

HALAL MEAT AND FOOD CRIME IN THE UK

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ABSTRACT:

Food safety professionals in the UK are becoming increasingly concerned about the number of serious food offences being carried out by organised criminals. These include the introduction into the food chain of meat that is unfit for human consumption, such as re-processed chicken sludge, which has been bleached and treated to resemble something palatable. Also frequently reported is the flourishing trade in 'smokies': unhygienic and illegally slaughtered sheep in which the viscera are retained, the skin left on and the carcass treated with a blow lamp to give it the desired smoky flavour. The illegal importation of bushmeat into western countries from Central and West Africa has become a serious problem. This trade includes endangered species, such as gorillas, chimpanzees and giraffes. More recently, there have also been concerns raised about the trade in fake Halal meat, both for home consumption and for export to Muslim countries.

Regulatory systems in the UK and in the rest of the world have proved inadequate in controlling organised food crime generally. The illegal meat trade offers opportunities to entrepreneurs, both at home and abroad, to make large amounts of money illegally, with a very low chance of being caught and prosecuted. This type of crime produces huge profits for the food criminals and poses a high risk of serious outbreaks of food poisoning and other threats to public health. Although there are extensive regulations in force, both domestic and European, offences are usually ones of strict liability and new legislation is needed to cope with what has become a global problem. This paper identifies the causes of weaknesses in regulatory systems and suggests ways in which laws need to be changed to deter organised food criminals.

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Introduction

The production, distribution and sale of meat sold as Halal is part of a wider problem. Halal should not be isolated from non-Halal (or Haram) production and we believe that it is necessary to provide a wider focus if the problems of Halal can be tackled effectively. We are concerned in this paper, therefore, with the lack of effective regulatory control and law in respect of meat that is unfit for human consumption or is a risk to health, rather than with more specific issues pertaining to Halal certification. This reflects our professional concerns. Dr. Teinaz is a senior environmental health official working for the London Borough of Hackney, who has a great deal of experience in tracking down unfit and illegal meat and pursuing the criminals who participate in the illegal trade in meat in the UK. He is also Advisor to the Director General of the London Central Mosque Trust & the Islamic Cultural Centre and so has important responsibilities towards Muslim communities in the UK. John Pointing is a barrister practising in food and environmental law who has prosecuted some of the criminals engaged in the illegal meat trade in the UK.

Halal Food

Halal is an Arabic word, which means “permissible”. In connection with food, it means food that Muslims are permitted to consume under Islamic Shariah Law. In addition to this lexical and technical meaning the word is loaded with overtones of being provided by God, 'Tayyab' (wholesome, good); as the opposite of Haram, which means prohibited by God (unwholesome, foul). Halal and Haram are universal terms that apply to all facets of life. However, in this study the term will be used only in relation to meat and food products. This means that any meat that has not been rendered Halal by Islamic slaughter or any food that is liable to cause ill health, (e.g. decomposing meat, or food unfit for human consumption) cannot be considered Halal, wholesome or as good 'Tayyab'.

Islamic Shariah Law considers all foods Halal unless it is specifically prohibited in the Qur'an. By official definition, Halal foods are those that are free from any component that Muslims are prohibited from consuming according to Islamic Law.

The Trade in Illegal Meat

Trade in illegal Haram meat has been considered to be the third largest illegal trade in the UK, estimated to be worth up to £1bn a year.¹ Meat crimes threaten public health, violate people's religious beliefs and abuse their trust. They frequently involve cruelty to animals. Some of the people who carry them out have no moral qualms about the risks they create of infecting the public with such diseases as New Variant CJD. The trade is extensive and international in scope. Because it is largely hidden and its exponents operate clandestinely, it is very difficult to gauge how important the trade in illegal meat is. Enforcement efforts have been hampered by a shortage of resources and by the lack of co-ordinated intelligence between the agencies involved. These problems mean that estimates of scale at an international level are based on informed guesswork.

Co-ordination of Enforcement

Lack of co-ordination occurs within the UK as well as across international borders. Most food safety enforcement is carried out by local authorities: in England and Wales, by district councils and by unitary authorities such as the various London boroughs. Responsibilities for some functions, however, lie with national agencies, which are accountable to central government. Thus, HM Customs & Excise are responsible for enforcing regulations preventing the entry of endangered species into the UK. The Meat Hygiene Service - an executive agency of the Food Standards Agency - is responsible for enforcing regulations governing the slaughter of animals and their preparation for human consumption.

Lack of co-ordination is an historic problem and it was in order to encourage greater consistency, transparency and effectiveness that the Food Standards Agency was established in 1999. Also of primary importance was the need to develop a European dimension to food safety law and policy. Establishing a new body has also provided an opportunity to deal with longstanding problems that had been authoritatively identified in Professor James's Report, published in April 1997. This formed the basis of the subsequent White Paper: *The Food Standards Agency: A Force for Change*². The James Report concluded that there had been:

- a loss of public confidence in the safety and quality of British food; and
- a lack of response in the regulatory system to public health and consumer interests.

