

TOBACCO AND SMOKING CULTURE PERSPECTIVE ISLAMIC LAW

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Abstrak:

Awal abad kesebelas, atau sekitar empat ratus tahun yang lalu, sejak saat itu sampai sekarang hukum non intensif dibahas oleh para ulama di berbagai negara. Perbedaan pendapat di antara mereka mengenai hukum rokok-pun tidak dapat dihindari, dengan demikian mengakhiri kontroversi. keragaman yang pendapat dalam bentuk fatwa dan selama ini memiliki banyak dimodifikasi. Beberapa dari mereka mengatakan diperbolehkan atau diizinkan, sebagian mengatakan makruh, sementara yang lain lebih cenderung mengatakan haram. Tidak sedikit di negeri ini, hukum berbicara rokok mencuat dan memanas lagi. Pendapat yang bermunculan selama ini tidak jauh berbeda dengan apa yang telah terjadi, yang masih menjadi kontroversi.

Kata kunci: Tembakau, budaya, hukum Islam

Abstract:

As from the beginning of the eleventh century AH, or about four hundred years ago, since then until now the law of non intensively discussed by the scholars in the country various, both collectively and individually. Differences of opinion between them regarding cigarete law can not be avoided, thus ending the controversy. That diversity of opinions in the form of fatwas and during this time has a lot modified. Some of them say permissible/allowed, in part say makruh, while others are more likely to say unclean. Not least in this country, the law talks cigarettes sticking out and heated up again. Opinions are popping up as long as this is not much different to what had happened, that remains a matter of controversy.

Keywords: Tobacco, culture, Islamic law

Introduction

Cultural history has proven that tobacco and smoking culture becomes part in a traditional ceremony process that has a high cultural value. The process of culture or culture that is the creativity of Indonesia society mentioned above, should obtain legal protection and legal certainty from the government. As Article 28 paragraph (3) of the 1945 Constitution states: "The cultural identity and the rights of traditional communities be respected in line with the times and civilization.

Cigarette, is an ancestral traditions Indian tribes who now has expanded to the world. In the 12th century Hijri cigarette is banned by the Ottoman Caliphate. Smoking First Instance was discovered by Spanish sailors that we often call Coloumbus expedition in Central America in October 1492. The sailors at that time saw old men who are sucking dry leaves are rolled called Injun. The captain at the time was trying to smoke the tobacco leaves and having tried them confiscated tobacco leaves and seeds. It was then that the presence of tobacco plants to circulate around the world as a reliever migraine or headache.

From the archaeological diggers mentioned that Indian tribes in Central America are already using tobacco leaf over 4000 years ago because the smoke contains mystical. In the 15th century until the 18th century known as a remedy for toothache, treat colds, headaches, skin and, of communicable diseases.

Based on this view of the above, it is important to see cultural factors in terms of taking a policy. Culture certainly have far-reaching implications, and could become a common habit that live and function in society.

In History, circa 1556-1558 Cigarette becoming known in America. It is said that after American independence many Europeans who visit there, just to see the development of life of Americans appear to contain so great sympathetic for Europeans, not least in terms of smoking. Unwittingly than old European nations to follow this tradition. Even after America many of those who brought tobacco seeds to be taken to Europe and planted.

Thus, it is obvious that when the Prophet PBUH. and friends who live in the 6-7 century AD, does not recognize the presence of smoking. That is why in various sunnah and the sira of the Prophet or the history of the friends we did not find this argument of their smoking problem.

Discussion

Tobacco plant is a plant species that has been handed down from generation to generation since the colonial era *Nederlandse Indie* and until now, the tobacco farmers are still getting treated less well than the Government, began the colonial era to the present, the natural freed even in the realm of reform.

An ongoing continuity of generations makes a culture or a culture of creativity that is high enough not only produce the best tobacco plants but also a way of making basket, rigen (where drying tobacco), tobacco cutting tool traditional and modern. It shows a noble culture, and also with the culture of the tobacco farmers have produced tobacco products *Srintil* and other types of tobacco.

Nationally, government revenue from the cigarette tax in 2010 amounted to Rp. 62.14 Trillion or to exceed the target set by the state budget of Rp changes. 59.26 trillion, making it the second largest contributor after oil and gas.¹

In a book entitled “*Java kretek*” cigarettes write about culture, which outlined that “Smoking is made to be a means of establishing communication, creating a communication in the social space. Conducted in a ceremony attended by many people. Cigarettes as dish it is still commonly found in the community of practice. Cigarettes are served in special occasions, *Jagong infants*, circumcision or other salvation.

