

HALALSPHERE

International Islamic University Malaysia - INHART



The Ministry of Health (MOH) Malaysia policy regarding the use of medications containing non-halal ingredients: an analysis from the *Shari'ah* perspective

Rohani Binti Desa^{a*} & Muhamad Nasir Bin Zain^b^aKulliyyah *Shari'ah* and Law, Sultan Abdul Halim Muad'zam Shah International Islamic University (UniSHAMS), 09300 Kuala Ketil, Kedah, Malaysia.^bDepartment of General Studies Politeknik Sultan Abdul Halim Mu'adzam Shah (POLIMAS), Bandar Darulaman, 06000 Jitra, Kedah, Malaysia.*Corresponding author: E-mail address: rohanidesa@unishams.edu.my

Received:22/1/2024
 Accepted:11/8/2024
 Published:31/1/2025

Keywords:

Treatment ruling;
 Medicines containing
 non-halal
 (impermissible)
 substances; Policy
 Ministry of Health
 (MOH) Malaysia;
al-Darurah

Abstract

This article analyses the policy of the Ministry of Health (MOH) Malaysia against the use of medicines containing non-halal substances according to the *Shari'ah* perspective. This article aims to enlighten pharmaceutical professionals about their responsibilities in the preparation of medications containing non-halal (impermissible) ingredients and the responsibility of the physicians when prescribing drugs that include non-halal components to patients, emphasising that such prescriptions are permissible only in situations of necessity, known as *al-Darurah* (necessity). This article also raises awareness among the public that not all illnesses or diseases can be considered *al-Darurah* except in certain situations permitted by *Shari'ah* (Islamic law). This article also proposes several solutions to the MOH to facilitate the public's usage of medications containing non-halal ingredients based on *rukhsah*. This article uses the qualitative method approach, explicitly incorporating the perspectives of Islamic scholars regarding the necessity of utilising medications containing non-halal ingredients in situations of *al-Darurah*. Furthermore, this article analyses the guidelines implemented by the MOH concerning the usage of drugs containing non-halal substances in Malaysia. This article also seeks to raise awareness among physicians about the vital responsibility they hold in only prescribing medications with non-halal ingredients to patients when it is necessary (*al-Darurah*) and to educate pharmaceutical experts on the significance of disclosing complete details about the non-halal components used.

1. Introduction

It is evident that in both classical and modern Islamic jurisprudence, there are extensive discussions concerning the application of sharia principles in addressing various healthcare issues, particularly within the frameworks of necessity (*al-Darurah*) and need (*al-Hajah*). These include sharia principles related to medications utilising serums derived from carcasses of animals that have not been slaughtered according to Islamic law, as well as medications containing specific drugs or chemicals for medical purposes. Not all ailments are necessarily classified as a state of necessity (*al-Darurah*) and, therefore, do not warrant the use of prohibited substances according to *Shari'ah* law, as their usage is subject to specific circumstances, particularly in assessing the level of necessity for an individual. In examining this issue, the author will first discuss the perspectives of classical scholars regarding the legal aspects of seeking medical treatment using substances prohibited by *Shari'ah* law.

This approach suggests that the use of carcasses and alcohol for medicinal purposes has been a subject of discussion among past researchers. Although there is a general agreement among scholars regarding the need or obligation to consume impermissible foods like carcasses, pork, and improperly

slaughtered animals in cases of necessity (*al-Darurah*), such as famine and oppression by individuals, there is a deviation in their views on the permissibility of using medicinal elements derived from carcass, pork, and alcohol.

2. Ruling in getting treatment with medicines that contain non-halal (permissible) substances

According to Ibn Taymiyyah (al-Salami, 2001), seeking medical treatment with medications containing impermissible substances should not be equated to consuming carcasses during famine. The reason for this is that during times of famine, consuming carcasses is highly effective in addressing hunger and saving lives. Meanwhile, the use of impermissible substances in medication still raises questions about its healing abilities. In addition, Sheikh Muhammad Tahir Asyur (al-Salami, 2001) argues that if research has proven the effectiveness of said medication in treating severe ailments, seeking medical treatment with impermissible substances can be equated to the act of consuming carcass during times of famine, which is deemed necessary (*al-Darurah*). In the absence of conclusive evidence proving its effectiveness, it is not valid to compare taking impermissible medications to consuming carcasses during periods of famine.

