

INTERRELATING STATE AND RELIGIOUS LAWS ON HALAL  
TOURISM IN INDONESIA

ESTADO INTER-RELACIONADO E LEIS RELIGIOSAS SOBRE O  
TURISMO HALAL NA INDONÉSIA

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ABSTRACT

**Objective:** This research aims to describe the interrelating state and religious laws on halal tourism in Indonesia.

**Methods:** This research is a type of qualitative research in the form of a systematic literature review, this research is descriptive. The main data of this research are all regulations regarding halal tourism in Indonesia which originate from state and religious law. Structured library research data analysis techniques have been used in this research.

**Results:** The findings of this research conclude that the state laws which are used as the legal basis for halal tourism in Indonesia are Law Number 33 of 2014 concerning Guarantees of Halal Products and Law Number 10 of 2009 concerning Tourism. The findings of this library research show that the two-state laws do not directly regulate the technical implementation of halal tourism and do not even find articles related to halal tourism.

**Conclusion:** The study concludes that the two state laws only play a role as a complementary legal basis for halal tourism in Indonesia. Even so, the two laws remain a source of reference for regulations for ministries and regional governments in developing halal tourism. The Minister of Tourism and Creative Economy 2014 issued Ministerial Regulation Number 2 of 2014 concerning Guidelines for Implementing Sharia Hotel Businesses. Several local governments have issued regulations on the implementation of halal tourism through governor regulations, such as the Provinces of West Nusa Tenggara, West Sumatra, Aceh, and Riau. Comprehensive regulations related to halal tourism can be found in the religious law issued by the Indonesian Ulema Council (MUI) as a representation of the relationship between Muslim scholars



and governments who respect and complement each other. This religious law has been reflected in the DSN-MUI Fatwa Number 08/DSNMUI/X/2016 concerning Guidelines for Organizing Tourism Based on Sharia Principles. All rules and regulations regarding halal tourism originating from state law and religious law relating to halal tourism are interrelated and mutually supportive. The difference only lies in the side of the legal force, state law has binding legal force, and religious law is the opposite.

**Keywords:** state law; religious law; halal tourism; Indonesia.

## RESUMO

**Objetivo:** Esta pesquisa tem como objetivo descrever as leis estaduais e religiosas inter-relacionadas sobre o turismo halal na Indonésia.

**Métodos:** Esta pesquisa é um tipo de pesquisa qualitativa na forma de revisão sistemática da literatura, esta pesquisa é descritiva. Os principais dados desta pesquisa são todas as regulamentações relativas ao turismo halal na Indonésia que se originam de leis estaduais e religiosas. Técnicas estruturadas de análise de dados de pesquisa em bibliotecas foram utilizadas nesta pesquisa.

**Resultados:** As conclusões desta pesquisa concluem que as leis estaduais que são usadas como base legal para o turismo halal na Indonésia são a Lei Número 33 de 2014 relativa às Garantias de Produtos Halal e a Lei Número 10 de 2009 relativa ao Turismo. As conclusões desta pesquisa bibliográfica mostram que as leis dos dois estados não regulam diretamente a implementação técnica do turismo halal e nem sequer encontram artigos relacionados ao turismo halal.

**Conclusão:** O estudo conclui que as duas leis estaduais desempenham apenas um papel como base jurídica complementar para o turismo halal na Indonésia. Mesmo assim, as duas leis continuam a ser uma fonte de referência para regulamentações para ministérios e governos regionais no desenvolvimento do turismo halal. O Ministro do Turismo e Economia Criativa de 2014 emitiu o Regulamento Ministerial Número 2 de 2014 relativo às Diretrizes para a Implementação de Negócios Hoteleiros da Sharia. Vários governos locais emitiram regulamentos sobre a implementação do turismo halal através de regulamentos governamentais, como as províncias de Nusa Tenggara Ocidental, Sumatra Ocidental, Aceh e Riau. Regulamentações abrangentes relacionadas ao turismo halal podem ser encontradas na lei religiosa emitida pelo Conselho Ulema da Indonésia (MUI) como uma representação da relação entre estudiosos muçulmanos e governos que se respeitam e se complementam. Esta lei religiosa foi refletida na DSN-MUI Fatwa Número 08/DSNMUI/X/2016 relativa às Diretrizes para a Organização do Turismo com Base nos Princípios da Sharia. Todas as regras e regulamentos relativos ao turismo halal originados da lei estadual e da lei religiosa relativa ao turismo halal estão inter-relacionados e apoiam-se mutuamente. A diferença está apenas no lado da força legal, a lei estadual tem força jurídica vinculativa e a lei religiosa é o oposto.

**Palavras-chave:** lei estadual; lei religiosa; turismo halal; Indonésia.



## 1 INTRODUCTION

Indonesia has 17,504 islands, Indonesia is the world's biggest archipelago; the term "archipelago" is also frequently used (Pudjiastuti, 2018). At present, Indonesia has 268,074,600 million inhabitants. As a result, Indonesia now ranks fourth in the world for population. With about 220 million Muslims or almost 87% of Indonesia's overall population, it is the nation with the biggest Muslim population in the world. This figure corresponds to 12.75% of the global Muslim population (Nur, 2021). However, the State of Indonesia recognizes the following religions: Buddhism, Confucianism, Hinduism, Christianity, Islam, and Hinduism.

Based on a large island, various ethnicities, and religions, the Indonesian Archipelago is unique (Widianto & Noerwidi, 2023). This uniqueness encourages the existence of tourist destinations. Tourist destinations in Indonesia are also heavily influenced by religion, one of which is religious tourism. Halal tourism emerged from the advent of religious tourism. Two distinct things, however, religion has an impact on both. Travel to halal destinations is more frequent than travel to religious destinations because it is not limited to houses of worship or specific religious artifacts; rather, any trip can be considered halal as long as it satisfies the requirements outlined by Islamic Sharia. Thus, there needs to be a national policy regarding halal travel. This policy is important because it regulates and protects the rights and obligations of organizers and users of halal tourism (Susilawati, 2019).

