

## ***Al-Talfiq* as an Innovative Solution for Primary *Fiqh* Issues in Halal Supply Chain Operations**

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### **ABSTRACT**

Managing halal products and production at a global scale is challenging, more so with the emergence of new technologies and applications. This paper investigates the innovative method of *al-Talfiq* as a useful Islamic ruling tool to manage the challenges in halal industry. It focuses on *fiqh* related issues within the halal supply chain (HSC) operation, and proposes *al-Talfiq* as a technical tool to reduce the constraints faced by the stakeholders in this industry. *Al-Talfiq* is the process of fusing two opinions from different jurists of an issue that has a number of elemental connections. To achieve that objective, literature on *fiqh* and halal logistics is examined to explore the applicability of *al-Talfiq* in current HSC operation.

Keywords: *al-Talfiq*, *fiqh*, halal supply chain, jurist opinions

### **INTRODUCTION**

Islamic rulings - *fiqh* are always subject to interpretation and reinterpretations in accordance with reality, custom and circumstances (Syabir, 2007) which points to the flexibility of the *Shariah* known as *al-murunah*. Therefore, al-Syatibi (1997) emphasised the importance of easiness, innovativeness, flexibility, and practicality in issuing Islamic rulings to secure the higher objectives (*maqasid*) of the *Shariah*. In his *al-Muwafaqat*, he emphasises:

#### **ARTICLE INFO**

##### *Article history:*

Received: 1 March 2017

Accepted: 23 November 2017

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*“The mufti is the one who provides moderate and practical solutions for the public and will not burden them with unnecessary burdens (al-shiddah) and will not also be inclined towards excessive flexibility (tarf al-inhilar)”*

(Al-Syatibi, 1997, p. 276)

In the context of the halal industry, scholars have paid serious attention to the Islamic rulings regarding the technologies used in halal products and production. However, a deeper discussion on halal logistics and supply chain remains limited due to Muslim scholars' limited exposure to the actual operations of the logistics industry. The existing practices within all of the sub-segments of the supply chain reflect an ad hoc integration of technologies, applications, and techniques with halal elements. This has led to the prevalence of the conventional approach over the Islamic ones thereby rendering the process questionable in terms of enjoying a halal status and in some cases, doubtful (*syubhah*) or haram. Thus, the synergic integration of both Islamic and conventional dimensions is vital.

### **Halal Supply Chain (HSC) in Malaysia: The Economic Perspective**

According to Tieman (2011), the foundations of HSC are based on three key elements - direct contact with *haram*, contamination risk, and Muslim perception. He further explains that Muslim perception is always shaped by market requirements, Islamic

legal schools, local fatwas and custom. The supply chain could be defined conventionally as “an integrated business process” from the suppliers through to the user, and involves orders, processing, inventory, transportation, and the combination of warehousing, materials handling, and packaging (Bowersox, David, & Cooper, 2013). The Logistics, which occurs within the broader framework of a supply chain are considered part of it and function as an administrative system to control the movement and position of raw materials, work-in-process, and the finished inventories (Bowersox et al., 2013). More specifically, the logistics function to move and position inventory with the lowest cost. When halal elements are involved, the process requires adherence to standards of halal integrity within all the management processes throughout the supply chain, from the source to the customer (Tieman, 2011). Unlike Tieman (2011), Jaafar, Endut, Faisal and Omar (2011) emphasise the term “Shariah” when defining HSC, as the term “Shariah-compliance” has been commonly used in other Islamic products and services (Omar & Jaafar, 2011). They also point out that the halal supply chain is integrative business flows and activities from the source to the point of consumption in accordance with the *Shariah* (Omar, Jaafar, & Osman, 2013).

Since 2009, the Department of Standards Malaysia has developed 15 halal standards of which three were dedicated to halal supply chain, and termed “*Halalan Toyyiban Assurance Pipeline*” (<http://www.msonline.com>). They are the MS2400-

1:2010, MS2400-2:2010 and the MS2400-3:2010. All of them cover the management system requirements for transportation, warehousing and retailing. In the real industrial practice, these standards are benchmarked against the third revision of Manual of Procedure for Malaysia Halal Certification (MPMHC) in 2014, which was enforced since 15 December 2015 (Jabatan Kemajuan Islam Malaysia [JAKIM], 2014). The refinement of the previous manual procedures indicates JAKIM has become more aware of the needs of stakeholders and it better understands the constraints faced by those directly involved in logistics operations. However, several foundational issues in global logistics operations, especially matters related to cost efficiency and the effects of international and local economic growth, are outstanding.

