manufacturer, the handling process can be conducted in separate lines or sections<sup>16</sup>. Unlike the Halal Law, CAC provides a more tolerant rule for halal and non-halal food production in the same processing line in which a thorough cleaning procedure according to Islamic law may be performed before the line can be used for producing halal products<sup>17</sup>.

CAC also set a more specific range of unlawful animal-origin materials for halal food than the Halal Law. These are (1) pigs and boars, (2) dogs, snakes, and monkeys, (3) carnivorous animals with claws and fangs, (4) birds of prey which also have claws, (5) pests, (6) forbidden animals to be killed in Islam; e.g., ants, bees, and woodpecker birds, (7) repulsive animals, (8) amphibian animals, (9) mules and domestic donkeys, (10) any poisonous and hazardous aquatic animals, (11) blood, and (12) any other animals which was not slaughtered in accordance with Islamic law<sup>18</sup>.

With regard to the latter necessity, CAC outlined six slaughtering requirements for an animal product to be deemed as halal<sup>19</sup>. These are; (1) a Muslim, sane and knowledgeable butcher, (2) use of lawful animals, (3) using live animals, (4) citing “*Bismillah*” (the name of God) right before slaughtering the animals, (5) using sharp tool (knife) and should not be lifted off during the slaughter, and (6) cutting off the trachea, throat, main arteries, and veins of the animal.

Similar to Halal Law, plant-based food that is intoxicating and hazardous is also considered unlawful unless the toxins and hazards have been eliminated<sup>20</sup>. Alcoholic beverages, as well as intoxicating and hazardous beverages, are also deemed unlawful<sup>21</sup>. These beverages are commonly called as *khamr* (Masruroh, Luth, Rubai, & Sihabuddin, 2017). Moreover, all sorts of food additives derived from all unlawful sources mentioned earlier, are also deemed as non-halal<sup>22</sup>.

In addition, scholars van der Spiegel et al. (2012) highlighted the fact that the more lengthy and sophisticated food production process has increased the risk of cross-contamination with non-halal materials. This makes the process of identifying halal food criteria become more difficult. To this regard, halal is deemed as a so-called credence quality, where it cannot be evaluated, validated, assessed, or detected accurately by consumers, either at the point of selling or after the consumption (Zulham, 2018). The consumers do not have any capability to distinguish and evaluate the halal status of a food product based on physical appearance. Therefore, the valid criteria for these products that

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<sup>12</sup> Article 20(2), *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>13</sup> Article 21(1), *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>14</sup> Article 21(2), *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>15</sup> Article 2.1 of the General Guidelines to the use of the term “Halal” CAC/GL 24-1997.

<sup>16</sup> Article 2.2.1 of the General Guidelines to the use of the term “Halal” CAC/GL 24-1997.

<sup>17</sup> Article 2.2.2 of the General Guidelines to the use of the term “Halal” CAC/GL 24-1997.

<sup>18</sup> Article 3.1.1 of the General Guidelines to the use of the term “Halal” CAC/GL 24-1997.

<sup>19</sup> Article 3.2 of the General Guidelines to the use of the term “Halal” CAC/GL 24-1997.

<sup>20</sup> Article 3.1.2 of the General Guidelines to the use of the term “Halal” CAC/GL 24-1997.

<sup>21</sup> Article 3.1.3 of the General Guidelines to the use of the term “Halal” CAC/GL 24-1997.

<sup>22</sup> Article 3.1.4 of the General Guidelines to the use of the term “Halal” CAC/GL 24-1997.



require a long and complex processing would be the presence of halal certificate and/or halal label on the package (van der Spiegel et al., 2012).

### 3.3 Indonesian halal markets

Indonesia is a massive market for all types of halal products due to its vastly Muslim population (Soesilowati & Yuliana, 2016). In this market, halal products are mainly produced by MSEs (Micro and Small Medium Enterprises), which make up nearly 98 per cent of the total business unit in the country<sup>23</sup>. Despite being closely associated with food products, the halal trend has been shifting in Indonesia, particularly in the past decade, into other products such as cosmetics, electronics, clothes, sanitary items, *etc.* (Mufti, 2018). This resulted in a rising number of halal-certified products circulated in the market starting from 2011 to 2018. Even within this time period, only approximately ten per cent of the total products marketed in Indonesia have been halal-certified<sup>24</sup>. It showed that non-certified products dominated the national market. Furthermore, the halal food sector seemed to make up the largest part of that ten per cent, followed by cosmetics, pharmaceuticals, and other sectors (Majelis Ulama Indonesia, 2016).

### 3.4 Consumer protection in Indonesia

Normally, consumer protection is set out under *Undang-Undang* No. 8/1999<sup>25</sup> concerning Consumer Protection. The law generally highlighted the need to balance the interest of business operators and consumers through the stipulation of both actors' rights and obligations. The stipulated rights were formulated to fulfil four fundamental aspects of consumer rights introduced by John F. Kennedy; i.e., right to safety, right to be informed, right to choose, and right to be heard as cited in Yusoff et al. (2011). Other consumer rights were also added to this law, i.e., the right to dispute settlement, right to education, right to redress, and right for not to be subjected to discrimination<sup>26</sup>.

The ruling upholds any efforts to ensure those consumer rights. These are regulating the obligations and rights of business operators<sup>27</sup>, forbidden acts of business operators<sup>28</sup>, standard clause<sup>29</sup>, responsibility of business operators<sup>30</sup>, coaching and supervision<sup>31</sup>, the role of consumer protection agency<sup>32</sup> as well as consumer dispute settlement body<sup>33</sup>, and sanctions for infringements<sup>34</sup>.

In ensuring the rights for consumers, the law regulates three consumer protection institutional body, called National Consumer Protection Body (BPKN), non-governmental organisations (NGOs) for consumer protection, and Consumer Dispute Settlement Body (BPSK). BPKN provides suggestions and considerations to the government in order to improve consumer protection<sup>35</sup> while the NGOs actively participate in the embodiment of consumer protection<sup>36</sup>. Furthermore, BPSK handles the

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<sup>23</sup> The data was derived from [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/presentation/wcms\\_559480.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/presentation/wcms_559480.pdf).

<sup>24</sup> Only 69,985 products have been halal-certified out of 727,617 total products marketed in Indonesia. This data was derived from [http://www.halalmui.org/mui14/index.php/main/go\\_to\\_section/59/1368/page/2](http://www.halalmui.org/mui14/index.php/main/go_to_section/59/1368/page/2).

<sup>25</sup> *Undang-Undang No. 8/1999 tentang Perlindungan Konsumen*.

<sup>26</sup> See Article 4, *Undang-Undang No. 8/1999 tentang Perlindungan Konsumen*.

<sup>27</sup> Article 6 and Article 7, *Undang-Undang No. 8/1999 tentang Perlindungan Konsumen*.

<sup>28</sup> Article 8, *Undang-Undang No. 8/1999 tentang Perlindungan Konsumen*.

<sup>29</sup> Article 18, *Undang-Undang No. 8/1999 tentang Perlindungan Konsumen*.

<sup>30</sup> Article 19-28, *Undang-Undang No. 8/1999 tentang Perlindungan Konsumen*.

<sup>31</sup> Article 29-30, *Undang-Undang No. 8/1999 tentang Perlindungan Konsumen*.

<sup>32</sup> Article 31-44, *Undang-Undang No. 8/1999 tentang Perlindungan Konsumen*.

<sup>33</sup> Article 49-58, *Undang-Undang No. 8/1999 tentang Perlindungan Konsumen*.

<sup>34</sup> Article 60-65, *Undang-Undang No. 8/1999 tentang Perlindungan Konsumen*.

<sup>35</sup> Article 33, *Undang-Undang No. 8/1999 tentang Perlindungan Konsumen*.

<sup>36</sup> Article 44(2), *Undang-Undang No. 8/1999 tentang Perlindungan Konsumen*.

dispute resolution of consumers outside the court and other tasks mentioned under Article 52 of Consumer Protection Law.

The enforcement of consumer protection is based on six principles, i.e., the principle of benefit, justice, balance, security, safety, and legal security of consumers<sup>37</sup>. Each of which is described in the Elucidation section<sup>38</sup> of the law. Firstly, under the principle of benefit, this means all consumer protection approaches must benefit the consumers. Secondly, the justice principle stipulates the equal rights and responsibilities of both producers and consumers. Thirdly, the balance principle means equalising the interests of business operators, consumers, and government. Under the safety and security principle, the country guarantees the safety and security of consumers when they consume, use, and/or utilise any goods and/or services. The last principle ensures legal certainty towards producers and consumers in exercising consumer protection.

This chapter has explained the basic information to provide a clear understanding for the readers in further comprehending the thesis. Some information written under this chapter is used as a reference for building the arguments under the following Chapter 5, Chapter 6, and Chapter 7. The next chapter (Chapter 4) explains the conceptual framework used for this thesis.

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<sup>37</sup> Article 2, *Undang-Undang No. 8/1999 tentang Perlindungan Konsumen*.

<sup>38</sup> See the Elucidation of Article 2, *Undang-Undang No. 8/1999 tentang Perlindungan Konsumen*.

## 4 Conceptual framework – Behavioural Insights Applied to Policy (BIAP)

Inspired by the development of involving behavioural insights (BIs) in the EU policymaking, the researcher is going to evaluate as to whether Indonesia has considered this aspect in its halal policy initiative through Muslim consumer behaviour. Therefore, this part describes the conceptual framework by Lourenço et al. (2016) on BIs applied to policy (BIAP), supplemented by the theory from Kotler et al. (2013) concerning consumer behavioural characteristics. BIAP depicts the overarching concept of this thesis, while Kotler's approach provides the theoretical foundation to obtain behavioural insights of consumers.

The use of behavioural insights has and continues to proliferate in a wide array of policy areas, particularly in the scope of consumer protection, health, environment, and taxation Lourenço et al. (2016). Troussard & van Bavel (2018) in this regard stated that *“using behavioural insights is simply about applying a more nuanced and evidence-based understanding of human behaviour to inform policy-making”*.

Bavel et al. (2013) showed that policy initiatives commonly are formulated based on the assumption that consumers act rationally in their decision-making (using System 2 thinking). Whereas, they often act irrationally (using System 1) as explained earlier in the Introduction of this thesis. In this regard, it is often questioned whether the consumers in the very first place know the best product that matches their preferences in the market. Despite having a wide variety of products in the market, consumers are usually ill-informed due to their cognitive limitations, which may lead to a severe and systematic error in their decision-making.

To address this issue, BIAP concept can help the policymakers integrate BIs into policymaking to benefit consumers meet their needs in the market. The so-called behavioural biases must at first be identified and afterwards, behavioural levers serve as the solution of those biases. Behavioural biases are behavioural features of the individual that deviate from the normal artefact. A behavioural lever is a policy initiative to address behavioural biases, commonly in the form of nudging (Lourenço et al., 2016).

Nudging is described as *“any aspect of the choice architecture that alters people's behaviour in a predictable way without forbidding any options or significantly changing their economic incentives”* (Sunstein, 2014). Sunstein (2014) described ten common nudges useful in policymaking, (see Table 2).

This concept of BIAP can complement the former policy or suggest innovative interventions or approaches to traditional public policy. Regardless of whether BIs shall be applied across different phases in the policy cycle, i.e., formulation, designation, and implementation, its application on policy evaluation is important to provide improved policy intervention in the future. It can, for instance, determine if a more innovative consumer protection initiative is required.

Table 2. Ten common nudging by Sunstein (2014).

No.	Nudge	Explanation
1.	Simplification	Undue regulation complexity in a country is a severe problem as it confuses society. The simplification of regulations should be prioritised to reduce complexity <sup>39</sup> .
2.	Defaults or opt-out default policy	A concept of placing the product that meets the aim of the policy as the default choice, but consumers can always opt-out to choose other options <sup>40</sup> . Default rules are indispensable when the situation is too burdensome and time-consuming to decide which choice to choose.
3.	Warning or graphic	A way to increase awareness in case a severe risk is at stake. The best nudge can be in the form of public warning with a large font, bold letters, and shining colour to attract consumer's attention <sup>41</sup> .
4.	Social norms	Informing people that most other people are engaged in certain habits or behaviour <sup>42</sup> .
5.	Increase in ease and convenience	A strategy used to steer people to a specific action by reducing constraints.
6.	Disclosure	Disclosing certain information in an understandable and accessible way.
7.	Pre-commitment strategies	A strategy used when people have a specific goal or commitment, but they have failed to meet.
8.	Reminder	A message given when people do not engage with certain conduct due to inertia, procrastination, contend the rules, or forgetfulness.
9.	Eliciting implementation intentions	A strategy to tackle the condition that people are more likely to engage in a particular activity if others have shown an intention to do that activity.
10.	Informing people of the nature and consequences of their own past	A strategy to inform people about their past choices or activity in order to change their behaviour.

To better evaluate the policy, this thesis will identify the characteristics and then the behavioural biases of Muslim consumers in Indonesia based on consumer behaviour theory introduced by Kotler et al. (2013). Below is the description of the theory.

<sup>39</sup> An example from France, the government simplified the tax return administrative procedure to encourage the citizens to declare their revenues and pay the tax online. See Lourenço, J. S., Ciriolo, E., Almeida, S. R., & Troussard, X. (2016). Behavioural insights applied to policy: European Report 2016.

<sup>40</sup> One instance from Switzerland, the country uses default electricity mix to a greener tariff, which is 100 per cent renewable energy tariff due to the fact that the citizens have an increased interest to support green electricity, but they kept using non-green electricity. However, citizens can always opt out to a cheaper tariff from nuclear energy or to a more expensive tariff from a new greener renewable energy sources, like wind power and photovoltaic. See Lourenço, J. S., Ciriolo, E., Almeida, S. R., & Troussard, X. (2016). Behavioural insights applied to policy: European Report 2016.

<sup>41</sup> In aiming to encourage youngers to quit smoking, a plain packaging of cigarettes is used to make it less interesting to the consumers. See Lourenço, J. S., Ciriolo, E., Almeida, S. R., & Troussard, X. (2016). Behavioural insights applied to policy: European Report 2016.

<sup>42</sup> An example from the UK, the campaign saying "Nine out of ten people in the UK pay their tax on time. You are currently in the very small minority of people who have not paid us yet" was used to encourage citizens to pay tax. See Lourenço, J. S., Ciriolo, E., Almeida, S. R., & Troussard, X. (2016). Behavioural insights applied to policy: European Report 2016.

## 4.1 Consumer behaviour and their characteristics by Kotler et al. (2013)

Consumer behaviour is the consumer's response to marketing efforts. This response is influenced by psychological, personal, cultural, and social factors that are embedded within each consumer. Figure 2 depicts each group of consumer characteristics derived from Kotler et al. (2013, pp. 146–158).

