

REGULATING HALAL LAWS IN ERADICATING HALAL ISSUES

Anis Husna

Academy of Contemporary Islamic Studies
Universiti Teknologi Mara (UiTM)
40450 Shah Alam Selangor
anisshusna@gmail.com

Muhammad Syukri Mohd Ashmir Wong
Academy of Contemporary Islamic Studies
Universiti Teknologi Mara (UiTM)
40450 Shah Alam Selangor
syukri@uitm.edu.my

Khairul Effendi Hashim
Academy of Contemporary Islamic Studies
Universiti Teknologi Mara (UiTM)
40450 Shah Alam Selangor
khairuleffendihashim@gmail.com

ABSTRACT

Halal Industry currently has become the fastest-growing business all over the world. The trend among consumers is choosing halal as their main product because it brings a huge benefit to their lifestyle. Despite the undeniable growth of the Halal Industry, the constant halal issues that are arising in the halal market are worrying because it can give a negative impact on the halal industry. To eradicate the halal issues, Malaysia developed halal laws as a mechanism for protecting the consumer and ensuring all halal activities are conducted accordance in with the manner by following acts, laws, regulations, and standards. The objective of this study is to examine the implementation of halal laws in eradicating halal issues. Through a legal research method, this paper analyses the provision of related laws that govern all matters relevant to halal. The laws are consisting of Trade Description Act 2011, Food Act 1983, Food Hygiene Regulations 2009, Local Government Act 1976, Consumer Protection Act 1999, and Custom Act 1967. The result of this study is important to understand the legislation and consequences of halal laws in eradicating halal issues.

Keywords: Halal Act, Halal Issue, Halal Law

Submitted: 24/6/2022

Accepted: 14/10/2022

Published: 15/12/2022

INTRODUCTION

Halal Industry currently has become the fastest-growing business all over the world because of the rapid Muslim population in the world (Mohd & Salwa, 2014). The wide market of the Halal Industry has gained interest and attention among Muslims also non-Muslims. It seems that non-Muslim stakeholders realized the potential growth of the halal market and are capable to lead

the sector to the world's economy (Ab & Mohd, 2020). Halal Industry in Malaysia is a preference among consumers for the manufacturer to create halal brands in the market. Malaysia created more opportunities for halal manufacturers by adding additional two sectors which total 9 sectors including food and beverages, pharmaceuticals, consumer goods, cosmetics and personal care, food premise, logistic, original equipment manufacturer (OEM), and medical devices. The table below shows the total company that successfully develop their products as halal brands by obtaining halal certification:

Table 1. Total Halal Certified Company in Malaysia

Schemes	Total Halal Certified Company
Food & Beverages	5289
Food Premise	1928
Original Equipment Manufacturing (OEM)	1089
Cosmetic	479
Consumer Goods	248
Pharmaceutical	228
Slaughterhouse	141
Logistic	91
Medical Device	2
Total Halal Certified Company	9495

Source: HALAL JAKIM Official Portal (Retrieved 6 October 2022)

From the table, it can be seen that the total halal certified company is 9495 which includes all schemes available in Malaysia. The trend among consumers is choosing halal as their main product because it brings a huge benefit to their lifestyle. Despite the undeniable growth of the Halal Industry, the constant halal issues that are arising in the halal market are occurs because it noticeably gives a negative impact on the halal industry. The halal issues involved the issues of safety, quality, false presentation, and false information to the consumer (Damit et.al, 2017). Consumers are facing major critical issues because they are exposed to exploitation that may affect not only their faith (for Muslim consumers) but also health issues due to the false practices in handling halal activities among stakeholders. This happened due to the growing competition among industry players to compete with each other by having unethical practices as their strategy by ignoring the rules and regulations in Malaysia (Husna et al, 2022).

