

Prohibition of Trading over Trading (Offer over Offer) in Islam and its Harmful Effects on Halal Certification

It has been truly said that where there is a progress, there is a decline. It is a fact that there comes a moral decline in human society. Islam has provided certain guidance to avoid it. Halal certification bodies are also going through this natural cycle and moral decay is manifesting with the passage of every day, such as contacting with halal certified clients of other certification bodies, luring, and instigating them towards themselves through greed etc., which is Haraam and illegitimate act according to shariah. To alarm about this weakness, an article has been prepared to draw attention towards it so that the accreditation bodies, certification bodies and the industry affiliated with the halal sector could know how ugly this act is in the eyes of Islam and what is the status of the organization being involved in this crime in the eyes of Shariah? In addition, this piece of literature has been authored so that the accreditation body could keep this aspect in mind during the assessment, certification bodies could avoid this ugly act and the certification body involved in such crime could be examined during the decision-making process of the industry. May Allah Almighty make this piece useful for all of us.

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One of the major subjects of Islam is Islamic values, so that mankind can learn and adopt them and maintain peace in the world. Values are the name of establishing and following the best set rules and regulations in any sphere of life.

Islamic values can also be interpreted as Shari'ah objectives (المقاصد الشرعية), for example, Islam establishes the rights of human relationships and defines family values so that the family system may flourish. That is why Islam commands every person who has more or less rights in every relationship not to go beyond his limits because on the Day of Resurrection everyone will be questioned about the rights granted and their misuse¹, as well as establishes values by setting rules in dealings., for example the trader is commanded not to coerce people by hoarding and not to take undue advantage of their compulsion because

trade is the name of cooperation and it cannot be turned into oppression².

In the same way, Islam strongly dislikes any wrongdoing of a person which has an adverse effect on another person or society and in certain circumstances Islam even deprives such people of their right of giving testimony, the main reason is not taking care of Islamic values. For example, if a person is involved in a major sin, and he stops considering this sin as a sin and starts committing it openly in the society, resultantly the testimony of such a person is not acceptable and he gets the title of "Fasiq". Suh as drinking wine, killing, oppressing, violating rights, cheating, usury, and gambling³. For this reason, all Halal accreditation standards bind the certification body to take care of Islamic values so that the objectives of Shari'ah may not be affected.

As mentioned at the outset, Islamic values apply to all walks of life, so when Islamic values are implemented in a Halal certification body or its implementation is examined, it is verified in the context that have Islamic values been adopted in matters ranging from company registration to operations, office environment, and affairs? OIC / SMIIC 2-2019, PS: 4992-2016 and all other Halal accreditation standards bind Halal certification bodies with the condition of "shall" to implement Islamic Sensitivity, and Islamic Values⁴.

Examples of Islamic Sensitivity and Islamic Values:

- To check the fact that either the Halal certification body is owned by a non-Muslim or is there any non-Muslim in the decision-making committee?

Since the purpose of Halal certification is to provide Halal to Muslims, now how can a person who does not consider Islam as the true religion, consumes Haraam and does not establish the principles of Halal over his own self, have the right to testify Halal, give and establish a system of Halal for others?

Prayer Break in Halal Certification Body

Prayer is the pillar of Islam, now if it is not important in any Halal certification body, then what would be the importance of Halal and haram for them?

- To check the fact that either the Halal certification body deals with any interest or gambling related matter? For example: charging interest by keeping money in an interest-bearing account in a bank, placing a condition in the invoice that if you do not pay in a given time span then a specific percentage of interest will be charged or buying bonds from the market which include gambling or interest.

Usury and gambling are forbidden in every divine religion, now if an organization does not consider involving in these matters a sin, then what would be the status of its testimony in the rituals like Halal and Haraam?

Obtaining Contracts (Clients) through greed or bribery:

Bribery is forbidden in Islam. How is it possible to rely on the testimony of a person who does not give importance to Haraam?

In accordance with Islamic values, Islam obliges Halal certification bodies not to make "offer over offer" in the market. The Messenger of Allah (P.B.U.H.) strictly prohibited this practice, as narrated in Sahih Bukhari:

*"One amongst you should not enter into such a transaction when another is already bargaining about that"*⁵.

