

# Principles Regarding the Use of *Haram* (Forbidden) Sources in Food Processing: A Critical Islamic Analysis

Mohd Izhar Ariff Mohd Kashim<sup>1</sup>, Latifah Abdul Majid<sup>2</sup>, Airil Haimi Mohd Adnan<sup>3</sup>, Ahmad Bin Muhammad Husni<sup>4</sup>, Zaini Nasohah<sup>1</sup>, Mohd Adib Samsudin<sup>1</sup> & Muhammad Zaini Yahaya<sup>1</sup>

<sup>1</sup> Department of Syariah, Faculty of Islamic Studies (FPI), Universiti Kebangsaan Malaysia (UKM), Bangi, Selangor, Malaysia

<sup>2</sup> Department of Quranic Studies & al-Sunnah, Faculty of Islamic Studies (FPI), Universiti Kebangsaan Malaysia (UKM), Bangi, Selangor, Malaysia

<sup>3</sup> Department of English Language & Linguistics, Academy of Language Studies (APB), Universiti Teknologi MARA (UiTM), Seri Iskandar, Perak, Malaysia

<sup>4</sup> Universiti Kebangsaan Malaysia (UKM), Bangi, Selangor, Malaysia

Correspondence: Mohd Izhar Ariff Mohd Kashim, Department of Syariah, Faculty of Islamic Studies (FPI), Universiti Kebangsaan Malaysia (UKM), Bangi, Selangor, Malaysia. E-mail: ahmedking25@gmail.com

Received: January 12, 2015 Accepted: June 12, 2015 Online Published: August 18, 2015

doi:10.5539/ass.v11n22p17

URL: <http://dx.doi.org/10.5539/ass.v11n22p17>

## Abstract

Islam has prepared and outlined clear rules and regulations regarding all types of food, including food from *haram* sources (forbidden based on the Islamic religion) derived from animals and other bases. This article critically reflects on general Fiqh principles that have been debated by Islamic clerics and renowned experts on Islamic Fiqh regarding this thorny issue. Fiqh scholars, for instance, argue that the *halal* status of each and every food product could easily be determined by examining how that product was processed from the very beginning. In this sense, if the original source of the product is *halal* then the final processed product is also deemed *halal*. Contrarily, if the original source of the product is *haram* then the final processed product will be considered *haram*, if the source is dirty, illicit and/or unclean in the eyes of Islam. Even though the final processed product has changed so much in its basic constituents, this product will still be considered *haram*. Jurists from the Maliki and Hanafi, on the other hand, every item that is considered *haram* and unclean *can* be considered *halal* and fit for consumption or use in the eyes of Islam provided the original item has changed so much from its original make up. That said, jurists from all four sects seem to agree that any new products that can cause detriment and harm to human beings, either directly or otherwise, should be considered impure and *haram* for consumption and other indirect uses.

**Keywords:** principles, regarding, *haram* (forbidden), food processing, Islamic analysis

## 1. Introduction

Malaysia is a country that has a majority Muslim population. In spite of their geographic and ethnic diversity, Muslims follow their beliefs and the religion of Islam. *Halal* is a very important and integral part of religious observance for all Muslims. Hence, *halal* constitutes a universal standard for a Muslim to live by.

By definition, *halal* foods are free from any component that Muslims are prohibited from consuming. According to the Quran, all good and clean foods are *halal*. In non-Arabic-speaking countries, the term is most commonly used in a narrower context of Muslim dietary laws only, especially when meat and poultry are concerned. However it also refers to a number of other consumer and industry related products like pharmaceuticals, biological products and fertilizers (Halal Group Industries PLC, 2011). Meanwhile *haram* means something that is prohibited in Islam. Consequently, almost all foods of plant and animal origin are considered *halal* except those that have been specifically prohibited by the Quran and the Sunnah (the life, actions, and teachings of the Prophet Muhammad). *Halal* food can be processed by using the same equipment and utensils as regular food, with a few exceptions or changes. Similar to *halal* food, *halal* pharmaceuticals are supposed to come from *halal*, clean, and healthy sources because they are something which are eaten or consumed. According to the Quran verse:

O ye who believe! Eat of the good things where with we have provided you, and render thanks to Allah, if it (indeed) He whom ye worship. (Al-Quran, 2: 172).

## 2. Definition of ‘Principle’

A principle relates to the basis or foundation (that becomes the core of a thought, process, action and others) of a law or theory. For example, someone who wants to open his or her own shop must firstly know the *principles* and the basic ins and outs of setting up and running business ventures (DBP, 2002). In the Arabic language, the word for principle is *al-Dabit* that roughly means to get close to something and to prohibit it. This Arabic concept can also be defined as maintaining or preserving something in a forceful or strong manner (Ibn Manzur 1996, p. 509; Abdul al-Qadir, 2007, p. 39).