For such circumstances, Malaysia developed halal laws as a mechanism for protecting the consumer and controlling halal activities in the market. This is to ensure that all of the processes, handling, distributing, and supplying are conducted according to a manner by following halal acts, laws, regulations, and standards. Law administration in Malaysia is aligned with legal methodologies according to halal principles. Malaysia's halal laws are consisting of Trade Description Act 2011, Food Act 1983, Food Hygiene Regulations 2009, Local Government Act 1976, Consumer Protection Act 1999, and Custom Act 1967. Halal laws enforcement are conducted by the Halal authority including the Department of Islamic Development Malaysia (JAKIM), Ministry of Health (MOH), Department of Veterinary Services (DVS), Local Authorities (LA), Ministry of Domestic Trade, Co-Operatives and Consumerism (MDTCC). The authority has different powers in the legitimate act of conducting the enforcement for those who violate halal laws and regulations (Wong & Halim, 2022). Therefore, the objective of this study is to examine the implementation of halal laws in eradicating halal issues. The importance of knowing the implementation of halal laws, enables

us to find out the administration and offenses that are subjected under violate the act. Consumers and stakeholders will be aware of and obey halal legislation and acts.

RESEARCH METHODOLOGY

This study is adopting a legal research method through a qualitative method. The researcher examined legal provisions in various laws related to halal activities in Malaysia. This method is done to give a special focus on obtaining in-depth information through legislation on the topic of the study. The researcher selected several related acts that are mainly used by halal authorities to eradicate halal issues. The researcher reviewed legislation of Malaysia's halal law to analyse the section, offenses, and penalties for individuals or stakeholders who violate halal rules and regulations. Apart from that, the researcher used supporting documents from the article, journal, and corresponding paper for additional information to complement the legal method. For the discussion of halal issues, the researcher extracted from reported news on the offenses that are conducted among the stakeholders in the halal industry. By using the combination of various data collection, it enables the researcher to maximize and generate the quality of data to discover in depth about this study.

FINDINGS AND DISCUSSION

Malaysia Halal law is carried out by the authorized body to monitor and control halal activities in ensuring there are no issues with halal counterfeiting, misused of halal logos, and selling of halal brands. Based on the data collected from various sources, the researcher discussed the implementation of halal laws and examine the halal issues by stating important information for the findings and discussion.

Halal Laws in Malaysia

In Malaysia, there are no dedicated laws to legislate on halal. Malaysia has many laws related to Halal under different jurisdictions and authorities such as JAKIM, MOH, DVS, LA, and MDTCC. The agency is responsible for different aspects of halal areas because halal encompasses many aspects (Husna & Wong, 2022). In managing halal activities from raw materials to the supply chain by halal authority, several acts were adopted for monitoring and enforcement. The existence of halal laws enables protection from any unethical and fraudulent activities that happened in the halal industry. For the overall implementation of halal laws is illustrated in figure 1 below:

