

## **HALAL AFFAIR OPERATION REGULATIONS B.E. 2552/C.E.2009 INVOLVE IN THAI HALAL PRODUCTS ECOSYSTEM**

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**ABSTRACT:** Many critics of current Halal Affair Operation Regulation B.E. 2552 (HAOR 2015) from the Muslim consumers concerning Halal products in Thailand. They argue that the HAOR is inadequate to protect Muslim consumers. The absence of clear guidelines and effective monitoring systems concerning Halal products have resulted in Halal products and Muslim consumers receiving inadequate protections, particularly in relation to the abuse of the Halal logos. The HAOR 2015 sets a maximum suspension for one year. This is considered inadequate in preventing irresponsible manufacturers. The paper utilises doctrinal legal analysis and a library based research approach to provide insights in understanding the HAOR 2015 and legal analysis. The paper provides suggestions to enhance the protection of Muslim consumers and upgrade the status of Halal products. The paper also suggests that education should play an important role in promoting HAOR 2015 towards protecting Halal products in Thailand.

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**KEYWORDS:** *Consumer protection; Muslim consumers; Halal Affair Operation Regulation; Halal Products; Thailand*

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### **1. INTRODUCTION**

Thailand is a democratic country that has a minority Muslim population. Despite their geographic and ethnic diversity, Muslims can practice following their beliefs without any discrimination. *Halal* product is an essential and integral part of religious observance for all Muslims. Hence, *halal* constitutes a universal standard for a Muslim to live by. The government of Thailand have established institutions specifically for *halal* certification. This paper will analyse the existing *Halal* Affair Operation Regulation (HAOR 2009) from two angles, firstly from the *halal* certification perspective and secondly from the *Halal* Standard Institute (HSI). HAOR 2009 regulations or laws in this country are regulated under section 18(5) and section 18(9) of the Administration of Islamic Religious Organization Act B.E. 2540. In Thailand, which forms the context for the discussion in this paper, there are instances where acts of breaching *halal* certification and the *Halal* Standard Quality Control (HSQC) are frequently reported. This paper

seeks to address problems faced by Muslim customers. Possible solutions to strengthen the existing law will also be made about how existing regulations or HAOR 2009 could be improved to meet modern international standards in protecting *halal* food and improving *Halal* Standard Quality Control (HSQC). This paper will briefly discuss some Islamic points of view concerning *halal* products.

### **1.1 Islamic Point of View Concerning *Halal* Products**

The term '*halal*' is an Islamic term derived from an Arabic word that means permissible. It can be seen in a broader scope following the concept of '*Halalan Toyyiban*' covering *halal*, safe, clean and quality. Indeed, the debate about the concept of *halal toyyiban* refers to the proposition that the *Al-Qur'an* is a starting point in the determination of *halal* and forbidden/prohibited foods as described by Allah in *Surah Al 'An'am*, verse 145; *Al'Araf*, verse 157; *Al - Maidah* verses 1, 4, 5 and 88. In addition, it is able to meet the principles of *maqasid al-Syari'ah*, particularly on the aspects of guarding life and intellectuality as defined by al-Qaradawi (2006), the conclusion by legislation aimed passages such as passages in the forms of instructions, are forbidden and what is allowed, while *juz'i* laws try to realise it into the lives of *mukallaf* be it individual, family or community. For example, all Muslims are not allowed to eat carrion or blood because they are categorised by *syara'* as *najs*, affecting the body's health. Hence, *halal* certification is seen as a tool to determine whether a service or product relating to *halal* is really *halal*, safe and clean, (Baharudin, 2016).

### **1.2 The Scenario of the *Halal* Products and its Legislation in Thailand**

Even though the *halal* industry in Thailand is moving towards internalisation, the Muslim community in this country is still dealing with *halal* certification forgery and food processing issues that are not following Islamic principles, (Mohd Saiful Anwar, 2017). The uncertainty of food content and cleanliness was discussed thoroughly by *Halal* Affair Operation Regulation Committee at the provincial and national levels. These problems should, in my opinion, be addressed immediately by *Halal* Affair Operation Regulation at the national level and provincial committee council, at the provincial level to avoid doubts and uncertainties among the consumers as to the status of the products in Thailand.

