



**A STUDY OF THE LAWS REGULATING HALAL
CERTIFICATION MARKS AND LOGO IN MALAYSIA**

BY

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**A dissertation submitted in fulfilment of the requirement for
the degree of Master in Halal Industry Management**

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ABSTRACT

Today, halal is one of the discussed matters around the world. The demands for halal food are increasing simultaneously with the increasing numbers of Muslims throughout the years. Malaysia, with few other countries, has decisively taken this issue and is working very hard to develop several trustworthy halal industries. Though the halal journey started in Malaysia from the 1970s, a statement in the Federal Constitution of Malaysia 1957 perceived an obligation on concerned authorities to prepare halal food for Muslim consumers. This gradual development of amending its laws, enacting new regulations and orders, adopting halal standards and halal certification system is occurring in Malaysia. However, irrespective of all the initiatives, effectiveness of the halal certification is dependent on a comprehensive and sound organizational structure and system. Presently, an issue relating to halal certification has become an important part of the halal business. Malaysia is one of the pivotal and uprising stakeholders within the world's halal market. For that reason, effective monitoring and execution can enhance the halal certification procedure and can reduce the cases of misusing the halal logo and halal certificate. A sound framework is necessary to enhance the halal industry. However, the existing framework is still at a developing stage. Without the collective efforts to improve the prudential framework, it would be challenging to gain the confidence of Muslim consumers and promote stability, solidity and future expansion of the Malaysian halal industry to the rest of the world. Comprehensive halal awareness programmes, steady regulatory structures and reliability of certifying processes can also enhance the country's economy as well as recognition and the credibility in the global halal network. This study examines how important the halal certification is to ensure halal food in Malaysia as well as an improvement towards the halal industry and to what extent halal certified foods are guaranteed to as the rights of Malaysian Muslim consumers in complying with the Sharia'h principles.

ملخص البحث

في كل جانب من جوانب حياة المسلمين والتطبيق لأحكام الشريعة الإسلامية يتطلب الوعي بها. كما أن التفريق بين الحلال والحرام لا يعتبر فقط واجب إلزامي فقط بل أيضا مسؤولية تامة بما يتماشى مع أحكام الشريعة الإسلامية. في وقتنا الحاضر، مشكلة الطعام الحلال تعد واحدة من أهم المشاكل التي نوقشت على كافة أنحاء العالم. كما نعلم أن أعداد المسلمين في ازدياد مستمر، فأدت هذه الزيادة إلى الطلب على توفر الأطعمة الحلال في معظم الدول التي يوجد بها أعداد كبيرة من المسلمين. وتعتبر ماليزيا مع عدد قليل من البلدان الأخرى التي أخذت هذه المسألة في عين الاعتبار وتعمل على تطوير صناعة الأغذية الحلال الجديرة بالثقة. على الرغم من أن ماليزيا بدأت في تطبيق صناعة الأغذية الحلال منذ سنة 1970م، وأيضا الدستور الاتحادي لماليزيا والذي صدر في سنة 1957، والذي يعتبر إلتزام الجهات المعنية بإعداد الطعام الحلال للمستهلكين المسلمين ضرورياً وملزماً. وفي هذا التطور التدريجي قامت ماليزيا بتعديل قوانينها وسن لوائح جديدة واعتماد معايير الأغذية الحلال ونظام إصدار شهادات الحلال. وبغض النظر عن كل المبادرات فإن فعالية شهادة الحلال تعتمد على هيكل تنظيمي شامل وسليم ومنظم، ففي الوقت الحاضر، أصبحت المسألة تتعلق بشهادة الحلال التي هي جزء منه. تعتبر الدولة الماليزية واحدة من الدول أصحاب المصلحة المحورية في سوق المنتجات الحلال في العالم. لهذا السبب يمكن رصد التنفيذ الفعال وتعزيز إجراءات إصدار شهادات الحلال والتي يمكن أن تقلل من حالات الإساءة إلى استعمال هذه الشعارات والشهادات. وهذا النظام الملزم يعتبر مهم وضروري لتعزيز صناعات الحلال. ومع ذلك فإن هذا الإطار القائم لا يزال في مرحلة نامية. فإن لم تبذل الجهود الجماعية لتحسين التحولات اللازمة، فإنه سيكون تحديا لكسب ثقة المستهلكين المسلمين وتعزيز الاستقرار، والصلابة، والتوسع المستقبلي للصناعات الحلال في ماليزيا وبقية أنحاء العالم. ويمكن لبرامج التوعية الشاملة، ووجود هيكل ثابت لعمليات التصديق العادية أن تعزز من اقتصاد البلاد فضلاً عن الاعتراف والموثوقية في صناعة الحلال العالمية. وتناولت هذه الدراسة مدى أهمية شهادات الحلال وهي ضمان الطعام الحلال في ماليزيا وكذلك تحسين هذه الصناعة وإلى أي مدى توفر هذه الشهادة ضمان الغذاء الحلال، وحقوق المستهلكين المسلمين في ماليزيا والامتثال لمبادئ الشريعة الإسلامية.

