



**SHARI'AH AND LEGAL ANALYSIS ON THE USE OF ISLAMIC
ATTRIBUTES IN FOOD PRODUCTS LABELLING IN MALAYSIA**

By

SURAIYA BINTI OSMAN

**Thesis Submitted to the School of Graduate Studies, Universiti Putra
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Philosophy**

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DEDICATION

This thesis is dedicated to those who have a special place in my heart;

*My beloved and honourable parents, Allahyarham Hj. Osman Bin Hj. Ahmad
and Siti Meriam Binti Abdul Rahman,*

My loving husband, Abdullaah Bin Jalil,

*My lovely kids: Abdurrahman Al-Munib, Maryam Al-Safiyyah, Sara Al-
Ameena, Ibtisam Al-Nafeesa and Muhammad Al-Habib,*

my entire family members and friends

*With love, respect and a bunch of memories,
Indeed, we belong to Allah, and indeed, to Him, we will return.*

Abstract of thesis presented to the Senate of Universiti Putra Malaysia in
fulfilment of the requirement for the degree of Doctor of Philosophy

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March 2024

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Institute : Halal Products Research Institute

Malaysia's population, with 63.5% Muslims, presents a substantial market for halal food products. Consuming halal (permissible) and ṭayyib (wholesome) food is a religious obligation for Muslims, fuelling the expansion of the Muslim food industry. To capitalize on this market, manufacturers and food providers leverage various marketing strategies incorporating Islamic attributes, such as *30 Juzu' Al-Qur'an drinking water*, *Mi Cap Masjid*, *P. Ramly Burger*, *Milo Zamzam* drink, and *Jus As-Sunnah*. These strategies facilitate Muslim consumers in selecting their desired products, yet the uncontrolled use of Islamic attributes has led to significant concerns. Issues include product safety, the integrity of halal status, exploitation of Islam for personal gain, and deviations from faith, resulting in severe implications for Islam. Some providers engage in false and misleading marketing tactics under the guise of Islamic attributes.

This study's primary objective is to define Islamic attributes, assess their permissibility from Islamic and legal perspectives, and evaluate the legal mechanisms controlling their misuse in Malaysia's food product labelling and marketing. Additionally, the study proposes enhancements to the existing legal framework and enforcement mechanisms. The research methodology includes library research, content analysis, and in-depth interviews with halal experts in Malaysia, guided by the Theory of Planned Behaviour (TPB), Consumer Behaviour, and Signalling Theory, along with Maqāsid Shari'ah and Saddu Zari'ah principles. Findings reveal that Islamic attributes in labelling and marketing encompass any product or service feature linked to the Muslim religion or Islamic teachings used to attract Muslim consumers. This practice has resulted in several unresolved issues. According to Maqāsid Shari'ah, which emphasizes the protection of religion, life, wealth, intellect, and lineage, the government must establish a specific legal framework to address these concerns, as current laws are insufficient. Malaysia lacks a detailed definition or regulation for Islamic attributes in food product labelling and marketing. Moreover, no specific authority is empowered to oversee this issue. Laws addressing misuse are fragmented and often conflated with halal misuse, leaving specific issues unresolved. While some fatwas, such as those prohibiting terms like 'Jus As-Sunnah' and 'ruqyah,' exist, they are not comprehensive. Additionally, definitions of deceit and misleading advertising in existing laws are ambiguous.

The study strongly recommends developing a specific legal framework and guidelines for using Islamic attributes in food product labelling and marketing.

These guidelines would serve as essential references for food producers, enforcement authorities, and consumers, aiding in identifying false or misleading advertising. Enforcement power should be assigned to the Ministry of Domestic Trade, Cooperation and Cost of Living, Malaysian Islamic Development Department (JAKIM), State Islamic Religious Assembly (MAIN), or State Islamic Religious Department (JAIN), as stipulated under the Trade Description Order 2011. Enforcement officers should receive detailed guidelines through circulars. Islam advocates for fair trade practices and prohibits unjust practices, deceit, and harm, aligning with the protection of Maqāsid Shari'ah. The government, as Ulil Amri, is obligated to uphold these principles. Islam should not be treated as a brand and exploited without stringent control.

Keywords: Food labelling, Islamic attributes, Maqasid Shari'ah, Shari'ah and legal perspectives.

