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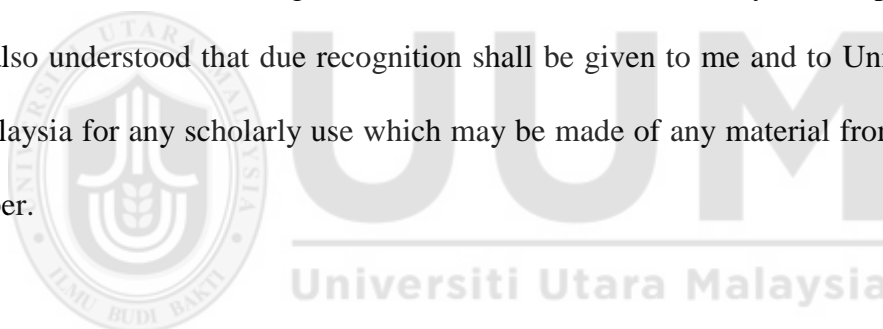
**CONSUMER PROTECTION OF HALAL FOOD PRODUCTS  
IN MALAYSIA**



Project Paper submitted to the Ghazali Shafie Graduate School of Government  
Universiti Utara Malaysia  
in fulfillment of the requirements for the Master of Commercial Law

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## **ABSTRACT**

Halal food products are not only confined to Muslim community but it becomes big concern of non-Muslim community who are particular on the issue of hygiene and healthy food. The increasing number of food products in the market has created concern among Muslims all around the world on the halal status of a product. Moreover, it has caused doubts as the foods might contain unwanted, danger or contaminated ingredients that cannot be traced with the naked eye which may eventually harm the health of consumers. Halal products also do not emphasize only in terms of hygiene in food preparation but also in terms of slaughtering procedures and food processing. Thus, enforcement measures have been taken by requiring halal food products to ensure that manufacturers comply with the requirements of halal product. Although various regulations and laws on food have been established in Malaysia, but the implementation seems difficult to realize, especially when dealing with the issue of falsification of certificates and logos. Hence, this study examined the laws that govern halal food products in Malaysia and method of enforcing and implementing the existence law. In this study, the analysis has been done through data collected from the main source of legislations, Acts, cases and journal articles. Although the law and halal food guidelines have long been implemented, but there are still weaknesses in terms of the effectiveness of the law and its implementation in Malaysia. Therefore, this study suggested that create specific halal law to govern halal legislations. Without effective laws, various problems will arise that may prevent government's efforts to lift the halal industry as a new source of world economic development.

Keywords: Halal Food Products, Consumer Protection, Law Enforcement

## **ABSTRAK**

Produk makanan halal bukan hanya terhad kepada masyarakat Islam malah diberi penekanan juga oleh bukan Islam yang menitikberatkan aspek kebersihan dan kesihatan. Lambakan produk makanan di pasaran menyebabkan kebimbangan di kalangan umat Islam di seluruh dunia mengenai status halal sesuatu produk. Selain itu, keraguan juga adalah disebabkan kandungan makanan yang mengandungi bahan tercemar yang tidak dapat dikenalpasti dengan mata kasar yang akhirnya boleh memudaratkan kesihatan pengguna. Kehalalan sesuatu produk juga bukan sahaja diberi penekanan dalam aspek kebersihan malah dalam penyediaan makanan dari segi tatacara penyembelihan dan pemprosesan makanan. Oleh itu, langkah penguatkuasaan telah diambil dengan mewajibkan logo halal bagi memastikan pengeluar produk makanan mematuhi aspek-aspek kehalalan sesuatu produk. Walaupun pelbagai peraturan dan undang-undang berkenaan makanan telah digubal di Malaysia, tetapi pelaksanaannya adalah sukar untuk direalisasikan terutama apabila berhadapan dengan isu pemalsuan logo dan sijil halal. Oleh itu, kajian ini meneliti undang-undang yang mengawal produk makanan halal di Malaysia dan langkah-langkah pencegahan untuk menambah baik pelaksanaan undang-undang. Dalam kajian ini, analisis telah dijalankan menerusi data yang diperoleh daripada sumber utama iaitu peraturan-peraturan, Akta, kes-kes dan jurnal artikel. Walaupun undang-undang dan garis panduan halal telah lama dilaksanakan, tetapi masih terdapat kelemahan dari segi keberkesanan undang-undang dan pelaksanaannya di Malaysia. Oleh itu, kajian ini mencadangkan supaya mewujudkan undang-undang khusus yang halal untuk mentadbir undang-undang halal. Tanpa undang-undang yang efektif, pelbagai permasalahan akan timbul yang mana boleh menghalang usaha pihak kerajaan untuk mengangkat industri halal sebagai sumber baru pembangunan ekonomi dunia.

**Kata Kunci:** Produk Makanan Halal, Perlindungan Pengguna, Penguatkuasaan Undang-undang

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## LIST OF ABBREVIATIONS

ACCP	ASEAN Committee on Consumer Protection
ASEAN	Association of Southeast Asian Nations
CAP	Consumers Association of Penang
CPA	Consumer Protection Act
DVS	Department of Veterinary Services
GHP	Good Hygiene Practices
GMF	Genetically Modified Food
GMP	Good Manufacturing Practices
HDC	Halal Industry Development Corporation
ISO	International Standards Organization
JAIN	State Islamic Religious Department
JAKIM	Department of Islamic Development Malaysia
LA	Local Authorities
MAIN	State Islamic Religious Council
MDTCC	Ministry of Domestic Trade, Co-operation and Consumerism
MOA	Ministry of Agriculture and Agro-Based Industry
MOH	Ministry of Health
MS	Malaysia Standard
NCP	National Consumer Policy
OIC	Organization of Islamic Countries
SIRIM	Standards and Industrial Research Institute of Malaysia
TDA	Trade Description Act

# CHAPTER ONE

## INTRODUCTION

### 1.1 Background of the Study

The population of the Muslim is large, fast increasing around the world and Islam is the quickest growing religion on earth. With Muslims now dominating one quarter of the entire world population, the business sector opportunities are exceptional and the worldwide halal commercial sector is becoming a lucrative business sector for nourishment makers, making it impossible to disregard.<sup>1</sup> The demand for halal food has continually increased and overtaken the supply of food. The South-East Asia and the Middle East are the fore front in the halal food market having over 1.9 billion estimated consumers from over 112 countries. The market for halal food in the entire world is estimated at US\$580 billion per year. The worldwide halal market is estimated to US\$80 billion or 5% of aggregate exchange of agri-food products. According to the prerequisites of the Islam religion, all Muslims must eat, drink and take the halal medical treatment. All these increase the interest for halal products. Considering the rate of increase in the population and income rate, the future estimate provides that halal food will account for 20% of the world trade in food products.<sup>2</sup> A quite number of Muslims and non-Muslims have been attracted to

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<sup>1</sup> Alam, Syed S. and Sayuti, Nazura M. "Applying the Theory of Planned Behavior (TPB) in halal food purchasing", *International Journal of Commerce and Management*, Vol. 21, Iss 1 (2011): 8- 20.

<sup>2</sup> Nor Ardyanti Binti Ahmad, Tunku Nashril Bin Tunku, and Mohd Helmi Bin Abu Yahya. "A study on halal food awareness among Muslim customers in Klang Valley", *The 4th International Conference on Business and Economic Research (4th icber 2013)* (2013): 1073-1087.

consume halal products as result the fortified level quality certification of the products.<sup>3</sup>

Halal food business is not solely confined to Muslim community. Lately, halal food, cosmetics, pharmaceuticals and Islamic financing services have gained much attention globally. Businesses around the world are developing this market. The Islamic consumer market is regarded as the global commercially fastest growing market. Two reasons are responsible for the fast growth of the halal market; first, there is a link between the halal market and the Islamic religious belief for cleanliness, healthiness and tastiness.<sup>4</sup> The second reason is a result of the remarkable acceptance of halal within the entire world population via assimilation process. The changes in the local tastes of consumers brought by the presence of the foreign goods in the international market have encouraged global tourism and reverse colonization. Thus, the recognition of halal food was not only made for the Muslims but also the non-Muslims because of its quality assurance and benchmark for safety.

The halal logo and certification has often been used by the halal food manufacturer to inform their target consumer that their product is Shariah compliant and halal. The Malaysian Muslim consumers of halal product usually checks for the authentic halal certification when considering the purchase of any food products. The halal certification in Malaysia is issued by the Department of Islamic Development Malaysia (JAKIM) under the purview of the Ministry in the Prime Minister's

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<sup>3</sup> Patton, Dominique. "Why halal label is critical for major exporters" *Business Daily*, (2008), [www.bdafrica.com/index.php?option=com\\_content&task=view&id=2210](http://www.bdafrica.com/index.php?option=com_content&task=view&id=2210) (accessed June 30, 2015).

<sup>4</sup> Burgmann, Tamsyn. "Growing Muslim population pushing companies to produce products they can eat", *The Star Online*, July 22, 2007, [www.thestar.com/Business/article/238551](http://www.thestar.com/Business/article/238551) (accessed June 25, 2015).

Department and it allows companies to print the logo on their product or display on the premises of their companies.

Food is one of the subjects that have dependably been examined among the researchers. This is on the grounds that food is the fundamental need for the prosperity of human. As of late, science and technology has been used in preparing food for production. There are a few fixing sources which have been utilized as a part of the creation of food products. These ingredients are either permissible (halal) or prohibited (haram). Moreover, there is a blending of ingredients, for example, concoction chemical added and synthetic ingredients. There is additionally a discourse among the researchers connected with the obtaining of the source material, preparing, bundling, delivery et cetera. In other words, the discussion of food chain begins with the farm administration and ends with the customers. As more foods are made available to the market, the concern of the authenticity of the halal food has raised and become a source of concern among the Muslim all over the world. The reason for the concern is due to the widespread of the adulterated ingredients in food which is difficult to identify with the naked eye. Thus, the investigation of foods though a scientific knowledge is required for the advantages and disadvantages, as well as the knowledge of such prohibition.

The Muslim consumers of halal products regard products that have halal logo as having more meaning and more importance than the products having International Standards Organization (ISO) certification. According to the consumers, halal is more wholesome. The cleaning process does not only follow the standard process,

the products and the machineries used in the cleaning and producing the products has to be ritually cleansed.

In addition, consumerism has again arisen in view of the new market condition in the world economy that warrants a fresh examination of the economic power of sellers in relation to buyers. In the past in many ASEAN (Association of Southeast Asian Nations) countries, consumer interests were suppressed under the goal of long term economic development. With the advancement of technology and changes in the trading world, market should not be allowed to neglect consumers' interests thus leading to the forgotten consumers.<sup>5</sup> The consumer is forgotten in that citizens do not generally think of themselves as consumers and policy makers pay less attention to consumer problems or rights. The concern for better consumer protection has been expressed not only in Malaysia but in many other countries within the ASEAN community such as Thailand and Indonesia. The developed and developing Asian countries have received measures to secure consumers' rights and interests by setting up institutional and administrative system in fortifying and upgrading customer assurance arrangements and enactments, empowering worldwide collaboration and guaranteeing great business practices in perspective of liberalization of trade and the technological advancement.

Population of Malaysia is approximately 30 million, while 60% of it is Muslims. The Malaysian constitution makes Islam the state religious. Formerly, halal foods did not wide spread in Malaysia. Since conflict between Chinese and Malaysian community arise in 1969, Muslims in Malaysia agree that most food industries in Malaysia are

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<sup>5</sup> Thorelli, Hans B. "Consumer Problems: Developed and Less Developed Countries.", *American council on Consumer Interests*, (1988): 470-494.

operated under Chinese community. They then ask halal foods to be managed by Muslims. This is how halal foods in Malaysia beginning to be officially approved. Finally in 1975, Malaysia constitute announce 2 laws about halal foods which are the Trade Descriptions (Use of expression Halal) Order 1975 and the Trade Descriptions (Halal Sign Marking) Order 1975.

## **1.2 Problem Statement**

As we all know, Malaysia is a multiracial country which is most affirmed in Islam. Thus, it is beyond a doubt that Malaysia is a modern Islamic country. Due to this ground, it has added the advantages of becoming an important base for the production of halal food. It can be seen that Malaysia is globally recognized as the world's halal food hub.<sup>6</sup> However, it has led to some issue regarding of this. The Malaysian government has long recognized the importance of halal and become a major organization in solving the problem. Meanwhile, many regulations and laws are established for protecting consumer of halal food product.

The Trade Description Act (TDA) 2011 exclusively contains the provision concerning halal food products in Malaysia. Two regulations are contained in the TDA (2011): these are the Trade Description (Definition of Halal) Order 2011 and the Trade Description (Certification and Marketing of Halal) Order 2011. The governance of the TDA and halal product is charged under the Ministry of Domestic Trade, Co-operation and Consumerism (MDTCC). The law governing halal food products was not previously efficient in Malaysia despite Malaysia being previously

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<sup>6</sup> Muhammad, Nik Maheran Nik, Filzah Md Isa, and Bidin Chee Kifli. "Positioning Malaysia as Halal-Hub: integration role of supply chain strategy and halal assurance system.", *Asian Social Science* 5.7 (2009): 44.



recognized as the hub and one of the forerunners of halal food products. Though, this does not indicate that issues of abuse of the halal food products, logo and marketing do not exist in Malaysia. Even though, the regulation guiding halal food products and the related have been established in Malaysia, the implementation of these regulations and Act has been difficult, especially in the aspect of halal-related offences. Mainly, issues being faced in Malaysia include the forgery of the halal certificate which is usually done either by the dealer the manufacturer of the halal who via the claim of having halal product but which in reality is not. In addition, the processing of food in contrary to the Islamic law, and the uncertainty of the food, cleanliness and the content are also the issues facing the enforcement of ACTs and regulation relating to halal.

Besides the Trade Description Act (TDA) 2011 has various laws and acts that are Malaysia Standard (MS 1500:2009), Food Act 1983, Animals Act 1953 (Revision 2006) and Consumer Protection Act 1999 to regulate halal food products. However, the enforcement of the law in administer halal food is insufficient. Consumers doubt about the legality of products or services claiming to be halal. Besides that, the issue of halal logo had puzzled the Muslim consumers. Mass media had reported the malpractice by food operators and various type of the private halal logo set out by the greater number of food premises nowadays has blurred the consumers. They suspect Malaysia's halal logo and call the validity into question. Therefore, consumers had frame up a negative perception on the trustworthiness of the authorities regarding the halal Certificate's issue for some products. The halal allegations that were not finalized in court had aggravated the situation, such as Cadbury Chocolate case, Secret Recipe case, KFC, way of slaughter chicken. As a matter of fact, until today,

no halal violation has been upheld under the Food Act 1983. After denial was made by the defendant based on out of court settlement, most of the cases were closed and resolved.

Aforementioned, some issues emerge relevant to the current existing regulation regarding Muslim consumers' protection. The sufficiency of legislation and its enforcement are toward the issue. The question arises as to whether the rights of Muslims were fully protected under the law relating to halal and what are the lawful rights of Muslims. Hence, Malaysia's government and corresponding authority has put so much effort with regard to halal legislation issues. Therefore, this research is too essential to carry out and ensure the stability of the legislation for safekeeping of Muslim consumer. This research aim is to fill the gaps in present legislation as well as recommends reform wherever adequate and suitable.

### **1.3 Research Questions**

- 1) What are the law governing halal food products in Malaysia?
- 2) Does the law provide sufficient protection for Muslim consumer?
- 3) What are the appropriation measures to improve the implementation of law?

### **1.4 Research Objectives**

In essence, the proposed study will analyze consumer protection in halal food products in Malaysia. This study aims to achieve the following objectives:

- 1) To examine the law governing halal food products in Malaysia.

- 2) To examine whether the law provides sufficient protection for Muslim consumer.
- 3) To recommend appropriate measures to improve the implementation of law.

### **1.5 Significance of the Study**

Halal food products are growing rapidly not only in Muslim countries but throughout the non-Muslim country. The halal food product industry has continuously strived to meet the demand for the halal food product which usually comes from not only the Muslims but also the non-Muslims consumers. Thus, halal products have begun to become the choice of every consumer from different places, races and religions. This high continuously increasing demand has been influenced by the high economic power and the knowledge of the consumers including the huge population of the Muslims all over the world. According to consumer protection of halal food product is an area of law that has not focused by law enforcers in most Muslim countries, this study has been significant because it has aimed for provide examine the consumer protection law on halal food product in Malaysia and act as the add-on to the existing literature in relation to halal food products under the law of consumer protection. It is observed that most existing literature gives importance to the regulatory framework of consumer protection in general of halal product. Given that the issue of halal food products being a serious concern in most Muslim countries, it can be submitted that this study will provide some useful information or ideas on the topic aforementioned.

