AL-ISRA Vol.:1, Issue: 1, Jul - Dec 2022 PP: 37-49 OPEN ACCESS AL-ISRA f International Journal of Islamic Thought ISSN: 2959-3603 www.israjr.com

The concept of confusion in matters (will and endowment) and its research review

Published: 31-12-2022

Accepted: 05-12-2022

Received: 15-08-2022

Hasnain Amjad

Research Scholar, Faculy of Usool ad Din, IIU, Islamabad Email: <u>hasnainamjad0345@gmail.com</u>

<u>Abstract</u>

It is necessary to prevent the correctness of Shariah matters and to keep matters free from distortion and corruption, as nowadays there is confusion in nutrients and medicines, for example, the mixing of dubious substances in nutrients, the use of alcohol, opium in medicines, its in addition to this, the mixture of the body components of impure animals is found in various medicines. In clothes for external use, products such as cosmetics, it contains components of the bodies of forbidden and impure animals. Confusion with worship and its different forms, the effect of confusion in the actions and members of such prayers, confusion of intention in Farz and Wajib, confusion in Sunnah and Nafal. Today, the practice of usurious matters is common. In all business, trade, transactions and other matters, people do not discriminate between Halal and Haram (Allowed and forbidden) due to their greed towards each other. Halal and haram wealth are often mixed up. Goods are traded on the basis of mixed, while the real blessing is in doing business in a Shariah way and doing other matters in a Shariah way and this is possible only when knowledge of the Shariah rules in trade and other *matters is learnt.*

Keywords: Shariah, Distortion, Forbidden.

Introduction

In human societies, the use of mixing (غلط) in worship, transactions, mutual exchanges, buying and selling, partnerships, and speculation in trade has been prevalent in various forms over time. However, the forms of mixing have been changing over different eras, and variations and fluctuations have been occurring. As a result, different forms and types of mixing have emerged, which have created many problems. These problems are such that it is necessary to know the commandments of Sharia (and to save oneself from them, and this can only be possible when the Sharia commandments are clearly stated and explained in an easy and understandable way.

It is necessary to avoid mixing to ensure the correctness of transactions and to keep them free from corruption and disruption according to Sharia. For example, nowadays, mixing is found in food ingredients and medicines, such as the adulteration of suspicious items in food ingredients, the use of alcohol and opium in medicines, and the mixing of parts of impure animals in different medicines.

Mixing in transactions

The permissibility of mixing in bequests (orphans' property) has been discussed in detail by the noble scholars of Islamic jurisprudence, and possible scenarios of mixing in deposits and bequests will be examined in light of their statements.

Mixing with orphans' property

It is a virtue of Islam and was intended to help Muslims and alleviate their difficulties, as well as to make it easier for orphans. It is permissible to mix with their property in order to improve their interests, with the condition of correction and control. Allah, the Exalted, has emphasized the sanctity of orphans' property in the Holy Quran.

" إِنَّ الَّذِيْنَ يَأْكُلُوْنَ أَمْوَالَ الْيَتْلِى ظُلْمًا إِنَّهَا يَأْكُلُوْنَ فِي بُطُونِيهِ ذِ ذَارًا وَسَيَصْلُوْنَ سَعِيْرًا"

"Verily, those who wrongfully consume the property of orphans, they only fill their bellies with fire. And soon they will be entered into a blazing fire."

The use (mixing) of orphan's property according to Majority of" Fuqaha"

Regarding the use (mixing) of orphan's property, the majority of the jurists hold the view that it is permissible. According to the Hanafi school of thought, Abu Bakr al-Jassas states in his book "Ahkam al-Quran" that:

"وَ يَسْعَلُوْنَكَ عَنِ الْيَتْلَى فَقُلْ إِصْلَاحٌ لَهُمْ خَيْرٌ وَ إِنْ يُخَالِطُوْهُمْ فَإِخْوَانْكُمْ ²

And they ask you about orphans. Say, "Improving their condition is best. And if you mix your affairs with theirs - they are your brothers.

