

## The Law on Medicines That Intersect Haram Materials with *Istihalah* Rule

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### ABSTRACT

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Islam prescribes treatment because it is part of the protection and health care which is part of maintaining *adh dharuriyat al khams*. In an effort to seek healing, it is obligatory to use treatment methods that do not violate the shari'a. Medicines used for medical purposes must use pure and halal ingredients. The use of unclean or forbidden ingredients in medicine is illegal except for *shar'i* emergencies (*dharurat syar'iyah*). Medicines that touch unclean or forbidden substances mean using something that is forbidden. One of the rules used to determine whether a medicine product is *halal* or *haram* is the rules of *Istihalah*. This is what makes researchers interested in discussing the study of Medicine Laws that Intersect Haram Substances with the Rules of *Istihalah*. This type of research is descriptive qualitative research with library study data collection methods. This research uses the *Istihalah* theory. The results of this research are; *First*: Medicines that encounter unclean or haram ingredients undergo *istihalah*, so that the final product does not contain any elements that are haram. *Second*: Medicines that experience terms of law are holy (*mubah*), except if the ingredients used come from pigs, the law becomes haram (forbidden). Because pigs are dirty animals, they should not be used for making medicine. *Third*: The use of medicines that contact pigs is permitted in a *syar'iyah* emergency (*dharurat syar'iyah*).

**Keywords:** *Istihalah*; Medicines; Contain; Haram

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## INTRODUCTION

Awareness of the diversity of Muslims in various countries, including in Indonesia, in the last decade has been growing and increasing. As a logical consequence, every time new problems, discoveries, or activities arise as product of this progress, the ummah always wonders what is the position of this in the perspective

of Islamic teachings and law. One of the pressing problems faced by the community is the flood of processed food and beverage products, medicines and cosmetics (MUI, 2015b).

The purpose of Islamic teachings is to maintain the safety of religion, soul, mind, lineage and property. For this reason, everything that benefits the achievement of these goals is ordered, recommended or permitted to be conducted, while those that are detrimental to the achievement of these goals are prohibited or recommended to be avoided. To achieve this goal, Islam prescribes health maintenance and treatment when sick. However, currently many of the medicines circulating in the market are not known to be halal (MUI, 2020).

Orders to consume halal and good food and drink are generally mentioned in QS. Al Baqarah: 168, Allah says:

يَا أَيُّهَا النَّاسُ كُلُوا مِمَّا فِي الْأَرْضِ حَلَالًا طَيِّبًا وَلَا تَتَّبِعُوا خُطُوَاتِ الشَّيْطَانِ إِنَّهُ لَكُمْ عَدُوٌّ مُبِينٌ

*“O mankind, eat from whatever is on earth [that is] lawful and good and do not follow the footsteps of Satan. Indeed, he is to you a clear enemy.”* (QS. Al Baqarah: 168)

يَا أَيُّهَا الَّذِينَ ءَامَنُوا كُلُوا مِن طَيِّبَاتِ مَا رَزَقْنَاكُمْ وَاشْكُرُوا لِلَّهِ إِن كُنتُمْ إِيَّاهُ تَعْبُدُونَ

*“O you who believed, eat from the good things which We have provided for you and be grateful to Allah if it is [indeed] Him that you worship.”* (QS. Al Baqarah: 172)

The verses above not only state that it is obligatory to consume halal things because it is a religious order, but also show that this is a form of expression of gratitude and faith in Allah SWT. On the other hand, consuming what is not halal is seen as following Satan’s teachings.

Then the prohibition on consuming forbidden food, among others, is mentioned in QS. Al Maida: 3, Allah says:

حُرِّمَتْ عَلَيْكُمْ الْمَيْتَةُ وَالْدَّمُ وَلَحْمُ الْخَنزِيرِ وَمَا أَهَلَ لِغَيْرِ اللَّهِ بِهِ وَالْمُنْخَفَقَةُ وَالْمَوْقُودَةُ وَالْمُتَرَدِّيَةُ وَالنَّطِيحَةُ وَمَا أَكَلَ السَّبُعُ إِلَّا مَا ذَكَّيْتُمْ وَمَا ذُبِحَ عَلَى النُّصُبِ وَأَنْ تَسْتَقْسِمُوا بِالْأَزْلَمِ ذَلِكُمْ فِسْقٌ