Occasionally, non grain was also found when a family send flowers, and a few other offerings for ancestors who have died. Among dish-dish there is placed a pack of cigarettes. This practice becomes a habit that continually passed from generation to generation to generations of his descendants.²

Culture and smoking cigarettes, can be found in various regions in Indonesia. One was found in the *Dieng Plateau*, known for their indigenous tradition *ruwatan* accompanied by the implementation of the *Nadar* (demand) of each child who cut his hair. In the *ruwatan* custom events, cigarette *kawung*, an offender mediation of communication with *Kiai Hero*

¹ Editor Andi Rahman Alamsyah, *Hitam-Putih Tembakau*, (Depok: FISIP UI Press, 2011), 5.

² Rudy Badil, *Kretek Java Gaya Hidup Lintas Budaya*, (Jakarta: Gramedia, 2011), xxi-xxii.

Member ceremonies Kolodete order ruwatan ceremony went smoothly, avoid interference and danger.³

Definitions Of Cigarettes

Smoking is a cylinder of paper a length between 70 and 120 mm (varies by state) with a diameter of about 10 mm containing tobacco leaves that have been shredded.⁴ Cigarette burned at one end and allowed to smolder so that the smoke can be inhaled through the mouth at the other end. There are two types of cigarettes, cigarettes are filtered and not filtered. Filters on cigarettes made from synthetic fibers foam material that serves to filter nicotine. Cigarettes are usually sold in a box-shaped bundle or package of paper that can be incorporated easily into pockets. Since the last few years, these bundles are also generally accompanied by health messages that warn smokers of the health hazards that may result from smoking,⁵ such as lung cancer or heart attack.⁶

History Of Cigarettes

Around 1492 AD, a famous sailor named Christopher Columbus Yag discovered America, when he watched the locals were having suck hand-rolled tobacco which we now know as cigarettes.⁷ Cigarette initially in the

³ Ibid.

⁴ Cigarettes are rolls of tobacco (roughly the size of the little finger) wrapped (palm leaf, paper); kawung cigarettes penyalutnya (wrapper) leaves palm (palm); rhu barb rhu barb spiked cigarette tobacco; kretek cigarette tobacco spiked with cloves; me • ro • why is smoking a cigarette; • ro pe • why is the (man) who like to smoke; Active people who smoke actively; Passive people receiving cigarette smoke, not smokers themselves. Cigarette brands famous among others; A Mild, Class Mild, Bentoel, Benson & Hedges, Djarum, Latitude Six, Dji Sam Soe, Gudang Garam, Lucky Strike, Marlboro, Wismilak, brands: Bheta, Forum, Gentong, Gibol, Iki Ae, Master Mild, Pencil Mas, Sam Suy.

⁵ Smoking is essentially sucking the combined adverse effect of nicotine, carbon monoxide, tar and other toxins. See: W. Al-Haafiz Ahsin, *Fiqh Kesehatan* (Jakarta: Amzah, 2007), 225.

⁶ On one side umara wants his people to maintain health, one of which requires cigarette manufacturers to include warnings contained in each cigarette packs: "Smoking can cause cancer, heart attacks, impotence, and disorders of pregnancy and the fetus". But on the other hand umara also still loyal to grant permission to arouse various cigarette advertising masyarakat more excited anymore in buying cigarettes. See: Ghuftron Maba, *Ternyata Rokok Haram* (Surabaya: Java Library, 2008), p. 8. See also; Majalah Islam Sabili, *Dai Dan Rokok* (Jakarta: Bina Media Sabili) Th. XIII, 14.

⁷ Ibid., 11.

form of tobacco⁸ is burned and inhaled through a pipe. This activity was originally performed at the gathering tribes to strengthen the relationships between the different tribes. But besides as a reinforcement of inter-ethnic relations, also many who use tobacco as a medium of treatment. And Indian tribes use it as a media ritual to their gods.⁹

Then, in the 16 th century, when Christopher Columbus and his entourage came to the Americas, some of them try to smoke tobacco. And finally excited to bring this culture of tobacco is smoked to their continent of origin, namely the European Continent. Once this was brought to European culture, there is a French diplomat who is interested to popularize it throughout Europe. He was Jean Nicot, who later used his name as a term of Nicotine. Smoking habit emerged among European nobility. But unlike the Indians, who used it for ceremonies, European nobles used it for sheer pleasure.¹⁰

