

## Comparison and Challenges in the Implementation of *Halal* Food Laws in Malaysia, the Netherlands and United States of America

(Perbandingan dan Cabaran Pelaksanaan Undang-undang Makanan Halal di Malaysia, Belanda dan Amerika Syarikat)

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### ABSTRACT

*The term “Halal Laws” in this paper relate to the laws of consumer protection in terms of Halal product. Halal laws are crucial, since it regulates an industry that is worth an estimated of USD 2.3 trillion, annually. The Halal laws in Malaysia are a national, legislated law. Meanwhile, the United States of America (USA) also have Halal laws, but it is legislated on a state level. Not all states recognise the Halal laws in the USA. Alternatively, the Netherlands do not have Halal laws or Halal related laws. Therefore, local Muslims depend on the integrity of local Halal certifier for Halal foods. This paper summarises the Halal laws differences in these 3 countries including Halal laws offenses and penalties. This paper also summarises the challenges of implementing the Halal laws in these three countries.*

*Keyword: Malaysia; Netherlands; United States of America; Halal; Laws*

### ABSTRAK

*Terma “Undang-undang Halal” yang digunakan di dalam kertas kerja ini merujuk kepada undang-undang yang melindungi pengguna dari segi ketulenan produk Halal. Undang-undang Halal adalah penting kerana ia mengatur industri yang dianggarkan bernilai 2.3 trillion USD setahun. Undang-undang Halal di Malaysia adalah sebahagian daripada undang-undang negara. Amerika Syarikat juga mempunyai Undang-undang Halal, tetapi ia hanya digubal untuk peringkat negeri sahaja. Tidak semua negeri di Amerika Syarikat menerima Undang-undang Halal. Berlainan pula dengan Belanda di mana ia tidak mempunyai Undang-undang Halal atau peraturan yang berkaitan dengan perihal Halal. Maka, penduduk Muslim tempatan terpaksa percaya kepada daya integriti pihak yang mengeluarkan pensijilan Halal. Kertas penyelidikan ini merumuskan perbezaan Undang-undang Halal berserta kesalahan di bawah Undang-undang Halal untuk ketiga-tiga negara. Artikel ini juga merumuskan cabaran melaksanakan Undang-undang Halal di ketiga-tiga negara tersebut.*

*Kata kunci: Malaysia; Belanda; Amerika Syarikat; Halal; Undang-undang*

### INTRODUCTION

Food safety and *Halal* goes in tandem in the Muslim countries. This is because *Halal* demands safe, wholesome (*toyibban*) and hygienic properties; similar with food safety objectives. As a brief description, *Halal* or its full term “*Halalantoyyiban*” merely means allowed and permissible for consumption with relation to *Sharia* (Islamic) law as long as they are safe and not harmful. Besides fulfilling the *Sharia* law, which is a must for Muslims, the food safety factor plays a significant contributor in determining the *toyibban*, such as wholesome (safe, clean, nutritious, quality) aspects of the food. Therefore, a *Halal* food is a food for all regardless of religion.

One of the important aspects of *Halal* is the preparation and processing of meat for the Muslims.

The demand for processed meat and meat products are becoming ever increasing. In 2018, the processed meat market is expected to be valued at nearly \$800 billion USD.<sup>1</sup> From *Halal* market point of view, the estimation is supported by 2009-2014 market analysis that shows significant rises of fresh meat volume growth (increase by 30%) throughout the world with the exception of Western Europe (decrease by 1%). The two main channels that propel *Halal* meat industry are fast food restaurants and specialty butchery.<sup>2</sup>

As more countries are accepting *Halal* concept and Islam, *Halal* food market begins to thrive. However, this also signals for more rigid maintenance of *Halal* certification procedures. This is because *Halal* process has been branded as assurance of a quality, safe and healthy products. Therefore it is imperative that it is being safeguarded by responsible authority. However, different

countries adopt different scheme in implementing the “*Halal* laws.”

#### MALAYSIA – GOVERNMENT LEGISLATED LAWS

There was no *Halal* labelling in Malaysia prior to 1972. It only begins when the Trade Description Act 1972 introduced two labelling terms: “*Ditanggung Halal*” (*Halal* Assured) and “*Makanan orang Islam*” (Muslim Food) for usage in food service industry. Since then, there are more Muslims inquiring about non-Muslim food handlers’ knowledge about the *Halal* and *Haram* concepts in Islam. Therefore, the Malaysian government implemented *Halal* certification with *Halal* logo to food products. However, the implementation was done voluntarily under the Department of Islamic Affairs (BAHIES – name adopted prior to re-organization of Department of Islamic Development Malaysia; JAKIM) in 1994.<sup>3</sup>

Prior to *Halal* logo implementation, *caveat emptor* was the doctrine among Muslims. *Caveat emptor* in this context means that the Muslim consumers were responsible for checking the *Halal* quality. The laws then gradually shift the responsibility to food manufacturers (*caveat venditor*) with the implementation of Food Act 1983<sup>4</sup> and Trade Description Order 2011.<sup>5</sup>

Recently, the Malaysian Standard (MS) 1500: 2009 has standardize the *Halal* definition among Malaysian food industry. *Halal* means food and drink and/or their ingredients that are permitted to be consumed under the *Sharia* law and fulfill several conditions as stated in the Standard. The Standard also includes detailed description of procedures in slaughtering animals according to the *Sharia*. Suggestions for modification (only when it is mandatory) is also included in the Standard Annex A. This include purifying method of *najs* (filth) and stunning of animals.

