



**Title name: Islamic legal position on Vaping and the use of Cannabis**

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## Disclaimer

This research was conducted to inform the Muslim community about the contemporary issues of vaping and its widespread use. We used contemporary *Fatawas* and medical statistics to compile this research, not as scholars but as humble students. Whatever is right and good, it is from Allah s.w.t. and whatever is bad, it is from us and *Shaitan*. We hope that some scholar will enhance this paper and take it to next level so that eventually it will benefit the community. It was submitted respectfully to our beloved teacher Dr. Asif Hirani as a part of course conducted in Worcester Islamic Center.

From,

Dr. Saleem Khanani & Maseeh Soomro

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

## Abstract

*The use of traditional nicotine cigarettes, E-cigarettes and marijuana products has been on the rise among teenagers and adults, both men and women. The recent reporting of serious lung disease and deaths from these products has raised moral, legal and religious issues. In this paper we will present an overview of this problem and discuss the Islamic legal position utilizing the traditional sources of jurisprudence and analogical reasoning.*

## Introduction

The use of e-cigarettes and that of the several products of Cannabis, also known as marijuana, has become the subject of medical research, health policy, bioethics and religion, in view of the recently reported lung disease EVALI that has led to more than three dozen deaths in 2019 alone.<sup>i, ii</sup> Vaping is the act of inhaling and exhaling the aerosol or vapor produced by an electronic cigarette, popularly known as e-cigarette or a similar device.

By the end of October 2019 more than a thousand cases of lung injury and at least 37 deaths have been reported related to vaping. According to the Centers for Disease Control 1888 people have developed a new lung illness, called EVALI in every state of the United States of America except Alaska. EVALI stands for E-cigarette, or Vaping, product use Associated Lung Injury. It has also been reported that people who died as a result of EVALI often used products exclusively containing THC (tetrahydrocannabinol), a psychoactive<sup>1</sup> [A] substance found in cannabis.<sup>iii</sup> Cannabis or marijuana is a psychoactive drug obtained from the Cannabis plant used for medical and recreational purposes. Marijuana is also known by several names such as weed, herb, pot,

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<sup>1</sup> A **psychoactive** drug, psychopharmaceutical, or psychotropic drug is a chemical substance that changes brain function and results in alterations in perception, mood, consciousness, cognition, or behaviour. These substances may be used medically; recreationally; to purposefully improve performance or alter one's consciousness; as entheogens; for ritual, spiritual, or shamanic purposes; or for research. Some categories of psychoactive drugs, which have therapeutic value, are prescribed by physicians and other healthcare practitioners. Examples include anaesthetics, analgesics, anticonvulsant and antiparkinsonian drugs as well as medications used to treat neuropsychiatric disorders, such as antidepressants, anxiolytics, antipsychotics, and stimulant medications. Some psychoactive substances may be used in the detoxification and rehabilitation programs for persons dependent on or addicted to other psychoactive drugs. Wikipedia

grass, bud, ganja and Mary Jane among others. It is a greenish-gray mixture of the dried flowers of the plant *Cannabis sativa*.<sup>iv</sup>

Although the first documented reference to an electronic cigarette is a patent granted to Joseph Robinson in 1930<sup>2</sup>, the first commercially successful electronic cigarette was created in Beijing China by Hon Lik and it was first introduced in Europe in April 2006.<sup>v</sup> In the USA e-cigarettes were developed as an alternative to cigarette smoking, and some studies showed that vaping helped some smokers quit smoking or cut down substantially the number of cigarettes they smoked. Despite efforts to regulate the use of e-cigarettes the number of vapers has increased steadily from 7 million in 2011 to 41 million in 2018 and the global market is now estimated to be worth \$19.5 billion.<sup>vi</sup> The use of e-cigarettes among high school students has increased at an alarming pace jumping by 78% from 2017 to 2018 among high school students and by 48% among those attending middle school.<sup>vii, viii</sup>

Since 2012, eleven states and Washington DC have legalized recreational use of cannabis for adults over the age of 21, and its medical use is legal in 33 other states.<sup>ix</sup> Marijuana is the most used drug among teens with more teenage girls reported use of marijuana compared with cocaine, heroin, ecstasy, and all other illicit drugs combined.<sup>x</sup> In 2017, the legal marijuana industry's economic impact in the USA was between \$20 billion and \$23 billion.<sup>xi</sup> Cannabis can be used in various ways through inhalation, ingestion and topical application. Different devices for its use include hand pipes, water pipes, hookahs, vaporization, rolling paper, edibles, home-made devices, tinctures and edible oils. A 39-year-old woman was found dead in New Orleans after vaping from an over dose of THC oil. This may be the first reported death from THC.<sup>xii</sup>