Psychological	Personal	Cultural	Social
<ul style="list-style-type: none"><li>•Motivation</li><li>•Perception</li><li>•Learning</li><li>•Beliefs and attitudes</li></ul>	<ul style="list-style-type: none"><li>•Age and life-cycle stage</li><li>•Occupation</li><li>•Economic situation</li><li>•Lifestyle</li><li>•Personality and self-concept</li></ul>	<ul style="list-style-type: none"><li>•Culture</li><li>•Subculture</li><li>•Social class</li></ul>	<ul style="list-style-type: none"><li>•Reference groups</li><li>•Family</li><li>•Roles and status</li></ul>

Figure 2. Characteristics that influence consumer behaviour according to Kotler et al. (2013, pp. 146-158)

### 4.1.1 Psychological characteristic

Psychological characteristics are comprised of perception, motivation, learning, beliefs, and attitudes of consumers. Firstly, perception is the process when people select, organise, and interpret information to shape a consequential picture of a particular matter. It is known as a dominant psychological factor that influences consumer behaviour (pp. 157-158). Secondly, motivation is part of emotions as a result of the desire to meet certain needs (pp. 156-157). Thirdly, learning plays a role in shaping one's behaviour, which might, in turn, alters their preference (p. 158). Lastly, one's belief and attitude also play a part in setting up the behaviour of consumers (pp. 158-159).

### 4.1.2 Personal characteristic

The behaviour of consumers also relies on their personal characteristics. People shift their behaviour and preferences in buying goods and services as they age (pp. 153-154). Other than that, consumer decision making depends on their occupation (p. 154), income (p. 154), their preferred lifestyle (p. 155), and their self-concept (p. 155).

### 4.1.3 Cultural characteristic

Culture, subculture, and social class play a part in affecting the behaviour of consumers. Individuals born in a particular society unintentionally learn some fundamental values on how to behave, establishing their perception (p. 146). Moreover, one's nationality, religion, racial group, and geographic region (p. 146), as well as their social class (p. 149) impact their behaviour in the market (p. 149).

### 4.1.4 Social characteristic

Under social factors, the behaviour of consumers is determined by reference groups, family, and social roles and status. Firstly, individuals tend to use a particular group of people as a reference either directly or indirectly in shaping their behaviour (p.149). Secondly, the family is the most influential actors in determining the behaviour of consumers due to their extensive exposure. The role of wife, husband, and children creates an interplay to influence an individual's decision making in the

market (p. 152). Thirdly, consumer's decision-making suits his/her roles and status in a group of people, such as in a family, club, or organisation (p. 153).

All in all, the four consumer characteristics, i.e., psychological, personal, cultural, and social, with their specific determinants are used in Chapter 5 as the foundation to describe the actual behaviour of Muslim consumers, particularly in buying halal food products. Thus, enabling the author to identify their behavioural biases.

## 5 Behavioural Insights (BIs) from Muslim consumers in Indonesia

As Chapter 4 acknowledged the consumer characteristics through the theoretical lens, this chapter applies the given theory to the actual condition of Muslim consumers in Indonesia when deciding to buy halal food products. Their behavioural problems in getting halal food products are identified through their characteristics in Subchapter 5.1. Chapter 5.2 then selects the most necessary problems to be addressed that falls under the scope of the halal regimes. Therefore, this chapter answers the first sub-research question [what are the characteristics of Indonesian Muslim consumers in buying halal food products? And what are the problems identified with these characteristics?] through Subchapter 5.1 and the second sub-research question [which consumer problems are necessary to be addressed?] through Subchapter 5.2.

### 5.1 Characteristics of Muslim consumers and their behavioural biases

Muslim consumers in Indonesia upon deciding to buy halal food products can be identified through the four characteristics as categorised by Kotler et al. (2013), i.e., psychological, personal, cultural, and social features. Below, each characteristic and ensuing behavioural problems of Indonesian Muslim consumers are explained.

#### 5.1.1 Psychological characteristics

Under the psychological characteristics, Muslim consumer's perception, attitude, and motivation play a significant role in affecting the behaviour of Muslim consumers in Indonesia. Each characteristic is outlined below.

##### 5.1.1.1 Perception

Karim (2013, p. 48) indicated 13 criteria utilised by Muslim consumers in identifying halal food products, ranked from the highest to the lowest importance; i.e., (a) not containing pork, (b) the animals slaughtered in the name of God (Allah), (c) not containing *khamr* or intoxicating beverages, (d) not containing *najis*, (e) not containing human organs, (f) not containing blood, (g) having a halal certificate, (h) not containing carrion (unless for fish and grasshopper), (i) having a halal label, (j) not containing dangerous substances, (k) not a defective or expired products, (l) having distribution permit number, and (m) not an illegal product.

Halal labels, in that regard, are not the primary criteria of halal food products purchased by Muslim consumers (Soesilowati, 2009, pp. 32–35). Instead of relying on a halal label, Muslim consumers tend to use other (marketing) stimuli to decide if a food product can be deemed as halal, i.e., ingredient list, Country of Origin (COO) label, and the appearance of the seller. Muslims are vulnerable when relying on these stimuli. Those vulnerabilities are explained below.

##### a. Relying on ingredients list on general food products

Karim (2013, p. 48) and Soesilowati (2009, p. 35) stated that the absence of pork and alcohol in a product is a primary concern for Muslims, causing a high dependence on the ingredient list of a product. They may, in this regard, feel secure to buy a food product without a halal label, provided that no “pork” or “alcohol” is mentioned on the ingredients list.

However, consumers often neglect the fact that ingredients lists do not completely define the halal-ness of a product. The product's handling (storing, preparation, processing, and so forth), including the butchering process, must also be considered (see Subchapter 3.2). The tendency to rely on ingredients list will not surely guarantee the consumers getting a truly halal product. It may

ultimately misguide them into purchasing undesired products, especially due to the abundance of products without halal labels in Indonesia (see Subchapter 3.3).

b. Relying on COO label on imported food products

COO label of an imported food product tends to represent a stronger halal-ness compared to a halal label. A COO label associated with Muslim countries has led to a positive halal perception (Maison, Marchlewska, Syarifah, Zein, & Purba, 2018). For example, two similar products are displayed on the supermarket shelf showing a Turkey COO label and a Netherlands COO label. Regardless of brand fanaticism, Muslim consumers prefer to buy the product with a Turkey COO label rather than a Netherlands COO label since Turkey is an Islamic country. This proves that COO label can act independently in shaping Muslim consumer purchase decision even though in the absence of halal label.

Furthermore, when a COO label is included together with the halal label, it dominates the power to shape consumer perception and consumer purchasing behaviour (Nasution & Rossanty, 2018). For example, Maison et al. (2018) indicated that non-Muslim COO labels, together with halal labels, have led to negative perceptions of a food product. A product tagged with non-Muslim COO and a halal label was often perceived as a marketing gimmick to reach more Muslim consumers.

c. Relying on the appearance of the seller of fresh meat products

Consumers have different perceptions of meat products sold in different places. Muslim consumers perceive a meat product sold in the traditional market to be halal by looking at the appearance of the seller (Soesilowati, 2009, p. 37). A seller who looks Islamic, such as a female seller wearing a hijab leads to positive perception. The product, thus, will be deemed as halal (Ismoyowati, 2015; Soesilowati, 2009, p. 37). Meaning, if the seller appears to be Muslim, it creates a greater willingness of Muslim consumers to buy meat products from that seller. However, the appearance of the seller may misguiding them as this does not guarantee that the meat product is authentically halal (see Subchapter 3.2).

In contrast, the retail store offers a different take on the same issue. Here, a halal label on food products remains the highest priority of Muslim consumers when making a purchasing decision. This is followed by other attributes, i.e., halal supply chain, cleanliness, separate storage and display from non-halal meat, and price (Susilowati, Riyanto, Kirana, Mafruhah, & Radam, 2018).

*Behavioural bias #1: Muslim consumers rely on cues other than halal label.*

From the explanation above, it can be understood that a halal label is not the primary criterion used by Muslims to decide if a food product is halal. Instead, other clues such as the ingredients list, COO label, and the appearance of the seller appear to influence halal perception among Muslims. Considering the valid criteria of halal food as explained in Subchapter 3.2 with the fact that halal is a credence quality, the dependence on those three cues can be deemed as unsuitable. This is because Muslim consumers opt to buy halal food products not based on explicit halal information but based on their assumptions. On top of this, Muslim consumers may experience a vulnerability issue of being easily misled by any (marketing) stimuli that fit their existing perceptions. Papavassiliou & Mitchell (1999) argued that any misleading issues, either through misleading information to misperceptions, should be prevented through consumer protection.

### 5.1.1.2 Attitude

Attitude significantly shapes Muslim consumer behaviour in purchasing halal food products (Bonne & Verbeke, 2006; Bonne, Vermeir, Bergeaud-Blackler, & Verbeke, 2007; Soesilowati, 2009,



pp. 96–99). Indonesian Muslim consumers show positive and negative attitudes when buying halal food products. A positive attitude is reflected through their willingness to pay more for a halal product, while a negative attitude is shown by the low halal label reading behaviour of some Muslim consumers.

Firstly, in terms of Muslim consumers' willingness to pay, Susilowati et al. (2018) have indicated that the majority of Muslim consumers in Indonesia do not have any objections to purchasing halal meat with a higher price than the average (see Subchapter 5.1.1.1 – halal-labelled meat is the priority of Muslims in a retail store). They are willing to pay around 500 IDR<sup>43</sup> or  $\pm 0.03$  US\$ of price deviation for a halal food (Soesilowati, 2009, pp. 88–89), or an equivalent of 700 IDR or  $\pm 0.05$  US\$ by June 2019 exchange rate.

A study by Bonne & Verbeke (2006) found that a religious consumer tends to have a higher willingness to pay for halal meat products compared to those who are less religious. Here, religiousness is a driving force that affects Muslims' attitudes (Simanjuntak & Dewantara, 2015) in terms of their willingness to pay (Soesilowati, 2009, pp. 87-90).

Secondly, the low halal label reading behaviour is the next portrayal of Indonesian Muslim consumer attitude. This attitude is mainly driven by their intuition, e.g. halal food products are embedded with a Muslim majority region and their belief that natural halal food cannot become non-halal (Karim, 2013, pp. 76–77). Consequently, about 30% of Muslim consumers in Indonesia have an inconsistent halal label reading behaviour (Karim, 2013, p. 76). The expiration date and product brand outperform the halal label in attracting consumer attention (Maulida, 2013). Moreover, the instinct that halal food is embedded in a Muslim-oriented company has led Muslim consumers to overlook reading the halal label of the product from an Islamic company (Chao, 2017).

Furthermore, buying a food product without a halal label has become a common practice among Muslim consumers in Indonesia (Soesilowati, 2009, pp. 99–101). Thus, nearly half of Muslim consumers in Indonesia frequently consume food products without halal labels (Karim, 2013, p. 76).

#### *Behavioural bias #2: Low halal label reading behaviour.*

According to the explanation above, it can be concluded that Muslim consumers have a positive attitude in terms of the willingness to pay more for halal (meat) products. On the other hand, Muslim consumers also possess a behavioural bias concerning low halal label reading behaviour. This characteristic may place the consumers at risk of being easily misled or misguided in the market due to the low awareness of reading the halal labels. Muslim consumers, as a result, may unintentionally purchase undesired products, i.e., non-halal food, in the market.

#### **5.1.1.3 Motivation**

The motivation of Muslim consumers to purchase halal food is primarily to satisfy their spiritual and physical needs. In terms of spiritual needs, eating halal food is an expression of obedience to God. Muslim consumers who commit to eating halal food have a strong spiritual desire to live in the heaven after the resurgence and to indulge the life-after (Arsil, Tey, Brindal, Phua, & Liana, 2018).

Concerning the physical benefit, their willingness to consume halal food is motivated by their desire to be a physically active person. They believe that halal food is a healthy product that can lead to a physically active body. As a result, they will deserve a better future, such as the capability of taking care of their family and having a prosperous life (Arsil et al., 2018).

To achieve that motivation, Muslim consumers try to ensure that the products they consume are authentically halal. However, considering the evidence that Muslim consumers often overlook halal

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<sup>43</sup> This data is obtained from a survey conducted in 2009. The price tolerance might be changed in this current condition. However, as the recent studies on this particular issue in Indonesia remains non-existence, the author decided to use the available data from 2009.

labels (see Subchapter 5.1.1.1), it seems unlikely that they always get authentically halal food products in the market. In turn, they may be easily misled by any information on a product that fits their existing perception and thus puts them at risk of failing to satisfy their motivation.

*Behavioral bias #3: Muslim consumers are at risk of incapability to truly satisfy their motivation.*

According to the explanation above, Muslim consumers are motivated to consume halal food to satisfy both their physical and spiritual needs. However, the evidence that they overlook halal labels has placed them in the situation of prone to be misled by any information that fits those established perceptions. Ergo, the ultimate consequence remains that consumers are under the risk of being incapable of truly satisfying their motivations.

### 5.1.2 Personal characteristics

In line with Kotler's theory, the characteristic of Muslim consumers is determined by their personal characteristics. Two groups of personal characteristics have played a role in shaping the behaviour of Muslim consumers in Indonesia. The first group, age and gender, is responsible for Muslim's halal label reading behaviour and the second group is the economic situation and education level that are associated with Muslim's intention to consume halal food products.

Age and gender are the personal characteristics responsible for shaping halal label reading behaviour (Simanjuntak & Dewantara, 2015). Older consumers tend to neglect halal labels compared to younger counterparts. Furthermore, in terms of consumers' gender, both male and female with roughly 48% of each gender group exhibit a low halal label reading behaviour, even though female consumers tend to perform better in reading halal label<sup>44</sup> (Simanjuntak & Dewantara, 2015). In short, general Muslim consumers have a tendency of not reading halal labels before purchasing a food product.

Secondly, financial situations<sup>45</sup> and education levels are responsible for influencing the decision of Muslim consumers to consume halal food. Those who live in lower to moderate economic classes have a higher desire to strictly consume halal food rather than those living in higher-income classes (Soesilowati, 2009, pp. 66-69). A high-income Muslim consumer is not correlated with a higher intention to consume halal food.

Furthermore, concerning the education level, Muslims who graduated from Islamic schools have a higher desire to consume halal food instead of those who graduated from public schools (Soesilowati, 2009, pp. 64-65). Islamic school is deemed more capable of delivering in-depth knowledge about Islamic religion, including halal tenets rather than public schools. This leads to a higher awareness for students to consume halal food in their daily routines (Soesilowati, 2009, pp. 64-65).