Even until now, the certification was done voluntarily by food companies. However, the certification is important for the companies if they want to become relevant in Malaysia. This is because the certification had become a marketing tool for Muslim consumers and also as a pre-requisite in local food safety system, such as Good Manufacturing Practice (GMP) and Hazard Analysis Critical Control Point (HACCP).<sup>6</sup>

#### THE NETHERLANDS – THE LAND OF RIGHTS

The Netherlands is home to around 925 thousands of Muslims in 2015, roughly 6% of the total population at the time. This translates to growing *Halal* demands among the businesses in the Netherlands.<sup>7</sup> However, the visibility of the *Halal* demands also attracted vocal objections from local population.<sup>8</sup>

There were few entities that offer *Halal* certification in the Netherlands. Majority of them come from local *Imams* and International bodies such as JAKIM and Islamic Food and Nutrition Council of America (IFANCA). Certain local Muslim establishments also proceed to self-certified themselves as *Halal* certifiers, since they themselves adhere to the Islamic teachings. Therefore, it can be summarised that the local markets in the Netherlands are based on trust with the local butchers and grocery stores of the same social and ethnic groups.<sup>9,10</sup>

Presently, there are no government enacted laws regarding *Halal* in the Netherlands. Even so, current *Halal* certification is still difficult to be implemented. According to Havinga,<sup>11</sup> there are three reasons; (1) animal rights organisation objects to the inhumane and painful treatment of animals; due to no stunning prior to slaughter; (2) growing Islamophobia in local politics arena scares incoming food business to adopt private *Halal* certification; (3) the Federation of Veterinarians of Europe advocate obligatory stunning prior to slaughter.

However, the first and third reasons were no longer valid since a motion in favour of prohibition on slaughter without prior stunning was rejected by the Dutch Parliament. The main reason for the rejected motion is due to rights for Freedom of Religion.<sup>12</sup> Therefore, the business proprietress in the Netherlands can now safely adopt private *Halal* laws.

#### UNITED STATES OF AMERICA – WELCOMING HALAL STATES BY STATES

Similar to the Netherlands, there are private *Halal* laws in the United States of America (USA). However, these laws have existed much longer. This is because the USA have extensive Kosher law that enables “consumer right to know issues” and “truth in labeling” in matters related to Kosher requirements. In July 2000, New Jersey passed a Bill that extend the special priority to the Muslim community.<sup>13</sup>

The New Jersey’s *Halal* law is named Administrative Code Title 13 Law and Public Safety Chapter 45a Subchapter 22 *Halal* Food which specifically says that food businesses must post information setting forth the procedures they follow in their purchase, handling, and preparation of the *Halal* food. Fraudulently selling non-*Halal* as *Halal* results in a fine of \$10,000 for first time offenders and \$20,000 thereafter.<sup>14</sup>

Since then, 8 other states such as Virginia, Texas, Michigan, Minnesota, Maryland, Illinois and California have also followed the same gesture. Each with their own set of laws and definitions to serve the Muslim community in these states. All the other states also accept *Halal* certification but they only serve as marketing tools for Muslim consumers.<sup>14</sup>

COMPARISON BETWEEN THE HALAL LAWS

The comparison of the *Halal* laws of Malaysia, the Netherlands and the USA was done using numerous data obtained from scholarly literatures and statistical reports conducted in the recent years by international research center. Table 1 summarises the comparison of

the *Halal* laws between these countries. Among them, Malaysia has the highest number of Muslim population, with estimated 16,581,000 Muslims. This is followed by the USA with 3,300,000 Muslims. The Netherlands has 925,000 Muslims or equivalent to 6% of total Dutch population.<sup>15</sup>

TABLE 1. Comparison of the *Halal* laws between Malaysia, the Netherlands and the United States of America

