

## Revisiting the *Fiqh* of Halal-Haram Animals: An Analysis on Malaysian Fatwa Relating to Animal Care and Use

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### ABSTRACT

*The recent trends in the field of scientific research welcomes the interpolation of alternative research ideologies and methodologies in ensuring that issues advocating the Animal Care and Use (ACU) be handled in an ethical and holistic manner. This research tends to provide a connection between conventional animal ethics and Islamic ethics as a complementary framework via the application of Fiqh halal-haram animals. The gist of discussion in this paper is based on the Malaysia context. This exploratory research invokes an exhaustive referencing of voluminous Islamic literature primary resources and in-depth interviews with four renowned Muftis. The number of Fatwas related to the ACU according to the States in Malaysia so far is Kelantan 33, Federal Territory 25, Selangor 17, Terengganu 12, Negeri Sembilan 8, Pahang 8, Perlis 3, Penang 3 and Sarawak 3. It can be concluded that the care and use of animals essentially in the keeping of goodness (Jalb ul-masalih) and avoidance of destruction (Dar ul-mafasid) towards religion, life, intellect, lineage and property are permissible. In considering the ethical inquiries in animal care and use, this study found that it needs to be integrated with scientific information as well as religious teachings.*

*Keywords: Islamic Ethics, Animal Ethics, Animal Care and Use, Fiqh of halal-haram, Maqasid al-Syariah.*

### INTRODUCTION

The recent trends in the field of scientific research welcomes the interpolation of alternative research ideologies and methodologies in ensuring that issues advocating the Animal Care and Use (ACU) be handled in an ethical and holistic manner. Within the local context, Malaysia theoretically is a nation where the Muslim communities dominate the population. For that reason, many Muslim Malaysians need specific guidelines that can assist them to navigate their daily complex routine life based on Islamic laws (*Shariah*) inclusive of guidelines pertaining to animal protection.

In propagating Islamic values towards animal care and the use of activities and scientifically related procedures, knowing the epistemological reasoning behind the “do and don’ts” of Islamic rules (*Fiqh halal-haram*) is indispensably essential. *Fiqh* halal-haram works as directive measures that always comes together with the legitimate derivation of knowledge conforming to the Islamic law. Other than the primary standard of the rules and law stated in the Al-Qur’an and Hadith, Islamic contemporary scholars such as Muftis are mandated with having the authority to produce *Fatwas* (Islamic juristic opinions) after undergoing time consuming discussions within the Fatwa committee’s board members. In other words, the *ijtihad* ulama’s tasks do not come easy, but with in-depth intuition and thorough exertion of a jurist’s mental faculty in finding a solution to a legal question.

With regards to animal care and use, it is imperative to note that the Government of Malaysia has given emphasis on animal welfare issues as a measure or approach to sow humanly virtues among Malaysia citizens through any activities where animals are involved. For instance, the establishment of the National Strategic Plan for Animal Welfare 2012-2020. The nature of *halal-haram* is always being questioned and harbored as an imperative concern whether it is still reliable under current trending, notion, and the essence of a multicultural nation’s condition. This research paper explores the religious concerns on the issues of animal care and use particularly in relation to food and medicinal industries where the intention tends towards on the type and conditions (including the animal parts and it by-products) of halal animal species that suitable for Muslim consumption and the modern animal slaughtering methods. All mentioned areas of concentration fall under the purview of bioethics.

## ANIMAL ETHICS: WESTERN AND ISLAMIC INTERFACE

### ANIMALS HAVE EQUAL MORAL RIGHTS

Animal right activist Tom Regan argues that all animal beings have the right to obtain equal moral rights regardless of their status or their conditions of relationship with human beings. Regan believes it is a mistake to claim that animals have an indirect moral status or an unequal status, causing wrong interpretation that animals cannot have any rights (Regan, 2004).

### UNEQUAL CONSIDERATION TO ANIMAL MEANING UNEQUAL CONSIDERATION TO THE INTEREST OF DIFFERENT HUMAN BEINGS

Singer attacks the views of giving less weight interests of animals rather than the interests of human beings. He argues that if we attempt to extend such unequal consideration to the interests of animals, we will be forced to give unequal consideration to the interests of different human beings. Singer concludes that we must instead extend a principle of equal consideration of interests to animals as well (Singer, 1993).

### EQUAL CONSIDERATION BUT DIFFERENT TREATMENT

Singer tries to promote an equal consideration between moral rights of animal and human. An equal consideration which has been proposed by Singer can be perceived as a moral principle that requires human beings to weigh the comparable moral interests equally to all creatures who will be influenced by human actions. Nevertheless, he still differentiates between the treatment level of human and animal beings. As he wrote: "*It does not mean that animal have all the same right as you and I have. Animal liberationist does not minimize the obvious differences between most members of our species and member of other species*" (Singer, 1985). In theology, the similitude of Regan and Singer opinions and Quranic verse indicates that animals are among God creatures and Earth communities like human beings. They should be treated accordingly with justice, respecting their rights to live considerably without denying their important contribution in sustaining the diversity on this planet.

