

Development of Islamic Law: The Application of 'Urf in Halal Animal Slaughtering Practices

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Abstract

Islamic law is often misunderstood as a rigid and outdated law which is non-compatible to be exercised in this modern day. This is, however, not true due to the recognition of legal reasoning, *al-ijtihad*, in Islamic legal tradition where Islamic law is adaptable and flexible in line with the changing of times, places and circumstances. *Halal* industry, particularly the animal slaughtering practices is one of the areas that experience positive developments which lead to the emergence of new practices like stunning and mechanical slaughtering. Indeed, these practices are regarded as a new phenomenon in which there the issue was not clearly discussed in the classical literatures hence needs for further clarification on the status of Shariah legal rulings, *hukm*, from various sources of Islamic law including '*urf*'. This paper is an attempt to discuss the development of Islamic law with special reference to the application of '*urf*' in *halal* animal slaughtering practices. In order to achieve the objective, opinions from both classical and modern literatures are examined and analyzed in order to understand the development of Islamic law in *halal* industry. The findings show that '*urf*' is considered as the most suitable instrument in determining the legal status of modern animal slaughtering practices since it is applicable to all kinds of situations, places and times.

Keywords: Islamic law; animal slaughtering; *halal* industry; '*urf*'

Abstrak

Perundangan Islam sering disalah ertikan sebagai undang-undang yang ketat dan mundur yang mana ia tidak sesuai dilaksanakan pada zaman yang serba canggih ini. Walau bagaimanapun, kenyataan ini tidak benar sama sekali kerana dengan wujudnya perlaksanaan ijtihad dalam perundangan Islam membuktikan undang-undang Islam sebenarnya boleh disesuaikan dan fleksibel mengikut perubahan masa, tempat dan keadaan. Industri *halal* terutamanya industri penyembelihan haiwan adalah salah satu bidang yang memerlukan kepada keputusan hukum disebabkan kemajuan sains dan teknologi yang telah memperkenalkan amalan baru seperti *stunning* dan penyembelihan haiwan secara mekanikal. Amalan tersebut dianggap fenomena baru dan tidak ada perbincangan yang jelas mengenainya didalam mana-mana rujukan lama. Kesannya, ia membawa kepada perlunya penjelasan hukum yang baru daripada sumber hukum yang peribagai termasuklah '*urf*'. Artikel ini akan membahaskan mengenai perkembangan undang-undang Islam di mana '*urf*' menjadi sandaran utama dalam melihat sejauh mana undang-undang Islam boleh berkembang seiring dengan keadaan masyarakat. Dalam merealisasikan matlamat tersebut, penelitian terhadap pandangan ulamak lama dan moden telah dijalankan untuk memahami perkembangan perundangan Islam. Kajian telah menunjukkan bahawa '*urf*' dianggap sebagai instrumen yang amat sesuai dalam menentukan hukum terhadap amalan penyembelihan haiwan baru kerana ciri-cirinya yang sesuai dalam apa jua keadaan.

Kata kunci: Perundangan Islam; penyembelihan haiwan; industri *halal*; '*urf*'

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1.0 INTRODUCTION

There is a positive development in *halal* industry which includes banking services, food and beverages, toiletries, pharmaceuticals, tourism, *etc.* According to Tun Abdullah Ahmad Badawi the key driven for the development of *halal* industry is due to the growth of the Muslim population which is expected to increase three billion and also the increasing consumer awareness towards *halal* products (Bernama, 4 April 2013). This leads to the positive development of *halal* products to cater the needs of the market. At this point, *halal* products include foods and non-foods consumable products, and services and non-service based products. With the advance of science and technology, the food and beverages sector has experienced a radical change, in terms of processing, from conventional techniques to a more modern and sophisticated method in order to cater the needs and demands. The animal slaughtering practices have also changed from conventional method to a more sophisticated techniques where machines, stunning and thoracic sticking methods have been used to accommodate the demands as well as to ensure better meat quality. However, these modern practices have invited some confusion in terms of its legal rulings, *hukm*, since the issues were not discussed and decided in the classical manuals of Islamic law. It is unsurprising therefore that some Muslim consumers refuse to take the products as the legal status of the products is not clear. The issue needs to be clarified and specific legal rulings need to be made not only to ease the confusions among individual consumers but also to preserve the

masalah of the *ummah*. At this point, the role of Islamic law is important to ensure a sustainable *halal* business and management. This paper is an attempt to discuss the development of Islamic law with a special reference to the application of *'urf* in *halal* animal slaughtering.

