



The Effect of Contamination on the Purity of Water and Foods

Introduction

The injunction to consume the permissible which is described as the wholesome and healthy has to be strictly adhered to by Muslims in their diets. This can be relatively straight forward in determining what is impermissible by clear scriptural texts, namely pork, alcoholic victuals, and meat not slaughtered by Islamic ritual methods amongst other items; but is complicated in the many Islamically defined impurities and additives which are found in our processed ingredients, food and drink. There is also some confusion amongst scholars as to the legal status of a product containing objects which may have been impure but can now be considered pure. This concept is termed al-Istiḥāla, also known as Tabdīl al-māhiya and Inqilāb al-'ayn; this will be detailed later but is defined as the 'change in nature of the substance'. The aim of the paper is to explore the effect of contamination on the purity of water and on the legal status of food and drink. It is also an aim to bring together the various issues of contamination in a coherent structure in order that the principles highlighted can be utilised by scholars in specific cases.

Contamination via Impurities

Definition - An object which falls into a pure substance without intention or desire and is considered to be a filth as defined by the shar'īa will be considered as an impurity.

Depending on the quantity of the pure substance it can be considered in two ways;

- a) Small quantity – this is defined as less than 5000 litres¹. In this case any impure object which mixes with a pure substance will render the total mixture impure.
- b) Large quantity – this is defined as more than 5000 litres. In this case one would have to observe a change in the substance due to the addition of the impurity. The change is expected to be a physical change after the diffusion of the impurity. In other words, if no change is observed in colour, taste or smell the impurity would be deemed negligible and as a result would be considered as insignificant in its effect on the purity of the substance.

The above is with respect to water, however is inclusive of any pure substance. One could be certain of finding some levels of impurity in most if not all natural waters through chemical analysis, however adopting this position would bring unnecessary difficulty and be virtually impractical. A small quantity is easier to replace and as a result the shar'īa is strict in that regard and considers an impurity, whether observed or not in the substance, as making the total substance impure.

¹ Based on 10 dhirā' by 10 dhirā' by depth where base is not revealed when water scooped out which is 500 cm x 500 cm x 20cm (length x width x depth) is approximately 5000 litres.



This concept as mentioned is applied in other circumstances, for instance the oft-quoted donkey in the salt-warehouse which is found within many books of fiqh. As above this is the unintentional addition of an impurity into a substance, in this case a donkey in a salt-warehouse. If the carcass of the donkey was found within the salt-warehouse it would have to be removed and with it any contaminated salt around the carcass. The books of fiqh describe a similar scenario when rodents fall into fats or oils in which the immediate fat/oil around the body of the rodent is discarded.

وَفِي الْحَالِيَةِ: بَوَلُ الْهَيَّةِ وَالْقَارَةِ وَخُرُؤُهُمَا نَجَسٌ فِي أَظْهَرِ الرِّوَايَاتِ يُفْسِدُ الْمَاءَ وَالنَّوْبَ، وَبَوَلُ الْحَفَافِيشِ وَخُرُؤُهُ لَا يُفْسِدُ لِتَعَدُّرِ الْإِخْتِرَازِ عَنْهُ اهـ. وَفِي الْفُهُسْتَانِيِّ عَنِ الْمُحِيطِ خُرُؤُ الْقَارَةِ لَا يُفْسِدُ الدَّهْنَ وَالْحِنْطَةَ الْمُطْحُونَةَ مَا لَمْ يَتَغَيَّرَ طَعْمُهَا. قَالَ أَبُو اللَّيْثِ: وَبِهِ نَأْخُذُ

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However, the remaining oil or fat will not be discarded due to the unnecessary difficulty of trying to avoid this which would mean the owner having to discard the substance as it has become impure. As above and will be seen repeatedly it's one of the three senses that will determine a change, in this case taste.

Furthermore when an animal falls into a well depending on whether an animal is alive, has bloated or exploded and as a result diffused within the water a certain number of buckets of water are removed¹. Where possible the complete substance is discarded but where it would cause unnecessary harm, exceptions are made. In the following example it discusses what needs to be done if it proves difficult to remove the dead animal from the well,

أَقُولُ: قَدْ يَتَعَدَّرُ الْإِخْرَاجُ وَإِنْ كَانَ الْوَاجِبُ نَزْحَ الْجَمِيعِ؛ لِأَنَّ الْوَاجِبَ الْإِخْرَاجَ قَبْلَ النَّزْحِ لَا بَعْدَهُ كَمَا عَلِمْتَهُ (قَوْلُهُ مُتَنَجِّسَةً) تَعَتْ لِكُلِّ مِنَ الْحَسْبَةِ وَالْحُرْقَةِ، وَإِنَّمَا أَفْرَدَهُ لِلْعُطْفِ بِأُوِّ الَّتِي هِيَ لِأَحَدِ الشَّيْبَيْنِ، وَأَشَارَ بِقَوْلِهِ مُتَنَجِّسَةً إِلَى أَنَّهُ لَا بُدَّ مِنْ إِخْرَاجِ عَيْنِ التَّجَاسَةِ كُلِّهَا مَبْتَدَأً وَخَزِيرًا. اهـ ح. قُلْتُ: فَلَوْ تَعَدَّرَ أَيْضًا فَنِي الْفُهُسْتَانِيِّ عَنِ الْجَوَاهِرِ: لَوْ وَقَعَ عُصْفُورٌ فِيهَا فَعَجَزُوا عَنْ إِخْرَاجِهِ فَمَادَامَ فِيهَا فَتَجَسَّهَ فَتَثْرُكُ مُدَّةً يُعْلَمُ أَنَّهُ اسْتَحَالَ وَصَارَ سَمَاءً، وَقَبْلَ مُدَّةٍ سِتَّةَ أَشْهُرٍ. اهـ (قَوْلُهُ فَيَنْزَحُ) بِالْبَاءِ الْمُوَحَّدَةِ مُتَعَلِّقٌ بِيَطْهَرُ بَعْدَهُ

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The well water is not used until the dead animal changes (Istihāla) and becomes sludge. Clearly the bird or rodent does not change into another entity but it starts to decompose until its defining features, those which make it look like a bird or rodent, no longer remain. Hence, in this case sight is used to determine the change.

