The Role of Islamic Religious Institutions in Halal Consumerism in Malaysia: A Review

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Understanding and appreciation of the Islamic community towards halal products is simply inadequate. They are in need of protection and legal guarantees that really are enforceable (halalan thoyyiba). Halal is not merely the meaning of a product that can be eaten because it is not prohibited by Islamic law but it also includes the meaning of 'good' (thayyib) ie clean, holy, safe, good quality and not harmful. Hence the objective of this article is to study and link the role of religious institutions in the legal context and law of halal consumerism in Malaysia. Through its descriptive and content analysis, this article outlines the legal provisions relating to the establishment and jurisdiction of the Fatwa institutions and the Department of Islamic Development Malaysia (JAKIM) which also serves to ensure halal consumerism in Malaysia. In addition to the creation of halal guidelines that also serves as a general reference in the implementation of the responsibility of protecting the halal consumerism of Muslims, in particular in Malaysia. The authors conclude that the functions and roles of religious institutions, especially the National Fatwa Committee, JAKIM and the state Islamic Department of Religious Affairs (MAIN / JAIN) are crucial in ensuring the protection of halal consumerism in the Muslim community in Malaysia. Fatwa and guidelines are to be widely disseminated to the community and given a great deal of understanding to entrepreneurs, traders and consumers.

Key words: Department of Islamic Development Malaysia, National Fatwa Committee, Halal Label, Fatwa, Consumer.
Introduction

Consumerism issues involving halal (lawful) matters are still being discussed. When consumers are linked to halal products, the concept of halal food from the syariah point of view must be adhered and it must be understood that halal is not merely a product that can be eaten because it does not contain haram (forbidden) material but also 'good' - meaning clean, pure, safe and of quality starting from the source (halalan toyyiba). This includes the process of preparation, manufacture and production until it is presented to the consumer. Cases such as the misuse of a halal logo, material or content fraud as well as premise management that do not comply with halalan toyyiba standards are widely reported.

Therefore, Muslim community needs for halal products are simply inadequate without a full understanding and application of halalan toyyiba concepts. Halal aspects, particularly for food products, are guaranteed under the Malaysian legal framework through legal and institutional mechanisms. This article discusses the role of the fatwa institutions and the Department of Islamic Development Malaysia (JAKIM) in particular as well as the State Islamic Department in general in the context of protection and ensuring the well-being of halal consumerism among the Malaysian Muslim community.

Halal and Fatwa Institutions in Malaysia

The establishment of mufti and fatwa institutions is reinforced by the State Law through the Acts/Enactments of the Islamic Religious Affairs of the States. For example, Majlis authority, the appointment of Mufti and Deputy Mufti and their authority lies under sections 31, 32 and 33 of the Administration of Islamic Law (Federal Territories) Act 1993 [Act 505].

In general, there are two fatwa institutions established under the country’s law; the Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia and the State Fatwa Committees. Both Fatwa Committees were established under different laws.

The Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia was established by The Conference of Rulers in Malaysia in 1968 (not early 1970) under Regulation 11 of the National Council for Islamic Religious Affairs of Malaysia (MKI). Provisions on the establishment and membership of the Fatwa Committee of the National Council on Islamic Religious Affairs under the Rule 11 are as follows:-

“There shall be a committee to be known as Fatwa Committee established and consists of the following members:-

i. Chairman of the Committee appointed by the Council from among its members;

ii. Mufti of each participating State or person representing the State in Religious Affairs;

iii. Five Alim Ulama who were selected and appointed by the Conference of Rulers;
iv. A Muslim member from the Judicial and Legal Service or from legal background selected and appointed by the Conference of Rulers

The establishment of the Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia is in accordance with Clause (2)(b) of Article 38 of the Federal Constitution.

“The Conference of Rulers shall exercise its functions of:-

i. “…
ii. agreeing or disagreeing to the extension of any religious acts, observances or ceremonies to the Federation as a whole;
iii. “…”

Function of the Fatwa Committee of the National Council on Islamic Religious Affairs Malaysia is set out under Regulation 14 of the MKI Regulation, which reads as follows:-

"The task of the Fatwa Committee is to consider, decide and issue a fatwa on any matter relating to the Islamic Religion referenced to the Committee by the Conference of Rulers. The Committee shall submit its opinions to the Council which shall transmit it together with its recommendations to the Conference of Rulers".