According to scholarly experts, it is not acceptable to seek medical assistance through the use of prohibited substances, whether ingested, consumed, applied as oil, or involving the utilisation of animal remains and the like (al-Zuhayli, 1991). Based on the words of Prophet Muhammad (PBUH), narrated by al-Bukhari from Ibn Mas'ud: *Indeed, Allah SWT does not make the cure for my people come from impermissible things.* (al-Bukhari, 1987, no.5291; Ibn Hibban, 1993, no.1391; Ibn Hajar al-Asqalani, 1964, no.1792). Similarly, another *hadith* narrated by Muslims states that Prophet Muhammad (PBUH) prohibited the production of alcoholic beverages, declared them as drinks and rejected the use of alcohol as a medicinal substance. When Tariq bin Suwayd inquired about the use of alcohol for such purposes, the Prophet Muhammad (PBUH) responded, *"Indeed, it is not a remedy; instead, it is (the cause of) illness."* (Muslim, n.d., no.1984)

It can be inferred from these *hadiths* that the use of alcohol for medical treatment is deemed unlawful by the restriction by Prophet Muhammad (PBUH), as it is believed to be a transmitter of illness rather than a remedy for any disease.

al-Mubarakfuri (n.d), in explaining this *hadith*, explains that the prohibition of seeking medical treatment with impermissible substances is assumed only when an individual has a choice, as various permissible and impermissible medications are available. It is also believed that the meaning of this *hadith* is directed explicitly towards alcohol and all intoxicating substances, as scholars unanimously agree that alcohol is a cause of illness rather than a remedy. If an individual has no alternative options and a Muslim physician affirms that the impermissible substance is the only viable medication for their ailment, then seeking medical treatment with the impermissible substance at that specific time is deemed permissible.

According to Imam al-Nawawi (n.d) in his work '*al-Majmu'*', the consensus among jurists is that seeking medical treatment with impermissible substances other than alcohol is permissible. However, this permissibility is contingent upon the unavailability of medications derived from permissible substances, as implied by the *hadith* above narrated by al-Bukhari. It is also stipulated that the prescription for such impure medications must come from a professional Muslim physician, even if it is just one. According to Imam al-Bayhaqi, Imam al-Shafi'i does not endorse the consumption of remedies made from snake meat (*al-Tiryaaq*) unless in a situation of necessity, similar to the ruling on consuming carcass, based on a *hadith* narrated by 'Amr bin al-'As (may Allah be pleased with him). Prophet Muhammad (PBUH) stated: "I do not consume *al-Tiryaaq* (remedy made from snakes), hang amulets, or produce poetry (verses of the *Qur'an*) from myself." (Abu Dawud, n.d, no.3869).

al-Tiryaaq is a type of remedy that contains snake meat. According to Ibn al-'Athir and al-Khattabi (Abadi, 1415H), the consumption of remedies is not fundamentally prohibited, as Prophet Muhammad (PBUH) has permitted them for medicinal purposes. However, the prohibition in this *hadith* is precisely due to the remedy containing snake meat and alcohol. Both of these substances are impermissible, and it is impermissible to consume them. If the remedy does not contain these two substances, then the permissibility of its consumption is established (Abadi, 1415H).

Similarly, the ruling on seeking medical treatment with impermissible substances is not obligatory within the Maliki

(al-Baji, 1332H) and Hanbali (Ibn Qudamah, 1996) schools of thought. According to Ibn Sahnun (al-Baji, 1332H), it is permissible to treat injuries using the bones of a slaughtered animal. However, using the bones of the carcass, human bones, pig bones, and the bones of animals whose flesh is not permissible to consume is not permissible. If carcass bones are used for healing, according to Imam Malik (al-Baji, 1332H), the person using them should not perform salah (prayers) with those bones. However, Ibn al-Majisyun (al-Baji, 1332H) alleviates this stance by stating that it is permissible to pray with carcass bones used for healing. According to Ibn al-'Arabi (al-Syanqiti, 1995M), seeking medical treatment with carcass is impermissible as long as permissible options can be used as medication. However, some scholars permit seeking medical treatment with the carcass, whether using it solely or mixed with other substances (Khatib al-Riyy, 1995M).

Meanwhile, some scholars among the Shafi'i jurists (al-Kurdiy, 1999M) stipulate that medications containing carcasses or impurities must be mixed with other permissible substances. On the other hand, other Shafi'i scholars do not impose such a condition, basing their stance on textual evidence and its contextual meaning. According to textual evidence, the permissibility of seeking medical treatment with the carcass is derived from a *hadith* that allows the tribe of *al-Uraynah* to drink the urine and milk of camels for medicinal purposes (al-Bukhari, 1987, no.1430; Muslim, n.d., no.1671; Ibn Hibban, 1993, no.1388; al-Tirmidhi, n.d., 1671).

Based on the contextual interpretation of textual evidence, using venomous snake meat as an antioxidant or remedy is deemed effective and beneficial. Therefore, it becomes obligatory to classify it as permissible, as a specification of the general meaning of the *Qur'an*, which states: *"Permitted for you (as food) are all good and pure things."* (verse 4 of Surah al-Ma'idah)

Secondly, Imam Abu Hanifah (Khatib al-Riyy, 1995M) pardoned impurities on clothing up to the size of a *dirham* (a unit of currency) coin due to necessity (*al-Darurah*). Similarly, Imam al-Shafi'i also pardoned small insect bloodstains on clothing due to necessity (*al-Darurah*). Consequently, it is logically plausible to pardon carcass use for medicinal purposes, considering the necessity (*al-Darurah*). Thirdly, Allah SWT has permitted the consumption of carcasses for the preservation of human life. Therefore, carcass use in medicine also aims to safeguard human life. However, this permissibility is not absolute, as it is conditioned upon the requirement that the medicine is the only remedy for the disease, and there is no alternative for treatment.