Returning to the donkey in the salt-warehouse scenario, we find that due to the high quantity of salt and the relatively small quantity of donkey it is considered negligible and ineffective in changing the ruling of purity of the salt for consumption. This is because no physical signs of change are observed in the salt; changes which can be determined through sight, smell and taste. This, and the example of the bird in the well, is on occasions wrongly identified as *tabdīl al-māhiya/inqilāb al-‘ayn* (change of nature) – there is no scientific evidence to support the view that donkey flesh, bones or hair chemically changes



into NaCl² or that animals turn into mud or sludge. It is important to bear in mind the standard of science of the day these traditional fiqh texts were being written. If chemical analysis as available to chemists in modern-day high-tech laboratories were utilised, there is little doubt that in all the examples detailed above either at ppm³ or ppb⁴ of impurities would be detected. There is little doubt even if the mass of the donkey was no longer present due to decomposition, proteins like collagen and amino acids would be detected. The shar'īa does not require the Muslim to adhere to these difficult if not near impossible standards but clearly advises to determine physical changes using the senses only, which it must be stated is subjective. Hence, each individual's view of pure and impure would be different. This is an important point, as an individual will determine the purity of a substance by his senses and then is responsible for his decision; because if he sees a change in colour, smell and taste due to an impurity and continues to utilise it he is acting contrary to his knowledge. In some cases, as described when water has to be removed from the well, experts can be brought in to reach that decision. It is therefore important to stress at this point that there is a significant difference between an impurity and an additive – in terms of impurity there is no intention in adding an impure object into a pure substance whereas an additive has been intentionally added and as a result is known. Therefore, an impurity taking into the consideration the above circumstances can be over looked and the substance still deemed pure.

Contamination via Impure Additives

Impure Additive - An object which is added to a pure substance with intention and desire and is considered to be a filth as defined by the shar'īa will be considered as an impure additive.

A relatively new phenomenon is the intentional addition of impurities, not usually to water, but to everyday foods for consumption. There are certain impurities from meat sources which have no possibility of being considered permissible and as a result the product they are added to becomes contaminated and subsequently impermissible. 'Umūm al-balwā cannot be considered in these circumstances as alternatives are freely available and therefore there is no need to permit the impermissible. However, one finds in present-day foods, due to high consumer demands for more flavours and colours the use of alcohol as a solvent. This is in extremely low concentrations, but nonetheless it is an intentional addition of an impurity to food. The use of alcohol as a solvent is very widespread and near impossible to avoid, hence the fuqaha have adopted the concept of 'umūm al-balwā and considered Imāms Abū Ḥanīfa and Abū Yūsuf's view of 'alcohol' being defined as that which is fermented from grape and date juice.

In certain cases there is an addition of an impurity however, **after** it has gone through what is described as a physical change of nature or tabdīl al-māhiya/inqilāb al-'ayn as discussed earlier.

² See <http://www.pjbs.org/pjnonline/fin113.pdf> for further information.

³ Parts per million

⁴ Parts per billion



والاستحالة تطهر الأعيان النجسة كالميتة إذا صارت ملحا والعدرة ترابا أو رمادا كما سنذكره والبلبة النجسة في التنور بالإحراق ورأس الشاة إذا زال الدم عنه والحجر إذا خللت كما لو تخللت والزيت النجس صابونا

مراقي الفلاح

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"وتطهر نجاسة استحالت عينها كأن صارت ملحا" أو ترابا أو أطرونا "أو احترقت بالنار" فتصير رمادا طاهرا على الصحيح لتبديل الحقيقة كالعصير يصير خمرا فينجس ثم يصير خلا فيطهر

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ج ١ ص ٦٩

It is important to stress that this does not necessarily have to be a chemical change as it is stressed by the shar'īa to be one that is observed by the senses as will be detailed. It is a controversial topic with various stances; however the key difference is based on the criteria for defining inqilāb al-'ayn. For that we have to turn to the books of fiqh. There are a number of references which have been added as endnotesⁱⁱ, however will be presented here in short and discussed.

لِأَنَّ الشَّرْعَ رَتَّبَ وَضْفَ النَّجَاسَةِ عَلَى تِلْكَ الْحَقِيقَةِ وَتَلْتَفِي الْحَقِيقَةَ بِإِتِّفَاءِ بَعْضِ أَجْزَاءِ مَفْهُومِهَا فَكَيْفَ بِالْكُلِّ؟ فَإِنَّ الْمَلْحَ غَيْرَ الْعَظْمِ وَاللَّحْمِ، فَإِذَا صَارَ مِلْحًا تَرْتَّبَ حُكْمَ الْمَلْحِ. وَتَطْبِيرُهُ فِي الشَّرْعِ التُّطْفِئَةُ حَيْثُ وَتَصِيرُ عَلَقَةً وَهِيَ حَيْثُ وَتَصِيرُ مُضْغَةً فَتَطْبَهُرُ، وَالْعَصِيرُ طَاهِرٌ فَتَصِيرُ خَمْرًا فَيَنْجُسُ وَيَصِيرُ خَلًّا فَيَطْبَهُرُ، فَعَرَفْنَا أَنَّ اسْتِحَالَاتِ الْعَيْنِ تُسْتَنْبَعُ زَوَالِ الْوُضْفِ الْمُرْتَبِّ عَلَيْهَا.

The reality of a substance is not considered when some of its parts are no longer present; so by extension of that premise even more so if all parts are no longer present. So in the scenario of a donkey falling in a salt-warehouse; a donkey is made up of bones and meat whereas salt does not have these parts, therefore in the absence of these in the salt clearly shows the donkey is considered as salt. As stated earlier some of the donkey's bones, flesh and hair will remain in small portions in the salt but as it is diffused and negligible in the tons of salt, therefore it cannot be determined by the senses. On the other hand, chemical analysis would reveal many impurities, including in this case, molecules originating from donkey. Imām Ibn 'Ābidīn discusses what this concept is based on by giving examples from the sharī'a. He mentions the foetal development and states that sperm is considered impure, which subsequently becomes coagulated blood and is considered impure, but when it becomes a like a chewed flesh, it is pure. Similarly fruit juice is pure, when fermentation takes place becomes alcoholic and as a result impure, then when converted to vinegar becomes pure.