While the legal system is facing a Herculean task in regulating the use of e-cigarettes and marijuana, the question also arises about the position of religion with respect to this issue in particular and to the use of other products that affect the human mind and body in general. In this paper we will look at the ways in which the Islamic law can be applied to face this challenge. We will look at the primary sources of Islamic law and apply some legal maxims that are relevant to regulating the human conduct that, if allowed unchecked, can result in moral deterioration, self-destruction, physical harm leading to the individual's death, and societal repercussions.

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<sup>2</sup> **Joseph Robinsons** was an American inventor who filed for the patent of the world's first electric vaporizer on May 3, 1927. The patent was ultimately granted to him on September 16, 1930.

## The Islamic methodology

Islamic jurists follow a well-defined approach when answering religious questions. They make use of the sciences of the principles of Islamic jurisprudence *اصول الفقه*, the purpose behind legal injunctions *مقاصد الشريعة* and a variety of legal maxims *القواعد الفقيهية*. This paper will present an overview of these disciplines and then apply them to the issue of Islamic legal position on vaping and the use of cannabis.

Before delving into the Islamic methodology when dealing with contemporary issues not directly addressed in the two Divine sources of Islamic law, i.e., the Holy Quran and the Prophetic traditions, we will look at what Islam means to its over 1.5 billion followers all over the globe.<sup>xiii</sup> Linguistically Islam means peace and submission, and more specifically, belief and submission to one God that necessitates man conducting his life in order to realize the Divine Will. It combines faith and practice following the Islamic law or Shariah that governs not just the ritual acts of worship but also extends to the legal and social transactions and even personal behavior.

According to Fazlur Rahman<sup>3</sup> the most important and comprehensive concept for describing Islam as a function is the concept of Sharia or 'Shar' which, for political reason among others, is probably the most misunderstood term in both the Western and the Muslim world.<sup>xiv</sup> In its original meaning the shariah means the path or the road leading to the water without which a traveler in the desert has no chance of survival. In religious sense it implies 'the highway of good life', i.e., religious values, expressed functionally and in concrete terms, to direct man's life. The subject of Shariah is God who prescribes a path to be followed by man. A related term *دين* often translated as 'religion' is the following of that path and its subject is man.<sup>xv</sup>

The Islamic law is based upon four foundations, called the roots of the law. These are the Quran, the *Sunna*<sup>4</sup> of the Prophet Mohammad peace be upon

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<sup>3</sup> **Fazlur Rahman** (1919 to 1988) was a modernist Islamic scholar from Pakistan whose works on modernist understanding of Quran and Islamic revival and reform have been highly influential in Western research on Islam. He was the Harold H. Swift Distinguished Service Professor of Islamic Thought at the University of Chicago.

<sup>4</sup> The words, actions and tacit approvals of the Prophet Mohammad, peace be upon him, were compiled after him over the next four hundred years, transmitted through several chains of narrators. Several such collections have been preserved, published in original Arabic and translated into multiple language the world over. These collections are usually referred to by the names of their collectors. The six most famous collections are collected by Al Bukhari, Muslim, Abu Dawood, Al Tirmidhi, Ahmad Ibn Hanbal, Ibn Ma'ja and An Nasai. The collections of Al Bukhari and Muslim are considered to be the most authentic among the six and are usually referred to as Sahih Al Bukhari and Sahi Muslim respectively. The word Sahih stands for the most authentic.

him<sup>5</sup>, the Ijma or the consensus of the Muslim scholars beginning with the immediate Companions of the Prophet peace be upon him, and the Qiyas or analogical reasoning.<sup>xvi</sup>

The Quran is the Divine revelation from God to the Prophet Mohammad, peace be upon him, through the Archangel Gabriel<sup>6</sup> transmitted over a period of 23 years. Its words are considered to be God's own words, and about which, there is no difference of opinion among the Muslim scholars regardless of their affiliation with any group. The *Sunnah* of the Prophet, peace be upon him, includes the things he said, did or remained silent about as reported by thousands of his immediate followers transmitted by generation after generation of Muslims and now collected in multiple collections of Hadith.

