



Toward a Disciplined Fatwas for Pharmaceutical and Healthcare Products

نحو فتوى منضبطة للمنتجات الدوائية ومنتجات الرعاية الصحية

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International Conference on Halal Pharmaceutical
and Health Products

KUALA LUMPUR, MALAYSIA

14 – 15 June 2011

HALPHARM 2011

Jointly organized by :



The reason why I choose to present this topic because of the common shared mistakes by many muftis now a day related to the rule of Islam on intentional and unintentional incidents in obtaining raw materials to be used in pharmaceutical, cosmetics, skin and health care products and processed food like fat and fatty acids, enzymes, alcohol, and gelatin.

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Halal

Haram

Halal is a religious term that mean permissible

which is the opposite of Haram which is also a

religious term that mean forbidden.

Mashbooh

While a lot of things are clear in terms of their **permissibility** or **forbidden**, there are things due to the lack of information that are not clear and thus cannot be classified as **permissible** or **forbidden**.

These not clear things are the subject of doubt or suspicion, i.e. hesitate between Halal and Haram, and often referred to as being suspected or questionable, the Arabic word for it is (Mashbooh).

Suspected or questionable things are not Haram, and whoever accept suspected things is not true to say that he has committed a Haram, but it is better to avoid them.

Religiously speaking, whoever avoid Mashbooh is considered to have a high rank and be rewarded for that, God willing.

Makrooh

If Islam has **not firmly** forbidden something (i.e. Allah سبحانه وتعالى Subhana-hu Wa-ta-aallah S.W. has not stressed on his prohibition), it is called "Makrooh" which is less than forbidden in rank.

And a person will not be said to be committed a Haram, but if he persist on doing it and disregard it this may encourage him on doing Haram.

Basic fundamental rules in Islam

This is a list to some of the basic fundamental rules in Islam

1- The general rule of things are basically permissible.

2- Prohibition and permit is the right of the legislature alone, i.e. the almighty Allah S.W.

3- Permitting or forbidding that comes from Allah S.W. must be thought of as it was due to reasons that serve the interests of human beings themselves.

4- In Halal there is enough to abstain from Haram.

5- We should be encouraged to avoid suspicious things for the fear of getting caught into Haram.

6- Under certain circumstances only necessities permit prohibitions.

The basic fundamental rules of Meat

The basic fundamental rules of Meat is **forbidden**, and this is an exception from the general rule that the basic rules of things are basically permissible.

Comments on the Basic fundamental rules of Meat

Imam Nawawi Allah's mercy him has clarified this rule by saying: "if there is doubt to the nature of the slaughter of the animal/bird this will make the carcasses obtained from such doubtful slaughter Haram. " [Saheeh Muslim, 13/116].

بل قد نقل الإمام النووي رحمه الله الإجماع على تقرير هذه القاعدة، فقال: "فيه بيان قاعدة مهمة وهي أنه إذا حصل الشك في الذكاة المبيحة للحيوان لم يحل، لأن الأصل تحريمه وهذا لا خلاف فيه". اهـ [شرح صحيح مسلم 13/116].

In general, most of the ingredients in food, pharmaceutical and health products come from animal sources.

We do not want to deal with ingredients that come from animal sources according to the following rule in Islam:

If there is a condition leaving Haram that is when all have to be left, then leaving it all will become a compulsory.

مالا يتم ترك الحرام إلا بترك الجميع فتركه واجب

If we apply this rule and expand its uses we may cause people to be in a critical situation.

Quran

Sunnah

We list these previously basic fundamental rules to remind:

Not to **permit forbidden** things that are clearly **forbidden** by the **Quran** and **Sunnah**.

Fatwa

What is Fatwa?

Fatwa is a religious answer to a question regarding a matter or an event under question.

Mufti

Who is Mufti ?

Mufti is a person who delivers the Fatwa provided that he is qualified to do so.

