

*Islamic Judgment on Slaughtering Animals
in the Name of Allah ,
And its' Relation to Tauheed and Shirk*

**حكم ذبح البهائم بسم الله
وعلاقته بالتوحيد والشرك**

**كتبه الفقير إلى مغفرة ربه
أبو سلمان ضياء الدين ابراهيمي**

Compiled and written by he who seeks the
Mercy of Allah His Gracious Lord
Abu Salman Deya ud-Deen Eberle

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Table of Contents (original for entire book)

- Foreword
- Introduction

PART ONE

- Conditions of slaughtering animals and making meat “*halal*”
- The First Issue: Must an animal be slaughtered in the name of Allah?
- Three major groups on the issue
- *DALAA`IL* (Demonstrative PROOFs) of the first group
- The Rebuttal
- *DALAA`IL* (Demonstrative PROOFs) of the Second Group
- The Rebuttal
- *DALAA`IL* (Demonstrative PROOFs) of the third group
- The Rebuttal
- Conclusion
- The Greater Issue: Legislating laws other than Allah’s Law and executing them then judging accordingly is a form of *Shirk* and *Kufr*

PART TWO

- The Second Issue: The status of the food of the people of the Book (*Ahl-al-Kitaab*, Jews and Christians)
- Introduction
- The major groups and *DALAA`IL*
- The Greater Issue again: Secularism

Conclusions and Summary

- Appendix A -- Similarities and Differences between Jewish and Islamic law (apparently being the reason why their slaughtered meats are *halal* for Muslims).
 - 1) Similarities between Jewish and Islamic law
 - 2) Differences between Jewish and Islamic law
- Appendix B -- Concise History of the distinction between lawful and unlawful and the clean and unclean in the books of the Jews and Christians:
- References and source materials.

﴿فَكُلُوا مِمَّا ذُكِرَ اسْمُ اللَّهِ عَلَيْهِ إِنْ كُنْتُمْ بِآيَاتِهِ مُؤْمِنِينَ﴾

“Then eat of that over which the name of Allah has been mentioned, if you believe in His signs.” [The Quran: al-An’aam 6:118]

﴿وَمَا لَكُمْ أَلَّا تَأْكُلُوا مِمَّا ذُكِرَ اسْمُ اللَّهِ عَلَيْهِ وَقَدْ فَصَّلَ لَكُمْ مَا حَرَّمَ عَلَيْكُمْ إِلَّا مَا اضْطُرِرْتُمْ إِلَيْهِ وَإِنَّ كَثِيرًا

لَيُضِلُّونَ بِأَهْوَاءِهِمْ بِغَيْرِ عِلْمٍ إِنَّ رَبَّكَ هُوَ أَعْلَمُ بِالْمُعْتَدِينَ﴾

“Why should you not eat of that over which Allah’s name has been mentioned, when He has already given you explicit knowledge of those things which He has forbidden for you, except in a case of extreme helplessness? As regards the majority of the people, they following their caprices, say misleading things without any knowledge. Your Lord best knows transgressors” [The Quran: al-An’aam 6:119]

﴿وَلَا تَأْكُلُوا مِمَّا لَمْ يُذْكَرِ اسْمُ اللَّهِ عَلَيْهِ وَإِنَّهُ لَفِسْقٌ وَإِنَّ الشَّيْطَانَ لِيُوحِيَ إِلَىٰ أَوْلِيَآئِهِمْ لِيُجَادِلُوكُمْ وَإِنْ

أَطَعْتُمُوهُمْ إِنَّكُمْ لَمُشْرِكُونَ﴾

Do not eat of that on which Allah’s Name has not been pronounced for sure it is rebellious sin. Certainly the devils do inspire their friends to dispute with you, and if you obey them then you would indeed be polytheists and idolaters.[The Quran: al-An’aam 6:121]

«إن الشيطان يستحل الطعام أن لا يذكر اسم الله تعالى عليه» (رواه مسلم)

“Verily the Satan deems as legal (for himself) the food that does not have the name of Allah mentioned upon it.” [Reported by Muslim]

«قال إبليس: كل خلقك بينت رزقه؛ ففيم رزقي؟ قال: فيما لم يذكر اسمي عليه»

(رواه أبو الشيخ، و أبو نعيم، ضياء المقدسي)

“Iblees (the Satan) said: everybody’s sustenance has been determined so what is my sustenance? He (Allah) said: What has not had My name mentioned upon it.”

[Reported by Abu as-Sheikh, and Abu Nu'aim, and Deya`a al-Maqdasi,
and verified by al-Albani in as-Silsalah as-Sahihah no. 807]

«ما أنهر الدم وذكر اسم الله عليه فكلوا...» (رواه الجماعة)

“What spills and drains the blood (from the animal), and the name of Allah has been mentioned over it, then you may eat of it...” (Reported by Bukhari, Muslim, Abu Da`ood, Timidthi, an-Nasa`e, Ibn Majah and others)

Summary (as in original book)

Three major questions are posed and answered in this booklet:

- (1)- Is pronouncing out loud the name of Allah (*tasmiyah*, or *dthikr ismillah*) at the time of slaughtering animals, one of the two conditions for making the meat pure (*tayyib*) and lawful (*halal*), the other condition being purification by cutting the neck and draining the blood from the animal (*tadthkiyah* or *dthakat*) under normal circumstances when the animal is under our control?

- (2)- Can we Muslims eat the meat of the Jews and Christians whether they slaughter it according to the Islamic procedure or not, and whether they pronounce Allah's name at the time of slaughtering or not, and regardless to whether they mention the name of other than Allah or have become secular, nonobservant, and apostate from their own beliefs?

- (3)- Can tampering with Allah's law, avoiding to rule by it, or legislating a different man-made law, in this issue particularly, and in any laws generally, become a form of *shirk* (idolatry, polytheism, associating partners with Allah) and *kufr* (disbelief) which nullifies *tauheed* (Islamic monotheism) and *iman* (Islamic faith and belief) completely, and can the legislator, judge and executor of man-made laws and secular laws become *taaghoot* (one who is worshiped other than Allah and is pleased with that worship)?

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الحمد لله رب العالمين والصلاة والسلام على رسوله المصطفى الأمين

وآله وصحبه ومن أتبعهم بإحسان إلى يوم الدين

*In the name of Allah Most Beneficent Most Merciful
All praise is for Allah the Exalted and may the peace and blessings of Allah
be upon His Messenger Muhammad and his family and companions
and all those who follow them and their way until the Day of Resurrection*

Foreword

This work has a long history for me in that soon after my conversion (reversion) to Islam I was confronted with the controversies surrounding the issue and found myself compelled to research the various viewpoints. After looking into the matters and the resources from different angles, I eventually realized that the issues are not only about meat and the act of slaughtering animals in the name of Allah, but have wider implications and are directly related to greater issues in the subjects of *Tauheed*, *Eemaan (Iman)*, *Shirk*, *Kufr*, and *Taaghoot*. ... [Portions deleted here]...

One should note that I have refrained from using footnotes in order to make it easier on the reader to see directly the reference along with the text... [Portions deleted here]

... I have followed a loose form of transliteration of Arabic terms by allowing ...

I ask Allah the Exalted and All-powerful to make the booklet by His grace to be of those books that help this Muslim *ummah* (nation) to understand and practice sincerely the religion of Allah, may He forever be praised and exalted.

I humbly ask Allah to bless this effort, make it bear good fruit in this life, and place it in the scale of my accepted good deeds on that Day in which no one except Allah the Almighty and Exalted will rule supreme and judge – the Day that His forgiveness, mercy and justice will be sought after by all creation.

أبو سلمان ضياء الدين ابرلي

Abu Salman Deya ud-Deen Eberle

abuselman102@gmail.com ||| abuselman102@yahoo.com

1422H-2002CE (1433H -2012)

Introduction

Initial general observations

... [Portions deleted here]... Reference in any issue of *fiqh* (understanding of the texts of the *Qur'an* and *Sunnah* as the sources of Islamic law) is made to the word of Allah the Almighty in the *Qur'an*, and the word of the Prophet - peace and blessings of Allah be upon him - in the *Sunnah*. All sayings and words after that, of the *sahabah* (companions) and the *Ulama`a* (scholars and jurists) after them, who we collectively call the *salaf-as-salih* (pious predecessors), are explanations that may or may not be in agreement with the letter, intent and spirit of the texts of Allah and His Prophet. It is understood that the sayings and understandings of the *salaf as-salih* are not to be taken as proofs in and of themselves independently of the word of Allah and the Prophet, but they help us to understand those texts, and the proofs derived. They help us conclude the range of positions and differences among them on any given issue of the religion upon which they have given their pronounced juristic opinion of judgment. It is not allowed to take some sayings of some *salaf* in any issue, without reference to other saying by the same *salaf* on the same issue. Reference should also be made to other judgments by other *salaf* equal to them in learning since our intention is to surmise if there is an agreement or disagreement among them on any particular issue: thus by looking at all the known pronounced judgments we can reach an assessment whether they are in agreement or not. If they all are in agreement and there is an *ijma`* (consensus), then we follow their agreement. If they are in disagreement, or if one of them has conflicting reports, then we must refer the matter back to the *Qur'an* and *Sunnah*. Any aberrant or singular position against the near consensus is not entertained as a viable position. If they have differed into two or more positions and cannot be justifiably reconciled, then one of them must be more correct and the others mistaken.

Variation differences (*ikhtilaf at-tanawwu`*) in worship like the various forms of supplication (*dua`*) during or after prayers (*salah*) are allowed and are not contradictory to each other. Mutually exclusive contradictory differences (*ikhtilaf at-tadhawd*) are not allowed, and if they appear due to our own shortcomings in understandings, we must make the efforts to search for the correct legal opinion of the *Ulama`a* (Muslim jurist-scholars) and reach the ultimate truth.

The Qur'an and Sunnah have made a clear ruling in all core issues, it is only we Muslims who have differed in understanding and applying that ruling, and thus fallen into these mutually exclusive contradictory differences (ikhtilaf at-tadhawd). The word of Allah the Almighty and the word of the Prophet peace and blessings of Allah be upon him are the final criterion, and the ultimate aim is to understand which group among them, if they differ, is closer to the texts of the Qur'an and Sunnah and thus be followed. It cannot be that the Qur'an and Sunnah did not give us a verdict on the issue that is incumbent and obligatory upon us to follow and seek His pleasure, but to test His slaves, to see which one will follow His revelation of the Qur'an and Sunnah in the best of manners seeking His pleasure, Allah left certain gray areas with the instructions to choose that is closest to fearing and pleasing Him.

If it is reported that the *sahabah* had some differences of opinion in any issue, then first we have to confirm the reliability of the reports, then attempt to reconcile the differences if possible since it may be that the differences are apparent only and not really about the same issue or detail of the issue, or maybe they are allowed differences like the different forms of worship. If that is not possible, then the issue must be referred back to the evidences of the Qur'an and Sunnah, which alone is the ultimate infallible source of our law, and some of the companions may be correct and the others not. As Allah says:

قال الله تعالى: ﴿يَأَيُّهَا الَّذِينَ ءَامَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنكُمْ فَإِن تَنَزَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ إِن كُنتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ذَلِكَ خَيْرٌ وَأَحْسَنُ تَأْوِيلًا﴾.

“O you who believe obey Allah and obey the Messenger and those of you who are in authority. If you differ in anything amongst yourselves, refer it to Allah and His Messenger if you believe in Allah and in the Last Day. That is better and more suitable for final determination.” [4/59] ... [Portions deleted here]...

Initial observations on the issue of slaughtering animals for meat:

... [Portions deleted here]...

The general principle about worship of Allah is that we only worship Him, glorifying His name, by those acts of worship that have been specifically legislated by Him in His *shari'ah* (the religious law). This law is derived only from the Qur'an and Sunnah, as practiced by His Messenger and Prophet who is the perfect example of sincerity and righteousness. Only these

ذلك رسول الله ﷺ فحمد الله وأثنى عليه ثم قال: ما بال أقوام قالوا: كذا وكذا لكني أصلي وأنام وأصوم وأفطر وأتزوج النساء فمن رغب عن سنتي فليس مني». [أخرجه مسلم (١٢٩ / ٤) والنسائي (٢ / ٧٠) والبيهقي وأحمد (٢٤١ / ٣ و ٢٥٩ و ٢٨٥) وابن سعد في الطبقات (١ / ٢ / ٩٥) ١٧٨٢].

It was reported that some of the companions of the Prophet, peace and blessing of Allah be upon him, asked the wives of the Prophet about his deeds in private (i.e. his private worships), and when they heard about it, they considered their own deeds to be insignificant. Some said: 'I will never marry women', another said: 'I will never eat meat', another said: 'I will never sleep on a bed', and another said: 'I will fast and never break fast'. When this was related to the Prophet, peace and blessing of Allah be upon him, he said: "What is the matter with some people who say such and such? I make prayer and sleep. I fast and break the fast. And I marry women. Whoever turns away from my Sunnah (way) is not of me". [Reported by Muslim, an-Nasa'e, Ahmad and others]

Tabari reports by way of his chain of narrators:

روى الطبري بسنده رقم (٩٦٢٦) - حدثنا حميد بن مسعدة، قال: ثنا يزيد بن زريع، قال: ثني خالد الحذاء، عن عكرمة، قال: كان أناس من أصحاب النبي ﷺ هموا بالخصاء وترك اللحم والنساء، فنزلت هذه الآية:

Ikramah said that some of the companions thought about castrating themselves and leaving meat and women, so this verse was revealed. [at-Tabari no.9626]

And he reports:

روى الطبري بسنده رقم (٩٦٣٢) عن قتادة، في قوله: ﴿يَتَأَيُّهَا الَّذِينَ آمَنُوا لَا تُحَرِّمُوا طَيِّبَاتِ مَا أَحَلَّ اللَّهُ لَكُمْ﴾ الآية؛ ذكر لنا أن رجالا من أصحاب النبي ﷺ رفضوا النساء واللحم وأرادوا أن يتخذوا الصوامع؛ فلما بلغ ذلك رسول الله ﷺ، قال: «ليس في ديني ترك النساء واللحم، ولا اتخاذ الصوامع».

Qatatah said that it was said to them that some of the companions rejected women and meat, and desired to take special places of hermitage for worship, so when the news reached the Messenger of Allah, peace and blessings of Allah be upon him, he said: "My religion does not consist of leaving women or meat and taking special places of hermitage for worship."

[at-Tabari no.9632]

... [Portions deleted here]...

We find four verses in the Qur'an with the word "lahm" (meat) as food: one with "meat that which you desire," another with "meat of birds that which you desire," whereas the two verses mention meat from the saltwater seas and freshwater lakes, and qualify that meat as "fresh and tender," a known quality of fish and seafood due to the realities of the processes of sea water purification of oxygen in the blood and life systems.

Allah the Exalted said:

﴿وَأَمَدَدْنَاهُمْ بِفِكَهَةٍ وَلَحْمٍ مِمَّا يَشْتَهُونَ﴾.

"And We provided them with fruit and meat as they desire." [52/22]

And Allah the Exalted said:

﴿وَلَحْمِ طَيْرٍ مِمَّا يَشْتَهُونَ﴾.

"And the flesh of fowls that they desire." [56/21].

And Allah the Exalted said:

﴿وَهُوَ الَّذِي سَخَّرَ الْبَحْرَ لِتَأْكُلُوا مِنْهُ لَحْمًا طَرِيًّا وَتَسْتَخْرِجُوا مِنْهُ حِلْيَةً تَلْبَسُونَهَا وَتَرَى الْفُلْكَ مَوَآخِرَ فِيهِ وَلِتَبْتَغُوا مِنْ فَضْلِهِ ۗ وَلِعَلَّكُمْ تَشْكُرُونَ﴾.

"And it is He Who has subjected the sea that you eat fresh tender meat thereof and that you bring forth out of it ornaments to wear. And you see the ships cleaving through the water that you may seek of His Bounty and that you may be grateful." [16:14]

And Allah the Exalted said:

﴿وَمَا يَسْتَوِي الْبَحْرَانِ هَذَا عَذْبٌ فُرَاتٌ سَائِغٌ شَرَابُهُ، وَهَذَا مِلْحٌ أُجَاجٌ ۗ وَمِنْ كُلِّ تَأْكُلُونَ لَحْمًا طَرِيًّا وَتَسْتَخْرِجُونَ حِلْيَةً تَلْبَسُونَهَا وَتَرَى الْفُلْكَ فِيهِ مَوَآخِرَ لِتَبْتَغُوا مِنْ فَضْلِهِ ۗ وَلِعَلَّكُمْ تَشْكُرُونَ﴾.

"And the two seas are not alike, this one fresh, sweet, and pleasant to drink, and that one salty and bitter. And from them both you eat fresh tender meat (fish), and derive ornaments that you wear. And you see the ships cleaving through the water that you may seek of His Bounty, and that you may give thanks. [35/12].

And in the Old Testament of the Bible we find it written: “When the LORD thy God shall enlarge thy border, as He hath promised thee, and thou shalt say: 'I will eat flesh', because thy soul desireth to eat flesh...” (Deut.12:20) ... [Portions deleted here]...