Additionally, one of the nations where tourism is expanding the quickest worldwide is Indonesia (Adinugraha, 2021). This is marked by Indonesia's entry into 9th place with a total score of 14.25 in the World Travel & Tourism Council in 2018. Even though history, Indonesian Tourism has rarely heard of its achievements in an institution that oversees the travel and tourism industry in this world. Indonesia's success is due to Indonesia's tourism sector which has continued to increase for seven years in four indicators (Adinugraha & Sartika, 2022). In addition, still in 2018, Indonesia was the nation with the highest increase in tourism in Southeast Asia, ranking first overall, and third in Asia. The tourism sector also has a strategic role in creating added value to the national economy, making a significant contribution to the Indonesian economy, and absorbing a large number of workers. Apart from absorbing a lot of manpower, contributing to the National GDP, and contributing



foreign exchange, Indonesian tourism also increases investment. In the UNWTO report, it is stated that tourism is the key to development, prosperity, and well-being. This is evident from the expansion of travel locations around the globe, which are beginning to invest in and open up for travel (Mukarromah & Adinugraha, 2022).

Halal tourism offers Muslim travelers a warm and welcoming travel experience (Izzudin & Adinugraha, 2021). Halal tourism is thought to be able to raise the community's economic standing rather than contradict, let alone eradicate, local knowledge. The Indonesian tourism industry, which includes halal travel, benefits the world economy as well (Adinugraha et al., 2020). According to the Mastercard & Crescent Rating (2018), the market share of Muslim tourists is increasing quickly; in fact, it is projected to reach USD 220 billion in 2020 and USD 80 billion to USD 300 billion in 2026. There were 131 million Muslim visitors worldwide in 2017, up from just 121 million in 2016. It is anticipated that there will be an additional 156 million tourists by 2020. Ten percent of the travel industry's overall segmentation is represented by this figure. The State of the Global Islamic Economy Report 2018/2019 not only validates the aforementioned data but also projects that the halal tourism sub-sector will grow to USD 274 billion by 2023.

The growing national income sector is another indicator of the beneficial effects of the growing halal tourism trend on Indonesia's macro economy (Adinugraha et al., 2021). Therefore, Indonesia must keep improving in several areas, including infrastructure and facilities, technology, human resources, training and development, and regulation, if it hopes to sustain the growth of halal tourism and draw in more foreign visitors, particularly from the Middle East.

Since halal tourism has a lot of potential, it must be developed and promoted to the fullest extent possible to benefit society (Shodik et al., 2022). Unfortunately, its existence is not supported by strong regulations in the form of laws or ministerial regulations that have binding legal force. Law Number. 10 of 2009 regulating Tourism is the regulation that is now in force for halal tourism. According to Law Number 10 of 2009, Chapter II, Article 2, the concept of benefit guides how tourism is organized; kinship; fair and equitable; balance; independence; sustainability; participatory; sustainable; democratic; equality; and unity (Susilawati, 2019).

Based on a report from the Global Muslim Travel Index 2021 in July 2021, it reported that Indonesia's ranking in halal tourism was in fourth place in the world.



Based on the report, six countries occupy the top position. They are Malaysia, Turkey, Saudi Arabia, Indonesia, United Arab Emirates (UAE), and Qatar. This position further strengthens Indonesia as a country with halal tourism destinations in Indonesia (Busaini et al., 2023).

The government continues to develop halal tourism in a massive and planned manner. Starting from the preparation of legislation, infrastructure, and funding aspects (Indonesia Investments, 2019). However, regulations are still not ready. One of the actions taken by the government in supporting the development of halal tourism in Indonesia is foreign investment from the United Arab Emirates (UAE) which will participate in realizing halal tourism in Indonesia. Even though plans for cooperation with other countries have been carried out, halal tourism has not yet been regulated in laws and regulations. As of right now, Law Number 10 of 2009 concerning tourism (tourism law) is referred to as halal tourism. As mentioned in Article 1 Point 3, tourism is a range of tourism-related activities and is backed by a range of facilities and services offered by the public, private sector, federal government, and municipal governments. The notion of halal tourism is not made clear in the definition. Nonetheless, if the term “various kinds of tourism activities” is understood grammatically, it indicates that halal tourism events are permitted in Indonesia by Sharia law. Interestingly, Ministerial Regulation Number 2 of 2014 concerning Guidelines for Implementing Sharia Hotel Businesses was released by the Minister of Tourism and Creative Economy of the Republic of Indonesia in 2014 (Adinugraha et al., 2023).

The regulation of the Minister of Sharia Hotel Business does not cover all aspects of halal tourism even though the implementation of a Sharia hotel business is part of halal tourism, but this is not enough (Famulia & Maulidiana, 2022). Another note is regarding terminology. Halal tourism is not yet known in the construction of Indonesian law. Halal tourism terminology refers to policies issued by the government. However, the terms “sharia tourism” and not “halal tourism” are used in the Memorandum of Understanding Number NK.11/KS.001/W.PEK/2012 and Number B-459/DSN-MUI/XII /2012 concerning the development and dissemination of sharia tourism between the Ministry of Tourism and Creative Economy and the National Sharia Council-Indonesian Ulema Council (DSN-MUI). Regulating the Revocation of the Minister of Tourism and Creative Economy Number 2 of 2014





concerning Guidelines for Implementing a Sharia Hotel Business, however, was issued later in 2016 and repealed the Minister of Tourism and Creative Economy Regulation (Regulation Number 11 of 2016). In actuality, there are no laws controlling this kind of halal travel. Following the revocation of this Ministerial Regulation, the Indonesian Ulema Council, the Indonesian Sharia Council, and DSN-MUI issued Fatwa Number 108/DSN-MUI/X/2016 regarding Guidelines for the Implementation of Sharia-Based Tourism, which governs the operation of hotels, Sharia travel agencies, and tourist attractions. But in Indonesia, this fatwa is not a legally binding decree (Susilawati, 2019).