Pursuant to Regulation 14, any opinions and recommendations made by the Fatwa Committee of the National Council on Islamic Religious Affairs Malaysia shall be submitted to the MKI first so that MKI can present it to The Conference of Rulers for the purpose of obtaining their consent.

In addition to the National Council, each State also has the power to issue a fatwa. Provisions on the establishment of the State Fatwa Committee and its functions are contained in each of the Acts / Enactments of the Islamic Religious Affairs of the States. For example, pursuant to section 32 of the Administration of Islamic Law (Federal Territories) Act 1993 [Act 505], the Yang di-Pertuan Agong may, on the advice of the Minister and after consultation with the Federal Territories Islamic Religious Council (MAIWP), select eligible and suitable persons to become the Mufti and Deputy Mufti of the Federal Territories.

The authority of Mufti under section 33 of Act 505 is to aid and advise the Yang di-Pertuan Agong in respect of all matters of Islamic law, and in all such matters shall be the chief authority in the Federal Territories after the Yang di-Pertuan Agong, except where otherwise provided in this Act. According to section 34 of Act 505, The Mufti shall, on the direction of the Yang di-Pertuan Agong, and may, on his own initiative or on the request of any person made by letter addressed to the Mufti, make and publish in the Gazette, a fatwa or ruling on
any unsettled or controversial question of or relating to Islamic Law. Pursuant to section 36 of Act 505, the Mufti may amend, modify or revoke any fatwa previously issued by him or by any previous Mufti.

According to section 39 of Act 505, in issuing any fatwa, the Mufti shall ordinarily follow the accepted views *(qaul muktamad)* of the Mazhab Syafie. However, if the Mufti thinks that by following the accepted views *(qaul muktamad)* Mazhab Syafie will lead to a situation contrary to the public interest, the Mufti may follow the accepted views *(qaul muktamad)* of Mahzab Hanafi, Maliki or Hanbali.

In terms of legislation, the decision issued by the Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia has no legal effect until it is accepted and gazetted by the States. However, the fatwa relating to matters affecting national interests should be referred to the Fatwa Committee of the National Council for Islamic Religious Affairs of Malaysia and the State Fatwa Committee should seek the Committee's opinion before issuing any fatwa on it. Pursuant to section 34 (3) of Act 505, when a fatwa has been published in the Gazette, the fatwa shall bind every Muslim resident in the Federal Territories.

As explained earlier, any fatwa that revolves around national interests should be referred to the Fatwa Committee of the National Council for Islamic Religious Affairs of Malaysia. Hence, if an issue touches national interests, the State Fatwa Committee shall refer the matter to the Fatwa Committee of the National Council for Islamic Religious Affairs of Malaysia. This is clearly provided for under the Administration of the Religion of the Islamic State Enactment, for example the State of Selangor, Johor, Kedah, Malacca and Perlis. At present, only the Federal Territory has no such provision.

The 48th Muzakarah of Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia, which was held on April 3rd 2000, discussed the Guidelines on the Production, Handling and Storage of *Halal* Foods. The Muzakarah decided that:

1. Mechanical knife operators must be a Muslim. The operator should recite *Bismillah* before switching on the mechanical knife and observe the slaughtered animals.
2. A Muslim slaughterer who operates the mechanical knife could not leave the place of slaughter while slaughter is ongoing and could not make any other work that disturbs their focus from the slaughter process.

Consequently, it is clear that despite the sophistication of technology, the food industry is still bound to follow the national fatwa guidelines in producing *halalan toyyiba* products. The guidelines are important to smooth out the process of acquiring the *Halal* Certification and *Halal* Label from JAKIM.
Halal status of any food products also involves a fatwa decision which means legal provisions certified by the authorities on Islamic Religion (Article 2, Halal Definition Order) (Amendment) (2012). Indirectly, this provision has given authority to the Mufti Department or the State Fatwa Committees to act legally in determining the halal status.