The Report also highlighted that there was a need for:

- an equivalent body to the Health and Safety Commission, with a remit covering national food policy, a role in drafting and proposing legislation, providing public information and education; and

- greater supervision of local authorities in enforcement, co-ordination, monitoring and setting of standards.

Section 1 of the Food Standards Act 1999 places consumers at the centre of food policy. It states that the main objective of the Food Standards Agency:

is to protect public health from risks which may arise in connection with the consumption of food (including risks caused by the way it is produced or supplied) and otherwise to protect the interests of consumers in relation to food.

The Act also gives the Agency powers of supervision over local authorities, the purpose being to:

- set standards of performance in relation to enforcement of food law;
- monitor and audit the performance of enforcement authorities;
- require information from local authorities relating to food law enforcement and to inspect any records;
- enter local authority premises, to inspect records and take samples;
- publish information on the performance of enforcement authorities;
- make reports to individual authorities, including guidance on improving performance;
- require enforcement authorities to publish these reports, and state what action they propose in response.³

Setting out its supervisory role as explicitly as this indicates that central government has concerns about the capability of local authorities to perform an effective enforcement role.

Some Examples of Food Crime

In order to illustrate the problem faced by local authorities in the fight against meat crime, we will consider two recent cases. 'Operation Fox' was the largest public health enforcement operation in recent years and was co-ordinated by Rotherham District Council. It also involved the police and staff from other public agencies in a long, very expensive and time-consuming operation. The criminals involved were responsible for recycling up to 1,000 tonnes of rotten meat, originally intended for use as pet food, into the human food chain. Environmental health officers who raided the plant were appalled to find rotting poultry in overflowing skips, destined for people's dinner tables once the illegal reprocessing had been undertaken. The conspiracy behind this illegal meat operation stretched back to the late

1980s. Probably, over a period of more than 10 years, a substantial proportion of the meat was exported, including to Muslim countries as Halal.

An operation led by Amber Valley District Council into a similar pet food laundering scheme resulted in a similarly high profile court case. The complex food fraud, dating back to 1995, involved an estimated 459 tonnes of rancid and unfit poultry being diverted into the food chain, in some cases finding its way onto the shelves of high street supermarkets, schools and retail outlets. It was estimated that more than 1 million putrid and diseased chicken and turkey carcasses entered the food chain between January 2000 and March 2001. In addition to low risk waste being processed by the company, high risk waste – deemed unfit even for pet food – was being trimmed and repackaged to make it appear fit for sale as fillet or for ready-to-eat meals.

The Crisis in Food Crime

Food crime is an international problem and collective international action is required if the criminals are to be controlled and public confidence restored. Recognition has been building up over recent years of an international crisis concerning the illegal meat trade. The basic ingredients of this crisis result from:

- the globalisation of food production, distribution and sales;
- weak laws and controls imposed by State agencies on the food industry;
- the ability of food criminals to evade regulations and to carry out food crimes with impunity.

The scale and scope of this crisis are very difficult to judge, but explosive incidents break out fairly regularly that point to a wider problem. For example, in August 2002 the Saudi authorities issued a directive to withdraw all European produced chicken from local markets and cold stores.⁴ This followed a ban on EU poultry following a scandal concerning the use of artificial hormones in poultry feed. The wider context of this incident is the longstanding practice in western countries of exporting meat – including to countries with predominantly Muslim populations - where the animals had been fed using contaminated feed. In addition, reports continue to be made of feed containing banned substances in exporting countries, such as the US, Australia, New Zealand and Argentina, being exported to Muslim countries.⁵ The rendering process by which the feed is produced has long been a scandal and judging from some accounts there is an element of ‘moral panic’ present about it.⁶

Very few prosecutions of food crimes occur in the UK. Partly this is because organised food crime does not fit in with the paradigm of food safety enforcement, which is predicated on regulating 'respectable' food producers, wholesalers and retailers in the form of the Food Safety Act 1990 and regulations enforced under that Act.⁷ Nevertheless, in the wake of scandals in the 1980s and 1990s, notably the bovine spongiform encephalopathy (BSE) issue, state agencies in the UK are beginning to show an awareness of the problems of meat crime. In July 2004, the Food Standards Agency published guidelines which highlight the risks associated with illegal meat and include information to local authorities about what enforcement actions they should take in the investigation and control of meat crime.⁸ The Agency has also produced a very detailed revised code of practice under section 40 Food Safety Act 1990 together with guidelines for enforcement authorities. These are still in draft form and are due to be published once they have ministerial approval, probably in September 2004.

The Trade in Bushmeat

All countries - Muslim, Western, poor and rich alike - are threatened by food crime. Weak enforcement cultures are also prevalent: laws are rarely or inconsistently enforced, enforcement agencies are often under-skilled and invariably under-resourced. An example which graphically demonstrates the need for effective and co-ordinated international enforcement action concerns the illegal trade in bushmeat.