SDG: GOAL 12: Responsible Consumption and Production

Abstrak tesis yang dikemukakan kepada Senat Universiti Putra Malaysia
sebagai memenuhi keperluan untuk ijazah Doktor Falsafah

**ANALISA SYARIAH DAN PERUNDANGAN BERKENAAN PENGGUNAAN
ATRIBUT ISLAM DI DALAM PELABELAN PRODUK MAKANAN DI
MALAYSIA**

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Penduduk Malaysia yang terdiri daripada 63.5% Muslim menawarkan segmen pasaran yang besar bagi produk makanan halal. Pengambilan makanan halal (yang dibenarkan) dan toyyiban (yang sihat) adalah sebahagian daripada ketaatan agama bagi umat Islam menyumbang kepada pertumbuhan perniagaan makanan Muslim. Demi menerokai pasaran, pengilang dan penyedia makanan menggunakan pelbagai strategi termasuk menggunakan atribut Islam seperti Air Minuman 30 Juzu' Al-Qur'an, Mi Cap Masjid, Burger P.Ramly, minuman Milo Zam-zam, Jus As-Sunnah dan pelbagai lagi. Penggunaan ini dapat memudahkan pengguna Islam memilih produk yang diingini, namun penggunaan atribut Islam yang tidak terkawal telah menimbulkan pelbagai isu terutamanya mengenai keselamatan produk, integriti, status halal produk, eksploitasi Islam untuk kepentingan peribadi dan penyelewengan akidah. Penyalahgunaan atribut Islam boleh dianggap sebagai strategi pemasaran yang palsu dan mengelirukan oleh penyedia makanan.

Objektif utama kajian ini adalah untuk mentakrifkan maksud atribut Islam, menyiasat kebolegunaan atribut Islam menurut perspektif Islam serta menilai kecukupan kawalan undang-undang yang sedia ada ke atas penggunaan atribut Islam dalam pelabelan dan pemasaran produk makanan. Seterusnya, kajian ini mencadangkan beberapa penambahbaikan. Kajian ini menggunakan kajian kepustakaan, kaedah analisa isi kandungan dan temu bual mendalam dengan informan terpilih yang merupakan pakar dalam hal ehwal halal di Malaysia. Seterusnya kajian menggunakan teori 'Planned Behaviour' (TPB), 'Consumer Behaviour' dan 'Signalling Theory' bersama prinsip Maqāsid Shari'ah dan prinsip Saddu Zari'ah. Kajian ini mendapati undang-undang sedia ada tidak mencukupi, tiada definisi khusus mengenai atribut Islam, dan tiada peruntukan terperinci yang mengawal penggunaan atribut Islam dalam pelabelan dan pemasaran di Malaysia. Selain itu, tiada pihak berkuasa khas yang diberi kuasa untuk mengawal isu ini. Kajian ini juga mendapati bahawa undang-undang dan fatwa yang mengawal penggunaan adalah tidak menyeluruh, berselerak dan sentiasa diperlakukan secara bergantian dengan penyalahgunaan halal, yang mengakibatkan isu-isu tertentu dibiarkan tanpa pengawasan. Selanjutnya, maksud kesalahan menipu dan mengelirukan dalam peruntukan yang ada adalah tidak jelas.

Oleh itu, kajian ini mencadangkan pembentukan satu garis panduan penggunaan atribut Islam dalam pelabelan dan pemasaran produk makanan di Malaysia. Garis panduan ini penting kerana ia dapat menjadi sumber rujukan kepada pengeluar makanan dan pembekal makanan di Malaysia. Garis panduan tersebut boleh dijadikan rujukan kepada pihak penguatkuasa,

pengguna dan penyedia makanan dalam mengenal pasti strategi pengiklanan, pelabelan atau pemasaran yang palsu atau mengelirukan. Kuasa penguatkuasaan harus diberikan kepada Kementerian Perdagangan Dalam Negeri dan Kos Sara Hidup yang dahulunya dikenali sebagai KPDNHEP, Jabatan Kemajuan Islam Malaysia (JAKIM), Majlis Agama Islam Negeri (MAIN) atau Jabatan Agama Islam Negeri (JAIN) seperti yang diperuntukkan di bawah Perintah Perihal Dagangan 2011. Kajian ini mendapati bahawa Islam menggalakkan amalan perdagangan yang baik dan melarang sebarang bentuk amalan tidak adil, penipuan dan kemudaratannya. Selaras dengan pemeliharaan Maqāsid Shari'ah dan menjadi tanggungjawab kerajaan sebagai Ulil Amri untuk melindungi hal ini.