It is also unanimously agreed that all the foods which are damaging to humans and are not healthy, nutritious or wholesome are forbidden. It is also unanimously agreed that all marine animals that only live in the water and all meat from lake, river and sea is *halal* (lawful), no matter how they are hunted and procured (with only some minor differences about some things being *makrooh* (undesirable) since Allah says:

﴿ يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَقْتُلُوا الصَّيْدَ وَأَنْتُمْ حُرْمٌ وَمَنْ قَتَلَهُ مِنْكُمْ مُتَعَمِّدًا فَجَزَاءٌ مِثْلُ مَا قَتَلَ مِنَ النَّعْمِ يَحْكُمُ بِهِ ذَوَا عَدْلٍ مِنْكُمْ هَدْيًا بَالِغَ الْكَعْبَةِ أَوْ كَفَّارَةٌ طَعَامُ مَسْكِينٍ أَوْ عَدْلٌ ذَلِكَ صِيَامًا لِيَذُوقَ وَبَالَ أَمْرِهِ عَفَا اللَّهُ عَمَّا سَلَفَ وَمَنْ عَادَ فَيَنْقُصْهُ اللَّهُ مِنْهُ وَاللَّهُ عَزِيزٌ ذُو انْتِقَامٍ ﴿٩٥﴾ أَحِلَّ لَكُمْ صَيْدَ الْبَحْرِ وَطَعَامَهُ مَتَّعْنَا لَكُمْ وَلِلسَّيَّارَةِ وَحَرَّمَ عَلَيْكُمْ صَيْدَ الْبَرِّ مَا دُمْتُمْ حُرْمًا وَاتَّقُوا اللَّهَ الَّذِي إِلَيْهِ تُحْشَرُونَ ﴿٩٦﴾

“O you who believe! Do not kill any game while you are in the state of Ihram (for pilgrimage), and whosoever of you kills it intentionally the penalty is an offering brought to the K’abah, of an eatable animal equivalent to the one he killed, as adjudged by two just men among you; or, for expiation, he should feed poor persons or its equivalent in fasting, that he may taste the heaviness of his deed. Allah has forgiven what is past, but whosoever commits it again, Allah will take retribution from him. Allah is All Mighty, Able of Retribution. Lawful to you is (the pursuit of) water-game and its use for food - for the benefit of yourselves and those who travel, but forbidden is (the pursuit of) land-game as long as you are in a state of Ihram (in pilgrimage). Fear Allah to Whom you shall be gathered back.” [5/95-96].

Certain controversies surround the production and consumption of terrestrial meat (i.e. from the land animals and birds), and these have only been exacerbated in the modern era by modern technologies, capitalistic greed, and by secular, socio-political and economic realities. As faithful and practicing Muslims we have given our witness to Allah that we will worship Allah by following the *shari’ah*, the religious law derived from the Qur’an and Sunnah. Therefore by necessity we are forced to confront the issues and judge according to the *shari’ah*. Since we believe the *shari’ah* is never in any way incompatible with all human realities and needs, we acknowledge that solution of every problem and issue is always there waiting for us to discover and put into practice. ... [Portions deleted here]...

PART ONE

Conditions of slaughtering animals and making their meat lawful “halal”

One of the major legal issues that continually confronts a Muslim nowadays is whether slaughtering in the name of Allah is a necessary condition (*shart*) or not to make meat pure (*tayyib*) and lawful (*halal*) for eating? In other words, is mentioning the name of Allah a necessary pillar (*rukn*) of slaughtering or not? Another pressing issue is the status of the food of the people of the Book (*Ahl-al-Kitaab*, the Jews and Christians); is their meat subject to the legal conditions of Islamic slaughter to make their meat legal for a Muslim, or can we eat all that they eat or deem permissible? Is their mentioning the name of Allah at the time of slaughter a condition for making their meat *halal* for Muslims to eat, or not?

The importance of these issues can be seen in the fact that mentioning the name of Allah, the Creator, when taking the life of a creature Allah Most Exalted has created was an issue of contention between the *Mushrikeen* (polytheists and idolaters) of Makkah, and the *Hunafaa* (pre-Islamic followers of Abraham, *Ibraaheem*) before the advent of the prophethood of Muhammad (peace be upon him). *Zaid ibn ‘Amr ibn Nufail* the famous *Haneef* (follower of the religion of *Ibraheem*-Abraham) would not eat of the meat that was slaughtered by the names of the idols and would only eat from that which had Allah’s name mentioned on it when slaughtered, proving that this was the religion of Abraham and the religion of his sons and descendents.

The issue of slaughtering in the name of Allah became controversial between the early Muslims and the idolaters of Makkah, concerning which verses of the Noble Qur’an were revealed in the Makkan period, because it involved *tauheed* or *shirk*, as will be explained below. In the Madinian period many more verses were revealed on the subject, and the Sunnah (way and tradition) of the Prophet Muhammad, peace and blessing be on him, completely explained and clarified the laws by actual practice, and by specifically defining all the legal conditions on all categories of meat. The greater issue of one becoming apostate by legislating laws other than what Allah has revealed and legislated, was also addressed and categorically and decisively judged upon.

The First Issue:

Must an animal be slaughtered in the name of Allah?

All Muslim scholars agree that *tasmiyah* (pronouncing Arabic phrase “*bismillahi Allahu Akbar*” which means "In the name of Allah; Allah is the Greatest") on the animal at the time of slaughter is *mashru'* (legislated) and the Sunnah of the Prophet, peace be upon him. There is an *ijmaa'* (consensus) that it is *mashru'* and numerous verses of the Qur'an and traditions of the Prophet of Allah, peace and blessing of Allah be upon him, are cited as evidence. The difference of juristic opinion and the controversy in this issue only pertains to whether *tasmiyah* is *rukn* (pillar), sometimes called interchangeably a *wajib* or *fard* (obligation), or whether it is only *sunnat-al-mu`akkidah* (emphasized way of the Prophet, peace be upon him), and thus only *mustahab* (loved and preferred thing). Also, what would be the ruling if the person slaughtering forgot *tasmiyah*, would the meat still be considered *halal*? From another angle the question can be asked: is pronouncing *tasmiyah* a *shart* (condition) to make the meat *halal*?

Intentionally and consciously not mentioning the name of Allah cannot be subscribed to any position of any scholar of Islam since all have agreed that at least it is a *Sunnah* and no scholar would ever say to leave the practices of Muhammad the Messenger of Allah, peace and blessings be upon him and his family, when possible to perform it. It is agreed that if a group of Muslims gathered together to stubbornly oppose and consciously refuse to perform some of the *sunnat-al-mu`akkidah*, and are willing to fight, they should be fought by the leader of the Muslims until they return to the religion of Allah which includes all *wajibaat* (obligations) and *sunan* (ways of the Prophet-peace be upon him).

To tackle the issue of *tasmiya*, one has to understand the meaning of condition (*shart*) and pillar (*rukn*) in Islamic law (*shari'ah*). A *rukn* (support, basis and chief element; plural *arkaan*) is an integral part of a thing's essential being or existence. A *shart* (condition; plural *shuroot*) is a pre-requisite that is necessary for the existence of that which they are conditional. *Shuroot* are similar to *arkaan* in that both are necessary for the thing's existence. A *shart* is to be distinguished from a *rukn* in that it is considered outside the thing's *kunh* or *maahiyah* (essential being), whereas a *rukn* is an integral part of that thing's essential being. For instance, to make *wudu* (ablution) is a *shart* (condition) of an acceptable *salah* (prayer),

whereas to recite the *fatihah* (the opening chapter of the Qur`an) is *rukhn* (essential element) of the *salah* itself. Giving a biological corollary, air, sun-energy, and water are *sharoot* for life, whereas in the human case a heart, head, and lungs are *arkaan*. Of course *suhroot* and *arkaan* are inseparably intertwined in actual existence, and the body is made up of the same chemical elements as air and water etc, so the analogy is only to portray the critical importance of *sharoot* and *arkaan* for life.

Three major groups on the issue

There are three major groups among the *fuqaha`a* (Muslim legal scholar-jurists) on the issue of whether slaughtering in the name of Allah is a necessary condition (*shart*) to make the meat *halal*, or in other words, whether mentioning the name of Allah is a pillar (*rukhn*) of slaughtering process or a prescribed act (*sunnah*) that may not be performed without punishment or dire consequences like rendering the meat unlawful.

The first group necessitates that there are two conditions for any meat to be considered pure (*tayyib*) and lawful (*halal*): the first is that it be slaughtered by mentioning the name of Allah (*tasmiyah*) at the time of slaughtering, and this condition is upon those that remember to pronounce Allah's name, but if one unintentionally forgets then that does not nullify the legality of the slaughter and meat is still *halal*; the second is that it must be slaughtered according to the physical means legal in Islamic law, being *tadthkiyyah* or *dthikat* (purification by drainage of the blood) by *dthibh*, passing the knife over the throat cutting the two jugular veins, windpipe and esophagus (which is best, or at least three of them should be cut according to the majority view), or by *nahr*, poking the throat of a camel or another large animal and cutting the neck in a prescribed manner - in the normal circumstances when the animal is under our control. The important thing is to allow all the blood to flow out of the body. In hunting and in the circumstances when the animal has run away wild out of our control, *tadthkiyyah* is by mentioning the name of Allah and firing and/or throwing an arrow or spear or bullet or any other allowed hunting instrument like the trained hunting dog or bird of prey, and if the animal is killed by the blow or animal of prey then that is sufficient, and if the animal is reached before death, then the slaughter is completed by the hunter or slaughterer with a knife or sharp cutting instrument. These two conditions, *tasmiyah* and *tadthkiyyah*, are the pillars or obligations of the correct Islamic slaughtering process.

This is the reported position of Ali ibn Abi Taalib, Ibn Abbas, (may Allah be pleased with them) Sa'eed ibn Musayyib, 'Ata, Ta'oos, Hasan al-Basri, Abi Malik, Ibn Abi Laila, Rabee', Muhammad ibn Ja'far, Imam Abu Haneefa and his companions, Imam Malik, Imam Ishaq ibn Rarawai, Imam Ahmad, and others. Some have even claimed that it was a consensus (*ijmaa'*) before Imam Shaf'ee, but this seems unacceptable since apparently there have been reported differences before him.

The second group is like the first in necessitating the two conditions except that they say that pronouncing the name of Allah at the time of slaughtering (and hunting) is of such importance that there is no allowance for any exceptions in not pronouncing His blessed name, whether intentionally or unintentionally, by forgetfulness or otherwise. Thus forgetting or avoiding the pronouncement nullifies the legality of the slaughter and makes the meat *haram* (unlawful). This is the reported position of Ibn Umar (may Allah be pleased with him), Nafe', 'Aamir ash-Sha'by, Ibn Sireen, a narration of Imam Malik, Imam Ahmad, and many others.

The third group claims that the pronouncement of the name of Allah at the time of slaughter is not a necessary obligation (*wajib*) but an emphasized prescribed tradition (*sunnat-al-mu`akkidah*) which is good and recommended. Thus only *tadthkiyyah* is a necessary condition (*shart*) to make the meat legal *halal*; *tasmiyah* can be skipped intentionally or unintentionally, although it is better and rewarding to perform it. This is the reported position of Imam Shaf'ee, and it has been attributed to the position of Ibn Abbas, Abu Hurairah, may Allah be pleased with them, 'Ata Ibn Abi Rabbah, and a narration of Imam Malik, Imam Ahmad, and others.

By including the positions of subgroups, two more opinions can be added in this third group: 1) those who say that the meat is *haram* (unlawful) only if the *tasmiyah* is left with demeaning, belittling intent of negligence, and 2) those who say that it is not *haram* (unlawful) since *tasmiyah* is not a condition, rather *makrooh* (detestable, obnoxious, undesirable) since *tasmiyah* is *sunah al-ma`kidah* and leaving a prescribed *sunnah* of this importance is neither liked nor desirable.

The demonstrative **PROOFS** (*dala'il*) cited by each group as evidence for their respective legal positions - the first, second and third (and the subgroups) - are as follows:

DALAA`IL (Demonstrative PROOFs) of the first group:

[Re arrangement here and Portions deleted [here- 15 pages-]...

Those who necessitate that the two conditions for any meat to be considered pure (*tayyib*) and lawful (*halal*) are *tasmiyah*, mentioning the name of Allah at the time of slaughtering, and *tadthkiyah* or *dthakaat* (purification) by *dhibh*, or *nahr*.

The **PROOFs** demonstrating that this is obligatory are so many that we will mention only some of them in what follows, sometimes gathering verses and hadith under one “**PROOF**” since the manner of deriving the proof in all of them is similar. Some, as will be observed, are much stronger than others, and some are mentioned as supporting evidence.

We now come to the most direct and conclusive **PROOFs** for the argument at hand. The **PROOFs** above were supporting evidence, but below are the explicit scriptures that are of the highest strength in any legal issue.

PROOF 1: Allah dictates the direct order to eat from that which has the name of Allah has been pronounced at the time of slaughtering, and indicates that that is an act of belief. Allah says:

﴿فَكُلُوا مِمَّا ذُكِرَ اسْمُ اللَّهِ عَلَيْهِ إِنْ كُنْتُمْ بِآيَاتِهِ مُؤْمِنِينَ﴾

“Then eat of that over which the name of Allah has been mentioned, if you believe in His signs.” [6:118]

This is the positive affirmation of mentioning the name of Allah at the time of slaughtering and the time of eating since these are the two times when mentioning Allah’s name upon it is legislated.

PROOF 2: Allah encourages the Muslims to eat of that which the name of Allah has been pronounced, and urges them to refrain from the unlawful even if the ignorant ones mislead people therein, when He says:

﴿وَمَا لَكُمْ أَلَّا تَأْكُلُوا مِمَّا ذُكِرَ اسْمُ اللَّهِ عَلَيْهِ وَقَدْ فَصَّلَ لَكُمْ مَا حَرَّمَ عَلَيْكُمْ إِلَّا مَا اضْطُرِرْتُمْ إِلَيْهِ وَإِنَّ كَثِيرًا لَيُضِلُّونَ بِأَهْوَاءِهِمْ بِغَيْرِ عِلْمٍ إِنَّ رَبَّكَ هُوَ أَعْلَمُ بِالْمُعْتَدِينَ﴾

Why should you not eat of that over which Allah's name has been mentioned, when He has already given you explicit knowledge of those things which He has forbidden for you, except in a case of extreme helplessness? As regards the majority of the people, they follow their caprices, say misleading things without any knowledge. Your Lord knows transgressors best" [6:119]

This form of Arabic expression by Allah the majestic is known as *t'areed* and is the most comely and appealing manner to encourage an act, especially when conjoined with the reason.

PROOF 3: Allah dictates the direct order not to eat that which has not had the name of Allah mentioned on it at the time of slaughtering, and categorizes not mentioning His name as *fisq* (rebellious sin). Allah says:

﴿وَلَا تَأْكُلُوا مِمَّا لَمْ يُذْكَرْ اسْمُ اللَّهِ عَلَيْهِ وَإِنَّهُ لَفِسْقٌ وَإِنَّ الشَّيَاطِينَ لَيُوحُونَ إِلَىٰ أَوْلِيَآئِهِمْ لِيُجِدُوا لَكُمْ وَإِنْ أَطَعْتُمُوهُمْ إِنَّكُمْ لَمُشْرِكُونَ﴾

“And do not eat of that over which the name of Allah has not been mentioned, for truly that is impiety and sin, and the Shayaateen (devils) do inspire their friends and allies to argue with you, and if you were to obey them, you would certainly become *mushrikeen* (idol worshippers, polytheists, those who associate partners with Allah in worship).” [6:121]

This direct negation here correlates to the positive affirmation and the encouragement above, and taken with what proceeds, we now have every possible manner of command and of prohibition about the issue of pronouncing the name of Allah when slaughtering. This is one of the most important verses in our entire discussion and therefore we must take time to explain the narrations specifying the circumstance of its revelation in Makkah, and to explain its significance in the issue of becoming *kafir* (apostate) by changing Allah's laws and legislating laws other than what Allah has revealed, as expounded about in the greater issue below.

There are different narrations in this regard, some mentioning the Jews, others the Magians, and others the idolaters of Makkah, and although many specific narrations could be cited here in length, the jist of all of them, about which there is no difference of opinion among the Ulamaa`, is that a group of disbelievers mocked the believers and reviled them in the issue of not eating the carrion (dead meat) and requiring the mentioning of Allah's name when slaughtering, and they made fun of them saying: what Allah slaughters (i.e. the carrion) you don't eat there from, and you only eat from that which you slaughter yourselves in His name? The verse was revealed in refutation to their mockery and conspiracy. The inspiration could be from the shayaateen of the jinn to those of men, or the shayaateen of men to other shayaateen of other men, like the Magians to the pagans, or the Jews to the pagans, but the outcome is the same: rebellious ones inspired other rebellious ones to disobey Allah and obey the mushrikeen in this affair of legalizing the dead meat with the weak argument that Allah has killed the animal so what need is there to make a condition to mention Allah's name? The text states clearly that if a Muslim were to obey them in this he would become of the *mushrikeen*. [Refer to Tabari, Baghawi, Qurtubi, Ibn Katheer, Suyooti, ash-Shangheeti, and other mufasssireen] This issue of shirk will be dealt with in more detail below in the greater issue.

These narrations prove conclusively that the meaning is specifically the pronouncing of Allah's name at the time of slaughter and not at the time of eating, as some have tried to rationalize. They also prove without doubt that legislating the lawful and unlawful in opposition to what Allah has revealed as lawful and unlawful was an issue made clear in Makkah precisely pertaining to the issue of carrion (dead meat) and the issue of mentioning Allah's name at the time of slaughter. To follow the disbelievers in this act of making lawful what Allah has prohibited is an act of *shirk*, and those who do so are *mushrikeen*. Issues conclusively determined in Makkah are issues of basic faith and fundamentals of religion, and they are reconfirmed in the revelations revealed in Medinah. Yet the question remains about this verse, does it pertain to all meats that do not have Allah's name mentioned upon it, or to carrion only and not the other meats that do not have the name of Allah mentioned? The first and second groups would claim the first, whereas the third group would claim the last.

PROOF 4: Qurtabi makes an interesting distinction that someone who does not mention the name of Allah upon slaughtering must be one of three types; 1) he either says that his heart

contains the remembrance of Allah and monotheism and that this is sufficient for him since he actually did remember Allah and thus there is no need to mention Allah's name openly; or 2) he says that this is not the time of open pronouncement since it is not an act of worship (but a mundane act) and that is also sufficient for him (i.e. it is allowed to eat the slaughter of these two types even though they are mistaken in their conceptions); or 3) he says I will not pronounce Allah's name, and what value is there in mentioning His name? This one is *mutahaawin* (negligent) and *faasiq* (sinful, rebellious evildoer), and thus his slaughtering is not acceptable and not to be eaten. He then notes that he who thinks that slaughtering is not worship does not understand the many verses and traditions that specify to mention Allah's name at the time of slaughtering, which demonstrates conclusively that it is worship. He who doesn't think that openly mentioning the name is necessary is similarly mistaken, since all Muslims commonly know it. [Tafseer Qurtubi, surah al- An'aam]. Ibn al-Arabi says something very similar to Qurtubi but adds that this last one is *mutahaawin* (negligent), *kaafir* (disbeliever) and *faasiq* (sinful, rebellious evildoer) [Ibn al-Arabi/ Ahkam al-Qur'an 2/284] We will return to these understandings when dealing with the issues of legalizing the illegal and the meat of *Ahlal-Kitab*.

