

**NEGOTIATION APPROACH
AT AGENDA SETTING STAGE OF
THE PROPOSED NATIONAL HALAL POLICYMAKING PROCESS**

FAZNI BINTI MAT ARIFIN

UNIVERSITI TEKNOLOGI MALAYSIA

NEGOTIATION APPROACH
AT AGENDA SETTING STAGE OF
THE PROPOSED NATIONAL HALAL POLICYMAKING PROCESS

FAZNI BINTI MAT ARIFIN

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DEDICATION

This thesis is dedicated to my mother, *Khadijah binti Abdullah* who taught me that the most powerful knowledge is when one can give back and benefit more people through it.

It is also dedicated to my late father, *Allahyarham Mat Arifin bin Daud*, who taught me that the key of knowledge is the attitude to learn, unlearn and relearn.

Not to be forgotten to the rest of my siblings of 6F, *Faizal, Fazmil, Fazila, Fadzli, Fazida and Faridzul* and their families for their endless support and understanding throughout my journey.

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ABSTRACT

Negotiation provides some different, yet interesting perspectives for contemporary public administration. In public policy, it helps to elaborate the processes involved in enhancing cooperation among government agencies and promote effective problem-solving within organisations. Existing literature indicates that there has never been any research that studies the role of negotiation in the process of policymaking in the Malaysia's public administration system. Moreover, no proper documentation and clear guidance is available on how policymakers can reconcile any arising issues during policy consultation. Therefore, this study examined to what extent negotiation approach was exercised by policymakers in developing public policy agenda. The proposed National Halal Policy (NHP) is used as a case study. The data collection involved semi-structured interviews with 15 policy participants as well as document analysis on relevant government documents such as several discussion agendas on the proposed policy, the final draft of Halal Master Plan 2.0, relevant forms and templates. The 15 policy participants were representatives of policymakers and the stakeholders from the government, industry, academia, and non-governmental organisations. The data were analysed under the thematic analysis approach using Nvivo software. The results indicated that (1) the country already has its own negotiation mechanism in place to discuss the policy, (2) the functions of the agenda setting stage provide room for integrative negotiation to resolve the arising issues among the policy participants, and (3) those existing practices with several suggestions from policy participants towards the improvement of policy consultation which are based on the theory of principled negotiation, are conceptually manifested in the negotiation-based policymaking framework. The findings suggest that the policymaking process in public administration system is well-coordinated. The negotiation-based policymaking framework was proposed as guidelines to engagement in the public policymaking process. It provides support for any organisations, particularly within the government sector to conduct any form of policy consultation process. Considering that this is a pioneer effort in documenting policy process, this study has filled the gap in literature relating to existing practice in the policymaking process in the realm of public administration in Malaysia as well as developing countries.

ABSTRAK

Perundingan menyediakan satu perspektif yang berbeza, namun menarik bagi pentadbiran awam kontemporari. Dalam dasar awam, ia membantu untuk menghuraikan proses yang terlibat dalam meningkatkan kerjasama di antara agensi-agensi Kerajaan dan menggalakkan penyelesaian masalah yang efektif dalam organisasi. Kajian literatur sedia ada menunjukkan sehingga kini tiada kajian yang mengkaji peranan perundingan dalam proses penggubalan dasar dalam sistem pentadbiran awam Malaysia. Di samping itu, tidak terdapat dokumentasi yang betul mahupun panduan yang jelas bagaimana penggubal dasar menyelesaikan isu-isu yang timbul semasa proses perbincangan dasar. Oleh itu, kajian ini bertujuan untuk mengkaji sejauh mana pendekatan perundingan diamalkan oleh penggubal dasar dalam membangunkan agenda dasar awam. Dasar Halal Negara (DHN) digunakan sebagai kajian kes. Pengumpulan data melibatkan temu bual separa berstruktur dengan 15 peserta yang terlibat dalam penggubalan dasar serta analisis dokumen berkaitan dokumen Kerajaan seperti beberapa agenda perbincangan berkaitan cadangan DHN, draf akhir Pelan Induk Halal 2.0, borang dan format berkaitan. 15 peserta yang terlibat adalah wakil penggubal dasar dan pihak berkepentingan dari Kerajaan, industri, akademik dan pertubuhan bukan Kerajaan. Data dianalisis menerusi analisis berasaskan tematik menggunakan perisian NVivo. Hasilnya menunjukkan bahawa (1) negara sudah mempunyai mekanisme perundingan sendiri untuk membincangkan dasar tersebut, (2) fungsi tahap penetapan agenda menyediakan ruang bagi rundingan integratif untuk menyelesaikan masalah yang timbul di antara pihak yang terlibat, dan (3) amalan perundingan sedia ada dengan beberapa cadangan dari pihak yang terlibat berdasarkan teori perundingan berprinsip ke arah peningkatan konsultasi dasar yang secara konseptual dimanifestasikan dalam rangka kerja pembuatan polisi berasaskan perundingan. Hasil dapatan kajian mencadangkan bahawa proses penggubalan dasar dalam sistem pentadbiran awam diselaraskan dengan baik. Kerangka kerja pembuatan polisi yang berasaskan perundingan telah dicadangkan sebagai panduan bagi perbincangan dalam proses penggubalan dasar awam. Kerangka tersebut memberi sokongan kepada mana-mana organisasi, terutama dalam sektor Kerajaan untuk menjalankan sebarang proses perundingan dalam penggubalan dasar. Memandangkan ini adalah usaha pertama dalam proses penggubalan dasar, kajian ini telah mengisi jurang literatur berkaitan amalan sedia ada dalam proses pembuatan polisi dalam konteks pentadbiran awam di Malaysia serta negara-negara membangun.