■2.0 THE MEANING OF ISLAMIC LAW

In Islam, Allah's commandments have been revealed to the people through the Prophet Muhammad SAW. These commandments or Islamic law are revealed either in the form of the Qur'an (the words of Allah) or the Sunnah of the Prophet Muhammad SAW (al-Zuhayli, 2009). It contains a comprehensive legal ruling, *hukm*, which includes beliefs, *'akidah*, and transactions, *mu'amalah*, and family matters, *munakahat*. In short, Islamic law is a set of legal rules, which are embodied in the Qur'an and the Sunnah of the Prophet Muhammad SAW and enforceable to the Muslims (Mahmood Zuhdi, 1999).

In the classical manuals of Islamic law, the classical Muslim jurists defined Islamic law as "the message, *khitab* from Allah in relation to the actions of the people be that compulsion, *iqtida'*, or choice, *takhyir*, or declaration, *wad'i* (Taqiuddin an-Nabhani, 2005; Abu Tariq Hilal and al-Beirawi, 2007). The modern Muslim jurists however characterized that in order to make Islamic law workable, it should be flexible and capable of being observed by the Muslims. Al-Zuhayli (2009) and Kamali (1998), for example, defined Islamic law as "the message of Allah in relation to the actions of *mukallaf* (a person who has full legal capacity) be that compulsion, or choice, or declaration". This definition is more practical since it is only applicable if the Muslims are capable to observe the law.

■3.0 THE DEVELOPMENT OF ISLAMIC LAW

Generally, there are two categories of the understanding from Shariah, *fiqh*. The first is *fiqh al-'ibadah* which is related to the rulings that concern the relationship between man and Allah and this includes praying, fasting, almsgiving and pilgrimage. The second is *fiqh al-muamalat* or *al-adah* which is related to the relationship between man and man, and man and other creatures and this includes commercial dealings, family matters and administration. As far as the second category is concerned, the jurists may have different views with regard to the certain legal rulings due to the change of time and circumstances (Aznan, 2011). This paper focusses on the second part of the *fiqh* since *halal* is a new emerging issue that concerns social, political and economic milieu of the Muslims.

Based on the legal maxims of *al asl fi asya' al ibahah*, i.e. the original ruling is that everything is permissible, Islamic law accepts development and susceptible to changes. This is true when the Quran and the Sunnah are silent on specific legal issues that need to be clarified based on the current needs and circumstances. Most of the laws that have been developed during the classical period are limited to their intended times thus allowing the modern jurists to review the laws based on their own times and places (Mahmood Zuhdi, 1999).

The changes in Islamic legal rulings are not a new phenomenon. Historically, there are some legal rulings that have been altered or changed to accommodate the needs of the current situation. Imam al-Syafi'i, has changed his opinion upon a specific legal issue due to different practices and customs when he moved from Iraq to Egypt. The changes of Islamic legal rulings were made upon juristic preferences, *istihsan*, presumptions of continuity, *istishab*, custom, *'urf*, public interest, *masalih al-mursalah*, blocking the means, *sad al-dharai' amal* and practice of the people in Madinah, *ahl al-Madinah*.

Thus, Islamic law is flexible and it is applicable to all sorts of background. Allah SWT said, "...*this day I have perfected for you your religion and completed my favor on you and chosen for you Islam as a religion...*" (al-Maidah: 3). Being divine in nature Islamic law covers all facets of human live. According to Abdullah (1989) the commandments that embodied in the Qur'an and the Sunnah of the Prophet SAW could be either clear, *qat'ie*, or speculative, *zanni* texts. The former is absolute and unchanged while the latter is flexible and applicable to mankind from all sort of background. It is under the second category that Islamic law is developed to accommodate the needs of mankind in this world. The Muslim jurists will use their intellects and logic to interpret the revealed speculative law.