Imām Ibn Ābidīn explains this process of change,

مُتَّصِي مَا مَرَّ ثُبُوتُ انْقِلَابِ الشَّيْءِ عَنْ حَقِيقَتِهِ كَالنُّحَاسِ إِلَى الذَّهَبِ، وَقِيلَ: إِنَّهُ غَيْرُ ثَابِتٍ؛ لِأَنَّ قَلْبَ الْحَقَائِقِ مُحَالٌ وَالْقُدْرَةُ لَا تَتَعَلَّقُ بِالْمُحَالِ، وَالْحَقُّ
الْأَوَّلُ بِمَعْنَى أَنَّهُ تَعَالَى يَخْلُقُ بَدَلَ النُّحَاسِ ذَهَبًا عَلَى مَا هُوَ رَأْيُ الْمُحَقِّقِينَ، أَوْ بِأَنَّهُ يَسْلُبُ عَنْ أَجْزَاءِ النُّحَاسِ الوُصْفَ الَّذِي بِهِ صَارَ نُحَاسًا، وَيَخْلُقُ فِيهِ
الْوُصْفَ الَّذِي يَصِيرُ بِهِ ذَهَبًا عَلَى مَا هُوَ رَأْيُ بَعْضِ الْمُتَكَلِّمِينَ مِنْ تَجَانِسِ الْجَوَاهِرِ وَاسْتِوَاءِهَا فِي قَبُولِ الصِّفَاتِ، وَالْمُحَالُ إِنَّمَا هُوَ انْقِلَابُهُ ذَهَبًا مَعَ كَوْنِهِ
نُحَاسًا لِإِمْتِنَاعِ كَوْنِ الشَّيْءِ فِي الزَّمَنِ الْوَاحِدِ نُحَاسًا وَذَهَبًا، وَيَدُلُّ عَلَى ثُبُوتِهِ بِأَحَدِ هَذَيْنِ الْإِعْتِبَارَيْنِ كَمَا اتَّفَقَ عَلَيْهِ أَيْمَةُ التَّفْسِيرِ قَوْلُهُ تَعَالَى {فَإِذَا هِيَ حَيَّةٌ
تَسْعَى} [طه: ٢٠] وَالْأَلْبَطَلُ الْإِعْجَازُ. وَيَبْتَنِي عَلَى هَذَا الْقَوْلِ أَنَّ عِلْمَ الْكَيْبِيَاءِ الْمَوْصَلِ إِلَى ذَلِكَ الْقَلْبِ يَجُوزُ لِمَنْ عِلْمُهُ عِلْمًا يَبِينِيًّا أَنْ يَعْلَمَهُ وَيَعْمَلُ بِهِ. أَمَّا
عَلَى الْقَوْلِ الثَّانِي فَلَا؛ لِأَنَّهُ غَشٌّ، وَتَمَامُهُ فِي تَحْفَةِ ابْنِ حَجَرَ وَقَدَّمَ فِي صَدْرِ الْكِتَابِ زِيَادَةً عَلَى ذَلِكَ

He describes the change as a change of reality, as in copper changing into gold or copper gaining the qualities of gold. His view is based on the understanding of chemistry of the day which was alchemy and it was understood by the alchemists that elements could change into other elements at the atomic level. As we understand chemistry today this is impossible as no element changes into another element. The only change which takes place at the atomic level is either isotopic or ionic, which does not change the element even if some characteristics change.

Further discussions highlight a similar view,

ثُمَّ هَذِهِ الْمَسْأَلَةُ قَدْ فَرَعُوهَا عَلَى قَوْلِ مُحَمَّدٍ بِالطَّهَارَةِ بِانْقِلَابِ الْعَيْنِ الَّذِي عَلَيْهِ الْفُتُوَى وَاحْتِرَاقُهُ أَكْثَرَ الْمَسَائِخِ خِلَافًا لِأَبِي يُوسُفَ كَمَا فِي شَرْحِ الْمُنْيَةِ وَالْفَتْحِ
وغيرهما. وَعِبَارَةُ الْمُجْتَمِعِي: جَعَلَ الدُّهْنَ التَّجِيسَ فِي صَابُونٍ يُفْتَى بِطَهَارَتِهِ؛ لِأَنَّهُ تَغَيَّرَ وَالتَّغْيِيرُ يُطَهِّرُ عِنْدَ مُحَمَّدٍ وَيُفْتَى بِهِ لِلْبُلُوِي. اهـ. وَظَاهِرُهُ أَنَّ دُهْنَ الْمُنْيَةِ
كَذَلِكَ لِتَغْيِيرِهِ بِالتَّجِيسِ دُونَ الْمُتَّجِيسِ إِلَّا أَنَّ يُقَالُ هُوَ خَاصٌّ بِالتَّجِيسِ؛ لِأَنَّ الْعَادَةَ فِي الصَّابُونِ وَضْعَ الرَّيْتِ دُونَ نَقِيَّةِ الْأَذْهَانِ تَأْمَلُ، ثُمَّ رَأَيْتُ فِي شَرْحِ
الْمُنْيَةِ مَا يُؤَيِّدُ الْأَوَّلَ حَيْثُ قَالَ: وَعَلَيْهِ يَتَفَرَّغُ مَا لَوْ وَقَعَ إِنْسَانٌ أَوْ كَلْبٌ فِي قَدْرِ الصَّابُونِ فَصَارَ صَابُونًا يَكُونُ طَاهِرًا لِتَبَدُّلِ الْحَقِيقَةِ. اهـ.

The addition of impure oil to soap renders the soap pure because it has changed. He goes further by stating that if a human or dog fell in a large vat of soap and ‘they became soap’ then it would be rendered pure. As before it was understood that substances changed into other substances, however it is clear that the mass of human or dog to soap is so negligible that eventually the human remains will be diffused within the soap until no human remains could be determined through the senses hence it was understood that complete conversion had occurred.



The point which has been stated throughout is the means to determine change from as it was understood one entity to another. Imām Ibn Ābidīn clarifies it whilst discussing alcohol converting to vinegar,

قَالَ: مُرَادُ صَاحِبِ الْفُنْيَةِ أَنَهَا تَحِلُّ إِذَا زَالَتْ عَنْهَا أَوْصَافُ الْخَمْرِيَّةِ: وَهِيَ الْمَرَارَةُ وَالْإِسْكَارُ لِتَحَقُّقِ انْقِلَابِ الْعَيْنِ، كَمَا لَوْ انْقَلَبَتْ خَلًّا وَمُرَادُ الْمُبْسُوطِ أَنَهَا لَا تَحِلُّ بِالطَّبْخِ، حَيْثُ كَانَتْ عَلَى أَوْصَافِ الْخَمْرِيَّةِ، لِأَنَّهُ لَمْ يُوجَدْ مَا يَفْتَضِي الْإِبَاحَةَ مِنَ الْانْقِلَابِ بِوَالِاسْتِحَالَةِ، وَكَوْنِ النَّارِ لَا تَأْتِيهَا فِي إِثْبَاتِ الْحَلِّ لَا يَتَأَيَّ أَنْ الْمُوْتَرُ هُوَ الْانْقِلَابُ وَلَا خُصُوصِيَّةٌ لِلنَّارِيَّةِ اهـ

He quotes the author of al-Qunya who mentions that alcohol is considered permissible when it loses its alcoholic qualities, which he describes as its bitterness and its intoxicating nature; one can then be certain that Inqilāb al-‘ayn has taken place. He does state that this cannot be achieved by heating alone, which it should be stated would change the viscosity as it would thicken it up, but would not affect its intoxicating nature and its flavour.

There is no methodology that was available at that time that would have determined bitterness or alcoholic nature of a liquid except by tasting.

Two essential points need to be drawn from this discussion;

- a) The chemistry of the day was based on alchemy in which it was understood that substances could change into other substances at the atomic level. This was understood to mean that a donkey, human, dog or pig could change into salt, sludge or soap when the creature fell into the respective substance. In reality as we understand chemistry now, the impurity had simply decomposed and diffused within the significant larger mass of the substance; so was present but in negligible amounts and in basic form, however clearly chemically distinct from the substance.
- b) The method of determining change was through the senses only as no other more scientific methods of detection were available. In fact, smell, taste or colour has been used in determining impurities in both the above examples and other substances; it is therefore the defining criteria.