Its popularity is increasing in Europe make John Rolfe interested to cultivate tobacco more seriously. John Rolfe was the first to successfully grow tobacco on a large scale, which is then followed by trade and transportation of tobacco from the US to Europe. Scientifically, tobacco farming guide was first published in England in 1855.¹¹

After that, in the 17th century, traders from Spain to Turkey, which is an Islamic country. And finally then the smoking habit entry into Islamic countries. Smoking culture including a relatively new phenomenon in the Islamic world. Shortly after Christopher Columbus and other Spanish

⁸ Tobacco plants are crops that have been through the process of growing leaves - plants of the genus *nicotiana* very fresh. Tobacco can be obtained commercially in the form of crops, such as wet or dry and that has been stored or preserved through the process. And often smoked (such as smoking) in the form of a cigar, cigarette, pipe, tingwe (rolled himself / rolled with the print tool / hand), tobacco can also be chewed, "dipped" (placed between the cheek and gum), and in inhaled into the nose as a suction material in the form of a fine powder.

⁹ Tobacco (tobacco) is a kind of herbal plants. These plants come from North America and South America. Tobacco history filled with intrigue and nuasa myth. Teachings - teachings of their faith is also to do with the tobacco plant, which at that time tobacco smoke is believed to provide protection from the spirits were very nasty and vice versa facilitate their approaching good spirits. People - the Native Americans who had settled in the New World has given the gift of Tobacco leaf and a century after that, smoking has become a social trend, and further has provided benefits to society and economic growth to entrepreneurs in the United States.

¹⁰ Shaikh Ihsan Jampes, *Kitab Kopi Dan Rokok* (Yogyakarta: Pustaka Pesantren, 2009), 14-15.

¹¹ Ibid

explorers found the Aztecs this habit in 1500, cigarette and then spread quickly to the peninsula of Siberia and the Mediterranean region. Islamic world, at that time was under the Caliphate Ustmaniyah based in Turkey.¹² Having known the existence of some Muslims are beginning to be affected and following the smoking habit, it is deemed necessary by the Islamic rulers at that time to establish laws about smoking.

While the history of cigarettes in Indonesia started from cigarettes. Cigarette history began in Kudus. Being the most alluring merchandise in the hands of employers. The cigarette lovers always expect a quality product from the cigarette factory. The origin of the cigarettes still dark.

Once upon by the people - the original sanctuary, narrated cigarettes stems from the discovery of Haji Djamari in the period 1870 - 1880's.¹³

T first, cigarettes wrapped in dried corn husks or leaves. Clove cigarettes is becoming known. But not so with the master inventor Djamari. He is known to have died in 1890. Who was he and their origin is still unclear. After ten years later, the invention Djamari be alluring merchandise on hand Nitisemito, cigarette industry pioneer in the sanctuary, the cigarette business started by Nitisemito in 1906 and in 1908 officially registered his business with the brand, "Bal Tjap Three". You could say it was a milestone step Nitisemito growth of cigarette industry in Indonesia.

Medical Analysis Of Cigarettes

One study has shown that smoking is not only harmful to oneself but also for the environment around them. Report from Dr. Paolo Vineis as reported by The British Medical Journal states children have the greatest risk of the smoking parents. Impact of smokers in non smokers (passive smokers) has long been known. However, the danger of smoking parents on children's health is only now surfaced. From research conducted by Dr. Paolo Vineis in several European countries known that children have the

¹² Maba, Rokok Haram..., 8.

¹³ In the beginning of this holy population is feeling pain in the chest. He then tried smear with clove oil is not how long the pain somewhat subsided. Djamari then experimented chopping clove and mixing with tobacco material to latitude or rolled into a cigarette. That time has become a habit of rolling men. Djamari do some modifications by mixing clove. After routinely suck or smoke creation Djamari feel the pain somewhat subsided. He then offered to relatives or neighbors. The news then spread like a time bomb. Demand for cigarettes drugs flowed so profusely. Djamari order to serve the clove cigarettes. Because when inhaled, clove burning noises, "kemeretek, ..". Then the findings Djamari cigarettes known as kretek cigarettes. <http://www.lenterabiru.com/2009/10/rokok-kesehatan-kanker-paru-penyakit-sesak.htm>.

highest impact.¹⁴ Which is about three times the lung cancer and respiratory problems associated with other parents who smoke. Children's risk of lung cancer increased to 3.6 times that of parents who smoke because these children have become a passive smoker.