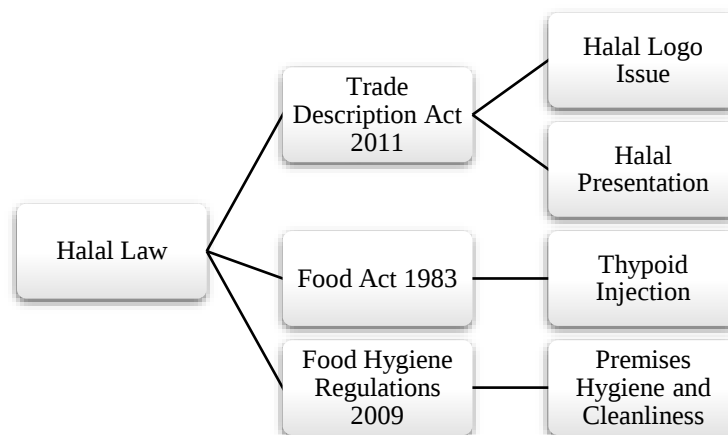


Figure 1: Regulating Halal Laws in Eradicating Halal Issues

Trade Description Act 2011

Trade Description Act (TDA) aims to prevent the fraudulent of goods, suggesting the good's price in the trade of business, and prohibiting misrepresentative claims on any services or goods (Jaapar et al, 2022). There are two sections under TDA on halal which are Trade Description Order (Definition of Halal) and Trade Description Order (Certification and Halal Marking). For Trade Description Order (Definition of Halal), the legislation mentioned that the indication on the products that can be consumed by Muslim people or prescribed as halal means need to follow the requirement that has been set by Islamic law which means such foods or products are neither consists any part of prohibited by Islamic law for Muslim to consume nor that has not been slaughtered according to hokum *syarak*. Also, it does not contain something impure according to shariah, does, is not toxic and poisonous to health, and has not been processed using contamination with impure things on the instrument according to products that fail to satisfy the requirements mentioned above. It must be noted that the requirements do not only cover products, but also the transporting, storing, processing, manufacturing, and serving in halal activities. If the activities are described as halal such expression would mean that the services are carried out following Islamic law.

Meanwhile, for Trade Description Order (Certification and Halal Marking) mentioned, the certification and halal labelling have made it specific by the government that only the Department of Islamic Development Malaysia (JAKIM), States Islamic Religious Council such as JAIS as a competent authority can certify the foods, products, and services are halal. This provision indicates the foods, products, and services shall not describe as halal unless it is certified by JAKIM/MAIN/JAIN. As a consequence, only when the certification is verified, a specified halal certification will be given to the Halal Certificate holders.

Food Act 1983

The regulations such as Food act for the purpose to legislate to protect the public by ensuring food, beverages or product do not contain any harmful, hazardous, or unsafely food processing, manufacturing, distribution, and other related activity. It also considers primary because it becomes the main important thing in the food legalities in Malaysia. The empowerment of the Food Act 1983 by the Ministry of Health (MOH) in monitoring, checking, and inspection related to food packaging, labelling, sanitation, and food safety for sake of human consumption. Thus, for everything related to food laws and regulations empowered by MOH, all food manufacturers in Malaysia must meet the guidelines and requirements specified in the Food Act 1983. Even though Food Act 1983 is not specifically mentioned Halal, however, it is considered part of the halal legal act since it is involving with cleanliness, hygiene, health, and safety which are correlated with the concept of Halalan Toyyiban.

Food Act 1983 under Section 2 has discussed an interpretation of food, food premises, and labels in brand marks used for a food product that correlates with halal such as interpretation of food and label. The interpretation of "food" in the Food Act 1983 was every manufactured, processed, produced, sold, or represented for the usage of human consumption as food or drink which includes or is used for confectionery, and chewing substances. Premises used for connection in preparation, manufacturing, storing, distribution, packaging or sale of food, relabelling, reprocessing of any food also known as a definition of food premise under Food Act 1983. Meanwhile, the meaning of labels that have been described in the Food Act 1983 is known as anything including tag, brand, mark or, written, painted, attached in packaging, accompanying in food.

The section 15, states about labelling that do not comply with the standard of food in the Food Act 1983. A standard has been prescribed of any person who prepares, packages, or

labels food that does not comply with that standard in such a manner will commit an offense of imprisonment not exceeding 3 years or to fine or to both because mistaken for food of the prescribed standard. Section 16 also explains labelling related to falsely, are explain the prohibition on relevant food activity processing that are consist fraudulent, abusive, and misleading on quality, safety, and characteristics of labelling related to the food. In the above section, the offense was made by a person who prepares, packages, labels or sells any food labelled with a recognized or unrecognized halal label or logo that is false, and misleading as regards to character, value, and sacred of halal. If anyone contravenes any regulation made under this Act commits an offense and is liable on conviction to imprisonment for a term not exceeding three years or to fine or to both. As an example, if there are the existence of haram materials such as lard in the food labelling, it can cause consumer confusion, and the person or company related to these offenses can be prosecuted under section 16 of the Food Act 1983