PROOF 5: In the following hadith we find:

وعن رافع بن خديج قال : قلت : يا رسول الله إنا نلقى العدو غدا وليس معنا مدى فقال النبي ﷺ: ما أنهر الدم وذكر اسم الله عليه فكلوا ما لم يكن سنا أو ظفرا وسأحدثكم عن ذلك : أما السن فعظم وأما الظفر فمدى الحبشة. رواه الجماعة).

Rafi' bin Khadeej, may Allah be pleased with him, said "O Messenger of Allah we will meet the enemy tomorrow and we do not have knives with us (to slaughter the animals)? The Messenger of Allah, peace be on him, said: If the blood is spilled and drained (from the animal) and the name of Allah is mentioned over it, then you may eat of it, as long as it (slaughtering instrument) is not the tooth and the claw, and I will inform you about them: as for the tooth, it is a type of bone, and as for the claw, it is the knife of the people of Ethiopia" [Reported by al-Bukhari, Muslim, at-Tirmidhi, Abu Da'ood, Nasa'i, Ibn Majah, and others]

The *fuqahaa* (Islamic legal scholar-jurists) mention about this pivotal explanatory hadith and others similar to it:

فيه دليل على اشتراط التسمية لأنه علق الإذن بمجموع الأمرين وهما الإنهار والتسمية والمعلق على شيئين لا يكتفى فيه إلا باجتماعهما ويتنفي بانتفاء أحدهما.

“We find in this hadith the conditionality of mentioning the name of Allah (at the time of slaughtering) because he attached the legality upon two things: spilling and draining the blood (*al-inhaar*) and mentioning the name of Allah (*at-tasmiyah*). That which is conditionally attached upon two things will not be complete unless they are both present and will not exist when one of them is absent.” [See as an example for this statement, ash-Shawkani in *Nail al-Awtaar*]

This is a general rule of *shari'ah* of which there are many examples. For instance, fulfilling the necessities of Tauheed is attached upon 1) believing and sincerely worshiping Allah and 2) rejecting *taaghoot* (idols and those who are willingly worshipped other than Allah), all forms of *shirk* (polytheism, idol worship, association of partners with Allah)) and *kufir* (disbelief). If one worships Allah but worships others along with Him, his *tauheed* is rejected and nullified, and if he does not worship Allah his *tauheed* is rejected and nullified.

In our issue here, there are many other hadith which have “attached the legality upon two things 1) spilling and draining the blood (*al-inhaar*) (or called *tadthkiyyah* or *dthikat* (purification) by *dthibh*, or by *nahr*, as explained above), and 2) mentioning the name of Allah (*at-tasmiyah*).”

Some examples from the traditions will prove this without any lingering doubt.

PROOF 1: 'Edi bin Hatim narrated that he said to the Prophet, peace and blessings of Allah be upon him:

عن عدي بن حاتم قال قلت يا رسول الله أرأيت إن ألدنا أصاب صيدا وليس معه سكين أ يذبح بالمروة وشقة العصا فقال أمرر الدم بما شئت واذكر اسم الله عز وجل [(صحيح) الارواء ١٦٦ / ٨ ، غاية المرام ٣٤ ، صحيح أبي داود ٢٥١٥].

"O Messenger of Allah, we go hunting and sometimes we do not have a knife with us. We may find a sharp rock or a piece of wood or a reed." The Prophet (peace be on him) said: "Make it bleed with whatever you wish, and mention the name of Allah over it." [Reported by

Ahmad, Abu Da'ood, Nasa'i, Ibn Majah, al-Hakim, and Ibn Habban, and verified by al-Albani, for instance Sahih Abu Da'ood 2/544 no.2450]

PROOF 2: On Eid al-Adh-ha, we find that Sufyan al-Bijli narrated that the Messenger of Allah, peace and blessings of Allah be upon him said:

وَحَدِيثُ جُنْدُبِ بْنِ سُفْيَانَ الْبَجَلِيِّ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ «مَنْ ذَبَحَ قَبْلَ أَنْ يُصَلِّيَ فَلْيَذْبَحْ مَكَانَهَا أُخْرَى وَمَنْ لَمْ يَكُنْ ذَبَحَ حَتَّى صَلَّيْنَا فَلْيَذْبَحْ بِاسْمِ اللَّهِ». متفق عليه.

“Whoever slaughtered before the prayer then he should slaughter in its place another, and whoever hasn't yet slaughtered then let him slaughter in the name of Allah.” [Reported by Bukhari and Muslim]

PROOF 3: Bukhari and Muslim report of the narration of Abu Th'alabah Al Khushai, may Allah be pleased with him:

روى البخاري بسنده رقم (٥١٧٧) عن أبو ثعلبة الحُشَني قال: أتيت النبي ﷺ فقلت: يا رسول الله، إنا بأرض أهل الكتاب، فنأكل في آنتهم، وبأرض صيد، أصيد بقوسي، وأصيد بكلي المعلم وكلي الذي ليس بمعلم؟ فقال النبي ﷺ: «أما ما ذكرت أنك بأرض أهل كتاب: فلا تأكلوا في آنتهم إلا أن لا تجدوا بُدًّا، فإن لم تجدوا بُدًّا فاغسلوها وكلوا. وأما ما ذكرت أنك بأرض صيد: فما صدت بقوسك فاذكر اسم الله وكل، وما صدت بكلك المعلم فاذكر اسم الله وكل، وما صدت بكلك الذي ليس بمعلم فأدركت ذكاته فكله».

“I came to the Prophet and said, O Messenger of Allah, we are living in the land of the people of the Scripture, and we take our meals in their utensils, and there is game in that land which I hunt with my bow and with my trained hound and with my untrained hound. The Prophet, peace and blessing of Allah be upon him, said: As for your saying that you are in the land of the people of the scripture, you should not eat in their utensils unless you find no other alternative in which case you must wash the utensils and then eat in them, and as for your saying that you are in that land of game animals and you hunt, whatever you hunt with your bow and have mentioned the name of Allah (over it) then eat, and what you have hunted with your trained hunting dog and have mentioned the name of Allah (over it) then eat, and

whatever you hunt with your untrained dog and you have reached in time to slaughter it (*adrakta dthakatu*), then eat.”[Reported by Bukhari]

PROOF 4: Another crucial text is the narration of Eidi ibn Hatim, may Allah be pleased with him:

عن عدي بن حاتم قال : قلت : يا رسول الله إني أرسل كلبني وأسمي ، قال : إن أرسلت كلبك وسميت فأخذ فقتل فكل ، وإن أكل منه فلا تأكل ، فإنما أمسك على نفسه ، قلت : إني أرسل كلبني أجد معه كلباً آخر لا أدري أيهما أخذه؟ قال: فلا تأكل فإنما سميت على كلبك ولم تسم على غيره. وفي رواية: «إذا أرسلت كلبك المعلم فوجدت معه كلباً آخر فلا تأكل، فإنك إنما سميت على كلبك ولم تسم على غيره» وفي رواية: «إذا أرسلت كلبك المعلم فاذكر اسم الله، فإن وجدت مع كلبك كلباً غيره وقد قتل فلا تأكل، فإنك لا تدري أيهما قتله». متفق عليه.

Eidi Ibn Hatim, may Allah be pleased with him, said to the Prophet (peace be on him), O Messenger of Allah I send my dog and mention the name of Allah. The Prophet said: “If you send your dog and mention the name of Allah, then he goes and kills, then eat that which he catches for you, but if he eats from it do not eat from it since he only killed it for himself.” Eidi Ibn Hatim said: Suppose I send my dog but I find another dog at the game, and I do not know which dog caught it?" The Prophet, peace be on him, replied, "Do not eat it, for while you mentioned the name of Allah over your dog, you did not mention it over the other dog." [Reported by Bukhari and Muslim]

This last hadith, along with the hadith previous to it, makes it positively certain that mentioning the name of Allah is *rukn* (pillar) and *wajib* (obligatory) for slaughtering and a *shart* (necessary condition) for meat being *halal* since the Messenger here ordered him to leave the animal if he found a dog, other than his own upon which he pronounced Allah’s name, with the hunted animal. This hadith, and others similar to it have made some *fuqahaa`* make a distinction between the hunting and normal slaughtering, demanding the condition of *tasmiyyah* at the time of hunting only, but on what textual basis do they distinguish between the two, considering the fact that all the evidence above cited to prove that it is necessary? ... [Portions deleted here]...

PROOF 5: The Prophet, peace and blessings of Allah be upon him, said:

قَالَ رَسُولُ اللَّهِ ﷺ: «إِنَّ اللَّهَ كَتَبَ الْإِحْسَانَ عَلَى كُلِّ شَيْءٍ . فَإِذَا قَتَلْتُمْ فَأَحْسِنُوا الْقِتْلَةَ ، وَإِذَا ذَبَحْتُمْ فَأَحْسِنُوا الذَّبْحَةَ ، وَلِيُحَدَّ أَحَدُكُمْ شَفْرَتَهُ وَلِيُرِحَ ذَبِيحَتَهُ» . [أَخْرَجَهُ مُسْلِمٌ].

"God has prescribed the pursuit of perfection in every action. When you kill or slaughter (an animal for food), do it well. Sharpen your tools and let the animal die in peace". [Reported by Muslim]

This hadith describes that the slaughter should be performed in the best possible manner, and since it is agreed that slaughtering pertains to both *tasmiyah* and *dhibh*, it follows that the *ihsan* (best manner) pertains to both. Of course consciously leaving the direct order of Allah to pronounce His name, and disobeying His direct prohibition by eating from what has not had His name mentioned upon, is not the best but the worst way in regard to *tasmiyah*. The method of *dhibh* is specifically focused upon in this hadith because everyone knows that it is a very simple thing to merely say “*bismillah; Allahu Akbar*”, whereas sharpening the knife and going through all the arduous *tadthkiyah* procedures is where human shortcomings naturally occur, and therefore where *ihsan* (the best manner) should be emphasized.

PROOF 6: It is mentioned in Bukhari that Abdullah ibn Abbas, may Allah be pleased with them, was of this first opinion as mentioned above. It is reported that he said:

قال البخاري في صحيحه وقال ابن عباس: «من نسي التسمية فلا بأس» .
“Whoever forgets to say ‘in the name of Allah’ then there is no harm in that.”

This saying in Bukhari is left without the mention of the chain of narrators, as Imam al-Bukhari often does with interpretative statements, and Sa’eed ibn Mansoor and ad-Darqutni have reported it with an authentic chain, and Abdur-Razzaq reported it in his *Musannif* (no. 8538):

عن معمر عن أيوب عن عكرمة عن ابن عباس قال: «... إذا نسي أحدكم أن يُسمي على الذبيحة فليُسم وليأكل» .

“If one of you forgets to mention (the name of Allah) on his slaughtered animal, then mention (His name) and eat.”

Bukhari quotes the comment of Ibn ‘Abbas that the one who forgets is not called a *faasiq*. Although it is said that there are no known positions of the *Sahabah* (companions) to have differed with this opinion of Ibn Abbas [for instance, Shawkani: Sail Jarrar] which is in favor of the first position, others have reported conflicting reports, including those attributed to Ibn Abbas from among other *Sahabah* (companions) who took the third position. Still others report that some *Sahabah* took the second position as mentioned above. These discrepancies and questions about the apparent validity and reliability of the narrations about the positions of the *Sahabah* (companions) and those after them, demand from us to return to the texts of the Qur’an and Sunnah for evidence, as that only they contain the proofs that are incumbent on all worshippers of Allah to follow. It is well known by all who are conversant with the books on these subjects of *fiqh* (literally, understanding) of Islamic laws that any companion, follower or Imam could make a mistake himself and/or there could be mistakes and discrepancies about reporting his legal position on any given subject. Thus, in the final analysis, we must always refer all things back to Allah, the Almighty and Majestic, and His Messenger -peace be upon him- meaning, the reference to the Qur’an and the Sunnah.

PROOF 7: An-Nu’man bin Bashir reported that the Messenger of Allah, peace and blessings be upon him, said:

عن أبي عبد الله النعمان بن بشير رضي الله عنهما قال: سمعت رسول الله (ﷺ) يقول: «إن الحلال بين، وإن الحرام بين، وبينهما أمور مشتبهات لا يعلمهن كثير من الناس، فمن اتقى الشبهات، فقد استبرأ لدينه وعرضه، ومن وقع في الشبهات وقع في الحرام، كالراعي يرعى حول الحمى يوشك أن يرتع فيه، ألا وإن لكل ملك حمى، ألا وإن حمى الله محارمه، ألا وإن في الجسد مضغة إذا صلحت صلح الجسد كله، وإذا فسدت فسد الجسد كله ألا وهي القلب». (رواه البخاري ومسلم).

“What is lawful is clear and what is unlawful is clear, but between them are certain unclear and doubtful things which many people do not recognize. He who guards against doubtful things, keeps his religion and honor blameless. But he who falls into doubtful things, falls into what is unlawful, just as a shepherd who pastures his animals round a sacred preserve will soon lead them to pasture in it. Verily the sacred preserve of Allah are those things He declared prohibited. Verily, in the body is an organ which if corrupted, the entire body is corrupted, and if it is corrected the entire body is corrected. Verily it is the heart.” [Reported by Bukhari and Muslim]

This tradition gives a general principle that it is always safer and better to stay clear of all doubtful matters and remain within the bounds of what one is positively sure to be lawful. On this basis the *Ulama* (scholars and jurists of Islam) have mentioned that if the jurists differ in any issue whether something is lawful or not, it is better to be on the safe side by abstaining and avoiding and not even getting close to the prohibition, especially when one is not in any dire necessity to that thing. Since Allah has made so many things 100% pure and lawful for our own benefit, is there any real need for these doubtful and potentially polluted things? No one wants to restrict that which Allah has made lawful, but then again, no one wants to be punished in this life or the hereafter for being careless and falling into sins which could have easily been avoided, or avoided with a minimal amount of hardship since Allah has made many wholesome substitutes.

This tradition also gives us a way out of any wavering and indecisiveness that may linger in this issue of meat without the name of Allah mentioned upon it and tips the scales conclusively towards it being *haram*. In any issue if there are two or more conflicting opinions the order for us in the Islamic Law by the Messenger's words is to avoid the doubtful and make ourselves safe by that which there is no doubt about. There is no doubt or controversy that the meat which is slaughtered upon law with *tasmiyah* is pure and lawful, whereas without *tasmiyah* there will always remain doubt: is it *haram*? And, is following *istihlaal* (making it *halal*) here related to the concept of shirk as mentioned in *surat-al-An'aam*?

We all admit that after the Prophet, peace and blessings of Allah be upon him, no one is infallible; thus, from the *sahabah* to the *taba'een* to the esteemed and eminent imams, any one of them individually or as a group can make mistakes, especially when it is known and recorded that other *sahabah*, *tabe'een* and imams differed with them on the issue. If there is a controversy among the companions about any issue or conflicting reports about any one particular companion's point of judgment, then the whole matter must be returned to the Qur'an and Sunnah for final analysis and judgment. According to the scholars, this tradition is one of the four crucial traditions upon which the entire edifice of the Law revolves, because it gives a criterion for judgment in the issues controversial precisely like the one we are addressing here.

Ibn Rajab comments on this tradition explaining in his discourse the difference between the lawful and unlawful:

قال ابن رجب: ... ما أصلها لا باحة كطهارة الماء و الثوب و الارض إذا لم يتيقن زوال أصله فيجوز استعماله وما أصله الحظر كالأبضاع و لحوم الحيوان فلا تحل إلا بيقين حله من التذكية و العقد ، فإن تردّد في شيء من ذلك لسبب آخر رجع إلى الأصل فبنى عليه فما أصله الحرمة بنى على التحريم ... ولهذا نهى النبي صلي الله عليه وسلم عن أكل الصيد الذي يجد فيه الصائد أثر سهم أو كلب غير كلبه...

“Whatever is allowed by the very nature of its original state like the natural purity of water, clothes and the earth, is allowed to be used (according to the assumption of their original state) as long as we do not have certainty that they have left that state (i.e. became impure by some defilement). Whatever is forbidden by the very nature of its original state, like women (without marriage) and meats of animals, we are not allowed (to approach) except and until we become certain of their lawfulness by way of the *‘aqd* (marriage contract) and the *tadthkiyah* (proper slaughter with drainage of blood). Whatever is uncertain and wavering in between, for whatever reason, we must return it to its original natural state and build certainty upon that state; therefore, that which is originally unlawful we return it to the state of it being forbidden. Upon this principle the Prophet, peace and blessing be upon him, forbade eating the hunted animal when the hunter finds the effects of another arrow or hunting dog (i.e. beside his own upon which he has mentioned the name of Allah)...”[Ibn Rajab; Jamee’ Uloom wa Hikam p.75-76, with correction of text from the quote of Shaikh Uthaimen]. Here Ibn Rajab is referring to the hadith of ‘Edi Ibn Hatim as related previously wherein the Prophet explicitly forbade eating the animal that he was uncertain about whether it was killed by the arrow or dog upon which he had mentioned the name of Allah.

And the hadith above is supported by another hadith, narrated by Hasan ibn Ali Abi Talib, may allah be pleased with them, that the Messenger of Allah, peace and blessings be upon him, said:

عن أبي محمد الحسن بن علي بن أبي طالب سبط رسول الله ﷺ وريحانته رضي الله عنهما قال: حفظت من رسول الله ﷺ: «دع ما يريبك إلى ما لا يريبك». [رواه الترمذي والنسائي، وقال الترمذي: حديث حسن صحيح].

