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LEGAL REVIEW ON HALAL LABELLING OF MALAYSIAN PHARMACEUTICAL PRODUCTS

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The obligation of a Muslim to consume halal food derives from the Holy Quran, and the guidance of the Prophet Muhammad SAW serves as a guideline for humankind in achieving success and tranquility of soul here and hereafter.

“He hath forbidden you only carrion, and blood, and swine flesh, and that which hath been immolated to (the name of) any other than Allah. But he who is driven by necessity, neither craving nor transgressing, it is no sin for him. Lo! Allah is Forgiving and Merciful.”

(Quran, 2:173)

The Prophet said, *“The lawful is what Allah has made lawful in His Book and the unlawful is what Allah has made unlawful in His book. Whatever He has been silent over has been pardoned.”*

Sunan Ibn Mājah (3367)

A statistic in 2021 shows that the global Muslim population is estimated to be approximately 1.9 billion Muslims today, making up 26% of the world's population. Halal product is no longer confined to Muslim consumers, as reports show that non-Muslims have acknowledged halal products because of the safety and hygienic aspect of the product. Halal products denote high quality, safe, and Shariah compliance.

Previously, the authority was not in favour of certifying halal for drugs or pharmaceutical products. Producers and manufacturers opting not to label their products because halal is not mandatory to be disclosed although this scenario is against the spirit of rights to information accorded to the consumers.

There are several reasons for the negative perception of having halal labels attached to pharmaceutical products, but the main contributing factor is the low awareness among society as well as the Ministry of Health about the halal concept and its importance to Muslims.

The low awareness of the importance of halal to Muslims has become the main barrier to the policymakers in directing them to formulate legal frameworks and policies relevant to halal pharmaceuticals.



The issue of confidentiality of the ingredients used for the pharmaceutical plays an important part in the non-disclosure as well. Most manufacturers are reluctant to disclose all pharmaceutical ingredients because of the fear of duplication of products.

The notion that pharmaceuticals are commonly associated with emergencies which gives rise to the concept of necessity or '*darurat*' also contributed to the non-labelling of halal pharmaceutical products. Ailments and sickness are commonly construed as forming part of the emergency, the basis of necessity. Thus, pharmaceutical-related activities and management cannot impose the need to have halal pharmaceuticals in the system. Hence, when there is an absence of halal pharmaceuticals during an emergency, complications would arise and threaten the safety of a patient if the patient refuses to be treated with non-halal pharmaceuticals.

Due to several unwanted discoveries regarding the usage of non-halal ingredients in pharmaceutical products, many consumers demand halal certification be extended to pharmaceutical products. In response to this demand, the authority has restricted halal certification to over-the-counter pharmaceutical products only. Nonetheless, fixing halal certification to all categories of pharmaceutical product need to be analysed separately.

The concept of emergency is subjective and applicable to the usage of all categories of pharmaceuticals. Emergency depends largely on the situation and not the types of pharmaceuticals.

As the objective of fixing halal certification on pharmaceutical products is to assist the consumers' rights to know and to make informed choices, the policy to make mandatory such an act is deemed necessary.



However, in emergency cases, the laws on deciding 'the best interest of the patient', which include using non-halal medication, must be applied. We cannot deny that there is a need to strike a fair balance between the self-interest of the company and its investors on the one hand and the interest of society on the other hand. This involves both ethical and legal questions.

Currently, Malaysia does not have a specific statute on halal, but several piecemeal legislations fall under the criminal and civil laws that can be referred to in protecting the consumer of halal pharmaceuticals. The absence of a clear and proper legal and administrative framework might lead to the occurrence of any foreseeable risks and diminish the industry. In cases where an individual or company does not describe its pharmaceutical product as halal, JAKIM would not have any control over the product.

Malaysia has taken the lead in pursuing halal certification for pharmaceutical items, but significant obstacles remain, notably the absence of an efficient legal framework governing halal pharmaceutical products.

However, Malaysia's halal pharmaceutical business is not well supported by an acceptable legislative and regulatory framework. This is one of the reasons why the halal pharmaceutical business has been harmed. It is unfortunate that in Malaysia, there is no defined regulation governing the halal pharmaceutical business.

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You may check the halal status of pharmaceutical products at JAKIM'S Halal Malaysia Official Portal



The current laws could not keep abreast with the rapid changes in the innovative technology within halal pharmaceutical production. This setback would, in turn, affect many consumer rights, especially the consumer right to information. The halal pharmaceutical industry needs to be supported with clear legal injunctions to have not only a halal-labelled pharmaceutical that does not contradict the undertaking of the label, but that can also ensure a reliable halal assurance system from farm to table.

In summation, it is submitted that a specific regulatory framework is required to guarantee conclusive Shari'ah compliance, which needs to be resolved through impregnable cooperation between all parties involved, namely manufacturers, pharmacists, governments, scientists, researchers, developers of vaccines and private entities in providing a piece of transparent and accurate information regarding the halal status of pharmaceutical products.

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“Sesungguhnya yang halal itu jelas dan yang haram itu jelas, antara kedua-duanya terdapat perkara syubhah yang tidak diketahui oleh kebanyakan manusia. Maka sesiapa yang menghindari perkara syubhah, dia telah membersihkan agama dan kehormatannya. Dan sesiapa yang terjerumus ke dalam syubhah, maka dia terjerumus ke dalam perkara yang haram, umpama seorang penggembala yang menggembala di sekeliling kawasan larangan, dibimbangi dia akan menceroboh masuk ke dalamnya.”

(Sahih Muslim)