Bowersox et al. (2013) opine that the logistics industry plays a very pertinent role for global commercial growth. They argue that the logistical operations enable industrial materials and resources to be manufactured and the finished products distributed to customers. The annual expenditure of logistics operations in the United States of America in 2010 for example was approximately 8.3% of US\$14.59 billion of GDP or US\$1.211 trillion (Burnson, 2011). The cost of transportation in the same year was US\$769 billion, which is 63.5% of the entire logistics cost. Therefore, it is clear that the logistics industry plays a significant role in the economic growth of US. In fact, Yang (2013) insists that among the procurement, manufacturing, distribution,

warehousing, inventory and information systems, distribution acts as a key function of the entire logistics system where the process of distribution, i.e. transportation alone is costlier than warehousing and inventory combined.

For a developing country like Malaysia, the logistics industry needs to be competitive and sustainable. Thus, halal standards, regulations and frameworks play crucial roles to face these challenges. Although this segment of the halal industry is promising, the number of halal logistics companies in Malaysia is still inadequate (Noorliza, Asaari, Mohamad, & Kamaruddin, 2015) in view of the increasing demand for halal supply chain and logistics services. According to International Trade Administration (ITA)'s 2016 Cold Chain Top Markets Report, Malaysia ranked 25 out of 160 countries in the World Bank's 2014 Logistics Performance Index (LPI) which represents logistics performance, such as customs, infrastructure, international shipments, competence, tracking and tracing, and timeliness (DOC, 2016). With pertinent roles played by the MS1500: 2400 in ensuring the reliability of Malaysia's halal goods and services, the report further explains Malaysia's logistics master plan is to focus on drastic improvements to penetrate the global market. These include strengthening institutional, technological, human resource and regulatory framework development, improving trade facilities mechanisms, developing infrastructure and freight demand, and internationalisation of logistics services. With an estimated GDP

of US\$338 billion (DOC, 2016), Malaysian halal logistics industry must prepare to face these upcoming challenges. Perhaps the most significant area of focus is the Islamic rulings that will determine the laws and regulations governing halal products and operations.

The critical need is, therefore, for the halal policymakers, i.e. the Department of Islamic Development (JAKIM), State Islamic Religious Councils or the Majlis Agama Islam Negeri (MAIN), and the muftis to offer sustainable solutions for halal logistics operations to face anticipated challenges. As logistics plays a significant role in Malaysia's halal industry and the global market, the policymakers need to address the constraints faced by the stakeholders in managing the distribution of halal goods across the globe. Therefore, Islamic rulings that regulate the industry, must, therefore, consider the economic impact, future of the halal industry, and global economic challenges.

### **Halal Supply Chain Constraints: The Primary *Fiqh* Issues**

The conceptual development of HSC is in its early stages. The existing studies are either too focused on Islamic issues without due consideration of the nature of supply chain operations, or being too industrialised without proper consideration of the *shariah* perspective. Thus, it is important to understand the real constraints faced by logistics stakeholders to develop a reliable and practical conceptual framework for HSC. The three key elements in halal

supply chain management as argued by Tieman (2013) have a connection with halal *fiqh*-based issues. The first two elements are direct contact with haram and the contamination risk, which function as "trigger elements" for the third element, namely Muslim perceptions, or the level of reliability. Irrespective of using halal products and preparations, if the process is not managed well, the product and brand will potentially be boycotted and resulting in loss of sales among Muslims. This highlights the need to scrutinise the halal supply chain operations as discussed below.