In the interpretation of this verse, it is stated that it permits mixing in buying and selling with the property of orphans, if it is for the betterment and benefit of the orphans. Similarly, trading (Mudarabat) with the property of orphans is also allowed.³

According to the Imams of the Maliki school, including Allama Qurtubi, Allah has given conditional permission for mixing (i.e. mingling and utilizing the wealth of orphans) in the following verse:

" قُلْ إِصْلَاحٌ لَهُمْ خَيْرٌ وَ إِنْ يُخَالِطُوهُمْ فَإِخْوَانْكُمْ "

Say, reconciliation is better for them. And if you associate with them, they are your brothers

This means that permission is granted for using the wealth of orphans in business transactions, such as buying and selling, trading and investing, if the intention is for their benefit and to improve their affairs.⁴

According to the scholars of the Shafi'i school of thought, it is permissible for a guardian to mix (i.e. use) the property of an orphan if they

are poor, but if they are wealthy, it is not permissible. Their evidence for this is the following verse:

"وَمَنْ كَانَ غَنِيًّا فَلْيَسْتَعْفِفْ °وَمَنْ كَانَ فَقِيْرًا فَلْيَأْكُلْ بِالْمَعْرُوْفِ »

Their disagreement is regarding whether a guardian is required to provide security if they are in a state of poverty, and they consume the property of an orphan. Kitab al-Muhadhab mentions: "If the guardian wishes to eat from the property of the orphan, I consider: if he is rich, it is not permissible, but if he is poor, it is permissible." Similarly, they also discuss when providing security is mandatory, and they say:

"There are two opinions: one is that security is not mandatory because the guardian is a hired worker and has the right to eat from the property under his guardianship, and he is not responsible for it like he is not responsible for providing sustenance like the provision that the Imam eats from the property of Muslims. The second opinion is that security is mandatory because it is someone else's property, and it is permissible to consume it out of necessity, so providing security is required for those who are forced to consume someone else's property." ⁵

There are two opinions regarding the obligation of guarantee when a guardian eats from the orphan's property.

One opinion is that the guardian will not be held responsible for guaranteeing the property because he is a hired guardian and has the right to eat from the property due to his guardianship. This is like how the Muslim ruler takes his daily expenses from the public treasury (Bait-ul-Maal).

The other opinion is that the guardian will be held responsible for guaranteeing the property since it belongs to someone else and he has been allowed to eat from it due to necessity. This is similar to how a person who is forced to eat from someone else's property is allowed to do so but must guarantee it later.

Imam Nawawi says,

"The guardian is allowed to mix his own property with the property of the orphan and eat from it." 6

According to the Imams of the Hanbali school of thought, it is permissible for the guardian to invest in the property of the orphan and to keep his share of profit if he gives the property for investment. This opinion is based on the principle that mixing the property of the orphan with that of the guardian is permissible if it is in the best interest of the orphan and until the guardian keeps the best interest of the orphan's property in mind. This is a common belief among the majority of scholars. In addition, their evidence for this includes:

Quranic verse:

"And if you mix with them, then they are your brothers"⁷

Hadiths.

Narrated by Ibn Abbas (may Allah be pleased with him), he said: When the verse "And do not approach the property of an orphan, except in the way that is best until he reaches maturity"8 was revealed, people began isolating the property of orphans to the extent that food would spoil and meat would rot. This was mentioned to the Prophet (peace be upon him), and then the verse "And if you mix with them, then they are your brothers" ⁹ was revealed. Ibn Abbas said, "So mix with them."¹⁰

Hadith narrated by Amr ibn Shuaib - may Allah be pleased with him - from his father, from his grandfather, that the Messenger of Allah - peace be upon him - said:

"Whoever is the guardian of an orphan and has wealth, let him trade with it and not leave it until charity eats it up."¹¹

Amr bin Shuaib narrates from his father and grandfather that a man came to the Prophet (ﷺ) and said, "I am not able to find anything, and I do not have anything, but I have an orphan for whom I am a guardian and who has some wealth. The Prophet (ﷺ) said, "Eat from your orphan's wealth only what is reasonable, without extravagance or waste, and without making it your habit, and use it to save your own wealth."¹²

These are evidences of the majority opinion in matters of religion, and they confirm the majority's religious beliefs.