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LIST OF ABBREVIATIONS

9MP	-	Ninth Industrial Malaysia Plan
ACF	-	Advocacy Coalition Form
ADR	-	Alternative Dispute Resolution
AES	-	Automated Enforcement System
AGC	-	Attorney General Chamber
BATNA	-	Best Alternatives to a Negotiated Agreement
CSOs	-	Civil Society Organisations
EPA	-	Environmental Protection Agency
EPU	-	Economic Planning Unit
EU	-	European Union
ExCo	-	State Executive Council
GRP	-	Good Regulatory Practice
GST	-	Goods and Services Tax
HACCP	-	Hazard Analysis and Critical Control Point
HDC	-	Halal Development Corporation
HIMP	-	Halal Master Plan
HIMP 2.0	-	Halal Industry Master Plan 2.0
IIUM	-	International Islamic University Malaysia
IMP2	-	Second Industrial Master Plan
IMP3	-	Third Industrial Master Plan
ISO	-	International Organisation for Standardisation
JAKIM	-	Jabatan Kemajuan Islam Malaysia
JAIN	-	Jabatan Agama Islam Negeri
JAIS	-	Selangor State Islamic Religious Council
JPA	-	Public Service Department
JPJ	-	Road Transport Department
KIV	-	Keep In View
KPDNHEP	-	Ministry of Domestic Trade and Consumers Affairs
MAIN	-	Majlis Agama Islam Negeri

MAMPU	-	Malaysian Administrative Modernization and Management Planning Unit
MARDI	-	Malaysian Agricultural Research and Development Institute
MATRADE	-	Malaysia External Trade Development Corporation
MDEC	-	Malaysia Digital Economy Corporation
MHM	-	Majlis Halal Malaysia
MIDA	-	Malaysian Investment Development Authority
MITI	-	Ministry of International Trade and Industry
MS	-	Malaysia Standard
MPS	-	Malaysia Public Service
NHP	-	National Halal Policy
NPDIR	-	National Policy on the Development and Implementation of Regulations
NGOs	-	Non-Governmental Organisations
OECD	-	Organization for Economic Co-operation and Development
OSA	-	Official Secrets Act
PPIBPM	-	Service Industrial and Manufacturer Association of Malaysia Bumiputra
PERDASAMA	-	Malay Businessmen and Industrialists Association of Malaysia
POL	-	Policy-Oriented Learning
R&D	-	Research and Development
Reg-Neg	-	Regulatory Negotiation
RIA	-	Regulatory Impact Analysis
SBPA	-	Saraan Baru Perkhidmatan Awam
SME	-	Small and Medium Enterprise
SOP	-	Standard Operating Procedure
SST	-	<i>Sales and Service Tax</i>
TPPA	-	Trans-Pacific Partnership Agreement
UITM	-	University Technology MARA
UK	-	United Kingdom
USA	-	United States of America

UTM	-	University Technology Malaysia
UNIMAS	-	University of Malaysia
WTO	-	World Trade Organizations
YDPA	-	Yang DiPertuan Agong

LIST OF SYMBOLS

- (.) - A micropause, able to hear, but too short to measure
- (0.*) - Numbers in round brackets measure pauses in seconds
- abc... - Pending other sentence is indicated by three dots after sentence
- ...abc - Continuation from other sentence is indicated by three dots before sentence
- abc(h)def(h) - Laughter within speech is signalled by 'h' in round bracket
- Underlining - Signals vocal emphasis
- XX - Name of Agency (Confidential Information)

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CHAPTER 1

INTRODUCTION

1.1 Chapter Overview

This study was essentially carried out to explore the practice of negotiation in public policymaking process in Malaysian public administration system, namely by examining the negotiation approach applied at the agenda setting stage of the proposed National Halal Policy (NHP). The chapter explains the background of the study, problem statement, and the significance of the study. It also presents the research questions, research objectives, and research scope. This introductory chapter also includes theoretical framework and conceptual framework of the study to give a general overview of the parameter of the research. It finally illuminates the definition of the terms related to the area of research.

1.2 Background of the Study

Public policy focuses on what Dewey (1927) once expressed as “the public and its problems”. This remains to be true until the present days, where globalisation has driven governments, organisations and citizens to engage in millions of transnational interactions which consequently contribute to various competing and conflicting interests which need to be resolved. At this point, the government, through its policies implementation is not only obliged to demonstrate their commitment towards addressing national and international pleas, but they also need to grapple with the differences. Public policies must simultaneously address and resolve the concerns and tensions of various stakeholder groups. The process of policymaking is respectively expected to contribute to reconciliation of conflict or problem solving, or at least to the reduction of problem load (Jann & Wegrich, 2007). Otherwise, without an effective mechanism, there is a risk that today’s solutions will become tomorrow’s problems.

Scholars have long admitted that conflict resolution is an indispensable component for contemporary public administration (O’Leary & Bingham, 2009; Susskind & McKernan, 1999; Lan, 1997; Manring, 1994; Susskind, Babbit, & Segal, 1993). The field involves many available methods for policymakers in developing or proposing policy recommendations to address critical issues, in enhancing cooperation among government agencies with diverse participants, and in promoting effective problem-solving atmosphere (Susskind, 1999). One of the most significant methods is negotiation, which has become the centre of literature of conflict resolution (Fisher & Ury, 1981). The role of negotiation has been extended to become a central component of policymaking process (Alfredson & Cungu, 2008), with its ability in not only defining issues, exploring options, and discovering solutions, but also securing commitments in ensuring proposed policies are sustainable.

In most developed countries, negotiation falls under the innovation of new governance. The method is associated with alternative dispute resolution (ADR) and other new quasi-legislative and quasi-judicial governance processes such as deliberative democracy, e-democracy, public conversations, and collaborative policymaking (Bingham, Nabatchi & O’Leary, 2005). The goal is to permit citizens to actively participate in the work of government. In Malaysia, such consultative process is not exceptional to the local system. Various events that deliberate on the initial structure of Malaysia’s political system has succeeded in creating cooperation among participants. It is also regarded as a mode of proceeding which has become the early norm of Malaysian ethnic policymaking. Negotiations’ norm had enabled various national policies conflicts such as citizenship conferment for people of Chinese and Indian origins, preferences for the Malays as the indigenous people, the 30 percent Bumiputra equity, and the official status of Malay, English, and other languages to be resolved amicably (Horowitz, 1989).

Additionally, past research has shown that negotiation is an effective tool for managing conflicts in various fields, including in policymaking (Bingham *et al.* , 2005; Stamato, 2003; Wallace & Wallace, 2000; Peterson & Bromberg, 1999). In the United State of America (USA), negotiation has already been constituted as part of legislative process and has acted as an alternative strategy to adversarial administrative

procedures (Perritt, 1986). It is recognised as a process of policy formulation that brings those with affected interests together to reach an agreement on the content and the language of a proposed rulemaking. Similarly, international institutions such as Organisation for Economic Co-operation and Development (OECD), European Unions (EU), and World Trade Organisations (WTO) rely substantially on negotiations that are conducted within intergovernmental and interorganisational networks. In this regard, negotiation is deemed as a vehicle of communication and stakeholder management. The tool has a pivotal role in facilitating policymakers to comprehend the complex issues and human dynamics that exist behind important policy issues (Alfredson & Cungu, 2008).

