

UP CIDS POLICY BRIEF 2022-05

The Legal and Institutional Ecosystem of Halāl in the Philippines

Mehol K. Sadain¹

Introduction

The term halāl (pronounced with a long a) means “permissible and lawful.” It “applies not only to....food products,” but also to non-food items like “cosmetics and personal care products.” On a general level, it also refers to allowable and lawful “personal behavior” and interaction within the “community” (Riaz and Chaudry 2003, 7). Recently, the application of halāl and its attendant regulations has also been expanded to cover the transportation, tourism, and entertainment industries. Broadly speaking, the opposite of halāl is harām or “forbidden,” according to the following Qur’ānic verses:

O you who believe, forbid not the good things which Allah had made lawful for you, and transgress not! Lo, Allah loves not the transgressor²

Say: Who has forbidden the beautiful (gifts) of Allah which He has produced for His servants, and the things clean and pure (which He has provided) for sustenance?³

Both verses show that the general rule favors halāl and that harām is an exception, particularly when it comes to food. The Qur’ān specifically prohibits the eating of “carrion or dead animals, flowing or congealed blood, swine, including all by-products, animals slaughtered without pronouncing the Name of God (Allāh) on them....carnivorous animals with fangs.... and land animals like frogs and snakes” (Riaz and Chaudry 2003, 9).⁴ The Qur’ān also prohibits usury,⁵ gambling, and imbibing intoxicants.⁶

The Philippine Halāl Ecosystem

In its simplest definition, an ecosystem involves “a community or group of living organisms that live and interact with each other in a specific environment” (youmatter 2020). Similarly, there can be a legal and institutional ecosystem where different elements interact with each other.

In this case, the “political, legal and regulatory environment can be very influential insofar as you carry out business activities” due to the “need to comply with each country’s laws and regulations

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2 Qur’ān 5:87. The first number refers to the *sūrah* (chapter) while the second pertains to the verse (*āyat*). I used <https://al-quran.info/#home> for all quotations. “Qur’ān” is not pronounced as Ko-ran but Kor-an with the “ān” pronounced virtually like “ohn” in “John.”

3 Qur’ān 7:32.

4 Qur’ān 5:3.

5 Qur’ān 2:275–281.

6 Qur’ān 5:90.

where they [organizations/people] do business” (Borek, Parlikad, Webb, and Woodall 2014, 83).

The legal and institutional ecosystem of halāl in the Philippines involves the government and the private sector. It entails coordination and cooperation between the state (through the legislative branch and select administrative agencies of the executive branch), on the one hand, and private halāl certifiers and stakeholders, on the other.

Republic Act (RA) No. 9997 embodies the congressional pronouncement on halāl. Signed on February 18, 2010 by then President Gloria Macapagal-Arroyo, it instituted the National Commission on Muslim Filipinos (NCMF) to “promote and develop the Philippine Halāl Industry and accredit halāl-certifying entities/bodies...”⁷ Pursuant to this mandate anchored on the police power of the State, the NCMF formulated accreditation rules and procedures. From 2012 to 2013, it accredited the following:

- Muslim Mindanao Halāl Certification Board (MMHCB) in Cotabato City
- Mindanao Halāl Authority (MINHA) in General Santos City, and
- Halāl International Chamber of Commerce and Industries of the Philippines, Inc. (HICCIP) in San Juan City, Metro Manila.

Such functional provision enables the government—through the NCMF—to vouch for the integrity of accredited certifiers. It then relays this qualification to concerned domestic and foreign institutions and clients.

The Halāl Board and the Philippine Accreditation Bureau

On May 16, 2016, or four years after the effectivity of RA No. 9997, Congress passed RA No.