**Total Segregation and Contamination Issues.** According to Talib, Hamid and Zulfakar (2015), complete segregation between halal and non-halal goods has remained a critical success factor for halal supply chain practices to uphold its halal integrity. Besides having a dedicated warehouse and storage, dedicated transportation such as the load carrier or the transportation fleet is recommended (Jaafar et al., 2011; Tieman, Vorst, & Ghazali, 2012). Jaafar et al. (2011) believes that such an idea is unachievable in the context of supply chain operations, as supply chain operations are collaborative functions between the suppliers, manufacturers, warehouses, and retailers or industrial distributors. These four entities are the backbone of the supply chain networks of this industry. Without common adherence to halal supply chain regulations among the consigner and the consignee, once the goods are delivered, the chances of cross contamination are

very high (Jaafar et al., 2011). Moreover, Zulfakar, Anuar and Talib (2014) revealed that the possibility of contamination within this kind of delivery operation is higher if the logistics company outsourced their service to the third party logistics (3PL) companies during peak delivery times. The problem becomes more complex when the halal goods that reached the retailers share the same loading bays despite being stored in a separate section in the warehouses or stores. According to Omar, Jaafar and Osman (2013), contamination will normally occur during the loading and unloading process which involves personnel, material handling, and equipment, especially with regards to chilled goods. If contamination occurs, then according to the 2014 Manual Procedure for Malaysia Halal Certification (MPMHC), ritual cleansing (*sertu*) has to be performed.

The use of air freight on the other hand, is not only costly, but also limited by load size, weight lift capacity, and aircraft availability (Bowersox et al., 2013). Additionally, in the global supply chain practices, containers are always reused thereby entailing the possibility of having been used for non-halal goods, which always not concerned by the producers (Jaafar et al., 2011). The constraint appears when logistic equipment is subjected to “*sertu*” or the ritual cleansing before the halal goods are installed. Specifically, the third revision of 2014 MPMHC, JAKIM, item 6.7.3 (Transporting), section (d) insists that the transportation or container of which the halal status is doubtful must undergo

“*sertu*” (ritual cleansing) before being used to store halal goods (JAKIM, 2014). Additionally, without proper monitoring of 3PL companies, there is the possibility the latter have transported forbidden (*haram*) goods before servicing the halal products and this is the most critical point that the Halal Control Point (HCP) always overlooks.

Theoretically, the raw materials providers, the producers, the wholesalers, the retailers, and all related parties have the same responsibility to uphold the halal integrity within the supply chain operations whether it involves warehousing, transportation, delivery or distribution in the retailing process. However, the idea of total segregation is still questionable when it comes to its practicality since the “nature” of supply chain operations involves a diverse range of entities in a unified supply chain network.

**The Logistics Financial Issues.** In terms of finance, some logistics companies respond negatively to the MPMHC guidelines regulations for the ritual cleansing of doubtful areas or things contaminated by severe (*al-Mughalazah*) types of impurity (*najs*). Talib, Rubin and Zhengyi (2013) reported that among the critical issues in logistics is the ritual cleansing (*sertu*). From a company’s viewpoint, it is unreasonable when they have been ordered to perform it on the sea vessels, which costs extensive manpower, time, and energy. Further, not all the logistics providers can afford dedicated halal warehouses, and some

depend on conventional logistics operations as their main source of revenue (Talib et al., 2013). Moreover, most of the respondents (companies) in this study who have between five and 25 years of experience in managing logistics services perceive halal services as costing more to meet their specific regulations which would eventually prevent companies from engaging HSC networks. Since the supply chain operations depend on an integrated network of suppliers, manufacturers, distributors, and retailers, this negative perception will expose the halal industry to the possibility of breaks in the supply chain.

## MATERIALS AND METHODS

This is a qualitative study. Data concerning HSC are obtained from extensive research of online databases, theses, journals, and research reports to scrutinise the actual constraints faced by the stakeholders in the halal logistics industry. As for the solution, classical Islamic jurisprudence were referred to prove the “*al-Talfiq*” as a valid method in the context of developing Islamic rulings on halal issues. The *Al-Talfiq*'s divine validation, its importance and capabilities were obtained from classical Islamic legal literature. The review of contemporary literature, on the other hand, reveals the useful features of this method, especially studying the impact of various technologies and applications on HSC. Both classical and contemporary literature offer insight on how to apply the Islamic rulings (*hukm*) for current technologies and HSC operations. The primary issues related to HSC were then

analysed in the context of Islamic rulings to scrutinise their characteristics and propose a suitable solution for the current constraints facing the industry.