Even though negotiation is not an uncommon exercise in Malaysia (Syed Hamid, 2006), the research on the area, particularly in policy development remains scarce (Hishamuddin, 2010; Jeshurun, 2007; Natkunasingam & Sabaratnam, 1998). Past studies on public policy and governance perspectives in Malaysia mostly focused on promoting participation, inclusiveness, engagement, and collaborative approach within local systems (Mohamad Aizi, Shahizan, Mohd Farhan & Azizul Azhar, 2012; Nor Mazny, 2010). These studies nonetheless did not extensively investigate the role of negotiation in the process of developing policies. The only available source is by referring to the practice of Malaysia Public Service (MPS) in which the service has been entrusted to formulate, design, or develop public policy (Normazny, 2010; Ahmad Sarji, 1996). However, Abdul Gapar (2010) highlighted that the steps involved in the process of developing a policy in the context of MPS are neither well-documented nor standardised.

Consequently, many policies in Malaysia were developed without a clear and structured process or framework. As a case in point, the implementation of Goods and Services Tax (GST) policy that aimed to increase efficiency of tax collection system created a lot of polemics and controversies. It was eventually repealed by the new government (Royal Malaysia Custom Department, 2014). Likewise, a foreign policy, namely Trans-Pacific Partnership Agreement (TPPA) that sought to lift tariffs on goods and services amongst participating countries also encountered strong resistance

from diverse stakeholder groups in Malaysia (Ministry of International Trade and Industry (MITI), 2016).

Other examples of controversial government policies include the enforcement of Automated Enforcement System (AES) (Road Transport Department Malaysia, 2012). The implementation has been suspended several times as a result of the poor communication between the government and public to understand the ability of AES in reducing accident rates in the country (Reena Raj, 2017). The other example is the failure of Public Service New Remuneration Scheme (*Saraan Baru Perkhidmatan Awam* or SBPA), one of the most tragic public policy formulations in MPS. The policy, which was initially proposed to reward 1.4 million Malaysian civil servants with several remuneration scheme improvements in order to transform public service into more efficient, productive, and high-performing entity, was eventually scrapped off (Sivanandam, 2012). This was also due to the poor engagement process with various stakeholders, which consequently led to the policy being met with tenacious resistance and strong protest (Rejal, 2012).

These forms of policies are among examples of the implications of local public policymaking process that result in unresolved conflicting interest among policy participants. Despite the shortcomings, the government continues to improve the situations. MPS has continuously adopted constructive approaches to widely engage and consult various stakeholders to participate in the policymaking process in order to ensure that good policy is produced or to avoid making a policy that covers many issues or zero policymaking. For example, the enactment of National Policy on the Development and Implementation of Regulations (NPDIR), 2013 is to improve the decision-making process for policy implementation. It mandatorily requires regulators to propose new regulations or changes to be carried out thorough consultations with affected parties (Malaysia Productivity Corporation (MPC), 2013b). Therefore, it is assumed that the development of policies in the country has gone through the consultative process, which means that it is not only confined to achieving efficient decision-making or effective communication between policy stakeholders, but also to resolving disagreements within the process.

The present study thereby aims at exploring and examining the practice of negotiation involving one of the most complex policies in Malaysia, namely the National Halal Policy (NHP). There are more than 300 agencies involved in the whole Halal eco-system (Halal Industry Development Corporation (HDC), 2017), including several key agencies like the Department of Islamic Development Malaysia (Jabatan Kemajuan Islam Malaysia or JAKIM), State Islamic Religious Department (Jabatan Agama Islam Negeri or JAIN), State Islamic Religious Council (Majlis Agama Islam Negeri or MAIN), and Halal Industry Development Corporation (HDC). These institutions govern different areas, including awareness and promotion, capacity development, human resource development, technology, and R&D (Research and Development) (Jabatan Kemajuan Islam Malaysia (JAKIM), 2017). Despite many efforts and initiatives to coordinate and engage various agencies and stakeholders in formulating numerous related rules and policies pertaining to Halal practices, conflict amongst them remains. These related agencies are inclined to act according to their own terms and reference and worked in silos, albeit ineffectively. It is therefore interesting to study the Halal policy development process by the government, especially when it involves complex structures, institutions and various stakeholders with conflicting interests and expectations. The detail of the investigation is elaborated further in Chapter 3.

1.3 Problem Statement

Therefore, implementing policy documents with numerous unresolved issues is unwise. It does not only deprive the government of its good intention, but also brings about waste of resources. The main challenge in addressing this is that the process and procedures of developing a policy are not well-documented, and this provides huge gaps in the method or approach exercised by MPS. Secondly, very little is known about the extent of communication and the depth of exchange between public administrators and other stakeholders during the engagement. Hence, in examining and analysing a policy in the future, policy reviewers find it hard to understand what actually transpired during the process, and why it is designed in such a manner. The example of policies discussed above indicates that

the struggles and challenges of policy development lies within the mechanism of policymaking process in the country. The gap apparently exists in the engagement process within the policymaking process.

Thus, it is timely to focus on a more appropriate engagement approach to resolve different interests within the process. With regard to the case of Halal practices, the research intends to explore arising issues faced by policymakers and stakeholders during policymaking process, in particular at the initial stage of the process, namely agenda setting. It aims to identify whether policymakers allow the various parties and stakeholders to forward their agendas and present their interests before negotiating with them in reaching a consensus or agreement. If so, the research seeks to understand how extensive the negotiations are, the type of negotiations they adopt, and the types of skills they use in negotiating with competing parties. Resolving conflict at the earliest opportunity is important in avoiding policy failure in the future, as highlighted by previous examples. Eventually, the research attempts to develop a negotiation-based policymaking framework to guide the engagement or discussion session attended by MPS policymakers in the process of developing a public policy. This research, therefore, seeks to generally propose an approach for engagement in the process of policymaking by specifically adopting the practice of negotiation in the process of public policymaking.

1.4 Research Objectives

The research objectives are as follows:

1. To investigate the practice of negotiation in the policymaking process of the proposed NHP
2. To identify the arising issues faced by policymakers and stakeholders in setting the agenda of the proposed NHP

3. To explore the suitable approach of negotiation adopted by policy participants in the policymaking process
4. To develop a negotiation-based policymaking framework in the local system.

1.5 Research Questions

1. To what extent do policymakers negotiate with stakeholders in the process of setting the agenda of the proposed policy?
 - (a) What is the mechanism they use in engaging the stakeholders?
 - (b) How do they engage with the stakeholders?
2. What are the arising issues faced by policymakers and stakeholders in setting the agenda of the proposed NHP?
3. How do the policy participants negotiate with each other in the process?
4. How principled negotiation could be applied in the process of policymaking?