Rules of Mixing in Waqf

Mixing in the usage of Waqf:

When the endower (waqif) establishes an endowment and determines its usage, he does not have the right to change its usage under normal circumstances. For example, if he established an endowment for orphan children, he cannot later decide to include their wives. Once the endowment is established, the endower's direct relationship with it ends, and therefore he does not have the right to change it.

Therefore, according to Allama Qazi Khan in his Fatwa collection, if a person establishes an endowment for the poor during his lifetime and then withdraws the funds from the responsible person, and then at the time of his death, he instructs his executor to distribute the proceeds of a certain business to a specific person or persons, this instruction will be considered invalid. Because the endowment has become the right of the poor, and the endower cannot invalidate their right unless the condition of the endowment is that he can spend its proceeds as he wishes.¹³

A person dedicated their land for the benefit of the poor during their lifetime and handed it over to the trustee. Then, upon their death, they instructed their executor to give such and such amount to a certain person from the income of the endowed land and give so much to another person. Or, they told their executor to make a decision according to their own discretion. At the time of their death, the order to give this income from the

endowment land to other people becomes void because endowing the land made it the right of the poor. Therefore, they cannot make the right of the poor void. However, if the endowment was made with the condition that the income would be given according to the will of the endower, then they will have the authority to do so. This is also stated by Allama Husain bin Masood Al-Baghdadi.¹⁴

Alama Shami has written on the same topic:

If there was a valid condition at the time of endowment (waqf), the endower (waqif) cannot change or specify it after its approval, especially after the court ruling, as it is established that retracting from conditions is not valid in endowments. However, if the endower had reserved the right to change the designated beneficiary at the time of endowment, then he has the right to do so later on.¹⁵

In Al-Asaaf Fi Ahkam Al-Awqaf, it is mentioned:

"If he (the endower) stipulated in his endowment that he can increase or decrease his share in the waqf as he wishes, or include or exclude whoever he wants from among the beneficiaries, then this condition is valid and he has the right to do so."¹⁶

Trustee's Mistake: Using Waqf property for personal use

It is not permissible for a trustee or its owners to use the Waqf property or its belongings for personal use, as it will be considered a breach of trust. This is mentioned in Al-Bahr al-Ra'iq:

"It is not permissible for the trustee of a mosque to take the mosque's lamp to his house."⁷⁷

Not only is this a breach of trust, but it is also very difficult to compensate for it. Typically, many people give donations to Waqfs and mosques, and their whereabouts are often unknown. It is not possible to seek forgiveness from each one of them, and it is also challenging to pay them back. Therefore, it is extremely dangerous to use Waqf and mosque property for personal use. This is a clear example of treachery, similar to misusing the public treasury or war booty.

It is harmful for a trustee to make such a contract that may be detrimental to the Waqf.

No one can make a contract for the trustee of an endowment in which the loss of the endowment is clearly visible. The jurists have given the example that if money was needed for the endowment, and the trustee borrowed some money from someone, for example, ten rupees, and then bought something worth one rupee from the borrower for ten rupees, this is not permissible because buying something worth one rupee for ten rupees is a clear case of fraud, which is not permissible for the trustee. However, if the trustee buys something worth 70 rupees for 100 rupees on credit, and then sells it for 60 rupees, this is permissible for the trustee to use the money for the endowment. The difference between both situations is that in the second situation, although the debtor is paying ten rupees more, he is getting the facility of deferment (delay) in return. Therefore, it is permissible to charge him interest for the benefit of the waqf. However, in the first situation, the debtor is buying something worth one rupee for ten rupees and is not getting any benefit of deferment because it is not possible to defer the loan. The lender can demand his loan at any time, so the first situation is not permissible, while the second situation is permissible.¹⁸

Violating the conditions imposed by the endower:

It is not permissible for the trustee to violate the lawful conditions imposed by the endower that are contrary to the Shariah and against the interest of the endowment and those for whom it is endowed. Al-Allama Ibn Nujaim said,