## RESULTS AND DISCUSSION

Islam is a progressive religion and its law emphasises sustainability, flexibility, and adaptability. To achieve these notions in the context of supply chain and logistics management, there are legal tools to facilitate this. *Al-Talfiq* is one such tool, where the process of “merging of the opinions of several schools of law (*madhhab*) into one conclusive issue” (Khan, 2013) is employed. This section briefly discusses the foundations of this method, its technical definition, the notion of *al-Talfiq* from the Qur’anic and prophetic perspective, and its practicality.

### ***Al-Talfiq* in Islamic Jurisprudence: A Solution for Halal Supply Chain Constraints**

*Al-Talfiq* is from the root word “*la-fa-qa*” or “*la-fi-qa*” which according to Ibn Manzur (n.d, p. 4056) means “to join the separated” or “to forge” (Al-Razi, 1999, p. 283). It also means “to accept and hold” (Unays, Muntasar, Sawalihi, & Ahmad, 2004, p. 870). These two meanings imply combining, patching, merging and joining the separated to attain unification and harmony in legal rules for greater applicability in any given circumstance. In terms of its practicality, al-Albani (1997) describes *al-Talfiq* as:

*“To employ the solution which not been held by any Mujtahid*

*(absolute jurist) by adhering one after another (yatarattab al-a'mal) to a number of views from different schools (taqlid al-madhahib). It means to hold - within one issue -which has a few basic elements -on two views or more". (p. 183)*

In other words, the condition occurs by fusing or merging two opinions of different jurists that are interconnected (Al-Zuhaili, 1986). He gives the example of one adhering to al-Syafi'e's view on taking ablution for wiping a part of the head and then adhering to Abu Hanifa's view on its validity even after having touched a woman (Al-Zuhaili, 1986). The same ablution is then used to perform prayers. Al-Syafi'e considered touching a foreign (*non-mahram*) woman as invalidating one's ablution while Abu Hanifah considered washing less than a quarter of the head as an invalid ablution (Al-Zuhaili, 1986). This simple case of *al-Talfiq* shows the act of fusing or combining two different schools of thoughts i.e. al-Syafi'e and al-Hanafi on a single *ibadah*.

### **The Qur'anic and Prophetic Notion of *al-Talfiq***

Since *al-Talfiq* did not exist in the early generations of Muslim scholars, it does not mean it is without precedent. Due to the various and numerous modern industrial constraints brought about by new technologies, systems, and applications, this principle has become vital, especially in the context of preserving the religious influence in the face of new technologies and systems. In this sense, there are, therefore,

a few principles and theories in Islamic jurisprudence, which establish the validity of this method. They are as listed below:

**The Principle of *al-Yusr*.** The words of Allah in chapter 2 verse 185 describe how the obligation of fasting in Ramadan has been simplified for the sick [*marid*] and the travellers [*musafir*] to observe when they are able to (Al-Tabari, n.d). In the same verse, Allah SWT explains "...Allah intends for you ease, and He does not want to make things difficult for you..." (Al-Qur'an, 2:185). The notion of ease in this verse is clear, where Allah SWT has permitted those who are facing the constraints of travelling (*al-Safir*) or sickness (*al-Mard*) to fast when the hardship (*al-Masyaq*) is over. It proves the principle of ease in Islamic law when Allah SWT Himself declared in the same verse that the objective of this flexibility is to ease the adherence to Islamic injunctions. In support of this, the Prophet Muhammad PBUH said:

*"Whenever Allah's Messenger PBUH was given the choice of one of two matters, he would choose the easier of the two, as long as it was not sinful to do so, but if it was sinful to do so, he would not approach it. Allah's Messenger PBUH never took revenge (over anybody) for his own sake but (he did) only when Allah's Legal Bindings were outraged in which case he would take revenge for Allah's Sake"*

(Narrated by Al-Bukhari, 2001,

Kitab al-Hudud, Bab: Iqamah al-Hudud Wa al-Intiqam li Hurumatillah, no. 6433)