10817 or the Philippine Halāl Export Development and Promotion (PHEDP) Act of 2016. This law amended Section 8 (i) of RA No. 9997 and created the Philippine Halāl Export Development and Promotion Board (PHEDPB). The PHEDPB is chaired by the Secretary of the Department of Trade and Industry (DTI), with the Secretary of the NCMF reduced to the vice-chair position. The law also specifies the other members of the PHEDPB, namely the secretaries (or heads) of the following agencies:

- Department of Agriculture (DA)
- Department of Health (DOH)
- Department of Tourism (DOT)
- Department of Science and Technology (DOST)
- Department of Foreign Affairs (DFA)
- Bangko Sentral ng Pilipinas (Central Bank of the Philippines) [Governor]
- Mindanao Development Authority (MinDA) [Chair]
- Two (2) Filipino Muslim professionals who have experience in the halāl industry and will serve for a three-year term, subject to one reappointment.

The Secretaries in the PHEDPB may designate officials not ranked lower than bureau directors as their respective alternates, the acts of whom are considered as the acts of their principals.⁸ It should be noted then that the Board is only 100 percent assured of having three Muslims out of its eleven members unless the alternate members representing the abovementioned departments are Muslims themselves. This law, therefore, renders it possible to have a halāl board that is largely composed of non-Muslims, which issues policies and decide on matters that are Islamic in nature.

7 Section 8 (h), Republic Act No. 9997. For full title, year, and URL, please go to the “Government Documents Cited/Mentioned” section at the end. All other government documents to be cited or mentioned henceforth will have such information.

8 Section 7, RA No. 10817.

The PHEDPB is empowered “to formulate policies; oversee and assess the implementation of the Philippine Halāl Export Development and Promotion Program; ... investigate and make recommendations on complaints, controversies and disputes related to halāl, among other functions.”⁹

However, halāl accreditation is given to the existing Philippine Accreditation Bureau or PAB.¹⁰ The PAB is formerly the Philippine Accreditation Office (PAO), which was created by Executive Order (EO) No. 802. Issued on May 18, 2009, EO 802 is pursuant to Section 13 of RA No. 9236, The National Metrology Act of 2003. The PAB is the official national body for accrediting inspection, testing, and certifying agencies. It falls under the DTI and operates through the PAB Council, which is chaired by the DTI Secretary.

On December 6, 2017, the PAB applied for, and was granted, full membership in the International Halāl Accreditation Forum (IHAF), which is based in the United Arab Emirates (UAE).¹¹ Such an affiliation, though, does not guarantee the reliability of a country’s accreditation system. Each member-country must still prove its reliability to ensure the integrity of halāl certification.

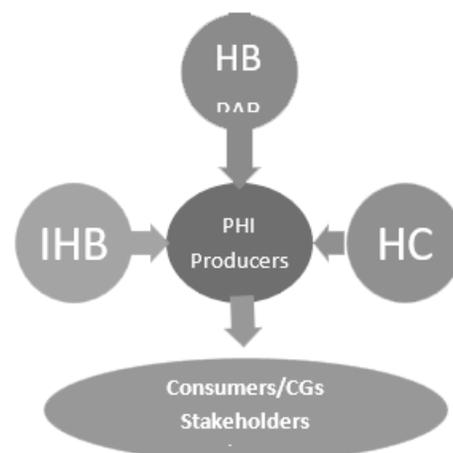
The PAB’s policy making body—i.e., PAB Council—set up a Management System Advisory Committee (MSAC) and a Laboratory Accreditation Division Advisory Committee (LADAC). It also formed an Appeals Committee (AC) for all accreditation decisions.

The government sector in the PAB Council is composed of the Secretaries or Undersecretaries of the following agencies:

- Department of Science and Technology (DOST)
- Department of Health (DOH)
- Department of Agriculture (DA)

- Department of Environment and Natural Resources (DENR)
- Department of Public Works and Highways (DPWH)
- Department of Energy (DOE)
- Department of National Defense (DND), and three members from the private sector appointed by the President from any of these sectors:
 - Trade or Industry Association
 - Quality and Safety Foundation
 - Philippine Exporters’ Confederation
 - Professional Association, or
 - Academe.