Food Hygiene Regulation 2009

Hygiene practices become significant in food safety by focusing on several aspects such as processing the food, sources of water, contact surface, and environment considered as appropriate practices for the benefit of all. Food Hygiene Regulations 2009 prescribed relating to food hygiene in food manufacturing, preparation, distribution, food premise, packaging, labelling, transportation, or sale of any food or product. The regulations apply are similar to the concept of Halalan Tollyiban prescribed by Shariah law. The similarity between the concept of Halalan Tollyiban since involve hygiene and health concern, including the premises of food preparation and processing. Food Hygiene regulations are important to ensure food safety and are significant for food handlers' practices and what they learned according to these regulations.

Hygiene Regulation 2009 has highlighted about personal hygiene of food handlers in handling, manufacturing, and distributing under section 34 by maintaining food handlers' cleanliness, washing hands before commencing work, not engaging in any behavior or action that could lead to cross-contamination, not wearing any pieces of jewellery and accessories. Under section 36 discuss preparing, packing, and serving of food-by-food handler shall ensure various things such as ensuring the preparation, and serving of food is free from any contamination, adequate protection of products, food packaging materials are non-toxic, food packaging materials under suitable condition of storage, not use a raw ingredient that is contaminated, food handlers prepare food not at the same time prepare from swine origin.

Halal Issues

Consumers are very concerned and consider food safety and quality assurance to be significant in their daily lives. Consumers start to be a concerned about food safety and quality and chose to have a healthy lifestyle, and affirm beliefs and values on consuming halal food. In the past decades, Muslim thought concept of halal is only restricted to food, however, it also includes the process of delivery, labelling, packaging, manufacturing, and controlling. In other words, the food must be handled or manufactured correctly, if not can be considered as not halal. The constant halal issues happening in Selangor time signify the issues occurring on products indicate present control mechanisms are deficient in addressing halal issues.

Halal Presentation

Halal presentations are the representative image of Islam by characteristics, forms, and concepts displayed in Islam. There is an irresponsible party that used the halal presentation as their source to gain profit. The news report by News Strait Times on January 2019 mentioned the restaurant found displays of Quranic verses and messages in Jawi. This company has been in operation for 10 years by using the image of Islam and the product is halal even as a fact is contradicted halal practices. The presentation by use of the Quranic verse and Jawi character on the restaurant confused consumers as consumers thought it is halal due to the Islamic brand name based on the Quranic verse and Jawi character. It is more surprising, the restaurant obtains raw materials such as mutton from non-halal certified suppliers.

The restaurant was exposed by enforcement personnel of Jabatan Agama Islam Negeri (JAIS) and officers from KPDNHEP by carrying out the spot check. The spot check was done following a viral complaint on social media trying to deceive consumers by promoting the restaurant as a Muslim establishment. JAIN officer ordered the owner of the restaurant to remove the Quranic verse from the restaurant and Jawi character from their signage. JAIS deputy director (operation) Salwana Ahmad Dahlan said that the halal status of their food is uncertain and doubtful because found almost all the restaurant's staff are non-Muslim. JAIN required the restaurant owner to present themselves at the JAIN office to have their statements and clarification to be recorded.

For these offenses, they are subjected under Trade Description Act 2011 on section 28(1) where if anyone who contravenes this act on the use of the meaning or expression 'Halal' by falsely or misleading the meaning or expression on the Muslim, will be committed offenses to protect public and promote good trade practices. Violating the expression of Halal under Trade Description Order (Definition of Halal), the person will be liable fine not exceeding RM 1 000 000 or imprisonment not exceeding 3 years. Halal presentation must be enforced properly because if not, it will make innocent victims prosecuted. After all, they accidentally consume non-halal ingredients and materials without knowing the exact of halal status. The consumer also should take note and increase their level of knowledge and understanding so they will not be deceived. If a consumer found something suspicious, it is better to leave the doubt by not consuming on doubtful of halal matters.