"It is not permissible for the trustee to violate the conditions related to the yield and collection of the endowment that are imposed by the endower."¹⁹

From these details, it is clear that the trustee cannot violate the conditions imposed by the endower concerning the endowment's revenue and collection. However, if violating the endower's condition is in the interest of the endowment, then the trustee may do so with the permission of the judge. For example, if the endower imposes a condition that the endowment cannot be rented out for more than a year, but after a year, no one is willing to rent it at a suitable rent, then the trustee may violate this condition with the permission of the judge and rent it out for more than a year.²⁰

If a trustee takes a loan from the endowment for their personal needs, it is not considered acceptable because it raises concerns of embezzlement, so the trustee should exercise caution in such matters.

Giving a waqf property on rent for free:

If the waqif (donor) has specified that the income from the waqf property, such as a house or shop, should be spent on certain expenses, then it is not permissible for the mutawalli (caretaker) to rent out the property to anyone for free. This is mentioned in Fatawa Hindiya:

"It is not permissible for the mutawalli to allow someone to reside in the waqf property without payment."²¹

Taking a loan from the waqf as a mutawalli:

If the mutawalli takes a loan from the waqf for his personal needs, it is not desirable because it may raise suspicion of embezzlement. Therefore, the mutawalli should be cautious about it.

This is written in the Tatarkhaniya Fatwa:

If the trustee wants to spend the surplus income of the endowment on his personal needs, he cannot do so unless he returns it when the endowment needs it for its purposes. It is better to refrain from doing so altogether. However, if he does spend it on his personal needs and then spends the same amount on the pilgrimage, it is hoped that he will be absolved of any wrongdoing, but in the Fatwa al-Fadli, it is stated that this absolution does not apply to any guarantee.²²

Mixing of food items, medicines, and external use items

Mixing of impure or unclean substances in food items, medicines, and external use items (such as products and clothing) prepared with these substances, should be checked before determining the ruling on their use.

Is every haram (forbidden) thing considered unclean? From the Quran, Sunnah, and Islamic jurisprudence, it is clear that anything that is haram, and eating or drinking it is not permissible, is also prohibited for other external uses. Its external use is also considered haram or forbidden.

Regarding this matter, a famous hadith narrated from Ibn Umar (may Allah be pleased with him) guides us:

Abu Hurairah (may Allah be pleased with him) reported: The Messenger of Allah (peace be upon him) said:

"If a mouse falls into ghee (clarified butter) and it is solid, remove it and the area around it, but if it is liquid, do not go near it."²³

The purpose of mentioning this hadith is that if consuming or drinking something is prohibited in Shariah, it does not necessarily mean that its external use is also prohibited. Similarly, if there is no restriction on the external use of something, it cannot be automatically assumed that consuming or drinking it is permissible in Shariah. Therefore, it is important to always keep in mind that if something cannot be used for medicinal or dietary purposes, it can still be used in clothing and other products. Therefore, it is necessary to know the details about it so that any issues related to it can be identified in its light.

Food and medicine, presence of mixing in external use:

If a permissible or pure thing is mixed with another permissible and pure thing, then there will be no difference in the status of the thing in terms of its purity and legality. However, if a prohibited or impure thing is mixed, then the rules regarding purity and legality will be different.

The detail is that if impurity or a prohibited thing is mixed in the pure and permissible things, it is not a complicated issue if it is solid because in the case of being solid, all things do not become impure and prohibited. Only that portion in which there is a mixture of prohibited or impure thing becomes impure or prohibited.

In another case, it may be that if there is a mixture of a prohibited or impure thing in a liquid substance, even in a small amount, then due to the presence of the prohibited or impure thing in the mixture, the entire mixture will become impure and prohibited. However, in the case of such a mixed thing being prohibited, it is absolutely prohibited, and in the case of being impure, the impurity is overcome, so it is permissible to use it in external use of products but it cannot be used for eating and drinking.

