

0000019389

SMOKING IN ISLAMIC PERSPECTIVE

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Perpustakaan
Kolej Universiti Islam Malaysia

Academic Project Report submitted in partial fulfillment for the degree of
BACHELOR OF SYARIAH AND JUDICIARY

Faculty of Syariah and Law
KOLEJ UNIVERSITI ISLAM MALAYSIA
Kuala Lumpur

GIFT / DONATION SUMBANGAN IKHLAS WITH BEST COMPLIMENTS	
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1000012343


February 2004

AUTHOR DECLARATION

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I hereby declare that the work in this academic project is my own except for quotations and summaries which have been duly acknowledged.

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ACKNOWLEDGEMENTS

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Firstly, the writer wants to thank Allah SWT, the writer managed to finish Academic Project Report as guide and references for future generations. This Academic Project Report was finish with helping of determine person. Moreover, be finished too with permanent criterion in the Academic Project Report guideline books.

Thanks to Dr. Mohamed Ben Mohamed Bechir, the supervisor of this Academic Project for his continued support and guidance during the writer was finish this Academic Project accurate with the time.

Besides that, the writer wants to give her appreciation to the Islamic University College of Malaysia (IUCM) library and also librarian for all the information needed for this Academic Project. Thanks also to the International Library and Islamic Centre Library for cooperation in giving a lot of references to the writer.

Moreover, thanks are due to the following deans of faculties (FSU, FKP, FQS and FEM) and head of department of IUCM for cooperation.

Furthermore, not forget to thanks are due to all my parents, Jali b. Jusoh and Che Jah binti Hamat and my family for their encouragements and understanding of the writer during to make this Academic Project.

Then, thanks also to my friends and anybodies taking part in the study and had involved to finished Academic Project in Islamic University College Malaysia.

Finally, the writer hopes that this Academic Project with give benefit and contribution to all the students in the future.

ABSTRAK

Merokok merupakan suatu perkara yang sinonim dengan masyarakat Malaysia pada masa kini. Akan tetapi, banyak risiko yang terpaksa ditanggung oleh semua pihak akibat gejala ini. Walaupun semua orang mengetahui bahawa merokok boleh membahayakan, bukan sahaja kepada perokok bahkan kepada seluruh masyarakat, alam sekitar dan negara. Walau bagaimanapun, perkara ini tidak di endahkan. Ini kerana, tidak ada sebarang hukum yang tetap untuk menghalang gejala ini daripada terus berleluasa. Oleh yang demikian, penulis telah mengumpul pendapat-pendapat dari ulamak-ulamak di Malaysia dan dari luar negara, untuk mengetahui pendapat mereka tentang hukum bagi tabiat ini. Di samping itu, penulis menyingkap masalah-masalah yang perlu di atasi oleh ulamak-ulamak di Malaysia untuk menetapkan satu hukum dan seterusnya dipraktikkan dinegara ini. Berdasarkan pendapat-pendapat tersebut, penulis telah membuat satu kesimpulan dengan mengambil satu pendapat yang rajih berkaitan isu ini. Penulis juga telah menyarankan beberapa tips untuk mengatasi masalah ini. Hasilnya penulis mendapati bahawa, merokok merupakan tabiat yang sukar untuk ditinggalkan apabila seseorang itu telah ketagih. Namun dengan timbulnya kesedaran dari diri perokok dan sokongan dari semua pihak, tabiat ini boleh ditangani dengan mudah. Selain itu, untuk memastikan gejala ini terus luput dari negara kita, ulamak-ulamak perlulah berusaha untuk mendapatkan satu kata sepakat tentang hukum ini dan seterusnya mengharamkan tabiat ini daripada terus berleluasa.

ABSTRACT

Smoking is synonym in Malaysia's life today. But, the habit of smoking is burden for all parties with its risks. Even though all people know that smoking is very dangerous, not only to the smoker but also to the whole of society, environment and the country, but it is still ignored. This is because there is no specific injunction in preventing this habit. Therefore, the writer has gathered the opinions of Jurists in Malaysia and oversea to know their views relating to this habit. Beside that, the writer discloses the problems which must be solved to determine a *hukm* and furthermore to be practiced in this country. According to Jurists views, the writer has concluded by taking a '*rajih*' view pertaining to this issue. The writer also suggests some tips to overcome this problem. For the conclusion, the writer discovers that the smokers cannot leave the habit of smoking easily especially when they get addicted. But with the appearance of self-awareness the smoker and the great support by the parties, the habit can be diminished. Besides that, to ensure that this symptom is going to disappear and not to be spread continuously, the Jurists must do a great efforts and unanimously in determining the *hukm* and furthermore issues the habit of smoking as prohibited.

ملخص البحث

التدخين عادة ارتبطت بحياة الماليزيين هذه الأيام. وحقيقة فإن هذه العادة عبء على جميع الأطراف لما تتضمنه من نتائج سلبية. ومع أن الجميع يعرفون أن التدخين في غاية الخطورة، ليس فقط على متعاطيه، بل وعلى المجتمع كافة وعلى البيئة والبلاد عامة. ولكن هذه الحقيقة لا تزال متجاهلة. ذلك لأنه لم يوجد بعد قرار صارم لمنع هذه العادة. لذلك فقد اهتمت الكاتبة بتتبع أقوال الفقهاء في ماليزيا وخارجها لمعرفة مواقفهم من هذه المسألة. ولذلك فقد عمدت إلى كشف حقيقة هذه القضية التي يجب حلها بتحديد حكمها الشرعي المناسب، ومن ثمّ تطبيق ذلك الحكم في واقع هذه البلاد. ومن خلال استعراض مواقف الفقهاء فقد توصلت الكاتبة إلى استخلاص الموقف الراجح بخصوص هذه القضية. كما عرضت الكاتبة بعض المقترحات لتجاوز هذه المشكلة. وفي الخلاصة توصلت إلى اكتشاف حقيقة مفادها أن المدخنين ليس بإمكانهم ترك هذه العادة بسهولة، خصوصاً لما يصلون إلى درجة الإدمان. ومع ذلك فإنه بإمكان المدخن -بفضل عزمته ومؤازرة الآخرين له- القضاء على هذه العادة. فضلاً عن ذلك فإنه لضمان التخلص من هذه المشكلة وتجنب مزيد انتشارها، فإن الفقهاء مطالبون ببذل جهد جبّار لحسم الأمر في تحديد حكمها الأنسب المتمثل في تحريم ممارسة هذه العادة الضارة.