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 dissertation for the degree of Master of Halal Industry Management

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TABLE OF CONTENTS

Abstract	ii
Abstract in Arabic	iii
Approval Page.....	iv
Declaration	v
Copyright	vi
Acknowledgements	vii
List of Tables	x
List of figures	xi
List of Statutes	xii
List of Cases.....	xiv
List of Abbreviations	xv
List of Symbols	xvi
CHAPTER ONE: INTRODUCTION	1
1.0 Background of The Study	1
1.1 Principles of Halal in Islam	5
1.2 Overview of the Global Halal Market and the Malaysian Halal Industry together with Halal Certification.....	8
1.3 Importance of Halal Certification in Terms of Economic and Religious Aspects	11
1.4 Problem Statement.....	13
1.5 Hypothesis	14
1.6 Literature Review	14
1.7 Research Questions.....	27
1.8 Objectives of the Research	27
1.9 Research Methodology	28
1.10 Scope And Limitations	29
1.11 Chapterisation of the Study	30
CHAPTER TWO: HISTORICAL DEVELOPMENT OF HALAL LAWS	32
2.0 Introduction.....	32
2.1 The Historical Antecedents and Development of Halal Laws.....	33
2.1.1 Before the Amendment of TDA 2011.....	33
2.1.2 Post-Amendment of TDA 2011	34
2.2 History of the Establishment of the Ministry of Domestic Trade, Cooperative and Consumerism (MDTCC).....	37
2.3 History of JAKIM.....	40
2.4 Halal Hub Division	43
2.5 Local Government Act	49
2.6 Parliamentary Debates on Halal Related Issues	55
2.7 Conclusion	56
CHAPTER THREE: ILLEGAL LABELING AND THE ABUSE OF HALAL CERTIFICATE: CASE STUDY	59
3.0 Introduction.....	59

3.1 Government Initiatives for the Expansion of Laws Regarding Halal Logo in Malaysia	62
3.2 The Value of Halal Label Food	64
3.3 Dilemma in the Enforcement of Halal Logo	64
3.4 Halal Labeling and Muslim Consumer Duties	65
3.5 Case Study of Misuse of Halal Logo and Abuse of Halal Certificate	67
3.6 Suits Filed in the Case of Abuse of Halal Logo and Halal Certificate	70
3.7 Laws Imposing Criminal Liabilities for Abuse of Halal Logo and Halal Certificate.....	72
3.8 Conclusion	76

