



Institute of Islamic Jurisprudence

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Dear Mufti Mohammed Zubair Butt,

Assalāmu 'Alikum,

I hope you are fine and doing well.

I am sure that you are quite aware of the recent discussion in England regarding the nasal vaccine that is being offered to school children which contains porcine derived ingredients. We in Scotland are also having the same discussions and would like to seek your advice. There are principally two main points that require clarification:

Firstly, what is your professional opinion regarding the nasal vaccine that is derived from porcine gelatine? Is it suitable for Muslims?

Secondly, Public Health England (PHE) has published advice on its website from representatives of the global Muslim community regarding porcine-derived ingredients in medicinal products such as vaccines. The porcine gelatine used is considered to be halāl under the grounds that transformation has occurred. Thus, there is no religious reason not to receive the vaccine as far Muslims are concerned. The advice makes reference to a summary report on the findings of more than one hundred Islamic legal scholars who met in 1995 which can be found at the following link: <http://www.immunize.org/concerns/porcine.pdf> This has led many Muslims to be confused about the issue as many respected and notable scholars are mentioned therein. Please explain the concept of transformation referred to and whether this does indeed render porcine derived gelatine as halāl.

Jazākumullāhu Khairan,

Omair Malik
Imam , Glasgow Central Mosque

7th Rabī' al-Thānī 1433
29th February 2012

الحمد لله وحده والصلاة والسلام على من لا نبي بعده

1. In my considered professional opinion the nasal vaccine (Fluenz) containing porcine derived gelatine referred to in the question is not suitable for Muslims. My reasoning for this will be explained in my answer to your second question.
2. There are two comments that I would make here:
 - a. The concept of transformation in Islamic law and its effect in a change of ruling; and
 - b. Reference to notable scholars in the WHO document at the link above.

As for the first, most classical jurists have not offered a definition for the legal concept of 'transformation' – known as *istiḥālah* - but have simply mentioned a number of examples. That said, despite generally accepting the incidence of transformation there is a difference of opinion as to whether this incidence effects any change in ruling: This difference may be summarised as follows:

1. There is a consensus that if wine turns into vinegar without human intervention then the resultant vinegar is both lawful and pure.¹
2. If wine is transformed into vinegar by human intervention with a foreign agent then according to the Shāfi'ī School² and the majority within the Ḥanbali School³ the resultant vinegar remains impure.
3. According to Imām Muḥammad of the Ḥanafī School, the reported opinion of Imām Abū Ḥanīfah himself and the adopted position of the school⁴, the Mālikī School⁵, some from the Shāfi'ī School⁶, one report from Imām Aḥmad, some within the Ḥanbali School, Ibn Teymiyyah⁷ and Ibn al-Qayyim al-Jawziyyah⁸ transformation also effects a change in ruling in all other substances whilst according to Imām Abū Yūsuf of the Ḥanafī School, the *math-hab* of the Shāfi'ī School and the majority within the Ḥanbali School transformation does not effect any change in ruling except in a very limited number of cases [i.e., *khamr* and tanning the hide of carrion]. The author of Tuḥfah al-Muhtāj of the Shāfi'ī School asserts that the reason there is no change in ruling in transformation to the likes of salt is that the reality of transformation here is merely that substance remains as it is with a change only in qualities.⁹ The issue of transformation is discussed most extensively within the Ḥanafī School. Imām Abū Yūsuf, who does not accept the notion that transformation effects change in the ruling of an impure substance, argues that, despite the transformation, the new substance retains particles of the old substance. As for the transformation of wine to vinegar, it is accepted only on the basis of irrefutable textual evidence; otherwise it is illogical. And in relation to the tanning of the hides of carrion it is argued that the hide itself is pure whilst the moisture it contains is impure. However, the majority within the Ḥanafī School have accepted the opinion of Imām Muḥammad that transformation does indeed effect change in the ruling of an impure substance. This, as mentioned above, is also reported as the position of Imām Abū Ḥanīfah and is the adopted position of the school. Al-Kāsānī [Badā'i' al-Ṣanā'i', 1:241-242] explains the basis of Imām Muḥammad's position as follows:

"The basis of Imām Muḥammad's opinion is that when the impurity has transformed and its attributes and properties have changed it ceases to be an impurity because impurity is the name of an essence having an attribute. Thus, it ceases to exist with the absence of the attribute and it becomes like khamr when it becomes vinegar."

Ibn al-Humām [Fatḥ al-Qadīr, 1:176] also concludes:

"So we discover that transformation of a matter pursues the cessation of the attribute upon which it is founded."