*Behavioural bias #4: (1) The potential of general Muslim consumers for having low halal label reading behaviour and (2) the lower desire to consume halal food products among high-income and graduated consumers from non-Islamic school.*

The above sections show that Indonesia still faces issues with low halal label reading behaviour and low intention to consume halal food. Muslim consumers, in general, tend to have a low halal label

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<sup>44</sup> The average score of males ( $69.11 \pm 13.65$ ), in terms of their knowledge on halal label, was lower than females ( $72.10 \pm 12.86$ ). Statistically, using independent t-test, both scores are significantly different.

<sup>45</sup> The financial situation was seen from the income level of an individual. Low income is categorised by spending no higher than  $\pm 200\text{€}$  per month. Moderate income is categorised by spending between  $\pm 200\text{€}$  to  $\pm 290\text{€}$  per month. High income is categorised by spending no less than  $\pm 290\text{€}$  per month. Higher income is categorised by spending no less than  $\pm 380\text{€}$  per month. However, it must be noted that this was in accordance to the situation in year 2009, when the study was conducted. The exchange rate might differ in the current situation.

reading behaviour while those come from a non-Islamic educational background and higher economic situation are less likely to strictly consume halal food.

### 5.1.3 Cultural characteristics

In consonance with Kotler's theory, Indonesian Muslims are also characterised by their cultural characteristics in buying halal food products. Subculture, more specifically, plays a part in shaping the behaviour of Muslim consumers. In this regard, subculture is the dominant religion within a region that may constitute the culture of that region.

Religion is the most universal and powerful determinant in understanding the behaviour of consumers (Khraim, 2010). Knowing a dominant religion practised in a community and its capability to shape the behaviour of consumers are essential to grasp the consumer's choice (Khraim, 2010). This applies to Indonesia, where the dominant religion in a region shapes the behaviour of Muslim consumers.

Soesilowati & Yuliana (2016) in that case, distinguished between two categories of the region based on the dominant religion: Muslim-majority regions and Muslim-minority regions. Muslim citizens living in the Muslim-majority regions frequently demonstrate the behaviour of not taking into account the presence of halal labels (Soesilowati & Yuliana, 2016). In being surrounded by other Muslims, this raises the confidence in buying food products even without halal labels.

On the other hand, living in Muslim-minority regions forces Muslim consumers to be more cautious in seeking halal food since non-halal food products are much easier to be found in that area. This leads them to strongly prefer halal-labelled food products (Ismoyowati, 2015; Soesilowati & Yuliana, 2016). Therefore, it can be seen that Muslim consumers have a different level of reliance on a halal label in two different types of regions.

*Behavioural bias #5: Muslim consumer's level of reliance on the halal label is based on the region characteristics.*

Muslim consumers behave differently in choosing halal food products depending on the dominant religion in the area where they reside. Those who live in Muslim-majority regions do not take into account the presence of a halal label. Meanwhile, those in the Muslim-minority region take the halal label as their top priority. In short, Indonesia still faces a problem where the consumer level of reliance on the halal label is finitely based on regional characteristics. This results in a risk of halal inauthenticity when purchasing food products in the Muslim-majority regions.

### 5.1.4 Social characteristics

Corresponding to Kotler's theory, the behaviour of Indonesian Muslim consumers is also characterised by their social characteristics. Family, society, religious leaders, and government shape consumer behaviour toward halal food products (Soesilowati, 2009, pp. 100–101). The instructions and opinions from these actors, along with the fear of being poorly perceived by them, encourages Muslim consumers to choose halal food products.

The family has been indicated as the strongest driving for the consumption of halal food products as they will likely give a negative remark if a family member does not eat halal food (Soesilowati, 2009, pp. 100–101). In contrast, the government is known to be the weakest influencer of Muslim consumer's decision to eat halal food. Moreover, Karim (2013, p. 56) indicated routine exposure to a religious talk given by a religious leader in the radio or television positively influenced the majority of Muslim consumers to eat halal food. Here, different actors have different levels of influence on halal food consumption among Muslim consumers.

*Behavioural bias #6: Muslim consumer is at risk of getting a negative perception from family.*

Due to the abundance of products without halal labels (see Subchapter 3.3), Muslim consumers are prone to get negative opinions from their surroundings, especially family. Karim (2013, pp. 67-68) stated that 95% of Muslim consumers demanded the introduction of the non-halal label for food products, while 98% wanted that halal label and non-halal label to be clearly indicated. This suggested that the majority of food products in the market lacks halal/non-halal information. In this situation, those who are ignorant of halal/non-halal labels may receive a negative opinion from those who strictly dependence on halal labels when buying food products. This illustration showed that Muslim consumers remain at risk of getting a bad reputation from other Muslims (particularly family).

We have identified the Muslim consumers' characteristics of halal food products based on Kotler's theory and the behavioural problems that arise. Before conducting the legal analysis, due to the limitation of time in finishing this thesis, not all identified problems will be analysed. The following subchapter selects the most important problems to be further used as the foundation in evaluating the halal regimes in Indonesia.

## 5.2 The necessary problems to be addressed

This subchapter selects two problems identified in Subchapter 5.1. Behavioural bias #1 (Muslim consumers rely on cues other than a halal label) and behavioural bias #2 (Muslim consumers have a low halal label reading behaviour) are chosen due to these following reasons.

Firstly, both issues are under the scope of halal-labelling where this is the area of concern of the Former Halal Regime and Halal Law (see Chapter 6 below). Secondly, these problems also indicate the tendency of Muslim consumers to use their System 1 thinking instead of System 2. The problems depict the low reliance on halal labels and low halal label reading behaviour of Muslim consumers as a result of their irrationality (System 1 information processing), the use of cues other than halal labels and to use intuition in perceiving food products as halal rather than using a halal label as an important source of information. If they are rational, they will seek out more information on the halal authenticity of the food products. For example, in the absence of a halal label on a cheese product, consumers will seek the information whether the media used to grow the starter is pig-based or not. However, it was shown that they are likely to use their assumptions and intuitions instead of digging for more information concerning a product's halal-ness. Also, if they are rational, they will select products with halal labels on the shelf instead of those without halal labels because the labels prove the halal authenticity and provide legal certainty.

Lastly, both selected problems are the root causes that link to (an)other identified problem(s). The reliance on cues other than the halal label (behavioural bias #1) is the primary issue associated with the other identified problems. To this point, this problem leads to a risk of incapability to truly satisfy their motivation and belief (behavioural bias #3) and the risk of getting negative perception from their surroundings (behavioural bias #6). Additionally, low halal label reading behaviour (behavioural bias #2) links to the tendency of general Muslim consumers demonstrating that behaviour (behavioural bias #4). Furthermore, the reliance on a halal label that is region-based (behavioural bias #5) is the specific condition of the behavioural bias #2 (Muslim consumers in Muslim-majority regions have low halal label reading behaviour). Lower desire to consume halal food (behavioural bias #4) is seen as less significant to be addressed as these are not directly connected to the consumer behavioural issues on a halal label.

This chapter has answered the first and second sub-research questions. Six problems or behavioural biases have been identified from the Muslim consumers' characteristics. Two among them,

reliance on cues other than a halal label (behavioural bias #1) and low halal label reading behaviour (behavioural bias #2) are selected. Both will be used in Chapter 7 as the foundation for the comparative legal analysis between the Former Halal Regime and Halal Law. These halal regimes are first explained in the subsequent section (Chapter 6).

## 6 Muslim consumer protection under the Former Halal Regime and Halal Law

Indonesia took a big step in enacting the Halal Law by replacing the scattered halal rules set out under the Former Halal Regime. The two regimes have different approaches in regulating the halal label as a protection tool for Muslim consumers.

The distinct approaches were identified from these three following variables, i.e., (1) the halal assurance system, (2) the competent authority and (3) the procedure of halal certification and labelling. Subchapter 6.1 describes those variables under the Former Halal Regime, with Chapter 6.2 for Halal Law. Therefore, this chapter answers the third sub-research question [what are different measures of Muslim consumer protection under the Former Halal Regime and Halal Law?].

### 6.1 Former Halal Regime

In identifying those three variables mentioned earlier, this thesis relies on eight regulations that previously regulated halal certification and labelling before the enactment of Halal Law. These are:

1. *Undang-Undang* No. 8/1999<sup>46</sup> (hereinafter referred to as Consumer Protection Law),
2. *Undang-Undang* No. 18/2012<sup>47</sup> (hereinafter referred to as Food Law),
3. *Undang-Undang* No. 41/2014<sup>48</sup> (hereinafter referred to as Animal Husbandry and Health Law),
4. *Peraturan Pemerintah* No. 69/1999<sup>49</sup> (hereinafter referred to as Food Labels and Advertisements Regulation),
5. *Keputusan Menteri Agama* No. 518/2001<sup>50</sup> (hereinafter referred to as Decree of Minister of Religious Affairs concerning Guidelines and Procedures in Assessing and Determining Halal Food),
6. *Keputusan Menteri Agama* No. 519/2001<sup>51</sup> (hereinafter referred to as Decree of Minister of Religious Affairs concerning Technical Institutions for Halal Food Assessment),
7. *Keputusan Presiden* No. 103/2001<sup>52</sup> (hereinafter referred to as Presidential Decree concerning Position, Task, Function, Authority, Organisation Structure, and Work Procedure of Non-Departmental Government Institution), and
8. *Keputusan Kepala Badan POM* No. 12/2016<sup>53</sup> (hereinafter referred to as Regulation of the Head of NADFC concerning the Registration of Processed Food).

#### 6.1.1 Halal assurance system – voluntary

The Former Halal Regime demonstrated its commitment to protecting Muslim consumers by stipulating a voluntary halal labelling system. The system reflected through Article 8(1)(h) of Consumer Protection Law stipulated that a business operator who declared that its product halal must have followed halal production rules. In principle, only a business operator that included a halal label on its product must have followed halal production rules (Zulham, 2018). Here, the decision to include a halal label on a product was the freedom of producers. This means that the inclusion of a halal label on a

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<sup>46</sup> *Undang-Undang* No. 8/1999 tentang Perlindungan Konsumen.

<sup>47</sup> *Undang-Undang* No. 18/2012 tentang Pangan.

<sup>48</sup> *Undang-Undang* No. 41/2014 tentang Perubahan atas Undang-Undang Nomor 18 Tahun 2009 tentang Peternakan dan Kesehatan Hewan.

<sup>49</sup> *Peraturan Pemerintah* No. 69/1999 tentang Label dan Iklan Pangan.

<sup>50</sup> *Keputusan Menteri Agama* is the Decree of the Minister of Religious Affairs. *Keputusan Menteri Agama* No. 518/2001 tentang Pedoman dan Tata Cara Pemeriksaan dan Penetapan Pangan Halal.

<sup>51</sup> *Keputusan Menteri Agama* No. 519/2001 tentang Lembaga Pelaksana Pemeriksaan Pangan Halal.

<sup>52</sup> *Keputusan Presiden* is Presidential Decree. *Keputusan Presiden* No. 103/2001 tentang Kedudukan, Tugas, Fungsi, Kewenangan, Susunan Organisasi, dan Tata Kerja Lembaga Pemerintah Non Departemen.

<sup>53</sup> *Peraturan Kepala Badan POM* is the Regulation of the Head of NADFC. *Peraturan Kepala Badan POM* No. 12/2016 tentang Pendaftaran Pangan Olahan.



product follows the voluntary norm, but once the business operators declared the product as halal, the inclusion of the halal label becomes imperative<sup>54</sup>.

To be able to include a halal label, a product must have been first subjected to halal certification. A business operator<sup>55</sup> who obtained a halal certificate had to include a halal label on its product<sup>56</sup>, except for a product served directly to the buyers<sup>57</sup>. Thus, halal certification and halal labelling were two inseparable and subsequent processes of halal assurance.

However, animal products, excluding those from non-lawful animals<sup>58</sup> (see Subchapter 3.2), had to follow a mandatory halal assurance system. Article 58(4) of Animal Husbandry and Health Law stipulated that animal products for the profitmaking purpose, either produced in or imported to Indonesia, must have been halal certified. Because of this, all animal products had to be halal-labelled except for products served directly to buyers.

Both rules under the Consumer Protection Law and Animal Husbandry and Health Law were then clarified by Food Law and Food Labels and Advertisements Regulation. Article 69 of Food Law regulated the enforcement of food safety, performed through halal assurance “for the required products”. Any products that have been voluntarily declared as halal by the business operators and animal products were two “required products” that had to be subjected to halal assurance<sup>59</sup>. Article 97 of Food Law clarified that this rule applied to both local products and imported products. In this regard, a business operator who used a halal label were responsible for its truthfulness<sup>60</sup>.

Apart from rules on the halal label, there was an obligation to include a non-halal label for a product using swine material and/or alcohol (and the derivatives). For a product intentionally using swine and/or its derivatives, a “containing pig” (in Bahasa: “*Mengandung Babi*”) label had to be included on that product (see Figure 3). Additionally, the word “pig” (in Bahasa: “*babi*”) following the swine-based material had to be written in the ingredient list, for example, “pig gelatine” (in Bahasa: “*gelatin babi*”)<sup>61</sup>.



Figure 3. The label for food products containing pig materials.

Meanwhile, an alcoholic beverage was obliged to include three pieces of information on the label: (1) a statement of “Alcohol Beverage” (in Bahasa “*Minuman Beralkohol*”) with its classification<sup>62</sup>, (2) a warning statement “Not allowed for ages under 21 and pregnant women” (in Bahasa: “*Di bawah umur 21 tahun atau wanita hamil dilarang minum*”), and (3) alcohol content information “Containing alcohol  $\pm \dots$  %v/v” (in Bahasa: “*Mengandung alkohol  $\pm \dots$  %v/v*”)<sup>63</sup>.

<sup>54</sup> See the Elucidation of Article 11(1), *Peraturan Pemerintah No. 69/1999 tentang Label dan Iklan Pangan*.

<sup>55</sup> “Business operators” always means “producers and importers”.

<sup>56</sup> Article 10(1), *Keputusan Menteri Agama No. 518/2001 tentang Pedoman dan Tata Cara Pemeriksaan dan Penetapan Pangan Halal*.

<sup>57</sup> Referring to Article 98(1) of *Undang-Undang No. 18/2012 tentang Pangan*. The inclusion of halal information on the food label is not applied for the food products which are packaged or served in front of the buyer. Husbandry (meat product) falls under the definition of food under this law. “Food is everything originating from biological sources of... **husbandry**,... whether processed or not, which is designated to be eaten and drunk for human consumption,...used in the process of preparation, processing and/or the making of cattalos or beverages”.

<sup>58</sup> Referring to *Putusan Pengadilan No. 2/PUU-IX/2011*.

<sup>59</sup> In this thesis, “halal assurance” always means a set of “halal certification and halal labelling”.

<sup>60</sup> Article 101, *Undang-Undang No. 18/2012 tentang Pangan*.