**The Principle of *al-Maslahah*.** The verse: “...and He (Allah) does not make for you –in religion- any hardship” (al-Qur’an, 22:78). As an important characteristic of Islamic law is practicality, it considers the public interest known as *maslahah*. The term “*maslahah*” denotes the utmost righteousness and goodness (*salah*), which normally entails benefits (*al-naʿf*). It refers to anything that produces a benefit at the collective or individual levels (El-Mesawi, 2006). The concept of public interest (*maslahah ‘ammah*) consists of what is useful and beneficial for the entire community (*ummah*), such as safeguarding the economic growth and providing national security and education as long as they are in line with the spirit of the *Shariah*. Some scholars regard *al-Maslahah* as a common principle of Islamic legislation along with the principal of “absence of hardship” (*adam al-masyaqqah*) and the “realisation of justice” (*tahqiq al-’adalah*) and some add the “removal of hardship” (*raf’ al-haraj*) and “prevention of harm” (*daf’ al-darar*) as integral to *al-maslahah* (Kamali, 2006). To achieve this principle in the process of law making, *al-Talfiq* could be a useful method to facilitate the process of choosing rulings from different Islamic schools of thought while *maslahah* functions as a universal principle to guide its contextualisation to suit the circumstances.

**The Principle of *al-Murunah*.** *Al-Murunah* literally translated as flexibility or elasticity, is a feature of the *Shariah* that renders it sustainable and relevant to cultural and scientific developments across time and place. Al-Qaradawi (2005/2013) elaborated five factors that form this characteristic with instances from the traditions of the Prophet Muhammad PBUH, the companions and some of the prominent Muslims scholars in dealing with the divine texts. The five factors are the ampleness of intentional omission of certain matters, the concern of the texts to the universal rulings, the capability of the texts for being comprehended differently, considering necessities, excuses, and exceptional circumstances, and the alteration of fatwas due to changes of time, place, and situation. Therefore, in the context of developing *Shariah* rulings (*hukm*), the employment of *al-Talfiq* also signifies *murunah* in Islamic rulings. It assists the policymakers to choose any view from different schools to resolve contemporary challenges and preserve the influence of religion any industrial segments.

### **The Validity of *al-Talfiq* in Islamic Jurisprudence**

Al-Zuhaili is one of the most well-known contemporary Muslim scholars who proposed a moderate view regarding *al-Talfiq*, especially to face contemporary challenges. However, there are still a few restrictions while employing this method. Al-Zuhaili (1986) stresses that according to the classical *fiqh* literature, *al-Talfiq* is invalid to be used in relation to fundamentals of Islam

(*Ma 'alima min al-Din bi al-Darurah*), and the consensus among Muslims (*ajma' alayh al-Muslimun*). It is not permissible to employ *al-Talfiq* for any circumstance that will permit the unlawful (*al-Muharramat*), such as consuming liquor and committing polytheism and adultery (Al-Zuhaili, 1986). *Al-Talfiq* is normally employed when scholars deal with subsidiary issues [*al-masa'il al-furu'iyah*] of Islamic rulings, which according to al-Sallabi (2002), are divided into three categories. First, matters that constructed in *Shariah* for ease and tolerance in accordance with the circumstance of the people [*mukallaf*]. Second, the things that are constructed for devotion and precaution [*al-wara' wa al-ihiyat*] and third, things that aim to facilitate public interest [*maslahah li al-ibad wa sa'adatihim*] (Al-Sallabi, 2002).

The first category deals with matters of devotion [*ibadat*] where *al-Talfiq* is permissible (Al-Sallabi, 2002). The objective of this category is obeying Almighty Allah SWT without difficulty. The second requires caution as it mostly deals with prohibitions, which normally results in harm (Al-Sallabi, 2002). Such issues are considered outside the scope of *al-Talfiq* except in cases of dire need. The third pertains to matters concerning trade [*al-mu'amalat*], wealth management, criminal laws [*al-hudud*], and all that which will preserve the human interest and faculties (Al-Sallabi, 2002). These types of issues – in some cases – require consideration of all the schools (*madhahib*) and selecting the view that best guarantees human welfare. Therefore,

in the context of HSC, the management of goods, its logistics, freight movements, and contamination fall under this third type of Islamic ruling. In modern practices, managing halal goods at the international level requires such an approach to support and advance the influence of Islamic services over the conventional one. The current global halal market and its production, which comprise logistics and supply chain, has indicated the urgent need for *al-Talfiq* to play its role as long as it does not violate the objective (*maqasid*) of the *Shariah*.