Najes Taher

Some Muftis who had lead conferences on Islamic vision on health and medical problems have missed out some obvious scientific facts, and formulate Fatwas based on incorrect assumptions, and gave a rule that made:

The **Unclean** (Najes) and **forbidden** (Haram) materials **Pure** (Taher) and thus allowed them to be **consumed or used**.

Ifta committee

Emerging issues

What is the Ifta committee?

An Ifta committee is a group of Muftis deliver a Fatwa provided that they are qualified to do so.

Ifta committees are required to deliver a Fatwa specially on Emerging issues.

What is Emerging issues?

Emerging issues are developments in our current time that were not known in the books of early Muslim scholars.

Muslim scholars now a day are required when they deal with emerging issues must take into account the impact of modern requirements to solve these issues without interfering with the fundamental bases of Islam.

Qiyas

How to solve emerging issues?

This is done on 3 levels

Emerging issues under a Fatwa requires ¹measuring (Qiyas قياس) to similar issues happened at the time of the Prophet Muhammad (peace be upon him, p.b.u.h).

Or

²measuring to similar issues happened at the time of the companions of the Prophet Muhammad (p.b.u.h) since they are the ones who understood Islam best after the death of Prophet Muhammad (p.b.u.h)*.

*With the condition that there act does not interfere with a correct text of a hadith from Mohammed pbuh.

Jumhoor

Or

³measuring on closely related Fatwas delivered by early Muslim scholars (Jumhoor) like Abuhanifah, Malik, Shafii, Ahmad ben Hambal or Iben Taymiah
Allah's mercy on them all.

Some of the conditions of Fatwas

When a fatwa is delivered, the Ifta committee decisions will be based on their fatwas on the specific matter or events put together in front of the Ifta committee, and when it is delivered, it is assumed that it happened the way it has been narrated

Ifta committee always asks many questions to see if an event happened the way it has been tailored. Sometimes, an event is not well established, or assumed to happen that way, and when later discovered to be otherwise, the Fatwa will immediately be changed*.

*Mechanical slaughtering fatwa in Malaysia, now it is banned.

Halal or Haram* has only one meaning!

But with emerging issues confusion always

happen due to lack of knowledge on a

specific issue

* As prescribed by the Quran and valid Hadith of the prophet Mohammed P.B.U.H.

Now a day, the confusion is magnitude with

the presence of a wide range of opinions

issued by present Muftis that lack Facts

related to a specific emerging issue.

As a result, this has lead to:

Vague Fatwas with ¹generalizations, and prerequisite ²specific constraints, ³assumptions and ⁴conditions that when fulfilled the religious permit is gained!!

These, constraints, assumptions, and conditions were made due to the lack of conclusive facts with the Mufti.

The listener or reader to these Fatwas believes, in his modest understanding, that the Fatwa had passed a religious permit without giving any attention to the constraints, assumptions, and conditions.

And from practice: constraints, assumptions, and conditions will not always be taken into account as they should:

And this is an undeniable scenes.

And even when facts are available, we find that the final verdict of the Fatwa on an emerging issue is:

Not a Prohibition nor is a Lawfulness but it comes out with an advice to avoid and to stay away.

In other words, the final Fatwa has a controversial verdict and people now a day is in the search for the dispute as a pretext for taking the easiest solution, and then they say:

The existence of dispute in an opinion among the Muslim Ummah is:

A mercy

Another problems with Fatwas on
immerging issues is:

- Incorrect Measuring.

For example, there are constraints, assumptions,
and conditions put by some Mufti Issuing permits
for the use of:

- Stunning before or After slaughtering
- Mechanical slaughtering
- Estihala of Ingredients of Animal sources
- Alcohol

- One might ask what does stunning & Mechanical slaughtering have to do with Pharmaceutical and Health Care Products?

The answer is

The general sources of the basic ingredients and raw materials of food, cosmetics, health care products, and the non-active ingredients (Excipients) in medicines are the same.

And

Animal is a major source of these ingredients.

I am under the Fatwa that the general religious rule of any ingredient comes from an animal source is the religious rule of its meat*.

*I.e. rennet that comes from dead animal is Haram.