<sup>61</sup> Annex IV Part II No. 4(a), *Peraturan Kepala Badan POM No. 12/2016 tentang Pendaftaran Pangan Olahan*.

<sup>62</sup> Annex IV Part II No. 4(b)(3), *Peraturan Kepala Badan POM No. 12/2016 tentang Pendaftaran Pangan Olahan*.

<sup>63</sup> Category A: 0-5% v/v, category B: 5-20% v/v, category C: 20-55% v/v. Annex IV Part II No. 4(b), *Peraturan Kepala Badan POM No. 12/2016 tentang Pendaftaran Pangan Olahan*.

The different rules applied for food containing alcohol as it should indicate alcohol content in the most visible area of the label by writing “containing alcohol  $\pm$ ...%” (in Bahasa: “*Mengandung alkohol  $\pm$  ... %*”)<sup>64</sup>. In addition, if any ingredients used were containing alcohol, it must have been indicated in the ingredient list, for example, “Ingredients: ..., chocolate (containing alcohol), ...”<sup>65</sup>.

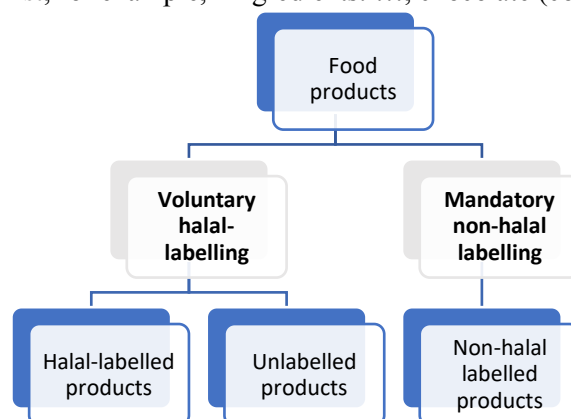


Figure 4. The illustration of voluntary halal scheme for food products under the Former Halal Regime.

All in all, Figure 4 shows that the implementation of the voluntary halal scheme results in three types of products, i.e., halal labelled products, non-halal-labelled products, and products without a halal or non-halal label (hereinafter referred to as “unlabelled products”). Here, the regime seems to be product-type oriented in classifying the level of protection for consumers. The products that, presumably, are highly at risk to become non-halal are subjected to mandatory halal labelling, such as animal products. However, the scheme is flexible for the rest of the products as they can be halal-labelled or not, depending on the willingness of the business operators to declare the halal status. Moreover, mandatory (implicit) non-halal labelling provides additional protection for Muslims, as the indication of “pig” pictorial label and alcohol strength or alcohol content label may lead the consumers to be more aware of the non-halal products.

### 6.1.2 Competent authorities

MUI and NADFC were two institutions assigned to halal certification and labelling under the Former Halal Regime. MUI was an independent advisory body that enjoyed a large formal role in halal product certification during the enforcement of the former regime. As a result, MUI was exercising an effective monopoly over nationwide halal certification involving mainly food products followed by medicines and cosmetics (Lindsey, 2012). Furthermore, NADFC was a governmental supervisory body for food safety that dealt with halal labelling. In the presence of halal certificate issued by MUI, NADFC issued a permit for halal label inclusion for food products<sup>66</sup> (Faidah, 2017). The business operator should enclose the halal certificate from MUI to get halal label inclusion approval from NADFC<sup>67</sup>. This inclusion could be done after NADFC stamped the approval form<sup>68</sup>.

The role of MUI in halal food certification was conducted mainly by its institution, named LPPOM (Institute for the Study of Food, Medicines, and Cosmetics). This institution had full power over this role. The Minister of Religious Affairs had exclusively appointed LPPOM MUI as the single examination body to conduct technical matters relating to halal food examination for commercial

<sup>64</sup> Annex IV Part II No. 4(c)(2), *Peraturan Kepala Badan POM No. 12/2016 tentang Pendaftaran Pangan Olahan*.

<sup>65</sup> Annex IV Part II No. 4(c)(4), *Peraturan Kepala Badan POM No. 12/2016 tentang Pendaftaran Pangan Olahan*.

<sup>66</sup> Annex IV point IV, *Peraturan Kepala Badan POM No. 12/2016 tentang Pendaftaran Pangan Olahan*.

<sup>67</sup> Annex II point II(B), *Peraturan Kepala Badan POM No. 12/2016 tentang Pendaftaran Pangan Olahan*.

<sup>68</sup> Annex IV point IV(2), *Peraturan Kepala Badan POM No. 12/2016 tentang Pendaftaran Pangan Olahan*.



purpose in Indonesia<sup>69</sup>. The Minister also set out the guidelines or procedures for halal examination and certification and gave the privilege to MUI to regulate future technical procedures. This task could be performed separately or together with the MORA<sup>70</sup> (Ministry of Religious Affairs).

The privilege given to MUI was not arbitrary, as MUI's performance on dealing with halal-haram tenet is already indubitable. MUI has worked in the field of fatwa issuance concerning halal and haram principles for decades. The halal certification standard used by MUI has been used as a reference by the countries around the world (Hakim, 2015). Therefore, MUI was considered having an adequate source for halal certification with their extensive experiences in the past. Therefore, there was no doubt on the reliability of MUI in contributing their roles to halal certification to protect (Muslim) consumers.

However, due to the fact that MUI was a single independent agency with extensive authority over halal certification, it was suspected that MUI has enjoyed a monopoly on halal certification with the lack of financial transparency shown to the public (Coconuts Jakarta, 2017; Yunus, 2014). As a consequence, some doubted MUI's credibility on certifying halal products (Lindsey, 2012). Therefore, some argued that halal certification should be navigated by a governmental institution to be more transparent (Yunus, 2014). Others argued that halal certification should be the responsibility of all accredited (Islamic) bodies (Lindsey, 2012) instead of one appointed organisation like MUI (Yunus, 2014).

### 6.1.3 The procedure of halal certification and labelling

Business operators of "required products" must have followed four procedural steps to certify and label their products as halal; (1) application for halal certification, (2) halal examination, (3) issuance of a halal certificate, and (4) halal labelling. At first, the business operators completed some documents<sup>71</sup> and technical requirements<sup>72</sup> set out by LPPOM MUI. As the follow-up, LPPOM MUI sent out an examiner or audit team to conduct a field examination in the production and/or distribution area<sup>73</sup> and to examine several production equipment, area, and activities<sup>74</sup>. Laboratory examination might be conducted if necessary<sup>75</sup>. The result of the audit was discussed by LPPOM MUI together with *Fatwa* Commission to issue a halal *fatwa*<sup>76</sup> for further be used as the basis for halal certificate issuance.

If a food product was eligible to be declared as halal, a halal certificate was then issued<sup>77</sup>. This halal certificate was valid for two years and could be renewed for another upcoming two years<sup>78</sup>. MUI might also revoke the certificate if the holder (a business operator) breached the prevailing

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<sup>69</sup> Article 1, *Keputusan Menteri Agama No. 519/2001 tentang Lembaga Pelaksana Pemeriksaan Pangan Halal*.

<sup>70</sup> Article 3, *Keputusan Menteri Agama No. 519/2001 tentang Lembaga Pelaksana Pemeriksaan Pangan Halal*.

<sup>71</sup> See Article 3, *Keputusan Menteri Agama No. 518/2001 tentang Pedoman dan Tata Cara Pemeriksaan dan Penetapann Pangan Halal*.

<sup>72</sup> See Article 4, *Keputusan Menteri Agama No. 518/2001 tentang Pedoman dan Tata Cara Pemeriksaan dan Penetapann Pangan Halal*.

<sup>73</sup> Article 5(1), *Keputusan Menteri Agama No. 518/2001 tentang Pedoman dan Tata Cara Pemeriksaan dan Penetapann Pangan Halal*.

<sup>74</sup> More information regarding this matter, see Article 6, *Keputusan Menteri Agama No. 518/2001 tentang Pedoman dan Tata Cara Pemeriksaan dan Penetapann Pangan Halal*.

<sup>75</sup> See Article 7, *Keputusan Menteri Agama No. 518/2001 tentang Pedoman dan Tata Cara Pemeriksaan dan Penetapann Pangan Halal*.

<sup>76</sup> *Fatwa* is a ruling in accordance to Islamic law issued by a competent Islamic authority.

<sup>77</sup> Article 8(1), *Keputusan Menteri Agama No. 518/2001 tentang Pedoman dan Tata Cara Pemeriksaan dan Penetapann Pangan Halal*.

<sup>78</sup> Article 8(2), *Keputusan Menteri Agama No. 518/2001 tentang Pedoman dan Tata Cara Pemeriksaan dan Penetapann Pangan Halal*.

provision(s)<sup>79</sup>. The ideal time frame to complete a halal certification process was 75 days, while up to 90 days were required for a foreign business operator<sup>80</sup>.

After getting a halal certificate, a business operator was obliged to apply for halal labelling in NADFC. The halal label must not be easily damaged and/or counterfeited<sup>81</sup>. Clear and authentic halal labels contributed to high protection for Muslim consumers, helping them avoid undesired products, i.e., non-halal products<sup>82</sup>.

The protection for consumers was ensured as the body also conducts a laboratory analysis, in addition to conducting documents checking and a thorough field auditing. These measures, indeed, were costly to perform<sup>83</sup>. All costs were, however, the responsibility of the business operators<sup>84</sup> (Yunus, 2014). The cost made some businesses reluctant to apply for halal certification, especially the MSEs as they lacked the necessary financial resources. Whereas, the majority of food products in Indonesia were produced by them (see Subchapter 3.3). The reluctance of MSEs in certifying their food products resulted in the lack of food products being certified as halal (and consequently labelled as halal). This inevitably weakened the protection of Muslim consumers in Indonesia.



Figure 5. MUI halal logo<sup>85</sup>.

Muslim consumers were also protected with a single, recognisable halal label during the enforcement of the Former Halal Regime<sup>86</sup>, hereinafter called as an MUI halal label (see Figure 5). Applying a single type of halal label (MUI halal label) had two consequences. On the one hand, it might protect consumers from receiving information overload from the potential of “sea of halal logos” which might confuse Muslim consumers. On the other hand, a single type of halal label might contribute a drawback in the context of international trade. The second consequence could harm importers of products with the pre-existing halal label from the country of origin because all imported food products for retail must be MUI halal-certified (and thus halal-labelled)<sup>87</sup>. As a result, the importer must perform recertification and re-labelling to be eligible for distribution in Indonesia<sup>88</sup>. This situation might not be cost-effective and restricted the international trade, which was inconsistent with the aim of WTO to remove trade barriers (Ahamat & Rahman, 2018).

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<sup>79</sup> Article 8(3), *Keputusan Menteri Agama No. 518/2001 tentang Pedoman dan Tata Cara Pemeriksaan dan Penetapan Pangan Halal*.

<sup>80</sup> This data was derived from [http://www.halalmui.org/mui14/index.php/main/go\\_to\\_section/61/22726/page/2](http://www.halalmui.org/mui14/index.php/main/go_to_section/61/22726/page/2).

<sup>81</sup> Article 10(3), *Keputusan Menteri Agama No. 518/2001 tentang Pedoman dan Tata Cara Pemeriksaan dan Penetapan Pangan Halal*.

<sup>82</sup> The Elucidation of Article 10(1), *Peraturan Pemerintah No. 69/1999 tentang Label dan Iklan Pangan*.

<sup>83</sup> The cost is not publicly opened. The business operators should ask directly to [bendaharalppom@halalmui.org](mailto:bendaharalppom@halalmui.org) by also informing the type of products, the amount, and the location of production to estimate the cost for halal certification. See [http://www.halalmui.org/mui14/index.php/main/go\\_to\\_section/149/1549/page/1](http://www.halalmui.org/mui14/index.php/main/go_to_section/149/1549/page/1).

<sup>84</sup> Article 11(1), *Keputusan Menteri Agama No. 518/2001 tentang Pedoman dan Tata Cara Pemeriksaan dan Penetapan Pangan Halal*.

<sup>85</sup> The picture was derived from [http://www.halalmui.org/mui14/index.php/main/detil\\_page/138/26176](http://www.halalmui.org/mui14/index.php/main/detil_page/138/26176).

<sup>86</sup> Article 10(1), *Keputusan Menteri Agama No. 518/2001 tentang Pedoman dan Tata Cara Pemeriksaan dan Penetapan Pangan Halal*.

<sup>87</sup> See [http://www.halalmui.org/mui14/index.php/main/go\\_to\\_section/149/1549/page/1](http://www.halalmui.org/mui14/index.php/main/go_to_section/149/1549/page/1).

<sup>88</sup> Refer to the Article 2(1), *Keputusan Menteri Agama No. 518/2001 tentang Pedoman dan Tata Cara Pemeriksaan dan Penetapan Pangan Halal*.

## 6.2 Halal Law

*Undang-Undang* No. 33/2014 or Halal Law is a new single nationwide legal basis regulating halal labels in Indonesia. This law entered into force since the 17th of October 2014. However, it is not fully implemented up until the completion of this thesis due to the need for some preparations for lawful compliance. In the meantime, the voluntary halal system is enforced until the Halal Law takes full effect.

### 6.2.1 Halal assurance system – mandatory

Unlike the Former Halal Regime, the Halal Law transformed the voluntary scheme into a mandatory halal assurance system for every product circulated in the national market. This law aims to provide a high level of protection for Muslim consumers. As this law prescribed that halal certification and labelling be two inseparable consequential processes<sup>89</sup>, the same mandatory scheme is also applied to halal labelling.

The mandatory norm is reflected in Article 4 of Halal Law which clearly states that the “products” intended to enter, circulate, and be marketed in Indonesia must be halal certified. “Products” in this regard is defined as *goods and/or services that are related to food, beverage, ... that are worn, used, or utilised by the public*<sup>90</sup>. According to this provision, all food products circulating in Indonesia are obliged to be halal certified.

However, the mandatory scheme under this law does not ban any non-halal products in the market. Article 26 of the law clarified that the producers using obviously non-halal material(s) are excluded to apply for halal certification (and subsequently halal labelling) but must include non-halal information on their product. One may expect that the law only allows the circulation of two types of product in the market, i.e., products with halal labels and those with non-halal information<sup>91</sup> (see Figure 6). It is essential to note that the obligation to include halal information on the label does not apply to non-prepacked products served directly before the buyers<sup>92</sup>.

Not in line with the obligation to perform non-halal labelling for unlawful products, the law does not seem to provide a complete and integrated provision on how this label shall be presented to the consumers. Unlike Article 39 of the Law that set out that the halal label shall be easily seen, readable, not easily removed, released, or damaged, there is no article stipulating on how a non-halal label shall be presented to consumers. To that regard, it remains questionable whether this regime will adopt the rules set out in the previous regime (to include alcohol or pig “warning” label), or on the other hand, formulate different rules of presenting non-halal label.