Kata Kunci: Pelabelan makanan, Atribut Islam, Maqasid Shari'ah, Perspektif Syariah dan Undang-undang

SDG: MATLAMAT 12: Penggunaan dan Pengeluaran Bertanggungjawab

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TRANSLITERATION GUIDE

'	ء
b	ب
t	ت
th	ث
j	ج
ḥ	ح
kh	خ
d	د
dz	ذ
r	ر
z	ز
s	س
sh	ش
ṣ	ص
ḍ	ض

da	دَ
du	دُ
dī	دِي
al-Taqī	التَّقِيّ

ṭ	ط
ẓ	ظ
'	ع
gh	غ
f	ف
q	ق
k	ك
l	ل
m	م
n	ن
h	هـ
h	ة
w	و
y	ي

di	دِ
dā	دَا
dū	دُو
Taqiyy al-Dīn	تَقِيّ الدِّين

LIST OF ABBREVIATIONS

PPIM	The Muslim Consumers Association of Malaysia
TDA	Trade Descriptions Act
TDCM	Trade Description (Certification and Marking of Halal) Order
KPDNHEP	Ministry of Domestic Trade Co-operation and Consumerism, now known as the Ministry of Domestic Trade and Cost of Living.
JAKIM	The Department of Islamic Development Malaysia
GMP	Good Manufacturing Practices
HACCP	Hazard Analysis Critical Control Point
KKM	Ministry of Health (MOH)
FQSD	The Food Safety and Quality Division
JMMKBHEUM	Fatwa Committee of the National Council for Islamic Religious Affairs of Malaysia
MKI	Muzakarah Committee of the National Council for Islamic Religious Affairs of Malaysia
MPPHM 2020	Manual Procedure for Malaysia Halal Certification (Domestic) 2020
MYIPO	Intellectual Property Corporation of Malaysia
CMA 1998	Communications and Multimedia Act 1998
CCM	Companies Commissions of Malaysia (SSM)
MCED	Malaysian Entrepreneurs Development Council

CHAPTER 1

INTRODUCTION

This chapter explores the background of the study, problem statements, research objectives, and research questions. It also discusses the significance of the research, scope, and structure and ends with a conclusion.

1.1 Research Background

Halal has become a global phenomenon and is currently being widely discussed due to its recognition as a substitute benchmark for ensuring the safety, hygiene, and quality of our daily consumption (Hamadah Nur Lubis et al., 2016; Rezai, Mohamed and Shamsudin, 2010). As a result, it has garnered significant attention and demand, particularly from Muslim consumers. A growing demand for authentic halal products is booming in Malaysia, where the Muslim population stands at 16 million. This large market presents lucrative opportunities for manufacturers, leading to intense competition as they vie to promote their offerings. Consequently, manufacturers employ various marketing strategies, including the misuse of Islamic attributes as trademarks and labels, to attract Muslim consumers (Mohd Izzat Abd Shukur et al., 2016).

Simultaneously, a trend is observed in the Malaysian Muslim market to seek out the so-called "Islamic products," specifically those related to "Prophetic foods" or foods that the Prophet (pbuh) consumed daily, and other foods that incorporate Islamic elements in their ingredients, preparation methods, trademarks, and labels. Examples of such products include "Jus As-Sunnah"

(Prophetic Juice) (Nor Azizah Mokhtar, 2022a; Mohd Jamilul Anbia Md Denin and Fazrik Kamarudin, 2018), "Mi Cap Masjid," "Air 30 Juzuk Al-Qur'an," "Kismis Al-Qur'an" (Quranic raisins), "Kopi Pak Syekh" (coffee), and "Pau Ahmad". This trend extends beyond products and into services, such as "Bekam Sunnah" (Prophetic cupping), alternative treatments utilising Quranic verses (Mahyuddin, 2012), and recently "Valet Doa" (Zanariah Abd Mutalib, 2017). In some instances, these products or services claimed to incorporate Islamic methods or elements, such as "Ayam Al-Qur'an" (Quranic Chicken), "Air Terapi al-Khodafi" (Therapeutic Drinking Water), "Air Terapi Gelombang Azan" (Azan Frequency Drink), and "Air Musoffa". The presence of these products raises concerns about the unregulated and unrestricted use of Islamic attributes in food products' labelling and marketing.

On the same issue, another concern arises, relating to non-Muslims using Islamic attributes as a trademark for their product. (Kamarul Anuar Mohd Nasir, 2017). For instance, Mi Masjid, Pau Ahmad, and recently, Islamic names were used for non-halal products, *P.Ramly Burger* (Ida Lim, 2016) and *Timah Whiskey* (Mohamad Husni Mohd Noor, 2021). In 2017, the Malaysian Islamic Consumers Association (PPIM) received more than 40 complaints about products and brands using Malay or Islamic names on their goods (Kamarul Anuar Mohd Nasir, 2017).