CHAPTER FOUR: INTERNATIONAL DEVELOPMENTS ON HALAL CERTIFICATE..... 79

4.0 Introduction.....	79
4.1 Indonesia.....	81
4.1.1 Influential Factors for Consumption of Halal Food in Indonesia.....	83
4.1.2 Halal Related Provisions under the Indonesian Laws.....	83
4.1.2.1 LPPOM-MUI Regulation	84
4.1.3 Recent amendment of halal laws in Indonesia.....	85
4.1.3.1 Overview of the lawmaking progress.....	86
4.1.3.2 Most important provisions of new Halal Law in Indonesia	87
4.1.4 Halal labeling Development in Indonesia.....	88
4.2 Singapore	89
4.2.1 General Evidence Regarding Singapore Halal Industry and Halal Certificate.....	90
4.2.2 Related Provisions under Singaporean Laws.....	91
4.2.3 Leading Case Laws of Halal Certificate in Singapore	92
4.3 Brunei	96
4.3.1 Brunei Halal Certificate	97
4.3.2 Halal Governing laws in Brunei.....	98
4.3.3 Halal Development in Brunei	99
4.4 Conclusion	100

CHAPTER FIVE: CONCLUSION..... 103

5.0 Introduction.....	103
5.1 Summary of Chapters and Findings	103
5.2 Proposal For Reforms	106
5.3 Research Limitations and Further Studies	110
5.3.1 Research Limitations.....	110
5.3.2 Areas for Further Studies.....	111
5.4 Conclusion	111

BIBLIOGRAPHY 113

LIST OF TABLES

Table 3.1	Cases	68
Table 3.2	The Nature and Offences	71

LIST OF FIGURES

Figure 2.1	Working Jurisdiction of the MDTCC	38
Figure 2.2	JAKIM's Functions	42
Figure 2.3	Different Type of Offences	46
Figure 2.4	Functions of the Local Government	50
Figure 3.1	Features of the Malaysia Halal Logo	63

LIST OF STATUTES

ACTS

Abattoirs (Privatization) Act 1993
Administration of Religious Affairs and Trade Marks Act 1976
Animals Act 1953 (Revised 2006)
Customs Act 1967 (Prohibition of Imports 1998)
Federal Constitution of Malaysia (2009)
Food Act 1983
Local Government Act 1976
Local Government Act 1976 (Act 171)
National Livestock Development Board (Dissolution) Act 1983
Trade Description Act (as amended) 2011
Trade Description Act 1972

ORDERS

Halal Certificate and Halal Label Order, 2005
Trade Description (Certification and Marking of Halal) Order 2011
Trade Description (Definition of Halal) Order 2011
Trade Description (Use of Expression Halal) Order 1975
Trade Description (Making of Food) Order 1975
Trade Description (Halal Labeling) Order 1975
Trade Description Order 1975

REGULATION

Animal Regulations 1962
Food Hygiene Regulations 2009
Food Regulations 1985
Trade Descriptions (Certification and Marking of Halal Fees) Regulations 2011

BY-LAWS

Advertisement (Shah Alam City Council) By-Laws 2007
Advertisement by-laws (MBPJ) 2007
By-Laws of Local Authorities 1976
Food Establishment (Shah Alam City Council) By-Laws 2007
Food Establishment licensing by-laws (MBPJ) 2007
Food Handlers (Shah Alam City Council) By-Laws 2007
Food Supervisor by-laws (MBPJ) 2007
Petaling Jaya City By-Laws 1976
Trade, Business and Industrial by-laws (MBPJ) 2007

MANUAL

Halal Certification Procedure Manual 2014
Jakim Manual (Third Revision) 2014

FOREIGN STATUTE

BRUNEI

Brunei Darussalam Standard for Halal Food PBD 24: 2007

Halal Certificate and Halal Label Order 2005

Halal Meat Act (amendment on 2010 and revised on 2014)

Halal Meat Rules, 2008

The Constitution of Brunei 1959

INDONESIA

Consumer protection Law 1999

Guidelines and procedures for examination and determination of halal food, 2001

Halal Product Certification Act 2014

Slaughtering and meat handling Law 1992

The institute for halal food inspection Law 2001

SINGAPORE

Administration of Muslim Act (AMLA) 1999

LIST OF CASES

Angliss Singapore Pte Ltd vs Public Prosecutor [2006]
Public Prosecutor vs Angliss Singapore Pte Ltd [2006] SGDC (70)

