Vol 12, Issue 11, (2022) E-ISSN: 2222-6990

The Status of Makruh in the Halal Haram Framework: A Conceptual Analysis

Mohd Akil Muhamed Ali, Mohd Farhan Md Ariffin

Research Centre for Quran and Sunnah, Faculty of Islamic Studies, Universiti Kebangsaan Malaysia

Corresponding Authors Email: farhan.ariffin@ukm.edu.my

Muhammad Ikhlas Rosele

Academy of Islamic Studies, University of Malaya

Mohammad Fahmi Abdul Hamid, Mohd Syukri Mohd Noor

Academy of Contemporary Islamic Studies (ACIS), UiTM

To Link this Article: http://dx.doi.org/10.6007/IJARBSS/v12-i11/15052 DOI:10.6007/IJARBSS/v12-i11/15052

Published Date: 03 November 2022

Abstract

The concept of halal and haram becomes an important focus for Muslims. It is grounded on the development of halal industry as well as the societal tendencies to be involved in activities that are categorized as halal. However what needs to be scrutinized about the concept of halal is that it's the opposite of what is haram. This issue raised question on the status of halal in the cache of usul figh and figh. The justification is that a rough observation towards the statement shows that matters that are halal encompasses everything that is obligatory, recommendable, permissible and makruh, which is certainly opposite of what is haram. Therefore, a conceptual discussion on halal needs to be more detailed to ensure the activities are within the framework of shariah requirement. Thus, a library data-driven research or documents as well as inductive and deductive analysis method will analyze the exact concept of halal according to the framework of al-Quran, hadith and Islamic jurisprudence. The research found that halal can be divided into two categories which are absolute halal and non-absolute halal, which includes the status of makruh where the Muslim community is only advised to carry out the absolute halal, but there is ease in doing non-absolute halal activities. In conclusion, it is hope that this paper will offer directions for future research in halal study with the use of absolute and non-absolute halal framework provided.

Keywords: Halal, Haram, Islamic Jurisprudence, Non-Absolute Halal, Shariah

Vol. 12, No. 11, 2022, E-ISSN: 2222-6990 © 2022

Introduction

The wholesomeness concept of halal, which covers not only the shariah requirement, but also the sustainability concept of hygiene, sanitation and safety aspect, makes halal food readily acceptable by consumers who are concerned about food safety and healthy lifestyle. The commandment to search or carry out something that is halal is clearly said in al-Quran and Hadith. More so the discussion about this becomes important especially these days. The obligation to understand halal and haram is as said by Allah SWT:

يُؤْتِي الْحِكْمَةَ مَنْ يَشَاءُ وَمَنْ يُؤْتَ الْحِكْمَةَ فَقَدْ أُوتِيَ خَيْرًا كَثِيرًا وَمَا يَذَكَّرُ إِلَّا أُولُو الْأَلْبَابِ

Translation: "Allah grants *al-hikmah* (deep understanding of Al Quran and Al-Sunah) to whoever He wills. And whoever is granted *al-Hikmah* is certainly blessed with a great privilege. But none will be mindful of this except *Ulul Albab*."

(Surah al-Baqarah, 2: 269)

According to Ibn 'Abbas, the meaning of *al-Hikmah* is deep understanding and knowledge in al-Quran, towards the *nasakh* and *mansukh*, *muhkam* verses and *mutasyabih*, its beginning and end, halal and haram in them (Ibn Kathir, 2000). In line with this, Allah SWT explained the perfection of Islam as a religion, which includes the understanding of halal and haram concepts as detailed by Ibn Hazm (1983):

مبين أن الحكم قد استقر في كل نازلة، إما بتحريم، وإما بتحليل، وإما بإيجاب Translation: "The explanation for the words of Allah SWT is the rule has been inscribed in every case and event, be it haram, halal, or obligatory."

Ibn Hazm's explanation towards the words of Allah SWT is:

الْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ وَأَتْمَمْتُ عَلَيْكُمْ نِعْمَتِي وَرَضِيتُ لَكُمُ الْإِسْلَامَ دِينًا فَمَنِ اضْطُرَّ فِي مَخْمَصَةٍ غَيْرَ مُتَجَانِفٍ لِإِثْمِ فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ

Translation: "Today I have perfected your faith for you, completed My favour upon you, and chosen Islam as your way. But whoever is compelled by extreme hunger—not intending to sin—then surely Allah is All-forgiving, Most Merciful."

