HALAL PHARMACEUTICAL IN MALAYSIA: THE NEED FOR A LEGAL AND ADMINISTRATIVE FRAMEWORK

BY

NORAZLINA BINTI ABDUL AZIZ

A thesis submitted in fulfilment of the requirement for the degree of Doctor of Philosophy in Law

Ahmad Ibrahim Kulliyyah of Laws
International Islamic University
Malaysia

JULY 2017
ABSTRACT

The local and global halal industries have gone through tremendous changes and have expanded rapidly from halal food and beverage to cosmetics, pharmaceuticals, supply chain and logistics, lifestyle, hospitality services, banking and finance, trading and etc. The growths in the halal industry have also, directly and indirectly, influenced the consumers' behaviour particularly in Malaysia to ask for products that are in compliance with their religious requirements. The Muslim consumers in Malaysia are now becoming more aware that they need to consume and use something that not in breach of their religious requirements. This has also influenced the Muslim consumers to seek for halal pharmaceuticals when its absence an alternative consumption. Realising the need to fulfil the demand of the Muslim consumers in Malaysia several local companies have ventured into halal pharmaceuticals production. Nevertheless, the industry could not grow fast enough in meeting the demands because certain fundamental issues such as the use of imported empty capsules and imported raw ingredients which were uncertain halal status.

Although Malaysia is the pioneer in documenting halal pharmaceuticals standards, i.e MS 2424:2012, nonetheless Malaysia had not established laws and regulations which could serve as monitoring tools in halal pharmaceuticals production. The MS 2424:2012 together with scattered outdated regulations are not adequate to provide support to the growth of halal pharmaceuticals industry in Malaysia. This study is undertaken to examine and analyse both legal and administrative framework on halal pharmaceuticals (if there is any) and to suggest for relevant reforms. For this purpose, the study embarks on a qualitative methodology and used doctrinal study approach within which the soft laws and hard laws around Sales of Drugs, Consumer Protection and Halal related laws were analysed. The data were also collected from the semi-structured interviews, focused group discussion and Workshop on Halal Administration in Malaysia. The findings of the study indicate that the existing legal framework is scattered thus contributing to an uncertainty in the consumer protection. The scattered laws have also led to the inefficient administration that includes the enforcement activities. When the laws are scattered, the jurisdiction to govern the industry becomes uncertain. JAKIM as the anchor of the halal certification is under-powered by the constitutional construction, as it is not awarded with the power to legislate and prosecute on halal related issues. The study also discovered that the Halal pharmaceutical industry is lacking in having a comprehensive Halal pharmaceutical references that later contributed to the non-compliance issue and the execution of duty by the pharmacist and medical practitioner. This thesis concluded by recommending the legal and administrative reforms that anticipate the extension of some current legal statutes as well as the enactment of a single Halal Pharmaceutical Order that could address the issues of the current legal framework. On the other hand, the review of the current authority or the establishment of a new government agency governing the Halal pharmaceutical industry becomes the proposed administrative reformation.
إنّ رحاب الصِّناعة لمنتجات الحلال قد طرأتْ عليها التّغيُّرات السّريعة حيث اتّسع تركيزها من المنتجات الغذائية إلى مجالات أخرى؛ من مستحضرات التّجميل، والمستحضرات الدّوائيّة، وعملية الدّعم وإدارة سلسلة التّوريد، وطريقة المعيشة، وخدمات السِّياحة والفنادق، والمعاملات المصرفيّة والتجاريّة وغيرها. فالتمّوّل في هذه الصِّناعة سواء بالطّريقة المباشرة أو غير المباشرة، له أصداؤه في تصرّفات المستهلكين وخاصة الماليزيين منهم حيث الحرص على المطالبة بالمنتجات التي تتوافق القيم المغروسة في التعاليم الإسلامية.