LIST OF ABBREVIATIONS

AIFDC	Assessment Institute for Food, Drugs, and Cosmetics
AMLA	Administration of Muslim Act
ASEAN	Association of Southeast Asian Nations
BAHEIS	Bahagian Hal Ehwal Islam
CCM	Chemical Company of Malaysia
DSM	Department of Standard Malaysia
e.g.	example gration for -example
EVU	European Vegetarian Union
GDP	Gross Domestic Product
HACCP	Hazard Analysis and Critical Control Point
HalMQ	Halal Quality Management System
HC	High Court
HDC	Halal Hub Division
INDAH	Islamic Da'wah and Training Institute
JAH	Japan Halal Association
JAIN	Jabatan Agama Islam Negeri
JAKIM	Jabatan Kemajuan Islam Malaysia
JHM	Jaminan Halal Sistem Malaysia
JPH Act	Jaminan Product Halal
LPPOM	Lembaga Pengkajian Pangan, Obat-obatan dan Kosmetika
Ltd	Limited
MAIJ	Majlis Agama Islam Johor
MAIN	Majlis Agama Islam Negeri
MDTCA	Ministry of Domestic Trade and Consumer Affairs
MDTCC	Ministry of Domestic Trade, Cooperative and Consumerism
MKM	Mathematical Knowledge Management
MoRA	Ministry of Religious Affair
MPPHM	Malaysia Halal Certification Procedures Manual
MPR	Majelis Permusyawaratan Rakyat
MUI	Majelis Ulama Indonesia
MUIS	Majlis Ugama Islam Singapura
MyIPO	Intellectual Property Corporation of Malayia
n.d	No Date
NKEA	National Key Economics Area
NKRA	National Key Result Area
OIC	Organization of Islamic Conference
OK	Organized Kashrus
PPI	Islamic Research Centre
PPIM	Muslim Consumers Association of Malaysia
SC	Supreme Court
SIRIM	Standards and Industrial Research Institute of Malaysia
SME	Small Medium Enterprises
TDA	Trade Description Act
TDO	Trade Description Order
USD	United States Dollar

LIST OF SYMBOLS

\$ US Dollar
\$ Singaporean Dollar
\$ Brunei Dollar

CHAPTER ONE

INTRODUCTION

1.0 BACKGROUND OF THE STUDY

Food is one of the pivotal needs of every human being. The needs, choices and intake of food depend on some factors such as health (Golnaz Rezai, Zainalabidin Mohamed and Mad Nasir Shamsudin, 2012), nutrition, religion (Arshia Mukhtar and Muhammad Mohsin Butt, 2012) and region (Ruzevicius, 2012). For example, Muslims consume only those foods which are sharia'h compliant (i.e. halal food) in order to obey the religious requirements (Riaz and Chaudry, 2004). Even non-Muslims consume halal food which is wholesome and of the highest quality (Hassan et al., 2013).

According to statistics, the Muslim population in the world was about 1.8 billion in 2010 (Mariatul Aida Jaffar and Rosidah Musa, 2014), 2.04 billion in 2013 and it increased to 2.08 billion in 2014 ("The Future of the Global Muslim population", 2011). Moreover, in 2030, the world's population will be expected to be around 6.9 billion (Van der Spiegel et al., 2012). Muslims are seeking food products that also meet their dietary needs (Syed Ghazaly Alqudsi, 2014). In addition, the consciousness of Muslim consumers of their religious obligations has created a demand for halal food. The concept of halal is now becoming a standard demand and it generates a serious attention in the local, international and global markets (Hanzaee, and Ramezani, 2011). Thus, there is a need to take into consideration the rising rate of the global halal market, which leads to competition in gaining control mainly in the open market by food companies. The halal food market prospect, however, is not restricted to Muslim countries (Riaz and Chaudry, 2004). The word 'halal' is not solely a religious issue; it has reached the jurisdiction of halal trade and has become a