	Malaysia	Netherlands	United States
Muslim population	16,581,000	925,000 (6% of total Dutch Population)	3,300,000
Law type	Government legislated	Private laws	Some government legislated; Some private laws
<i>Halal</i> laws/ Related laws	<ul style="list-style-type: none"> <li>• Food Act 1983 (Act 281) Section 13A</li> <li>• Food Regulation 1985 Part IV Labelling</li> <li>• Trade Descriptions (Definition of <i>Halal</i>) Order 2011</li> <li>• Trade Descriptions (Certification and Marking of <i>Halal</i>) Order 2011</li> </ul>	<ul style="list-style-type: none"> <li>• New Jersey Administrative Code Title 13 Law And Public Safety Chapter 45a Subchapter 22 <i>Halal</i> Food</li> </ul>	<ul style="list-style-type: none"> <li>• Article 8 of the General Food Law (GFL)</li> </ul>
Local certification bodies	Department of Islamic Development Malaysia (JAKIM)	Various – <i>Halal</i> Feed and Food Inspection Authority (HFFIA), <i>Halal</i> Quality Control (HQA), Total Quality <i>Halal</i> Correct Certification (TQHCCA) etc.	Various – Islamic Society of the Washington Area (ISWA), Islamic Food and Nutrition Council of America (IFANCA), Islamic Services of America (ISA), Muslim Consumer Group (MCG) etc.
<i>Halal</i> Logo	Single logo	Various logos based on certifiers	Various logos based on certifiers
Local Government Support	Provide Incentives	No Support	Free Market
Animal stunning issue	Allowed when necessary	Various – depending on which certifier	Various – depending on which certifier
Law protection	Yes – Common law	No protection	Yes, only on certain states – Common law

THE LAWS

The *Halal* laws enacted in these three countries are different. Both Malaysia and United States has legislated laws that are specifically for *Halal* foods. Meanwhile, the Netherlands does not have specific *Halal* laws, but instead depend on the European Union’s General Food Law for consumers’ protection.

Malaysia’s *Halal* laws are the most comprehensive of the three. The Trade Descriptions Order 2011 is a law that aims to protect Muslim consumers against fraudulent food manufacturers. As such, Trade Descriptions Order 2011 has 2 laws; Trade Descriptions (Definition of *Halal*) Order 2011 and Trade Description (Certification and Marking of *Halal*) Order 2011.<sup>16</sup>

Trade Description (Definition of *Halal*) Order 2011 specifically defines *Halal* in terms of services and foods. Thus, any attempts to misled or confuse Muslim consumers is considered an offence and will be convicted with harsh penalty (Table 2). The Trade Descriptions (Certification and Marking of *Halal*) Order 2011, specifically declare the competent authorities in issuing the *Halal* certification in Malaysia (JAKIM and Islamic Religious Council in respective Malaysian States) as well as listing the recognise foreign *Halal* certification bodies by JAKIM. Any offence of this order which include falsifying certification or using false *Halal* logo will be convicted.

The Food Act 1983 (Act 281) Section 13A describes the responsible of the food producers, manufacturers and sellers in ensuring food safety and hygiene. The Food Regulation 1985 Part IV Labelling decrees that any misattributed food content in food labelling is liable for an offence under the Food Regulation 1985. The Food Act 1983 protects the consumers by enforcing the food producers to declare any ingredients including food ingredients that are Haram such as alcohol and pork. As a summary, the Malaysian *Halal* laws are comprehensive. The Malaysian *Halal* laws specifically state the definition of *Halal* related terms and describe in detail any offence against the laws and its penalty.

There are various *Halal* laws legislated in the USA. However, *Halal* laws in the USA begin with New Jersey's *Halal* law and its legal writing becomes the basis for *Halal* laws in other states. The New Jersey's *Halal* law is Administrative Code Title 13 Law and Public Safety Chapter 45a Subchapter 22 *Halal* Food. The law is akin to *Halal* Consumer Protection law in which an offence is liable for conviction if a "dealer" (the term used to refer to business entity) does not conform to the *Halal* disclosure (the term used to refer to the form required by the New Jersey's Division of Consumer Affairs in the Department of Law and Public Safety).<sup>17</sup>

However, the disclosure form as requested by the Division requires *Halal* certification from Halal Certifying agencies that are recognised by the Division. As such, the *Halal* laws in America extend the responsibility of *Halal* certifications to third party organisations. This procedure led to possible different interpretation of *Halal* definition, since the states define the term *Halal* as meaning "prepared under and maintained in strict compliance with the laws and customs of the Islamic religion" or "in accordance with Islamic religious requirements." Thus, there were no statutory definition of the word *Halal* and depend on the interpretation of *Halal* certifying agencies.

However, it is still possible to conduct a conviction for *Halal* fraudulent case in the USA. This is because the *Halal* laws usually extend the penalty offense onto States

Consumer Protection Law. The New Jersey *Halal* law did this by allying any offence of Administrative Code Title 13 Law and Public Safety Chapter 45A Subchapter 22 *Halal* Food to Consumer Fraud Act 56:8-13 (Table 2).

As for the Netherlands, the country is a member of the European Union. As such, any legal acts defined by the European Union Council is legislatively bind to all of its members. The law that is related in this context is General Food Law Article 8 of the Regulation (EC) No 178/2002 of The European Parliament and of The Council which is Protection of Consumer's Interest. Article 8 state that:

*"Food law shall aim at the protection of the interests of consumers, and shall provide a basis for consumers to make informed choices in relation to the foods they consume. It shall aim to prevent: (a) fraudulent or deceptive practices; (b) adulteration of food; and (c) any other practices which may mislead the consumer."*

Therefore, consumers in European Union member countries do have the right to be protected from food fraud and anything which misleads. As an extension of legal drafting, General Food Law of the European Union adapted Codex Alimentarius (a collection of internationally recognised standards, codes of practice, guidelines, and other recommendations relating to foods, food production, and food safety). This mean that the General Food Law also include protection from *Halal* mislabeling since *Halal* is define in Codex Alimentarius provisions for the use of *Halal* labelling on food products (Article 3.1).