This process of text deduction is called reasoning, *ijtihad* (Daud Bakar, 2012). The income could be different from each other since the process involves the degree of intellect, knowledge, reality, customary practices in which the jurists are associated with (Mahmood Zuhdi, 1999). Indeed, the practice of *ijtihad* allows human intervention in the development of Islamic law (Suhaimi, 2008).

With regard to this Mahmood Zuhdi (2011) suggested that there are two bases for the existence of Islamic law, first, revelation and second, understanding. As far as understanding is concerned, it includes normal understanding, which is the basis for *hukm taklifi* and an in-depth understanding, which involves *ijtihad*. The person who involves in this process is called as *faqih* or *mujtahid*. Mahmood Zuhdi (2011) has further suggested that legal rulings for specific legal issue could be different from each other due to the different of understanding to the revealed texts.

In connection to the above, Daud Bakar (1999) suggested that in the course of the development of Islamic law the Muslim jurists utilize established Islamic legal methods such as *qiyas*, *istihsan*, *maslahah* and *'urf* in order to derive legal rulings for specific legal issue. At this point the exercise of *ijtihad* will take place as the issue at hand is modern and never been discussed or decided before. As we can see an in-depth understanding of the revealed texts as well as the reasons for the revelation is very important and it will be applied if the jurists want to achieve the desired legal rulings. In short, an in-depth understanding towards the revealed texts is the main factor that contributes to the development of Islamic law.

'Urf and Its Role in the Development of Islamic Law

'Urf or custom is one of the legal methods used to derive a legal ruling pertaining to a specific legal issue. It is flexible as it reflexes the circumstances and practices of the people at one particular place and time. As place and time changes the law should also change to give effect to the existing norms as well as social behaviours. It is at this point that Islamic law develops and accommodates the needs of the people.

In the classical manuals of Islamic law, *'urf* is defined as a custom which is commonly practiced within a society. Ibn Manzur (n.d.) defined *'urf* as a commonly known matter, *'ilm*, and it is synonym with the term *ma'ruf*, which means good action, *yustahsinu min af'al*.

Al-Jurjani (2003) has further proposed that *'urf* is something that has been practiced continuously, accustomed, accepted and easy to understand by the ordinary people. Thus *'urf* is a custom which is well accepted within a group of people and it might be different if applied to another group of communities. Thus, the most significant attributes of *'urf* is changes; the change of place, the change of time, and the change of how people perceive something. This is a natural process of fixing the needs of the people.

As such, we can see that *'urf* has a significant role in the development of Islamic law. According to Abu Sunnah (2004) there is abundance of Islamic legal rulings in the classical manuals of Islamic law that have been deduced through the dynamic instrument of *'urf*. This includes a fixed charge of using public toilet even though it contradicts to the Sunnah of the Prophet Muhammad SAW. It was viewed that if the fixed charge is forbidden the people will face difficulty since it is already established and widespread practice in almost all places (Al-Zaydan, 2001).

To reflect the importance of *'urf*, several legal maxims have been developed in the treaties of Islamic law. This includes maxims such as custom is arbitrator or the function of custom as a justifier in making judgements (article 36), a matter that is innate by custom is regarded as a matter established by law (article 45), what is common to the people is considered a definite evidence and as such action must be taken relying on the necessary act of the people (article 37), and, a matter that is well known amid merchants is regarded as though affirmed by the contractual obligation between them (article 44) (The Mejelle, 2001).

Due to its flexibility, *'urf* is considered as the most useful method of determining legal rulings as it reflects the current needs of the people. In this context, al-Shatibi (2003) stressed that in order to ensure that certain legal ruling reflects man's action it will depend upon *'urf* of the people or common actions of the people of that area. This is because a legal ruling that is issued should be practical to the people so as to achieve the objective of the Shariah, *maqasid Shariah*.

According to al-Zarqa (1998) and Abu Sunnah (2004) the reason the Shariah recognises *'urf* as a method of legal deduce is due to the needs of the people. At this point, Islam considers the needs of the people so long as it does not contravene to the Shariah principles. Having fulfils the needs of the people it shows that the Shariah is very flexible to all mankind at all times and situations. An example of this is the preservation of several practices of the Arab people before the emergence of Islam like contract of hiring and renting in commercial transactions.