إنّ المستهلكين الماليزيين الآن أصبحوا أكثر وعيًا فيما يتعلق بعدم تعدِّّي الحدود الشرعية المسموح بها عند شراء المنتجات. ولم يكن مجال الصيدلة في منأى عن ذلك حيث يحرص المسلمون على اختيار المنتجات المستوفية لمواصفات الحلال بدلًا من المنتجات على نقيضها. وإدراكًا لحاجات هولاء المستهلكين المُلحّة الّتي لازالت تُشترى من الخارج، واستخدام المكونات الحلالية المجهولة الأوضاع من حيث استيفائها لمواصفات الحلال. وعلى الرغم من كون ماليزيا هي الدولة الرائدة في إعداد المقياس لمواصفات الحلال (MS 2424:2010) في صدد هذه الصناعة؛ لم تكن هناك قوانين تسنّ حاليّاً للشرطة على المنتجات الدوائيّة. حقيقةً، إنّ هذا المقياس لمواصفات الحلال الذي ذكره بالنواحي مع القوانين المتواجدة المتعددة آتي عفا عليها الزمن غير مُجدي ليكون داعمًا من منع إنتاج المنتجات الدوائيّة المستوفية لمتطلبات الشرع. ومن هذا المنطلق، يُعد هذا البحث خصيصًا لاختبار وتحليل كلا الصياغة القانونية والصياغة الإداريّة ذات العلاقة بالمنح والمزيد من منح شهادة الحلال للمستحضرات الدوائيّة. (في حالة تواجدها). ثمّ تقديم الاقتراح المناسب يصوب إلى إعادة البناء. ووصولاً إلى ذلك، يتّخذ البحث المنهج الكيفي مع الوضع في الاعتبار اتجاه الدراسة القفطية المستخدم
بحيث أن هناك الأحكام القابلة للمرونة والأخيرة الصارمة التي تُنقذ في مجالات؛ مبيعات الأدوية، ورعاية المستهلكين، والقوانين المتعلقة بمنتجات الحلال التي يضعها البحث تحت المجهر التحليلي. و إضافةً عليه، إن البيانات تؤخذ من إجراء المقابلات تُنفّذ من الأسئلة شبه المحققة الموجهة إلى مجموعة الاهتمام وورشة عمل عن إدارة منتجات الحلال في ماليزيا. ومن خلالها يتوصل البحث إلى أن ماليزيا ما زالت في حاجة إلى قانون يفي بغرض التحكّم على استيفاء إنتاج المستحضرات الدوائية لمقاييس الحلال والرصد على القضايا المتعلقة به. أما الإطار القانوني الحالي، فمن الواضح أنه مُستمدّ من البنود المشتّتة علاوةً على عدم مواكبته للعصر، ومن إثره عجز عن إعداد جواً طبقًا لحماية المستهلكين وقصر عن القيام بالإلزام بالإلزام الفعال. كما يكتشف البحث بأن الصناعة للمستحضرات الدوائية التي من المتوقع أن تستوفي مواصفات الحلال ما زالت في افتقار إلى المرجعية، مما أدى إلى حدوث وقائع عدم المطابقة للشريعة وسط أداء الصيادلة ونماذجي مجال الطب. ومن هنالك، يستنتج البحث بتقديم التوصية لإعادة بناء للآليات الرقابية والتنفيذ الإداري تكون بين طيّبًا ابتسام العينهما، والبعض من القوانين الحالية مع سن القانون الحصري للمستحضرات الدوائية المستوفية لمواصفات الحلال. وعلى صعيد آخر، يقترح البحث إعادة النظر في الجهة المنفذة الحالية أو إقامة هيئة حكومية جديدة يصب اهتمامها إلى صناعة المستحضرات الدوائية المطابقة لمقاييس الحلال.
The thesis of Norazlina binti Abdul Aziz has been examined and approved by the following:

__________________________________________
Naemah Amin
Chairman of the Supervisory Committee

__________________________________________
Noriah Ramli
Supervisor

__________________________________________
Majdah Zawawi
Supervisor
Internal Examiner
Badruddin Hj. Ibrahim

External Examiner
Rahmah Ismail

External Examiner
Mariam Abdul Latif

Chairperson
Radwan Jamal Yousef AlAtrash
DECLARATION

I hereby declare that this thesis is the result of my own investigation, except where otherwise stated. I also declare that it has not been previously or concurrently submitted as a whole for any other degrees at IIUM or other institutions.

Norazlina binti Abdul Aziz

Signature:................................................. Date:.............................................
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA

DECLARATION OF COPYRIGHT AND AFFIRMATION OF FAIR USE OF UNPUBLISHED RESEARCH

HALAL PHARMACEUTICAL IN MALAYSIA: THE NEED FOR A LEGAL AND ADMINISTRATIVE FRAMEWORK

I declare that the copyright holders of this dissertation are jointly owned by the student and IIUM.

Copyright © 2017 Norazlina binti Abdul Aziz and International Islamic University Malaysia. All rights reserved.

No part of this unpublished research may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without prior written permission of the copyright holder except as provided below

1. Any material contained in or derived from this unpublished research may be used by others in their writing with due acknowledgement.

2. IIUM or its library will have the right to make and transmit copies (print or electronic) for institutional and academic purposes.

3. The IIUM library will have the right to make, store in a retrieved system and supply copies of this unpublished research if requested by other universities and research libraries.

By signing this form, I acknowledged that I have read and understand the IIUM Intellectual Property Right and Commercialization policy.

Affirmed by Norazlina binti Abdul Aziz

................................................. ..............................................
Signature Date
(References to the laws are made as up to August 2016)
ACKNOWLEDGEMENTS

Praises be to Allah SWT, the Most Beneficent and Merciful, Lord of all creations, whose Grace and Mercies have given me the strength, perseverance and guidance throughout the journey of my PhD. Without His blessings and aid, finishing this study would have not been possible. Salawat and salam to our beloved Prophet Muhammad (s.a.w), whose guidance have inspired me to be strong and patience, and to all Messengers of Allah and their families and friends.

I am most indebted to my committee supervisors namely Professor Dr. Naemah Amin, Associate Professor Dr. Noriah Ramli and Associate Professor Dr. Majdah Zawawi, whose enduring disposition, motivation, kindness and thoroughness have facilitated the successful completion of my Ph.D. I truly appreciate their insightful comments, suggestions and queries which have contributed considerably to the outcome of this study.

Heartfelt gratitude goes to my beloved husband and children, Samsol Md Saleh, Nura’ina Syazwanie and Nurasilah Hakeema for their prayers, understanding and endurance that have at all-time inspired me to expedite the completion of my study. I put on special record my feeling of gratefulness to my parents, Abdul Aziz Mohamed Ghazali and Hasnah Jamaludin, who are my idol at all time and teaches me many great values that have aided my journey. Allah has also blessed me with great parents in law, brothers and sister, in laws and all other family members who have continuously support me spiritually throughout writing this thesis and my life in general.