To summarise, in order to determine whether inqilāb al-‘ayn has taken place in an impure object in order for it to become pure the senses have to be used only. The substance has to be assessed by this method to evaluate whether it retains its impure properties. If it looks, smells and tastes different then it cannot be deemed to be the original impure object.



A case in point is gelatine which is made from extracted collagen of pig skin. The discussion will focus in particular on this source even though the ruling will differ from other sources⁵. The pig skin smells, looks and tastes significantly different than the tasteless, colourless, odourless dry powder gelatine used in industry or the leaf gelatine used in home cooking. The collagen protein⁶ is extracted from the pig skin by placing it in water and acid in order to render the collagen soluble. The fat and what remains of the original pig skin are removed, leaving the turbid solution. After physical filtration in order to remove the small solids and resin filtration in order to remove the dissolved salts, the solution is heated to evaporate off the majority of the water. For stabilisation reasons the concentrate is heated and eventually cooled in order for it to be extruded as noodles. Once dried, they are ground to a powder and packaged for customer use⁷.

In the discussions of the fuqahā it is clear to see that the whole object fell in the pure substance hence it is clear what is donkey and what is salt. Once that distinction could not be made due to the large amount of salt and the subsequent diffusion of the donkey remains, it was all considered salt. In the case of gelatine the object can no longer be determined to be part of a pig after the skin is dissolved in water and acid. Once the solids have been removed without the provision of information it would be near impossible to use the senses alone and be able to state that it is pig. Therefore it is difficult to state that gelatine is considered impermissible due to lack of physical change as the physical change is profound. For illustration purposes see below.



Figure 1 – Pig Skin



Figure 2 – Gelatine



Figure 3 – Coarse Salt

If gelatine was mixed in salt could anybody detect a difference through smell, look or taste?

Furthermore, when explored via chemical analysis then collagen is collagen – apart from prior knowledge which informs the individual it is from swine he would be none the wiser. The chemical formula for collagen is $C_2H_5NOC_5H_9NOC_5H_{10}NO_2$ from any source or if made synthetically in the laboratory. There is little doubt that if chemical analysis was carried out on samples of salt from the salt-warehouse in which a pig had fallen and subsequently

⁵ Gelatine from a non-animal source is permissible; from bones of animals which can be legally consumed by Muslims is also permissible as ritual slaughter is not a requirement, if however it is from their skins then the animal has to have been ritually slaughtered; gelatine from the bones and skin of animals of prey is impermissible.

⁶ Collagen is found to give firmness and elasticity to skins.

⁷ Gelatine is used primarily as a thickener and stabiliser in food.



diffused, traces of pig collagen would be found – yet the sharī'a in that case had considered the salt pure for consumption. Hence, to determine the permissibility of using gelatine based on any change in nature, is not the issue.

The key issue revolves around the fact that it is an intentional addition of an impurity; an impurity has been permitted as described above in two situations,

- a) If it is defined as an impurity rather than an additive as defined in this paper. This would be the unintentional falling of an impurity in a pure substance, however due to its large volume and the insignificant mass of the impurity it would be considered pure as no effects are determined by the senses and there would be a great loss to the owner.
- b) If there is a view amongst the fuqahā, even if a lesser opinion, which permits the object and there exists 'umūm al-balwā as highlighted in the food additives which use synthetic alcohol.

If it is suggested that because alcohol when converted to vinegar is deemed permissible due to inqilāb al-'ayn then why not when collagen is extracted to form gelatine?

The simple answer is that the alcohol-to-vinegar change can be measured and determined by the senses and hence proven to have become a pure substance, whereas that is not possible except at the chemical level for the latter, which is contentious and dubious. In short, what cannot be measured by the original methods of sight, smell and taste should be considered as out of bounds of this concept and cannot be determined for inqilāb al-'ayn, and as a result still be considered as impure; especially taking the following into consideration with respect to collagen from pig skin,

استمتعوا بجلود الميتة إذا دبغت " ترابا كان أو رمادا أو ملحاً أو ما كان بعد أن يزيل صلاحه "إلا جلد الخنزير" لنجاسة عينة والدباغة لإخراج الرطوبة
النجسة من الجلد الطاهر بالأصالة وهذا نجس للعين "

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The illegality of using pig skin, which is one of the main sources of swine collagen, is abundantly clear; by extrapolation the ruling would include pig connective tissues and bones.

Therefore, the addition of gelatine from pig sources to foodstuffs would not be considered permissible as it is the intentional addition of an absolute impurity and there is no 'umūm al-balwā.



Contamination via In-Situ Impurities

In some rare circumstances an impure substance is formed in-situ whilst a product is forming or even when product completion has been achieved as it can convert to another product. Three examples are as follows

- a) Bread making – due to the fermentation process when the carbohydrates breakdown, alcohol is also produced in small concentrations (around 0.5% on average).
- b) Nabidh – a juice drink made from grapes or dates can, if left long enough in certain conditions, start to ferment and become alcoholic. However, it is permitted to be consumed before it reaches such a state. The senses would be used to determine the fermentation process as a change in taste and smell in particular and also colour would alert the drinker that there is significant amount of alcohol within the drink. It has to be readily accepted that before these significant changes could be determined there would be a small % of alcohol in the drink.
- c) Alcohol to vinegar – alcoholic drinks can be oxidised to form vinegar (vin aigre actually means sour wine). This process is deemed permissible and the resultant vinegar is permitted to be consumed. As point b above there is certainty that this reaction will not go to 100% and as a result a small % of alcohol will remain. As before this will not be observed by the senses.

In all of these circumstances the product is deemed permissible as an impure object has not been intentionally added but rather formed incidentally and at levels which cannot be determined by the senses to deem it impermissible.



Conclusions

One of the goals of this paper was to bring together what seem like disparate issues and place them under the broad heading of contamination, intentional or otherwise, of water, food and drink. Contamination was divided into three broad areas, impurities, impure additives and in-situ impurities. This allowed for a discussion on each area drawing examples from various topics in order to determine general principles. Impurities were found to fall in two areas based on volume of substance; the key issue was the harm it would cause the individual if a large amount was considered impure. As a result without sensory determination to the contrary large amounts of substance were considered pure. The addition of impurity was only permitted where a faqih's position existed otherwise it was discarded. There was an opportunity to discuss the use of gelatine extracted from swine hide in foods. This is somewhat over analysed using current chemical analysis techniques in order to determine if changes have occurred on the molecular level. This view was challenged in two aspects; firstly, the criteria described by the books of fiqh was not being utilised but rather a high-tech chemical analysis; secondly, this is an intentional addition of a contaminant which again is not what is described in the books of fiqh. The addition of gelatine hence was deemed as impermissible not because a change of nature was not detected but rather because it is the intentional addition of a contaminant, one which is described as an absolute impurity. Furthermore, in-situ contamination is over looked and permitted as long as the criteria determined by sight, smell or taste does not deem otherwise.

In summary, one can observe that unintentional contamination is over looked by the sharī'a when 'umūm al-balwā is present and the contamination cannot be determined by sight, smell or taste. However, intentional contamination cannot be considered permissible.