Under HAOR 2009, *halal* regulations have been implemented. However, there are still many *lacunas* regarding the effectiveness of the regulations and their implementation. Moreover, these regulations are managed by a non-government certification body. Apart from that, *Halal* Affair Operation Regulation Committee has no authority and power to take legal actions against the offenders. For example, local universities have made efforts, for example, Chulalongkorn University and Prince of Songkhla University, (Mohd Saiful Anwar, 2017), Pattani campus to introduce *Halal* Centre at Had Yai main campus. However, courses on *halal* food products are not yet being offered to the university's faculty. This section will briefly discuss the sources of *halal* products in Thailand.

### **1.3 *Halal* Affair Operation Regulation (HAOR) B.E. 2552/C.E.2009**

Prior to 2009, *halal* products in Thailand were under the supervision of the Office of *Chulajmontri*. The *Halal* Executive Committee was formed to monitor HAOR 2009. The HAOR

2009 is intended primarily to regulate and monitor *halal* affair operations in Thailand. It covers the *Halal Accreditation Body*, *Halal Affairs Department*, *Halal Certification*, *Halal Standard Institute* and the penalty provision. The scheme or content of HAOR 2009 is generally divided into 11 chapters. It begins with as follows:

- Chapter I - General Articles
- Chapter II - *Halal Accreditation Body*
- Chapter III - The *Halal Affairs Department*
- Chapter IV - The *Halal Standard Institute*
- Chapter V- Type of Certification
- Chapter VI - Application for *Halal Certification* and *Halal Logo*
- Chapter VII - Issuance of *Halal Certification*
- Chapter VIII - Quality Control of *Halal Standard*
- Chapter IV - Objection Petition
- Chapter IIV - Fee and Assurance Deposit

By examining the HAOR, it is found that the HAOR's main objective is primarily to ensure the smooth running and efficiency of the *Halal Affair Management (HAM)* and secondly, (Preamble of HAOR B.E.2552/C.E.2009) to measure and set up quality control for *halal* products and thirdly, to issue *halal* logo. Since then, HAOR 2009 has not undergone any amendments. However, there are many issues regarding *halal* products, particularly concerning the abuse of the *halal* logo and other offences relating to *halal* logos, such as the misuse and fake *halal* logo.

#### 1.4 *Halal Certification*

The *halal* certification is an urgent need due to the expanding tourist industry in Thailand. Many factors are required before the certification of *halal* products issued. The HAOR 2009 provides specific chapters on the application for *Halal Certification* and the usage of the *Halal* logo. Chapter 6 of HAOR 2009 provides for the entrepreneur who wishes to apply for *halal* certification, it among other things, provides to the effect that 'an entrepreneur must learn and understand the process of their product following Islamic principles or *Syari'ah* compliance before applying for certification', (Preamble of HAOR B.E.2552/C.E.2009). Section 23 of HAOR 2009 lists the types of certifications that the entrepreneurs must request for *halal* certification. Five products are listed under HAOR B.E.2552/C.E.2009 as follows:

- Consumer products
- Slaughter
- Food Service, beverage and *halal* kitchen service (Section 12, chapter 2 of HAOR B.E.2552/C.E.2009)
- *Halal* products, processed products, raw material, mixture and or imported *halal* meat
- Export documents

In Thailand, any entrepreneurs intended to produce *halal* foods or open a *halal* restaurant. The owner of a restaurant must consult and refer to the Thailand Standard of *Halal* food section. This section will introduce the current general guidelines on *halal* foods. This section is under the

supervision of CICOT (Section 30(1) to (5), chapter 6 of HAOR B.E.2552/C.E.2009). Section 30 (2) of HAOR 2009 further stipulates that:

“The entrepreneur for *halal* restaurant and *halal* kitchen shall (must-writer) provide:  
(2) The chef or cooking supervisor, he or she must be a Muslim”

Besides that, the HAOR 2009 introduces *Halal* Executive Committee (HEC), which among others, will conduct any activities involving supervision of the *Halal* Department (H.D.) and the *Halal* Standard Institute (HSI) and monitoring the work of organisations to ensure the manufactures and entrepreneurs understand the process of the products as in line with the Islamic Principle. In furtherance to the above, the committee will also work closely with the Central Islamic Committee of Thailand (CICOT) and the Provincial Islamic Committee (PIC) at the provincial level.