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GLOSARRY

<i>Fatwa</i>	Opinion upon a point of law.
<i>Fuqaha</i>	Islamic Jurist.
<i>Hadith</i>	Saying of the Prophet Muhammad.
<i>Hujjah</i>	Argument.
<i>Hukm</i>	Legal Rule.
<i>Ijma'</i>	Consensus of Opinion of the 'ulama'.
<i>Ijtihad</i>	Extracting legal rules from the original sources.
<i>Imam</i>	Leader.
<i>Iqrar</i>	Admission.
<i>Masyhur</i>	Well known.
<i>nas shar'I</i>	Authority.
<i>Qadi</i>	Judge.
<i>Qiyas</i>	Analogical reasoning.
<i>r.a</i>	Abbreviation of " <i>Radhi Allahu 'An Hu</i> " meaning "Upon him the Blessings of Allah.
<i>ruju'</i>	Reconciliation after a revocable divorce.
<i>s.a.w</i>	Abbreviation of " <i>Sallahu 'Alaihi Wa Sallam</i> " meaning "Peace be upon him". It is compulsory for a Muslim to utter this blessing whenever he hears the Prophet Muhammad's name being mentioned.
<i>shar'i</i>	Legally recognized by the <i>shari'ah</i> .
<i>sunnah</i>	Sayings, deeds and approval of the Prophet.
<i>Surah</i>	Chapter of the Qur'an. the number preceding colon denotes the Chapter number while the numbers after the colon denotes the verse number.
<i>'ulama'</i>	Plural of <i>'alim</i> , Islamic jurist.

TRANSLITERATION*

1. Consonant

Arabic Alphabet	Latin Alphabet	Arabic Alphabet	Latin Alphabet	Arabic Alphabet	Latin Alphabet
ا	-	ز	z	ق	q
ب	b	س	s	ك	k
ت	t	ش	sy	ل	l
ث	th	ص	s	م	m
ج	j	ض	d	ن	n
ح	h	ط	t	و	w
خ	kh	ظ	z	ه	h
د	d	ع	,	ء	,
ذ	dh	غ	gh	ي	y
ر	r	ف	f	ة	t

* Pedoman Translasi Huruf Arab ke Huruf Rumi (1992). Dewan Bahasa dan Pustaka. Kuala Lumpur.pp.1-2.

2. Vocal

Short			Long			Diftong	
ا	َ	A	ا	َ	A	أي	Ay
ي	ِ	I	ي	ِ	I	أو	Aw
و	ُ	U	و	ُ	U		

ABBREVIATIONS

n.a	no author
n.d	no date/no year
n.pl.	no place
n.pb.	no publisher
p.	page
pp.	pages
SAW	salla Allah [‘] anhu/ [‘] anha/ [‘] anhum
SWT	subhanahu wa ta [‘] ala
WHO	World Health Organization
COPD	Chronic Obstacle Pulmonary Diseases
AMA	America Medical Association
USFDA	United State Food and Drug Admits
MTC	Malaysian Tobacco Companies Malaysia
IUCM	Islamic University College of Malaysia
FSU	Faculty of Syariah and Law
FKP	Faculty of Management and Leadership
FQS	Faculty of Qur’an and Sunnah
FEM	Faculty of Economic and Muamalat

CHAPTER ONE

CHAPTER ONE

INTRODUCTION

1.1: The Meaning of Terms:

a. **TOBACCO: i)** in Oxford Student Dictionary means: the substance that the people smoke in cigarettes and pipes (the dried leaves of the tobacco plant).¹

ii) Based on Section 2 of the Food (Extension of the Food Act 1983 To Tobacco and others) Regulations 1993 means: any product obtained from the leaf of the *Nicotiana Tobacum* plant or other related plants and includes any Tobacco product;

b. **TOBACCO PRODUCT:** according to Section 2 of the Food (Extension of the Food Act 1983 To Tobacco and others) Regulations 1993 means: tobacco, cigarette or cigar or any other from of tobacco including any mixture containing tobacco which is designed for human consumption but excludes any medical product controlled under the Poisons Act 1952 or the Control of Drugs and Cosmetics Regulations 1984. ²

c. **TOBACCO PRODUCT ADVERTISMENT:** According to section 2 of the Control Of Tobacco Product Regulations 1993, means: any representation of a tobacco product, tobacco product container or which illustrates or depicts smoking;³

d. **TOBACCO MOSAIC VIRUS (TMV):** in Oxford Dictionary of Science means: a rigid rod- shaped RNA- containing virus that causes distortion and blistering of leaves in a wide range of plants, especially the tobacco plant. It is

¹ *Oxford Student's Dictionary of English.*. 2001. p.666.

² Malaysia. 2000. *Food (Extension of the Food Act 1983 To Tobacco and others) Regulation 1993.* Section 2. p.271

³ malaysia.2000.Food Act 1983 (Act 281) & Regulation.*Control of Tobacco Product Regulation 1993.* section 2. p.277.

transmitted by insects when they feed on plant tissue. TMV was the first virus to be discovered.⁴

e. CIGARETTE: i) in Oxford Students Dictionary means: tobacco in tube of thin white paper that people smoke.⁵

ii) According to section 2 of the Control Of Tobacco Product Regulations 1993, means: any product which consists wholly or partly of cut, shredded or manufactured tobacco, or any tobacco derivative or substitute, rolled up in a single wrapper of paper, and which is capable of being immediately used of smoking;⁶

f. SMOKE: i) in Oxford Students Dictionary means: the gray, white or black gas that you can see in the air when sometimes is burning.⁷

: ii) in Oxford Dictionary of Science means: a fine suspension of solid particles in a gas.⁸

g. SMOKER: in Oxford Dictionary of Science means: an active hydrothermal vent on the sea floor that emits minerals precipitating out of solution as they rise in the water give the appearance of smoke rising in the air. Dark sulphur compounds released from mid- ocean ridges from black smoker; the light- colored emissions containing barites or silica are white smokers. Sometimes deposits build up to form a tube- shaped chimney round the vent.⁹

h. ADDICT: in Oxford Students Dictionary means: a person who cannot stop taking or doing something harmful.¹⁰

⁴ *Oxford Dictionary of Sciences*. 1999. p.793.

⁵ *Oxford Student's Dictionary of English*. 2001. p.115.

⁶ malaysia.2000.Food Act 1983 (Act 281) & Regulation.*Control of Tobacco Product Regulation 1993*. section 2 .p.275.

⁷ *Oxford Student's Dictionary of English*. 2001. p.602.

