

COMBINED TASK FORCE BETWEEN THE LOCAL AUTHORITIES AND JAKIM TO CONTROL THE HALAL FOOD PREMISES IN MALAYSIA: A PROPOSAL

Norazlina Abdul Aziz^{1a*}, Siti Sarah Sulaiman^{2b}, Muhammad Azril Roslan^{3c}, Ku Mohd Amir Aizat Ku Yusof^{4d}, Nurazlina Abdul Raof^{5e}

^aFaculty of Law, Universiti Teknologi MARA, 40450 Shah Alam, Selangor, MALAYSIA E-mail: <u>noraz397@uitm.edu.my</u>
^bFaculty of Law, Universiti Teknologi MARA, E-mail: <u>siti_sarah@uitm.edu.my</u>
^cFaculty of Law, Universiti Teknologi MARA, E-mail: <u>azril004@uitm.edu.my</u>
^dDepartment of Law, Universiti Teknologi MARA, Sabah campus E-mail: <u>amir979@uitm.edu.my</u>
^eFaculty of Law, Universiti Teknologi MARA, E-mail: <u>amir979@uitm.edu.my</u>

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ABSTRACT

Currently, the Department of Islamic Development Malaysia (JAKIM) and local authorities carry out their monitoring activities unless there is a call for integrated enforcement. The necessity to have a combined task force between the local authorities and JAKIM was due to the issue of insufficient human resources in the enforcement team, overlapping jurisdiction between multiple administrative bodies and the scattered legislation in this area. This study proposes a combined task force between (JAKIM) and Local authorities to control and monitor halal food premises in Malaysia. They adopted the qualitative methodology where semistructured interviews are conducted with the selected respondents using purposive sampling considering their occupation and expertise. Questionnaires were drafted using expert-vetted questions and shared with the respondents before commencing the session. The study discovers the deficiencies of the current administration of halal food premises, such as the uncertain jurisdiction of power to control and monitor the safety and cleanliness aspect of the premises to which reaching the two aspects may render breaching the ruling of halal. The output of the study may assist the government, enforcement team and administrators relevant to governing the halal food premises in Malaysia.

Keywords: Enforcement, Halal, JAKIM, Local Authority, Law.

1. **INTRODUCTION**

The global halal industry has undergone tremendous changes and rapid expansion into several sectors, including banking and finance, trading, such as food and beverage, cosmetics, pharmaceuticals, supply chain and logistics, lifestyle, and hospitality services. This is very much connected to the increased awareness of Muslims on the benefits of consuming halal products. The global Muslim population is estimated to be 1.6 billion and represents almost 25% of the global population. It is forecasted to increase to 2.2 billion (26%) by 2030 and will continue to grow to 2.6(30%) billion by 2050. Hence, the halal industry is expected to grow in tandem with this development. On this point, Evans and Evans (2012) mentioned that the growth of the halal food market implies the parallel growth of other halal products and services markets. The behaviour of Muslim consumers who demand products that follow their religious belief and requirements have also indirectly influenced the growth of the halal industry (Mohamed et al., 2020). Muslims in Malaysia are now becoming more aware that they need to consume and use something that is not in breach of their religious belief system (Mohamed et al., 2020). Realising the need to fulfil the dire need of the Muslim consumers in Malaysia, several local companies have ventured into the halal industry. However, the industry could not grow fast enough due to some fundamental issues such as inadequacy of the existing law, lack of task force power, and multi-authority jurisdiction, which requires attention for the sustainability of the halal industry (Aziz, 2017).