From a more literal and linguistic perspective, the term *dabit* means to gather and to collect guidelines or principles that come from a specific chapter in the Islamic jurisprudence or Fiqh (Ibn al-Nujaim, n. d., p. 192). According to Abdul al-Qadir (2007, p. 39) the true definition of *dabit* differs from the definition of the term ‘procedure’. This is due to the fact that in Fiqh terms, procedure relates to gathering and collecting guidelines or principles that come from the various chapters of Islamic jurisprudence (i.e., Fiqh). In this sense, the scope of *dabit* in Islamic Fiqh is smaller than the scope of Islamic Fiqh procedures. An example of Islamic Fiqh procedure is seen below from al-Sayutiyy (n. d., p. 120):

“Confidence cannot be avoided solely due to suspicion.”

Thus Fiqh procedure takes into consideration all questions and issues of Islamic Fiqh covered within Fiqh scriptures, for example, chapters regarding prayers, fasting, Hajj pilgrimage, charity-giving (i.e., *zakat*) and so on. On the other hand, *dabit* only focuses on a certain chapter or chapters within Islamic Fiqh (Abdul al-Wahhab, n. d., p. 53). An example of *dabit* is provided by al-Sayuti (2001, p. 691):

“Whosoever is obliged to provide a living for others from his income that person must compulsorily pay his Zakat al-Fitr (or tithe), if not, then the requirement on him is otherwise. “

This particular *dabit* is devoted only to the problems of Fiqh as covered within Islamic Fiqh chapters on Zakat al-Fitr. In no way should this *dabit* be shared with issues in other chapters of Islamic Fiqh, due to the fact that its coverage is smaller in scope (Abdul al-Wahhab, n. d., p. 53).

On the contrary, there are also Islamic scholars and clerics who focus on language that equate between the function and meaning of *dabit* with Islamic Fiqh procedures (see, al-Fayyumi, n. d., p. 263). Amongst Islamic scholars who did not make any distinctions between the meaning of *dabit* and procedure was Ibn Subki. He is amongst several prominent scholars who wrote about *dabit* and its implications under the topic of “*al-Qawai’id al-Khassah*” (al-Sayuti, n. d., p. 691; Abdul al-Wahhab, n. d., p. 53). Another scholar, Muhammad Sa’id Ramadhan al-Buti, in his volume entitled “*Dawabit al-maslahah*” (2000, p. 109) explains that *dabit* provides a clear guideline for Islamic rules and regulations to prevent any forms of confusion on the tenets of Islamic jurisprudence or Islamic Fiqh amongst Muslims. This scholar also argues that the term *dabit* has the same meanings and implications as the term *al-Shurut* that relates to pre-requisites and conditions to be met before any deeds are considered to be valid in Islam.

Therefore, it is more than acceptable if the word *dabit* is used in this academic paper to define a set of guidelines and principles of legal jurisprudence or Islamic Fiqh regarding all types of materials that are based on haram or illicit/illegal sources whether animal-based or otherwise.

## 3. Definition of ‘Use’

What is meant by the term use within the context of this paper is to harness or employ something completely and positively (for or in a manner that is beneficial to human beings) and to gain maximum benefits from something that is able to benefit all living creatures on this earth. The term ‘use’ can also be taken to mean ‘usefulness’ in the sense of something that is useful, interesting and beneficial. For example, “all things that are useful and beneficial to us should be protected and managed in order to be used and positively exploited by human beings” (DBP, 2002, p. 855).

## 4. Definition of ‘Haram’

The word ‘haram’ or illegal/illicit means something that is forbidden by Islam on its followers strictly without compromise (if not in cases of life threatening emergencies). Allah S. W. T. (God Almighty) has warned that perpetrators of haram or illegal/illicit related acts are sinful and painful punishment will be exacted upon them (al-Zuhayli, 1995, p. 130).

In everyday contexts, things which are seen as haram are normally related to food and consumer products that

are unclean and dirty. The Arabs equate these two negative properties with the term *khabith*. This particular word means all things that are dirty, unclean and unholy. Indeed, things which are dirty, unclean and unholy are hated and disliked by normal human beings under all circumstances. These negative properties are also related to poor health and sickness and so they become the main reason why we are repulsed by things that are considered haram, whether in the form of organic food such as pork, carrion, meat with running blood and animals that are not slaughtered according to Islamic rites or consumer products such as processed food and drinks, medicine and other items of daily use. The word haram is also related to things that are connected to haram acts (i.e., sinful), for instance, accruing illegal interest, stealing, thievery and conning other people. All of these sinful or haram acts are also seen as dirty, unclean and unholy due to the fact that these kinds of behaviour do not and will not have the pleasure of Allah S.W.T. They are totally forbidden to all Muslims living on this earth (al-Zuhayli, 1998, p. 117).

For Ibn 'Abbas R.A., the term *al-khabaith* is defined as things that are dirty and unclean, such as pork, the collection of interest on monies and other sinful deeds. Nevertheless, he takes the definition further by relating the term to individuals who argue that it is acceptable to do things and to consume things that are considered as haram in the eyes of Islam and strictly prohibited by Allah S. W. T. (al-Zuhayli, 1998, p. 121).

### 5. Definition of 'Istihalah'

From a linguistic perspective, this term comes from the root word '*hala*' that means the change from one condition to another condition, for instance, from a horizontal condition to a vertical one (see, Ibn Manzur, 1996, p. 197; Al-Fayruzabadi, n. d., p. 363; Al-Zabidi, n. d., p. 293). Another meaning of the term *istihalah* is the change in the nature of something into something else, which is totally different from its original properties (Ahmad Rido, n. d., p. 191).