Examples of fatwa related to halal food products are as follow (Kedah Mufti Department, 2013):

"Based on briefings, presentations and explanations presented by experts from the Halal Product Research Institute, Universiti Putra Malaysia and taking into account the decisions that have been decided in the Muzakarah Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia earlier, the Special Muzakarah of the Fatwa Committee of the National Council of Islamic Religious Affairs Matters which discussed the issue of alcohol in foods, drinks, fragrances and medicines on 14th to 16th July 2011 agreed to decide as follows:

1. All liquors contain alcohol. However not all alcohol is liquors. Alcohol obtained from the process of alcoholic fermentation is clearly forbidden (haram) and unclean (najis).
2. Alcohol obtained not the process of alcoholic fermentation is not unclean but forbidden to be taken in its original form because it is poisonous and can lead to death.
3. Soft drinks processed / made not for the purpose of producing liquors and having alcohol below 1% level could be taken (indifferent) (harus).
4. Soft drinks made with the intentions and the same way as the process of alcoholic fermentation, whether containing a lot or some alcohol or distilled alcohol is forbidden.
5. Foods or beverages containing alcohol naturally such as fruits, nuts or cereals and their extracts, or any alcohol contained by them in the process of making food or drink is not unclean and could be eaten / drunk.
6. Food or beverages containing flavours or dyes containing alcohol for stabilization purposes could be taken (harus) if the alcohol is not produced from the process of alcoholism and the quantity of alcohol in the final product is not intoxicating and the alcohol content does not exceed 0.5%.
7. Medicines and fragrances containing alcohols as solvents are not unclean (najis) and could be used if they are not taken through the process of making alcohol"

In conclusion, alcohol usage in food have either positive or negative consequences (harus) and is subject to certain conditions: (i) alcohol is produced naturally without going through a real alcoholic fermentation process; (ii) alcohol in soft drinks should not exceed 1%; and (iii) alcohol in food does not exceed 0.5%.
Halal and Role of the Department of Islamic Development Malaysia (JAKIM)

JAKIM focuses on law enforcement aspects pertaining to halal issues. It has been entrusted as a halal standard regulator body since August 2009. JAKIM's involvement in the certification of halal status on food products and Islamic consumables in the country began since 1974. Rapid development of the food industry in the country combined with current needs and emerging awareness of halal products contributes to halal enforcement policy and plan changes. In general, changes made by the Government are based on public interest (masalih mursalah) related to halal consumerism in Malaysia.

Halal information and guidelines available online is the latest initiative by JAKIM. In addition to this, halal directory is compiled which contains information on food and beverage products manufacturing companies, food premises, hotels, consumable goods and slaughterhouses with JAKIM Halal Confirmation Certificate. Here is a brief chronology of JAKIM's function in halal enforcement issues in Malaysia ("Halal History", 2012):

<table>
<thead>
<tr>
<th>YEAR</th>
<th>FUNCTION DEVELOPMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1974</td>
<td>The Research Centre, Islamic Affairs Division, Prime Minister's Department provides a halal certification letter to products that meet the Islamic requirements</td>
</tr>
<tr>
<td>1994</td>
<td>Halal certification is given in the form of a certification certificate with a halal logo</td>
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<tr>
<td>30 September 1998</td>
<td>Halal inspections conducted by Syarikat Ilham Daya, a government-appointed company.</td>
</tr>
<tr>
<td>1 September 2002</td>
<td>The Government decided that all halal certifications were fully implemented by the JAKIM through the Bahagian Kajian Makanan dan Barangan Gunaan Islam (with only 28 posts).</td>
</tr>
<tr>
<td>17 November 2005</td>
<td>The Public Service Department of Malaysia has approved a total of 165 multi-grade schemes and grades with the new name of the Halal Hub Division.</td>
</tr>
<tr>
<td>2 April 2008</td>
<td>Halal certification management is taken over by Halal Industry Development Corporation.</td>
</tr>
<tr>
<td>8 July 2009</td>
<td>Meeting of Cabinet Malaysia decided that the management of halal confirmation certifications within and outside Malaysia was returned to JAKIM.</td>
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</tbody>
</table>

Generally, JAKIM, JAIN and MAIN, are the recognized bodies for managing halal certification and confirms legal determination or purity of a logo and halal certificate. If there is a fraudulent of the halal standards, enforcement will be implemented by Ministry of...
Domestic Trade and Consumer Affairs (KPDNHEP). If a violation of halal standards is made by a halal certificate holder then JAKIM / JAIN / MAIN may suspend or withdraw the halal certificate and the holders is not allowed to use the halal logo.