What are these shared ingredients?

From

Animal Sources

Fats (Glycerin & Emulsifiers)

Proteins (Amino Acids, Enzymes & Gelatin)

Salts (Bone Phosphates, Stearic Acid & Magnesium Stearate)

From

Non-Animal Sources

Alcohol (Stearyl Alcohol, Fatty Alcohols)

Back to

- Stunning before slaughtering

In France as well as in many European countries birds are stunned to death using low frequencies (50Hz). This low frequency is used for the purpose of quick loss of consciousness (i.e. death)*.

*V. Sante, G. Le Pottier, T. Astruc, M. Mouchoniere, and X. Fernandez) 2000(Effect of Stunning Current Frequency on Carcass Downgrading and Meat Quality of Turkey. Poultry Science 79:1208–1214.

However, at higher stunning frequencies (1500Hz) chickens may recover back to clear signs of life after 57 seconds**.

**

16 seconds to breath

57 seconds to move

**Gregory, N. G., L. J. Wilkins, and S. B. Wotton, (1991). Effect of electrical stunning frequency on ventricular fibrillation, downgrading and broken bones in broilers, hens and quails. Br. Vet. J. 147:71-77.

But Normally

Slaughtering process occur only before start of breathing and movement of the animal.

Many visitors to slaughterhouses were shown that stunned birds do go back to life if left for a period of time 1 minute or so, then they conclude wrongly and put a general rule that if stunning did not lead to death then the stunned chickens where a live at the time of slaughtering.

Zabiha

Imam Malik put a condition for the Zabiha, he said: if the animal/bird at the time of slaughtering has an ongoing breathing and it is in a disturbance state, then its meat after slaughtering can be eaten.*

I.e. Another word if these clear signs of life are absence from the animal/bird at the time of slaughter then such meats are Haram.

Cows stunned with percussive captive bolt on their **brains** when left **without** slaughtering they will **not** go back to life.

Mawqoozah

The animal/birds obtained by these pre-stunning procedures are called Mawqoozah, i.e. they do not have life permanent life after stunning or they do not have signs of life at the time of slaughtering preceded by stunning.

In the Muwata, Imam Malik said: With Mawqoozah and similar cases if it can not live with it causes of death, it is not permissible to eat its meat even if it was slaughtered before the actual cause of its death***.

***الموسوعة الفقهية، الجزء التاسع والثلاثون، ص 324، وزارة الأوقاف والشؤون الإسلامية، دولة الكويت.

There is a permissibility in eating meat of Mawqoozah after Zabh even though that the animal will not live, with the condition that it happened naturally (non-intentionally) and that before Zabh a sign of movement is noticed on the animal such as a movement of its tail, leg or a wink of its eyes.

This was based on an incident happened at the time of the prophet Mohammed p.b.u.h. when a shepherded woman on the mountain, found that one of the sheep is about to die then she broke a stone and slaughtered the sheep, and when mentioned to the Prophet p.b.u.h. he ordered them to eat it.

Izterar

Ikhtiyar

Ali may Allah be pleased with him, he said: "If you realize at the time of Zabh any movement of Mawqoozah then eat its meat.

Malik may Allah blessed him, in his Muwata, has categorized this event as a Zabh of having no choice i.e. Izterar ذبح إضطرار and not as a Zabh of having a choice i.e. Ikhtiyar ذبح إختيار .

What we are saying that at the time of Zabih in the case of unintentional Mawqoozah and without the intervention of human this could be ok based on the Hadeeth but intentionally causing Mawqoozah on a total herd of cows with the hope that one make use of the permission, this is a manipulation of religion.

And here

Another fundamental rule in Islam may be applied : "Whoever speed up premature things to become mature is punished by depriving".

من استعجل الشيء قبل أوانه عوقب بحرمانه

Many variables decide the quality of Stunning (in term of death and living of the stunned animals), and the most important ones are:

Current (mA) and Frequency (Hz)

Studies showed that stunning with 150mA

Frequencies at:

At 50 Hz the mortality rate was 100%.