One of the most developed halal industries is the halal food industry. Most of the research in this area highlighted the agreed weaknesses of monitoring and control of the halal food premises (Aziz, 2017; Yusof, 2017; Rokhshana, 2018). The usage of a false halal logo, the unauthorised variation of halal information that deceives the consumer, the non-compliance activities that breach halal requirements, the under-power task force, the inadequacy of JAKIM's task force and overlapping of jurisdiction are among the issues highlighted in the previous studies (Mohamed et al., 2020; Zakaria & Ismail, 2014). With regards to the halal-certified food premises, the manufacturer and the seller have a moral obligation to inform the consumer of any material information about the food product. Material information includes all information that will aid the consumers in giving informed consent and decide to consume the food. As halal is a vital subject to consumers nowadays, information on the halal status of the food has become significant. This can be seen when the issue of halal status of a food product has on many occasions for example cases of Secret Recipe in 2015, Cadbury Chocolate in 2014, Ramli sausages in 2013, Meningitis vaccine for pilgrim candidates in 2008, and import of halal meat cartel in 2020 which tampered with the sensitivity of Muslim in Malaysia and other parts of the world.

In addressing these issues, this study proposes a combined task force between the local authority and JAKIM to monitor and control the halal food premises. Local authorities are accorded control and monitoring power of business premises registered under their jurisdiction (Yusof, 2017). Among the activities conducted by the local authorities are monitoring and controlling the safety and cleanliness of the premises within their jurisdiction. Breach of safety and cleanliness can also be grounds for the suspension or withdrawal of a halal certificate. The local authority conducted their scheduled audit action separated from the religious authority, namely JAKIM/MAIN. When the halal food premises breach the rule of hygiene or legal sanitation system, the local authority can, among others, suspend the operating licenses (Faezah, 2017). However, this does not automatically give power for JAKIM to evaluate Halal compliance on the Halal food premises. Thus, this study intends to suggest a combined task force of enforcement activities between JAKIM and the local authority.

Currently, the local authorities do not have the power to monitor the halal compliance and sustainability of halal-certified premises. However, the local authorities have been monitoring the subsets elements of halal that are safe and free from filth. Without a clear scope of power to monitor the halal aspect of a halal-certified premises, the role of the local authorities can be challenged. The combined task force between JAKIM and the local authorities can also aid in solving the inherent enforcement issues of JAKIM, such as lack of prosecution power and scarcity of workforce. Following this, a study on the role and powers of both JAKIM and Local authority to monitor and control the Halal food premises will be conducted to critically investigate the internal and external constraints for the proposed suggestion and the meeting points to make this suggestion a reality.

2. METHODOLOGY

This research employed a qualitative approach that was carried out in the following sequence: literature phase, data collection, data analysis, triangulation of data and finalising output of research. The researchers used literature review to generate a specific set of theories and later integrate and corroborate the generated ideas through semi-structured interviews. The literature review was made systematically following specific themes, namely the concept of halal, monitoring/ control / administration of halal industry, monitoring of halal food premises, enforcement power of local authority and enforcement power of JAKIM from various sources including, textbooks, journal articles, government reports, newspaper articles and online sources. The literature review aimed to identify suitable platforms to create a combined task force between JAKIM and local authority to monitor halal food premises. The data collection phase started with a preliminary study to ensure the trustworthiness of the interview protocols and checklist. The semi structured interviews were conducted with the Local Authority, JAKIM, and an academician. The respondents were selected using purposive sampling and based on their occupational roles. The grounded theory approach was adopted in analysing the qualitative data through thematic and content analyses, in which the interview transcripts were analysed. The process consisted of creating codes and categories and gleaning themes about the respondents' experiences. For triangulation with, the primary data from the literature review were combined with the views of the experts from the local authority, and JAKIM is the authorised agency governing the halal food premises.

3. **RESULTS AND DISCUSSIONS**

The concept of a combined task force is seen as a model of the task force that unites for the sake of closing the loopholes in each task force team, in this article refers to JAKIM and local authorities. The challenges are proposing the establishment of a combined task force as each task force or enforcement agency has a unique character that may become the barrier to structuring a combined and structured task force. However, the differences between one enforcement agency to another can be remedied by the output by combining the task force of both agencies. Issues like lack of manpower and expertise are common because this unity can resolve all government agencies.