My special thanks go to the panelist of the Focused Group Discussion, all respondents that I have interviewed for their insightful information, discourses and comments. Without their precious insight and co-operation, it would not be possible to complete this research. I would like to record my thanks to KPTM and UiTM that have awarded me with a sponsorship and opportunity to further my study. I would also like to express my sincere appreciation to all my friends, Irini, Soul sisters, ‘Halal Focused Group’, ‘PhD Candidates Group’ and many others who have been very supportive and helpful throughout my study. To those who indirectly contributed in this research, your kindness means a lot to me. Thank you very much.

Once again, I glorify Allah for His endless mercy on me one of which is enabling me to successfully round off the efforts of writing this thesis. Alhamdulillah.
# TABLE OF CONTENTS

Abstract .................................................................................................................. ii
Abstract in Arabic .................................................................................................. iii
Approval Page .......................................................................................................... v
Declaration ............................................................................................................... vi
Copyright ................................................................................................................ vii
Acknowledgments ................................................................................................... x
List of Tables ............................................................................................................ x
List of Figures .......................................................................................................... xv
List of Cases ............................................................................................................ xvi
List of Statutes ........................................................................................................ xviii
List of Abbreviations .............................................................................................. xxi

## CHAPTER ONE: INTRODUCTION ........................................................................ 1

1.1 BACKGROUND OF THE STUDY ................................................................... 1
1.2 STATEMENT OF PROBLEMS ...................................................................... 7
1.3 RESEARCH OBJECTIVES ........................................................................... 9
1.4 SCOPE AND LIMITATIONS OF RESEARCH ........................................... 9
1.5 LITERATURE REVIEW ............................................................................. 11
1.6 HYPOTHESES ........................................................................................... 22
1.7 RESEARCH METHODOLOGY ................................................................. 23
1.8 SIGNIFICANCE OF THE RESEARCH .................................................... 24
1.9 OUTLINE OF CHAPTERS .......................................................................... 25

## CHAPTER TWO: THE CONCEPT OF HALAL AND PHARMACEUTICAL .......... 28

2.1 INTRODUCTION ........................................................................................ 28
2.2 MUSLIM AND THE OBLIGATIONS TO CONSUME HALAL ......................... 32
2.3 THE METHODS OF DECIDING HALAL STATUS ...................................... 44
2.4 HALAL AND THE RULES OF ‘DHARURAH’ (NECESSITY) ...................... 50
2.5 PHARMACEUTICAL AND FUNDAMENTAL RULES OF HALAL .............. 58
   2.5.1 Pharmaceutical and its Definitional Issues ......................................... 60
   2.5.2 Rule of Slaughter .............................................................................. 67
   2.5.3 Prohibition of Blood .......................................................................... 78
   2.5.4 Prohibition of Alcohol ....................................................................... 82
   2.5.5 The Prohibited Animals .................................................................... 89
   2.5.6 Prohibition of Carcass/Carrion ........................................................... 95
2.6 PHARMACEUTICAL AND OTHER RELATED ISLAMIC RULES .............. 99
   2.6.1 The Rules of ‘Syubhah’ (doubtful) ...................................................... 99
   2.6.2 Halal and the Rules of ‘Istihalah’ (Transformation) ......................... 102
   2.6.3 Halal and the Rules of ‘Istihi탈’ (Assimilation or extreme dilution) ... 103
   2.6.4 The Rules of ‘Al-Istibra, Al-Intiqal, Al- Tab’iyyat and
### CHAPTER THREE: THEORETICAL FRAMEWORK FOR HALAL PHARMACEUTICAL

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1</td>
<td>INTRODUCTION</td>
</tr>
<tr>
<td>3.2</td>
<td>THEORY OF GLOBALIZATION</td>
</tr>
<tr>
<td>3.2.1</td>
<td>Globalization and the Growth of Halal Market</td>
</tr>
<tr>
<td>3.2.2</td>
<td>Pre-Globalization</td>
</tr>
<tr>
<td>3.2.3</td>
<td>Globalised Economy and Production</td>
</tr>
<tr>
<td>3.2.4</td>
<td>Globalization and the Modern Lifestyle</td>
</tr>
<tr>
<td>3.3</td>
<td>CONSUMER RIGHTS IN THE HALAL PHARMACEUTICAL INDUSTRY</td>
</tr>
<tr>
<td>3.3.1</td>
<td>Rights to Satisfaction of Basic Needs and Halal Pharmaceutical</td>
</tr>
<tr>
<td>3.3.2</td>
<td>Rights to Information/Informed Choice</td>
</tr>
<tr>
<td>3.3.3</td>
<td>Rights to Safety, Efficacy and Quality</td>
</tr>
<tr>
<td>3.4</td>
<td>CONCLUSION</td>
</tr>
</tbody>
</table>

