

12 Muharram 1433 – 25 November 2012

A RESPONSE TO A MUFTI'S QUERY THE 'END PRODUCTS' OF THE CARRION CHICKEN PLANTS AND THE RIBA SYSTEM OF TRADE AND COMMERCE

A brother posed the following question to a Mufti: "I would like to know if the products produced by producers who use funding which attracts interest as part of their capital are halaal? Or products sold by businesses who are funded by interest bearing loans?"

The answer to this query was obvious and straightforward: "Yes, the products are halaal notwithstanding the indulgence in riba which of course is haraam."

Then the Mufti Sahib, himself, posed the following question for which he required clarity: "Further to the question of products of a company that is funded or that deals in interest-bearing transactions, in case of the funds originating from interest, what if it is argued that just as the end-product of the commercially slaughtered chickens is haraam in view of the whole process being haraam, similarly, the products of firms being funded with haraam should also be haraam? What is the response to this argument?"

OUR RESPONSE

There is a big difference between slaughtered chickens and the products of the company dealing in riba. Firstly, the one may not be analogized on the basis of the other since the haraam end product of the haraam slaughtering system is the quotient of the employment of Shar'i Usool. The hurmat of the end product, viz. carrion chickens, is based on Usool. The issue which you have raised in your question should be examined in the light of the relevant Shar'i Usool, not on the basis of a quotient extracted from the Usool. For example, if on the basis of valid dalaal it is ruled that it is permissible for a woman to emerge from her home to perform her Fardh Hajj, it will be improper and erroneous to cite this verdict as a basis for claiming permissibility for females to embark on journeys for tabligh purposes. The Hajj issue is not a valid basis for a tabligh journey. The latter requires mustaqil (independent) dalaal for a ruling. The Shariah has ordained a specific system of slaughter, the observance of which is incumbent on Muslims. But Muslims themselves have displaced this Waajib system which is among the Shi-aar of Islam. Therefore, even if we assume that the end product (the chicken) has the requisite number of neck-vessels severed and that Tasmiyah is recited, then too we shall say that the end product is not permissible, and for this verdict we have to use the principle of li-ghairihi.

The end products of the kuffaar chicken plants are not the effects of accident. If a Muslim slaughtering his own chickens at home mistakenly or due to ignorance neglects the Sunnah method of Thabah but fulfils the essential requisites, we shall not say that the chickens are haraam because he did not face the Qiblah or because he had abandoned the other Sunan factors. But, with regards to the kuffaar chicken plants, Muslims, for the sake of money, have displaced the Islamic system and believe that their action is fully justified. The Shar'i system of Thabah has been abandoned istikhfaafan and for the sake of the monetary objective.

We also cannot allow any institution of the Shariah to fade away into oblivion as these haraam 'halaal' certificate vendors have done. It is only by the fadhil of Allah Ta'ala that in this era He has selected us sinful servants to revive and safeguard this system which all the Ulama, not

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only of South Africa, but of the world, have colluded to abrogate – even the senior Ulama are guilty of this khiyaanat and abdication of duty. Thus in the case of the chickens, And by senior I refer to Akaabir such as Hadhrat Mufti Shafi (rahmatullah alayh) and Hadhrat Binnuri (rahmatullah alayh) who had visited these plants, seen the horrendous haraam system, maintained silence, and not offer a word of naseehat to the Ulama here who had legalized the system described by Rasulullah (sallallahu alayhi wasallam) as Shareetatush Shaitaan. I think there will be an issue and some sort of indictment on the Day of Qiyaamah in this regard. Muslims have abrogated the Shar'i system, hence the imperative need to brand the end products haraam. The only senior of whom we are aware, who had displayed disgust at the system of kuffaar slaughter was Hadhrat Masihullah (rahmatullah alayh). He was particularly upset when he saw the chickens shackled brutally upside down, and he had upbraided this writer for even having taken him to inspect the haraam abattoir in Port Elizabeth. Hadhrat had grimaced with disgust when he was shown the vile, satanic, brutal system of torture which the MJC-SANHA shayaateen dub 'thabah'.

If Muslims on a permanent basis decide to abandon all the Sunan, Mustahabbaat and Aadaab of Wudhu and believe that the Sunnat factors are not necessary, and that Salaat is valid by observing only the four Fardh acts, then without hesitation we shall have to say that their Salaat is not valid. This fatwa will be occasioned by the circumstances.

