

THE UTILIZATION OF SOFT LAW IN PROMOTING DIGITAL-BASED PLATFORM TO STRENGTHEN INDONESIA'S HALAL INDUSTRY AND SMEs

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ABSTRACT

Indonesia is a country with the largest muslim population. Indonesia, with this modality, can prove that Islam can go hand in hand with democracy and development. Despite being the largest muslim population with a robust economic outlook, Indonesia is ranked 4th in the Global Islamic Economy indicator based on the latest data from the Global Islamic Economic Report 2020/2021. It lags its neighboring country, Malaysia, which came in the first place. It is interesting to elaborate further on how Indonesia takes benefit from its strategic position as the biggest muslim population in the world and makes it as “a dark horse” in supporting the resilience of its national economy. Since the Fourth Industrial Revolution is taking its shape in Indonesia, it is important to see how this digital transformation helps develop Indonesia's halal industry and SMEs. As we know, Indonesia's Omnibus Law on Jobs Creation (Law No. 11 Year 2020) is a substantial and significant legal reform, including in halal product requirements. The effectivity of the halal certification will be fundamental as they accelerate the business licensing process through electronic-based services. This requires strong cooperation from various other stakeholders. Indonesia Sharia Economy Master Plan 2019-2024 as one of the soft laws should be utilized in promoting the digital-based platform to strengthen Indonesia's halal industry and SMEs. The paper aims to investigate the relevance of the utilization of soft law in promoting digital-based services to accelerate Indonesia's halal industry and SMEs. This paper demonstrates how to link digital diplomacy with promoting Indonesia's Halal Industry and SMEs. The paper also suggests several initiatives to utilize digital platforms to promote the halal industry in Indonesia.

Keywords: legal policies, digital-based services, halal industry, halal SMEs, covid-19

A. Introduction

Indonesia is a country with the biggest muslim population in the world. What makes Indonesia distinct from any other country is the complementarity between democracy and Islam. In Indonesia, Islam

can go hand in hand with democracy, stability, and development. This has become our modality to contribute globally to the maintenance of international peace and security. However, so far, the modality

of being the biggest muslim population in the world has not been transformed into economic gain. This is where “halal industry” came into the picture. As the largest muslim population in the world, it is only logical if Indonesia starts to look at its domestic halal industry as one of its future economic growth engines.

In 2020, muslims were the fastest-growing religious group. Most countries in the Middle East and North Africa regions are home to only about 20 percent of the world's muslims population. Most of the muslims globally, about 62 percent live in the Asia Pacific region, including in Indonesia, India, Pakistan, Bangladesh, Iran, and Turkey. Indonesia is currently the country with the largest muslim population. India's 1.35 billion population will have that distinction by the year 2050 in remaining a majority-Hindu country with more than 300 million muslims. The muslim population in Europe also growing and projected that 10 percent of all Europeans will be muslims by 2050. If current demographic trends continue, the number of muslim is expected to grow from 1,8 billion in 2018 into 3 billion in 2030.

The potentials and opportunities of the global halal industry in the future are huge and promising. The halal industry alone is now worth around USD 2.1 trillion and is expected to grow around USD 3 trillion in 2023. It makes one of the fastest-growing consumer segments in the world. Food and beverages lead

muslim spending by category at USD 1.3 trillion, followed by clothing at USD 270 billion, media and entertainment at USD 209 billion, travel at USD 177 billion and spending of pharmaceuticals and cosmetics at USD 87 billion and USD 61 billion respectively.

Today's global halal market is no longer confined to food and food-related products. The halal industry has expanded beyond the food sector. It includes pharmaceuticals, cosmetics, health products, toiletries, medical devices, and service sector components such as logistics, marketing, print and electronic media, packaging, branding, and financing. Parallel with the increase in the number of affluent muslims, the halal industry has expanded further into lifestyle offerings including halal travel, hospitality service, and fashion. This development has triggered changes in consumers' mindset and ethical consumer trends worldwide.

The halal industry in Indonesia has gradually received attention from both the government and domestic industry players. President Joko Widodo and Vice President Ma'ruf Amin are pushing Indonesia to become one of the top leading producers of halal products by 2024 and at the same time, increasing exports of Indonesia's halal products.