From a practical angle, *istihalah* means changing the reality of something into a different form of reality that renders it totally different from its original elements or constituent parts (Ibn 'Abidin, 1994). Fiqh clerics from the Maliki sect of Islam argue that the term *istihalah* is the key or operant word that explains something that happens to something that changes it from one form to another form, one property to another, or one shape to another that turns that 'something' into something new. This *new* something hence cannot and should not be named or related to its original form, property or shape (Al-Hattab, 2003, p. 97).

For scholars of science and technology, the Islamic Fiqh term *istihalah* refers to the process of change that happens scientifically either by natural means or by chemical processes, changes and the like. For example, the processing of organic oils, animal fats or plant materials changes the original substance into a new and different substance such as soaps and other consumer products. At this *final* point, this new substance or product must no longer be referred to by its original name (e.g., organic oil or animal fat) as it has been thoroughly changed into something new and man-made (with a new and different name). This whole process is commonly referred to as *istihalah*.

### 6. Islamic Laws Regarding Impurities That Have Changed in Nature and Structure

Islamic Fiqh scholars and jurists have different views in deciding the rules of jurisprudence concerning *istihalah* when an impurity (that is haram) fully changes into something that is clean and pure (that is halal). It does not matter whether the change happened either through natural processes or processes of modern biotechnology. The end result, which are considered unclean and haram in the first instance, will no longer be seen as unclean and haram at the end. For this reason, Islamic Fiqh scholars and jurists are at odds with each other to determine the legal status of any impurities that have changed in nature, structure, and so on into something that is no longer considered haram and unclean at the end of the processing. One clear example is the processing of lard or pig fat until it fully changes into fragrant soaps that can be used for bodily cleansing. Due to the preceding discussion, Islamic Fiqh scholars and jurists are divided into two famous schools of thought in discussing cases like this.

#### 6.1 First School/Line of Thought

All Types Of Impurities That Have Been Changed In Structure Into Different materials and products are to be considered pure and clean without the need to examine the original impurity whether it was considered totally dirty and unclean (through physical examination) or otherwise. A clear example is the use of lard or pig fat that has been changed into soap products, capsules for medicinal purposes or growth supplements that are sprayed onto edible vegetation and fruit trees. This school of thought is supported by legal theorists and jurists from the Hanafi sect, for example, Muhammad (see, Ibn Hammam al-Hanafi, 2003, p. 200; Mujmu'at min al-'Ulama', n. d., pp. 44-45; Al-Nasafi, 1997, p. 238), most legal theorists and jurists from the Maliki sect (see, Al-Hattab, 2003,

p. 97) and a number of legal theorists and jurists from the Hanbali sect such as Ibn Taymiyyah (see, Ibn al-Qudamah al-Maqdisi n. d., p. 97).

For Fiqh scholars and jurists from the Hanafi sect, each and every single thing that has changed its original properties into a new and different one (that is one hundred percent different from the original), then the determination of the law will be subject to the nature of the latter (and *not* its original properties). This means for all kinds of impurities that have been turned into something different and/or new (until there is none of the original properties of the impurity such as odour, colour and taste), the final or end product should be regarded as clean, pure and halal to be used by Muslims without hesitation. The same rule of law is also applicable to lard or pig fat that has been mixed into salt-making materials. Once the lard mixture is processed with clean and halal ingredients to produce pure white salt, which does not at all show its original lard properties, then according to Fiqh scholars and jurists the end product is halal and fit for consumption by Muslims (al-Nasafi, 1997, p. 239). Muhammad adds, if manure or any forms of impurity is further processed either through incineration, absorption and other means until its structure is transformed into dust, fertiliser, solids, perfumes and the like, then these end products are considered pure and halal whether for religious uses or otherwise (Ibn 'Abidin, 1966, p. 216; Ibn Hammam al-Hanafi, 2003, p. 200).

With reference to the issue of dirty and unclean impurities that have been modified in structure into something 'clean' and new, Fiqh scholars and jurists from the Hanafi sect have issued numerous rulings (*fatwa*) on this matter. Amongst them:

- a) Ruling regarding cooking animal meat containing blood that is still flowing. If the meat in question had been cooked until there is no sign of blood stains on and in the food in question, then it is clean, pure and halal for consumption (Al-Nasafi, 1997, p. 239).
- b) Cooking pots and water jugs made from unclean and impure earth are considered clean, pure and halal for the cooking and boiling of food and drinks. This is due to the fact that the determination of the law is seen in the end product and not on the origin of the product (Al-Nasafi, 1997, p. 240).
- c) The manufacture of bread containing alcohol is not considered unclean and impure provided after bread is perfectly baked it does not leave any traces of alcohol such as smell, taste and the colour of the alcohol fluid. Most importantly, it does not intoxicate when ingested (Hasan ibn Mansur 1411H: 103).
- d) Unclean impurities that have been altered into either detergents or soap or similar products are deemed by the law to be pure, halal and also sanctifying for religious purposes (Mujmu'at min al-'Ulama', n. d., pp. 44-45).