However, General Food Law only provided the general principle and requirements of food law for the members. The responsibility for establishing law regarding penalty or punishment for offences against the General Food Law still holds under each member of their European Union. Because of this reason, it is hard to prosecute any offence of fraudulent *Halal* case in legal court since the Netherlands has yet to establish any penalty law regarding fraudulent *Halal* case. Table 2 below outlines the aforementioned *Halal* laws and its penalties.

TABLE 2. The *Halal* laws and its penalties

Law	Function	Penalty for offence
Malaysia		
Food Act 1983 (Act 281) Section 13A	To ensure food producers, manufacturers and sellers be responsible to the safety and hygiene of their food products.	<p>(1) <i>Any person who prepares or sells any food that consists wholly or in part of—</i></p> <p>(a) <i>any diseased, filthy, decomposed or putrid animal or vegetable substances;</i></p> <p>(b) <i>any portion of an animal unfit for food; or</i></p> <p>(c) <i>the product of an animal which has died otherwise than by slaughter or as game,</i></p> <p><i>Whether manufactured or not, commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding eight years or both.</i></p>

*continue*

TABLE 2 *continued*

Law	Function	Penalty for offence
		(2) <i>Any person who prepares or sells any food that contains or upon which there is any matter foreign to the nature of such food, or is otherwise unfit for human consumption, whether manufactured or not, commits an offence and shall be liable, on conviction, to a fine not exceeding thirty thousand ringgit or to imprisonment for term not exceeding five years or both.</i>
		(3) <i>Any person who prepares or sells any food whether manufactured or not that is enclosed in a sealed package and the package is damaged and can no longer ensure protection to its contents from contamination or deterioration, commits an offence and shall be liable, on conviction, to a fine not exceeding thirty thousand ringgit or imprisonment for a term not exceeding five years or both.</i>
Food Regulation 1985 Part IV Labelling	To ensure all food ingredients, food claims are placed on the food labelling. To ensure consumers capability of understanding the details displayed on the food packaging.	<i>Any person who commits an offence against these Regulation for which no penalty is provided by the Act shall, on conviction, be liable to a fine not exceeding five thousand ringgit or imprisonment for a term not exceeding two years</i>
Trade Descriptions (Definition of <i>Halal</i> ) Order 2011	Provide clear definition of <i>Halal</i> according to fatwa	(a) <i>if such person is a body corporate, to not exceeding five million ringgit, and for a second or subsequent offence, to a fine not exceeding ten million ringgit; or</i> (b) <i>if such person is not a body corporate, to a fine not exceeding five million ringgit or to imprisonment for a term not exceeding five years or both.</i>
Trade Descriptions (Certification and Marking of <i>Halal</i> ) Order 2011	To declare the authority of <i>Halal</i> certification in Malaysia To provide clear description of <i>Halal</i> certification process, markings and application procedures.	(a) <i>if such person is a body corporate, to not exceeding two hundred thousand ringgit, and for a second or subsequent offence, to a fine not exceeding five hundred thousand ringgit; or</i> (b) <i>if such person is not a body corporate, to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both, and for a second or subsequent offence, to a fine not exceeding two hundred and fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both</i>
United States of America		
New Jersey Administrative Code Title 13 Law And Public Safety Chapter 45a Subchapter 22 <i>Halal</i> Food	To provide general consumer protection for <i>Halal</i> certification.	<i>Any person who violates any of the provisions of the act to which this act is a supplement shall, in addition to any other penalty provided by law, be liable to a penalty of not more than \$10,000 for the first offence and not more than \$20,000 for the second and each subsequent offense. (Consumer Fraud Act 56: 8-13)</i>
Netherlands		
Article 8 of the General Food Law (GFL)	To describe the protection of consumer's interest (with no specific context in terms of <i>Halal</i> )	There is no directive offense for falsifying/disobeying <i>Halal</i> certification. Even when the food provider clearly disobey <i>Halal</i> certification requirements, it is not possible to conduct indictment, since the prime consideration of the food (article 8 GFL) is not affected.
Codex Alimentarius, Article 3.1	Provide general definition of <i>Halal</i> food as according to Islamic Law	

## SCOPE OF "HALALANTOYYIBAN" IN FOOD

Although the term *Halal* was generally recognised, the term may actually not be comprehensive to include "Toyyiban" aspect (wholesome). In Malaysia, the term *HalalanToyyiban* was used by JAKIM in its certification. The term *Toyyiban* is actually derived from the word *tayyib* which could be described as things that are obtained through clean and lawful means. As Allah says in the Quran, 'They ask you (O Muhammad SAW) what is lawful for them (as food) ... Lawful unto you are at *Tayyibaat* (all kind of *Halal* foods) (Surah Al-Maidah 5: 4). Therefore, we can assume the word *Toyyiban* aspect in food as the nutritive, clean and wholesome quality.