Ibn 'Abidīn has also concurred with Ibn al-Humām and explains that the causative factor to the change in ruling according to Imām Muḥammad is the change in essence and this is the adopted position for fatwā due to public predicament. He then concludes that this ruling will extend to all situations where a change in essence has occurred and it is also a case of public predicament.¹⁰

In short, according to the major proponents of transformation in other than *khamr* and tanning of hide, namely the majority within the Ḥanafī and Mālikī schools, transformation is a cause for a

¹ المجموع شرح المذهب، باب إزالة النجاسة، ٦٢٠/٣، ٦٢١.

² المذهب، ١٧٢/١، والمجموع، باب إزالة النجاسة، ٦١٨-٦١٦/٣ و ٦٢٣-٦٢٢، ومغنى المحتاج، كتاب الطهارة، باب النجاسة، ١٣٤/١-١٣٥، وتحفة المحتاج، كتاب الطهارة، باب النجاسة وإزالتها، ٣٠٦-٣٠٣/١، وحاشية الشرواني على تحفة المحتاج، كتاب الطهارة، باب النجاسة وإزالتها، ٣٠٣/١، ونهاية المحتاج، باب النجاسة وإزالتها، ٢٤٩-٢٤٧/١.

³ المغنى، باب الأنية، ٦٠/١، والإنصاف، كتاب الطهارة، باب إزالة النجاسة، ٣٢٠-٣١٨/١، والروض المربع، كتاب الطهارة، إزالة النجاسة الحكيمة، ٣٦-٣٥/١.

⁴ تبيين الحقائق، كتاب الطهارة، باب الأنجاس، ٢٠٧/١، وحاشية الشلبى على تبيين الحقائق، كتاب الطهارة، باب الأنجاس، ٢٠٧/١، وبدائع الصنائع، كتاب الطهارة، فصل بيان ما يقع به التطهير، ٢٤٢-٢٤١/١، وفتح القدير، كتاب الطهارة، باب الأنجاس وتطهيرها، ١٧٦/١، والبحر الرائق، كتاب الطهارة، باب الأنجاس، ٢٢٨-٢٢٧/١، ورد المختار، كتاب الطهارة، باب الأنجاس، ٥٢٠-٥١٩/١، والدر المختار، كتاب الطهارة، باب الأنجاس، ٥٣٤-١٥٣٣، ورد المختار، كتاب الطهارة، باب الأنجاس، ٥٣٤/١، والفتاوى الهندية، كتاب الطهارة، الباب السابع فى النجاسة وأحكامها، ٤٥-٤٤/١.

⁵ مواهب الجليل لشرح مختصر خليل، كتاب الطهارة، ١٣٩-١٣٨/١، والتاج والإكليل لمختصر خليل بهامش مواهب الجليل، كتاب الطهارة، ١٣٩/١، ومنح الجليل شرح على مختصر العلامة خليل، باب برفع الحدث، فصل فى الطاهر، ٤٢/١، والشرح الكبير، باب أحكام الطهارة، فصل الطاهر، ٨٩-٨٨/١، وحاشية النسوقى على الشرح الكبير، باب أحكام الطهارة، فصل الطاهر، ٨٩-٨٨/١.

⁶ البيان، باب إزالة النجاسة، ٤٢٨-٤٢٩.

⁷ مجموع الفتاوى لابن تيمية، كتب الفقه، كتاب الطهارة، باب إزالة النجاسة، ٢١٣: ٢١٠.

⁸ إعلام الموقعين، ٢٩٨-٢٩٧/١.

⁹ تحفة المحتاج، كتاب الطهارة، باب النجاسة وإزالتها، ٣٠٣/١.

¹⁰ رد المختار، كتاب الطهارة، باب الأنجاس، ٥١٩/١.

change in ruling, but this requires [obvious] transformation of one essence/reality to another and not merely the transformation of a quality as expressly discussed by Ibn ‘Ābidīn¹¹ and as can be derived from the reasoning offered by the Mālikī jurist al-Ḥaṭṭāb in his explanation of the purity of musk.¹² I.e., that it has transformed in name and from all the qualities of blood to qualities and name that are peculiar to musk. Ibn al-Qayyim al-Jawziyyah has also concurred with this latter premise.¹³

Thus, it may be concluded that where there is an [obvious] transformation of one essence/reality to another giving rise to change in name and qualities and the issue is one of public predicament, a change in ruling will result.

There are numerous examples of transformation discussed by classical jurists including, reduction of faeces to soil, a pig, donkey or carrion falling in to a salt mine and being reduced to salt, soap produced from impure fats, disappearance of impure moisture in a clay oven due to the heat, soil of a sewer after it dries and the effect of the impurity dissipates, cream of tartar when it becomes tartaric acid, transformation of ritually pure raw grape juice in to impure *khamr* and then to pure vinegar, and a ritually impure drop of sperm when it eventually becomes a *mudghah* – chewed morsel and is then deemed to be pure.