Various toxins contained in cigarettes such as tar, nicotine, carbon monoxide, hydrogen cyanide until that is basically poison for the death penalty, until the ammonia that is material for floor cleaning. Various diseases associated with cigarettes, of diseases that may attack the active smokers, up to terrible risks in passive smokers. However, the most important toxin is Tar, Nicotine and Carbon Monoxide.¹⁵

Tar contains at least 43 chemicals that are known to cause cancer (carcinogens). Materials such as benzopyrene which is a kind of polycyclic aromatic hydrocarbons (PAH) has long been validated as a cause of cancer. Nicotine, as unclean by heroin, amphetamines and cocaine, react in the brain and have impressions of the mesolimbic system is a major cause addiction. Nicotine also become the main peak of the risk of heart disease and stroke. Nearly one quarter of heart disease patients is due to the habit of smoking.

Carbon monoxide is a poisonous gas that is usually issued by vehicle exhaust. If the poison cigarettes that enter the human body, will bring damage to every organ in its path, starting from the nose, mouth, throat, windpipe, lungs, blood vessels, heart, reproductive organs, so get into the urethra and bladder, namely if the party of toxins could be removed from the body in the form of urine.¹⁶

There are several types of diseases resulting from smoking, among them is esophageal cancer, cancer of the mouth, cataracts (a type of damage of the eye that causes the lens of the eye and myopic), ulcer stomach, heart disease, stroke, lung disease, pulmonary emphysema and still many other illnesses.

¹⁴ Every cigarette is lit will be issued over 4,000 toxic chemicals are dangerous and may lead to death. With every puff that resembles a puff of death. Among the content of cigarette smoke his radioactive material (polonium-201) and the materials used in the paint (acetone), washing floors (ammonia), medicine silverfish (naphthalene), insecticide (DDT), toxic termite (arsenic), toxic gases (hydrogen cyanide) used in the "gas chamber of death". However, the most important toxin is Tar, Nicotine and Carbon Monoxide. See; Andi Dwi Yanto, *Tips Cerdas Agar Anak Anda Berhenti Merokok* (Jakarta: Prestasi Pustakaraya, 2006), 2.

¹⁵ Al-Haafiz, *Fiqh.*, 230.

¹⁶ Maba, *Rokok Haram.*, 38-40.

Analysis Of Islamic Law On Cigarettes

Basically, there are nās is general that a standard law, namely the prohibition of doing everything that can bring damage, mudarat or mafsadat as set forth in the al-Qur'ān and al-Sunnah as follows:

ولا تلقوا بأيديكم إلى التهلكة وأحسنوا إن الله يحب المحسنين

*"And do not your own hands into destruction, and do good; for Allah loveth those who do good."*¹⁷

عن ابن عباس قال قال رسول الله صلى الله عليه وسلم لا ضرر ولا ضرار. رواه ابن ماجه

*"From Ibn 'Abbas ra, he said; Rasulallah saw. He said: It should not be done mudarat (to myself), and should not be done mudarat (in others). (HR. Ibn Majah)."*¹⁸

Contrast of two nās above, scholars agree on everything that is brought evils principle is unlawful. However, the issue is whether smoking is brought evils principle or not, and there is also a benefit or not. In this case erupted a different perception in researching and observing the substance smoking aspects of benefit and mafsadat. When all agreed that smoking does not bring evils principle or bring evils principle but is relatively small, then all will agree with the law a permissible reason or makruh. Similarly, when all agreed that smoking brings great evils principle, it will be agreed with the law unlawful.¹⁹

Some of the opinions above, along with his argument can be classified into three kinds of law, among them;

¹⁷ Al-Quran, 2: 195.

¹⁸ Ibn Majah, *Sunan Ibn Majah*, (Beirut: Dar al-Mitēb al-'ilmiyah, tt.), 784.