“Leave that which you doubt for that which you do not doubt.” [Reported by Timidhi, an-Nasa’i and verified by al-Albani]

PROOF 8: Abu Hurairah reported Messenger of Allah, peace and blessings be upon him, as saying:

عن أبي هريرة (رضي الله عنه) قال: قال رسول الله (ﷺ): «إن الله تعالى طيب لا يقبل إلا طيباً، وإن الله أمر المؤمنين بما أمر به المرسلين فقال تعالى: ﴿يَأْتِيهَا الرُّسُلُ كُلُّوْا مِنَ الطَّيِّبَاتِ وَاعْمَلُوا صَالِحًا﴾ [المؤمنون: ٥١]، وقال تعالى: ﴿يَأْتِيهَا الَّذِينَ ءَامَنُوا كُلُّوْا مِنَ طَيِّبَاتِ مَا رَزَقْنَاكُمْ﴾ ثم ذكر الرجل يطيل السفر أشعث أغبر يمد يديه إلى السماء: يا ربّ يا ربّ، ومطعمه حرام، ومشربه حرام، وملبسه حرام، وغذي بالحرام، فأنى يستجاب له؟». (رواه مسلم).

“Allah is good and pure (*tayyib*) and accepts only what is good and pure, and He has given the same command to the believers as He has given to the messengers, saying, “O messengers, eat of what is good and pure (*tayyibaat*) and act righteously” (23:51) and also, “You who believe, eat of the good and pure things (*tayyibaat*) which We have provided for you” (2:172). Then he mentioned a man who makes a long journey in a disheveled and dusty state, who stretches out his hands to the sky saying, My Lord, my Lord, when his food, drink and clothing are of an unlawful nature, and he is nourished by what is unlawful. How can such a person be given an answer? [Reported by Muslim]

How close this is to what we read in the Proverbs attributed to Da’ood (David), peace be upon him: "He that turneth away his ear from hearing the law, even his prayer shall be abomination." (KJV: Proverbs. 28:9)

The verse indicated in the *hadith* above is the saying of Allah:

﴿يَأْتِيهَا الَّذِينَ ءَامَنُوا كُلُّوْا مِنَ طَيِّبَاتِ مَا رَزَقْنَاكُمْ وَأَشْكُرُوا لِلَّهِ إِن كُنتُمْ إِيَّاهُ تَعْبُدُونَ﴾

O you who believe, eat of the lawful things that We have provided you with, and be grateful to Allah, if it is indeed He Whom you worship” [2:172]

And a few verses before this Allah the Sublime said:

﴿يَأْتِيهَا النَّاسُ كُلُّوًا مِمَّا فِي الْأَرْضِ حَلَالًا طَيِّبًا وَلَا تَتَّبِعُوا خُطُوَاتِ الشَّيْطَانِ إِنَّهُ لَكُمْ عَدُوٌّ مُبِينٌ﴾

O Mankind, eat the lawful (*halalan*) and good things (*tayyiban*) from what is in the earth, and follow not the footsteps of the devil. Surely he is an open enemy to you.” (2: 168)

The Prophet (peace and blessings be upon him) is reported to have said:

ليأتين على الناس زمان لا يبالي المرء بما أخذ المال؟ أمن حلال أم من حرام؟

"There will come a time upon my *Ummah* when people will not be concerned over what they take. It will not matter for them whether it is *Haram* or *Halal* (illegal or legal)." [Reported by Bukhari, and an-Nasa'e]

The Prophet (peace and blessings be upon him) is also reported to have said:

لا يدخل الجنة جسد غذي بحرام

"Flesh which has grown out of what is unlawful will not enter paradise" [Reported by Abu Ya'la and Bazzar and others and verified by al-Albani in *Sahih at-Targheeb* 2/150 no.1730]

And in another narration:

كل جسد نبت من سحت فالنار أولى به.

"Every flesh that has been nourished by what is unlawful, then Hell is more befitting for it." [Reported by at-Tabarani and verified by al-Albani in *Sahih al-Jami* 1/865]

And in another narration the Messenger of Allah, peace and blessings of Allah be upon him, said to his companion Ka'ab:

يا كعب بن عجرة إنه لا يدخل الجنة لحم ودم نبتا على سحت النار أولى به.

"O Ka'ab ibn Ajrah, the blood and flesh that has been nourished by the unlawful will not enter the paradise, and it is more right that it enters the hellfire." [Reported by Ibn Habban and verified by al-Albani in *Sahih at-Targheeb* 1/211]

These and other similar verses of the Qur'an and Hadith inspire the fear of Allah in all matters pertaining to the *halal* and the *haram*. Indeed it is only the tricks and enticements of Satan

that make man fall into temptation and sin, and eventually into the ultimate trap of *kufr* and *shirk*.

PROOF 9: We find in the tradition:

عن أبي ثعلبة الخشني جرثوم بن ناشر رضي الله عنه عن رسول الله ﷺ قال: «إن الله تعالى فرض فرائض فلا تضيعوها، وحد حدوداً فلا تعتدوها، وحرّم أشياء فلا تنتهكوها، وسكت عن أشياء رحمةً لكم غير نسيان فلا تبحثوا عنها». [حديث حسن رواه الدارقطني وغيره].

“Verily Allah has made duty-bound that which is obligatory so do not be negligent about it, and He made boundaries so do not go past them, and He prohibited things so do not violate them, and He was quiet about things as a mercy to you without forgetfulness so do not seek after about them.” [Reported by ad-Darqutni and others, and said to be weak by some (including me) but considered good because of the supporting evidence]

This tradition and others along this meaning, gives us the clear idea that whatever is made clearly *haram*, we must maintain that it is *haram* and stay clear of the unlawful.

PROOF 10: The sayings of the *Ulama`a* are not proofs in and of themselves, but their explanation help us to observe and understand the texts of the Qur`an and Sunnah: thus they are guides to the proofs. Many scholars down through Islamic history up to contemporary times have mentioned that the naming of Allah is a condition for making slaughtered meat lawful. For instance, Sheikh Salih al-Fauzan, who has studied and written extensively on these issues, says in the conditions for lawful meat:

الشرط الرابع: أن يذكر اسم الله تعالى على الذبيحة. قال الله تعالى:

﴿فَكُلُوا مِمَّا ذَكَرَ اسْمَ اللَّهِ عَلَيْهِ إِنْ كُنْتُمْ بِعَايِنَتِهِ مُؤْمِنِينَ ﴿١١٨﴾ وَمَا لَكُمْ أَلَّا تَأْكُلُوا مِمَّا ذَكَرَ اسْمَ اللَّهِ عَلَيْهِ وَقَدْ فَصَّلَ لَكُمْ مَا حَرَّمَ عَلَيْكُمْ إِلَّا مَا اضْطُرِرْتُمْ إِلَيْهِ وَإِنْ كَثُرَ لِيُضِلُّوا بِهِمْ بِغَيْرِ عِلْمٍ إِنَّ رَبَّكَ هُوَ أَعْلَمُ بِالْمُعْتَدِينَ ﴿١١٩﴾ وَذَرُوا ظَهْرَ الْأَيْمَنِ وَبَاطِنَهُ إِنَّ الَّذِينَ يَكْسِبُونَ الْأَيْمَ سَيَجْرُونَ بِمَا كَانُوا يَفْتَرُونَ ﴿١٢٠﴾ وَلَا تَأْكُلُوا مِمَّا لَمْ يُذَكَرْ اسْمَ اللَّهِ عَلَيْهِ وَإِنَّهُ لَفِسْقٌ وَإِنَّ الشَّيْطَانَ لِيُوحِيَ إِلَيْكُمُ الْوَحْيَ أُولَئِكَ هُمُ الْجَدِيدُ لَكُمْ وَإِنْ أَطَعْتُمُوهُمْ إِنَّكُمْ لَمُشْرِكُونَ ﴿١٢١﴾﴾ [الأنعام: ١١٨ - ١٢١].

ففي هذه الآيات الكريمة أمر الله سبحانه المؤمنين أن يأكلوا من الذبائح ما ذكر عليه اسمه، ونهى عن الأكل من الذبائح التي لم يذكر عليها اسمه وسماه فسقاً. وكذلك السنّة المطهرة جاءت بالأمر بالأكل مما ذكر اسم الله عليه حيث يقول النبي ﷺ: «ما أنهر الدم وذكر اسم الله عليه فكلوا»، ففيه دليل على اشتراط التسمية لحل الذبيحة لأنه ﷺ علّق الإذن بالأكل منها على مجموع الأمرين وهما إنبهار الدم والتسمية والمعلّق على شيئين لا يكتفى فيه بوجود أحدهما.

“The Fourth condition: to mention the name of Allah on the slaughtered animal. Allah said: “Why should you not eat of that over which Allah’s name has been mentioned, when He has already given you explicit knowledge of those things which He has forbidden for you, except in a case of extreme helplessness? As regards the majority of the people, they following their caprices, say misleading things without any knowledge. Your Lord best knows transgressors. Leave sins, open and secret. Verily, those who commit sin will get due recompense for that which they used to commit. And do not eat of that over which the name of Allah has not been mentioned, for truly that is impiety and sin, and the Shayaateen (devils) do inspire their friends and allies to argue with you, and if you were to obey them, you would certainly become *mushrikeen* (idol worshippers, polytheists, those who associate partners with Allah in worship).” [6:119-121] In this verse Allah orders the believers to eat from the slaughtered meat that has had the name of Allah mentioned on it, then He forbids them to eat from the slaughtered meat that has not had the name of Allah mentioned on it, and calls it *fisq*. Similarly we find in the Sunnah the Prophet’s order, peace be upon him, for the believers to eat from the slaughtered meat that has had the name of Allah mentioned on it, when he said: “...what has had the blood drained from it and has had the name of Allah mentioned on it then eat from it.” Herein is the proof that the mentioning of the name of Allah is a condition for making the slaughtered meat lawful, since he made allowance conditional upon two things: draining the blood, and mentioning the name of Allah. Anything that is conditional upon two pre-conditions (for existence), then the existence of (only) one of them is insufficient (to fulfill the necessity for its existence).” [End of quote]

We have tried above to supply the reader with the diverse array of **PROOFs** for this position from the revealed scriptural texts and some explanations from the scholars of jurisprudence.

The Rebuttal

As seen above numerous sound **PROOFs** make the mentioning of Allah's name a primary condition for making that meat lawful. To my knowledge the opponents to this view have not presented convincing evidence to weaken the strengths of the proofs and arguments presented, nor to prove anything to the contrary of their position. This will be seen further in the **PROOFs** and the rebuttal to the third position.

DALAA'IL (Demonstrative PROOFs) of the Second Group:

Those who necessitate *tasmiyah* even for the one who forgets unintentionally:

PROOF 1: This group cites all of the proofs above as evidence and continues to say that nowhere do we find the omission of mentioning Allah's name is allowed; therefore, it is a necessary condition at all times and no concession should be made for forgetfulness.

PROOF 2: Many verses are cited that explain that forgetting an important crucial matter, like the remembrance of Allah at the time of worship, is only by the Satan (shaitaan) who makes man forget. As Allah says:

﴿ اسْتَحْوَذَ عَلَيْهِمُ الشَّيْطَانُ فَأَنسَاهُمْ ذِكْرَ اللَّهِ أُولَئِكَ حِزْبُ الشَّيْطَانِ أَلَا إِنَّ حِزْبَ الشَّيْطَانِ هُمُ الْخَاسِرُونَ ﴾ .

Shaitan (Satan) has overtaken them. He has made them forget the remembrance of Allah. They are the party of Shaitan. Verily, it is the party of Shaitan that will be the losers! [58:19]

And as He says:

﴿ وَإِذَا رَأَيْتَ الَّذِينَ يَخُوضُونَ فِيءِ آيَاتِنَا فَأَعْرِضْ عَنْهُمْ حَتَّى يَخُوضُوا فِي حَدِيثٍ غَيْرِهِ وَإِمَّا يُنسِيَنَّكَ الشَّيْطَانُ فَلَا تَقْعُدْ

بَعْدَ الذِّكْرِ مَعَ الْقَوْمِ الظَّالِمِينَ ﴾ .

“And when you see those who engage in a false conversation about Our Verses (of the Qur'an) by mocking at them, stay away from them till they turn to another topic. And if Shaitan causes you to forget, then after the remembrance, do not sit in the company of those people who are the wrongdoers.” [6:68]

And it is confirmed in a report:

ذكر عند النبي ﷺ رجل، فقيل: ما زال نائما حتى أصبح، ما قام إلى الصلاة، فقال: «بال الشيطان في أذنيه». [البخاري] وفي لفظ مسلم: «ذاك رجل بال الشيطان في أذنيه».

“A man was mentioned to the Prophet, peace be upon him, and it was said that he kept sleeping until he woke up after the sunrise. He did not get up for prayer (in the proper time). To which he said: “The Shaitan urinated in his ears.” [Reported by Bukhari and others] In the narration of Muslim he said: “That is a man in whose two ears the Shaitan has urinated.”

And he said in another tradition about guarding from the satanic tricks:

«إن الشيطان يأتي أحدكم في صلاته فيلبس عليه حتى لا يدري كم صلى فإذا وجد ذلك أحدكم فليسجد سجدتين وهو جالس قبل أن يسلم ثم يسلم».

“Verily the Shaitan come to one of you and confuses until he doesn’t know how many he has prayed (i.e. Rak’ah, bowing] so if this occurs then make two prostrations while he is sitting and then salutations.” [Reported by at-Tirmidhi and Ibn Majah, and verified by al-Albani]

PROOF 3: The following hadith is also cited as proof, as mentioned above. Abdullah ibn Masood, may Allah be pleased with him, narrated that the Messenger of Allah, peace and blessings of Allah be upon him, said: A caller of the Jinn came to me so I went with him and read the Qur’an on them. He (ibn Masood) said: We went and saw their tracks and the evidence of the fires. They had asked him for provisions, and he said: You have every bone that the name of Allah has been mentioned upon as bountiful with meat as it ever was, and every dung dropping is the provision for your beasts.” He said (also): Therefore do not clean yourselves with these two since they are the food of your brothers.” [Reported by Muslim]

This hadith is given by Ibn Taimiyah as a proof for the second group since how can it be that Allah has made it incumbent on the Jinn to only eat from that which Allah’s name is mentioned, and then allow us from mankind to eat from that which His name has been forgotten at the time of slaughter? [*Daqa’iq Tafseer* under *An’aam* 121, and *al-Fatawa al-Kubra* 5/70]

The understood deduction implied from the hadith is that which has been slaughtered for other than Allah, like the idols, and that which has had the name of Allah left off, is the food of the disbelieving jinn, the devils, the *shayaateen*. This was proven above in what proceeded so there is no need for repetition here; what is important to note is that the battle between man and the jinn, and the believers and the *shayaateen* revolves around the remembrance or forgetfulness of Allah, since all *kufir*, *fusooq*, and *'isyaan* (disbelief, wickedness, and disobedience) is essentially rooted in the forgetfulness of Allah, just as all belief which includes all righteousness, goodness and obedience to Allah, springs forth from the remembrance of Allah and His Blessed Name. Moreover a basic fact of human existence is that mankind will never find peace, comfort, success and happiness except through the worship of Allah and the remembrance and glorification of Allah, may He be ever exalted, as Allah says:

﴿ الَّذِينَ آمَنُوا وَتَطْمَئِنُّ قُلُوبُهُمْ بِذِكْرِ اللَّهِ أَلَا بِذِكْرِ اللَّهِ تَطْمَئِنُّ الْقُلُوبُ ﴾

“Those who believe and whose hearts find peace and comfort in the remembrance of Allah, Isn't it that by the remembrance of Allah the hearts find peace and comfort?” (13:28)

The Rebuttal

The first group rebuttals the evidence above as follows. The person who remembers Allah by habit of obedience, but lapses and forgets unintentionally occasionally, is forgiven his mishap and is not legally called a *fasiq* (sinner and rebellious evildoer) in Islamic law, as proven by the hadith:

عن ابن عباس رضي الله عنهما أن رسول الله (ﷺ) قال: «إن الله تجاوز لي عن أمتي الخطأ والنسيان وما استكروها عليه». (حديث حسن رواه ابن ماجه والبيهقي وغيرهما).

On the authority of Ibn Abbas the messenger of Allah said: "Allah has pardoned my people for [their] mistakes and [their] forgetfulness and for what they have done under duress." [Reported by Ibn Majah, Al-Baihq and others, and verified]

Thus the distinction between intentional forgetfulness and unintentional forgetfulness is valid and does not put the person or the meat he has slaughtered into the category of *fisq* that presupposes rebellious intentional sinfulness, as mentioned by Ibn 'Abbas above. This is also

proven by the fact that a person is forgiven his lapse who eats during the day of Ramadan, forgetting that he is fasting, whereas someone who intentionally eats has perpetrated a monstrous sin. The tradition reads:

«من نسي و هو صائم فأكل أو شرب فليتم صومه فإنما أطعمه الله و سقاه».

“Whoever forgets while he is fasting and drinks then let him continue his fast since only Allah has given him the bite or sip.” [Reported by Bukhari, Muslim, Ahmad and Ibn Majah]

If one forgets his obligatory *salah* (prayer), the time of the *salah* becomes when it is remembered, meaning that there is no sin attached to innocent and unintentional forgetfulness which has no negligence attached to it. As it is mentioned in the tradition:

من نسي صلاة فليصل إذا ذكرها، لا كفارة لها إلا ذلك ﴿وَأَقِمِ الصَّلَاةَ لِذِكْرِي﴾.

“Whoever forgot the prayer, he should pray it as soon as he remembers it. There is no expiation of the sin except that as Allah said: ‘And establish prayer for My remembrance.’” [20:14] [Reported by Bukhari, Muslim and others]

The second position is exceptionally difficult and harsh as opposed to what is known to be the leniency and mercy of Allah pertaining to unintentional forgetfulness generally. Therefore, upon this principle, here also in the matter of slaughtering one would hope for Allah’s mercy and leniency if there were no negligence or intentional disobedience.