The Islamic names have also been used in various restaurants. Some instances are where Quranic verses or Islamic calligraphy are hinged onto the wall of the premises to attract Muslim customers to eat at the premises (Khadher Ahmad, Mohd Yakub @ Zulkifli Mohd Yusoff, Monika @ Munirah Abd

Razzak, Mohd Azam Yakob, Raja Jamilah Raja Yusof, Nurulwahidah Fauzi, Khalijah Awang, 2015; Siti Fatimah Awang, 2020; Afiezy Azaman, 2019; Iskandar Shah Mohamed et.al., 2019; Muhammad Basir Roslan, 2019). These elements may attract more customers to buy the products and use their services (Mohd Izzat Abd Shukur et al., 2016; Nur Anis Farhanah Abd. Malek, 2017).

The usage of Islamic names by non-Muslim restaurants has indeed confused the public, as reported in the newspapers in 2016. Fast-food chain company Ninja Joe violated a law on halal food when it named one of its pork burgers 'P. Ramly'. The opening of the restaurant has received various reactions from the public. The founder and owner of Ramly Group, the company behind the famous Malaysian food brand Ramly Burger, questioned the non-halal eatery Ninja Joe's claim to pay homage to him by calling the pork burger P. Ramly, stating that it is purely confusing and wrong. The public might also think that Ramly was producing a non-halal burger, and Ninja Joe's action could cause conflict due to its naming, as it is similar to the late actor and singer Tan Sri P. Ramlee, a Muslim (Palansamy, 2016). The Muslim Consumers Association of Malaysia (PPIM) is demanding action against Ninja Joe over its P. Ramly burger, claiming that the name can confuse the public, even though their posters at a shopping mall in Petaling Jaya clearly stated that it was a pork burger (Palansamy, 2016). According to Selangor Islamic Religious Department (JAIS), Ninja Joe had allegedly violated section 6 (1) of the Trade Descriptions (Definition of Halal) Order 2011, which bars food from being described as halal or in any other way that would indicate it is consumable by Muslims unless it had been authorised by the competent authorities and

marked with the halal logo (Ida Lim, 2016). JAIS and Jabatan Hal Ehwal Agama Islam Negeri Sembilan (JHEINS) investigated Ninja Joe outlets following public complaints that the 'P. Ramly's name was allegedly confusing to Muslims, with the latter saying that the restaurant chain had breached a trade description law. Ninja Joe later published an apology on its official Facebook page and claimed that the naming was not meant to offend, reiterating that it had taken down all posters advertising the 'P. Ramly's burger and will be renaming it.

On the same matter, some parties use Al-Qur'an and Hadith in marketing. Al-Qur'an and Hadith have been misused to attract consumers. This practice was booming because the current trend shows that Muslims will be more attracted to products with Islamic attributes. However, they become heavily reliant on these Islamic attributes and tend to buy the product without checking the quality of the product, which occasionally leads to deception (Syahidatul Akmal Dunya, 2019). At times, the manufacturers have inserted the ingredients they claim, but the amount is insignificant, and it will not affect the consumers. For example, 'Milo Zamzam' only put a negligible amount of Zamzam water compared to regular water. In this way, the consumer has been deceived, and simultaneously, the culprits get more income (Irwan Muhammad Zain, 2013; Syahidatul Akmal Dunya, 2019; Nur Anis Farhanah Abd Malek, 2017). In some cases, if the ingredients have not been checked, these ingredients can endanger people's lives. A recent report in Penang showed that a non-Muslim couple, husband and wife, were caught producing a health product known as 'Jus Sunnah'. This product was tested and confirmed positive for containing scheduled drugs, i.e. steroid dexamethasone and prednisolone, which the

Ministry of Health prohibited. This product was claimed to cure joint pain and veins and was sold at the market at prices ranging between RM75 to RM130. This was a clear act of misuse of Islamic attributes, i.e. the word 'Sunnah' as their trademark on their packaging. The practice was conducted to deceive Muslim consumers and to get more profit. Moreover, they claimed that the ingredients were 100 per cent natural juice from selected fruits, but actually, this product contained a combination of flavoured powder, caramel, pipe water and chemical substances (Mohd Jamilul Anbia Md Denin & Fazrik Kamarudin, 2018).

The government should take serious action in controlling and regulating these products. Islam has been exploited, and greedy producers advertise their products as good and claim that the products follow the Sunnah of the Prophet (pbuh) without conducting any scientific research (Irwan Muhammad Zain, 2013; Sayidah Asma Basir, Muhammad Remy Othman, 2016). The ingredients, although they contain permissible food, such as dates, raisins, and honey, should be strictly monitored since the chemical composition may change due to the mixing of various ingredients. Some products may contain additional sugar, which may endanger health (Mohd Jamilul Anbia Md Denin dan Fazrik Kamarudin, 2018). According to the Fatwa Committee of Perlis, Islam urges its followers to seek knowledge and work hard to succeed. It is not as easy as consuming specific products to become wise and intelligent, as claimed by certain products (Abdullah Mat Zin, 2017).