As for Fiqh scholars and jurists from the Maliki sect, each type of impurity that has changed its nature into something new and good must then be considered clean and pure. On the other hand, if the opposite is the case, then the law rules the end product to be unclean and haram. For example, food that goes into the stomach will be deemed unclean when it comes out through the anus or mouth (through regurgitation), even though the originally eaten food was halal, pure and clean. This is due to the effects of the processes occurring on food and drinks that enter the stomach that turn these materials into an end or final 'product' that is dirty and impure. Under this circumstance, the law will be subject to the final product while the original ingredients of the product cannot be taken into account (Al-Dardir, n. d., p. 50). The basis of this argument is referred to as *qiyas musawah*. Alcohol, for instance, is originally impure and haram but it can turn into a clean and pure substance through the process of *istihalah* whereby the original nature of the alcohol substance turns into properties of common vinegar. For that reason, the determination of the law is taken into account through an examination of the final or end product. If the end or final product is clean, pure and good, then it will be considered halal; if the opposite is the case, then the rule of law warrants that the end or final product is unclean, impure and haram for use (Al-Dardir, n. d., p. 57; Al-Kashnawi, n. d., p. 40; Ibn Juzayr, 1991, p. 34).

The same line of ruling is also supported by Fiqh scholars and jurists of the al-Zahiri sect. They forcefully state that if something that is unclean and impure has changed its structure and nature (as measured by its colour, smell and taste) into a different type of material, then the law governing it also changes from a haram material to a halal one. Nevertheless, all the above is dependent upon the '*illah*' validity that is connected to the legal matter in question. If, for example, no '*illah*' exists (in other words there is no cause that deems a certain substance to be haram and impure) then that substance is legally deemed as halal, pure and clean. On the contrary, if there is '*illah*' and the reasons that deemed that substance to be haram and impure clearly exist, a haram ruling will be more dominant in this particular case. This is clearly outlined by the procedure of proposal (*usul*) that states:

"Every '*illah*' that exists is permanent in nature and it is clearly seen as the measuring yardstick to the determination of the rules of law." (Al-Zuhayli, 1995, pp. 70-71)

In addition, it is also defined by means of Islamic Fiqh or jurisprudence:

“There is no doubting the change in a rule of law (Note 1) when there are changes in time and place.” (Md. Saleh, 2000, pp. 118-121)

All of the above procedures, according to the al-Zahiri sect, outline a guide for the determination of the law regarding impurities that have changed its nature from its original form into something new and different. It is an obligation that each and every rule of law be viewed from different angles, especially from the aspect of *'illah* which is the main cause for the determination of the haram and halal status of anything and everything. This is the reason why jurists and legal theorists from this sect is of the opinion that it is not fair to judge a new product created from impure and unclean substances as impure and haram *provided* the very nature of the original substance has changed considerably into something that should no longer be considered impure and unclean (see, Ibn Hazm, n. d., pp. 127-138).

Following this, Ibn Taymiyyah also lends his full support on the views that are espoused by Fiqh scholars and jurists from the Hanafi and Maliki sects. Ibn Taymiyyah critically quipped that if alcohol was permitted and made halal by Islam after this haram substance has changed into common vinegar through the natural process of fermentation, then it should become even *more* halal if that same alcohol is changed through man-made processes into a substance that can no longer be seen and defined as ‘alcohol’. For this reason, he firmly believes that every single thing that needs to be considered impure and haram must first be cross-checked with the holy texts of the Quran and words of al-Sunnah (i.e., teachings of the Holy Prophet Muhammad P. B. U. H.). After a rigorous process of checking and rechecking, if *nothing* exists (within the holy texts of the Quran and words of al-Sunnah) then it becomes the responsibility of Islamic Fiqh scholars, legal theorists and jurists to examine the *'illah* that might lead to the ruling of haram (or illegality) regarding the thing or matter in question. This is because this method might be helpful to the determination of the law by the accurate and correct *qiyas* (or analogy) without leading us to ban or illegalise something that was deemed as lawful by Allah S. W. T. (‘Abd al-Rahman, n. d., p. 516). It should be duly noted that Allah S.W.T clearly justifies and has deemed halal all edible items on this earth except carcasses, pork, slaughter not in His name and meat with blood still flowing on/in it. Allah S. W. T. says in the Holy book of Al-Quran in Surah Al-‘An’am, verse 145:

Say [o’ Muhammad], “I do not find within that which was revealed to me [anything] forbidden to one who would eat it unless it be a dead animal or blood spilled out or the flesh of swine - for indeed, it is impure - or it be [that slaughtered in] disobedience, dedicated to other than Allah. But whoever is forced [by necessity], neither desiring [it] nor transgressing [its limit], then indeed, your Lord is Forgiving and Merciful.”