When an issue is not specifically addressed in these two Divine sources, Muslim scholars use their reasoning ability or اجتهاد and analogical reasoning قیاس to deduce and apply Shariah principles. The *Qiyas* is, to simply put, a tool used by the jurists to compare cases in such a way that injunction of one case already dealt with in one or both of the Divine sources is applied to a similar one that has no specified injunction. There must exist a common denominator 'illa' علة between the two cases that allows an accurate extrapolation of the injunction of the existing case to the new one.

In a very famous and oft-quoted report the Prophet, peace be upon him, asks his appointed judge to Yemen, Mu'adh Ibn Jabal<sup>7</sup>, the methodology through which he would judge the cases brought to him.

حَدَّثَنَا حَفْصُ بْنُ عُمَرَ عَنْ شُعْبَةَ عَنْ أَبِي عَوْنٍ عَنِ الْحَارِثِ بْنِ عَمْرٍو ابْنِ أَخِي الْمُغِيرَةِ بْنِ شُعْبَةَ عَنْ أَنَسٍ مِنْ أَهْلِ حِمَصٍ مِنْ أَصْحَابِ مُعَاذِ بْنِ جَبَلٍ

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<sup>5</sup> **Mohammad son of Abdullah** (571-632 AD) is the Prophet of Islam who received the final revelation of God, the Holy Quran, and whose teachings influence the daily conduct of every Muslim. He was born in Mecca in the present-day Saudi Arabia. It is customary for the Muslims to write and say Peace be upon Him whenever his name is written or mentioned. Often times he is also referred to as the Messenger of God or Messenger of Allah peace be upon him.

<sup>6</sup> **Archangel Gabriel** is the messenger in the Abrahamic religions who delivers messages and Revelation from God to the chosen Prophets.

<sup>7</sup> **Mu'adh son of Jabal** was a Madanese companion of the Prophet, peace be upon him. In Islamic tradition a companion is a man or a woman who accepted Islam during the time of the Prophet, peace be upon him, and saw him.

أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَمَّا أَرَادَ أَنْ يَبْعَثَ مُعَاذًا إِلَى الْيَمَنِ قَالَ كَيْفَ تَقْضِي إِذَا عَرَضَ لَكَ قَضَاءٌ قَالَ أَقْضِي بِكِتَابِ اللَّهِ قَالَ فَإِنْ لَمْ تَجِدْ فِي كِتَابِ اللَّهِ قَالَ فَبِسُنَّةِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ فَإِنْ لَمْ تَجِدْ فِي سُنَّةِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَلَا فِي كِتَابِ اللَّهِ قَالَ أَجْتَهِدُ رَأْيِي وَلَا أَلُو فَضْرَبَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ صَدْرَهُ وَقَالَ الْحَمْدُ لِلَّهِ الَّذِي وَفَّقَ رَسُولَ رَسُولِ اللَّهِ لِمَا يُرْضِي رَسُولَ اللَّهِ

When the Messenger of Allah ﷺ intended to send Mu'adh ibn Jabal to the Yemen, he asked: How will you judge when the occasion of deciding a case arises?

He replied: I shall judge in accordance with Allah's Book. He asked: (What will you do) if you do not find any guidance in Allah's Book? He replied: (I shall act) in accordance with the *Sunnah* of the Messenger of Allah ﷺ.

He asked: (What will you do) if you do not find any guidance in the *Sunnah* of the Messenger of Allah ﷺ and in Allah's Book?

He replied: I shall do my best to form an opinion and I shall spare no effort.

The Messenger of Allah ﷺ then patted him on the breast and said: Praise be to Allah Who has helped the messenger of the Messenger of Allah to find something which pleases the Messenger of Allah.<sup>xvii</sup>

This report is one of the evidences put forward by the scholars as a proof for the principles of Islamic jurisprudence that deal with the sources and methodology through which injunctions can be deduced from the legal sources.

Consensus or *الاجماع* is a verdict reached by the vast majority of scholars in a particular time in a particular place. It lies third in the hierarchy of the sources of Islamic law since collective wisdom is superior to individual intellect.

The Shariah is not a whimsical and authoritative way of life chosen by God for man. It is a purpose-oriented system designed for man's protection. The purposes of the Divine law or the wisdom behind every commandment of Islamic law originating from any of the four established sources agreed upon by all the Muslim scholars are referred to as the objectives of the Islamic legal system or *مقاصد الشريعة*.<sup>xviii, xix</sup>

Based upon the seminal work done by Abu Ishaq al-Shatibi, the purposes of all the Islamic commandments are classified into six categories: preservation of soul or life, wealth, mind, offspring and honor. As can be understood readily the Shariah is focused on the welfare of the individual and the society and public welfare *المصلحة المرسله* and juristic preference *الاستحسان* play a significant role in dealing with issues in a given society in a given time period while equally important is the role of culture *عرف* and the prevalent custom *العادة*.