Further explanation of the words of this hadith in Sahih Muslim is as follows:

*"A person should not enter into such a transaction when his brother is already making that transaction and he should not make a proposal of marriage when his brother has already made that proposal except when he gives permission"*⁶.

A similar explanation is given in Sunan-al-Tirmidhi:

"The Messenger of Allah (P.B.U.H.) said: "None of you is to sell over the sale of others, nor to propose over the proposal of others."

There are narrations on this topic from Abu Hurairah and Samurah (R.A.). The Hadith of Ibn-e-'Umar is a Hasan and Sahih Hadith. And it has been reported from the Prophet (P.B.U.H.) that he said: *"Do not haggle in competition with your brother's haggling"*⁷.

See the narration of Sunan Ibn-e- Majah:

It was narrated from Ibn-e-'Umar that the Messenger of Allah (P.B.U.H.) said: *"Let one of you not sell over the sale of another"*⁸.

In Sunan-e-Nasai, it is narrated as follows:

*"None of you is to sell over the sale of his brother unless he buys or leaves"*⁹.

A further explanation of these hadiths in the Encyclopedia of Kuwaitiyah is as follows:

*"One of the cases is that the parties agree on the price of the goods, then another person comes and says: I will sell you the same goods for less than that, or he says: I will give you better goods than that in the same price or even less than that price, or shows the buyer the goods that the buyer is attracted to, then the buyer cancels the initial deal and buys the goods from the subsequent seller"*¹⁰.

For this reason, all the jurists have written that such a transaction is Haraam and illegitimate¹¹.

In the light of the aforesaid hadiths and jurisprudential opinions, it is Haraam and unlawful for any Muslim to bargain on a bargain which is already taking place and it is a serious violation of the provisions of Islamic values and sensitivities of Halal standards and in fact to disrupt the system of Halal certification.

In the present era, if we look at the matter, the Halal certification bodies are committing this sin due to the following basic reasons:

- These institutions do not possess the true spirit of religion that they should have. Moreover, for them, the operation of Halal certification is not a Shari'ah responsibility, but opportunity of earning.
- The second reason is the hefty fees and other expenses incurred for obtaining Halal accreditation from different countries which are in the range of 50 to 70 thousand dollars. In order to fulfill this, the certification body has to gather as many clients as possible and in this race, the distinction between Halal and Haraam is ignored.
- The third reason is the non-serious industry for which standards are supposed to be export licenses, so whoever offers them cheaply and gives them a piece of paper (certificate) easily, they go for it.

For these reasons, certification bodies meet Halal certified companies which are the existing clients of other certification bodies, or their quality assurance personal are invited to meetings in grand hotels, a regular team is formed or marketed for this purpose. Agreements are made on commission with the consultant to induce the clients. However, apart from Shari'ah, this process is also a big threat to the integrity of Halal certification because when this company will be audited, the consultant will be the one who brought this client by having commission. Now what will be the credibility of such an audit?

To instigate the client of other certification body, backbiting and slanders are used as tools, although both are Haraam according to Shari'ah and it is a matter of common sense that not taking care of Halal and Haraam results in incredibility of Halal certificate issued by a certification body involved in such mela fide practices.

Sometimes the Halal certification service is offered at a reduced price, sometimes the client is tempted by

offering various accreditations, sometimes the client is induced by offering it a flexible and friendly auditing services. It has been seen that if their first certification body has suspended their certification for some reason or raised a non-conformance due to which their certificate has been withheld, then the hunter takes advantage of this opportunity and issues the Halal certificate to such company in order to hunt it. -

Following are the results of this heinous act:

- Disagreements arise between Halal certification bodies. Meaning, the foundation of corruption on earth was laid (فساد في الارض). As a result, the consumer's trust in the Halal system is damaged and the public begins to disagree.
- The value and importance of Halal certificates in the market is severely affected.
- Non-serious industry gets a chance to play with Halal certification bodies and obtain Halal certificates at arbitrary price or have their own audit done.
- It becomes difficult for serious Halal certification bodies to operate.
- Non-standard items start to be produced, resulting in Halal scandals.
- Where the certification body affects its reputation, its accreditation body also begins to lose credibility.

