

Should Halal Conform to State Food Law?

As an English barrister and a non-Muslim, perhaps I have an unusual perspective on Halal food issues. I first became interested in the relationship between food law and Halal requirements in 2004, when I prosecuted some cases on behalf of the London Borough of Haringey. These prosecutions showed that state law¹ – in this case the UK Food Safety Act 1990 – could be used successfully to control some of the worst abuses, provided that there was a properly funded and dedicated system of food law enforcement in place.

In one such case, a consignment of illegally slaughtered mutton – termed “smokies”, where the carcasses involved were fit only to be rendered down and could not even be processed as pet food – was being transported from Wales to London in an unsuitable, non-refrigerated vehicle at the height of the summer. The meat was destined for eating in Indian and Pakistani restaurants in London, some to be sold by butchers as “Halal mutton” or passed off as “goat”

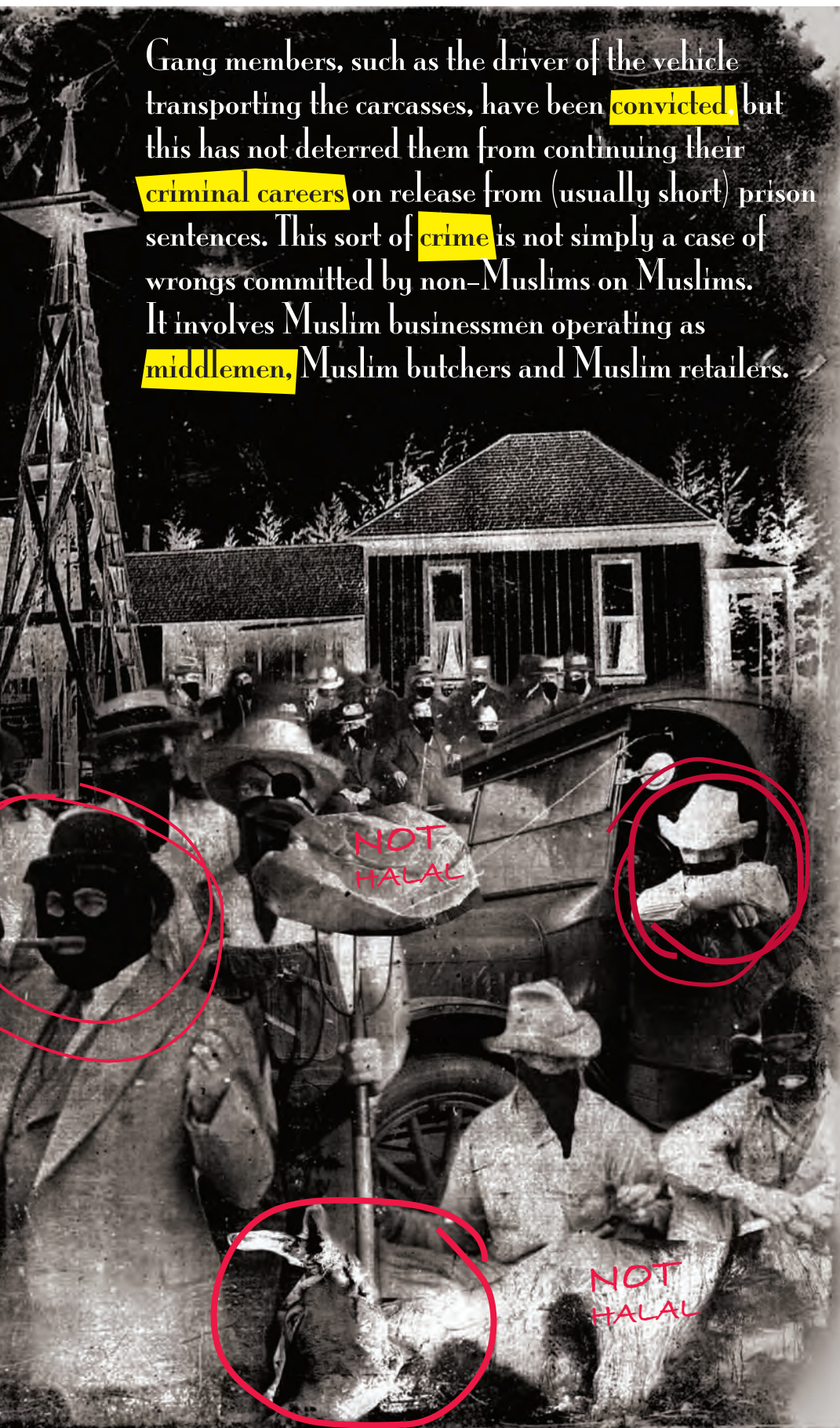
to members of London’s West Indian community. The meat posed a health risk because of its poor quality and the unhygienic condition of its processing, storage, transportation and retailing. The crude processing methods included retaining the internal parts of the animal within the carcass for a long period after slaughter and the deployment of a blow-lamp to give the skin its special, value-added, smoky barbeque flavour. The meat could not be Halal, despite the efforts

of Muslims involved in its preparation for sale to pass it off as such. It was filthy, very smelly and extremely unwholesome. The most serious problem was the health risks associated with consumption: a concern for both Shariah law and for State Food Law.