global mark for quality affirmation. Johan Fischer (2011) notifies that halal is not merely a religious expression of what is permissible or not; nevertheless, it is a conjunction between the Muslim world and a new growing global market of production, trade and consumption. Countries with minority Muslim populations such as Singapore, the U.S.A, Japan, Australia, New Zealand and South Africa have become significant providers of halal food to the world halal trade (Ibrahim Shahariah, and Mohhidin Othman, 2014). In the past, Muslim countries met most of their food demands internally or had them imported from other Muslim countries. However, Muslim consumers are rapidly increasing, overtaking the available food supply; for this reason Muslim countries now import food from agriculturally advanced countries.

At present many companies are looking at the halal concept as a new trademark (Hassan et al., 2013) for marketing. This large market has gained attention around the world and it is rising. Producers of food are required to have their products stamped with halal certification logo in order to distinguish their goods from other products in the market. An ordinary trademark differs from a certification trademark because it provides a warranty to show those goods and services have accomplished specific requirements. Halal certification as a symbol of value, health and ecosystem not only works as an assurator to verify the product's conformity to Islamic dietary laws but also ensures that it comprises all the permitted elements. According to Phelps (1949), "certification marks and quality labels as marks are used upon or in the products and services of one and more person to certify regional or another origin, material, mode of manufacture, quality, accuracy or other characteristics of such goods or services" (p.498). Nowadays, ensuring a Muslim consumer gets genuine halal food is quite difficult because there are many foods with unauthorized halal labels. Throughout the world, there are various Islamic agencies that produce halal

certification. They provide the assurances to the consumers that the ingredients used and processes involved in making the food are Sharia'h compliant. Halal certification is meant to ensure customers' pleasure, assurance and reliance towards the food they consume. Furthermore, it requires not only the food served to be halal but also the entire process involved to be halal as well. Halal certified food demands a high level of hygiene, certain standards of cleanliness, safety and nutrition which fulfil the needs of the consumers.

Many countries have passed the laws and established halal guidelines for food production. However, lack of enforcement and monitoring of activities have made its future vulnerable. For the expansion of halal food, it needs an effective regulatory framework around the world. With this respect, Malaysia is globally recognized as an advanced Muslim country. It has the prospect of becoming a key producer of halal food through the commitment and support of the government as well as local authorities. According to the third National Agricultural Policy (NAP3) Model 1998-2006, Malaysia will promote halal certification globally and be the main center for the certification of halal food (Synopsis of Malaysian halal market, halal food hub, n.d).

Supplying halal food is continuously increasing. In view of the growing market for halal products and to make it easier for buyers to get these products, well-certified producers need to be identified (Norazlina Abdul Aziz and Siti Sarah Sulaiman, 2014). The requirements for importing and exporting products from domestic to international levels are the same but the methods and procedures of implementation are different from one country to another (Riaz and Chaudry, 2004). Based on this fact, the Malaysian government has enacted laws and formulated procedures and guidelines for domestic and imported halal products (Riaz and Chaudry, 2004).

Malaysia has projected a plan to be a halal hub by the year of 2020. In responding to the vision, the government is trying to set Malaysia as an example for other countries in the distribution, production and promotion of products and services (Nik Maheran Nik Muhammad, Filzah Md Isa and Bidin Chee Kifli, 2009). Nevertheless, ineffective regulations and poor administrative supervision can create doubts. The halal logo is often misused in the market because of lack of security of its usage. The logo is easily copied, reproduced and sold by perpetrators ((Nik Maheran Nik Muhammad, Filzah Md Isa and Bidin Chee Kifli, 2009). The genuine halal logo has a significant impact in today's business. Most of the markets are dominated by the Chinese community and they have begun to understand the significance of halal products (The Halal Journal-An overview, 2005) and the consumers have started demanding for genuine products, because Malaysian halal certification is internationally recognized and updated continuously by *Jabatan Kemajuan Islam Malaysia* (JAKIM) (The Halal Journal-An overview, 2005). Another recognized standard i.e. MS1500:2004 has been successfully disseminated throughout Malaysia which is the world's first issued standards for the manufacturing, preparing, managing and storing of halal food. The neighbouring countries of Malaysia i.e. Brunei and Indonesia that have a specific provision on halal products in their Acts. In theory, there are guidelines and procedures in the process of getting halal certification in Malaysia but in reality, there is a gap in its procedural implementation. The strong regulatory framework can ensure halal products are properly certified and can expand more of the halal market around the world (Backhouse and Norizah Mohamad, 2014). Trending issues relating to halal certification and verification have become a business entity for halal food all over the world for the enhancement of the halal industry.

