The Shari'ah Compliance Spa for Wellness and Tourism Context in Malaysia

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Abstract

Spa, Tourism and Wellness are a relatively new trend that has registered an impressive growth rate. The spa market has turned into the fastest growing leisure sector which provide facilities as venue to improve a person's health and well-being. In Malaysia, Shari'ah compliance spa has increasingly becoming an important marketing strategy which attract customers in the context of wellness industry. This is parallel with the growing demand for products and services that comply with Islamic law with consideration trend nowadays. Thus, there are specific criteria for the spa sector to be complied for a Shari'ah compliance. The Shari'ah compliance elements practiced by Islamic Spa Practices (ISP) include the usages of Halal Products; Gender Segregations in Treatments and Procedures, as well as Physical Construct Elements. The five vital elements of Maqasid Shar'iyyah which were Protection of Religion (*Al-Diin*); Protection of Life (*Al-Hayah*); Protection of Mind (*Al-'Aql*); Protection of Dignity (*Al-Muru'ah*); and Protection of Wealth (*Al-Mal*) considered in delivering the Shari'ah Compliance Spa. To date, there is no much framework that elaborates the Shari'ah compliance spa that include the ISP practices and Maqasid Shar'iyyah elements. However, an initial framework of Sha'riah compliance spa is developed based on the Muslimfriendly hospital services.

Keywords: Shari'ah, Spa, Malaysia, Wellness, Tourism

INTRODUCTION

Spa, Tourism and Wellness are a relatively new trend that has registered an impressive growth rate. Ell (2015) has stated that the Spa growth is stimulated by an increased interest in wellbeing as workplaces become more stressful. The Spa industry has evolved from a series of small business and cottage industries existing in parallel in many different locations around the world based on local bathing, beauty, wellness, and healing practices (Koncul, 2012). The industry is still evolving and while hotels spas and day spas are becoming more established, there are new models developing including specialty spas, residential spa communities and Medi-spas that are beginning to integrate western medical expertise, as well as a growing market for home spa product and services (Rancic, Raljic & Pavic, 2013). Thus, the spa market has turned into the fastest growing leisure sector which provide facilities as venue to improve a person's health and well-being (Jamaluddin et al., 2018).

DEVELOPMENT OF SHARI'AH COMPLIANCE SPA IN MALAYSIA

In Malaysia, spa industry has gaining its popularity since 2002 with the growth over 200% (Yaman et al., 2012). Its popularity is gradually rising, and its growth becomes more expanding year by year, while in 2014 wellness segment in Malaysia also showed a positive growth up to 10% (Oxford Business Group, 2016). Due to this, the government had granted various plans to kick off this industry to be one of the income generators for the national economy. Apart from that, the government also segmented spa industry as one of tourism products to be marketed through various prospect areas in the tourism industry such as spa and wellness tourism, health tourism and medical tourism. It regards as a wise approach since travel and tourism are highly important as a one of the largest contributors to the Malaysian economy.

According to the Pew Research Center's Forum, the Muslim population is growing twice the rate of the non-Muslim population (Thomson Reuters, 2013). In Malaysia, majority of population are Muslims, and the improvement of understanding of Islamic teaching of Islamic-based products becomes a vital driving force in the emergence of the Shari'ah compliance spa (Halim & Mohd Hatta, 2017; Othman, Halim, Baharuddin & Mahamod, 2015; Yaman et al., 2012).

As Muslims are the majority populations in Malaysia, a spa and wellness centre with Muslim friendly concept is becoming one of the new spa products that bring a huge potential to tap on this lucrative market. Increasing understanding of Islamic teachings and preference of Islamic-based products are the key factors in the emergence of this type of spa (Halim & Mohd Hatta, 2017; Othman, Halim, Hashim, Baharuddin, & Mahamod, 2015; Yaman et al., 2012). However, the Shari'ah compliance spa faced competition from Balinese and Thailand spa with negative perception towards the concepts (Oxford Business Group, 2016; Yaman et al., 2012).

Muslim Friendly spa is an innovative product to dispel bad perceptions and boost positive awareness towards industry. Therefore, there is a significant to capture this market and develop this niche spa product to be more marketable with the increasing number of Muslim populations worldwide along with the arise trend of Muslim friendly tourism and destination in the world.