'Urf and the Requirements of Maqasid al-Shariah

Al-Shatibi (2003) has defined the objective of Shariah, *maqasid al-Shariah* as the purpose of law where it should be for the benefit, *maslahah* of mankind in this world and the hereafter. At this point, the *maqasid* has been categorised into three categories, which include essentials, *daruriyah*, complementary, *hajiyah* and embellishment, *tahsiniyat*. The essentials include the obligation to safeguard and to take all necessary measures to protect the needs of the people where any negligence will cause permanent disruption or disorder. The complementary refers to the objective where negligence will face difficulties but not lead to a total disruption. The embellishment refers to the interest where by achieving this, it will result to the satisfaction and improvement in one's life and most of the time will fall under attainment the ethics, *makarim al-akhlak*. These categories are further divided into five fundamental values namely the protection of religion, *hifz al-din*, the protection of life, *hifz al-nafs*, the protection of lineage, *hifz al-nasl*, the protection of property, *hifz al-mal*, and the protection of intellect, *hifz al-'aql* (al-Shatibi, 2003). These objectives have been developed so as to establish justice and alleviate difficulties within the people (Asyraf & Nurdianawati, n.d.).

In the treaties of Islamic law, the scholars use the terms *maqasid* and *maslahah* interchangeably. This includes the *Mustasfa* of al-Ghazali and the *Muwafaqat* of al-Shatibi. At this point Ibn 'Asyur (2006) defined *maslahah* as the upmost righteous and goodness within the public as well as the individuals, harm, *mafsadah* is the opposite of *maslahah*. The *maqasid* and the *maslahah* are simultaneously having an intimate linkage where the purpose (*maqasid*) of the Shariah will not be achieved if the fulfilment of some good or the avoidance of some harm is not obtained. In short, *maslahah* is more specific than *maqasid* in the way that the ultimate of the *maqasid al-Shariah* will not be achieved if the *maslahah* is not protected and preserved.

At this point, al-Shatibi (2003) suggested that in order to ensure that a specific legal ruling corresponds to the actions of man a reference has to be made to its *'urf*. This is because *'urf* reflects the true needs of people thus by ignoring *'urf* the objective of the Shariah might not be achieved. In other words al-Shatibi suggested that *maqasid al-Shariah* has an intimate relationship with *'urf* in respect to legal deduction.

The main reason the jurists recognise *'urf* as one of the methods of legal deduction is due to its true reflection to the needs of the people. At this point, the purpose of *'urf* is to preserve the interest of man through achieving their needs and alleviating their difficulties. It is suggested that through this way that justice, *'adalah*, can be achieved in human life. Syed Qutb (1974) as cited in Mohamad Zarifi and Taqwa (2009) has advocated that the element of justice encompasses all activities of man. Therefore, establishing justice through the dynamic mechanism of *'urf* is important and commendable. In contrast, if the Shariah ignores *'urf* the justice might not be able to be established in a society. Although the primary source of the Shariah law is the Qur'an and the Sunnah *'urf* becomes important when it comes to the implementation part. Hence, it could be suggested that *'urf* and *maslahah* are both contribute to the progressiveness of Islamic law.

With regard to this Muhammad Firdaus (2002) suggested that *'urf* is one of the social phenomenon in which its dynamic characteristics always make it aligns with the people's needs and this sometimes changes the available pattern of *maslahah* which need a new consideration for new legal ruling. Thus, the functions of *'urf* and *maslahah* as indicators for establishing a legal ruling are clear in this modern and complex world. It is to be noted that the reason of the recognition of *'urf* as one of the Islamic legal methods is due to people's needs for it and this needs at the end becomes part of their life (Abu Sunnah, 2004; Al-Zarqa, 1998). As a matter of fact, Islam is the religion that gives fully attention towards the needs of its followers as long as it does not violate to what has been enshrined in the revelations texts. By thoroughly accommodating the needs of the people, it shows that the salient features of Shariah is very flexible in which it applies to all mankind at all times and situations by preserving their interest as long as the interest does not contravene to the Shariah requirement.