### ANIMALS AS *UMMAH* (THE WHOLE COMMUNITY OF MUSLIMS BOUND TOGETHER BY TIES OF RELIGION)

Islam underlines animal ethical values based on gentle approaches (*Rifq*), perfection or excellence (*Ihsan*) together with care and cherishes between one another. As the prophet said in the authentic hadith narrated by Al-Bukhari: "*Those who are not loving, they will not be loved by God*" (Al-Bukhari, 2000) and "*Love to those living on earth, and you will be loved by those living in Heaven*" (Al-Tirmidhi, 2000). The ethical values can be traced in the commanded verses (*al-Amr*) and prohibited (*al-Nahy*). These commanded and prohibition elements show that animal ethics are suitable to be practiced in Islam and must be flourished, expatiated, interpreted and nidificate in the form of Islamic jurisdictions. In general, these ethical values fundamentally are based on *Maqasid al-Shari'ah* concept (Saifuddeen, Wei, Ibrahim, & Khotib, 2013). Likewise, there are similarities between the ethical values and objectives in the Islamic jurisdictions which are pointing directly to generate welfare and reject injury (Muzah, 2010; Rahim, 2014).

Al-Qur'an tells us that God communicates with animals, as the following verse shows: And your Lord revealed to the bee, saying: 'make hives in the mountains and in the trees, and in (human) habitations' (Al-Qur'an 16:68). The existence of these elements makes the rules and prohibitions of Islamic ethics on fauna diversity equally balanced. Not just for ordering and banning. For example, the act of being kind and watering the animals must correlate with the ban against the act of cursing and hitting the animal. In fact, the ethical values of human and animal support the equation that both are the community or Ummah and God's creations. There is no creature on [or within] the earth or bird that flies with its wings except [that they are] communities like you. We have not neglected in the Register a thing. Then unto their Lord they will be gathered (Al-Qur'an, 6:38).

### ISLAMIC LEGAL VERDICTS (*FATWAS*) ON ACU IN MALAYSIA

In Malaysia, Fatwa is considered as an Islamic legal verdict that assists in regulating a Muslim's code of conduct which is applicable in the country. Fatwa plays a major role within the sphere of socio-economic interest and it works as an instrument for clarification and coordination of modern sociological issues in Malaysia encompassing science and technology sectors. The establishment of Islamic laws and regulations are solely under the purview of the respective State

list. It means that each State government through its Mufti Department and State Fatwa committee, established under the State Islamic Religious Council (Majlis Agama Islam Negeri), are vested with the powers to control the execution of the Islamic laws with the prior endorsement of its supreme religious leader (Sultans). The Federal government, on the other hand, establishes Islamic religious coordinating agencies to manage, oversee and control all Islamic activities in the country with greater effectiveness and efficiency. For this, the Islamic Development Department of Malaysia (JAKIM) has been established as the main Federal Government agency in Malaysia that is responsible in managing Islamic affairs in the country (Buang, 2004). The uniqueness of Fatwa implementation in Malaysia is, either the Fatwas issued on state level or national level, but once it is published in the Gazette, it becomes a binding and enforceable phenomenon in Malaysia (Chiroma, Arifin, Ansari, & Abdullah, 2014).

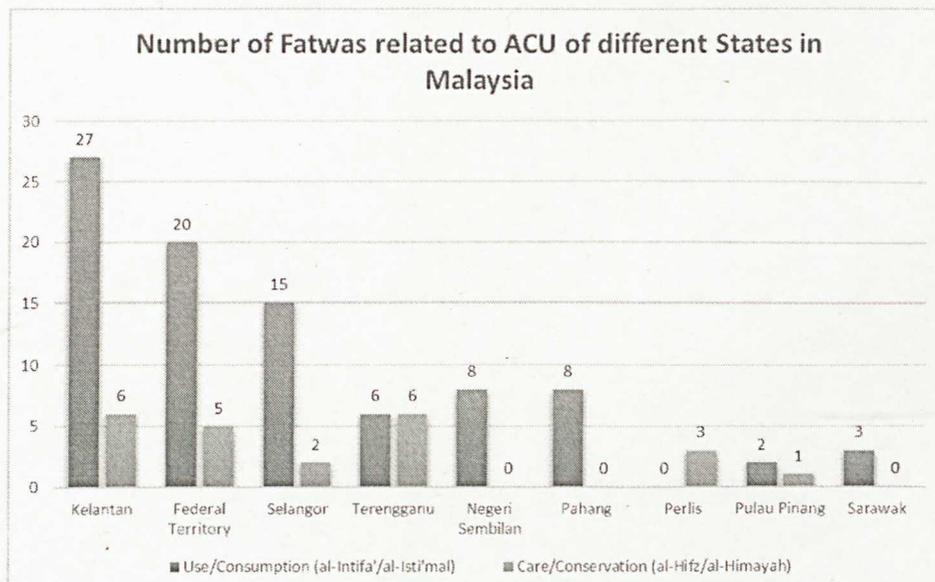


Figure 1: Number of Fatwas related to ACU of different States in Malaysia  
Source: Fatwa's Portal managed by Department of Mufti from various States in Malaysia