MOBILISING TOWARDS SHARI'AH COMPLIANCE SPA IN MALAYSIA

Generally, Islamic spa is commonly described as a place which products sold and services provided are based on the Islamic law (Othman et al., 2015). There is quite an issue with this Islamic or Sha'riah compliance spa's definition as there are people who will involve in the self-proclaimed that their spa can be considered as a Sha'riah compliance spa just by providing certain facilities based on the Islamic law. Nonetheless, it is more than that as supported by Ng (2018) stated in her article that an interview with a healthcare entrepreneur Shahnas Oli Mohamed has revealed that most of the Muslim-friendly establishments are not necessarily comply with the Sha'riah principles and standards despite of using halal products and forbidding men to enter the spa premises in accordance to the Islamic law. Hence, it is wise to say that sha'riah compliance establishments including spa needs to be strictly defined with its own framework and indicators to be officially certified as one of the compliant Spa.

Besides, the influences of religions are certainly demonstrating its impact on the spa services' practices. Nowadays, most of wellness centres and spas are using the traditional historic natural ingredients in their products and treatments to attract more visitors especially for those who are committed with these kinds of elements. According to Spafinder Wellness 365 (2015), the value of nature and its generosity has been put at the highest point in Islamic wellness traditions and this happened due to the understanding of how the human bodies are exclusively responding towards ingredients from nature. The same report has also predicted that there will be increased usage of natural Islamic-related ingredients for instance black seed oil, turmeric, camel's milk and harissa. Therefore, the emergence of Islamic concept spa is actually starting from the simple usage of natural Islamic-related ingredients, development of Islamic related or Muslim friendly establishment and eventually, the successful compliance of Sha'riah law in the spa establishments. As a proverb has said, "Rome was not built in a day" and so do Sha'riah compliance spa.

Thus, in Malaysia Shari'ah compliance spa has increasingly becoming an important marketing strategy which attract customers in the context of tourism and wellness industry. This is parallel with the growing demand for products and services that comply with Islamic law with consideration trend nowadays. Thus, there are specific criteria for the spa sector to be complied for a Shari'ah compliance. The Shari'ah compliance elements practiced by Islamic Spa Practices (ISP) include the usages of Halal Products; Gender Segregations in Treatments and Procedures, as well as Physical Construct Elements.

Halal Product

As Malaysia is moving towards Halal Hub which is a concerted effort among the Islamic countries which put the greatest concern on halal food, halal manufacturers, halal pharmaceuticals, halal cosmetics, halal packaging, halal logistics as well as halal services from all over the world (Idris and Wahab, 2015; Samori and Rahman, 2013). This is in line with the growing demand for products and services that comply with Islamic law or Shari'ah law which is obviously taken into consideration whereby the trend is moving towards wellness activities (Salleh et al., 2014).

Malaysia, well-known as a pioneer in establishing halal food laws in the early 1980s (Ahmad et al., 2015). For many years expressed its aspiration to become a global halal hub for the production and distribution of halal products and services (Anis Najiha, 2015). To achieve this status, it is important for Malaysia to prime itself, not just in terms of supporting infrastructure and technology, but also in the human resources sector. In addition, well-trained human resource that is capable of facilitating knowledge and expertise is essential to make a fast entry into the global halal market (Suzana & Che Wan Jasimah, 2006). Halal branding in Malaysia is very important in developing shariah or Islamic tourism.

Halim & Hatta (2018) stated that in determining the permissibility of spa products, there may be items in these products that have been clearly prohibited in Islam. Examples of these items include clear prohibition of the use of "dead animals, blood, flesh of swine that which has been dedicated to other than Allah." (Surah al-Baqarah, verse 173). Therefore, there is a clear prohibition for Muslims from consuming or using any part of or derivatives of the following:

- i. Dead animals this means animals which are considered as carcasses which had died due to natural means. Aside from that, it also means animals which died through other means than being slaughtered with the name of Allah s.w.t.
- ii. Blood this includes all types of blood, be it from humans or animals.
- iii. Flesh of swine this includes any pork derivatives.
- iv. Any meat that was slaughtered without mentioning Allah's name. This would include all derivatives from these animals as well. This is with the exception of fish and sea food. For now, the discussion continues on an explanation of the method of deriving *Hukum* by Muslim jurists.

In addition, the materials used in the treatment are safe and halal, no product used is from non-halal sources, no services & treatment which change the creation of Allah (e.g., shave the eyebrow, wig treatment). No hair dye with black colour and no following services allowed to be performed at the spa such, as gambling, karaoke, snooker, dancing, entertainment shows and so on (Jamaluddin et al., 2018).