(Surah al-Maidah, 5: 3)

Other than that, the words of Allah SWT call upon mankind to search for that that is halal and good (*halalan tayyiban*):

يَا أَيُّهَا النَّاسُ كُلُوا مِمَّا فِي الأَرْضِ حَلالا طَيِّبًا

Translation: "O humanity! Eat from what is lawful and good on the earth and do not follow Satan's footsteps. He is truly your sworn enemy."

(Surah al-Baqarah, 2: 168)

The meaning of *tayyib* in the verse includes something that seems good for humans, something that does not harm the body and the mind (مستطابًا في نفسه غير ضار للأبدان ولا للعقول). This is as explained by (Ibn Kathir, 2000). While al-Qurtubi explained this matter by citing the wise words of 'Abd Allah al-Saji (al-Qurtubi, 2006);

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خمس خصال بها تمام العلم، وهي: معرفة الله عز وجل، ومعرفة الحق وإخلاص العمل لله، والعمل على السُّنة، وأكل الحلال؛ فإن فُقدت واحدة لم يُرْفع العمل

Translation: "Five matter comes with which perfects knowledge, which are knowing Allah SWT, knowing the truth and sincerely acts for Allah, acts as according to sunnah and eat halal. If one of those disappear, acts done will not be accepted."

Sahl also explained an almost similar issue with his own words (al-Qurtubi, 2006);

ولا يصح أكل الحلال إلا بالعلم، ولا يكون المال حلالاً حتى يصفُوَ من ستّ خصال: الربا والحرام والسُّحْت وهو اسم مجمل والغُلول والمكروه والشُّبهة

Translation: "It is not acceptable to eat that that is halal except with knowledge, and assets will not be halal until cleansed these six matters which are: riba, haram matters, bribery, treachery, makruh matters and syubhah."

However, it becomes a question of what it means by halal and its status in Islamic jurisprudence. Is it strongly advised or the opposite? To further the conceptual discussion and the status of halal according to the fiqh perspective, research will explain the halal concept and its requirements. Afterwards the research will analyze the status of halal in Islamic jurisprudence.

Literature Review

Halal is something that is advised to be searched and practiced in a Muslim life. Thus, searching for that that is halal is a clear commitment from al-Quran and Hadith. The prior discussion has explained the proposition from al-Quran that call upon its followers to search for what is halal. In this discussion, several hadith are proposed to provide sound statements on the commitment of searching for what is halal. Rasulullah SAW said:

طَلَبُ الحَلالِ وَاجِبٌ على كَلِ مُسلِم Translation: "Searching for what is halal is an obligation upon every Muslim." (Hadith narrated by al-Tabarani)

In other hadith, al-Tabarani narrated a different text, which is Rasulullah SAW said:

طَلَبُ الْحَلالِ فَرِيضَةٌ بَعْدَ الْفَرِيضَةِ Translation: "Searching for what is halal is an obligation that comes after the other obligations."

(Hadith narrated by al-Tabarani)

It is an absolute requirement to search for what is halal as explained in the hadith, similar to the absolute commitment to leave what is haram. However, it is stated in the other hadith that there is a third division, which is *al-syubhah* that is recommended to be avoided. The establishment of this concept is clear in Islam as it is portrayed by Rasulullah SAW in several hadith, among them:

إِنَّ الْحَلَالَ بَيِّنٌ وَإِنَّ الْحَرَامَ بَيِّنٌ وَبَيْنَهُمَا مُشْتَبِهَاتٌ لَا يَعْلَمُهُنَّ كَثِيرٌ مِنْ النَّاسِ فَمَنْ اتَّقَى الشُّبُهَاتِ اسْتَبْرَأَ لِدِينِهِ وَعِرْضِهِ وَمَنْ وَقَعٍّ فِي الشُّبُهَاتِ وَقَعَ فِي الْحَرَامِ كَالرَّاعِي يَرْعَى حَوْلَ الْحِمَى يُوشِكُ أَنْ يَرْتَعَ فِيهِ أَلَا وَإِنَّ لِكُلِّ مَلِكِ حِمَّى أَلَا وَإِنَّ حِمَى اللَّهِ مَحَارِمُهُ أَلَا وَإِنَّ فِي الْجَسَدِ مُضْغَةً إِذَا صَلَحَتْ صَلَحَ الْجَسَدُ كُلُّهُ وَإِذَا فَسَدَتْ فُسَدَا أَنْ يَرْعَى حَوْلُ كُلُّهُ أَلَا وَهِيَ الْقَلْبُ Translation: "Truly what is halal is clear and what is haram is clear and between the two there are vague (syubhah) matters which are not known to most humans. Whoever avoided themselves from matters that are vague means they have cleansed their religion and its honor. Whoever is involved in matters that are vague, they descended into matters that are haram ..."