If we do not adopt this attitude, the very same fate which has overtaken the Shariah of Nabi Musa (alayhis salaam) and of Nabi Isa (alayhis salaam) will overtake our Shariah. There is today nothing remaining of the earlier Shariats because the Yahood and Nasaara had subjected their Shariah to a constant process of reinterpretation and change. They began discarding the ahkaam one after the other until they have reached the present destination of having no Shariat left. Our attitude should be the attitude of Shah Waliullah (or may be it is one of his sons) who had ordered Tajdeed-e-Imaan and Tajdeed-e-Nikah for a man who had drunk the left over water of an Englishman.

Besides the above explanation, you are aware that the factual position is that even the end products of these chicken plants are haraam due to the incorrect severing of the necks, and because Tasmiyah is omitted on a wholesale scale. Thus, besides the li-ghairihi principle, the end products are factually and in reality, per se haraam since not even the essential requisites of Thabah are being observed.

Furthermore, Thabah is a process ordained exclusively for Muslims, hence Rasulullah (sallallahu alayhi wasallam) said that whoever faces our Qiblah and slaughters according to our way, bear witness that he is a Muslim. Shar'i Thabah is not for the kuffaar. But what has happened is that Muslims have displaced in entirety and cancelled the Shar'i system for the sake of the monetary gains of kuffaar entrepreneurs, as well as for their own pockets, then offer the Muslim community an end product which is factually not halaal, even if we discard the Sunnat factors.

On the other hand trade and commerce are not exclusive Muslim institutions. Business is common with all communities. Above all, the Shariah permits trade with the kuffaar despite the certitude of their indulgence in riba and uqood-e-faasifah. In fact, Rasulullah (sallallahu alayhi wasallam) and the Sahaabah also dealt with the kuffaar in business dealings. Rasulullah (sallallahu alayhi wasallam) himself was indebted to a Yahood. He acquired a loan from the Jew despite the latter being the king of capitalism and surviving on riba. All the dealings of the Yahood, Nasaara and Mushrikeen during the times of Jaahiliyyah and the age of Rasulullah (sallallahu alayhi wasallam) were riba based. But, Muslims of that era transacted with them This

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fact is sufficient to differentiate between Thabah and trade.

Despite the dealings of the kuffaar being riba based, faasid and baatil, the Shariah has not totally prohibited partnership with them. Whilst partnership with a kaafir is Makrooh, the effects of it will be halaal. Thus, the money earned will be halaal although the act of partnership is impermissible.

Furthermore, when entering into a transaction with a kaafir, whether it be a sale, lease or partnership, it is imperative to ensure that from A to Z – from beginning to ending, the entire process must conform to the Shariah in exactly the same way as this will be ensured when dealing with a Muslim. Thus, even in trade and commerce with the kaafir, it is necessary for the entire system pertaining to the specific institution of trade/commerce to be compliant with the Shariah. The end product will be halaal only if the entire procedure of the particular act is halaal. Whether one deals with a Muslim or a kaafir, it is essential to ensure that the sale/lease/partnership is not faasid/baatil. The Shuroot and Arkaan of the various institutions will have to be observed. If this is not observed, the end product will be haraam.

Since the kaafir entrepreneur's acquisition of a riba-based loan to begin the business operation is not one of the Shuroot or Arkaan of Bay', it is incorrect to conclude that the Bay' in which all the shuroot and arkaan are observed is not permissible on the basis of the riba loan which was acquired. Bay' is not the 'end product'. It is an independent product which has its point of initiation and point of termination. Yes, if within its own institution there develop defects, then we shall aver that the 'end' products which are the thaman and mabee' are unlawful.

Similarly, if Rainbow should introduce a 100% Shar'i system of Thabah under 100% Muslim supervision, observing all facets of the Shar'i system, then undoubtedly, the end products will be halaal notwithstanding the fact that Rainbow deals in riba and acquired its capital to operate its plants from the banks to whom it pays riba. The Thabah will be viewed independently and separately from the other riba dealings of the company.

The above explanation should suffice to distinguish the two. And, what has been explained above pertains to the dry Fiqhi (legal) requirement. As far as the Taqwa dimension is concerned, it is futile to even discuss it because we lack in entirety the spiritual fibre to even reflect on the Taqwa aspect. In this era there is not to be found Awaam and Khawaas. These divisions no longer exist. Today there is only one group, viz., awaa, kal anaam, and this includes all the mashaikh, muftis and ulama of the era. All of us are part of the dumb masses, hence Taqwa is a weird and an alien concept which has become incomprehensible, and confused with insanity.