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<sup>89</sup> Article 38, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>90</sup> Article 1(1), *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>91</sup> This rule is expected to be applied five years after the enactment date based on Article 67(1) of *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*. Means, by 17 October 2019. This is one reason, among others, of the delays on the full implementation of this halal law. However, the latest news from Reuters has reported the statement from the Head of NADFC regarding the postponement of mandatory halal certification for food industry, saying that “*the food industry would be given a deadline until 2024 to get halal certificates*” without any given exact date due to the fear voices from the industry that are afraid of being chaotic in complying with the law. The news were derived from <https://www.reuters.com/article/us-indonesia-economy-halal/indonesia-to-postpone-halal-label-deadline-amid-industry-concerns-idUSKCN1Q40MZ>.

<sup>92</sup> See Article 98(1), *Undang-Undang No. 18/2012 tentang Pangan*.

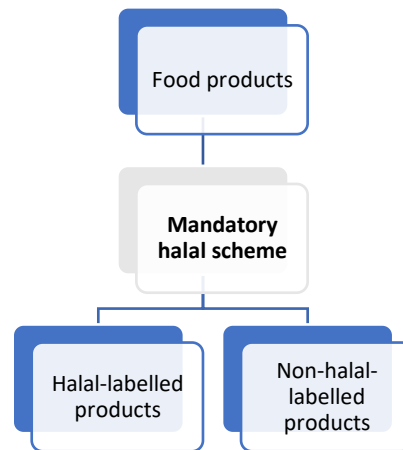


Figure 6. The illustration of the mandatory halal scheme for food products under Halal Law.

In addition, to be eligible for halal-labelling, a product must meet the Halal Material and Production Processes rules set out in Halal Law (outside the scope of the Former Halal Regime). The rules are found to be stricter than Codex Alimentarius Guideline No. *CAC/GL 24-1997* (see Subchapter 3.2). This international standard provided flexibility by allowing a thorough cleaning procedure at locations, places, and for equipment during the transition between non-halal and halal production, while Halal Law, on the other hand, strictly obliged the separation of halal and non-halal production lines and equipment<sup>93</sup>.

Although one may argue that it is good to protect Muslim consumers, these strict rules may result in two problems, i.e., provides a barrier in the context of international trade and the less-capability of MSEs to afford the compliance cost. Firstly, although it is still debatable whether halal falls under the Technical Barrier to Trade (TBT) or Sanitary and Phytosanitary (SPS) measures under WTO law (Ahamat & Rahman, 2018), both measures shall be based on international standards (Trebilcock, 2015, pp. 154–157). Stricter regulation than those outlined under the international standard is allowed under the SPS Agreement if there is a scientific justification for the area of concern<sup>94</sup>. Likewise, the TBT agreement also requires that technical regulations shall be based on relevant international standards<sup>95</sup>. This inconsistency with Codex Alimentarius is a challenge for Indonesia. If the measure falls under SPS, a scientific justification shall be at hand to be legitimately applicable. Otherwise, if it is under TBT measure, the country must prove that the relevant halal material and production process rules set out under the international standard are ineffective or inappropriate with the legitimate objective pursued<sup>96</sup>.

Secondly, the rules can potentially lead to financial constraints for business operators (especially MSEs) since all detailed aspects for the materials used (including the additional and auxiliary ingredients) and production process (must be separated with those used for non-halal production) are strictly regulated<sup>97</sup>. In any case, to comply with these provisions, a considerable amount of capital needs to be invested, e.g. to buy halal-certified materials and to adjust the production process in accordance with the law. This will presumably put MSEs in jeopardy if the capital investment for compliance is unaffordable. Fortunately, the law stipulated that MSEs deserve third-party financial compensation<sup>98</sup>. However, this only applies to change the cost of halal certification. Other costs for compliance with Halal Material and Production Processes, however, are outside of this scope.

<sup>93</sup> Article 21, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>94</sup> Article 3.3 of SPS Agreement.

<sup>95</sup> Article 2.4 of TBT Agreement.

<sup>96</sup> Referring to Article 2.4 of TBT Agreement.

<sup>97</sup> Article 17- Article 22, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>98</sup> Article 44, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

Furthermore, halal-certified materials may increase costs that may have an impact on the increasing price of the final products. This situation may ultimately jeopardise the purchasing power of consumers.

### 6.2.2 Competent authorities

Both halal certification and halal-labelling are now under the authority of a competent authority named HAPAS-B (Halal Product Assurance Body)<sup>99</sup>. HAPAS-B is a government institution appointed by the Minister of Religious Affairs to oversee all halal affairs in Indonesia<sup>100</sup>; not only on halal certification and labelling, but also socialisation, education, and publications regarding halal products, supervision, and so forth<sup>101</sup>. Here, the position of MUI is replaced by HAPAS-B under the new regime. However, HAPAS-B does not negate the existence of MUI. The source for protection essentially remains to be the same with the previous regime since the halal *fatwa*, which is the determinant of halal/non-halal status, is the responsibility of MUI<sup>102</sup>. Apart from that, the actual review or auditing of the production site is under the jurisdiction of HIA (Halal Inspection Agency)<sup>103</sup> (the results of which would be submitted to MUI for *fatwa* issuance).

The difference with the Former Regime lies on the status of HAPAS-B, which is a government institution with the authority to establish a local representative at the regional level (if necessary)<sup>104</sup>. The enforcement of halal certification and labelling can be expected to be stronger, as the responsible authority has changed to a governmental body (not an NGO anymore). This is supported through the mandatory halal certification system itself which will make the enforcement becomes more far-reaching. Along with that, under the governmental setting, the process of halal certification will be subjected to more thorough supervision which is expected to be able to better protect Muslim consumers and to rectify the current criticisms towards MUI (see Subchapter 6.1.2).

### 6.2.3 The procedure of halal certification and labelling

In contrast to the Former Halal Regime, the process of halal certification and labelling under the Halal Law is more complicated as it requires submission and resubmission of documents from one institution to another. To be more precise, the following six steps are to be completed in order to obtain a halal certificate and halal label. The first step is the submission of the halal certificate application to HAPAS-B<sup>105</sup>. Second, HAPAS-B appoints HIA to conduct halal testing and/or examination<sup>106</sup>. The third procedure comprises of halal examination and the testing process performed by HIA<sup>107</sup> in the production area. Laboratory testing may be conducted in the case of dubious halal status of the product based on the field examination. HIA then submits the results to the HAPAS-B to be re-submitted to the MUI<sup>108</sup>. The fourth procedure is the determination of the product's halal-ness through MUI *fatwa*<sup>109</sup>, resulting in a Decree of the Determination of Halal Product to be further submitted to HAPAS-B.

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<sup>99</sup> See Article 6, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>100</sup> Article 5(3), *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>101</sup> See Article 6, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>102</sup> Under *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*, MUI has some roles, i.e., issuing *fatwa*, certifying halal auditors, and accrediting HIA (Halal Inspection Agency). See Article 10(1) of the Law of the Republic of Indonesia No. 33/2014 concerning Halal Product Assurance.

<sup>103</sup> Article 9, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>104</sup> Article 5(4), *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>105</sup> Article 29, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>106</sup> Article 30, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>107</sup> Article 31, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>108</sup> Article 32, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>109</sup> Article 33, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.



Fifthly, HAPAS-B issues a halal certificate<sup>110</sup>. The certificate is valid for four years starting from the issuance date, giving a 2-years-longer protection for consumers than the previous regime. Lastly, the business operators are obliged to apply for halal labelling through HAPAS-B after obtaining a halal certificate. It is worth noting that Indonesia only applies a single specific national halal label as determined by HAPAS-B<sup>111</sup>, which presumably will discontinue the use of MUI halal label. This label must be easily seen, readable, and not easily damaged, detached, or erased<sup>112</sup>.

Essentially, the process of halal certification remains the same as the previous regime, with the Halal law introducing a multi-level bureaucratic halal certification and labelling process for the business operators to follow through. This prolonged process may increase process complexity and time consumed. Longer and a more complex process may require higher cost for the certification, which ultimately may burden the business operators, as they pay for halal certification<sup>113</sup>. However, this may not be problematic for MSEs as they obtain third-party financial compensation throughout the process of halal certification<sup>114</sup>. It seems that this provision helps remedy the previous regime's, in which the cost for the halal certification process did not favour MSEs. Knowing that MSEs make up the majority of business units producing food in Indonesia, this facilitation may favour MSEs, allowing them to conduct halal certification. Thus, it will ensure a greater abundance food certified and labelled as halal. The more halal-labelled food products, the better the outcome for protecting Muslims.

In the context of international trade, Halal Law attempted to remove existing trade restrictions resulting from the enforcement of the Former Halal Regime by not obliging the business operators to do recertification (see Subchapter 6.1.3). This is applied important when the product in question has been certified by a foreign halal certification body recognised by the government<sup>115</sup>. The importer is only obliged to register the product to HAPAS-B<sup>116</sup> and applies for halal label inclusion permission in HAPAS-B<sup>117</sup> prior to circulation.

However, the law added burdens to importers or foreign business operators. Firstly, due to different levels of halal standards, not all foreign halal certification bodies are going to be recognised by the government (Limenta, Edis, & Fernando, 2018). This provision can be regarded as discriminatory to the foreign producers since it tends to favour the foreign bodies which maintain the same level of halal standards as Indonesia while restricting the products certified by an unrecognised halal certification body. As a consequence, the foreign producers shall apply for halal certification and labelling in Indonesia or seek other foreign halal certification bodies that are recognised by Indonesia. For example, Indonesia currently only recognises two halal certification bodies in the Netherlands, i.e., HQC (Halal Quality Control) and HFFIA (Halal Feed and Food Inspection Authority)<sup>118</sup>, from more than forty (Havinga, 2010). The products that have been previously certified by another certification body shall move to have their products certified by HQC or HFFIA in order to be eligible for circulation in Indonesia. Furthermore, the foreign producers that were previously free to export to Indonesia without any obligation for halal certification will be required to do so, except for the producers of obviously non-halal products. Here, one may argue that Halal Law creates a non-tariff barrier which may restrict the trade of foreign food products into Indonesia.

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<sup>110</sup> Article 34, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>111</sup> Article 37, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>112</sup> Article 39, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>113</sup> Article 44, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>114</sup> Article 44, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*. It remains unknown how this process will technically be applied. Therefore, this matter will be further regulated under the upcoming Government Regulation.

<sup>115</sup> Article 47 (2), *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>116</sup> Article 47(3), *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>117</sup> See Article 38, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>118</sup> See <http://www.halalmui.org/images/stories/pdf/LSH/LSHLN-LPPOM%20MUI.pdf>

Secondly, the law required all materials for food production, either local or imported, to be halal certified<sup>119</sup>. This situation, thus, provides serious constraints for businesses as they must find new suppliers capable of providing halal-certified materials. The problem is that some materials may be only produced by non-Muslim countries where halal certification is scarcely performed. This situation will undoubtedly place business operators at stake for serious economic losses.

Overall, the current provisions under Halal Law are very strict and sometimes complicated but also incomplete. Indonesia should be aware of over-regulating certain matters like Halal Materials and Processing rules, and international trade that may cause the situation to be “more restrictive than necessary” which may potentially be inconsistent with WTO law (Limenta et al., 2018). Presumably, if it aims to protect Muslim consumers, that does not mean that the country is justified in restricting the access of foreign products to Indonesia. The country should find a more tolerant way to apply less restrictive trade barriers while still protecting Muslim consumers.

### 6.3 Conclusion

The adoption of Halal Law has changed the approach of protecting Muslim Consumers from a voluntary halal assurance system to a mandatory scheme. Both regimes utilise a halal label and a non-halal label as protection tools for Muslim consumers. However, the different systems of halal certification and labelling in this sense result in different protection outcomes.

The Former Halal Regime regulated both halal and non-halal labelling aspects to protect Muslim consumers through a voluntary scheme. Under this regime, the protection for Muslim consumers was based on three approaches. First and foremost, the regime applied voluntary halal labelling but obliged halal certification and labelling for “required products”, i.e., animal products and products that have been voluntarily declared as halal by the producers. Openly, non-halal products must implicitly indicate non-halal label, e.g., pig-warning label or alcohol strength/content label. However, this system allowed for some products to be completely unlabelled which may lower the protection for Muslim consumers.

Secondly, halal certification issued by the MUI determined consumer protection, as the certificate would serve as the basis for permissions given by NADFC for the inclusion of halal labels on the products. However, as the scheme was voluntary, not all business operators were willing to undergo halal certification and thus led to the abundance of products without halal labels.

The cost of halal certification was the third approach that contributes to weak protection for Muslims. We may say that this regime is not “MSEs-friendly” as the MUI billed the entire certification cost to the business operators, which MSEs could not always afford. As most food products were produced by MSEs (see Subchapter 3.3), a lot of food produced was not halal-certified and thus, weakened the protection for consumers.

The Halal Law, by contrast, regulates halal and non-halal labels differently than its predecessor. The law seems to remedy the drawbacks arising from the previous regime mainly on three concerns mentioned earlier, i.e., the halal assurance scheme, the change of responsible authority, and the cost for halal certification. The law obliges all products to be halal-certified (and thus halal-labelled), except for products containing non-halal materials. These products instead must include a non-halal label (without any clear rules on how it should be presented to the consumers). Unlike the previous, this regime applies a mandatory labelling standard to all products (not the “required products”). Through this approach, it is expected that Muslim consumers will be more protected with the reduced numbers of unlabelled products.

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<sup>119</sup> Article 17, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

The second remedy is shown by the establishment of HAPAS-B as the state-owned halal certification body, taking over the control from MUI. MUI, however, still plays a part, among others, to issue a *fatwa* which is the core of the halal certificate issuance. As a governmental institution, HAPAS-B is expected to be more capable of protecting Muslim consumers.

Lastly, the remedy is also applied to the cost for halal certification as the MSEs receive third-party financial compensation. All MSEs' food products are expected to be halal certified as a result of this subsidy and will contribute to heightening the protection of Muslim consumers. The law also strictly regulates the Halal Materials and Processes which were outside the scope of the Former Regime. However, it also leaves some challenges to business operators that may result in serious consequences.

In terms of international trade, both regimes left provisions that restrict the introduction of foreign products into Indonesia. Halal Law tried to remove this trade barrier caused by the Former Halal Regime. However, it potentially leads to the development of other barriers that also detriment business operators.

This chapter answered the third sub-research question on the different approaches for Muslim consumer protection between the Former Halal Regime and Halal Law. The capability of each regime to address the selected problems as mentioned in Chapter 5 will be evaluated in the next chapter (Chapter 7).