At 300 Hz the mortality rate was 60%.

At 480 Hz the mortality rate was 30%.

At 550 Hz the mortality rate was also 30 %.

At 600 Hz the mortality rate was 0%.

However stunning with **Any** electrical currents

At 1500 Hz the mortality rate shown to be e 0%.

However

Stunned chickens showed No clear signs of life during slaughtering at this frequency.

In another study stunning with 50 Hz showed:

At 90 mA the mortality rate was 81%.

At 75 mA the mortality rate was 61%.

European laws as well as many countries they use variations of Currents (mA) & Frequencies (Hz)

Broilers and broiler breeders	Frequency
(mA)	(Hz)
100	Up to 200
150	From 200-400
200	From 400-1500

So, the range of frequency is open

In the OIC GENERAL GUIDELINES ON HALAL FOOD 16 October 2009 , there is no mentioning of frequency (Hz).

Frequency (Hz) is the parameter most causative of killing the animal during stunning.

Table 1 – OIC Guideline parameters for electrical stunning

Type of animal	Current mA	Duration Sec
Chicken	250-500	3-5

At what frequency?

OIC = THE ORGANISATION OF THE ISLAMIC CONFERENCE

We said earlier this statement:

From practice, assumptions, constraints and conditions will not always be taken into account as it should - and this is an undeniable scenes.

Can we trust slaughterhouses to carry out these technical conditions of magnitude of **frequencies** and **electrical current**, and the correct **distance from the point of the water bath stunner** to ensure that the bird will be alive at the point of slaughter?

The answer is: No

These are the facts that were not taken into consideration when issuing a fatwa on the permissibility of the use of stunning.

The fatwa wished and was based on a wrong assumption that the percentage rate of killed Animal/poultry prior to slaughter was low.

Ejtihad

Mujtahid

Ejtihad: Is the state where a Mufti deliver his Fatwa based on what he think is the correct Fatwa. There are many criteria that must be fulfilled by any Mujtahid.

If Mujtahid strike the correct answer he get two rewards and if he did not he will get one reward. This was based on a Hadith.

قوله صلى الله عليه وسلم : إذا حكم الحاكم فإلته لم يخطأ فيه ثم أصاب فله أجران ، وإذا حكم فإلته لم يخطأ فيه ثم لم يصب فله أجران . فإل أصاب فله أجران : أجاز بإلته ، وأجاز بإصليته . وإن أخطأ فله أجر بإلته .

Fatwas with a mistake in Ejtihad

Related to

Pharmaceutical and Health Care Products

The thing (even if it is a substance from Haram) which does not show its **effect*** has no effect (become Halal).

*Taste or smell

Majoos

This fatwa was based on the companion's act *Allah pleased with them* when they were eating cheese of the Majoos (**Majoos sacrifices are forbidden**) and only a minute amount of rennet from there sacrifices was taken for cheese making. On that it was concluded that if minute amounts of rennet the legislator has allowed to eat cheese made from then any minutes amounts of Najes are permissible to be used in food, medicines, health care products and so on as there effects will not be felt in the final product.

This Fatwa has opened a wide door for the use of Haram ingredients regardless of their sources, however, the permissibility of eating Majoos cheese was seen as a forbidden acts by the Jumhoor*.

Majority of Muslim scholars see rennet of non-Halal slaughtered eaten meat animal as Najes material with the exception of Abuhanifah and Iben Taymiah.

Note: The act of the companions (may Allah be pleased with them) if it violate a text then such an act is not a proof.

The response to the act of the companions in eating cheese of the Majoos is that such an act was not supported with correct narrators, and if it is proven that they have done so it would be considered as a contrary to the legal text and what really count at the end is what is considered as the correct text of a Hadith from the prophet Mohammed (P.B.U.H.).

Back to the Fatwa

The thing (Haram substance) which does not show its **effect*** has no effect (become Halal).

What does this Fatwa imply?

Does it imply that any Haram thing that will not express its effect upon usage with no taste and smell will become Halal!