*“Prohibited to you are dead animals, blood and flesh of swine, and that which has been dedicated to other than Allah and [those animals] killed by strangling or by a violent blow or by a head-long fall or by the goring of horns and those from which a wild animal has eaten, except what you [are able to] slaughter [before its death], and those which are sacrificed on stone altars, and [prohibited is] that you seek decision through divining arrows.”*

And specifically, the Prophet forbade treatment with medicines that contains unclean elements, mentioned in his words:

عَنْ أَبِي الدَّرْدَاءِ قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: (إِنَّ اللَّهَ أَنْزَلَ الدَّاءَ  
وَالدَّوَاءَ، وَجَعَلَ لِكُلِّ دَاءٍ دَوَاءً، فَتَدَاوُوا، وَلَا تَتَدَاوُوا بِحَرَامٍ )

*From Abu al-Darda', Rasulullah saw. said: "Indeed, Allah has sent down the disease and its medicine, and He made every disease have a cure, so seek treatment, and do not seek treatment with that which is haram."*

Consuming something that is haram causes all the acts of worship that are done will not be accepted by Allah SWT. The Prophet in a hadith stated:

*From Abu Hurairah radhiallahuanhu he said:*

*Rasulullah SAW said: Verily Allah ta'ala is good, accepts nothing but good. And verily Allah commands the believers as he ordered His messengers with his words: O Apostles, eat well and do good deeds. And He said: O you who believe, eat the good of what We have provided for you. Then he mentioned that someone was traveling far away in a dirty and dusty condition. He raised his hands to the sky and said: O my Lord, O my Lord, even though his food is unclean, his drink is unclean, his clothes are unclean and his needs are met from something unclean, then (if that is the case) how will his prayer be granted. (HR. Muslim)*

Halal and haram for Muslims is very urgent and has great meaning because the acceptance of a deed of worship by Allah SWT is very dependent on the halal of everything consumed. Therefore, it is only natural that this problem receives serious attention from Muslims.

In Law Number 33 of 2014 concerning Halal Product Guarantee article 1 paragraph (1), it is stated that halal products guaranteed by law are goods and/or services related to food, beverages, medicines, cosmetics, chemical products, biological products, genetically engineered products, as well as use goods that are used, used, or exploited by the public. Furthermore, in paragraph (2) it is stated that halal products are products that have been declared halal in accordance with Islamic law (*Undang-Undang No 33 of 2014 Tentang Jaminan Produk Halal, 2014*).

Islam is genuinely concerned about all things that enter for the benefit of our bodies, whether food, drink, or medicine. There are two provisions that must be considered, the material or substance, as well as how to obtain it. Regarding the method

of acquisition, the assets that we eat must be obtained legally and legally. Therefore, Islam is extraordinarily strong in threatening to acquire illegal assets such as theft and corruption. Whereas in terms of substance, food goods must fulfill two elements, halal and *thayyib*. Halal from a religious dogma approach, while *thayyib* from a food safety perspective (Sholeh, 2015).

Taking medicine is an attempt to reduce or eliminate pain and restore health from the illness. Therefore, taking medicine must be in a way that is also in accordance with Islamic guidance. Namely, it is not permissible to consume medicines that contains ingredients that are forbidden. It is permissible to consume medicines that come from animals that are forbidden or contain ingredients that are forbidden in Islam, but with conditions that are very urgent to protect the soul. If you are sick and do not consume the animal that is forbidden and will die, you may consume the animal as medicine (Akbar, 2022).

In treatment we are prohibited from using medicines that are forbidden, as the words of Rasulullah SAW:

عَنْ أَبِي الدَّرْدَاءِ قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: "إِنَّ اللَّهَ  
أَنْزَلَ الدَّاءَ وَالذَّوَاءَ وَجَعَلَ لِكُلِّ دَاءٍ دَوَاءً فَتَدَاوَوْا وَلَا تَدَاوَوْا بِحَرَامٍ"

"Indeed, Allah has sent down disease and a cure for every disease, so seek treatment and do not treat with forbidden things." (HR. by Abu Dawud)

Currently, food technology has developed so advanced that a food can be made from an exceptionally large variety of ingredients that are difficult to trace. However, with the help of technology, these many ingredients make it possible to trace and know their origins. Information about the origin of the material and the production process is extremely helpful in determining its legal status, whether it is halal or not. The transformation of raw materials into ready-to-eat food, which goes through such a complicated process. One of the rules used to determine its legal status is *Istihalah* (MUI, 2020).