As shown in Figure 1, we have divided our result into two categories namely Use/Consumption (*al-Intifa'/al-Isti'mal*) and Care/Conservation (*al-Hifz/al-Himayah*). This is because our intention is to see the number of Fatwas that fall under two dimensions of ACU. From the result it shows that, most of the Fatwas related to ACU in the most States in Malaysia is focusing on the issues related to animal as a subject of Use/Consumption (*al-Intifa'/al-Isti'mal*) where the total number of Fatwas is 89, after been compared to the issues relating to animal Care/Conservation (*al-Hifz/al-Himayah*) where the total number of Fatwas is 23. From the result, it can be deduced that, there are still lack of numbers of Fatwas issued relating to animal Care/Conservation (*al-Hifz/al-Himayah*). This could provide a basis evidence that there is still low awareness in the Malaysia Fatwa's institutions to point out the importance of providing the official religious-based statement in pertinent to animal welfare issues to the open public.

## METHODOLOGY

This research explores the Fatwas based on the local context that related to the ACU. For this it has been done by conducting content analysis of 112 ACU related Fatwas in every States in Malaysia. The in-depth interviews with four renowned State Muftis in Malaysia namely Mufti of Federal Territory, Deputy Mufti of the State of Selangor, Deputy Mufti of the State of Terengganu and Deputy Mufti of the State of Sabah were also conducted. The aim is to obtain their personal and eloquent viewpoints on moral perspectives, the different ways of views on animal welfare, right and status and the epistemology of *Fiqh* halal-haram on animal care and use.

### *HALAL-HARAM* ANIMALS: AN ANALYSIS OF MALAYSIA'S FATWAS RELATING TO ACU

There are three (3) fundamental principles used in the field of Islamic jurisdiction to determine which animals are permitted for Muslims to be eaten or vice versa which are: (Al-Fawzan, 1976; Al-Jamma'ili, 1986; Al-Qaradawi, 1985; Tahmaz, 1999) 1) if there is any evidence either literal or conceptual to forbid it, then the animal is illegal/unlawful

(*Haram*). 2) if there is any evidence that permits it, then the animal is permitted (*Halal*). 3) The question is if there is no evidence indicating the status of lawful or unlawful,<sup>15</sup> then, Islamic scholars (*Fuqaha*) have to carry out with acceptable standards in accordance with the Al-Qur'an and Hadith in order to determine the status either lawful or unlawful. This is consistent with the request from Prophet Muhammad (pbuh) where the application of ethics in the context of (*Isti'mal*) must be used to evaluate the halal or haram status has on animal (Hamid, 1983). First; God has created animals to be utilized and can be held as a sign of favor from Allah Almighty. However, there is some harm derived from the animal that may threaten consumer's life so it should be resisted. Other animals are not harmful so it should be eaten. Second; As long as there is no ban on it, then the animal is not illegal. If not illegal, then the animal is lawful (*Halal*). Third: God does not love the forbidden things which are lawful. While not illegal, then it should be used. Fourth: Any animal is not illegal as long as there is no specific evidence to ban it.<sup>16</sup> Islamic scholars (*Fuqaha*) from various denominations have set some sort of indicators to determine which animals are classified as haram to be eaten. It is because only pigs and donkeys have the concrete evidence to be banned from being eaten.<sup>17</sup> Whilst, other unlawful animals which are not mentioned directly in Al-Qur'an and Hadith could be classified based on these indicators namely:

- a. All wild animals that have fangs and birds with gripped nails,
- b. Animals which have forbidden to be killed according to Islamic jurisprudence, and
- c. Carcass eaters, stinky and filthy animals potentially affect human health.

#### ANIMAL USE: CONSUMING *JALALAH* ANIMALS AND ITS CONSEQUENCES ON HUMAN HEALTH

The majority of Islamic scholars (*Fuqaha*) from the main denominations namely Hanafi, Syafi'i and Hanbali agreed upon the statement which forbids eating carcass eater. Nevertheless, this opinion is not agreed by the Maliki's school of thought, Maliki claims Muslims are permitted to eat all types of birds even the bird is a carcass eater. Allah prohibits eating *Jalalah* animals which are amongst carcass eaters, stinky and filthy animals (Al-Qur'an, 7: 157) because God served other types of alternative food sources that are good yet halal for human being consumption (Al-Qur'an, 5: 4). The statement where the animals that potentially affect human or would be jeopardizing human health integrity shall be avoided, is based on Islamic scholars' consensus where their resolution are based on Qur'anic evidence urging human being not to jeopardize themselves (Al-Qur'an, 4: 29) and prohibition to commit self-perish (Al-Qur'an, 2: 195).<sup>18</sup> Consistent with divine decree, the absolute prohibition of eating swine meat or dog meat has its own scientifically reasoning, for instances swine and dogs renowned for their coprophagic habitual, this would be harbored many germs and other harmful pathogens throughout their body organs.