Verse 145 from Surah Al-‘An’am generally explains that Islam has allowed (i.e., deemed as halal) everything on this earth for the benefit of Muslims whether to be used as food and sustenance, beverages, consumer goods, medicines and so on. Nonetheless Allah S. W. T. clearly forbids (i.e., deemed as haram) four types of unclean or impure substances (through physical examination) namely animal carcasses, blood spilled out (on/in meat products), pork and all animals slaughtered not in His holy name (Al-Zuhayli, 1998, p. 79). Aside from what was mentioned in the above verse, anything and everything can be made use by Muslims (i.e., halal for use) as long as it is not seen as clear impurity or something that will clearly cause harm or detriment to us under any circumstances. This is evidenced by the legal maxim held by many Islamic Fiqh scholars and jurists:

“The nature of everything is a must (i.e., acceptable to be done and/or to be used) until there is strong legal evidence to show that it is haram (and illegal/illicit under Islam).” (Al-Sayuti, n. d., p. 130)

“The nature of everything is pure until there is strong legal evidence that explains the impurity of a certain thing.” (Muhammad Sulayman al-Ashqar, 2006, p. 93).

For that reason, it is a grave mistake for Muslims if they simply ban or deem something as haram or illegal/illicit (if it *is* accepted and condoned by Islam) without providing any valid arguments, strong reasons and especially without quoting proof from the holy texts of the Quran and words of al-Sunnah. Allah S. W. T. clearly forbids this, as seen in the Holy book of Al-Quran in Surah Al-‘A’raf, verses 32-33:

Say [o’ Muhammad], “Who has forbidden the adornment of Allah which He has produced for His servants and the good [lawful] things of provision?” Say, “They are for those who believe during the worldly life [but] exclusively for them on the Day of Resurrection.” Thus do we detail the verses for a people who know? Say, “My Lord has only forbidden immoralities - what is apparent of them and what is concealed - and sin, and oppression without right, and that you associate with Allah that for which He has not sent down authority, and that you say about Allah that which you do not know.”

Ibn ‘Abbas narrated that this verse was revealed to the disbelieving Quraisy tribe who performed the rite of

*tawaf* in front of the Holy Kaabah without wearing clothes. At the same time, during the Hajj season, these same tribe members will not eat anything at all except some individuals who would merely consume fatty foods (see, Al-Zuhayli, 1998, p. 182).

The above verse emphatically explains that Allah S.W.T. vehemently abhors the attitude shown by members of the Quraisy tribe when performing pilgrimage in Mecca due to the fact that they forbade and stopped themselves (i.e., deemed as haram) from consuming things that He did not forbid. This is because Allah the Almighty has created a variety of food and drinks for the benefit of humankind. For this reason, we are all responsible to think about how these materials can be used and be positively exploited for various purposes such as to be made into food, beverages, medicine and other beneficial consumer products (Al-Zuhayli, 1998, p. 185; al-Qurtubiyy, 1993, p. 192).

Moreover, this verse also proves the *perfection* evident within Islamic laws in terms of clarifying the key concepts of halal and haram in life as a whole. For things that are not mentioned in the Quran or the Sunnah and for which there are no rules of law, it is the sole duty of human beings, especially Muslims, to study and investigate such matters based on the Quran and the Sunnah thus meeting *maslahat mu'tabarrah* for the benefit of the followers of Islam wherever they may be (Al-Zuhayli, 1998, p. 185). Allah S. W. T. reminds us of this fact in the Holy book of Al-Quran in Surah Al-Baqarah, verse 29:

It is He who created for you all of that which is on the earth. Then He directed Himself to the heaven, [His being above all creation], and made them seven heavens, and He is All-Knowing of all things.

Therefore, if *everything* on this earth is to be used and be positively exploited by human beings, then why should mankind forbid and render certain things haram *without* undertaking any research and development initiatives? Because of this fundamental precept, any and all materials and substances derived from animals, plants, water, stone and the like which are then used as food, drinks, medicine and consumer products must be thoroughly researched and argued in terms of their legal statuses (i.e., halal or haram). Hopefully, this will stop contemporary Muslims from becoming part of the group of people who forbid, ban and deem as haram things or items that are actually acceptable, lawful and halal for Allah S.W.T. for the benefit of all humankind ('Abd al-Rahman, n. d., p. 516). Allah S.W.T. again reminds us of this fact in the Holy book of Al-Quran in Surah Al-'A'raf, verse 157:

Those who follow the Messenger, the unlettered prophet, whom they find written in what they have of the Torah and the Gospel, who enjoins upon them what is right and forbids them what is wrong and makes lawful for them the good things and prohibits for them the evil and relieves them of their burden and the shackles which were upon them. So they who have believed in him, honoured him, supported him and followed the light which was sent down with him - it is they who will be the successful ones.

This verse clearly reminds all Muslims to use and positively exploit *all* halal materials and substances for their sustenance. Whether the material or substance is in the form of food, drink, medicine and consumables required by humans, we should use them without hesitation (Al-Zuhayli, 1998, p. 121). This verse also indirectly bans, forbids and deems as haram all types of food, beverages, items of daily use and so on that are dirty, unclean and exhibit impurity. Due to the above, Ibn 'Abbas considers items and things regarded as *al-Khabaith* such as pork, intoxicating liquors and all other things as clearly and unquestionably forbidden in Islam whether they are derived from animal sources or otherwise.

