THE ROLE OF LAW IN IMPROVING
THE STANDARD OF HEALTH CARE
IN MALAYSIA

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INTRODUCTION
Health is an integral part of socio economic development. Improvement in the rural standard of health has been a basic objective of the government health programmes. The Ministry of Health has several diseases control and prevention programmes including cardio vascular disease prevention programmes, childhood immunization programme, cancer control programme, the communicable disease control programme and so on.

The concept of health care encompasses all such activities and services that promote and maintain health including proper nutrition, healthy homes, healthy lifestyle and environment that is fit for birth, growth, healing and dying and which is sustained by a caring society (Illich 1975: 165).

Health problems arise due to genetic, bacterial, viral or physical factors. In many cases, threats to health stem from social and environmental factors, particularly from negative lifestyle and high-risk behavior. Health and unhealthy lifestyle are indeed associated with health and illness. Alcohol drinking, smoking and drug abuse are known to be major health hazards, while AIDS, cancer and sex related diseases are largely linked with certain types of individual behavior.

The development of complex technology and the increasing use of scientific and professional knowledge in the field of medical science have raised ethical and social issues such as organ transplantation, artificial life sustaining systems, pre-natal sex determination, surrogate motherhood, population control and euthanasia. Ever increasing consciousness about matters including poverty, malnutrition, living
conditions, environmental protection, old age, drug use, child care and AIDS have raised ethical, economic, social and political issues (Lena 1992: 402). Health has not received the kind of attention that it deserves. In fact, it has been neglected in many parts of the world.

The idea of health as a social responsibility rather than a merely personal one has become deeply embedded in the inner consciousness of many countries. The World Health Organization (WHO) too, has recognized that responsibility for health cannot lie solely with the individual and that health matters warrant government attention (Longley 1996: 1).

The government has a responsibility to ensure the health of their people, which can be fulfilled only by having provisions for adequate health and social measures. The writer tries to explore the importance of health care law, expose Malaysian statutes which promote health, problems faced by the public in ensuring adequate health to be of their rights and also suggestions, with the intention to improve awareness and rural standard health in Malaysia.

DEFINITION
Health is no longer confined to its purely medical definition. Health is explained as absence of disease but has acquired wider meanings. The world Health Organization (WHO) has defined health as a state of physical, mental and social well-being and not merely the absence of disease or infirmity (Kamoon Puri 1998: 26). The Islamic perceptions of health is that all our actions have either positive or negative effects on our health and that we have the power to do more for our good health than anyone else.

Health is underlined as an integral part of what individuals need in order to realize their full potential and derive satisfaction from life. Health is also a means of ensuring an acceptable quality of life. In other words, health is axiomatic to human development. In these terms, health is placed inextricably at the heart of social and economic concerns.

ISLAMIC PERSPECTIVE ON HEALTH
Matters regarding health and physical care occupy a central place in Islam. The question of what is the best method of acquiring perfect health
has been described in a large amount of information available in books, internet, newspapers and others. Many expertises have shown great interest in this subject but no detailed account appears to exist of those natural phenomena on which Islamic views of perfect heath are based.

Islam stresses on a positive living, in which the individual makes a proper use of the human faculties provided by Allah. The principle of morality governs the choice of what is good and what is not. Islam permits a healthy sexual relationship. It encourages Muslim to marry and disallow any sexual intercourse outside the marriage.

Islam sets effective laws to protect health and body by keeping it sound and apt from illness, impurities and filth. It lays stress on hygiene and in order to keep the body and soul in a healthy state, it forbids all such means of self-destruction such as adultery, sodomy, eating pork and carrion, drinking wine and blood and others. Islam also frowns upon gluttony to ensure health and happiness (Suyati 1998: 18). But indeed, this does not mean that vain, pride or arrogance, that is also offensive to a healthy society are allowed.

In surah Al-Baqarah, verse 173, Allah mentions that:

“He hath only forbidden you dead meat and blood and the flesh of swine and that on which any other name has been invoked besides that of God”.