In addition, the proposed study will benefit and help the future researcher, educationist and also, law students as their guide. The study can also open in

development of consumer protection on the context of halal food products under the laws in Malaysia. The research done for this study will also be valuable in assisting the legal practitioners in the applicability of laws when there is a breach of consumer rights halal food product.

## **1.6 Research Methodology**

### **1.6.1 Research Design**

Research design is a framework or blue print for conducting a research. It determines the points of interest or the methods expected to collect necessary information about the research issue. The research design utilized in a study ought to be the one that is most suited to provide answers to all the research questions. A qualitative research design was adopted by the researcher in this study as an ideal method for describing the provisions of element of delivery in the Malaysian's Trade Description Act 2011 that set up by two regulations under the Act namely the Trade Description (Definition of Halal) Order 2011 and the Trade Description (Certification and Marking of Halal) Order 2011.<sup>7</sup> And this includes The Malaysia Standard (MS 1500:2009), Food Act 1983, Food Regulation 1985, Food Hygiene Regulation 2009, Animals Act 1953 (Revision 2006), Animals (Control of Slaughter) Rules 2009 and Consumer Protection Act 1999.

Qualitative research is a systematic, subjective approach to describe life experiences and give them meaning, with the approach's aim to ascertain opinions, attitudes behavior, likes or dislikes. In particular, the main purpose of a qualitative study is to

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<sup>7</sup> Parker, Andre Charles. "A Qualitative Study of Key Success Factors for Multinational Corporations Operating in Sub-Saharan Africa." *Stellenbosch: University of Stellenbosch*, (2009).

ascertain how people feel, what they think about a certain phenomenon or why they behave in a certain way. The main forms in this approach include field observation, content analysis, group studies, and in-depth interviews. The data collected in qualitative researches are in the form of field notes or some form of textual materials. A qualitative research basically involves data in the form of words, description or narratives. As for this study, the researcher has used content analysis approach in analyzing the laws on consumer protection of halal food. The role of data analysis in a qualitative research is to extract meanings from what the researcher has studied, and what and how something happens or exists.<sup>8</sup>

In relation to legal research, it can be noted that there are two types of research, namely doctrinal research and non-doctrinal research. In this sense, doctrinal research is concerned with legal issues and principles while on the other hand, non-doctrinal research involves people, social values and social institutions.

In this study, the design adopted is a doctrinal legal approach which is very similar to the qualitative study in social sciences. Doctrinal research (likewise alluded to as the *orca*, unadulterated legitimate, scholarly, customary, easy chair exploration) is basically a library-based study, which implies that the materials required by the specialist may be accessible in libraries, documents and different databases. The essential point of such research is to find, clarify, analyze, investigations the working of specific laws or lawful institutions and present in a deliberate structure, certainties, standards, procurements, ideas, hypotheses. On this account, the researcher has mainly referred to secondary data namely test books, articles from journals,

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<sup>8</sup> Yaqin, Anwarul. "Legal Research and Writing" *Malaysialaw Journal Sdn Bhd*, (2007).

government reports and the provisions of the relevant laws and legislations. Generally, the objectives of such research are achieved through these approaches.

If one look at legal research, it is observed that there are four category of research and they are: historical, analytical, comparative and philosophical. They differ from each other in terms of characteristics and how a researcher can employ them in a legal research. Scrutinizing into history it is a memory of past occasion or blend of occasions and chronicled investigation is, thusly, a strategy for finding, from records and records, what happened in the past. Researchers consider various sources such old case laws and legislations to look for reasoning for the current position of law which could be drawn from the reading of those case laws.

Analytical on the other hand relies heavily on critical thinking and application of an area of research and this act as a tool to collect data. Observations are done and recorded for the purposes of analysis. Comparative research focuses on comparing on two or more issues or problems. Through comparisons, the similarities and differences or strengths and weaknesses will be identified. The last type of research is philosophical where research is done based on nature or existence of ideas of a particular area of study. In order to achieve the research objectives, the researcher intends to adopt historical approach to answer the first question, the analytical studies to answer the second and third question.

The type of research methodology which will employed throughout this study is doctrinal research and analytical research where it is concerned more on analyzing

the existing legal rules, principles as well as provisions related to consumer protection in halal food in Malaysia.<sup>9</sup>

### **1.6.2 Scope of the Study**

As above mentioned, this study focuses on an analytical study of the law of consumer protection in halal food products relate to halal certification in Malaysia. In Malaysia, the provision is according to the Trade Description Act 2011 that there were two regulations made under the Act namely the Trade Description (Definition of Halal) Order 2011 and the Trade Description (Certification and Marking of Halal) Order 2011. And this includes The Malaysia Standard (MS 1500:2009), Food Act 1983, Food Regulation 1985, Food Hygiene Regulation 2009, Animals Act 1953 (Revision 2006), Animals (Control of Slaughter) Rules 2009 and Consumer Protection Act 1999. Analyzed on consumer protection provisions as stated by each ordinance is constructed accordingly and thus, problems and workable solutions will be identified.

### **1.6.3 Type of Data**

This research tends to define the law in particular area. In this study, the researcher collected and analyzed the data from primary and secondary sources. The primary data is assembling from the statutes and decided case law. The researcher applied the statutory provisions in Malaysia that related to consumer protection involving halal food products in the study. In Malaysia, the principle act that used throughout this research is Trade Description Act 2011. The other subsidiary legislations referred are the Trade Description (Definition of Halal) Order 2011 and the Trade Description

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<sup>9</sup> Chapter 3, Legal Research. [http://www.sociology.ed.ac.uk/\\_data/assets/pdf\\_file/0005/66542/Legal\\_Research\\_-\\_Chynoweth\\_Salford\\_Uni.pdf](http://www.sociology.ed.ac.uk/_data/assets/pdf_file/0005/66542/Legal_Research_-_Chynoweth_Salford_Uni.pdf) (accessed March 26, 2015).

(Certification and Marking of Halal) Order 2011. And this includes The Malaysia Standard (MS 1500:2009), Food Act 1983, Food Regulation 1985, Food Hygiene Regulation 2009, Animals Act 1953 (Revision 2006), Animals (Control of Slaughter) Rules 2009 and Consumer Protection Act 1999. These statutory provisions are used in gathering information or substances for the research and assisting the whole of the research process. In short, the statutes that have been mentioned above which provide provisions relating to consumer protection of halal food products in Malaysia would mainly be referred to and be taken into account in completing this study.

Secondary data is gathered from secondary resources. Secondary sources are legal writings possessing secondary authority that comprise of narrative commentary on the law as it exists or as the author perceives, it should be.<sup>10</sup> The importance of secondary sources in legal research is marked by the fact that they not only lead the researcher towards his primary sources (legislation and cases) but also clarify the current status of research development in their respective area of study.

Secondary sources for this study include law books, journal articles, information from the websites and online materials will also be referred to, in order to gather more reliable information and strengthen the understanding on the study which will be carried out. As a result, the depth of understanding on the study will be sufficiently clear with the reading of these secondary sources and analyzing views which vary from each source.

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<sup>10</sup> MacEllven, Douglass T. *Legal Research Handbook* (Butterworths, 1983), 7.



#### **1.6.4 Data Collection Methods**

The data collection method of this study is mainly interpreting and analyzing both primary and secondary sources. The reason is that this study is a doctrinal legal research or a library based research. The undertaking of this research requires the researcher to have thorough reading and understanding on halal food products and consumer protection laws of both the jurisdictions, the ways in which the provisions may give impact to the legal framework when illegal activities are being detected and how effective the provisions are to prevent the illegal halal food product's activities.

#### **1.6.5 Analysis of Data**

The analysis of data will be done by interpreting, evaluating and examining the data which will be collected. Since this is a pure legal research, primary and secondary sources are ultimately used to undertake the research. Through a careful reading and study of those sources, the data analysis will allow the researcher to gain some insights on the consumer protection law of halal food in Malaysia.

In order to endow with full understanding of this area of law, it is essential to note that the researcher will make a brief account of historical background of halal food products. Following this, an overview of consumer protection's law in halal food products will be presented. Besides, the researcher will also identify, interpret and analyze the Malaysian's current legal position of consumer protection of halal food products in terms of its relevant provisions and its impact on this area of law. Each position will be discussed correspondingly.

The researcher also involves an analysis will be done with the relevant facts, principles, concepts and provision being identified from both jurisdictions. This analysis will be carried out in order to decide on whether the current provision in Malaysia is adequate control and monitor activities relating to halal food products. As a part of the conclusion, based on the analysis done, the research will be providing some legal recommendations on how to further improve the implementation of consumer protection's law in halal food products.

### **1.7 Limitation of the Study**

One of the major limitations of the study which have been identified by the researcher is there are many types of halal products, but in this research intent to focus only on halal food product. In identifying issues of consumer protection in halal food, the researcher had planned to conduct identifying the legal position and compensation in the process of settlement of consumer protection in halal food, researcher intent to focus only on certification of halal food issues which occurred in Malaysia.

### **1.8 Literature Review**

#### **1.8.1 Halal Food Products and Consumer Protection**

The preaching of Islam is methodical and comes with a complete ethics that guides the Muslims way of doings. The concept of halal is vital among the ethics guiding the Muslims.<sup>11</sup> Many authors have done their research to mention halal has now become a universal concept. Discussions and research with respect to the halal

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<sup>11</sup> Mohamed, Zainalabidin, Rezai, Golnaz, Shamsudin, Mad Nasir and Chiew, Fook Chong Eddie "Halal logo and consumers' confidence: What are the important factors.", *Economic and Technology Management Review* 3 (2008): 37-45.

concept, particularly for halal meat, halal food and halal non-food stuff, have seemed to end up an overall subject of discussion among Islamic nations and in this decade itself there has been an mindfulness brought on this issue up in non-Islamic countries.

The word “Halal” in the context of food refers to lawful food which Muslims are allowed or permitted to consume. Under the general principle of Islamic law, in the case of diets and foods, most of them are considered halal unless they are specified or mentioned otherwise in the Quran or Hadith (saying of the Holy Prophet Muhammad). According to Martin Roestamy (2015), the meaning of halal is anything which is used does not cause any torture punishment (sin). While haram is anything that prohibited by Allah, firmly prohibited where anyone who breaches shall be threatened by torture punishment of Allah in the hereafter. Thus, the meaning of halal food is any food if consumed does not cause any sin and torture punishment from Allah SWT.<sup>12</sup> Meanwhile, Riaz et al. (2004) expressed that in Islam, all foods are viewed as halal aside from the accompanying, which are haram: swine/pork and its by-products; animals improperly slaughtered or dead before slaughtering; animals killed for the sake of anybody other than ALLAH (God) and beverages, for example, alcohol and intoxicants. Haram additionally covered carnivorous animals, birds of prey and land animals without external ears; blood and blood by-products and foods tainted with any of the aforementioned products as they are raised to eat or drink halal, hygienic and safe foods or products.<sup>13</sup>

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<sup>12</sup> Roestamy, Martin. “Consumer Protection of Halal Meat under Islamic Law and Indonesian Regulation.” *Journal of Law, Policy and Globalization* 35 (2015): 88-94.

<sup>13</sup> Riaz, Mian N. and Chaudry, Muhammad M. *Halal food production*. CRC Press, 2003.

In a basic description as showed by Yaacob et al. (2010), it infers that the term halal is referred to as reasonable in light of Shariah points of view, which are from religious and otherworldly confidence convictions. On the other hand, the term Toyibbah is alluded to being great or wholesome, regarding quality, safety, hygiene, cleanliness and nourishment and truly scientific.<sup>14</sup>

Verbeke (2006) stated that as of late buyers have appended expanding significance to food safety, health, naturalness, pleasure, convenience, information and moral issues like sustainability, animal or ecological neighborliness in the food they consumed.<sup>15</sup>

Then again, Bonne et al. (2007) stipulated that the wholesomeness concept of halal, which covers the Shariah requirement, as well as the sustainability concept of hygiene, sanitation and safety aspect, makes halal food promptly worthy by buyers who are worried about food security and solid way of life. Muslims need to take after an arrangement of dietary laws expected to propel their prosperity. Nonetheless, religious thought processes decide halal consumption, as well as health, hygiene, cordiality to environment, regard for animal welfare and social issues, for example, religious character and level of cultural assimilation.<sup>16</sup> The scientific examination of religious weight control plans is applicable to nutritionists, in light of the fact that it streamlines nourishment for the individuals who take after such eating methodologies and enhances general comprehension of eating regimen and health.

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<sup>14</sup> Yaakob B. Che Man and AwisQurniSazili. *Food production from halal perspective, Handbook of Poultry Science and Technology*. John Wiley & Sons, 2010.

<sup>15</sup> Vermeir, Iris, and Wim Verbeke. "Impact of Values, Involvement and Perceptions on Consumer Attitudes and Intentions towards Sustainable Consumption." *Journal of Agricultural and Environmental Ethics* 19 (2006): 169-194.

<sup>16</sup> Bonne, Karijn, and Wim Verbeke. "Religious values informing halal meat production and the control and delivery of halal credence quality." *Agriculture and Human Values* 25.1 (2008): 35-47.

In Malaysia, there is a relationship between the attitude of the consumers and the certification of halal food verified and issued by the JAKIM. According to Shahidan et al. (2004), the permissibility and consumption of the food by Muslims is reflected by the halal logo and the indication of this is that the food outlet in question has gone through scrutiny by the department responsible for inspection and issuance of the halal certificate. In Malaysia, the manufacturer gains competitive advantage from the halal logo, while the consumers are assured of the food quality. Hence, the understanding of the Malaysian Muslims towards the consumption of the foods that comply to the Islamic products and foods have been increased by the halal certification.<sup>17</sup> Attention is mainly focused on the consumption of animal products and which is regulated based on the individual religious doctrine. However, halal certification is only important for the Muslims base on their religious requirement for consuming halal food in accordance to the Islamic doctrine (Golnaz et al. (2010)).<sup>18</sup>

### **1.8.2 Current Legal Position in Malaysia on Consumer Protection of Halal Food Products**

Consequently up to date Malaysia has no uniform law and regulations related to halal food. At present, laws relating to halal food in Malaysia can be found in various legislative instruments dealing piece-meal with specific area of halal food production. There are few ordinances that regulate passed by the Malaysian government regarding halal food product. This includes the Trade Descriptions Act 1972 (TDA 1972), Food Regulations 1985, Animals Rules 1962, Animals (Importation) Order 1962, Custom (Prohibition of Imports) Order 1988 and Local

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<sup>17</sup> Shafie, Shahidan, and Md Nor Othman. "Halal Certification: an international marketing issues and challenges." *Proceeding at the International IFSAM VIIIth World Congress* (2006): 28-30.

<sup>18</sup> Rezai, Golnaz, Mohamed, Zainal Abidin, Shamsudin, Mad Nasir and Chiew, Eddie Fook Chong. "Non-Muslims' awareness of Halal principles and related food products in Malaysia." *International Food Research Journal* 17 (2010): 667-674.

Government Act 1976. According to Ramli et al. (2010), The Food Regulations 1985 gives that where the food contains pork, or its subsidiaries, or grease, an announcement of its presence in that food ought to be composed on the label. Moreover, food contents that contains alcohol to be labeled thusly. In spite of the fact that the Food Regulations 1985 requires the presence of non-halal content to be pronounced on the label, the provision is lacking to govern different matters identified with halal food production, for example, handling and stockpiling.<sup>19</sup> Food Regulations 1985 is enforced by Ministry of Health (MOH). The Animals Rules 1962 accommodates the control of the slaughtering of animals. The Animals (Importation) Order 1962 applies to the importation of meat and livestock into Malaysia govern by Department of Veterinary Services (DVS). It is a prerequisite that all meat and livestock must be halal, safe and ailment free.<sup>20</sup>

The Custom (Prohibition of Imports) Order 1988 provides a control over the import of milk and milk products, poultry fat, lard, pig fat and others control by Royal Malaysian Customs. And the Local Government Act 1976 that is enforced by the Ministry of Domestic Trade, Co-operatives and Consumerism (MDTCC), accommodates the approval of food outlets which requires the licensee to wash utensils utilized for non-halal sustenance independently from those utilized for the halal food. It additionally enforces that the utensils utilized for the non-halal food ought not to be utilized for the preparation and serving of the halal. In the event that the reason just serves non-halal food, the licensee must at record-breaking showcase on the menu the words "non-halal food just only".<sup>21</sup>

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<sup>19</sup> Ramli, Noriah, and Naemah Amin. "Halal food for just and equitable world: Malaysian perspectives." *The 4th Asian Law Institute (ASLI) Conference* (2007): 1271-1277.