DALAA`IL (Demonstrative PROOFs) of the Third Group:

Those who claim that *tasmiyah* is *sunnat-al-muakkidah* and *mustahab* only:

PROOF 1: This group says that the meaning of the verses mentioned above which apparently give the condition of *tasmiyah* are all to be understood to be qualified by the phrase mentioned in the verses where Allah lists the *haram* categories of meat, and then mentions slaughtering in the name of other than Allah:

﴿وَمَا أَهْلَ بِهِ لِغَيْرِ اللَّهِ﴾.

“And that which is slaughtered for other than Allah” or “dedicated for other than Allah.”

In other words, as long as no one other than Allah's name, like the pagan idols and the living beings worshiped like Jesus, the angels, the jinn, or the revered leaders among them, is mentioned at the time of slaughter, or is the object of dedication of that slaughter, then it is all right to eat the meat. Since the issue of mentioning Allah's name upon the animal at slaughtering time is not specifically mentioned in the lists of *haram* meat categories, in *surah al-Anaam* and *al-Ma'idah*, this shows that intentionally mentioning His name is not *rukun* (pillar) nor *wajib* (obligatory) but only *sunnah* (a desired act according to the way of the Prophet, peace be upon him). These scholars then base this interpretation on two supporting points, one from the Qur'an, and the other from the Sunnah.

PROOF 2: From the Qur'an they cite that the meaning of the phrase mentioning *fisq* in the verse of *al-Anaam*...

﴿وَلَا تَأْكُلُوا مِمَّا لَمْ يَذْكُرْ أَسْمَاءُ اللَّهِ عَلَيْهِ وَإِنَّهُ لَفِسْقٌ﴾

They say that this is a conditional phrase, in their understanding, since the first sentence is *jumla ismiyah* (nominative) and the second sentence is *jumla fe'liyah* (operative i.e. verbal). It is argued that one cannot conjoin the two sentences together with a normal conjunction: therefore the second sentence is a *jumla haliyah* (sentence of state of being i.e. sentence describing the verb) which renders it's meaning as follows: "Don't eat of the animal if, in case of its being *fisq*, God's name has not been taken over it." They then understand *fisq* by reference to the following verse which designates *fisq* as that which is slaughtered for other than Allah (i.e. idols):

﴿قُلْ لَا أَجِدُ فِي مَا أُوحِيَ إِلَيَّ مُحَرَّمًا عَلَى طَاعِمٍ يَطْعَمُهُ إِلَّا أَنْ يَكُونَ مَيْتَةً أَوْ دَمًا مَسْفُوحًا أَوْ لَحْمَ خنزيرٍ﴾

﴿فَإِنَّهُ رَجْسٌ أَوْ فِسْقًا أُهْلَ لِغَيْرِ اللَّهِ بِهِ ۚ فَمَنْ اضْطُرَّ غَيْرَ بَاغٍ وَلَا عَادٍ فَإِنَّ رَبَّكَ غَفُورٌ رَحِيمٌ﴾

“Say I do not find in that which has been revealed to me anything forbidden to be eaten by one who wishes to eat it, unless dead animal or blood poured forth or the flesh of swine, for that surely is impure, or impious (unlawful) meat which is slaughtered for other than Allah, but whosoever is forced by necessity without willful disobedience, nor transgressing due limits, (for him) certainly your Lord is Oft-Forgiving, Most Merciful.” (6:145)

Here the phrase:

﴿أَوْفِسْقًا أَهْلًا لِغَيْرِ اللَّهِ بِهِ﴾ .

This confirms that the “*fisq*” includes that which other than Allah’s name is mentioned upon. The conclusion that they draw is that *fisq* is only to be understood as that which is slaughtering to idols, and not to be understood as “not mentioning Allah’s name”.

PROOF 3: From the Sunnah they cite the following hadith: From the *Sahih* of al-Bukhari as narrated by Aishah, may Allah be pleased with her, who said:

حديث عائشة رضي الله عنها أن قوماً قالوا للنبي ﷺ : إن قوماً يأتوننا بلحم لا ندري أذكر اسم الله عليه أم لا فقال : سموا عليه أنتم وكلوه . قالت وكانوا حديثي عهد بالكفر . (رواه البخاري ٥٥٠٧) من طريق أسامة عن حفص المدني عن هشام بن عروة عن أبيه عن عائشة . ورواه الدراوردي وأبو خالد سليمان بن حبان ومحمد بن عبد الله الطفاوي عن هشام بن عروة بنحو رواية أسامة . ورواه مالك وابن عيينه وحماد بن زيد وجماعة عن هشام عن أبيه مرسلًا .

“Some people said to the Prophet, peace be on him, ‘People bring us meat and we do not know whether they have mentioned the name of Allah over it or not. Shall we eat of it or not?’ The Prophet peace be on him replied, ‘Mention the name of Allah (over it), and then eat it.’ Aishah said: “They had recently become Muslims.”

This is the strongest evidence the third group can marshal from the valid Sunnah to demonstrate their position. Since the Prophet, peace be on him, allowed them to eat by mentioning the name of Allah on the meat at the time of their eating it, even though there was doubt about it originally be slaughtered in the name of Allah, this proves that pronouncing the name at the time of slaughtering is not an obligatory order but only a Sunnah.

PROOF 4: From the Qur’an they also cite the verse:

﴿قُلْ لَا أَجِدُ فِي مَا أُوحِيَ إِلَيَّ مُحَرَّمًا عَلَى طَاعِمٍ يَطْعَمُهُ إِلَّا أَنْ يَكُونَ مَيْتَةً أَوْ دَمًا مَسْفُوحًا أَوْ لَحْمَ خِنزِيرٍ فَإِنَّهُ رِجْسٌ أَوْ فِسْقًا أُهْلًا لِغَيْرِ اللَّهِ بِهِ ۗ فَمَنْ اضْطُرَّ غَيْرَ بَاغٍ وَلَا عَادٍ فَإِنَّ رَبَّكَ غَفُورٌ رَحِيمٌ﴾ .

“Say: I do not find in that which has been inspired to me anything forbidden to be eaten by one who wishes to eat it, unless it be a dead meat (carrion), or blood poured forth, or the flesh

of swine, for that surely is impure, or impious (unlawful) meat which is slaughtered for others than Allah (as a sacrifice, etc). Nevertheless, whosoever is forced by necessity without willful disobedience, nor transgressing due limits, certainly, your Lord is Oft-Forgiving, Most Merciful.” [6:145]

The crucial meaning here is “or impious (unlawful) meat which is slaughtered for others than Allah” since all agree that it does include that which is slaughtered in other than the name of Allah. But does it include that which Allah’s name is purposely dropped??

Here they say that Allah has mentioned that He has only made these categories unlawful, and since that which does not have the name of Allah mentioned over it is not listed here, therefore this is a proof that *tasmiyah* is only a Sunnah.

PROOF 5: They also cite various hadiths that give the meaning that a Muslim contains within himself the name of Allah, which implies that there is no need, therefore, to openly mention Allah’s name when the name of Allah is already present.

For instance the hadith of Ibn Abbas:

قَالَ رَسُولُ اللَّهِ ﷺ ذَبِيحَةُ الْمُسْلِمِ حَلَالٌ ذُكِرَ اسْمُ اللَّهِ أَوْ لَمْ يُذَكَّرْ إِنَّهُ إِنْ ذُكِرَ لَمْ يُذَكَّرْ إِلَّا اسْمُ اللَّهِ.
رَوَاهُ أَبُو دَاوُدَ فِي الْمُرَاسِيلِ مِنْ حَدِيثِ ثَوْرِ بْنِ يَزِيدَ عَنِ الصَّلْتِ السَّدُوسِيِّ مَوْلَى سُؤَيْدِ بْنِ مَيْمُونِ
أَحَدِ التَّابِعِينَ الَّذِينَ ذَكَرَهُمْ أَبُو حَاتِمٍ بْنُ حَبَّانٍ فِي كِتَابِ الثَّقَاتِ. وَهَذَا مُرْسَلٌ يُعْضَدُ بِمَا رَوَاهُ
الدَّارِقُطْنِيُّ عَنْ ابْنِ عَبَّاسٍ أَنَّهُ قَالَ إِذَا ذَبَحَ الْمُسْلِمُ وَلَمْ يُذَكَّرْ اسْمُ اللَّهِ فَلْيَأْكُلْ فَإِنَّ الْمُسْلِمَ فِيهِ اسْمٌ مِنْ
أَسْمَاءِ اللَّهِ.

The Messenger of Allah, peace and blessings of Allah be upon him, said: “The meat slaughtered by a Muslim is *halal* whether Allah’s name is mentioned on it or not because verily, if mentioned, it would be only Allah’s name.” [Reported by Abu Da’ood in his traditions that are not narrated with a connecting chain of narrators all the way to the Prophet, peace be upon him]

And the hadith:

عن أبي هريرة قال جاء رجل إلى النبي ﷺ فقال: يا رسول الله أرأيت الرجل منا يذبح وينسى أن يسمي؟ فقال النبي ﷺ اسم الله على كل مسلم. رواه الدارقطني.

Abu Hurayrah reported that a man came to the Prophet e and said: "What would you say to a man who had forgotten to invoke God's name when slaughtering an animal?" The Prophet replied: "God's name is (always) present with every Muslim". [Reported by ad-Darqutni.]

It is claimed that all these traditions prove that it is not necessary to mention Allah's name.

PROOF 6: Some from this group have claimed that the Ummah (community) of believers has agreed by consensus that the one who eats the meat that has not had the name of Allah mentioned upon it is not called a sinner or evildoer (*faasiq*): thus we should seek to reconcile the verses above with the hadith of 'Aishah by way of considering *tasmiyah* as a Sunnah. (see an-Nawawi/*Majmoo' Sharh al-Muhadthib* 8/389, as-San'ani / *Subul as-Salaam* 4/160).

The Rebuttal

The first group refutes the above proofs of the third group that the evidences cited to support their position are very weak in comparison to the many verses of the Qur'an, supporting commentaries, and the many authentic hadiths proving the obligation of *tasmiyah*.

The word *fiṣq* means impiety, to be disobedient, and to go outside and against Allah's orders rebelliously; thus, this can be done by intentionally disobeying Allah - by not mentioning His blessed name, and by slaughtering for other than Allah: both are forms of *fiṣq*. Another type of *fiṣq* is mentioned in the Qur'an in relation to meat where Allah says; "... (forbidden) also is the division (of meat) by raffling with arrows: that is *fiṣq* (impiety)..." (Qur'an 5:3). *Fiṣq* is not by necessity the quality of the meat itself, but the quality of action of the sinner by disobedience to Allah in 1) not mentioning Allah's name, 2) sacrificing to idols (other than Allah), 3) raffling meat by lottery. This group argues that all three actions are, according to the clear text of the Qur'an, instances of *fiṣq*. Thus there is a difference between the quality of *rijs* (filth, uncleanness) of carrion, blood and pork, which is in the meat itself as in the verse, and *fiṣq* in actions. Actually slaughtering to idols other than Allah is *shirk*, and

obeying the *mushrikeen* in not mentioning Allah's name as a law of what is lawful is also *shirk* as shown above.

As for their evidence cited from the sunnah, the first group rebuttals the third group that their claims about this hadith from Aishah, may Allah be pleased with her, is reading into the hadith what is not there, nor ever intended by any stretch of imagination. The hadith actually proves them wrong. The correct way to understand the hadith is that Muslims are not allowed to be suspicious of their brother Muslims, and doubt the observance of commonly known Islamic laws and practices without open proof to the contrary. As Ibn Abdul Barr has concluded: "In this Hadith it is understood that the slaughtered meat by a Muslim should be consumed on the assumption that the *Tasmiyah* has been mentioned upon it (even when one is not certain about this fact) because with regards to a Muslim, one should entertain nothing but good thoughts unless concrete evidence is established to the contrary." [Fath-al-Bari 9 /793]

And Ibn Hajar said about the hadith:

وهو أصل في تحسين الظن بالمسلم وأن أموره محمولة على الكمال ولا سيما أهل ذلك العصر.

"This is a fundamental (text of scripture) about having good thoughts about Muslims, and about considering his affairs as complete, especially for the people of that era." [Fath-al-Bari: hadith no. 1916]

Ad-Darqutni says:

قال الدارقطني في حديث عائشة رضي الله عنها: «.. و لا حجة فيه لأنه أدار الشارع الحكم على المظنة و هي كون الذابح مساماً و إنما شكك على السائل حداثة إسلام القوم فألغاه ﷺ بل فيه دليل على أنه لا بد من التسمية و إلا لبين له عدم لزومها و هذا وقت الحاجة إلى البيان...» [الصنعاني/ سبل السلام ٤ / ١٦١].

"There is no proof in this hadith that *tasmiyah* is not necessary since the Legislator refers the judgment onto the doubt of the slaughterer being a Muslim and the particular uncertainty about the newness of the people's Islam, so the (Prophet) peace be upon him canceled this doubt; actually this hadith is a proof that the *tasmiyah* is necessary because (if it weren't) the Prophet would have clarified that is was not since this was the exact time that the clarification (about the issue) was needed (by the questioners)." (*as-San'ani / Subul as-Salaam* 1/161).

Darqutni's line of argument here is by way of the well known juristic principle that the Prophet - peace and blessings of Allah be upon him - as the legislator and expounder of the Islamic law would always clarify any legal issue at the time of the urgent need to that clarification, and that he would not delay the clarification since delaying at the time of the exact need would cause confusion. The Prophet - peace and blessings of Allah be upon him- did not clarify here that the *tasmiyah* at the time of slaughter is not *wajib*, and since it would be natural, even incumbent upon him to clarify it to the questioners at the exact time of their question if that actually was the case, the final deduction to be made from the hadith is that since he did not make this clarification, the mentioning of Allah's name is and remains *wajib* (obligatory) as the other scriptures make clear. The issue addressed in the hadith is explicitly the *hukm* (judgment) about doubting whether a Muslim should be assumed to have fulfilled his obligations about Islamic slaughter and specifically the condition of *tasmiyah*: the answer given by the Prophet - peace and blessings of Allah be upon him- makes this point clear: a Muslim should have a clear conscious about his brother Muslims and not unduly suspect them, even if they accepted Islam recently.

The requirement of slaughtering in the name of Allah is widely known among all Muslims. Since it is a *sha'eerah* (distinguishing rite) of all those who believe in Allah in the previous communities and especially in this Muslim community even from the Makkan period, then there should be no plaguing doubts about a new Muslim's observance of it. Remembering and mentioning Allah's blessed name is legislated in so many affairs for the power of making a mundane act into an act of worship for Allah; how simple it is and yet what amazing power it has! If there is some doubt, then those who have the groundless suspicions - since they have no outward evidence otherwise - should mention Allah's name to remove their unwarranted doubts.

There is no evidence whatsoever in this hadith which allows demoting the pronouncement of Allah at the time of slaughtering from the *wajib* category to the *mustahib* and *sunnah* category, just because he told the questioners to eat the meat after saying the name of Allah. The fact that the Messenger told them to mention Allah's name proves its importance and that without it the meat would not be allowed.

It is always *wajib* to mention the name of Allah at the time of eating any food, otherwise the Satan (shaitaan) shares the food and gets his sustenance. His accursed food is that which is slaughtered for other than Allah, and everything which does not have the name of Allah mentioned upon it at the time of eating, intentionally or forgetfully by negligence, as mentioned above in many texts.

Since it is a known principle that direct commands and prohibitions are for *wajib* (obligation) and *haram* (unlawful) unless sufficient evidence diverts that obligation to the lesser category of *mustahab* (recommended, desired and loved) and *sunnah* (way of the Messenger -peace be upon him) or makrooh (undesirable), merely claiming an obscure linguistic argument and one hadith, both which can be countered, is certainly insufficient to divert the texts above from indicting the ruling of *tasmiyah* as *wajib* and the meat which does not have this condition fulfilled as *haram*. How much more so for that which is a *kulliyah* (generalized grand doctrine) and countered by only some *juz`iyaat* (individual particular occasions) whose only discernable angle of argumentation is questionable at best and outright feeble and outrageously invalid at worst? How much more so for that which is a *sha`erah* of Islam!

As for the various hadiths which give the idea that the name of Allah is ingrained in the Muslim's heart, and therefore there is no need to mention it openly, the *muhadditheen* (scholars of the sciences of the traditions) have said that the hadith of Ibn Abbas and Abu Hurairah, and all others in this area and of this meaning are weak in their *isnaad* (chain of narrators) to the Prophet, peace and blessings of Allah be upon him, and therefore invalid evidence. As for any sayings attributed to a companion or follower to this effect, that is his own opinion and it is not in any way conclusive and acceptable evidence when nullified by contrary reports on the same or other companions.

The very fact that this group seeks to mention these narrations and sayings in the context of this issue supports that *tasmiyah* is necessary: why else would they marshal these evidences for their support, unless they felt the need to have the name of Allah present somewhere at the time of slaughter, whether on the tongue or hidden in the heart?

Yet if we were to allow this line of argument, where would it end? Some would probably even say that it is not necessary to mention the name of Allah out loud in *adhan* (call to pray) or in *salah* (prayer), or on many other occasions when evidence proves that the pronouncement is necessary. Some extremist sufis (mystics) actually do make the outrageous claim that since “Allah” is written on their hearts, the inner prayer and remembrance is sufficient for them, and outward prayer is unnecessary since that would be redundant!