Indonesia continues to rise in overall rankings. Its robust improvement and awareness across sectors have allowed the country to rank within the top 10 of

all sectors. Indonesia moved upwards 47 places and reach the fifth position in media and recreation indicator and 19 places and rank sixth in pharma and cosmetics indicator. This is mainly due to the country's outdoing other countries in awareness. Indonesia moved upwards eight positions in the halal food indicator ranking, helped by its exports to OIC countries.

In Islamic finance, Indonesia notices the increase in the value of sukuk and Islamic funds. The awareness of Islamic finance and demand for it is also strong. Indonesia holds the largest number of related events and ranked second in the number of research papers. Regarding media and recreation, Indonesia held 20 associated events in 2019, which resulted in the significant rise of its media and recreation indicator ranking. The Halal Product Assurance Law No.13/2014 came into effect at October 2019 and required mandatory halal certification for all halal products. This has led to significant growth in the halal food, pharma, and cosmetics sectors and a trend that is expected to continue.¹

Indonesia Sharia Economy Master Plan 2019-2024 as one of the soft law in promoting halal industry has mandated the utilization of digital economy. It suggests that new information technology and social media platform will be useful

to create synergy and provide access to the halal industry and market. The utilization of digital platforms to provide greater market access to the halal Industry is something that we need to explore going forward. As of now, we have not seen any synergy and strategy among all stakeholders in this area. It is in this spirit, the utilization of Indonesia Sharia Economy Master Plan 2019-2024 as the soft law comes to the fore to help promote Indonesia's halal industry.

This paper perceives that through the support from all stakeholders and digital diplomacy, Indonesia can catch-up to be one of the leading top producer of halal products, considering that 13% of the world's muslim population is estimated to be around 240 million individuals in the archipelago, in which Indonesia could emerge as a significant producer of halal products and supply its vast domestic market.

This paper further investigates the link between the utilization of Indonesia Sharia Economy Master Plan 2019-2024 as the soft law in promoting digital-based services with the promotion of the halal industry and SMEs in Indonesia. Furthermore, this paper also seeks the best strategy on how Indonesia can contribute, facilitate, and coordinate the digital way in the promotion of the halal industry.

1 The State of the Global Islamic Economy Report 2020/202, <https://cdn.salaamgateway.com/reports/pdf/456642acf95a783db590e5b104cae94046047101.pdf> (accessed 20 July 2021)

B. Research Method

This paper was written based on normative research. It analysed legal norms, including soft law on halal industry and SMEs as well as digital-based services. It is a descriptive-analysis paper based on systematic interpretation. This article took the analytical and qualitative approach to address the issue at hand. The data used was Indonesia Sharia Economy Master Plan 2019-2024 as the soft law and Omnibus Law on Jobs Creation (Law No. 11 of 2020) and Government Regulation No. 39 of 2021 on Halal Product Assurance.

Several terms used in this paper, among others:

1. Soft Law

Soft law is mostly defined to include hortatory, rather than legally binding obligations. Defining soft law this way presents at least two immediate challenges. First, it identifies the border between soft law and hard law, but it is vague with respect to the distinction between soft law and the absence of any obligation. The second challenge presented by soft law is its breadth. Anything that is "law-like" can be described as a form of soft law.²

2. Digital Diplomacy

There are multiple definitions of digital diplomacy. One of the reasons is because it still lacks official definition. For instance, there is no treaty or international convention which defines the meaning of digital diplomacy; Several organizations have attempted to form a concrete definition of the term, yet it continues to be used vaguely. Rashica tries to define digital diplomacy as a form of new public diplomacy, which uses the internet, new information and communication technologies (ICT) and social media to strengthen diplomatic relations.³

We are confronted with varying possibilities regarding the position of diplomacy in the digital age: gradual change and adaptation within the existing frameworks and principles versus a fundamental break with accepted patterns of behaviour, norms, and rules so that diplomacy starts to look fundamentally different. The term "digital diplomacy" then covers a multitude of meanings.⁴

Rashica further explains that the adoption of digital diplomacy by international subjects, mainly from the state, is based on several goals for the realization of which the latter ones are maximally engaged. The main goals for digital diplomacy are.