### CHAPTER FOUR: HALAL PHARMACEUTICAL: THE EXISTING LEGAL REGIME

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.1</td>
<td>INTRODUCTION</td>
</tr>
<tr>
<td>4.2</td>
<td>HALAL PHARMACEUTICAL RELATED LAWS</td>
</tr>
<tr>
<td>4.2.1</td>
<td>Trade Description Act</td>
</tr>
<tr>
<td>4.2.2</td>
<td>The Jurisdiction of the State Shari’ah Criminal Enactments on Halal Matters</td>
</tr>
<tr>
<td>4.2.3</td>
<td>The Animals Act 1953 (Revised 2006)</td>
</tr>
<tr>
<td>4.2.4</td>
<td>MS2424: 2012 Halal Pharmaceutical - General Guidelines</td>
</tr>
<tr>
<td>4.2.4.1</td>
<td>MS2424: 2012-The Definitional Issue</td>
</tr>
<tr>
<td>4.2.4.2</td>
<td>MS2424: 2012 and the GMP Guidelines</td>
</tr>
<tr>
<td>4.2.4.3</td>
<td>MS2424:2012 and Halal Assurance System (HAS)</td>
</tr>
<tr>
<td>4.2.4.4</td>
<td>MS2424:2012 and Ritual Cleansing/ ‘Sertu’</td>
</tr>
<tr>
<td>4.2.5</td>
<td>Fatwa and Its Application in Halal Pharmaceutical</td>
</tr>
<tr>
<td>4.3</td>
<td>CONTROL OF DRUGS/PHARMACEUTICAL LEGISLATION</td>
</tr>
<tr>
<td>4.3.1</td>
<td>Historical Development of Sales of Drugs</td>
</tr>
<tr>
<td>4.3.2</td>
<td>The Laws on Pharmaceutical Safety, Efficacy and Quality Control</td>
</tr>
<tr>
<td>4.3.2.1</td>
<td>Pre-Marketing Control</td>
</tr>
<tr>
<td>4.3.2.2</td>
<td>Post-Marketing Control</td>
</tr>
<tr>
<td>4.3.3</td>
<td>Malaysian National Medicines Policy 2012</td>
</tr>
<tr>
<td>4.4</td>
<td>HALAL PHARMACEUTICAL AND THE CONSUMER PROTECTION LAWS</td>
</tr>
<tr>
<td>4.4.1</td>
<td>Halal Pharmaceutical and the Consumer Protection Act 1999 (CPA)</td>
</tr>
</tbody>
</table>
4.4.1.1 Misleading/Deceptive Conduct of Halal Pharmaceutical Products........................................ 209
4.4.1.2 Guarantees in Respect of Supply of Halal Pharmaceutical................................................. 213
4.4.1.3 Product Liability.................................................................................................................. 215
4.4.2 Protection under the Tort of Negligence............................................................................... 219
4.4.3 Law of Contract and Sales of Goods...................................................................................... 224
4.5 CONCLUSION............................................................................................................................. 227

CHAPTER FIVE: ISSUES OF THE ADMINISTRATIVE AUTHORITIES GOVERNING THE HALAL PHARMACEUTICAL INDUSTRY............... 229
5.1 INTRODUCTION.......................................................................................................................... 229
5.2 FEDERAL AND STATE ADMINISTRATIVE JURISDICTION ON HALAL MATTERS................................................................. 230
5.3 HALAL PHARMACEUTICAL AND THE ADMINISTRATIVE BODIES AGENCIES................................................................. 236
  5.3.1 The Role of JAKIM as the Administrator of Halal Affairs......................................................... 239
    5.3.1.1 JAKIM and the Certification of Halal................................................................................. 240
    5.3.1.2 JAKIM and the Source of Power..................................................................................... 244
    5.3.1.3 JAKIM: The Enforcement Power.................................................................................... 247
    5.3.1.4 JAKIM: Scope of Authority........................................................................................... 249
  5.3.2 The Drugs Control Authority and Halal Pharmaceutical.......................................................... 255
    5.3.2.1 The Drug Control Authority and Rights to Information.................................................. 261
  5.3.3 Halal Pharmaceutical and Ministry of Domestic Trade, Co-operation and Consumerism (MDTCC)............................................ 262
  5.3.4 The Department of Veterinary Services (DVS)...................................................................... 265
  5.3.5 The Department of Standard Malaysia (SIRIM).................................................................... 266
5.4 SUMMARY OF THE DOCUMENTS AND PROCESS FOR THE REGISTRATION AND CERTIFICATION OF HALAL PHARMACEUTICAL.................................................. 270
5.5 CONCLUSION............................................................................................................................. 272

CHAPTER SIX: ISSUES OF HALAL PHARMACEUTICAL: STAKEHOLDERS PERSPECTIVES................................................................. 275
6.1 INTRODUCTION.......................................................................................................................... 275
6.2 THE ADMINISTRATOR ISSUES: JAKIM.................................................................................. 280
  6.2.1 Human Capital..................................................................................................................... 280
  6.2.2 Delay in Issuance of Certification......................................................................................... 283
  6.2.3 Integrity of the Halal Certification Bodies............................................................................. 286
  6.2.4 Printing of Halal Logo......................................................................................................... 288
  6.2.5 Disclosing Information and the Trade Secrets.................................................................... 289
6.3 LEGAL ISSUE FROM THE STAKEHOLDERS VIEW................................................................. 292
  6.3.1 The Pharmacist and Medical Practitioner............................................................................ 293
  6.3.2 Abuse of Halal Certification............................................................................................... 294
6.3.3 Regulations on Having Halal Logo on Drugs .......................... 296
6.3.4 Prosecution Power ............................................................... 298

