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HALAL OPERATIONAL INTEGRITY, WHISTLEBLOWING, AND THE ABSENCE OF FORENSIC VERIFICATION IN AN INDUSTRIAL DISMISSAL DISPUTE: A CASE REVIEW OF NORIZAHAM BIN CHIK V PANGKOR DISCOVERY & OUTDOOR QUEST SDN BHD [2010] ILJU 281

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ABSTRACT

The traditional means of analyzing halal integrity in Malaysia is by certification, labelling and laboratory verification of food products. This case analysis does not fit within this traditional scope, and it relies on Halal Forensic principles. In reviewing Norizaham Bin Chik v Pangkor Discovery & Outdoor Quest Sdn Bhd, an award of the Industrial Court of Malaysia (Ipoh, Perak), whereby a kitchen worker was dismissed after he had reported to the employer about the supposed use of samsu (alcoholic liquor) by a fellow kitchen worker at a resort that claimed to operate a food and beverage business as a halal business. Using the doctrine of condonation, the Industrial Court declared the dismissal to be unjustified or unreasonable and that the samsu allegation was an afterthought of which the employer had not presented any documentary, physical or expert evidence. This case is placed in the context of the Industrial Relations Act 1967, the Trade Descriptions Act 2011, the Malaysian Standard MS1500:2019 and the Whistleblower Protection Act 2010. These assesses the documentary, physical and expert evidence that is presented or has never been presented in the Court. More so, it explains its implication on the halal management, internal compliance reporting and the health and trust of Muslim consumers and employees in the Malaysian halal industry.

Introduction

The position of Malaysia as a leading halal certifier in the world is not based on the existence of a logo on a completed product. It is also reliant on the operational integrity of the premises, the supply chains and staff producing, preparing and serving food to Muslim consumers (Lord et al., 2022). Next to that, halal Forensic Science has long been occupied with scientific validation of such claims at the product level, such as by performing analytical and chemical testing on ingredients (Jaswir et al., 2016). It also via the proposed laboratory infrastructure that has been suggested when it comes to halal analysis in general (Yuswan et al., 2020). Nevertheless, halal integrity may be violated or justified in places which never see a laboratory bench at all. As an illustration, the kitchen of a resort, the minutes of an in-house disciplinary hearing or the testimony provided before an Industrial Court.

The Trade Descriptions Act 2011 and the Trade Descriptions (Certification and Marking of Halal) Order 2011, constitute the main statutory framework by which Malaysia regulates false or misleading representations about halal to consumers and civil and criminal liability of a trader as a result of misleading labelling of food has been considered in the Malaysian legal literature (Ismail et al., 2018). Nonetheless, empirical studies of the Malaysian halal food sector indicate that the validity of a halal assertion is not so much influenced by the presence of these extrinsic tools but by what transpire within the four walls of the business itself. A recent industry-wide survey found the own halal control system activity of an establishment along with the dedication of its owners, management and employees as the most reliable factors to identify whether a halal standard is truly applied or is only on paper (Sari et al., 2021). It is specifically this internal aspect of halal compliance and not the more traditional landscape of packaging and certification, which the case under analysis in this review brings into a sharp focus.

Norizaham Bin Chik v Pangkor Discovery & Outdoor Quest Sdn Bhd [2010] ILJU 281 was a case about a representation of precisely this internal type like the food made at Teluk Batik Beach Resort, Lumut, Perak was made in a halal operation. The claimant, Norizaham bin Chik is an Assistant Executive Chef was fired on 6 August 2005. Some of the causes that were later presented by his employer, Pangkor Discovery & Outdoor Quest Sdn Bhd as reasons why he should be dismissed included an allegation that he was slandering a fellow chef by accusing him of using samsu in the kitchen. In an award made on 1 March 2010, the Industrial Court held that this allegation together with the others made against the claimant were afterthoughts that had been condoned by the very failure of the Company to take action and awarded the claimant a compensation and backwages amounting to RM49,720.00.

This review goes on to discuss the regulatory framework involved in the case, the facts and result of the Award, the documentary, physical and expert evidence, or lack thereof, before the Industrial Court, and the wider issues the case raises to the halal management, internal compliance reporting and consumer and employee health, before concluding with proposals of reform. The hidden agenda is to elicit what the near complete lack of forensic involvement in the samsu allegation as opposed to its existence can teach us about halal management on the ground of the mundane Malaysian workplace.