## 7 The capability of Halal Regimes in protecting Muslim consumers by addressing selected consumer problems

In Chapter 5, two identified consumer behavioural problems were selected, i.e., reliance on cues other than a halal label and low halal label reading behaviour. Chapter 6 then discussed the legal approaches for Muslim consumer protection under the two halal regimes, i.e., the Former Halal Regime and Halal Law. This chapter will answer the last sub-research question [which regime better addresses the selected problems according to the second question?] by conducting a comparative legal analysis to evaluate the capability of Halal Law and its predecessor in addressing two above mentioned behavioural problems from Subchapter 5.2. Subchapter 7.1 compares the capability of each regime to address the first issue [relying on cues other than halal label], and Subchapter 7.2 targets the second selected problem [low halal label reading behaviour]. The conclusion of comparative analysis is described in Subchapter 7.3 with its depiction in Table 3.

### 7.1 The capability to address the issue of relying on cues other than halal label

This subchapter evaluates the capability of each halal regime to address the issue of relying on cues other than halal labels when intending to purchase halal food products. Addressing the behaviour, in this regard, means the capability of each regime to guarantee Muslim consumers to get the authentic halal products even though they rely on cues other than a halal label.

#### 7.1.1 The capability of the Former Halal Regime

*The regime used “warning” behavioural lever.*

It has been acknowledged that the voluntary halal scheme under the Former Regime resulted in three types of halal labelling, i.e., halal-labelled products, non-halal-labelled products, and unlabelled products (see Subchapter 6.1.1). This had some positive and negative consequences in terms of Muslim consumer protection.

A positive effect was the mandatory certification (and thus labelling) for “required products”. The provisions provided protection to Muslim consumers buying those products. Muslims obtained legal protection in this respect, regardless of their behaviour relied on cues other than a halal label. This was also applied to products served directly to consumers as all products were obliged to be halal certified.

The presence of an implicit non-halal label (pig pictorial label and alcohol content label) for products containing pork and alcohol complemented the protection to Muslim consumers. Here, the so-called “warning” nudge was used to address the reliance of consumers on cues other than halal labels. Muslims argued that food products that were free from pork and alcohol were halal. Therefore, the regime designed the label of food products containing pork with “red coloured pig image with white background” (see Figure 3). Instead of using a label saying “non-halal” explicitly, the regime framed non-halal products by conforming to the pre-existing perception of Muslims that halal food products were those without pork and alcohol.

A pictorial warning was found to be effective when informing consumers, as it nudged the automatic processing of consumers instead of deliberative processing in receiving information (Hall et al., 2018). This effectiveness has been proven by a study on pictorial warnings for cigarettes (Hall et al., 2018; James & Natasya, 2018; Swayampakala et al., 2015). Similarly, the presence of a “pig” label helped Muslim consumers to avoid purchasing those products. The same also applied to alcoholic products with alcohol strength label or the alcohol content label in the ingredient list (see Subchapter 6.1.1).

The negative consequences, in terms of protection, came from the unlabelled products, which led to a systematic error in Muslim consumer decision making. For example, consumers did not know the origin of additive materials in a product. Although the ingredient list showed no alcohol or pork constituted in the food, the consumers could not know whether the additives used, or the production processes were halal or not. Therefore, this product might ultimately mislead consumers. A product is misleading when the information shown on that product leads to the construction of an incorrect perception regarding specific attributes of said products (Papavassiliou & Mitchell, 1999). Despite perceive that the product is just free from alcohol/pork, the consumers think that it is halal.

One example could be a product with “0.0% alcohol” label. The ingredient list does not mention alcohol. This led the consumers to start perceiving differently (that the product is halal) from the meaning of the information *per se* (that the product is free from alcohol). Free alcohol did not always mean that the product was halal especially if the product was produced in the same line as the alcoholic beverages without being thoroughly cleaned in the transition process (see Subchapter 3.2). Using System 1 thinking might place Muslim consumers to be easily misled and led them to buy the products because it conformed their pre-existing perceptions that halal product did not contain alcohol. Here, the legal protection for Muslims became doubtful if they buy the product.

Unfortunately, Subchapter 3.3 showed that the number of products without halal labels was far higher than those of halal-labelled products. It could be assumed that, under the Former Halal Regime, Muslim consumers were not fully protected when they intended to buy halal food products. One might argue that this high quantity of unlabelled products was caused by the costs for halal certification that were completely the responsibility of business operators. While the majority of food products in Indonesia were produced by the MSEs (see Subchapter 3.3), they lacked sufficient financial means to afford the needed costs. This unfriendly provision to MSEs contributed to a low halal certainty of food products in Indonesia, weakening the legal protection for Muslim consumers.

#### *The regime preserved the freedom of choice of “minority” consumers.*

However, even though the regime was not protective enough, it preserved the freedom of choice of those who were cynical of halal-labelled food products and thus who simply did not want to base their informed choices on a product’s halal-ness, hereinafter referred to as “minority” consumers. Despite a rising trend on eating halal food products due to the growing health, safety, hygiene consciousness among non-Muslims (Aziz & Chok, 2013; Haque, Hossain, Tarofder, Sarwar, & Yasmin, 2015; Matthew, Abdullah, & Ismail, 2014; Rezai, Mohamed, & Nasir Shamsudin, 2012; Wibowo & Ahmad, 2016), some remained sceptical of halal-labelled food products (Aji, 2017).

This situation was similar to organic products in Western countries. Consumers had contradictory perceptions of organic products. Some saw organics as environmentally friendly, healthy, free of Genetically Modified Organisms (GMOs) products (Rodrigues, Dalmarco, Aouki, & Marinho, 2016). On the other hand, others negatively perceived organics as “no more than marketing ploy” due to high prices without a tangible benefit (Miller, 2019; Pearson, Henryks, & Jones, 2011). A study from Drexler, Fiala, Havlíčková, Potůčková, & Souček (2018) showed that 27% of the study participants did not care about an organic label or consider this quality label. Buying products which were not labelled as organic might be more convenient for those who were sceptical of the organic label.

Not unlike organics, beyond being perceived as a profitable marketing scheme (Arsil et al., 2018), the cynical perception of halal labels included distrust of the competent authority (MUI). Low transparency and poor bureaucracy in halal certification process were the main reasons (Aji, 2017). Moreover, Indonesia is a diverse country where six religions are practised by its citizens. How strict an individual consumes halal food is a personal choice (Hussaini, n.d.; Verbeke, Bergeaud-Blackler, Vermeir, & Bonne, 2007). To this regard, other product attributes might be more favourable and were more strongly considered instead of limiting their choices between halal and non-halal. Therefore, this

regime provided freedom of choice for these consumers without restricting the pre-existing choices in the market.

To conclude, the Former Halal Regime protects consumers in two ways. First, implementing voluntary labelling with an exception to “required products” in order to minimise the risk of misleading consumers. Secondly, the regime also addresses the current behaviour of Muslim consumers with “warning” nudges, through information disclosure that confirms the pre-existing perception of Muslims. This helps Muslims to avoid the products with that label in the market. However, this behavioural lever does not sufficiently protect Muslim consumers due to the presence of unlabelled products. This situation increases the potential of misleadingness and, instead of addressing the behavioural bias, leads Muslim consumers to place their reliance on cues other than halal labels. Buying these products means preventing them from getting legal protection. In this regard, unlabelled products cause “warning” approach to be solely inadequate in tackling the behavioural bias under the Former Halal Regime. However, the voluntary halal scheme succeeds in preserving the freedom of choice of the “minority” consumers.

### 7.1.2 The capability of Halal Law

*The regime uses “default” behavioural lever.*

Contrary to the Former Halal Regime, Halal Law applies a mandatory halal assurance system that reduced the number of unlabelled products in the market. All food products, both locally produced and imported products, are obliged to be halal-certified (and thus halal-labelled). This means an increasing number of halal-labelled food products. However, an exemption is given to products that contained non-halal materials where the product in question shall include non-halal information on the package. In this regard, there will be only two types of food products circulated in the market, i.e., halal-labelled and non-halal labelled food products.

Due to the increasing number of halal-labelled products, they are expected to be the main choice in the market. On the other hand, non-halal products would be another choice when consumers want to opt-out from choosing halal-labelled products. Here, the law principally employs the “default” behavioural lever to address the behavioural bias, through increasing consumer reliance on the halal label when buying a food product. A more technical approach of this “default” behavioural lever has not been indicated yet through this law. Here, this regime has the approach to address the behavioural bias but the capability to address the issue currently remains unknown as the law is not fully implemented yet.

“Default” behavioural lever seems to remedy the rules set out by its predecessor by ensuring the large availability of halal-labelled products in the national market, forcing all business operators to declare the halal/non-halal status of their products. Muslim consumers, consequently, will always be protected under this regime even if they rely on cues other than halal labels, i.e., ingredient list (for common packaged food products), COO label (for imported food products), and the appearance of the seller (for fresh meat products at the wet market). The law does not provide an opportunity for unlabelled products as they are too much of a liability and can mislead consumers.

*The regime maintains the freedom of choice of general consumers but not “minority” consumers.*

One might argue that “default” approach does not preserve the freedom of choice for the “minority” consumers as the Former Regime did because of the absence of unlabelled products. However, it still preserves the freedom of choice of the general consumers in Indonesia because the presence of halal/non-halal label does not prohibit the inclusion of other product attributes, like health

claims, nutritional content, country of origin, *etc.* Thus, the general consumers can still rely on the other product properties, without losing the legal protection of halal authenticity.

Here, this regime also protects non-Muslims who want to consume halal-labelled food products. Considering that these products are not intended only for Muslims consumers, Matthew, Abdullah, & Ismail (2014) indicated that the increasing health consciousness among non-Muslims led to the increasing interest of consuming halal food products<sup>120</sup>.

#### *The regime applies “simplification” behavioural lever.*

The protection is enhanced through the implementation of a single, recognised the halal label and non-halal label applied nationwide, preventing consumer confusion and information overload from a “sea of halal logos”. Only halal label designed by HAPAS-B will be applied, causing MUI halal label to be no longer used in the national market. There will be no unlabelled food products in the market. Here, the law applies the “simplification” behavioural lever by decreasing information overload and reducing the effort to access halal food products as well as making halal food products largely available in the market. The provision stipulated that the inclusion of this halal label must be easily seen, readable, and not easily detached, erased, or damaged<sup>121</sup>. This means that the halal label shall directly attracts the consumer attention to recognise that the product is authentically halal. This approach may change the current behaviour of being ignorance towards halal label to rely on that label before making a purchase.

Apart from that, considering the absence of rules about the presentation of a non-halal label (see Subchapter 6.2.1), “warning” label as applied in the Former Regime and colour-code labelling can also be the next legal initiative to convince particularly Muslim consumers. The latter has been successful in promoting healthy food choices among consumers; greens indicated healthy food, yellow was less-healthy food, while red was unhealthy food (Thorndike, Riis, Sonnenberg, & Levy, 2014). Indonesia may adopt these initiatives, applying the green label for halal food and red label for non-halal food with clear indication. High exposure to conspicuous labels will, presumably, lead to better recognition of those halal and non-halal products, so consumers can correctly choose which products they want.

#### *The regime disadvantages the business operators.*

Although the law seems to be protective for Muslim consumers, most of the provisions to certify a product as halal are difficult to comply by the business operators. Referring to Subchapter 6.2.3, the Law seems to over-regulate both local and international business operators. Procedures and requirements to obtain halal certificate seem to be a burden for business operators. First of all, the regulation applies a complicated and prolonged procedure of halal certification and labelling<sup>122</sup> that presumably imposes higher costs for business operators, except for MSEs (see Subchapter 6.2.3). The increased cost is unavoidably burdensome, and according to Limenta et al., (2018), the certification procedure shall be simplified. Secondly, although halal is an added value for a product in the international market (Hakim, 2015), the increased cost imposed through certification may result in a higher product price thus may reducing a bit of product competitiveness. Corresponding to this, the law also required a label to be “not easily damaged, erased, or detached”<sup>123</sup>. This type of process may be costly for MSEs due to the need to tailor the process or machinery if the label is printed altogether with the package of the products (Limenta et al., 2018).

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<sup>120</sup> This literature is derived from the study in Malaysia due to the lack behavioural science found for non-Muslim consumers in Indonesia towards halal food.

<sup>121</sup> See Article 38, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>122</sup> Article 29-45, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>123</sup> Article 39, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

The Halal Product Materials and Processes provisions<sup>124</sup> further required some technical adjustments which might need substantial additional costs. Meanwhile, these measures may become an issue under WTO regulations due to its greater restrictions compared to the international standard, Codex Alimentarius (see Subchapter 6.2.1). Furthermore, as this cost is out of the scope of the third-party financial compensation for MSEs<sup>125</sup>, it creates an unfavourable condition for business operators.

Thirdly, in terms of access given to imported products, only products with a halal certificate issued by the international halal certification body recognised by the government<sup>126</sup> can be circulated in Indonesia. This can be deemed as discriminatory, as the law favours some international certification bodies over the others (see Subchapter 6.2.3). Lastly, the unclear provision on how to present a non-halal label<sup>127</sup> may induce self-proclaiming of non-halal information, which can lead to confusion if the law does not specify this. In a rare case, this unclear rule may contribute to trouble when the food product contained both Muslim COO label and non-halal information. Due to the absence of obligation on how non-halal label shall be presented, the producers are justified to include the non-halal information less-clearly. As Muslims have a positive perception of the Muslim COO label (see Subchapter 5.1.1.1), they may irrationally buy the product without realising the presence of the non-halal information.

All in all, the law is expected to be capable in addressing the current behavioural bias of relying on cues other than a halal label by applying “default” and “simplification” behavioural levers. These approaches guarantee Muslim consumers always get halal products in the market. However, the capability of these initiatives to address the behavioural bias remains under scrutiny as this law is not fully implemented yet. It is expected that the law may contribute to better protection for Muslims than its predecessor since “default” and “simplification” have minimised the opportunity for consumers to rely on cues other than the halal label.

However, better protection does not always give better results. The law has been identified to pose two externalities in terms of not preserving the freedom of choice of the “minority” consumers and being a burdensome responsibility for business operators. Therefore, it cannot be said that it is the entirely ideal framework for consumer protection, as it does not provide justice for all the involved actors, e.g., consumers and business operators<sup>128</sup>. It protects Muslim consumers while on the other hand leading to detrimental effects for the enterprises and “minority” consumers. In this regard, the law shall clarify any unclear provisions. Also, the ambiguous provisions and problematic rules in the lens of international trade shall be reconsidered by the government.

## 7.2 The capability to address the low halal label reading behaviour

The next selected behavioural bias is the low halal label reading behaviour. Similar to the Subchapter 7.1, addressing behavioural bias in this regard means guaranteeing the consumers have access to authentic halal food products even if they have a low halal label reading behaviour or also, to increase their reading behaviour.

