

**MISREPRESENTATION AND BREACH OF FOOD STANDARDS:
NAM LEONG DEPARTMENT STORE (MIRI) SDN BHD V PUBLIC PROSECUTOR [2013]
2 MLJ 302**

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ABSTRACT

This case study provides comprehensive academic and practical insight into the High Court appeal *NAM LEONG DEPARTMENT STORE (MIRI) SDN BHD V PUBLIC PROSECUTOR [2013] 2 MLJ 302* and the implications on food law, consumer protection law, supply chain compliance, and the new era of Halal forensic science. The appellant was charged under section 13B(1) read together with Section 13B(2)(e) of the Food Act 1983 and Regulation 285(3) of the Food Regulations 1985 for supply of fine salt that lack iodine levels (13.7 mg/kg as opposed to the legal average of 20-30 mg/kg). This study examines on how Malaysian law implementing by protecting the honesty and a strong moral principle of Halalan Toyibban products. The discussion describes any companies cannot refer only on Halal certification or agreement from their suppliers. They need to ensure that every steps are complying to halal standards and considering it with Malaysian law and Islamic values which demand transparency and honesty. Importantly, the study also reveals that Halal forensic techniques such as Polymerase Chain Reaction (PCR), chromatography and mass spectrometry help to identify fraud, contamination and non-halal ingredients. These techniques help to protect the supply chain as well as ensuring halal products stay safe and reliable.

Introduction

In today's global economy, the importance of protecting public health, consumer rights and religious dietary requirements are needed in food safety, nutrition and compliance regulations. When food supply chains become more involved, raw ingredients frequently pass through a lot of suppliers, distributors, packaging companies and transportation providers before reaching customers. According to Omar et al. (2013), this long and complex process enlarges the risk of problems. The product may be unintentionally contaminated or purposely changed with low-cost or unauthorized ingredients to make more income.

In Malaysia, there are two main systems that control food quality and safety. Firstly, the Food Act 1983 and the Food Hygiene Regulations 1985, which establish guidelines on food ingredients, additives, labeling and nutrition. Secondly, the system is focused on halal requirements based on the Halalan Toyyiban Islamic concept, which indicates food needs to be legal and nutritious. The concept of Halalan Toyyiban is not about verifying food does not comprise pork or alcohol only but it demands good cleanliness, food safety, proper experimentation for harmful elements and good nourishing quality (Neio Demirci et al., 2016).

The High Court case *Nam Leong Department Store (Miri) Sdn Bhd v Public Prosecutor* [2013] 2 MLJ 302 reveals issues on food safety and halal-related conducted by Malaysian courts. From this case, a retail store acquired huge amounts of fine salt from an authorized importer. The company then rewrapped the salt into its own branded packets and marketed them without conducting their own laboratory testing. Afterward, the authorities discovered that the salt did not fulfill Malaysia's public health necessity, especially the obligatory level of iodine. Consequently, the company confronted legal sanctions and penalties.

This case demonstrates that documentation or paperwork does not define a product is safe or halal certified, they must attend an on-site inspection and verification of the supplier company. It is also emphasized the importance of Halal forensics which covers biotechnology methods, analytical chemistry and forensic science to authenticate halal products. With these scientific methods along with an Islamic guidance, it can enhance and improve the compliance of legal law, securing public health and sustaining consumers confidence in halal products.

Comprehensive Synopsis of Case Facts and Legal Proceedings

The Onset of the Violation and Statutory Framework

The case began when health officers from the Miri Health Office carried out a schedule inspection at Nam Leong Department Store in Miri, Sarawak and gathered samples of products for testing. The officers purchased standard packets of fine salt displayed for commercial sale under the store's house brand. These samples were systematically recorded, sealed and dispatched to a designated government laboratory for quantitative chemical profiling.

The chemical report compiled by the state analyst revealed that the fine salt contained an iodine concentration of merely 13.7 mg/kg. This finding basically was a direct violation of Regulation 285(3) of the Malaysian Food Regulations 1985. The regulation kind of spells out, that any salt that is meant for people to eat within the state of Sarawak has to be fortified with potassium iodate and this should result in a steady iodine level of 20-30 mg/kg.

STATUTORY IODINE PROFILE UNDER REGULATION 285(3)	
Mandated Concentration:	20.0 mg/kg --- 30.0 mg/kg
Appellant's Content:	13.7 mg/kg <--- [Deficiency Trajectory]

TABLE 1

The strictness of this regulation is tied to long-standing public health initiatives. Sarawak has historically been designated an endemic area for Iodine Deficiency Disorders (IDD), such as goiters and associated neurodevelopmental deficits. Consequently, the state utilizes mandatory salt iodization as a preventative healthcare strategy. Under-iodized salt is viewed not just as a minor technical variance, but as a direct challenge to state disease-prevention policies.