1.6 Significance of the Research

The notable contribution of the present study is therefore divided into two perspectives, one from the theoretical viewpoint and the other from the practical perspective. Theoretically, it documents the process of policymaking in the local system into empirical-based evidence, specifically on policy-related conflict resolution. The effort will assist the public policymakers, particularly in understanding the process, managing different interests in the process, and improving their approaches in developing a policy. Additionally, most studies

related to policymaking process comes from developed countries. Although the policymaking process and policies of developed countries have proved their effectiveness in many cases, they cannot be sufficiently applied in understanding the policy process of developing countries due to the differences that exist in the policy network, which are mostly determined by socio-economic and political conditions of a country (Ferdous Arfina, 2002). The study will thus serve to be an empirical reference of developing countries' policymaking process. In addition, negotiation is commonly associated with the field of conflict resolution and is rarely linked with the policy process. Hence, the study attempts to employ principled negotiation in the local policymaking process in order to investigate the role of negotiation in producing good policy agreement. Such initiative is highly expected to bring significant implications towards the body of knowledge in the field of policymaking and the perspective of conflict resolution, particularly on negotiation theory with the application of integrative approach at the agenda setting stage in the process of policymaking.

In practice, the Malaysian government has recently launched various initiatives to encourage the principle of good governance through greater participation, public consultation, transparency, and inclusiveness, among others. One of the efforts is the publication of Best Practice Regulation Handbook (the Handbook) (MPC, 2013a). Hence, the finding will methodologically complement the existing input in conducting public consultation. It will not only support and promote good governance practiced by MPS in a holistic manner but could be among the references for the public organisation to improve citizen's participation. The study would highlight the necessary skills for policymakers, specifically MPS, require in preparing themselves for negotiation. Although the subject is not uncommon to most policymakers, they require the said knowledge and skills in order to fully gain the advantages. The method must come with certain techniques and strategies, especially in dealing with complex issues from various parties. Negotiation is essentially a subject to be learned and practiced. The type of negotiation approach selected in the study may expose policymakers to a more constructive interaction towards establishing quality solutions. The documented

interaction process in the formation of policy will provide a foundation for the policymakers to attend any stakeholder-engagement with better solutions.

1.7 Theoretical Framework

Several theoretical underpinnings are incorporated to gain an understanding on the resolution of conflict in policymaking process. Each theory is cumulatively relevant and useful for specific purpose of the process. The fundamental framework on conflict resolution in policymaking is based on the descriptive model developed by Stephenson and Pops (1989). In general, the model aids the study in investigating the relevant approach to resolve conflicts within the policy process. In particular, it facilitates a better comprehension on how conflicts are practically resolved in the policy process. Stephenson and Pops believe conflict exists at every stage of this process and it should be preferably resolved at the respective stage before it becomes too serious to handle. The framework is primarily concerned with the conditioning factors that are significant to the structure of policymaking and these factors subsequently reflect the resolution of conflict within the policy process.

They further suggest that among the key factors that appear to be significant in the choice of a specific conflict resolution method are; (1) the stage of the policy process at which intervention occurs, (2) the environmental factors that help to identify and define the types of conflicting issues, and (3) the decision modes which will suggest the appropriate conflict resolution method after considering the two previous factors. In short, these factors are examined in a framework which consists of a set of independent variables interceded through the policy process to shape the choice of the decision mode. Stephenson and Pops (1989) also argue that it is critical for interveners to identify, describe, and address the kinds of conflict between the competing actors so they could ultimately employ appropriate conflict resolution methods and decision modes.

The work of Sandole (1998) has a resounding similarity with Stephenson and Pops' (1989). Sandole supported his framework by mapping conflict and conflict resolution comprehensively. It assumes that the "mapping" of any particular conflict would be a preliminary step towards designing and implementing an effective intervention. Likewise, Wehr (1979) insists that in order to effectively intervene and resolve a conflict, one must be able to map it properly. The mapping according to Sandole (1998) is suggestive of a generic theory, which is based on the premise that it is theoretically used in responding to conflict at all levels. It provides a three-pillar approach; *Pillar One* is to identify the conflict by examining several factors such as the parties, issues, means, and others, *Pillar Two* focuses more on the potential source of conflict by determining the source of conflict and at which level it occurs, and finally *Pillar Three* relates to conflict intervention and insists on addressing conflict management and resolution by providing a variety of options for conflict resolutions.

Generally, both frameworks provide a significant background which points that any conflict in the process of policymaking may be resolved within the same process. The first exploration, hence, would focus on the source of conflict, namely the agenda setting at the initial stage of policy cycle. What happens at the stage has a decisive impact on the entire policy process and its outcomes (Howlett & Ramesh, 2003). Theoretically, the stage provides the avenue to explore the nature of conflict, whereby at this stage, problems or issues are placed before the public, officials and agencies for the development or selection of policies (Kingdon, 2011; Cobb & Elder, 1983). It consists of several levels of settings as a background to more understand the conflict in order to resolve it. Various demands come from various actors, whereas others are initiated by the government itself. Birkland (2007) accordingly insists that all of these issues can be categorised based on the extent to which an institution is prepared to make an ultimate decision to enact and implement or to reject particular policies. The manner and form in which problems are recognised are important determinants of how they will ultimately be addressed and seriously considered for resolution by policymakers (Cobb & Elder, 1971).

A further investigation at the stage is needed in order to identify and define the types of conflict. The investigation operates through the lens of the policymaking model of Advocacy Coalition Framework (ACF). The ACF is a framework developed to deal with intense public policy problems during policymaking process (Sabatier & Jenkins-Smith, 1999, 1993a). Examining the inter-parties' interactions during the negotiation sessions is advantageous as advocacy coalition between parties usually occurs within policy sub-systems. They represent a variety of public and private organisations who are actively concerned with a policy problem or issue. They could be agency officials, interest group leaders, researchers, all of whom may hold variety of positions in their organisations or society. Their personal or professional beliefs in the forms of values, causal assumptions and problem perceptions may shape a particular belief system. Such belief has demonstrated a significant degree of coordinated activity over time. It is a critical vehicle for understanding the changes in any governmental decision (Sabatier, 1988).

The most crucial exploration involves the conflict resolution method which is guided by the 'principled negotiation theory'. It was developed in 1981 by Roger Fisher and William Ury. The theory is built based on various other theories from diverse areas such as military, criminal law, psychology, and diplomacy. The developments negotiation theory and practice underwent have made it to be recognised as an improved way of resolving disputes (Lewis & Spich, 1996; Rusk, 1993; Fisher, Ury, & Patton, 1991). Importantly, the theory derived from integrative models that rest on a value system which emphasises interpersonal trust and collaboration that facilitates joint problem solving (Patton, 2005). The theory shows the possibilities of effective negotiation with a partner of differing interests where both eventually emerge as winning parties. The strength of the theory lies in its effectiveness in reaching good agreements in almost any type of dispute.