## 6.2 Second School/Line of Thought

Fiqh scholars, legal theorists and jurists from the Shafi'i sect, for example, al-Shirazi (Al-Shirazi, n. d., p. 10), al-Shirbini (Al-Khatib Al-Shirbini, n. d., p. 151) and a number of Fiqh scholars and jurists from the Hanafi sect such as Abu Yusuf (Ibn Hammam al-Hanafī, 2003, p. 200) argue that all kinds of impurities that have changed in structure into other things should *still* be treated as a form of impurity. This means that it is haram and forbidden for Muslims to use such things even though they have fully changed from their original nature into a new item or product that is capable of cleaning and cleansing for religious purposes. For example, the ash resulting from the combustion of human waste (i.e., faecal matter) if it falls into a clean body of water such as a well in large quantities, then the water will be unclean and deemed impure. The same rule of law also applies to salt if there are dead animals found in salt water that was originally used for the processing of the salt. This line of thought finds support in the work of al-Mardawi (1997, p. 318) and selected volumes written by Ibn Qudamah (n. d., p. 97), Fiqh scholars from the Hanbali sect. Their legal arguments are based on the many hadiths of Prophet Muhammad S. A. W. that forbids His companions from consuming alcohol in the form of food additives even though the alcohol substance had been turned into common vinegar. Their legal propositions are derived from hadiths such as below.

1) Anas ibn Malik R.A. narrated, “The Messenger of Allah (peace and blessings of Allah be upon him) was asked, whether wine could be changed to be used as vinegar? The Prophet quickly said, ‘No.’” (from Al-Nawawi, 1994; *Sahih Muslim*. Kitab al-Ashribah, Bab Tahrim takhlil al-khamr, Vol. 3, 1573)

The above hadith clearly shows that Prophet Muhammad S.A.W. prohibits his friends from taking alcohol as an ingredient for processing vinegar. This is because the fermentation was done by human beings (and not naturally). Thus, the ban on alcohol remains in any manner whatsoever despite any and all changes departing from its original nature. The same rule of law is attributed to haram and unclean substances such as pork, blood and others (Ibn Abi Ya’la, n. d., p. 188). All of these are considered haram for consumption and use by Muslims even though their original structure and nature had been changed into other properties, for instance, lard that was processed into pill capsules, light snacks and other edible materials.

2) Anas ibn Malik R.A. narrated, “The Messenger of Allah (peace and blessings of Allah be upon him) was asked by Abu Talhah, about some orphans who had inherited some wine (alcohol). The Prophet said, ‘Burn [destroy] it.’ Abu Talhah asked again, ‘Could we not make it into vinegar?’ The Prophet said, ‘No.’” (from Dawud, *Sunan Abi Dawud*. Kitab al-Ashribah, Bab ma ja’a fi al-khamr takhallul, Vol. 1, p. 77)

On the contrary, this line of argumentation is continuously questioned by Fiqh scholars and jurists who has deemed halal products that are used by Muslims, provided those products have thoroughly undergone the process of *istihalah*. They argue that the above hadith does not carry the meaning as explained by groups of scholar who are against the process but, in truth, the hadith relates to the old tradition of substituting vinegar with wine (or alcohol) as a food additive or seasoning (see, Al-Sarkhasi, 2000, p. 24; Al-Manbaji, 1994, p. 77; Qazzafi ‘Izad al-Ghananim, 2008, p. 144). In this sense, the meaning of the above hadith is somewhat similar to the prohibition mentioned in this particular hadith by the Holy Prophet S. A. W. The following hadith lays down the principle that animals should only be used for certain purposes and only for situations that necessitates their use in our lives:

Abu Hurairah R.A. reported that Prophet Muhammad S. A. W. said: “Do not use the backs of your beasts as pulpits for Allah S.W.T. has made them subject to you only to convey you to a place which you could not otherwise have reached without much difficulty. Verily Allah S.W.T created this earth for all of you. Henceforth, make use of your beasts as a means to fulfil your earthly needs.” (Abu Dawud, Sulayman ibn al-As’ash n. d.; *Kitab al-jihad*. Bab fi al-wuquf ‘ala al-dabbah, Vol. 3, p. 245)

And so with this explanation, it is not forbidden for Muslims to turn alcohol substances (such as wine) into vinegar using any means that we know about. But, there is a caveat that only *after* the completion of the fermentation process that that same material could be used as food additive, seasoning and so on. This is due to the fact that the material used is no longer fit to be referred to as ‘alcohol’ as it has changed in nature and recognised as a new material, namely common vinegar.

The strongest and most consistent viewpoint regarding the problem at hand is the view of those who justify and deem halal the process of *istihalah* in the manufacture of food products and other consumer products against the views of the opposing group that does not accept this process. We find the first group of scholars, legal theorists and jurists to be most trustworthy, based on the strength of the evidence and arguments that they have forwarded. In addition, the ‘public benefit’ approach must also be taken into account in the determination of legal safeguards as a way to protect the needs, desires and the lives of Muslims under all circumstances, particularly with respect to the products that they use day by day.