Islam does not encourage its name and Islamic terminology to be exploited for marketing purposes to leverage sales products, as stated by the Kelantan Mufti

Datuk Mohamad Shukri Mohamad ("Jangan salah guna," 2017). Naming the products as Prophetic food and drinks may confuse and deceive the consumers. Although the practice does not amount to the destruction of the faith, it must be controlled because it may attract another producer to manufacture Sunnah products. In truth, no one can ensure it is Sunnah or Prophet (pbuh) tradition. Moreover, no precise measurement or justification has been outlined to claim that the product meets the characteristics of the Sunnah.

The widespread usage of these terms raises questions about their permissibility from both Islamic and legal perspectives. The incorporation of Islamic attributes in marketing practices is a cause for concern as it can have negative implications for Islam itself¹. Religion should not be treated as a mere brand to be exploited. Islam does not provide specific guidelines on dietary choices but instead emphasises the concept of "halal tayyib" (permissible and wholesome). Another significant issue arises when producers print Quranic verses and some selected Hadith on packaging materials. This practice should be avoided as these Quranic verses and Hadith hold sacred values and should be treated with the utmost respect. They deserve a special place and should not be disposed of casually. Islam holds a distinct position in the Constitution compared to other religions and, therefore, requires special consideration and respect.

¹ For instance, if the term "Prophetic food" is used to promote a product that ultimately proves detrimental to the consumer's health, it can lead to doubts about the authenticity of the Sunnah, Hadith, and ultimately, Islam.

1.2 Problem Statement

According to a report by the National Consumer Complaints Centre (NCCC), misleading advertisements accounted for 11.94% of total consumer complaints in the retail services sector in 2018. This is the second most common complaint category, following service quality, which comprised 23.67% of complaints. Since retail products are the most common form of products utilising Islamic attributes, this percentage highlights the significance of addressing this issue. Under the Trade Description Act 2011, advertisements are considered unlawful if they tend to mislead or deceive consumers. The report mentioned above indicates that misleading advertisements have consistently been a problem, and without stricter enforcement measures, this issue is likely to persist. Furthermore, regarding food and food services, complaints regarding misleading information accounted for 5.76% of total complaints, ranking sixth after food safety. This figure is upsetting, underscoring the need for a robust monitoring system to ensure traders do not advertise misleading information or engage in deceptive practices.

The statistics provided by the Ministry of Domestic Trade Cooperation and Consumerism (KPDNHEP) show that cases of the offence under Order 4(1) of Trade Description (Certification and Marking of Halal Order) 2011 repeated and increased from the year 2019 until 2021. The provision provides for the offence of supplying or offering to supply any food by making any representation or act that deceives or misleads that the food is halal. The data is shown in Table 1.1 below.

Table 1.1: Increasing number of cases on the offence of deceit and misleading under Order 4(1) of TDDH 2011

YEAR	NO. OF CASES	CONFISCATED AMOUNT (RM)	COMPOUND AMOUNT PAID (RM)	PENALTY AMOUNT (RM)
2019	10	4,938	26,800	18,000
2020	27	5,775	77,500	30,000
2021	34	113,989	44,500	25,000

(Source: KPDM via interview with informant)

Based on Table 1.1, the trend of deceit and misleading offences in halal cases is increasing, and thus, KPDMHEP has taken severe action and attention over the last three years.

The incorporation of Islamic attributes in marketing has become a common strategy employed by marketers (Morris Kalliny et al., 2020; Rosninawati et al., 2015). However, whether such usage is permissible remains unclear due to the lack of specific terms that define and govern their use. While regulations addressing the misrepresentation of halal products exist, they do not fully address all the issues associated with using Islamic attributes in marketing. The unclear definition of Islamic attributes makes the source of authority and jurisdiction undecided, and the issue remains unattended. Consequently, there is a pressing need to introduce specific terminology that can effectively

regulate and guide the appropriate use of these elements in marketing practices.

Islam upholds principles of fair trade practices and prohibits any form of unjust practices, deceit, and harm. These principles align with the broader objective of protecting the Maqāṣid Shari'ah, which includes the protection of religion, life, and wealth. However, the current lack of regulatory framework and clarity regarding the use of Islamic attributes fails to reflect the protection of these fundamental objectives adequately. Given this, there is a crucial need to conduct a thorough examination of the Islamic perspective on the use of Islamic attributes in marketing. This examination would serve as a foundation for establishing clear parameters to guide the formulation of appropriate regulations about their use. By incorporating the Islamic perspective into the regulatory framework, it becomes possible to align trade practices with the values and principles of Islam, thus better safeguarding the Maqāṣid Shari'ah.

