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# الذبح الآلى - Mechanical Slaughter المنظور الشرعى - Islamic Perspective

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# Overview

- ▶ Mechanical Slaughter (MS) – defining area of discussion
- ▶ Basic conditions of halal slaughter:
  1. Pertaining to slaughterer
  2. Pertaining to invoking of tasmiyah
  3. Severance of required vessels
- ▶ Does MS meet the basic conditions?
- ▶ Discussion re current juristic opinion
- ▶ Conclusions



# Mechanical Slaughter



- ▶ Poultry is transported on hooks through the slaughtering plant and after stunning the slaughter is performed by a rotating blade.

**ROTATING  
BLADE**

# Mechanical Slaughter

- ▶ Invoking tasmiyah?
  - No tasmiyah at all
  - Written on nearest wall
  - Played from a tape or CD
  - Engraved on the rotating blade
  - Invoked when starting the machine
  - Invoked at slaughter point



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# Slaughter, basic conditions

- ▶ **Conditions re slaughterer:**
- ▶ Muslim or from the People of the Book (Christian or Jew)
- ▶ Of sound intellect?
  - Necessary according to Ḥanafī, Mālikī and Ḥanbalī Schools as slaughter is an act of worship requiring intention
  - Two opinions within Shāfi‘ī School

# Slaughter, basic conditions

- ▶ Conditions re invoking of tasmiyah:
  - ▶ Compulsory except in forgetfulness – Ḥanafī, Mālikī and Ḥanbalī Schools
  - ▶ Tasmiyah is sunnah except if omitted in disdain (استخفافاً)– Shāfi‘ī School.
- “And do not eat of that over which the name of Allah has not been mentioned, for indeed it is sheer deviance.” [Qur’ān 6:121]

# Slaughter, basic conditions

- ▶ **Conditions re invoking of tasmiyah:**
- ▶ General body of jurists (الجمهور) require:
  - Invoked by slaughterer
  - Invoked on each animal
  - Animals to be slaughtered must be specified
  - Without much delay



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# Slaughter, basic conditions

## ► Conditions re invoking of tasmiyah:

“As for the condition related to the object of slaughter, so of it in voluntary slaughter is specifying the object of slaughter with the tasmiyah. Based on this is derived the ruling when the slaughterer slaughters and invokes tasmiyah and then slaughters another thinking that the first tasmiyah suffices for both, it will not be eaten. It is thus necessary to make a fresh mention for each animal separately.”



# Slaughter, basic conditions

## ► Conditions re invoking of tasmiyah:

“If one lays down a sheep, takes a knife and invokes tasmiyah, but leaves it and slaughters another sheep and forsakes tasmiyah intentionally upon it, it is not lawful. Thus is related in Al-Khulāṣah.”

“If one lays down a sheep to slaughter it and invokes tasmiyah upon it, but then speaks to someone, drinks some water, sharpens a knife, or eats a morsel, or does some similar action that is not much, ...

# Slaughter, basic conditions

- ▶ **Conditions re invoking of tasmiyah:**
  - ... it becomes lawful with that tasmiyah. But if the conversation is prolonged and the action is much, eating it is disliked. There is no precise measure in this; rather custom will be referred to. If the people consider it to be much in custom, it is much; if it is considered little, it is little. [Al-Hindiyyah 5:288]
- ▶ **Ibn Qudāmah** has also mentioned the same [Al-Mughnī 11:33] and adds:



# Slaughter, basic conditions

## ► Conditions re invoking of tasmiyah:

“If he sees a flock of sheep and says: ‘In the name of Allah’ and then takes hold of a sheep and slaughters it without tasmiyah [a second time] it is not lawful. And if he was ignorant of the fact that it was insufficient it will not be treated like forgetfulness. Forgetfulness eliminates culpability but the ignorant is held accountable. [Al-Mughnī 11:33]

# Slaughter, basic conditions

- ▶ Conditions re invoking of tasmiyah:
- ▶ This should not be confused with:

“If one lays one of two sheep on top of the other one tasmiyah is adequate if he slaughters them both with one swipe of the blade. If one gathers some birds in his hand and he slaughters one and invokes tasmiyah and immediately slaughters another and does not invoke tasmiyah the second is not lawful. However, if he passes a blade along all of them it will be permissible with one tasmiyah.”