6.4 SPECIAL ISSUES WITHIN THE HALAL PHARMACEUTICAL INDUSTRY .................................................. 300
6.4.1 Insufficient Reference ....................................................... 300
6.4.2 The Issue of Empty Capsule .............................................. 305
6.4.2.1 Who Shall Monitor the Empty Capsules? ....................... 307
6.4.3 Issue of Logistic ................................................................. 313

6.5 CONCLUSION ....................................................................... 314

CHAPTER SEVEN : CONCLUSIONS AND RECOMMENDATIONS: THE PROPOSED LEGAL AND ADMINISTRATIVE FRAMEWORK FOR HALAL PHARMACEUTICAL INDUSTRY ................................................................. 316

7.1 CONCLUSION ...................................................................... 316
7.2 INADEQUACY OF THE EXISTING LAWS GOVERNING THE HALAL PHARMACEUTICAL INDUSTRY ...................... 318
7.3 INADEQUACY OF THE CURRENT CONSUMER PROTECTION LAWS IN GOVERNING HALAL PHARMACEUTICAL INDUSTRY .................................................. 320
7.4 FLAWS IN THE ADMINISTRATION OF HALAL PHARMACEUTICAL INDUSTRY .................................................. 322
7.5 THE PROPOSED LEGAL REFORMS ........................................ 328
7.6 THE PROPOSED ADMINISTRATIVE REFORMS ..................... 334
7.7 THE SUMMARY OF LEGAL AND ADMINISTRATIVE REFORMS ................................................................. 339

BIBLIOGRAPHY ........................................................................ 345
LIST OF TABLES

<table>
<thead>
<tr>
<th>Table No.</th>
<th>Description</th>
<th>Page No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1</td>
<td>Muslim Population as at 2016</td>
<td>2</td>
</tr>
<tr>
<td>1.2</td>
<td>Halal Guidelines according to Industry/Area</td>
<td>4</td>
</tr>
<tr>
<td>4.2</td>
<td>Category of Pharmaceutical Product &amp; Halal Certification</td>
<td>195</td>
</tr>
<tr>
<td>5.1</td>
<td>List of Subject Matter in the Ninth schedule of the Federal Constitution</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Relating to Halal Pharmaceutical</td>
<td>233</td>
</tr>
<tr>
<td>5.2</td>
<td>Halal Standards according to Industry/Area</td>
<td>269</td>
</tr>
<tr>
<td>6.1</td>
<td>Panellists’ Profile</td>
<td>277</td>
</tr>
<tr>
<td>6.2</td>
<td>Interviewee’s Profile</td>
<td>279</td>
</tr>
<tr>
<td>7.1</td>
<td>Summary of Legal and Administrative Reforms</td>
<td>340</td>
</tr>
</tbody>
</table>
# LIST OF FIGURES

<table>
<thead>
<tr>
<th>Figure No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1</td>
<td>2</td>
</tr>
<tr>
<td>5.1</td>
<td>259</td>
</tr>
<tr>
<td>7.1</td>
<td>340</td>
</tr>
</tbody>
</table>

1.1 Percentage of Global Muslim Population 2016

5.1 Registration of Pharmaceutical Product

7.1 Proposed Organisational Chart Reference Centre for Halal Pharmaceutical
LIST OF CASES

Che Omar Che Soh v Pendakwaraya [1988] 2 MLJ 55
Government of Malaysia & Ors v Oh Wai Kong [1979] 2 MLJ 33
Grant v Australian Knitting Mills [1936] AC 85
Kharak Singh v State of Uttar Pradesh AIR 1963 SC 1295
Liew Min Poh v PP [1962] 3 MLJ 316
Mamat bin Daud v Government of Malaysia [1988] 1 MLJ 119
Medicon Plastic Industries Sdn Bhd v Syarikat Cosa Sdn Bhd [1995] 2 MLJ 257
Meor Atiqurrahman bin Ishak dll lwn Fatimah bte Sihi dll [2000] 5 MLJ 375
Mohamed bin Kasdi v PP [1969] 1 MLJ 135
Mohd Jalani bin Saliman v PP [1997] 5 MLJ 551
Munn v Illinois (1877) 94 US 113
Ong Ah Chuan v. Public Prosecutor (1980)
PP v Wee Mee Industries Co. Sdn Bhd [1985] 3 LNS 2
Perfect Kam Hung Sdn Bhd v. Cheah Tai Hoe & Anor [2011] 1 LNS 1580
Public Prosecutor v Tengku Mahmood Iskandar & Anor [1973] 1 MLJ 128
Puncak Niaga (M) Sdn Bhd v. NZ Wheels Sdn Bhd [2011] 9 CLJ 833
Ramah v Laton (1927) 6 FMSLR 128
Rylands v Fletcher (1868) LR 3 HL 330
Saravanan a/l Thangathoray v Subashini a/p Rajasingham [2007] 2 MLJ 705
Shaikh Abdul Latif & Ors v Shaikh Elias Bux [1939] MLJ 209
Sulaiman Takrib v Kerajaan Negeri Terengganu [2009] 2 CLJ 54
Tan Tek Seng v Suruhanjaya Perkhidmatan Pendidikan & Anor [1996] 2 CLJ 771
Taylor v Combined Buyer Ltd [1924] NZLR 627
Tweddle v Atkinson (1861) 1 B & S 393
Union Alloy (M) Sdn Bhd v Syt. Pembenaan Yeoh Tiong [1996] 2 MLJ 369
Watts v Morrow [1991] 1 WLR 1421 (CA)
LIST OF STATUTE

