



CONSUMER REDRESS MECHANISM IN MUSLIM
FRIENDLY HOSPITALITY SERVICES

BY

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A thesis submitted in fulfilment of the requirement for the
Degree of Master of Halal Industry Management

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ABSTRACT

Muslim friendly hospitality services (MFHS) is one of the most lucrative and one of the fastest growing sectors in the global tourism industry. The popularity of the Muslim friendly hospitality services have spread across the globe, with Malaysia being a clear front runner. Malaysia has offered wide ranges of hospitality services to satisfy the specific needs of the Muslim consumers especially in travel agents and tour operators offering Muslim friendly services, restaurants providing halal food and beverages, Muslim friendly accommodations, Muslim friendly airlines and etc. In Muslim friendly hospitality services, the consumers must get the services which adhere to the value of Islam. Due to the unique needs of the consumers in hospitality services as well as unique faith-based needs of the consumers in Muslim friendly hospitality services, there are many consumer complaints related to this services as it is not easy to ensure proper provision all the time. Other than that, the ignorance and “too trusting” attitude of Muslim consumers in the services also contribute to the increase in the number of complaints. The complaints among others are fraud, misleading advertisement, low-quality and inefficient services, etc. by the services providers in hospitality services and Muslim friendly hospitality services. As a result, the consumers in the hospitality services as well as in the Muslim friendly hospitality services need to have adequate and efficient redress mechanisms to protect their rights. At the present time, there are existing redress mechanisms in Malaysia. However, based on the analysis made on the cases decided by the Tribunals, Ministry and Complaint Centres on the existing redress mechanisms, the result of the research shows that the mechanisms are still inadequate and inefficient in handling complaints and resolving consumers’ disputes. The semi-structured interview conducted in this research also proves that improvements should be made to enhance the efficiency and adequacy of the existing redress mechanisms in Malaysia. By the end of this research, the researcher outlines several consumer protections guidelines and proposes a structure of a special agency/unit/one-stop-service-centre to handle consumers’ complaints and resolve consumers’ disputes in hospitality services as well as Muslim friendly hospitality services. It really hopes that this research will provide a great contribution to all major stakeholders in hospitality services industry as well as in Muslim friendly hospitality services industry particularly policy makers, service providers/industrial players and consumers.

خلاصة البحث

تعد خدمات الضيافة الصديقة للمسلمين أحد أكثر القطاعات ربحاً وأحد أسرع القطاعات نمواً في مجال السياحة عالمياً. انتشرت شعبية خدمات الضيافة الصديقة للمسلمين في جميع أنحاء العالم، وتعد ماليزيا في مقدمة الدول في هذا المجال. تعرض ماليزيا مجموعة واسعة من خدمات الضيافة لتلبية الاحتياجات المحددة للمستهلكين المسلمين، وخاصة مع وكلاء السفر ومنظمي الرحلات السياحية التي تقدم خدمات صديقة للمسلمين، وبالإضافة إلى المطاعم التي تقدم أطعمة ومشروبات حلال، وأماكن إقامة وخطوط طيران ملائمة للمسلمين وغيرها. يجب في مجال خدمات الضيافة الصديقة للمسلمين توفير خدمات ملتزمة بالقيم الإسلامية. نظراً للاحتياجات الفريدة للمستهلكين في خدمات الضيافة، وبالإضافة إلى الاحتياجات الدينية الفريدة للمستهلكين في خدمات الضيافة الصديقة للمسلمين، فإن هناك العديد من شكاوى المستهلكين المتعلقة بهذه الخدمات لأنه ليس من السهل ضمان توفيرها بشكل ملائم طول الوقت. يساهم أيضاً عدم علم المستهلكين المسلمين وثقتهم المفرطة في الخدمات في زيادة عدد الشكاوى. تتكون الشكاوى من أمور مثل الاحتيال، والإعلان المضلل، والجودة المنخفضة وعدم كفاءة الخدمات، وغيرها، من قبل مقدمي الخدمات في خدمات الضيافة وخدمات الضيافة الصديقة للمسلمين. ونتيجة لذلك، يحتاج مستهلكو خدمات الضيافة وكذلك خدمات الضيافة الصديقة للمسلمين إلى آليات تعويض كافية وفعالة لحماية حقوقهم. آليات التعويض موجودة حالياً في ماليزيا ولكنها مستندة إلى التحليل الذي يجري على القضايا التي تقررتها المحاكم، والوزارات، ومراكز الشكاوى بشأن آليات التعويض القائمة. تبين نتائج البحث أن الآليات لا تزال غير كافية وغير فعالة في معالجة الشكاوى وحل نزاعات المستهلكين. أثبتت المقابلات الشبه منظمة التي أجريت في هذا البحث أنه ينبغي إدخال تعديلات لتحسين كفاءة وفعالية آليات التعويض القائمة في ماليزيا. في نهاية هذا البحث، اقترحت العديد من المبادئ التوجيهية لحماية المستهلك، بالإضافة إلى اقتراح بناء وكالة خاصة/وحدة/مركز خدمات موحد لمعالجة شكاوى المستهلكين وحل نزاعات المستهلكين في خدمات الضيافة وخدمات الضيافة الصديقة للمسلمين. من المؤمل جداً أن يقدم هذا البحث إسهاماً كبيراً لجميع الأطراف المعنية الرئيسية في مجال خدمات الضيافة ومجال خدمات الضيافة الصديقة للمسلمين وخاصة صناعات السياسات ومقدمي الخدمات، والمحركين الأساسيين في هذا المجال، والمستهلكين