<sup>20</sup> Ibid.

<sup>21</sup> Ibid

Trade Descriptions Act 1972 (TDA 1972) may be considered as the main legislation to control the halal food product in Malaysia. The act state the definition of halal and halal food preparation in accordance to the Shariah law together with the offences of falsification of raw materials and halal documentation enforced by the Ministry of Domestic Trade, Co-operatives and Consumerism (MDTCC).<sup>22</sup> Zakaria (2008) illustrate that the aim of TDA 1972 aims at protecting the consumers from consuming foods with misleading information of guidelines about the food quality and content. An instance of this is when the food ingredients on the wrapper are different from the actual ingredient used to prepare the food.<sup>23</sup>

As per the 1972 Act, there were a few reasons that the law was not effective in controlling halal. Previously, regardless of Malaysia's reputation as a hub of halal products, this does not imply that the nation is free from the issue of misuse of the halal logo and fake halal certification. In spite of the fact that TDA 1972 and the requests made there under have been made, the Act and these regulations were hard to be actualized particularly in the implementation of halal-related offenses. The principal issue was the non-appearance of particular procurements giving purview over specific organizations to handle the "halal matters". This is because of the way that the power that is made the "Controller" of this Act is the Ministry of Domestic Trade, Cooperatives and Consumerism (in the past the Ministry of Domestic Trade and Consumer Affairs (MDTCA), while, the issue of halal certification is handled by Department of Islamic Development Malaysia (JAKIM).

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<sup>22</sup> Halim, Mustafa' Afifi bin Ab, et al. "Consumer Protection of Halal Products in Malaysia: A Literature Highlight." *Procedia-Social and Behavioral Sciences* 121 (2014): 68-78.

<sup>23</sup> Zakaria, Zalina. "Tapping into the world halal market: some discussions on Malaysian laws and standards." *Shariah Journal* 16 (2008): 603-616.

As stated earlier, the Trade Description Act 1972 controlled halal issues in Malaysia. Utilizing the general procurement of the description of trade, any non-halal food or products guaranteed as "halal" will be viewed as disregarding the Act in light of the fact that it connotes the false exchange portrayal. In 2011, the Trade Description Act 2011 (TDA 2011) was gone in August and came into power on first November 2011. The new Act supplanted and revoked the 1972 Act and the regulations made under it. The motivation behind the new Act is to change the past Trade Description law, as it contained a few loophole clauses.

The objective of TDA 2011 is to encourage the good trade practices of halal food and products by eliminating the inauthentic trade description and false statements and activities in relation to foods and goods supply in order to protect the customers' interest. Among the most noteworthy element of the new Act is that is definition of halal in the Trade Description (Definition of Halal) order 2011 and the Trade Description (Certification and Marking of Halal) Order 2011, thus, providing a legal position on the matters relating to halal.

The Trade Description Act 2011 has vested the power to issue halal certification to the government appointed body mainly JAKIM and MAIN. It is also within this power that JAKIM needs to monitor the preservation of compliance of halal certification requirements by the certified products or services. JAKIM is known as a government agency thus the following discussion critically discusses the meaning and role of a government agency and its likes as to answer whether JAKIM qualifies to be a government agency. JAKIM's stand is variedly discussed in several



writings. Joseph (2009) in his book describes JAKIM as a religious authority.<sup>24</sup> Similarly Kikue Hamayotsu (2003) describes JAKIM as the central religious authority which functions as the coordinator to the State Religious Authority.<sup>25</sup> JAKIM is the authorized government agency entrusted by the Malaysian Government to certify halal products and issue halal certificate. JAKIM also issued the halal guidelines which are based on Quranic interpretations. Generally, the guidelines cover the sources of food and drinks, slaughtering animals, alcohol usage, presentation and storage, processing and cooking of food, hygiene, utilized goods and the label halal.

Halal, is not only mandatory for all Muslim but also an very essential concept in Islam. Consumption of halal products such as food, daily supplies is compulsory for every Muslim. However, Muslim consumers as well as manufacturers of halal products are lack of knowledge, awareness and understanding of halal concept and this may lead to the loss of value and principle to halal. It appears that most of the statutes governing the halal food products provide insufficient coverage for various aspects such as packaging, storage, transportation and labeling of halal food.<sup>26</sup> Even though government of Malaysia has reinforce the regulation, but still, they need to make sure that the legislation has implement effectively. By this way, only would keep the Muslim consumers safe from harm.

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<sup>24</sup> Joseph Chinyong Liow. *Piety and Politics: Islamism in Contemporary Malaysia*. New York: Oxford University Press, 2009.

<sup>25</sup> Hamayotsu, Kikue. "Politics of Syariah reform: the making of the state religio-legal apparatus." *Malaysia: Islam, society and politics* (2003): 55-79.

<sup>26</sup> Siaw, Chon-Lok, and Nazatul Shima Abdul Rani. "A Critical Review on the Regulatory and Legislation Challenges Faced by Halal Start-up SMEs Food Manufacturers in Malaysia." *Procedia-Social and Behavioral Sciences* 57 (2012): 541-548.

## 1.9 Outline of the Chapters

The study will be classified into six chapters as follows;

Chapter 1: This chapter will figure the background and the significant of the study on how the halal is important in Muslim countries and why Muslim countries need the halal law and how the rights of Muslims were protected under the relevant laws, along with the research questions and research objectives.

Chapter 2: This chapter will explain the theoretical and conceptual frameworks of halal food products and the law of consumer protection in halal food products in general.

Chapter 3: This chapter will discuss on the law of consumer protection in halal food products in Malaysia.

Chapter 4: This chapter will present the legal protection to Muslim consumer in Malaysia.

Chapter 5: The overall analysis of entire papers and provides some recommendations based on what the conclusions reached.

## CHAPTER TWO

### HALAL AND CONSUMER PROTECTION

#### 2.1 Introduction

This chapter investigates the concept of halal food products from the traditional and current understanding. In addition, the concept of halal certification, and definition of consumer protection in halal food products in general will also be discussed under this chapter.

#### 2.2 Concept of Halal Food Products

##### 2.2.1 Halal Definition

Islam lectures a precise lifestyle and accompanies complete benchmarks and guidelines to be held fast to by Muslims. One of these principles is the concept of halal, which is a Quranic word meaning lawful or permitted, which the dietary standard is recommended in the Quran. In the Quran, it is said that all sustenance are halal aside from those that are particularly specified as haram, which is prohibited or unlawful. In the English dialect, it most every now and again alludes to permissible food as per Islamic law.<sup>27</sup>

Moreover, in the Arabic language, it alludes to anything permissible as regards to Islam. It is basically a lifestyle and is not singularly limited to the types of food that a Muslim is permitted to consume, however food is a basic segment for the sustenance

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<sup>27</sup> Shah Alam, Syed, and Nazura Mohamed Sayuti. "Applying the Theory of Planned Behavior (TPB) in halal food purchasing." *International Journal of Commerce and Management* 21.1 (2011): 8-20.

expected to lead an important life. All that really matters is that halal food is not only about the food but also the preparation of the food.

The idea behind halal stresses on the safety, cleanliness and wholesomeness of food. It likewise gives an amazing stage to adhering to a good diet. Consideration is as well given to the place and the procedure used to slaughter the animals and above all, it must be affirmed that the state of these creatures would not imperil the wellbeing of the people that will eat the food, are a primary focus of halal. Nowadays, halal is no more just a mere religious commitment or recognition; however it is considered as the standard of decision for Muslims and also non-Muslims around the world. The halal idea is not new to non-Muslims, particularly those in Muslim nations.<sup>28</sup>

Then again, among the Muslims, the concept of halal is an outright key to consumption. Muslim buyers these days are confronted with a wide choice of items and services to consume. Every item classification offers a wide range of brands either locally named or globally perceived. A portion of the nearby brands seem to catch their own specialties by anticipating themselves as "Islamic" brands by means of their imaginative packaging and labelling. This serves as a form of passing information to the Muslim consumers about the halal status of their products.<sup>29</sup>

Under Malaysian law, the meaning of "Halal" can be found in Order 3 (1) of the Trade Descriptions (Definition of Halal) Order 2011 which states; "When food or products or services in connection to the food or merchandise utilized as a part of

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<sup>28</sup> Rezai, Golnaz, Mohamed, Zainal Abidin, Shamsudin, Mad Nasir and Chiew, Eddie Fook Chong. "Non-Muslims' awareness of Halal principles and related food products in Malaysia." *International Food Research Journal* 17 (2010): 667-674.

<sup>29</sup> Shafie, Shahidan, and Md Nor Othman. "Halal Certification: an international marketing issues and challenges." *Proceeding at the International IFSAM VIIIth World Congress* (2006): 28-30.

the course of trade or business is portrayed as "Halal" or by some other expression showing that Muslim are allowed to expend or utilize such food or produce or services implies the food or produce or services in connection to the food or products<sup>30</sup>:

- a) neither is or consist of or contains any part or matter of an animal that a Muslim is prohibited by Hukum Syarak to consume or that has not been slaughtered in accordance with Hukum Syarak and fatwa
- b) does not contain anything impure according to Hukum Syarak and fatwa
- c) does not intoxicate according to Hukum Syarak and fatwa
- d) does not contain any parts of a human being or its yield which are not allowed by Hukum Syarak and fatwa
- e) is safe to be used or consumed, not poisonous or hazardous to the health
- f) has not been prepared, processed or manufactures using any instrument that was not free from anything impure according to Hukum Syarak and fatwa
- g) has not in the course of preparation, processing or storage been in contact with, mixed, or in close proximity to any food that fails to satisfy paragraph (a) and (b).”

Generally speaking, from the different definitions recognized, halal food is a clean, healthy an safe food without anything dirty which is thought to be lawful as per Islamic law and also free from prohibited ingredients (haram) and filthy.

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<sup>30</sup> Order 3 (1) of the Trade Descriptions (Definition of Halal) Order 2011

## **2.2.2 Principle for Halal Food**

As a rule, each and every food is considered as foods for Muslims aside from what is prohibited either by the Holy Quran or by the Hadith. These guidelines of Shariah convey flexibility of decision for individuals to eat and drink anything they like provided it is not haram.

According to the verses of Quran, understanding of the verses by Hadith, and inductions of these by Muslim scholars provided a few laws which reasoned that all immaculate and clean food is allowed aside from the dead creature, blood (streaming or coagulated), swine and all its by-products, animal slaughtered without affirming name of Allah or purported the name other than Allah (this may incorporate the halal things sullied with haram), carnivores creatures, flying creatures with sharp hooks, and intoxicants of various kinds including alcohol and drugs.

The law guiding Halal dietary bargain all the more by and large with four issues, permitted and prohibited animals, slaughtering methods, preclusion of blood and intoxicants. These are presented as follows<sup>31</sup>:

### **2.2.2.1 Permitted and Prohibited Animals**

Meat of tamed animals with split foot is permitted like goat, camel, sheep, dairy cattle, and wild oxen. Additionally chicken, ducks, turkey, pigeon, and sparrows and like winged creatures are permitted. While meat of swine, pigs, and rapacious creatures like lion, tiger, pooch, felines and prey feathered creatures (hawk, bird of prey, and osprey) is disallowed. Fish likewise has disputable status. A few gatherings

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<sup>31</sup> Khattak, Jabar Zaman Khan, et al. "Concept of halal food and biotechnology." *Advance Journal of Food Science and Technology*, (2011).

trust just fish with scale is halal; while other certain gatherings trust all species live in water all the time are halal. Therefore, Lobsters, crabs, prawns, are albeit halal however may be makrooh by some subsequently not consumed. Animals that live both ashore and water like crocodile, seals, and frogs are not consumed. Status of bugs is not plainly characterized aside from insect which is specified as halal. Creepy crawlies, when all is said in done, both supportive for human like insect, honey bee, or hurtful and grimy animals like flies, and lice are additionally denied as nourishment. Eggs and drain from allowed animals are additionally permitted.

#### **2.2.2.2 Slaughtering Methods**

If there should arise an occurrence of allowed animals a term Dhabh is utilized for sole reason to make it fit for consumption. The word dhabh in Arabic signifies 'to slaughter'. Islamic Shariah put a few conditions must be satisfied for dhabh to meet the prerequisites to be a halal. In general, the animal must be of halal specie, and must be slaughtered by a rational Muslim, who maintains Allah's name while slaughtering (conjuring), cut the neck (jugular vein) with sharp blade and allow the fast and full drain of blood results in snappiest demise of creature.

#### **2.2.2.3 Blood Prohibition**

As per the Holy Quran pours forward blood is denied both of halal or haram animal. Despite the fact that blood is not consumed and sold in any business sector but rather the products made by blood are accessible. Like blood wieners and blood egg whites are haram for Muslims.

#### **2.2.2.4 Prohibition of Alcohol and Intoxicants**

Utilization of alcohol is disallowed obviously in the Holy Quran. The Arabic expression for alcohol is "khamr" implies what is aged including everything which influences the hearts of somebody including all wine, bourbon, lager, cognac, medications and mixers and so forth. As indicated by some Muslim groups of thought, alcohol is permitted on the off chance that just when final product has the measure of it under 0.1%. On the other hand, if wine is changed over to vinegar it will be halal the length of no wine stays in it.

#### **2.2.3 The Importance of Halal for Muslims**

These days halal has been perceived as an image of worldwide quality affirmation and hence turns into the decision of purchasers of different nations, races and religions. Clearly halal buyers are not restricted to Muslims just. Because of appeal of halal products around the world, halal image conveys awesome business esteem and turns into a wellspring of business opportunities. This has prompted misuse of halal logo and false and misleading claims of halal by a few deceitful merchants to advance their business.

It ought to be comprehended that Muslim consumers consume for the purpose of delight as well as for performing their rights, obligations and mission as hirelings of Allah in this world. Hence, it is a religious obligation of Muslims to eat good food and to keep away from sustenance that is illegal as Allah says in Quran



*“O ye who believe! Make not unlawful the good things which Allah Hath made lawful for you, and transgress not. Lo! for Allah loves not transgressors. Eat of the things which Allah hath provided for you lawful and good; but fear Allah, in whom ye believe!” (Quran 5: 87)*

It is noted that Muslims are careful about the idea that “You are what you eat”. It is a solid conviction that food influences the identity and character of a person.<sup>32</sup> This conviction is established on a few Quranic verses and the truism (Hadith) of the Holy Prophet Mohammed. For instance, in Quran, Allah says; "Let the human think about the food he eats". In connection to the Hadith, Prophet Mohammad was accounted for to have said;

*“O ye, Sa’ad : improved your food, for your doa or prayers will be answered by Allah s.w.t. Any person who had eaten out of the haram food, for his ‘ibadah will not be accepted for 40 days. The flesh which grows out of the haram once, will be burnt in Hell”*

It was obviously clarify in the above hadith that the consumption of haram is seen to grow awful and deceitful conduct which will be the harming variable for oneself and his family in this world and afterlife. Liquor, for occurrence, has been demonstrated to prompt habit, mischief and negative effect on wellbeing.<sup>33</sup> Islam likewise shows it's devotees that to have a brilliant side of confidence, a scholarly cerebrum and an

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<sup>32</sup> Ramli, Noriah and Naemah Amin. “Halal food for just and equitable world: Malaysian perspectives.” *Paper presented at 4th ASLI Conference, Jakarta (2007): 1271-1277.*

<sup>33</sup> Amin, Naemah, and Norazlina Abdul Aziz. "The Liability of the Producer of False Halal Products under Product Liability Law." *Asian Social Science (2015): 295.*

uplifting disposition they need to pick Halalan Toyibban food in their day by day diet.<sup>34</sup> Halal food might likewise give vitality to the physical body and to the spirit.<sup>35</sup>

The requirement for the Muslims to consume just halal products can likewise be comprehended from the exceptionally fundamental motivation behind Shariah law, which is going for safeguarding five essentials, in particular, religion, human life, descendants, material riches and the human staff of reason.<sup>36</sup> The protection of these essentials has been thought to be total necessities for the survival and otherworldly wellbeing of individuals.<sup>37</sup> The procedure of having or building up a decent common life and from now on relies on upon numerous components and one of the real patrons is the admission and use of good, healthy and quality food and different materials. Hence consuming and using halal products is one of the approaches to protect the expressed essentials.