The 5<sup>th</sup> State of Selangor Fatwa Committee Meeting which was held in 2006 issued the resolution of utilization of other unlawful part or type of animals (other than swine and dog) for the cosmetic purposes as follow (Mesyuarat Jawatankuasa Fatwa Negeri Selangor, 2012a):

- a. Islam emphasizes cleanliness, however, if the product derives from the lawful ingredients which can cause harm to the consumer, the utilization of it is prohibited in Islam.
- b. Therefore, any cosmetic products contain ingredients or any trace from unclean part from the animal that may cause harm whenever it used to eat it is considered as unlawful (*Haram*) to use.

In this case, two *Fiqh* legal maxim are applicable Maksim (*al-Qawa'id al-Fiqhiyyah*) namely "*Ad-Dararu yuzal*" (Harm must be eliminated) and "*Ad-Dararu la yazulu bimislihi*" (Harm cannot be eliminated with a similar harm (or greater harm)). These *Fiqh* legal maxims guide *Fiqh* scholars to come out with ideas in prohibiting the use of other animals that potentially cause harm to human beings if it is used for consumption. Both maxims fall under one of the "*Al-Qawā'id Qulliyah Kubra*" (Normative Legal Maxims) stated "*La darar wala dirar*" (No inflict harm and no retaliate with the same harm).

Meanwhile, the 3<sup>th</sup> State of Selangor Fatwa Committee Meeting which was held in 2006 has comes with resolution to prohibit feeding fish with the unlawful ingredients such as traces from the swine, manure or living carcasses as being practiced by some farmers in the aquaculture farming industry. The prohibition is a part of prevention measures (*Saddu al-zara' i*) based on the *Fiqh* legal maxims namely, "*Ad-Dararu yuzal*" (Harm must be eliminated), "*Ad-Dararu la yazulu bimislihi*" (Harm cannot be eliminated with a similar harm (or greater harm) and the spirit of *al-Wiqayah Khairun Min al-'Ilaj* (prevention is better than cure). The goal of prohibition is to take care the sensitivity of Muslims community in the State of Selangor (Mesyuarat Jawatankuasa Fatwa Negeri Selangor, 2012d).

<sup>15</sup> Al-Sahibani, *Ahkam al-Bi'ah fi al-Fiqh al-Islami*, 522

<sup>16</sup> Ibid., 522-524.

<sup>17</sup> Al-Sarakhsi, *Kitab al-Mabsut*, 220.

<sup>18</sup> Al-Sahibani, *Ahkam al-Bi'ah fi al-Fiqh al-Islami*, 532-537. Al-Sarakhsi, *Kitab al-Mabsut*, 255; Malik Anas, *al-Muwatta'*, 311.

However, in Negeri Sembilan, those *Jalalah* animals are still permissible to be eaten if they have undergone at least 7 days quarantine period where during this time, feeding with unlawful ingredients is totally restricted. This relief measure is only taken by the committee after they have undergone a series of in-depth discussions with the aquaculture modern farmers and industrial players. The resolution is based on the concept of *Sighah* (willingness to enter into contractual agreement and a part of formal exchange of understanding) (Mesyuarat Jawatankuasa Fatwa Negeri Sembilan, 2013).

How about the ruling upon eating a fish while its intestine contains traces of foods, bolus or manures? Can Muslim eat on it, though people not feed them with unlawful foods? For the such issues, Al-Qur'an or Prophet Muhammad tradition (Sunnah and Hadith) do not discuss it in detail whether the fish can be eaten together with all internal organs attached or not to detach all the internal organs before eating it. However, previous *Fiqh* scholars such as Ibn Hajar, Ziyad, al-Ramli and others agreed that anything inside the fish physical body is lawful to be eaten including its traces of food, internal organs and blood. All is considered as pure. However, if those things cause any health issues to human or animal beings after been recognized by the experts, hence it should be avoided.

In the commercial context, manufacturers could be faced some sort of problems (financially and operatively) (*Masyaqqah*) if those internal part need to disintegrate from the fish physical body. Due to this constrain, Special Meeting of Pahang Shariah Law Advisory Committee in 14 May 2015 together with the 7<sup>th</sup> Negeri Sembilan Fatwa Committee Meeting in 30<sup>th</sup> September 2015 agreed to accept the resolution achieved by the result from the 107<sup>th</sup> National Fatwa Congregation where they do to agree to permit the utilization of the internal parts based on the concept of *Sighah* (willingness to enter into contractual agreement and a part of formal exchange of understanding) (Mesyuarat Jawatankuasa Fatwa Negeri Sembilan, 2015; Mesyuarat Khas Jawatankuasa Perundangan Hukum Syarak Negeri Pahang, 2015):

- a. The manufacturing process involves with the thousands of metric tons of raw fishes and;
- b. The process must be undergoing the quality control and good manufacturing practices assessment as recognized by the authorized body. The assessment shall be based on the strict standards and procedures.