Monitoring of halal certification is conducted by JAKIM through two methods:

i. Periodic Monitoring - conducted on JAKIM's halal certificate holders at least once a year. The monitoring is scheduled every month with priority monitoring of high-risk companies - meat and poultry-based products, oils and fats, slaughterhouses, organizations / industries with no halal control system or no halal executive and Internal Halal Committee. On the other hand, for low-risk companies, monitoring is only done at least once a year.

ii. Monitoring of Public Complaints - conducted with related enforcement agencies such as Ministry of Health, Department of Veterinary Services, Royal Malaysian Customs Department, Local Authorities and other agencies as it thinks necessary.

From the aspect of the jurisdiction, improvements have been made from time to time with KPDNHEP appointing JAKIM Halal Hub Division Director, all Islamic Affairs Officers and Assistant Officers of Islamic Affairs of the Monitoring and Enforcement Branch, Halal Hub Division, JAKIM as Assistant Controller of Trades Descriptions. These improvements permit JAKIM more jurisdictions to enforce halal offenses as opposed to the former methods.

**Malaysian Halal Guidelines**

Apart from fulfilling the Shariah needs; halal is an obligation for all Muslims, food safety is also an important factor in determining toyyiba. Meaning, food consumption should be safe, clean, nutritious and of quality should be met starting from the source.

In addition, Malaysia also has the Malaysia Standards on Halal Food (MS1500: 2009) titled ‘Halal Food: Production, Preparation, Handling and Storage - General Guidelines’ developed under Malaysia Standard Development System under the Department of Standards Malaysia (DSM) , Ministry of Science, Technology and Innovation. The standard scope contains practical guidelines for the food industry on the preparation and handling of halal food, including nutrient enhancers. It aims to provide basic rules for food products as well as trade or food business in Malaysia. It is used by JAKIM as the basis for certification with the addition of several other requirements to complete the certification process ("Standard Malaysia", 2012).

Through this Guideline, halal food is defined as food permitted under Islamic law by fulfilling the following:

1. Does not contain any non-halal animal parts or products to Muslims or animal products not slaughtered in accordance with the law;
2. Does not contain any substance which is unclean in accordance with shariah law;
3. It is safe and harmless;
4. Not supplied, processed or manufactured using contaminated equipment with items which are defective in accordance with Islamic law;
5. Food or substance does not contain any part of a person or issue which is not authorized by shariah law; and
6. During the preparation, processing, packaging, storage, or transportation, physically separated food from any other food that does not meet the requirements set out in items 1, 2, 3, 4 or 5 or any other matter which has been determine as najs (unclean or forbidden) by shariah law.

This definition clearly shows that dangerous and intoxicants products are not considered as halal under the Malaysian Standard. Additionally, rigorous requirements are imposed by JAKIM and the State Islamic Religious Council (MAIN) before approving the logo's confirmation to the food industry.

For example, Kedah State Islamic Religious Council (MAIK) and the Kedah Islamic Affairs Department are responsible for issuing the Halal Confirmation Certificate to the manufacturers of food, beverages, consumables, food premises and slaughterhouses in Kedah that meets the requirements set.

Among the general requirements outlined by the Kedah State Islamic Religious Council (MAIK) and Kedah Islamic Affairs Department in issuing Confirmation Certification and Halal Logo are:

1. Issue only halal products for producers of food products / premises or slaughterhouses;
2. Source of ingredients issued by companies must be halal and companies should choose suppliers or sub-contracts that supply halal material with Halal Confirmation Certificate;
3. Halal procedures should be complied with by each company as the Manual Procedure set;
4. Internal Halal Committee and Islamic Affairs Executive Committee shall be established by companies listed as Multinational or SMI companies;
5. Two Muslim workers with permanent posts and also a Malaysian and are required to work fulltime in the kitchen / handling / processing of food;
6. The product must be clean, tidy and safe and in compliance with Hukum Syarak during the handling, processing, packaging until the transfer of the product;
7. Companies need to ensure that equipment and facilities are clean and free of contaminated shit according to Islamic law;
8. *Halal* products transported should use transportation that transport *halal* products only;
9. Good Manufacturing Product should be emphasized by the company during the handling, processing, packaging or transfer of the product;
10. Good Hygiene Practices and employee code of ethics should be practiced by the company; and
11. Free from any tool or elements of religious worship inside the premises / product production area.