As a summary, expending halal products is an impression of solid confidence, acquiescence to the common of the Creator and for the prosperity and passionate and physical soundness of Muslims. Therefore, any tricky behavior or false and misleading representation as to halal products would have genuine results to Muslim customers. Such acts cannot go on without serious consequences and are unequivocally condemnable. It is the obligation of the power responsible for Muslims undertakings to guarantee the supply and accessibility of halal items for Muslim customers. The authority is additionally under the commitment to cure the

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<sup>34</sup> Ibid.

<sup>35</sup> Sabri, Abdul Futuh. *Wasiat Rasulullah s.a.w kepada Para Peniaga*. Johor: Perniagaan Jahabersa, 2008.

<sup>36</sup> Sabik, Sayid. *Fiqhus Sunnah*. Indonesia: PD Hidayat, 1986.

<sup>37</sup> Munawar, Nursabrina. "The Islamic Perspective Approach on Plant Pigments as Natural Food Colourants." *Procedia-Social and Behavioral Sciences* 121 (2014): 193-203.

issue of false halal claims. Furthermore the casualties of false halal products ought to additionally be concurred with the right to be made up for the "loss" or "injury" created by the item.

### **2.3 The Concept of Halal Certification and Halal Logo**

In the recent 30 years, numerous markets have existed for halal products, ethnic stores and eateries have sprung up, for the most part in real metropolitan territories. Generally, the food business has overlooked this populace aggregate and focused its endeavors towards sending out to Muslim countries. Previously, Muslim businesspeople slaughtered their own animal, and the concept of halal certification was remote to them. Be that as it may, in the late 1990s, small to medium size enterprises perceived the vacuum and need to catch this corner. Halal certification is getting to be as prominent for residential products as it has been for sent out products. Foods and refreshments bearing halal certification are promptly acknowledged by Muslim consumers, and in addition customers from different religions, provided it comes from a reputable certification association.<sup>38</sup>

The certificate of halal serves as a record issued by an Islamic association, affirming the items spread meet the Islamic dietary rule and ensures that items and services provided for the Muslim populace meet the basic requirements of Islamic law<sup>39</sup> and along these lines are suitable to be consumed by the entire Muslim in both the developed and the developing nations including the Western nations where there are noteworthy populace bunch who embrace Islam (France, Germany, United Kingdom,

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<sup>38</sup> Riaz, Mian N., and Muhammad M. Chaudry. *Halal food production*. CRC Press, 2003.

<sup>39</sup> Riaz, Mian N. "Fundamentals of Halal Foods and Certification", <http://www.preparedfoods.com/articles/107888-article-fundamentals-of-halal-foods-and-certification-january-2010> (accessed October 18, 2015).

Spain). Halal certification is a procedure which guarantees that the items and preparation of the items as indicated by the tenets set up by the Islamic Council that permit the use of the halal logo.<sup>40</sup>

The halal logo is also used to send a signal to the Muslim that the food being consumed is permitted to be eaten. Thus, the logo provides the manufacturing companies with the opportunity to indicate to specific customers that their product meets the requirements and standard specified by the Islamic standard. Therefore, this has created a significant edge for the halal food manufacturer over the manufacturers without halal certification.

The halal concept is the basis or consumption of product in a Muslim majority nation. Muslim buyers these days are confronted with a wide choice of items and services, which some way or another may be dubious. There has been a compulsion for the manufacturers and marketers to use the halal certification and logo as an approach to advise and to console their primary buyers that their products are halal and in accordance to Shariah. The presentation of halal logo and certification has created more mindfulness among the Muslims on the importance of consuming manufactured products or taking part in services that take after Islamic guidelines and principles. Muslims consume the foods, drinks and other products made after they have ensured that it has halal logo issued and certified by the government agency. Halal logo itself is viewed as a critical source or element on the grounds that the foods or beverages can be confided as far as halal, safety and cleanliness. In this manner, halal logo is a sign for which restaurant or food outlets are allowable to be

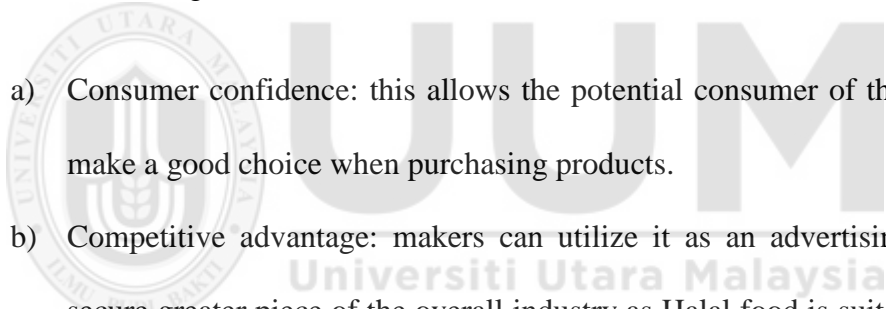
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<sup>40</sup> “International Contracts & Documents ready to use”. <http://www.globalnegotiator.com/international-trade/dictionary/halal-certificate/> (Accessed September 12, 2015).

supported by the Muslims in the nation. Labelling is likewise imperative as a source of awareness about protected and hygienic foods and beverages related eating routine and healthy. Labelling is an essential as creating awareness to consumers concerning the cleanliness, and the safety of the foods and related diet to be consumed.<sup>41</sup>

In addition, certification of food as halal is regarded an assessment of the procedures employed to prepare such as cleanliness, sanitization, slaughtering, storing, transportation mode of the food, and the administration practices of the product. The use of halal ought to apply to all phases of handling “from farm to table”.

Thus, the following benefits are realized from halal certification<sup>42</sup>:

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- a) Consumer confidence: this allows the potential consumer of the product to make a good choice when purchasing products.
  - b) Competitive advantage: makers can utilize it as an advertising device to secure greater piece of the overall industry as Halal food is suitable for both Muslims and non-Muslims. Globally, it can upgrade the attractiveness of the products particularly in Muslim nations.
  - c) Quality: it shows that the food item satisfies Halal necessities, as well as strict cleanliness norms.
  - d) For the authority: halal certification provides a mechanism for the authority to audit and monitor the halal food in the market.

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<sup>41</sup> Ambali, Abdul Raufu, and Ahmad Naqiyuddin Bakar. “People's Awareness on Halal Foods and Products: Potential Issues for Policy-makers.” *Procedia-Social and Behavioral Sciences* 121 (2014): 3-25.

<sup>42</sup> Zurina, Mohd Bistari. “Standardisation for halal food.” *Standard Ind. Res. Inst. Malaysia* 11 (2004): 4-5.

As the Muslim consumers become more knowledgeable of their religion, it is inevitable that they will be more particular on the type of products and services that they consume or use. In addition, as consumers become increasingly more sophisticated in dietary and health-related issues, the relevance of informative labeling and the belief in the right to be adequately informed will strengthen.

#### **2.4 Definition of Consumer Protection (Consumerism)**

Consumerism is perceived as an essential component of the Islamic economic system that brings together the elements of material. It also considers the *maslahat* (interest) of individuals and groups. The Islamic jurists have created the theory of consumer product consisting of three elements: 1) the contracting element, 2) moral element and 3) the Shariah element. The numbers of Islamic jurisprudence are also linking consumerism with Islamic economic theory. Thus, they make consumerism as a basic component of the Islamic economic system as mentioned earlier. With this, the jurists apply conditions and methodology that enjoins together the Shariah principles and changes of *ijtihad* (diligence).

In general, the term consumerism in Islam refers to a person who obtains such goods or services to meet their needs while achieving legitimate purposes in accordance with the Islamic law.<sup>43</sup> In matters involving a purchase, Islam emphasizes the question of quality and consumer's right. Quality of the goods sold shall be guaranteed to satisfactorily meet the needs of consumers in return for the price they paid. In discussing the issue of consumerism, *halal* (lawful) or *haram* (unlawful) status of a product is very important for Muslim consumers as it relates to religious

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<sup>43</sup> Halim, Mustafa' Afifi bin Ab, et al. "Consumer Protection of Halal Products in Malaysia: A Literature Highlight." *Procedia-Social and Behavioral Sciences* 121 (2014): 68-78.

claims. Therefore, any law or regulation designed must take these claims into account.

Based on historical fact, John F. Kennedy, the late president of the United States was the first to highlight the idea of consumer protection for the public through the Declaration of Consumer Rights. This Declaration was presented to the U.S. Congress on March 15, 1961. There were four basic rights declared during that time, which were<sup>44</sup>:

- 1) The right to safety
- 2) The right to be informed
- 3) The right to choose
- 4) The right to be heard

The concept of consumer rights then expanded its scope to other rights as was mooted by Anwar Fazal, the President of the International Organization of Consumers Unions (IOCU), which were<sup>45</sup>:

- 1) The right to satisfaction of basic needs
- 2) The right to healthy environment
- 3) The right to redress
- 4) The right to consumer education
- 5) The right to representation

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<sup>44</sup> Halim, Mustafa Afifi bin Ab, et al. "Consumer Protection of Halal Products in Malaysia." (2013).

<sup>45</sup> Ibid.

For the protection of consumers from profiteering misconduct of producers and sellers, there have been various policies, statutes and plans introduced by the government of many countries, world organizations, and consumer organizations at national and international levels such as the United Nations Guidelines for Consumer Protection, the EU Consumer Policy Strategy (2007-2013), the Regulation (EU) on Consumer Protection Cooperation, ASEAN Economic Community (AEC) Blueprint, Consumer Basic Act (Japan), and the National Consumer Policy (Malaysia).<sup>46</sup>

The United Nations Guidelines for Consumer Protection or the guidelines for the United Nations Consumer Protection (UNGCP) were the guidelines introduced by the world organization on 9 April 1985 based on the proposal submitted by the United Nations Economic and Social Council, one of the administrative machinery of the Organization United Nations.<sup>47</sup> Although it is not binding, however, it provides a framework of term of references to be used by the United Nations countries with regard to the implementation of consumer protection.

Generally, the main objective of these guidelines is to assist the government to provide for adequate protections to consumers, prevent unethical acts among businesses, and help create an independent consumer body or association in a country. In addition, it has also outlined seven consumer rights and requirements entitled to consumers to be provided by businesses, namely: protection from hazards to health and safety; improve and safeguard the interest of the consumer economy; the right to have access to adequate information on the product; the right for education including the implications of consumer choices on the environment,

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<sup>46</sup> “United Nations guidelines for consumer protection (as expanded in 1999)”.  
[http://www.un.org/esa/sustdev/publications/consumption\\_en.pdf](http://www.un.org/esa/sustdev/publications/consumption_en.pdf) (Accessed September 19, 2015).

<sup>47</sup> Ibid.



economy and social; the existence of an effective law to consumers; freedom to form associations or consumer organizations; and the opportunity for the organizations to present their views in decision-making processes in order to promote for sustainable consumption.

In Southeast Asia, the Association of Southeast Asian Nations (ASEAN) has proposed for an Asean Economic Community (AEC) Blueprint in their mission to form an independent economic community by 2015.<sup>48</sup> Among the plans being made to prepare the consumers on the emergence of the free market community is through the establishment of ASEAN Committee on Consumer Protection (ACCP).<sup>49</sup> The function of ACCP would be to act on behalf of the protection of consumer's interests. In addition, a consumer agency network will be established with aims to promote information sharing and exchanges on products, services and other relevant matters. To ensure that all ASEAN citizens have the knowledge and skills to enforce consumer protection laws and regulations, trainings will be conducted from time to time for government officials and leaders of consumer organizations.<sup>50</sup>

The National Consumer Policy (NCP) was introduced in 1990 by the National Consumer Advisory Council established under the Consumer Protection Act 1999, with aims to balance the rights and responsibilities of the three main entities; consumers, manufacturers and the government.<sup>51</sup> The main goal of NCP is to provide for full protection to consumers through the cooperation of supplier/manufacturer in implementing the concept of self-protection, as well as government involvement. To

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<sup>48</sup> "Asean Economic Community Blueprint". Association of Southeast Asian Nations: Indonesia. <http://www.asean.org/archive/5187-10.pdf> (Accessed October 23, 2015)

<sup>49</sup> Ibid.

<sup>50</sup> Ibid.

<sup>51</sup> "National Consumer Policy". <http://www.nccc.org.my> (Accessed September 16, 2015).

ensure this can be achieved, a number of areas need to be emphasized, namely: the legislature, trade practices, education, health, public facilities, and other related areas.<sup>52</sup>

The target mission of NCP is to improve consumer welfare; improve socio-economic well-being; and increase sustainable consumption practices. Several strategies have been outlined which can be categorized into two, i.e. consumer protection in terms of social, and also legal. The adoption of social strategy would be to improve quality of life; increase self-protection; increase support and assistance to consumerism movements; and encourage participations of consumer organizations in the formulation and implementation of government programs at the state and district levels. Whilst from the legal point of view, the strategy would be to strengthen the laws of consumer protection by reinforcing the existing laws and regulations, to amend the laws in accordance with the current development, creating new laws that take into account the impact of globalization, trade liberalization and sustainable consumption, ensuring for the laws to guarantee consumer's welfare and well-being.

The National Consumer Advisory Council, a body that serves to advise the Minister in the Ministry of Domestic Trade, Cooperatives and Consumerism, has outlined eight rights the consumers must know, as follows<sup>53</sup>:

- 1) The right to choose
- 2) The right to safety
- 3) The right to be informed
- 4) The right to be heard

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<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

- 5) The right to redress and remedy
- 6) The right to environmental health
- 7) The right to service
- 8) The right to consumer education

Halal has been a long-debated issue, but today, this issue has become increasingly complex as a result of rapid expansion in innovation and technology. Halal has also been gaining attention not only locally and domestically, but also globally. The era of globalization has brought many challenges to consumers. In Malaysia, consumers are also facing many problems in consumerism issues which are not limited in matters of halal products alone. Dishonesty in business practices such as poor quality goods, exorbitant prices, cheating in weighing, counterfeiting of goods, lack of quality control or standards in trade merchandise control and other forms of frauds that exist in Malaysia at the moment.<sup>54</sup> Not to exclude animal based daily consumer products such as handbags, belts, shoes and many more. The issue is the source of the products if they were taken from the animals' halal to be consumed by the Muslims? Even if the source is halal, the next issue would be the processing techniques and methods if it was done in accordance with the Islamic law or not? All these problems plaguing the consumers should be resolved immediately without haste by the relevant authorities.<sup>55</sup>

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<sup>54</sup> Sakina Shaik Ahmad Yusoff. "Perlindungan Pengguna di Malaysia (Consumer Protection in Malaysia)." *The Law*. Vol. 5 (2000): 313-330.

<sup>55</sup> Halim, Mustafa' Afifi bin Ab, et al. "Consumer Protection of Halal Products in Malaysia: A Literature Highlight." *Procedia-Social and Behavioral Sciences* 121 (2014): 68-78.

## 2.5 Conclusion

Whenever the word halal is mentioned, it indirectly relates to consumerism issues. Consumerism is an important issue that should be addressed by all nations, how they can best look after the welfare and wellbeing of their people is reflected through the policies and laws they enacted and enforced.



## CHAPTER THREE

### HALAL LAWS IN MALAYSIA

#### 3.1 Introduction

The Malaysian government is committed in supporting the halal industry in the country. Therefore, there are various laws enacted to govern halal related matters. However, all those laws are formulated for different government agencies with different rights and powers.

#### 3.2 History of halal laws in Malaysia

As a progressive Muslim country with consistent economic development and growth rate as well as political and social stability, Malaysia is the leader in the world's halal industry. The involvement of the Department of Islamic Development Malaysia (JAKIM) to confirm the status of halal on consumer food products and goods in the country began in 1974 when the Research Centre for the Islamic Affairs Division in the Prime Minister's Office started to issue halal certification letters for products that met the halal criteria at that time.