[Al-Hindiyyah 5:288]

# Slaughter, basic conditions

- ▶ **Conditions re severance of required vessels:**
  - Shāfi'ī – only trachea and oesophagus
  - Mālikī – trachea and both jugular veins
  - Ḥanbalī – trachea and oesophagus is sufficient, but better to cut jugular veins too

# Slaughter, basic conditions

- ▶ **Conditions re severance of required vessels:**
  - Abū Ḥanīfah – any three of the four
  - Abū Yūsuf – trachea, oesophagus and one jugular vein
  - Muḥammad– most of each of the four
- ▶ All agree that [in controlled slaughter] the cutting point is where the throat meets the upper part of the chest.

# Does MS meet conditions?

## 1. Conditions re slaughterer:

- ▶ Is the engagement of the machine a case of ‘removal of obstacle’ [رفع المانع] or ‘application of slaughter instrument to the animal’ [إيصال آلة الذبح إلى المذبوح]?
- It is clearly not ‘removal of obstacle’
- It is definitely ‘application of slaughter instrument to the animal’ by way of completing the electrical circuit.

[Ahsanul Fatawa, 7/473, Fatwa dated 22/01/1386AH (11/07/1966 CE)]



# Does MS meet conditions?

## 1. Conditions re slaughterer:

- ▶ Is the operator only the cause/ initiator (المتسبب) of the process and not the active agent (الفاعل) / direct practitioner (المباشر) of the slaughter?
  - A direct practitioner (المباشر) is defined as one who brings effect through his action without any intermediary. He is the *ratio legis* [علة] to which the effect [معلول] is attributed.

المباشر هو الذى حصل التلف مثلا بفعله بلا واسطة ، فكان هو صاحب العلة يضاف إليه التلف.

[شرح المجلة للأناسى ج 1 ص 249]

# Does MS meet conditions?

## 1. Conditions re slaughterer:

- ▶ Is the operator only the cause/ initiator (المتسبب) of the process and not the active agent (الفاعل) / direct practitioner (المباشر) of the slaughter?
  - A cause/initiator (المتسبب) is defined as one where the effect is not caused by his action but by an intermediary that is the *ratio legis* [علة] for achieving the effect and is the action of an agent of volition. As for the action of the cause/initiator (المتسبب), it has no consequence beyond leading to the effect.

والمسبب ما حصل التلف لا بمباشرة وفعله بل بواسطة هي العلة لحصول المعلوم ، وهي فعل فاعل مختار. وأما فعله فلا تأثير له سوى أنه مفضي

إليه. [شرح المجلة للأتاسى ج 1 ص 249]

# Does MS meet conditions?

## 1. Conditions re slaughterer:

- When the intermediary between the cause and the effect is such that the effect may be attributed to it, the cause is then a 'real cause' in the sense that it has no distinction beyond merely leading to realisation of the effect.
- When the intermediary is such that the effect cannot be attributed to it, the effect will be attributed to the cause and the cause will effectively be the *ratio legis* [علة].

متى كان المتوسط بين السبب والمعلول صالحا لإضافة المعلول إليه يكون السبب حينئذ سببا حقيقيا أى محضا بمعنى أنه لا مزية له سوى الإفضاء إلى حصوله. وعرفوه بأنه ما توسط بينه وبين الحكم علة ، وذلك المتوسط هو العلة. ... ومتى كان المتوسط غير صالح لذلك فالحكم يضاف إلى السبب ويكون حينئذ فى معنى العلة. [شرح المجلة للأتاسى ج 1 ص 250]

# Does MS meet conditions?

## 1. Conditions re slaughterer:

### ▶ In summary:

- The operator is merely the cause/ initiator (المتسبب) of the process.
- The electrical current is the active agent (الفاعل) / direct practitioner (المباشر) of the slaughter.
- However, as the effect of the process cannot be attributed to the electrical current it must be attributed to the operator.