In Sarawak, tradition to eat temilok (kejumah) a kind of aquatic worms, known as shipworms or Tereido worms are marine bivalve mollusks in the family Teredinidae, of phylum: Mollusca. They are a group of saltwater clams with long, soft, naked bodies are widely accepted as a food source by the natives living in the state. Prior to this, Sarawak Fatwa recognized the temilok (kejumah) as a source of food that is permissible (*Mubah*) to be eaten due to their natural habitat where they are living in the aquatic setting usually inside the mangroves stems and roots (Kassim, 2015). However, eating palm weevil (*Rhynchophorus ferrugineus*) larvae (Sago grub) is not recognizable by the *Fiqh*, meaning it is Haram to consume by Muslim (Utusan Borneo, 2015), although the larvae is considered as specialty in the Borneo (Shin & Collins, 2015). The weevil larvae is considered a major pest in palm plantations, including the coconut palm, date palm and oil palm (Centre for Invasive Species Research, 2017).

#### LARVAE

The Fatwa Committee for the State of Selangor and Pahang have recognized the Application to Maggot Debridement Therapy to the patient with a chronic wound. The application is permissible (*Mubah*) based on the *Fiqh* methodologies as follow: *The fundamental law of something is acceptable (permissible) until there is a statement saying on its prohibitions*" (Majlis Agama Islam Selangor, 2013; Mesyuarat Jawatankuasa Perundingan Hukum Syarak Negeri Pahang, 2012b). In addition, there is a hadith by Prophet Muhammad in English translation: "The companion asked prophet: O Prophet of Allah, does it a sin if we do not get treatment (for our disease)?" "The Prophet said," Get treatment O servants of Allah! Allah, the Exalted has not made a disease without providing a cure for it at the same time, except aging-associated disease". (Narrated by Ibn Majah). The emphasizing on this matter of concern is comparable with *Fiqh* legal maxim which says that: "ad-Dararu yuzal" (Harm must be eliminated).

*Lucilia sericata* or common green bottle fly larvae is a commonly used species in Maggot Debridement Therapy to treat wound injuries from human, it is a part of the alternative treatment for the conventional treatments (Rueda, Ortega, Segura, Acero, & Bello, 2010). This practice is continuing to increase. The larvae are necrophagous meaning consume necrotic tissues, secreting and producing antimicrobial enzymes while in the wound that lead to increase the promotion of healthy tissue growth (Cazander, Pritchard, Nigam, Jung, & Nibbering, 2013). Most of the patients receiving maggot therapy treatment have no pain. The larvae must be raised in vitro under sterile conditions to eliminate any chance of maggot-transmitted microorganisms (Sherman, Hall, & Thomas, 2000). Another type of the larvae species that can be used for the treatment is *Protophormia terraenovae* or blue-bottle fly larvae (Kocisová, Pisl, Link, Conková, & Goldová, 2006).

A common body-cavity or haemocoel of arthropods contains no true blood or hemoglobin. The arthropods larvae blood is composed of a fluid or plasma containing amoeba-like corpuscles, somewhat resembling the leucocytes of mammalian blood. Hence, from this point of view, the Pahang Fatwa committee argues that the *Fiqh* law for animal carcass do not

contain-true blood and can be considered as pure and clean. If the larvae that used the therapy was found dead, hence the *Fiqh* law for the carcass is also recognized as pure and clean.

#### GEKKO GECKO TOKAY LIZARD

The 4<sup>th</sup> State of Selangor Fatwa's Committee Meeting which was held on 28<sup>th</sup> July 2011 agreed that (Gekko Gecko Tokay) lizard is unlawful (*Haram*) to be eaten according to Islamic *Fiqh*. However, utilize it as a source of antidote for medical purposes is permissible by term there is no other medical substitutes yet been discovered during the event of emergency (Mesyuarat Jawatankuasa Fatwa Negeri Selangor, 2012c). It is based on Islamic *Fiqh* legal maxim (*Al-Qā'idah Al-Fiqhiyyah*), "*ad-Dhorurat tuhlibbul mahzurat*" (In the state of emergency, permissible towards something that unlawful it is allowable) which is fall under one of the "*Al-Qawā'id Qulliyah Kubra*" (Normative Legal Maxims) stated "Hardship begets ease". *Fiqh* scholars use the maxims as the deduction from the verse in the Al-Qur'an stated: "*He has only forbidden to you dead animals, blood, the flesh of swine, and that which has been dedicated to other than Allah. But whoever is forced [by necessity], neither desiring [it] nor transgressing [its limit], there is no sin upon him. Indeed, Allah is Forgiving and Merciful*" (Al-Qur'an, 2:173).