## 7. Conclusion

Based on the preceding discussion, we can safely argue that Islamic Fiqh scholars, legal theorists and jurists disagree with the views of each other on the issue of the modification of impure and unclean substances into foodstuff and other consumer-related products. The Shafi’i and Hanbali sects forcefully argue that each product can be determined in terms of its legal status (i.e., halal *or* haram) from the way that that product had been processed from the early stages onwards. And so, if the origins of the product are halal then the end product should also be deemed as halal; if the origins of the product are questionable and involve the use of unclean and haram materials and/or substances then the end product should also be deemed as unclean and haram, even though the end product has changed so much that it does not show any impure properties. On the other hand, for scholars, legal theorists and jurists from the Maliki and Hanafi sects, they strongly assert that every impurity should no longer be considered unclean provided the nature of the original material or substance has changed into something totally new, so much so that it should no longer be considered impure and unclean in the eyes of human beings either through taste, smell, colour or other physical tests. The viewpoint of this particular group finds support in the work of many contemporary legal theorists, jurists and experts on Islamic Fiqh such as Ibn Taymiyyah, al-Qardawi, Sulayman al-Ashqar, Ibn Qayyim al-Jawziyyah and many more. At the same time, all Islamic sects and schools of

thought agree to place a ban, forbid for use and deem as haram *any* new products that may cause detriment and harm to human beings either directly or otherwise.

Owing to the fact that we share the viewpoints of the Maliki and Hanafi sects with regards to the issue at hand, a number of products that have been produced from impurities *can* be determined as to their legal statuses (i.e., halal or haram in the eyes of Islam). Some of them are as follows:

- For animal faeces or manure and animal carcasses, whether these came from land animals or those that live in water, if they have been incinerated and turned into ash, then the ash should be considered clean and sanctified (for Muslims to use in religious rites), including for use in the manufacture of cooking pots, kitchen utensils and other consumer products.
- As for faeces or manure that was consumed by farm animals, the meat of these animals should be deemed as clean and halal due to the fact that the DNA of faecal matter (logically) does not easily mix with the DNA of the animal that consumed such impurities.
- Finally, for impurities that have changed in nature into something completely new (and is considered clean and sanctified by Muslims and other members of society), these should also be deemed halal, for instance, brushes, tablet casings (medicine capsules) and other day-to-day products.

### Acknowledgments

This study is financed by the Fundamental Research Grant Scheme (FRGS) (FRGS/2/2013/SS103/UKM/03/2). UKM.

### References

- Ahmad, M. S. B. H. M. (2000). 'Urf dan Adat Semasa di Malaysia Sebagai Asas Penentuan Hukum yang Tidak Dinaskan. In P. H. Ismail (Ed.), *Fiqh Malaysia: Ke Arah Pembinaan Fiqh Tempatan yang Terkini*. Kuala Lumpur: Akademi Pengajian Islam.
- al-'Ulama', M. M. (n. d.). *Al-Fatawa al-hindiyyah al-musammata bi al-fatawa al-'alamkiriyyah*. Beirut: Dar Ihya' al-Turath al-'Arabi li al-Nashr wa al-Tawzi'.
- Al-Amidi, 'Ali ibn Muhammad. 1404H. *Al-Ahkam*. Beirut: Dar al-Kitab al-Arabi.
- al-Ashqar, M. S. (2006). *Abhath ijtihadiyyah fi al-fiqh al-tibbi*. Beirut: Dar al-Nafais.
- Al-Fayruzabadi, M. I. Y. (n. d.). *Qamus al-muhit*. Beirut: Muassat al-Risalah.
- Al-Fayyumi, A. I. M. (n. d.). *Misbah al-munir*. Beirut: Maktabat Ilmiyyah.
- al-Ghananim, Q. 'I. (2008). *Al-Istihalah*. Beirut: Dar al-Nafais (translated by the Islamic Development Department of Malaysia, JAKIM).
- al-Hanafi, I. H., & Mahdi, T. 'A. A. G. (2003). *Sharh fath al-Qadir wa yalih takmilat sharh fath al-qadir*. Beirut: Dar al-Kutb al-Ilmiyyah.
- al-Hanbali, 'A. I. A. I. A. A. (n. d.). *Al-Mugni 'ala mukhtasar al-khirqi fi fiqh Imam Ahmad ibn Hanbal al-Shaybani*. Beirut: Dar al-Fikr.
- Al-Hattab, M. I. M. I. 'A. (2003). *Mawahib al-jalil li sharh mukhtasar khalil* (Vol. 1, p. 97). Beirut: Dar al-Kutb al-Ilmiyyah.
- al-Haytami, A. I. M. I. H. (n. d.). *Tuhfat al-Muhtaj bi Sharh al-Minhaj*. Bayrut: Dar al-Fikr.
- Al-Kashnawi, A. B. H. (n. d.). *Ashal al-madarik*. Kaherah: Dar al-'Asr.
- Al-Khatib, A. M. I. M. (n. d.). *Mugni al-Muhtaj ila ma'rifat maa'ni al-minhaj* (Vol. 1). Qaherah: Al-Maktabat al-Tawfiqiyyah.
- Al-Manbaji, M. A. I. Z. (1994). *Al-Lubab fi al-jam'i bayna al-Sunah wa al-Kitab*. Dimashq: Dar al-Qalam.
- Al-Mardawi, 'A. I. S. I. A. (1997). *Al-Insaf fi ma'rifat al-rajih min al-khilaf 'ala mazhab al-Imam Ahmad ibn Hanbal*. Beirut: Dar al-Kutb al-Ilmiyyah.
- al-Naji, 'A. A. I. M. (n. d.). *Majmu' fatawa Ibn Taymiyyah* (Vol. 21, p. 516). Saudi Arabia: al-Riasat al-'Ammah li Shuun al-Haramayn.
- Al-Nasafi, 'A. A. I. A. I. M. (1997). *Al-Bahr al-raiq sharh kanz al-daqa'iq fi furu' al-Hanafiyyah*. Beirut: Dar al-Kutb al-Ilmiyyah.