Indeed, even among scholars who permit the use of carcass in medicine, there is a refutation of the argument presented by those who prohibit it based on the above-mentioned *hadith*. They contend that this *hadith* can only be invoked as evidence against matters on which there is a consensus regarding their prohibition. At the same time, the issue of using carcasses for medicinal purposes remains a subject of discussion among scholars regarding its legal status. In contrast, the prohibition of seeking medical treatment with alcohol has gained unanimous agreement among scholars, as previously mentioned (al-Baji, 1332H)

However, according to Khatib al-Riyy (1995), the ruling of seeking medical treatment with alcohol depends on the level of necessity a person is facing. Suppose the necessity reaches the level of *al-Darurah* (extreme necessity). In that case, the ruling

is deemed obligatory, similar to the legal ruling for someone compelled to consume carcasses or other prohibited items in a situation of *al-Darurah* due to the preservation of life. Conversely, if the need for medical treatment does not reach the level of *al-Darurah*, then it is not deemed obligatory.

While the ruling of seeking medical treatment with medications containing drugs or chemicals has been a subject of discussion among classical scholars due to the historical use of such mixtures, particularly in surgical procedures, the fundamental ruling is that the use of drugs is prohibited (al-Kurdi, 1999M). However, it becomes permissible in medical treatment when it constitutes the only available remedy and is based on an urgent need, following the principle of *al-Darurah Tubih al-Mahzurah* (al-Suyuti, 1998; al-Subki, 1991; Ibn Nujaym, 1993; al-Lubnani, n.d.) According to Imam al-Nawawi, it is permissible to employ something that temporarily impairs mental function (anaesthesia) for the amputation of a decaying hand as a resolution to the controversy surrounding seeking medical treatment with alcohol. This viewpoint is also echoed by al-Bakri and al-Syarbini (al-Nawawi, n.d.).

According to al-Mardawi (1376H), impairing mental function (anaesthesia) using *al-Nabj* (a type of drug plant) is considered permissible. The ruling of an individual who loses consciousness due to such anaesthesia is similar to that of a mentally impaired person. However, if someone consumes it without any necessity, the resulting loss of consciousness is similar to that of someone intoxicated. This is because medical treatment is a recognised necessity in Islamic law. For instance, a cancer patient may not be cured except by removing the affected part of the body. The removal of the cancerous part is only feasible through surgery, and surgery is only possible through the administration of anaesthesia to the patient.

Anaesthesia can only be administered through medications containing drugs. Thus, the use of drugs to anaesthetise a patient undergoing surgery is a necessity in that particular situation (Ali Shaykh, 1424H). However, this necessity is conditional, and the anaesthetic dosage from drug-containing substances administered to the patient must be limited to the extent required for a specific treatment period only. For instance, in tooth extraction, the anaesthetic dosage should merely numb the area related to the dental procedure without necessitating the anaesthesia of the patient's entire body. Nevertheless, higher dosages may be administered to patients undergoing prolonged surgeries such as abdominal or cardiac procedures (al-Syanqiti, 2004M). This is because the necessity of using substances containing drugs or toxins depends upon the requirement. Thus, the legitimacy of their use is confined solely to the necessity of anaesthetising the patient for the duration required for the treatment.

There are several rights of the patient and responsibilities of the anaesthesiologist during the period when the patient is under the influence of anaesthesia. Firstly, the anaesthesia specialist must determine the dosage of anaesthetic required for a patient in a particular surgery, considering both the duration of the procedure and the patient's tolerance to the anaesthetic substance. Suppose a surgical procedure only necessitates local anaesthesia. In that case, it is prohibited for the anaesthesiologist to administer anaesthesia to the entire body of the patient unless there is a compelling need to do so. This is because the anaesthetic substance contains toxins that could be fatal if the dosage exceeds the limit tolerable by the patient's immune system.

In conclusion, within the healthcare service, various entities are involved in situations of necessity, including the patient, healthcare providers (physicians and nurses), medication or treatment methods, and treatment facilities. The patient is the primary subject in this healthcare service because the healthcare system, including nurses, medications, treatment methods, and facilities, cannot function without the patient. The patient is the central focus of healthcare services and is in a state of illness that places them in a condition of difficulty (*al-Masyaqqah*) (al-Suyuti, 1998; al-Subki, 1991; Ibn Nujaym, 1993) in either the state of necessity (*al-Darurah*) or need (*al-Hajah*), it is evident that numerous matters fall under the category of permissibility (*Rukhsah*) in dealing with a patient based on their illness and the treatment requirements.