⁸ *Oxford Dictionary of Sciences*. 1999. p.275.

⁹ *ibid*. p.275.

¹⁰ *Oxford Student's Dictionary of English*. 2001. p.18.

i. TAR: in Oxford Students Dictionary means: a thick black sticky liquid that becomes hard when it is cold. TAR is obtained from coal and is used for making roads, etc.

Tarmac: a similar substance formed by burning tobacco: low- tar cigarettes.¹¹

TAR: in Oxford Dictionary of Science means: any of various black semisolid mixtures of hydrocarbons and free carbon, produced by destructive distillation of “coal or by “ petroleum refining.¹²

j. NICOTINE: i) in Oxford Students Dictionary means: the poisonous chemical substance in tobacco.¹³

: ii) in Oxford Dictionary of Science means: a colorless poisonous alkaloid present in tobacco. It is used as an insecticide.¹⁴

k. CANCER: in Oxford Students Dictionary means: a very serious disease in which lumps grow in the body.¹⁵

L. CARCINOGEN: In Oxford Dictionary of Science means: any agent that produces “cancer, e.g. tobacco smoke, certain industrial chemical, and * ionizing radiation (such as x-rays and ultra violet rays).¹⁶

m. HALAL: In book *Halal Products Consumerism, Technology and Procedures* means: the word ‘Halal’ is an Arabic word which means: “allowed” or permitted. In the context of dietary and food, most of which are permitted unless precisely cited in the *al- quran* and *hadith* as being otherwise.¹⁷

¹¹ *ibid*. p.650.

¹² *Oxford Dictionary of Sciences*. 1999, p.774.

¹³ *Oxford Student's Dictionary of English*. 2001. p.436.

¹⁴ *Oxford Dictionary of Sciences*. 1999, p.535.

¹⁵ *Oxford Student's Dictionary of English*. 2001. p.94.

¹⁶ *Oxford Dictionary of Sciences*. 1999, p.128.

¹⁷ Lokman Ab.Rahman.2001. *Halal Products Consumerism, Technology and Procedures*. Melaka. Surya Sdn Bhd. P.35

n. **HARAM:** in book *Halal Products Consumerism, Technology and Procedures* means: the word “*Haram*” is derived from Arabic which means “prohibited” or “disallowed”.¹⁸

1.2: Compositions of Cigarettes

Cigarettes comprise of many poisonous ingredients of which nicotine is not only poisonous ingredient as many people misconceive, but includes other harmful ingredients as well. From amongst its poisonous ingredients are:

1. Carbon monoxide which prevents oxygen from reaching the brain and the heart and other muscles.
2. Poisonous lead which accumulates and the body fails to break it up.
3. Nicotine: This is a very poisonous substance. A mere 50 mg of it can kill a person if it is injected into the arteries. A typical cigarette contains one milligram of nicotine. Nicotine raises the blood pressure, increases the heart rate and contracts blood vessels near the skin.
4. Tar: This is a sticky yellowish substance which makes the teeth yellow, causes tooth decay and inflammation of the gums. A single cigarette may contain from 3 to 40 milligrams of tar.

During smoking, the large particulates (tiny particles) get deposited on the mucus lining of the lungs. Overtime, the large particulates and certain gases in the cigarette smoker scar the lungs and damage the cilia, thousands of little hairs that line the airways. In heavy smokers, the cilia are paralysed, and the pollutants remain in the lungs. As a result, a smoker's chances of developing bronchitis and influenza increases. Deposits of small particulates in the smaller airways of the lungs can lead to a lung disease called emphysema. When a person becomes enslaved to the habit of smoking, it has a very harmful effect on the smoker's health, especially to his heart. As a result, his heart beat and blood circulation becomes unstable and he experiences drowsiness from time to time due to

¹⁸ *ibid.* p.35.

the shrinking of his brain arteries. Sometimes during old age he suffers from high blood pressure and angina. Similarly his digestive and respiratory systems are harmed and the smoker loses his appetite. He is also afflicted by a cough which is known as the smoker's cough. When his nervous system is affected, the smoker feels a prickly sensation, a numbness in his limbs and also a pain in the nerves.

Allah SWT describes the mission of prophet *Sallallah hu alaihi wa salam*: “ He commands them to do good and stop them from evil and makes *halal* for them that which is pure and makes *haram* upon them that which is impure”.¹⁹

This verse clearly shows pure things to be *haram* and impure things to be *haram*. An intelligent person would no doubt regard smoking to be from among the impure things.²⁰

1.3: The Initiation of Smoking

Adolescents and young people are three times more likely to smoke if both their parents smoke. Numerous studies have found that young smokers are influenced by the smoking habits of their friends or older brothers and sisters.

The image and social acceptability of smoking are instrumental and in the initiation of smoking in adolescents and young people. Young people are constantly exposed to advertising, sporting and promotion events that associate smoking with success, adventure, sophistication, prowess, sex and independence. These images exert a very powerful effects on adolescents and young people.

Marketing and promotional strategies have increasingly focused on women. The images of independence, equality, glamour and sophistication attempt to break down the traditional taboos against female smoking. The sponsorship of beauty pageants, sport, art and music events attempt to influence women to use

¹⁹ Al-quran, al-A'raaf 7:157.

²⁰ n.a.26 December 2003. "Smoking: The Islamic Perspective". *Composition of Cigarettes*. <http://www.tc5g.org/sfelp/home.htm>. P.1-3.

tobacco. Findings on female smoking in the TCCP report include the fact that girls aged 15 to 16 years are more likely to smoke than boys in Denmark, Ireland and the United Kingdom.

Young smokers tend to smoke the brands the are promoted most and advertising reinforce the habit. Many non-smokers and smokers through that tobacco advertising had a lot of effect on influencing young people to start smoking. Advertising also creates an impression that smoking is socially acceptable. Sport advertising, especially the televising of events, sponsor by tobacco companies, increases the children's awareness of their various tobacco brands. Many adolescents can identify a sport that is connected to cigarette advertising through sponsorship. Boys whose favourite sport is motor racing were twice as likely to become regular smoker than those who were not interested in the sport.

The need felt by many adolescents to gain social approval from their peers can lead them to smoke. The desire to appear and behave like adult reinforces the peer pressure.²¹

1.4: Act relating Tobacco and Cigarette in Malaysia

Advertising of tobacco product prohibited.

