

Elements of Maslahah and Mafsadah in Islamic Legislation on The Usage of Electronic Cigarettes and Shisha in Malaysia

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Abstract

The usage of electronic cigarettes and shisha has spread in Malaysian society, especially among young people nowadays. It seems to be unstoppable until its usage is considered as a pleasure and pride for their lives. The importance of this topic is that Islam has set important guidelines to be followed according to Shariah (rule of life practices) that need to be adhered. It happened probably due to the clash between *maslahah* and *mafsadah* regarding this issue, probably when there are possibilities of violation of ethics and legislations that would go across the line. This study applies the methodology of documents analysis as well as library search that will assess the extent to which the practice of post-mortem is in accordance with the requirements of *maqasid* which takes into account the concepts of *maslahah* and *mafsadah*. In order to obtain the necessary data, this study further applied two methods, namely identifying the views of scholars through the books they wrote in determining the law and also by analyzing according to inductive, deductive and comparative methods. Subsequently, the major findings of this study shows that the practice of using electronic cigarettes and shisha in Malaysia have to be stopped by applying a holistic approach based on the assessment of Islamic ethics and laws under the concept of *maslahah-mafsadah* (benefit-risk). Therefore, three main steps based on the *maslahah-mafsadah* element approach are suggested: first; evidence-based approach, second; impact-based approach and, third; priority approach. The analysis further concludes that the ban on the usage of electronic cigarettes and shisha can be categorized as an initial preventive measure for society, although it is seen to have an impact on the business income of some electronic cigarette and shisha operators. However, in future, the aim to ban electronic cigarettes and shisha should be in view, as is to safeguard and strengthening the welfare of the community and rejecting all evils whether related to religion, life, reason, dignity and property of the Muslim community at large.

Keywords: Maslahah-Mafsadah, Legislation, Electronic Cigarettes, Shisha

Introduction

In determining a law in the life of the community, Sharia takes into account the interests and public welfare so that the Muslim community is in a prosperous state and ensures that harm to their health is avoided.

Among the matters emphasized by Sharia are matters related to health problems such as the use of prohibited and prohibited substances. This is said because Malaysia, as one of the countries with a Muslim majority, needs to be concerned about issues like this. For the Muslim community, they need to be aware and be able to distinguish between halal and haram in aspects of life including things related to consumerism. Nowadays, the scenario happening in Malaysia is about the hotly talked about issue of electronic cigarettes and shisha. This is said to be so because the issue is seen to contribute to a perception that is not liked by some of the Muslim community including the authorities as if it portrays that they do not emphasize issues related to halal and haram that must be practiced by the Muslim community.

The situation creates confusion among the Muslim community regarding the issue, is it allowed in Islam, does the use of the substance not affect their health, is the act considered a common practice that has nothing to do with religion and several other questions arise. All of these require a complete answer in the context of Islam so that the community has a clear attitude and stance from the point of view of law and practice. Therefore, the Muslim community needs to refer to authoritative parties such as the mufti and the fatwa committee in such related matters. This article will try to answer some of those questions.

For this purpose, this article will discuss how the authorities in determining the law in Malaysia take into account *masalah* and *mafsadah* in deciding on a matter related to the use of electronic cigarettes and shisha. This is intended to answer some questions raised by the community regarding the problem. With this decision, it is seen to be able to create a healthy life and preserve the lives and minds of the Muslim community in Malaysia that conforms to the *maqasid syariah*.

Electronic Cigarettes

The first electronic cigarette was introduced by Herbert A. Gilbert in 1963 but was not commercialized and then went silent in 1967. The first electronic cigarette used today came from the invention of a pharmacist from China, Hon Lik in 2003, who vaporized nicotine that dissolved in liquid propylene glycol. This vapor as a nicotine carrier agent is inhaled into the lungs and then enters the bloodstream. The purpose is to give a dose of nicotine to smokers without having to inhale cigarette smoke that contains other harmful chemicals (Gilbert, 1965).

In the beginning, e-cigarettes were built to resemble regular cigarettes. But after the term vapor was introduced, e-cigarettes took on a different identity from regular cigarettes. Electronic cigarettes consist of several main parts, namely the battery, atomizer and inhaler. Simply put, the battery supplies electricity to the atomizer which will heat the e-liquid into vapor. The user will inhale this vapor through an inhaler.