#### ANIMAL CARE: IMPROVING SLAUGHTERING METHODS

First; a person intending to slaughter an animal must do so with the aim to obtain food source, not for the purpose of killing it. If someone hits the animal with a sharp tool, whilst directly touching on the slaughtering area with the intention to kill not to slaughter the animal, hence the animal is not lawful. Second; a person must recite Allah's name (*Tasmiyah*) when the slaughtering ritual takes place.<sup>19</sup> Most Islamic scholars except As-Syafi'i require reading *Basmalah* at the time prior to slaughtering and not lawful if it is not read out in the name of Allah. This requirement is based on verse 121 in Surah al-An'am (6): "*Do not eat an animal that does not mention the name of Allah over it and it is wicked*". The Hanbali school of thought apparently is more rigid with this matter of concern; they claim if one forgets to recite *Basmallah*, the meat cannot be taken. The scholars from Shafi'i school said *Basmallah* recitation is not compulsory; it is just a part of encouragement (*Mustahab*). If anyone forgot to recite it when the slaughtering process took place, the meat is still acceptable by the law. Referring to the same surah, Shafi'i scholars decipher, illegal slaughtering is not made sacrifices for the sake of Oneness of God but for other purposes such as for idol worshipping. Furthermore, God justifies the slaughter by the People of the Book (literally by Jews and Unitarian Christians), which they usually do not even mentioned the name of Allah (Al-Qaradawi, 2010; Al-Zuhayli, 1985).

#### PNEUMATIC PERCUSSIVE STUNNING

The 3<sup>rd</sup> Selangor State of Fatwa Committee Meeting in 2006 has approved that the application of Pneumatic Percussive Stunning as a part of Halal animal slaughtering. It must always be ensured that the procedure will not cause any damage to the animal's skull or any death before the actual slaughtering procedure takes place. The permission to use stunning is limited to the Pneumatic Percussive Stunning technique, other stunning techniques are not included. This exception to a general law is granted to preserve life or remove hardship (*Rukhsah*) and it corresponds with the *Fiqh* legal maxim which states that "the difficulties brings convenience." The exception is also based on the verses of the Holy Al-Qur'an: "...and has not placed upon you in the religion any difficulty" (Al-Qur'an 22:78), and "Allah intends for you ease and does not intend for you hardship" (Al-Qur'an 2:185). There is another related *Fiqh* legal maxim: "when it's a matter of narrow it becomes widespread" (Mesyuarat Jawatankuasa Fatwa Negeri Selangor, 2012b)

#### ANIMAL TAGGING

In a hadith Prophet (peace be upon him said), in English translation: "*Prophet (peace be upon him) Instruct us to look into the eyes and ears of the (scarifying animals) and directs us so that we do not sacrifice animals which the ears have been cut off or were hanging strips, as well as the animals with long or rounded holes*". This hadith clearly shows that only animals with severely ears damage are prohibited to be sacrificed. Tagging ears do not cause a direct effect on ear disfiguring such as torn or perforated and does not directly harm the animal. Hadith al Barrak bin Azib, syas that: "*The Prophet said: The four things that should not be there of the scarifying animal: great blurred eyes, severe pain, limping, extremely underweight that almost accentuated the ribs or very thin or no fat*". This hadith also indicates that animals with extremely underweight with notable physical defects are not permissible to be used as scarifying animals.

The use of ear tags is to facilitate the registration and identification by the Veterinary Department and for the control of animal health. Thus, the ear tag is very beneficial for the health and safety of animals and their owners (*Maslahah ammah*). Thus, it is obvious that it is not included in the sense of defect that can cause invalid or disliked in a ritual

<sup>19</sup> Malik Anas, *al-Muwatta'* (al-Mansurah: Dar al-Ghadd al-Jadid, 2008), 304.

sacrifice. Prophet Muhammad (pbuh) also said in a hadith: “Prophet Muhammad (pbuh) gave Wasm on a camel ear that gives as charity (Sadaqah) with his noble hands”.<sup>20</sup> Hence, based on the above arguments, Perlis State Fatwa Committee concludes that tagging on large domesticated ungulates such as cattle is permissible (*Mubah*) and sacrifice those animals are allowable because the animals are not causing defect by the practices (Aziz, 2010).

## ISLAMIC EPISTEMOLOGICAL PRINCIPLES OF ACU

All Muftis’ have been asked on their opinion whether Islam provides basic principles of ACU. We have also discovered there are different opinions among the Malaysian Muftis in pertinent of the eligibility of *Maqasid al-Shariah* to be applied directly to animals, the summary of the findings can be seen in the Table 1.

Table 1: shows the summary of the result from the interview sessions with 4 (four) renown State Muftis in Malaysia that in relation of *Fiqh* of Halal-haram of Animal Care and Use (ACU)