Industrial Relations Act 1967

Being a case that was decided on pursuant to section 20(3) of the Industrial Relations Act 1967 (Act 177), the case was not subjected to a statute that was specific to halal law, but rather the case was subject to the general labour law. Section 20(3) allows the Minister of Human Resources to make a referral to the Industrial Court of a representation of unjust dismissal and section 30(5) of the Act requires the Court to exercise its powers under equity, good conscience and substantial merits of the case and not to be restricted by technicalities or legal form. It is the responsibility of the employer to prove that a dismissal was due to just cause or excuse (Wong Chee Hong v Cathay Organisation (M) Sdn Bhd [1988] 1 MLJ 92). Besides, the Court will only look into the reasons the employer in fact advances and not the reasons it could have advanced (Goon Kwee Phoy v J and P Coats (M) Bhd [1981] 2 MLJ 129).

Even though it is more of an employment law, its interpretation in Norizaham involved the Court considering an allegation based on the compliance of halal. It showing that labour law and halal regulation may come into contact even in the absence of any halal-related provision that is asserted by either party.

Trade Descriptions Act 2011

Norizaham did not rely on the Trade Descriptions Act 2011 because the case was decided as an unfair dismissal reference, but not a criminal prosecution. Its applicability to this review rather resides in the fact that the Company itself describes its food and beverage business as a halal operation and the potential implication that this description has on the guests of a general resort. The Act outlaws false description to a material extent, or false description that is not false, but is false in a misleading sense to consumers. One of the standards that has received a long-term scholarly discussion on the liability of traders in false food labelling in Malaysia (Ismail et al., 2018).

The Trade Descriptions (Certification and Marking of 'Halal') Order 2011 vests the Department of Islamic Development Malaysia (JAKIM), and the State Islamic Religious Councils with the authority to the standardised halal logo and certification process which strengthens the principle that any representation of halal status, whether printed on the packaging or operationally done to guests of a resort, is part of a framework of public responsibility and not a matter of personal discretion.

Malaysian Standard MS1500:2019

The MS1500:2019 Halal Food General Requirements of the Department of Standards Malaysia establishes the national standard of halal food production, preparation, handling and storage including the exclusion of khamr throughout the production chain. It was backed by documented internal procedures and corrective action in case of suspected deviations. Observation of MS1500 implementation in the Malaysian halal food industry has established that the intensity of the interior halal control system activity and the dedication of the owners, management, and employees of an establishment, as opposed to finance or external regulation which is what most consistently define whether or not the standard is truly implemented (Sari et al., 2021).

There is no mention of this standard in the Award itself. This omission, as we have seen in Section 6, is in itself instructive, as such an internal standard is just the type of standard which ought to have dictated how the Company would respond to the complaint by the claimant.

Whistleblower Protection Act 2010

The most apparent statutory candidate to protect an employee in the position of the claimant is the Whistleblower Protection Act 2010 (Act 711) of Malaysia. The Act was created to promote and support the disclosure of improper conduct in the public and in the private sector by providing protection against harmful action to individuals who disclose improper conduct (Wan Hashim et al., 2025).

Protection under the Act however is only applicable where the disclosure is made to one of a closed list of statutory enforcement agencies like the Royal Malaysian Police or the Malaysian Anti-Corruption Commission and not where the disclosure is made internally just to the management of the employee as was the case in the present instance (Wan Hashim et al., 2025). There is a risk that an employee who brings a halal compliance issue to the attention of only his employer but of serious concern may be.

Fact of the Case

Norizaham bin Chik started working on 1 May 2004 as a Kitchen Supervisor with Peringan Enterprise Sdn Bhd that is an entity that provided food catering services to Teluk Batik Beach Resort in Lumut, Perak. In the case of this catering business, which was acquired by Pangkor Discovery and Outdoor Quest Sdn Bhd, the claimant was incorporated into the new business as an Assistant Executive Chef under a letter dated 15 February 2005. His monthly salary was RM1,700.00, which was added to a monthly incentive allowance of between RM300.00 and RM500.00 which depended on the total sales made by the Resort in the particular month.