Does it imply that we are allowed to use **Haram ingredients*** in minute amounts because we are certain that their effect in food, medicine, health and skin care products, has no effects!

* Alcohol and Haram Food Additives.

How can we measure the effect of these things?

By taste and smell !!!!! Is it possible?

Are modern analytical techniques acceptable?

If modern analytical techniques showed the presence of pork residues, but we could not detect this contaminant by taste or smell, will this contaminant in its minute amount become Halal?

The answer is No

More Fatwas with a mistake in Ejtihad

Estihala

1) Ingredients added to food, feed, and medicine, because they are used in minute amounts even though originally they are **Najes i.e. forbidden** become **permissible** and may be used. This was based on the **consumption theory**, and as such the use of rennet in the manufacture of cheese obtained from a **dead eaten meat animal** is approved*.

*Recommendation 8 - c , p. 1080, in the eighth symposium jurisprudence - Part II, but was passed pork rennet (b, p. 164, p. 167 and C in the ninth symposium jurisprudence - Part I

التوصية 8-ج، ص 1080، في الندوة الفقهية الثامنة- الجزء الثاني بل تم أجاز منفعة الخنزير (ب، ص 164، وج ص 167 في الندوة الفقهية التاسعة- الجزء الأول. والفتوى بشأن الأعلاف الصادرة من مجمع الفقه الإسلامي الدولي رقم 131/أ ف أم / 2011

2) Extracted gelatin from animal skins, even if it is from pigs, it will become Taher by virtue of its nature as compared to its origin, i.e. Estihala*.

*Recommendation 8 - A, p. 1080, in the eighth symposium jurisprudence - Part II

التوصية 8-أ، ص 1080، في الندوة الفقهية الثامنة الجزء الثاني.

3) Fat derived from animals such as pigs and non-Halal slaughtered cattle will also become Taher by virtue of its nature as compared to its origin, i.e. Estihala*.

*Recommendation 8 - B, p. 1080, in the symposium jurisprudence eighth - Part II) and (g, p. 162, in the symposium jurisprudence ninth - Part التوصية 8-ب، ص 1080، في (الندوة الفقهية الثامنة- الجزء الثاني) و (ز، ص 162، في الندوة الفقهية التاسعة- الجزء الأول).

4) Plasma separated from depleted blood is permissible to use because according to the claim that plasma is not blood*.

5) Because ELISA technique did not recognize the cocked form of pork, then this is a proof it become Taher by virtue of its nature as compared to its origin, i.e. Estihala**.

*P.162, The ninth symposium jurisprudence - Part I

هـ، ص 162، في الندوة الفقهية التاسعة- الجزء الأول.

**the eighth symposium jurisprudence

6) If Najes ingredients chemically treated and were forced to be converted* to new products that have no relation to its original ingredients then its addition to feed is permissible by virtue of its nature as compared to its origin, i.e. Estihala**.

***I can assure the Mufti here that such process is not available in the market, and the overall all of the Fatwa clearly allow the use of Najes ingredients in feeding animals.**

****IIFA No. 131/IIFA/2011**

7) Ointments, creams and cosmetics that contain pork fat may not be used unless it become Taher by virtue of its nature as compared to its origin, i.e. Estihala*.

***The eighth symposium jurisprudence**

With regard to the fat in Ointments, creams and cosmetics we say:

The fats in these creams and ointments have not become Taher by virtue of its nature as compared to its origin, i.e. Estihala.

Because of the following 2 reasons:

1) Breaking down of fats (triglycerides) from non-Halal origin to its main basic building blocks (free fatty acids) is not considered as Estihala because these basic building blocks are still preserving most of its original form of the fat, i.e. these are not 100% different products to be considered as Taher.

2) The **sin** of the **deliberate act** of **trying to cause Estihala** from Najes materials*.

*This rule was based on a fundamental rule & Hadith:

1) Whoever speed up premature things to become mature is punished by depriving.

And

2) The utilization of Haram is forbidden (see next).