■4.0 ISLAMIC LAW AND THE DEVELOPMENT OF HALAL INDUSTRY

Halal industry is projected to become a new economic engine in Malaysia. With a steady growth of the global *halal* market it is estimated that the trade value for *halal* products worldwide worth USD 3.1 trillion. There are many reasons that contribute to the increase of *halal* market; the most significant are the growth of Muslim population and the increase of consumer awareness.

The Pew Research Center has reported that Muslim populations in the world have positively increased year on year whereby it has been regarded as the second world largest population which is one step behind the Christian population. Moreover, according to CNN (2011), the Muslims population will grow about twice in size which it will encompass more than a quarter of people in this world. Based on the analysis report on the major religious groups as of 2010, about 1.6 billion out of 6.8 billion people living on the earth on year 2009 are Muslims in which it represents 23% of the total people of the worldwide (The Pew Forum, 2009; The Pew Forum, 2012). With this positive information, it is expected that the *halal* industry will grow accordingly.

The role of mass communication in disseminating information on *halal* issues is also important in the development of the global *halal* industry. In this regard mass communication helps to increase consumer awareness on the products that are suitable for them to be consumed. The media has also played a role in disseminating information on products that have been misrepresented to be *halal* to the consumers. For example, recently the media has successfully reported that certain sausages have been contaminated with pig DNA (Berita Harian, 16 March 2013). In short the role of media is very important not only to increase consumer awareness but also to develop the industry.

While the industry is developing there are also emerging issues that concern the Shariah status of the products. This is due to the development of new products through the utilization of modern science and technology. In relation to this Mohammad Aizat *et al.* (2012) sees that the rapid development in science and technology is the main cause to the unclearness of the Shariah status of the products. According to him with the development of science and technology the way the food industry is operated is also changed where the processing method is no more relied upon conventional method but has expanded through the incorporation of artificial or synthetic ingredients. On another point the issue of Shariah status of the products also arises when the products are imported from the non-Muslim countries. According to Nurulhidayah *et al.* (2011) this has resulted to the questions of whether the products are genuinely *halal* as it could contain *haram* ingredients. Thus, the current issue of the *halalness* of the products does not only revolve around the end products but also the process.

At this point the role of *ijtihad* is very important in order to clarify the Shariah status of the products. As mentioned above that *ijtihad* is a dynamic Shariah method in deriving legal rulings that concern arising issues which are not discussed in the classical Islamic law. Thus issues like genetically modified food (GMF), the use of artificial or synthetic ingredients in food products and modern handling of animal slaughtering can be solved through the use of *ijtihad*. At this point, '*urf*' as part of the *ijtihadic* process can also be use as a reference in deriving new legal rulings pertaining to specific emerging issues.

■5.0 ISLAMIC LAW IN MODERN ANIMAL SLAUGHTERING PRACTICES

Slaughter refers to the practice of killing animals for food consumption (Merriam Webster.com). According to Ibn Manzur (n.d.) slaughtering is also known as *al-tazkiyyah* or *al-zakah* which means completeness. There are three type of animal slaughtering. The first is *al-nahr i.e.*, cutting the throat of long neck animals like camel, giraffe and sticking at one part of animal bodies like horse (al-Khalili, 1997). Second is *al-labbah i.e.*, the cutting of the lowest part of the neck between the neck and chest (Ibrahim Fadhil, 1997). The third is *al-zabh i.e.*, the cutting of *halqum, mari'* and *wadajain* of an animal (Jafri *et al.* 2011). The purpose of slaughtering is to make an animal permissible to be consumed by the Muslims.

There are five Shariah conditions that need to be fulfilled and observed in order to make the meat of the slaughtered animal *halal* to the Muslims. The first is intention, *niyyah* for Allah, second is the slaughterer must be a Muslim or the people of the book, third is the animal must be lawful and alive, *hayat mustaqirrah*, fourth is permissible sharp tools except nails and teeth (Al-Khan and Al-Bugha, 2008, pp. 475-477) and fifth is the place for the slaughter.