Dead meat is forbidden because present in it is a partial list of diseases such as anthrax bacillus causing malignant pustules, brucellosis causing undulant fever, pasturella multiceda causing haemorrhagic septicemia, leptospirosis species causing fever, jaundice, head-ache and others (Kazim 1971)

Blood is prohibited because it is a medium which flourishes and multiplies bacteria and other microorganisms. When eaten it might transmit the microorganism into the body affecting the health adversely.

Products of swine is prohibited because of a microorganism known as trichnella was found in the muscular tissues which causes trichnosis in humans. The large fat content in pork also contributes to obesity, atherosclorosis and others in man (Kazim 1971).

Allah says in surah Al-Baqarah verse 168:

“O, mankind, eat of that which is lawful and good in the earth”.  

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This verse shows how Islam calls for lawful and healthy food because only a sane person with a sound mind and healthy body can enjoy life as Allah plans and wants.

MALAYSIAN LAWS

Malaysia has a good number of statutes that govern matters pertaining to health and designed to protect and promote public health. Malaysia also provides laws to regulate and control health institutions, standard setting of hygiene and purity in the sale and use of food and to ensure that drugs meet the appropriate standard of quality, safety and efficiency with adequate control over the labeling and promotion.

The laws are also designed as preventive and protective measures to be taken at workplaces to safeguard the safety and health of the workers and others. Malaysia also has a large number of statutes framed, vitally linked with the environment, to maintain cleanliness and health.

Those statutes are aiming at regulating the medical profession, providing disciplinary actions or punishments for those violating the legal mandates.

Among important laws in this area are:

- **Medical Act 1971**

  This Act describes the basic qualifications for persons seeking to enter the medical profession, the requirements for registration and license, the standards of conduct and provides disciplinary actions for those who abuses the legal mandates.

  The Act also requires person willing to enter the medical profession to practice medicine or surgery to register their name. The procedure for registration and conditions required to be fulfilled are also prescribed in this Act. The Act also state factors, which lead to refusal of registration. It authorizes the Malaysian Medical Council, to take disciplinary action against a registered medical practitioner in specified situations. The Act also provides penalties if an offence under the Act is committed.

- **Midwives Act 1966 (Revised 1990)**

  The Act provides for registration of midwives and its qualifications. It establishes the Midwives Board whose function is to grant recognition
to training schools for midwives, prescribes courses, conducts examinations, awards diplomas and to take disciplinary action for any misconduct or violation of provisions in the Midwives Act 1966.

- **Medical Assistants (Registration) Act 1965**

This Act provides for registration of medical assistants and its qualifications. The Act aims at regulating this profession and disallows untrained persons to have their name registered. There are provisions pertaining to punishments for those violating the provisions.

- **Optical Act 1991**

This Act provides for registration of persons practicing as opticians and optometrists and specifies the procedure for registration. The Act aims at maintaining the high standard of professional services to the public and at the same time prohibits any unqualified and untrained persons from practicing as an optometrist or optician. Optician who provides contact lenses services must have practiced for more than three years to qualify for registration. Consumers can lodge complaints to the in-house council for any misconduct of optometrists, which is empowered to take disciplinary action and a person guilty of malpractice can be fined up to RM10,000.

- **The Private Hospitals Act 1971**

This Act regulates private health institutions such as children’s homes, maternity homes, medical homes, surgical homes or psychiatric homes. The provisions in this Act requires these institutions to obtain licenses from the Director of Health. It empowers health officers to visit and inspect any licensed homes to ensure that they maintain the qualification as registered private health institutions. The Act also imposes penalties for any violations of the Act.

- **Care Centres Act 1993**

This act provides matters pertaining to registration of the centre, inspection of the license and the terms and conditions that need to be fulfilled by a care centre. This general social welfare legislation, seeks to regulate residential care centers and day care centers. A large number of residential care centers exists, which are set up by private persons on
profit basis and are usually meant for elderly people. Day care centers are also set up on profit basis and normally cater for children of working parents. Childcare centre is a place, which accepts children for the purpose of nursing and childcare with certain fees imposed.

The Director General of Social Welfare in Malaysia is empowered to impose conditions to ensure that the services for the care and custody treatment, are well provided. The authority should not only inspect the operation license but should also ensure that adequate balanced diets and sufficient rest and recreation are provided. Adequate arrangements and proper medical treatment, physiotherapy, psychotherapy or any other treatment in respect of any ailments suffered by the residents or persons received for care must also be attended. The Director General also has power to cancel registration or order the closure of a centre due to any violation of the Act.