The point of this scenario is that a large number of individuals benefit from food crime and this makes prevention, detection and the successful prosecution of food criminals difficult to achieve. The food



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criminals only risk receiving quite low sentences if convicted, despite the high profits involved, and despite operating as quite sophisticated gangs. They included, in this example, Welsh farmers who nurtured the animals, including those who carried out the illegal slaughtering from sheds on their farms. Gang members, such as the driver of the vehicle transporting the carcasses, have been convicted, but this has not deterred them from continuing their criminal careers on release from (usually short) prison sentences. This sort of crime is not simply a case of wrongs committed by non-Muslims on Muslims. It involves Muslim businessmen operating as middlemen, Muslim butchers and Muslim retailers. At the consumer end, it is a crime committed by Muslim against Muslim, as well as by and against non-Muslims.

So for a number of reasons the 'Halal'ness of food needs to engage with state law. It is possible for a predominantly Muslim country to base its food law closely on Shariah concepts. Member States of the European Union are subject to the General Food law, under EC Regulation 178/2002, and such laws are not geared to specifically Muslim values. There is a groundswell of opinion in the institutions of the EU to remove the exemptions enjoyed by Jews and Muslims over the regulations requiring pre-stunning of animals before slaughter;² but, where does this leave Halal food? In my view, the Halal issue is important in setting a standard to enable consumers to make informed decisions. The initiative for this

can only come from the Muslim community.

The primary difficulty in establishing a Halal standard is the lack of consensus in the Muslim community. At the recent conference held in Kuwait,³ a great deal of time was spent on the issue of stunning vs. no-stunning of animals and on the implications of this dichotomy for whether differing slaughtering methods can truly be Halal. The approaches to this question included the opinions of Shariah scholars, producers, certifiers, scientists and

is derived from alcohol – scholarly opinions will vary and may be inconsistent.

This multiplicity of opinions based on Shariah law seems to me to be irresolvable unless authoritative, consistent and widely accepted opinions can prevail over others. One way of doing this would be to have a Shariah court of appeal that could rule on whether a particular interpretation was good law and a conflicting opinion was not, or was no longer, good law. A hierarchy of courts could be established up to an international Shariah court. An international court able to make binding rulings would make sense as the issues

used? I suspect it would for some but not for others, and that scholarly opinion would be similarly divided. It is for that reason that a hierarchy of courts to resolve disputes would be one possible solution. But this might be too ambitious: it takes a great deal of effort and commitment to set up effective judicial or arbitral international organs. An alternative strategy is to develop international standards in the form of protocols applying both to stunning and to non-stunning methods of slaughter.

Any system of law depends on the consent of people subject to its rule.

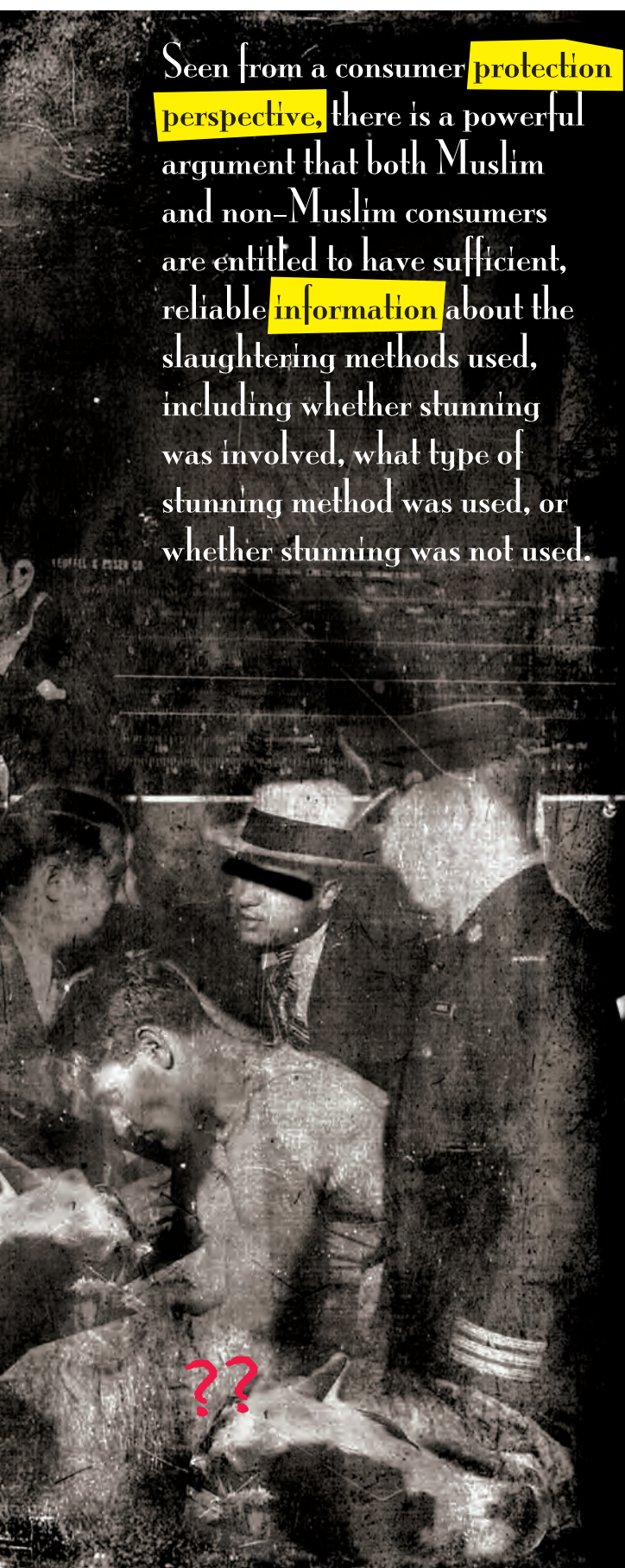
Jewish religious law is clear cut on the stunning issue – there is an unequivocal rejection of stunning – but Muslims are divided on stun/ no-stun. This leaves Muslims who believe that all forms of stunning renders the meat Haram vulnerable to producers who certify the meat as Halal when stunning had in fact been used at slaughter. The Halal certifier may or may not be providing reliable information about the slaughtering process; there may be deception by the certifier or by the producer, but not all mislabelling is deliberate or fraudulent. Seen from a consumer protection perspective, there is a powerful argument that both Muslim and non-Muslim consumers are entitled to have sufficient, reliable information about the slaughtering methods used, including whether stunning was involved, what type of stunning method was used, or whether stunning was not used. The food label should provide this information