In short, offer over offer starts corruption on earth which is very ugly in the sight of Allah. Therefore, all the accreditation bodies should consider this issue and while conducting the assessment process during the accreditation activity, it should also ensure that the certification bodies do not participate in such heinous acts and the certification bodies should also take care of this. If Allah has given them such an important responsibility of Halal, then they should appreciate it and work within all the Shari'ah limits so that their deeds become a source of good name in this world and reward in the Hereafter.

May Allah help all the organization connected with the system of Halal to understand this great work.

References

¹ «سنن أبي داود» (4/ 553 ت الأرئوؤوط) «عن عبد الله بن عمر، أن رسول الله - صلى الله عليه وسلم - يقال: "ألا كلكم راع وكلكم مسؤول عن رعيته: فالأمير الذي على الناس راع عليهم وهو مسؤول عنهم، والرجل راع على أهل بيته وهو مسؤول عنهم، والمرأة راعية على بيت بعلها وولده وهي مسؤولة عنهم، والعبد راع على مال سيده وهو مسؤول عنه؛ فكلكم راع، وكلكم مسؤول عن رعيته»

² «سنن ابن ماجه» (3/ 282 ت الأرووط): «عن عمر بن الخطاب، قال: قال رسول الله - صلى الله عليه وسلم -: "الجالب مرزوق، والمحتكر ملعون"»

«مشكاة المصابيح» (2/ 876): عن عمر بن الخطاب رضي الله عنه قال: سمعت رسول الله صلى الله عليه وسلم يقول: «من احتكر على المسلمين طعامهم ضربه الله بالجدام والإفلاس». رواه ابن ماجه والبيهقي في شعب الإيمان. ورزين في كتابه.

³ (التفسير المظهر، ج1 ص427) فلا يقبل شهادة الفاسق اجماعا لان العدالة شرط في الرواية حيث قال الله تعالى إِنْ جَاءَكُمْ فَاسِقٌ بِنَبَأٍ فَتَبَيَّنُوا- ففي الشهادة بالطريق الاولى والعدالة هو إتيان الواجبات والاجتناب عن الكبائر وترك الإصرار على الصغائر -

(العناية شرح الهداية (2/ 322) وتشترط العدالة لأن قول الفاسق في الديانات غير مقبول.

(الدر المختار وحاشية ابن عابدين (رد المحتار) (5/ 483) والفاسق من فعل كبيرة أو أصغر على صغير.

4 OIC/SMIIC 2: 2019, Conformity Assessment – Requirements for Bodies Providing Halal Certification

4.2 Islamic sensitivity

4.2.1 The halal certification body (HCB) shall adhere to the basic principles of Islam or Islamic rules. 'Adherence' and 'approaching the Islamic sensitivities and concerns with utmost respect' imposes upon the party different emphasis and compulsion for compliance.

4.2.2 The halal certification body shall demonstrate a high standard of Islamic values in terms of its office environment, management members, staff, general conduct and public interaction.

4.3 Commitment to Islamic values

The halal certification body and all of its employees shall be committed to all Islamic values especially to those related to halal.

PS: 4992-2016, Pakistan Standard For Conformity Assessment - Requirements for Bodies Providing Halaal Certification

4.8 Islamic Sensitivity

The Halaal CB shall adhere to the basic principles of Islam or Islamic rules. "Adherence" and "approaching the Islamic sensitivities and concerns with utmost respect" imposes upon the party different emphasis and compulsion for compliance.

4.9 Commitment to Islamic Values

The Halaal CB and all of its employees shall be committed to all Islamic values especially to those related to Halaal.