(Hadith narrated by al-Bukhari and Muslim)

This hadith clearly showed that there are three categories which are *al-Halal al-Mahd* (absolute halal), *al-Haram al-Mahd* (absolute haram) and *al-Mutasyabihat* (Ibn Rejab, 1997). Based on this hadith, *al-Mutasyabihat* matters should be avoided. An almost similar explanation is as Rasulullah SAW said:

الْحَلَالُ مَا أَحَلَّ اللَّهُ فِي كِتَابِهِ وَالْحَرَامُ مَا حَرَّمَ اللَّهُ فِي كِتَابِهِ وَمَا سَكَتَ عَنْهُ فَهُوَ مِمَّا عَفَا عَنْهُ Translation: "What is halal is what has been given the halal status by Allah in His scripture, while what is haram is what has been given the haram status by Allah in His scripture, and what has been kept quiet is something forgiven by Him."

(Hadith narrated by al-Tirmidhi and Ibn Majah)

The two hadith distinctly depicted in between what is halal and haram is a division that is called *syubhah* and *al-maskut 'anhu*. The status of *syubhah* and *al-maskut 'anhu* made the understanding of the concept of halal and its divisions as mandatory in this research.

In other words, the commitment to search for what is halal and leave what is haram is a clear matter. What about *syubhah* and *al-maskut 'anhu* in said context? This matter will be discussed in the following discussion.

The Clarity of Halal and Haram

Halal according to Arabic language originates from the word ح ل ل which becomes حل , halal (حلال) meaning the antithesis of what is haram (Ibn Manzur, t.t.), it also means becoming optional (Ahmad Mokhtar, 2008). According to al-Qaradawi (1980), halal as a term means a matter that is allowed and not bound to any risk from doing it, and Allah permits doing it. Al-Qurtubi (2006) explained that to be given halal status is to dissolve any risk and prohibition.

Haram according to Arabic language originates from the word \tilde{z} أَدُ مَ becomes محرام which is the opposite of what is halal, and *al-haram* (الحرام) is matter that is prohibited by Allah (Ibn Manzur, t.t.). According to al-Qaradawi (1980), the term haram is a matter that is strictly prohibited by shariah, which appears to be a warning to whoever violates the prohibition will lead himself to Allah's punishment in hereafter, while there is also shariah punishment in this world.

However what needs to be scrutinized about the concept of halal is that it's the opposite of what is haram. This issue raised question on the status of halal in the niche of usul fiqh and fiqh. The justification is that a rough observation towards the statement shows that halal encompasses everything that is obligatory, recommendable, permissible and makruh, which is certainly opposite of what is haram. This is as pictured in the following diagram:

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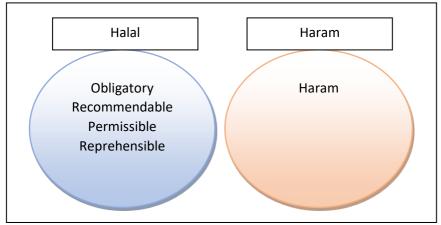


Diagram 1.0: Classification of halal and haram

Even then, this statement also raises several questions. Questions that are raised when the proposed dalil is observed are:

- 1- Is an act of makruh, something that is a requirement because generally Muslims are advised to search for what is halal?
- 2- What is the status of matters that are *mutasyabihat* and matters that are *maskut* such as in the hadith stated before?
- 3- What is the true concept of makruh and halal?

This research does not deny the status of makruh as halal, but instead focuses on a more thorough categorization of what is halal. Furthermore, the scholars' discussion on something vague being given the status of halal is well-known as according to the figh method:

أَنَّ الْأَشْيَاءَ أَصْلَهَا عَلَى الْإِبَاحَة

Translation: "Every something is originally permissible." (al-Suyuti, 1997)

So, this method becomes a parameter in the status of *mutasyabihat* and *al-maskut* 'anhu as something that is permissible or halal. However, matters that are permissible usually do not remain permissible because its status will be exposed to the other statuses which are obligatory, recommendable, makruh and haram. Therefore, the discussion will not stop at that point. To understand the concept of halal, haram, and makruh, there is a need to have a more detailed and specific discussion.

Conceptual Analysis of Halal and Makruh

It is clear that the concept proposed is a concept that is generally formed. It needs more details until several questions can be properly answered. If several hadith are observed, especially the hadith on *syubhah* there is a third category which is *syubhah* or in several other hadith is called *al-maskut 'anhu*. Thus, what is the status of that matter and its relationship with the makruh status? This matter can be explained by gaining a deeper understanding of the concept of halal.