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لأواقع فيها روث أو حيوان أو قطرة من دم ونحوه وحكمها أن "تنزح البئر" أي ماؤها لأنه من إسناد الفعل إلى البئر وإرادة الماء الحال بالبئر "الصغيرة" وهي: ما دون عشر في عشر "بوقوع نجاسة" فيها "وإن قلت" النجاسة التي "من غير الأرواث" وقدر القليل: "كقطرة دم أو" قطرة "خمر" لأن قليل النجاسة ينجس قليل الماء وإن لم يظهر أثره فيه "و" تنزح "بوقوع خنزير ولو خرج حيا و" الحال أنه "لم يصب فمه الماء" لنجاسة عينه "و" تنزح "بموت كلب" قيد بموته فيها لأنه غير نجس العين على الصحيح فإذا لم يموت وخرج حيا ولم يصل فمه الماء لا ينجس "أو" موت "شاة أو" موت "آدمي فيها" لتنزح ماء زمزم بموت زنجي وأمر ابن عباس وابن الزبير رضي الله عنهم به محض من الصحابة من غير نكير "و" تنزح "بانتفاخ حيوان ولو" كان "صغيرا" لانتشار النجاسة "و" تنزح وجوبا ١ "مائتا دلو" وسط وهو المستعمل كثيرا في تلك البئر ويستحب زيادة مائة ولو نزح الواجب في أيام أو غسل الثوب النجس في أيام طهر وتطهير البئر بانفصال الدلو الأخير عن فمها عندهما وعند محمد بانفصاله عن الماء ولو قطر في البئر للضرورة وقال يشترط الانفصال لبقاء الاتصال بالقاطر بها وقدر رحمه الله تعالى الواجب بمائتي دلو "لو لم يمكن نزحها" وأفتى به لما شاهد آبار بغداد كثيرة المياه لمجورة دجلة والأشبه أن يقدر ما فيها بشهادة رجلين لها خبرة بأمر الماء وهو الأصح "وإن مات فيها" أي البئر "دجاجة أو هرة أو نحوها" في الجنة ولم تنفخ "لزم نزح أربعين دلو" بعد إخراج الواقع منها روي التقدير بالأربعين عن أبي سعيد الخدري في الدجاجة وما قاربها يعطى حكمها وتستحب الزيادة إلى خمسين أو ستين لما روي عن عطاء والشعبي "وإن مات فيها فأرة" بالهمز "أو نحوها" كعصفور ولم ينفخ "لزم نزح عشرين دلو" بعد إخراجه لقول أنس رضي الله عنه في فأرة ماتت في البئر وأخرجت من ساعتها: ينزح عشرون دلو وتستحب الزيادة إلى ثلاثين لاحتمال زيادة الدلو المذكور في الأثر على ما قدر به من الوسط "وكان ذلك" المنزوح "طهارة للبئر والدلو والرشاء" ١ "والبكرة" "وبد المستقى" روي ذلك عن أبي يوسف والحسن لأن نجاسة هذه الأشياء كانت بنجاسة الماء فتكون طهارتها بطهارتها نفيًا للحرج كطهارة دن الخمر بتخليلها وطهارة عروة اليريق بطهارة اليد إذا أخذها كلها غسل يده وروي عن أبي يوسف أن الأربع من الفتران كفاة واحدة والخمس كالدجاجة إلى التسع والعشر كالشاة وقال محمد الثالث إلى الخمس كالهرة والست كالكلب وهو ظاهر الرواية وما كان بين الفأرة والهرة حكمه حكم الفأرة وما كان بين الهرة والكلب حكمه حكم الهرة وإن وقع فأرة وهرة فمها كهرة ويدخل الأقل في الأكثر "ولا تنجس البئر بالبعر" وهو للإبل والغنم وبعر يعبر من حد منع "والروث" للفرس والبعل والحمار من حد نصر "والخني [١]" بكسر الخاء - واحد الأختاء للبقر من باب ضرب ؟ - ولا فرق بين آبار الأمصار والفلوات في الصحيح ولا فرق بين الرطب واليابس والصحيح والمنكسر في ظاهر الرواية لشمول الضرورة فلا تنجس "إلا أن" يكون كثيرا وهو ما "يستكثره الناظر" والقليل ما يستقله وعليه الاعتماد "أو أن لا يجلو دلو عن بعة" ونحوها كما صححه في المبسوط

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"قوله: قَدَرٍ يَفْتَحُ الْغَائِبَ وَاللَّيْلَ الْمُعْجَمَةَ، وَالرَّمَادُ بِهِ الْعَذْرَةُ وَالرُّوثُ كَمَا عَبَّرَ فِي الْمُثَنِّيَةِ. (قَوْلُهُ: وَالْأَيُّ: وَإِنْ لَا يُقِيلُ أَنَّهُ لَا يَكُونُ نَجَسًا، وَظَاهِرُهُ أَنَّ الْعَلَّةَ الصَّرُورَةَ، وَصَرِيحُ الرَّبْرِ وَعَبْرُهَا أَنَّ الْعَلَّةَ هِيَ الْإِقْلَابُ الْعَيْنُ كَمَا بَيَّنَّا، لَكِنْ قَدَّمْنَا عَنْ الْمُجْتَبَى أَنَّ الْعَلَّةَ هَذِهِ وَأَنَّ الْقُتُوبَى عَلَى هَذَا الْقَوْلِ لِلْبُلُوبَى، فَمَقَادُهُ أَنَّ عُمُومَ الْبُلُوبَى عَلَّةٌ اخْتِيَارِ الْقَوْلِ بِالطَّهَارَةِ الْمُعَلَّلَةِ بِإِقْلَابِ الْعَيْنِ فَتَدْبِيرٌ. (قَوْلُهُ: كَانَ حِمَارًا أَوْ خَنْزِيرًا) أَفَادَ أَنَّ الْجَمَارَ مِثَالًا لَا يَفِيدُ اخْتِرَازِيًّا.

