



ISTIHALAH AND ITS EFFECTS ON FOOD: AN ISLAMIC PERSPECTIVE

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ABSTRACT

Istihalah is the main issue amongst Muslim scholars regarding food and beverage in this age of biotechnology by which the original form of good food production can be changed. A discussion of istihalah is not only limited to issues related to foods and beverage, but also involves issues regarding cleanliness or taharah in Islam. Currently, the main issue related to food and beverage industry is the mixing of halal with haram substances. The objective of this study is to determine whether the istihalah process can be categorized as istihalah sahahah (complete transformation)

or istihalah fasidah (imperfect transformation), through physico-chemical changes and properties such as the nature, taste, smell, colour of foods that have undergone the istihalah process. Views of fiqh scholars were taken and examined to unravel these issues. This is a qualitative study using the methods of applying evidence from the al-Qur'an and Hadith and also scholars' opinions from credible sources such as fiqh books, food science books, websites and other related resources. The study concludes that the istihalah process is allowed in Islam only if it is istihalah sahihah. However, it is not easy to determine the halal or haram status of food produced using the biotechnology process. A detailed and careful study is needed to determine halal status taking into account several elements.

Keywords: Istihalah; taharah; sahihah; fasidah; Islamic perspective

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1. INTRODUCTION

Malaysia is a multi-ethnic and multi-religious country that has a majority Muslim population which practises Islamic teachings. Halal is a very important and integral part of religious observance for all Muslims. Hence, halal constitutes a universal standard for Muslims to live by.

By definition, halal foods are free from any ingredients or components that Muslims are prohibited from consuming. According to the al-Qur'an, 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 rules, especially applicable to meat and poultry. However, halal also refers to a number of other consumer and industry related products like pharmaceuticals, biological products and fertilizers (Halal Group Industries PLC 2011). In contrast, 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 al-Qur'an and Sunnah (the life, actions, and teachings of the Prophet Muhammad PBUH). 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 should come from halal, clean, and healthy sources because they are something which are eaten or consumed. According to the Quranic verse: "O ye who believe! Eat of the good things which We have provided for you, and render thanks to Allah, if it is (indeed) Him whom ye worship" (al-Qur'an, 2:172). Studies relating to the excellence of contemporary issues in Islamic jurisprudence and shariah studies are also assayed by local scholars, covering various issues such as discussion of halal pharmaceuticals (Halim et al. 2015), the establishment of shariah supervisory committee in hospital (Samsudin et al. 2015), the principles of the use of haram sources in food processing (Kashim et al. 2015), the baitulmal's potential as trustee for unclaimed moneys of Muslims (Ahmad et al. 2017), as well as the problem of domestic violence and its solutions in the light of maqasid shariah (Husni, Nasohah & Kashim 2015).

2. DEFINITION OF ISTIHALAH

Istihalah is an Arabic word, which means transformation or change. It is derived from the word halal (حلال). The term istihalah is a derivative of the words: istihal, yastahil, istihalat, which also mean change. In English, it is translated as transformation or mutation (Ghananim 2008). In general, the term istihalah in Islam means a permanent transformation from one condition to another (Kashim et al. 2015). Istihalah is also defined as something unclean that changes by itself or through any process (al-Zuhayli 1997).

3. DALIL (EVIDENCE) OF ISTIHALAH

The istihalah concept is based on the Holy al-Qur'an in surah al-Nahl, verse 66, which means: "And indeed, for you in grazing livestock is a lesson. We give you drink from what is in their bellies – between excretion and blood – pure milk, palatable to drinkers". This verse clearly describes how the milk produced by livestock is pure and clean even though it was between filth and blood. Food eaten by animals is partially processed into blood, meat and milk, while the rest into excrement (unclean) (Mohd Izhar Ariff 2013).

In addition to the above paragraph, scholars also concluded that the concept of istihalah is the purification process of unclean material, based on the hadith of Muslim related to tanning (samak), which means: "If the animal skin is tanned, it becomes pure (clean)" and a hadith of The Prophet Muhammad (PBUH), which means: "The best of condiments or condiment is vinegar". The scholars agreed that wine which changes into vinegar (takhallalat) by itself, is permissible for Muslims to consume, as The Prophet Muhammad (PBUH) had said: "What a good condiment vinegar is" (Muslim) (al-Zuhayli 1995).