In general, there is a difference in scholars' opinion on what defines halal. According to Imam al-Syafi'i, halal means anything that does not have any dalil on its status being haram. While Abu Hanifah explains the meaning of halal as; anything that has dalil on its status as

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halal. Roughly there is a point of similarity in the definitions of both the scholar figures. But when observed, the difference has an effect, specifically towards the status of *al-maskut* 'anhu (silenced rule). Thus the status of *al-maskut* 'anhu for Imam al-Syafi'i is that it is halal whereas Abu Hanifah considers it to be haram (al-Zarkasyi, 1985).

Al-Qalsyani as written in the text *Anwar al-Buruq* explained that there is a difference in giving the concept of halal. There are views that consider halal as something that is not known whether it is haram, while there are other opinions that stated halal as something that the origin is known (having a sign or dalil that explains its halal status). According to al-Qalsyani, the explanation of the first concept provides ease to society, especially in the current era. He further explained how the status of halal can be differentiated with haram and syubhah (al-Qarafi, 2010):

"If humans only take and use something only for theirs and their families' need without in excess, no addition to their need then they certainly do not eat what is haram and syubhah."

From the explanation, it can be understood that the concept of halal is a concept that bears a difference among scholars. The status of *syubhah* and *al-maskut 'anhu* can be categorized in the same cluster, which is the status of the rule is unclear. Then there are also three categories that become the basic understanding in discussing the issue of halal which are: halal, haram and syubhah. Therefore, it needs to be understood what it means by syubhah and its status in Islamic jurisprudence. Regarding *syubhah*, al-'Asqalani (t.t.) explained that there are four interpretations, which are

- 1- Something that has conflicting dalils
- 2- Scholars' disagreement in its rule, an effect from the conflicting dalils
- 3- It carries the meaning of makruh, because it is in-between doing and leaving the act
- 4- It carries the meaning of permissible

Thus, syubhah and al-maskut 'anhu can also be interpreted as something that is makruh. It can be concluded that halal can be divided into three. The categorization can be explained in the following discussion. This is because there is a need for more details on the status of makruh in Islamic jurisprudence.

From the nas al-Quran and hadith before this, clearly there is a requirement to look for what is halal. Due to the status of makruh as something that can affect this issue, the meaning of makruh or *al-Karahah* is an important discussion. Makruh is among those that are included in the *taklifi* rule category. *Taklifi* rule can be divided into two general categories which are *al-talab* (commitment) and *al-ikhtiyar* (choice). *Al-Talab* are categorized into two which are the requirement to do it and the requirement to leave it. The two divisions are then divided into two more which are certain or uncertain. If it's a requirement to do something that is certain, it is obligatory and uncertain matter becomes recommended. The requirement to leave something that is certain would refer to haram and what is uncertain would refer to makruh (Al-Jizani, 1996).

Therefore, makruh is something that is imposed by shariah to be avoided with a nonstrict requirement. Furthermore, Wahbah al-Zuhayli (1999) stated that even doing something that is makruh will not be punished, but sometimes the agent will be insulted. In general, the

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definition of makruh differs in usul fiqh publications. For example, al-Jizani defined makruh as (Al-Jizani, 1996);

"An act that is praised by people who left it and it is not sinful for those who do so"

Al-Ghazali (1413H); Al-Amidi (2003) explained that makruh is an understanding that becomes different among the usul scholars. They said there are four meaning of makruh which are: first; something that is prohibited (the concept of makruh as haram is seldom used by Imam al-Syafi'i. second; *Nahy al-Tanzih*, which is a form of prohibition that is not strict, in other words leaving the act is higher in priority than doing it. Third; *tark ma huwa al-awla*, which is a rule to leave something that is better if it is carried out, such as leaving solat dhuha. Fourth, referring to something that is vague and *syubhah* to its status of being haram.

Therefore, with this attribution it is difficult to absolutely put the status of makruh into the halal category. This situation made it possible to create a middle category which can include the status of makruh (*grey area*). However, to create that category, there is still a need for clearer justification.

The hadith on *syubhah* clearly positioned matters that are *al-musytabihat* to the third category between halal and haram. Besides, there is also an interpretation of *al-mutasyabihat* as makruh. This matter positioned makruh as the midline between halal and haram. Other than that, the alignment of *al-maskut 'anhu* also proved that there is another category between halal and haram.

However, a question that is still unclear is if makruh is generally out of the halal category. In this issue, makruh does not seem to be out of the halal framework, but it is not absolute halal and not something advised to be carried out. In this context, halal can be divided into two which are absolute halal and non-absolute halal.