The practice of animal slaughtering has experienced a rapid growth from traditional to more sophisticated method. According to Fitzgerald (2010) the method of animal slaughtering has evolved from small scale in public area such as backyard to a bigger scale in a centralised modern slaughter house. In addition the farmers have no more used the traditional method but have adopted a new and more sophisticated method including the shift from traditional to mechanical slaughtering, the adoption of stunning and the practice of thoracic sticking in slaughtering. This is due to the continuous demand from consumers for meat and this has led to the need to increase meat production. Apart from market demands (Khadijah, *et al.*, 2012), the development in animal slaughtering practices is also believed due to minimize the process of handling animals, reduce costs, reduce time constrains and to safeguard the animal welfare (Jafri, *et al.*, 2011). At this point, Norhani (2010) has further stipulated that this development will not remain as it is because technology does change and develop to make life easier and to preserve the meat in good quality. These developments of animal slaughtering of course will affect the status quo of Islamic law. The law needs to be responsive and progressive to accommodate the needs of human. One of the methods of Islamic law development is '*urf*'. As discussed at the above one of the characteristics of '*urf*' is the changes. As far as the practice of animal slaughtering is concerned, there has been a rapid growth in the methods that have been adopted either to ease the slaughtering practices or fulfil the market demand and both are considered valid that need to be executed in order to fulfil the *maslahah* of the Muslim consumers. Therefore such development could be considered as '*urf*' so far as it is not contravene to the cardinal principle of Islamic law.

Modern Handling Methods of Animal Slaughtering

There are three methods of animal slaughtering that have been adopted in modern slaughtering practices. These include the adoption of stunning, mechanical slaughtering and thoracic sticking (Jafri *et al.*, 2011). However, for the purpose of this discussion, the writers will focus only on two methods which are stunning and mechanical slaughtering. This is due to the reason that the two are widely adopted in most of the slaughter houses. In order to ensure that these handling methods are in compliance with the Shariah requirements, several

organizations like Food and Agriculture Organization of the United Nation (FAO), Malaysian Halal Standard (1500:2009) and other religious bodies have come out with *halal* standards as guidance to slaughterhouses.

i. Stunning prior to slaughtering

The practice of stunning that renders animal to be unconscious prior to slaughter for food is widely adopted by most industrialised countries. It is believed that the adoption of pre-stunning started in the West as early as the twentieth century (Bergeaud-Blacker, 2007). There are three types of pre-stunning which include chemical, mechanical and electrical stunning (Fletcher, 1999). The most popular methods used however the mechanical and electrical stunning (Abdul Salam Babji, *et al.*, 2006). While the practice is legally required in most of European countries, a conventional ritual slaughter is also allowed for the Muslims as well as the Jewish (Bergeaud-Blacker, 2007). In Malaysia, the practice of stunning has been adopted and this has been highlighted in the *Halal* Standard. (Jafri *et al.*, 2011).

Due to new method of slaughtering, stunning invited controversies amongst Muslims. In 1988 the Fatwa Committee of the National Council of Malaysia (1988) issued that both electrical and water stunning is allowable to cow and chicken respectively. The Council has further issued that pneumatic-percussive stunning is also allowable subject to the condition that the skull of the animals are not cracked and the animals died because of slaughtering and not the stunning process (Fatwa Committee of the National Council of Malaysia, 2006). In 1997, the *Majma' al-Fiqh al-Islami* in its tenth meeting at Mecca has decided that electric-shock stunning is also allowable as long as the animals still alive after the stunning process even though the stun process gives a painful to the animals. Thus stunning is allowable so long as the animal does not die before the slaughtering process take place. In fact, the practice of stunning is commendable if all the Shariah requirements are fulfilled. In the hadith of the Prophet Muhammad SAW the Prophet said “Allah has prescribed excellence and compassion in all things, so when you kill, kill well; when you slaughter, slaughter well, and let him sharpen his knife and spare the animal pain.”

ii. Mechanical Slaughtering

Mechanical slaughtering is the practice of using rotary blades to cut the throat of small animals mostly birds and chickens. Before the slaughtering process take place the birds or chickens will be stunned through water bath stunning technique. The role of man is to switch the on and off button to start the slaughtering process. This has also invited a number of controversies with regard to the *halalness* of the slaughtered birds or chickens since the slaughtering process is being made by a machine but not a man.