The third case is that if a mixed substance is present in a large amount of water, then there can be two conditions of the mixture as a result of mixing:

There may be a mixture of impure or prohibited thing, and the effect of impure or prohibited thing may be clearly visible in the mixture, that is, the color, smell, or taste of the mixture may change due to the presence of impure or prohibited thing in the mixture.

The mixture may not be impure or prohibited, even if there is a small amount of prohibited or impure thing, if there is no clear change in the color, smell, or taste of the mixture. In this case, it will be permissible to use it for external use of products, but it cannot be used for eating and drinking.

Judgement of the first case:

The ruling of the first case is clear that benefiting from the mentioned thing is not permissible.

Judgement of the second case:

The ruling of the second case is that after mixing with impure or forbidden substance, its effect on color, smell, and taste should not remain at all.

Two possibilities exist for the second case as well:

In case of mixing, the compound's essence is completely transformed or altered (a complete change in nature).

Destruction, meaning that the impure substance is consumed or destroyed as a result of mixing, and its effect no longer remains in the compound.

The concept of mixing in medicines:

The concept in medicines is almost the same as that in food ingredients, but there is an additional aspect in the discussion of medicines that sometimes the use of haram and najis (impure) substances is allowed in medicines. Therefore, the use of such mixtures (which contain haram or najis elements) is permissible according to the first opinion, the details of which are given below.

Ruling on using medicine containing haram or najis substances:

The prohibition of using medicine containing haram or najis substances, whether for medical treatment or otherwise, is agreed upon by all jurists.

Opinions of jurists:

With regard to using medicine containing haram substances, Allama Fakhr al-Din Zaila'i stated the following: "It is permissible to use haram substances in medical treatment, such as wine and urine, if a Muslim doctor confirms that it has healing properties and there is no permissible alternative that can be used in its place."²⁴

It is written in "Nijayah" that it is permissible to use haram (forbidden) medicine for treatment, such as wine and opium, when a Muslim doctor tells you that there is healing in it, and there is no other lawful and permissible alternative available for the treatment of the disease.

It is understood from this statement that two conditions must be met in order to use a haram and impure substance as medicine for eating and drinking:

A Muslim expert doctor must confirm that there is healing for the disease in the haram substance.

No other pure and permissible substance is available for the treatment of the disease. 25

Alama Ibn Najim al-Misri al-Hanafi wrote in reference to the Fatwa Qazi that if it is known that there is healing for a disease in a haram substance, then its use is allowed, just as drinking alcohol is allowed in emergency situations.

Alama Shami writes under the title of using animal urine for treatment that if the situation is not an emergency or there is no certainty of healing, but if there is certainty of healing in the haram substance, then its use is not prohibited in emergency situations, as in the story of Eirniyyeen.²⁶

Therefore, it is clear from the above discussion that if a haram substance is mixed with impurities or any other haram substance, and its use is prohibited due to the aforementioned conditions, then such a mixture can be used in medicine.

Mixing impurities in animal feed:

Before, there were rules regarding the mixing of haram and impure substances, which were related to human use. It is permissible to use haram and impure substances in animals for their external use because they are not obliged to follow the rules of purity and impurity. However, regarding the use of haram and impure substances in animal feed and drink, the opinions of the jurists vary. Some expressions suggest that the use of impure things can be done for animals, while others suggest that it cannot be used for edible meat animals.

All these expressions are mentioned in the book "Imdad al-Fatawa" in the context of comparison, which states that if something is absolutely impure, such as a corpse or something pure that has become impure, and the impurity is predominant, then it is not permissible to benefit from it in any way. It is prohibited even for the feeding of dogs and animals, except for nonedible parts, and external use is permissible. Eating and feeding edible meat animals with it is not permissible if it is overpowered by impurity.²⁷

Use of Blood in Animal Feed:

Nowadays, blood is added to the feed of chickens and other animals. What is the ruling on this? We will discuss it below.

There is consensus among all jurists on the impurity of blood and the

prohibition of its sale. However, in the case of medical treatment with impure substances or treatment with unlawful substances, it is permissible to use them with certain conditions.