3.1 Concept of Collaborative Task Force

Collaboration is a type of collective action and governance that brings together agencies to collaborate across organisational boundaries to solve problems that no one agency or organisation can effectively address. When an objective or social issue cannot be completed or handled by working alone due to fragmented authority or when the acts of one organisation affect the actions, collaboration is sought (Resetar, 2020). McEntire discovered that collaborative connections, anchored in an awareness of the resources and roles played by the many agencies, play a vital role in successfully addressing a disaster during research on the tornado occurrence in Fort Worth, Texas. The study by Abdeen (2021) highlighted the advantages of collaborative work between the Federal government and local authorities in handling the disaster. He contended that the capacity of local authorities alone with assistance from other federal agencies results in a non-efficient solving of disaster issues. Although this study research on a bigger scale problem, like a natural disaster, the core of the discussion provides a good idea for this study. Countries should move away from overlapping legislation and a hazy division of responsibilities between the federal, regional, and local levels of government to achieve vertical collaboration (Abdeen, 2021). Similarly, in studying managing flood disaster in Sarawak, Sulaiman (2019) propounded some valuable suggestions on cross agencies collaboration. According to this study, a strong collaboration between agencies requires a clear understanding of their roles and organisational structures.

3.2 Health and Cleanliness

Hygienic is the nucleus to the halal ruling (Al-Khalidi, 2007). Consuming permitted animals that have been adequately slaughtered is still prohibited if it has transformed into filth or harmful items. The Muslim dietary guidelines prohibit the consumption of filth as it is considered inherently impure and dirty. For example, carcasses (carrion) are filth by themselves and cannot be considered clean. The Prophet s.a.w prohibit the consumption of goods that has transformed to filth. The Prophet was once asked about the permissibility of consuming fat which has falling mice in it. The Prophet s.a.w answered:

"Dispel the fat which has come to direct contact with the mice and eat the rest" (al-Bukhari, Ahmad and Abu Dawud) (Al-Qarni, 2009)

Generally, any material that potentially causes injury to the mind and body are also prohibited. Examples of such material are stone, glass, and soil (Hakim, 2006). Aid extended the category to include spit, sperm, lice, sweat and animals' dirt (Al-Qarni, 2009). The prohibition is limited to those who will likely be harmed due to the consumption of the material. The exception to the rules can be seen when a woman who is healing after giving birth is allowed to consume mud (Hakim, 2006). Mud is prohibited for its unhygienic nature and thus falls under filth. With regards to this ruling, Halal-certified food premises are obligated to ensure that the food they sell and serve must be clean, hygienic, and safe. This involves the whole food-making process chain from raw material until it is served to the consumer. In ensuring the compliance of halal food premises owner to this requirement, few legislations accord monitoring power to both JAKIM and Local authorities.

The Local Government Act (LGA 1976) and the Licensing of Food Establishments (Shah Alam City Council) by-laws 2007 gives the local authority power to monitor the aspect of health and cleanliness that serves as the main objective of regulating foods premises and markets establishment. It does not, however, provide for the monitoring of halal aspects. As explained above, healthy and cleanliness is a subset of halal nevertheless a safe and clean food is not necessarily halal. There are other halal requirements like permissible animals, consumption of blood, rules of *istihalah* or even usage of alcohol. Thus, in drawing the hypothesis to the issue of halal-certified food premises, it can be recommended that the criteria for issuing a licence to operate food premises should also include halal aspects. To be clear, for the applicant to apply for a licence to operate a premise selling Halal product, he must be able to show a genuine halal logo to the local authority. As the local authority does not own halal experts as an enforcement officer, the combined task force between JAKIM and Local authority is significant. For this purpose, the Trade Description Act 2011(TDA2011) can be referred to as the combined task force between Ministry of Domestic Trade, Cooperation, and Consumer (MDTCC) and JAKIM. The statute has aided in elevating the status of JAKIM (Section 29, TDA2011) by authorising the Minister of MDTCC to appoint the competent authority to certify that any food, goods, or services about food or goods is lawful under the Trade Descriptions (Definition of Halal) (Amendment) 2012. This has helped in strengthening the administration of halal monitoring in Malaysia (Section 28 & 29, TDA2011).

