**Fiqh Istihalah**: Integration of Science and Islamic Law

Mohammad Aizat Jamaludin1*, Mohd Anuar Ramli2, Dzulkifly Mat Hashim1 and Suhaimi Ab Rahman1
1Halal Products Research Institute, University Putra Malaysia
2Department of Fiqh and Usul, Academic of Islamic Studies, Universiti Malaya

**Abstract**
Modern development in information technology helped the expansion of knowledge, and shaped the lifestyle of contemporary societies in various aspects, including arts, architecture, engineering, and agriculture and food industry. This paper aims to highlight the role of modern technology in food industry and the activities of enhancing, redesigning and upgrading the quality of the food; the paper analyzes the use of technology in determining permissibility of certain foods through and within the Islamic concept of halal food. It attempts also to highlight the concept of *fiqh istihalah* and its applications in food industry; however, the paper would focus on the issues related to alcohol and gelatine ingredients in food industry.

**Keywords**: Fiqh, Istihalah, Science, Integration, Gelatine, Alcohol

**Abstrak**
Perkembangan moden dalam teknologi informasi telah membantu pengembangan ilmu dan membentuk gaya hidup masyarakat semasa dalam pelbagai aspek seperti kesenian, seni bina, kejuruteraan, pertanian dan industri makanan. Kertas ini ditulis untuk menonjolkan peranan teknologi moden dalam industri makanan dan kegiatan meningkatkan, mereka bentuk semula dan menambah baik kualiti makanan. Kertas ini juga menganalisis penggunaan teknologi bagi menentukan keizinan makanan tertentu yang menepati konsep makanan halal dalam Islam. Usaha juga dilakukan untuk menggariskan konsep *fiqh istihalah* dan aplikasinya dalam industri makanan. Namun, kertas ini memberi tumpuan kepada isu yang berkaitan dengan alkohol dan bahan gelatine dalam industri makanan.

**Kata kunci**: Fiqh, Istihalah, Sains, Penyatuan, Gelatine, Alkohol

**Introduction**
Rapid development in food technology resulted in the emergence of various new food products and food ingredients in the market; this technology enables players of the food industry to produce, and probably reproduce food from different ingredients. However, religious communities, including Muslims, have raised some ethical concerns about some food production activities, which are not in line with their religious values. For instance, Muslims rejected those foods which were derived from pork and its derivatives, carrion, blood, wine and others. The reason is, the consumptions of these items are prohibited by the *shari'ah* of Islam, and thus any food derived from these items is not permissible (haram); examples of such ingredients are gelatine and the use of alcohol in food products.

*Corresponding author: Mohammad Aizat Jamaludin Halal Products Research Institute, University Putra Malaysia, 43400 Universiti Putra Malaysia (UPM) Serdang E-mail:

Alcohol is mainly used as a food carrier in food products. Its has been used as flavour enhancer, especially in cooking, chocolate, ice cream, biscuits and other products. Furthermore, alcohol by-products such as vinegar and marmite have been popularly consumed by consumers, including Muslims without assuring the source of origin of the products (Mian & Chaudry 2004). Meanwhile, gelatine is widely used as an ingredient to improve the quality of food products. Generally, most of Muslim jurists agreed that gelatine derived from slaughtered and permitted animals is permissible (*halal*). However, there is disagreement among the Muslim jurists on the permissibility of the gelatine derived from pork and carrion. Some of them agreed that gelatine extracted from the prohibited sources is not permissible (*haram*), while others are of the opinion that gelatine from non-permissible (*haram*) sources is *halal* because it has undergone *istihalah* process (Nazih 2004).

In their discussion about the process of transforming certain items or products from one form to another, Muslim jurists tend to use terms like *istihalah* (transformation) or *ingilab* (changes), (Wahbah 1997). *Istihalah* is an Arabic word which is derived from the root word (ح ل ل) that means change (Ibn Manzur 1990; Wehr 1974); it is synonymous with the word (ح ل o changes) and transformation (al-
Razi 1997), thus istihalah literally means transformation and conversion (Wahbah 1997). According to Qal’ahji in Mu’jam Lughah al-Fuqaha’, istihalah of a substance from one form to another without the possibility of return to the original forms (Qal’ahji 1996). This viewpoint is in line with Sa’di Abu Jayyib’s opinion where istihalah is said to hold when a substance has undergone complete changes (Abu Jayyib 1988). For example, the seeds grow and changes to a tree or a transformation of filth becomes a dust (Al-‘Ayid n.d.).