Drawing from the aforementioned reasoning, scholars have identified the issue that halal tourism has not yet been subject to precise regulations. This is because extant laws serve merely as a means of complementarity, and the DSN-MUI Fatwa is not a basis for legality. Suitable since it is not a binding legal decree; therefore, for this fatwa to have legal force, it must first be modified and made into law. Because of this, scholars are curious to learn more about how Indonesian state and religious legislation relate to halal travel.

## 2 METHODS

This study is a descriptive qualitative research that takes the form of a systematic literature review (SLR) (Sugiyono, 2018; Moleong, 2018). To ascertain, assess, and construe any pertinent study findings about research questions, subjects, or phenomena concerning the interlocking governmental and religious regulations on halal tourism in Indonesia, this systematic literature review was carried out. The primary source of data for this study is Indonesian rules on halal tourism, which are derived from both state and religious laws. In this study, structured library research data analysis methodologies were employed.

There are five stages of this SLR research (Boell & Cecez-Kecmanovic, 2016), namely formulating the problem, searching for literature (identification), selecting the results of the literature search that following the quality assessment (screening and feasibility); analyzing the results of literature from articles that passed the quality



assessment; and make research conclusions about interrelating state and religious laws on halal tourism in Indonesia.

## 3 RESULTS AND DISCUSSION

### 3.1 HALAL TOURISM DEVELOPMENT PRIORITIES IN INDONESIA

In Indonesia, it is massively echoed regarding halal tourism, but, unfortunately, the regulations to regulate halal tourism itself have not been regulated (Maskuroh, 2023). So far, regulations for halal tourism have only been based on Law Number 10 of 2009 concerning Tourism, even though the Indonesian Sharia Council, the Indonesian Ulema Council, has issued Fatwa Number 108/DSNMUI/X/2016 concerning Guidelines for Implementing Sharia-Based Tourism. However, if the fatwa issued by the MUI is not outlined in the form of a law or ministerial regulation by the Ministry of Tourism, then the fatwa will not apply effectively (Faizin, 2023).

Many positive impacts have been felt by the existence of halal tourism in Indonesia, especially the positive impacts on the economy and employment. Regulations related to halal tourism can be made in the form of Governor Regulations or Regional Regulations, such as West Nusa Tenggara Provincial Regulation Number 2 of 2016 concerning Halal Tourism in Lombok, West Nusa Tenggara, which cannot apply in its entirety. In the sense that the Regional Regulation only applies to Lombok, West Nusa Tenggara (Hidayatul Sibyani & Wachid Wahyu Adiwianto, 2023). In this case, the Ministry of Tourism must move quickly to create this regulation. If it is not made immediately, it will create confusion for actors involved in halal tourism when they are going to run their business because there are no guidelines to follow.

Why should there be regulations regarding halal tourism, most importantly? This is because, after the existence of the halal tourism regulations, there will be further policies to support the development of this halal tourism. Then 10 priority stages for the development of halal tourism in Indonesia have been planned by the Indonesian government, namely: 1. Halal tourism regulation; 2. Certification and standardization; 3. Muslim visitor guide; 4. Development and research; 5. Monitoring and evaluation of IMTI (Indonesian Muslim Travel Index); 6. Monitoring and



evaluation of DSAP (Design, Strategy, Action Plan); 7. Attraction and halal tour packages; 8. Strengthening understanding of halal tourism; 9. Marketing Outreach; and 10. Digital information system (Farizkhan et al., 2023).



Figure 1. 10 Priorities for Halal Tourism Development in Indonesia

Based on the picture above, to increase the development of halal tourism in Indonesia, the government plans 10 priority stages for the development of Indonesian halal tourism which will be carried out in stages. The first step taken is to make laws and regulations that become the legal basis for implementing halal tourism in Indonesia. This rule is needed to provide legality for each policy taken at a later stage; People often think that without being certified or standardized, the charm of tourism in Indonesia is mostly halal. But when foreign tourists come to Indonesia, we can't justify that. People will immediately see how the certification is there or not, whether it meets the standards or not. This is also specific to Indonesian halal tourism standards; Halal tourism is synonymous with Muslim tourists, even though this tour can be enjoyed by all groups. The Muslim visitor guide program is expected to further increase the attractiveness of Muslim tourists visiting tourist destinations in Indonesia; Development and research are also needed to increase the competitiveness and quality of the existing tourism industry. How can we assess the development of halal tourism from Indonesia's competitor countries, one of which can be overcome with this stage; Each policy requires monitoring and evaluation as capital for improving policies that have been implemented, including in the



development of halal tourism. IMTI monitoring is carried out according to GMTI. Indonesia has adopted the aspects of development and assessment from GMTI to IMTI. This requires evaluation and motoring; Evaluation and monitoring of the design, strategy, and action plan aspects are also expected to be able to provide improvements to the policies that have been implemented; Increasing the attractiveness and improving the quality of halal tour packages is the next stage to be developed. The goal is to increase the number of tourists to Indonesia, of course; Many people do not understand the concept of Indonesian halal tourism so it has a huge impact on its development in the country. The word halal is identified with a religion which is considered a pattern of spreading religion, even though this is included in the aspect of the tourism business. Then the understanding will continue until all elements understand the urgency and potential for halal tourism which is quite large for Indonesia; Marketing is something that will continue to be developed to attract tourists to Indonesia. Including Muslim tourists who are the main consumers of halal tourism. However, this does not rule out the possibility that this halal tourism is carried out even for non-Muslim tourists because there is a value that tourists can enjoy from the concept of halal tourism presented; Digital information systems will be very helpful, facilitate and increase visits by foreign tourists. Services presented digitally will give the impression of professional, sophisticated, and advanced management. This is needed to increase the confidence of foreign tourists coming to Indonesia. In addition, this system will also make it easier for tourists to make visits, take a look at the tourist attractions they will visit, and decide to visit.