3.3 The Power to Pass By-Laws on Halal

The local authorities have the power to pass halal related subsidiary laws, a power that is alien to JAKIM. This forms another ground in suggesting the combined task force between the local authority and JAKIM. In the Licensing of Food Establishments (Shah Alam City Council) by-laws 2007, provisions mention halal aspects. Firstly, the definition of "halal food" as mentioned in this by-law as the following:

(*i*) non and not comprised of or consist of any part or substance from the animal which is prohibited for the Muslim to eat under Islamic Law or not slaughtered according to the Islamic Law;

(ii) do not comprise or consist of anything considered as just filth under Islamic Law;

(iii) not prepared, processed or manufactured using anything which is not free from any filth under

Islamic Law; and

(iv) not at the time of preparation, processing or storage in contact with or near to any food that does not satisfy subparagraph (i), (ii) or (iii) or anything considered as filth under Islamic Law.

To have a Halal logo in one's premise is not compulsory, it is an option. Therefore, with the power given to the local authority to make by-laws, it is recommended that they enhance their role in collaborating with JAKIM to enforce the use of halal logo before any applicant applies for a licence to commence business in food establishment. It is presumed that the power "to regulate, supervise, control and inspect the manufacture, preparation, storage, handling, transmission and conveyance of food or drink" provided in the LGA 1976 carries a strong will for the local authority to improve their by-laws and moving towards betterment for Muslims' consumer.

3.4 Human Capital

A common denominator among the issues raised during the workshop (Bengkel Pemantapan Mekanisme Pengurusan dan Tadbir Urus Halal Malaysia, 2014) and interviews is the problem of human capital and workforce. Human capital is the pillars that support effective enforcement and monitoring activities. Among the areas of discussion during the workshop Bengkel Pemantapan Mekanisme Pengurusan dan Tadbir Urus Halal Malaysia, 2014) and interviews are the insufficient human capital who are experts of halal principles. The respondents agreed that assuring compliance to halal certification guidelines and regulations is challenging as the industry lacks experts who are qualified in halal shariah rulings. The reason is basically due to the nature of education and training on halal. The current halal-related courses offered by higher learning institutions halal management, policy and audit are. Therefore, if the experts in this area are essential for sole authority, the government may consider introducing a revised curriculum for relevant courses in public and private universities. Having these experts will aid in strengthening the existing administrative framework. A combined task force between the local authority and JAKIM in monitoring halal food premises may assist in resolving the lack of halal expertise within the local authority enforcement team. The current practice has already adopted a combined task force on a case-to-case basis. Either JAKIM or the local authority would commonly work together upon invitation. This would delay the process and may spare rooms for the perpetrator to defile substantial evidence. The act of deceiving the consumer, in this case by serving non-halal food in halal-certified premises, is a criminal act where burden of proving is higher than civil cases. The necessity to discharge the burden of proving beyond reasonable doubt that the halal food premise owner has deceived his consumer would be difficult without sufficient evidence.

In addition to the lack of expertise, insufficient number of JAKIM enforcement officers was continuously discussed during the interviews, workshops, and forums. The Assistant Director for JAKIM halal hub explained that their enforcement officers were assigned various enforcement activities under JAKIM tasks. It is claimed that in certain states, halal certification authority does not have enough officers to handle the ever-increasing number of the Islamic and related. The shortage of enforcement officers has become a burgeoning problem when JAKIM officers are also subject to the continuous restructuring of departments. JAKIM is a government agency; thus, its employees are subject to any government office's customs, rules, and procedures. The question posed to the Assistant Director of Halal Hub, JAKIM on whether this situation contributed to the problems of human capital received an affirmative answer. It is explained that the employees are appointed through Public Service Department (JPA) and are subject to interdepartment transfer as instructed by the head of the department. They are also subjected to the pay scale formulated for all government officers. The experienced halal enforcement officer is sometimes transferred to another department and replaced with a new officer.

On the side of the local authorities, Limitation in the human resources of the local authority is also one factor that hinders the process of providing quality urban services by the local authority. The Limitation in the workforce and lack of expertise/knowledgeable officer in local authority had caused difficulties in enforcing the law when the enforcement is supposed to be one of the sources for the local authority for income generation. The continuous occurrences of this event contributed to the problems of weak enforcement. Even though human capital is a non-legal issue, the enhancement of the legal framework depends on excellent and collective human capital. Therefore, reviewing the problem related to human capital will assist an efficient execution of the enforcement activities.

