

Aspects of Islamic Law for Halal Products and Services in a New Era: Spiritual, Legal and Moral Dimensions

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With the fast growing of Halal industry, and the expansion of the definition of Halal to include all areas of Muslims' lifestyle, there is an urgent need to build this growth on a very solid and resilient Shariah framework in order to avoid chaos and downfall in the future. While there are so many research analyses on market, economic and statistical growth of Halal and the mundane benefits of this growth, we hardly ever find a rigorous Shariah analysis on what each element of Halal Industry component involves.

Among the Muslim Classical Jurists, the term Halal was most often used for edible products as opposed to other evolved elements of halal in the new era. Halal products and services in the new era include halal food and its subs, halal banking and finance, halal cosmetics, pharmaceutical, halal advertisement, halal hospitality and tourism, halal logistic, to mention few.

All these components from Islamic law point may have similar general principle of permissibility, but in practice, however, particular principles are accorded to each component. This core niche area has not been well

researched, and it could tantamount to chaos in the future if care is not taken.

My speech today explores aspects of Spirituality, Legality and Morality in Halal Product and Services in this time we are living. The paper elucidates the three dimensions from the sources of Islamic law. How do spirituality, legality and morality affect halal products and services in Islamic law? Why do we need to make our product and services halal from spiritual horizontal dimension? What are the consequences of nonchalance towards adherence to this need? What is the basis for *halality* and *haramity* of products and services offered in the markets? In a compelling situation, what are the tolerable haram products and services from Islamic legal theory, and who has the legitimate power to regulate the tolerable size of haram if there exists complication between halal and haram?

The paper submits that while spiritual dimension of halal products and services serves to connect humans with his/her Creator, Allah, it also serves the purpose of healthy being, which is one of the components of Maqasid al-Shariah. The legal dimension of Islamic law on Halal products is entrusted to the authority for the regulation of human's behaviour towards his Creator and his human fellows. The moral dimension is meant for purification of souls, and helps human beings to attain the highest status of Iman. By and large, a holistic society can be created through adherence to the three dimensions of Islamic law in halal products and services in the new era.

1. Concept of Halal in Islamic Law

Halal and haram are related to ruling and regulations of Islamic law on Muslims actions in general. Islamic law lays emphasis on the importance of the permissibility of sources of Muslim consumptions, especially the foods and drinks. This is because food intake will boost the development of human wellness and behaviour. Haram substances are explicitly prohibited in the Qur'an, Sunnah and the consensus of the Muslim jurist (Ijma').

Muslims were prohibited from eating the flesh of pork and byproducts, as it is a sin and impiety to do so. These rulings have been stated in Islamic law as guidelines to all of mankind. Besides, deception and adulteration of such substance to maliciously gain more profits are also forbidden. This is clearly demonstrated in many verses of the Quran. In Surah al-Maidah, for example Allah says:

حُرِّمَتْ عَلَيْكُمُ الْمَيْتَةُ وَالدَّمُ وَلَحْمُ الْخِنْزِيرِ وَمَا أُهِلَّ لِغَيْرِ اللَّهِ بِهِ... (٣)

“Forbidden unto you (for good) are carrion and blood and flesh of the swine, and that over which is invoked the name of other than Allah... (Al-Ma'idah, 5: 3).

For sources of incomes, Allah states in the Quran chapter 4 verse 29

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ

O you who have believed, do not consume one another's wealth unjustly but only [in lawful] business by mutual consent.

Other than that, Allah has permitted to consume what He has created for the need of mankind

Oh you mankind, eat what has been created on the earth which is lawful and pure, and never follow the footsteps of shaytan, indeed, he is to you an enemy. (al-Baqarah verse 168)

While Quran has stated some substances which are unlawful and other than the stated ones are lawful, there remain some substances which are unclear and their legal status is uncertain. This is called Mushtabihat:

This is mentioned in the sunnah of the Prophet Muhammad (s.a.w.) where it is stated that:

عن النعمان بن بشير رضي الله عنه قال قال رسول الله صلى الله عليه وسلم (الْحَلَالُ بَيِّنٌ ،
وَالْحَرَامُ بَيِّنٌ ، وَبَيْنَهُمَا مُشَبَّهَاتٌ لَا يَعْلَمُهَا كَثِيرٌ مِّنَ النَّاسِ ، فَمَنِ اتَّقَى الْمُشَبَّهَاتِ اسْتَبْرَأَ لِدِينِهِ
وَعِرْضِهِ ، وَمَن وَقَعَ فِي الشُّبُهَاتِ كَرَّاعٍ يَزْعَى حَوْلَ الْحِمَى يُوشِكُ أَنْ يُوَاقِعَهُ ، أَلَا وَإِنَّ لِكُلِّ مَلِكٍ
حِمًى أَلَا إِنَّ حِمَى اللَّهِ فِي أَرْضِهِ مَحْرَمُهُ ، أَلَا وَإِنَّ فِي الْجَسَدِ مُضْغَةً إِذَا صَلَحَتْ صَلَحَ الْجَسَدُ
كُلُّهُ ، وَإِذَا فَسَدَتْ فَسَدَ الْجَسَدُ كُلُّهُ ، أَلَا وَهِيَ الْقَلْبُ)