Based on the ten stages described above, it can be seen that there are still a lot of policies that need to be further regulated for the development of halal tourism if a halal tourism regulation is formed later. Because we already know for ourselves that Indonesia has a very supportive potential to become a halal tourist destination in the coming year, but still with weak regulations, will be a separate stumbling block for halal tourism in Indonesia. Especially after the Covid-19 pandemic ends, of course, there will be waves of tourists, both Muslim and non-Muslim who are ready to go on vacation and meet tourist destinations in Indonesia, from this the government should be more alert to immediately make regulations related to tourism, and especially halal tourism (Christanti et al., 2023).



There should be an award for Indonesian halal tourism which is always superior in foreign countries, it must be balanced with other related matters, such as the acceleration of regulations that are adequate and certain to be used as guidelines in the implementation of halal tourism in Indonesia. Regarding the existence of halal tourism in Indonesia, several things should be taken into consideration and implemented by the Indonesian government, particularly the Ministry of Tourism (Manan et al., 2023). These are summed up in three key areas:

First, the acceleration of special regulations regarding halal tourism, because during its development halal tourism was only guided by the Tourism Law, which incidentally only regulates tourism in general. This is to avoid a legal vacuum that regulates specifically related to halal tourism if later legal cases are found that occur in halal tourism in Indonesia.

Second, there is regular coordination in updating halal tourism regulations in Indonesia between the institutions that oversee halal certification and standardization, namely the Indonesian Ulema Council and the Ministry of Tourism. This relates to positive regulations or fatwas issued by the MUI regarding halal tourism by the Ministry of Tourism so that they apply thoroughly and effectively in Indonesia.

Third, preparation for other matters besides accelerating regulations on halal tourism, such as adequate updating of science and technology in line with the development of an increasingly modern era in the field of halal tourism (Ramadhani, 2021).

### 3.2 THE URGENCY OF HALAL TOURISM REGULATION IN INDONESIA

Indonesia has been identified as having significant potential to become a worldwide hub for halal tourism because of its natural beauty, cultural richness, and home to the biggest Muslim population in the world, according to the Mastercard-Crescent Rating Worldwide Travel Market Index Report. It is also important to recognize the efforts undertaken by the Republic of Indonesia's Ministry of Tourism to position Indonesia as a hub for halal travel destinations. It's crucial to remember, though, that the growth of halal tourism requires more than just aggressive marketing to achieve a certain place on the world stage; robust rules must also serve as a



foundation for future advancements. Indonesian halal tourism is categorized as weak from a regulatory perspective since it is not subject to any particular legislation or ministerial regulations (Budiman & Mukhtar, 2023).

Thus far, Law Number. 10 of 2009 concerning Tourism has served as the foundation for halal tourism operations (Muksalmina et al., 2023). This law does not govern halal travel; rather, it regulates tourism in general. “A variety of tourism activities supported by various facilities and services provided by the community, businessmen, government and local government” is what the legislation defines as tourism. (Point 3 of Article I). The tourism industry encompasses a wide range of industries, such as providing transportation for tourists, organizing tours and trips, providing food and drink services, planning events and entertainment, planning conferences, organizing meetings and incentive travel, planning exhibitions, planning spas, and more (Section 14). The term “various kinds of tourism activities” in the definition of tourism suggests that it is acceptable to engage in tourism activities based on Sharia principles, even though the term “halal tourism” is not used specifically in the article above.

The features of halal tourist business activities differ from those of tourism business operations in general. By offering a range of amenities and services by Sharia regulations, halal tourism company activities incorporate Sharia principles into the tourism industry. The Ministry of Tourist and Creative Economy released Ministerial Regulation Number 2 of 2014 concerning Guidelines for Implementing Sharia Hotel Businesses to promote and assist halal tourist business ventures. Based on a Memorandum of Understanding regarding the Development and Socialization of Sharia Tourism, Numbers NK.11/KS.001/W.PEK/2012 and B-459/DSN-MUI/XII/2012, the Ministry of Tourism and Creative Economy, and the National Sharia Council-Indonesian Ulema Council (DSN-MUI) issued this Ministerial Regulation. The Ministerial Regulations mentioned above, in general, offer standards and guidance for implementing the Sharia hotel industry.

The Minister of Tourism Number 11 of 2016 revoked Ministerial Regulation Number. 2 of 2014, which was about Guidelines for the Implementation of Sharia Hotel Business, since it was deemed outdated given the current demands and advancements in the tourism industry. Furthermore, Regulation Number 1 of 2016 about the Implementation of Tourism Business Certification was released by the



Minister of Tourism. This law governs the accreditation of halal tourism businesses. The Minister of Tourism of the Republic of Indonesia Number 12 of 2016 concerning Amendments to the Minister of Tourism Regulation Number 1 of 2016 concerning the Implementation of Tourism Business Certification, however, also repealed the regulation's article about halal tourism business certification. There are essentially no longer any restrictions controlling halal tourism following the annulment of the aforementioned ministerial regulations.

Based on the description above, this makes halal tourism players confused about when they are going to run their business because there are no guidelines to follow. Once in a province, when the local government wanted to run a Sharia hotel business, it didn't work because there were no guidelines that could be followed anymore. After all, the Ministerial Regulation had been revoked. The existence of several travelers who claim to have Sharia hotel facilities is only a unilateral claim (self-claim) without clear certification.

The Guidelines for Organizing Sharia-Based Tourism were outlined in Fatwa Number 108/DSN-MUI/X/2016, which was released by the Indonesian Sharia Council of the Indonesian Ulema Council DSN-MUI in 2016. Hotels, spas, saunas, massage therapists, tourist destinations, and travel agents are among the tourism-related industries it regulates. However, if the fatwa is not implemented positively by the tourism minister in the form of a regulation, it will not be effective. As a result, based on the DSN-MUI fatwa, the government is required to establish regulatory requirements for lodging facilities, spas, saunas, and messages as well as for tourist attractions and travel companies right away.