The Islamic scholars make *ijtihad* to determine the halal and haram of a medicine product, *ijtihad* is one of the efforts to respond to recent problems that are not explained *qath'i* in Qur'an and Hadith (Rizka et al., 2022).

Especially since the Covid-19 pandemic, the space for doing *ijtihad* has expanded

along with recent problems that have been coming in succession. Islamic scholars who are affiliated with fatwa issuing institutions, are required to react quickly to the needs of the ummah.

Since the announcement that the world is experiencing a pandemic, the pattern of human life has changed drastically. Attempts that are made often result in conflicts of Islamic law, such as the use of vaccines that are unlawful. To achieve herd immunity, at least 67% of Indonesia's population needs vaccines. The limited production capacity of vaccine manufacturers has resulted in difficulties for the Indonesian government to obtain vaccines. So, they must receive an *astrazeneca* product vaccine that uses trypsin derived from the pig pancreas (Rosyadi et al., 2021).

It is considered more important to discuss *Istihalah* with various causes and variations, especially because several types of food, drinks, medicines and other types of food, drinks, medicines, and others are circulating which are allegedly deliberately mixed with unclean materials, such as pig enzymes and others (MUI, 2020).

That one of the rules used to determine the halal and haram of a medicine product is the *Istihalah* rule, therefore in this research the researchers are interested in discussing the research of *Medicine Laws that Intersect Haram Substances with the Rules of Istihalah*.

## RESEARCH METHOD

The approach method used in this research is a normative juridical approach. This approach is used to analyze problems using secondary legal sources, namely laws and regulations or other applicable legal sources. The data collection method that the researchers used in this research was the study of literature, which then analyzed the data in a descriptive qualitative (Roestamy, 2015).

## RESULT AND DISCUSSION

### 1. *Definition of Istihalah*

*Istihalah* is a change in material and the properties of an object into another object. What is meant by material change includes its elements. While changes in properties include color, smell, and taste (MUI, 2020).

The arguments related to *Istihalah*, including Allah SWT said in QS. Al A'raf: 157

وَيُحِلُّ لَهُمُ الطَّيِّبَاتِ وَيُحَرِّمُ عَلَيْهِمُ الْخَبَائِثَ وَيَضَعُ عَنْهُمْ إِصْرَهُمْ وَالْأَغْلَالَ الَّتِي كَانَتْ عَلَيْهِمْ

“...who enjoins upon them what is right and forbids them what is wrong and makes lawful for them the good things and prohibits for them the evil and relieves them of their burden and the shackles which were upon them.” (QS. Al A'raf : 157)

In QS. Al Maidah: 4, Allah SWT says:

يَسْأَلُونَكَ مَاذَا أُحِلَّ لَهُمْ قُلْ أُحِلَّ لَكُمْ الطَّيِّبَاتُ

“They ask you, [O Muhammad], what has been made lawful for them. Say, “Lawful for you are [all] good.” (QS. Al Ma'idah: 4)

In the hadith narrated by Abu Dawud, at-Tirmidhi, and an-Nasai from Jabir bin Abdullah RA: “From Jabir bin Abdullah, from the Prophet SAW said: “The best drink is vinegar”” (HR. Abu Dawud, at-Tirmidhi, and an-Nasai)

Then in a hadith narrated by Muslim, from Anas RA: “From Anas RA, in fact the Prophet SAW was asked about khamar which is made of vinegar, he replied: “No” (HR Muslim)

And in the hadith narrated by Abu Dawud, and al-Bayhaqi from Anas bin Malik RA: “From Anas bin Mâlik RA, “Indeed Abu Talhah asked the Prophet SAW about orphans who inherited khamar, the Prophet said: “Throw it away” Abu Talhah asked again: “Can't I make vinegar?” He replied: “No” (H.R. Al-Bayhaqi and Abu Dawud)

Meanwhile, in the rules of Usul Fiqh it is stated:

الْحُكْمُ يَدُورُ مَعَ عِلَّتِهِ ثُبُوتًا وَعَدَمًا

“The law revolves around its 'illah. If 'illah exists, then the law exists. Vice versa if there is no 'illah, then the law does not exist.”