- **Food Act 1983**
  
  This is an important legislation. It aims at protecting the public against health hazards and fraud in the preparation, sale and use of food and other related matters. The law makes it punishable for any person who prepares or sells under any substance for human consumption which is harmful to health or is unfit for human consumption. It also prescribes punishments for false labeling and advertisement.

- **Tobacco Product Regulations 1993**
  
  This regulation is framed under the Food Act 1983, which imposes certain regulations on tobacco smoking. Under this regulation, important health measures have been taken, for example, smokers are barred from smoking in hospitals, clinics, cinemas, theatres, public transports, public lifts, amusement centers and air-conditioned restaurants. Offenders can be fined RM50 on the spot for such offences. They are also liable to be charged in court and if found guilty, a fine of RM5,000 or two years imprisonment may be imposed. Offences also include direct advertising of tobacco products in locally published and distributed materials, distribution of free cigarette samples and sale of cigarette to persons below the age of 18 years.
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- **The Sale of Drugs Act 1952**
  This Act empowers government officials to enter into and inspect any place where there are drugs for sale and seize any drugs found unwholesome or deleterious to health. The law seeks to prevent drug adulteration, false or misleading statements or labeling and imposes penalties for any violation of its provisions.

- **Dangerous Drug Act 1952**
  This Act regulates importation, manufacture, sale and use of a large number of substances considered as dangerous for health and safety. The law prescribes severe punishments for offences related to drug activities such as possession, use, trafficking and cultivation of cannabis and coca plants.

- **Poisons Act 1952 (Revised 1989)**
  This Act regulates importation, possession, manufacture, storage, transport, sale and use of various poisonous substances.

- **The Medicines (Advertisement and Sale) Act 1956**
  This Act is designed to regulate advertisements relating to drugs with a view to preventing misleading statements about the properties, qualities and quantities of medicines.

- **The Prevention and Control of Infectious Diseases Act 1988**
  This Act confers upon the government officials large powers for the prevention and control of infectious diseases. The relevant officials are empowered to conduct inspection on any place, person or thing and take preventive or remedial measures. The law also requires that infectious diseases should be notified from time to time and kept under surveillance. Currently, special attention is given to AIDS, Cholera, Dengue Fever, Yellow Fever, Plague, Rabies and Food Poisoning.

- **Destruction of Disease-Bearing Insects Act 1975**
  This Act empowers the Director General of Health Malaysia to take steps to destroy and control diseases-bearing insects and for the medical examination and treatment of persons suffering from insect-borne diseases. These two laws give powers to health officials to visit and inspect places and prescribe punishments for any obstruction of it by any person.
• Occupational Safety and Health Act 1993

This Act was passed to ensure preventive and protective measures are taken at the workplaces. The Act has established a Council for Occupational Safety and Health with powers to oversee health and safety matters at workplaces. The act imposes standards of safety and prescribes the duties of manufacturers, designers, workers and suppliers of equipment and other material at workplaces. The Director General of Occupational Health and Safety is empowered to enforce the standards. The Act also imposes penalties for any violation of its provisions. The Act does not adopt prescriptive approaches only, unlike the Factories and Machinery Act 1967. It is based on the philosophy that the primary responsibility lies with those who create the risk and those who work with it.

• Environmental Quality Act 1974

This is the most significant piece of legislation seeking to protect the environment. It minimizes the impact of growing population and human activities relating to mineral exploration, deforestation, agriculture, urbanization and the development of other resources on the environment while preserving the country’s national heritage. Large scales and widespread pollution is a by-product of industrialization, urbanization and economic development. Pollution brings about health hazards and directly effects the quality of life.

The Act has set up an Environmental Quality Council whose functions are to advise the government on matters concerning the environment. A clear and healthy environment is the basic condition for healthy growth and existence of life. The Director General of Environment has a few number of functions which include coordination of activities relating to the discharge of wastes into the environment, prevention and control of pollution and protection and enforcement of the quality of the environment through the formulation of emission standards, issuing licenses for waste discharge and emissions and the dissemination of information and educational materials to the public.