(1) No person shall-

- (a) Display or cause or permit to be displayed, or authorize the display of, a tobacco product advertisement;
- (b) sell, or cause or permit to be sold, any film or video tape or any item, produced and distributed in Malaysia, that contains o tobacco product advertisement;
- (c) distribute, or cause or permit to be distributed, to the public any leaflet, handbill or document that is a tobacco product advertisement; or

²¹ n.a.2003. 'The Doctor Says: Fag Facts'.The Star. 14 August. P.20.

- (d) print or publish a tobacco product advertisement in any printed publication, book, magazine, leaflet, newspaper or printed matter published in Malaysia.
- (2) Nothing in this regulation shall apply to-
- (a) A tobacco product advertisement in or on a packing containing a tobacco product; or
 - (b) The publication by the tobacco product manufacturer of a tobacco product advertisement in a magazine that is intended for distribution only to employees of the manufacturer.
- (3) Paragraph 3(1) (a) shall not apply to a tobacco product advertisement that is displayed inside a shop or other retail place where tobacco products are offered for sale.²²

Warning printed on cigarette container, lettering requirements, etc.

- (1) There shall be clearly and conspicuously printed in a prominent position on every container of cigarette supplied or offered to be supplied in the course of any trade or business the word “ AMARAN OLEH KERAJAAN MALAYSIA _____ MEROKOK MEMBAHAYAKAN KESIHATAN”.
- (2) A cigarette container shall also display a statement that the level of tar and nicotine in milligram (mg) per cigarette does not exceed the maximum allowable level stipulated in sub regulation 6(3).
- (3) The maximum allowable level for nicotine shall be 1.5 mg per cigarette and that for tar shall be 20 mg per cigarette.
- (4) Where the container is a packet which is a rectangular block in shape, the words shall be placed on either of the side panel of the packet.
- (5) The word shall be in block letters of not less than 3 millimeters in height and in same color and background as the name of the brand.
- (6) (Deleted).
- (7) Any person who contravenes the provisions of this regulation commits an offence.²³

²² Malaysia2000.*Food Act 1983 (Act)281) & Regulations (Control of Tobacco Product Regulation).Section 3. p.277*

²³*Ibid*.section 6.p.278

Prohibition on smoking.

- (1) No person shall smoke _____
- (a) in any amusement center except any pub, discotheque, night club and casino or theatre at any time when such place is open to the public;
 - (b) in any hospital or clinic
 - (c) in any public lift;
 - (d) in any air-condition eating-house;
 - (e) in any public vehicle which is carrying fare-paying passengers on a scheduled or regular route;
 - (f) in any specific building in contravention of any notification issued under regulation 12;
 - (g) in any air-condition shop;
 - (h) in any airport except any area or a class of area reserve by the airport authority as smoking area;
 - (i) in any government premise;
 - (j) in any hall;
 - (k) in any higher education institution;
 - (l) in any kindergarten;
 - (m) in any nursery;
 - (n) in any transport terminal;
 - (o) in any school;
 - (p) in any service counter
 - (q) in any shopping complex;
 - (r) in any sport complex;
 - (s) in any stadium.
- (2) The proprietor or occupier of the place or building or the proprietor of the vehicle mentioned in sub regulation (1) shall at all times display a conspicuous non-smoking sign as prescribed in the second schedule at any prominent part of the place, building or vehicle.

- (3) Notwithstanding sub regulation (1), the Minister may approve upon application any area or a class of area either permanently or for such period as he may determine as smoking area.²⁴

Minister may prohibit smoking in a specified building.

The minister may, by notification in the gazette and subject to such conditions s he may think fit, specify any building or part thereof to which members of the public have access as a place in which smoking shall not be permitted either permanently or for such period as he may think fit.²⁵

²⁴*Ibid.* section 10,pp.279-280.

²⁵*Ibid.*section 12.p.281.

CHAPTER TWO

CHAPTER TWO

THE PERCEPTION OF SMOKING

2.1 The “*Halal and Haram*” Practice in Malaysia²⁶

Islam is the ‘Din’ or “way of life” which governs all human activities and behaviors. Food and consumable materials are the two basic requirements in our everyday lives and such we are always restricted by the *Halal* and *Haram* status. These restrictions are placed upon by Islam to enable that man live up to the state of a perfect being.

In Islam, the *halal-haram* status of a certain thing is not looked upon from the perspective of Shariah confinements only. Rationales and exceptions are also taken into consideration to cater for the well been of mankind. The benefits and consequences from the *Halal-haram* requirements have in certain instances been justified by modern scientific researches. Therefore, something is not considered *halal* in Islam unless it is pure and fresh and is not deemed *haram* unless it is bad and filthy, which brings about negative effects to the development of a human being.

The righteousness of Islam towards the well being of mankind is that it does not prohibit usage of a certain product unless a better alternative is provided to comply with *Shariah* requirements. For instance, the *Shariah* Law prohibits the use of silk by man but on the other hand, an array of alternatives such as wool and cotton is available. Allah prohibits unlawful sex but he blesses marriages. Allah has prohibited alcoholic drinks but provides man with the alternative of healthy and sumptuous drinks that is beneficial to the physical and spiritual development of man. He also prohibits all types of food which are unhygienic and dirty (*khabaith*) but has substituted those with fresh (*tayyibat*) food instead. All these

²⁶ n.a.26 December. “Smoking: The Islamic Perspective”. <http://www.tcsg.org/sfelp/home.htm>.p:1.

demonstrates that Islam does not impose difficulties to its believers without providing them with alternative food to choose from.

Definition of *Halal*: the word ‘*Halal*’ is an Arabic word which means “allowed” or “permitted”. In the context of dietary and food, most of which are permitted unless precisely cited in the *al-Quran* and *hadith* as being otherwise. Man cannot in any case simply consider “*haram*”. Something which is “*halal*”, can be consider “*halal*”. Allah commanded in the *al-quran* in the surah *al-maidah* verse 87 which means:

*“o you who believe! Make not unlawful the good things which Allah has made lawful for you. But commit no excess for Allah loveth not those given to excess”.*²⁷

Definition of *Haram*: The word ‘*Haram*’ is derived from Arabic which means ‘prohibited’ or ‘disallowed’. In Islam *haram* food are those foods which Muslims are prohibited from consuming. Those food includes pork or its derivatives and mixtures, alcoholic drinks, swine, meat of dead animals. It also includes meat, from animals which are slaughtered without the Islamic citation, blood, drugs, cigarettes and others. It is sinful for a Muslim to deliberately consume these prohibited products. In this context Allah has commanded in *al-quran* in the surah *al-baqarah* verse 173 which means:

*“He has only forbidden you dead meat and blood and the flesh of swine, and that on which any other name has been invoked, besides that of Allah”.*²⁸

In issue of smoking, the author cannot decide either smoking *Makruh* or *Haram*. According to opinion by author, cigarette is made from tobacco leaves. Based on *Sheikh Azhar Mahmud Syaltut* in his book “*Al-Fatawa*”, tobacco was not introduced to the Islamic nations until the early of the 11th *Hijrah* centennial. Present *Ulamas* (Muslims Scholars) have not unanimously agreed to the *halal-haram* justification, as the *al-quran* and *hadith* have not made any vivid discussion with regard on this issue. Some of these scholars have decided that to consider

²⁷ al-quran.Al-Maidah.5:87. (All Quranic translation in this writing are based on Prof. (Dr) Syed Rickar Ahamed.1992.*Interpretation of The meaning of The Glorious Quran*. n.pl: TR Group of Companies. Translation from other sources will be cited accordingly).