4. SCHOLARS' VIEWS CONCERNING ISTIHALAH

Basically, the scholars agree to accept the concept of istihalah as a process of purification or cleaning of substance from unclean sources. However, scholars disagree on the scope of its application, some of them limit its application to certain cases and specific conditions while others extend it.

The Hanafi, Maliki and Ibn Hazm schools of jurisprudence (madhhab) argue that istihalah is a process which allows unclean substances to change into something clean either naturally or through the agent of mixing with other substances or other activities such as burning. The reason given is that the original substance has changed its form or nature (Ibn Hazm 1347H). The Shafi'i and Hanbali madhhab stipulate that unclean things do not become clean by changing its nature. For the Shafi'i madhhab, the change of something haram into something halal only occurs in three circumstances, which are: wine that turns into vinegar naturally, dead animal skin, except of dogs and pigs, become pure after tanning, and something that turns into a new life such as larvae from carcass.

The evidence used is the hadith in which Prophet Muhammad (PBUH) forbade wine, which was inherited by some orphans, to be treated with other materials to turn it into vinegar. If allowed, the Prophet (PBUH) would not have told his companions to discard it, not to mention that it belonged to orphans (Ibn Hazm 1347H). As for tanned skin, it is based on the hadith that 'tanned animal skin is clean'. The evidence used by these two opinions relating to istihalah can be summarized as follows:

- Vinegar derived from alcohol through the istihalah process is clean, based on a hadith of Prophet Muhammad (PBUH).
- Tanned animal skin is also clean based on the hadith Prophet Muhammad (PBUH).
- The Hanafi and Maliki madhhab totally hold on to istihalah while on the contrary, Shafi'i madhhab holds on to analogy (qiyas) like alcohol that turns naturally into

vinegar (Kashim et al. 2015). Most of the arguments are in principle based on logic as stated by al-Kasani in his book, “According to Muhammad, if something unclean changes its nature and essence, then it will turn into something new and clean” (Ibn Hazm 1347H). He said that when something impure changes its nature and essence into something new, then it will be permissible because it has totally changed its nature and essence. So, the end result will result in something clean and halal.

5. FATWAS AND CONTEMPORARY IJTIHAD REGARDING ISTIHALAH

Most Middle East scholars apply the views of the Hanafi and Maliki madhhab in the issue of istihalah. The 8th Islamic Management of Nadwah Resolution in Medical Sciences, held in Kuwait decided that (al-Zuhayli 1997):

- Gelatine formed in the process of istihalah from faeces, animal bone, skin and sinews is clean and halal.
- Soap made through the istihalah process but derived from lard or animal carcasses is clean and permissible (halal) to use.
- Cheese produced from rennet derived from halal animal carcasses is clean and may be consumed.
- Cosmetics containing lard cannot be used, unless they have definitely transformed through the istihalah process.
- Raw foods, containing lard as its ingredient or content with its essence unchanged as found in some cheeses, oils, butter, yoghurt, biscuits, chocolate and ice cream, are not permissible (haram).

The fatwas above regarding the manufacturing industry and nutrition concluded that mixing the clean with the unclean is possible and istihalah may occur or otherwise. The most important guideline is the transformation of haram substances into new substances, provided, as set out in resolution number 4, it is istihalah sahihah. If the substances do not change, even if given new names such as soap, butter, yoghurt and so on, the products remain illegal, as can be seen in the last above resolution. Laboratory tests are required to determine whether istihalah sahihah actually occurred as the naked eye is unable to see whether complete and permanent transformation of unlawful substances or materials really took place or not (Majmu‘at min al-‘Ulama’ n.d.).

There are also views from contemporary scholars that are more open or ‘lenient’ in this issue. For example, in a *fatwa* issued by Mohamed El-Moctar El-Shanqiti (*Majmu‘at min al-‘Ulama’* n.d.), his response on the legal status of ‘brandy vinegar’, was:

The juristic rule of istihlak states that any substance that is so ‘insignificant’ because its quantity is mixed with an overriding halal substance(s), then it is forgiven. If we apply this rule to your question, we would say that experts have concluded in this regard, that any quantity of alcohol that does not exceed the amount of 0.5% is not intoxicating, and therefore it would not render juice or bread haram when mixed with them. The same applies to ketchup, mustard, etc.