⁵ صحيح البخاري (3/ 72) ص: [73] عن عبد الله بن عمر رضي الله عنهما، أن رسول الله صلى الله عليه وسلم، قال: «لا يبيع بعضكم على بيع بعض

⁶ صحيح مسلم (2/ 1032) نافع، عن ابن عمر، عن النبي صلى الله عليه وسلم قال: «لا يبيع الرجل على بيع أخيه، ولا يخطب على خطبة أخيه، إلا أن يأذن له» ،

⁷ حَدَّثَنَا قُتَيْبَةُ حَدَّثَنَا اللَّيْثُ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ لَا يَبِيعُ بَعْضُكُمْ عَلَى بَيْعِ بَعْضٍ وَلَا يَخْطُبُ بَعْضُكُمْ عَلَى خُطْبَةِ بَعْضٍ قَالَ وَفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ وَسَمُرَةَ قَالَ أَبُو عِيسَى حَدِيثُ ابْنِ عُمَرَ حَدِيثٌ حَسَنٌ صَحِيحٌ وَقَدْ رُوِيَ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّهُ قَالَ لَا يَسُومُ الرَّجُلُ عَلَى سَوْمِ أَخِيهِ وَمَعْنَى الْبَيْعِ فِي هَذَا الْحَدِيثِ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ هُوَ السُّومُ

⁸ حَدَّثَنَا سُوَيْدُ بْنُ سَعِيدٍ حَدَّثَنَا مَالِكُ بْنُ أَنَسٍ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ لَا يَبِيعُ بَعْضُكُمْ عَلَى بَيْعِ بَعْضٍ

⁹ سنن النسائي (7/ 258) عن ابن عمر، عن رسول الله صلى الله عليه وسلم قال: لا يبيع الرجل على بيع أخيه حتى يبتاع أو يذر "

¹⁰ الموسوعة الفقهية الكويتية (9/ 214) يبيع الرجل على بيع أخيه: من صورته أن يتراضى المتبايعان على ثمن سلعة، فيجيء آخر، فيقول: أنا أبيعك مثل هذه السلعة بأقصى

من هذا الثمن، أو يقول: أبيعك خيرا منها بثمنها أو بدونه - أي بأقل منه - أو يعرض على المشتري سلعة رغب فيها المشتري، ففسخ البيع واشترى هذه. (2) فتح القدير 6 /

107، ورد المختار 4 / 132، وشرح المنهج بحاشية الجمل 3 / 91، والمغني 4 / 278، وتحفة المحتاج 4 / 314، وكشاف القناع 3 / 183.

¹¹ الموسوعة الفقهية الكويتية (9/ 214) ذهب الشافعية، وهو وجه محتمل عند الحنابلة إلى: أن هذا البيع محرم،... وتعليل الحنابلة: أن المحرم هو عرض سلعته على المشتري،

أو قوله الذي فسخ البيع من أجله، وذلك سابق على البيع، ولأنه إذا صح الفسخ الذي حصل به الضرر،... وذهب الحنفية إلى أن هذا البيع ونحوه من البياعات مكروه تحريما،

قال ابن الهمام: هذه الكراهات كلها تحريمية، لا نعلم خلافا في الإثم، وذلك للأحاديث المذكورة، ولما فيه من الإحاش والإضرار. (1) (1) فتح القدير 6 / 106 - 107 وتحفة

المحتاج 4 / 308 و 309 و 314، وشرح المحلي وحاشية القليوبي عليه 2 / 182 و 184، والمغني 4 / 278 - 279

Islam and the Modern Economic Issues, by Mufti Taqi Usmani, Page 128-129

(اسلام اور جديد معاشي مسائل: ص: 168، 169)

Offer over offer means that the negotiation regarding the sale is taking place between the two men, both are bargaining, the sale is not yet finalized. In the meanwhile, when the bargaining between both the men is taking place, there comes the third person and offers more price to the buyer than what was being negotiated between the first two men. This is called offer over offer, and the Messenger of Allah (P.B.U.H.) has forbidden it by saying that one should not sale over the sale of his brother.

تبع على بيع أخيه: Explanation of

The second thing that is forbidden is to sell over the sale of your brother, for example, a sale took place, Zaid bought a horse from Amr, suppose the seller took Khyar-e-Shart (Option of condition), the sale is done, now Khalid come and tells the seller to cancel the sale of the horse that you had sold to Amr and give it to me. This is the sale over the sale, both are unlawful, and this practice is unlawful in all contracts just as it is unlawful in sale.