Beginning 1994, halal confirmation was given in the form of a certificate with a halal logo, and beginning 30th September 1998, halal inspections were carried out by Ilham Daya, a company appointed by the government.<sup>56</sup> The first halal standards released in 2000 was an important milestone for Malaysia as it became the first country to have a documented and systematic halal assurance system. The standards

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<sup>56</sup> "Halal History" <http://www.halal.gov.my/v4/index.php/en/korporat/sejarah-halal> (accessed October 2, 2015).

became the impetus to a new revolution that had transformed halal, from strength to strength, from a traditional cottage industry to a vibrant new economy with an estimated global market value of USD2.30 trillion. On 1st September 2002, the government decided that all halal certification activities will be conducted by JAKIM's Food and Islamic Consumer Products Division which comprised only of 28 positions.<sup>57</sup>

The rapid development of halal certification in Malaysia has also prompted the Department of Islamic Development Malaysia (JAKIM) to extend its halal section into a much bigger organisation in 2005, officially named JAKIM's halal Hub. JAKIM was the world's first halal certification body responsible for monitoring the halal industry, leading to the amendment of Malaysia's Trade Description Act in 2011 which gives JAKIM a much stronger mandate to regulate the halal industry. JAKIM's recognition programme for international halal bodies is the most stringent and sought-after bilateral halal system recognition programme in the world with over 50 international bodies registered to-date. The iconic Malaysia halal logo is the most sought-after, globally-recognised hallmark that serves as an emblem for the country's reputation as the world's leading halal hub.<sup>58</sup>

### **3.3 The laws on halal food in Malaysia**

Malaysia has several statutes in operation that deal with specific activities that directly affect the consumers. The primary purpose of these laws is to ensure that a certain standard of goods is available for the consumers. It is also to protect

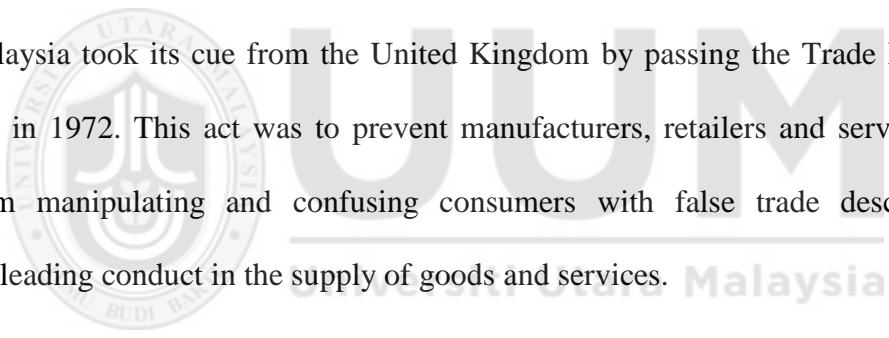
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<sup>57</sup> Ibid.

<sup>58</sup> "Malaysia: The world's leading halal hub" <http://itc.gov.my/tourists/discover-the-muslim-friendly-malaysia/malaysia-the-worlds-leading-halal-hub/> (accessed October 15, 2015).

consumers from buying goods under false or misleading information concerning the quality, standard, fitness for use and genuineness.<sup>59</sup> The said Act is the Trade Descriptions Act (TDA) 2011<sup>60</sup> and two Regulations made there under, namely, the Trade Descriptions (Definition of Halal) Order 2011 and Trade Descriptions (Certification and Marking of Halal) Order 2011. Whereas legislations such as the Malaysia Standard (MS 1500:2009), Food Act 1983, Food Regulation 1985, Food Hygiene Regulation 2009, Animals Act 1953 (Revision 2006), Animals (Control of Slaughter) Rules 2009 and Consumer Protection Act 1999 also aim to provide protection of consumer for halal food products.

### **3.3.1 The Trade Description Act 2011**

Malaysia took its cue from the United Kingdom by passing the Trade Descriptions Act in 1972. This act was to prevent manufacturers, retailers and service provider from manipulating and confusing consumers with false trade description and misleading conduct in the supply of goods and services. 

The Enforcement regarding the expression ‘Halal’ is implemented under the Trade Descriptions Act 2011, Trade Descriptions (Definition of Halal) Order 2011 and Trade Descriptions (Certification and Marking of Halal) Order 2011 (hereinafter referred to as “its subsidiary legislations”). The Act offers protection to traders or consumers from unethical trade practices. The use of ‘Halal’ expression is construed as a trade description for the purposes of this Act.

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<sup>59</sup> Zakaria, Zalina. "Tapping into the world halal market: some discussions on Malaysian laws and standards." *Shariah Journal* 16 (2008): 603-616.

<sup>60</sup> Act 730 of Malaysia.

The first Order provides that when foods or goods are described as halal or are described in other expression to indicate that the food can be consumed or used by Muslim people, such expression means that the food or goods has followed the requirements that has been imposed by the Islamic law on foods and goods, which means, such foods or goods are neither consist nor contains any part or matter of an animal that is prohibited by hukum syarak (i.e Islamic law) for a Muslim to consumer or that has not been slaughtered in accordance with hukum syarak. Also, it does not contain anything which is impure according to hukum syarak, does not intoxicate according to hukum syarak, does not contain any part of human being or its yield which are not allowed by hukum syarak, is not poisonous or hazardous to health, has not been prepared, processed or manufactured using any instrument that is contaminated with impurity according to any food that fails to satisfy the requirements mentioned above. It must be noted that the requirements do not only cover food and goods, but also the processes of transporting, storing and processing raw materials, serving and retailing of such foods and goods. If they are described as halal, such expression would mean that the services in relation to foods and goods must also be carried out in accordance with hukum syarak.

Whilst the first Order cover the definition of halal, the Trade Description (Certification and Marking of Halal) Order has made it specific that the agencies as the competent authorities mandated on this matter are the Department of Islamic Development Malaysia under the Prime Minister's Department (known as JAKIM- the federal agency) and the state.s Islamic Religious Council (at state level) that can certify any foods, goods or services are halal in accordance with the previous mentioned Order. This provision denotes that all food, goods and services shall not



be described as halal unless it is certified as halal by JAKIM, being the competent authority as mentioned above. As a consequence, only when the certification is done and satisfied, a specified halal logo can be used by the foods/goods operators.

The Domestic Trade, Co-operatives and Consumerism Minister is empowered by the 2011 Act to assign definitions to expressions or descriptions used for goods or services, and to appoint exclusive awarding bodies of such expressions and descriptions. A key purpose of the 2011 Act is to standardize the issuance of halal certificates. By virtue of the Trade Description (Marking of Halal) Order 2011, which has been made effective on January 1st, 2011, the Malaysia Islamic Development Department (JAKIM) is appointed as the sole issuer of halal certificates for any food, goods or related services. As mentioned earlier, prior to this Order, there are several bodies that also did halal certification. The other agencies/companies previously issued halal certificates would no longer be allowed to do so. This means that all premises and suppliers using halal certificates not issued by JAKIM will need to make fresh applications to these authorities, and ensure compliance by Dec 31, 2012.

The Minister of Domestic Trade, Co-operative and Consumerism has the power to specify the competent authority to certify halal and to indicate specific halal logo. Section 29(1) of the Trade Description Act 2011 provides that, where it appears to the Minister necessary or expedient in the interest of persons to whom any goods or any services in relation to that goods are supplied that the goods should be;

- a) certified by a competent authority;
- b) marked with a mark determined by the Minister; or

- c) accompanied by any information (whether or not amounting to or including a trade description) or instruction relating to the goods.

The Minister may, by order, impose requirements for securing that the goods are so certified, marked or accompanied and regulate or prohibit the supply of the goods and the requirements may extend to the form and manner in which the information or instruction is to be given.<sup>61</sup>

### **3.3.1.1 Trade Descriptions (Definition of Halal) Order 2011**

Section 28 of TDA 2011<sup>62</sup> provides the power to the Minister, in this situation, the Minister of Domestic Trade and Consumer Protection Malaysia to assign specific meaning to expressions used in trade or business. The expression ‘halal’ has been assigned specific meaning by the Minister under the section 3(1) of Trade Descriptions (Definition of Halal) Order 2011. It states, when food or goods are described as halal or are described in any other expression to indicate that the food or goods can be consumed or used by a Muslim, such expression means that the food or goods:

- a) Neither is nor consist of or contains any part or matter of an animal that is prohibited by Hukum Syarak for a Muslim to consume or that has not been slaughtered in accordance with Hukum Syarak;
- b) Does not contain anything which is impure according to Hukum Syarak;
- c) Does not intoxicate according to Hukum Syarak;
- d) Does not contain any part of a human being or its yield which are not allowed by Hukum Syarak;

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<sup>61</sup> Section 29(1) of the Trade Description Act 2011

<sup>62</sup> Section 28 of the Trade Description Act 2011

- e) Is not poisonous or hazardous to health;
- f) Has not been prepared, processed or manufactured using any instrument that is contaminated with impure according to Hukum Syarak; and
- g) Has not in the course of preparing, processing or storing been in contact with, mixed, or in close proximity to any food that fails to satisfy paragraph (1) and (2).

Section 4 of Trade Descriptions (Definition of Halal) Order 2011, when services in relation to the food or goods including the transporting, storing and processing raw materials, serving and retailing of such food or goods are described as halal such expression means that the services in relation to the food or goods are carried out in accordance with Hukum Syarak.

The use of 'halal' expression contrary to the meaning assigned in the Trade Descriptions (Definition of Halal) Order 2011 is an offence according to section 28(2) of the Trade Description Act 2011 and section 7 of the Trade Descriptions (Definition of Halal) Order 2011. If the offence is committed by a body corporate, the penalty is a fine not exceeding RM5 million and for a second or subsequent offence, a fine not exceeding RM10 million.<sup>63</sup> If the offence is committed by an individual, that person will be fined not exceeding RM1 million or imprisonment not more than 3 years or both and for a second or subsequent offence, a fine not more than RM5 million or imprisonment not more than 5 years or both.<sup>64</sup>

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<sup>63</sup> section 7(a) of the Trade Descriptions (Definition of Halal) Order 2011

<sup>64</sup> section 7(b) of the Trade Descriptions (Definition of Halal) Order 2011

### 3.3.1.2 Trade Descriptions (Certification and Marking of Halal) Order 2011

Under the Order, only the Department of Islamic Development Malaysia (JAKIM) and the State Islamic Religious Council (MAIN) in the respective States are appointed as the competent authorities to certify that any food, goods or services in relation to the food or goods is halal in accordance with the Trade Descriptions (Definition of Halal) Order 2011.<sup>65</sup>

In terms of certifying description of halal, section 3(1) of Trade Descriptions (Certification and Marking of Halal) Order 2011 provides that all food and goods shall not be described as halal or be described in other expression to indicate that the food or goods can be consumed or used by a Muslim unless it is<sup>66</sup>:

- a) certified as halal by the competent authority (JAKIM/MAIN); and
- b) marked with the logo issued by the competent authority (JAKIM/MAIN) as follows:



<sup>65</sup> section 2(1) of the Trade Descriptions (Certification and Marking of Halal) Order 2011

<sup>66</sup> section 3(1) of the Trade Descriptions (Certification and Marking of Halal) Order 2011

For violating any provision stated under section 29(2) of the Trade Description Act 2011 and section 8 of the Trade Descriptions (Certification and Marking of Halal) Order 2011 state that Any person who supplies or offers to supply any food, goods or service in relation to the food or goods which deems to be in contrary to this Order shall be liable and upon conviction;

- 1) For an organization or corporation, a fine not exceeding RM 250,000, and for the second or subsequent offences, a fine not exceeding RM500,000.
- 2) For an individual, a fine not exceeding RM100,000, or an imprisonment for a term not exceeding three years, or both. For the second or subsequent offence, a fine not exceeding RM250,000, or an imprisonment for a term not exceeding five years of imprisonment, or both.

Ministry of Domestic Trade, Co-operatives and Consumerism (MDTCC) with the cooperation of JAKIM/MAIN consistently conducts inspections to ensure the authenticity of the halal expressions used. MDTCC encourages the public to report any false or misleading used of the 'halal' expression so immediate action can be taken.

### **3.3.2 Malaysian Standard (MS 1500:2009)**

Malaysian halal food standard MS 1500 which was revised in 2009 is proven to be the widely accepted standard by the Organization of Islamic Countries (OIC). This is due to the fact that Malaysia is a Muslim country which practices the standard of halal in a very strict manner, and has been cited as the best example in the world in

terms of justifications of halal food by the United Nations.<sup>67</sup> This standard prescribes practical guidelines to prepare and handle halal food starting from the selection of raw materials until its distribution and marketing activities for the food industries. It has become the basic requirement for food production process in Malaysia.<sup>68</sup> It involves specific procedures for slaughtering, processing and other related operations as prescribed by the Islamic law. It also certifies raw materials, ingredients and products based on quality, sanitary and safety considerations and serves as a basic requirement for food products and food trade or business in Malaysia.<sup>69</sup> Halal standards are developed through consensus by committees which comprised balanced representation of producers, users, consumers and others with relevant interest. Approval of a standard as a Malaysian standard is governed by the Standards of Malaysian Act 1996.<sup>70</sup>

This MS 1500:2009 provides halal food means food and drink and their ingredients permitted under the Shariah law and fulfill the following condition:

- a) The food does not contain any parts or products of animals that are non-halal to Muslims or products of animals which are not slaughtered according to Shariah law.
- b) The food does not contain any ingredients that are filthy (najs) according to Shariah law.
- c) The food that is safe and not harmful.

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<sup>67</sup> Zulkifli, Hassan "Undang-Undang Produk Halal di Malaysia: Isu Penguatkuasaan dan Pendakwaan." *The Konvensyen Undang-undang: Isu Penguatkuasaan dan Pendakwaan, Universiti Sains Islam Malaysia (USIM)* (2007).

<sup>68</sup> Samori, Zakiah, Amal Hayati Ishak, and Nurul Himmah Kassin. "Understanding the Development of Halal Food Standard: Suggestion for Future Research." *International Journal of Social Science and Humanity* 4.6 (2014): 482.

<sup>69</sup> Malaysian Standard MS 1500:2009: Halal Food-Production, Preparation, Handling and Storage - General Guideline (Second Revision)

<sup>70</sup> Act 549 of Malaysia

- d) The food is not prepared, processed or manufactured using equipment that is contaminated with things that are filthy (najs) according to Shariah law.
- e) The food or its ingredients do not contain any human parts or its derivatives that are not permitted by Shariah law.
- f) During its preparation, processing, packaging, storage or transportation, the food is physically separated from any other food that does not meet the requirements stated in any above items, or any other things that have been decreed as Najs (filth or unclean) by Shariah law.

The standard prescribes practical the basic requirement for the preparation of halal food in Malaysia. In general, there are eight requirements, namely: (item 3.1) Management responsibility, (item 3.2) Premises, (item 3.3) Devices, utensils, machines and processing aids, (item 3.4) Hygiene, sanitation and food safety, (item 3.5) Processing of halal food, (item 3.6) Storage, transportation, display, sale and servings of halal food, (item 3.7) Packaging, labeling and advertising and (item 3.8) Legal requirements.

The responsible of management is to appoint a Muslim halal executive officer or establish a committee comprise of minimum of two Muslim workers, working full-time of Malaysian nationality.<sup>71</sup> The premises that are implementing the internal halal control system should be designed and built or renovated to meet the halal control system requirements. Such requirements included a suitable process flow (employee and product manufacturing) that practice good hygiene and safety practices, equipped with sanitary facilities, effective logistics bay,

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<sup>71</sup> Item 3.1 of Malaysian Standard (MS 1500:2009)

compartmentalized with non halal processing, abattoir that practice halal slaughtering and halal processing that meets the necessary requirements included in the standard and free from pest, pets and other animals.<sup>72</sup>

As for the devices, utensils, machines and processing aids for halal food must be used for and only for halal food production, equipped with cleaning practices and free from najis al-mughallazah. Should there be an incorporation of device, utensils, machines and processing aids that have been used or contacted with najis mughallazah, it must be firstly washed and Samak (ritual cleansing). However upon incorporation, it is not permitted for the device, utensils, machines and processing aids to be used with najis mughallazah directly or indirectly again.<sup>73</sup>

The hygiene, sanitation and food system<sup>74</sup> according to MS 1500 is by abiding the hygienic condition in premises licensed in accordance with any of these practices; Good Hygiene Practices (GHP), Good Manufacturing Practices (GMP), MS 1514, MS 1480 and public health legislation currently enforced in the country. This include developing and implementing measures to inspect and sort raw materials and ingredients as well as packaging materials, effective waste treatment, foreign substance contamination prevention and excessive usage of permitted food additives. The standard also provide with guideline in processing of halal food. There are 7 sources of halal food and drink, namely: Animals, plants, mushroom and micro-organisms, natural minerals and chemicals, drinks, genetically modified food (GMF) and products that have been neutralized from hazardous origin.<sup>75</sup> The crème of the

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<sup>72</sup> Item 3.2 of Malaysian Standard (MS 1500:2009)

<sup>73</sup> Item 3.3 of Malaysian Standard (MS 1500:2009)

<sup>74</sup> Item 3.4 of Malaysian Standard (MS 1500:2009)

<sup>75</sup> Item 3.5 of Malaysian Standard (MS 1500:2009)



standard is the requirements in slaughtering process. The process are listed and described as below;

- 1) Slaughtering shall be performed only by a practicing muslim who is mentally sound, baligh, fully understand the fundamental rules and conditions related to slaughtering in Islam.
- 2) The slaughterman shall have certificate for halal slaughter issued by a competent authority.
- 3) The act of slaughtering shall be done with niat (intention) in the name of Allah and not for other purposes.
- 4) The animal to be slaughtered has to be an animal that is halal.
- 5) The animal to be slaughtered shall be alive or deemed to be alive at the time of slaughter.
- 6) Animals to be slaughtered shall be healthy and have been approved by the competent authority.
- 7) Tasmiyyah has to be invoked immediately after slaughtering.
- 8) The Slaughtering is recommended to be performed while facing the qiblah.
- 9) Slaughtering lines, tools and utensils shall be dedicated to halal slaughter only. The knife or blade used must be sharp and clean.
- 10) Slaughtering shall be done only once. The “sawing action” of the slaughtering is permitted as long as the slaughtering knife or blade is not lifted off the animal during slaughtering.
- 11) A trained Muslim inspector shall be appointed and be responsible to check the slaughtering procedure according to the Shariah Law.