2 Andrew T. Guzman, "International Soft Law", the Journal of Legal Analysis, 2010

3 Viona Rashica, *The Benefits and Risks of Digital Diplomacy*, SEEU Review, 2018

4 Brian Hocking and Jan Melissen, "Diplomacy in the Digital Age", Clingendael, Clingendael Report, 2015

- a. Knowledge management: to harness departmental and whole of government knowledge, so that it is retained, shared and its use optimized in pursuit of national interests abroad.
- b. Public diplomacy: to maintain contact with audiences as they migrate online and harness new communications tools to listen to and target important audiences with key messages and influence major online influencers.
- c. Information management: to help aggregate the overwhelming flow of information and use this for better informed policy-making and help anticipate and respond to emerging social and political movements.
- d. Consular communications and response: to create direct and personal communication channels with citizens traveling overseas, with manageable communications in crises.
- e. Disaster response: to harness the power of connective technologies in disaster response situations.
- f. Internet freedom: the creation of technologies to keep the internet free and open. This is related to objectives of promoting freedom of speech and democracy as well as undermining authoritarian regimes.
- g. External resources: creating digital mechanisms to draw on and harness external expertise to advance

national goals.

- h. Policy planning: to allow for effective oversight, coordination, and planning of international policy across government, in response to the internationalization of the bureaucracy.

For the purpose of this paper, the digital diplomacy is closely perceived as the combination of external resources and policy planning. This paper demonstrates the link between digital diplomacy and the efforts to promote Indonesia's halal industry and make it possible by creating digital mechanisms and initiatives to gather support from all stakeholders and improve coordination and planning of policy in the halal industry across government.

3. Halal Industry and Halal Economy

No scholar has so far differentiated between the concept of halal Industry and halal economy. Indonesia Halal Lifestyle Centre defines halal economy as sectors whose core products and services are structurally affected by Islamic law. It means "everything under the sun" starting from halal food, modest fashion, halal travel, halal cosmetics, halal pharmaceuticals, halal media and recreation, and Islamic finance.⁵

On the other note, there is no clear concept on defining what halal industry really stands for. The State of the Global

5 Indonesia Halal Lifestyle Center, *Indonesia Halal Economy and Strategy Roadmap 2018/19*, 2018

Islamic Economy Report 2020/21 only elaborated that the global halal industry today is no longer confined to food and food-related products. The halal industry has expanded beyond the food sector there are pharmaceuticals, cosmetics, health products, toiletries, and medical devices and service sector components such as logistics, marketing, printing and electronic media, packaging, branding, and financing. Following the increase in the number of affluent muslims, the halal industry has expanded further into lifestyle offerings including halal travel and hospitality services and fashion. In this context, this elaboration from the State of the Global Islamic Economy Report, however, does not mention Islamic finance as part of the halal industry.

In this paper, the halal industry's scope comprises all product and services that are structurally affected by Islamic law. Accordingly, Islamic finance services and assets have been excluded from the scope of the halal industry. This has been done to focus the paper on efforts to digitalize the manufacturing and services industry besides the Islamic finance sector that have more recently been exposed to digital technology.

4. Subject and Means of Promotion in the Digital Era

Vienna Convention on Diplomatic Relations 1961 stipulates that one of the functions of a diplomatic mission is promoting friendly relations between the sending state and the receiving state, and developing their economic, cultural, and scientific relations; By this definition, state has been the only entity that promotes economic relations.

The practice of country promotion, and finding concepts to explain the phenomenon, has constantly been augmenting during the twentieth century under the spread of neoliberalism. It reached a climax at the beginning of the twenty-first century, due to the accelerated development of information technologies, the Internet and social media, those new "battlefields" for "winning the war on hearts and minds".⁶

As an impact, various specializations and actors emerge in country promotion, previously considered to be the province of governments. The increasing role of culture leads to the coagulation of a consistent corpus dedicated to cultural diplomacy⁷; as new actors come into country promotion, new concepts are being formulated, such as media

6 J. S. Nye Jr, *Public Diplomacy and Soft Power*, The Annals of the American Academy of Political and Social Science" 616(1), 2008

7 S. Mark, *A greater role for cultural diplomacy*, Netherlands Institute of International Relations (Clingendael), Discussion Papers in Diplomacy, 2009.

diplomacy,⁸ non-state actor diplomacy,⁹ corporate diplomacy,¹⁰ digital diplomacy and public diplomacy 2.0.¹¹ Although these concepts are new and subject to debate,¹² they indicate how the practice and interdisciplinary thinking about country promotion have recently developed, especially during the last decade.