²⁸ Al-quran.Al-Baqarah.2:173.

smoking as '*haram*' is too stringent and therefore prescribed it as '*makruh*'- (hated or discouraged).

From the economic point of view, smoking is a pure waste of money, as it does not promote any benefit to the development of the body. According to scientific findings, smoking poses harmful effects to the internal organs of the body as well as polluting the environment. According to the medical experts, nicotine, monoxide gases and other chemical elements resulted from cigarette burning is not only harmful to the passive smokers but cause negative consequences such as lung cancer, tonsillitis, heart diseases, tuberculosis and etc. reports made by the authorities have cited that most deaths caused by chronic are the ill effects of smoking. Y this negative finding, some present scholars, such as have justified smoking as '*haram*'.²⁹

2.2 The Islamic Ruling

Many ^c*Ulama* (Islamic Scholars) are of the view that smoking is *haram*. This view is substantiated by those verses of the Holy *Qur'an* and *Al-Hadith* of *Rasulullah Sallallahu alaihi wa sallam* which prohibit harming one;s physical well being, causing distress to others and squandering wealth. Although, some ^c*Ulama* are of the view that smoking is *makruh*. This is because don't have any verses prohibited smoking.

2.2.i: View of International Ulama

Mufti *Ad-Diyar As-Saudiah Waraiissul Qadza* have gazette smoking as *haram* according to *Ijmak Ulama'* Nejd/ Hijaj and Islamic leader in entire Islamic Country. This rulling according to effect smoking which fuddle, incurious and mentally deficient and also endanger health.

²⁹ Lokman Ab. Rahman. 2001. *Halal Products Consumerism, Technology and Procedures*. Melaka. Percetakan Surya Sdn.Bhd.p:23-26 and 35-36.

Among *Ulama* are of the view that smoking as *haram* are *Sheikh Muhd Al-Aini* because cigarette mentally deficient, smell, misspend and endanger health. This, according to his book “*Risalah At- Tadhim*”. The same view also by *Abu Hassan Al- Mashri Al- Hanafi*, *Sheikh Abdullah b. Sheikh Muhammad b. Abd Wahab (Hambali)*, *Sheikh Shahir b. Najmi Ghazali (Shafie)* and *Sheikh Khalid b. Ahmad (Maliki)*. The reason are because languish body and mentally, effect to physical, sex, property and smell. Furthermore, tobacco penalize as *haram* during 1015 *Masehi* at *Damsyik*, because languish body and mentally. Beside, others *Ulama* in the same view are *Sheikh Ahmad Assanhuri Al- Hanbali & Ibraghim Al-khani (Mesir)*, *Abu Bakar Al- Ahdal (Yamani)*, *Muhammad Al- Aalan & S. Omar wal Basri (Iraqi)*, *Sheikh Hawajihi & Isa Al- Syahadi (Hanafi)*, *Maki b. Farrouk, Syed Said Al- Bakhi (Madinah)*, and *Muhd al- Barzanji al- Madani (As- Shafie) (Rumawi)*.

After that, the modern *Ulama* are *Dr. Yusuf al- Qardhawi*, the reasons are because smoking can misspend and not have any advantages for healthy especially and all matters not have advantages are *haram* or prohibited. Then, Prof. Ahmad Shalaby said, smoking cause many diseases and also effect to economy in that country. According to his book “*Kehidupan Sosial Dalam Pemikiran Islam*” 1975, *Pustaka Nasional Singapura*, page: 235.³⁰

2.2.ii: View of Muftis in Malaysia

In Malaysia, many Muftis in this country are of the view that smoking is *haram*. First, we can see in decision by Mufti in Selangor. According to the decision by Mufti in Selangor, Datuk Ishak Baharom, chairman of the *Syarak* Consultative Committee of Selangor, which makes pronouncements on religions matters, announced that smoking had been gazetted as *haram* for Muslims. This pronouncement was declared on 7 of December 1996.

³⁰ Mahayuddin Mohd. Al. Ghazali. 1996. “*Risalah Merokok Haram (Terjemahan)*”. *Risalah Renungan Hari Jumaat*. Ipoh. Pustaka Muda. p. 1-2.

Based on *Enactmen Pentadbiran Perundangan Islam Selangor 1989*, the definition of cigarette is *tembakau yang digulung dengan kertas atau daun nipah atau lainnya*.

According to the pronouncement, the decision prohibited smoking based on sub-section 31(1) and section 32 of Enactment *Pentadbiran Perundangan Islam 1989* which decided on 25 of October 1996.

This decision was decide because smoking can given many dangers to health and this reason certified by doctors.³¹

Then, the view of Mufti in Kedah also are smoking is *haram*. Sheikh Abdul Majid, chairman of Kedah committee that issues religions rulings, said that in the past smoking had been considered *makruh* “because of its smelt”. But “now, there is proof that smoking can seriously endanger your health” he said. Although, the Kedah Islamic Council said smoking not immediately be gazetted as *haram*. This is because not have consent by all Mufti in this country.

Furthermore, the view of Mufti in Kelantan, Terengganu and Perlis and Malacca also are view that smoking is *haram*.

Harms:

In fact, many reasons why the Muftis in Malaysia penalize smoking as Haram. The primary basis of this ruling is that a smoker slowly destroys the body that Allah has grated him. The human body is a trust from Allah and has to be safeguarded and protected at all costs. A strong healthy believer is better than a weak one. One who smokes, inevitably destroys one’s good health. *Rasulullah Salallahu alaihi wa salam* said that one should cherish one’s good health before one’s illness. The harms of smoking are very well-know today, especially hen every cigarette advertisement warns of the harms of smoking.