## 2. Opinion of Islamic Scholars About *Istihalah*

The term is changing, moving, switching. *Istihalah* occurs from material something that is unclean after some time then turns into pure. Sometimes those changes are caused by intentional processing. As for something that changes from its own substance, then according to the original law it is still considered unclean, not considered holy, except after being washed according to the syar'i, based on the arguments of the syar'i which order to wash unclean, unless the law excludes khamr when it changes with itself into vinegar (Asy-Syinqithi, 2007).

In contrast to *khamr*, because it is unclean because there are consequences (intoxication) that can be understood, because (after becoming vinegar) the cause has disappeared (then it becomes pure) (Abu Ishaq Ibrahim asy-Syirazi, n.d.). If *khamar* changes by itself into vinegar then the law is holy, but if the change is engineered, for example adding other ingredients, then the law is impure (Suja', n.d.).

If there is dirt mixed with the soil for a while, then it loses its impure nature, and turns into soil, then there are two opinions of the Islamic scholars: one of them considers it unclean, because the unclean thing (*'ain an-najrasah*) is still there. The second opinion, being pure, because it has turned into soil, changing something unclean to something else that is clean (*istihâlah*) can change the law (Al-Juwayni, n.d.).

In fact, what causes *khamar* to be unclean is due to intoxication, and (when it turns into vinegar) the reason is gone, then everything in it becomes pure and the vinegar is clean. It is permissible to make vinegar (from *khamar*) as (the Prophet) SAW said: "*Vinegar justifies khamar like tanning justifies skin (carcass).*" This contradicts another hadith narrated by Muslim, namely the (Prophet) SAW order to throw away/pour the *khamar* that was gifted to him. If making it into vinegar was really prescribed by the Shari'a, of course he would have ordered it that way, according to the spirit of the Shari'a to protect property (Idrisal-Qarafi, 1994).

Ointments, creams, and cosmetics which contain lard are not allowed to use them, unless there is a complete change in the lard. If it does not happen, then it is unclean ('Afanah, 1427).

According to Imam Syafi'i there are different conditions related to the permissibility of using an item, there are two opinions. According to the school's opinion, it must be specified, it is not permissible for clothes and the body, except in emergencies, and it is permissible for other than clothes and body if the impurity is light, if the impurity is severe (i.e. the uncleanness of dogs and pigs) then it is not permissible. This is in accordance with the opinion of Abu Bakr al-Fârisî, al-Qafal and his followers; not allowed to wear dog and pig skins in normal circumstances, because pigs cannot be used for certain purposes while alive, neither can dogs, especially after both have died (An-Nawawi, n.d.).

And pigs, because pigs are dirtier than dogs, because they are not allowed to use pigs

in normal circumstances, even though they are considered suitable for use (Haitami, 958).

Our friends (followers of the Syafi'i school of thought) are of the opinion: In fact, treatment with unclean objects is permissible if you have not found a sacred object that can replace it, if you have found it – medicine with sacred objects – then it is unlawful to treat with unclean objects. This is the meaning of the hadith “*Indeed, Allah does not make your health into something that is forbidden for you*”, so treatment with unclean objects becomes haram if there are alternative medicines that do not contain unclean and are not haram if you have not found other than these unclean objects. Our friends (followers of the Shafi'i *Madzhab*) are of the opinion: It is permissible to treat with unclean objects if the medical experts – pharmacologists – state that there is no medicine except those with unclean objects, or medicines – with these unclean objects – recommended by Muslim doctors (Al-Nawawi, n.d.).

### **3. *Opinion of the Indonesian Ulema Council (MUI) Regarding Istihalah***

Results of *Ijtima'* the Islamic Scholars Fatwa Commission throughout Indonesia V of 2015 regarding *Istihalah*. It stated that the legal provisions related to terms, among others, contained (MUI, 2015a):

- a. The process of *istihalah* does not change unclean material into purity unless it changes by itself (*istihalah bi nafsiha*) and does not come from *najis 'ayni*. In the case of *khamr* to become vinegar, either it changes by itself or it is engineered, the law is holy.
- b. Every processing of halal materials that are processed with unclean or unclean growth media, then the material is legally *mutanajjis* which must be purified (*tathhir syar'an*).
- c. That any material made from pork or its derivatives is haram to be used to make food, drinks, medicines, cosmetics, and consumer goods, whether used as raw materials, additives, or auxiliary materials.