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<sup>124</sup> Article 17-22, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>125</sup> Article 44(2), *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>126</sup> Article 47(2), *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>127</sup> Refer to Article 26, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>128</sup> Under the Article 2, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*, the enforcement of halal product assurance shall follow the principle of protection, **justice**, legal certainty, accountability, and effectivity and efficiency. The details of each principle are explained under Elucidation of Article 2 of the law.



### 7.2.1 The capability of the Former Halal Regime

To address the issue of the low halal label reading behaviour, this regime used two approaches, i.e., using a behavioural lever “warning” through the implicit non-halal label as explained in Subchapter 7.1.1 and giving education for consumers.

#### *The regime applied “warning” behavioural lever.*

First of all, similar with tackling the reliance on cues other than a halal label, the former regime also used “warning” behavioural lever as a nudge to address the behavioural bias of low halal label reading behaviour. The regime tried to shift the attention of Muslims through an implicit non-halal label, i.e., a pig pictorial label and alcohol strength/content label (see Subchapter 6.1.1). The regime has set out a single type of implicit non-halal label that was applied nationwide. Both pictorial pig label and alcohol warning labels were designed to be clearly seen by the consumers (see Subchapter 6.1.1 and Figure 3). The pictorial pig label would be placed on the most visible area of the package. This “warning” with a clear indication on the package helped to shift the attention of Muslim consumers to non-halal labels and, consequently, led them to avoid those products. Thus, this nudge was capable of addressing the low halal label reading behaviour. However, it cannot adequately protect Muslim consumers because they remained easy to be misled due to the presence of unlabelled products as a result of the implementation of a voluntary halal scheme.

#### *The regime used a consumer education approach.*

The second approach was using the educational platform. The Former Halal Regime already had a legal standing for consumer education. It was stipulated under Article 4(f) of the Consumer Protection Law that the consumers had a right to education and guidance (see Subchapter 3.4). To do so, the regime facilitated education by mandating the task to NGOs to disseminate any product information to consumers to raise their knowledge of consumer goods and/or services<sup>129</sup>. In this sense, we may argue that raising circumspection means that the law tried to raise the consumer’s awareness from not being easily misled in the market through any misleading information.

However, the provision did not specify the manner with which education should be conducted but set out the rules of general consumer education. To this regard, it remains questionable whether consumer education, particularly on halal matters, has been effectively conducted. Maulida (2013) stated that education about halal products to society was urgently needed in an effort to strengthen the rights of the consumers. From this matter, one may assume that halal education has been poorly or, perhaps, rarely conducted. Maulida (2013) further argued that any efforts on the halal certification and labelling under the Former Halal Regime were not coupled with an effort to improve the education for consumers regarding this matter. Even though MUI (as an NGO) sometimes conducted halal socialisation through halal expositions, it remained insufficient to protect Muslim consumers. The non-optimal implementation of education regarding halal label to consumers stalled the regime from increasing the awareness of halal label and to addressing the behavioural bias.

To conclude, this regime is partly capable of addressing low halal label reading behaviour under the two approaches, i.e., “warning” nudge and education. “Warning” is capable of addressing that behavioural bias. However, the protection of Muslim consumers by guaranteeing Muslims consumers always to get halal food products cannot be fully achieved due to the presence of unlabelled products. Meanwhile, Indonesia already has an education platform to educate consumers about food products. This can be used to increase the awareness of consumers to read the halal label. However, the rules

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<sup>129</sup> Article 44(3)(a), *Undang-Undang No. 8/1999 tentang Perlindungan Konsumen*.

about halal education are not specifically set out under this regime and have not been implemented effectively.

### 7.2.2 The capability of the Halal Law

*The regime applies “default” and “simplification” behavioural levers.*

Similar to the Former Halal Regime, to address the low halal label reading behaviour, Halal Law uses two approaches, i.e., through behavioural levers “simplification” and “default”. First, it has been acknowledged that the system of the mandatory halal scheme does not leave any food products without halal/non-halal information. As explained earlier in Subchapter 7.1.2, the obligation for producers to apply for halal certification, except for those producing obvious non-halal products, makes halal-labelled food products the main product choice in the market. Here, the law sets the behavioural lever “default” to its policymaking. Knowing that Muslim consumers do have a low halal label reading behaviour, the protection for consumers is guaranteed by exposing them with mainly halal-labelled food products in the market. The law set out that the halal label should be “easily seen, readable, and not easily damaged, detached, or erased”<sup>130</sup>. This is an effort of the Halal Law to make the consumers aware of the presence of the halal label as the single cue for halal products.

Secondly, the “simplification” of product choice by obliging all (food) products to be halal/non-halal-labelled is also used to address the low halal label reading behaviour. The problem is tackled by exposing Muslim consumers to simple product choices and thus reducing the effort of the consumers when seeking for halal food products. Thus, the protection of consumers to always get authentically halal food products is guaranteed.

*The regime uses a consumer education approach.*

Similar to the previous regime, the second approach is education. This regime stipulated a specific provision concerning education, information dissemination, and publication regarding halal products to consumers<sup>131</sup>. This regime gives the responsibility of conducting consumer education to the governmental institution, HAPAS-B. This institution is allowed to establish offices at the regional level. This may be instrumental to educate Muslim consumers more thoroughly and targeted. Knowing that the education conducted by NGOs in the previous regime specific to the halal product topic was not satisfying, the governmental institution should be more effective in educating the consumers.

However, one cannot expect an instant result from the education approach<sup>132</sup>. Education approach has the potential to alter the behaviour, in this regard to increase the level of reading the halal label before buying a food product. However, it cannot be seen immediately. As the law is not fully implemented yet, the capability of this regime to address low halal label reading behaviour through education remained unknown. The fact that the law already has a platform to change consumer behaviour might be used to raise Muslim consumer’s awareness. Education, including socialisation, shall be conducted when possible before the full implementation of the regime, considering that education needs a longer time to result in a significant effect.

To conclude, three approaches are used to address the low halal label reading behaviour, i.e., using “simplification” and “default” behavioural levers and education. “Simplification” and “defaults” are two behavioural levers that are considered to have the capability to tackle low halal label reading behaviour. Both approaches also contribute to strong protection of Muslim consumers. However, they leave an externality by diminishing consumer’s freedom of choice. These approaches are expected to

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<sup>130</sup> Article 39, *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>131</sup> Article 6(e), *Undang-Undang No. 33/2014 tentang Jaminan Produk Halal*.

<sup>132</sup> Further information regarding this matter can be seen [here](#).

be better in tackling the issue of Muslim's low halal label reading behaviour than the Former Halal Regime as these behavioural levers may guarantee Muslim consumers to always get halal food products in the market. Education, as the second approach, is expected to help altering the behaviour of Muslim consumers from the almost non-existent reading of halal labels to being more aware of the official labels. However, one cannot instantly conclude that Halal Law will result better in addressing this behavioural bias because the education and the behavioural levers are not fully implemented yet.

### 7.3 Conclusion of comparative analysis

From the explanation above, we have acknowledged that both regimes have different approaches in addressing selected behavioural biases, i.e., (1) relying on cues other than a halal label and (2) the low halal label reading behaviour through different approaches. Each approach results in different levels of protection.

Firstly, Both Halal Law and the Former Halal Regime have the capability to address the reliance on cues other than a halal label. However, Halal Law with its “default” and “simplification” behavioural levers is expected to provide better protection under mandatory halal scheme compared to the predecessor although it may leave some drawbacks to the “minority” consumers and business operators. Simplifying the choice into halal/non-halal-labelled products and using the halal-labelled products as the main choice in the market contributes to a more protective result for Muslims. Halal as the default option reduces the potential of Muslim consumers relying on cues other than the official label. Muslims are not subjected to any confusion and misleading information. However, as to highly protect Muslim consumers, it turns out that the regime set out stringent rules for the business operators and limited the freedom of choice of the “minority” consumers

In contrast, the “warning” of non-halal products used under the Former Halal Regime was found to partly address the reliance on cues other than a halal label. It was capable of shifting Muslims attention to non-halal-labelled products; however, the presence of unlabelled products favoured Muslim consumers to keep relying on cues other than halal labels. This situation, thus, increased the potential of misleading issues and, therefore, became less protective to Muslim consumers. Even so, this regime preserved the freedom of choice for the “minority” consumers.

Secondly, both Halal Law and its predecessor have the capability to address the low halal label reading behaviour of Muslim consumers. However, the Halal Law is expected to give better protection for Muslims. The same approaches to tackle the reliance on cues other than the halal label are used, i.e., “simplification” and “default”, coupled with an educational approach. “Simplification” and “default” behavioural levers are likely to provide enough protection for Muslim consumers by highly exposing Muslim consumers with mostly halal-labelled food products in the market. This could not be fulfilled by the Former Halal Regime since the “warning” approach was only capable of addressing the behavioural bias but did not provide enough protection for Muslim consumers due to the presence of unlabelled products.

In terms of education, the Halal Law changes the consumer education responsibilities to HAPAS-B from NGOs as had been done under its predecessor. This initiative was resulted from the poor practice of NGOs in performing consumer education. This institution has a stronger legal standing to conduct a halal education and has the power to establish regional branch offices, which can support the more targeted and overarching education. The implementation of halal education is expected to be better at increasing the level of reading halal label prior purchasing. However, it cannot be said that Halal Law is better than the previous regime in terms of giving halal education since this approach is not implemented yet.

Overall, both regimes have different approaches or behavioural levers to address each consumer behavioural bias; the Halal Law with “default”, “simplification”, and education approaches while the



Former Regime with “warning” and education approach. Currently, it cannot be concluded which one is the better initiative because the approaches used in Halal Law are not yet implemented. However, it is expected that the Halal Law will better address the behavioural biases, providing higher protection for Muslim consumers even though it may leave some drawbacks on “minority” consumers and business operators. This presumption is grounded by the fact that the Former Regime was failed to provide adequate protection for Muslim consumers. The conclusion of the comparative analysis is depicted in Table 3 below.

This chapter answered the last research question of this thesis about which regime better protects Muslim consumers by taking into account their behavioural problems. The main research question is then answered below in the Conclusion section.

Table 3. The comparison of the Former and Current Halal Regimes in protecting Muslim consumers in Indonesia by addressing the selected consumer behavioural problems.

Characteristic	Behavioural bias	Former Halal Regime			Halal Law		
		Capability to address the issue	Provisions	Results	Capability to address the issue	Protective provisions	Results
<b>Psychological (perception)</b>	Reliance on cues other than a halal label, i.e., ingredient list, COO label, and the appearance of the meat seller in a wet market.	Partly capable and not protective enough.	<p>1. <b>Provision on halal label - Article 8(1)(h)</b> of <i>Undang-Undang</i> No. 8/1999 (Consumer Protection Law), <b>Article 58(4)</b> of <i>Undang-Undang</i> No. 41/2014 (Animal Husbandry and Health Law), <b>Article 69(g)</b> and <b>Article 98(1)</b> of <i>Undang-Undang</i> No. 18/2012 (Food Law), and the <b>Elucidation of Article 11(1)</b> of <i>Peraturan Pemerintah</i> No. 69/1999 (Food Labels and Advertisements Regulations).</p> <p>2. <b>Provision on non-halal label – Annex IV Part II No. 4</b> of <i>Peraturan Kepala Badan POM</i> No. 12/2016 (Regulation of the Head of NADFC concerning the Registration of Processed Food).</p>	<p>The Former Regime employed a voluntary halal scheme. The regime set out provisions on a halal label and a non-halal label. The latter was subjected to a behavioural lever “warning” to tackle the behavioural bias. The bias was partly addressed because Muslim consumers might keep on relying on cues other than a halal label when buying an unlabelled food, hampering them to get legal protection.</p> <p>The regime, however, provided freedom of choice for “minority” consumers and lenient rules for business operators.</p>	It is expected to better address the bias and to provide higher protection but leaves some drawbacks.	<p><b>1. Provision on halal label - Article 4</b> of <i>Undang-Undang</i> No. 33/2014 (Halal Law).</p> <p><b>2. Provision on non-halal label - Article 26</b> of <i>Undang-Undang</i> No. 33/2014.</p> <p><b>3. Provisions leading to externalities - Article 17-22</b> (halal materials and processing), <b>Article 39</b> (halal label must be easily seen, <i>etc.</i>), and <b>Article 44(1)</b> (cost for certification) of <i>Undang-Undang</i> No. 33/2014.</p>	<p>The Halal Law applies a mandatory halal scheme. The law set out the provisions concerning the halal label and non-halal label by using “simplification” and “default” behavioural lever, eliminating the potential of Muslim consumers to rely on cues other than a halal label and guaranteeing them to get authentic halal products.</p> <p>Although the law is protective for Muslim consumers, it is known to be limiting for “minority” consumers’ freedom of choice and disadvantages business operators in terms of compliance costs, complying with Halal Materials and Processes rules, and difficulties in dealing with international trade.</p>

<b>Psychological (attitude)</b>	Low halal label reading behaviour.	Partly capable and not protective enough.	<p><b>1. Provisions on halal label - Article 8(1)(h) of Undang-Undang No. 8/1999 (Consumer Protection Law), Article 58(4) of Undang-Undang No. 41/2014 (Animal Husbandry and Health Law), Article 69(g) and Article 98(1) of Undang-Undang No. 18/2012 (Food Law), and the Elucidation of Article 11(1) and Article 13(1) of Peraturan Pemerintah No. 69/1999 (Food Labels and Advertisements Regulations).</b></p> <p><b>2. Provision on non-halal label – Annex IV Part II No. 4 of Peraturan Kepala Badan POM No. 12/2016 (Regulation of the Head of NADFC concerning the Registration of Processed Food).</b></p> <p><b>3. Provisions on education – Article 4(f) and Article 44(3)(a) of Undang-Undang No 8/1999 (Consumer Protection Law).</b></p>	<p>The Former Halal Regime employed two approaches to address the behavioural bias, i.e., through halal/non-halal labelling and education. “Warning” behavioural lever was found to be able to tackle the bias, but the presence of unlabelled products under this regime had hampered the capability of the “warning” to address the behavioural bias efficiently. Thus, it hampered the protection to Muslims.</p> <p>Education, however, seemed to be applied ineffectively applied and thus, led to a failure in tackling the behavioural bias.</p>	It is expected to better address the bias and to provide better protection.	<p><b>1. Provision on halal label - Article 4 of Undang-Undang No. 33/2014 (Halal Law).</b></p> <p><b>2. Provision on non-halal label - Article 26 of Undang-Undang No. 33/2014.</b></p> <p><b>3. Provisions on education – Article 6(e), Article 5(4), Article 39 of Undang-Undang No. 33/2014.</b></p>	<p>The Halal Law uses three approaches to tackle the behavioural bias, i.e., two behavioural levers (“simplification” and “default”) and education. The simplification of product choice limited in halal/non-halal attribute while using halal products as the main choice is expected to tackle the behavioural bias due to direct exposure to halal-labelled products.</p> <p>The second approach, halal education, is expected to fare better in tackling the behavioural bias due to the clear legal basis under the Halal Law and conducted by a state-owned institution.</p>
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## 8 Conclusion and discussion

### 8.1 Conclusion

This thesis aimed to examine different consumer protection approaches taken by the Former Halal Regime and Halal Law in tackling issues specific to Indonesian Muslim consumer behaviour towards halal food products. The result of comparative analysis between the two regimes answered the main research question: *“Is the Indonesian Halal Law better than its predecessor in addressing problems arising from Muslim consumer characteristics?”*

*What are the characteristics of Indonesian Muslim consumers in buying halal food products? And what are the problems identified with these characteristics?*

This thesis showed that Muslim consumer behaviour in getting halal food products is characterised through psychological, personal, cultural, and social characteristics, which are parallel to the given theory in Subchapter 4.1. Firstly, the psychological characteristics of Muslim consumers involve perception, attitude, and motivation and belief. Muslim consumers perceive that whether or not a food is halal can be determined through the ingredients list (for general packaged food products), COO label (for imported food products), and the appearance of the seller (for fresh meat products). This perception leads to over-reliance on these cues instead of a halal label when deciding which halal food products to buy (behavioural bias #1). Secondly, Muslim consumers have a positive relationship with halal food products, shown in their willingness to pay more for these products. However, some exhibit a low halal label reading behaviour prior to purchasing (behavioural bias #2). Thirdly, Muslim consumers are motivated to purchase halal food products in order to satisfy their physical and spiritual desires. However, Muslim consumers are at risk of failing to satisfy these motivations if they rely on assumptions, given the absence of a halal label (behavioural bias #3).