وَأَشَارَ بِإِطْلَاقِهِ إِلَى أَنَّهُ لَا يَلْزَمُ وَفَوْعُهُ وَهُوَ حَيٌّ، فَإِنَّهُ لَوْ وَقَعَ فِي الْمَمْلُوحَةِ بَعْدَ مَوْتِهِ فَهُوَ كَذَلِكَ كَمَا فِي شَرْحِ الْمُثَنِّيَةِ. (قَوْلُهُ: سَمَاءٌ) يَفْتَحُ الْحَاءُ الْمُهْمَلَةَ وَسُكُونُ الْجِيمِ وَفَتْحُ الْهَمْزَةِ وَهَاءِ التَّائِيثِ. قَالَ فِي الْقَامُوسِ: الطَّبْنُ الْأَسْوَدُ الْمُثَنَّى ح. (قَوْلُهُ: لِإِقْلَابِ الْعَيْنِ) عَلَّةٌ لِلْكَلِّ، وَهَذَا قَوْلُ مُحَمَّدٍ، وَذَكَرَ مَعَهُ فِي الذَّخِيرَةِ وَالْمُعْجِزِ أَبَا حَنِيفَةَ جَلِيَّةً. قَالَ فِي الْفَتْحِ: وَكَثِيرٌ مِنَ الْمَشَائِخِ اخْتَارُوهُ، وَهُوَ الْمُخْتَارُ؛ لِأَنَّ الشَّرْعَ رَتَّبَ وَصْفَ النَّجَاسَةِ عَلَى تِلْكَ الْحَقِيقَةِ وَتَثْنِي الْحَقِيقَةَ بِإِتِّفَاقٍ بَعْضُ أَجْزَاءِ مَفْهُومِهَا فَكَيْفَ بِالْكَلِّ؟ فَإِنَّ الْمَلْحَ عَبْرَ الْعَظْمِ وَاللَّحْمِ، فَإِذَا صَارَ مِلْحًا تَرْتَّبَ حُكْمَ الْمَلْحِ. وَنَظِيرُهُ فِي الشَّرْعِ التُّطْفَةُ نَجَسَةٌ وَتَصِيرُ عَلَقَةً وَهِيَ نَجَسَةٌ وَتَصِيرُ مُصَغَّةً فَتَطْلُهُ، وَالْعَصِيرُ طَاهِرٌ فَتَصِيرُ حَمْرًا فَتَنْجُسُ وَيَصِيرُ خَلًّا فَيَطْلُهُ، فَفَرَفْنَا أَنَّ اسْتِحَالَةَ الْعَيْنِ تَسْتَتِيعُ زَوَالَ الْوُصْفِ الْمُرْتَبِّ عَلَيْهَا. اهـ.

يَجُوزُ أَكْلُ ذَلِكَ الْمَلْحِ وَالصَّلَاةُ عَلَى ذَلِكَ الرَّمَادِ كَمَا فِي الْمُثَنِّيَةِ وَعَبْرُهَا، وَمَا فِيهَا مِنْ أَنَّهُ لَوْ وَقَعَ ذَلِكَ الرَّمَادُ فِي الْمَاءِ فَالصَّحِيحُ أَنَّهُ يَنْجُسُ فَلَيْسَ بِصَحِيحٍ إِلَّا عَلَى قَوْلِ أَبِي يُوسُفَ كَمَا ذَكَرَهُ الشَّارِحَانِ. [تَنْبِيهُ آخِر]

مُقْتَضَى مَا مَرَّ بِثَبُوتِ إِقْلَابِ الشَّيْءِ عَنْ حَقِيقَتِهِ كَالنَّحَاسِ إِلَى الدَّهَبِ، وَقِيلَ: إِنَّهُ غَيْرُ ثَابِتٍ؛ لِأَنَّ قَلْبَ الْحَقَائِقِ مُحَالٌ وَالْقُدْرَةُ لَا تَتَعَلَّقُ بِالْمُحَالِ، وَالْحَقُّ الْأَوَّلُ بِمَعْنَى أَنَّهُ تَعَالَى يَخْلُقُ بَدَلَ النَّحَاسِ ذَهَبًا عَلَى مَا هُوَ رَأْيُ الْمُحَقِّقِينَ، أَوْ بِأَنَّ يُسَلَّبُ عَنْ أَجْزَاءِ النَّحَاسِ الْوُصْفَ الَّذِي بِهِ صَارَ نَحَاسًا، وَيَخْلُقُ فِيهِ الْوُصْفَ الَّذِي يَصِيرُ بِهِ ذَهَبًا عَلَى مَا هُوَ رَأْيُ بَعْضِ الْمُتَكَلِّمِينَ مِنْ تَجَانُّسِ الْجَوَاهِرِ وَاسْتَوَائِهَا فِي قَبُولِ الصِّفَاتِ، وَالْمُحَالُ إِنَّمَا هُوَ إِقْلَابُهُ ذَهَبًا مَعَ كَوْنِهِ نَحَاسًا لِامْتِنَاعِ كَوْنِ الشَّيْءِ فِي الرَّمَنِ الْوَاحِدِ نَحَاسًا وَذَهَبًا، وَيَدُلُّ عَلَى ثَبُوتِهِ بِأَحَدِ هَذَيْنِ الْإِعْتِبَارَيْنِ كَمَا اتَّفَقَ عَلَيْهِ أَيْمَةُ التَّفْسِيرِ قَوْلُهُ تَعَالَى {فَإِذَا هِيَ حَيَّةٌ



تَسَعَى { اطه: ٢٠ } وَالْأَبْطَلُ الْإِحْمَارُ. وَيَتَنَبَّى عَلَى هَذَا الْقَوْلِ أَنَّ عِلْمَ الْكَيْمِيَاءِ الْمَوْصَلِ إِلَى ذَلِكَ الْقَلْبِ يَجُوزُ لِمَنْ عِلْمُهُ عَلِمًا يَتَّبِعُونَهُ أَنْ يَعْلَمَهُ وَيَعْمَلَ بِهِ. أَمَّا عَلَى الْقَوْلِ الثَّانِي فَلَا؛ لِأَنَّهُ غَشٌّ، وَتَمَامُهُ فِي تَحْفَةِ ابْنِ حَجَرٍ وَقَدَّمَ فِي صَدْرِ الْكِتَابِ زِيَادَةً عَلَى ذَلِكَ

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ج ١ ص ٢٢٦-٧

وَالسَّابِقُ الْفَلَابُ الْعَيْنُ، فَإِنْ كَانَ فِي الْحَمْرِ فَلَا جَلَّافَ فِي الطَّهَارَةِ، وَإِنْ كَانَ فِي غَيْرِهِ كَالْخَزِيرِ وَالْمَيْتَةِ نَقَعَ فِي الْمَمْلَحَةِ فَتَصِيرُ مِلْحًا يُؤْكَلُ وَالسَّرِقِينُ وَالْعَذْرَةُ تَحْتَرِقُ فَتَصِيرُ رَمَادًا تَطْهَرُ عِنْدَ مُحَمَّدٍ خِلَافًا لِأَبِي يُوسُفَ وَصَمَّ إِلَى مُحَمَّدٍ أَبَا حَنِيفَةَ فِي الْمُحِيطِ وَكَثِيرٌ مِنَ الْمَشَائِخِ اخْتَارُوا قَوْلَ مُحَمَّدٍ