Conceptually, Muslim jurists provided various definitions of the term istihalah; however, the common ground of these definitions is ‘transformation of one material into another’ (Muhammad 1996). Wahbah (1997) also defined istihalah as conversion of the composition and properties such as the conversion of filthy (najis) materials into pure (al-tahir) materials. Nazih (2004) adds that istihalah, in this perspective, is basically a transformation of filthy (haram) materials into another material; such changes include physical appearance and properties such as name, odor, taste, colour and nature. Therefore, istihalah can be defined as a complete transformation of a product, physically and chemically (Aizat & Radzi 2009).

Istihalah includes three aspects of transformation such as, the transformation of physical characteristics: second, the transformation of chemical substances, and thirdly, the transformation of both physical and chemical changes (Aizat & Radzi 2009). Physical transformation includes odour, taste and colour, whilst chemical transformation is the change of chemical substances in the product (Wahbah 1997). In the case of transformation of both physical and chemical characteristics, a substance undergoes complete changes and transformed into a new material (Najih 2004). Common examples of physical transformations are animal skins, except dogs and pigs, which are being transformed into hides through the tanning process (Fayyumi 1985). An example of chemical transformation is the change of wine to vinegar through a fermentation process (Wahbah 1997). In the latter example, both wine and vinegar are still in liquid forms, but they are different in terms of chemical properties.

`Fish` is an Arabic word, which literally means deep understanding, full comprehension and gaining knowledge of the religion in general (Ibn Manzur 1990). Ibn Khaldun describes fiqh as ‘knowledge of the divine rules which pertains to the actions of individuals (af’alul al-ibad), who are expected to respect the demand of the divine law, including the required (wajib), forbidden (haram), recommended (mandub), disapproved (makruh) or merely permitted (mubah)’ (Levy 1957). With more specific terms, fiqh is understood as: ‘knowledge of practical rulings extracted from detailed evidence of the shari’ah’ (al-‘Ilmu bi Ahkam al-Shari’iyyah al-‘Amaliyyah min Adillataha al-Tafsiliyyah) (Abu Zahra 1958). Moreover, fiqh in Islam includes al-Ibadah (worship), al-Muamalat (dealing & transaction), al-Munakahat (marriage), al-Mawarith (inheritance), fiqh al-At’imah (foods) and so on (Syarbini 1994). Therefore, this paper aims to elucidate fiqh Istihalah,3 and present it as an alternative verification method, through which the permissibility (halal) of the food, or otherwise, is determined. In this paper, fiqh Istihalah is the concept of understanding the process of physical and chemical transformation or conversion of materials which affect the halal and haram status of a product.

**Structure of Istihalah**

In the process of transforming food products in the concept of istihalah, as shown in Figure 1, transformation includes three main elements, namely the raw materials, the conversion agents and finished products. The process of combining occurred as a result of the interaction between raw materials and conversion agent, naturally or artificially. The finished product after having undergone the conversion process will be different, physically and chemically from the original material.

**Gelatine**

Gelatine is a protein which is derived from partially hydrolyzed collagen obtained mainly from skin and bones of vertebrates (Karim and Rajeev 2008). Collagen consists of tertiary, secondary and primary structure. Partially hydrolyzed collagen could mean the cleavage of tertiary and secondary structures into smaller molecules. Meanwhile, primary structure of gelatin consists of amino acid (Figure 2) which is the smallest molecule found in gelatin. According to Schriber & Gareis (2007), the composition of collagen encompasses all 20 amino acids. Glycine, proline and hydroxyproline are the largest numbers of amino acid that exist in gelatine.
Gelatine is a very important ingredient as value-added properties in food products. It is widely used as a texture stabilizer, foaming agent, emulsifying agent, thickener and others. Gelatine can be found in various food products such as ice-cream, yogurt, jelly, puddings, beverages and meat products. Table 2 shows the usage of gelatine in various products. The wide usage of gelatine in food products led to loss of confidence and continuous controversy among Muslim consumers because of its questionable sources. The Gelatine Manufacturers in Europe (2011) declared that the main source of edible gelatine is extracted from pigskin (80%), cattle hide split (15%) and the remaining 5% comes from pig and cattle bones, poultry and fish.