All praise be to Allah, our Islamic law has detailed evidence of when and how exactly the pronouncing of the name of Allah out loud is or is not necessary, and when outward pronouncement of intention for worship is or is not necessary. The legislation of Islam has not left these issues to whim. For instance, pronouncing out loud the intention for prayer is NOT necessary and is a form of innovation, since there is no evidence that the Prophet, peace be upon him, or any of the companions pronounced it. The pronouncement of the intention for hajj (pilgrimage) out loud is necessary and one should make specific mention out loud of the type of hajj one is performing since this is reported by authentic traditions. Moreover, it is allowed for him to make a condition at the time of intention for Hajj that if adverse conditions interrupted him and he became unable to finish the pilgrimage, the place of annulment of his ritual state of intention and hajj is that place where he is interrupted, but he must make this condition out loud pronouncing it openly for it to apply in annulling his obligation. These are examples of how exact the Islamic law is in the issues relating to mentioning out loud or inwardly.

Their claim above that the person who eats the meat that has not had the name of Allah mentioned upon it is not called a sinner or evildoer (*fasiq*) by the community of Muslims, is incorrect since this is only true for those who left off the remembrance unintentionally. If it is proven that a Muslim refused the remembrance of Allah’s name in an intentional abandonment while slaughtering, while knowing full well the commands of Allah and His Messenger in this regard, then he has definitely acted in disobedience to Allah. As a matter of fact, it is generally known that the Muslims of any area in the Muslim world would consider this person who intentionally leaves the name of Allah off while slaughtering, to be very evil and dangerous, and most probably a sahir (sorcerer, black magician) who seeks the aid of the devils in some malicious and evil designs. And this is another reason, why it is necessary to mention it out loud: to dispel any whisperings that the person actually is saying incantations to other than Allah.

Conclusion

After all the evidence is weighed and analyzed from the contending groups, my personal conclusion is that the evidence and rebuttals of the first group are the strongest and most evident, and that their position is the only correct one. It is the middle way between unduly harsh strictness, by imposing the condition of *tasmiyah* even on the one who unintentionally forgets, and negligent leniency of not concerning oneself about *tasmiyah* of Allah Almighty and Majestic's name altogether. It is the safe way to earn Allah's pleasure by clearly staying within His orders and bounds, obeying sincerely His clear commands and refraining from that which He had clearly forbidden. A summary of many strengths of this position occurs at the end of the booklet.

This discussion and the issues it entails naturally leads us to the much more serious issue to which we now turn our attention.

... [Portions deleted here]... [[[pertaining to The Greater Issue: Legislating laws other than Allah's Law and executing them then judging accordingly is a form of *Shirk* and *Kufr*]]]

PART TWO: The Second Issue:

The status and of the food of the people of the Book (*Ahl-al-Kitaab*, Jews and Christians); Is their meat subject to the legal conditions of Islamic slaughter to make their meat legal for a Muslim, or can we eat that which they eat?

Introduction and preliminary observations

Ahl-al-Kitaab, the people of Book, are distinguished from the other disbelievers by the fact that they believe in Allah, His Angels, His Messengers, His revealed Books and His Law generally. The “Book” here is of course the original book of Allah, i.e. the revealed Torah and *Injeel* (Gospel) received by Musa (Moses) and Esa (Jesus) directly, and not their explanatory commentaries like the Talmud or Letters of the Apostles etc. All their books have, of course, been tampered with by scribes, translators and by later editors, and we only refer to them for circumstantial and supporting evidence. Whatever contradicts the Qur`an and Sunnah we reject since we know it to be false, and whatever coincides with them we accept since we know it to be true. That which is not mentioned by our revelations and is additional information from their sources we can mention for the purpose of reflection, comparison, admonition and general lessons of morality or lack of it.

The later deviations of the Jews and Christians are irreverent to their original state as believers in Allah and His Monotheism (*Tauheed*) as taught by Moses and Jesus, peace be upon them, in the original Torah and Gospel, and as sincere followers who adhered to their laws and ways.

The *sahabah* (companions) of the Messenger Muhammad peace be upon him and others who mentioned that they do not know of a greater *shirk* than ascribing a son to Allah (i.e. Christians believing in trinity, and taking Jesus as son of God, and the Jews taking Uzair as son of God, and their both calling themselves as “sons” of God), nevertheless never intended to abrogate the special status of the People of the Book as *dhimmis* (citizens of protected status) and the allowance in marrying their womenfolk and eating their slaughtered meat as mentioned in *surat-al-Ma`idah* verse 5, even though they do, in the strict sense, have the

resemblance to *mushrikeen* (polytheists and idolaters) by their deviations from monotheism. This is significant since it shows that what distinguishes them is their practice of slaughtering according to religious law of the revealed Books, the Torah and the Gospel.

We know by definite proof, regardless of what they say about themselves, their laws and Books that they were asked by Allah to do *tasmiyah* since we find this information in the Qur'an where Allah says:

﴿ وَلِكُلِّ أُمَّةٍ جَعَلْنَا مَنْسَكًا لِيَذْكُرُوا اسْمَ اللَّهِ عَلَىٰ مَا رَزَقَهُمْ مِّنْ بَهِيمَةِ الْأَنْعَامِ فَإِنَّهُمْ وَاللَّهُ وَّاحِدٌ ۗ فَلَهُ اسْلِمُوا وَيُشِرَ الْمُخْبِتِينَ ۗ ﴾

“For every community We have prescribed a way of sacrifice so that the people (of that community) should remember and pronounce the name of Allah over the cattle which He has provided for them” (22:34).

This is a striking piece of information precisely because we find no specific unequivocal information in their major books on this issue of *tasmiyah*. We also know that Israel (Jacob) made *haram* on himself certain types of animal products when Allah says:

﴿ كُلُّ الطَّعَامِ كَانَ حَلَالًا لِّبَنِي إِسْرَائِيلَ إِلَّا مَا حَرَّمَ إِسْرَائِيلُ عَلَىٰ نَفْسِهِ مِن قَبْلِ أَنْ تُنزَلَ التَّوْرَةُ قُلْ فَأْتُوا بِالتَّوْرَةِ فَاتْلُوهَا إِن كُنتُمْ صَادِقِينَ ﴿١٣﴾ فَمَن أَفْتَرَىٰ عَلَى اللَّهِ الْكُذِبَ مِن بَعْدِ ذَلِكَ فَأُولَٰئِكَ هُمُ الظَّالِمُونَ ﴿١٤﴾ قُلْ صَدَقَ اللَّهُ فَاتَّبِعُوا مِلَّةَ إِبْرَاهِيمَ حَنِيفًا وَمَا كَانَ مِنَ الْمُشْرِكِينَ ۗ ﴾

All food was lawful to the Children of Israel except what Israel made unlawful for himself before the Torah was revealed. Say bring here the Torah and recite it, if you are truthful. Then after that whosoever shall invent a lie against Allah, such shall indeed be the wrongdoers. Say, Allah has spoken the truth: follow the religion of Abraham, the straight and steadfast and he was not of the idolaters.” [3:93-95]

And Allah says:

﴿ وَعَلَى الَّذِينَ هَادُوا حَرَّمْنَا كُلَّ ذِي ظُفْرٍ وَمِنَ الْبَقَرِ وَالْغَنَمِ حَرَّمْنَا عَلَيْهِمْ شُحُومَهُمَا إِلَّا مَا حَمَلَتْ ظُهُورُهُمَا أَوْ الْحَوَايَا أَوْ مَا اخْتَلَطَ بِعَظْمٍ ذَلِكَ جَزَيْنَاهُمْ بِبَغْيِهِمْ وَإِنَّا لَصَادِقُونَ ۗ ﴾

“And to the Jews We forbade every animal with claws, and of oxen and sheep We have forbidden them their fat, except what is carried on their backs or entrails or what is connected

to the bone; thus did We recompense them for their rebelliousness, and indeed We speak the truth.” [6:146]

... [Portions deleted here]...

Each *ummah* (community) has different rites and prescribed laws as to actually how they go about the rite of slaughter, because, as Allah says:

﴿لِكُلِّ أُمَّةٍ جَعَلْنَا مَنْسَكًا هُمْ نَاسِكُوهُ﴾.

“And for every nation we have prescribed rites for them to perform...” [22:67]

And Allah says:

﴿لِكُلِّ جَعَلْنَا مِنْكُمْ شَرْعَةً وَمِنْهَا جَا﴾.

“...for each of you We have made a Law and a Methodology (way, manner)...” [5:48]

... [Portions deleted here]... [[[on Jewish and Christian practices]]]

The legal position of the Muslim scholars on the issue of the meat of *Ahl-al-Kitab*.

All Muslim scholars and jurists have agreed that the “food of the people of the Book” (*Ahl-al-Kitab*) mentioned as lawful for us means their slaughtered meat, since the vegetables and fish of all men, pagan or otherwise, are already known to be allowed for the Muslims to eat. Thus the *ijmaa'* (consensus) is that their *dhaba'ih* (slaughtered meats) are intended, and that other foods of theirs, like their fish and vegetables -which are definitely allowed- and their wines and/or their pork or unclean meats -which are definitely not allowed- are definitely not intended here.

Ibn Katheer says: “This ruling that the slaughtered animals of the people of the book are permissible for Muslims, is agreed on by the scholars, because the people of the book believe that slaughtering for other than Allah is prohibited. They mention Allah’s name upon slaughtering their animals, even though they have deviant beliefs about Allah that do not befit

His Majesty.” [Tafseer Ibn Kathir; v.3, p.102, Saifur-Rahman’s English translation, Darussalam]

Ibn Katheer bases the permissibility of their meats on two points which must be based on certain knowledge:

1. that they do not slaughter for other than Allah, and;
2. that they mention the name of Allah upon slaughtering.

There are numerous traditions wherein the Prophet ate from the meats and fats of the Jews who were in the Hijaz in his time, and there is no special need to mention them here.

The issue only revolves around the understanding of the verse of Allah in surat-al-Ma'idah, revealed in Madinah:

﴿الْيَوْمَ أُحِلَّ لَكُمْ الطَّيِّبَاتُ وَطَعَامُ الَّذِينَ أُوتُوا الْكِتَابَ حِلٌّ لَكُمْ وَطَعَامُكُمْ حِلٌّ لَهُمْ...﴾

“This day (all) things good and pure are made lawful unto you. The food of the People of the Book is lawful unto you and yours is lawful unto them...” [5:5]

This verse apparently makes all their food lawful, whereas the verse of *An'aam*, revealed earlier in Makkah, apparently makes any meat without *tasmiyah*, or at least carrion, unlawful. The verse directly preceding this verse categorizes as forbidden many types of prohibited meats not slaughtered properly or slaughtered for other than Allah. Does this verse of Ma'idah abrogate all the other previous verses in this connection? Does this verse legislatively stand alone, unqualified by the conditions of *tasmiyah* and *tadthkiyah* mentioned repeatedly in the Qur'an and Sunnah? If they slaughter for another besides Allah, like for Jesus or their saints (which is definitely a form of *shirk* if performed by a Muslim), can we still eat that meat because it is their food? These and other questions remain, and there is no consensus in the answers given.

ISSUE NO.1: On conditions of *tasmiyah* and *tadthkiyah* for the lawfulness of their meat:

There are several positions narrated among the *fuqaha`a* (Islamic legal scholar-jurists) on this issue of whether the same requirements of *tasmiyah* and *tadthkiyah* on their meat are conditions to make it *halal* for us. The numerous sayings even attributed to one scholar,

make it difficult to gather them all into distinct groups. Therefore, by the necessities of explanation, we are forced to lump some positions together and omit others as beyond our scope.

Generally we can say there are three major camps:

- (1) the group necessitating both *tasmiyah* and *tadthkiyah* on their meat,
- (2) the group that necessitates *tadthkiyah* but not *tasmiyah*,
- (3) the group that necessitates neither *tasmiyah* nor *tadthkiyah* and deems that whatever they take as lawful for themselves becomes lawful for us. This third group does make some reservations about swine and other categories. All agree that carrion, blood, and swine are unlawful.

It will be proven that only the first opinion is correct.

ISSUE NO.2: Slaughtering for other than Allah:

As for the issue of Ahl-al-Kitab slaughtering for others besides Allah, like for idols, (which is even a sin in their own books), or in the case of Christians for Jesus or their churches or their saints, we find three major camps:

- (1) the group saying that it is totally *haram* (unlawful);
- (2) the group saying that it is *halal* (lawful);
- (3) the group saying that it is only *makrooh* (detestable, obnoxious, undesirable) but not *haram*.

Again as above, it will be shown here that only the first opinion is correct by the weight of the commands presented in part one, and by the lack of credible evidence for other opinions.

ISSUE ONE

DALAA'IL (Demonstrative proofs) of the first group:

This group which says that the meat of the Ahl-al-Kitab is *halal* on the condition that it fulfills our conditions of *tasmiyah* and *tadthkiyah*, is the majority of the *ulamaa`* including reports from the *sahabah*, the *ulamaa`* of hadith, Imam Abu Haneefah, Imam Ahmad, their followers, and others. There is an *ijmaa`* (consensus) of all *fuqahaa`* that if these conditions are met then their slaughtered meat is lawful by the verse of *al-Ma`idah* above.

This first group understands that the verses of *surat-al-An'aam* and the various traditions about slaughter mentioning the conditions of *tasmiyah* and *tadthkiyah* are *muhkamaat* (legislatively maintained as continued to be authoritative) and are not *mansookh* (abrogated) by the verse of *al-Ma`idah*. We have no reason at all to neglect the conditions since these same conditions are part of the laws of *Ahl-al-Kitab* on slaughter (as seen above, and in Appendix E & F) and are part of the universal religion and way (*Deen*) of all the Prophets of Allah and their followers, a way that distinguishes them and their meat as pure and lawful as opposed to the filth and abominations of the idolaters and polytheists.

The verse itself says that the lawful is all that is “pure” (الطَّيِّبَاتِ), and the pure things have been defined in the Book of Allah.

﴿ الْيَوْمَ أُحِلَّ لَكُمُ الطَّيِّبَاتُ وَطَعَامُ الَّذِينَ أُوتُوا الْكِتَابَ حَلْلٌ لَكُمْ وَطَعَامُكُمْ حَلْلٌ لَهُمْ وَالْمُحْصَنَاتُ مِنَ الْمُؤْمِنَاتِ
وَالْمُحْصَنَاتُ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ مِنْ قَبْلِكُمْ إِذَا آتَيْتُمُوهُنَّ أَجُورَهُنَّ مُحْصِنِينَ غَيْرَ مُسَفِّحِينَ وَلَا مُتَّخِذِي
أَخْدَانٍ وَمَنْ يَكْفُرْ بِالْإِيمَانِ فَقَدْ حَبِطَ عَمَلُهُ، وَهُوَ فِي الْآخِرَةِ مِنَ الْخَسِرِينَ ﴾.

“Made lawful to you this day are the pure wholesome food (*at-Tayyibat*) and the food of the people of the Scripture (Jews and Christians) is lawful to you and yours is lawful to them. And the chaste women from the believers and chaste women from those who were given the Scripture (Jews and Christians) before your time, when you have given their due bridal money (*Mahar*) desiring chastity not committing illegal sexual relationship nor taking them as girlfriends. And whosoever disbelieves in the Oneness of Allah and in all the other Articles of Faith then fruitless is his work, and in the Hereafter he will be among the losers.” [5:5]

A major question here is that if some categories of meat are considered lawful whereas others are not, there has to be reasonable evidence as proof for making the distinction between the two categories. Those who do not hold that the mentioning of the name of Allah at the time of slaughtering is conditional to make meat lawful, nevertheless do hold that the other condition *tadthkiya* is necessary according to Islamic conditions. Those that necessitate neither *tasmiyah* nor *tadthkiyah*, nevertheless take that their swine and other categories are unlawful. Here again we must find reasonable proof for the distinction since these matters are not left, Allah forbid, to whim and arbitrary flippant opinions, but demand solid evidence. Why the distinction, and where are the proofs? If no solid evidence can be given, the first position is proven to be correct by the simple fact of the weight of all the verses mentioned above in part one.

The position of Ali Ibn Abi Taalib, may Allah's pleasure be upon him, and the majority (*jamhoor*) of the predecessors (*salaf*) and those after them (*khalaf*), which said that it is not permissible to eat of the slaughtered animals of the Christian Arab tribes like *Bani Taghlib* and similar tribes because they only have taken those parts of Christianity which allow them to drink alcoholic beverages, etc., supports this first position, and can be perceived as within this camp.

روي عن علي عليه السلام أنه قال في نصارى بني تغلب : إنهم لم يأخذوا من دين النصرانية سوى شرب الخمر رواه الطبري وغيره.

It is reported that Ali ibn Abi Talib may Allah's pleasure be upon him, said about the Christian Arab tribe of *Bani Taghlib* that they have not taken anything from the religion of Christianity except drinking wine. [Reported by Tabari in his *Tafseer* in *surat-al-Ma'idah* verse 5 and others]

The understanding here is that the Christian Arab tribes are similar to the *Mushrikeen* in their slaughtering, since they only make a claim of association to Christianity without any proof in their deeds. In other words, they do not follow any religious law or tradition in this regard, which means they do not follow the "Book" intended by the term "people of the Book" in slaughtering, and therefore their meat and their womenfolk are unlawful.

Imam Tabari makes this comment about the position of Ali Ibn Abi Talib and those that do not consider the meat of the Christian Arabs of their time to be lawful:

وهذه الأخبار عن علي رضوان الله عليه، إنما تدل على أنه كان ينهون عن ذبائح نصارى بني تغلب من أجل أنهم ليسوا على النصرانية، لتركهم تحليل ما تحلل النصارى وتحريم ما تحرم غير الخمر. ومن كان منتحلاً ملة هو غير متمسك منها بشيء، فهو إلى البراءة منها أقرب إلى اللحاق بها وبأهلها، فلذلك نهى علي عن أكل ذبائح نصارى بني تغلب، لا من أجل أنهم ليسوا من بني إسرائيل. فإذا كان ذلك كذلك وكان إجماعاً من الحجّة إحلال ذبيحة كل نصراني ويهودي، إن انتحل دين النصارى أو اليهود، فأحل ما أحلوا، وحرم ما حرموا من بني إسرائيل كان أو من غيرهم، فبين خطأ ما قال الشافعي في ذلك وتأويله الذي تأوله في قوله: ﴿وَطَعَامُ الَّذِينَ أُوتُوا الْكِتَابَ حَلْلٌ لَكُمْ﴾ أنه ذبائح الذين أوتوا الكتاب التوراة والإنجيل من بني إسرائيل، وصواب ما خالف تأويله ذلك، وقول من قال: إن كل يهودي ونصراني فحلال ذبيحته من أي أجناس بني آدم كان.