There are various ways to ensure *Toyyiban* aspect in food production. Obtaining food safety certification such as Hazard Analysis Critical Control Point (HACCP), Good Manufacturing Practice (GMP), Good Hygiene Practice (GHP) certifications can be seen as ensuring *Toyyiban* aspect in food. This is because these two certifications require the food production be controlled in a clean environment with almost zero chance of food contamination.

These food safety certifications were recognised and utilised worldwide. As a matter of fact, HACCP was developed by the National Aeronautical Space Agency (NASA) in United States.<sup>19</sup> Therefore we can assume any *Halal* food premises that had obtained either HACCP, GMP or GHP certifications on its premises as a sign of ensuring *Halalantoyyiban*.

In Malaysia, GMP/GHP certification is a pre-requisite for *Halal* certification by JAKIM. Additional HACCP certification is optional but recommended for medium to large companies. Therefore, we can say that food premises that had obtained *Halal* certification by JAKIM is *Halalantoyyiban* guaranteed.

## HALAL CERTIFIER

The only *Halal* certifier in Malaysia is from JAKIM with the aid of *Halal* Industry Development Corporation (HDC). Both of these are government entities; which means there will be incentives for food businesses to adopt *Halal*. In this case, local food companies that aim to obtain *Halal* will be aided in obtaining pre-requisite food safety certification such as Good Hygiene Practice (GHP) or Good Manufacturing Practice (GMP).<sup>20, 21</sup> Malaysia has only one *Halal* logo and it is protected by the Trade Description Order 2011 in Malaysia.

In the Netherlands, there are many *Halal* certifiers. They are ranging from local players to foreign representatives in the Netherlands. For example *Halal* Quality Control (HQC) is run by the Honorary Consul of Syria in the Netherlands, while *Halal* Feed and Food Inspection Authority are run by Muslim immigrants from Surinam, Africa. All of the *Halal* certifiers in the Netherlands issues its own *Halal* logo.<sup>22</sup>

The trend is similar in the USA, where there are many *Halal* certifiers available. Some examples include the Islamic Food and Nutrition Council of America (IFANCA), Muslim Consumer Group (MCG) and many more. Each *Halal* certifier also issues their own version of *Halal* logo. The differences between the Netherlands and the USA are that fraudulent *Halal* cases in some states of America can be brought to the State Court.

## LOCAL GOVERNMENT SUPPORT

Local government support on *Halal* laws is also different between the countries. In Malaysia, the government supports and even gives incentives in any effort that will boost the economy.<sup>23</sup> The *Halal* Industry Development Corporation (HIDC) and the development of *Halal* Standard MS 1500 are some of the proofs that show governmental support.

Meanwhile in the USA, the government has minimal interference with the *Halal* industry. Their liberal market economy ensures that any industrial Standards stays *laissez faire*<sup>24</sup> (a free market policy). Therefore, food producers have no additional incentive of obtaining *Halal* certification other than gaining consumers' trust and marketing strategy.

The Netherlands has no local government support for *Halal* certification. However, some local non-governmental organisations (NGO) had objected to the implementation of *Halal* certification by private companies. These NGO object specifically on the subject of animal welfare, in which they claim the ritual slaughtering is inhumane. Their protest had garner attention to the point where the local government had to convene in order to discuss the issue of ritual animal slaughtering.<sup>25, 26</sup>

## HALAL STUNNING

The *Halal* certification in Malaysia suggests ritual slaughtering be done without stunning. However, stunning method is still acceptable, if it is according to the stunning method as described in the *Halal* Standard Annex A.<sup>27</sup>

As for the Netherlands, ritual slaughter was initially objected and contested in Parliament. However, the Parliament votes overrule the objection. Currently, ritual slaughter without stunning can only be done in certain abattoirs that have been designated by the government. Thus, some *Halal* certifiers certified only animals that have been ritually slaughtered without stunning.<sup>28, 29</sup>

This situation is similar in the USA, where certain *Halal* certifiers only certified *Halal* meat with those that have been done with ritual slaughtering without stunning. Unlike the Netherlands, the USA allows ritual slaughtering without stunning be done in any abattoirs since it was concluded by Humane Slaughter Act that religious slaughter by Muslim is one of the humane methods for killing animals.<sup>30</sup>

## THE CHALLENGES OF IMPLEMENTING THE HALAL LAWS

### UNITED STATES AND NETHERLANDS

There is one huge difference in the Muslim environment between Malaysia and both the USA and the Netherlands. Majority of Muslims in Malaysia adhere to the *Ahlu-Sunnah wal-Jama'ah (Sunni)* sect, specifically *Syafie*.<sup>31</sup> While there are Muslims communities following different sects in both the USA and the Netherlands. The different schools of thought is either between different internal *Ahlu-Sunnah wal-Jama'ah* sect such as *Hambali*, *Maliki*, *Syafie* and *Hanafi* to different sects altogether such as *Jaafarie (Shia)* and *Ahmadiyya*. These differences of Muslim sects are one of the reasons for the development of several different *Halal* certifiers in a Muslim community in both the USA and the Netherlands. The splintering of different Muslim sect communities is ripe for exploitation among credulous certifiers.<sup>32</sup>