³¹ n.a.26 December 2003.”Smoking: The Islamic Perspective.*The Islamic Rulling* <http://www.tcsg.org/sfelp/home.htm>. p.1.

Allah stated:

... ولا تلقوا بأيديكم إلى التهلكة..

Means: “*And do not throw yourself into destruction with your own hands*”.³²

Most medical authorities agree that smoking is a major cause of lung cancer among men and woman. Smoking also cause cancer of the larynx, lip, esophagus and urinary bladder. Smoking greatly increases die risk of dying from chronic bronchitis and emphysema³³. In another verse of the Holy Quran, Allah said:

... ولا تقتلوا أنفسكم إن الله كان بكم رحيمًا.

Means: “*And do not kill yourselves*”.³⁴

Smoking during pregnancy has adverse effects on the developing child, producing retardation of growth, small babies, premature births, and an increased risk of peri-natal death from all causes. Infants whose parents smoke have a high incidence of pneumonia and bronchitis due to “passive smoking” (inhaling the smoke produced by somebody else).³⁵. Prophet *Sallahu alaihi Wa Salam* said:

كل مولود يولد على الفطرة فأبواه يهودانيه أو نصرانه أو مجسانه.

Means: *Setiap anak yang dilahirkan suci dan bersih disisi Allah SWT, maka ibubapalah yang akan menentukan samaada anak itu Yahudi atau Nasrani atau Majusi.*

Prophet *Sallallahu alaihi wa salam* said: “Whoever drinks poison, thereby killing himself, will sip this poison forever in the fire of *Jahanam*”.

Cigarettes consist of many poisonous substances. Furthermore, the smoker indulges in a slow suicidal act by smoking this poison.

In Al-Quran, Allah SWT said:

³² Al- Qur'an. Al-Baqarah.2:195.

³³ P.J. Mehta.1987. *Current Topic in medicine*. B.I. Publication. P.80-81.

³⁴ Al-Qur'an. An-nisa'.4: 29.

³⁵ John Gibson.1979. *Modern Medicine For Nurses*. Blackwell Scientific Publication. Oxford Landon Edinburgh Melbourne. P.318.

ويحل لهم الطيبات ويحرم عليهم الخبيث.³⁶

Beside that, some *Muftis* in Malaysia also have view smoking is *Makruh*. The view that smoking is *Makruh* is based on view by *Mufti* in Johore and the Imam of the *Shah Alam* mosque, *Ahmad Shauqi*, he said the opposing views of the State Islamic Council and the *Syarak* Consultive committee “could cause misunderstanding among Muslims”. He said that as far as he knows smoking was only considered *makruh* in Islam.³⁷ This is because not have any verse or *dalil Qatii'* from Allah SWT or Prophet SAW penalize smoking as *haram*. So, that's why they opinioned smoking as *Makruh*.

2.3: Institution of *Fatwa* in Malaysia

According to Al- Badakshi defines *Fatwa* as ‘a legal decision on *Hukum Shara'* issued by a *mujtahid'*. DG MacDonald further defines *Fatwa* as ‘a formal legal opinion given by a Mufti in an answer to a question submitted to him either by a judge or by a private individual’ (*Othman Ishak, Fatwa Dalam Perundangan Islam, (1981, Fajar Bakti Sdn Bhd, Kuala Lumpur), at pp 9-11*).

The standard practice of issuing a *fatwa* in all States in Malaysia except Perlis is to refer to the prevailing views (*qaul muktamad*) of the *Mazhab Syafie*. If it would lead to a situation which is repugnant to public interests, the mufti may follow the *qaul muktamad* of the *Mazhab Hanafi, Maliki* or *Hanbali*. If it is still against the public interest, then, the Mufti may exercise his own *ijtihad*. This is according to Administration of Islamic Law (Federal Territories) Act 1993 under section 39. This section stated that:

- (1) In issuing any *fatwa* under section 34, or certifying any opinion under section 38, the Mufti shall ordinarily follow the accepted views (*qaul Muktamad*) of the *Mazhab Syafie*.

³⁶ Al-Qur'an. Al-A'raaf. 7:157.

³⁷ n.a. 16 December 2003. “Fatwa Merokok”. *Smoking Row Smoulders*. <http://www.pn2.usm.my/mainsite/tobacco/newislam.htm.fatwa>. p10.

- (2) If the Mufti considers that following the *qaul muktamad* of the *Mazhab Syafie* will lead to a situation which is repugnant to public interest, the mufti may follow the *qaul muktamad* of the *Mazhab Hanafi*, *Maliki* or *Hanbali*.
- (3) If the mufti considers that none of the *qaul muktamad* of the four Mazhabs may be followed without leading to a situation which is repugnant to public interest, the Mufti may then resolve the question according to his own judgment without being bound by the *qaul muktamad* of any of the four Mazhabs.

The enforcement of *fatwa* in Malaysia are firstly, a *fatwa* is not binding and enforceable unless and until it is published in the States' Gazette. A *fatwa* that is not published in the Gazette shall have not force of law. Based on Administration of Islamic Law (Federal Territories) Act 1993 under section 34 stated that:

- (1) The mufti shall, on the direction of the Yang di-Pertuan Agong, and may, on his own initiative or on the request of any person made by letters addressed to the mufti, make and publish in the Gazette, a *fatwa* or ruling on any unsettled or controversial question of or relating to Islamic Law.
- (2) No statement made by the mufti shall be taken to be a *fatwa* unless and until it is published in the Gazette pursuant to subsection (1).³⁸

Secondly, as a form a legal instruments of Islamic Law enforceable in Malaysia, *fatwa* binds Muslims only and has no legal effect over non- Muslims. This is according to The Federal Constitution, The State List, stated that...the constitution, organization and procedure of Syariah Court which shall have jurisdiction only over persons professing the religion of Islam and in respect only of any of the matters including in this paragraph, but shall not have jurisdiction in respect of offences except in so far as conferred by federal law, the control of propagation doctrines and beliefs among persons professing the religion of Islam; the determination of matters of Islamic law and doctrine and Malay custom³⁹. In addition, in Administration of Islamic Law (Federal Territories) Act 1993 under section 34:

³⁸ Malaysia.2000.Administration of Islamic Law, Act 1993.section 34(3),(2).

³⁹ Malaysia.2001.Federal Constitution.state list(see para 1.3). p:272.

- 3) Upon publication in the Gazette, a *fatwa* shall be binding on every Muslim resident in the Federal Territories as dictate of his religion and it shall be his religious- duty to abide by and uphold the *fatwa*, unless he is permitted by Islamic Law to depart from the *fatwa* in matters of personal observance, belief, or opinion.