People who misunderstand this rule often confuse it with the interpretation of a hadith that, “whatever intoxicates in big quantity, a small amount of it is haram”. However, that hadith is only referring to ‘intoxicating substance’ that is not mixed with others. For example, a Muslim is not allowed to take little drops of wine but he drinks them under the pretext that he would not get drunk. But when the alcohol is mixed with another substance to the effect

that it has become irrelevant (up to 0.5%) then it has become another substance that falls under the rules of either istihlak or istihalah (transformation).

According to the fatwas above, scholars have strictly prohibited water mixed with alcohol because it contains particles (dharrat) of alcohol. Those who drank it will be liable for trial (ta'zir), and must be punished according to Islamic law (hudud) (Majmu'at min al-'Ulama' n.d.). This study finds that in Malaysia, most fatwas regarding food and beverage are from the Shafi'i madhhab, which rejects the istihalah views held by the Hanafi and Maliki madhhab. Amongst the fatwas are:

- a. The 27th Muzakarah (conference) of the Fatwa Committee National Council of Islamic Religious Affairs of Malaysia, held on 3rd October 1990, has discussed cheese as food ingredient. The Committee has decided that cheese as food ingredient is permissible whether the enzyme used in cheese production is extracted from plant or fungi or lawfully slaughtered animal. The Muzakarah also decided that the use of surface active agents in food is permissible if it is derived from plants and clean animals (Zaydan 1996).
- b. The Special Muzakarah (conference) of the Fatwa Committee National Council of Islamic Religious Affairs of Malaysia, held on 12th July 1999, has discussed food and beverage processed using biotechnology. The Committee has decided products, food and beverage processed using pig DNA biotechnology is contradictory to Islamic law and is forbidden.
- c. The 73rd Muzakarah (conference) of the Fatwa Committee National Council of Islamic Religious Affairs of Malaysia, held on 4-6th April 2006, has discussed the purity status of fish fed with unlawful (haram) food. The Committee has decided that fish reared in ponds and are purposely bred in impure water, fed with unlawful food such as pig, carcass and alike are unlawful to be consumed (Kashim et al. 2015).
- d. The 62nd Muzakarah (conference) of the Fatwa Committee National Council of Islamic Religious Affairs of Malaysia, held on 16th March 2004, has discussed the ruling on using bacteria extracted from baby faeces as food additive in making yoghurt. The Committee has decided that bacteria culture extracted from any impure items (najis) as additive in yoghurt is lawful on condition that it has gone through a separating and cleaning process that is in line with Shariah requirements. This is because the bacteria in baby faeces which is *mutanajjis* (impure item) (Majmu'at min al-'Ulama' n.d.).

6. ARGUMENTS

Bacteria are microorganisms created by Allah SWT and there is nothing in the al-Qur'an or Sunnah that mentions its prohibition or status as *mutanajjis* (impure item). Although bad bacteria is often described as causing disease, another scientific research has discovered proof of the greatness of Allah SWT that everything made on this earth is not in vain. Based on the principle that almost *everything was originally halal* and *everything was originally mubah*, so, the action of manipulating good bacteria for human benefit is not against Islamic law as long as it is beneficial for humans (al-Alusi 1964).

The Special Muzakarah (conference) of the Fatwa Committee National Council of Islamic Religious Affairs of Malaysia held on 12th July 1999 has discussed food and beverage processed using biotechnology. The Committee has decided that (Majmu'at min al-'Ulama' n.d.):

- Products, food and beverage processed using pig DNA biotechnology is contradictory to Islamic law and is forbidden.
- Using pig DNA in products, food and beverage manufacturing does not fulfill the condition of reaching the level of darura (necessity) as there are still other alternatives available.
- This ijhtihad is based on the Usul al-Fiqh maxim which states that preventing harm prevails over gaining benefit.