Malaysia's *halal* certification also applies the following laws and acts:

i. Food Act 1983 - in relation to labelling, hygiene and food safety practices;
ii. Veterinary Public Health Ordinance 1999 [Livestock Act 1953 (Revised 2006), Abattoir (Privatization) Act 1993 and National Livestock Breeders Act (Dissolution) Act, 1983 (Department of Veterinary Services) - in relation to animal husbandry, disease control and others;
iii. Customs Act 1967 (Prohibition on Import 1998) - in relation to import / export of *halal* meat;
iv. The Syariah Criminal Offenses of the Sarawak 2001, the Council of the 2004 Enactment (Sabah), the Syariah Criminal Offenses of the States;
v. Local Authorities Laws;
vi. Trademark Act 1976; and

A substance is considered critical if it involves animal elements such as oil and fats and alcohol (liquor). Examples of critical, partially critical, and non-critical ingredients are as follows:

**Table 2: Examples of Critical, Partially Critical and Non-Critical Ingredients**

<table>
<thead>
<tr>
<th>Critical</th>
<th>Partially Critical</th>
<th>Non-Critical</th>
</tr>
</thead>
<tbody>
<tr>
<td>i. Meat product / produce;</td>
<td>i. Vinegar;</td>
<td>i. Natural / plant / fish / seafood;</td>
</tr>
<tr>
<td>ii. Dairy / dairy products;</td>
<td>ii. Paste / Premix / Fillings / Concentrate;</td>
<td>i. Chemicals;</td>
</tr>
<tr>
<td>iii. Phosphate;</td>
<td>iii. Sauce;</td>
<td>ii. Natural sweeteners;</td>
</tr>
<tr>
<td>iv. Emulsifier;</td>
<td>iv. Dyes / Colouring;</td>
<td>iii. Essential Oil;</td>
</tr>
<tr>
<td>v. Gelatin and gelatin based products;</td>
<td>v. Modified Starch;</td>
<td>iv. Chitosan;</td>
</tr>
<tr>
<td>vi. Oil and Fat;</td>
<td>vi. Lecithin;</td>
<td>v. Thickener;</td>
</tr>
<tr>
<td>vii. Flavour addictive;</td>
<td>vii. Mee / Kueh Tiaw;</td>
<td>vi. Texturizer;</td>
</tr>
<tr>
<td>viii. Yeast;</td>
<td>viii. Dry Tofu (Fu-chuk); and</td>
<td>vii. Calcium propionate;</td>
</tr>
<tr>
<td>ix. Surimi;</td>
<td>ix. GDL (Glucuno-delta-</td>
<td>viii. CMC (Carboxymethylselulose)</td>
</tr>
</tbody>
</table>

95
x. Improver;  
xi. Stabilizer / cloudifier;  
 xii. Antioxidants;  
 xiii. Proteins and their derivatives;  
 xiv. Amino Acid;  
 xv. Egg white powder;  
xvi. Glazing agent;  
xvii. Seasoning;  
xviii. Culture;  
xix. Coconut cream powder;  
xx. Gelatin powder;  
xxi. Chocolate coating;  
xxii. Enzymes;  
xxiii. Collagen; and  
xxiv. Fat-soluble vitamins (A, D, E, K)  

According to JAKIM ("Analytical Laboratory", 2018), a Malaysian Halal Analysis Laboratory that is being built in Bandar Enstek, Nilai will strengthen the role of JAKIM in halal certification in Malaysia. This laboratory will be a one-stop centre for the world's halal research and certification industry with its own research equipment. It also has great benefits to the country's economy since Malaysia's halal certification which has been recognized worldwide. This has indirectly raised the image of Malaysia as the main leader in halal certification.

Malaysia Halal Analysis Centre (MyHAC) has been launched in 2015 and helps JAKIM in reducing time taken for the process of halal certification.

**Conclusion**

The halal debate is a very widespread and emotive debate. For example, if viewed from a dietary perspective only, a processed food can be classified as halal if it is produced using raw materials, components and additives that are halal and its processing based on the guidelines set forth by hukum syarak. Halal from nutrition aspects includes the preparation, processing, storage, packaging, and handling and transportation process. The whole processes involved shall comply with the provisions of hukum syarak.
Malaysia through Fatwa institutions together with federal and state Islamic religious administration agencies have set complete *halal* guidelines for entrepreneurs and manufacturers of the food industry and consumer needs. For consumers, it is critical to ensure that the food to be eaten or prepared must be *halalan toyyiba*. We are obliged to choose *halal* food, which has been proven good for health and safety and avoid eating forbidden items, because of the potentially harmful effects.
REFERENCES