From a legal perspective, no major study has explored the efficacy of the current law in responding to all arising issues brought about by the use of Islamic attributes. There is literature on the enforcement of consumer protection laws on halal products (Husna. A. et al., 2022). Still, the focus of this literature is limited to the obstacles and issues in enforcing halal food laws in three states of Malaysia: Federal Territory, Selangor and Kelantan (Ab Halim and Mohd, 2012). Most studies focus on halal food abuse (Husna. A. et.al., 2022; Naziree & Yusof, 2017; Rahman et al., 2018a; Rosmawati et al., 2015), no detailed discussions have been made on how the law responds to the use of Islamic attributes in food product labelling in Malaysia.

The government has introduced the Trade Descriptions Act 2011 (TDA 2011) to promote good trade practices by prohibiting false trade descriptions and false or misleading statements, conduct and practices. The introduction of the two Halal Orders, i.e. the Trade Descriptions (Definition of Halal) Order 2011 and the Trade Description (Certification and Marking of Halal) Order 2011, have assisted in regulating halal food matters. Despite a comprehensive legal framework brought by the TDA2011 regulating halal, there are some grey areas in which the food producers may escape the application of the respective provision. Where the law provides that there must be no self-declaration of halal with the introduction of Trade Description (Certification and Marking of Halal) Order 2011 (TDCM 2011); however, abusing the Islamic attributes and the grey area of law in the products' labelling, the producer may supersede the application of the law. As Halal certification is not mandatory, some producers may hide behind Islamic attributes to tap into the halal market. The producers do not have to undergo the thorough process of Halal certification application. Without proper control, the halal- integrity may be questioned, and the Muslim consumers are left unprotected.

The grey area includes the products or premises owned by non-Muslims but using Islamic attributes and that do not have Halal certification from the Department of Islamic Development Malaysia (JAKIM). This situation shows the uncertainty of the halal status of the premise or product. The current practice is that no action will be taken against the food producer or the food premise when no such report of halal abuse has been filed (Husna. A. et al., 2022). Another grey area is where the non-halal food producers are free to misuse Islamic attributes or Islamic names, as occurred in the case of 'Timah

Whiskey' (Mohamad Husni Mohd Noor, 2021). The ambiguity in the above matters shows the existence of loopholes in the existing legal framework.

On the issue of using Islamic attributes by non-Muslims, the Malaysian Islamic Consumer Organization (known as Persatuan Pengguna Islam Malaysia (PPIM)) received more than 40 complaints on the products that use Islamic attributes by non-Muslim producers in 2017. The complaints stated that the use of Islamic attributes triggered confusion towards Muslim consumers (Hasif Idris, 2019; Asyraf Muhammad, 2019). Consumers should not be mistaken about the status of producers since there are Muslim consumers who are particular about what they eat. The consumer pleads that there should be a mechanism to identify whether the producer is Muslim (Kamarul Anuar Mohd Nasir, 2017). In response to this issue, the Director of JAKIM, Tan Sri Othman Mustapha, has made a statement of not needing the identification of Muslim or non-Muslim producers as what is essential is the product is halal. However, the government should still provide an effective mechanism to assist the consumers to not be deceived by the unhealthy marketing strategies practised by the producers.

This issue has been raised again recently by the Malay Community Entrepreneurs Development (MCED), where its President, Dato' Nazilah Idris, urges the government to come up with a particular act to prohibit the use of Jawi writings and other symbols relating to Islam on the product by non-Muslim producers, as this practice will confuse the halal status of the product (Azura Sahril, 2019). PPIM, on the same opinion, added that Jawi writings should not be open for use by non-Muslim producers because they do not fully understand

the concept of halal and Tayyib. There are a few cases where the non-Muslim producers have infringed the halal certification conditions, which caused the certificate to be retracted (Syahidatul Akmal Dunya, 2019; Muhammad Basir Roslan, 2019; Adila Syarnini Wahid, 2019). In the current situation, they need to do the rectification to get back the certification. According to PPIM, the implication is insufficient because Muslim consumers have consumed non-halal food, and the effect remains uncompensated. This is also supported by several research (Naemah Amin & Norazlina Abd Aziz, 2015; Mustafa Afifi Bin Ab Halim, 2018; Nasihah Naimat et al., 2021). The situation brings to the issue of permissibility or the non-permissibility of non-Muslims using Jawi writings and another Islamic symbol according to Malaysian law and the inadequacy of the existing law in preventing the misuse and in compensating the consumer (Hasif Idris, 2019; Asyraf Muhammad, 2019).