APPROVAL PAGE

I certify that I have supervised and read this study and that in my opinion, it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a thesis for the degree of Master of Halal Industry Management

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I hereby declare that this dissertation is the result of my own investigations, 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.

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Chin Chin Nee v Air Asia Berhad TTPM-Q-(P)-5-2011
Ching Chin Hui v Orient Reward (Axis Connection (M) Sdn Bhd) (2016) MOTAC
Claimant v Respondent TTPM-M-(P)-6-2014
Complainant v Air Asia Customer Service (2010) NCCC
Helenka Jedrzejowski v Sipadan Pom Pom Resort & Tours Sdn Bhd (2016) MOTAC
Lim Soh Hun v Heritage Hotel Cameron Highlands TTPM-A-(P)-149-2011
Mat bin Mat Taha v Syamar Smart Venture TTPM-WP-(P)-1042-2014
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Nazaruddin B. Abdul Samat v Marang Guest House & Restaurant TTPM-WP (P)-60-2010
Nor Niza binti Jaini v Al-Mukminin Travel & Tours Sdn Bhd (2016) MOTAC
Rohaida binti Ideros v Zafa Kiramas TTPM-J-(P)-446-2013
Rosliza binti Awang v Al-Mukminin Travel & Tours Sdn Bhd TTPM-B-(P)-855-2013
Sharier bin Pawanchik v Madain Al Taqwa Travel & Tours Sdn Bhd TTPM-P-(P)-349-2014
Yap Shiau Ni v Sutera Harbour One World & Marketing TPM-WP-(P)-1102-2014

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Consumer Protection Act 1999

MS2610:2015, Malaysia Standard; Muslim Friendly Hospitality Services – requirements

The Trade Description Act 2011

Tourism Industry Act 1992 (Act 482)

Animal Welfare Act 2015

Wildlife Conservation Act 2010

LIST OF ABBREVIATIONS

CCU	Corporate Communication Unit
FOMCA	Federation of Malaysia Consumer Association
GMTI	Global Market Travel Index
ITC	Islamic Tourism Centre
KePKAS	Kementerian Pelancongan, Kebudayaan Dan Alam Sekitar
KKIA	Kota Kinabalu International Airport
KLIA	Kuala Lumpur International Airport
KTO	Korea Tourism Organisation
MATTA	Malaysia Association Tour and Travel Agents
MFHS	Muslim Friendly Hospitality Services
MOTAC	Ministry of Tourism and Culture
NCC	National for Consumer Claim
SCC	Small Claim Court
TCC	Tribunal Consumer Claims
TDA	Trade Description Act
TIA	Tourism Industry Act

CHAPTER ONE

INTRODUCTION

1.0 BACKGROUND OF THE STUDY

Tourism industry is among the most vital industries capable of stimulating economic growth. In recent years, the tourism industry has recognized MFHS (herein after known as MFHS) as a lucrative sector in this industry as the services have gained popularity and rapidly become a new phenomenon in the global and local arena. Malaysia has been declared as the world's friendliest destination for Muslim tourists and this remarkable achievement is based on the Global Muslim Travel Index (GMTI) 2016 as Malaysia has been ranked number one and this has been continued for six years in a row since 2011.¹