Legal maxims are brief epithetic statements extrapolated from a predominant governing theme with regards to a particular issue from the Quran, *Sunnah* and consensus that can be applied to a wide variety of issues. Instead of memorizing thousands of Quranic verses and Prophetic traditions as well as the statements of thousands of scholars, a jurist can examine a case in the light of these legal maxims to deduce an appropriate answer. Of the hundreds of such maxims and submaxims the following five are universally accepted:<sup>xx</sup>

1. All matters must be judged according to the intention or their objectives
2. Certainly cannot be overruled by doubt
3. Harm is to be removed
4. Difficulty begets ease
5. Custom is to be respected

With this overview we will now approach the issue of vaping and the use of cannabis and other cannabinoid products from an Islamic juristic perspective.

The Quran and the *Sunnah* remain gold standard for the moral conduct of a Muslim. The text of the Quran and the thousands of Prophetic traditions has remained unchanged, and while the legal injunctions in both are finite, the issues faced by human beings with the passage of time can be considered to be infinite.

The religion of Islam prohibits certain objects and practices in order to protect life, wealth, mind, offspring and honor as above. In some cases, the objective is mentioned along with the ruling, and in other cases it has to be inferred.

An example of the former is the verse prohibiting adultery.

وَلَا تَقْرَبُوا الزَّوْجَاتِ إِنَّهُ كَانَ فَاحِشَةً وَسَاءَ سَبِيلًا

Nor come nigh to adultery: for it is a shameful (deed) and an evil opening the road (to other evils) Chapter 17:32<sup>8</sup>

In other situations, the prohibition occurs despite some benefit if the harm is greater. For example:

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<sup>8</sup> The Holy Quran contains 114 chapters revealed over 23 years to the Prophet Mohammad, peace be upon him. Their arrangement is considered to be determined by God Himself, and is not chronological. Mostly the larger chapters come first. Each chapter is divided into verses. The customary way of referring to the Quranic verses is to put the number of the chapter first and separated from the verse number by the sign. Here 17:32 means that the verse quoted is the number 17 in the chapter 17.

يَسْأَلُونَكَ عَنِ الْخَمْرِ وَالْمَيْسِرِ قُلْ فِيهِمَا إِثْمٌ كَبِيرٌ وَمَنْفَعَةٌ لِلنَّاسِ وَإِثْمُهُمَا أَكْبَرُ مِنْ نَفْعِهِمَا ۗ

THEY WILL ASK thee about intoxicants and games of chance. Say: "In both there is great evil as well as some benefit for man; but the evil which they cause is greater than the benefit which they bring. Chapter 2:219.

And yet in rare instances a prohibited thing or act becomes allowed in case of dire necessity such as a life-threatening situation. This is exemplified by the following verse.

إِنَّمَا حَرَّمَ عَلَيْكُمُ الْمَيْتَةَ وَالدَّمَ وَلَحْمَ الْخِنْزِيرِ وَمَا أُهْلَ بِهِ لِغَيْرِ اللَّهِ فَمَنْ اضْطُرَّ غَيْرَ بَاغٍ وَلَا عَادٍ فَلَا إِثْمَ عَلَيْهِ ۗ إِنَّ اللَّهَ غَفُورٌ رَحِيمٌ

He has forbidden to you only carrion, and blood, and the flesh of swine, and that over which any name other than God's has been invoked; but if one is driven by necessity - neither coveting it nor exceeding his immediate need - no sin shall be upon him: for, behold, God is much-forgiving, a dispenser of grace. 2:173

Vast majority of Muslims scholars, both classical and contemporary, consider cigarette smoking, e-cigarettes and all cannabis products to be impermissible *حرام* in public interest due to their harmful effects.

The questions that can be raised are about the relevance of Islam in a Western country that upholds personal freedom and secular law, and the evidence for such juristic verdicts *فتوي*.