The Company ended the employment of the claimant with effect on 6 August 2005 and based on a provision in his contract of employment. It enabled any party to terminate employment relationship after giving notice after one month or salary in lieu of notice without necessarily having to provide reason why they did so. The termination letter did just that, referring to the contractual clause and stating no substantive reason whatsoever as to why the person was dismissed.

When the case came to the Industrial Court, the Company attempted to ex post facto defend the dismissal by arguing a number of cases of alleged misconduct against the claimant. They are insubordination towards the Managing Director, embarrassing a customer, sabotaging the Company's business and slandering a fellow employee. It is this fourth allegation that brought directly to bear on halal compliance which is the case of the Company that surrounds the claimant accusing Tan Gee Fook, the Chef of Chinese Cuisine of the Company, of using samsu in his cooking. The Award notes that the Company considered its food and beverage business in the Resort to be a halal business where alcohol could not be used in preparing food.

Of critical importance, the Company led no evidence as to what, if anything it had done about the complaint when it was raised. Whether it was inquired into, whether the kitchen or what was in it was ever inquired into, or whether Tan Gee Fook was questioned, suspended or cleared. The accuser was accusing his colleague on the own evidence of the Company and was just left unsolved. Likewise, the other three allegations against the claimant. An example of this is the argument with the managing director on 1 May 2005 that ended in a handshake and an apology, the argument with a member of staff of a spa that was situated on the resort premises over a food order, and the allegations of sabotage in the form of third party complaints, delays in service and a derogatory remark made about the claimant that all had happened weeks or months before the dismissal and no disciplinary action was taken against him at the time the allegations were made.

Summary of the case

This issue was referred to the Industrial Court through a ministerial reference dated 21 June 2006 under section 20(3) of the Industrial Relations Act 1967. It is first heard by Y.A. Madam Choong Siew Khim, over a series of sittings between April 2008 and December 2008. The further appointment of Madam Choong Siew Khim to the High Court of Malaya made her functus officio in the case and, with the consent of the parties, the management of the file was transferred to a successor Chairman who heard final oral submissions on 21 January 2010 and made the Award on 1 March 2010.

The only question to the Court was whether the dismissal of the claimant had been with or without just cause or excuse. This narrowing down of its enquiry as necessitated by Goon Kwee Phoy v J and P Coats (M) Bhd [1981] 2 MLJ 129 to the reasons actually pleaded by the Company, the Chairman considered each of the four alleged causes of action, and found in relation to each that the failure of the Company to act on them itself at the time constituted condonation and application of the doctrine expressed in Azman bin Abdullah v Ketua Polis Negara [1997] 1 CLJ 257 and National Union of Plantation Workers v Kumpulan Jerai Sdn Bhd, Rengam [2000] 1 CLJ 681. The aspects of that doctrine, complete knowledge of the alleged misconduct by the employer, unwarranted latitude in responding to it and misconduct which may be subject to waiver of the right to punish have since been further developed in Malaysian jurisprudence on handling disciplinary cases (Romli et al., 2016). The slander claim in relation to samsu had no connection to the dismissal at all as it was not proven that it had brought any calculably harm to the Company in any way and in any case it was an imputation upon a fellow employee and not on the conduct of the claimant himself.

The Court found that the claimant was fired without just cause or excuse. However, the Court also concluded that the case did not warrant reinstatement because of what seemed to be animosity that had evolved between the parties throughout the litigation. The Court, therefore, awarded monetary compensation in lieu of reinstatement in the amount of RM2,200.00, which was one month salary, including the upper limit of the incentive allowance, and multiplied by a year of completed service. Also, backwages were granted in the amount of RM52,800.00 who is the statutory maximum of 24 months at RM2,200.00 per month. This was further reduced by 10 percent in order to consider the subsequent gainful self-employment of the claimant. The adjusted final award amounted to RM49,720.00.

Means of Evidence

Documentary Evidence

The documentary record submitted to the Industrial Court was in effect limited to the employment history of the claimant. The original letter of appointment dated 1 May 2004 as Kitchen Supervisor was in a bundle marked CLB. The letter that takes the claimant into the Company as Assistant Executive Chef as at 15 February 2005, the contract of employment with its termination clause and the letter of termination as at 6 August 2005. These documents fixed the existence of the employment relationship, its terms and date and fact of dismissal, none of which either party seriously disputed.