### **4. *Medicine Laws That Intersect Haram Materials with Rules of Istihalah***

Medicine is an ingredient or a mixture of materials for use in determining the diagnosis, preventing, reducing, eliminating, curing disease or disease symptoms. Medicines consist of active ingredients and pharmaceutical ingredients (excipient auxiliaries). In a medicine preparation can contain three to four adjuvants. The development of medicine manufacturing process technology is now increasingly advanced and is a challenge to produce good and halal medicines (Putriana, 2016).



Medicines that contact with pigs are a special sign to inform that the product in its manufacturing process is in contact with materials originating from pigs (BPOM, 2010).

Pork trypsin in the manufacture of medicines (vaccines) functions as a catalyst. The amount is small, while the process of purifying (purification) is done many times. In ready-to-use products, traces of pork trypsin are no longer found (Soebandrio, 2013).

The Covid 19 vaccine, *Astrazeneca*'s product, is an example of a medicine that has contact with haram elements because pigs are used in its manufacturing process. It was stated in the MUI fatwa No. 14 of 2021 concerning the Law on the Use of *Astrazeneca*'s Covid 19 Vaccine Products, that according to the report and explanation of the LPPOM MUI auditor team submitted to the MUI Fatwa Commission which stated, among other things, the production of the *Astrazeneca* vaccine went through the main stages, including:

- a. Preparation of the main virus, at this stage there is the use of ingredients from pigs in the form of trypsin which comes from the pancreas of pigs. This material is used to separate host cells from their microcarriers.
- b. Preparation of recombinant vaccine seeds until they are ready for production. At this stage there is the use of trypsin from pigs as a component of the media used to grow *E. coli* with the aim of regenerating the transfection plasmid p5713 p-DEST ChAdOx1 nCov-19.

Then it is mentioned in the fatwa regarding the legal provisions, including:

- a. The Covid 19 vaccine by *Astrazeneca* is illegal because in the stages of the production process it uses trypsin which comes from pigs
- b. The use of the *Astrazeneca* Covid-19 vaccine is currently permissible (*mubah*), because:
  - 1) There is a condition of urgent need (*hajjah syar'iyah*) which occupies a condition of emergency *syar'iy* (*dharurah syar'iyah*)
  - 2) There is information from competent and trusted experts about the danger (fatal risk) if the Covid-19 vaccination is not immediately carried out
  - 3) The availability of halal and pure Covid-19 vaccines is not sufficient for the implementation of Covid-19 vaccinations to create group immunity
  - 4) There is a guarantee of safety for its use by the government
  - 5) The government does not have the freedom to choose the type of Covid-19 vaccine given the limited vaccines available
- c. Permission to use the Covid-19 vaccine from *Astrazeneca* products as referred to in number 2 does not apply if the reasons referred to in number

2 letters a, b, c, d and/or e are missing.

As for the permissibility of using medicines that touch pigs due to a *syar'iy* emergency (*dharurah syar'iyyah*). As stated in the MUI Fatwa No. 30 of 2013 concerning Medicines and Treatment, it is stated, among other things, that the use of medicines made from unclean or forbidden ingredients for medical treatment is illegal unless they meet the following requirements:

- a. Used in conditions of compulsion, namely conditions of compulsion which if not carried out can threaten the human life, or conditions of urgency which are equivalent to emergency conditions, namely conditions of urgency which if not carried out can threaten the existence of the human soul in the future
- b. Halal and pure ingredients have not yet been found
- c. There are recommendations from competent and trusted medical professionals that there are no halal medicines

## CONCLUSION

The rule of *Istihalah* is one of the rules used to determine whether an object is halal or haram, including medicine. Islamic scholars have different opinions in determining the halal-haram law with the *istihalah* rules into several opinions:

1. Unclean or haram materials that experience *istihalah* are categorized as haram according to their substance.
2. Unclean or haram materials that experience *istihalah* are categorized as pure because they change from their illegitimate nature.
3. Unclean or haram materials that experience *istihalah* are categorized as haram because they use unclean materials, especially pork, except in a *syar'iy* emergency (*dharurah syar'iyyah*).

Based on some of the opinions mentioned above, the researchers draw several conclusions, including:

1. Medicines that encounter unclean or haram ingredients undergo a period, so that the final product does not contain any elements that are forbidden.
2. Medicines that experience terms of law are pure (*mubah*), except if the ingredients used come from pigs, the law becomes haram. Because pigs are dirty animals, they should not be used for making medicine.
3. The use of medicines that contact pigs is permitted in a *syar'iy* emergency (*dharurat syar'iyah*).

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