The situation of necessity (*al-Darurah*) or need (*al-Hajah*) for patients inevitably brings along several other reflections, placing them in a state of necessity or need. Critical situations, such as life and death, the possibility of disability, the potential spread of epidemics caused by viruses and bacteria, or similar circumstances that threaten public safety, are recognised in Islamic jurisprudence as critical situations falling under the categories of necessity or need. Consequently, not only do patients receive the legal concession (*Rukhsah*) (Dr Abu Bakr Isma'il, 1997), but physicians, nurses, medications, and treatment methods also share in receiving this legal concession based on the extent of the patient's needs in a given case.

Treatment for any illness that poses a threat to life is considered treatment at the level of necessity (*al-Darurah*) and may be applied to patients even if it involves the use of medications containing chemicals, drugs, or substances derived from carcasses or non-permissible animals, in quantities required, and in the absence of alternatives. Similarly, treatments with associated risks may be applied to patients in a state of necessity (*al-Darurah*) due to their illness (Zaydan, 2003; Ulwan, 2000).

3. The MOH Malaysia policy regarding the use of medications containing non-halal ingredients

Examining the laws and policies of the MOH Malaysia through acts, policies, circulars, and guidelines specifically related to the use of medications containing toxins on patients, several acts are pertinent to the drugs employed by MOH. These include the Pharmacists Registration Act 1951 (Laws of Malaysia, Act 371); Dangerous Drugs Act 1952 (Laws of Malaysia, Act 234); Poisons Act 1952 revised 1989 (Laws of Malaysia, Act 366) and Medicines (Advertisement and Sale) Act 1956 (Laws of Malaysia, Act 290).

The Dangerous Drugs Act 1952 aims to regulate and establish rules regarding the import, export, manufacture, sale, and use of opium and other dangerous drugs. This Act provides further provisions for better control over the import, export, manufacturing, sale, and use of opium and certain dangerous drugs. Additionally, it makes specific provisions regarding the jurisdiction of the courts over offences falling under its purview and the trial proceedings of the court.

Meanwhile, the Poisons Act 1952 aims to regulate the import, possession, manufacture, sale, and use of poisons. 'Poisons' refer to substances named and listed in the 'Poison List', including any mixture, preparation, solution, or substance containing these materials or any preparations or substances contained in Schedule Two of this Act. The Medicines (Advertisement and Sale) Act 1956, on the other hand, aims to

regulate and prohibit advertisements referring to any goods deemed capable of influencing their use as medicines for treating specific severe conditions. All advertisements for medicines must obtain approval from the MOH.

Examining the enforcement of laws regarding medications containing toxins or drugs, the author finds that it is heavily emphasised within the MOH. It can be said that all acts utilised within the MOH concerning the regulation of medicines revolve around the regulation of the preparation, manufacture, importation, sale, and advertisement of medicines containing toxins or drugs. The legal implications contained in the Dangerous Drugs Act 1952 (Laws of Malaysia, Act 234), Dangerous Drugs Sale Act 1952 (Laws of Malaysia, Act 368), and Poisons Act 1956 (Laws of Malaysia, Act 366) are clear concerning those who violate the regulations within these Act.

Within the MOH, determining the quality of medications, law enforcement, and monitoring are carried out by the Pharmacy Services Division of the MOH (www.pharmacy.gov.my). The Pharmacy Services Division (PSD) is one of the divisions under the Research & Technical Support Program in the MOH Malaysia. The primary responsibility of the PSD is to ensure that pharmaceutical materials and healthcare provisions provided to the public are of high quality, safe, and effective. They are prepared with full responsibility to produce positive effects and improve the quality of life. The PSD comprises three main sections: the National Pharmaceutical Control Bureau, the Pharmacy Enforcement and Licensing Branch, and the Pharmacy Practice Management.

National Pharmaceutical Regulatory Agency (NPRA) directly contributes to public health through the determination of the quality of medications, involving the assessment and registration of drugs before marketing; control over the import, manufacturing, wholesale, and sale of drugs through a licensing system; and continuous monitoring of the quality of registered drugs in the market through a quality surveillance program. Meanwhile, the Pharmacy Enforcement and Licensing Branch ensures that the enforced acts and regulations carry out the manufacturing, importation, sale, distribution, management, and use of pharmaceuticals, cosmetics, and healthcare products (www.pharmacy.gov.my).

The Pharmacy Practice Management is accountable as the Secretary to the Drug List Review Panel of the MOH. It formulates policies for pharmacy practices related to service requirements, skill refinement, human resource development, administrative functions, and allocation distribution. This division also provides technical advisory services in drug procurement, medical product output, supply, and distribution (www.pharmacy.gov.my).

In addition to the aforementioned acts, the MOH has issued policies that illustrate its firm stance on the use of medications containing toxins or drugs, namely the Malaysian National Medicines Policy (MNMP). This policy outlines one of its objectives, which is to ensure that medicines marketed for patient care are safe, effective, of high quality, and meet global health requirements (Malaysian National Medicines Policy, 2009).