FIGURE 1: Model of the Philippine Halāl Ecosystem



The Council is authorized to create the necessary Advisory Committees where other stakeholders are given the opportunity to contribute to the formulation of accreditation policies¹² (see footnote text in the next page). Figure 1 indicates the following agencies:

9 Section 6, RA No. 10817.

10 Section 9, RA No. 10817.

11 The IHAF is an organization of halal accreditation bodies formed by the UAE Government in 2016. Its existing members are: the Dubai Accreditation Department (DAC), the Emirates National Accreditation System (ENAS), Brazil’s General Coordination for Accreditation

- HB (Halāl Board) or the PHEDPB
- PAB (Philippine Accreditation Bureau)
- HC (Halāl certifiers)
- PHI (Philippine Halāl Industry)
- IHB (International Halāl Body), which is currently represented by the IHAF or International Halāl Accreditation Forum in the country)
- CGs (Consumer Groups).

The structure of the halāl ecosystem is rooted in *sharī'ah* (the Islamic path/way) principles and influenced by applicable Philippine laws on halāl. The yellow background represents these factors.

FIGURE 2: The Philippine Halāl Accreditation Process

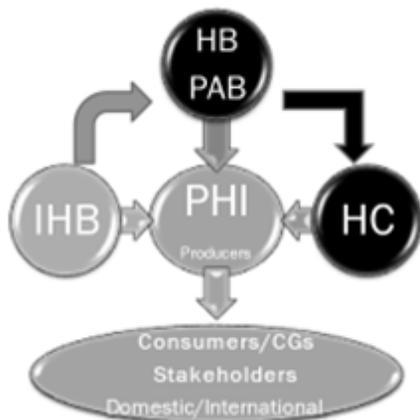


Figure 2 shows the relationship between the circles, with an arrow from the IHB to the HB-PAB, and from the HB-PAB to the HC. The first arrow represents the know-how and uniform accreditation standards that the IHB, through the IHAF, can impart on the PAB, which in turn can use them to accredit halāl certifiers. This accreditation process is represented by the second arrow. All three sectors, therefore, contribute to the improvement and development of the PHI (the three arrows pointing

to the PHI). Finally, the PHI and the producers in the industry sell their halāl products in domestic and international markets. In the process, they interact with halāl consumers, consumer groups, and other halāl stakeholders.

In Figure 2, the black circles and arrow represent the Accreditation Process that is undertaken by the HB and PAB with the HC or halāl certifiers.

FIGURE 3: Accreditation Framework of the Philippine Halāl Industry

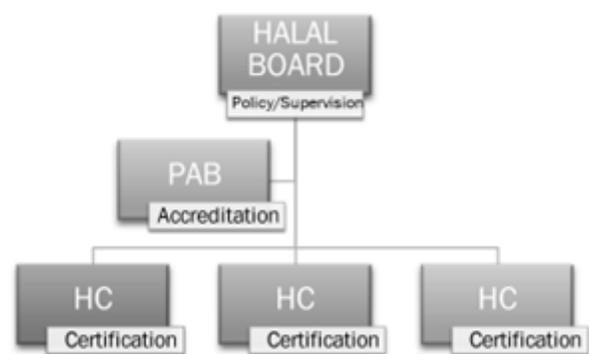
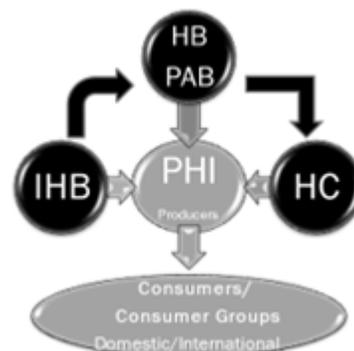


Figure 3 depicts in a different way the country's halāl accreditation process.

FIGURE 4: Role of International Halāl Bodies in the Philippine Halāl Accreditation Process



In Figure 4, the black circles and arrows signify the inputs that international halāl bodies (IHBs) give to the HB-PAB in compliance with global accreditation standards. These are then applied in evaluating and approving local HCs applying for accreditation before the HB-PAB.