7. DISCUSSION

- Biotechnology is a process that uses bacteria, plant or animal cells to produce a product. The important thing here is the legal status, whether the original materials processed through biotechnology will be judged lawful or unlawful.
- According to the method of Usul al-Fiqh, “The origins of something mubah (neither forbidden nor recommended, and so religiously neutral) is halal, and something originally haram is totally haram. When something halal is mixed with something haram whether in small or large quantity, the final result will be haram” (Zaydan 1996).
- Each organism contains cells, either elemental cells, animal or human cells, and each cell has a nucleus, and each nucleus contains chromosomes. Genes can be exchanged when truncated or transferred to another either from animals to plants or from plants to animals. This process which occurs in the nucleus of cells will produce protein synthesis. If the cell or gene is derived from pigs, the pig’s gene can produce proteins and those proteins are called pig protein.
- In the DNA biotechnology process, as long as the pig protein are the ingredients in the host cell either in humans, animals or plants for the purpose of reproduction and fertility, then it is not permissible because it is categorized as mughallazah.
- The 73rd Muzakarah (conference) of the Fatwa Committee National Council of Islamic Religious Affairs of Malaysia, held on 4-6th April 2006, has discussed the ruling on wine vinegar. The Committee has decided that wine that turns into vinegar by adding extra substances is unlawful. However, wine that turns into vinegar naturally is halal.

Comparatively, however, the earlier view in 1981, of the Muzakarah (conference) of the Fatwa Committee National Council, is significantly different from that made in 1991. The 2nd Muzakarah (conference) of the Fatwa Committee, held on 12-13th May 1981, had decided that processed food of mixed materials such as blood, cattle feces, pig blood and other materials is halal and permissible. Many researchers believe that the Hanafi madhhab has the most relevant views in dealing with issues concerning food and beverage, even though Malaysia adheres strongly to the Shafi‘i madhhab in this matter as seen in a number of decisions made by the Fatwa Committee (Ghananim 2008).

8. REQUIREMENT FOR LABORATORY TESTS

A study conducted by Che Wan Jasimah and Mohammad Aizat (2002), explained the need for laboratory tests. This is to determine whether the mixing of clean and unclean substances or materials have undergone istihalah or not. This is consistent with the decision of the 8th Islamic Management Nadwah in Medical Science and the Fatwa Committee concerning halal products resulting from the mixing of halal and haram (Ghananim 2008). This is dependent on the changes of illegal substances or materials through the istihalah process which can be verified through laboratory tests since it is hardly possible to find out with the naked eye. For example:

- The use of transglutaminase enzyme and powder derived from blood plasma. Both substances are widely used in the production of foods such as fish balls, sausages, cheese, and yogurt and so on. Despite the mixing of halal ingredients with transglutaminase enzyme and plasma powder for the preparation of dough for fish balls, it is still categorized as *istihalah fasidah* (imperfect) because the blood element still exists in the final product (Ghananim 2008).
- Production of cake either applied or mixed with wine for the beautification and improvement of the external structure and contents. Despite the volatile nature of wine, after a laboratory test was carried out on the cake, the wine smeared on the cake remained intact. It becomes relevant to apply the hadith Prophet Muhammad (pbuh), which means: "If a large amount of anything causes intoxication, a small amount of it is also prohibited" (al-Shawkani 1964).

So the issue here is whether the mixing of *halal* and *haram* substances or materials will result in *halal* or *haram* food product. The model given by researchers only involved the mixing of *halal* and *haram*. The final product is *halal*, because the *istihalah* process occurred naturally. For example, pigs that had fallen into the ocean and decomposed naturally then became salt, was *halal* (Ghananim 2008).

9. CONCLUSION

Based on the above discussion of the *istihalah* issue, several important points maybe concluded as follows:

- Any natural transformation should be recognized as *istihalah sahihah*. Wine to vinegar, pig intestines for fish breeding, tree watered with pig filth and so on. Then its outcome is permissible (*halal*) in Islam.
- Nowadays, the main issue is the mixing of halal and haram ingredients in the food and beverage industry. So, on what conditions can *istihalah* can be categorized as *istihalah sahihah* (complete transformation) or *istihalah fasidah* (imperfect)? The best method to determine is through laboratory tests to ascertain whether the illegal substance or 'ayn material still exists or not. If it still remains intact, it is illegal (*haram*) and if it does not then it is permissible (*halal*) to consume.
- An important question that must be considered is, whether the change or transformation of substances or materials is visible, in accordance with the view of Hanafi and Maliki scholars. At the time this opinion was determined by the earlier scholars they did not even have laboratory facilities to carry out experiments in this matter. Furthermore, whether if laboratory testing can be categorized as extreme, burdensome and inconvenient to Muslims. If so, whether we should accept whatever physical changes happened to the illegal substances or materials as *istihalah sahihah*.

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