The promotion of halal tourism carried out by the Ministry of Tourism at this time deserves to be appreciated, but this is not directly proportional to the regulations that govern it. The ranking of halal tourism globally may increase, but it is not supported by Sharia-standardized business facilities. This is evidenced by the small number of Sharia hotels and halal restaurants operating in Indonesia. As is the case in West Nusa Tenggara (NTB), halal tourist arrangements might be created in the form of regional regulations or governor regulations. Therefore, the Ministry of Tourism is expected to immediately issue various regulations related to halal tourism which can be used as national guidelines so that halal tourism in Indonesia can



further develop and be supported by strong business activities (Rasyid, 2018). These facts have proven how important the regulation of halal tourism is in Indonesia.

### 3.3 DEVELOPMENT OF INDONESIAN STATE LAW ON HALAL TOURISM IN INDONESIA

Law Number. 10 of 2009 about Tourism, Article 2, contains the same principles that are applied by halal tourism. These principles include the principles of benefit, kinship, justice, and equity (Atsmara & Kusuma, 2014). However, Article 3 of Chapter II Principles, Functions, and Purposes also notes that the purpose of tourism is to satisfy each visitor's physical, spiritual, and intellectual demands through travel and recreation while also generating more state income to support the welfare of the populace.

Additionally, according to Article 4, tourism seeks to: a) boost economic growth; b) enhance people's welfare; c) end poverty; d) combat unemployment; e) protect nature, the environment, and natural resources; f) promote culture; g) improve the nation's image; h) cultivate a sense of love for the homeland; i) strengthen national identity and unity; and j) strengthen international friendships. Point F, which is advancing culture, provides at least a summary of halal tourism according to this article (Michael, 2019).

A description of halal tourism can also be found in Chapter III, Article 5, paragraphs 1, 2, and 3. Paragraph 1 states that tourism is structured around the idea of preserving cultural values and religious norms as the physical manifestation of the idea of living in a harmonious relationship between people and God Almighty. Almighty One, humankind's relationships with one another and the environment; paragraph 2: respect human rights, cultural variety, and indigenous knowledge; and paragraph 3: offer advantages for the well-being of people, justice, equality, and proportionality.

The National Tourist Development Master Plan, which comprises a National Tourism Development Master Plan, a Provincial Tourism Development Master Plan, and a District/City Tourism Development Master Plan, is the foundation upon which tourist development is prepared, according to Article 8 Paragraph 1. According to Article 8, Paragraph 2, the national long-term development strategy includes tourism





development, as mentioned in Paragraph 1. Article 9 clarifies that a government regulation governs the national tourism development master plan, which is referenced in paragraph 8 paragraph (1). District/city tourist development master plans are governed by Regency/City Regional Regulations, while province tourism development master plans are governed by province Regulations, which are similar to government regulations. Involving stakeholders, the aforementioned tourism development master plan is prepared.

Following Ministerial Regulations, entrepreneurs in the tourism industry are required to register their firms with the Central Government or Regional Government under Article 15's business standards. Article 26 states that competency levels must be met by workers in the tourism industry.

The National Tourism Development Master Plan Chapter II Article 2 in Government Regulations Number. 50 of 2011 explains, concerning Article 8 of Law Number. 10 of 2009, that the scope of Indonesian tourism included institutions, marketing, the tourist sector, and Indonesian tourism sites. Regarding the competency standards that employees in the tourism industry are required to possess, as stated in Article 26, this is also explained in Article 1 Government Regulations Number. 52 of 2012 concerning Competency Certification and Business Certification in the Tourism Industry. In this instance, Professional Certification Agencies implement the competency standards, and Business Certification Bodies implement the Tourism Business Standards.

Article 14 of Law Number 10 of 2009 further regulates the tourism industry. It defines the tourism facility business as the operation of tourist attractions, tourism areas, lodging, entertainment, and recreational activities, as well as meetings, incentive trips, conferences, and exhibitions. Transportation services for tourists, tour guide services, tourism information services, food and beverage services, tour travel services, and tour consultant services are all part of the tourism service industry.

The Ministerial Regulation of the Minister of Tourism and Creative Economy Number 2 of 2014 concerning Guidelines for Implementing Sharia Hotel Businesses was previously released by the Ministry of Tourism. It provided standardization and guidance for the establishment of Sharia hotels. The criteria for Sharia-based hotels are broken down into two categories—the first and second crescent moon—in this ministerial regulation. However, after receiving a lot of feedback from different sector



organizations, the Minister of Tourism and Creative Economy Regulation Number 11 of 2016 and the Minister of Tourism Number 2 of 2016 2014 officially revoked it in 2016.

The Government enacted Law Number 33 of 2014 about Guarantees for Halal Products in the same year, 2014. It includes a description of how the Halal Product Assurance Organizing Body will go about halal business certification. The government created BPJPH as an organization to oversee Halal Product Assurance. The ministry, the MUI, and the Halal Guarantee Agency can collaborate with this BPJPH. The items and/or services in question pertain to food, drinks, medications, cosmetics, chemicals, biological products, genetically modified products, and utility goods that are used, utilized, or consumed by the general population. The Ministry of Tourism eventually specified Law Number 33 of 2014 as the legal foundation for establishing halal tourism in Indonesia as there were no laws about halal travel.

Moreover, Regulation of the Minister of Tourists of the Republic of Indonesia Number 1 of 2016 concerning the Implementation of Tourism Business Certification was released by Minister of Tourism Arief Yahya in 2016. This regulation included guidelines for halal tourist business certification. But once more, the Ministerial Regulation's section on the halal tourism industry was removed.