**Alcohol**
Alcohol is obtained from fermentation of fruits or grains with the existence of yeast, sugar or starch. It is colourless, flammable and has been broadly accepted as one of the most popular beverages all over the world. It is also used in other products in its pure or denatured form as a solvent in drugs, perfumes, and explosives, cleaning solution, bakery products and cooking.

Alcohol is classified according to the relationship between the carbon atoms in it. The most commonly used primary alcohols are methanol and ethanol (Figure 3) with ethane backbone. The simplest secondary alcohol is iso-propanol, while butanol is a simple tertiary alcohol.
Table 1: Application of gelatine in consumer products

<table>
<thead>
<tr>
<th>No.</th>
<th>Products</th>
<th>Gelatine Application</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td><strong>Food Products</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Fruit gummies, marshmallow,</td>
<td>- Chewiness and gumminess, foaming</td>
</tr>
<tr>
<td></td>
<td>candy bar filling and jelly.</td>
<td>agent and water holding capacity.</td>
</tr>
<tr>
<td></td>
<td>- Cheese, yogurt, cultured milk,</td>
<td>- Emulsifier, foaming and stabilizing agent,</td>
</tr>
<tr>
<td></td>
<td>ice-cream and sandwich spread.</td>
<td>and texture stabilizer.</td>
</tr>
<tr>
<td></td>
<td>- Chewiness and gumminess,</td>
<td></td>
</tr>
<tr>
<td></td>
<td>foaming agent and water</td>
<td></td>
</tr>
<tr>
<td></td>
<td>holding capacity.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Emulsifier, foaming and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>stabilizing agent, and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>texture stabilizer.</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td><strong>Drugs and Pharmaceuticals</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Hard capsules and soft</td>
<td>- Capsules rebuilding.</td>
</tr>
<tr>
<td></td>
<td>capsules.</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td><strong>Cosmetics</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Skin care products,</td>
<td>- Increase flexibility and smoothness.</td>
</tr>
<tr>
<td></td>
<td>cosmetics surgery and hair</td>
<td>- Decrease wrinkles.</td>
</tr>
<tr>
<td></td>
<td>care products.</td>
<td></td>
</tr>
</tbody>
</table>

Production of ethanol needs to undergo the fermentation process (Figure 4). During fermentation, yeast breaks sugar down into ethanol and carbon dioxide. The process is without air, and once completed; the carbon dioxide gas bubbles out into the air, leaving ethanol and water behind.

\[
\text{C}_6\text{H}_{12}\text{O}_6 + \text{Zymase} \rightarrow 2\text{C}_2\text{H}_5\text{OH} + 2\text{CO}_2
\]

Figure 3: Chemical structure of ethanol

Figure 4: Ethanol fermentation process

Various sources of sugar are used in these processes, resulting in different forms of alcohol. The sugar from crushed grapes is used to make wine; malted barley is used to make beer; sugar cane or molasses makes rum; grain, potatoes, beets, molasses, and a variety of other plants are used to make vodka. Below is a list of several types of alcoholic beverages and their alcohol contents. See the following table 1.

Alcohol consumption in large doses can cause acute respiratory failure or death and in chronic cases have a lot of medical repercussions. In normal consumption, about 20 percent of alcohol is absorbed by the stomach and 80 percent by the small intestine. The alcohol then enters the bloodstream and dissolves in the blood. Eventually, the blood circulates the alcohol throughout the body, leading to intoxication.

**Application of Istihalah in Gelatine and Alcohol Products**

In the food production chain today, gelatine are extracted from pigskin, cattle bones and hides. Therefore, clearly gelatine can be derived from both permissible (*halal*) and non-permissible (*haram*) sources. Gelatine or collagen are processed along with other ingredients, mixed together and made to undergo various processing methods, including extreme heat treatment, enzymatic reaction, pasteurization and others. These extreme conditions can physically and/or chemically modify the matrix structure of collagen, in order to produce good gelatine.
Table 2: Several types of alcoholic beverages and their alcohol contents

<table>
<thead>
<tr>
<th>Types of Alcoholic Beverages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beverages</td>
</tr>
<tr>
<td>Brandy</td>
</tr>
<tr>
<td>Whisky</td>
</tr>
<tr>
<td>Rum</td>
</tr>
<tr>
<td>Wines</td>
</tr>
<tr>
<td>Beer</td>
</tr>
<tr>
<td>Arrack</td>
</tr>
<tr>
<td>Toddy</td>
</tr>
</tbody>
</table>

