

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

The Shari'ah Advisor: Eligibility and Responsibilities

It is imperative for every Halaal Certification Body to have a Shari'ah Advisor because the entire organisation is based on confirming the Halaal nature of any given product. As long as the organisation does not have access to the services of a reliable 'Aalim or Mufti, its certificates will not hold much weight. Similarly, if a person is not a reliable 'Aalim or mufti, his services (as a Shari'ah Advisor) will be of no benefit. A reliable 'Aalim or mufti is one who completed his religious studies at a reputable institute and he is in possession of verifiable and authentic documentation to prove it. In the jargon of Halaal Standards, this is referred to as "identification and traceability" by means of which one is able to establish someone's eligibility for the post. Merely knowing Arabic or adding the word "Aalim" to your name because of self-study is tantamount to deception in both Deen and Dunyaa.

In light of this, the Pakistan Halaal Standard has made it conditional for any Shari'ah Advisor to hold a certificate and qualification from any one of the five Religious Federations (وفاق المدارس). The very same principle applies to every other field of expertise in the world – everyone who wants to be associated with a specific field will have to achieve a qualification in that subject from a reliable institute. Even in general fields of expertise, no-one is called "surgeon" or "engineer" or "chartered accountant" just because he has some experience or because he has read some books regarding the subject. Furthermore, no reliable institute will ever vouch for such an individual either.

The reason why I have chosen to discuss this topic is that, for some time now, I have been hearing rulings regarding matters of Shari'ah in the Halaal industry which clearly indicate that every Halaal Certification Body does not have reliable and well-educated 'ulamaa or muftis.

To my knowledge, there are two underlying reasons for this:

1. There may be a scarcity of capable individuals, or
2. The Halaal Certification Bodies are lax in this regard.

I cannot think of a third reason. I also think that the entire problem will be solved automatically if these organisations could secure capable 'ulamaa for this post.

What should the basic training of an 'Aalim or Mufti be?

It is imperative for an 'Aalim or Mufti to have studied the Arabic language, Arabic syntax, Arabic verb morphology, Logic, Philosophy, Hikmat, Islamic beliefs, Arabic poetry, Balaaghah, Ma'aani, Badee', Tajweed, Principles of Tafseer, Tafseer, Principles of Hadith, Hadith, the Biography (Seerah) of Prophet Muhammad PBUH ﷺ, Islamic History, Principles of Islamic jurisprudence (Fiqh) and Islamic jurisprudence (Fiqh). Furthermore, if he wishes to become a Mufti, he will also have to study the Principles of Fatwa as well as how to issue a Fatwa, separately. In fact, he should also spend time in the company and supervision of a seasoned Mufti after completing his studies so that he can get some practice, or what is commonly referred to as "field experience".

The duration of the above-mentioned studies is between 6 and 12 years in which one does not only study the various sciences which I have enumerated. Rather, one's mind and mentality are also nurtured so as to engender within the student a positive, pragmatic and proactive outlook on life. Thereafter, the ability to determine answers to new problems according to the yardstick of the Shari'ah is developed within him so that he bears every aspect and facet of the Shari'ah in mind before passing a judgement on any matter.

The 'Aalim should also know the practical aspects of the Halaal Industry, such as what an audit is and how it is done. If he does not have the expertise, the Halaal Certification Body should consider it their duty to send him on auditing courses or any other additional courses regarding aspects of the Halaal System. Together with

this, they should also send him to national and international Halaal conferences so that he can expand his understanding and broaden his horizons.

If the Halaal Bodies keep these few points in mind when soliciting the services of a Shari'ah Advisor, they will be saved from a great deal of problems.

Responsibilities of a Shari'ah Advisor

The primary responsibility of the Shari'ah Advisor is to provide guidance to the Halaal Certification Bodies. This generally entails a fair amount of decision making. For this reason, it is imperative that he understands:

1. What is the legal status of this organisation?
2. Who are the owners of this organisation?

Indeed, it is very important to know this. The reason is that, if this person has been appointed as the Shari'ah Advisor for Halaal Certification in a non-Muslim-owned organisation, he will be disallowed and prohibited from offering his services to them immediately. He should know that the concept of Halaal and Haraam is a purely religious matter and that this can only be guaranteed and attested to by a Muslim person or Muslim-owned organisation. More details regarding this can easily be found in the Company's Memorandum of Association.

3. What are the policies of this Halaal Certification Body?
4. If a policy is found to be in conflict with the rulings of the Shari'ah, will the organisation be prepared to change it based on the verdict of the Shari'ah Advisor or not?

This is also a very important point. For example, if the company has a policy that states: "If the client has not paid his account within 30 days, a certain percentage of interest will be added to the bill", will they be prepared to change it if the Shari'ah Advisor instructs them to? There are two very serious problems with such a clause:

- a. A Halaal Certification Body deals in interest!

- b. Dealing in interest is a major sin and the organisation is announcing its perpetration there-of!

When a Halaal Body itself is involved in Haraam and, on top of that, it is announcing its sin, how valid can the certification of such an organisation really be? If a Muslim openly and flagrantly commits a major sin, his testimony will not be valid according to the Shari'ah and, in the terminology of the Shari'ah, he will be labelled a "Faasiq". The very same will apply to an organisation.

5. How much of a role does he play in the decision-making process of the Halaal CB, if any?

A Shari'ah Advisor should know the authority which he has been granted. May Allah ﷻ forbid, but if he is not given any authority when it comes to decision-making, of what benefit is his position then? The matter is one of Halaal and Haraam and the right to decide the Halaal or Haraam status of any given product belongs solely to the Shari'ah Advisor because he is a master of that field.

6. Does the team which the Halaal Certification Body sends on an audit meet the requirements which a Shari'ah witness needs to meet?
7. According to which Halaal Standard does the Halaal Certification Body work, and what are those standards?

We have seen that the Shari'ah Advisors of those Halaal Certification Organisations which have a Shari'ah Advisor in name only, have not even read the Halaal Standards of their organisation. It is the duty of the Shari'ah Advisor to study the Halaal Standards of the organisation he is affiliated to so that he may bring any objectionable clause to their attention. Hence, he needs to be aware of its details.

8. Developing the mind-sets of both Top Management and staff members:

It is also the duty of the Shari'ah Advisor to keep nurturing and developing the mind-sets of the Management as well as the other staff members so that the employees of that particular organisation are aware of basic laws and rulings of the Shari'ah. For example, he should instil within the management and staff the

importance of Halaal and impress upon them the necessity of abstaining from any and every ruling which is in conflict with the Shari'ah.

The benefit of nurturing the minds of the other employees is that the importance of the work which they are involved in will remain at the fore-front of their minds, a strong realisation of the fact that they will be answerable to Allah ﷻ will be instilled in them and everyone will remain fully acquainted with the basic rulings of Halaal and Haraam.

9. To offer counsel regarding the Shari'ah aspects of every-day activities:

Once the Halaal Certification Body has issued a certificate, their work is not over yet. Rather, the various aspects of all research and development of ingredients which the client does on a daily basis should be routinely discussed with the professionals working within the organisation so that they may also offer their views and the Shari'ah rulings regarding it. In that way, they will be able to tell whether a certain ingredient is Halaal, doubtful or Haraam.

These were just a few of my requests. If we practise upon them, many of the difficulties we face and which have been mentioned in the aforesaid discussion will either become a thing of the past, or, in the very least, we will be able to control them properly.

May Allah ﷻ grant us the ability to do that which is correct – Aameen.

Wassalaam,

Mufti Yousuf 'Abdur-Razzaaq
CEO SANHA Halaal Associates
Pakistan
17 January 2017