Thirdly, a *fatwa*, which is passed by a State Legislative Assembly, shall have a force of law within the State boundary only. This also based on Federal Territories, the State List and Administration of Islamic Law (Federal Territories) Act 1993.

Lastly, a *fatwa*, which is passed by a State Legislative Assembly (or Parliament, in the case of Federal Territories), shall be authoritative laws for the Syariah court of that State. Based on Administration of Islamic Law (Federal Territories) Act 1993 under section 34:

- (4) A *fatwa* shall be recognized by all Courts in the Federal Territories as authoritative of all matters laid down therein.

Problems and remedies:

Many Muslims in our country are not aware of the existence of *fatwa* institution as part of Islamic legal instruments in our legal system. Eventually, they become ignorant of any *fatwa* gazetted and enforced.

The non-uniformity of *fatwas* between the states and its poor enforcement portray a bad image to the administration of Islamic Law in this country. Time has come for the Federal and the State governments, and in particular JAKIM and the *Majlis*, to resolve this matter.

The lack of funds, facilities and manpower has been identified as obstacles for the Department of *Mufti (Jabatan Mufti)* in most states to operate effectively. This department deserves a proper allocation as any other government agencies for the *fatwa* institutions to develop.⁴⁰

⁴⁰ Farid Sufian Shuiab.2001.*Administration of Islamic Law in Malaysia*. Butterworths Asia.pp:264-282.

2.4: The procedure to Gazette smoking in Malaysia

Based on procedure by institution of Fatwa in Malaysia, any issue can be gazette in Malaysia, if that issues have all conditions which decide by government. For example, issue of smoking. According to the decision by *Mufti* of Selangor, *Datuk Ishak Baharom* about smoking, the Selangor State Government has postpone the gazetting of the *haram* ruling on smoking for Muslims in the state until the matter is clarified by the Islamic Center.

Menteri Besar Tan Sri Muhammad Muhammad Taib said although the State *Syarak* Consultative Committee had ruling that smoking by Muslims was *haram* it would not enforce it as a law.

“This is very difficult to e implemented. Because of that, the ruling can only be made into a law if it is accepted by all states in the country”.

“To do that, the matter has to be referred to the Islamic Center so that it can come out with a uniform rulling”.

Beside that, *Tan Sri Muhammad Muhammad Taib*, who also the State Islamic Affairs Committee chairman, said the State Government needed to get a consensus on the matter from the Islamic Centre and the Islamic Councils of other States before deciding on the next course of action.

He, however, said although the ruling was not enforce as law, it was very clear that it was made by State *Syarak* Consultative Committee and it was up to the Muslims to take heed of it.

Then, according to the issue of smoking, this issue difficult to implemented, *Tan Sri Muhammad* said: “ if smoking is only not allowed for Muslims in Selangor, then they can go to other States to smoke. This will defeat the whole purpose of the ruling”.

So, the decision by *Datuk Ishak Baharom* cannot be gazette because the decision announced by *Datuk Ishak Baharom* was unclear and need to be further clarified.⁴¹

Furthermore, the Government will only enforce *Fatwa* (religious decrees) issued by muftis (clergy) on political matters and not on moral issues.

Minister in the Prime minister's department *Datuk Dr Abdul Hamid Othman* said this was one way to maintain harmony and stability in the country, particularly under certain political circumstances. *Datuk Dr. Hamid* heeded, "we cannot digress for that because the country consists of people with various beliefs". Extremism, no matter how small, would be a danger to the nation as it would lead to confusion in the administration of Islam.

As such, he said the Government would attempt to educate Muslims in dealing with issues pertaining to matters of behavior, etiquette and morality and confine enforcement measures to political matters.

The reason smoking cannot be gazette as *haram* because citing the example of smoking among *imams* (religious leaders), he said, if *muftis* ruled that it was banned, it could not be enforced.

"It will be a difficult matter. We will then have to arrest imams who smoke if we gazette the *Fatwa*".

So, he said those found not abiding by the *syariah* (Islamic laws) would have to go through the process again, adding that it was an offence if they were not done to *Syariah* according Laws.⁴²

⁴¹ n.a. 16 December 2003. Selangor puts off Gazetting of Haram Rulling., <http://www.prn2.usm.my/mainsite/tobacco/newislam.html#fatwa>.pp.4-5.

⁴² n.a. 16 December 2003. "only political fatwa to be enforced". <http://www.prn2.usm.my/mainsite/tobacco/newislam.html#fatwa>.pp.5-6.

CHAPTER THREE

CHAPTER THREE

THE VIEW AND FACTORS ON THE PROHIBITION SMOKING

3.1: STRONG OPINION

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Specifically, Al-Quran never describe directly on the specifically on the rule of smoking in Islam. There were no specific details on cigarette within the Holy Quran suggesting that smoking is forbidden as liquor, drugs et cetera. Therefore, most *Ulama'* have their own opinion regarding the rule of smoking in answering the inquiries of the public and their statement is base on their research and interpretation within the Quran and the *Sunnah*. Some of the *Ulama'* state that smoking is '*haram*' and some suggest it is '*makruh*'. Everyone have their own opinion and their benchmark in supporting their stand base on the Quran and the *Sunnah*.

Nevertheless, after scrutiny research based on the opinion given by the *Ulama'*, in the writer's opinion smoking can be classified as *haram*. This is based on the risks that are faced by various parties which are not only the smokers but also the family, the society, the environment and the country. All of them had worse effect from smokers and the act of smoking. Based on that the writer stand that smoking is *haram*.

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3.2: THE FACTORS PROHIBITED SMOKING

3.2.i: THE EFFECTS OF SMOKING TO SMOKER

Among the risks that are faced by the smokers may be divided into two, which are the immediate effect (acute effect) and the long time effect (chronic effect). The effects involved the change within the physical and the function of organs within the body.

When someone smokes, he or she will experience acute effect. The effect will be the clogging of the respiratory system and stimulation of the heart muscle and blood vessel that increase the blood pressure. To make thing worse, the hairy and salivary that protect the respiratory vessels is also jeopardize resulting in breathing. The smokes that enter into the throat will eventually burn the cells in it, resulting in mucus. In the end the smokers will experience coughing, sore throat, headache and the eye becoming irritated. In short we can state that, smoking only revealing ourselves to death. Furthermore, medical research reveals that heavy smokers will face potential death of within 5 to 10 years. This is because smoking blocks the physical development, harasses the health and brought a lot of diseases and smoking should be avoided as Allah had state:

ولا تقتلوا أنفسكم إن الله كان بكم رحيما.