What is conspicuous in the Award is the documentary evidence which was not produced by the Company. Although the Company submitted a number of particular cases of misconduct such as the samsu allegation, the Company did not submit any internal memorandum, incident report, show-cause letter, or minutes of any disciplinary or domestic investigation or record of its having investigated the claimant complaint about Tan Gee Fook. The Chairman observed that the company witnesses had promised to provide supporting documentation at the trial but this had not been done. To a business that claims to be operating a halal operation, the lack of any record of a response to an internal complaint of non-halal practice in its own kitchen is hard to accept as consistent with the type of halal control system activity that empirical research has found to be central to the actual, not nominal, implementation of the halal food standard in Malaysia (Sari et al., 2021).

Physical Evidence

There was no physical evidence tendered or even seems to have been in existence on the samsu allegation. No bottle, residue, sample or item that was seized relating to the purported use of samsu in the kitchen of the Resort was ever brought to bear before the Industrial Court.

Such an allegation can be in principle independently verifiable. As an illustration, the sensory or chemical screening of cooking oils, sauces or stored goods by means of the type that have been recorded in the halal analytical testing literature or by the simple laboratory procedures that have been suggested to perform halal analysis in general (Yuswan et al., 2020). This was not even attempted in the present case. The most conspicuous aspect of the case in a Halal Forensic point of view is the lack of any physical evidence.

Expert Witnesses

No party called no halal compliance officer, food safety auditor, religious officer or forensic chemist. The Award named witnesses, the Managing Director, an employee of a spa on the Resort property and Tan Gee Fook himself testified to the disputed events in his personal first-hand experience but none of them had nor were they requested to establish and specialised knowledge in halal verification.

Had the Company in fact conducted the internal controls as the description of a halal operation given by the Company itself implies, an internal halal compliance audit would have been conducted by a duly qualified officer at the time that the complaint was initially raised, and either would have supported the claimant in his report, giving reason to proceed with disciplinary action against Tan Gee Fook, or would have cleared the claimant himself, lending credence to the allegation of slander made against him when the claimant was first brought into the limelight of public attention. Both of these avenues were not followed, and this part of the case remained open to factual investigation forever, a hole in keeping with the overall conclusion that the commitment of owners, management and employees, and not the role of external auditors as such, is usually the limiting factor on the actual verification of halal compliance in Malaysian food companies (Sari et al., 2021).

Issues Involving Halal Forensic

Halal Management, Regulation and Standard

In another incident, the Award itself states that the Company believed that its food and beverage business was halal, and that it would not cook alcohol. This is the only note that is taken on the topic of halal management in the four year litigation; there is no further explanation of what systems, or whether there were systems, in place at the Company to run, scrutinize or check that claim. MS1500:2019 is a reference to written guidelines of sourcing, handling and storage of non-halal and intoxicating substances. It was backed up by internal checking and correction in case there is suspicion of deviation. Specifically, empirical literature on its implementation notes halal control system activity and the constraints of owners, management or employees as determining factors as to whether such procedures are actually in operation or merely on paper. And there is not in the Norizaham record of any of this institutional infrastructure. No halal committee, no special halal compliance officer, no written standard operating procedure of how to act on an internal report of alcohol use in the kitchen.

This is important since the claim made by the claimant against Tan Gee Fook was in essence an internal whistleblowing case. A worker who reported an issue to his own management that the halal claim of the operation was being sabotaged internally The international food safety literature is not a lack of external regulation per se, but a lax internal reporting culture, a highly resistant barrier to the early detection of food fraud and non-compliance before they leak into the market. Workers who report these issues internally, are usually isolated, their reputation is tarnished or they are fired (Moy, 2018). Malaysian studies on halal fraud indicate that a similar vulnerability is the absence of internal verification and reporting systems, instead of gaps in the external legal framework is a typical contributor to non-detection of halal non-compliance (Jaapar et al., 2021). The fact that the Whistleblower Protection Act 2010 does not offer any protection to an employee who has voiced a concern in-house but not to one of the specified enforcement agencies under the Act further exacerbates the situation (Wan Hashim et al., 2025). The fact that an employee in the position of the claimant was as a matter of law no better off by having made the samsu allegation than by having not made any allegation at all.