An electronic cigarette is a nickname for a device that supplies a dose of nicotine in the form of vapor by heating a liquid mixture of propylene glycol, glycerol, food flavoring and nicotine to make it vaporized and inhaled by the user. This device gives smokers who want to quit smoking still get a dose of nicotine and can still enjoy smoking because the vapor released looks like cigarette smoke. There are several nicknames for this electronic cigarette including

e-Cigarette, vapor and e-cig. However, because electronic cigarettes still use the word 'cigarette', it still gives stigma to people who don't know about it. Calling 'vapor' which means 'vapour' is more easily accepted by the community (Maria et. al., 2015; Herzog et al., 2012). There are various models available on the market today and they are usually divided into two types, electronic and mechanical. The electronic model contains an electronic chip that can control the electrical power supplied to the atomizer. While the mechanical model does not contain any controls, it is more popular and easy to operate due to its indestructible nature.

Atomizer

There are several types of atomizers that are often used, including cartomizers, clearomizers and rebuildable atomizers, each of which is different in terms of structure and use. Generally, e-cigarette users who use the ego model use an atomizer. The atomizer is the part that converts e-liquid into vapor. It consists of a heater that heats the e-liquid that moistens the part that holds the e-liquid. Usually this part is made of wick, stainless steel wire and stainless steel mesh. Atomizers have various structures such as top coil, bottom coil, drip and others (Maria et. al., 2015).

E-Liquids

E-liquid is a mixture of propylene glycol (PG), vegetable glycerin (VG, glycol), flavoring and nicotine. There are also mixtures that do not include nicotine. Nicotine dissolves well in PG while VG promotes the concentration of vapor produced. The seasonings used are food seasonings that are commonly used in food products (Kosmider et. al., 2014).

Propylene Glycol, PG

Although the world is still worried about the safety of e-cigarettes, it is clear that we need to put more emphasis on scientific research in this area. Interestingly, the findings of studies conducted before the birth of electronic cigarettes and which give us clues about the effects of vaping on the human body. A perfect example is this 1942 study led by Dr. Oswald Hope Robertson from Billings University in Chicago (USA). Dr Robertson studied the effects of propylene glycol (PG) inhalation on laboratory rats (Robertson, 1942).

Although propylene glycol is one of the main ingredients of e-liquid, Dr. Robertson had tested its effects through inhalation even before it was used in e-cigarettes. He suspected that this powerful ingredient could be useful in treating respiratory diseases, flu and even pneumonia. To test his theory, he placed groups of mice in two different boxes. In the first box, he sprayed propylene glycol in the air with the flu virus. In the second box, he sprayed only the virus. Surprisingly, all the mice in the first box containing propylene glycol survived, while those in the second box containing only the virus died (Robertson, 1942).

After this laboratory test, Dr. Robertson concluded that: " Propylene glycol itself is a powerful disinfectant. That a dose of propylene glycol sprayed for 2,000,000 doses of air in a few seconds can kill large concentrations of pneumococci, streptococci and many other bacteria" (Robertson, 1942).

However, PG can cause short-term and long-term effects. According to studies conducted, short-term effects include irritation to the eyes, throat and respiratory tract (Wielander et al., 2001; Vardavas et al., 2011) while long-term effects can cause asthma (Choi et. al., 2018). This study supports that inhaling PG can cause irritation to a person's respiratory system.

PG when heated will produce substances that release formaldehyde. Formaldehyde is a substance that can cause cancer. Studies show that the amount of formaldehyde produced depends on the level of heat used when vaporizing PG (Jensen et. al., 2015).

Vegetable Glycerin, VG

VG is a substance obtained from vegetable oils. Its sweet nature can replace sugar but is lower in calories, and is widely used as an ingredient in cosmetics, food, medicine and others. VG can absorb moisture in the air which makes it an additive in food to keep food moist. Low-fat or low-sugar foods usually use VG as a sweetener because it does not cause a drastic effect on blood sugar content and does not cause tooth decay. In fact, it does not become food for bacteria to multiply (George, 2023)

Seasoning

Different types of seasonings are used in the market. Most users think that the seasoning used is harmless. An in-vitro study conducted by Bahl et. al (2012) found that this e-cigarette liquid is capable of killing cells, namely lung cells, brain cells and skin layers. This study calculates the level that is capable of killing these cells which is known as cytotoxicity (cytotoxicity). Electronic cigarette liquids containing various flavorings have shown high levels of cytotoxicity.

