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Jurisdiction and Prosecution of *Halal* Related Matters in Malaysia: Challenges and Prospects

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Abstract

Malaysia is planning to be a global *halal* hub country in the near future. However, it must be noted that administration of *halal* related matters in this country is yet to be an efficient one especially when it comes to legal issues of prosecution and jurisdiction. This paper explores the conceptual arguments of the two legal issues particularly its challenges and prospects in strengthening *halal* related matters in the country. This conceptual paper highlights factors that could improve the jurisdiction and prosecution of *halal* related matters in the country.

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1. Introduction

The role of government to provide means for the Muslims in Malaysia to access and genuinely served with *halal* matters is a reflection of Article 3(1) of the Federal Constitution of Malaysia. Adherence to Shari'ah imposition of *halal* has been an important agenda for Malaysia since 1974 when the Research Center of the Islamic Affairs Division of the Prime Minister Office started to issue *halal* certification letters for products that met the *halal* criteria. Since

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then, the government of Malaysia has improved *halal* management in many areas of *halal* related matters which include *halal* products and services such as food and beverage products, food premises, consumer goods such as cosmetics, personal care, clothing and equipment, pharmaceutical, slaughter house, logistic, hospitality services and finance. There was also a plan to put Malaysia as a global *halal* hub country by 2020.

The main actors which deal with *halal* related matters in the country namely Jabatan Kemajuan Islam Malaysia (JAKIM), Jabatan Agama Islam Negeri (JAIN), Majlis Agama Islam Negeri (MAIN), Halal Industry Development Corporation (HDC), Ministry of Domestic Trade, Co-operatives and Consumerism (MDTCC), Ministry of Health (MOH) and Ministry of International Trade and Industry (MITI). These seven agencies shoulder huge responsibility to ensure *halal* related matters in Malaysia are well managed up to the desired standards. Undeniably, all the said main actors of *halal* related matters acted according to their terms of reference. However, it must be noted that there are shortcomings in the legal aspects of administering *halal* related matters in this country. Two legal issues of *halal* related matters pertinent to be reconsidered in terms of their effectiveness and comprehensiveness for the *halal* legal regime are the issues of prosecution and jurisdiction.

This paper highlights conceptual arguments on prosecution and jurisdiction, particularly its challenges and prospects in strengthening *halal* related matters in the country. The structure of this article is as follows: section 2 contains definition of *halal* and *halal* related matters; section 3 brings a discussion of an overview of incomprehensiveness of prosecution and jurisdiction issues in administering *halal* related matters in Malaysia; and section 4 explores a number of factors which could be considered in order to improve the jurisdiction and prosecution of *halal* related matters in the country and make recommendations for future research. The paper concludes with a brief suggestion for better *halal* practices in Malaysia.

2. Defining *Halal*

2.1. What is *halal*?

Originally, *halal* is an Arabic phrase which means allowed or permitted by Islamic Law. Another popular term is *halalan toyyiban* which merely means allowed and permissible for consumption with relation to Shari'ah law as long as they are safe and not harmful. The opposite of *halal* is *haram* or non-*halal* which means forbidden and prohibited. (JAKIM, 2005)

It is undeniable that the four sources of the Islamic laws are *Al Qur'an*, *Hadith*, *Ijma'* and *Qiyas*. Whichever food substances mentioned in any one of these four sources, be it *halal* or *haram* is interpreted as being Islamic Law. Since the main source of the Islamic law is *Al-Quran*, all Islamic rules are definitely Allah's law. It is not the law which is created by men and it is the law for human beings' own good and benefits in order to have a better living in this world as well as a bridge to have a good life hereafter. (Wahab, 2004)

The definition of *halal* according to Section 3 of the Trade Descriptions (Definition of Halal) Order 2011 is when food or goods or service in relation to the food or goods used in the course of trade or business is described as "*halal*" or by any other expression indicating that Muslims are permitted to consume or use such food or goods or service, means the food or goods or service in relation to the food or goods:

- (a) neither is nor 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 manufactured using any instrument that was not free from anything impure according to Hukum Syarak;
- (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).

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