The Change and Lower Court Adjudication

The Public Prosecutor initiated criminal proceedings against Nam Leong Department Store under Section 13B(1) of the Food Act 1983, to be read alongside Section 13B(2)(e) of the same statute. Section 13B explicitly addresses the sale of adulterated or non-compliant food items. Specifically, subsection (2)(e) states that a food product is deemed adulterated if it contains less than the minimum statutory concentration of any constituent by written regulation.

At the Magistrate's Court, the prosecution set out the physical parts of the wrongdoing (*actus reus*): the defendant allegedly sold fine salt and that salt did not satisfy the legal nutritional requirements. The appellant then came back with three key points, more or less, which were:

Total Lack of Intent (*Mens Rea*): The corporation argued it had no desire, intent or knowledge to distribute deficient salt.

Upstream Supplier Reliance: The store argued it acted in good faith, purchasing the salt in bulk from a licensed, verified importer and only performing secondary repackaging.

Due Diligence Defenses: The defense argued that as a general retailer, it lacked the specialized lab infrastructure needed to test every incoming bulk shipment of basic commodities.

The Magistrate rejected these arguments, convicting the department store and imposing a statutory fine. The store appealed the ruling, bringing the matter before the High Court of Sabah and Sarawak at Miri.

The High Court Judgement and Legal Precedent

The High Court upheld the lower court's conviction, delivering a judgement that clarified the strict nature of statutory liability within Malaysian food law. Justice Stephen Chung focused on the statutory defense mechanism provided by Section 23 of the Food Act 1983. Section 23 provides a conditional defense for a non-manufacturing seller if they can satisfy the court that:

They did not know and could not with reasonable diligence have ascertained, that the food failed to comply with statutory terms.

They took all reasonable steps to ensure compliance at every phase of custody.

The High Court decided that the appellant's operational did not take enough reasonable workflow in the carrying out its business operations. The company only counted on the documents given by the authorised importer documentation without verifying batch analysis reports to confirm that the product was safe. Furthermore, it also did not carry out spot checks to inspect the product and failed to consult the health authorities before sell the health product under its own brand. The court will be found that the appellant did not met with the required standard due to diligency from those failures.

The court referred to the fundamental of common law cases on public welfare offenses including *Lim Chin Aik v Regina* [1963] 1 MLJ 50 and *Public Prosecutor v Koo Cheh Yea & Anor* [1980] 2 MLJ 235. These cases tells about the public establishes for welfare offenses that based on thge principle of liability is strict. So, it means the prosecution does not need to prove the accused had intention or dishonest state of mind guilty. Once the scientific evidence proves the products that does not meet the legal requirements has been distributed, the company can already held the responsible. Moreover, to prove the company had taken all reasonable and effective

Intellectual Intersection: Food Safety Legislation and Halalan Toyyiban

The judgment in *Nam Leong* provides a pretty good, a sort of framework for looking at how secular public health statutes line up, or maybe do not line up with Islamic dietary law. The idea of Halal is often misunderstood when it comes to buying and selling things around the world. People think it is about checking a few things to make sure something does not have anything bad in it like pig parts or meat from animals that were not slaughtered in the right way. Halal is not just about checking a list. In Islamic law, Halal is firmly connected with *Toyyib*. By according to Saad (2020), Halal and *Toyyib* cannot be separated which define a product that is safe, clean and good quality is considered truly halal.

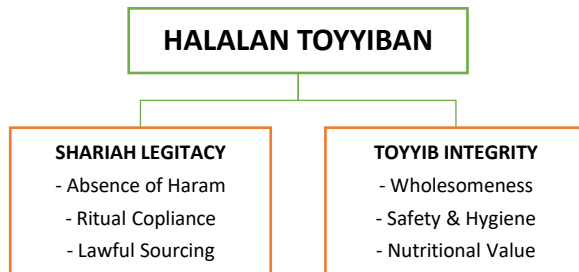


TABLE 2

The Quran educates Muslims to consume food that is Halal and *Toyyib*, which defines lawful, safe and nutritious for health. The thing that goes against principle of *Toyyib* is manufacturers should not sell goods that are dissimilar from what they demand or not contain necessary nutrients. From the *Nam Leong* issue, the company marketed salt that not containing sufficient iodine. Sarawak is known as one of the states in Malaysia that use iodine as an important nutrient for people's health. When a manufacturer selling salt without enough of iodine, it could harm consumers especially at-risk groups. This situation goes against the main objective of Islamic law which is *Hifz al-Nafs* means guarding human health and life. Therefore, the food must not only be Halal but also *Toyyib* as required by Quran and Islamic law.