Nicotine

Nicotine is a substance obtained from plants and is a natural stimulant. 0.6% – 3% nicotine is identified in dry tobacco leaves while 2-7 ug/kg in other plants. Nicotine can cause addiction just like addiction to heroin and cocaine. Nicotine has psychological effects such as being able to change mood and is usually a stimulant and sedative. Nicotine causes the liver to release glucose and stimulating adrenaline. Nicotine also calms, sharpens the mind, relaxes and improves focus. But it also reduces appetite and increases metabolism. Smokers are usually underweight (Yusdirman, 2016).

When nicotine is inhaled through the lungs and continues to flow through the blood to the brain, within seven seconds it will stimulate the brain to release many nerve-stimulating chemicals. It can improve concentration and memory, increase focus, increase sexual desire, reduce pain, reduce anxiety, increase the effect of dopamine and increase brain sensitivity (Yusdirman, 2016).

But nicotine can also increase blood pressure and heart rate. Nicotine intake in high amounts (30mg-60mg) can cause death to adult humans. However, nicotine intake through cigarettes causes other bigger health problems such as cancer, heart and lung (Yusdirman, 2016).

Shisha

Shisha is a type of device used to release smoke (smoking) using a water filter and indirect heat. It can be used to smoke various substances such as fruit herbs, tobacco, and marijuana. Shisha is also known by various names such as long pipe, nargeela, nargile, narghile, nargileh, argeela, argileh, shisha, sheesha, okka, kalia, hookah, ghelyoon, or ghelyan. Depending on the geographical difference. These names come from Arabic, Indian, Turkish, Uzbek, and Persian words. Narghile comes from the Persian word 'nargil' meaning coconut and in Sanskrit; the original pipe, comes from India and is made of coconut shell (Nakkash & Khalil, 2010).

In general, the shisha tool consists of several main parts which are (Chaouachi, 2009):

- a. The head (head), which is a bowl (made of clay) to put tobacco and charcoal.
- b. The body or middle (body), is the link between the head and the bottom and is usually made of metal or wood.
- c. The bottom part is a water bowl (water bowl/water chamber). Usually it is filled with water but sometimes it can also be filled with milk, fruit juice or wine. Water containers are often made of glass.
- d. The hose and mouthpiece used to suck smoke out of the shisha device. However, there are also some differences in the design of this shisha according to the place and customs of the people who use it. For example, some have more than one hose and suction device and can be shared by two or more and also differences in the shape and size of the head or water container.

The dangers of smoking shisha are the same as the dangers of smoking cigarettes. Tobacco products whether in the form of shisha or cigarettes and any other form contain nicotine. Nicotine is addictive. In each shisha smoking session, you ingest 100 to 200 times more smoke and up to 1.7 times more nicotine than smoking a cigarette. Water that is considered a filter cannot filter out all cancer-causing chemicals (Nordin, 2014).

Among the bad effects of smoking shisha is addiction to smoking shisha. It occurs when nicotine reaches the brain within about 10 seconds of inhalation. Therefore, addiction can occur even after several sessions of shisha. Symptoms of quitting shisha include restlessness, fatigue, headache, throbbing and depression. Tobacco contains nicotine and nicotine is addictive. One shisha smoking session takes about 60 minutes, and this is equivalent to the amount of nicotine found in one pack of cigarettes. Nicotine is not water soluble. Therefore, water does not reduce the amount of nicotine inhaled (Nordin, 2014).

In addition, among the adverse effects of smoking shisha is carbon monoxide poisoning. Burning charcoal produces carbon monoxide and other heavy metals that are carcinogenic. Likewise, smoking shisha will cause a person to face lung cancer and oral cancer. Infectious diseases such as tuberculosis and hepatitis, herpes, aspergillus and helicobacter infection. Sharing shisha pipes has the risk of spreading these diseases, aspergillus causes severe lung infections, helicobacter causes stomach ulcers and will develop chronic diseases such as chronic obstructive pulmonary disease (COPD) and heart disease (Nordin, 2014).