Government Regulation Number 31 of 2019 concerning the Implementation of Law Number 33 of 2014 concerning Guarantees for Halal Products was released by the government in September of that year. The implementation of Law Number 33 of 2014's requirements, notably Article 11 about collaboration between BPJPH and relevant ministries and/or organizations, the Halal Guarantee Agency, and MUI is addressed by Government Regulations Number 31 of 2019, Provisions on the Halal Assurance Agency under Article 16, Regarding the location, size, and PPH tools, see Article 21 Paragraph 3 Article 47 paragraph (4) concerning the administration of international product registration, Article 52 concerning Halal Product Assurance supervision, Article 67 paragraph (3) on provisions regarding the kinds of products that are halal certified, Article 44 paragraph (3) concerning the cost of halal certification, and Article 46 paragraph (3) regarding Halal Product Assurance cooperation.

The above articles' arrangements are further regulated in Government Regulations Number 31 of 2019, which deals with cooperation between BPJPH and



related ministries and/or institutions. Articles 4 through 24 of Chapter II Cooperation in the Implementation of Halal Products regulate the Halal Guarantee Agency and MUI. Articles 30 through 42 of Chapter III of Halal Guarantee Institutions regulate provisions regarding Halal Guarantee Institutions. Chapter IV Location, Place, and Halal Product Processing Equipment, which deals with PPH locations, places, and tools, is regulated. Articles 43–60 of Chapter IV; and Articles 61–63 of Chapter V contain provisions regarding Halal Certification Fees. Articles 64–67 of Chapter VI Procedures for Registration of Foreign Halal Certificates contain provisions regarding International Product Registration. Articles 75–80 of Chapter VIII Concerning Supervision contain provisions regarding Halal Product Assurance supervision. Articles 68–74 of Chapter VII Phases of Types of Products that are Halal Certified contain provisions regarding Halal Product Assurance-certified product types.

At the very least, Government Regulation Number 31 of 2019 makes it clear that every product that is sold in Indonesia must have a halal label. As is well known, Law Number 33 of 2014 covering Guarantees for Halal Products is a frequently discussed topic in the Business Discussion between the European Union and Indonesia. Entrepreneurs believe that it is more appropriate to voluntarily include a halal label rather than make it required. Following the release of Government Regulations Number 31 of 2019 as the implementing rule for Law Number 33 of 2014 concerning Guarantees for Halal Products, it is evident that this law is legally required, requiring Indonesian business owners to include a halal label on every product that is in circulation. The researcher is unable to locate full rules about halal tourism, despite the existence of regulations that form the legal basis for halal tourism. This indicates that the introduction of halal tourism in Indonesia is only enhanced by these rules. For halal tourism to be utilized by both travelers and halal tourism business owners, it still needs key rules that may be used as guidelines in the implementation of halal tourism (Susilawati, 2019).

### 3.4 REFERENCE TO STATE REGULATIONS IN ORGANIZING HALAL TOURISM IN INDONESIA

Currently, to organize halal tourism in Indonesia which is of higher quality and has good productivity, references to statutory regulations are needed that regulate



various forms of implementation related to halal tourism (Nurjaya et al., 2021). The term halal tourism is no longer just a program without clear references. The Indonesian government has formulated various forms of regulations that regulate and facilitate the management of halal tourism in Indonesia.

The National Sharia Finance Committee has coordinated Indonesia as the center of the World Islamic economy with tourism as one of the main sectors. While Bank Indonesia through the Department of Islamic Economics and Finance in 2019 dedicated a special program that supports halal tourism as a foreign exchange earner and maintains currency stability. The above has further strengthened the existence of halal tourism in Indonesia as an important aspect in the framework of increasing national economic figures (Effendi et al., 2021).

The reference for implementing halal tourism in Indonesia is divided into three aspects, each of which refers to existing laws. These three aspects include 1) Guidelines for Organizing Halal Tourism Destinations. The reference for its implementation is Law Number. 10 of 2009 on tourism (articles 7, 8, 9 (5), 28 h), Government Regulation Number. 50 of 2011 concerning National Tourism Development Master Plan (article 8), Law Number. 33 of 2014, and Government Regulation Number. 31 of 2019; 2) Guidelines for Organizing Halal Tourism Marketing. References to marketing-related implementation include Law Number. 10 of 2009 on tourism (articles 7, 8, 9 (5)), Government Regulation Number. 50 of 2011 concerning National Tourism Development Master Plan (article 32), Law Number. 33 of 2014, and Government Regulation Number. 31 of 2019; 3) Guidelines for the Implementation of Halal Tourism Industry and Institutions. The implementation references related to this matter include Law Number. 10 of 2009 concerning tourism (articles 20b, 26n, 28 f, and article 54), Government Regulation Number 52. of 2012 concerning Competency Certification and Business Certification in the Tourism Sector (articles 2, 3, 4, 5), and Law Number. 33 of 2014.

Law Number. 10 of 2009: Article 20b: Every tourist has the right to receive tourism services according to standards; Article 26n: Every tourism entrepreneur is obliged to apply business standards and competency standards by statutory provisions; Article 28f: The government has the authority to implement norms, standards, guidelines, procedures, criteria, and control systems in the implementation of tourism; Article 54: Tourism firms that adhere to the business



standards mentioned in paragraph (1) are managed, their products, and services are provided through business certification. Following the terms of laws and regulations, business certification as mentioned in paragraph (2) is performed by an accredited independent institution.

Government Regulation Number. 52 of 2012 states that: a. recognition of workforce competency and b. enhancement of workforce quality and competitiveness are the two goals of Article 2 competency certification in the tourism sector; a. tourism business certification seeks to enhance the quality of tourism services and b. productivity of tourism businesses; Article 4: Tourism-related competency certification is a pathway to tourism-related competency certification; Article 5: Tourism-related business certification is a pathway to tourism-related business certification (Riau Magazine, 2019).