Act

Abattoirs Act (Privatisation) 1993
Akta Lembaga Kemajuan Ternakan Negara (Pembubaran), 1983
Animals Act 1953 (Revised 2006)
Consumer Protection Act 1999
Contract Act 1950(Revised 1986)
Custom Act 1967(Importation Prohibition 1998)
Dangerous Drugs Ordinance of 1952
Federal Constitution
Food Act 1983
Islamic Banking Act 1983
Medicine (Advertisement and Sale) Act 1956(Revised 1983)
Penal Code (Amendments 2006)
Poisons Act 1952
Poisons Ordinance of 1952
Registration of Pharmacist Act 1951 (Revised 1989)
Sales of Drugs Act 1952 (revised 1989)
Sales of Drugs (Amendment) Act 2000
Sales of Food and Drugs Ordinance 1952
Shariah Court Act (Criminal Jurisdiction) 1965 (Revised 1988)
SS Cap. 190 Deleterious Drugs Ordinance
SS Cap. 223 Chandu Revenue Ordinance
Trade Description Act 2011
Trade Description Act 1972
Trade Mark Act 1976

Enactments

Administration of the Religion of Islam (Perlis) 2006
Administration of the Religion of Islam (State of Penang) 2004
Administration of the Religion of Islam (Perak) 2004
Administration of the Religion of Islam (State of Selangor) Enactment 2003
Enactment Majlis Agama Islam and Malay Custom, Kelantan 1994
BMA Proclamation No. 49 Opium and Chandu Proclamation
Fatwa Mufti Enactment (Kedah Darul Aman) 2008
FMS Cap. 183 Deleterious Drugs Enactment
FMS Cap. 134 Opium and Chandu Enactment
Johore En. 96 Deleterious Drugs Enactment
Johore En. 111 Opium and Chandu Enactment
Kedah En. 3 of 1348 Deleterious Drugs Enactment (En. No. 29)
Kedah En. 8 of 1356 Chandu Enactment
Kedah Syariah Criminal Offences Enactment 1988
Kelantan En. 3 of 1928 Opium and Chandu Enactment 1928
Kelantan En. 15 of 1938 Deleterious Drugs Enactment
Kelantan Syariah Criminal Offences Enactment 1985
Pahang Administration of the Law of the Religion of Islam Enactment 1956
Penang Syariah Criminal Offences Enactment 1996
Perak Syariah Criminal Offences Enactment 1997
Perlis En. 10 of 1356 Chandu Enactment 1356
Perlis En. 2 of 1348 Deleterious Drugs Enactment 1348
Malacca Syariah Criminal Offences Enactment 1991
Misuse of the Halal Sign, Selangor Syariah Enactment no.9/1995
Negeri Sembilan Syariah Criminal Offences Enactment 1992
Shariah Criminal Offences Act (Federal Territories) 1997
Syariah Criminal Offences Enactment Johor 1997
Syariah Criminal Offences (Hudud & Qisas) Enactment Terengganu 2002
Syariah Criminal Offences (Takzir) Enactment Terengganu 2001
The Administration of Islamic Law (Federal Territories) Act 1993 [Act 505]
The Administration of Islamic Law Selangor 1952
The Administration of Islamic Law Melaka 1959
The Administration of Islamic Law Pulau Pinang 1959
The Administration of Islamic Law Perak 1965
The Administration of Islamic Law Perlis 1963
The Council of Religion Enactment, State of Johore, 1949
Terengganu Administration of Religious Affairs in 2001
Terengganu En. 2 of 1352 Chandu Enactment
Terengganu En. 62 of 1356 Deleterious Drugs Enactment

**Subsidiary law**

Animals Regulation 1962
Animal Rules 1962
Control of Drugs and Cosmetic Regulations 1984 (Revised 2009)
Food Regulations 1985
Food Hygiene Regulations 2009
Medicines Advertisement Board Regulations 1976
Poisons Regulations (Psychotropic Substances Act 1989)
Trade Description (Definition of Halal) Order 2011
Trade Description (Certification and Marking of Halal) Order 2011
Trade Description (Certification and Marking of Halal Fees) Regulation 2011
Trade Description (Certification and Expression of Halal) Order 1975
Trade Descriptions (Use of Expression 'Halal') Order, 1975
Trade Description (Goods Made from any Part of Pig or Dog) Order 2013
Guidelines