The Concept of *Maslahah* and *Mafsadah*

Al-Gazālî (2008) thinks that *maslahah* is care for the purpose of Syarak. At the beginning, he stated that *maslahah* is a statement about achieving benefits and rejecting harm. But what al-Gazālî meant by "achieving benefit and rejecting harm" here is not to achieve human will and purpose. The meaning of achieving benefit and rejecting harm is to achieve the purpose of Syarak which covers religion, soul, intellect, lineage, and property. Therefore, for al-Gazālî, every thing or action that takes care of the five things is considered *maslahah*. On the other hand, anyone who damages or denies the purpose of the five Islamic laws, is referred to as *mafsadah*.

According to al-Syatibî (2003), *maslahah* is everything that is understood to explain human problems with the achievement of *maslahah* - *maslahah* and the rejection of *mafsadah*-*mafsadah*, and it is not obtained through reason alone but it must be recognized by the Sharia

to accept or reject it.

Ibn 'Āsyūr (2001) also defines *maslahah* as actions that produce goodness and benefits that are continuous both for the public and for individuals. Al-Būti (2000) defines *maslahah* as the benefit directed by Allah SWT the All-Wise to His servants in order to preserve their religion, life, intellect, offspring and wealth according to the order of importance determined in the five matters

A specific discussion about the concept of *mafsadah* is rarely done by usul scholars, but that does not mean that the concept is not important. This is because the concept of *mafsadah* has been mixed up with each other when scholars write about the concept of *maslahah*. It is admitted that the discussion of *mafsadah* by some scholars is done directly in the concept of *maslahah*, although other scholars also discuss it separately with a general discussion without detail.

Briefly, the meaning of *mafsadah* according to Ulama's term is as follows; Al-Gazālī (2008) thinks, *mafsadah* is every thing that destroys the importance of the five (*al-usūl al-khamsah*) is *mafsadah*. Al-Salām (1968) stated, *mafsadah* is a grief and its reasons, pain and its reasons. Whereas al-Rāzī (n.d.) thinks that *mafsadah* is an expression of pain or a path (*wasilah*) that brings about the pain.

Unlike Ibn 'Ashūr (2001) who defined it as if he wanted to separate between *maslahah* and *mafsadah*. He defined *mafsadah* as the nature of an act that produces damage or harm that is continuous, habitual, happens to the majority of people or individuals.

Authorities Related to Islamic Ethics in Malaysia

Parties with authority in the practice of Islamic law in Malaysia are under the authority of the state government. Each state is empowered to enact administrative enactments of Islamic law. Thus, in each state, the Islamic Religious Council is established and officials such as Mufti, Kadi Besar and Kadi. The Mufti is usually the Chairman of the *Sharia* Committee who is given the task of issuing a fatwa if needed (Ibrahim, 1997).

In determining an Islamic law, mufti or fatwa committees appointed in the states of Malaysia are generally seen as based on the final opinion in Shafi'i sect. This is because according to the provisions of the law, every state in Malaysia except Perlis should give priority to Shafi'i sect in issuing fatwas. However, if the fatwa is contrary to the public interest, the mufti or the Fatwa Committee may follow the opinion of other sects namely Maliki, Hanafi and Hanbali which are considered reasonable with general benefits (Ibrahim, 1997; Ishak, 1981).

According to a study conducted by Buang (2004), there is no fatwa decided by the mufti and the fatwa Committee based on his own opinion and *ijtihad*. It is guided by the opinions of the sect as found in the books. Most references and guidance in issuing a fatwa are based on Shafi'i sect although there are also references based on other sect and books in contemporary form and comparison of sects.

Maslahah and Mafsadah Related to the Use of Electronic Cigarettes, Vape and Shisha

Islam places great emphasis on human life. It is not only a matter related to religious beliefs, but it also involves life, intellect, offspring and property. Thus the objectives of *sharia* (*maqasid sharia*) emphasize these five things that must be preserved and strengthened. Next, the author presents legal decisions issued by the authorities in Malaysia to explain the issue of electronic cigarette and shisha use and relate it to the application of *maqasid sharia* from 2010 to 2015.