• National Forestry Act 1984

This Act elaborates provisions for the conservation of forests and forest products.
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- **Local Government Act 1976**
  Under this Act, local authorities function to maintain and regulate public health, public work and social service.

- **Fisheries Act 1963**
  This Act was gazetted to manage, conserve and develop maritime and estuarine fishing and fisheries the Malaysian fisheries waters, turtles and riverine. It aims to develop fish stocks within the maritime waters comprised in exclusive economic zones. Punishments are provided for any person who willfully damages or destroys any fishing vessels or marine culture system.

- **Trade Description Act 1972**
  This Act prohibits the use of misleading statements, information or description in respect of goods or price. The aim of this Act is to protect customers from buying goods or services under false or misleading information.

**THE ROLE OF HEALTH CARE LAW IN MALAYSIA**

Our government is promoting health care, either in social campaigns, seminars, or advertisements in e-media and so on. Non Governmental Organizations (NGO) and women associations have also not failed to make advance plans and formulas for the public at large on how to maintain health.

The role of law in promoting and ensuring health care plays a crucial part in Malaysia. The foremost role is in regulating the medical profession. Particular requirements are to be fulfilled if any person seeks to enter the medical profession. They will not be allowed to be declared as valid practitioner without valid licenses. The law can also provide circumstances in which registration may be refused instead of penalties if legal mandates are violated. The Malaysian Medical Council, which is established under the Medical Act 1971 (Yaqin 1996: 324), has power to take disciplinary actions against a registered doctor in such situation.

The laws have also been enforced to regulate and control health institutions. Hospitals and many health centers are very important because usually, health problems require medical treatment hospitalization. So, the patients need to be under the doctors' personal
care with special medical equipment available. The law requires health institutions to obtain licenses from the Director of Health. If they fulfilled this requirement, licenses can be granted but still, health officers need to make visits and inspections to such premises. They cannot violate the law or otherwise penalties will be imposed. Residential and day care centers also need to be regulated in promoting health care.

The third role of health care law is to set a standard in the sale and use of food and other consumable substances. Any substance for human consumption, which is harmful to health, is disallowed and penalties are provided under provisions of laws. Having elements of fraud in the preparation, sale and use of food also an offence in law. For example, certain restrictions are made on tobacco smoking. Offenders can be fined RM50 on the spot if they smoke in hospitals, public transports, restaurants and other prohibited areas. Whereas a fine of RM5,000 or two years imprisonment may be imposed according to Tobacco Product Regulations 1993.

Another role is to require adequate preventive measures to be taken at workplaces to safeguard the health of the workers and others. A safety standard, duty of manufacturer, supplier and others are imposed by the law to ensure safety at the workplaces.

Some laws are designed to prevent and control diseases. The government has supreme power in conducting inspection at any places, for example, in inspecting disease bearing insects and bird flus and taking remedial measures if the government decides to destroy certain animals or place. However, the laws require that infectious diseases should be notified from time to time.

To ensure that drugs are used in accordance with its appropriate standard and safety requirements, the government since 1952 has enforced some laws. These laws seek to prevent drug adulteration, false or misleading statements or labeling and provide penalties for any violation of its provision.

Malaysia has a very large number of regulations framed under environmental statutes. In balancing the impact of the growing populations, human activities, agriculture and to preserve the country’s heritage, these laws seem to be basic legislations in maintaining health care.
PROBLEM
In Malaysia, the growing incidence of child sex trade, prostitution and sex vagaries not only under mind the traditional standards of Malaysian morality but also have serious health implications. The growing incidents of HIV cases is largely linked to these vices (Yaqin 1996: 30).

The prevailing influence of culture on health care is evident in Malaysia. Cultural beliefs determine perception of causality, illness behavior and treatment. In each state in Malaysia several ethnic groups, religious and languages co-exist. Among Malaysians, the traditional belief that spiritual focus exerts immense control over both physical and mental health is still dominant.