All of the above examples of transformation and degradation discussed by Muslim jurists, whether through bacteria and microorganisms, burning or chemicals can be divided into two categories:

1. In the first category, which includes the dissolution and transformation of an impurity into soil, salt or water, and the reduction to ash following burning, there are two features commonly found in all examples:
 - i. No nutritional value remains in the new matter for bacteria and microorganisms which is the reason for the absence of foul odour.
 - ii. The proteins are degraded to way beyond the level of individual amino acids and the carbohydrates are degraded to beyond glucose level which is why the original taste no longer remains. The molecular weight of the previous matter has been significantly reduced. In soil, salt or water cellulose (5,000,000u) and protein fibres (280,000u) are transformed into ammonia (17u) carbon dioxide (44u) and nitrogen (28u). In the issue of ash this is reduced even further - carbon (12u). This massive reduction in molecular weight is indicative of a significant change in the matter.¹⁴

Both of the above two features may be considered to be conditions for transformation - *istiḥālah* for this category.

2. In the second category, which includes the transformation of fats into soap and alcohol into vinegar, there are also two features common here too:
 - i. Transfer from one family of chemicals into another family of chemicals which is the result of a significant change in chemical properties.
 - ii. Change in the physical properties at a level that the original matter is very obviously different from the resultant matter and can also be understood using analytical techniques.

Thus, it may be concluded that for this second category the chemical formula and chemical properties of the original matter must undergo change and the physical properties too must experience obvious significant change.

Note: Whilst transformation in the second category requires a significant change in chemical properties, significant change in chemical properties is not always recognised as transformation. E.g., the transformation of milk into yoghurt or the denaturisation that occurs in the boiling of an egg. Thus, in this second category the relationship between even a significant change in chemical properties and transformation is that of a proper subset. I.e., whilst transformation always requires significant change in chemical properties, a significant change in chemical properties is not always considered to be legal transformation.

¹¹ رد المحتار ، كتاب الطهارة ، باب الأنجاس ، ٣١٦/١ .

¹² مواهب الجليل لشرح مختصر خليل ، كتاب الطهارة ، ١٣٨/١ .

¹³ إعلام الموقعين ، فصل : طهارة الخمر باستحالتها توافق القياس ، ٢٩٨/١ .

¹⁴ See: Hussain, Muḥammad Anṣār, Collagen, Gelatine awr Tabdīlī Māhiyyat.

In relation to porcine gelatine the chemical change that occurs is insufficient to effect a change in ruling. Whilst I have personally witnessed and audited the production process of gelatine and have been advised by the scientists at the production plant that the structural and chemical change is minimal, I refer you to a detailed Urdu *fatwā* on gelatine and the issue of transformation issued by a colleague, Mufti Sarfraz Muḥammad and countersigned by Sheikh Muḥammad Taqī 'Uthmānī amongst other scholars, in which Mufti Sarfraz Muḥammad concludes:

- Not every chemical change results in transformation as is evidenced by the structural and chemical changes in the cooking of ḥarām meat which remains unlawful after being cooked.
- Whilst cooking does not render pork ḥalāl if it is burnt and reduced to ash it will be considered to have transformed.
- The denaturisation that occurs in collagen derived from porcine hide through hydrolysis and treatment with acid and alkali is equivalent to the denaturisation that occurs in the cooking of meat even if treatment with acid and alkali produces purer gelatine.
- The amino acid content of acid processed gelatine is virtually identical to that of collagen.
- The major change in the manufacture of gelatine is a physical change wherein the structure is broken down to make it warm water soluble.¹⁵

It is thus clear that the change that occurs in the manufacture of gelatine from porcine collagen is minimal and cannot be considered legal transformation which would give rise to a change in ruling. Neither of the following two features mentioned earlier has manifested:

- i. Transfer from one family of chemicals into another family of chemicals which is the result of a significant change in chemical properties.
- ii. Change in the physical properties at a level that the original matter is very obviously different from the resultant matter and can also be understood using analytical techniques.

This can only lead one to conclude that the nasal vaccine (Fluenz) containing porcine derived gelatine is not suitable for Muslims.

As for the second comment regarding the reference to notable scholars in the WHO document, the inclusion of the names of many notable scholars is only as participants of the seminar held by the Islamic Organisation for Medical Sciences in Kuwait in 1995. Participation is in no way an indication [or otherwise] of their support for legal transformation in gelatine. This is clearly evidenced by the fact that Sheikh Muḥammad Taqī 'Uthmānī, one of the notable scholars referred to in the WHO document, has emphatically rejected the notion that legal transformation has occurred. This is also quite possibly holds true for many of the other notable scholars mentioned. It would have been better for Public Health England (PHE) to seek the counsel of UK based Muslim umbrella bodies and religious expertise to ensure that the advice being offered by them is actually acceptable to British Muslims.

And Allah knows best.

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¹⁵ See: Muḥammad Sarfarāz, Urdu *fatwā* dated 12/06/1431 AH.