Electronic Cigarettes And Vape

In issues related to the use of electronic cigarettes or vaping, the Special Muzakarah of the Fatwa Committee of the National Council for Islamic Religious Affairs of Malaysia No. 3/2015 which convened on 21 December 2015 at Sama-Sama Hotel, KLIA, Sepang, Selangor Darul Ehsan discussed this issue. The decision made by the Muzakarah indeed takes into account the maqasid sharia in determining the law of its use (Department of Islamic Development Malaysia, 2015).

The decision made by Muzakarah takes into account all aspects, especially from the point of view of evidence and clear information from the Malaysian Ministry of Health and the presentation of legal research papers on "Electronic Cigarettes and Vape".

Therefore, from a health scientific point of view, Muzakarah found that electronic cigarettes contain Nicotine, Propylene Glycol, Vegetable Glycerin and flavorings and dyes. While vaping contains Propylene Glycol, Vegetable Glycerin and flavoring and coloring materials (Malaysia Fatwa Official Portal, 2016).

Meanwhile, the ingredients contained in electronic cigarettes and vapes have a negative impact on people's health such as addiction, promoting blood clotting, sudden death, irritation to the eyes, throat and skin and can kill lung cells. Other content found in electronic cigarettes and vaping can also cause side effects to health (Malaysia Fatwa Official Portal, 2016).

Furthermore, the principle of passive smoking as in conventional cigarettes also applies to electronic cigarettes and vapes where people around also get the effect of the vapor that comes out of electronic cigarettes and vapes. Therefore, it not only harms the electronic cigarette and vaping smoker but also the people around them.

Based on the findings of the medical and scientific studies that were presented, electronic cigarettes and vaping are still not proven to be an alternative treatment for smoking cessation or nicotine addiction by smokers, in fact it causes more people to get stuck in this problem, including teenagers and children. child

From the perspective of Sharia, the Muzakarah party found that the law prohibiting eating or drinking or taking harmful substances is mentioned by scholars from the four schools of thought, namely Hanafi, Maliki, Syafii and Hambali in their books. They state that substances that are harmful to the body are forbidden to eat, drink or take even if they are pure such as poison, soil, glass and the like (Malaysia Fatwa Official Portal, 2016).

One of the general arguments in banning the use of electronic cigarettes and vaping is that these acts are harmful to the body. Islamic Sharia prohibits acts and actions that lead to destruction and self-harm. It is indeed in line with the maqasid sharia in preserving life and reason so that people avoid all forms that can cause harm such as illness and loss of life and reason (Hamid, Y., undated). Furthermore, it coincides with the words of Allah SWT in Surah Al-Baqarah, verse 195 which means:

"And do not deliberately throw yourself into the danger of destruction".

The hadith of the Prophet SAW also explains the same thing as follows which means:

"Do not harm (yourself) and give harm (to others)". (Hadith narrated by Ahmad, Malik, Ibn Majah and al-Daraqutni)

Among the criteria of harm that Islam takes into account in the prohibition of a certain food or drink or substance are; The harmfulness of the substance is clearly or clearly proven. This

is said to be so because by taking the substance in the usual way (ghalib) it can bring harm. In addition, the harm can occur immediately or slowly, can lead to death, loss/damage of limbs, bring dangerous diseases, or harm to the mind. Harmful substances are certainly not considered beneficial.

Arguments based on analogy or qiyas also prove that electronic cigarettes and vaping are not different in law from conventional cigarettes because both have the same reason ('illah) which is harmful to the body.

The use of electronic cigarettes and vaping is a form of waste that is prohibited by religion because it is an expenditure in useless, useless, and even harmful to the body. It also burdens the national economy to finance the cost of treatment for related diseases. This is in line with the maqasid sharia in preserving property so that there is no use of property in a way that is wasteful and not beneficial to humans (Hamid, n. d.).

The use of electronic cigarettes and vaping is also vulnerable to abuse that can lead to the distribution of marijuana and dangerous drugs. Therefore, it is appropriate that things that can be exposed to great harm such as disobedience to religion, endangering the family and descendants must be curbed and closed through the establishment of illegal laws, based on the method of sadd al-dharī'ah which is "closing the door of damage". This is very much in line with the concept of maqasid al-shari'ah to protect benefits and avoid all harm (Hamid, n. d.; al-Burhani, 1995).