The establishment of beauty treatments and spa centres/ Islamic Spa Practice offers service that can attract customers which include services, treatments and the term of privacy of spaces together with the spa provides all halal product for its cosmetics, drink and meal.

Gender Segregations in Treatments and Procedures

According to the ISPA, Shari'ah compliance Spa can be referred to a spa that offers the professional spa services in accordance with Islamic or Shari'ah Law in terms of services, management and products. For example, the services have to be implemented separately according

to the gender, and the gender segregation can be realised either by rooms or floors. The services also have to be carried out by therapists of the same gender (male therapist for male customer and female therapist for female customer). All spa employees have to cover their aurah, for instances, the female employees wear hijab or scarf and male employees wear pant that cover the area between the navel and the knee. The spa therapists are also well-educated to respect the aurah of the customer (Yaman et al. 2012).

On the other hand, the Islamic constructs the gender segregations involved the physical spa facilities that consists of wet treatment room with separation of gender, dry treatment rooms, baths and showers, laboratories, reception, relaxation, waiting areas, locker rooms, retail areas, administrative area and other associated areas different than conventional construct (Erfurt- Cooper & Cooper, 2009). In Islamic spa, aspects such as purpose of a visit to spa, Islamic guidelines of spa resource that consist of water therapies such as body wrap, body scrub, baths, the built environments of the spa according to Islamic values with treatment therapist segregation by gender, the use of rooms and the different services to clients both men and women.

Chanin (2016) mentioned that there is a need to segregate the male and female customers when comes to giving the service. Cubical segregation only is not enough where a separate location is needed, for example, in adjacent buildings or on different floors. One of the respondents cited, "our religion asks for the segregation between men and women that are not blood related when come to the activities that expose certain part of their bodies".

In order to ensure the products offered suitable for Muslim customers, the products of Halal also have to adhere to the Shari'ah Law. The spa products should not contain items which involved the usage of the "dead animals, blood, the flesh of swine that which has been dedicated to other than Allah." (Surah Al-Baqarah, verse 173). A part from that, the usage of any meat that was slaughtered without mentioning Allah's name also prohibited for Muslims customers.

On top of that, Shari'ah Compliance Spa also have to take five elements of Maqasid Shar'iyyah into consideration in delivering spa services and products. The five vital elements are the protection of religion, life, intellect, progeny or dignity and property. Spa products should allow Muslims to perform their routine religious obligation, for example, the facial or skin care products are *wuduk* friendly. This is very crucial as it protect the religion elements of Maqasid Shar'iyyah. In terms of human life, the spa products are safe and may not cause serious health problem or lead to death. For example, the usage of spa product containing carcinogen, cancer-causing agents.

According to Spa and Wellness Industry Association of Malaysia (SWIAM), Shari'ah compliance spa can be as a country trademark in Malaysia as it has the potential to compete with conventional spa operators (Yaman et al, 2012). For instance, Shari'ah compliance spa could address the issues of Mahram or *Aurah* by segregation of services for men and women on different floors or rooms. Hence, customers would enjoy the services offered without worrying about their *Aurah* as Shari'ah Compliance Spa has met the privacy element required by a Muslim.

On top of that, the Shari'ah compliance spa products and services could be one of the strong pull factors in the Malaysian tourism industry, specifically for Muslim-Friendly Hospitality Services. Malaysia would be as a favourable tourist destination for Muslim tourists from all over the world as it has the great potential to enhance Shari'ah compliance spa products and services. In order to implement the Shari'ah compliance spa, ISP was established to meet the requirement provided by Malaysia Islamic Development Department (JAKIM).

Physical Construct Elements

Malaysia owns one system that can be used as a guide for a nature spa business, because the system or procedure is important to be translated into Standard Operating Procedures (SOP), so everything is done according to Shari'ah compliance spa. Thus, applying the concept of ISP is not only in term of service and even execution of business operations, including the use of verses of al-Quran also enhance the image of the country is seen as a catalyst for the concept of halal industry (Yaman et al., 2012).

The Physical Construct Elements are the component of wellness and tourism that relates to the provision of specific health facilities and destinations. It is the type of tourism which focused on the effect of relaxation and curative influence on the human body, achieved by the means of waterbased procedures, such as mineral waters, thermal pools, vapor-baths and sauna. This changing paradigm of healing and rejuvenation has created the concept of spa ultimately (Hudson, 2003).