Means:

*And do not kill (or destroy) yourselves; for surely to you, Allah has been Most-Merciful.*⁴³

(An-Nisa', Verse: 29)

To make thing worse, the physical of the smoker himself or herself is affected. Smoker's hair, cloth, body odor and breath leash unpleasant smells. Not only that, the teeth and the nail also will become yellow and rusty.⁴⁴ The scenario deliberately or indirectly will disturb other people. Most non-smokers despise the cigarette smoke and the odor of smokers because it is so unpleasant. The smells also effects those who are recovering from illness.

Ironically, scientist had proved that passive smokers which means those who do not smoke but inhale smoke because of their surrounding face twice the danger of active smokers. In other words, smokers not only endanger himself or herself but also other people around them. When they puff the smoke from the cigarettes, the people

⁴³ Al-Qur'an. An-Nisa', 5:29.

⁴⁴ Dzulkifli Abdul Razak. 1996. *Mengatasi Ketagihan Rokok*. Shah Alam. Penerbit Fajar Bakti Sdn.Bhd. P-22.

around them will also inhale the smoke even though it was unintentional. Allah SWT state that:

ويحل لهم الطيبات ويحرم عليهم الخبيثات....

Means:

"He allows them as lawful what is good (and pure) and prohibits them from what is bad (and impure)".⁴⁵

When we say smokers, there are not only men but also women. Based on a survey conducted by World Health Organization (WHO), the effect of smoking is more rigorous to women compare to men. If smoking men face twice the danger of heart attack and four times of immediate death, women face greater risk of 5 times the danger of heart attack.

Smoking does not only clogged the blood flow and reduce the body necessity of vitamin A, C and E, but also may direct to severe health problem. This includes, the risk of experiencing Chronic Obstacle Pulmonary Disease (COPD) and endangering the pregnancy. COPD affect the lung system by blocking the airflow thus making the heart fail to pump because of difficulty in breathing.

With aging factor COPD will became more severe for those diagnose with it. The fitness and quality of life of COPD patient will be affected and they tend to face early death.

WHO reported that the number of COPD patient had increasing rapidly in Asia because a lot of smokers start smoking when they were young along with the addition of smoking women. The research reveals that if a women starts smoking since teenager, the risk of experiencing COPD is greater. Smokers who smoke at least 20 cigarettes per day for the last 10 years will have higher risk of catching COPD.

⁴⁵ Al-Qur'an. Al-A'raf.7:157.

Among pregnant women who smoke, they will experience the risk of usual abortion of up to 27 times greater, whereas the risk of unusual abortion also increase due to the nicotine contained in the cigarette⁴⁶. This is proven because, within the smoke of cigarette inhale by the pregnant women contain poison it can cause abortion, damage to the baby and other complication. It is believed that by smoking one cigarette, smokers inhale 4000 hazardous chemicals substance that can cause death. Among the substance are consist in the smoke are Polonium-201 (radioactive substance, Acetone (substance used in paint), Ammonia (substance for floor cleaning), Naphthalene (insect propeller), DDT (insect poison), Arsenic (termite poison), Hydrogen Cyanide (poisonous gas used in death chamber for death sentence convict) and many other lethal substance. However the most lethal one are the Tar, Carbon Monoxide and Nicotine that are the prime substance in cigarette.

Tar consist at least 43 chemical substances that are known to cause cancer (carcinogen). Substance like *benzopyrene* a type of *polycyclic* aromatic hydrocarbon (PHA) had been verified long ago as an agent that sparks cancer.

Nicotine is a drug like heroin, amphetamine and cocaine. It react in the brain and have effect on to the *mesolimbik* system which is the main effect of addiction. Addiction to nicotine can become worst than drug addiction. Medical journal insist that nicotine is as dangerous as any other drug in the world. Out of cigarette smokers will experience mental disturbance and are very much depressed. Therefore chain smokers will become addicted to cigarette and it is hard for them to dump it unless with sheer determinacy and God's will.⁴⁷

Nicotine also had become the main reasons for heart attack and stroke. Almost one over four patients of heart attack is a smoker. In Malaysia, heart attack is the no. 1 killer, whereas, stroke is the fourth major killer. According to Professor Dr Raymond Azman Ali, lecturer of Medical Faculty, Medical Department *Universiti Kebangsaan Malaysia*, 'stroke is one of the brain disorders that occur suddenly. It is because of the blood vessel in the brain had been clogged and burst that lead to internal bleeding.

⁴⁶ N.a. 2004. "Rokok, Merokok dan Wanita Malaysia". *Wanita*. Februari, pp:42-43.

⁴⁷ Rahayu Mohd Salleh. 2003. "Perokok wanita lebih berisiko". *Harian Metro*. Kuala Lumpur. Malaysia. 4 Disember. P:10A.

This situation continues to attack the brain function that control talking, eyesight and movement of individuals. Stroke can be acclaimed from smoking because the nicotine and the carbon monoxide within the burning tobacco reduce the amount of oxygen within the body. The substances also damage the blood vessel wall and it become blocks that clog the blood flows⁴⁸.

Carbon Monoxide is a poisonous gas that is produce from the vehicle exhaust. The gas eventually pesters the oxygen supplies to the tissues until it becomes retarded and can cause death if the carbon monoxide levels in the body exceed 60%. Therefore, if the smoke enters the human body and even animal body, it will devastate each organ within the body.⁴⁹

In short, smoking parents not only endanger their health but also affect their children with numerous diseases. Not only diseases that they will face but also they will trigger retarded babies physically and mentally. Children from smoking background have greater tendency to follow their parents' bad habits when they grew up. Whether it is good or bad it totally depends on their parent's. Parents have full responsibility of educating their children. It is just what Allah state:

يا أيها الذين امنوا أنفسكم وأهليكم نارا.

Means:

*O you who believe! Save yourselves and your families from a fire.*⁵⁰

(Al-Tahrim, verse: 6).

⁴⁸ Mohd Izranuddin.2004."Kenali Punca & Bahaya Strok".*Fungsi Otak Terjejas, Merokok juga satu Faktor*.Keluarga.Februari.pp.84-85.

⁴⁹ n.a.26 December 2003."Tembakau&kesihatan".Penyelesaian Masalah Ketagih Rokok melalui Islam.<http://www.urusanhaji.com/article rokok.htm>.pp.3-4.

⁵⁰ Al-Quran.Al-Tahrim.28:6.