1.1 PRINCIPLES OF HALAL IN ISLAM

People select food based on its sense of taste, desires and affordability. In addition, Muslims have to assess whether the food is permissible in Islam or not, because the life of Muslim centers on the concept of halal and haram. The conception of halal in Islam has very precise intentions which the prohibition in regarding haram is not just created in today's thoughts, but originated from the beginning of the creation of the worldly beings by Allah (s.w.t).

It is clear from the verse, "Adam, dwell thou and thy wife in this garden, and eat freely thereof, both of you, whatever you may wish; but do not approach this one tree, lest you become wrongdoers" (Al-Baqarah: 35). This is the first instructional path from Allah (s.w.t) on not to consume prohibited food. In addition, in another verse Allah (s.w.t) says, "and thus he led them on with deluding thoughts. But as soon as the two had tasted [the fruit] of the tree, they became conscious of their nakedness; and they began to cover themselves with pieced-together leaves from the garden. And their Sustainer called unto them: "Did I not forbid that tree unto you and tell you, `Verily, Satan is your open foe'?" (Al-A'raf: 22). From this verse, Allah (s.w.t) states the consequences for the consumption of prohibited food. The basic guidelines of the law on halal food are shown in the Qur'an, Sunnah and Hadith.

Moreover, everything is permitted for human consumption except what is prohibited either by verses of the Quran or Sunnah of Prophet Muhammad (SAW). These rules in Islamic law convey freedom for individuals to eat and drink anything as long as it is not prohibited in Islam. The objective of Maqasid Sharia'h (objectives of Islam) is to preserve the purity of the Islamic religion, to safeguard the Islamic mentality, to shield life, to look after the property, to safeguard future generations and

to maintain self-respect and integrity (Riaz and Chaudry, 2004). Thus, every life should be protected and safeguarded in order to uphold the people's rights.

The word 'halal' means that which is permissible, allowed and lawful (Al-Qaradawi, 1999) which is the reverse of 'haram' (Mohammad Hashim, K, 2008). In Islam, haram is thus an act, object or conduct that is forbidden in the sight of Allah (s.w.t). To this end, in the Holy Qur'an, Allah (s.w.t) commands Muslims and all of the mankind to eat from the sources and produces of halal sustenance. According to the Quran, Allah (s.w.t) states that, "This day all things good and pure have been made lawful to you" (Al-Maidah: 5) and then again, "Ye who believe! Forbid not the good things that Allah (s.w.t) has made halal for you" (Al-Maidah: 87). Besides, Allah (s.w.t) states another principle on halal and haram, "O mankind! Eat of that which is lawful and wholesome" (Al-Baqarah: 168) that indicates that food must not only be halal but also *toyyib* (pure).