The discussion above is summarised in Figure 1.1, which depicts the theoretical foundation of the research. The figure below consists of all related theories which attempt to develop policy-related conflict resolution, mainly to

signify that any arising issues which may lead to the emergence of various conflicts in the process of policymaking could be resolved within any stage of the policy process.

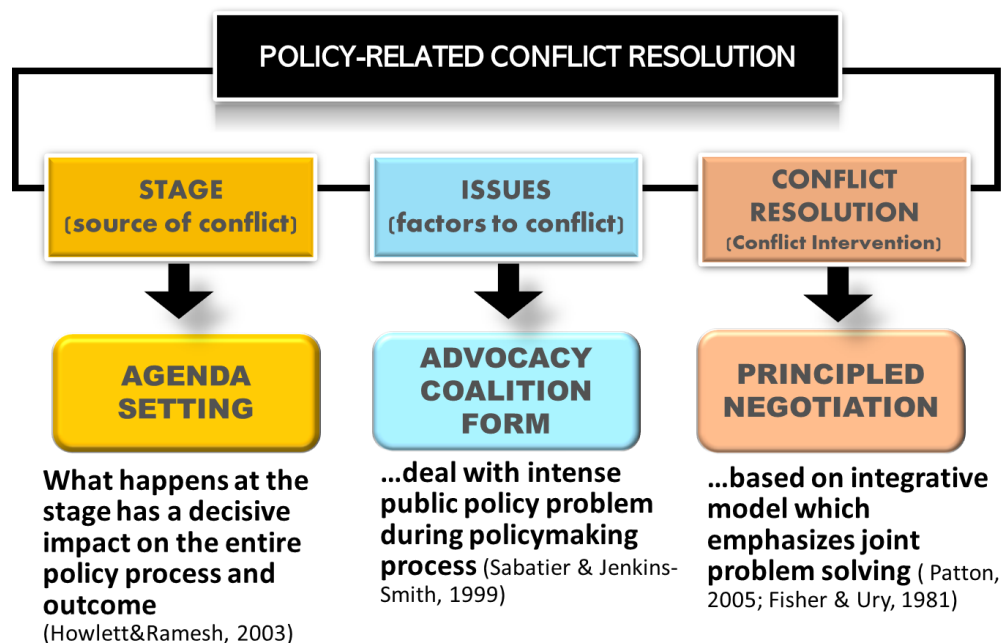


Figure 1.1 Theoretical Framework

1.8 Conceptual Framework

Conceptually, the study is based on the role of negotiation in resolving arising issues within the process of policymaking. In view of this, the framework is constructed by construing the three bodies of literature that was briefly discussed above. They mainly centre on the conflict intervention perspective by applying the theory of principled negotiation as well as by considering the angle in understanding issues that emerge in the process through the lens of the policymaking process using the ACF and agenda setting literature. Therefore, it attempts to investigate the extent of negotiation practice in the NHP policymaking process, which subsequently requires the exploration of the arising issues within

the process. The condition will reflect how negotiation should be suitably adopted in the process. Figure 1.2 illustrates further the conceptual framework.

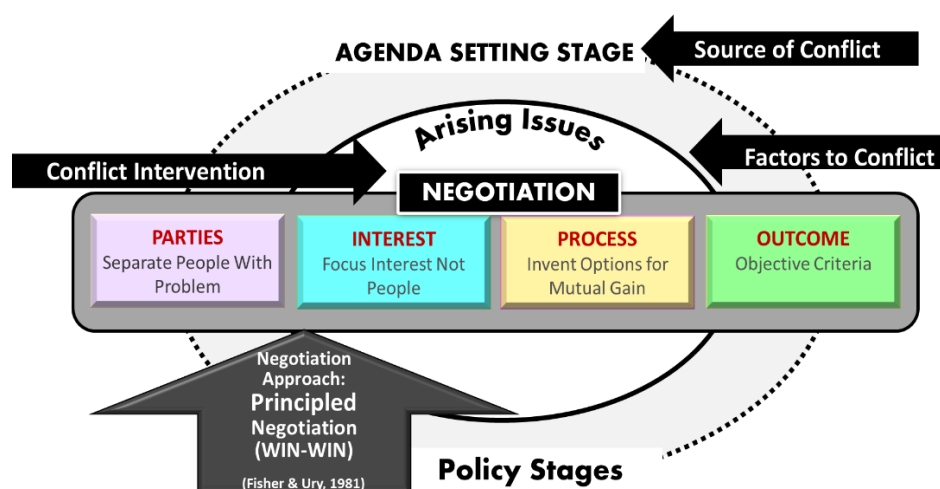


Figure 1.2 Conceptual Framework

Based on the framework presented in Figure 1.2, the study provides the platform to view the practice of negotiation in NHP policymaking process. The first circle which is presented in disjointed coil defines the scope of the study by focusing on the agenda setting as the background for the negotiation to operate in resolving arising issues within the policy subsystem. The agenda setting is selected due to the nature of the process itself, by which problems and alternative solutions gain or lose public and top management’s attention (Birkland, 2007). Birkland further insists that at this stage, group must fight to earn their issues’ places at the limited space within the agenda. Even when an issue gains attention, group must struggle to ensure that their preferred approaches to the issues are the most actively considered. The proposed NHP serves the context since several series of discussion have already been held to set the agenda and the process is still ongoing to date.

Accordingly, the solid circle reflects the area of research that the study aims to explore. It derives from the theoretical framework that identifies the factors of conflict. The exploration of arising issues that is based on the parameter provided by ACF indicates how negotiation operates, in particular, ACF highlights

the various stakeholders involved in the policy subsystem linked to the field of Halal practices. The group may represent institutional or social position such as the government, the industrial players, and any interested group or parties involved in the issues. Other factors include their multiple levels of interests, their approach to change policy decision, particularly in building their influence through coalition and other factors related to policy change.

The inner box within the two circles highlights the role of negotiation within the stage and the subsystem. The investigation of the approach is examined from four dimensions. Thompson and Hastie (1990) argue that the basic features of negotiation include the negotiating parties, their interests, process, and outcome. The theory of principled negotiation is explored within those dimensions. Party relates to the doctrine of separate people with problem under principled negotiation, while interest is associated with the doctrine, which focuses more on interest rather than position. The other dimension is process, where under the theory of principled negotiation, it highlights the doctrine that generates the option for mutual gains in a process in reconciling different interests. Finally, the dimension of outcome under principled negotiation emphasises the use of objective criteria such as standards of fairness, efficiency, or scientific merit in the process of negotiation to produce a wise and fair result. The explanation of the framework will be further deliberated in Chapter 2.