From logistical aspect, the halal food shall be stored and transported in a transportation vehicle and display location dedicated to Halal food only. All products based on naj al-Mughallazah, should be segregated from halal products.<sup>76</sup> The packaging, labelling and advertising of Halal food must also be halal in terms of packaging material, packaging process as well as any packaging design including sign, symbol, logo, name and picture. The labelling and packaging should also not be misleading and/or contravening the principles of Shariah law or confusing the consumer.<sup>77</sup> As a reference, the labelling should also complied the Food Act 1983 and Food Regulation 1985.<sup>78</sup> The product which had complied the Standard shall be verified through site inspection by competent authority. Only after verification does the halal certificates and certification mark issued to the products.

### **3.3.3 The Food Act 1983**

In Malaysia, there are three pieces of legislation which deal with halal food. There are the Food Act 1983, Food Regulation 1985 and Food Hygiene Regulation 2009. The Food Act 1983 is the parent act. The other two pieces of legislation were enacted by the Minister of Health under power given in section 34 of the Food Act 1983.<sup>79</sup> The objective of the Food Act 1983 is to protect the public against health hazards and fraud in the preparation, sale and use of food, and for matters incidental thereto or connected therewith. The Act has thirty six sections divided into five parts. The protection of consumers against unsafe food in respect of composition, false labeling and misleading advertisement is provided in Part III.

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<sup>76</sup> Item 3.6 of Malaysian Standard (MS 1500:2009)

<sup>77</sup> Item 3.7 of Malaysian Standard (MS 1500:2009)

<sup>78</sup> The Commissioner of Law Revision Malaysia. (2012). Peraturan-Peraturan Makanan 1985.

<sup>79</sup> Section 34 of the Food Act 1983

The Food Act 1983<sup>80</sup> stipulates that it is an offence for any person to prepare, pack, label or sell any food in any false, misleading or deceptive manner as to its character, nature, value, substance, quality, composition, merit or safety strength, purity, weight, age, origin, and proportion. Here, the Act does not specifically mention any abuse or illegal use of halal. This Act does, however, concern the misleading or deceptive acts in which a product is marked as 'halal' when it is not. Nevertheless, until today, no halal violation has been upheld under this Act. The Food Regulations 1985 and Food Hygiene Regulations 2009 that make it compulsory for food containing beef, pork or its derivatives, or lard to be clearly labeled of such ingredients.

According to section 13(1) and section 13A(1) impose a penalty to any person who prepares or sells any food that has in or upon it, substances which are poisonous, harmful or otherwise injurious to health.

### **3.3.3.1 Food Regulations 1985**

The Food Regulation 1985 contains provisions regarding procedures for taking samples, labeling, food additives and nutrient supplement, food packaging, incidental constituent, food standard and particular labeling requirements for food and miscellaneous matters.

Regulation 11(1)(c) requires food that contains beef or pork, or its derivatives, or lard, a statement of its presence in that food should be written on the label. Regulation 11(1)(d) on the other hand requires that food that contains alcohol to be labeled as such. Although the Food Regulations 1985 requires the presence of non-

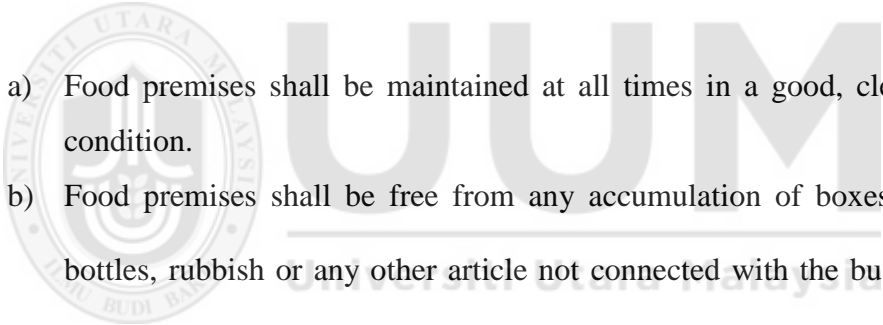
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<sup>80</sup> Act 281 of Malaysia.

halal substance to be declared on the label, the provision is inadequate to govern various matters related to halal food production such as processing and storage.

### **3.3.3.2 Food Hygiene Regulations 2009**

The Food Hygiene Regulations 2009 provides a more specific and comprehensive requirements for food safety. It provides for the specification required for food premise, duty of proprietor, owner or occupier of food premises, training, medical examination and health condition, clothing and personal hygiene of food handler, special requirements in handling, preparing, packing, serving, storing and selling of special food. Interestingly, regulation 15<sup>81</sup> of the regulation specifies cleanliness of food premises as below;

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- a) Food premises shall be maintained at all times in a good, clean and tidy condition.
  - b) Food premises shall be free from any accumulation of boxes, tin, empty bottles, rubbish or any other article not connected with the business of the food premises to prevent the entrance and harborage of pest.
  - c) The cleaning of food premises shall be carried out at least once daily and includes the removal of food residues and dirt, whenever necessary.
  - d) There shall be provided an adequate facilities for the cleaning, disinfecting and storing of appliances used in food premises and such facilities shall be constructed from corrosion resistant materials and easily cleaned and, where necessary, have an adequate supply of hot and cold potable water.

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<sup>81</sup> Regulation 15 of The Food Hygiene Regulations 2009

- e) There shall be provided and made available at all times an adequate supply of suitable cleaning agents, disinfectant and tools to enable regular and proper cleaning of a food premises and all appliances used in the food premises.
- f) Every cleaning agent and disinfectant used in the food premises shall be adequately labeled and not to be stored in areas where food is stored or handled.
- g) The Director or an officer authorized by him may, for the purposes of maintaining the cleanliness of food premises, require any proprietor, owner or occupier of food premises to make any structural alteration, repair, renovation, plumbing or drainage work in the premises within such time as may be specified by the Director or an officer authorized by him.

#### **3.3.4 The Consumer Protection Act 1999**

The Malaysian government has enacted its Consumer Protection Act in 1999 to upgrade efforts on the protection of consumer rights. The Act is under the jurisdiction of the Minister who is responsible for domestic trade, co-operative and consumerism. This is reflected through the establishment of Consumer Protection Act 1999 (CPA)<sup>82</sup> which provides for additional legal frameworks to monitor consumer rights on the issue of supply of goods against the suppliers or manufactures of the goods concerned.

Under Part X of CPA specifically examines the provisions of strict liability for defective products. Part X introduces a strict liability system in respect of death,

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<sup>82</sup> Act 599 of Malaysia.

personal injury and damage to property caused by a defect in the product. The primary liability is imposed on the producer, brand-owner and importer (section 68).

A producer is widely defined to cover every person involved in the manufacturing process, pre-manufacturing activity and the processing of a natural product such as food. In addition a producer of component parts and raw materials can be sued separately or jointly with the producer of final products. This is based on the definition of 'product' which includes 'a product which is comprised in another product, whether by virtue of being a component part or raw material or otherwise' (section 66(1)). Thus where a component of or raw material incorporated into a finished product is non-halal both the manufacturer of the component and the manufacturer of the finished product are potentially liable. The liability imposed is joint and several and the consumer therefore has the option of issuing proceedings as against multiple defendants along the supply chain. However the duty of the supplier under this Part is only secondary in the sense that he is liable only when he fails to inform the injured person, within a reasonable time, of the identity of the person who supplied him with the product. In the context of false halal products, the rule appears to be fairer to the supplier who is simply supplying other people products in ignorance of their halal status.

Obviously the main focus of the strict liability rule is the producer of product, who is the dominant link in the market chain. The producer is responsible not only for the production but also, through labelling and sales promotion activities, for creating consumer demand and expectations. The main purpose of the rule is to overcome the

problems inherent in contractual and negligence remedies.<sup>83</sup> Thus the liability can be imposed without contractual relationship and without proof of fault or negligence. Unlike liability in negligence which is based on the conduct of the producer, the main focus of the strict liability rule is the defect in the product. The liability may be imposed by reason of the existence of a defect alone. For example, if a consumer is supplied with food contaminated with non-halal ingredient and it causes injury to him, the producer of the food will be strictly liable under Part X. The issue of how the food has become contaminated or whether a risk of contamination can be discovered or avoided is irrelevant. Furthermore a claim can be made by 'a person who suffered the damage', who is not necessarily the buyer (section 68(2)). The right to claim extends to mere users of the product and by-standers as long as they are able to establish the essential requirements of the rule, namely the damage or injury, the defect in the product and causal link between the injury and the defect.

### **3.3.5 The Animal Act 1953 and Animals (Control of Slaughter) Rules 2009**

The Animal Act 1953 (Revised 2006)<sup>84</sup> was enacted to amend and consolidate the laws for preventing the introduction and the spread of animal diseases within the Federation; to control the movement of animals, the slaughter of animals, and for the general welfare, conservation, and improvement of livestock in the federation. It also covers the import and export of animals and birds.

The Animals (Control of Slaughter) Rules 2009<sup>85</sup> that the Minister makes the rules conferred by section 86 of the Animals Act 1953. The rules provides for the control of the slaughtering of animals. It empowers the Veterinary Department to issue a

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<sup>83</sup> "Liability for Defective Products" The Law Commission and the Scottish Law Commission. (1977)

<sup>84</sup> Act 647 of Malaysia.

<sup>85</sup> The subsidiary laws under Animal Ordinance 1953.

slaughtering certificate or license to abattoirs or individuals with a view to ensuring that the intended animal to be slaughtered is healthy and free from any diseases. It is quite obvious that Muslim societies in Malaysia do rely and depend on such a guide in making their decision to buy or to consume products for their daily consumption. It must be reiterated that the main objective of putting a halal label is to facilitate Muslim consumers to select food or other products for their consumption without any fear that the food or goods might come from prohibited sources. This is important as when consumers become more religious or 'halal-conscious' they will look for products that not only satisfy their needs but also gives them 'piece of mind'.<sup>86</sup>

The Malaysian government has launched the Animals (Control of Slaughter) Rules 2009 for guidelines of halal animal slaughter. Under the Rules, all meat and livestock products imported into the country must be certified halal and products must originate from slaughterhouses which have been inspected and approved by the Malaysian veterinary and religious authorities.

Base on Rule 5 of Animals (Control of Slaughter) Rules 2009, the prohibition of slaughtering can be declared in three situations;

- a) Except as provided for in these Rules, no person shall slaughter or cause to be slaughtered any animal except at an approved abattoir or licensed abattoir.

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<sup>86</sup> Shafie, Shahidan, and Md Nor Othman. "Halal Certification: an international marketing issues and challenges." *Proceeding at the International IFSAM VIIIth World Congress*. 2006.



- b) Any person who slaughter or cause to be slaughtered any animal or use of any of the services at any approved abattoir or licensed abattoir shall be the registered user of such approved abattoir or licensed abattoir, as the case may be.
- c) No person shall sell, display for sale or be in possession of any carcass of any animal that was not slaughtered at an approved abattoir or licensed abattoir.

Under Rule 17<sup>87</sup> provides penalties for offences that Any person who contravenes any provisions of these Rules be liable to a fine not exceeding one hundred ringgit, and in the case of a continuing offence, be liable to a fine not exceeding twenty ringgit for every day or a part of a day during which the offence continues after conviction.

### **3.4 The relevant agencies pertaining to halal legislation**

#### **3.4.1 Department of Islamic Development Malaysia (JAKIM)**

Department of Islamic Development Malaysia (JAKIM) is a Malaysian Government institution which has established Malaysia halal logo and implemented halal certification system. Generally, JAKIM is entrusted with the responsibility to issue of the halal status for local products, foreign manufacturing and processing plants intending to export their halal products to Malaysia. Besides JAKIM, the State Islamic Religious Department (JAIN) and State Islamic Religious Council (MAIN)

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<sup>87</sup> Rule 17 of Animals (Control of Slaughter) Rules 2009

are given the authority to issue the halal certificates for domestic market.<sup>88</sup> It is also within this power that JAKIM needs to monitor the preservation of compliance of Halal certification requirements by the certified products or services. In carrying out this duty, JAKIM is vested with a wide power covering the legislative, executive and judiciary role. However by virtue of the provision in the Constitution and the law on the setting up of a government agency, there are several unresolved issues regarding the status and power of JAKIM in executing the existing assigned duty.<sup>89</sup>

The issuance of halal food certificate involves several procedures performed by the syariah and technical auditors from JAKIM. According to JAKIM<sup>90</sup>, the responsibility to determine the halal status of the products involved not only on the official site inspection of plants, but also the examination on how the halal status of the raw material is maintained and monitored at all times. It also requires the appointment of reputable and reliable foreign halal certification bodies or organizations to monitor the halal status of the raw materials since many raw materials used in local food productions are imported products. In this case, JAKIM needs to have a standard procedure that provides a complete guide for the food operators to produce a safe and halal food.

### **3.4.2 Ministry of Domestic Trade, Co-operatives and Consumerism (MDTCC)**

The Ministry of Domestic Trade, Co-operative and Consumerism (MDTCC) was established on 27<sup>th</sup> October 1990. The purpose of MDTCC establishment is to

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<sup>88</sup> Department of Islamic Development Malaysia JAKIM's Official Website. (2015). <http://www.islam.gov.my/english/index.html> (accessed October 20, 2015)

<sup>89</sup> Aziz, Norazlina Abdul, Ramli, Noriah and Raof, Norazlina Abdul "JAKIM: Governors of Halal Affairs" <http://versys.uitm.edu.my/prisma/view/viewPdf.php?pid=52410> (accessed November 16, 2015)

<sup>90</sup> Ibid.

promote an ethical domestic trade while protecting the interests of the consumers. The Ministry's responsibilities include monitoring domestic trade, advocating and protecting consumers' rights, protection of intellectual properties as well as registration and governance of businesses. In exercising the responsibilities, the Ministry makes and reviews related laws and policies, monitors the prices of essential items and carries out enforcement activities to maintain a healthy domestic trade environment. MDTCC provides enforcement and monitoring programme to protect halal integrity halal logo and consumer's interest.

### **3.4.3 The Halal Industry Development Corporation (HDC)**

Halal Industry Development Corporation (HDC) is a developmental body that is unique in its own right. The Malaysian government established HDC in September 2006 because it realized the potential of the halal business. It also understood the country's unique position and strengths would enable HDC to spearhead the overall development of the halal industry. HDC is the only government-mandated company in the world tasked with coordinating and developing the national halal industry. HDC coordinates the overall development of the halal industry in Malaysia. Focusing on development of halal standards, audit and certification, plus capacity building for halal products and services, HDC promotes participation and facilitates growth of Malaysian companies in the global halal market.

HDC is Malaysia's response to the momentum now building up worldwide, for better quality products and services as consumers gain confidence in the halal process. It will provide manufacturers, distributors, retailers, entrepreneurs, researchers and

investors all the necessary assistance to penetrate the global Halal market through the adoption of the Malaysian experience and expertise in food and non-food sectors.