Malaysia has been a prominent centre for Muslim tourists all over the world as this country realize the great potential of the MFHS industry. This country always try to enhance and upgrade the services offered by them to the consumers in this industry as it is well-known that the consumers in the MFHS have unique faith-based needs, where all the services must be in accordance with the value of Islam.² There are wide ranges of services offer by Malaysia to the consumers in the tourism industry such as travel agents and tour operators, food and beverage, accommodations, airlines and etc. and for the MFHS, Malaysia has offered rich Islamic values. The values for the services in Muslim friendly tourism can be illustrated from the responsibility of the travel agents

¹ "Global Muslim Travel Index 2016 (GMTI 2016)" MasterCard and CrescentRating, accessed April 20, 2017, <https://www.crescentrating.com/reports/mastercard-crescentrating-global-muslim-travel-index-gmti-2016.html>

² "Malaysia's Prominent Role in Halal Tourism" CrescentRating, accessed on April 20, 2017, <https://www.crescentrating.com/magazine/opinion/3659/malysias-prominent-role-in-halal-tourism.html>

and tour operators to provide proper and convenient services which are in line with Shari'ah to cater the need of Muslim tourists, availability of Halal food almost everywhere during their stay in the country, availability of Islamic accommodation such as Muslim friendly hotel for their comfort, airlines which create packages to suit the Muslim tourists requirements and others.³

Even though there are lots of efforts been put to cater the specific needs of consumers in MFHS, it is almost impossible to avoid complaints from the consumers. According to the Ministry of Tourism of Malaysia and Culture Malaysia (hereinafter known as the MOTAC), there are several numbers of claims which relate to the tourism industry including travel agent/travel agency, accommodation, tour guide, transportation, tourism institutional, public transport and others. The following table shows that the number of claims from 2013 to 2016 by the consumers in tourism industry.

³ Shafaei, Fatemeh, and Badaruddin Mohamed. "Malaysia's Branding as an Islamic Tourism Hub: An Assessment." *Geografia: Malaysian Journal of Society and Space* 11, no. 1 (2015): 97-106.

Table 1: Number of Complaints Related to Tourism Industry 2013 - 2016

Complaints Categories	Years				Total of cases
	2013	2014	2015	2016	
Travel Agent/travel agency	215	249	316	241	1,021
Accommodation	28	28	22	26	104
Tour Guide	7	17	16	12	52
Transportation	0	0	0	0	0
Tourism institutional	0	0	3	0	3
Public Transport	0	3	1	0	4
Others	14	6	55	55	130
Total of cases	264	303	413	335	1,314

Source from Ministry of Tourism and Culture Malaysia

The table above shows that there are number of complaints year after year in the tourism industry. This indicates that it is not easy to satisfy all the expectations of the consumers in hospitality services and at the same time deliver ‘zero defects’ services on every occasion as some service failures and consumers dissatisfaction may be inevitable.⁴ Furthermore, every consumer has their own expectations, inspirations and experiences,⁵ especially for consumers in MFHS as they are more sensitive to use services which are Shari’ah compliant.⁶ Due to that, the consumers in tourism industry specifically in MFHS need an adequate and efficient redress mechanism in order for them to resolve their complaints and disputes.⁷

⁴Ennew, C., & Schoefer, K. (2003). Service failure and service recovery in tourism: A review. Christel DeHaan Tourism and Travel Research Institute, Nottingham University Business School.

⁵Jamil Jusoh, Tarmiji Masron, N. Fatimah A. Hamid, & Norkamaliah Shahrin (2013). Tourist Expectation and Satisfaction towards Physical Infrastructure and Heritage Elements in Melaka UNESCO World Heritage Site. *Academic Journal of Interdisciplinary Studies*, 2(8), 733.

⁶M Battour, & MN Ismail (2015). Halal tourism: Concepts, practises, challenges and future. *Tourism Management Perspectives*.

⁷Naemah Amin (2012). Consumer redress mechanisms in Malaysia: Prospects and Challenges. *IJUM Law Journal*, 15(2).

At present, there are existing redress mechanisms in Malaysia for the consumers to express their grievances and settle their disputes. In relation to the practise in the ordinary court in Malaysia, it is well-known to be time-consuming, expensive, worrisome and complex. This type of redress mechanism will not be chosen by the consumers to resolve their dispute and has been generally considered as a failure and ineffective in dealing with consumer cases.⁸ There is also Small Claims Court (hereinafter known as the SCC) as well but this court also has several weaknesses regarding the process as it operates within the ordinary court mechanism.⁹ Thus, the main redress centre is the Tribunal for Consumer Claim (hereinafter known as TCC). The objective of this tribunal is to provide a channel and alternative dispute resolution facilities to consumer.¹⁰ The TCC will hear and determine claims filed by consumers including claims relating to supply of goods, services and unfair trade practices such as misleading advertisements, misleading price indications etc., provided that the claim does not exceed RM25, 000. Other complaint handling channels are the Complaint Management Unit and Community Services which is a unit under the purview of the MOTAC and the National Consumer Complaints Centre (hereinafter known as the NCCC) which is a non-profit organization managed by the Federation of Malaysian Consumers Associations (hereinafter known as FOMCA).¹¹

⁸S. Sothi Rachagan, Consumer Law Reform – A report, United Nations Development Programme and Selangor and Federal Territory Consumer' Association, 1993, Chapter 8.