Mufti	Statement of question		
	The Eligibility of <i>MS</i> vis-à-vis ACU	Classification of <i>MS</i> for ACU Use and Consumption ( <i>al-Intifa/al-Isti'mal</i> )	Islamic Epistemological Principles of ACU Care and Conservation ( <i>al-Hifz/al-Himayah</i> )
		<b>Mufti responds</b>	
Mufti of Federal Territory, His Excellency S.S. Datuk Dr. Zulkifli bin Mohamad Al-Bakri (Al-Bakri, 2016).	<b>Agreed and recognized</b> (Reason: to establish a human-animal good relationship)	Unrecognized killing of an animal just to obtain a very little portion for specific benefits while ignoring the other larger portions from the same animal.  Maxim: “ <i>al-Hajiyat tanzilu tanzilata darurah</i> ” (Complimentary matters can be moved to the essential state).  Maxim: “ <i>ad-Dhorurat tuhibbul mahzurat</i> ” (In the state of emergency, permissible towards something that unlawful it is allowable).	Keeping a good treatment towards animal based on logical reasoning.
Mufti of the State of Sabah, His Excellency S.S. Datuk Ustaz Bungsu @ Aziz Bin Haji Jaafar (Jaafar, 2017).	<b>Agreed and recognized</b> (Reason: <i>Hablum min-Allah wa Hablum Minannas</i> (God-creations relationship) & <i>Islam rahmatulil alamin</i> (Islam benefits the entire world))	Unrecognized killing of an animal just to obtain a very little portion for specific benefits while ignoring the other larger portions from the same animal.  Maxim: “ <i>al-hajiyat tanzilu tanzilata darurah</i> ” (Complimentary matters can be moved to the essential state)  Maxim: “ <i>ad-Dhorurat tuhibbul mahzurat</i> ” (In the state of emergency, permissible towards something that unlawful it is allowable).	<i>Tawheed</i> : Absolutely adherence towards the God’s commands of keep abstaining from torturing the animals (physically and morally rights).  <i>Khalifatullah fil ard</i> : Viceregency of human beings on earth, and reducing the exaggerations but not for ultimate domination over other creatures.  <i>Ihsan</i> : “Benevolent”. Exercising the responsibility with full of gentleness.  <i>Rahmat lil alamin</i> : Our existence is to promote benefits and happiness to

<sup>20</sup> Muslim, “Sahih Muslim”, Hadith no. 2117

			<p>other as one harmony ecosystem. A sense of altruism (<i>al-Itsar</i>), provides social responsibility to care and cherish towards all creatures dwelling on earth</p> <p><i>Tawazun</i>: Equilibrium, symmetry and evenness in the sense of providing a similar ethical consideration towards animal beings.</p>
<p>Deputy Mufti of the State of Selangor, His Excellency S.S. Dr. Anhar Opir (Opir, 2016).</p>	<p><b>Not recognized</b> (But encourage a good treatment towards animal)</p>	<p>Unrecognized killing of an animal just to obtain a very little portion for specific benefits while ignoring the other larger portions from the same animal.</p> <p>Maxim: "<i>al-Hajiyat tanzilu tanzilata darurah</i>" (Complimentary matters can be moved to the essential state).</p> <p>Maxim: "<i>ad-Dhorurat tuhibbul mahzurat</i>" (In the state of emergency, permissible towards something that unlawful it is allowable).</p> <p>Exaggeration is wrongdoings. (Maxim: "<i>at-Taasuf isti'mal al-haq</i>" (Misuse of right).</p>	<p>The key for animal protection is adherence towards laws established by the government authorities.</p>
<p>Mufti of the State of Terengganu, His Excellency S.S. Dato Dr. Zulkifli bin Muda (Muda, 2016).</p>	<p><b>Not recognized</b> (Animal being is just a tool for human being to achieve the <i>Maqasid al-Shariah</i>, but, he still encourages a good treatment towards animal)</p>	<p>Unrecognized killing of an animal just to obtain a very little portion for specific benefits while ignoring the other larger portions from the same animal.</p> <p>The needs for human beings must be a priority while the needs for animals must be a second.</p> <p>It is not a problem if all animals need to be killed for the sake of urgency of human needs.</p>	<p>Whatever measures taken even though involve the killing and keeping (protecting) the animal, the reason is for the benefits of human beings. (<i>Maslahah</i>)</p>

### USE WITHOUT PERISH, CARE FOR CHERISH

Defining the *Fiqh* of Halal-haram relating of Animal Care and Use (ACU) in the food and medicinal industries can be categorized into two: a) The ruling laws behind of using any part from the animals as for the source of food for human beings. b) The ruling laws of human treatment towards animals.

a. The ruling laws behind of using any part from the animals as for the source of food for human beings

There are too many variation of food products revealed from the rapid food technological development. As a result, many foods, services and medical products which their ingredients are mixed and some of it components originally derived from the non-Halal sources or the status of application is unclear. For us, we see that finding the precise middle ways (*Wasatiyah*) in our action and practice which involving the consideration of two extreme connotations (halal-haram) is always the best approaches.

