

Khat: Islamic Legal Perspective

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Aim

- To understand what is Khat and help policy makers and other interested parties appreciate the spiritual dimensions of the debates about the stimulant Khat and its possible impact on any regulatory frameworks.
- To examine the Islamic legal perspective of Khat by studying applicable passages from the Quran and prophetic traditions as well as investigating other sources of Islamic Sharia.

What is Khat?

Khat

Qat

Mira

Abyssinian tea

African Salad

Tchat

Chat

Harari

Awaday

Gisii



What is Khat?

- Khat is a natural stimulant derived from the (*Catha edulis*) plant
- Its tender leaves are chewed to attain a state of euphoria.
- The consumption of the plant is associated with psychological, health and socio-economic issues on humans (Karunamoorthi et al 2010:112).

Existing available literature on Khat

- Generally focuses on its effects on communities that consume, trade and cultivate the stimulant plant.
- These studies mainly deal with the plant's botanical, pharmacological, social and economic perspectives.
- Studies of (Elmi 1983; Al-Hebshi and Skaug, 2005; Gebissa, 2004; Armstrong, 2008).

Existing available literature on Khat

- There is an emerging literature on regulating Khat due to large numbers of immigrants from traditionally Khat chewing societies to the west.
- Douglas and Pedder (2010) – Legal Regulation of Drug Khat in Australia.
- The apparent gap in literature is failure to detect the extent to which consumers of the plant Khat relate to the habit of chewing it to religion and culture.

Reasons why consideration of Islamic ruling of Khat is important.

1. Muslims are the primary consumers of Khat” (Armstrong, 2008:638).
2. Debates about Khat are theological and cultural as much as they are social and economical.
3. Increasing numbers of immigrant groups from traditionally Khat chewing societies to Australia.

1. Prevalence of Khat consumption in Muslim societies.

- Khat is commonly used by people in East Africa and the Arabian Peninsula including Yemen, Ethiopia, Somalia, Kenya, Uganda, Djibouti and Tanzania.

“Ethiopia produces Khat on the order of \$400 to \$500 million at wholesale price. A third of this is exported to Djibouti, Somaliland, Somali Regional State and Somali community in Addis Ababa. A significant amount is also consumed in Oromia Regional State. In nearly all of these areas, the consumers are Muslims (Gebissa, 2008)”.

2. Theological and Spiritual dimensions of the Khat debate

- Khat has been referred to a number of spiritual and religious terms:
- “The Leaf of Allah” (Gebissa, 2004)
- “Flower of paradise” (Anderson et al. 2007)
- *Qut-ul-salihin* “sustenance of the righteous” (Wagner, 2005).
- The cursed tree (Anderson et al. 2007).

The view that Khat is a holy tree.

The words of Adem Aliyu Jeylani (Gebissa 2004).

“Khat is a tree that God loves. It’s a tree blessed by Rabi (God) and given to us. This is a tree that man cannot command. A lot of people with power have tried to control it, especially the price of selling the leaves. None has succeeded so far. This tree is not just another ordinary plant; it is a “Leaf of Allah” (Gebissa 2004).

The view that Khat is unholy tree.

According to Ethiopian Christian Orthodox communities:

“Khat was cursed by God forever to be chewed by humans because of causing a divine displeasure when God came to Earth and all the plants bowed before him showing ultimate respect with the exception of Khat” (Anderson et al, 2007).

3. Increasing Muslim migrant populations from traditionally Khat chewing societies.

- Concerns of these groups maintaining the habit of Khat chewing in Australia.
- Khat utilisation is central to the lives of many members of immigrant communities in the West (Armstrong, 2008)”.
• Chewing Khat is a central activity during the week long Yemeni wedding (Wagner, 2005, p. 137).