To what extent is the law enforced in the acts utilised by the MOH, and what is the MOH's stance through policies and guidelines regarding the halal (permissible) status of medicines? Halal medications must adhere to characteristics such as not consisting of or containing substances from animals

that are prohibited by Islamic law for use or consumption, or not slaughtered according to Islamic law; not containing substances deemed impure according to Islamic law; not prepared, processed, manufactured, or stored using any tools that are not free from impure substances according to Islamic law; not coming into contact or proximity with any substances that do not meet the requirements above or any substances deemed impure according to Islamic law, and intentionally using it should not result in harmful effects (www.islam.gov.my/e-rujukan/ubat.html).

However, in certain circumstances where there is no permissible substance available for treating a particular illness, Muslims are allowed to use impermissible substances for medicinal purposes. Exceptions in using impermissible substances as medicine should meet conditions such as the unavailability or difficulty obtaining permissible substances to treat the related illness. The use of such substances should be under the guidance and advice of a physician, and the consumption of medicine from impermissible substances should be limited to what is necessary (www.islam.gov.my/e-rujukan/ubat.html).

This implies that not all illnesses necessitate the use of medications derived from non-halal substances, especially if there are alternative halal medications available as a cure. This means that medications containing toxins or drugs also fall into the category of prohibited medications if there are alternative halal drugs. The permissibility of a medication is evaluated based on three aspects: the source of the medication, the source of excipients, and the cleanliness aspect in the preparation and handling of the medication.

4. Analysis

In Islam, something clean does not necessarily mean it is pure. Something impure is considered *najis* (pollutant). Therefore, the main question here is the extent to which the ruling of MOH medications can be determined based on the purity of the drug source and excipients and how it can be identified. The author found that none of the acts, policies, or guidelines used by the MOH regarding drug regulations address these issues. For the MOH, the safety of drug use is crucial, leading to strict and transparent laws and policies on the matter. Meanwhile, for Muslim patients, the use of halal medications in non-emergency situations is equally important as the safety concern.

The sources of drugs can be categorised into several groups: human, animal, plant, soil, and water. These sources are often utilised to produce substances that can be used as medicine. However, with today's modern technology, most drugs use synthetic materials. Essentially, for a drug to be classified as halal, not only must the sources used as drug ingredients be halal, but the ingredients themselves must also be pure from impurities according to Islamic law and be used for legitimate medical purposes. Excipients are substances that process a particular form of medication, such as starch, capsule shells, solvents, sugar, colourants, flavourings, preservatives, etc. Excipient materials are considered halal if they do not contain impure, impermissible, toxic, and harmful substances. There is no exemption from the prohibition of using excipient materials derived from impermissible substances.

In addition to being safe, effective, and high-quality, halal is a condition that determines whether a particular medication can be applied to a patient. Only in situations of *al-Darurah*

(necessity) are medications from non-halal sources allowed to be administered to patients, such as when there is no alternative, it is challenging to obtain what is halal or threatens the patient's life. Nevertheless, the 8th Muzakarah of the National Fatwa Committee of the Malaysian Islamic Religious Affairs Council, held on September 24 – 25, 1984, decided that the use of gelatine in medications at that time was permissible due to *al-Darurah* (*Muzakarah Jawatankuasa Fatwa Majlis Kebangsaan Bagi Hal Ehwal Ugama Islam Malaysia, 2015*). However, they stipulated that if there were *halal* substances available that could prevent the medication from deteriorating rapidly, then the use of gelatine in medications would no longer be obligatory (www.e-fatwa.gov.my/fatwa-kebangsaan).

Thus, labelling medications into several categories will facilitate the physicians' selection of medications for prescription to patients. The enforcement of the '*halal*' labelling will enable physicians to prescribe halal medications to patients when there are alternative medications (both halal and non-halal). In situations where there are no halal medications available, physicians may prescribe non-halal medications only as necessary for the patient. Labels such as 'contains non-halal ingredients,' similar to the labelling of 'controlled drugs,' may be used as notifications to patients regarding the conditions of the medications they are using.

Meanwhile, medications containing non-halal excipient sources should also be labelled. This is because they cannot be applied to Muslim patients due to the prohibition's absence of legal exceptions. Excipient sources are not medications; they are additional substances used to process a particular form or type of medication. Medications can still be applied to patients without them. In this regard, the MOH should be firm through its acts, policies, or guidelines regarding the prohibition of using excipient sources from non-halal materials since alternative excipient sources from halal materials currently exist. Excipient sources from non-halal materials should be labelled 'contains non-halal excipient sources' so physicians can avoid applying or prescribing them to patients.

In Malaysia, Jabatan Kemajuan Islam Malaysia (JAKIM) issued several fatwas regarding the ruling against the use of certain medicines and vaccines. The Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia's 6th Meeting, held on October 10, 1983, discussed the Injection of Highly Purified Insulin from Pigs (*Muzakarah Jawatankuasa Fatwa Majlis Kebangsaan Bagi Hal Ehwal Ugama Islam Malaysia, 2015*). The committee ruled that injecting insulin derived from impure (pig) sources for the treatment of diabetic patients is permissible due to necessity (*al-Darurah*). The same ruling applies to those administering the injection.