In provinces where the Islamic Council committee was formed, the Islamic religious councils will manage the *halal* application. As for provinces where Islamic Council was not formed, *halal* certification application will be fully managed by CICOT. The issuance of the *halal* certificates will be subjected to the approval of CICOT, (Section 12 of HAOR B.E.2552/C.E.2009). In other words, In Thailand, there are two bodies recognised by the Thai government to issue *halal* certification, CICOT and the Provincial Islamic Committee (PIC). It is enshrined in chapter 2, section 9 and section 10 of HAOR B.E.2552/C.E. state to the effect that:

“The Central Islamic Committee of Thailand shall be responsible for announcing the use of Thai *halal* products” (Baharudin, 2016). “and the Provincial Islamic Committee shall be responsible for *Halal* Certification at the provincial level.” (Section 9 and 10, chapter 2 of HAOR B.E.2552/C.E.2009)

In order to materialise this objective, a standing committee for *halal* product certifications has been set up.

### **1.5 *Halal* Standard Institute of Thailand (HSIT)**

The HAOR 2009 also introduces a new administrative post, commonly known as ‘Director for *Halal* Standard Institute’ (HIS). A Muslim who possesses a bachelor’s degree in any field may be employed for the term of 4 years to manage the HIS. The administration of HIS shall be following the committee’s rules and regulations, (Section 21, chapter 4 of HAOR B.E.2552/C.E.2009). This institute is currently under the *Halal* Executive committee (HEC), the Central Islamic Council of Thailand (CICOT). The HEC includes a person or a body of persons or government representatives appointed under HAOR with the approval of CICOT, (Section 22, chapter 4 of HAOR B.E.2552/C.E.2009). Among the primary function of the *Halal* Standard Institute is to research *halal* products that had been certified by international *halal* products. Apart from that, the *Halal* Standard Institute (HIS) must prepare an annual performance report to the *Halal* Executive Committee (Section 7, Chapter 1 (General Article) of HAOR B.E.2552. /C.E. 2009).

## 1.6 Religious Method of Slaughter Under HAOR B.E.2552/C.E.2009

The HAOR 2009 also emphasises the importance of the humane treatment of animals. Section 29(4), (8) of HAOR 2009, *among other things*, states clearly that the slaughter shall not mistreat the animals before slaughtering. Special provisions are made for the slaughter of animals by HAOR 2009. Slaughter must be carried out by a pious Muslim, (Section 20 (9), chapter 4 of HAOR B.E.2552/C.E.2009). Section 29(6) of HAOR 2009 states that the name of *Allah, Bismillah*, is uttered at the time the cut is made, (Section 29(1) of HAOR B.E.2552/C.E.2009) and that the blood is thoroughly drained from the carcasses after slaughter. The knife used to make the cut must be of sufficient size, (Section 29(6) of HAOR B.E.2552/C.E.2009) and sharp to ensure that each animal is slaughtered by a single rapid, uninterrupted movement of the knife, (Section 29(8) of HAOR B.E.2552/C.E.2009). The above quoted section mainly deals with hand slaughter by a pious Muslim and revokes *Allah's* name on every animal. The mechanical knife is not allowed under HAOR 2009.

Section 28 of HAOR 2009 regulates the entrepreneur for *halal* products shall be reminded that all equipment used for production shall be clean following the Islamic principle and shall not be used together with things prohibited by Islamic principle. This section aims to protect the entrepreneur from using the same equipment to produce *halal* food.

## 2. CONCLUSION

In the context of the implementation of the legal provisions as stated in HAOR 2009. In my opinion, it is not easy to implement. Those regulations cover mainly inspection and enforcement. The lack of a legal body on a *halal* product has made enforcement of the existing regulations ineffective. This is based on several factors as follows:

- Improving and enhancing the enforcement and monitoring of *halal* certification for the benefit of consumers and producers and educate them to produce *halal* products.
- (2) A dire need to establish an independent body and competent legal body to implement and enforce the laws or regulations on a *halal* product is the most pressing issue within the Thai *halal* product industry
- Courses on *halal* products should be introduced and taught in the local universities

In conclusion, regardless of the new laws or latest implementations, *halal* food laws in Thailand seem to be unresolved if there is no independent and competent legal governing body with absolute power and authority to monitor *halal* products. These laws are required to improve further and should be enforced strictly by the relevant authorities. At the same time, such laws must remain flexible enough to reflect changes in public opinion to safeguard the welfare of defenceless consumers. However, it is essential not to leave such a broad concept and legal provisions as stated in HAOR B.E.2552/C.E.2009 undefined.

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