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# Does MS meet conditions?

## 2. Is the condition of tasmiyah adequately met?

- ▶ No tasmiyah, writing on the wall, playing tape or CD and engravings on the blade obviously do not satisfy this condition.
- ▶ Invoking tasmiyah at the start of the process only does not meet:
  - Tasmiyah upon each animal
  - Specification of the object of slaughter

# Does MS meet conditions?

## 2. Is the condition of tasmiyah adequately met?

- ▶ Invoking tasmiyah at slaughter point?
- ▶ Tasmiyah must be invoked by the operator.
- ▶ Sheer volume of chickens renders it impossible to invoke tasmiyah for every chicken.
- ▶ If distracted, the invoker misses many chickens.

# Does MS meet conditions?

## 3. Are the specified vessels severed?

- ▶ The specified vessels are cut most of the time.
- ▶ Sometimes the neck is cut off entirely.
- ▶ Sometimes the required vessels are only partially severed.
- ▶ Sometimes the blade cuts the head, wings or breast of the chicken.
- ▶ Sometime the chicken avoids the blade altogether.

# Current juristic opinion

- ▶ Islamic Fiqh Academy, Jeddah
- ▶ 10<sup>th</sup> Session (28/06/97 – 03/07/97)
- ▶ Scant discussion on the status of MS
- ▶ Majority upheld specification of animal in their submissions
- ▶ Dissenting voices to MS existed
- ▶ Permission founded on: slaughter of tens of thousands of chicken at one time is near to involuntary slaughter
- ▶ No substantiation offered!





# Current juristic opinion

## ▶ Islamic Fiqh Academy, Jeddah

## ▶ Resolution 101 / 3 / 10:

“Eighth: In principle, the slaughter of poultry and other animals should be concluded at the hand of the slaughterer. There is no harm in using mechanical instruments in the slaughter of poultry provided the conditions stipulated in the 2<sup>nd</sup> para are met. Tasmiyah will be sufficient for each group slaughtered together. If the operation is interrupted the tasmiyah will be repeated.”



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# Current juristic opinion

- ▶ **Islamic Fiqh Academy, India**
- ▶ **Recognised that human involvement was limited to switching on the machine**
- ▶ **Most accepted the operator as slaughterer**
- ▶ **According to the majority tasmiyah was required for each bird on account of the multiple actions of slaughters**
- ▶ **Some held that one tasmiyah was sufficient for the entire process as it was a single action**
- ▶ **Some held no bird was halal**



# Current juristic opinion

- ▶ **Scholarly opinion within the UK**
- ▶ HMC commissioned independent online survey via Ajax Consultants (June 2009)
- ▶ Largest survey of its kind in the UK
- ▶ Responses received from 32 Muftīs, 201 ‘Ulamā’ and 49 Imāms
- ▶ 95% rejected MS, 2.5% wanted further info
- ▶ 97.5% stated tasmiyah must be recited individually by slaughterer



# Current juristic opinion

- ▶ **Other Jurisdictions**
- ▶ SANHA – do not accept MS
- ▶ Halal Monitoring Authority, Canada – do not accept MS
- ▶ ASIDCOM, France – do not accept MS
- ▶ Sheikh Sa‘eed Ramaḍān al-Būṭī and Sheikh Ṣāliḥ bin Fawzān reject MS
- ▶ Manual slaughter will solve the impasse!



# Conclusions

- ▶ MS remains a very controversial area
- ▶ Acceptance/rejection of MS is patchy
- ▶ Insufficient discussion re the legal status of the operator as slaughterer
- ▶ Sufficient argument to consider the operator as slaughterer has not been made
- ▶ Concerns re operational difficulties need to be addressed
- ▶ Further research and discussion required for a common standard