The 81st Muzakarah of the National Fatwa Committee of the Malaysian Islamic Religious Affairs Council held on March 31, 2008, also discussed the ruling of using vaccines that contain pig-derived substances in their production process (*Muzakarah Jawatankuasa Fatwa Majlis Kebangsaan Bagi Hal Ehwal Ugama Islam Malaysia, 2015*). The committee ruled that the use of the BioThrax and RotaTeg vaccines is impermissible because the current situation is not considered an emergency (non-*al-Darurah*), there are alternative substances or medicines available other than the use of pig-derived elements in the production of both vaccines, and there is no strong supporting data to prove that the citizens of this country require both vaccines.

Similarly, the 87th Muzakarah of the National Fatwa Committee of the Malaysian Islamic Religious Affairs Council, held from 23rd to 25th of June in 2009, discussed the ruling on the use of *Clexane* and *Fraxiparine* as medications (*Muzakarah Jawatankuasa Fatwa Majlis Kebangsaan Bagi Hal Ehwal Ugama Islam Malaysia, 2015*). The committee concluded that Islam prohibits the use of medications derived from impermissible sources to treat any illness, except in situations where no medications from permissible sources are available, and to avoid harm, only the necessary amount should be used until medications from permissible sources are found. Therefore, regarding the use of *Clexane* and *Fraxiparine* medications, which are considered essential for patients to prevent immediate blood clot formation when they are in a chronic state, the committee ruled that the use of both types of medications is prohibited because they are produced from sources prohibited by Islam. This is especially considering that there is now an alternative medication, *Arixtra*, produced from permissible sources, with similar functions and effectiveness as *Clexane* and *Fraxiparine*.

The time has come for the MOH to improve its acts, policies, and guidelines related to drug regulations through several enhancements, as discussed by the author above. For a long time, physicians in Malaysia, including Muslim physicians, have been prescribing non-halal medications to Muslim patients, even when there are halal alternatives available or when patients are not in situations of necessity to use these non-halal medications. Furthermore, the use of medications with non-halal excipients, which has never been exempted from the prohibition of its use in Islamic law because it does not fall under the category of necessity, is of concern. The labelling and enforcement of the sources of drugs, excipients, and purity in drug preparation should be established as laws and policies by the MOH.

Non-halal medications consist of two components: containing toxins (drugs) and non-halal substances (vaccines from animals that have not been slaughtered or are not halal to consume). These medications are permitted when there is no alternative to halal medications in two situations: *al-Darurah* or *al-Hajah*. When there are multiple medication options for a particular illness, and these medications are composed of various substances, including some made from non-halal ingredients, physicians should prescribe medications made from halal ingredients if they can be ensured or distinguished between halal and haram medications. However, suppose a physician cannot ascertain the content of these medications based on this principle. In that case, the physician must determine the content of the medications to identify those that are halal or, at the very least, those with minimal non-halal ingredients from the list of medications provided by the MOH pharmacy.

According to the authors' view, in today's situation where the content of substances in medications is listed and attached to the medication packaging, physicians do not need to engage in *ijtihad* (independent reasoning) to determine the permissibility of the content of these medications because it is already documented. Physicians are required to exercise *ijtihad* in determining the permissibility of medications if they are mixed with non-permissible medications in situations where the content of the medication is unknown. When physicians are aware of the content of medications and can distinguish between halal and *haram* medications, the physician must prescribe medications whose permissibility is assured.

The MOH has blatant acts and policies regarding medications containing toxins or drugs. The list of drug or toxin names is explicitly and extensively outlined in the Poison Act. Pharmacists are knowledgeable about the content of a vaccine in terms of its source, whether from animals or synthetic origins, the type of animal serving as the vaccine source, and whether it is permissible to consume. However, they may not be aware of whether the animal has been slaughtered in a permissible manner or if it is considered permissible to consume. Therefore, in this situation, physicians need to make an effort to gather information about the content and sources of these medications to ensure that the medication with the least ruling complication is chosen among the various medication options available for the patient.

Suppose a particular disease has alternative medications, all of which contain drugs. In that case, the physician should choose medications with the lowest drug content or the mildest side effects resulting from the intake of drugs. In the author's opinion, suppose there are multiple options for a particular disease, and they are mixed with medications containing non-halal substances. In that case, the physician should choose medications containing drugs because they are made from plants, and their quantity has been ensured safe.

This is because drugs are prohibited due to their impact on cognitive functions if taken excessively. Meanwhile, medications containing substances from prohibited animals or from the carcasses of animals that are halal to eat are prohibited because of the animal or carcass itself, not its effects. If the medication options are mixed between halal and *haram*, the physician must determine which to give to the patient.