1.9 Scope of the Research

Most of research on policymaking process are commonly found and based on Western points of view. The present study investigates and examines policymaking process from the perspective and experience of Malaysia, a developing country, particularly from the angle of Malaysian public administration. Accordingly, the research specifically focuses on the first stage of policymaking cycle, namely agenda setting. Despite of having several stages in the policy cycle process, for instance policy formulation, adoption, implementation, and evaluation, agenda setting has been classified by some

scholars as the most severe stage of the policy cycle (Howlett & Ramesh, 2003). What happens at this stage has a crucial impact on the entire policy process and its outcomes. The resolution of conflict, thus, is imperative at this stage, in which policymakers should address the problems before they could reasonably proceed to the next stage of policy formulation and design or even implement it.

The research, therefore, applies the development of the proposed NHP as a case study, through which it investigates the types of conflicts that policymakers may face in setting the agenda of the policy and the ways the parties involved resolve them. The proposed policy is selected due to the conflicting interest of various stakeholders in the field, and this provides an effective avenue to explore negotiation. In addition, the on-going process of policy development offers the advantage of identifying and gathering appropriate participants to draw important and rich data. Since the focus of the research is focused on how participants approach the negotiation process or the consultation session that they had attended, the other existing policies may present a variety of limitations, especially in refreshing and restoring their experiences of attending any related process of discussion. Most of the participants selected are those who had just attended the consultation session and they could still recall their actions and experiences throughout the session. The experiences and involvement of the participants are useful for eliciting quality data.

1.10 Definition of Terms

Among the relevant terms used in this study are described in the following paragraphs:

Policy-related Conflict Resolution: This is a descriptive model presented by Stephenson and Pops (1989) which guides and discusses how conflicts are resolved in the policy process. In it, several elements, for instance the source of conflict or the stage of policy process, the arising issues or the factors to conflict, and conflict resolution or intervention are examined collectively to manage arising issues within

the policy process. The study thereby employs the core concept that conflict is possibly resolved within a framework of policymaking.

Conflict Resolution: This is typically associated with legal definition which refers to a process of resolving dispute or disagreement. The term conflict resolution is also known as dispute resolution or alternative dispute resolution (US Legal, 2016). However, Stephenson and Pops (1989) generally expand the definition to incorporate insights from the literature of conflict resolution and public policymaking. For the purpose of study, the term is associated with the theory of principled negotiation, which permeates the acts of analysing a complex notion into a simpler one, namely the act of answering, determining, listening, or any other technique which may not be confined to only reaching agreements. In some cases, especially when stakeholders mistrust each other or have irreconcilable differences, it can be important for conflicting parties to begin by attempting to understand each other's perspectives better and exploring areas of agreement and disagreement so that a better agreement can be achieved in the policy process.

Agenda Setting Stage: This refers to the first stage of the public policy cycle. Before a policy can be formulated, it must first command attention. Agenda items get attention because they are of public importance. Once on the agenda, a matter will receive prompt and thorough consideration and action. Chapter 2 explains in detail different levels of agenda before ensuing policy agenda (Birkland, 2005), namely agenda universe, systematic agenda, institutional agenda, and decision agenda. Howlett and Ramesh (2003) described systemic agenda as an agenda for discussion, while the institutional agenda is an agenda for action. Therefore, based on the development of the NHP, the discussion has moved to institutional agenda, which represents a set of items explicitly brought up for the active and serious consideration of authoritative decision-makers. These are issues that those in power are actually considering acting on. However, the study also takes into accounts the earlier agenda level prior to the institutional agenda, namely the systemic agenda. Such agenda level consists of all issues that are commonly perceived by members of the political community as meriting public attention and as involving matters within the legitimate jurisdiction of existing governmental authority.

Arising Issues: Literally, this refers to a subject or problem that people are thinking and talking about (Cambridge Dictionary, 2019). The highlight is on a problem which involves something that needs resolving, answering, or considering. It may involve a difficult person, matter, or situation. A simple problem can turn into a serious one if there is conflict (Pearce, 2017). Conflict occurs when differences arise due to the various ideas, perceptions, motivations, and desires that different individuals have which may not be compatible with each other. It is also defined as a serious difference between two or more beliefs, ideas, or interests (Oxford English Living Dictionary, 2019; Collins Dictionary, 2018). Conflicts can lead to useful opportunities to all. However, conflict can also become so unmanageable that it leads to destructive and aggressive implications. Conflicts can prompt creative problem solving that requires all involved to recognise that each party has needs and all of the needs are legitimate. Therefore, in the study, arising issues related to the field of Halal practices represent conflicts that occur from the interaction of various parties or stakeholders within the process of policymaking. These issues may involve the parties, and the various interests for which every party is struggling to ensure their interests are recognised and endorsed by the government for further consideration in serving their needs, desires, and concerns. The issues are expected to become a constructive conflict through which it generates productive and mutually beneficial shared decisions.

Policy Subsystem: This is also explained in the context of the ACF. Basically, it encompasses a substantive issue and specialised policy participants, usually within a geographic boundary (Sabatier & Jenkins-Smith, 1993b). The term “policy participants” is used to describe a wide array of actors who directly or indirectly attempt to influence subsystem affairs, including officials from all levels of government, interest group leaders, scientists, consultants, citizens-at-large, and members of the media (Weible & Sabatier, 2009). Policy participants is used interchangeably in the study with stakeholders, policy actors or policy players. It can be a person, group or organisation that has interest or concern in the field of Halal practices. Further elaboration of policy subsystem is provided in Chapter 2.

Negotiation: There are several definitions pertaining to negotiation. The basic idea about negotiation literally involves the process of discussing something with someone in order to reach an agreement with them, or the discussions themselves (Cambridge Dictionary, 2019). However, a more technical definition describes negotiation as the process whereby people attempt to settle what each shall give and take or perform and receive in a transaction between them (Rubin & Brown, 1975). It can also be defined as the back-and-forth communication designed to reach an agreement between two or more parties with some interests that are shared and others that may conflict or simply be different (Patton, 2005). Several key words within these definitions may reflect the application of negotiation in the study, for instance, the act of discussion or the discussion itself, the process, engagement, consultation process, the communication, and finally agreement reached within the conflicting or different interests.