The Republic of Indonesia's 1945 Constitution requires society to uphold each citizen's right to freely practice their chosen religion or belief system. Therefore, the state must safeguard and maintain the halalness of every product that is used and consumed by the public to ensure that every religious adherent can worship and follow their religious teachings. It is important to recognize that not every product on the market today complies with Sharia law and is halal. Legal certainty is not guaranteed, hence national legislation must be regulated in addition to requirements about a product's halalness. As mentioned in the weighing paragraph, this is the fundamental idea that led to the enactment of the Law of the Republic of Indonesia Number 33 of 2014 about Guarantees for Halal Products in Indonesia (M. Syamsurrijal et al., 2021). Due to the comprehensive nature of this rule, it also covers the halal tourist sector, which is required to be free of anything that is against Sharia.

This law is relevant to halal tourism among other things since it provides for the needs of Muslim travelers in terms of accommodations, dining options, spas, and other amenities. They are served food and beverages at the hotel by the amenities offered, all of which must be ensured to be halal. Likewise, for restaurants or restaurants with all kinds of things that are sold to tourists as consumers, it must also be clear that their halal status is not injured because they have enjoyed products that are forbidden to consume (Prajasari, 2022). The prohibition of the product is related to both the raw material and the manufacturing process. Therefore, to guarantee halalness, honesty, openness, and good intentions are needed by business actors,





producers, and sellers in producing and selling all kinds of products to visiting tourists (Muzaki, 2020).

## 3.5 DEVELOPMENT OF INDONESIAN RELIGIOUS LAW ON HALAL TOURISM IN INDONESIA

Law Number. 10 of 2009 concerning Tourism also contains the same principles as halal tourism, as previously described in the description above. In addition to being based on the above-mentioned written rules, Indonesian regulations about halal tourism also incorporate DSN-MUI Fatwa Number 108/DSNMUI/X/2016, which is about Guidelines for Organizing Tourism Based on Sharia Principles (Arbyassaba, 2019). The most extensive set of guidelines guiding the development of halal tourism in Indonesia is found in this fatwa. This DSN-MUI fatwa includes several clauses about halal travel, starting with clauses about the parties involved, the contracts that were utilized, clauses about sharia hotels, clauses about travelers, and clauses about spas, saunas, massages, and travel agencies (Adinugraha et al., 2021).

Since the DSN-MUI fatwa is not legally enforceable, it is important to consider whether or not different parties that organize halal tourism can utilize the recommendations as a national reference. The DSN-MUI is a non-governmental organization. Keep in mind that rules published by non-governmental organizations cannot be followed by the State unless they have been made into laws.

Halal tourism can exist because there is an MUI DSN Fatwa No 108/DSN-MUI/X/2016 concerning Organizing Tourism Based on Sharia Principles. The DSN MUI fatwa becomes a positive regulation, legislated into an act, or at least becomes a Regulation of the Minister of Tourism and Creative Economy which specifically regulates halal tourism. Susilawati (2019) in her research findings reasoned that she did not find a single article that regulates halal tourism in Law Number. 10 of 2009 concerning Tourism, as well as in Law Number. 33 of 2014 and its implementing regulations, namely Government Regulations Number. 31 of 2019.

Comprehensively regulating halal tourism is found in the DSN-MUI Fatwa, but does not have binding legal force. The establishment of a halal tourism law is the ideal of the Muslim community in Indonesia, as a consequence of their faith. When



pronouncing the shahada, every activity carried out must be under the commands of Allah SWT, including tourism activities. The DSN-MUI Fatwa Number 108/DSN-MUI/X/2016 itself was born at the insistence of the Muslim community, especially halal tourism activists.

As for the solution to the legal vacuum of halal tourism, the government needs to amend the existing Law on Tourism, namely Law Number. 10 of 2009 on Tourism, by including articles related to halal tourism. This amendment is not easy because it must obtain the approval of the Government and the House of Representatives. Other solutions, for example, a Government Regulation instead of Law, are also not easy, because according to the science of legislation, a Government Regulation instead of Law can be issued for emergency reasons. The quickest and most appropriate step is to establish a law on halal tourism. The DSN-MUI Fatwa on Halal Tourism has its status upgraded to at least a Regulation of the Minister of Tourism and Creative Economy so that Islamic law contributes to the renewal of national law in Indonesia.

The relationship between Islamic law and legislation regarding halal tourism in Indonesia can be viewed from the position of *al-ahkam al-khamsah*. In Islamic law, the term "*al-ahkam al-khamsah*" is known, which in Indonesian is known as the five principles or five categories of judgments regarding objects and human behavior in Islam. It is said to be *taklifi* because it is these five laws that are imposed on humans as living beings who have perfect reason. With the ability of reason bestowed by God to man, in the end, he can distinguish (*tamyiz*) which ones can be done, or vice versa which ones must be abandoned (Adinugraha & Mashudi, 2018). Furthermore, concerning the world of tourism, for example, which tourist destinations may be visited because they do not contain elements that contradict Sharia provisions. On the contrary, it is precisely tourist destinations that may be visited because in them there are wisdom or values that lead to the benefit of life. When studied from the perspective of *fiqh*, then surely it is halal tourist destinations that can be used as objects for Muslim tourists.

In the Islamic legal system, *al-ahkam al-khamsah* includes obligatory (*wajib*), *sunnah*, *jaiz (mubah)*, *makruh*, and *haram*. *Al-ahkam al-khamsah* is what distinguishes it from human legal products which only revolve around black-and-white commitments, black in the sense that it is forbidden to do it, while white means it is permissible and free from sanctions against the perpetrators (Adinugraha & Mujaddid, 2021). Islamic



Law and Tourism Development The presence of law in social life is of course a necessity to ensure legal certainty for the wider community. Without clear laws, there will inevitably be anomalies that cause ambiguity in life. The impact, apart from causing tyranny that could be committed by a handful of irresponsible people, on the other hand, will also foster a sense of doubt or misgivings among the general public. For this reason, however, the function of law in all its forms and derivatives is a signpost in activities, what can be done, and what is prohibited. Likewise, world tourism activities, where halal tourism activities are a part of it.