The Muslim jurists have a diverse opinion on this. The first group maintain that the practice should be avoided and the slaughtered birds or chickens are not considered as *halal* because the conduct of cutting the throats is not done by man but a machine and there is no proper intention is made (Himpunan Fatwa Mufti Kerajaan Brunei, 2000). The second group however opines that the practice is allowable and the slaughtered birds or chickens are *halal* to be consumed (National Fatwa Committee Council of Malaysia, 2000; International *Fiqh* Academy of Jeddah, 1997). This is because the throats are properly cut and there is a state of necessity.

The Relationship between ‘*Urf* and Modern Animal Slaughtering Method

This new method of animal slaughtering creates new Shariah legal issues that need to be solved in order to preserve the *maslahah* of the *ummah*. At this point modern animal slaughtering is considered as part of the factors that contribute to the development of *halal* industry. As mentioned above the global market price for *halal* industry has now reached at 3.1 USD trillion and the Muslims should grab the opportunity in the *halal* business. If the issue of modern slaughtering is unresolved it is feared that the opportunity will be grabbed by others. With regard to this it is proposed that the mechanism of ‘*urf* should be able to solve the problem since it is flexible and applicable to all kinds of people though different times and place.

Indeed, these new practices of animal slaughtering could be considered as new ‘*urf* as most of industry players as well as the scientists accept the methods to be the most practical technique for the time being. It is undeniable that due to the increasing demand and the development in science and technology in meat industry, this has made a valid plea for the adoption of these methods. Furthermore, the methods have not been proved as contravene to the Shariah principles except the curiosity on the death of animals upon stunning. Indeed, Islam is the religion that will not put a burden upon its believers. At this point Allah SWT said, “He has chosen you and has not laid upon you a hardship in religion” (The Qur’an; 22:78).

With the authoritativeness of ‘*urf* these methods are acceptable, *mu’tabar fi al-syar’ie* so long as the practices are not contravene to the cardinal principles of the Shariah and the animals do not died before the slaughtering process take place. It should be noted at this point that the authoritativeness of ‘*urf* is not only based on the practice of the Muslims but also to preserve the *maslahah* of the *ummah*. According to the Centre of Artificial Intelligence Robotics (CAIRO), there are about 17 million of Muslim populations in Malaysia and they need about 725,000 chickens per day. With this large amount of chickens one might want to ask on how to accommodate the demand if the slaughtering practices still use the conventional method. What about the animals those are in bigger sizes which need a lot of energy in the process of slaughtering. What about the other countries with Muslim populations that are bigger than Malaysia, and what about Muslims who live in western countries that adopts stunning due to legal requirements such in European countries? All these need to be taken into account when a legal ruling pertaining to modern slaughtering practices is to be deduced.

According to Hani Majidee (2012) although some countries do not accept the modern practices of animal slaughtering, Muslims in those countries are still consuming the meat that are processed through these practices. This is perhaps due to the general acceptance of the practices *i.e.*, ‘*urf* or perhaps it is based on the argument of *maslahah*. At this point, ‘*urf* plays an important role in determining the Shariah legal status of emerging issues. With ‘*urf* the law is developed where classical rules could be replaced with new legal rulings which is practical and accommodative to the people.

6.0 CONCLUSION

The lifestyles of modern people are more complex and far different from the lifestyles of the people in the past. This is due to the development of science and technology which evolves from time to time. As far as *halal* is concerned there is a lot of development has been made due to the development in science and technology. This includes the development in animal slaughtering practices which invite a lot of questions with regard to the Shariah legal status on meats that have been processed through modern slaughtering practices. At this point Islamic law should respond to the issue as it does not only concern the *halal* status but also the *maslahah* of the *ummah*. One of the methods that can be used in order to determine the Shariah legal status of the meat products is *'urf*. *'Urf* is considered as the most suitable methods of legal deduction since it is flexible and applicable to all kinds of situations, places and times. As far as animal slaughtering is concerned it involves changes in the methods that have been used. The traditional method has been changed to modern techniques which include stunning, thoracic sticking and mechanical slaughtering. This change is considered as necessity since it is a need to accommodate the needs of Muslim consumers for *halal* meat. So far as the technique does not violate the cardinal principles of Shariah law it is allowable and could be considered as new *'urf*.

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