Secondly, the personal characteristics of Muslims in consuming halal food products involve age, gender, educational background, and economic situation. Generally, all Muslim consumers have the potential to have a low halal label reading behaviour. Muslim consumers with non-Islamic educational backgrounds and higher economic status are less willing to consume halal food products than those with an Islamic educational background and lower economic status (behavioural bias #4).

Thirdly, the region plays a prominent role in shaping the characteristics of Muslim consumers. Those who live in the Muslim-majority regions have a low halal label reading behaviour. Meanwhile, those who reside in a Muslim-minority region show greater vigilance when buying halal food products (behavioural bias #5).

Fourthly, in terms of social characteristics, the family is found to be the most impactful influencer in their decision making to purchase halal food products, followed by religious leaders, society, and governments. The influence comes from their demand to consume halal food and the negative perception of those who do not eat halal food products. The different behaviours among Muslims may lead to a negative opinion of halal-ignorant consumers from these actors, especially family (behavioural bias #6).

*Which consumer problems are necessary to be addressed?*

From six identified consumer problems, two of the essential problems were selected. These are, (1) reliance on cues other than a halal label (behavioural bias #1) and (2) low halal label reading behaviour (behavioural bias #2).

### *What are different measures of Muslim consumer protection under the Former Halal Regime and Halal Law?*

An identification of how each Halal regime protects Muslim consumers is required in order to be able to compare both regimes' roles in protecting Muslim consumers as per the selected problem. Each regime has different approaches to protecting Muslims when it comes to the halal assurance system, the competent authority, and the process of halal certification and labelling.

The Former Halal Regime applied voluntary halal assurance system but obliged halal certification and labelling on "required products", i.e., animal products and food products that had been voluntarily declared as halal by the producers. To this regard, the business operators must have included halal label by firstly applying for halal certification from LPPOM MUI. When the certificate was issued, they had to obtain permission for halal label inclusion to NADFC. Furthermore, all genuinely non-halal products should indicate their non-halal ingredients, such as using a pig pictorial label and/or alcohol content label. As the halal scheme was voluntary, there were food products that did not have either a halal or non-halal label (unlabelled products). The presence of these products posed a high risk to endanger Muslim consumers as it caused Muslims to be easily misled. Another case that weakened the protection of Muslim consumers in Indonesia was the fact that the regime charged all halal certification costs to business operators. The full costs, which was greater than what MSEs could afford, caused them to opt not to apply for halal certification. As a result, a good sum of food products, produced by MSEs, were not halal labelled.

In contrast, the mandatory halal assurance system obliges all producers to apply for halal certification and labelling to a governmental body named HAPAS-B (no longer to MUI and NADFC) except for business operators who produced/imported exclusively non-halal products. As a result, no food product is left without halal/non-halal information. The cost for halal certification is still billed entirely to the business operators. However, MSEs are now entitled to receive financial support from a third party. This compensation system, coupled with the mandatory halal scheme, was expected to boost the number of halal-labelled products, which in turn increased the protection for Muslims. However, this regime applied some high-standard obligations for business operators that may seriously disadvantage them.

### *Which regime better addresses the selected problems according to the second question?*

It was acknowledged that both regimes have different approaches or behavioural levers in addressing the selected behavioural biases. The Former Regime applies "warning" behavioural lever while the Halal Law applies "default" and "simplification" behavioural lever in addressing both behavioural biases. The Halal Law is expected to better address the two selected behavioural biases while, on the other hand, the Former Halal Regime was failed to adequately protect Muslim consumers.

Firstly, Halal Law is expected to better address the reliance of Muslim consumers on cues other than a halal label, i.e., ingredient list, COO label, and the appearance of the seller when buying fresh meat. Under the mandatory halal scheme, where there are no products left without halal/non-halal information, the law applies the behavioural levers "simplification" and "default". These behavioural levers simplify product choices and make halal products as the default option in the market. These approaches contribute to a more protective result for Muslims, as they are directly exposed to the abundance of halal-labelled products in the market, reducing the need to rely on cues other than halal labels. Muslims, therefore, are not subjected to any misleading information and confusion due to the presence of products without halal/non-halal labels as in the Former Halal regime. However, the Halal

Law has very strict rules for business operators and limits the freedom of choice of “minority” consumers.

In contrary, the previous regime used “warning” approach as a nudge to address the behavioural bias by shifting the attention of Muslims to a non-halal label, making them avoid products with that label. This approach had the capability to address the problem. However, the voluntary system left unlabelled products in the market, favouring Muslim consumers to keep relying on cues other than halal labels when buying these products. However, this less protective regime ensured the freedom of choice for “minority” consumers due to the presence of products without halal/non-halal information.

Secondly, the Halal Law is expected to provide better protection for Muslims by addressing the low halal label reading behaviour also through the behavioural levers “simplification and “default” and education by HAPAS-B. Both behavioural levers create a high chance of Muslim consumers buying halal-labelled food products. This addresses the low halal label reading behaviour. Here, consumers are highly protected. This could not be achieved through the Former Halal Regimes because although the attention of Muslims was altered with the non-halal label due to “warning” nudge, they were still at risk from unlabelled products. This condition hampered them from getting legal protection. In terms of education, the implementation of halal education by HAPAS-B is expected to fare better in increasing the awareness on reading halal label compared to NGOs' efforts in the previous regime. This is because halal education under this regime is specifically regulated. The power of having representatives at the regional level better implements halal education to many consumers. However, we cannot say that Halal Law leads to a better result compared to that of the previous regime in terms of halal education as these approaches is not yet implemented.

All in all, although it is expected that the Halal Law is better in addressing the behavioural biases and thus, provides higher protection for Muslim consumers, it currently cannot be concluded which regime better address the behavioural biases. This is because the approaches used in Halal Law are not yet implemented until the completion of this thesis.

Lastly, to answer the research question, “Is the Indonesian Halal Law better than its predecessor in addressing problems arising from Muslim consumer characteristics?”, this thesis has concluded that currently, it is still unknown whether Halal Law is better in addressing the selected behavioural problems since the approaches used in Halal Law, i.e., “default”, “simplification”, and halal education are not yet implemented. It is, however, expected that Halal Law better addresses the reliance on cues other than a halal label and the low halal label reading behaviour of Muslim consumers in Indonesia than the Former Halal Regime. Nevertheless, it leaves some severe issues to both “minority” consumers and business operators. Due to these challenges, we thus cannot say that this is an ideal regulation to protect (Muslim) consumers as it is not in line with the justice and balance principles under the Consumer Protection Law (see Subchapter 3.4) . Other approaches to minimise the drawbacks of the law must be considered by the lawmakers. It should take into account more tolerant regulations for business operators and freedom of choice for the “minority” consumers. Therefore, another initiative needs to be undertaken. The following subchapter explains an initiative for the improvement of halal food regulations in Indonesia.

## 8.2 Possible intervention

### *2-Phase labelling and choice architecture initiative*

Both regimes used behavioural levers to tackle Muslim’s behavioural biases. However, it was found that the approaches used in each regime left some serious problems with the consumers and business operators. The Former Regimes undervalued the protection for Muslims but valued the interest of “minority” consumers. “Warning” under this regime seemed unsuccessful in adequately protecting

Muslims. Halal Law, by contrast, limits the freedom of choice by the minority consumers through “simplification” and “default” as well as leaves problems for business operators but provides a high level of protection for Muslims. Although the Halal Law is aimed to protect Muslims, the interest of minority consumers shall not be undermined as the citizens of Indonesia are diverse.

In this regard, the new initiative of choice architecture, as introduced by Thorndike, Sonnenberg, Riis, Barraclough, & Levy (2012) can be an alternative to improve the halal policy in Indonesia. Here, Thorndike et al. (2012) introduced the so-called 2-phase labelling and choice architecture intervention to improve healthy food and beverage choices. This initiative inspired the researcher to provide an initiative for the betterment of the halal food regulation in Indonesia.

The approach consists of two-phase interventions, called labelling intervention and choice architecture intervention. Considering that nudging must not impose significant economic incentives and must fully preserve people’s freedom of choice (Sunstein, 2015), a voluntary halal assurance system is one plausible approach to choose. However, it must be underlined that the voluntary system in this regard will be equipped with a labelling and choice architecture initiative that will not undermine the interest of certain group of consumers and does not lead to high economic cost for business operators. Under this voluntary system, if consumers do not want halal-labelled food products, they may opt-out to choose other options, either non-halal or those without halal/non-halal indication.

This 2-phase initiative, firstly, uses labelling trick by indicating food products with colour-coded labelling. Green is for food products with positive criteria, yellow is for food products with equal positive and negative criteria, and red is for the food products with negative criteria. The same also can be applied to halal food products (green label for the halal, red label for non-halal, and yellow for unidentified halal-ness). However, some socialisations or other approaches should be widely conducted to consumers in the first place so that they can recognise the product easily. Supplementing a “warning” nudge for non-halal food products might also be helpful to convince the consumers.

The second approach is the arrangement of choice architecture through the position of products in the rack. Green products are placed at the eye-level while the yellow and red products are located below or above the eye-level (Thorndike et al., 2012). Halal products, in this case, can be placed at the eye-level when displayed in supermarkets or retail stores. Products located at eye-level will ensure consumers to see them first and decide to purchase. Sunstein (2015) argued that people are more likely to buy the products they see first.

This approach is likely to be effective in addressing the current behavioural biases of Muslim consumers in Indonesia. The first phase of this approach will tackle the tendency of Muslims to rely on cues other than halal labels since they will immediately know the product’s halal-ness due to the indicated colour on the label. Meanwhile, the second approach is capable of tackling the low halal label reading behaviour. Placing the halal products located at the eye-level will drive consumers to choose that product automatically. A good note of this approach is the fact that it does not eliminate the freedom of choice, and consumers can always opt-out if they want other food choices. Furthermore, through this approach, the government does not impose highly constrictive rules and great amount of costs for business operators, which may disadvantage them.

### 8.3 Strengths of the study

BIs used to evaluate policymaking are a strength of this study, as this approach is less familiar in Indonesia. This study evaluated the capability of the halal regimes to protect Muslim consumers by taking into account the performed behavioural biases (derived from the BIs) of Muslim consumers. Using BIs to inform policymaking has been commonly utilised in the EU, but it remains questionable as to whether or not Indonesia is aware of this tenet. The author was inspired by the EU approach to see whether the halal regimes implemented in Indonesia took BIs in their policy. Research on using BIs to



evaluate the legal ordinance, particularly on the aspect of halal regimes to protect Muslim consumers, remains non-existent in Indonesia. This, therefore, enhances this technique as a strength of this study. The output of this study can contribute to the betterment of policy initiatives in Indonesia specific to consumer protection and provide an alternative for better policymaking in Indonesia in the future. BIAP and consumer behaviour theory from Kotler et al. (2013) can help the lawmakers in designing a better consumer protection policy.

#### 8.4 Limitations of the study

This study has faced some limitations during its process. Firstly, as the focus of this study is specifically Muslim consumers in Indonesia, it was difficult to find the literature on Indonesian Muslims behaviour towards halal food products. The databases used (see Subchapter 2.4) only showed ten relevant pieces of literature out of hundreds. Therefore, the “snowball” method supplemented the consumer behaviour findings while two books about Indonesian Muslim consumer behaviour in Bahasa (Indonesian language) from Karim (2013) and Soesilowati (2009) helped significantly in completing the findings. The findings might not fully reflect the present conditions in Indonesia due to the lack of available literature, but at least, it might bring a new perspective for Indonesian policymakers to use BIs in the policymaking. Secondly, some web literature and legal documents were in Bahasa (Indonesian language), therefore preventing those who did not speak Bahasa from understanding the original articles or documents. The third limitation is that the legal part (especially Subchapter 6.1) did not consider all the implemented regulations under consumer protection and only focused on implemented regulations relating to halal certification and labelling. Fourthly, the Halal Law does not have to implement regulations yet, such as Government Regulations, Presidential Decree, etc. while some provisions still need of clarifications. Therefore, the analysis seems to be not deeply conducted. The last limitation is, due to the less-familiarity of the BIAP concept in Indonesia, this thesis opted to refer to the EU BIAP concept and projected it onto the halal regimes in Indonesia.

#### 8.5 Recommendations for further research

As this thesis did not discuss the effectiveness of the Halal Law because it has not taken full effect until to the completion of this thesis, further research should look into the effectiveness of the new regime after it is fully entered into force. This shall take into account both Muslims and non-Muslims in Indonesia and determine whether the Halal Law effectively addresses their behavioural biases.

Furthermore, a study on finding the most feasible choice architecture or correct nudging approaches to protect Muslims intending to buy halal food that does not eliminate the consumers’ freedom of choice needs to be conducted. This is because the Halal Law does not preserve the “minority” consumers’ freedom of choice and results in highly restrictive and costly procedures to comply with the Halal Law. A more cost-friendly initiative to maintain consumer’s choice without losing the essence to protect Muslims to get halal products is essential. Any nudges introduced by Sunstein (2014) can be used as a reference.



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