As the Shari'ah compliance spa, the Physical Construct Elements were developed as one of the business practices to compete against the conventional spas and distinguish from Balinese or Thailand spa concept since these concepts have been monopolizing the spa industry in Malaysia. The label of Muslim Friendly makes spa more feasible to appeal Muslim spa goers since Shariah compliant elements are being implemented (Jamaluddin et al., 2018; Yaman et al., 2012) have mentioned some of the Shari'ah compliance spa elements practiced by ISP included:

- i. Beauty therapist segregation by sex
- ii. Separate rooms and services among women and men
- iii. Concept and internal decoration that compatible with religion of Islam
- iv. Using beauty products from halal sources
- v. Design of space planning is closed and hidden from non-muhrim's view
- vi. Provide musollah/ praying area
- vii. Begin a treatment with the reading of verses from Al-Quran
- viii. Hiring Muslim women or men employees and they must cover their aurah
- ix. Neglecting prayers until overpass prayer times
- x. No hair dye with black colour and shaves the eyebrow.

The Shari'ah compliance spa concept is thus more particular than a conventional spa to fulfil the unique needs of Muslim consumers. Taking care of the body and maintaining health while adheres to Shariah are the purpose of fulfilling the Maqasid al-Shari'ah in terms of healthcare and beautification.

ELEMENTS OF MAQASID SHARI'AH IN SHARI'AH COMPLIANCE SPA

Shari'ah compliance spa has to take five elements of Maqasid Shar'iyyah into consideration in delivering spa services and products. The five vital elements are the protection of religion, life, intellect, progeny or dignity and property.

Protection of Religion (Al-Diin)

The first element of Maqasid Shar'iyyah is the protection of religion which is called as *Al-Diin*. This element can be referred as the importance of protecting the religion, putting it as the first one in place as religion should be the highest priority of every Muslim. According to Abdul Halim and Mohd Hatta (2017), Islam enables Muslims to have belief and worship obligatory which in related to spa industry, this element will preserve the Muslims to use everything they can just to protect the religion. In the context of spa products and services, this element will determine and emphasize on the importance of using wellness and beauty products which will not affect the Muslim users in performing their daily religious obligations for instance, the five times daily prayers.

The usage of cleansers, toners, nail polishes, shampoos, cosmetics and others need to be washed and cleaned before performing ablution (wudhu') as it creates the doubtful (syubhah) feeling within the individual Muslim whether he or she thoroughly performs it or not. Hence, every Muslim friendly spa or Sha'riah Compliance spa should be emphasizing this element in providing the products that will be used in its service provisions. In fact, nowadays, there are quite a number of products which claimed to be Muslim friendly items, that can be prior checked by the spa's employees whether it is legit complied with the Islamic rules and laws or not.

Protection of Life (Al-Hayah)

The second element of Maqasid Shar'iyyah is the protection of life which is also known as *Al-Hayah*. This second element can be referred as the requirement of protecting the human life in which Allah has granted every individual the right to be lived, enabling he or she to be healthily eating, married

and forbid him or her to take their life (Abdul Halim & Mohd Hatta, 2017). In the context of spa industry, the establishments need to ensure that their spa products and services are safe to be taken, used and consumed by their visitors and customers.

Unsafe products for instance, products with negative side effects will cause the users to face serious problems which in the worst scenario is death. For example, in cosmetics, high level of mercury can cause damage to the kidneys and nervous system of its users (Malay Mail, 2020). In spite of its well-known adverse effects towards the human body and warning from the health authorities, there are users who are still using the products. In developing a Shari'ah compliance spa, the owners and employees to be aware of every product that will be used for their customers in order to make sure that the customer's right for their lives to be protected are not violated only because the greed of another human being.

Protection of Mind (Al-'Aql)

The third element of Maqasid Shar'iyyah is the protection of mind which is known as the *Al-'Aql*. This element can be referred as the importance of protecting the human mind. God has granted every individual in this world to have a sound intellect and knowledge which can be improved through learning and forbid anything that can corrupt or weaken it for example alcohol and drugs (Abdul Halim & Mohd Hatta, 2017). A sound intellect is the basis for an individual to perform his or her moral responsibilities given and there are orders from Islamic and Civil law that imposed preventive punishments to those who are under individuals of these alcohol and drugs.