⁹Ibid

¹⁰Zeti Zuryani Mohd Zakuan, Rahmah Ismail, Sakina Shaik Ahmad Yusoff and Ruzian Markom (2015). Consumer Court: Towards a Better Consumer Protection in Malaysia. *International Business Management*, 9: 1495-1499.

¹¹ Hamidah Ayob, Naemah Amin. Consumer Protection in Muslim Friendly Travel Agencies Services. Proc. of International Language and Tourism Conference 2016 (ILTC 2016), International Islamic University Malaysia, Kuala Lumpur, Malaysia.

All of the existing redress mechanisms need to be analysed by the researcher in this thesis with the purpose of identifying its adequacy and efficiency in handling and resolving consumer complaints and disputes.

1.1 LITERATURE REVIEW

Many books, dissertation/theses, reports, articles have been written on the issues of redress mechanism. Nevertheless, pursuant to the topic, the literatures used in this research were taken from those literatures which are related to redress mechanism in Malaysia, its efficiency and adequacy in tourism industry and MFHS, redress mechanism in Islam and redressal machinery from selected jurisdictions which are more advanced such as Korea, Thailand and Singapore.

Before commencing on the literature review, it is important to take a cursory look at an overview of redress mechanism. According to Nor' Adha & Sakina (2011), redress mechanism consists of consumers' complaint handling and dispute resolution. Nor' Adha has comprehensively discussed on alternative dispute resolution. Meanwhile, Hogarth, J. M., & English, M. P. (2002) in their article have mentioned that redress mechanism is one of the most significant and important component in consumer protection. However, according to them, in order to protect and empower the consumers, complaint handling and dispute resolution must be adequate and effective. The above authors have also provided several criteria for an effective and adequate redressal machinery in their works.

In scrutinizing the existing redress mechanism in Malaysia and its adequacy and effectiveness, literatures written by Zeti Zuryani, Rahmah Ismail, Sakina Shaik Ahmad Yusoff and Ruzian Markom (2012), Zhao, W.J. (2011), and Naemah Amin (2012) can be referred. In the article by Zeti Zuryani et al., the authors have reviewed on the SCC.

They have provided the history and the development as well as the procedure of the court. The discussion of their article was developed on the weaknesses of the court. As a result, the authors have imparted on the establishment of the TCC by the government as an alternative for the consumers to resolve their disputes. According to them, this is the best redressal machinery for the consumers in Malaysia at the present time. As to Zhaou, W J in his PhD's thesis, he has discussed on the TCC and the NCCC as third party organizations in redressing consumers' complaint. His discussion has covered on the general aspects of the organizations including the history and the development, the complaint procedures, and the yearly statistical data. The author has selected these two organisations as he believed that it can protect the consumer and handle their disputes and complaints properly. Naemah Amin in her article, on the other hand, has focused more on the TCC. She has briefly touched on the development of the TCC and has analysed several strengths and weaknesses of the organisation. In addition to that, she also has thoroughly discussed on the prospect and challenge of that organization based on the previous analysis. She viewed that even though the existing redressal machinery can be considered as the best, it still needs some improvement in order to maintain its adequacy and efficiency. The above literatures has provided some information on the existing redress mechanism in Malaysia. The literatures are also very beneficial for this research as it has reviewed on the strengths and weaknesses of the existing redressal machinery. However, this needs further research in order to come up with a specific agency/unit to deal with consumers' complaints and dispute relating to hospitality services including MFHS. Furthermore, the discussions are only on the services for the consumers as a whole and do not specifically deal with consumers in hospitality services including MFHS. Due to that, the strengths and weaknesses which have been reviewed must be limited to the general services only thus this research will cover the loopholes

of the literatures above. For the tourism courts in Sabah and Sarawak, the past literature that can be referred is an article by Juriah Abd Jalil, Zuraidah Ali and Suzanna Kamaruzzaman. This article discussed briefly on the history and case handled by the court. The authors only referred to the newspaper articles without doing any fieldwork or interview with the officers of the court. Thus, this research will further the discussion on the tourism court based on face-to-face interview with the officers and staffs which work directly with the court.