3.5 Monitoring of Halal Logo Printing

Findings from the workshop and the interviews showed that there are weaknesses in the monitoring of the usage of the halal-certified logo. This has caused the public to question the validity of some products that possess the halal logo. Johari Ab Latiff (Respondent) claimed that JAKIM currently does not monitor the printing of halal logo by the printing company. There are many printings company that may duplicate the halal logo. The printing of the halal logo at the printing premises needs to be monitored as there might be the possibility of illegal activities. The printing company may have the master copy to reprint and sell illegal halal logo and certificates. Even though it was claimed during the interview with JAKIM that the new logo embraced safety characteristics to avoid duplication and to reproduce of a fake halal logo, the safety characteristic is only known to specific JAKIM officials. Consumers are easily defeated by the fake halal logo. This is evident in several reports on the disclosure of fake or outdated halal logo used on many food products. It is suggested that the proposed combined task force between local authority and JAKIM assign a specific unit for monitoring of halal logo printing.

3.6 Reduction of Duplication and Overlap of Systems and Expenditures

The local government or local authority is the lowest level of government in Malaysia after the Federal Government and State Government. It can collect taxes (in the form of assessment tax), make laws and rules (in the form of by-laws), and issue licences and permits for any trade-in its jurisdiction, such as providing essential services, collecting, and managing waste and garbage, and planning and developing the area under its jurisdiction (Local Government Act 1976). Concerning halal related matters, JAKIM becomes the primary agency entrusted by the government to govern halal certification. Certification assures the consumer that the halal-certified product is indeed halal. Thus, certification is subject to laws and administrative regulations that ensure that the parties who received certification comply with the halal regulations. Monitoring and auditing are the mechanisms used as the administrative regulation to ensure the compliance with the halal food guidelines for pre-certification and post-certification. The auditing process by JAKIM is divided into five categories: audit for new application, audit for renewal of application, audit for additional product, audit for the additional premise and follow-up certification audit (Halal Certification Quality Document Jakim-JAKIM (halal)-PPH/PK 03). The audit is conducted by JAKIM's audit teams which consist of the religious officer who will inspect the product for shari'ah compliance and technical officer (qualified in food technology and drugs) who will inspect the technical specification. JAKIM may penalise any wrongdoer based on the outcome of this audit. In its role as the regulator of the halal industry, JAKIM is involved in deciding the appropriate punishment for the violators of the halal industry regulations. Respondent mentioned that the common violations in the monitoring of halal assurance system in the pharmaceutical industry are: (Halal Certification Quality Document Jakim-JAKIM(Halal)-PPH/(PK 03)

a) Minor Offences: (Manual Procedure for Malaysia (Halal Certification 2020). The example of these types of offence is the non-hygienic conduct of the worker who acts in breach of halal requirement and product safety regulations. In such case, JAKIM will issue two types of notice: the inspection notice and a

non-compliance notice, together with warnings of an immediate remedial action to the offenders who had committed the minor offences. The company will be required to make corrections within specified times. The halal certification will be suspended if the company failed to make the corrections within the stipulated period. It can be said that the issuance of notice serves the purpose of warning the offender.

b) Major Offences: Among the most committed major offences are change of manufacturer or producer without notifying JAKIM, modification of the halal-certified ingredients without filing new halal application, false use of the halal logo, change of the company information, and addition of ingredients without seeking approval of JAKIM. In situations like this, three notices will be issued i.e., an inspection notice, a notice of suspension of halal certification and a non-compliance notice. Halal Authentication Certificate will be suspended if the offenders commit significant offences. This suspension must be submitted to the halal Authentication Panel for the final decision. The decision made by the Authentication Panel may lead to withdrawal of halal certification. Thus, the company needs to submit a new application.