In the application of *istihaalah*, raw materials are mixed with other substances to produce another new material (Figure 1). The transformation of raw materials into other products could happen physically (by observation) or chemically. Basically, the physical appearance of raw materials (pigskin, cattle bones and hides) has been transformed into gelatine. In the process of producing gelatine, the raw materials were mixed with other substances for its complete transformation. However, it is proven that the chemical composition of gelatine remained unchanged. It is suggested that the amino acid in food products still remained intact and did not undergo any chemical transformation, although the production process involved the extreme conditions. Denaturation of protein (which involves heat treatment or alcohol or acid and alkali or heavy metals) could only disrupt the tertiary and secondary structure of protein and do not break the peptide bonds with amino acids (Figure 2). Furthermore, Hoque *et al.* (2009) suggested that excessive heating could degrade the gelatine; meanwhile lower heat treatment could only influence the stretching and unfolding of gelatine strands. In Figure 5: Conversion process of gelatine this regards, the amino acid molecules in gelatine are not affected by extreme physical or chemical treatments.

\[ C_2H_5OH + O_2 \rightarrow CH_3COOH + H_2O \]  
(ethanol)  
(acetic acid)

![Figure 6: Fermentation process of ethanol to acetic acid](image)

Determination of *halal* and *haram* status of food products that contain alcohol depends on the source of the alcohol added (or naturally occurred). In food and beverages products, ethanol occurred naturally in fermentation process. According to Fatwa Committee
National Council of Islamic Religious Affairs Malaysia, natural occurrences of ethanol in food products are acceptable, if ethanol contents are less than 1% in beverages, and whilst it is 0.5% for flavoring or coloring substances for the purpose of stabilization (e-fatwa).

As mentioned earlier, fermentation process occurred in the presence of sugar and specific enzyme to produce ethanol and carbon dioxide gas. Ethanol produced from fermentation could be intoxicant and are not allowed for Muslims. When the fermentation continued in the presence of oxygen, the intoxicating alcohol then changes to acetic acid or vinegar. Refer to Figure 6.

In this process, ethanol has completely changed to acetic acid/vinegar. The complete change from alcohol to vinegar, chemically and physically (changes of color, odor and taste) describes that istihalah can be applied in this circumstance (Figure 7).

Hence, it is suggested that gelatin only transforms physically, not chemically. Because of this reason, istihalah method in gelatin cannot be fully applied. Most Muslim scholars suggested that the application of istihalah can only be applied when the complete transformation (physical and chemical wise) occurred during the process (Aizat & Radzi 2009). While, istihalah concept can be applied for vinegar because, the conversion of wine to vinegar undergoes complete changes physically (odor, color and taste) and chemically (chemical structure) (Ghananim 2008).

Conclusion

Fiqh istihalah addresses three different levels of conversion; such as transformation of physical, chemical or both chemical and physical. The matter of istihalah in gelatine issues is not applicable in Islam, because of the unchanging chemical composition even after severe process in food production line. However, complete conversion (physically and chemically) occurred in fermentation process of alchol to vinegar. Nevertheless, the information on current matter, specifically in halal and haram status are still fewer. In depth, laboratory works on specific issues related to points of discussion are still needed in order to make effective clarifications. Finally, the concept of Istihalah is one of the relevant tools that can be applied in science and technology related issues in finding solution and dealing with halal and haram in food products for Muslim societies.

REFERENCES

In the Islamic shari‘ah, vinegar is permitted, while wine is prohibited because of its intoxication effect. Basically, the main sources of verification of halal and haram in food products are from the Qur’an, Sunnah (prophetic traditions), Ijma‘ (consensus of legal opinion) and Qiyas (analogy) (Nyazee 2000). While, secondary sources of these verifications include, al-Maslahah (public interest), al-‘Uraf (custom), al-Istihsan (juridical preference), Sad al-Dhari‘ah (blocking the means), al-Istishab (presumption of continuity) and others (Audah 2010). The paper consults the relevant sources of the Islamic shari‘ah, as well as the available scientific data related to this subject. A comparative analysis of Muslim jurists on this subject would also be presented.