Toward a Disciplined Fatwas for Pharmaceutical and Healthcare Products

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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** is a religious term that means permissible, which is the opposite of **Haram** which is also a religious term that means forbidden.
While a lot of things clear in terms of there permissibility or forbidden, there are things due to the lack of information 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 worlds 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.

If Islam has not firmly forbidden something (i.e. Allah 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.
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].

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.

If we apply this rule and expand its uses we may cause people to be in a critical situation.
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 is a person who delivers the Fatwa provided that he is qualified to do so.

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.
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.

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.

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

measuring 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.

Or

measuring 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.
When a fatwa is delivered, the Ifta committee decisions will be based 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 1 generalizations, and prerequisite specific constraints, assumptions and conditions 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 emerging 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 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.

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)
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 lost of consciousness (i.e. death)*.

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


**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.

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***.

There is a permissibility in eating meat of Mawqoozah after Zabih even though that the animal will not live, with the condition that it happened naturally (non-intentionally) and that before Zabih 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.

<table>
<thead>
<tr>
<th>Izterar</th>
<th>Ikhtiyar</th>
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Ali may Allah be pleased with him, he said: "If you realize at the time of Zabgh any movement of Mawqoozah then eat its meat.

Malik may Allah blessed him, in his Muwata, has categorized this event as a Zabgh of having no choice i.e. Izterar ذبح إضطرار and not as a Zabgh of having a choice i.e. Ikhtiyar ذبح اختيار.
What we are saying that at the time of Zabh 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". 
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%.

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)

<table>
<thead>
<tr>
<th>Broilers and broiler breeders (mA)</th>
<th>Frequency (Hz)</th>
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</thead>
<tbody>
<tr>
<td>100</td>
<td>Up to 200</td>
</tr>
<tr>
<td>150</td>
<td>From 200-400</td>
</tr>
<tr>
<td>200</td>
<td>From 400-1500</td>
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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

<table>
<thead>
<tr>
<th>Type of animal</th>
<th>Current mA</th>
<th>Duration Sec</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chicken</td>
<td>250-500</td>
<td>3-5</td>
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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 scene.
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.

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 these 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 them 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.).
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!

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
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 base 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

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
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*.

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**.

*Recommendation 8 - B, p. 1080, in the symposium jurisprudence eighth - Part II) and (g. p. 162, in the symposium jurisprudence ninth - Part)

**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.

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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.

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

**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**
Or this Hadith

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

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

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*.

*LIF, 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
Dr. Hani Mansour Al-Mazeedi
With brother Amjad Mahboob in Australia in 1981