¹⁹ Three opinions above can apply in general, in the sense permissible, makruh and haram for him or her. But there can be three kinds of laws apply in person, with the understanding of each person will be exposed to different laws according to what they cause, both related to the condition personnya or quantity consumed. The three levels of the smoking law is both general and personal. that there is no tradition of the tobacco and no atsar (words and actions) of one among the Companions of the Prophet. Obviously, if there are elements that bring harm to someone in mind or body, then it is haraam as honey is forbidden for people who are sick with a fever, and the mud was unclean when it brings harm to someone. But sometimes there are elements that are permissible but changed to the Sunnah as if it meant something permissible for treatment based on reliable information or experience itself that something can be a cure for the illness, as treatment with excrement besides khamr. Had free from unlawful elements and permissible, then the ruling makruh because when there are elements that are contrary to the unlawful elements that can be understood makruh law. See; 'Abdur Rahmañn ibn Muhammad ibn Husayn ibn' Umar Ba'alawī, *Bughyatul Mustarshidīn* (Beirut: Dār al-Fikr, 1995), 260.

a. The law smoking is mubah

In view of the Qur'an, there are no verses that suggest that people smoke.²⁰ Just, maybe this law benefits analysis results and *mudarat* by some scholars because of his belief that smoking it may carry the disease, most of the earlier scholars argued, that smoking is a permissible reason or *makruh*. They were at that time more tendency that on the evidence, that smoking does not bring *mudarat*, *mudarat* or carrying but relatively small. Perhaps in our picture now, that *mudarat* smoking can also stated no larger than *mudarat* durian which obviously containing high cholesterol. How not, ten years more of someone smoking in the smoking every day would not necessarily suffer from diseases caused by smoking. Whereas over the last three months alone someone in every day eating durian, chances are he will contract the disease.

Mahmud Al-Syaltut in *Al-Fataawa*²¹ also elaborate on tobacco that most scholars upon whom lawful because it looked that tobacco is not intoxicating, and the fact that the object is not intoxicating, beside that also do not carry *mudarat* to every people who consume. This is also conform with *kaidah fiqh*: الأصل في الأشياء (everything originally was a permissible reason).²²

Similarly to what has been described by Wahbah Az-Zuhailiy about coffee and cigarettes; the compiler of the book *Al-'Ubab* from the view of Al-Shaafi'i asked about coffee, and then he said: (that means Coffee) law, every means it complies with the goal. If the means of worship, then it was meant to be a permissible reason to worship, then be *mubah*, *makruh* for a then be *haram* or *makruh*, then it becomes unlawful.²³ This is corroborated by some of the scholars ' of the Hanafi *madhhab* associated *halal* laws against smoking assignment i.e. abd. Al-Ghānīal-Nabilisi.²⁴ In Addition To

²⁰ A. Mustofa Bisri, *Fiqh Keseharian Gus Mus* (Surabaya: Khalista, 2005), 472.

²¹ Basically, according to Syaltut, such as tobacco original law is *kosher*, but it could be unlawful for people susceptible to harm and negative impacts. While some scholars' more *menghukumi haram* or *makruh* because looking at tobacco could reduce the health, appetite, and cause vital organs infection and less stable. See: Mahmud Syaltut, *al-Fataawa* (Cairo: Dār al-Qalam, tt.), 383-384.

²² Abd. Hamid al-Hakim, *Mabadi 'Awwaliyah Uş ul Fiqh wa al-Qawā' id al-fiqhiyah* (Jakarta: Maktabah Sa'adiyah, 1927), 48.

²³ Wahbah Az-Zuhailī, *Al-Fiqh al-Islamīwa Adillatuhu. Juz VI* (Damascus: Dār al-Fikr, 1989), 166-167.

²⁴ He was a follower of the Hanafi *madhhab* which has been regarded as a *murabbī* (teachers crowds) even he has made a special essay that tries to offer arguments *ṣāhih* about *halalnya* smoking. The paper is named *al-Ş ULH bain al-ikhwān filhukm ibāhah Sharab*

Abd. Ghānī there are still a number of other names who argue that smoking is lawful, as delivered al-Barmawī; “Suck smoking kosher law. haram not because of smoking itself haram (haram lidhātih), but because there are hereditary and factor out that affect or kosher law change”. The outer elements of a sample is the danger arises and is triggered by smoking, making smoking laws become relative. When smoking does not make specific mafsadat (not endanger himself) then smoking is not haram, otherwise when the smoking with it will make someone got danger then the law smoking is becoming haram for him.²⁵

If someone smokes, and cause danger for sure on him (muhaqqah), then that person is banned, because of the real danger has looked for him. For if objects permissible reason contain or cause ḍarār (dangers) for a specific individual; and including are muhaqqah (proven) for individuals, then it is unlawful is consumed by the individual; While the legal origin of the object remains mubah, not unlawful. Shrimp for example, originally the law was a permissible reason. However, for certain people, the shrimp can bring the danger of that is muhaqqah.