In the book *Understanding Islamic Law*, Irshad Abdal-Haqq writes:

“The Muslim population in the United States is estimated to range from five to eight million and Islam is projected to become the nation’s second largest religion early in the next century. A distinctive characteristic of Islam is its remarkable synthesis of all aspects of human social interaction and endeavor into a single value system – a system of law. Throughout the entire history of Islam, Islamic law has remained a prime focus of intellectual effort and recognized by Muslims as a religious duty to uphold and protect. Nowhere is this urgency of purpose more pronounced than among American Muslims.”<sup>xxi</sup>

He writes further that “the Islamic sense of mission readily affirms itself in a society struggling to preserve Judeo-Christian-Muslim values”.

Thus, the Islamic legal position to the epidemic of e-cigarettes and cannabis products has widespread implications for the Western as a whole especially in view of the frightening number of cases of life-threatening illnesses associated with both reported recently. The e-cigarettes were introduced as a

less harmful alternative to the traditional cigarettes but the recent statistics seem to paint a different picture.

Although the Islamic Divine texts do not specifically mention cigarette smoking, e-cigarettes and cannabis, the Muslim scholars approach this issue by way of analogical reasoning. Islamic law is not alone in utilizing this way of reasoning to address contemporary issues.

The Stanford encyclopedia of philosophy mentions:

“ Analogies are widely recognized as playing an important *heuristic* role, as aids to discovery. They have been employed, in a wide variety of settings and with considerable success, to generate insight and to formulate possible solutions to problems. According to Joseph Priestley<sup>9</sup>, a pioneer in chemistry and electricity, analogy is our best guide in all philosophical investigations; and all discoveries, which were not made by mere accident, have been made by the help of it. (1769/1966: 14)<sup>xxii</sup>

Priestley may be over-stating the case, but there is no doubt that analogies have suggested fruitful lines of inquiry in many fields.”

As mentioned earlier the Quran prohibits the use of alcohol due to its greater harm. Based upon the objectives of the Islamic law, the prohibition is related to the intoxicant effect of alcohol on human intellect. Current scientific research links alcohol drinking with liver disease and a variety of cancers.

The prohibitive commandment of the Quran was extrapolated by Prophet Mohammad peace be upon him to all intoxicants regardless of the amount consumed.

وكل مسكر حرام

Every intoxicant is prohibited.<sup>xxiii</sup>

ما أسكر كثيره فقليله حرام

Consumption of a little quantity of what intoxicates in a larger quantity is prohibited as well.<sup>xxiv</sup>

The injurious effect to various body organs and not just the intellect provides another analogy from the Quranic text.

وَلَا تُلْقُوا بِأَيْدِيكُمْ إِلَى التَّهْلُكَةِ

do not let your own hands throw you into destruction. 2:195

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<sup>9</sup> Joseph Priestley (1733-1804) was an English philosopher, theologian and scientist who wrote about 150 works.

Ibn Taymiyyah<sup>10</sup> said in Majmū' al-Fatāwa (34/206):

“*Hashīsh* is one of those things which Allah and His Messenger ﷺ have prohibited from the categories of alcohol and intoxicants – in name and meaning – and the *aḥādīth* on the matter are many. The Messenger of Allah ﷺ with his pithy speech has referred to every single substance which impairs the ability to think and intoxicates, and he did not differentiate between the forms they may take or whether they are eaten or drunk.

Ibn Rajab al-Ḥanbalī<sup>11</sup> commenting on the statement of the Prophet ﷺ in Ṣaḥīḥ Muslim that,

“Every intoxicant is a *khamr*, and every *khamr* is forbidden,” said:

“An intoxicant brings about pleasure and joy...a group of the scholars said, “This doesn’t matter whether it is a solid or a liquid, whether it is eaten or drunk, whether it comes from a seed or a date or from milk or whatever.” That is why *ḥashīsh* resin made from the leaves of the cannabis plant was included as well as other substances which are consumed, because of the pleasure they induce and because of their intoxicating effect.” (Jāmi’ al-‘Ulūm wal-Ḥikam, 2/464).

Ibn Ḥajr<sup>12</sup> and al-Nawawī<sup>13</sup> confirmed the same ruling as in al-Fatḥ al-Bāri, 10/47.

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<sup>10</sup> **Taqī ad-Dīn Ahmad ibn Taymiyyah** (Arabic: تقي الدين أحمد ابن تيمية, January 22, 1263 - September 26, 1328), known as Ibn Taymiyyah for short, was a controversial medieval Sunni Muslim theologian, jurisconsult, logician, and reformer. He was a prolific writer and his voluminous works are studied and quoted widely.