“ what is halal and what is haram is evident, but in between there are doubtful (mashbooh) things and most of the people having no knowledge about them. So whoever saves himself from these doubtful things, he saves his religion and his honor, but he who falls into doubtful matters falls into that which is unlawful...” (al-Bukhari, 1979)

What are these Mushtabahat in Halal Products

Derivatives of prohibited food

Pigs are animals that are prohibited in Islam. This is clearly mentioned in the Quran, Sunnah and the consensus of the Muslim jurist (Ijma'). The prohibition of this animal is based on several aspects of harm from either chemical, microbial or psychology. (Hawwa, 1994; Sakr, 1991).

In commenting on the verse of the word 'flesh of swine' or pork meat al-Zamakhshari states in interpretation that, it also includes fat/lard (al-Zamakhshari, 1998). This view is supported by al-Qurtubi in al-Jami' li Ahkam al-Qur'an In addition, Ibn Hazm al-Zahiri also includes the coats and bones of derived from pig are also haram to be consumed.

Other scholars such as Ibn Hayyan and Dawood permit the skins derived from pigs when they are tanned. Ibn Hayyan and Dawood however suggest that the prohibition was only meant for meat not the lard and derivatives (al-Andalusi, n.d.).

Adulteration in Halal Products

Another Mustabahat in halal products is an adulterated substance. Adulteration usually refers to non-compliance to health or safety standards according to the Food and Drug Administration (FDA). Food adulteration is the act of intentionally debasing the quality of food offered for sale either in any way of deception. The Prophet is reported to have denounced such act

It is reported by the authority of Imam al-Bukhari from Abu Hurairah that the Prophet said to a man that deceived people in the market “ whoever deceives us is not among us”

2. Legal Tools in Innovation in Halal Products and Services

- **Through al-Qiyas (Analogical Reasoning) to expand the scope of Halal**

Allah has said in the Quran:

- {يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَسْأَلُوا عَنْ أَشْيَاءَ إِنْ تُبَدَ لَكُمْ تَسْأَلُكُمْ وَإِنْ تَسْأَلُوا عَنْهَا حِينَ يُنَزَّلُ الْقُرْآنُ تُبَدَ لَكُمْ عَفَا اللَّهُ عَنْهَا} [المائدة: ١٠١] «

O you who have believed, do not ask about things which, if they are shown to you, will distress you. But if you ask about them while the Qur'an is being revealed, they will be shown to you. Allah has pardoned that which is past; and Allah is Forgiving and Forbearing. (Q 5 verse 101)

From Salman, said the prophet was asked about fat and cheese , and he replied : A lawful is what Allah has made lawful and what is haram is what Allah has prohibited, what ever He is silent of , it is what He has permitted.

- وَعَنْ سَلْمَانَ قَالَ: «سُئِلَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنِ السَّمْنِ وَالْفِرَاءِ وَاجْتِبَنِ فَقَالَ: **الْحَلَالُ** مَا أَحَلَّ اللَّهُ، وَالْحَرَامُ مَا حَرَّمَ اللَّهُ فِي كِتَابِهِ، وَمَا سَكَتَ عَنْهُ فَهُوَ مِمَّا عَفَا»

The use of Qiyas in halal innovation has been debated among the Muslim scholars. By and large the opinion to use it is more preferable than the one, which prohibits it.

وَأَمَّا قَوْلُ الشَّعْبِيِّ: إِنَّ أَخَذْتُمْ بِالْمَقَاسِ، أَخْلَلْتُمْ الْحَرَامَ، وَحَرَّمْتُمْ (الرازي في

الفصول ٧٦/٤)

- **Maslahah (Public Benefit**

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In a compelling situation, what are the tolerable haram products and services from Islamic legal theory, and who has the legitimate power to regulate the tolerable size of haram if there exists complication between halal and haram?