Pertaining to MFHS, there are many literatures that touch on these services in general, however, there is hardly any discussion that has exclusively dealt with redress mechanism for MFHS. For general discussion on MFHS, Jafari & Scott, (2014), Battour & Ismail (2014), Battour, Battor, & Ismail, (2012), Battour, Ismail, & Battor, (2010), in their literatures have discussed on the special needs of the consumers in MFHS. According to the authors, Muslim awareness has increased in selecting Halal options. As a result of these special needs, there will be dissatisfaction if the MFHS do not meet with the requirements. Nevertheless, all the literatures did not mentioned at all on the needs of the consumers towards redress mechanism for their dissatisfaction. Literature which is pertinent to this issue is an article written by Hamidah Ayob & Naemah Amin (2016). This article can be emphasized as the authors have discussed on the needs of Muslim travellers and the protection of their rights. The authors have reviewed on the adequacy of the existing redress mechanism for tourism industry in Malaysia in protecting the consumers in MFHS. However, this literature limit its scope on Muslim friendly travel agencies services only. Therefore, the researcher covers other categories of MFHS including travel agents and tour operators, food and beverage,

accommodations and airlines and analyse the adequacy and effectiveness of the existing redress mechanism towards the consumers in that services.

There are several books and articles which have been written regarding redress mechanism in Islam. The central discussion is on Alternative Dispute Resolution (hereinafter known as ADR) which is the most acceptable redress mechanism in Islam. This can be referred to articles by Syed Khalid Rasyid (2008), Sajoo, A. B. (2014), Jamal and A. A. (2015). Sajoo, A. B. has stated that Islam encourages Muslims to seek reconciliation between the parties if at all possible, to negotiate, compromise and voluntarily make agreements when disputes arise, to choose arbitrators where the parties cannot agree, and to consent to be bound by the arbitrators' decisions. He claimed in his article that due to this, it makes ADR more attractive for Muslim. However, he further discussed on the practice of ADR in disputes relating to marriage which are not relevant in this thesis. On the other hand, Jamal, A. A. in his article mentioned that, at present, the values of mediated and amicable settlement already existed in Islam were not just validated but enhanced and reinforced in the contemporary ADR. The limitation of this work is that its focus on the present ADR in Singapore and United Kingdom only. With regard to Syed Khalid Rashid's article, he only discussed on the special characteristic of ADR in Islam. Thus, further research must be made in order to apply these special attributes of dispute settlement in Islam in tourism industry especially in MFHS.

In making comparison with other countries' redressal machinery, the literatures from Korea and Thailand are beneficial. In scrutinizing the effectiveness of complaint handling and dispute resolution in Korea, an article by Oh, C. O. (2005), a case study by Koo, C., Shin, S., Kim, K., Kim, C., & Chung, N. (2013) and an article by Kim, N. Y., &

Miller, G. (2008) provide a useful insight, especially by the third party agency for consumer there i.e. the tourism organisation in Korea. This organisation namely the Korea Tourism Organisation (hereinafter known as the KTO) is a statutory organization of South Korea under the Ministry of Culture and Tourism and it was established in 1962 as a government-invested corporation responsible for the South Korean tourism industry according to the International Tourism Corporation Act. Under this organisation, there is a Tourist Complaint Centre where the complaints of the tourist will be handle. The most related literature in Thailand is by Thitthongkam, T., & Walsh, J. (2011) and Barnes, J. (2009) on the tourism issues in Thailand and how the tourism organisation in Thailand manage it. The Tourism Authority of Thailand (hereinafter known as the TAT) was established on the 18th March 1960. The TAT was the first organization in Thailand to be specifically responsible for the promotion of tourism. This authority also can receives complaint from the tourist and forward it to the relevant party and ask for their respond. For the Benchmarks for Industry-based Consumer Dispute Resolution Schemes in New Zealand and Australia, Elistina Abu Bakar (2010) had comprehensively discussed it in her PhD dissertation, however the researcher had analysed the benchmarks specifically on the issue of motor vehicle services and repairs.

The review of the above limited literature reveals that it is the exact moment to carry out a research that deals exclusively with consumer redress mechanism in the tourism industry especially in MFHS. Since there are hardly any available textbooks or literatures on this matter, particularly in Malaysia, this research will give great contribution to the knowledge in the area of consumer law and tourism industry, especially in MFHS.