Application of *Istihalah* is one of the examples. For instance, in the case on Kopi Luwak, consuming coffee beans after been cleaned thoroughly through hygienically procedures has change the characteristic of the bean where it was previously coated by the impure substances (*Najis*). In this case, permission to consume post-cleaning state of Kopi Luwak bean has recognized the concept of *Istihalah* in Islam. A proper application of the concept of *Istihalah*, could provide an additional value and reinforce the current quality structure in the conventional systematic preventive approach to food safety, such as Hazard Analysis and Critical Control Points (HACCP) and Good Manufacturing Practices (GMP) by improving them holistically. However, this concept cannot be simply used as it, further studies are needed plus the scientifically evidence and religious contemplation are truthfully essential. Moreover, prevention measures and abstaining from taking the foods from unclear sources is pivotal to delete any hesitation feeling and while helping to avoid the future harm could be happen if the prevention of action is not being taken in place.

b. The ruling laws of human treatment towards animals

This paper has brought the explicitly clear evidences stated that Islamic traditions permit some animals to be killed ethically for food consumption or benefitting for medicinal purposes. However, Islam does not recognize slewing out of some other species, in fact, if this instruction is looked at a different perspective, it would be beneficial to humans. Islam also prevents the killing of certain species solely for the interest of mankind.

The aim is simple, firstly, is to provide welfare rights to animals and secondly, for sustaining their diversity. In a common ground, the Islamic ruling laws of human treatment towards animals is always conjugating with the tenets of the Five Freedoms (Freedom from hunger and thirst, Freedom from thermal and physical discomfort, Freedom from pain, injury and disease, Freedom from undue anxiety, fear and distress and Freedom to display most normal patterns of behavior). In Malaysia, Five Freedom is commonly used as a fundamental benchmark in relation to animals' welfare standards such as Good Animal Husbandry Practice (GAHP) and Livestock Farm Certification Scheme. Hence, diligently adherent of the proper Islamic guidance on the *Fiqh* of Halal -haram relating of Animal Care and Use (ACU) will navigate Muslims a step closure to do what is God's favour in our relationship with animal beings. In other word, God's laws welcome the animal use without perish, while at the meantime animal is cared for cherish.

## CONCLUSION AND RECOMMENDATION

In conclusion, there are 5 criteria of principles of animal care and use relating to the issue of animal for the sources food or used as preparation for medicine purposes and remedies which are based on Shariah-compliant.

- a. First: Do not kill animals without purpose.
- b. Second: Do not use methods that are contrary to Islamic law. For this reason, Islam approves killing the animal that can be benefitted for eating or utilizing according to the *Halal* norms. Islam encourages (*Mandhub*) killing animals who cause direct risks, tangible harm or nuisance to human or other living beings. It is dislike (*Makruh*) killing animals who not cause trouble to us if the animal not be disturbed. Islam prohibits (*Haram*) killing animals which have legally forbidden to be killed according to Islamic jurisprudence and not cause disturbance in nature.
- c. Third: Let the activities run by *Maqasid al-Shariah* as to preserve animal faith, life, intellect, property, and progeny.
- d. Fourth: Let the activities that involve the animal beings did not cause harm to human faith, life, intellect, property, and progeny today or in the future and;
- e. Fifth, any activity shall not give negative implications on animal parts and crossed over to humans by any route of entry namely inhalation, skin absorption, ingestion, and injection.

Islamic tradition through it spiritual wisdom combines with ethical teaching with legal injunction of the Shariah indeed have highlighted Islam is a religion that can facilitate two extreme streams of connotations (see Figure 2) (care/conservation (*al-Hifz/al-Himayah*) and use/consume (*al-Intifa'al-Isti'mal*) to find the serener and tranquiller pathway of which been recognized as a Middle way (*Wasatiyyah*) addressing logical paradoxes are connected and valuable in promoting critical thinking.

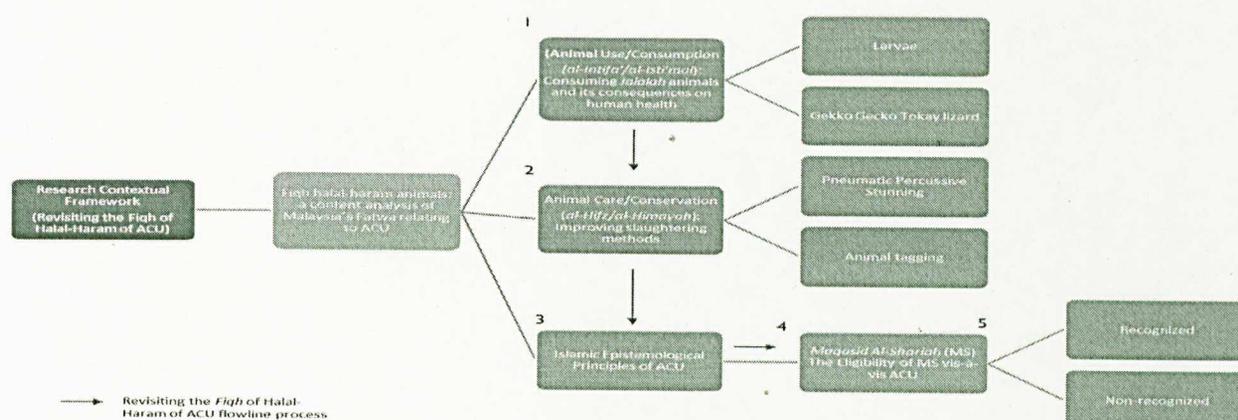


Figure 2: Conceptual graph of the Framework of Islamic ethics towards animal

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