According to al-Razi al-Hanafi, while shubhat is not categorically stated to be part of harm, yet, considering it haram is more appreciated. When a substance or an issue is described as mushtabih (uncertain) which way is better. There is no dispute among the scholars on taking precautions. However, what is the legal status of this precautionous commandment,, is it on the level of tahrim (prohibition) or Ibahah (permissibility). In other words, if one chooses to embark on doing it, has he committed an offence that warrants punishment?

However, moral and spiritual obligation can be standardized at which point what is moral and spiritual become legal obligation. This step can be achieved through the resources to what is known in Islamic law as al-siyasa al-shar'iayyh. In al-siasat al-shariyah, something that is considered to be moral obligation can become legal obligation if the Muslim ruler /leaders have codified it to be binding ruling on the subject. The process of doing this will largely rely on "Istihsan", Sadd al-Shariah, and al-masalah. All of which rely on indirect evidences in the Islamic texts.

ابن عاشور: إِنَّ حُكْمَ الْأَشْيَاءِ الَّتِي لَمْ يَنْصُ الشَّرْعُ فِيهَا بِشَيْءٍ أَنْ أَصْلَ الْمَضَارِّ مِنْهَا التَّحْرِيمُ وَأَصْلُ الْمَنَافِعِ الْحِلُّ،

(١٠٢ / ٢)

Ibn Ashur is of the opinion that the principle that governs all substances that have no explicit rule in Islamic texts, if it causes injury and harm , it must be prohibited and if it brings benefit to the masses it should be permitted.

3. Types of Halal Products and Services

In our new era, halal concept has been expanded to include Halal cosmetic, halal fashion, halal banking and finance, halal pharmaceuticals, and on and on. These expansion needed to be studied from spiritual, legal and moral dimensions.

- **Halal Food**

Halal food is the most ostensible types of halal products both in the classical and contemporary understanding. In halal food, most of the instructions in Islamic texts have suggested that the prohibition is much

directed to food consumption. The verse that mentions “ta’am” are numerous in both the Quran and Hadith of the prophet. However, food can be interpreted to mean any edible and its associates, such as livestock, perishable vegetable and stable food. It also includes all derivatives and accessories, thus, blood, skin, fibers etc. While original ruling on all the substance is halal, substances become haram when they are contaminated with another haram substance during the process.

- **Halal Logistic**

Halal logistic can be described as “application of shariah principles to the entire process of halal supply chain from sourcing, manufacturing, transportation, warehousing, ports, freight handling right up to consumer consumption.” This is to safeguard any contamination of halal product with haram product. The contamination of any halal product with which is haram can render the product haram. However, the amount of its haramity can be mitigated through standard laid down by the authority.

Muslim jurists have discussed issue related to what is haram *lidhatihi* and what is haram *lihayrihi*. For the *lidhatihi*, it is a product that is originally prohibited (Haram). This product can be divided into two: one that its haramity can be rectified and the other is what cannot be rectified. The second category is the haram *lihayrihi*. This is a product that is contaminated by a haram element. In this case, mitigation can be done to rectify such product. Hence, the principle of proportionality ensued. If the proportion of its harm is high as opposed to the benefit or the benefit is individual whereas the harm affects the public, the product can be outrightly declared (*haram*)

- **Halal Pharmaceutical**

Pharmaceutical is related to making and selling drug and medicines. Drug and medicines are used purposely for healing. However, drug can be more related to wanting to “cause the exchange of function and / or structure of organism physiology”

Islam does not prohibit the use of drug for healing. In fact, it has given permission to the use of all natural substance for health in which medication is included. However, certain substance are prohibited to for use for medication in Islamic law, not only because it is haram for consumption, but because healing is much attached to the belief in Allah’s attributes of “The Healer” al-Shafi’).

Thus, any medication that contains any prohibited substance is considered haram such as alcohol etc. It is reported in hadith of the prophet when someone asked him about alkhamr in drug is replied

“ It is a diseases not healing”

It is also reported from Abu Dardai that the Prophet said: Allah has decreed sickness and its medication, and for each sickness there is medication, thus make use of medication but not from haram

لمن سألته عن الخمر يجعلها في الدواء (إنها داء وليست بدواء)

- عن أبي الدرداء - رضي الله عنه - أن رسول الله صلى الله عليه وسلم قال: "إن الله أنزل الداء والدواء، وجعل

لكل داء دواء، فتداؤوا ولا تتداؤوا بحرام" (الحديث أخرجه أبو داود في سننه ١٣٤/٤ برقم ٣٨٧٤).

However, it could be argued that since Islam has allowed a person to consume muharramaat in a dire situation, why not allowing such for the sick.