- Al-Nawawi, Y. I. S. (1994). *Sahih Muslim*. Kitab al-Ashribah. Bab Tahrim tkhlil al-khamr. Dimashq: Dar al-Khayr.
- al-Nujaim, I. (n. d.). *Al-Ashbah wa al-nazair*. Dimasq, Syria: Dar al-Fikr.
- al-Qadir, H. A. A. (2007). *Dhawabit I'tibar al-Maqasid fi majal al-ijtihad wa atharuha al-fiqhiyy*. Saudi Arabia: Maktabat al-Rushd.
- Al-Qurtubi, M. I. A. (1996). *Tafsir al-Qurtubi*. Damascus, Syria: Dar al-Fikr.
- Al-Sarkhasi, M. I. A. S. (2000). *Al-Mabsut*. Beirut: Dar al-Fikr.
- Al-Sayuti. (n. d.). *Al-Ashbah wa al-nadhair*. Dimasq, Syria: Dar al-Fikr.
- Al-Shirazi, I. I 'A. (n. d.). *Al-Muhadhab fi fiqh al-Imam al-Shafi'i*. Beirut: Dar al-Fikr.
- Al-Zabidi, M. I. M. (n. d.). *Taj al-'urus*. Dar al-Hidayah.
- Al-Zuhayli, W. (1995). *Al-wajiz fi usul al-fiqh*. Syria: Dar al-Fikr.
- Al-Zuhayli, W. (1998). *Tafsir al-munir*. Damascus, Syria: Dar al-Fikr.
- Dawud, S. I. A. (n. d.). *Sunan Abi Dawud*. Kitab al-Ashribah. Bab ma ja'a fi al-khamr takhallul.
- Dewan Bahasa dan Pustaka (DBP). (2002). *Kamus Dewan* (3rd ed.). Kuala Lumpur.
- Hasan ibn Mansur al-Awzajandari. 1411H. *Fatawa qadihan*. Beirut: Dar al-Fikr.
- Hazm, I., & Muhammad, 'A. I. (n. d.). *Al-Muhalla*. Beirut: Dar al-Fikr.
- Ibn 'Abidin, M. A. (1966). Khatimah al-Muhaqqiqin Muhammad Amin al-Shahir bi Ibn 'Abidin 'ala al-dur al-mukhtar sharh tanwir al-absarfi fiqh al-Imam Abi Hanifah al-Nu'man. Egypt: Maktabat Mustafa al-Babi al-Halabi wa awladihi.
- Ibn 'Abidin, M. A. (1994). *Rad al-Mukhtar 'ala al-Dur al-Mukhtar Sharh Tanwir al-Absar*. Beirut: Dar al-Kutub al-'Ilmiyyah.
- Juzayr, I., & Ahmad, M. I. (1991). *Al-Qawanin al-fiqhiyyah*. Beirut: Dar al-Arqam.
- Khalil, 'A. A. I. A. (n. d.). *Al-Qawa'id wa al-dawabit al-fiqhiyyah fi kitab al-Um li al-Imam al-Shafi'i*. Riyadh: Dar ibn al-Hazm.
- Manzur, I., & Mukrim, M. I. (1996). *Lisan al-'Arab*. Beirut: Dar Sadir.
- Muhammad, A. A. I. (n. d.). *al-Sharh al-Kabir*. Qaherah: Maktabat al-Tawfiqiyyah.
- Ramadhan, A. M. S. (2000). *Dawabit al-maslahah fi al-shari'ah al-Islamiyyah*. Beirut: Muassat al-Risalah.
- Rido, A. (n. d.). *Mu'jam matn al-lughah* (Vol. 1). Beirut: Dar Ibn Kathir.
- The holy book of *Al-Quran*.
- Ya'la, I. A. M. I. M. (n. d.). *Al-Tabaqat al-Hanabilah* (Vol. 1, p. 188). Beirut: dar al-Ma'rifah.
- Zaydan, 'A. K. (1996). *Al-wajiz fi usul al-fiqh*. Beirut: Muassat al-Risalah.

## Note

Note 1. That said this legal theory can never be equally applied to all Islamic legislations. This is because there are legislations that will not change even with the collective agreement of *all* Muslim clerics and scholars. Amongst these are the legally binding foundation of the Islamic religion, especially those expressed by propositions with *qat'i al-thubut* and *qat'i al-dalalah* statuses regarding the frequency and number of rak'ah during prayers, the obligation of fasting during Ramadan and performing the Hajj for those who are able, the total valuation of Zakat or tithes, the criminal code of Hudud and so on.

## Copyrights

Copyright for this article is retained by the author(s), with first publication rights granted to the journal.

This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/3.0/>).