In addition, Islamic commercial law (*Muamalat*) firmly highlights consumer protection, truthfulness and transparency. It also forbid *Gharar*, which means fraudulent or uncertainty in business transactions. The action that may mislead customers is when a company selling a product under its own name without identifying its actual information. By reason of consumers are always expecting a product in a safe, good quality and compliance with health standards.

The *Nam Leong* case shows that neglecting to comply with food safety laws means failing to fulfill the *Toyyib* standards of Halal. The genuine quality and protection of a product are more important than the company's objective, as described by the High Court. This is similar to the principle of Islamic (*Qawaid Fiqhiyyah*) "*al-Darar Yuzal*", which defines "harm must be eliminated". Hence, companies that manufacture Halalan *Toyyiban* food must cautiously obey public health and food safety regulations. By doing this, it is a religious obligation, not only a legal responsibility. Islamic law and the High Court acknowledge that food must be wholesome, safe and free from whatever that potentially cause harm.

The Strategic Role of Halal Forensics and Analytical Validation

A vital issue in the *Nam Leong* case occurred when the company challenged the evidence given by the government chemist (PW1). Under the Section 45 of the Evidence Act 1950, it requires the chemist must be an expert person in testing the iodine content of salt, so the company argued that the chemist was not proven in the case of prosecution.

The High Court rejected this argument for two main reasons:

- i) The government chemist was officially pointed by the Minister under Section 3(1) of the Food Act 1983.
- ii) Section 20 of the Food Act 1983 stated that an authorized analyst that signed Certificate of Analysis (CoA) is accepted as evidence of the test results except if proven alternately.

The court has decided to accept the scientific evidence because the defendant did not successfully contested the chemist's experimenting methods or gives a diverse test report from an independent laboratory.

This reliance on scientific evidence is identical to the legal and operational realities of Halal Forensics. As noted by Yusop and Bakar (2020), modern industrial adulteration has moved beyond obvious visual changes to complex molecular, cellular and chemical alterations. To police these supply chains, regulatory bodies like the Department of Islamic Development Malaysia (JAKIM) rely heavily on advanced forensic testing.

If a food company is caught passing off non-compliant products, whether through pork DNA contamination, unapproved animal ingredients or unauthorised synthetic additives, this issue can not be solved by just looking. It takes rigorous lab testing from accredited forensic scientists, as discussed by Sosiawan et al.(2020).

Analytical Method	Targeted Application in Halal Forensics	Corrseponding Regulatory Objective
Real-Time Polymerase Chain Reaction (qPCR)	Amplification and detection of species-specific mitochondrial DNA sequences (eg., <i>Sus scrofa</i> porcine profiles).	Identification of illicit meat contamination and authentication of animal origins.
Gas Chromatography-Mass Sepctrometry (GC-MS)	Separation and structural identification of volatile compounds and complex lipid structures.	Quantifying hidden alcohol volumes, tracing lard-based fatty acids and tracking synthetic carriers.
High-Performance Liquid Chromatography (HPLC)	Liquid matrix separation coupled with high-resolution UV or mass detection systems.	Identifying non-halal gelatin sources, screening for restricted synthetic preservatives and profiling dairy fractions.
Fourier Transform Infrared Spectroscopy	Mapping chemical functional groups via specific infrared	Rapid, non-destructive screening for lard, tallow or structural porcine fat

	absorption profiles.	mixtures in food bases.
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TABLE 3

The Nam Leong cases teaches us that science when performed by an authorised analyst using validated protocols, carries immense weight in a court of law. This points to the need for Halal forensic laboratories to maintain a strict chain of custody, use well-established equipment and obtain international laboratory accreditations such as the ISO / IEC 17025 standard. If the lab testing processes are flawed or not prescribed in legislation, the entire structure collapses, public and religious consumers are exposed to untested goods (Baharuddin et al., 2022).

Supply Chain Vulnerabilities, Upstream Reliance and Risk Mitigation

The central operational failure of the appellant in Nam Leong was their reliance on upstream assumptions. The store's management believed that because the bulk salt was sourced from a reputable international importer, it was safe to repackage and distribute under their house brand without further verification.