The remaining issue is what is the ruling on consuming blood and other impurities of animals? The details are as follows:

According to the Imams Shafi'i and Malik, it is not permissible to consume animals that are considered impure. However, it is permissible to consume an item that is not impure but becomes impure due to the presence

of another impure item, as long as it is not in a mosque or on a human body.²⁸

According to the Hanafi scholars:

It is not permissible to feed animals impure substances. So it is written in Fatawi Hindi:

"If bread or food becomes impure, it is not permissible to feed it to a child, a mentally incapacitated person, or an animal that is eaten for its meat." 29

However, it is permissible to benefit from it other than consuming it. Where human consumption is prohibited, feeding meat-eating animals is also prohibited.

Summary:

Based on the details mentioned earlier, the following points are clear regarding mixing of Haram substances in food and medicine:

If Haram substance is mixed in Halal solid items, whether it is solid or liquid Haram, it is permissible to use the remaining part after removing the Haram or impure part.³⁰

If Haram substance is mixed in a Halal liquid item, there are two scenarios:

If the Halal liquid is equal to or less than the quantity of impure substance, then it is not permissible to use it and the entire mixture will be considered Haram.

If the Halal liquid is more than the quantity of impure substance and its color, smell, and taste are not affected, then it is permissible to use and consume it. However, if the impure substance does not get destroyed, i.e. its color, smell, or taste change, then it is not permissible to consume it, but it can be used for external purposes since it is impure but not Najis.³¹

Mixing of impurity in objects used externally and its ruling:

If a pure solid object gets impure, whether the impurity is solid or liquid, the ruling is to remove the impurity from the place it has affected, and the rest will become pure after that.

If a pure liquid object gets impure, even in a small quantity, then all of it becomes impure, and it is not permissible to use it externally or consume it. There are three situations regarding it:

If the effect of impurity is visible, then the ruling is that all of it is

impure, and it is not permissible to use it externally or consume it.

If the effect of impurity is not visible, but it is destroyed, then the ruling is that it is not permissible to use it externally or consume it.

If the impure object undergoes a complete change after being mixed with impurity, then the ruling is that it becomes pure, and its use is permissible. If impurity falls into a halal object and then undergoes a complete change, it becomes permissible to consume.³²

If a pure substance is in a large quantity of impure liquid, there are two scenarios:

If the impurity does not manifest itself in any way (such as in color, odor, or taste) and the substance remains pure, then it is considered pure according to the ruling of purity and can be used.

If the impurity causes a change in the substance's reality and nature, such that it becomes impure, then it is considered impure and must be purified before use.

If impure water mixes with pure water, the resulting water can be used to irrigate crops because the resulting produce, such as fruits and grains, will become pure and halal due to a complete transformation in its essence and nature. This is based on the saying of Hazrat Ibn Masood (may Allah be pleased with him) as reported in Bukhari. The scholars of Islamic jurisprudence have outlined the method for purifying impurities.³³

If alcohol is made from a forbidden substance, then its use is not allowed in medicines and in things for consumption, unless it undergoes a significant transformation, because it is impure and forbidden.

If soap is made from the fat of an inedible animal such as a pig or a dead animal, then it is considered pure due to significant transformation.³⁴

If the skin of a pig or any other animal, except for the skin of edible animals, is tanned, then it is permissible to use their products. However, if edible animals are slaughtered according to Islamic law, their skin becomes pure without tanning.³⁵

Conclusion:

The following results have been obtained from the article under consideration:

- 1. Discussions have been made on the four sects' religions in worship and transactions.
- 2. Issues related to the four sects' religions have been presented with abbreviations.
- 3. The predominant religion has been presented with evidence and justification.
- 4. Issues have been expressed in the light of authentic books.
- 5. Modern issues have been written in a comprehensive manner with abbreviations at the end.
- 6. Due to the mix-up in issues related to transactions, such as trusts,

wills, and endowments, which cause changes in issues and rulings, light has been shed on them.

- 7. Food, medicine, and other issues related to the present era have been mentioned in this article, which helps to understand these issues.
- 8. This article sheds light on the issues of mixing from ancient and modern sources, and an effort has been made to compile and write the issues of mixing that arise in transactions these days.



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