Additionally, the study also views negotiation from the public administration field as a form of new governance tool which falls under alternative dispute resolution (ADR) of quasi-legislative process. The new governance is particularly appropriate for managing the relationship between people and their environment (Durant, Fiorino, & O’Leary, 2004) and engaging citizens in policy decisions. The form of governance is also termed as collaborative governance or consultative process, which is commonly characterised by dialogue and deliberation. The mechanisms include public conversations, participatory budgeting, study circles, collaborative policymaking, dialogue among groups of stakeholders or citizens, focus groups, roundtables, deliberative town meeting forums, choice work dialogues, and other partnership arrangements (Booher, 2004; Williamson, 2004; Fung & Wright, 2003). Scholars have observed that the emerging mechanisms, forms or tools of governance require skills like negotiation (Bingham, Nabatchi, & O’Leary, 2005; Agranoff & McGuire, 2003; Salamon, 2002).

Principled Negotiation: Negotiations commonly follow a process of “positional bargaining” which represents a win-loss paradigm. In positional negotiation, each party initiates with their position on an issue, then bargains from the party’s separate opening positions to eventually agree on one position. However, in principled negotiation, the interest-based approach to negotiation which is also known as win-

win negotiation, the two interests of parties are considered in combination so that there is the possibility of creating a joint value (Fisher & Ury, 1981). The key is the spirit of collaboration and cooperation and not competition, in which it capitalises the nature of problem-solving in the process. Folberg, Golann, Stipanowich, and Kloppenberg (2016) suggest that problem solvers mostly focus on finding solutions that will maximise the value of the deal for both parties. They do not want to obtain a better outcome for their client at the expense of their counterpart and insist on using neutral principles to accomplish the task of allocating benefits. Thus, in the study, the main highlight of principled negotiation is negotiation on the merits to produce good agreement through which it must consider four following fundamental principles:

Negotiation Parties: Thompson and Hastie (1990) described party as the most basic feature in negotiation process. It relates to a person or a group of persons with a common interest who acts in accord with his or her/its preferences. In relation to principled negotiation, negotiation should have operated by the doctrine of separate people with problem. It insists on maintaining good communication and improving poor communication to safeguard the relationship between the policy participants. (Fisher & Ury, 1981). Issues should be decided on their merits, rather than being influenced by emotions or by the individuals who are involved.

Negotiation Interest: Interest is the underlying reason that justifies people's positions (Thompson & Hastie, 1990). Negotiation comprises multiple, shared, compatible, and conflicting interests. Identifying shared and compatible interests as "common ground" or "points of agreement" is helpful in establishing a foundation for additional negotiation discussions. Thus, under the doctrine, a problem is defined in terms of the parties' underlying interest, this places the focus on interests, and not positions in which it holds, through which it is often possible to find a solution which satisfies both parties' interests (Fisher & Ury, 1981).

Negotiation Process: It is the interaction that occurs between parties before the outcome (Thompson & Hastie, 1990). Sometimes people will focus too narrowly when generating ideas. Alternatively, parties may limit their focus to their own immediate interests. This stifles options that may appeal to all involved in the

negotiation. The theory of principled negotiation explains the process through the doctrine of option for mutual gain. Before seeking to reach agreement on solutions for the future, multiple solution options should be developed prior to the evaluation of those options (Fisher & Ury, 1981)

Negotiation Outcome: This is the product of the negotiation process (Thompson & Hastie, 1990). It is elaborated further under the doctrine of using objective criteria (standards independent of the will of any party). The parties must find legitimate criteria for their outcome. Fisher and Ury (1981) suggest that solution selection should be done according to concepts, standards or principles that the parties believe in and under no control of any single party. Outcome also includes analysing the “best alternatives to a negotiated agreement’ (BATNA) or Plan B, which looks at the abilities of the negotiating parties to come up with alternatives and working with fair and realistic commitments. Both parties must reach an outcome that is reasonable and doable; otherwise, the outcome will ensure that nothing is gained.

Negotiation-based Policymaking Framework: There is a close relationship between ‘negotiation’ and ‘decision-making’. The aim of both processes is to reach an agreement (Elgstrom & Smith, 2000). On that premise, the study aims to produce a policymaking framework that adopts the principles of negotiation in reaching a good agreement in the process of policymaking. The framework is used as literally it reflects the basic structure of ideas or facts that provide support for any subject matters (Merriam-Webster, 2019). The framework, in comparison with process or guidelines, provides a more general outline of the process to achieve a specific goal. In the study, the framework is developed based on several considerations such as (1) elements in the theories, (2) the existing mechanism and (3) the emerging themes related to every research question. Thus, with those types of ideas and facts, it could be the outline to guide any engagement or discussion session which involves negotiation. The framework subsequently provides a clear structure on methodological approach in conducting negotiation in the policy process. The approach will be guided by the four negotiation features which are interpreted through the lens of four doctrines of principled negotiation.

Engagement System: Literally, this refers to an arrangement to do something or go somewhere at a fixed time, and system is defined as a set of principles or procedures according to which something is done, namely an organised scheme or method (Oxford English Living Dictionary, 2019). As engagement system is related to participation, in this study, it emphasises on the development of public policy. The participation involves significant consideration for governments' engagement with citizens, which involves having consultation with the stakeholders during a certain time by using official platform and facilities. For example, this can be a process of consultation in the form of roundtable discussion, meeting, workshop, or any official discussion. Hence, in the study, consultation process is also considered as part of the engagement system.

1.11 Summary

This chapter provided an overview of the study. It began with background of the study, the rationale behind it, the expected contribution of the findings, its theoretical underpinning and conceptual framework, and finally, the definition of the terms used in the study. The study encompasses two main fields, mainly policymaking process and conflict resolution. Based on the premise, it aims at exploring the types of arising issues or related conflict occurred during the initial development of policy process and to what extent negotiation play its role to resolve disagreements. It is anticipated that the research could contribute to fill important gaps in the local system of policymaking process, which is frequently challenged by various dissatisfactions and disagreements upon the implementation of a related policy. It is also expected that the outcome may produce a significant negotiation framework to improve the process of policymaking in the country, or at the very least could be a practical reference for policy stakeholders. These inputs are useful to assist the country's struggle to uphold and advocate its governance to be at par with other developed countries.

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Appendix A

Research Questions

[Questions for Policymakers]

Section 1

1. Could you please explain your role in the session and describe on what did actually happen in the process of discussion (related to the procedures taken)?
2. What do you do to ensure interaction among the parties?
3. What do you do to invite cooperation among the parties (to participate)?
4. How do you manage various parties in the process with different interests in the process?
5. How does the agreement reach within the differences?

Section 2

1. What is your view on the composition of parties involved in the session? Could you please describe the condition/status of the parties? [For example the position that they hold or they are just representative of any institutions]
2. *What are among the agendas discussed?* How was the agenda of the discussion discussed? Did the discussion observe or expand or reject the agenda?
3. What are the interest and the stand of government in setting the agenda?
4. What is your view on other parties' interest pertaining to the agendas discussed?
5. What do you observe on the parties' behaviour during the process to ensure their interest capture the government's attention?
6. What is your view on the result of the discussion (agreement)?