c) Serious Offences: Serious offences can be divided into two: non-shari'ah compliant and technical non-compliance. Among the offences categorised under technical serious offences are the transfers of the manufacturing premise to a new address without informing JAKIM and the shari'ah non-compliance serious offence is the existence of haram substance in the halal-certified product. Withdrawal of the halal Authentication Certificate will occur where the nature of the offences falls under the severe offences. An inspection notice and a certificate withdrawal notice will be issued. The withdrawal must also be referred to the halal Authentication Panel for their final decision. The company will be prohibited from using the halal logo on its products with immediate effect. After the approval by the Halal Authentication Panel, the withdrawal will be announced to the public through relevant sources.

d) Technical offences: Examples of this is the non-shari'ah practice where a company employs a non-certified slaughterer and fails to separate non-halal product from the halal products.

The committing of any offences stated above will lead to prosecution of the company. Any of the officers can conduct the prosecution from MDTCC, MOH, the Local Authorities, or Veterinary Department, depending on the offences. This prosecution will be based on the report made by JAKIM and its officials will become the witnesses to the case. JAKIM officials are not authorised to prosecute the wrongful use of halal logo or certification as the authority to

prosecute is accorded to the other officials. Therefore, during the scheduled monitoring, the action allowed to be taken by JAKIM officials is to issue a reminder and suspend the certificate but not to prosecute under the Trade Description Act 2011.

3.7 Prosecutorial Powers

The discussants to the interviews and workshop pointed out that the Ministry of Domestic Trade, Cooperative and Consumerism (MDTCC) officials are currently given the power to charge and prosecute under the Trade Description Act 2011. However, this power is limited to the offences of falsely using halal marking, expression and certification. For the charge made under the TDA, the MDTCC is not authorised to order for closure of premises. The TDA charge may involve the company's payment of penalties. The local authorities have the power to order the closure of premises. This is limited to non-hygienic and sanitary offences (Aziz & Ibrahim, 2014) and not falsely using halal marking, expression and certification.

Within the uncertainties and inefficient jurisdiction on enforcement and prosecutorial powers, the current system cannot protect Muslim consumers' rights. Even though it is not a punishable criminal act to consume or use haram material, it is a significant factor in shaping the future generation's attitude and behaviour. Thus, this becomes the hopes and wishes of all individuals, families, and society at large to have a well-behaved and excellent future population. With this vision, having a single halal pharmaceutical statute was suggested during the workshop. The thought of having one single codified statute governing halal pharmaceuticals creates two conflicting opinions. The first is opposed to the idea of one single Act, considering that halal covers a wide area, and the governance should remain consolidated. In other words, enforcing the laws and the jurisdiction should remain under several ministries from different portfolios. This group prefers harmonious cooperation among all government agencies on the administration of the halal. In contrast, most of the government agencies' representatives highlighted the difficulties in enforcement when there are agencies involved. This group highlights the issue of expertise, experience, knowledge, uncertain jurisdiction, and ineffective prosecution.

4. CONCLUSION

The study faced some limitations in accessing the respondent for interview as there were confidentiality issues. However, this was resolved by attending a workshop attended by the respondents. The proposed idea of a combined task force between local authorities and JAKIM shall not only be viewed from the sustainability of the halal industry perspective. However, it should also be viewed from the enhancement of Muslim consumer's rights. The existence of food premises that intent to tap into the halal market confining the intention for profit-making per se must be stopped. The intrinsic and extrinsic challenges in ensuring rights of Muslim consumers are protected while engaging in transactions with halal food premises may be remedied by having the combined task force that may assist in reducing issues of overlapping power, injustice to the owner of food premises, lack of expertise issue, insufficient human power, and effective prosecution of case. Policy initiatives should focus on accelerating the need for more strengthened guidelines for governing halal-certified premise. The policy should consider stressing the balance of benefit over harm between promoting economic enhancement by certifying more restaurants and the rights of the affected consumers. Policy making bodies must also try to balance support of the food supply industry with public calls for their regulation. Such regulations are necessary to protect not only halal food supplied but also concern over public health and safety and account for ethical issues. There is a need for future research to study on the appropriate legal provision to be introduced in accommodating the combined of task force process.

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