Some certifiers adopt to certify *Halal* based on their sect interpretation. For example, there is a group of Turks that open Kebab shops in central Europe identify themselves as *Alevi*; an internal sect of *Shia* that most *Sunni* Muslims considered heretical. They had obtained a *Halal* certification from their local *Imam* (a self-certifier). However, the Kebab shops openly sell alcohol as drinks to accompany their Kebab meal. This is because according to their sect, one is allowed to forgo their Muslim identity in a foreign environment. Although their action goes directly against the *Sharia* law, they still display their (non) *Halal* certification due to marketing reasons.<sup>33</sup>

From this example, we can confirm that some certifiers may adopt fast or cheap *Halal* certification to address the growing Muslims demand regardless of whether they adhere truthfully to *Halal/Haram* concept or not. In doing so, some opportunist Muslim groups may have operated *Halal* certifying business to fill in the “gap.”

Therefore, there are bound to be some *Halal* certifiers who provide certification for monetary gains instead of ensuring *Halal* quality. This is the issue with the self-certifiers in the Netherlands. The Turkish Food Auditing and Certification Research Association (GIMDES) reported in the Turkish newspaper, that the organisation discovered that 30 certifiers in the Netherlands issue fake *Halal* certificates.<sup>34</sup> This issue occurs due to segmentation of the *Halal* certifiers. Some *Halal* certifiers only certified small businesses; some international *Halal* certifiers in the Netherlands only receive applications from medium and multi-national companies.

Aside from fake certification and different *Mazhabs*, the growing Islamophobia is also becoming a major challenge in implementing *Halal* laws. One antagonistic effort born from Islamophobia is the “Boycott *Halal*

movement” that is active in several countries including the USA. The boycott *Halal* movement had a twisted definition of *Halal* concept<sup>35</sup> and thus wishes to prevent it. The boycott *Halal* movement targeted premises or institutions (school and universities) that are trying to follow local *Halal* laws. Markets such as Morrison’s and Tesco which sell *Halal* meats always found out that some of the boycott *Halal* followers have contaminated their designated *Halal* products shelves with pork meats. In this context, following *Halal* laws had enable them to be harassed by people who oppose Muslims.

### MALAYSIA

In Malaysia, the *Halal* certification is an important certificate for food businesses. Any rumors or dispute regarding the *Halal* quality will be silent with the certificate. For example, IKEA’s restaurant was raided in 2005 by religious officers, trade officers and police. This was because one of their sausages was suspected non-*Halal* compliance. Upon scrutiny, they found out that the company that supplied the sausage had their *Halal* certification expired since early 2004. Thus, the IKEA closed its restaurant and conducted ritual cleaning (*samak*). They cut off ties with the offending sausage company and had also required all of their food suppliers to renew and display their *Halal* certificates. After their response was telecasted in the news, only then the entire Muslim consumers’ roar of rages diminished.<sup>36</sup>

However, this dependency to the certificates could also be detrimental if it was done poorly. The Cadbury issue of 2014 received state coverage due to suspected porcine inclusion in two of its chocolate bar products. The issue started when a picture of an unverified Ministry of Health routine analysis report for *Halal* testing was spread in the social media. The report showed positive porcine testing on the said products. This prompted JAKIM to retract the *Halal* certificate of the two products and sent officers to scrutinise the whole Cadbury factory in Malaysia. However, their investigation found out that the Cadbury operation was in fact *Halal* and their *Halal* certificate was reinstated later that year.<sup>37</sup> This shows that *Halal* quality of food business can easily be teared down due to other entity’s poor or lack of judgement.

Therefore, the challenge of *Halal* laws is to increase *Halal* integrity by JAKIM. The responsible authority (JAKIM) must ensure that the *Halal* laws is being adhered by food companies. This includes ensuring the entire ingredient suppliers have *Halal* certification. Based on the Cadbury incident, JAKIM was wholly unprepared to investigate a case and decided to retract the *Halal* certification without proper investigation. The action had damaged JAKIM’s credibility as *Halal* authority from the perspective of food companies.<sup>38</sup>

## POSSIBLE SOLUTION TO IMPLEMENTING HALAL LAWS

One possible solution in overcoming the challenges of implementing *Halal* laws is to develop a unified global *Halal* certification. Although similar solution had been proposed,<sup>39</sup> current situation (diverging Muslim *Halal* interpretation, fake certification and Islamophobia) shows that the Muslim community need the global *Halal* certification more than ever.

The hypothetical unified global *Halal* certification must also have highly competent organisations with the ability to analyse, develop and implement solutions of an unforeseen challenge to *Halal* integrity (*Halal* system analysis).<sup>40</sup> This include facilitating the development of *Halal* crisis control in member countries such as crisis control procedures against boycott *Halal* movement.