In the current pharmaceutical industry, all drug manufacturers must list the contents and quantities of the ingredients in a drug. The concept of cleanliness, which involves trying to seek or identify what is halal, has become more accessible due to the ease of checking the list of ingredients provided by pharmaceutical companies. Moreover, if the Fatwa Committee has issued a fatwa regarding the use of a particular drug, it further facilitates the determination of its permissibility. For example, the Muzakarah of the Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia, Session 53, held on 27th November 2002, discussed the injection of Meningococcal Meningitis Vaccine by Muslims. The Muzakarah ruled that using the *Meningococcal Meningitis Mencevax* vaccine derived from bovine sources is permissible. Meanwhile, the *Meningococcal Meningitis Monumune* vaccine contains elements derived from pigs and is considered impermissible.

5. Conclusion

In conclusion, the MOH has explicit policies regarding medicines containing drugs. However, the policies or guidelines for physicians regarding the use of halal drugs or the selection of various drugs for a particular disease that may include toxic and non-toxic halal and *haram* substances are not yet fully enforced. As a medical institution that frequently employs the principle of *al-Darurah* in its services, clear guidelines regarding the obligation to prescribe halal drugs and those with fewer side effects (in cases where there are various drug options for a particular disease, including a mixture of halal and *haram* substances) are essential and should not be underestimated. It is an obligation for healthcare practitioners and should be implemented in line with the legal provisions of *Shari'ah*.

References

- Abadi, Abu al-Tayyib Muhammad Syams al-Haq al-ʿAzim Abadi (1415H). ʿAwn al-Maʿbud. Beirut, Dar al-Kutub al-ʿIlmiyyah, C.2, V.10, P.250.
- Abu Dawud, Sulayman Bin al-ʿAsyath al-Sijistani al-ʿAzdi (N.D.). Sunan Abi Dawud (Muhammad Mahy al-Din ʿAbd al-Hamid). T.T.P., Dar al-Fikr, V.4, P.6
- al-Baji, al-Qadi Abu al-Walid al-Baji al-Andalusi (1332H). al-Muntaqa Syarh Muwatta' al-Imam Malik Bin Anas. Kaherah, Matba'ah al-Sa'adah, V.3, P. 141.
- al-Bakri al-Dumyati, al-ʿAllamah 'Abi Bakr Bin Muhammad Bin 'Ahmad Syata (T.T.). 'Tanat al-Talibin 'ala Hall Alfaz Fath al-Mu'cin. Mesir, Dar Ihya' al-Kutub al-ʿArabiyyah, V.4, P.156.
- al-Bayhaqi, Abu Bakr Ahmad Bin al-Husayn Bin ʿAli Bin Musa (1994M). Sunan al-Bayhaqi al-Kubra (Ed. Muhammad ʿabd al-Qadir ʿata). Mekah, Maktabah Dar al-Baz, V.9, P.355.
- al-Bukhari, Abu 'Abd al-Lah Muhammad Bin Isma'il al-Bukhari al-Ja'fi (1987M). Sahih al-Bukhari (Sunt. Dr. Mustafa Dib al-Bagha). Beirut, Dar Ibn Kathir al-Yamamah, V.2, P.546.
- Ali Syaykh, Samahah al-Syaykh ʿabd al-ʿAziz Bin ʿabd al-Lah Bin Muhammad (1424H). al-Fatawa al-Mutʿalliqah Bi al-Tibb Wa Ahkam al-Marda. Riyad, Ri'asah 'Idarah al-Buhuth al-ʿIlmiyyah Wa al-Ifta', V.1, P.205-206, P.208-209.
- al-Kurdi, Ahmad al-Hajji (1999M), Buhuth Wa Fatawa Fiqhiyyah Mu'asarah, Beirut : Dar al-Basya'ir al-Islamiyyah, P.25.
- al-Kurdi, Dr. Ahmad al-Hajji (1999M). Buhuth Wa Fatawa Fiqhiyyah Mu'asarah. Beirut, Dar al-Basya'ir al-Islamiyyah, P.25, P.31-32.
- al-Lubnani, Salim Rustam Baz (N.D.), Syarh al-Majallah, Beirut: Dar al-Kutub al-ʿIlmiyyah, V. 1, P. 45.
- al-Mardawi, al-ʿAllamah 'ala' al-Din 'Abi al-Hasan ʿali Bin Sulayman (13767H). al-ʿInsaf Fi Ma'rifat al-Rajih Min al-Khilaf (Sunt. Muhammad Hamid al-Faqi). Mesir, Matba'ah al-Sunnah al-Nabawiyyah, V.8, P.438.
- al-Mubarakfuri, Abu al-ʿala Muhammad ʿabd al-Rahman Bin ʿabd al-Rahim (N.D.). Tuhfat al-Ahwadhi. Beirut, Dar al-Kutub al-ʿIlmiyyah, V.1, P.205.
- al-Nawawi, al-Imam Abu Zakariyya Mahy al-Din Bin Syarf (T.T.). Kitab al-Majmu' Syarh Muhadhdhab Li al-Syirazi. Jeddah, Maktabah al-Irsyad, V.9, P.54-55.
- al-Nawawi, Imam 'Abi Bakr Yahya Bin Syarf al-Din (T.T.). Rawdat al-Talibin, al-Maktab al-Islami, V.1, P.171.
- al-Salami, Muhammad al-Mukhtar (2001M). al-Tibb Fi Daw' al-Iman. Beirut, Dar al-Gharb al-Islamiy, P. 48-49.
- al-Suyuti, Jalal al-Din ʿabd al-Rahman (1998M), al-Asybah Wa al-Naza'ir (Ed. Muhammad Muhammad Mahir), Kaherah: Dar al-Salam, V.1, P. 211.
- al-Syanqiti, Dr. Muhammad Bin Muhammad al-Mukhtar Bin Ahmad Mazid al-Jakni (2004M). Ahkam al-Jarahah al-