## SOLUTION

Based on the foregoing, this section proposes a solution based on the idea of *al-Talfiq* to reduce the constraints within the halal supply chain operations. The issue is the impurity [*al-Najasah*] or the degree of hygiene of related equipment involved in supply chain and logistics operations. *Al-Talfiq* can be very useful here as a substitution of MPMHC requirements for ritual cleansing where a few major Islamic legal schools permit not performing the “*sertu*” even for major impurities (*al-najs al-Mughhallazah*). According to Al-Zuhaili (1985, p. 153), the al-Maliki school are moderate in their approach to cleansing the *al-Mughhallazah* type of impurity and consider using normal water without soil sufficient. In other words, there is no *sertu* cleansing for the impurity caused by swine and canines and their derivatives. Al-Zuhaili (1985) further said that in the Hanafi and Maliki school of thoughts, canines are considered clean and the impurity part is

licking, or anything that has direct contact with its saliva. Nevertheless, all of the four eminent schools are in consensus that the swine and canines are impure (*najs*), and only differ in terms of the method of cleansing. Al-Nawawi concludes in “*al-Majmu*” (1980) that in this case, the cleansing from this kind of *al-Najs* (swine) is to wash once without soil. He emphasises that this is the majority view of the scholars that admits the impurity of swine [*najasah al-Khinzir*] and its derivatives (Al-Nawawi, 1980). Even though al-Imam al-Syafi’e has two opinions regarding this issue, the selected opinion according to Al-Nawawi (1980), is as mentioned and is based on a strong argument that the “seven-washes” with soil are textually proven only in the case of contamination from canine saliva (Al-Nawawi, 1980). Here, *al-Talfiq* offers the method of switching, combining, and merging the views of various schools of laws or within the same school.

As a conclusion, in the context of halal logistics operations, the obligation of performing the “ritual cleansing” (*sertu*) for the doubtful container or equipment is an established practice in classical *fiqh* literature. However, there are legal views from other schools including within the al-Syafi’e school that permits not performing the ritual cleansing [*sertu*] for the case of impurity caused by swine. In this case, Muslims can amalgamate the legal opinions using *al-Talfiq*. Knowing that there is a strong opinion from one of the great scholars of Islam, this idea should therefore, be discussed more seriously as an

alternative for the stakeholders to uphold it as a guideline. It helps resolves constraints in manpower, finance, time, energy and effort, and such flexibility is urgent in supply chain operations at the international scale which involves a huge logistics equipment, transportation, warehouses, ports, and terminals.

## CONCLUSION

This study has addressed several pertinent issues related to HSC. First, the use of *al-Talfiq* needs to be monitored by experts so that it will not be misused and lead to an atmosphere of unrestricted permissibility (*tatabbu’ al-Rukhas*) which implies the act of choosing the most lenient views. Second, there is a need for critical study of international halal supply chain management to identify the actual constraints faced by stakeholders. Third, the scope of contamination needs to be defined precisely and consideration of the proposed solution for the procedure of ritual cleansing (*sertu*) and the use of proper packaging solutions for the unavoidable critical points along the supply chains. As the halal industry supports significant global economic growth, it has led to positive changes in the reliability of its delivery system. There is increased awareness of the importance of HSC and given new challenges and constraints, the employment of normal and customary rulings on the new circumstances seem inappropriate. Being confined to one particular school of thought (*madhhab*) for the international-scale operations will result in other hardships. Therefore, an

innovative method such as *al-Talfiq* for selecting Islamic rulings seems to be a practical approach to reduce hardships and resolve challenges in the halal industry and strengthen its global networks.

## ACKNOWLEDGEMENT

The authors thank the funders of this research, namely the Malaysia Institute of Transportation (MITRANS), Universiti Teknologi MARA (UiTM), and Ministry of Education.

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