The roles and responsibilities of HDC are thus:

- a) To lead the development of Halal standards, audit and certification procedures in order to protect the integrity of Halal
- b) To direct and coordinate the development of Malaysia's Halal industry amongst all stake holders - both public and private
- c) To manage capacity building for Halal producers and related service providers
- d) To support investment into Malaysia's Halal industry
- e) To facilitate the growth and participation of Malaysian companies in the global Halal market
- f) To develop, promote and market the Malaysian Halal brand
- g) To promote the concept of Halal and related goods and services

#### **3.4.4 Ministry of Health (MOH)**

The Food Safety and Quality Division (FSQD) of the Ministry of Health (MOH) is charged with the implementation and enforcement of the law. FSQD implements an active food safety program which includes routine compliance, sampling, food premises inspection, food import control activity and licensing of specified food substances required under Food Act 1983 and its Food Regulation 1985.<sup>91</sup> It also conducts a halal food monitoring activity on specific food contaminants and additives. As a preventive approach, the FSQD have been implementing food handlers training program, vetting of food labels, giving

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<sup>91</sup> “All you should know before exporting to Malaysia”  
<http://agritrade.iift.ac.in/html/Training/Market%20study/Malaysia.pdf> (accessed November 11, 2015)

advice to the industry and consumers and food safety certification scheme. Other responsibilities of FSQD are to<sup>92</sup>:

- a) Ensure the preparation, sale and storage of all food is clean and safe and in compliance with the Food Act 1983 and Food Regulations 1985 and the Food Hygiene Regulations 2009.
- b) Ensure that all food sold is:
  1. Free from pollution and food additives that are not needed and intended fraud.
  2. Comply with the regulations and laws that set.
  3. Labeled and advertised enough and give a true picture of the content of the food.
- c) Ensure all food imported into this country is safe and comply with the Food Act 1983 and Food Regulations 1985.
- d) Ensure food exported by these countries to comply with legislation that required by the importing country.
- e) Ensure that the public receives accurate information about food safety and food hygiene.

### **3.4.5 Department of Veterinary Services (DVS)**

The Department of Veterinary Services (DVS), empowered by the Animal Act 1953 (Revision 2006) and Animal Rules 1962. The function of DVS that provides consultancy and advisory services on halal livestock, monitoring and enforcement,

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<sup>92</sup> "Food Safety and Quality Division, Ministry of Health Malaysia" <http://fsq.moh.gov.my/v3/> (accessed November 11, 2015)

issues export permit and veterinary health certificate. DVS also regulates the importation of live animal or birds and livestock product into Malaysia and respond for ensuring products of animal origin for human consumption are hygienic, healthy and wholesome and are suitable for consumption.

#### **3.4.6 Ministry of Agriculture and Agro-Based Industry (MOA)**

Ministry of Agriculture and Agro-Based Industry (MOA) is a government ministry that oversees agricultural (including livestock and fisheries) business in Malaysia, providing resources for agri-businesses wishing to utilize innovative technology in order to improve processes and operations. The resources for entrepreneurs in agricultural business are primarily in the form of funding and loans, as well as consultancy services on various aspects of running farms, fisheries, etc.

MOA also provides information and application services for several accreditation and certification programmes for agri-businesses in Malaysia, such as good hygiene practices (GHP) and good manufacturing practices (GMP), as well as halal certification.

#### **3.4.7 Department of Chemistry**

Department of Chemistry is the leader in halal product analysis and traceability. The specialized in meat speciation, halal DNA functions as well research and product quality assurance. The Chemistry Department's laboratory is the official laboratory used by JAKIM or state Islamic religious departments (JAIN) in matters concerning halal certification as stipulated in the Malaysian Halal Certification Procedures Manual.

### 3.5 Procedure of halal certification

In Malaysia, the halal certification and logo are issued by a body that is authorized by the Malaysian government. The government controls the system with support from multi-agencies that lead by Department of Islamic Development Malaysia (JAKIM). JAKIM is a body that plays a significant role in halal certification efforts in Malaysia. JAKIM has published the Manual Procedure of Halal Certification Malaysia (the Manual) and the Guidelines on the Appointment of Foreign Islamic Organization as Halal Certification Body for Products to be exported to Malaysia (the Guidelines). It is a complementary document to MS 1500:2009, MS 1514:2009 and MS 1480:2007. This manual covers the application procedure, inspection, monitoring and enforcement of halal food. It is used as guidelines to co-ordinate the implementation of halal certification activities in Malaysia at JAKIM's federal level and states and provides the basic principles to be adopted by every halal certificate holder in Malaysia. The issuance of halal certificate is only made upon the applicant's compliance to all standards listed and requirements in the manual.<sup>93</sup>

Applicants who are eligible to apply for the halal confirmation certificates are categorized as; 1) Manufacturer or producer, 2) Distributor or trader, 3) Sub-contract manufacturer, 4) Repacking, 5) Food premise and 6) Abattoir/slaughter house. Application for the halal confirmation certificate for national and international markets should be submitted to the JAKIM Halal Hub, as an on-line application. Where else, Application for the Halal Confirmation Certificate for the local market

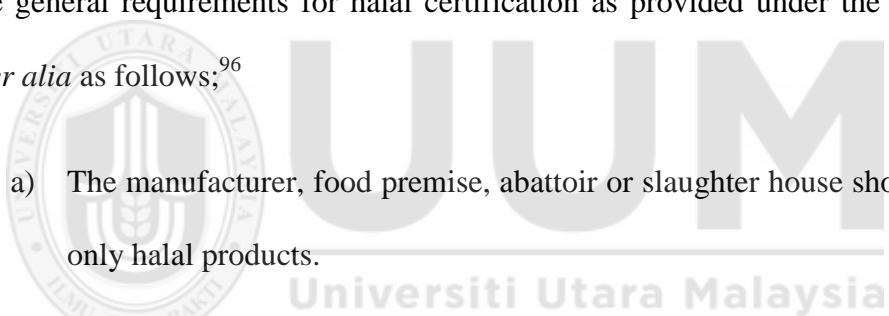
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<sup>93</sup> Department of Islamic Development Malaysia (JAKIM). "Manual Procedure of Halal Certification Malaysia" <http://www.halal.gov.my/v4/index.php/en/garis-panduan/manual-prosedur-pensijilan-halal-malaysia> (accessed November 19, 2015)

must be submitted directly to the State Islamic Religious Department (JAIN) and State Islamic Religious Council (MAIN), whichever one is relevant.<sup>94</sup>

The halal certification is issued according to three categories of application. The three categories are 1) Products/ Consumer Goods, 2) Food Premise and 3) Slaughter House. Additionally, the premise inspection in terms of the product processing, handling, storage, equipment and distribution is mandatory procedure before the halal certificate is approved. The halal certification will be issued if this basic principle and procedure are complied and revoked if not complied.<sup>95</sup>

The general requirements for halal certification as provided under the Manual are, *inter alia* as follows;<sup>96</sup>

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- a) The manufacturer, food premise, abattoir or slaughter house should produce only halal products.
  - b) The applicant must ensure that all raw ingredients used are halal and use suppliers or sub contractors who supply only halal materials or hold halal certificates.
  - c) The applicant must comply with the halal procedure set out in the Manual.
  - d) An applicant which falls under the Multinational or Medium Industry category is required to form Halal Internal Audit Committee and appoint an Islamic Affairs Executive (Islamic Studies) to handle and ensure compliance with halal certification procedure.

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<sup>94</sup> Department of Islamic Development Malaysia. <http://www.islam.gov.my>. (accessed October 20, 2015)

<sup>95</sup> Ibid.

<sup>96</sup> Ramli, Nurliza. "Halal-The New Global Market Force (Part 2)." <http://www.skrine.com/halal-the-new-global-market-force-part-2> (accessed October 20, 2015).



- e) The applicant must employ at least two Muslim permanent employees of Malaysian citizenship at the kitchen/handling/food processing areas.
- f) During preparation, handling, processing, packaging or transportation, the product must be in a clean condition and not contain non-halal ingredients.
- g) Equipment or appliances used must be clean and free from filth according to Shariah.
- h) Transportation used must only be for halal products.
- i) Equipment, manufacturing premises and surrounding areas must be clean and the factory should follow good manufacturing practices.
- j) Workers must practice good work ethics and good hygiene practices.

The inspection procedure is carried out after the applicant has complied with all requirements and the certification service fee has been paid. The section covers documentation, processing, handling and distribution of products, equipment and food processing aids, storage, display and product serving, cleanliness, sanitation, food safety, packaging and labeling and overall state of the premises. The Manual also sets out details of additional requirements that apply to different categories of applicants.

The inspection report is submitted to the Halal Certification Panel who may approve or reject an application. If an application is approved, the halal certificate is issued and the halal certificate owner is permitted to use the halal logo on the relevant products or premises. A halal certificate is valid for two years and may be revoked if there is a contravention of the halal certification procedure. A halal certificate owner is required to submit his application for renewal four months before the expiry date.

## CHAPTER FOUR

### LEGAL PROTECTION TO MUSLIM CONSUMER

#### 4.1 Introduction

Food and other products carrying the halal label and prepared in accordance to the Islamic standards and principles is generally considered as fit to consume by the Muslims. The abuse and illegal use of the halal logo and certificates has imposed a level of uncertainty and sensitivity among the Muslim consumers of halal products.<sup>97</sup> However, the issues of lawful and good food are not only the concern of the Muslims, but also that of the entire nation. Therefore, the issues relating to the consumption of the halal food, especially the abuse of the halal certificate and the other related offenses in Malaysia are presented in this section of the study. Being a country of majority Muslims population, it is prudent for the government to ensure that the sensitivity of Muslim consumers does not being infringed. As one of the fundamental basis of halal food control, legislation on halal food is pertinent to ensure consumers protection. Hence, this chapter will discuss about the example of cases related to issues of halal food, appropriate comments and enforcement of halal law in Malaysia.

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<sup>97</sup> Zakaria, Zalina. "Tapping into the world halal market: some discussions on Malaysian laws and standards." *Shariah Journal* 16 (2008): 603-616.

## 4.2 Case Study

This section presents the case study relating to halal consumption and certificate abuse using the Secret Recipe, Cadbury, HP sauce and Tabasco pepper and IKEA sauce as a case study.

### 4.2.1 Secret Recipe

In May 2015, the company which runs the eatery, Secret Recipe Manufacturing Sdn. Bhd., was found to have breached the halal certification procedure manual which involves serious hygienic offences and good manufacturing practices.<sup>98</sup>

Department of Islamic Development Malaysia (JAKIM) through Halal Hub Division gave an explanation on the issue of withdrawal of the Malaysian Halal Certification for the company's Secret Recipe Manufacturing Sdn. Bhd. The statement to be widely disseminated in social networking sites. Halal Certification Malaysia withdrawal of the company was due to a collision has occurred against the Malaysian Halal Certification Procedure Manual offenses involving hygiene and Good Manufacturing Practice (GMP). However, the revocation of the halal certification for Secret Recipe Manufacturing Sdn. Bhd. is not due to the use of "haram ingredients" but over issues involving cleanliness.<sup>99</sup> Therefore, Halal Hub Division had called the company involved and the company has promised to take immediate action in respect of offenses causing their Malaysian Halal Certificate withdrawn.

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<sup>98</sup> "Secret Recipe's halal certification revoked" <http://www.beritadaily.com/news/2015-05-26/13269/secret-recipes-halal-certification-revoked> (accessed November 22, 2015).

<sup>99</sup> "Jakim revokes Secret Recipe's halal cert" <https://www.malaysiakini.com/news/299644> (accessed November 22, 2015).

Halal Certification Malaysia withdrawal is effective on May 7, 2015. However, the withdrawal of a halal certificate shall not prevent the company to re-apply for the halal certificate after corrective actions have been made and comply with Malaysia's halal certification. JAKIM will make a review of the application based on inspection and compliance on the Malaysia Standard 1500: 2009 and the Malaysian Halal Certification Procedures Manual, 2014. For JAKIM, this matter is extremely serious and is reminiscent of the holders of Halal Certification Malaysia to always comply with the Malaysian halal certification from time to time. Action will also be taken without compromise to any party violating the halal certification standards compliance after having Halal Certification Malaysia

#### **4.2.2 Cadbury and Pig DNA**

In February 2014 routine tests by Malaysia's Ministry of Health found porcine (pig) DNA in two locally made Cadbury products in samples taken from Cadbury's Dairy Milk Hazelnut and Dairy Milk Roast Almond.<sup>100</sup> In late May, a copy of the report was unofficially posted on social media sites and rumours began to spread in Malaysia, particularly on Facebook, that Cadbury chocolate may not be halal.

In line with the basic processes of issue management, Cadbury promptly stated on its Facebook page that it was aware of the rumour and stressed its position that all locally made products are halal certified by JAKIM.<sup>101</sup>

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<sup>100</sup> Blok, Kok. "The Malaysian Pork Choc Controversy", (2014)  
<http://k0ks3nw4i.blogspot.com.au/2014/05/the-malaysian-pork-choc-controversy.html> (accessed November 14, 2015).

<sup>101</sup> Jaques, Tony. "Cadbury and pig DNA: when issue management intersects with religion." *Corporate Communications: An International Journal* 20.4 (2015): 468-482.

Immediately, the issue triggered hundreds of responses, overwhelmingly negative. The following day the Health Ministry confirmed that two samples tested were positive for porcine DNA. JAKIM suspended the halal certificate for the two products and Cadbury immediately withdrew them both from the market.

#### **4.2.3 HP Sauce and Tabasco Pepper Sauce**

The Department of Islamic Development Malaysia (JAKIM) in 2011 on the chemistry analysis conducted in Malaysia found that there is content of the deoxyribonucleic acid (DNA) of pork in the sample of HP Sauce and Tabasco Pepper.

JAKIM stated that all holders and potential holders of Malaysian Halal Certificate utilizing the HP Sauce and Tabasco Pepper Sauce are to change to another item that has a halal certificate for the disclosure of Pig's deoxyribonucleic acid (DNA) of pigs in the item. All the new and the Malaysian Halal Certificate holders who utilize the items HP Sauce and Tabasco Pepper Sauce are educated to change to different items that have a halal certificate taking after the disclosure of deoxyribonucleic corrosive (DNA) pigs in the item.<sup>102</sup>

The Consumers Association of Penang (CAP) is stunned and worried of the late disclosure with respect to substance of pig DNA in nourishment items that is broadly devoured by Muslims. Any issue relating to halal must be taken into genuine thought as it is of vital significance to Muslims. CAP additionally encourages the authority to

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<sup>102</sup> Consumer Association of Penang. "The Government should be stringent in issuing Halal certification" <http://www.consumer.org.my/index.php/food/safety/477-the-government-should-be-stringent-in-issuing-halal-certification> (accessed November 16, 2015).

lead thorough assessment and test sauce-related items other than the said brand as there are numerous sauces created in the nation and abroad. This is a genuine matter as sauces are generally utilized as a part of cooking, whether at home, sustenance slows down or eateries, and particularly in Western foods.

Preparation of food has turned out to be more unpredictable in the appearance of innovation and buyers additionally have more extensive decision of handled food and this makes a circumstance where buyers are presented to an assortment of food that may contain haram ingredients. In respect to this, CAP encourages the Ministry of Domestic Trade, Cooperatives and Consumerism to deny the offer of HP Sauce and Tabasco Pepper Sauce in Malaysia.

#### **4.2.4 IKEA Malaysia and the Halal Food Crisis**

The IKEA food outlet is on the first floor of the store with 1686 capacity. It is exceedingly well known to consumers. On 15<sup>th</sup> March, 2005, their restaurant on the first floor of the IKEA store was struck by the Malaysian Domestic Trade and Consumer Affairs and Health Ministry, the Selangor Religious Affairs Department (JAIS) authorities, Malaysian Muslim Consumer Association and police.

Sixty boxes of frankfurters were seized from the restaurant by the group as they were suspected to be non-halal. This took after assaults at the production lines of their suppliers, in particular, Muller Sausage Haus Sdn. Bhd. Also, Pacific Refrigerating Sdn. Bhd. at Kompleks Selayang Industrial Zone, for suspected rebelliousness with the nation's strict halal assembling regulation. It was uncovered that the halal certification of the industrial facilities had lapsed in January 2004. The store was

additionally explored to confirm that they had the legitimate halal affirmation from the religious authority falling flat which they were at risk to be charged under the Trade Descriptions Act 1972 which accommodates a fine of up to RM 250,000.<sup>103</sup>

### **4.3 Halal Food Status: Problems and Challenges**

Apart from the legal issues as discussed in chapter three and the example of cases above, there are other problems and challenges in ensuring the authenticity of halal food status which may affect consumers' confidence with the product. The problems and challenges may be summarized as follows;

#### **4.3.1 Halal Certification and Dual Jurisdiction**

Halal certification by a reliable and authoritative agency is very crucial in ensuring the authenticity of halal food status since majority consumers totally rely upon on halal logo. Nevertheless halal certification is still a major problem in the halal food production in Malaysia. Although JAKIM has been appointed as the sole halal certification agency, State Religious Authority of every state in Malaysia has issued its own halal logo. As a result, there are more than ten halal logos being used in the market which sometimes may cause confusion to the consumers. It is clearly a need that certification process to be centralized for the sake of uniformity and to ensure authenticity of the halal logo.