The new media and social media offer these newcomers in international politics new opportunities to gain visibility and to emerge as public actors in an attempt to be recognized by states as dialogue partners. In this context, Madu (2018) argues that digital diplomacy promotes the use of ICT to fulfil the state's foreign policy goals by winning the hearts and minds of society, both in the home country and others. Instead of substituting, digital diplomacy has more to do with complementing traditional diplomacy. In the era of digital diplomacy, governments or non-state actors have objectives they want to secure and develop.

C. Discussion

1. Utilizing Soft Law to Connect Digital Diplomacy with Indonesia's Halal Industry and SMEs

The potentials and opportunities in the future of the global halal industry is vast and promising. However, its promising potentials have not been fully maximized. A USD 2.1 trillion global halal economics Indonesia represents roughly 10 percent of 2017 global spend, with only 3.8 percent of related exports.

Today's global halal market is no longer confined to food and food-related products. The halal industry has expanded beyond the food sector to include pharmaceuticals, cosmetics, health products, toiletries, and medical devices and service sector components such as logistics, marketing, print and electronic media, packaging, branding, and financing. This halal industry has expanded further into lifestyle offerings including halal travel and hospitality services and fashion. This development has been triggered by a revolutionary change in muslim consumers' mindset and modernized the industry as a whole.

Manurung (2019) pointed out three fundamental reasons. **First**, the halal industry has now expanded beyond the traditionally known scope of the food sector. Halal products today include cosmetics, pharmaceuticals, toiletries,

8 E. Gilboa, *Media diplomacy: Conceptual divergence and applications*, International Journal of Press/ Politics, 3(3), 1998

9 R. Langhorne, *The diplomacy of non-state actors*, Diplomacy and Statecraft, 16, 2005

10 W Henisz, *Corporate diplomacy: Building reputations and relationships with external stakeholders*, Sheffield, UK: Greenleaf, 2014

11 N. J Cull, *The long road to public diplomacy 2.0: The Internet in U.S. public diplomacy*, International Studies Review, 15(1), 2013

12 J.Melissen, *The new public diplomacy: Between theory and practice*, In J. Melissen (Ed.), *The new public diplomacy. Soft power in international relations*, pp. 3-27. New York, NY: Palgrave Macmillan, 2005

and penetrate the service industry, such as Islamic financing, logistics, tourism, marketing, travel agents, and mass media. **Second**, the muslim market share is enormous, with total followers of around 2.2 billion people. However, the halal market is non-exclusive to muslims. Halal product requires a set of rules that must be fulfilled because they must uphold ethical values, social responsibility, economic and social justice and animal welfare. It needs the promotion of ethical consumerism. the demand for halal-certified products from non-muslim consumers continues to increase. **Third**, the competitiveness of halal industry products and services accessing the international market.¹³

The Global Islamic Economic Report 2018/2019 (2019) stated that Indonesia is ranked 4th in the Global Islamic Economy. Indonesia continues to rise in overall rankings. Scoring strongly on awareness across sectors has ranked the country within the top 10 of all sectors. Indonesia moved upwards 47 places to reach the fifth position within the media and recreation indicator and 19 places to rank sixth in the pharma and cosmetics indicator. This is mainly due to the country outdoing other countries in awareness. Indonesia moved upwards eight positions in the halal food indicator ranking, helped by its exports to OIC countries.¹⁴