Not all human are able to cope with contemporary pressure, including taking care of children, working, have to care for an aged or ailing parent and the whole family, job demand as well as maintaining good relationship between supervisors and co-workers, all need to be dealt with. These situations result from changing lifestyles and to a certain extent, their sense of well-being may be uttered.

With better education many women also start questioning the cost and benefits of their employment. The lacking of health care and the ability to occupy both work and family roles simultaneously can be beneficial or detrimental to them in the long run.

Medical practitioners take opportunities to make profit through their service by giving advice or consulting patient with very expensive charges and tend to declare themselves as experts even though they have yet to be qualified. In this case, patients refuse to go to private clinics due to expensive charge and let they remain sick without medical personal care.

Many health care centers are established without adequate control and inspection by the authority and enforcement bodies. Instead of paying for unsatisfying services and having no possibilities of recovering, patients would think more than twice for the consideration and normally decided not to get the service. Unfortunately Malaysian become more comfortable to safekeeping the money rather than pay for better health.

Even though the government has made social campaigns, seminars and road shows about the danger of smoking cigarettes, for example, the
‘TAK NAK’ campaign involving some NGOs and associations, Malaysian are still unaware and do not bother about the importance of health and take it unseriously.

Some people are not willing to give cooperation to the government in prevention and control programmes for vector borne diseases, such as Dengue, Bird Flu, Hepatitis or ensuring that a healthy lifestyle is practiced.

SUGGEESSION

Schools, workplaces, primary health care centers and the whole community must all lend themselves to health care promotion interventions. Health education is very important to attain behavioral changes.

Some studies suggest that religious attitudes can have a profound effect on health related behaviors. Prohibitions on smoking, drinking and multiple sexual relationships have been shown to have positive effect on health related activities (Dwyer 1990: 185). Islam, for example, places great emphasis on how the lifestyle of an individual should be.

Meditation techniques have been used in a number of clinical conditions and clinical settings including anxiety, drug and alcohol abuse and sleep problems (De Silva 1996: 112). In addition, such techniques have also been employed in managing chronic pain, dynamic psychotherapy and self-development.

It is important that clinicians are aware of different and yet useful strategies available within the cultural settings of individual (Maniam 2001). In traditional societies where emphasis on therapeutics relationship uses religious values and views, the clinicians must take cognizance of pluralistic approaches to health care as well as culturally acceptable models of care. Islamic jurisprudence safeguards men’s lawful interest and necessities, which include religion, soul, mind, honour and dignity.

Although occupational safety and health should be, above all, considered as a worker’s right, it should not overshadow the fact that prevention of occupational accidents is also a means for construction companies to become more competitive.
Construction work involves a series of occupational risks, such as working at heights, excavation work, lifting of material and so on. A specific approach to occupational safety and health in the construction industry is also required as a result of the temporary character of its workplace. A temporary workplace implies temporary welfare facilities, site utilities, collective protection and so on.

The risks construction workers face are largely the result of poor planning. Thus, a well-organized construction site is generally a safe site and in a broader sense, a well managed site is also a safe site. The construction industry has been considered as a hazardous occupation due to high incidence of occupational accidents of fatal injuries.

Consumer also need to play a very aggressive and proactive role in assisting the local authorities by reporting to them any misleading statements on food packaging, illegal use of ‘halal’ label or unlawful certification of ‘halal’ certificates which only can be granted by Jabatan Kemajuan Islam Malaysia (JAKIM).

Inspection and control need to be done from time to time to ensure that services, premises or licenses are legally used according to the law. Enforcement authorities must wake up from their long sleep since the Malaysian Prime Minister has also suggested that Malaysians need to practice a healthy lifestyle starting from the early ages. The government is also responsible to help and provide maintenance.

CONCLUSION
Improvement in the standard of health has been the fundamental objective of the government health programmes. The target is to achieve a standard of health that will enable people to maintain a healthy life. It also implies to decrease the rate of infant mortality and longer expectation of life. Health measures include prevention and promotion of health. The volume of legislation dealing with matters pertaining to health in Malaysia has grown impressively and health care is to be regarded as a basic necessity. The World Health Organization (WHO), has recognized that responsibility for health cannot lie solely with the individual and that health matters warrant government attention too.
BIBLIOGRAPHY