In spa establishments, it is not impossible for the spa owners to actually illegally involved with these substances. As a matter of fact, there might as well products that contained illegal amount of these substances which may cause the users or consumers to be in addiction and 'unsound' mind. Products such as aromatherapy, essential oils which are intending to let the consumers calm and relax may stimulate the consumers' mind to become unconscious when there are illegal substances. Besides, a Shari'ah compliance spa should be very particularly about its spa cuisine especially when it comes to the usage of alcohol such as cooking wine in its cooking process, even if it is in small amount.

Protection of Dignity (Al-Muru'ah)

Following, the fourth element of Maqasid Shar'iyyah is the protection of dignity which is known as Al-Muru'ah. This vital element is related to the protection of lineage where Muslims are forbidden to involve in sex outside marriage. In Islam, Muslim should take care of their *awrat* especially the females who need to cover themselves from head to toe except for face and palms. The cover of this *awrat* will remind the Muslims to continuously protect their dignity in every circumstance they are in. Furthermore, the spa owner or employees of a Shari'ah compliance spa should be able to ensure that the spa practitioners are respecting the *awrat* of the customers and cross gender should not be allowed for the treatment as spa services are not considered as emergency services (*darurat*).

Other than that, in order to be certified as a shari'ah compliant spa, the spa owner and employees need to put their customers above everything when they need to decide about the products' purchases. Their careful thoughts should at least remind themselves not to buy harmful products for the customers for instance, mercury related products as it may disrupt the young or unborn children's brain development (Malay Mail, 2020). In this case, the individual's right to be protected in terms of their lineage is actually violated by the spa as the mercury is affecting the unborn baby of the pregnant customer.

Protection of Wealth (Al-Mal)

The final element of Maqasid Shar'iyyah is the protection of wealth or also known as *Al-Mal*. This element can be described as the importance of protecting the property and wealth as Allah has obligated the Muslims to support him or herself and the ones they are responsible for (Abdul Halim & Mohd Hatta, 2017). However, Muslims should also need to be able to regulate their financial transactions with others to ensure there will be no economic injustice and unfair dealing. The wealth

and money that the Muslims have should not be spent on non-halal and harmful products that will violate other elements of Maqasid Shari'iyyah, rather it should be spent wisely on beneficial activities and products. In spa industry, the spa owners and employees should protect their property and wealth by not involving in wasteful deeds where the products used should be managed properly. The spa establishment should have an appropriate number of facilities, considering how many customers it can cover in one time without providing too much facilities which may cause waste in electricity and water supply. The facilities should also be regularly maintained so that they can perform satisfactorily and do not cause waste since wasting is the footsteps of evil.

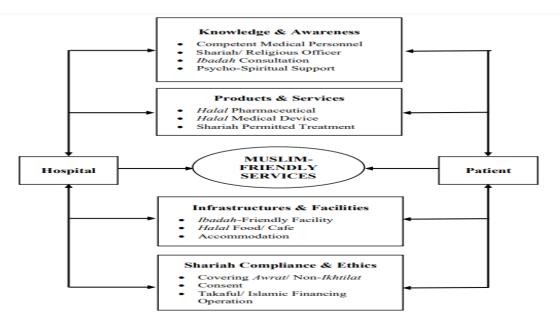
FRAMEWORK OF SHARI'AH COMPLIANCE SPA IN MALAYSIA

There is so not much coverage on how the Framework of Shari'ah Compliance Spa works in Malaysia. Nevertheless, the current trend now is, the spa is moving backward where most industry particularly the wellness industry is approaching the traditional way of services provision. Traditional is not necessarily means bad and conservative but it may as well signify that there is a need to go back to where it belongs. According to Fernandes (2017), Malaysia is moving towards having Muslims with conservative Islam when one Malaysian was said to open his laundromat especially for Muslims. He was condemned to be a conservative Muslim when all he did was trying to provide a 'clean' or Islam compliant laundry.