In this kind of condition, the person is forbidden (haram) consumes shrimp, because it has been proven the dangers of shrimp for him. It’s just, legal origin of the shrimp remains a permissible reason, not unlawful. For, the existence of ḍarār (danger) on objects mubah, does not change the status of the mubah of the object.²⁶ Therefore, other individuals still allowed to consume while shrimp doesn’t cause ḍarār that is muhaqqah for him.

As well as selling smoking including permissible reason because there is no evidence that haram, then use it means of consumption by means of a permissible reason.²⁷ In the Scriptures are also described; in a lesson there are questions about the famous cigarette at present, is it permissible to sell traded or not? The answer is legitimate/permissible, because it includes the sacred items and helpful just like heat water and shelter him.²⁸ Because

al-Dukhān (Reconciling the comrade; Book of bolehnya smoking). See; Jampes *Kitab kopi dan Rokok.*, 51-52.

²⁵ Ibid, 55.

²⁶ Shaikh Taqiuddin al-Nabhani, *al-shakhsiyyah al-Islamiyah*, the section 3, 459

²⁷ Sulaiman al-Jamal, *Jamal al-ala Hasyiyah Fath-Wahhāb*, Volume III (Beirut: Dār al-Fikr, T.Th), 24.

²⁸ Ali al-Syibramalisi, Hasyiyah Shamsuddin Ali al Syibramalisi in al-Ramli, *Nihayah al-Muhtāj*, Volume III (Egypt: Muṣ Tafāal-Halabī1938), p. 381.

it is essentially selling that can be when it's eligible, such items are being bought and sold dollars, rewarding, and others.²⁹

b. Law smoking is Makruh

Smoking laws is makruh because smoking brought mudarat small insignificant relative to the legal basis of the haram. When smoking is bringing mudarat is relatively small with makruh. As for the form of benefit such as uplifting thought and work as usual felt by smokers. It is not an exaggeration for that can bring considerable mudarat. Anything that is consumed in excess and if bringing considerable mudarat, then it is haram. In contrast to objects that are clearly intoxicated, the ruling remains unlawful even though there are benefits to whatever shape is due to the mudarat is certainly greater than its benefits.

The approach used to determine the smoking laws, is to look at a result which appears to be caused by this habit. It is known that smoking causes less breath smell foul. This fact then analogy with similar symptoms that are found at the time of the Prophet, namely the ban go to the mosque for people who run out of eating the garlic/onion raw, because smell is not hearty thereof. About this Hadith was narrated by Ibn ' Umar, among others, ra, in which the Prophet said:

عن ابن عمر رضي الله عنه قال: قال النبي صلى الله عليه وسلم: من أكل البصل والثوم والكراث فلا يقربن مسجدنا، روه مسلم

"Ibn ' Umar RA. The Prophet said, the Prophet said: he who eats onion, garlic, leek and then do not approach our mosque "(HR. Muslims) "³⁰

As we know, at the end of § tools everyone gives, which can be met with one another. Conceivably, how not to use when a greeting to the right-it spread "fragrant" raw onion! Based on the analogy, the scholars of Islam when it argued the ruling that smoking makruh (reprehensible). However, Prof. Dr. h. Ahmad Zahroh, MA when smoked with makruh tahrim (makruh closer on harām)³¹ because it is based on rule fiqhiyah:

²⁹ Ahkamul-Fuqahā', *Solusi Problematika Actual Hukum Islam* (Surabaya: Khalista, 2011), 34.

³⁰ Al-Nawawi, Imam abu Zakariya Yahya bin Neural, Riad al-SāLihīn, "trjmh" Salim Bahreisy, mold 10 vol II (Bandung: al-Maarif, 1987), 551.

³¹ Ahmad Zahro, *Fiqh Kontemporer* (Jombang: Unipsu Press, 20120., 46. See also footnotes: Ahmad Zahro, *Tradisi Intelektual NU* (Yogyakarta: LKIS, 2004.), 204. See Also: Mohammed Abu Zahroh, *Uṣūl Fiqh* (Jakarta: Pustaka Firdaus, 1994.), 443.

"Avoid damage take precedence over acquiring the benefit".³²

c. Law smoking is Haram

Cigarette smoke contains chemicals that are extremely large, one is that in the smoking has to contain nicotine which is harmful for health. According to research studies, every year there will be the death of smokers. Every time a smoker puffing smoke puff of cigarette smoke, that contain nicotine which is very much in the air.³³ From that smoking endangers those around him who inadvertently will inhale and become passive smokers.