This operational vulnerability is highly prevalent in modern Halal supply chains. According to Omar et al. (2013), the contemporary agri-food industry features deep tiers of globalized ingredient sourcing. A single processed food product can contain emulsifiers from Europe, enzymes from East Asia, stabilizers from the Americas and base proteins from Oceania.

EXTENDED SUPPLY CHAIN VULNERABILITY MATRIX

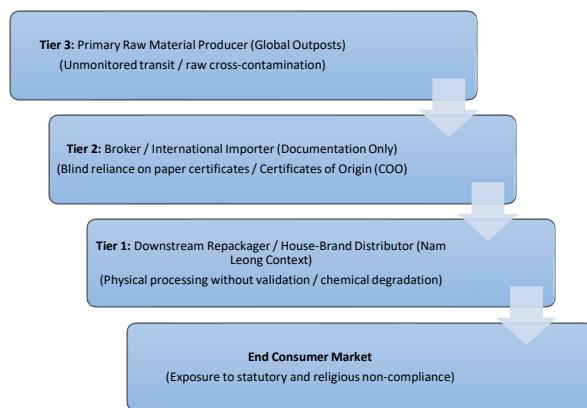


TABLE 4

In this complex ecosystem, companies frequently adopt a dangerous practice: treating paper Halal certificates as complete proof of compliance, without establishing continuous monitoring systems (Neio Demirci et al., 2016). This creates distinct supply chain vulnerabilities.

The Risk of Document Deception and Certificate Fraud – Paper certificates are easily faked, changed or stuck on production batches they are never supposed to cover. If you go further down the supply chain and just log the supplier's paper certificate without checking its authenticity from the issuing Halal authority then you are still at high risk of breaching their compliance (Saad, 2020).

Cross-Contamination in Logistics & Transshipment – Even if a raw ingredient is perfectly compliant at its origin, it is exposed to contamination risks on its journey. Bulk shipping containers, shared transport vehicles and multi-tier warehouses can all become contaminated if non-halal or toxic substances were previously stored or handled there without proper cleaning (Omar et al., 2013).

Chemical Degradation and Processing Failures – As demonstrated in Nam Leong, processing conditions can alter a product's composition. Iodine compounds in salt can degrade through exposure to high humidity, bad storage or poor industrial blending while re-packaging. Halal Critical Ingredients (HCI's such as Active Enzymes, Vitamin and Probiotics) could also undergo molecular degradation or change its

state chemically during manufacturing process thereby compromising their regulatory and shariah compliances.

To overcome these vulnerabilities, Karim (2021) maintains that the global food industry needs to abandon reactive ‘compliance’ models and embrace proactive, data-based frameworks informed by Total Quality Management (TQM) and Halal Analysis Critical Control Point (HACCP).

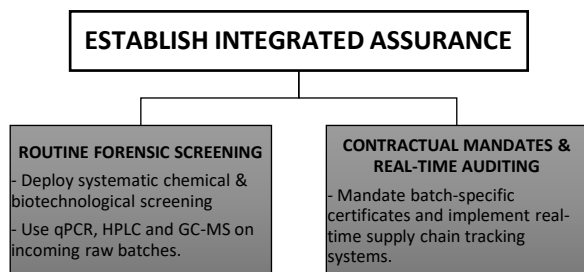


TABLE 5

The High Court’s decision in Nam Leong delivers a clear message to commercial operators: trust is not a control measure. True due diligence means companies need to establish systematic forensic testing, regular supplier audits and clear tracking of products at every stage of the supply chain.

Conclusion

The High Court decision in Nam Leong Department Store (Miri) Sdn Bhd v Public Prosecutor continues to be a leading case in Malaysian law, setting out the restrictive ambit of strict liability under food regulation and public welfare control. The court declared that the responsibility for product integrity rests unequivocally with food operators, holding that a lack of intent, commercial good faith or reliance on third-party suppliers will not excuse non-compliance with statutory standards.

When applied to the global Halal industry, Nam Leong highlights the urgent need to integrate secular food safety standards with Shariah principles via the framework of *Halalan Toyyiban*. Paper guarantees are no longer sufficient to secure modern, multi-tiered ingredient networks (Neio Demirci et al., 2016).

Consistent adoption of Halal Forensic Science (Yusop & Bakar, 2020) is critical to ensure consumer protection, while also enabling proactive rather than reactive testing practices among food manufacturers that leverage advanced molecular biology and analytical chemistry methodologies and solid quality control. Applying such rigorous scientific scrutiny to products ultimately fosters consumer trust in the credibility of the global Halal market, ultimately ensures the welfare of the public and also guarantees a level of quality standards that meet regulatory requirements.

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