On February 4, 2016, the Department of Islamic Development Malaysia (JAKIM) issued a circular prohibiting the use of terms like "Sunnah food" or "makanan Sunnah" for labelling, advertising, or promoting products seeking Halal certification. The circular was implemented under the Trade Descriptions (Certification and Marking) Order 2011 and applies to all Malaysian Halal certification applicants. However, it is not extended to non-certified products, raising questions about the status of other Islamic attributes used in the market. This situation highlights the need for more precise guidelines to address the use of Islamic attributes in non-certified products and ensure consistency and transparency in labelling and advertising practices.

To ensure a comprehensive regulatory framework, it is crucial to address the scope and limitations of the prohibition and provide clear guidelines on the use of Islamic attributes in products that do not undergo Halal certification. Addressing this issue would enhance consistency and understanding within the market and promote transparency in the labelling and advertising products with Islamic attributes.

The free use of Islamic elements in business and marketing is rising daily. While there are laws governing the misuse of the halal logo, the law on controlling the use of Islamic elements is rather loose, and the existing laws are incomplete. While focusing on the misuse of the halal logo and the like, the authorities seem to overlook the protection of Islamic religion and dignity itself. There seems to be no specific prohibition by the law against the use of Islamic elements being exploited for personal gain.

Thus, this study analyses the meaning of Islamic attributes, identifies the Shari'ah perspective on the permissibility of their use, and evaluates the current legal framework in responding to the uprising issues arising from the use of Islamic attributes in food product labelling in Malaysia and the adequacy of the existing law in controlling this use. Subsequently, this study proposes a guideline to improve the law in monitoring this issue.

1.3 Research Hypothesis

Inadequacy, unclear legal provisions, and lack of enforcement lead to the exploitation of Islamic attributes. In line with Shari'ah principles, the free use of

Islamic attributes should be controlled by giving the term Islamic attributes a specific meaning and providing specific legal mechanisms and enforcement bodies.

1.4 Research Questions

The following research questions of this study require the solution acquired from methodological and confirmable processes.

- a) What is the meaning of Islamic attributes in labelling and marketing?
- b) What is the Islamic perspective on the use of Islamic attributes in food products' labelling and marketing?
- c) Are the existing laws in Malaysia adequate and effective in regulating the use of Islamic attributes in food products' labelling and marketing?
- d) How can improvement be made to the current legal framework to control the use?

1.5 Research Objectives

1.5.1 Main Objective of the Study

The main objective is to explore the Shari'ah perspective of the use and the adequacy of existing legal control on the misuse of Islamic attributes in food product labelling and marketing in Malaysia and to suggest any improvement to it.

1.5.2 Specific Objectives of the Study

This study is designed to achieve the following specific objectives:-

- a) to understand and analyse the meaning of Islamic attributes in labelling.
- b) to examine the position and permissibility of using Islamic attributes in food products according to the Islamic perspective.
- c) to critically evaluate whether the legal and administrative enforcement mechanisms are adequate to control the use of Islamic attributes in food product labelling and marketing in Malaysia.
- d) to suggest how the existing legal framework and enforcement mechanism could be improved to regulate the use of Islamic attributes in food product labelling and marketing in Malaysia.

1.6 Significance of the Study

In the absence of a clear and specific legal framework governing the use of Islamic attributes in food product labelling and marketing, the researcher undertakes to highlight this issue to create awareness among the consumer, the industry players and the related authorities on the importance of the issue and consequence of not having clear regulations on the use. The study contributes in numerous ways to the existing literature and legal development. Firstly, it will introduce the term "Islamic attributes," which has not been found in related provisions. The study defines, classifies, and identifies the value attached to Islamic attributes. The introduction of this term will be crucial for regulators, as it will provide a specific tool for controlling and regulating the use

of Islamic attributes. The term will be uniformly used across various provisions to eliminate confusion and clarify regulatory measures.

Secondly, the study explores Shari'ah's perspective on the use of Islamic attributes in business transactions. Through this analysis, the study uncovers valuable insights that shed light on the permissibility and ethical considerations surrounding the use of Islamic attributes in business. The findings will hold significant value for Islamic authorities, serving as a basis for issuing future rulings related to the use of Islamic attributes in business from a Maqāsid Shari'ah perspective.

Thirdly, the study contributes to the existing literature by examining the current legal provisions governing the use of Islamic attributes. This aspect of the study is unique, as previous literature has predominantly focused on the misuse and abuse of Halal certification. At the same time, the current issue extends beyond the halal misuse debate.