“These narrations of Ali ibn Abi Talib, may Allah’s pleasure be upon him, demonstrate that he only forbade the meats of the slaughtered animals of the Christian (tribe of) *Bani Taghlib* because he did not consider them to be Christians, since they stopped making lawful that which the Christians make lawful and unlawful that which the Christian make unlawful, except for wine. Whoever claims to be of a religious group without holding on to anything of that group, is closer to being absolved of any association with it, rather than being of it and of them. This is the reason he forbade eating the meats of *Bani Taghlib*, and not (as some say) because they weren’t from the descendents of the children of Israel. If this is the case, then there is a clear demonstrative proof that there is a consensus that the meats of all Christians are lawful (for us Muslims) if anyone of them takes on the religion of the Jews or Christians, and takes as lawful what they take as lawful and as unlawful what they take as unlawful, even if they are not from the descendents of the children of Israel. Therefore the mistake of the Shafa’e position becomes clear and manifest, in what he said and interpreted the statement of Allah: “...and the food of the people of the Book is lawful to you;” that it means the slaughtered animals of those that were given the Torah and Gospel of the descendents of Israel. The correct position is that the slaughtered animals of any of the sons of Adam who becomes a Jew or a Christian are lawful for the Muslims” [*Tafseer* Tabari after no. 8816]

The point to observe is that the true Jew or Christian is not by birth or heredity, but by his association with their religious laws. This point is reinforced by many of the *Ulamaa`* notably Ibn Tamiyah and others, as mentioned by Sheikh Uthaimen in his verdict (*fatwa*) on imported meats.

Sheikh Uthaimen says about imported meats:

أما هذه اللحوم فإنها وإن كانت تستورد من بلاد تدعى أنها كتابية ، فإنها حرام وميتة ونجسة فلا يجوز بيعها ولا شراؤها ، وتحرم قيمتها كما في الحديث : «إن الله إذا حرم شيئاً حرم ثمنه»، وذلك لوجوه عديدة : أولاً : أن هذه الدول في الوقت الحاضر قد نبذت الأديان وخرجت عليها ، وكون الشخص يهودياً أو نصرانياً هو بتمسكه بأحكام ذلك الدين ، أما إذا تركه ونبذ وراء ظهره فلا يعد كتابياً ، والانتساب فقط دون العمل لا ينفع ، كما أن المسلم مسلم بتمسكه بدين الإسلام ، فإذا تركه فليس بمسلم ولو كان أبواه مسلمين ، فإن مجرد الانتساب لا يفيد .

“These meats, even if they are imported from nations that claim to be Christian, are unlawful and carrion and unclean, and it is not allowed to buy or sell them as in the hadith: “Verily if Allah makes something unlawful, the price of it becomes unlawful too,” and this judgment is made by means of numerous proofs. The first: these countries in the present time have discarded the religion and circumvented it, and a person is only a Jew or a Christian by adhering to the religious laws of the religion, so if he has left it and tossed it behind his back then he cannot be considered a person of the Book, just as a Muslim is only a Muslim by virtue of his adherence to the religion of Islam and if he leaves it, he is not considered a Muslim even if his parents were Muslims. Merely claiming to be a member of a religion is of no benefit or value...” He then goes on to mention the position of Ali in respect to the Christian Arabs of his time and the other reasons for the unlawfulness of this meat.

[See the link: <http://www.taiba.org/entry3/fatawa/allhom2.htm>]

An important point is to be noted here about kosher slaughtering practices, wherein they actually do not openly mention Allah’s name to protect the Sanctity of His name from defamation. Of course remembrance of Allah is on the mind and in the heart of the slaughterer since, significantly, he is doing the slaughter according to the Jewish kosher law. This appears to be analogous to the position among some *Ulamaa`* who, as mentioned above,

took the position that *tasmiyah* is not necessary and only *tadhkiyah* is obligatory. Yet the general principle of not following and imitating the Jews and Christians in their innovated misguided ways should lead us to not follow them in this issue also, since we have been clearly ordered by Allah to mention his name openly out loud when slaughtering. To say that the mentioning of the name out loud is only a *Sunnah* and that it may be left still leaves us in a state that appears to be imitating the Jews when they leave the *tasmiyah*.

The following hadith is evident about the concerns of the Companions of the Prophet, peace and blessings of Allah be upon him, in relation to the meat being *halal* or *haram* which strengthens the position of the first group:

Abu Th'alah Al Khushani, may Allah be pleased with him, narrated:

روى البخاري بسنده رقم (٥١٧٧) عن أبو ثعلبة الخشني قال: أتيت النبي ﷺ فقلت: يا رسول الله، إنا بأرض أهل الكتاب، فنأكل في آيتهم، وبأرض صيد، أصيد بقوسي، وأصيد بكلي المعلم وبكلي الذي ليس بمعلم؟ فقال النبي ﷺ: (أما ما ذكرت أنك بأرض أهل كتاب: فلا تأكلوا في آيتهم إلا أن لا تجدوا بُدًّا، فإن لم تجدوا بُدًّا فاغسلوها وكلوا. وأما ما ذكرت أنك بأرض صيد: فما صدت بقوسك فاذكر اسم الله وكل، وما صدت بكلك المعلم فاذكر اسم الله وكل، وما صدت بكلك الذي ليس بمعلم فأدركت ذكاته فكله).

“I came to the Prophet and said, O Messenger of Allah We are living in the land of the people of the Scripture, and we take our meals in their utensils, and there is game in that land which I hunt with my bow and with my trained hound and with my untrained hound. The Prophet, peace and blessing of Allah be upon him, said: As for your saying that you are in the land of the people of the scripture, you should not eat in their utensils unless you find no other alternative in which case you must wash the utensils and then eat in them, and as for your saying that you are in the land of game animals and you hunt, whatever you hunt with your bow, mention the name of Allah over it then eat, and what you have hunted with your trained hunting dog and have mentioned the name of Allah (over it) then eat, and whatever you hunt with your untrained dog and you have reached it in time to slaughter it (*adrakta dthakatuhu*) then eat it.” [Reported by Bukhari]

The hadith shows that not all the food of the people of the Book was considered lawful; otherwise what is the need to wash their utensils when you find no others, except to cleanse the unlawful food from them? Since the case of utensils is to be investigated, then common sense means that the case of their meats is even more worthy to be investigated.

Therefore this hadith is a clear proof that asking about the source and lawfulness of the meat is part of the *sunnah* when a reasonable doubt is warranted.

Abdur Razzaq in his Musannaf, relates the following narration of Qais ibn as-Sakin al-Asadi, may Allah be pleased with him, that the Messenger of Allah, peace and blessings of Allah be upon him, said:

عن قيس بن السكن الأسيدي قال : قال رسول الله ﷺ إنكم نزلتم بفارس من النبط، فإذا اشتريتم لحماً فإن كان من يهودي أو نصراني فكلوا، وإن كان من ذبيحة مجوس فلا تأكلوا. رواه أحمد.

"You have reached the lands of Nabat in Persia, and thus if you buy meat and it is sold by Jews or Christians, eat it, but if the animal has been slaughtered by a Magian, do not eat it".
[Reported by Imam Ahmad]

This tradition shows that inquiring about the source of the meat is part of the duty of Muslims in the lands where the source is doubtful. If it became known that Jews and Christians (or even Muslims) did not follow their religion in this affair, then they would be suspect also and inquiry about the source in these circumstances would not be out of place or unduly.

Even the method and type/usage of the slaughtering instrument changes the status of the meat. This is proven by way of the definition of *waqeedth* (وقيد)، that which dies from a blow of a blunt instrument, or rock etc. This is prohibited by the Qur'an (5:3), and in the tradition we read:

عدي قال سألت النبي ﷺ عن صيد المعراض فقال : ما أصاب بحده فكله ، وما أصاب بعرضه فهو وقيد.

Eidi ibn Hatim, may Allah be pleased with him, narrated that he asked the Prophet, peace and blessings of Allah be upon him, about hunting with a Mi'radh (type of club) and he said if

you hit it with the pointed part, then eat, and if you hit it with its blunt part, then it has died from a blow.” [Reported by Bukhari, Muslim and others]

If the *waqeedth* of a Muslim is *haram*, then the *waqeedth* of a *Kitaabi* (Jew or Christian) is also *haram*. It is known that in many modern slaughter houses, slaughter is performed by electrical or mechanical stunning devices, with no concern about their being correct from the *tadthkiyah* point of view. The verse of *al-Ma`idah* itself proves that the conditions for purity remain: to remove it from the impure state by *tasmiyah* and *tadthkiyah*.

Another proof to be cited here is that the marrying of their womenfolk is conditional upon what it is conditional to marry a Muslim woman; that is, that she be of the religion and chaste. If a Muslim is outside the fold of Islam or unchaste it is not allowed to marry; likewise one expects the conditions of our meats to be followed in the lawfulness of their meats, which includes a reasonable degree of adherence to their religion in the practice of slaughter.

DALAA`IL (Demonstrative proofs) of the second and third groups
(gathered together in our investigation for the fact that neither require *tasmiyah*)

Some of the second and third groups say that the verse of *Al-Ma`idah* has abrogated the previous verses and the attached conditions.

The followers of Imam Shafa`e (even if not necessarily going to the extreme of categorizing the verse as abrogating the other verses) would say here that since the *tasmiyah* is not obligatory even for a Muslim, it is not obligatory for a *Kitaabi*, and therefore, only the condition of *tadthkiyah* remains.

Some of this group have said that even if the name other than Allah is mentioned at the time of slaughtering, like Jesus for example or their saints, it is lawful for us, since it would have been known that they would say such things as part of their deviations, to be discussed below.

The important thing here is to note that this line of thinking would naturally lead them to dismiss any investigation into whether they conform to the requirements of *tadthkiyah* as a frivolous waste of time. Some others make the legality of their meat conditional on the fact

that we do not hear or know of other than Allah being mentioned during their slaughter. Thus some would make *tadhkiyah* mandatory, whereas others may not.

Theoretically this position, if left unqualified, would make them say that whatever they deem as lawful and whatever they offer us, we can eat since it's from "their food." But no Muslim says that carrion, blood, and pork etc, are lawful for us, and so even if *tasmiyah* is exempted, they still make some conditions according to various perceptions. It makes perfect sense to demand of this group the proof for the distinctions they may make otherwise the religion is made into a sham of various opinions and interpretations without proof, may Allah forbid.

Imam At-Tabari mentions that the general body of the Muslim scholars do not deem the verse of *An'aam* 121 to be abrogated by the verse of *Ma'idah* 5, but that Hasan Al-Barsi and Ikramah are two of the *Ulama'a* who do. Ibn Katheer mentions that Makhool is one of the eminent early scholars who along with others said that the verse of *An'aam* 121 has been abrogated by the verse of *Ma'idah*, and that this allows us to eat of their food regardless of their mentioning the name of Allah or not. The only proof of the position that can be forwarded is that *surat-al-Ma'idah* is Medinan and *al-An'aam* is Makkan, but it is a well known principle that merely proving that one verse was revealed after another verse does not prove that the legal precept of the earlier verse is necessarily abrogated by the latter verse.

Ibn Katheer rebuttals the position of Makhool (and by extension, any others who take his position) by saying:

وفي هذا الذي قاله مكحول رحمه الله نظر فإنه لا يلزم من إباحته طعام أهل الكتاب إباحة أكل ما لم يذكر اسم الله عليه لأنهم يذكرون اسم الله على ذبائحهم وقرابينهم وهم متعبدون بذلك ولهذا لم يباح ذبائح من عداهم من أهل الشرك ومن شابههم لأنهم لا يذكرون اسم الله على ذبائحهم بل ولا يتوقفون فيما يأكلونه من اللحم على ذكاة بل يأكلون الميتة به بخلاف أهل الكتاب ومن شاكلهم من السامرة والصابئة ومن يتمسك بدين إبراهيم وشيث وغيرهما من الأنبياء على أحد قولي العلماء.

"And what is said by Makhool is questionable and under investigation since it is not necessary that allowing their foods necessitates allowing that which has not had the name of Allah pronounced since the people of the Book mention the name of Allah on their

slaughtered animals and it is part of their worship in their religion, and for this very reason we are allowed their meats and not the meats of the pagan idolater and other similar disbelievers since they do not mention the name of Allah upon their slaughtered animals. They also do not abstain from eating meats that are not purified by slaughter but rather eat carrion, whereas the people of the book and those who are similar to them like the Samariyah and the Sabi`ah and those that hold onto the religion of Seth, Abraham and other Prophets -peace be upon them- all refrain from carrion, according to one of the two positions of the Scholars on the issue (i.e. whether these groups are considered to be included with the “people of the Book”). [Ibn Katheer in *surat-al-Ma`idah* verse 5.

In *Sahih* Al-Bukhari, Az-Zuhri said: "There is no harm in eating animals where the *dthabiha* was performed by Arab Christians. If you hear the person performing *dthabiha* on the animals mentioning other than Allah’s Name, then don’t eat of it, but if you don’t hear that, then Allah has allowed the eating of animals where *dthabiha* has been performed by them, though He knows their disbelief."

... [Portions deleted here]...[[[on sub groups, etc.]]]

ISSUE TWO

The people of the Book Slaughtering for Idols

The verses in this context are:

﴿وَمَا ذُبِحَ عَلَى النُّصُبِ﴾ [المائدة: ٣].

“That which is slaughtered on an altar” [5:3]

﴿وَمَا أَهْلَ بِهِ لِغَيْرِ اللَّهِ﴾.

“And that which is slaughtered for other than Allah” or “dedicated for other than Allah”

﴿أَوْ فَسَقًا أَهْلَ لِغَيْرِ اللَّهِ بِهِ﴾.

“Or the rebellious sin that is for other than Allah.” [6:146]

And the hadith states on the authority of ‘Ali Ibn Abi Taalib, may Allah be pleased with him, that he said: "Allah's Messenger told me four things: "...Allah has cursed the one who slaughters in the name of other than Allah..." (Reported by Muslim as cited above).

As mentioned previously there were some of the *Ulama`a* who understood the general statement about the lawfulness of the food of the people of the Book to remain unqualified, and thus even if they mention and dedicate the slaughter to other than Allah, the meat is lawful. This is an untenable position and two points can refute this position with ease.

POINT 1: It is agreed by all that it is not allowed to eat from a Muslim who slaughters for any other except Allah, by the proof of what has proceeded about the abomination of slaughtering to the idols and that it is *shirk*. Thus how can it be allowed for a Jew or Christian but not for a Muslim.

POINT 2: An observant Jew by his law would not perform such a grievous sin since as noticed before even the mention of an idol’s name is not allowed as it is written: "...and make no mention of the name of other gods, neither let it be heard out of thy mouth." Exodus 23:13

The same prohibition is expected from a Christian, especially since the Jerusalem council mentioned specifically to the Christians "that they abstain from pollutions of idols..." (Acts 15:20). If we know that they have deviated into idolatry, how can we be so naïve, gullible and foolish to allow their form of *shirk* to enter into our practices of pure *tauheed*? All the more so when there are some Christians who hold stubbornly to kosher practices and the prohibition against idolatry!

Paul thought that when people sacrificed to idols, they were really sacrificing to demons (1 Cor 10:20), a view common in Judaism (Deut 32:17; Ps 19:5; Jub. 1:11; 11:4–6; 1 Enoch 19:1). In Islam there is also evidence that all worship for the idols is actually for the devils and Satan.

Ali ibn Abi Taalib and the majority of scholars specifically refused to deem lawful the meat of the Christian Arabs as mentioned above since their practices involved polytheism and idolatry. Should we judge differently other groups of Christians who act similarly? Even

Zuhri who allowed the meat of the Christian Arabs qualified the condition of not hearing them mention other than Allah at the time of slaughter.

An-Nawawi mentions that the meaning of the hadith here is to slaughter in other than Allah's names like an idol, cross, Moses or Jesus, or the K'abah, and this is all unlawful whether by a Muslim, Jew or Christian as stated explicitly by Imam Shafe'e, and his followers have all agreed. If the person were a Muslim and he did the deed intending the aggrandizement of the one he is slaughtering to, he becomes a *murtad* (apostate) by his slaughtering . He also mentions that some scholars consider slaughtering for the arrival of the leader or king enters into this category and is unlawful, whereas others mention that this is similar only to slaughtering the *aqeeqah* in rejoicing and with thankfulness to Allah for the arrival of the newborn child, and is not unlawful. (Nawawi: Sharh Muslim 13:141).

Ibn Taymiyah says the following on this issue:

...عموم قوله تعالى: ﴿وَمَا أَهْلَ لَغَيْرِ اللَّهِ بِهِ، وَالْمَنْخِنِقَةَ وَالْمَوْفُوذَةَ وَالْمُتَرَدِّيَةَ وَالنَّطِيحَةَ وَمَا أَكَلَ السَّعِءُ إِلَّا مَا ذَكَيْتُمْ وَمَا ذُبِحَ عَلَى النُّصَبِ﴾ [المائدة: ٣] عموم محفوظ لم تخص منه صورة بخلاف طعام الذين أوتوا الكتاب فإنه يشترط له الذكاة المبيحة فلو ذكى الكتابي في غير المحل المشروع لم تبح ذكاته ولأن غاية الكتابي أن تكون ذكاته كالمسلم والمسلم لو ذبح لغير الله أو ذبح باسم غير الله لم يبيح وإن كان يكفر بذلك فكذلك الذمي لأن قوله تعالى: ﴿وَطَعَامُ الَّذِينَ أُوتُوا الْكِتَابَ حِلٌّ لَكُمْ وَطَعَامُكُمْ حِلٌّ لَهُمْ﴾ [المائدة: ٥] سواء وهم وإن كانوا يستحلون هذا ونحن لا نستحله فليس كل ما استحلوه يحل لنا، ولأنه قد تعارض دليلان حازر ومبيح فالحاضر أولى أن يقدم، ولأن الذبح لغير الله أو باسم غيره قد علمنا يقينا أنه ليس من دين الأنبياء عليهم السلام فهو من الشرك الذي أحدثوه فالمعنى الذي لأجله حلت ذبائحهم منتف في هذا والله تعالى أعلم.