Drug Registration Guidance Document (DRGD) 2013
Guidelines for Control of Cosmetics Products in Malaysia 2009
Guidelines on False or Misleading Advertisement
Guidelines on Good Manufacturing Practice
Guidelines to Hazard Analysis Critical Control Point (HACCP)
Guidelines on Medical Products and Appliances 2009 (Malaysia)
Halal Certification Quality Document Jakim-JAKIM (HALAL)-PPH/PK 03
ISO/IEC Guide 65
MS 1500: 2009 (E&M), Halal Food – Production, Preparation, Handling and Storage-General guidelines
MS2424:2012: Halal Pharmaceutical:General Guidelines
MS 2200-1:2008 (E & M), Islamic Consumer Goods - Part 1: Cosmetic and Personal Care - General Guidelines
MS 2200-2:2012 - Islamic Consumer Goods - Part 2Usage of Animal’s Bones, Skin and Hair - General Guideline
MS 1900:2005, Quality Management Systems - Requirements from Islamic Perspectives
MS 2300:2009, Value-Based Management System - Requirements from an Islamic Perspective
MS 2393 (P) Prinsip Islam Dan Halal - Definisi Dan Penafsiran Istilah
MS 2400 - 1:2010, Halalan-Toyyiban Assurance Pipeline - Management System Requirements for Transportation of Goods and/or Cargo Chain Services
MS 2400 - 2:2010, Halalan-Toyyiban Assurance Pipeline - Management System Requirements for Warehousing and Related Activities
MS 2400 - 3:2010, Halalan-Toyyiban Assurance Pipeline - Management System Requirements for Retailing
Malaysia Protocol for Halal Meat and Poultry Productions 2011 (MS 1500:2009 (E & M),
Malaysian Code of Advertising Practice (3rd Ed) 2008
Malaysian National Medicines Policy 2012
Malaysia Halal Certification Procedure Manual 2011 (Second revision)
Malaysian Variation Guidelines for Pharmaceutical Product 2013
PhAMA Code of Pharmaceutical Marketing Practices for Prescription (Ethical) Products (18th Ed) 2010 (Malaysia)
Rulings of the National Fatwa Council
Statutes from other Jurisdictions

The Biologics Control Act 1902
U.S Food and Drug Act 1906
U.S Kefauver-Harris Amendments (1962)