The community recognizes that the industry's smoking has been providing economic and social benefits. Cigarette industry has also provided considerable income for the country. Even as a raw material, tobacco smoking has become the object of economics for most farmers. The other hand, however, smoking can endanger health (*darār*) as well as the occurrence of waste (*isrāf*) and is an action *tabdzir*. Economically, the response to the dangers of smoking are also quite large. Smoking is a major cause of illness worldwide that is actually preventable and have an effect that is very mean towards public health.³⁴

According to medical science, cigarettes contain approximately 4000 chemicals, including nicotine, carbon monoxide, tar and others. Tar is the substance a hydrocarbon that is sticky and stuck to the lungs. Nicotine is the addictive substance that affects the nerves and blood circulation. These substances are carcinogens and are capable of triggering lung cancer. Carbon monoxide is a substance that binds to hemoglobin in the blood, making the blood not being able to bind oxygen.³⁵

³² al-Hakim, *Mubādi'*, 35.

³³ A. Setiono Mangoenprasodjo, Sri Nur Hidayati, *Hidup Sehat Tanpa Rokok*, (Yogyakarta: Pradipta Publishing, 2005), 5.

³⁴ <http://www.64.203.71.11/ver1/kesehatan.diakses> June 1, 2009.

³⁵ Thus the smoking law, which until now we understand, *makruh*. Five hundred years ago, the medical facts show that smoking not only causes bad breath odors, but also negatively impact more widely on human health. Actually the adverse effects of smoking on health has been expected since the beginning of the seventeenth century (Encyclopedia Americana, Smoking and Health, 1989 p.70). However, apparently it can take up to 350 years to gather scientific evidence sufficient to convince the allegations. The increase in the number of deaths from lung cancer were observed in the early twentieth century has intrigued the start of the scientific research on the relationship

Some of the hazards of smoking:

1. Smoking causes cancer and cancer cause death, then smoking causes death. The law about the deeds of this kind in the light described in Qur'an Surat al-An'am:

قُلْ تَعَالَوْا أَتْلُ مَا حَرَّمَ رَبِّيَ عَلَيْكُمْ عَلَىٰ آبَائِكُمْ وَأُمَّهَاتِكُمْ وَأُولَادِكُمْ مِنْ إِمْلَاقٍ مَحْنُ تَرزُقُكُمْ وَإِيَّاهُمْ وَلَا تَقْرَبُوا الْفَوَاحِشَ مَا ظَهَرَ مِنْهَا وَمَا بَطَّنَ وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ ذَلِكُمْ وَصَّاكُمْ بِهِ لَعَلَّكُمْ تَعْقِلُونَ

"Say:" Let I reading what is harām over you by your Lord, namely: do not have anything with him, doing well against both the mother and father, thou shall not kill you children for fear of poverty, we will give money to you and to them, and do not approach the heinous deeds, both of which are visible and hidden, and do not kill the soul which Allah prohibited (kill him) but rather with something (for) a true ". It instructed unto you that ye might understand (his).³⁶

2. Our body is essentially a mandate from God that must be preserved. Consume goods that are disrupting the function of the body and reason is haram, such as alcohol, marijuana and compatriots. Pay attention to the word of God Almighty in surat al-Maidah :

يَا أَيُّهَا الَّذِينَ آمَنُوا إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَامُ رِجْسٌ مِنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ

"O believers, (drinking) alcohol, gamble, (sacrifice for) idols, raffle's fate with an arrow, is including the overlordship of the deed. Then Shun acts that shall ye prosper. "³⁷

3. Smoking is almost always cause a nuisance to other people.

Smoke direct negative repercussions on sucking not only himself, but also others in the vicinity. Cigarette smoke that comes from the tip of the butts and kicked back from the mouth and nose the smoker, being

between smoking and health. In line with the rapid rise of tobacco use, the research was further developed, especially in the years 1950s and 1960s. Substantial reports on the effects of smoking on health issued by the Surgeon General's Advisory Committee on Smoking and Health in the United States in 1964. Two years earlier, The Royal College of Physicians of London in the UK have also issued a report critical research reveals that smoking causes disease lung cancer, bronchitis and other diseases. Until 1985 already more than 30,000 papers on smoking and public health. Now this is without the slightest doubt concluded that smoking causes lung cancer both in men and women. It is also known that lung cancer is the leading cause of cancer deaths in humans. Smoking is also associated with cancers of the mouth, tenggoroka, pancreas, kidney, and others. Arwani Faisal, *Bahtsul Masa'il tentang Hukum Merokok*, 2009 Radar Banjarmasin, multiple editions in 2010.