Once the unified global *Halal* certification has been developed, it must be marketed globally. The organisation that holds the authority on the unified global *Halal* certification must strive to obtain as many membership countries. In doing so, the country will be re-educated of the correct practice of *Halal* procedures and having more understanding of the *Sharia* laws and Muslim ways of life. This could also reduce the activities of any anti-Muslim movement.

## CONCLUSIONS

The demand for *Halal* grows as Muslim populations grow. This is true in the Western countries where Muslims are a small minority. However, the *Halal* quality must be maintained and thus requires regulations for quality control. Different regulation was adopted depending on the countries perspective. Malaysia has a comprehensive *Halal* legislative law. Any *Halal* fraudulent cases will be brought to courts and met with specific penalties depending on the offences. As for the Netherlands, there is no law protection for Muslim consumers against *Halal* fraudulent cases. The local private *Halal* certifications are just marketing tools since there were no specific laws that enable prosecution of fraudulent *Halal* cases. In the USA, there were also increasing demands for *Halal*. Thus, there were several Muslim organisations that issue *Halal* certificates and there were several states that enable prosecution of fraudulent *Halal* cases. One major challenges of implementing *Halal* food laws is maintaining *Halal* quality and trust. The Netherlands and the USA have numerous *Halal* certifying bodies with verifying objectives. Scrupulous *Halal* certifier could lead to varying level of *Halal* quality and sometimes *Haram*. Markets in the USA have also found that they are becoming targets of anti-Muslims since they are trying to follow *Halal* laws. Malaysia's challenges in *Halal* laws are upholding the implemented laws competently and with integrity. One possible solution to overcome

these challenges is to develop a unified global *Halal* certification, which when recognised and applied globally will reduce threats to *Halal* integrity systematically.

## NOTES

- <sup>1</sup> Processed Meat & Meat Processing Equipment Market Report, 2013. *Markets and Markets Analysis*, p. 1.
- <sup>2</sup> A. Alieva, 2015, *Halal* Boosts Fresh Meat Performance Doing business in the *Halal* Market, *Euromonitor International*, p. 7-9.
- <sup>3</sup> Ilyia Nur Ab Rahman, Suhaimi Ab Rahman, Rosli Saleh & Dzulkilfy Mat Hashim, 2011, Polisi Pensijilan *Halal* Bagi Industri Restoran Di Malaysia, In Suhaimi Ab Rahman (pnyt.), *Pengurusan Produk Halal di Malaysia*, p. 117.
- <sup>4</sup> The Commisioner of Law Revision Malaysia, 2012, *Peraturan-Peraturan Makanan* 1985 Act 281 Part IV Labelling (11).
- <sup>5</sup> Christine Ding Yean Joon & Sakina Shaik Ahmad Yusoff, 2016, Perkembangan Perlindungan Pengguna: Cabaran Dan Hala Tuju Institusi Pelindung Pengguna di Malaysia, (2016) 21 *JUUM* 71-82, p. 72.
- <sup>6</sup> Ilyia Nur Ab Rahman, Suhaimi Ab Rahman, Rosli Saleh & Dzulkilfy Mat Hashim, 2011, Polisi Pensijilan *Halal* Bagi Industri Restoran Di Malaysia, In Suhaimi Ab Rahman (ed.), *Pengurusan Produk Halal di Malaysia*, p. 121.
- <sup>7</sup> F Van Waarden & R Van Dalen, 2010, Hall marking *Halal* – the Market for *Halal* Certificates: Competitive Private Regulation, p. 14-15.
- <sup>8</sup> T Havinga, 2010, Regulating *Halal* and Kosher Foods: Different Arrangements between State, Industry and Religious Actors. *Erasmus Law Review*, p. 247.
- <sup>9</sup> F Van Waarden & R Van Dalen, 2010, Hall marking *Halal* – the Market for *Halal* Certificates: Competitive Private Regulation, p. 13.
- <sup>10</sup> F Van Waarden & R Van Dalen, 2015, Markets Regulating Markets: Competitive Private Regulation by *Halal* Certificates, In T Havinga, F Van Waarden & D Casey (eds.), *The Changing Landscape of Food Governance: Public and Private Encounters*, Edward Wlgar Publishing Ltd., Cheltenham, p. 185.
- <sup>11</sup> T Havinga, 2010, Regulating *Halal* and Kosher Foods: Different Arrangements between State, Industry and Religious Actors. *Erasmus Law Review*, p. 246.
- <sup>12</sup> T Havinga, 2010, p. 247.
- <sup>13</sup> JM Regenstein, MM Chaudry, et al., 2003, The Kosher and *Halal* Food Laws. *Comprehensive Reviews in Food Science and Food Safety*, p. 127.
- <sup>14</sup> New Jersey Division of Consumer, 2012, New Jersey Administrative Code Title 13 Law and Public Safety Chapter 45a Subchapter 22 *Halal* Food <http://www.njconsumeraffairs.gov/regulations/Chapter-45A-Subchapter-22-Halal-Food.pdf> [10/5/2016].
- <sup>15</sup> Y Alharbi, 2015, *Halal* Food Certification, Regulations, Standards, Practices in the Netherlands, Msc. Thesis, Law and Governance Group, Wageningen University and Research Center, Wageningen University, p. 51.
- <sup>16</sup> PU(A) 430/2011, PU(A) 431/2011.
- <sup>17</sup> Chapter 45a, Subchapter 22 section 13:45A-22.2 .
- <sup>18</sup> EL. Milne, 2006, Protecting Islam's Garden from the Wilderness: *Halal* Fraud Statutes and the First Amendment, 2 *J. Food L. & Pol'y* 61.
- <sup>19</sup> HACCP was designed as part of the Space food program during the 1960's.
- <sup>20</sup> MS 1514:2009 and MS 1480:2007.
- <sup>21</sup> F Van Waarden, & R Van Dalen, 2015, Markets Regulating Markets: Competitive Private Regulation by *Halal* Certificates, p. 197.
- <sup>22</sup> Department of Standards Malaysia, 2009, *Halal* Food – Production, Preparation, Handling and Storage – General Guidelines MS 1500:2009, Malaysia.
- <sup>23</sup> Hamid Noori, 1997, Implementing Advanced Manufacturing Technology: The Perspective of a Newly Industrialized Country