(GCA), the United States' American Association for Laboratory Accreditation (AALA), the Pakistan National Accreditation Council, the Gulf Centre for Accreditation, Spain's Entidad Nacional de Acreditacion (National Accreditation Entity), the Saudi Accreditation Committee (SAC), and the United Kingdom Accreditation Service (UKAS). Its primary objective is to "harmonize conformity assessment practices in the Halal field... and establish Multilateral Recognition Agreements between member bodies" (ANSI n.d.; cf. IHAF n.d.). The Philippines became a member in 2017.

FIGURE 5: International Uniformity of Halāl Accreditation Standards

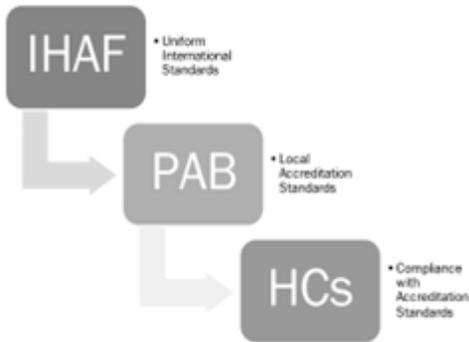
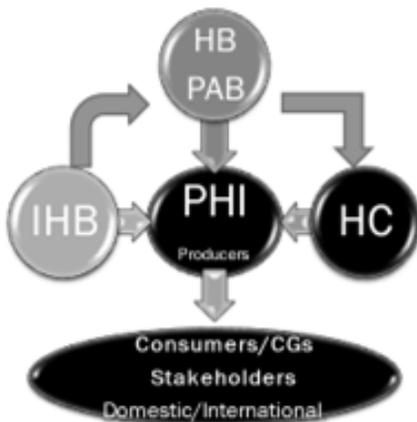


Figure 5 indicates the international standards set by the IHAF, which are disseminated through IHBs that are linked to the Philippine PAB.

FIGURE 6: Components of the Philippine Halāl Certification Process



In Figure 6, the black circles and oval with their corresponding arrows represent the halāl certification process that the HCs undertake for products of Philippine applicants. It also shows the marketing flow of these certified products to consumers and stakeholders in the domestic and international markets.

FIGURE 7: The Philippine Halāl Certification Process

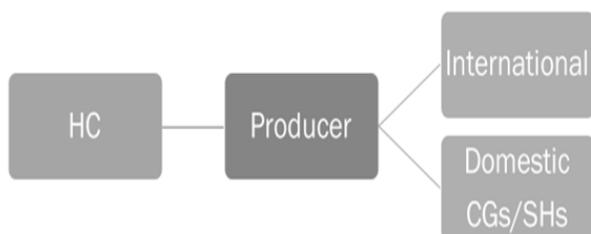


Figure 7 presents the country’s halāl certification process, together with the marketing of halāl-certified goods by a halāl-certified producer to domestic and international markets.

It is imperative that all halāl accreditation and certification processes depicted in the given figures uniformly and faithfully adopt shari’ah principles and practices.

Evaluation and Recommendations

The most noticeable weakness of RA No. 10817 is the focus on the commercial and marketing aspects of the PHI, instead of the need to maintain the spiritual integrity of halāl products, which is the basic premise of halāl. This particular law opens the possibility of a halāl industry that is operated by non-Muslims, to the detriment of the products’ marketability. The very milieu within which the industry exists and functions contradicts not just Islamic law, but also a basic tenet in administrative law. Administrative agencies (like the PHEDPB that formulates halāl-related policies and the PAB that accredits halāl certifiers) are supposed to have the technical expertise and skills necessary to properly operate, and these administrative agencies exist to oversee the PHI. The lack of Muslim officials and staff under RA No. 10817 renders the halāl administrative structure inherently weak.