[Questions for Stakeholders]

Section 1

1. Could you please explain your role in the session and describe on what did actually happen in the process of discussion?
2. What did policymaker do to ensure interaction and cooperation among the parties?
3. How did policymakers manage various parties in the process with different interests in the process?
4. How does the agreement reach within the differences?

Section 2

1. Why do you want to involve in the process of setting the agenda for the proposed policy? What is your / agency's interest?
2. *What were among the agendas discussed?* How was the agenda of the discussion discussed? Did the discussion observe or expand or reject the agenda?
3. What is your opinion on the interest and stand of government at the stage?
4. What is your view on other parties' interest and stand pertaining to the proposed agendas?
5. What do you do to ensure your institution's interest capture's the government attention?
6. What is your view on the result of the discussion (agreement)? What type of agenda is agreed upon? Does it reflect the majority or those who are dominance in the discussion?

[Questions for Policymakers and Stakeholders]

Section 3

Parties

1. How do you communicate (listening and speaking) to each other in negotiating on agendas?
2. What do you do if you do not agree with each other in the negotiation?
3. Can you read one's body language in the negotiation? How do you benefit from it?

Interest

1. What would you do with your interest either to share your interest with other party or to conceal it, and why?
2. Is it important to know other parties' interest? How do you want to explore the other parties' interest?
3. What is your opinion on the parties' interest compared to your interest?

Process

1. What would you do if no agreement reached in the process?
2. What would you do if the agreement reached is not your preference?
3. What do you do to ensure other parties agree to your reasons or arguments?
4. Do you face ethical issues during negotiation (any bargaining that involve your integrity)?

Outcome

1. What do you expect from the agreement (plan of action)?
2. *Can you project or predict the outcome in the negotiation?*

3. How would you feel if the agreement after negotiated is not executed or implemented?

Section 4

Parties

1. How do you manage your emotion during the process (especially in the case of disagreement)?
2. How do you manage other parties' emotion?
3. Do you have any perception to other parties in the process and what do you do to reduce your perception against the party?
4. What is your view on establishing relationship with other parties? How do you maintain your relationship with other parties and professionalism in the event of disagreement?
5. How do you react in the case of unethical gesture, use of "bad" language in the negotiation?

Interest

1. What is concerned you most, the interest (the opinion) of the party or the position they hold and why does it concern you?

Process

1. Do parties have initial discussion (e.g pre-council meeting) before the process and what did they discuss?
2. How about brainstorming session among the participants and please describe what did happen in the brainstorming session?

Outcome

1. Were the agreed agendas based on certain criteria which you have discussed?
2. What do you think on legitimacy of the agreed agendas (to be upheld to next level)?
3. What do you think on using some pressure or threat to the other parties in reaching the agreement?
4. What do you think on having Plan B in case of your view is not accepted? State your alternative plan?

Session	ADDITIONAL QUESTIONS
Opening Session	<ul style="list-style-type: none"> • Have you been invited/ involved in the Halal engagement session? • What type of engagement?
Closing Session	<ul style="list-style-type: none"> • From your observation, what can you do better to improve the discussion? • What type of negotiation do you prefer, win-win or win-lose type of negotiation? Why? What do you think on your negotiation approach in the session?

Appendix B

EXPLANATORY STATEMENT

Title: Negotiation Approach at the Agenda Setting Stage of the Proposed National Halal Policymaking Process

This information sheet is for you to keep.

My name is Fazni binti Mat Arifin and I am conducting a research project towards a degree of Doctor of Philosophy in Policy Study at Malaysia Technology University.

Your name and contact details were acquired from the Secretariat of National Halal Policy and you have been chosen to participate based on your job function at your organization

The aim of the study is to investigate the role of negotiation in the policymaking process particularly in the proposed National Halal Policy, which in consequence would propose a negotiation-based policymaking framework in the local administration system

The study involves audio recording, semi-structured interviews and it will take approximately one hour. We believe that the research will not involve any harm, discomfort or inconvenience to you. If a participant feels any personal distress as a result of participation, then the interview will be stopped by the interviewer.

Being in this study is voluntary and you are under no obligation to consent to participation. However, if you are willing to participate you may withdraw at any time or avoid answering questions which you feel are too personal or intrusive. There will be NO consequences if you decide not to participate

Your information is completely de-identified. No potentially identifying information will be included in any analysis. However, your organization will be coded according to its types and functions

If you would like to be informed of the research findings, please contact me as the information below.

If you would like to contact the researcher about any aspect of the study, please contact the Supervisor, *Associate Professor Datin Dr. Nooraini Othman, 0192638838*, Perdana School of Science, Technology and Innovation Policy, or email, p-noraini@utm.my.

Thank you

Fazni binti Mat Arifin
Razak Faculty Technology and Informatic
+60192363389
faznimatarifin@gmail.com

Appendix C

CONSENT FORM (Interview)

Title: Negotiation Approach at the Agenda Setting Stage of the Proposed National Halal Policymaking Process

I _____ (participant's name) _____ on behalf of (Participant's Agency/ Institution/ Organisation (if any)) _____ agree to take part in the above Malaysia Technology University research project. I have read and understand the Explanatory Statement attached.

I understand that:

- Being in this study is voluntary and I am no obligation to consent to participation. However, if I am willing to participate, I may withdraw at any time or avoid answering questions which I feel are too [personal or intrusive. There will be NO consequences if I decide not to participate
- Any data that the researcher extracts from the interview session for use in reports or published findings will not, under any circumstances, contain names or identifying characteristics
- Any information I will provide is confidential and that no information that could lead to the identification of any individual in any reports on the project, or to any other party
- Data from interview session will be kept in a secure storage and accessible to the research team. I also understand that the data will be destroyed after a 5 year period unless I consent to it being used in future

I understand that agreeing to participate, means that I am willing to:

- Be interviewed by the researcher [YES/NO]
- Allow the interview to be audio-recorded [YES/NO]
- Make myself available for further interview if required [YES/NO]
- Allow the information provided by me to be used in further research projects which have ethics approval as long as my name and contact information is removed before it is given [YES/NO]

Signed by:

Date:

LIST OF PUBLICATIONS

Non-Indexed Journal

Fazni Mat Arifin & Nooraini Othman (2018). The dynamic of policymaking process in Malaysia. *International Journal of West Asian Studies*, 10 (1), 74-84. Retrieved from <http://ejournal.ukm.my/ijwas/article/view/30042>