Ibn Hazm (t.t.) explained that the element of a matter can be divided into three which are *al-fardu wa al-lazim*, *al-halal wa al-mubah* and *al-haram wa al-mahzur*. According to him, *al-halal wa al-mubah* can be divided into three which are *al-mubah al-mustahab*, *al-mubah al-mustawi* and *al-mubah al-makruh*. In this issue, makruh is clearly categorized as halal, while in other contexts Ibn Hazm (t.t.) does not divide halal into three categories. However, in the division of absolute halal and non-absolute halal, *al-mubah al-mustawi* and *al-mubah al-mustahab* will be categorized as absolute halal according to the principle of *al-asl fi alashya' al-ibahah*.

Supporting the division of absolute halal and non-absolute halal, there is a record from al-Ghazali (2005: 546) that defines absolute halal as:

Translation: "Absolute halal is that that is substantially free from properties that lead to the status of haram, and free from reasons that lead to the status of haram or makruh."

Thus, a clear understanding of this context is that matters that are makruh is excluded from the definition of absolute halal. Other than that, what is found in nas al-Quran and hadith clearly shows a requirement to search for what is halal (*talab al-fe'l*), while makruh is something that is advised to be left (*talab al-tark*) (al-Namlah, 1996). This situation enforces the classification of makruh as non-absolute halal. Therefore, research suggests that halal classification is as the following diagram:

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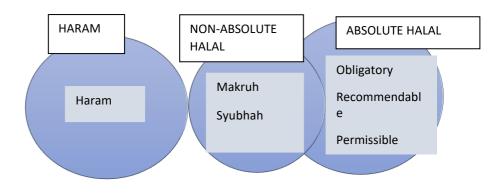


Diagram 2.0: Classification of makruh as non-absolute halal

As a result, the status of non-absolute halal in reality is understood by Islamic intellectuals, but there is no clear form of division. The status of non-absolute halal is taken from the term used in hadith Rasulullah SAW that said "*abghad al-Halal*". Al-Nawawi (t.t.) in *al-Majmu'* stated that talaq that is not in the categories of talaq *sunni* and talaq *bid'iy* are makruh, based on hadith Rasulullah SAW regarding talaq. Therefore, even though talaq is generally halal, but it is not advised because the status is makruh.

In the matters of food consumption, it should be asserted that the clarity of absolute halal matters is elastic in nature and can change to non-absolute halal or haram with the presence of mixed element (*ikhtilat*), mixing (*ishtibah*) and doubt (*syak*). It is also the same when it comes to the most important aspect, which is the good and the bad (*al-Tayyibat wa al-Khaba'ith*) of a food product which is dependent on the consumer's immunity status. As a result, halal matters can be makruh be it *tanzih* or *tahrim* or haram if it involves risk, treatment, contamination, or interference of any element capable of causing harm and hated by *shariah*.

As an example, halal food such as fruit is permissible if eaten as long as it is proven to be in good quality and good condition. However, the status can be makruh or haram when eating rotten or worm-contaminated fruit. This is because rotten food can be dangerous to human health. Similar issue is found with worm, as its presence suggest the food become rotten or expired. Such matter is a sign of food contamination.

In other examples, sugar is a halal food, but the intake leads to risk of diabetes at certain amount. Same goes for halal food that is prepared or taken with an unsafe method until the *maslahah* that needs to be achieved turned into *mafsadah* which finally harms the self. However, if the risk factor towards the harmful element disappears, the status is thus lifted along and no longer becomes significant (Ariffin, 2019).

Conclusion

In conclusion, the need for the knowledge on halal within the society needs to be prioritized. Other than that, a precise and complete understanding towards the concept of halal is also a need for the society to prevent society from being involved with matters that are haram and syubhah, more so matters that are makruh. This is according to the advice of Rasulullah SAW to carry out *shariah* obligations as much as possible and leave any *shariah* prohibitions, as the hadith narrated by al-Bukhari and Muslim; (أَمَرْتُكُمْ بِأَمْرِ فَأَتُوا مِنْهُ)

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مَا اسْتَطَعْتُمْ), meaning; "if I forbid you on something, avoid it and if I order you to carry out something then carry it out to your ability".

The requirement to leave what is haram, more so matters that are vague (according makruh or syubhah) is as according to the words of Nabi SAW; (دَعْ مَا يَرِيبُك إِلَى مَا لَا يَرِيبُك), meaning; *"leave matters that make you doubtful to things that do not leave a doubt in you."*.

Acknowledgement

The authors would like to thank Research Centre for Quran and Sunnah, Universiti Kebangsaan Malaysia for the support provided. The Grant provided to the authors under Geran Pengajian Islam 2022 (PP-2022-019) is highly appreciated.

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