<sup>11</sup> **Ibn Rajab Al-Hanbali** (1335-1393 CE) was born in Baghdad and died in Damascus. He was one of the most prominent scholars of Islamic sciences in his times and wrote some of the most famous commentaries on the traditions of the Prophet of Islam, peace be upon him.

<sup>12</sup> **Ibn Hajar Al-Asqalani** (1372 to 1449 CE) was born in Cairo and enjoys the reputation of being the most qualified scholar of Hadith sciences, i.e., the sciences dealing with collection, authenticating and commenting upon the reports narrated from the Prophet Muhammad, peace be upon him. Out of over 150 works his commentary on the Sahih Al-Bukhari is still considered to be the best work in this field.

<sup>13</sup> **Abu Zakaria Yahya Ibn Sharaf al-Nawawī** (Arabic: أبو زكريا يحيى بن شرف النووي; 1233–1277 CE), popularly known as al-Nawawī or Imam Nawawī (631–676 A.H./1234–1277), was a Sunni Shafi'ite jurist and hadith scholar. He authored numerous and lengthy works ranging from hadith, to theology, biography, and jurisprudence. His book The Garden of the Righteous is perhaps the most published Islamic book in the West after the Holy Quran.

The ruling on recreational use of c-liquid or any form of cannabis product, whether natural or synthetic cannabinoid, solid or liquid, smoke or vapour, is the same. They are all completely impermissible in Islam. The form of a substance is immaterial since it is the impact and harm caused by it that is the underlying factor in its prohibition.

The scholars also use legal maxims that address removal of harm and balancing competing harms.

الضرر يزال

Harm is to be removed. As Shahrul Hussain mentions “one of the prime objectives of Islamic law is to remove harm and secure benefit”.

A related legal maxim states that private harm is endured in order to suppress public harm.

يحتمل الضرر الخاص لدفع ضرر عام

In this instance banning something that causes widespread harm may come at a cost of denying benefit to a few.

However, there is a disagreement when it comes to the medicinal use of morphine and cannabis products.

Abu Dawood narrated from Abi al-Darda' t: The Messenger of Allah said:

“إِنَّ اللَّهَ أَنْزَلَ الدَّاءَ وَالذَّوَاءَ، وَجَعَلَ لِكُلِّ دَاءٍ دَوَاءً، فَتَدَاوُوا، وَلَا تَدَاوُوا بِحَرَامٍ”.

“Allah sent down the disease and the cure, and He made a cure for every disease. So seek treatment, but do not use as medicine that which is haram.”

Tariq ibn Suwayd al-Ju'fi t asked the Prophet ﷺ about wine and he forbade him or disliked his making it. He said: I only make it as a medicine. He said:

“إِنَّهُ لَيْسَ بِدَوَاءٍ وَلَكِنَّهُ دَاءٌ”.

“It is not a medicine; rather it is a disease.”<sup>xxv</sup>

The Prophet ﷺ also said:

“كُلُّ مَسْكِرٍ خَمْرٌ، وَكُلُّ مَسْكِرٍ حَرَامٌ”.

“Every intoxicant is *khamr*, and every intoxicant is haram.”<sup>xxvi</sup>

Some of the earlier scholars such as Imam An Nawawi, Ibn Hajar and Ibn Taimiyya considered the use of hashish as a sin punishable under Islamic law similar to the punishment for alcohol drinking.

However, Sh. Zakaria al-Ansari mentioned in his book, "Asna al-Matalib": "Non-liquid substances that cause impairment of the mind like *hashishah* (cannabis) and *banj* (anesthetic) are forbidden due to their impairing the mind, yet there is no *hadd* (prescribed punishment) for them, since they don't cause enjoyment and giddiness and consumption of a little of it doesn't invite to consumption of much, however, it should be punishable by a discretionary penalty. One may use it to lose consciousness for the amputation of a gangrenous limb."

The counter argument for the permissibility of using Morphine and cannabis products for medicinal use comes from the already-quoted Quranic verse 2:173 as well as the following legal maxim:

الضرورات تبيح المحظورات

Necessities make the prohibited permissible.

This applies, according to the stronger position, to the area of medicine.

## Conclusion

Contemporary issues not directly addressed in the Quran, the *Sunnah* of the Holy Prophet Mohammad, peace be upon him, and through the consensus of earlier scholars, can be handled through analogical reasoning and the use of legal maxims. The use of e-cigarettes, although introduced as a safer alternative to traditional smoking, can be considered to be prohibited in the greater public interest. The use of morphine and cannabis products is permissible when medically necessary and in the absence of any alternative.



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