Indicator score breakdown for top 15 ranking countries

Country	GIEI	Halal Food	Islamic Finance	Muslim-Friendly Travel	Modest Fashion	Pharma & Cosmetics	Media & Recreation
1. Malaysia	290.2	209.8	389.0	98.3	43.7	80.2	59.9
2. Saudi Arabia	155.1	51.1	234.2	36.8	22.1	33.4	34.7
3. UAE	133.0	104.4	142.5	78.3	235.6	72.1	125.3
4. Indonesia	91.2	71.5	111.6	45.3	57.9	47.5	43.6
5. Jordan	88.1	39.6	124.6	43.3	18.5	39.1	31.6
6. Bahrain	86.9	42.2	121.9	31.9	16.7	33.5	42.3
7. Kuwait	73.3	42.2	99.2	27.1	17.5	33.3	40.8
8. Pakistan	70.9	54.7	91.1	23.6	30.6	32.5	12.9
9. Iran	64.0	60.5	74.0	28.8	33.5	55.9	26.6
10. Qatar	63.1	44.3	80.1	36.7	20.3	32.1	40.2
11. Oman	60.0	47.1	73.4	33.2	28.7	33.5	35.3
12. Turkey	55.9	70.7	49.9	62.7	75.1	43.3	34.6
13. Nigeria	53.1	20.7	76.6	14.1	19.8	21.6	16.7
14. Sri Lanka	49.2	27.3	66.6	13.3	26.2	20.1	18.4
15. Singapore	47.4	125.2	16.9	42.6	30.6	62.9	46.8

Source: State of the Global Islamic Economy Report 2020/21

During the launch of Indonesia Sharia Economy Master Plan 2019-2024 at 14 May 2019, President Joko Widodo pointed out Indonesia's aspiration to become the top producer of the global halal industry in 2024. To achieve this target, the master plan has laid out four strategies. **First**, is by strengthening the halal value chain that focus on sectors that are considered potential and highly competitive such as food, beverages, tourism, fashion, media, recreation, pharmaceuticals, and cosmetics. **Second**, is by strengthening the Islamic financial sector with a master plan that has been outlined previously in the Indonesian Sharia Financial Architecture Master Plan (MAKSI) and incorporated into the current master plan as the main driver of the halal value chain. Third, is by strengthening the small-medium enterprises (SME's) sector. Fourth, is by utilizing and enhancing the digital economy, especially trading (e-commerce, marketplace) and finance (financial technology) to encourage and

13 Hendra Manurung, *Indonesia Halal Industry and National Economy*, Article in Research Gate, 2019 Available from: <https://www.researchgate.net/publication/332439782>

14 The State of the Global Islamic Economy Report 2020/2021

accelerate the achievement of other strategies.

To carry out these four strategies, Indonesia Sharia Economy Master Plan 2019-2024 outlines several basic strategies that must be carried out, namely increasing public awareness, increasing the quantity and quality of human resources, strengthening research and development (R&D) capacity, and strengthening fatwas, regulations and governance.

Indonesia Sharia Economy Master Plan 2019-2024 as one of the soft law in promoting halal industry has mandated the utilization of digital economy. It suggests that new information technology and social media platform will be useful to create synergy and to provide access to the halal industry and market. It is in this spirit, the utilization of Indonesia Sharia Economy Master Plan 2019-2024 as the soft law comes to the fore to help promoting Indonesia's halal industry by connecting digital economy and digital diplomacy with Indonesia's halal industry and SMEs.

New information technology and digital platforms should be utilized to forge synergy while cultivating and providing access to the halal industry. The utilization of digital platform to provide greater market access to halal Industry including food and beverages is something that we need to explore going forward. As of now, we have not seen any synergy and strategy among all stakeholders in this

area. This is why digital diplomacy comes to the fore to help creating synergy in promoting Indonesia's halal industry.

2. The Utilization of Digital Platform to Provide Greater Market Access to Halal Industry

There are at least four goals on how Indonesia should strengthen its halal industry and SMEs:

- a. to show Indonesia's leadership as the largest muslim population in the world.
- b. to advance cooperation in the Indonesian halal industry with the Middle East, OIC Countries, and
- c. increase awareness and promotion of the halal industry domestically and internationally.

One of its goals is to increase awareness and promotion of the halal industry domestically and internationally. This is where the role of digital diplomacy could give effect. Digital diplomacy as a form of new public diplomacy, which uses the internet, new information and communication technologies (ICT) and social media can increase awareness and promote Indonesia's halal industry both domestically and internationally. This is also in line with the fourth strategy of Indonesia Sharia Economy Master Plan 2019-2024: the utilization of digital economy.

Digital diplomacy has a potential of reaching more than 4,5 billion of internet users both domestically and

internationally. It is also considered as the most effective tools to reach out 150 million active social media users in Indonesia. Thus, digital diplomacy could encourage its stakeholders and business sector to open greater access for halal products to enter e-commerce.