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policy-makers from various countries, where Muslims are either in the majority or form significant minority populations. Important and powerful interests claiming Halal compliance are to be found on each side of this divide. Shariah law is structured in that propositions having religious force are pronounced, leaving their interpretation to religious scholars. Interpretation depends on the perceptions and intuitions of various schools of thought and various individuals. When it comes to obtaining a ruling – for example on whether wine vinegar is Halal, because, although it is no longer alcohol chemically, such vinegar

are made more complex by the international nature of trade in Halal products. This interpretative problem does not arise for meat that is clearly Haram and forbidden. The problems cluster around the boundary issues of Halal/ non-Halal. These types of problems are difficult in themselves and become prevalent as science develops and production methods become more sophisticated. So, if a very reliable method of non-fatal stunning were developed, which relaxed the animal prior to slaughter (thus making it more compliant with Halal requirements), would this still render the meat Haram to some Muslims because a form of stunning had been





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for all sales of meat and meat products. It would be discriminatory to require detailed information for Halal provenance to be established, but not to require such a level of detail for non-Halal sources. However, opposition to labelling meat as originating from non-stun methods goes against the requirement for providing consumers with enhanced rights of transparency⁴.

So the implications from this are:

- A protocol needs to be drawn up for non-stunning of red meat and poultry;
- A separate protocol needs to be drawn up for where stunning is used for red meat and poultry;
- Both protocols should be backed by robust, internationally recognised certification systems, which provide separate Halal-compliant labels;
- Both protocols need to be backed by state law as well as Shariah law;
- Adherents of each protocol need to recognise that both protocols are Halal.

If these were achieved, consumer protection would be enhanced and state food laws

(and criminal laws such as fraud) would become better engaged with Muslim food law. I think that this is necessary, because so much energy is expended in resolving the stunning vs. non-stunning debate that important issues such as food safety and food quality receive too little attention. Thus, the important concept of *tayyib* in Shariah law – requirements for wholesomeness, quality, and nourishment – becomes sidetracked. This concept of *tayyib* matches precisely with the objective of state food law. For example, section 14 of the Food Safety Act 1990 makes it an offence to sell to the purchaser's prejudice any food that is not of the nature, substance or quality demanded. Placing food on the market that is unsafe within the meaning of Article 14 of EC Regulation 178/2002 is also an offence under section 8(2) of the Act. Aligning Islamic jurisprudence with state food law in EU Member States (and other predominantly non-Muslim countries) is essential if food crime of the type mentioned at the beginning of this article is to be combated effectively.



Endnotes:

1. In this article, by "state law" I am including European Community law as well as the domestic law of nation states.
2. Directive 93/119/EC of 22 December 1993, on the protection of animals at the time of slaughter or killing, applies generally to animals. Its purpose, set down under Art 1, makes no reference to exemptions on religious grounds for stunning. In the UK, the exemption from stunning is provided by the Welfare of Animals (Slaughter or Killing) Regulations 1995/ 731.
3. First Gulf Conference on Halal Industry and its Services, 24-26 January 2011, Holiday Inn Hotel, Al-Salmiyah, Kuwait.
4. Transparency is enshrined by Articles 9 and 10 of EC Regulation 178/2002.

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*Opinions expressed by contributing writers do not necessarily reflect the views of The Halal Journal.