International Convention/Agreements
Animal Products (Overseas Market Access Requirements for Halal Assurances) Notice 2010
Canada Consumer Packaging and Labelling Act (CPLA)
Canada Food and Drug Regulations (Halal Food)
Codex Alementarrius Commission: General Guidelines for the Use of the Term ‘Halal’
Codex Alementarrius Commission: General Standard for the Labelling of Prepackaged Foods
New Zealand Animal Products Act 1999
Pharmaceutical Inspection Convention and Pharmaceutical Inspection Co-operation Scheme (PIC/s)
Pharmaceutical Inspection Cooperation Scheme (PIC/S): Guide to Good Manufacturing Practice for Medicinal Products
Single Convention on Psychotropic Substances 1971
Universal Declaration of Human Rights (UDHR)
World Health Organization Constitution
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>AJBAS</td>
<td>Am Fam Physician</td>
</tr>
<tr>
<td>API</td>
<td>Active Pharmaceutical Ingredient</td>
</tr>
<tr>
<td>ASEAN</td>
<td>Association of Southeast Asian Nations</td>
</tr>
<tr>
<td>BMQR</td>
<td>Business Management Quarterly Review</td>
</tr>
<tr>
<td>BP</td>
<td>British Pharmacopoeia</td>
</tr>
<tr>
<td>CAC</td>
<td>Codex Alimentarius Commission</td>
</tr>
<tr>
<td>CCAsia</td>
<td>Codex Coordinating Committee for Asia</td>
</tr>
<tr>
<td>CCM</td>
<td>Chemical Company Malaysia</td>
</tr>
<tr>
<td>CDCR</td>
<td>Control of Drugs and Cosmetics Regulation 1984</td>
</tr>
<tr>
<td>CFIA</td>
<td>Canadian Food Inspection Authority</td>
</tr>
<tr>
<td>CLJ</td>
<td>Current Law Journal</td>
</tr>
<tr>
<td>CMA</td>
<td>Malaysian Compliance Monitoring Authority</td>
</tr>
<tr>
<td>CMP</td>
<td>Compliance Monitoring Programme</td>
</tr>
<tr>
<td>CPLA</td>
<td>Canada Consumer Packaging and Labelling Act</td>
</tr>
<tr>
<td>CTWG</td>
<td>Cosmetic Technical Working Group</td>
</tr>
<tr>
<td>DAD</td>
<td>Drug Analysis Division</td>
</tr>
<tr>
<td>DCA</td>
<td>Drug Control Authority</td>
</tr>
<tr>
<td>DRGD</td>
<td>Drug Registration Guidance Document 2013</td>
</tr>
<tr>
<td>DSM</td>
<td>Department Standard Malaysia</td>
</tr>
<tr>
<td>EBMO</td>
<td>European Molecular Biology Organization</td>
</tr>
<tr>
<td>EEC</td>
<td>European Economic Community</td>
</tr>
<tr>
<td>EWG</td>
<td>Environment Working Group</td>
</tr>
<tr>
<td>FAO</td>
<td>Food and Agriculture Organization</td>
</tr>
<tr>
<td>FDA</td>
<td>U.S Food and Drug Authority</td>
</tr>
<tr>
<td>FDI</td>
<td>Food-Drug Inter-phase</td>
</tr>
<tr>
<td>FSQD</td>
<td>Food Service Quality Department</td>
</tr>
<tr>
<td>GCP</td>
<td>Good Clinical Practice</td>
</tr>
<tr>
<td>GLP</td>
<td>Good Laboratory Practice</td>
</tr>
<tr>
<td>GMO</td>
<td>Genetically Modified Organism</td>
</tr>
<tr>
<td>GMP</td>
<td>Good Manufacturing Practice</td>
</tr>
<tr>
<td>GHP</td>
<td>Good Hygiene Practice</td>
</tr>
<tr>
<td>GSP</td>
<td>Good Storage Practice</td>
</tr>
<tr>
<td>HACCP</td>
<td>Hazard Critical Control Point</td>
</tr>
<tr>
<td>HDC</td>
<td>Halal Industry Development Corporation</td>
</tr>
<tr>
<td>HIPP</td>
<td>Halal Industry Partners Programme</td>
</tr>
<tr>
<td>ICT</td>
<td></td>
</tr>
<tr>
<td>IMP-3</td>
<td>Malaysian Third Industrial Master Plan</td>
</tr>
<tr>
<td>IMT-GT</td>
<td>Indonesia-Malaysia-Thailand Growth Triangle</td>
</tr>
<tr>
<td>IFANCA</td>
<td>Islamic Food and Cosmetic Authorities</td>
</tr>
<tr>
<td>IFRJ</td>
<td>International Food Research Journal</td>
</tr>
<tr>
<td>INHART</td>
<td>International Institute for Halal Research and</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Full Name</td>
</tr>
<tr>
<td>--------------</td>
<td>-----------</td>
</tr>
<tr>
<td>ISC I</td>
<td>Industry Standards Committee on Halal Standards</td>
</tr>
<tr>
<td>ITBM</td>
<td>Institut Terjemahan &amp; Buku Malaysia</td>
</tr>
<tr>
<td>JAKIM</td>
<td>Jabatan Kemajuan Islam Malaysia</td>
</tr>
<tr>
<td>JCL</td>
<td>Kosher Supervision Agency</td>
</tr>
<tr>
<td>KSA</td>
<td>Jabatan Kemajuan Islam Malaysia</td>
</tr>
<tr>
<td>LNS</td>
<td>Legal Network Services</td>
</tr>
<tr>
<td>MAB</td>
<td>Medicine Advertisement Board</td>
</tr>
<tr>
<td>MAIN</td>
<td>Majlis Agama Islam Negeri</td>
</tr>
<tr>
<td>MDTCC</td>
<td>Ministry of Domestic Trade, Cooperatives and Consumerism</td>
</tr>
<tr>
<td>MISC</td>
<td>Malaysian International Shipping Company</td>
</tr>
<tr>
<td>MITI</td>
<td>Ministry of International Trade and Industry</td>
</tr>
<tr>
<td>MLJ</td>
<td>Malayan Law Journal</td>
</tr>
<tr>
<td>MOH</td>
<td>Ministry of Health</td>
</tr>
<tr>
<td>MOSTI</td>
<td>Ministry of Science Technology and Innovation</td>
</tr>
<tr>
<td>MUIS</td>
<td>Majlis Ulama Islam Singapura</td>
</tr>
<tr>
<td>NCAC</td>
<td>National Consumer Advisory Council</td>
</tr>
<tr>
<td>NKEA</td>
<td>National Key Economics Area</td>
</tr>
<tr>
<td>NPCB</td>
<td>National Pharmaceutical Control Bureau</td>
</tr>
<tr>
<td>OECD</td>
<td>Organization for Economic Co-Operation and Development</td>
</tr>
<tr>
<td>OIC</td>
<td>Organization of Islamic Committee</td>
</tr>
<tr>
<td>PIC/S</td>
<td>Pharmaceutical Inspection Scheme Co-operation</td>
</tr>
<tr>
<td>PWTC</td>
<td>Putra World Trade Centre</td>
</tr>
<tr>
<td>QC</td>
<td>Quality Control</td>
</tr>
<tr>
<td>SGPC</td>
<td>Shariah Law Reports</td>
</tr>
<tr>
<td>ShLR</td>
<td>Shariah Law Reports</td>
</tr>
<tr>
<td>SIRIM</td>
<td>Sanitary and Phytosanitary</td>
</tr>
<tr>
<td>SPS</td>
<td>Technical Barrier to Trade</td>
</tr>
<tr>
<td>TBT</td>
<td>Universiti Teknologi MARA</td>
</tr>
<tr>
<td>UDHR</td>
<td>Universiti Malaysia Pahang</td>
</tr>
<tr>
<td>UiTM</td>
<td>United Nation</td>
</tr>
<tr>
<td>UMP</td>
<td>Universiti Putra Malaysia</td>
</tr>
<tr>
<td>USIM</td>
<td>Universiti Sains Islam Malaysia</td>
</tr>
<tr>
<td>WGHAPAS</td>
<td>Working Group on Halal Product and Services</td>
</tr>
<tr>
<td>WHO</td>
<td>World Health Organization</td>
</tr>
<tr>
<td>WTO</td>
<td>World Trade Organization</td>
</tr>
<tr>
<td>9MP</td>
<td>9th Malaysian Plan</td>
</tr>
</tbody>
</table>
CHAPTER ONE

INTRODUCTION

1.0 BACKGROUND OF STUDY

The global halal industry has gone through tremendous changes and rapid expansion into several sectors from food and beverage to cosmetics, pharmaceuticals, supply chain and logistics, lifestyle, hospitality and services including banking and finance. This is very much connected to the increased awareness of Muslim on the benefits to consuming halal products. The global Muslim population is estimated to be 2142.13 million (refer to table 1.1) in 2016 and represents approximately 28% of the global population.\(^1\) It is forecasted to increase up to 2.2 billion (26%) by 2030 and will continue to grow to 2.6 (30%) billion by 2050.\(^2\) Hence, the halal industry is expected to grow in tandem with this development. On this point, Abdalhamid and Salama\(^3\) mentioned that the growth of halal food market implies the parallel growth of other halal products and services market.