من استعجل الشيء قبل أوانه عوقب بحرمانه

Where are these Fatwas from this Hadith

It was narrated that Jabir bin Abdullah, may Allah be pleased with him: that he heard the Messenger of Allah peace be upon him at the year of the conquest of Mecca he said: "Allah and His Messenger have forbidden the sale of alcohol, and dead animals and idols. "Then they said, O Messenger of Allah, what do you think of fat of dead animals (i.e. that is animal of eaten meat), we use it in ships applications, varnishing the hides, and as a source of lighting for the people? He said: "No. It is forbidden".

I.e. Utilization of Haram is forbidden

* فعن جابر بن عبد الله رضي الله عنهما قال: أنه سمع رسول الله صلى الله عليه وسلم عام الفتح وهو بمكة يقول: "إن الله ورسوله حرم بيع الخمر، والميتة، والخزير، والأصنام". فقيل يا رسول الله، أ رأيت شحوم الميتة فإنها يطلى بها السفن، ويدهن بها الجلود، ويستصبح بها الناس؟ فقال: "لا، هو حرام".

Or this Hadith

In Saheeh Muslim from Anas: Asked the Messenger of Allah p.b.u.h. about an alcohol to be converted it into Vinegar, he said: **No.**

I.e. Attempting to convert Haram into Halal is forbidden

عن أبي مسعود مسلم عن أنس: (سئل رسول الله صلى الله عليه وسلم عن الخمر تتخذُ خلًا. قال: لا) [7]

Such Fatwas with a mistake in Ejtihad comes out from a restless state of the Muslim Ummah as a result of its weakness and its invasion by a savaged Globalization.

We should never submit to Globalization, and never made any sacrifice on the expenses of Islam's values.

Islam has the ability to challenge all emerging issues, and definitely will save the world from losing its values.

In general, our dispute with these Fatwas based on three basic rules:

Mawqoozah

Estihala

Consumption Theory (one form of Estihala)

Our arguments with emerging issue's Fatwas related to Halal and Haram in food, cosmetics, Pharmaceutical and Healthcare Products is that they were made on a situations of having No choice (Izterar) i.e. occurred naturally.

Recommendation.

We should encourage production of Halal Pharmaceutical and Healthcare Products based on well defined Fatwas with clear evidences from the Quran & Sunnah.

Examples of well defined Fatwas

The rule of rennet extracted from animals is the rule of its flesh*.

It is forbidden to use Haram substances in food and beverages for the purpose of improving its flavor or preservation*.

In accordance with what agreed between scholars on the prohibition of taking too much or little of alcohols under normal situation, in the case of stringent necessities its use become permissible as an intermediate step in producing medicine**.

*Dr Ahmed El-Hadji Kurdish Symposium jurisprudence, eighth. with the exception of Abuhanifah and Iben Taymiah. **Dr. Abdel Fattah Mahmoud Idris in the symposium jurisprudence, eighth. 11

It is unlawful to eat food that contains a percentage of alcohol no matter how little, especially the ones that are common in Western countries, such as some chocolate and some types of ice cream, and some soft drinks.

This is based on the original rule that whatever is intoxicants in large quantities then its little amount is prohibited, and the lack of a legitimate reason for its exceptional presence*.

*Symposium jurisprudence, eighth.

It is prohibited to knock the animal out with a needle gun, an axe, a hammer or by inflating the animal as in the English method*.

It is prohibited to knock out poultry by electric shock, experience having demonstrated that in this method many birds die before they are slaughtered*.

*IIFA, resolution 95 (3/10)-1997.

Lard used in cosmetics is forbidden because it is neither necessary nor is needed.

Allah S.W. has made us worshiped him with what he has trusted us with, thus we should only feed our children Halal food, make them consume or use Halal Medicine and Halal Healthcare Products. In addition, we should only feed animal Halal ingredients*.

* Dr. Hamid Mosque, Symposium jurisprudence, eighth. ** Dr. Hani M. Al-Mazeedi

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