One can argue that the PHEDPB and the PAB can always employ or consult qualified Muslims to backstaff the non-Muslim officials and personnel. However, this is wishful thinking because they can also refrain from doing so or neglect to do so. Nothing in the law mandates the PHEDPB and the PAB to get a sufficient number of Muslim personnel and staff to assist them.

Furthermore, even if there is a sufficient number of Muslims, nothing in RA No. 10817 assures that their opinions will matter. Thus, the law may be debilitating, instead of strengthening, the PHI by focusing on the commercial aspects of halāl to get the country into the competitive global halāl trade. It forgets that halāl products should first be strictly compliant with Islamic principles before they can even be commercially competitive in the international market.

The other weakness of the present set-up on halāl is that the PHEDPB lacks quasijudicial powers and is not empowered to issue a subpoena or cite erring parties in contempt. According to RA No. 10817, the PHEDPB can only

investigate and make recommendations on complaints, controversies, or disputes arising out of the implementation or enforcement of standards, guidelines, rules and procedures adopted to promote and develop halāl industries, the export of halāl products and the provision of halāl processes and services. (Section 6, h)

Request the assistance and cooperation of any department, bureau, office, agency or instrumentality of the government, or private entities and organizations in the implementation of its functions and the attainment of the objectives of this Act, including the carrying out of recommendations as a result of investigations and studies made pursuant to parts. (Section 6, i)

This flaw distinguishes it from other more effective administrative regulatory agencies, which are given enforcement powers. These include the Department of Agrarian Reform Adjudicatory Board (DARAB)¹³ and the Housing and Land Use Regulatory Board (HLURB).¹⁴

The other disciplinary function of the PHEDPB involves ensuring that fair trade and consumer protection laws, as well as copyright regulations, are implemented to protect halāl consumers and the PHI as a whole.¹⁵ Yet, it can only investigate and make recommendations. It does not have the power to formulate decisions that can be enforced and must refer its findings to the appropriate government agencies which have powers to discipline, enforce, and prosecute.

Therefore, this paper offers the following policy recommendations to legislators, the PHEDPB, and the PAB:

1. Halāl statutes and rules should observe and follow the basic rules on halāl as declared in scriptural texts and traditions of the Prophet Muhammad (*salla Allāhu alayhi wasalām* or SAW, "May the blessings and peace of Allāh be upon him"). This is the proper step because the operating rules of halāl emanate from Islamic Law, which is enunciated in the Qur'ān, the traditions (*Sunnah*) of the Prophet Muhammad, and the jurisprudence (*fiqh*) formulated by the jurists (*fuqāha*) or learned scholars (*ulāma*).
2. Administrative bodies on halāl accreditation and regulation should be equipped with the credentials, qualifications, expertise, and skills to perform the accreditation and related policy-formulation functions of the Philippine government. These requirements should be continuously upgraded as required by developments in halāl standardization and practices.
3. Administrative bodies on halāl should be capacitated to make procedural rules and enforcement mechanisms that are necessary to effectively carry out their functions.
4. Administrative bodies on halāl should be able to effectively adjudicate conflicts and disputes so that they may be speedily and completely resolved, without the need for court litigation or the intervention of other government agencies.
5. Finally, the PHEDPB and the PAB (in its work on halāl accreditation) should be able to coordinate harmoniously with halāl consumer groups and stakeholders for a productive and efficient Philippine halāl ecosystem.

13 See Sections 49 and 50, RA No. 6657, as amended by RA No. 9700 and the 2009 Rules of Procedure of the DARAB.

14 Housing and Land Use Regulatory Board (HLURB); see Res. No. 871, series of 2011. This is pursuant to Executive Order (EO) No. 648, series of 1981 and EO No. 535, series of 1979 both as amended.

15 Section. 16, RA No. 10817, "Applicability of Fair Trade, Consumer Protection and Copyright Laws and Regulatory Agency charter," reads, "The relevant provisions of fair trade, consumer protection, and copyright laws, and their implementing rules and regulations as well

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