“The generality of the verse “that which is slaughtered for other than Allah” is legislatively active in its generality and does not have any exceptions, whereas this is not the case with the verse “the food of the people of the Book” since it is a condition that a *Kitaabi* (Jew or Christian) slaughter in the legal manner of slaughtering; therefore if a *Kitaabi* slaughtered in the wrong place of slaughtering (i.e. other than the neck etc.), his slaughter

would not be legally acceptable, similarly a *Kitaabi* is like a Muslim in this affair, so if a Muslim slaughtered for other than Allah or in the name of other than Allah, his slaughter would definitely not be acceptable, and actually he would become a disbeliever (*kafir*) by that act, so would a *Kitaabi dthimmi* (Jew or Christian citizen of an Islamic state), because when Allah says: “and the food of the people of the Book is legal for you and your food is legal for them” He made the two groups - us and the people of the Book- to be equal (in this affair). Therefore, even if they make legal this kind of meat (which is slaughtered for other than Allah) we do not make it legal for ourselves since not everything they make legal is legal for us. Another point is that if there are two apparently contradicting proofs, one making something legal and the other making it illegal we give precedence to the one which makes it illegal since that is better and more correct. We also know for certain that slaughtering for other than Allah and in the name of other than Allah was never in the religion of any of Allah’s Prophets, may Allah have peace upon them, and thus it is from the *shirk* (idolatry, polytheism, associating partners with Allah) which they have innovated; therefore the very reason which allows us to eat their slaughtered animals is negated and Allah knows best. (*Iqtida` sirat-al-Mustaqeem bi-mukhalifat-ashubhal-jaheem*)

The train of argument here is very powerful: the reason their meat is allowed to us is that their slaughter conforms to our slaughter in that it is according to Allah’s religion, in His name, and with the cutting of the neck to drain the blood: if we know for certain that a Muslim did not conform to these rules in that he cut other than the neck or slaughtered for other than Allah, we would not allow his slaughter, and thus it is the same for a *Kitaabi*.

... [Portions deleted here]...[[[on The Greater Issue again: Is secularism a form of (disbelief) Kufir? and the relationship of Secularism to our present issue.

General Conclusion and Summary

The weight of evidence above proves conclusively that mentioning of the name of Allah (*tasmiyah*) at the time of slaughtering is a condition (*shart*) for making meat pure (*tayyib*) and lawful (*halal*). *Tasmiyyah* is therefore obligatory (*wajib*) upon the Muslim slaughterer and not merely an emphasized prescribed way (*sunnat-al-mu`akkidah*).

The other condition is *tadthkiyah* (purifying the meat by spilling the blood to flow out completely). The only proper way to slaughter is by *dthibh* (cutting of neck) or *nahr* (poking and then cutting of neck) when the animal is in our control. *Dthibh* and *nahr* are not a necessary condition in hunting or when the animal has run wild and amok since in these conditions one may shoot the animal mentioning the name of Allah upon firing. If the animal is still alive when he reaches it, then *dthibh* or *nahr* is performed to complete the slaughter. Trained hunting dogs and birds may also be used with the same conditions, the only stipulation being that if another dog or bird is found with the prey, the meat then is unlawful since the hunter does not know which animal killed the prey, the one he mentioned the name of Allah over, or the other dog or bird over which the name of Allah was not pronounced, as clearly stated by the Prophet, peace be upon him, in the *hadith* of 'Edi Ibn Hatim, may Allah be pleased with him.

Since there is much controversy about the obligation of *tasmiyah*, it has been shown that the necessity of *tasmiyyah* has been emphasized and reemphasized by every possible manner in the texts of the Qur'an and Sunnah;

1. the direct positive command to eat from that which Allah's name has been mentioned upon;
2. the direct negative command (prohibition) to not to eat from that which His name is not mentioned upon;
3. the encouragement to eat from that which Allah's name has been mentioned upon;
4. the mentioning that that which His name has not been mentioned is *fisq* (rebellious sinfull)
5. informing that those who obey the commands of the *mushrikeen* who legalize that which Allah has made illegal, become *mushrikeen* themselves; in this case, eating from that which Allah's name has not been mentioned upon, like dead meat (as mentioned in the Qur'an in *surat-al-An'aam*, verse No.121: Eat not of (meats) on

which God's name hath not been pronounced: That would be impiety. But the evil ones ever inspire their friends to contend with you, if ye were to obey them, ye would indeed be Pagans);

6. the information that not mentioning Allah's name at slaughter is an innovation of the *mushrikeen*;
7. the direct negative command (prohibition) to not slaughter in the name of other than Allah, which includes by all logic not only idols but the intentional refusal to mention Allah's name;
8. the information that mentioning Allah's name has been the practice of all believing communities;
9. the information that mentioning His name is worship;
10. the information that mentioning His name is from Islam (submission);
11. the information that mentioning His name is from *iman* (faith);
12. the information that mentioning His name is the *ihsan* (the best way);
13. the information that mentioning His name is *taqwa* (godfearing) of the heart;
14. the information that mentioning His name was the practice of Abraham, peace be upon him, and his followers, whom we are ordered to follow;
15. many specific examples of the Prophet's, peace be upon him, slaughtering in the name of Allah;
16. orders of the Prophet, peace be upon him, to the Muslims to slaughter in the name of Allah;
17. making the legality of eating any meat on two conditions: mentioning the name of Allah (*tasmiyyah*), and spilling the blood (*inhaar*);
18. the information that mentioning Allah's name is conditional for eating the game animal killed by hunting;
19. the fact that we have no evidence from the Prophet that leaving Allah's name intentionally is acceptable;

20. the information that mentioning Allah's name is conditional for the meat of our brothers from the believing jinn;
21. the fact that the *shayaateen* only may eat from that which has not had the mentioning of Allah's name upon it (and is slaughtered to idols and filth, etc);
22. the fact that the *shaitaan* always tries to make man forget the remembrance of Allah;
23. the fact that that which has not had Allah's name mentioned upon it is *fisq*, and by definition that is *khubth* and from the *khabaa`ith* which Allah has made unlawful
24. the information that the mercy and leniency of Allah is not to put undue hardship on the people who worship Him sincerely, and not to take them into account and to forgive them if they make a mistake and forget unintentionally.

The given evidences of the *Ulamaa`* who take the position that *tasmiyah* is only *sunnat-al-mu`akkidah* has been proven to be very weak or invalid as opposed to the strong, reasonable, clear and numerous valid proofs surmounted and accumulated as evidence by the majority position that *tasmiyah* is obligatory. Why and how do they make *tadthkiyah* an obligation without *tasmiyah*?

The evidences of the *Ulamaa`* who necessitate the *tasmiyah* even for the one who unintentionally forgets, has been proven to be unduly harsh and not within the spirit and texts of Islam permitting some mishaps and forgetfulness, and thus not rendering the meat totally *haram*.

The conditions of *tasmiyah* and *tadthkiyah* must also be fulfilled by *Ahl-al-Kitab*, the people of the Book -Jews and Christians- to make their slaughtered meat pure and lawful for Muslims. The conditions of *tasmiyah* and *tadthkiyah* were their religion before their innovations, their widespread nonobservances of religious laws, and eventually the development of the modern secular institutions which predominate and demote religious laws and practices and delegate them to the private domain. Those who deem the meats of the people of the Book legal without the conditions of *tasmiyah* and *tadthkiyah*, or with one without the other, still do not legalize their pork or carrion for instance, and they cannot and have not produced convincing evidence for their arbitrarily allowing this and not that. All meats slaughtered for other than Allah by Jews or Christians are unlawful just as they are if slaughtered by a Muslim. Slaughtering for other than Allah is greater *shirk* and the greater

kufr. Committing this form of slaughter makes one an apostate from Islam. It is a mistake to consider such meat lawful.

It is not of the *Sunnah* to examine and cross-examine the source of meat unless there is reasonable doubt about it being *haram* (unlawful). Practicing Muslims especially are to be respected by assuming that they are following this part of their religion since slaughtering with *tasmiyah* and *tadthkiyah* is a widely known distinguishing mark of a Muslim. It is allowed to suspect Jews and Christians, and even Muslims when it becomes commonly known that they leave the worships widely known in their religion generally, and conditions of religious slaughter for whatever reason specifically. In our age certain forms of apostasy have become predominate, yet even now one assumes that the Muslim or *Kitaabi* has properly slaughtered until specific information demands that suspicion takes precedence over the original state of not suspecting the source of the meat. The same can be said of imported meats in the markets of countries that make rules about the conditions of Islamic slaughter, as opposed to those who do not and have complete free markets.

Making general constitutional state laws and legislation (not including administrative and organizational rules) and taking something as absolutely and ultimately lawful or unlawful is a form of worship, to be done sincerely obeying Allah and seeking His Law from the source of His revelation in the Qur`an and Sunnah. Therefore legalizing the prohibited and prohibiting the lawful in opposition to Allah and His Messengers, is a form of major and greater *shirk* and *kufr*, committed by the Pagan idolaters and polytheists, the Jews and the Christians in their deviations. Any Muslim who does similarly, likewise deviates and commits major and greater *shirk*. This rebel against Allah and His Messenger, has been duly forewarned by Allah and His Prophet Muhammad, the final Messenger of Allah, peace be upon him, which is proven conclusively by the texts of the Qur`an and Sunnah and their explanations. Modern secular nations, and those who allow man made laws while calling themselves Muslims, have institutionalized this form of greater *kufr* and greater *shirk* in many aspects of life, and enforce it with all the powers invested in their institutions - by iron and fire and blood. Secularism is a religion (even if claimed otherwise) wherein lawmakers are worshipped besides Allah, Almighty and most Exalted, deference is demanded and institutionalized to secular leaders, law and practice, and dire punishment meted out for criminal disobedience. It is incumbent for the Muslims to strive for justice, truth, and the supremacy of the worship of Allah, His Word, His Law, His Religion, and to make it

dominate over all other words, laws and religions, which are, in the final analysis, forms of idolatry and exploitation of men by other men.

-----Concluded-----
And the praise is for Allah

الحمد لله رب العالمين الذي بعونه تتم الصالحات

والصلاة والسلام على رسوله المصطفى الأمين وآله وصحبه ومن أتبعهم بإحسان إلى يوم الدين

All praises for Allah by Whose aid are all good deeds completed, and peace and blessings be upon the Messenger Muhammad the Trustworthy One and his family and companions and those who follow them and their way until the Day of Judgment

اللهم صلّ على محمد وعلى آل محمد كما صليت على إبراهيم وعلى آل إبراهيم إنك حميد مجيد وبارك

على محمد وعلى آل محمد كما باركت على إبراهيم وعلى آل إبراهيم إنك حميد مجيد

O Allah send Your Blessings upon Muhammad and the family of Muhammad as you have sent Your Blessings upon Ibraheem and the family of Ibraheem, - Verily you are Praiseworthy, Glorious. And bless Muhammad and the family of Muhammad as you have blessed Ibraheem and the family of Ibraheem - Verily you are Praiseworthy, Glorious.

...If I have been correct in the words above then the praise is for *Allah* and His Messenger only, who are the source of all Truth,, and if I have made any mistake then it is from me and the *Shaitaan*, and Allah and His Messenger are absolved and free of it. We ask Allah, the Most Gracious and Merciful, to accept our good deeds and forgive our misdeeds, only He, the Exalted, is *al-Qareeb* (the Near One) *al-Mujeeb* (the Acceptor). May the peace and blessings of Allah be upon the Messenger of Allah, Muhammad, and upon his family, his companions and his followers until the Last Day.

كتبه الفقير الى مغفرة ربه

أبو سلمان ضياء الدين ابرلي

Written by he who seeks

the Mercy of His Lord

Abu Salman Deya ud-Deen Eberle

email: abusalman102@yahoo.com ||| abusalman102@gmail.com

////////////////////////////////////

Bibliography

Some references and source materials:

ARABIC SOURCES

- Allah's Book, the Majestic Qur'an
- The Sunnah (Way) of the Messenger, in the books of the Hadiths (Traditions), like for instance, Bukhari, Muslim, Abu Da'ood, Tirmidhi, Nisaa'i, Ibn Majah, Ahmad etc.
- Tafseer books which explain the Qur'an, like for instance Tabari, Ibn Abi Haatim, Ibn Jawzi, Baghawi, Qurtubi, Ibn Katheer, Suyooti, Saadi, Shangheeti, etc.
- Commentaries of the Hadith (Traditions), like Ibn Hajar Asqalaani's Fath al-Bari, Nawawi's Sharh-al-Muslim, Shawkani's Nail-al-Awtar, etc.
- Fiqh books from the various schools of jurisprudence, like Ibn Qudamah's al-Mughni, Nawawi's al-Muhath-thib, and Ibn Hazm's al-Muhallah,
- Books of fatawa (Islamic legal judgments) like Ibn Taymiyah's Majmu'a-al-Fatawa, and the permanent standing committee "al-lajnat-ad-da'imah" of KSA
- Special books on various subjects like Ibn Taymiyah's "Iqtida' siratal-Mustaqeem bimukhalifat-al-as-haabal-jaheem,"
- The Holy Bible of Jews and Christians
- Various websites and links, contemporary books and articles; with some representative sites and urls below:

- ash-Shaikh Muhammad Salih Uthaimeen

الشيخ محمد بن صالح العثيمين رحمه الله / اللحوم المستوردة

<http://www.taiba.org/entry3/fatawa/allhom2.htm>

- ash-Shaikh Sulaiman Nasir al-Ilwan

سليمان بن ناصر العلوان حفظه الله / ما حكم التسمية على الذبيحة؟

<http://www.alsalafyoon.com/SuliemaAlwan/TasmiehDabeeha.htm>

- Dr. Hussain Abdur-Razzaq al-Jaza'eri

والذبح أحكام الذبائح / الجزائري الرزاق عبد حسين الدكتور

www.islamset.com/arabic/ahip/zabeh.html

عبد الحي بن محمد بن الصديق المغربي:

«حكم اللحم المستورد من أوروبا أو الرد المحكم القوي على القاضي أبي بكر بن العربي والشيخ القرضاوي».

Other useful links in Arabic

<http://hadith.al-islam.com/Default.asp>

<http://www.al-eman.com>

<http://www.feqh.al-eman.com/>

<http://www.Qur`ancomplex.com/default.asp>

<http://hadith.ajeel.com/Display>

<http://www.alsalafyoon.com/>

<http://www.khayma.com/>

<http://arabic.islamicweb.com/>

www.awkaf.net/fatwaa/part2/hdr-atemaah.htm

www.alazhr.org

www.muhammad.com

www.dorar.net/

www.binbaz.org.sa

www.islamway.com/

www.albani-center.com

www.saaed.net

www.almaqdes.com

<http://abubaseer.com>

www.assiraj.bizland.com

www.islamtoday.net

www.islamonline.net/

www.islam-online.net

www.aljazeera.net

www.alminbar.net

www.islam-qa.com

www.almurabeton.org

www.al-montada.com/

www.aloswa.org

www.islamiyatonline.com
<http://ummah.net/alsalafyoon/>
www.uofislam.org
www.salafi.net/
www.kotob.hypermart.net/
www.yasaloonak.net/
<http://www.alfjr.com/showthread.php?threadid=6670>
www.alsaha.com
www.islamselect.com
<http://www.islammemo.com>
<http://www.islammmessage.com>
<http://www.alharamain.org/>
www.taiba.org/
www.zuhayli.com
www.almanar.net
<http://www.taimiah.org/>
www.sahwah.net
www.aloswa.org
www.alminbar.cc
<http://www.rabee.net/profile.shtml>
<http://www.sunna.com.ye/>
<http://www.sultan.org/a/>
<http://albayan-magazine.com/>
<http://www.sahwah.net/Nuke/saad.php>
<http://www.saaaid.net/Warathah/index.htm>
<http://www.alkhoder.com/nnn/index.php>
<http://www.aldesouky.com.kg/>
<http://www.h-alali.net/>
<http://aloqla.com/mag/index.php>
www.raddadi.com
<http://www.khayma.com>
<http://www.alminbar.net/>
<http://www.islam.org.au/>

<http://www.bashaer.com/>
<http://www.almanhaj.com/>
<http://www.aqsaonline.org/>
www.almuqatila.com
<http://www.al-fajr.net>

ENGLISH SOURCES

Other useful links and articles in English

- Ibn Kathir , Tafseer Ibn Kathir, Saifur-Rahman al-Mubaakpuri's English translation, Darussalam
- Maudoodi, A.A. (1976). The Animals Slaughtered by the People of the Book. Lahore: Ripon Printing Press
- Syed Abul 'Ala Maududi, Shaikh Al Phahim Jobe. 2000. Zabiha or Non Zabiha. Chicago, IL. Sound Vision Foundation. Available from

<http://www.soundvision.com/halal/healthy/maududi.shtml>

- DakotaHalal.com. "Who is Dakota Halal Processing Company?" 02/12/02.
<http://www.dakotahalal.com/who.htm>
- Pattni, Tarun. "TED Case Studies: India's Beef and Meat Exports to Rest of the World." 02/12/02.

<http://www.american.edu/projects/mandala/TED/indbeef.htm>

- THE LAW OF SHARIAH REGARDING MECHANICAL SLAUGHTER by Muhaddith-e-Kabeer, Imam Ahmed Raza Academy South Africa
<http://www.raza.co.za>
- Mufti Ebrahim Desai Cheung, Alex T.

Idol Food in Corinth: Jewish Background and Pauline Legacy

Sheffield: Sheffield Academic Press, 1999.

- Unknown author; ZABIHA, BUT IS IT HALAL