One may also want to stop and reflect on the framing that has been taken by the Award itself. The samsu allegation was considered to be not relevant to the dismissal because it was not proved to have made any provable harm to the Company. Such framing, though accurate to the limited goals of a section 20 reference, must be made on the assumption that the sole stakeholder with interests a stake is the employer. The fact that the allegation was in any way true meant that the real victims were the guests of the Resort who had trusted in its claim to be halal, and that they were never represented in the case, nor even of interest to them. In this light, though the Award provided by the Industrial Court is legally valid, it brings to the fore a major structural gap. Despite the existence of a special forum where to resolve an employment dispute, both sides failed to address a relevant authority, to check whether the halal claims of the resort to its paying guests were indeed being met. Whether or not the charges made against Tan Gee Fook were justified a case that the Industrial Court was not commissioned or fitted to adjudicate upon the long history of the Company not taking any action is eloquent. The Company showed that it had little commitment to its halal standards by not responding to the complaint immediately and only bringing it up as an excuse to dismiss the employee, which was already done. An employer who is truly halal-conscious would have looked into such a complaint instantly and without bias, regardless of the politics involved at work, or how the complaint was brought up. The integrity of halal food offered to the people is paramount and must not be affected by in-house quarrels. Rather, the Company confused the employment and operation matters and never investigated either and only used the halal allegation as a mere afterthought as held by the Court.

Health Implication

As the samsu allegation in the Norizaham case was never forensically proven, this review does not claim that the alcohol in the kitchen of the Resort was a proven fact. Instead, the case offers a key model to analyze the spiritual and consumer-protection consequences when such allegations are overlooked in self-proclaimed halal establishments.

To Muslim consumers, the presence of alcohol in purportedly halal food that is discovered is a twofold harm. The former is a religious infraction the unintentional ingestion of khamr, which is expressly forbidden in the Quran irrespective of the amount or its detectability (Surah Al-Maidah, 5:90). The second is the basic failure to comply with the consumer protection: the customers who base their diets on a halal statement are not provided with the correct information. Misleading food description is a key component of liability in Malaysian law attributed to this deprivation (Ismail et al., 2018).

Moreover, a significant workplace and administrative dynamic is pointed out in the case. The samsu-filing employee was later dismissed and the company was only using the complaint as a post facto defense several years later. This chain of events is similar to a reported trend in the literature on food safety whistleblowing, with employees who report internal misconduct being often retaliated against, isolated, or fired, whether their claims were valid or not (Moy, 2018). The supportive operational environment is the prerequisite to effective halal management as provided by the MS1500 standard and with the help of strong internal control systems. Employees should be assured that any of their concerns will be investigated immediately and objectively based on merit, as opposed to remaining unaddressed to be used in future court battles.

Conclusion

This case depends on the lack. It was an unfair dismissal case all along. The Company's allegation of the claimant having screamed in the kitchen that his colleague was drinking samsu and hence being a slanderer of sorts, was an afterthought and one that the Company never thought of for years. Ultimately, it was all in vain and the claimant was granted the full and complete RM49,720.00 in renumeration and back pay as a result of unfair dismissal. There was no one time in the Award that anyone or any document or any expert tested the presence of alcohol in the food that the Company had certified and labeled as halal by labeling. Therefore, the actual collapse of halal governance in Malaysia unveiled by this Pangkor Discovery case is that with halal certification and labeling on food products, there is nothing like that unless the MS1500 internal control measures are strictly followed by the management and staff in the kitchen itself. Nothing can protect such an employee who notifies a halal concern internally. He or she is only allowed to make a disclosure to some external enforcement agencies under the Whistleblower Protection Act 2010 and not to the rest. So, the usual and the expected food safety whistleblowing situation unfolded to the full extent in the kitchen of this business where the grievances of the employee had been disregarded over the years until it was finally used against him in his unfair dismissal. Simply put, Pangkor Discovery is not a halal forensics case but it is a case of halal forensics not being even tried.

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