Halal Logo Issue

Explore the issue of Halal Certification or Halal products. Halal logo in Malaysia can be only issued by Government which is JAKIM, JAIS, or MAIN, unlike in other countries whose certification is authorized by a Non-Government or Islamic Association. There is the intervention of authentication bodies releasing invalid halal certifications, which become a major threat and challenge for Governments that are responsible for the halal industry. In February 2022 reported by Utusan Malaysia, a premise that produces yellow noodles and *kuetiau* food at the Taman Industri Ringan here was raided by the authorities today after it was suspected of using the halal logo of the Malaysian Islamic Development Department (JAKIM) without permission. Halal Certification for products produced at the premises was found to have expired in 2016. The discovery was the result of an enforcement operation carried out by five enforcement officers from the Ministry of Domestic Trade and Consumer Affairs (KPDNHEP) Negeri Sembilan together with four officers from the Negeri Sembilan Islamic Religious Affairs Department (JHEAINS). State KPDNHEP director, Ain Arjuna Aziz Zaman, said the action was taken as a result of monitoring by his party and JHEAINS enforcement for a week. He said the owner of the premises was found to have used the JAKIM halal logo on food products produced

without obtaining a valid halal certificate from JHEAINS. The seizure of RM50 was made involving 33 packets of noodles and two plastic rolls of packaging with the halal logo.

In this regard, a case action has been taken for offenses under the Trade Descriptions (Certification and Halal Marking) Order 2011). The order under this section has made it specific that the Halal Authority mandate this order that can certify any halal foods and services are halal to standardize the halal certificate. A person not a body corporate can be liable fine exceeding RM 100 00 or imprisonment not exceeding 3 years or both. Despite that, enforcement of the Halal Description Act considers very comprehensive because cover aspect of food quality, safety, and sanitation and resolved many issues related to the definition of halal, labeling of halal, and marking of halal.

Premise Handling Practices

Aside from issues of halal logo certified by Islamic Religious bodies, cleanliness also become an issue whereby it is also significant in manufacturing or producing halal products for the consumer. The basic issue in Halal manufacturing and production is cleanliness which is must free from contamination, safety and health as defined in Islamic law. Malaysia society has been alarmed the latest issue in January 2019 reported by the Star online news on a dirty eatery in Shah Alam at Section 13. The premise was ordered to close temporarily because mosquito larvae and cockroach droppings were found on the premise. The joint operation between Shah Alam City Council (MBSA), Cooperative and Consumerism Ministry (KPDNHEP), Immigration Department and Selangor Islamic Religious Department (JAIS) for enforcement in eatery by having various offenses. JAIS is part of raid representative on the eatery in Section 13 Shah Alam.

The owner of the eatery was instructed to clean up the premises and the eatery must be shut down for 14 days. The owner must ensure the eatery was already cleaned up before reopening their business as pending approval from MBSA. The eatery in the section 13 consists about nine premises that were issued four compounds and twelve notices for various offenses said Mohd Rashidi Ruslan as deputy mayor of Shah Alam. The various offenses included lack of hygiene, food handlers did not receive anti-typhoid injections and food waste. The raid activities by authorities, remind the owners to keep their premises clean and ensure staff received their typhoid injection. The issues of cleanliness are subjected to contamination in producing halal and must ensure the practices of halal can be implemented in the production or premise. The offenses of this issue are under section 34 and 36, any of food handler who fails to comply liable to fine not exceeding RM 10,000 or imprisonment not exceeding 2 years.