Based on the public interest, the government has a certain approach, including by using the power to prohibit the use of substances that are harmful to the community in order to protect the public interest (maslahah ammah) based on fiqh methods (al-Suyuti, 1990):

"The government's actions towards the people must depend on maṣlaḥah"

Thus, the decision taken by the Muzakarah is very correct because Islam is a complete religion that always takes care of human life universally based on the principle of maqasid al-Shariah which wants to take care of religion, life, intellect, descendants and wealth. The use of electronic cigarettes and vaping, if not curbed, can destroy the five principles of this Sharia. Everything that includes the preservation of these five principles is maslahah (goodness) and everything that eliminates it is mafsadah (damage), maintaining it is maslahah (Hamid, n. d.).

Based on the arguments presented above, it coincides with Muzakarah giving a legal opinion that the use of electronic cigarettes and vaping is haram. Therefore, Muslims are prohibited from smoking electronic cigarettes and vaping or any activity related to electronic cigarettes and vaping.

The Law of Shisha According to the View of Sharia

In the issue related to the use of shisha, the Special Muzakarah of the Fatwa Committee of the National Council for Islamic Religious Affairs of Malaysia which convened on 17 July 2013 discussed this issue seriously and very carefully because it went through several research processes and in-depth studies from various parties including the Ministry of Health Malaysia. After listening to the presentations and explanations of experts from the Malaysian Ministry

of Health and examining the information and detailed medical and scientific evidence presented from inside and outside the country on the effects and great harm faced as a result of shisha on the health of the community, the development of the national economy and the formation of generations in the future, then Muzakarah agreed to decide that shisha is haram. Therefore, Muslims are prohibited from smoking shisha or providing services for smoking shisha or any activity related to shisha (Department of Islamic Development Malaysia, 2013).

The same is also according to the opinion presented by the Mufti of the Federal Territory 2015, Negeri Sembilan Fatwa Committee Meeting and Bill. 9/2013-1434H which convened on 27 August 2013 corresponding to 20 Syawal 1434H also agreed to accept the decision of the National (Special) Fatwa Muzakarah. Before that in Kedah, Sohibus Samahah Dato' Mufti Negeri Kedah Darul Aman had already discussed this issue on 24 January 2011 corresponding to 19 Safar 1432. Similarly in Perlis, the Perlis State Fatwa Committee had also discussed this issue on 24 June 2013 (Official Fatwa Portal Malaysia, 2016).

The prohibition of this shisha is based on evidence through syaraq texts from the Qur'an and Hadith as well as fiqhiyyah methods to ensure that the five basic things for humans contained in the maqasid of syariah, which are to protect religion, soul, intellect, lineage and property can be preserved as required by syaraq. This is because shisha clearly has an impact in the direction of breaking down the strength of religious beliefs, harming health to the point of causing death and disruption to human reason, neglecting responsibilities to family and descendants, wasting and wasting time and property and is categorized as a bad or abominable thing.

Therefore, taking shisha that contains a negative composition does not meet the will of Allah S.W.T. this. Islam forbids its people to allow themselves to be exposed to various dangers and harms. This is according to the words of Allah S.W.T which means:

"And spend (your wealth) in the way of God, and do not intentionally throw yourself into the danger of destruction and do good because God loves those who try to improve their deeds". (Surah Al-Baqarah: verse 195)

Smoking shisha, cigarettes and so on is included in the category of self-destruction by doing harm, whether short-term or long-term. This matter is strongly prohibited in Islam because Islam attaches great importance to the care of five basic things for humans, namely: care for religion, mind, soul, offspring, and property. This very much coincides with the concept of maqasid sharia in Islamic teachings (Hamid, n. d.).

Smoking shisha is considered like killing oneself slowly and indirectly without the knowledge of the practitioner. In this verse that says killing, it does not mean killing using a sharp weapon only, but it includes silent killing that can cause great harm to humans.

In the Quran, Allah SWT also states that spending money on things that do not bring good and benefit to oneself, family and so on is strictly prohibited in Islam. Such actions can bring harm and lead to waste of property, time, energy and so on (Hamid, Y., undated). Islam forbids any waste as Allah S.W.T says:

Meaning: ...and do not spend extravagantly. (Surah Al-Isra': verse 26)

In addition, this ban on smoking shisha coincides with the hadith of the Prophet S.A.W.:

Meaning: Do not harm (yourself) and give harm (to others)

In the meantime, the law of smoking shisha can be compared to cigarettes because both have a general similarity in terms of their composition such as puffs of smoke produced from tobacco. In fact, a WHO study shows that the smoke produced by shisha is more produced than cigarettes by 100-200 cigarettes in one session.