#### **4.3.2 Fraudulent Halal Logo**

In the case of fraud against halal logo, there are several types of frauds including the subsequent misuse of the halal logo upon the business acquirement of the logo, the

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<sup>103</sup> Mutum, Dilip, Roy, Sanjit Kumar and Kipnis, Eva. *Marketing Cases from Emerging Markets*. Springer Science & Business Media, 2013. p.32.

use of over expired halal compliance certificate, or companies that have never obtained the halal certificate and instead have used a forged one.<sup>104</sup> If the fraud is only confined to the cheating of halal logo per se, it may not pose as a big issue to consumers. However, what would be critical is the businesses that use halal logo in their products but after further investigation and testing were showed traces of alcohol and DNA of pig in the content which is clearly prohibited in Islam. Many cases of occurrence in Malaysia which have been reported by the mainstream media in Malaysia.

The source from the Ministry of Domestic Trade, Cooperatives and Consumerism (MDTCC) reported of six forged halal logo, resembling the Islamic Development Department of Malaysia (JAKIM) halal logo, are in the market. Due to fear of drop in sales, some of the kopitiam restaurant owners began to panic and resorted in buying privately issued halal logo to trick the Muslim consumers.<sup>105</sup> The fake halal logo is displayed on the door at the payment counter of the premises to convince the already increasingly cautious customers after knowing not all kopitiam restaurants have applied for halal certification from JAKIM. Most consumers are not aware of the scam following the imitation of halal logo that is similar to the halal logo issued by JAKIM.<sup>106</sup>

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<sup>104</sup> Mustafa 'Afifi Ab. Halim dan Mohd Mahyeddin Mohd Salleh. "Hak Pengguna Berkaitan Produk Halal (Consumer Rights Related to Halal Product)" *The International Conference on Consumer Law* (2011): 357.

<sup>105</sup> Mohd Jamilul Anbia Md Denin and Kasdi Ali. "Perdaya Pelanggan (Cheating the Customers)." *My Metro*. (2011), <http://www.hmetro.com.my/articles/Perdayapelanggan/Article/> (accessed on 10 November 2015).

<sup>106</sup> Ibid.



In the case of slaughtered animal, The Royal Malaysian Custom (JKDM) Selangor confiscated a total of 22,750 kilogram of frozen beef valued at RM342, 150. The status of its halal is doubtful after JKDM raided a container in North Port which was declared containing a load of carrots but after further checking only found three rows of carrots and the rest containing boxes of frozen beef believed to be originated from Argentina without any halal certification.<sup>107</sup>

During the month of Ramadan in 2010, JAKIM and MDTCC jointly conducted Buffet Ramadan Operations from 1st until 28th Ramadan 1431H. It was found that 50 hotels and restaurants (52%) of the 96 premises checked were halal noncompliance to the halal standard of JAKIM and JAIN.<sup>108</sup> Among the findings were the use of raw materials based on alcohol, doubtful contents, non-halal certification of halal raw materials, chicken from unclear sources and the mixing of halal and nonhalal raw materials at the loading bays, storage and the use of Malaysian halal logo without the valid halal certificate issued by JAKIM and JAIN.<sup>109</sup>

Based on the cases mentioned above, the acts of trickery and false misrepresentations on the part of the sellers were profound especially in the use of halal logo, which was alarming. However, it was difficult for the authorities to take actions due to limited enforcement powers of JAKIM and States Religious Departments as well as lacked of evidence for prosecution.

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<sup>107</sup> Anon. "Kastam Rampas Daging Beku ekor Lembu Diragui Halal (Custom Seizes Suspicious Halal Frozen Meat)." *Utusan Malaysia* (2011).

<sup>108</sup> Wan Mohamad bin Dato' Sheikh Abdul Aziz. "Keberkesanan Undang-Undang dan Penguatkuasaan Mengenai Makanan dan Produk Halal di Malaysia (Effectiveness of the Laws and Enforcement on Halal Food and Products in Malaysia)." (2010): 4.

<sup>109</sup> Ibid.

It is a clear persecution to the consumers especially to the Muslim consumers wanting a halal food or product. Thus, an establishment and development of a consumer protection model is critical to safeguard the rights of consumers in the consumption of the halal food.

#### **4.3.3 Legal Enforcement and Prosecution**

In appreciation of legitimate requirement of halal related matters, JAKIM together with different offices, for example, MDTCC, Department of Veterinary Services (DVS), Ministry of Health (MOH) and Local Authorities (LA) have powers in doing as such. JAKIM and such organizations will complete their implementation authorities as per their pertinent rights and controls in halal related matters offences.<sup>110</sup>

As a matter of fact, a few issues and issues inside of the legitimate authorization of halal related matters emerge because of the constrained lawful forces of JAKIM itself. In this respects, JAKIM ought to be given more lawful authorization and control which could help to execute its own particular halal implementation work without relying upon some other organization, for example, MDTCC, LA, DVS and MOH. As far as preparing, JAKIM authorization officers have their own particular evaluating accreditation guaranteed by Standards and Industrial Research Institute of Malaysia (SIRIM) which empowers them to do reviewing all alone on production line and premises. Presently, JAKIM by means of its Halal Hub Division is taking a shot at Halal Act which will give more power and clear power to JAKIM officers in managing halal related matters and issues in the nation.

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<sup>110</sup> Zaina, Che Rosmawati Che Mohd, Rahmanb, Suhaimi Ab, Ishanc, Zahira Mohd. And Azizd, Shamrahayu Ab. "Jurisdiction and Prosecution of Halal Related Matters in Malaysia: Challenges and Prospects." *Procedia-Social and Behavioral Sciences* 172 (2015): 294-300.

It is pitiful to say that JAKIM is essentially assuming its part as guard dog, confirmer of halal rebelliousness offenses and additionally witnesses for the indictment of halal related cases. In fact, JAKIM as the unrivaled halal affirmation body in the nation; it likewise ought to be given more prominent and more extensive forces keeping in mind the end goal to guarantee viable requirement concerning halal items. Among the issues that arise here is the extent to which the effectiveness of the enforcement which is carried out by JAKIM from the legal perspective. The provisions of the existing law only provides for JAKIM to withdraw halal certification without having jurisdiction to prosecute any wrongdoer of halal related cases. Any prosecution of any halal related cases will be carried out by the prosecution team from the MDTCC even though most of the monitoring and enforcement matters are carried out solely by JAKIM.

Then again, if JAKIM might want to take the functions of prosecution, there are few things which JAKIM must seriously take into consideration. Initially is the requirement for qualified personnel to practice before the Civil Courts. This is because the prosecution jurisdiction of halal food products is under the jurisdiction of the Civil Courts. Second is the requirement for legal provisions that engage JAKIM officers to end up prosecutors. The third is that there is additionally a halal related offense classified as Shariah offense, for example, Section 42 of the Syariah Criminal Offenses (Federal Territories) 1997 whereby under such law, the power to prosecute rests with the Chief Syar'ie Prosecutor of every state in Malaysia.

#### **4.3.4 Misunderstanding of the Concept of Halal**

It is a well-known fact that food industry in Malaysia is dominated by non-Muslims manufacturers and suppliers. They have accepted the fact that halal compliance is very important for them to acquire dominant position in the local as well as global food market. Despite their eagerness to affix the product with halal logo, it is a general understanding among many non-Muslims and some ignorant Muslims that as long as the food does not involve the use of alcohol and pork, it should be considered as halal. This is clearly contrary to the real meaning of halal food according to Islamic Shariah as discussed earlier. This misconception may however be overcome by a proper halal education programme or halal awareness campaign for the people in the industry as well as the consumers.

#### **4.3.5 New Discoveries in Biotechnology and Genetic Engineering**

Advances in science and technology and rapid development of food processing industry have posed new challenges to halal food certification. Without a proper knowledge on the type of genes used in genetically modified food (GMF) and technology to discover the presence of non-halal substance, it is difficult to determine the halal status of such food. Previously, JAKIM had issued a fatwa on biotechnology that “All animals treated with any product derived from non-halal sources (obtained through biotechnology) become non-halal animals. Likewise any food or date there is no provision which requires mandatory labeling of GMF.

#### **4.4 Enforcement of Halal Certification Law in Malaysia**

Law and halal guidelines have long been implemented, but there are still many lacunas in terms of the effectiveness of the law and its implementation in Malaysia.

This is evident when consumers are confused and sceptical of the Halal status of a food or products marketed.

Prior to the Amendments of the Trade Descriptions Act 2011 (TDA 2011), the applied laws and acts related to the enforcement of halal were not subject to the jurisdiction of the Malaysia Department of Islamic Development (JAKIM). Their jurisdiction is only on certification process. JAKIM use Malaysian Standards (MS) and the Manual of Malaysian Halal Certification Procedure for halal certification.<sup>111</sup>

What's more, the Trade Descriptions (Use of "Halal") Order 1975 offers approach to people or privately owned businesses to issue its own certificate and halal logo. This was on the grounds that, the Order did not specify the names of JAKIM or the State Islamic Religious Department (JAIN)/State Islamic Religious Council (MAIN) only as the competent agencies authorized to issue a halal certificate and logo.<sup>112</sup>

After the Amendments of the Trade Descriptions Act 2011, that engaged JAKIM to carry out enforcement against traders who abuse the use of the halal logo on their products. It is revered in Order 3 of the Trade Descriptions (Certification and Marking of Halal) Order 2011. Notwithstanding, the Ministry of Domestic Trade, Co-operative and Consumerism (MDTCC) still pursuing the enforcement on issues identified with halal food products during the move time of TDA 2011 enforcement.<sup>113</sup>

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<sup>111</sup> Halim, Mustafa Afifi Ab, and Azlin Alisa Ahmad. "Enforcement of Consumer Protection Laws on Halal Products: Malaysian Experience." *Asian Social Science* 10.3 (2014): 9.

<sup>112</sup> Ibid

<sup>113</sup> Ibid

As per Chief Assistant Director of Halal Hub Division JAKIM, Azizan bin Shaari, during the time spent reinforcing the halal enforcement division in Malaysia; JAKIM is attempting to increase the quantity of competent enforcers to complete their obligations as per the amended Trade Descriptions Act 2011.<sup>114</sup>

JAKIM now has the power to prosecute and in this manner, JAKIM ought to have qualified officers to practice in the civil court in light of the fact that the jurisdiction of halal food products prosecution, either as indicated by TDA 2011 or other law related to halal food products, goes under the jurisdiction of the civil court. In the interim, the state Chief Prosecutors has the power to prosecute for offences under the State Criminal Offences Enactment.<sup>115</sup>

#### **4.5 Conclusion**

The discussion shows that halal food is rather controversial and unsettled issues in Malaysia at present. This is mainly due to a lacuna in the laws and regulations on halal food which have been developed in a peace meal. There is no codified or uniform law to govern matters related to halal food production and consequently no specific agency is responsible to enforce the law. It is also clear that halal certification is main problem faced by Muslim consumers since halal logo does not necessarily guarantee them the food is halal. Therefore, to protect the general interest of consumers and to regulate the halal food production, a specific law on halal must be enacted.

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<sup>114</sup> Ibid

<sup>115</sup> Ibid

## **CHAPTER FIVE**

### **CONCLUSION AND RECOMMENDATIONS**

#### **5.1 Introduction**

This chapter is divided into two parts, namely: discussion and conclusion. The suggestion analyzes on the connection between information discussed in chapter two, three and four, and summarizes into conclusions.

#### **5.2 Conclusion**

The trial of the Trade Description Act is yet to be enforced in the court since it began in 1<sup>st</sup> January, 2012 due to the fact that a single case of halal certification and abuse has not been filed in the court under the provision of this Act.

The responsibility of the government is to protect the consumers from any form of cheating and misappropriation of halal food products. As a result, it becomes important that the enforcement of the Trade Description Act 2011 begins and the loopholes in the law should be reviewed and amended to ensure the efficiency and effectiveness in the optimal protection of the consumers' right.

Consequently, all parties involved in the protection of the halal food products such as the government, manufacturers, traders and the consumers has an important role to play in the preserving the halal food products from misappropriation and limit the consumption of non halal products while preserving the halal customers' right.

In addition, there should be an establishment of customer protection model that will ensure the protection of halal customers' right. It is recommended that an authoritative and dedicate body that will be accountable for the administration of halal body be formed in order to ensure that the resolutions relating to halal issues are realized. The roles played by JAKIM and seven main agencies that involved in halal food products cannot be ignored, however, the proposal for the establishment of a governing body such as Halal Commission charged with the basic responsibility of regulating and monitoring including the full enforcement of all the affairs relating to halal matter and products is vital.<sup>116</sup> Establishing this commission may be by upgrading the role and functions of the Division of Halal Hub in JAKIM and JAIN which includes the collaboration between the federal and the state bodies in the legislative and the administrative concern of halal products and related matters. Although much has been done, there is still more to be done by the Malaysian government to ensure effective legislation which could protect the Muslim consumers.

### **5.3 Recommendations**

In achieving the aim of making the law that governing halal food products in Malaysia, provides sufficient protection for Muslim consumer, various issues and challenges arose in relation to the enforcement of halal food products in Malaysia. The discussions concerning the laws and agencies presented in chapter three and four of this study identified in regards to giving protection to customers on halal food and products. In particular, seven agencies and five laws that were relevant to the halal food control were distinguished. Hence, the government and the relevant agencies

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<sup>116</sup> Halim, Mustafa' Afifi bin Ab, et al. "Consumer Protection of Halal Products in Malaysia: A Literature Highlight." *Procedia-Social and Behavioral Sciences* 121 (2014): 68-78.

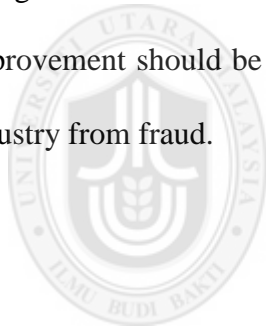


ought to quickly find a way to address these issues in light of the fact that it has specific significant consequences on the Muslim consumer. The following improvements were proposed to address these issues and challenges:

- 1) Courses and training should be provided by the agencies in charge of halal food and products concerning the investigation and prosecution related to halal foods and products. JAKIM and state Islamic officers regarded as enforcement officers are called as assistant trade description controllers under the Trade Descriptions Act 2011 have been appointed by the MDTCC to enhance the enforcement of law. Related courses to the investigation and prosecution of halal related offences should be conducted to enhance the dedication of the enforcement officers and further enrich their knowledge and exposure on raids, prosecution, inspections and improve their knowledge of the Acts.
- 2) The campaign on public awareness that can enable the general public to make complaints about halal related abuse should be increased.
- 3) Establishments of a special commission to look into halal and related matters in Malaysia.
- 4) Create a special law to govern halal legislation. Several issues may arise that will handicap the government from making effort to make halal industry become a new source of economic development. Thus, creating a special law to oversee the halal legislation will enable government to be of assistance to the industry when the need arise.
- 5) Effort should also be made to create awareness among the consumers on choosing foods on display.

In compliance with the amendments to the Trade Descriptions Act 2011, where this act has named JAKIM, JAIN or MAIN as a competent authority, the authority in issuing the halal certificate. This means that based on the TDA 2011, any individual or private company cannot simply issue the halal expression or logo unless issued by JAKIM or JAIN only.<sup>117</sup> Prior to this amendment, the authority permits any individual or private companies to issue its own certificate and halal logo. Thus, TDA 2011 gave a great impact and effect in terms of halal law enforcement in Malaysia.

The halal related matters in Malaysia are governed by JAKIM, JAIN and MAIN but the government needs to realize the constraints faced by these agencies and improvement should be done, especially in providing manpower to protect the halal industry from fraud.



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<sup>117</sup> Halim, Mustafa Afifi Ab, and Azlin Alisa Ahmad. "Enforcement of Consumer Protection Laws on Halal Products: Malaysian Experience." *Asian Social Science* 10.3 (2014): 9.

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