³⁶ Al-Qur'an, 6: 151.

³⁷ Al-Qur'an, 5: 90

“rationed” people around it. This is called passive smoking or sidestream smoking which result in the same mainstream smoking. Do something that can cause hazard (muḍā rat) for myself let alone anyone else, it is forbidden according to Islamic law. Words Of The Prophet:

عَنْ ابْنِ عَبَّاسٍ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَا ضَرَرَ وَلَا ضِرَارَ. رواه ابن ماجه

“Ibn ‘ Abbas ra, he said; The Prophet. said: it is not permissible to do muda rat (yourself), and must not do mudarat (at others). “ (Narrated By Ibn Mājah).³⁸

4. The treasures we have not deserved to spend for things that are not beneficial, e.g. by burning them into ashes and cigarette smoke. Tegakah we see a piece of money-faced Sultan Mahmud Badruddin II burned every week? The word of God in Sura al-Isra‘ verse 26-27:

وَأْتِ دَا الْقُرْبَى حَقَّهُ وَالْمِسْكِينَ وَابْنَ السَّبِيلِ وَلَا تُبَذِّرْ تَبْذِيرًا

“And give it to the families who will close due to the poor and people in transit, and squandering are wasteful.³⁹

إِنَّ الْمُبَذِّرِينَ كَانُوا إِخْوَانَ الشَّيَاطِينِ وَكَانَ الشَّيْطَانُ لِرَبِّهِ كَفُورًا

“Verily spender-spenders it is brothers Satan and Satan it is very disobedient to his God.”⁴⁰

After considering the abundance of muḍ arat on smoking, on Monday, 22 Rabi ‘ Al 1431H to coincide with the start of 08 March 2010 M in Yogyakarta, the Central Leadership and Tarjih Muhammadiyah has issued fatwa haram letter number 6//BC/MTT/III/2010 about the smoking laws. According to Dr. Sudibyo Markus (Chairman of PP Muhammadiyah Health wing, community empowerment and the environment), the smoking haram fatwa issued Muhammadiyah in addition in order to revise an earlier fatwa (2005) stating that the smoking law may, also to respond to the latest information in particular on the impact of bad smoke in the perspective of the health, social and economic.⁴¹

³⁸ Ibn Majah, Sunan Ibn Majah, 784.

³⁹ Al-Qur’an, 17: 26.

⁴⁰ Al-Qur’an, 17: 27.

⁴¹ Muhammadiyah was understood very well that the implementation of this smoking fatwa require socialization, time and process for some parties. So for smokers who are victims of an addictive substance and this damage can afford to quit smoking using counseling facilities to be provided by the health service Muhammadiyah. In addition, the tobacco farmers are also encouraged gradually to replace their tobacco revenue commodities into other more profitable crops and healthy. Some of the prominent Muhammadiyah University, in collaboration with the Community Empowerment Council (MPM) Muhammadiyah, will conduct research on the lives of tobacco

Smoking seems to be cultural. This was coupled with the incessant commercials cigarettes that smokers do associate with virility, freshness, and might. For men, the younger their age sucking smoking, then the growing sense of pride.⁴² However, actual lay community ever knew that behind the pleasure and prestige of smoking, there was death peering. Not just for the smokers, but also for those around the smoker.

Thus, smoking is not double-edged blade will look. On the one hand, if he is still allowed to circulate then can pose a considerable threat to human health, but on the other hand if its release is prohibited then the consequences will be even greater.

Conclusion

From the analysis above can be understood that because there is no clear and unequivocal description of al-Qur'ān and al-Sunnah, then there is ikhtilaf scholars about the determination of legal cigarettes. First; the legal origin of the cigarette and smoke means a permissible reason. As for the next law is very dependent with God (reasons) law respectively, can not be generalized. Second; Makruh, because smoking can give mafsadat although small. Third: Unlawful by reason of, among others, are:

1. Interfere with health (ضرر على الجسم)
2. Waste (ضرر على المال)
3. Disrupt health society (ضرر على المجتمع)
4. Interfere with the health of the environment (ضرر على البيئة)

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⁴² Ibid

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