Ibn Taymiah says : using medication is not as equal as eating dead animal in a dire situation, the purpose in eating dead animal can be achieved while that of medication may not because there is no assurance of recovery from the sickness since Allah is the one who gives shifa’

قال ابن تيمية: "وليس هذا مثل أكل المضطر للميتة، فإن ذلك يحصل به المقصود قطعاً وليس له عنه عوض، والأكل منها واجب، وهنا لا يعلم حصول الشفاء ولا يتعين هذا الدواء بل الله تعالى يعافي عباده بأسباب متعددة

...

Thus, any haram substance used for medication is considered haram such as Gelatin. Many of the Muslim countries have allowed this base on darurah. (National Fatwa Committee of Malaysia 1984)

However, the question of a tolerable najis that is allowed especially during the emergency calls for the role of jurists and government in standardization.

Thus, to make sure that food and pharmaceutical industries produce Halal food and medicines for the use of Muslim, there is a need for standardization justify the involvement of government to come up with standards to regulate the flow of production of these substances. This can be parked under the rule of *siyash shari’iyyah*. This is based on the principles of Islamic Good Governance “ التصرف علي الرعية منوط بالمصلحة “ (Right of disposition on the masses is based on *maslahah* – public interest)

- **Halal Tourism and Hospitality**

“According to the State of the Global Islamic Economy report (Reuters, 2015), produced by Thomson Reuters in collaboration with Dinar Standard, the global Muslim travel market was worth \$140bn in 2013, which represents 11.5% of global expenditure. The same report predicts that the segment is expected to be worth \$238bn in 2019 and represent 13% of global expenditure. The tourism industry is increasingly competitive.” (M. Battour and M.N. Ismail, 2015)

Because of the growing interest in Halal tourism, there is a call to have Islamic law guidelines for the both providers and consumers. Halal tourism refers to any practice or activity in tourism which is ‘permissible’ according to Islamic teaching”.

According to UNWTO definition, “tourism comprises the activities of persons travelling to and staying in places outside their usual environment for not more than one consecutive year for leisure, business and other purposes” (Goeldner & Ritchie, 2006).

Cook et al. (2014; p.3) defined Tourism as “the temporary movement of people to destinations outside their normal places of work and residence, **the activities undertaken during their stay in those destinations**, and **the facilities created to cater to their needs**”

“However most of debates on Islamic or halal tourism have not taken into consideration the Islamic law (Shariah) ruling and regulation on tourism, the target customers (i.e. Muslims or non-Muslims), the location of activity (i.e. Muslim vs non-Muslim country), the product and service offered (i.e. food, facilities), and the purpose of travel”

Carboni et al. (2014) defined Islamic tourism “as tourism in accordance with Islam, involving people of the Muslim faith who are interested in keeping with their personal religious habits whilst travelling”. This definition takes into the consideration the Islamic law, the target customers (Muslim), and the location of activity, but the product and service offered (i.e. food, facilities) is ignored. However, Carboni et al. (2014) recommended that Islamic tourism is not restricted only for religious purposes and is not exclusively to or within Muslim countries

Issues such as ethics of travelling for the travellers maximization of profits and travelling for vices are areas of concern.

- **Halal Finance**

Halal Finance is one of the most popular aspects of Halal Industries . The global Islamic finance industry has seen key developments of the last two decades. In 2016 and 2017, the values has increased by 10% to US2.2 trillion. Having said that, the celebration is not to be on the growth rather why this growth happens.

In Islamic law, properties are protected from any form of illegal acquisition. Quran uses the word “Akala” eat for illegal acquisition of money “Wala ta’kulum amwalakum”. Thus, Riba, Gambling etc are described prohibited action and process in Islamic finance. What constitutes haram and halal in Islamic finance is much more attached to the process than the substance. This can be induced from the prophet Muhammad denouncement of the practice of a Sahabah who came to him with a precious date. Upon asking him where he got it, it is known to the prophet that the way of acquiring it is unlawful. Then, the prophet directed him to other way of which the transaction can be made lawful.

This is important to be noticed in this industry. Money is originally halal, only the way of acquisition can turn it to haram.

Syed Salman has recounted Sharia issues that engulf Islamic finance. These issues ranged from contract to products. House financing through BBA, Deposit with the intention of having dividend, sales of debt (bay' dayn, other modes of contracts such as Musharak, Murabah, mudharaba and Ijarah. The most polemic is the use of Tawarruq and Ina in Islamic finance.

The unsettled matters in all aforementioned issues is whether any contract or products in Islamic finance that does not meet Shariah requirement shall be rendered haram. The bone of contention is that not all shariah noncompliance in finance is tantamount to haram. , they can still be considered halal, if the haram part of it can be extracted and purified.