Fourthly, the study identifies and compiles relevant fatwas that govern the use of Islamic attributes. These fatwas are currently scattered and vary among different states. By presenting them in a comprehensive table, the study provides a valuable resource for policymakers, academics, and students seeking to understand the permissible and prohibited Islamic attributes.

Furthermore, the study combines the perspectives of Shari'ah and legal frameworks to address the research questions. This integrated approach yielded robust findings and recommendations to address the identified issues

effectively. Additionally, the study develops specific guidelines based on the combination of Maqāsid Shari'ah and legal research. These guidelines will assist in controlling the use of Islamic attributes and supporting enforcement activities.

1.7 Scope and Limitation of the Study

The study is qualitative; thus, the data came from several primary sources such as written documents, interviews and observations. The written documents include Quranic verses and Hadith of the Prophet, Islamic legal maxims, legal statutes, books, journal articles, conference papers, fatwa documents, magazines, newspapers, and so on. The statutes referred to are the Trade Description Act 2011, Trade Description (Definition of Halal) Order, Trade Description (Certification and Marking of Halal) Order, Food Act 1983, Food Regulations 1985, Trademarks Act 1976, Consumer Protection Act 1999 and Local Government Act 1967. Apart from the books, journal articles and conference papers relating to the topic, the researcher also refers to several fatwas. The fatwas were gathered from the e-smaf website provided by JAKIM, and the researcher collected all fatwas relating to the topic.

To obtain the data from interviews, the researcher interviewed several related informants within the context of this study. Among them are Muftis, Halal Officers from JAKIM, Halal Enforcement Officers from KPDNHEP, policymakers, academicians, and Maqāsid Shari'ah experts. Due to the COVID-19 pandemic that occurred during data collection, some of the interviews were conducted online.

Next, to create a more focused and effective discussion and time-bound to the fixed period, the study only confines the use of Islamic attributes in food product labelling and food premises. Other aspects, such as services or cosmetics products, are not discussed.

There are several limitations associated with this study that should be addressed. Firstly, the use of Islamic attributes in business and marketing in Malaysia is widespread, including in the service industry, and it is occasionally extended to online transactions as well. Due to the time constraint, the researcher focused on the use of Islamic attributes in the food industry and limited the study to the available legal framework governing offline marketing.

Secondly, this study focuses on the Malaysian food industry and may not be suitable to be generalised to food industries in other countries. Malaysia is an Islamic country with citizens from various ethnicities and religions. Therefore, the issue of Islamic attributes is one of the concerns for Muslims, unlike Arab countries where the majority of the citizens are of one ethnicity and religion, and they put high reliance on and believe in providing halal food to the government. Thus, the findings of this study might not be replicable for other countries, but in fact, it can be beneficial to highlight this issue to alert them of this issue. Thirdly, this study is exploratory and not meant to test previous theories. The previous literature on this area is also scarce and very few in numbers. Therefore, it may contribute to the existing literature.

Additionally, the study mainly focused on the viewpoint of consumer protection, particularly the government's duty to protect the consumer from unjust

practices and not from the industry point of view. Furthermore, the study leans on content analysis rather than collecting data from the consumer. As a result, the consumer understanding, perception and awareness of Islamic attributes were unexplored. This is due to the time constraint as the research was conducted during the COVID-19 pandemic.

1.8 Structure of Thesis

In order to achieve the defined objectives, the discussions in this study are systematically divided into six chapters. This chapter provides the research introduction, study background, problem statements, research objectives, research questions, significance, and scope of the study. Chapter two reviews a wide range of literature substantively and critically concerning religious symbols and attributes, religion and consumer behaviour, Islamic market segments and Islamic marketing. Furthermore, it discusses elements of valid sale and purchase transactions in Islam and Malaysia's halal food products industry and is followed by selected theories.

Chapter three provides the research methodology used in this study, including research design, data collection and data analysis techniques. The data was collected in two ways, i.e. content analysis, library research, and in-depth interviews. Chapter four explains data from content analysis. The content analysis includes the meaning of Islamic attributes in labelling, Maqāsid Shari'ah and Shari'ah analysis, reference to relevant regulations in Malaysia and enforcement bodies and mechanisms. Chapter five discusses findings triangulating the data gathered from library research and the in-depth

interview. The interviews were conducted with eight informants from different institutions and bodies. The data collected from the interviews supports and fills the gap found in the library research. The discussions are outlined according to the four research objectives. Chapter six forms the final chapter and consists of the study's contribution, implications, direction for future research, conclusion, and recommendations.

1.9 Chapter Summary

This chapter discussed the research background, problem statement, research objectives, research questions, significance of research, scope and essential terminology used in the study. The next chapter discusses the literature review.

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