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- <sup>24</sup> T Havinga, D Casey & F Van Waarden, 2015, Changing Regulatory Arrangements in Food Governance, p. 11.
- <sup>25</sup> F Van Waarden, & R Van Dalen, 2010, Hall marking *Halal* – the Market for *Halal* Certificates: Competitive Private Regulation, p. 11.
- <sup>26</sup> T Havinga, 2010, Regulating *Halal* and Kosher Foods: Different Arrangements between State, Industry and Religious Actors, *Erasmus Law Review*, p. 246.
- <sup>27</sup> Department of Standards Malaysia, 2009, *Halal* Food – Production, Preparation, Handling and Storage – General Guidelines MS 1500:2009. Malaysia.
- <sup>28</sup> T Havinga, 2010, Regulating *Halal* and Kosher Foods: Different Arrangements between State, Industry and Religious Actors, *Erasmus Law Review*, p. 246.
- <sup>29</sup> F Van Waarden, & R. Van Dalen, 2015, Markets Regulating Markets: Competitive Private Regulation by *Halal* Certificates, p. 185.
- <sup>30</sup> Humane Slaughter Act 1958, 7 USC 1901-1907, Congress of the United States of America, 7 USCA 1902.
- <sup>31</sup> F Van Waarden, & R. Van Dalen, 2015, Markets Regulating Markets: Competitive Private Regulation by *Halal* Certificates, p. 180.
- <sup>32</sup> F Van Waarden, & R. Van Dalen, 2015, Markets Regulating Markets: Competitive Private Regulation by *Halal* Certificates, p. 188.
- <sup>33</sup> O Alyanak, 2016, Do Your Best and Allah Will Take Care of the Rest: Muslim Turks Negotiate *Halal* in Strasbourg, *International Review of Social Research*, p. 22.
- <sup>34</sup> F Van Waarden, & R. Van Dalen, 2015, Markets Regulating Markets: Competitive Private Regulation by *Halal* Certificates, p. 182.
- <sup>35</sup> EC Hirschman & M Touzani, 2016, Contesting Religious Identity in the Marketplace: Consumption Ideology and the Boycott *Halal* Movement, *Journal of Islamic Studies*, p. 21-23.
- <sup>36</sup> DS Mutum & EM Ghazali, 2014, Case Study 4: IKEA Malaysia and the *Halal* Food Crisis, In D Mutum, KS Roy & E Kipnis (eds.), *Marketing Cases from Emerging Markets*, p. 31-33.
- <sup>37</sup> Cadbury Malaysia, 2014, Facts on Cadbury *Halal*, <http://www.cadbury.com.my/#info> [11/5/2016].
- <sup>38</sup> R Rajamanickam, T Ganesan & N Ravindran, 2012, Perspektif Global Terhadap Perlindungan Pengguna Melalui Undang-Undang Keselamatan Makanan (2012) 16 *JUUM* 43-53, p. 51.
- <sup>39</sup> F Bergeaud-Blackler, 2015, Who Owns *Halal*? Five International Initiatives of *Halal* Food Regulations, *Halal Matters: Islam, Politics and Markets in Global Perspective* p 192-197; A Fuseini, SB Wotton, TG Knowles & PJ Hadley, 2017, *Halal* Meat Fraud and Safety Issues in the UK: A Review in the Context of the European Union, *Food Ethics* p. 1-16.
- <sup>40</sup> *Halal* system analysis could be one of future major research, integrating *Halal* studies with Applied System analysis; a complex policy-oriented research methodology championed by The International Institute for Applied Systems Analysis (IIASA).
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