The Islamic industry has shown its tune with the latest developments in technology and investment. Companies have adopted blockchain technology for payments, to confirm halal compliance, or track food, cosmetics and pharmaceutical products from the manufacturing facility to the retailer. In Islamic finance, blockchain and automation are expanding access to financial services.

Smart technologies are being incorporated into clothing, such as the smart hijab, to GPS systems that show the closest prayer spaces. Equally, investment is taking place in artificial intelligence (AI), virtual reality (VR) and the internet of things, showing a readiness to respond to the needs of muslims in the 21st century.

Many leading countries like Saudi Arabia and Malaysia are starting to look at how the Fourth Industrial Revolution will help develop their halal industry. They are setting up proposals to take advantage of the latest technologies such as mobile apps, artificial intelligence, and robotics to boost international trade on the halal product.

One way that Indonesia could do to promote its halal industry is by endorsing

the utilization of digital platforms in providing greater market access to Indonesia's halal industry. This can be done through collaborative efforts with the private sector. Digital platforms such as Indonesia@ccess will be a good way-into start this initiative. Indonesia@ccess is a private-owned digital marketing arm of Indonesia to bridge international buyers and high-quality Indonesian products. Indonesia@ccess strives to empower Indonesian businesses to succeed and flourished in the global market by enabling easy access to curated Indonesian product. Indonesia@ccess also supports small-medium enterprises (SME's) to export abroad and offer their products online on its business-to-business (B2B) platform.

3. Omnibus Law and Digital-Based Platform in Implementing the halal assurance

On 2 November 2020, Indonesia enacted Law No. 11 of 2020 on Job Creation (Omnibus Law), covering amendments to various laws and regulations in Indonesia, including on halal product assurance. Article 48 and Article 185 (b) of the Omnibus Law mandated the government to issue new regulations to implement the amendments.

On 2 February 2021, the government also issued an implementing regulation in the form of Government Regulation No. 39 of 2021 on Halal Product Assurance (GR 39/2021), which replaced the pre-

existing regulations on halal product assurance in Government Regulation Number 31 of 2019 on Halal Product Assurance (GR 31/2019).

GR 39/2021 emphasizes that the BPJPH will use integrated electronic-based services in implementing the halal assurance. Furthermore, if any disruption that causes the electronic-based services to be disabled BPJPH will conduct the service manually.

This indicates further the commitment from the government to integrate all licensing processes into a unified (and hopefully simpler) electronic-based system, which presumably will be interconnected with the other government-run electronic platform for general license administration, i.e., the Online Single Submission (OSS).

Although GR 31/2019 has already hinted at the focused use of electronic-based services, GR 39/2019 also adds that if BPJPH has not yet implemented the electronic-based services as mandated under the regulation, BPJPH can only carry out manual services for one year after the enactment of GR 39/2019, i.e., until 2 February 2022.

Furthermore, according to Law No. 11 of 2020, in obtaining halal certification, micro and small businesses must submit a statement about the certainty of halal products based on BPJPH standards. BPJPH will only rely on the statement to issue the halal certificate, provided that the product is not at risk or uses

materials that have been confirmed to be halal and the production process has been ascertained to be halal and straightforward. In addition, under the new regulation, micro and small businesses will not have to pay any fee concerning halal certification process.

D. CLOSING

Throughout the deliberation in this paper, this policy paper concludes and propose some recommendations as follows.

- a. The utilization of Indonesia Sharia Economy Master Plan 2019-2024 as the soft law in promoting digital-based platforms to promote the halal industry and SMEs should be one of Indonesia's priorities in the near future. The government and related stakeholders should implement Indonesia Sharia Economy Master Plan 2019-2024 which has been materialized since 14 May 2019.
- b. As the largest muslim population in the world, Indonesia should strive to utilize Indonesia Sharia Economy Master Plan 2019-2024 as the soft law as the basic position for negotiation on its halal cooperation framework with partners. One of the aspects that should be put forward by Indonesia is the promotion of digital-based platform which could be complimentary to the existing economy diplomacy in promoting halal products from SMEs. Collaboration and cooperation with

related stakeholders from ministries and private sectors will be vital in promoting the master plan to boost the utilization of digital-based services with the promotion of the halal industry and SMEs in Indonesia

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