وَفِي الْخُلَاصَةِ وَعَلَيْهِ الْقَوْلُ فِي فَتْحِ الْقَدِيرِ أَنَّهُ الْمُخْتَارُ؛ لِأَنَّ الشَّرْعَ رَتَّبَ وَصْفَ التَّجَاسَةِ عَلَى تِلْكَ الْحَقِيقَةِ وَتَلْتَفَتِي الْحَقِيقَةُ بِإِتِّمَاءِ بَعْضِ أَجْزَاءِ مَفْهُومِهَا فَكَيْفَ بِالْكُلِّ فَإِنَّ الْمِلْحَ غَيْرَ الْعُظْمِ وَاللَّحْمَ فَإِذَا صَارَ مِلْحًا تَرْتَّبَ حُكْمَ الْمِلْحِ وَنَظِيرُهُ فِي الشَّرْعِ التُّطْفَةُ نَجَسَةٌ وَتَصِيرُ عَلَقَةً وَهِيَ نَجَسَةٌ وَتَصِيرُ مُضَعَّةً فَتَطْهَرُ وَالْعَصِيرُ طَاهِرٌ فَتَصِيرُ حَمْرًا فَيَنْجَسُ وَيَصِيرُ خَلًّا فَيَطْهَرُ فَعَرَفْنَا أَنَّ اسْتِحَالَةَ الْعَيْنِ تَسْتَتِيعُ زَوَالَ الوُصْفِ الْمُرْتَبِّ عَلَيْهَا وَعَلَى قَوْلِ مُحَمَّدٍ فَرَعُوا الْحُكْمَ بِطَهَارَةِ صَابُونٍ صُنِعَ مِنْ زَيْتِ نَجِسٍ أَهـ.

وَفِي الْمُجْتَبَى جَعَلَ الدُّهْنَ النَّجِسَ فِي صَابُونٍ يُقْتَى بِطَهَارَتِهِ؛ لِأَنَّهُ تَغَيَّرَ وَالتَّغْيِيرُ يَطْهَرُ عِنْدَ مُحَمَّدٍ وَيُقْتَى بِهِ لِلْبَلْوَى وَفِي الطَّهْرِيَّةِ وَرَمَادُ السَّرِقِينِ طَاهِرٌ عِنْدَ أَبِي يُوسُفَ خِلَافًا لِمُحَمَّدٍ وَالْقَوْلُ عَلَى قَوْلِ أَبِي يُوسُفَ وَهُوَ عَكْسُ الْخِلَافِ الْمُنْقُولِ فَإِنَّهُ يَقْتَضِي أَنَّ الرَّمَادَ طَاهِرٌ عِنْدَ مُحَمَّدٍ نَجَسَ عِنْدَ أَبِي يُوسُفَ كَمَا لَا يَخْفَى وَفِيهَا أَيْضًا الْعَذْرَاتُ إِذَا دُفِنَتْ فِي مَوْضِعٍ حَتَّى صَارَتْ تُرَابًا قِيلَ تَطْهَرُ كَالْحِمَارِ الْمَيْتِ إِذَا وَقَعَ فِي الْمَمْلَحَةِ فَصَارَ مِلْحًا يَطْهَرُ عِنْدَ مُحَمَّدٍ وَفِي الْخُلَاصَةِ فَارَةٌ وَقَعَتْ فِي دَنِّ حَمْرٍ فَصَارَ خَلًّا يَطْهَرُ إِذَا رَمِيَ بِالْفَارَةِ قَبْلَ التَّخَلُّلِ وَإِنْ تَفَسَّخَتْ الْفَارَةُ فِيهَا لَا يَبَاحُ، وَلَوْ وَقَعَتْ الْفَارَةُ فِي الْعَصِيرِ ثُمَّ تَخَمَّرَ الْعَصِيرُ ثُمَّ تَخَلَّلَ وَهُوَ لَا يَكُونُ بِمَنْزِلَةِ مَا لَوْ وَقَعَتْ فِي الْحَمْرِ هُوَ الْمُخْتَارُ وَكَذَا لَوْ وَلَعَ الْكَلْبُ فِي الْعَصِيرِ، ثُمَّ تَخَمَّرَ، ثُمَّ تَخَلَّلَ لَا يَطْهَرُ أَهـ.

وَفِي الطَّهْرِيَّةِ إِذَا صَبَّ الْمَاءُ فِي الْحَمْرِ، ثُمَّ صَارَتْ الْحَمْرُ خَلًّا تَطْهَرُ وَهُوَ الصَّحِيحُ وَأَدْخَلَ فِي فَتْحِ الْقَدِيرِ الطَّهْرَةَ بِالنَّارِ فِي الْإِسْتِحَالَةِ وَلَا مُلَازِمَةَ بَيْنَهُمَا فَإِنَّهُ لَوْ أَخْرَقَ مَوْضِعَ الدَّمِ مِنْ رَأْسِ الشَّاةِ وَالتَّثْوِيرُ إِذَا رُشَّ بِمَاءٍ نَجِسٍ لَا بَأْسَ بِالْخَبْرِ فِيهِ، كَذَا فِي الْمُجْتَبَى وَكَذَا الطَّيْنُ النَّجِسُ إِذَا جَعَلَ مِنْهُ الْكُورُ أَوْ الْقِدْرُ وَجَعَلَ فِي النَّارِ يَكُونُ طَاهِرًا، كَذَا فِي السِّرَاجِ الْوَهَّاجِ وَالتَّامِنِ الْبِتَّاعِ وَقَدْ مَرَّ، وَالتَّاسِعُ الدَّكَاةُ فَكُلُّ حَيَوَانٍ يَطْهَرُ جِلْدُهُ بِالدَّبَاغِ يَطْهَرُ بِالدَّكَاةِ كَمَا قَدَّمَاهُ وَالْعَاشِرُ النَّزْحُ فِي الْأَبَارِ كَمَا بَيَّنَّاهُ فَطَهَرَ بِهِدَا أَنَّ الْمُطَهَّرَاتِ عَشْرَةٌ كَمَا ذَكَرَهُ فِي الْمُجْتَبَى نَاقِلًا عَنْ صَلَاةِ الْجَلَابِيِّ.

البحر الرائق

ج ١ ص ٢٣٩

وَآخِرُ دُونَ الْفَرْكِ وَالتَّدْفِ وَالْجَمَا ... فِ وَالتَّخْتِ قَلْبُ الْعَيْنِ وَالْعَسَلُ يُطَوَّرُ

وَلَا دَبْعٌ تَخْلِيلٌ دَكَاةٌ تَخَلُّلٌ ... وَلَا الْمَسْحُ وَالنَّزْحُ الدُّخُولُ التَّغَوُّرُ

وَرَادَ شَارِحُهُمَا يَبَيِّنَا فَقَالَ:

وَأَكَلٌ وَقَسَمٌ عَسَلٌ بَعْضٌ وَخَلُّهُ ... وَنَذْفٌ وَعَلْيٌ يَبْعُ بَعْضٌ تَغَوَّرُ