The issue of ASB is an apt example of how the tolerable haram can be considered in Halal Finance Industry .

The question as to whether it is Islamically permissible to invest in Amanah Saham Bumiputera (ASB)/Amanah Saham Nasional (ASN) continues to receive polarised responses in Malaysia.

The National Muzakarah Fatwa Committee for Religious Affairs also pointed out the *fiqh* (Islamic jurisprudence) agreement across Hanafi, Maliki, Shafi'i and Hanbali juristic schools that permit investing in companies that involve halal and haram activities under certain

circumstances, such as considering the wider public interest (*maslahah ammah*) and the avoidance of harm (*mafsadah*).

Other areas that have not be tapped are

- **Halal Education**
- **Halal Family homes**
- **Halal environmental built. (House and Road Constructions)**
- Halal Fashion
- Halal Auditing

4. Islamic Law Dimensions in Halal Products and Services

- **Spiritual Dimension of Halal Products and Services**

Why do we need to make our product and services halal has to do with spiritual dimension?

Islam has commanded all Muslims to ascertain that all their lifestyle to be built on Halal Tayyiban. This call appears in several verses of the Quran. al-Baqarah verse 168; al-Maidah verse 88; Al-Anfal verse 69; al-Nahal 114-116

يَا أَيُّهَا النَّاسُ كُلُوا مِمَّا فِي الْأَرْضِ **حَلَالًا** طَيِّبًا وَلَا تَتَّبِعُوا خُطُوَاتِ الشَّيْطَانِ إِنَّهُ لَكُمْ عَدُوٌّ مُبِينٌ (١٦٨) البقرة

Spiritually, one needs to make sure that all his or her consumption in this life are purely halal. For many reasons, among are securing the piety of Allah as Allah says at the end of the verse; assuring the acceptance of prayers and

supplication as The prophet indicates in Hadith reported by Abu Hurairah in which says

عن أبي هريرة قال قال رسول الله صلى الله عليه وسلم: (إن الله تعالى طيب لا يقبل إلا طيبا وإن الله أمر المؤمنين بما أمر به المرسلين فقال تعالى: (يَا أَيُّهَا الرُّسُلُ كُلُوا مِنَ الطَّيِّبَاتِ وَاعْمَلُوا صَالِحًا إِنِّي بِمَا تَعْمَلُونَ عَلِيمٌ). وقال تعالى: (يَا أَيُّهَا الَّذِينَ آمَنُوا كُلُوا مِن طَيِّبَاتِ مَا رَزَقْنَاكُمْ). ثم ذكر الرجل يطيل السفر أشعث أغبر يمد يديه إلى السماء يا رب يا رب ومطعمه حرام ومشربه حرام وملبسه حرام وغذي بالحرام فأنى يستجاب له) رواه مسلم .

It can be deduced from the hadith that rejection of prayer and supplications absolutely linked to indulgence in haram activities. This spiritual setback always occurs in nonchalant attitude of Muslims to the commandments of Allah by abstaining from Haram in all forms.

- **Legalistic Dimension of Halal Products and Services**

The legalistic dimension of Halal products resonates in the prescription of Allah to make such essence Haram. The legalistic dimension holds one accountable for breaching the rules and regulations of halal products and services offered and consumed. The legal consequences can be in this life or in the hereafter.

The process of legislating products that are classified “Mutashabiah” turns the products non-shariah compliant of which breaching its rule necessitates facing legal consequence.

- **Moralistic Dimensions of Halal Products and Services**

The moral aspect of Halal products and services subsumes in what can be described as fraternity and accountability in Islamic law. On Fraternity or what is known as brotherhood, it is reported in Sahih al-Bukhari that the prophet says “ None of you truly believes until he loves for his brother what he loves for himself”

Love for you brother eliminates any deception in offering haram products.

Accountability summons encourages the industry of auditing and certification with honesty and transparency. Certification and auditing could be moralistic areas that need great attention. When a product is assessed, audited or to be certified, moral dimension of the halal must be observed. The wisdom of assessing a product and declaration of its halality or haramity must be based on sound knowledge and good faith.

5. Conclusion;

In conclusion, while Islam encourages Muslims to consume halal products and offer halal services, three dimensions of halal commandment must be taken into account. These are halal spiritual inclination, halal legal and moral obligations. The three folds must be taken into consideration when dealing with all types of halal products and services in this era. Halal industry can be marred if the attitude of Muslims to these products and services is merely consumeristic on which picking and dropping of certain areas is subject to human desires. Islam is holistic in nature but human

behaviours tends to taints the tenets of Islam for personal needs and as such unforeseen consequences may arise from this attitude for the Muslims and Islam in the future.