Therefore, the main objective of the Islamic law is to protect the human beings from using any food or drink which may cause harm to their body and health. Thus, Allah (s.w.t) says, "and make not your own hands contribute to (your) destruction" (Al-Baqarah: 195), "nor kill (or destroy) yourselves for verily Allah has been to you most merciful" (Al-Nisa: 29) and "follow not the footsteps of the devil. Lo! He is an avowed enemy of you" (Al-Baqarah: 168). Apart from that, Islam provides clear guidelines on halal food process in relation to the fulfillment of halal requirements. Allah (s.w.t) says, "O ye who believe! Eat of the good things that we have provided for you." (Al-Baqarah: 172). According to Mustafar et al. (2013), "the meaning of 'good things' from the above phrase includes hygienic food because when it is hygienic it means it is indeed good. Clean and hygienic food will guarantee a healthy body. Therefore, besides choosing healthy and nutritious food, it is best to emphasize

the aspect of cleanliness and hygiene according to the instruction of Islam. In addition, Allah (s.w.t) says, "So eat of the sustenance which Allah has provided for you, lawful and good; and be grateful for the favors of Allah, if it is He whom ye serve. He has only forbidden you dead meat, blood, flesh of swine, and any food over which the name of other than Allah has been invoked. But if one is forced by necessity, without willful disobedience, not transgressing due limits, then Allah is oft forgiving and most merciful" (al-Nahl: 114-115). Based on the verses above, it is clear that Islam has its own guidelines on how to source for good food. In general, the Qur'anic guidance dictates that all foods are halal except those that are specifically mentioned as haram. Allah (s.w.t) says, "Forbidden unto you (for food) are carrion and blood and swine-flesh, and that which hath been dedicated unto any other than Allah, and the strangled, and the dead through beating, and the dead through falling from a height, and that which hath been killed by (the goring of) horns, and had been devoured of wild beasts saving that which ye make lawful (by the death-stroke) and that which hath been immolated unto idols. And (forbidden is it) that ye swear by the divining arrows" (Al-Ma'idah: 3).

In addition to the above mentioning of Qur'anic verses some Hadith from the Holy Prophet Muhammad (SAW) also addresses the sources of halal food, products and drinks for human consumption. The Hadith related to this circumstance was narrated on the authority of Abu Ya'la Shahddad ibn Aus, saying: The Messenger of Allah said: "Verily Allah has prescribed proficiency in all things. Thus, if you kill, kill well; and if you slaughter, slaughter well. Let each one of you sharpen his blade and let him spare suffering to the animal he slaughters" (Sahih Muslim). This indicates that Islam has guidelines on the halal food process. In another instance, it was narrated by Rafi' bin Khadij that the Prophet (SAW) told Muslims who wanted to slaughter some

animals using reeds by saying, “use whatever causes blood to flow, and eat the animals if the Name of Allah has been mentioned on slaughtering them...”(Sahih Bukhari). From this Hadith, it is evident that Islam is very concerned about food processing in relations to the fulfillment of halal requirements.

Moreover, Al-Qaradawi (1985) asserts his view against taking intoxicants, based on the reason that it is harmful to our nerve systems and creates bad impact on human reasoning and rationality. It may be the source of social anarchy and family violence and even loss of life. Behind this reasoning, it may be accepted by all or not, but for Muslims prohibitions which derive from the Qur’an are obligatory.

1.2 OVERVIEW OF THE GLOBAL HALAL MARKET AND THE MALAYSIAN HALAL INDUSTRY TOGETHER WITH HALAL CERTIFICATION

The value of the global halal market is estimated at USD2.3 trillion and is predicted to reach USD6.4 trillion by 2018 (GIFR, 2013). According to another study, the scenario of global halal trade is ongoing and it is expected to jump nine-fold to \$10 trillion from the current level by 2030 (Siti Salwa Md. Sawari et al., 2015). Present statistics shows that Asia is the fastest growing and lucrative halal market, its value is nearly USD418 billion (GIFR, 2013). Among the Asian countries, Malaysia’s contribution in the global halal market is USD1.9 billion (GIFR, 2013).

Taking into consideration the rising rate of the global halal market, many countries have passed laws and established halal guidelines and awareness programmes, not only to regulate international markets for the purpose of exporting but also to create a new halal market in their own territories like Malaysia. They follow the same Islamic rules but may differ in cases of implementation across different countries. Even some non-Muslim countries have their own rules with