Islamic legal position

- Components of Islamic Law
- Sources of Islamic Law
- Higher objectives (*maqasid*) of Sharia
- Prohibition of Intoxicants etc
- Khat from a legal perspective

Components of Islamic Law

- *Shariah* (Lit: ‘path’, ‘way’, or ‘guide’)
 - Revealed/Divine aspect of Islamic law
 - Based on the normative and legal injunctions of the Quran and Sunnah
 - Reflects Islamic morals, values, and practical legal rules
- *Fiqh* (Lit: ‘knowledge’ or ‘understanding’)
 - Human understanding of how to apply or implement what is contained in the Quran and Sunnah
 - Concerned with practical legal rules that relate to individual conduct

Shariah

- **Characteristics**

- Divine Origin (Qur'an and Sunnah)
- Comprehensive
- Universal
- Goal Oriented

- **Objectives**

- Uphold fundamental human rights
- Education
- Justice and equality
- Preservation of public interest

Shariah & Fiqh: Basic Distinctions

- *Shariah*:
 - body of revealed laws found in both the Quran and Sunnah;
 - basically fixed and unchangeable;
 - largely general; lay down basic principles.
- *Fiqh (jurisprudence)*:
 - body of laws deduced from Shariah to cover specific situations not directly treated in the Shariah law;
 - changes according to the circumstances under which it is applied;
 - tends to be specific; demonstrates how the principles of Shariah should be applied in given circumstances.

Sources of Islamic Law

- Revealed Sources:
 - Quran
 - Sunnah
- Non-revealed - Juristic Reasoning (*Ijtihad*):
 - *Qiyas*- Analogical reasoning
 - *Istihsan*- Juristic Preference
 - *Istislah*- Public Interest
 - *Sadd al-Dharai*- Blocking the Means
 - *Istishab*- Presumption of Continuity
 - *Ijma*- General Consensus of the learned
 - *Urf*- Customary Precedent

Important principles

- Two important principles guide jurists in their ijtihad:
 1. *Istishab* – meaning continuity. A ‘situation’ or thing known to exist continues to exist until its opposite is proven. Eg, the principle of Islamic law that a person is innocent until proven guilty
 2. *Ibahah* – anything is permitted if it is not expressly prohibited
 3. *Bayina* – a plaintiff or accuser bears the burden of proof. E.g., adultery.

Higher objectives (*maqasid*) of Sharia

- *Maqasid* are derived by a system of reasoning known as *istislah*, which focuses on the **common good of mankind**
- They deal with the **essentials of life itself** and the **quality of life**.

Higher objectives of Sharia

- The basic objective of the Sharia is the preservation of necessary human interests that are determined by Islamic scholars to be five:
 1. religion,
 2. soul,
 3. mind,
 4. progeny, and
 5. property.

Prohibition of Intoxicants etc

- Based on the Qur'an and Hadith, Islam has prohibited all types of intoxicants (2:129, 5:90-91, 16:67).
- Smoking was not discussed by primary Islamic sources or classical scholars.
- But using *ijtihad* (independent legal reasoning) smoking has become categorised as prohibited based the fact that smoking causes damage to all the human interests that the Sharia aims to protect – the *maqasid*.

To Khat or not to Khat?

- For centuries Khat was approved by religious scholars of Yemen.
- Recently, it prohibited by other leading scholars at the *International Conference for Combating Intoxicants, Narcotics, and Smoking* held in Saudi Arabia.
- Khat was categorized under narcotics (because it causes stupor and numbness) and smoking.

Prohibition

- The Saudi scholar, Sheikh Muhammad ibn Ibrahim deemed khat prohibited to cultivate, sell or use, because:
 - “it leads to harms that affect a Muslim’s mind, religion, and body and wastes their money leaving them severely addicted to many evils”

Grounds for prohibition

- Aisha said that the Prophet Muhammad “forbade every intoxicant and narcotic”
- **Waste of money** – this can fall under extravagance (or prodigality)
- **Waste of time**
- **Misuse of land** – 30% of Yemeni land is planted with khat, while Yemen imports wheat & other foods.
- **Social, physical & psychological effects**