This is kind of similar to what is happening in wellness and tourism industry when the existence of Shari'ah compliance spa is interestingly new to the world exclusively for the Non-Muslim international countries. It is widely know that there Shari'ah compliance hotel but seldom to be heard that there are Islamic spa services (Othman et. al., 2015). Little did we know, Islamic concept is actually garnering the interest from everyone around the globe in which it has been listed as one of the top 10 trends in spa and wellness in 2015 (Spafinder Wellness 365, 2015). Based on the report, the western world is not familiar with the Islamic wellness traditions whereby, this Islamic concept will be more famous due to the outstanding effect of argan oils and hammam tradition. This will mark the good starting point of Islamic concept to be spread as a new trend that will be recognized globally and comprehensively utilized by the spa goers and operators. In fact, this is supported by Jabatan Kehakiman Syariah Sarawak (2014), whereby in one of its website posts stating that according to Datuk Seri Jamil Khir Baharom, there was quite a demand for halal certification from the service industry where more customers are now preferring the products of Islamic based ingredients. He also added that Malaysia is known to have excellent record in Syariah-based finance and the other Syariah players are expected to engrave their names at the top of the world as the other countries' references. Therefore, the Malaysia spa industry is encouraged to make a move in terms of dominating the framework of Sha'riah compliance spa in the world.

To date, there is no much framework that elaborates the Shari'ah compliance spa that include the ISP practices and Maqasid Shar'iyyah elements. However, Jamaludin, Kartika, Ramli, and Hamzah (2019) has developed an initial framework of Sha'riah compliance spa based on the Muslimfriendly hospital services.

Figure 1 showed the Framework of Muslim-Friendly Hospital Services that emphasized on four crucial elements related to the Muslim-friendly concept in the hospital. The elements comprised of knowledge and awareness, products and services, infrastructures and facilities and Shari'ah compliance and ethics. Knowledge and awareness explains how a Muslim is obligated to gain knowledge and aware of his or her surrounding, products and services explains how Muslim patients should feel convenient and delighted when they received treatments, infrastructures and facilities explains how this element should be provided to be friendly to the hospital staffs, patients and visitors and lastly, Shari'ah compliance and ethics explain how a compliant hospital should provide services in line with Shari'ah law and Islamic teachings (Jamaludin et al., 2019).



Source: Modified from Nur Farhani Zarmani et al. (2018a)

Figure 1: The Framework of Muslim-Friendly Hospital Services

Later than that, Jamaludin et al. (2019) adapted on similar four crucial elements in Muslim-Friendly Hospitality Services to the Framework of Shari'ah Compliance Spa. **Figure 2** indicates the initial framework of Shari'ah Compliant Spa related to the Muslim-friendly concept in a spa establishment. The four important elements in this framework are knowledge and awareness, products and services, infrastructures and facilities and Shari'ah compliance and ethics. A few small modifications have differentiated this framework to the previous one as this is more towards spa establishment rather than a hospital. If the spa is not a medical spa, the knowledge and awareness will be involving therapists and medical personnel will be in charge if the spa is a medical spa.

However, the initial Framework of Shari'ah Compliance Spa by Jamaludin et al. (2019) does not clearly outline and explained the ISP (Halal Products; Gender Segregations in Treatments and Procedures, Physical Construct Elements) and consider the Maqasid Shar'iyyah elements (Protection of Religion, Life, Mind, Dignity, and Wealth) in delivering the Muslim-Friendly Spa services in Malaysia.

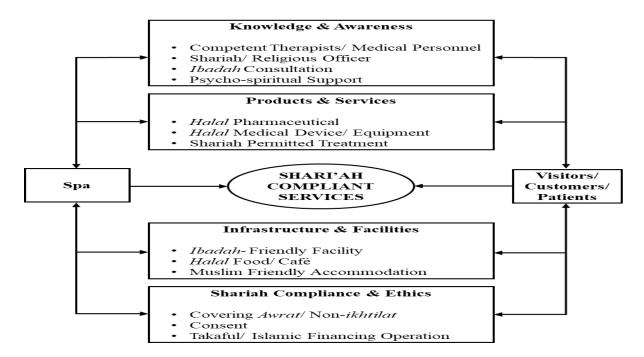


Figure 2: The Initial Framework of Shari'ah Compliance Spa

CONCLUSION

Shari'ah compliance spa has increasingly becoming an important marketing strategy which attract customers in the context of tourism and wellness industry. There are specific criteria for the spa sector to be complied for a Shari'ah compliance which were practiced by the Islamic Spa Practices (ISP) and Maqasid Shar'iyyah elements. However, the initial Framework of Shari'ah Compliance Spa does not clearly outline and explained the ISP (Halal Products; Gender Segregations in Treatments and Procedures, Physical Construct Elements) and consider the Maqasid Shar'iyyah elements (Protection of Religion, Life, Mind, Dignity, and Wealth) in delivering the Muslim-Friendly Spa services in Malaysia.

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