أهـ وَأَرَادَ بِقَوْلِهِ وَآخِرُ الْحَمْرِ أَيُّ: مَا شَيْءٌ آخَرَ مِنَ الْمُطَهَّرَاتِ غَيْرِ هَذِهِ الْمَذْكُورَاتِ. (قَوْلُهُ: وَقَلْبُ الْعَيْنِ) كَالْفَلَابِ الْخَزِيرِ مِلْحًا كَمَا سَبَّأَنِي مَثَلًا. (قَوْلُهُ: الْحَمْرُ) أَيُّ: قَلْبُ الْأَرْضِ يُجْعَلُ الْأَعْلَى أَسْفَلَ (قَوْلُهُ: وَتَخْلِيلٌ) أَيُّ: تَخْلِيلُ الْحَمْرِ بِالنَّاءِ شَيْءٌ فِيهَا وَهُوَ كَالْتَخَلُّلِ بِنَفْسِهَا، وَهِيَ دَاخِلَانِ فِي الْفَلَابِ الْعَيْنِ كَمَا يُعْلَمُ مِنَ الْبَحْرِ. قَالَ فِي الْفَتْحِ: وَلَوْ صَبَّ مَاءٌ فِي حَمْرٍ أَوْ بِالْعَكْسِ ثُمَّ صَارَ خَلًّا طَاهِرٌ فِي الصَّحِيحِ، بِخِلَافِ مَا لَوْ وَقَعَتْ فِيهَا فَارَةٌ ثُمَّ أُخْرِجَتْ بَعْدَ مَا تَخَلَّلَتْ فِي الصَّحِيحِ؛ لِأَنَّهَا تَنْجَسَتْ بَعْدَ التَّخَلُّلِ، بِخِلَافِ مَا لَوْ أُخْرِجَتْ قَبْلَهُ. أَهـ. وَكَذَا لَوْ وَقَعَتْ فِي الْعَصِيرِ أَوْ وَلَعَ فِيهِ كَلْبٌ ثُمَّ تَخَمَّرَ ثُمَّ تَخَلَّلَ لَا يَطْهَرُ هُوَ الْمُخْتَارُ يَخْرُجُ عَنِ الْخُلَاصَةِ.



وفي الخالصة: حمز صب في قدر الطعام ثم صب فيه الخل وصار حاصباً بحيث لا يمكن أكله لخموضته حموضة الخل لا بأس بأكله وعلى هذا كل ما صب فيه الخل وصار خلًا، وكذا لو وقعت فارة في حمز واستخرجت قبل التمشيح ثم صارت خلًا؛ فلو بعده لا يجل.

رد المختار

ج ٣١٥ ص

ذكر هذه المسألة العلامة قاسم في فتاواه، وكذا ما سياتي من مسائل التطهير بإثبات العين، وذكر الأدلة على ذلك بما لا مزيد عليه، وحقق ودقق كما هو دأبه - رحمه الله تعالى -، فليراجع.

ثم هذه المسألة قد فرغوها على قول محمد بالطهارة بإثبات العين الذي عليه الفتوى واختاره أكثر المشايخ خلافاً لأبي يوسف كما في شرح المنية والفتح وغيرهما. وعبارة المفتي: جعل الدهن التجس في صابون يفتى بطهارته؛ لأنه تغير والتغير يطهر عند محمد ويفتى به للبلوى. اهـ. وظاهره أن دهن المنية كذلك لتغيره بالتجس إلا أن يقال هو خاص بالتجس؛ لأن العادة في الصابون وضع الزيت دون بقية الأدهان تأمل، ثم رأيت في شرح المنية ما يؤيد الأول حيث قال: وعليه يتفرغ ما لو وقع إنسان أو كلب في قدر الصابون فصار صابوناً يكون طاهراً لتبدل الحقيقة. اهـ.

ثم اعلم أن العلة عند محمد هي التغير وإثبات الحقيقة وأنه يفتى به للبلوى كما علم مما مر، ومقتضاه عدم اختصاص ذلك الحكم بالصابون، فيدخل فيه كل ما كان فيه تغير وإثبات حقيقة وكان فيه بلوى عامة، فيقال: كذلك في التيس المطبوخ إذا كان زينه منتجساً ولا سيما أن الفار يدخله فيبول ويتغير فيه وقد يموت فيه، وقد بحث كذلك بعض شيوخ مشايخنا فقال: وعلى هذا إذا تجس التيس ثم صار طحيناً يطهر، خصوصاً وقد عمث به البلوى وقاسه على ما إذا وقع غضفور في بر حتى صار طيناً لا يلزم إخراجها لاستحالة.

قلت: لكن قد يقال: إن التيس ليس فيه انقلاب حقيقة؛ لأنه عسير جمده الطبخ؛ وكذا التيس إذا درس واختلط دهنه بأجزائه فيه تغير وصب فقط؛ لكن صار جنباً، وبر صار طحيناً، وطحين صار خبزاً؛ بخلاف نحو حمز صار خلًا وجمار وقع في مملحة فصار ملحاً، وكذا دزدي حمز صار طرياً وعذرة صارت زماً أو حماة، فإن ذلك كله انقلاب حقيقة إلى حقيقة أخرى لا مجرد انقلاب وصب كما سياتي - والله أعلم - (قوله: زس بماء تجس) أي: أو بال فيه صبي أو مسخ بجزفه مبتلة تجسة جلية. (قوله: لا بأس بالخبز فيه) أي: بعد ذهاب البلة التجسة بالنار والآن تجس كما في الخالصة. (قوله: ذكره الحلبي) وعلمه بقوله لإصحاح التجاسة بالنار وزوال أثرها

رد المختار

ج ٣١٦ ص

قال: مراد صاحب المنية أنها تجل إذا زالت عنها أوصاف الحمزية؛ وهي المرارة والإسكار ليتحقق انقلاب العين، كما لو انقلبت خلًا ومراد المبتسوط أنها لا تجل بالطحين، حيث كانت على أوصاف الحمزية، لأنه لم يوجد ما يقتضي الإباحة من الانقلاب بالاستحالة، وكوّن النار لا تأثير لها في إثبات الجلي لا ينافي أن المؤثر هو الانقلاب ولا خصوصية للنار اهـ

أقول: ولم يعول الشرع في شرجه على هذا الجواب، وكأنه والله تعالى أعلم، لأن الحمز حرمت لعينها، ولا نسلم انقلاب العين بهذا الطبخ، ولذا لو وقعت قطرة منها في الماء الغير الجاري، أو ما في حكمه تجسسه، وإن أشبهك فيه وصار ماءً وكذا لو وقعت في قدر الطعام تجسسه، وإن صارت طعاماً كما لو وقعت فيه قطرة بول، وأما طهارتها بإثباتها خلًا فهي ثابتة بنص المجهدي أخذاً من إطلاق حديث «نعم الإدام الخل» فليبتأمل. ولعل هذا الفرع مفرغ على ما قدمناه عن بعض المعتزلة من أن الحرام من الحمز هو المسكر يدل عليه أنه في الثبته نقله عن القاضي عبد الجبار أحد مشايخ المعتزلة، ثم رأيت ابن الشحنة نقله عن ابن وهبان كما خطر لي لكن بحث فيه بأنه لا مدخل للاعتزال في هذه المسألة.

رد المختار

ج ٦ ص ٤٥٠