CONCLUSION

The issues about halal and haram on the goods marketed in Malaysia is a sensitive issue among the Muslim community. The federal constitution has mentioned in Article 3 where Islamic law has comprehensive provisions for consumer protection from any deception and fraud. To complement the federal constitution act, there are also other available laws such as Trade Description Act 2011, Food Act 1983, Food Hygiene Regulations 2009. Each halal authority has its role and responsibility to conduct enforcement activities. The comprehensive implementation of halal laws as prescribe in figure 1. For future recommendation for this study, the researcher suggests it is important to educate halal stakeholders for the implementation of halal laws as it is important for them to know the consequences and offenses that are violated under the halal laws. Halal stakeholders will aware and understand on the halal practices while promoting their business and it can simultaneously able to decrease halal issues that are available in halal market. Asides from that, the government also need to ensure that current existing law are

monitored and enforce properly because halal law is act as medium platform in protecting the consumer from any fraudulent and unethical activities in halal market. The collaboration between halal authorities can cause overlap jurisdiction and can caused difficulty in ensuring the compliance in halal market. Thus, halal issues need to be monitored regularly from time to time to ensure that halal industry always continues thrive not only in Malaysia also in global. There are some limitations in study where the researcher only focuses on the area of halal law and issues that occur in halal industry. Thus, for future research, the researcher suggests widening the area of halal laws not only focus in Malaysia, but international. The researcher hoped this study able to provide guidance and parameter for halal stakeholders to give depth understanding on the implementation of halal laws.

REFERENCES

- Ab Halim, M. A., & Mohd M, M. S. (2020). Consumer rights in Halal products: A study based on legal and Syariah perspectives. *Food Research*.
- Bernama. (January, 2019). Bernama. Retrieved from Restaurant allegedly selling halal food operates without halal cert for past 10 years: <http://www.bernama.com/en/news.php?id=1682342>
- Damit, D. H. D. A., Harun, A., & Martin, D. (2017). Key challenges and issues consumer face in consuming halal product. *International Journal of Academic Research in Business and Social Sciences*, 7(11), 590-598.
- Husna, A., Jaapar, N. H., Yusof, M. F. M., Abdullah, S. F. S., & Muhamad, M. D. (2022). Halal Branding Issues in Food Industry Based on Brand Elements. In *Selected Proceedings from the 1st International Conference on Contemporary Islamic Studies (ICIS 2021)* (pp. 25-33). Springer, Singapore.
- Husna, A., Wong, M. S. M. A., & Osman, A. S. (2022). The Enforcement of Halal Compliance by Authorities in the Halal Industry. *Environment-Behaviour Proceedings Journal*, 7(SI7 (Special Issue)).
- Food Act, 1983
- Food Hygiene Regulation 2009
- JAKIM (2022, October 6). Halal Malaysia Directory: <https://www.halal.gov.my/v4/index.php?data=ZGlyZWNo3J5L2luZGV4X2RpcmVjdG9yeTs7Ozs=>
- Jaapar, N., Razak, U. H. A., Yusof, M. F. M., & Halim, A. H. A. (2022). Effectiveness of Trade Description Act 2011 in Eradicating Halal Fraud. *International Journal of Academic Research in Business and Social Sciences*, 12(9), 1772 - 1783.
- Menon, P. (January, 2019). The star online. Retrieved from Dirty eatery in Shah Alam shut down: <https://www.thestar.com.my/metro/metro-news/2019/01/29/dirty-eatery-in-shah-alam-shut-down/>
- Mohd, A.G., Siti S.M.S., (2014). Amalan Standard Halal Di Negara-Negara Asia Tenggara. *International Journal of Islamic and Civilizational Studies*, 1: 35-44.
- Wong, M. S. M. A., & Halim, A. H. A. (2021). Konsep Hisbah dalam Penguatkuasaan Pematuhan Halal di Malaysia. *Jurnal Islam dan Masyarakat Kontemporari*, 22(3), 129-140.
- Nor, S., (22 February 2022). Utusan Malaysia. Retrieved from Premis guna logo halal tidak sah terbongkar <https://www.utusan.com.my/nasional/2022/02/premis-guna-logo-halal-tidak-sah-terbongkar/>
- Trade Description Act 2011