In this life, people without exception must comply with two kinds of laws simultaneously (state law and religious law). In their capacity as citizens, they are obliged to obey the laws of the country where they live. Likewise, in their capacity as adherents of a religion, let's say as Muslims, they are obliged to comply with the provisions of the applicable Sharia. The application of these two laws, without exception, applies to businessmen, entrepreneurs, and tourism support communities. Because in principle they are equal before the law, in a sense, there is no discrimination between one another.

It needs to be understood, that it is not uncommon for legal developments to be outdone by social dynamics, so it is not uncommon for a legal vacuum to occur in society regarding a legal object. Although it is said that the function of law is as an instrument for social engineering, on the other hand, the law must also be sensitive to the legal needs of society. The question that needs to be raised is whether laws (statutory regulations) relating to halal tourism issues are available. In the meantime, Muslim travelers are beginning to pay attention to the growing Sharia-based tourism sector in various places, therefore it must be handled carefully and competently. The Muslim community is what makes halal tourism a new alternative, so by examining the phenomena that are currently emerging on both a local and global scale, it is necessary to investigate its legal foundation from an Islamic perspective as well as the connections between state law and religious law. in Indonesia, where halal travel is customary.

The foundation for standardizing elements of halal tourism is a fatwa issued by the MUI National Sharia Council (DSN) Number 108/DSN-MUI/X/2016 about Guidelines for Organizing Tourism based on Sharia principles. To address the demands of the larger community, more ijthihad products will likely be required in the



future, as it appears that this fatwa is still subject to revision and is not yet final. The new ijthad aims to provide legal certainty in the travel industry by keeping pace with the growth of halal tourism.

Ijthad is a verb that expresses seriousness, devotion to one's thoughts and abilities. In the meantime, it is interpreted by applying current knowledge to a debate to derive a complex legal system from the Book and Sunnah. Stated differently, ijthad refers to the endeavor to develop legal frameworks or ideas that do not appear in the two primary sources of Islamic law (Ismanto, 2021).

There are several recognized ways in Islamic law to do ijthad, both alone and collectively, as done by the DSN-MUI. Among the methods referred to are *ijma'*, *qiyas*, *istidal*, *mashlahah mursalah*, *istihsan*, *istishab*, and *'urf*. The primary goal should be to provide public benefit if halal tourism needs to be created in the future to accommodate Muslim visitors' needs and encourage them to travel outside of their comfort zones. *mashlahah mursalah* is the ijthad approach that can be applied because of this. Thus, it is envisaged that the development of halal tourism will free Muslim travelers from visiting sites that are frequently contentious due to their adherence to Sharia law. This is what is meant by the need for a new legal product in the world of tourism so that the benefit of society can be realized. Because after all the law must comply with developments in the world of tourism such as halal tourism which has started to be in great demand by the people of Indonesia.

In juridical and ethical guidelines, it is explained that halal tourism must have a specific legal basis for development in the next stage, while what is meant by ethics is that the halal tourism industry must comply with ethical norms or can be called morals in Islamic religious teachings. These two supports cannot be omitted in developing the halal tourism industry. The legal basis of the halal tourism industry is a Sharia-based foundation, namely the Qur'an and Hadith. But in addressing the problems that exist in the world of halal tourism, it is also necessary to require the ijthad of the scholars who master the field of fiqh law. It should be noted, that the halal tourism industry requires a study from *maqashid al-shariah* which has explained the boundaries of an area that must be protected for tourists. The primary factor that needs to be taken into account is religion or belief. This can be achieved by making places of worship available in the halal tourism sector, allowing people to continue praying while engaging in tourism-related activities. Because there are no formal laws or ministerial



regulations governing halal tourism in Indonesia, the industry is categorized as poor in terms of regulation (Muzaki, 2020).

The development of halal tourism in Indonesia must involve various groups such as academia, industry, community, and government. How to increase the understanding of all this is the work of the government that needs to be supported. Especially the industrial sector which is likely to become the main actor in the field. Don't let the industry even refuse because of a lack of understanding about halal tourism. Regulations made by the Indonesian government are used as a reference to facilitate development in the field. So it's not a night of complicating the certification process and the like. In this case, the government needs to seriously guide so that people who have started to understand have easy access, especially in terms of certification. With the existence of a legal umbrella created, the government must also carry out more outreach to the public, industry, the community, and the public. Don't let the law go unnoticed by the public and the public think that the policies taken are not in favor of the needs of the community itself. The data regarding the regulatory references above is an important thing that must be known by halal tourism industry players in Indonesia (Riau Magazine, 2019).

## 4 CONCLUSION

The findings of this library research show that the two-state laws do not directly regulate the technical implementation of halal tourism and do not even find articles related to halal tourism. The two state laws only play a role as a complementary legal basis for halal tourism in Indonesia. Even so, the two laws remain a source of reference for regulations for ministries and regional governments in developing halal tourism. The Minister of Tourism and Creative Economy 2014 issued Ministerial Regulation Number 2 of 2014 concerning Guidelines for Implementing Sharia Hotel Businesses. Several local governments have issued regulations on the implementation of halal tourism through governor regulations, such as the Provinces of West Nusa Tenggara, West Sumatra, Aceh, and Riau. Comprehensive regulations related to halal tourism can be found in the religious law issued by the Indonesian Ulema Council (MUI) as a representation of the relationship between Muslim scholars and governments who





respect and complement each other. This religious law has been reflected in the DSN-MUI Fatwa Number 08/DSNMUI/X/2016 concerning Guidelines for Organizing Tourism Based on Sharia Principles. All rules and regulations regarding halal tourism originating from state law and religious law relating to halal tourism are interrelated and mutually supportive. The difference only lies in the side of the legal force, state law has binding legal force, and religious law is the opposite.

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