This is said to be so because the 37th Muzakarah of the Fatwa Committee of the National Council for Islamic Religious Affairs of Malaysia which convened on 23 March 1995 had discussed the law of smoking from an Islamic point of view and had decided that smoking is haram from an Islamic point of view because there is harm in it.

This fatwa is also in line with the fatwa issued by the Egyptian scholar, Dr. Abd AL-Jalil Shalabi said smoking is haram because it can harm the health of the community. It is also supported by a Saudi Arabian fatwa issued by the Government of Saudi Arabia which states that smoking, growing tobacco and trading it is haram because there is harm in it.

Apart from shisha causing great harm to a person's health, it can also cause damage to property. A WHO study on shisha smokers in Egypt shows that it affects the respiratory system, the heart, exposure to infectious diseases, disorders of the immune system and blood hormones and so on.

This prohibition is also seen to be compatible with kedah fiqh which is called *sadd al-dhar'i'* or closing the door of corruption. It is said that efforts to block something that can harm a person must be done so that he can distance himself from actions that can be harmful. As for the issue of shisha, it is very dangerous to the health of individuals who practice it. This kind of thing is strictly prohibited in Islam.

According to the opinion of Al-Qaradhawi (2004), taking something harmful is prohibited and the prohibition is very much in accordance with the wishes of the maqasid sharia in order to protect the welfare of religion, life, reason, dignity and property .

Conclusion

What can be concluded from the discussion above is that all the fatwas that have been decided by fatwa institutions in Malaysia regarding the use of electronic cigarettes or vaping and the use of shisha are in line with the maqasid syariah which aims to preserve benefits and reject all forms of harm whether to religion, life, intellect, self-respect and property. Only what is necessary and very significant now is the study and reconsideration of some of the following aspects to ensure the effectiveness of the enforcement of a fatwa in achieving the objective of creating an atmosphere and society that adheres to religious life, safeguarding life, reason, family and property so that it is in line with the maqasid al- sharia:

I. The application of punishment based on Islam in a systematic way from the aspect of the type of punishment and needs to be improved to meet the philosophy of punishment in Islam.

II. Fatwa related to the offense of using prohibited substances and damaging health and waste of property needs to be strengthened by being gazetted and enforced so that it is more consistent and clear so that the Muslim community does not conflict with Islamic morals and Islamic law.

III. The use of more clear and unambiguous terminology to avoid confusion and controversy in the process of implementation and enforcement against those who commit offenses related to morality and Islamic law.

IV. It is recommended that the institution of fatwas be given wider authority, especially in cases related to the abuse of substances that are intoxicating and can destroy life and reason in the current society so that Islamic law does not continue to be taken for granted.

V. Explanations and clarifications need to be made more widely and continuously about things that can damage the value of religion, life, intellect, offspring and human property so that they do not fall into destruction in this world and in the hereafter.

Although in the fatwa presented above it is not mentioned and clearly stated its connection with the focus of writing related to maqasid sharia, the author is very optimistic that those decisions which are more explanatory and informative still have their own purpose and objective to preserve the values of Islam, life, reason, descent and human property.

Therefore, the goal of Sharia or maqasid sharia will only be achieved when people carry out God's commands and abandon His prohibitions. If they do not know the maqasid even once, they still need to fulfill their obligations in Islamic syariah prayer, zakat, fasting, Hajj and all other orders and restraints of syariah. The purpose, goals, effects and results related to it are mandatory orders and demands of the shari'ah for every person who is of sound mind and of sufficient age to carry out (the shari'a) and strive to achieve it.

In fact, Sharia includes everything that God revealed in the form of laws related to belief, practice and morals. That all the laws revealed by God are considered as Sharia. That things and morals are not separated from Sharia. Beliefs and morals are the foundation and pillars that encourage the implementation of sharia. Sharia is like a response from the body to do good with the demands of faith and morals. Anyone who believes in faith and moral values but abolishes sharia or accepts sharia but wastes faith and morals; then he is not a Muslim who submits to Allah Taala and he does not take the path that leads to salvation (from hellfire).

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