Tibbiyyah. Emeriat, Maktabah al-Sahabah, C.3, P. 191.

al-Syarbini al-Khatib, al-Syaykh Syams al-Din Muhammad Bin 'Ahmad (1940M). al-'Iqna' Fi Alfaz 'Abi Syuja'. Mesir, Matba'ah Mustafa al-Babi al-Halabi, V.2, P.88.

al-Zuhayli, Dr. Wahbah (1997M). al-Fiqh al-Islami Wa Adillatuh. Damsyik, Mu'assasah al-Risalah Dar al-Fikr, V.9, P. 603-604.

al-Zuhayli, Wahbah (1991M). al-Tafsir al-Munir Fi 'Caqidah Wa al-Syari'ah Wa al-Manhaj. Beirut, Dar al-Fikr al-Mu'asir, P.87.

Dr. Abu Bakr Isma'il (1997M), al-Qawa'id al-Fiqhiyyah Bayna al-Asalah Wa al-Tawjih, Kaherah: Dar al-Manar, P.74.

Dr. Ahmad Muhammad Kan'an (2000M). al-Mawsu'ah al-Tibbiyyah al-Fiqhiyyah. Beirut, Dar al-Nafa'is, P.190.

<http://www.e-fatwa.gov.my/fatwa-kebangsaan>

<http://www.islam.gov.my/e-rujukan/ubat.html>

Ibn Hajar al-'Asqalani, Abu al-Fadl Ahmad Bin 'Ali (1964M). Talkhis al-Habir (Sunt. al-Sayyid 'abd al-Lah Hasyim al-Yamani al-Madani). Madinah al-Munawwarah, T.P., V.4, P.74

Ibn Hiban, 'Abu Hatim Muhammad Bin Hiban Bin Ahmad al-Tamimi al-Basti (1993M). Sahih Ibn Hiban (Sunt. Syu'ayb al-'Arnaut). Beirut, Mu'assasah al-Risalah, C.2., V.4, P.230.

Ibn Nujaym, al-Syaykh Zayn al-'Abidin Bin Ibrahim (1993M), al-Asybah Wa al-Naza'ir 'ala Madhhab Abi Hanifah al-Nu'man, Beirut: Dar al-Kutub al-'Ilmiyyah, P. 85.

Ibn Qudamah, Abu Muhammad 'Abd al-Lah Bin Ahmad (1405H). al-Mughni. Beirut, Dar al-Fikr, V.13, P.113.

Khatib al-Riyy, Imam Muhammad al-Razi Fakhr al-Din Ibn al-Allamah Diya' al-Din (1995M). Tafsir Fakhr al-Razi al-Musytahir Bi al-Tafsir al-Kabir Wa Mafatih al-Ghayb. Beirut, Dar al-Fikr.

Laws of Malaysia (Act 234), Akta Dadah Berbahaya 1952 (Disemak, 1980), the Commissioner of Laws Revision Malaysia (2006). Percetakan Nasional Malaysia Bhd.

Laws of Malaysia (Act 290), Medicines (Advertisement and Sale) 1956, The Commissioner of Laws Revision Malaysia (2006). Percetakan Nasional Malaysia Bhd.

Laws of Malaysia (Act 366), Poisons Act 1952 (Revised 1989), the Commissioner of Laws Revision Malaysia (2006). Percetakan Nasional Malaysia Bhd.

Laws of Malaysia (Act 368), Sales of Drugs Act 1952 (Revised 1989), the Commissioner of Laws Revision Malaysia (2006). Percetakan Nasional Malaysia Bhd.

Laws of Malaysia (Act 371), Registration of Pharmacist Act 1951, the Commissioner of Laws Revision Malaysia (2006). Percetakan Nasional Malaysia Bhd.

Malaysian National Medicines Policy (MNMP)(2009), MOH Malaysia, Ed.2

Muslim, Abu al-Husayn Muslim Bin al-Hajjaj al-Qusyayri al-

Naysaburi (N.D.). Sahih Muslim (Sunt. Muhammad Fu'ad 'abd al-Baqi). Beirut: Dar 'Thya' al-Turath, V.3, P.1296.

Muzakarah Jawatankuasa Fatwa Majlis Kebangsaan bagi Hal Ehwal Ugama Islam Malaysia, (2015M). Kompilasi Pandangan Hukum, Jabatan Kemajuan Islam Malaysia, P. 104,105, 111 & 117.

www.pharmacy.gov.my