This trade offers opportunities to entrepreneurs, both in the receiving and exporting countries, to make large amounts of money illegally, with a very low chance of being caught and prosecuted. Relatively common species, such as cane rats and antelopes, and endangered ones, including gorillas, chimpanzees and giraffes are involved. The trade depends on cruel methods being used to catch the animals; crude and dangerous processes being used to preserve the meat; with unsatisfactory methods of storage, further processing and trading being employed in the receiving country. The potential for harm is very serious indeed. The Bushmeat Crisis Taskforce cites reports of people being infected by such serious diseases as HIV and Ebola virus as a result of hunting, butchering or eating bushmeat animals.⁹

Enforcement

The enforcement culture in both exporting and receiving countries is weak. In the case of the former the scale of the problem is enormous, mainly because throughout Central and West Africa bushmeat comprises the principal source of protein for human consumption. By contrast, the resources available to prevent the exploitation of wild life are minuscule. The

enforcement culture in the UK is weak for different reasons. Essentially, this is because the system for maintaining regulatory control is not geared up to deal with organised food crime. The *Enforcement Concordat*, which was published by the Cabinet Office in March 1998, governs the enforcement and prosecution policies of the local authorities and determines their relations with food businesses. It has brokered a very cautious approach to the bringing of prosecutions by regulatory authorities, who are encouraged to rely on less intrusive and more business-friendly methods of enforcement. Such a system can work satisfactorily when dealing with the responsible sectors of the food industry. But it fails with respect of organised crime and does not control the activities of many small food retailers.

The hidden nature of the trade makes enforcement action problematic. Methods of importing illegal food into the UK are becoming increasingly sophisticated. Preparation of bushmeat for sale in this country is often carried out in filthy, unhygienic and shabby premises by people with little understanding of the health risks. Consumer complaints are very unlikely to occur as consumers will usually be aware that the product is illegal, though many will be ignorant about the health risks of consuming bushmeat.

Consequently, enforcement action needs to be proactive and cannot rely on complaints being made to the local authorities. Priority needs to be given to targeting points of sale and distribution. Enforcement authorities may require enhanced powers of inspection and seizure and probably need to utilise existing powers better, but they also need to have confidence in the judicial system that appropriate penalties will be given to serious offenders when convicted. Community work is also needed with African communities living in the UK that focuses on the health risks of consuming bushmeat. Animal welfare considerations need to be addressed also.

Prosecution for Selling Bushmeat

Food premises where bushmeat is being prepared for sale and shops from where the meat is sold are difficult to discover. This is one reason why the number of prosecutions being brought by local authorities is minuscule. In December 2003 - in a case in which both authors were involved - Paulina Owusu Pepra received a prison sentence at Haringey Magistrates' Court of three months together with a life ban, which the court can impose under section 11(4) Food Safety Act 1990, to prevent her from preparing food for sale. She was convicted of 23 charges, including breaches of the Food Safety (General Food Hygiene) Regulations 1995¹⁰ and offences under the Act for running a food business in breach of a prohibition order and for selling food that was unfit for human consumption. To date, this is the heaviest

sentence given in an English court for a food safety offence involving the selling of bushmeat. The sentence was reduced on appeal to the Crown Court to community service. The appeal succeeded in part, because the Crown Court found that the local authority had not proved that Mrs Pepra was the proprietor of the food business - a requirement for breaches of the 1995 regulations.

The prosecution was brought not for selling bushmeat *per se*, but because of the filthy conditions in which the food was stored, the unhygienic methods of preparation, and the unfitness of the food for human consumption. If similar cases are to be prosecuted more often, then new types of offence need to be enacted, a point which is considered further below.

The Products of Animal Origin and Endangered Species Regulations

Food products imported into the UK from non-EC countries are subject to veterinary checks carried out by port authorities at points of entry. The regulations currently in force in England are The Products of Animal Origin (Third Country Imports) (England) Regulations 2002.¹¹ Another set of regulations made under the Convention on International Trade in Endangered Species [CITES] provides the grounds for customs officers to seize and dispose of meat from endangered species that is imported illegally. The powers of customs officers are provided by the Customs and Excise Management Act 1979. Their forfeiture powers under section 49(1) of the Act complement those enabling officers to prosecute those involved in the importation of endangered species. Where there is improper importation with intent to defraud or to evade a prohibition or restriction, the penalties rise to a maximum of seven years imprisonment.¹² It is unheard of, however, for substantial prison sentences to be handed down even for the most serious meat crime offences.

Although there are 38 separate offences specified under the 2002 regulations - including such general ones as Regulation 15, which makes it illegal to introduce products into England from a non-EC country which do not conform to the regulations - very few prosecutions have been commenced using this type of legislation. Neither are the regulations much utilised by local authorities to seize and destroy illegal meat products which have been moved from ports inland and nearer to the point of sale to the final consumer. The evidence suggests a lackadaisical approach to prosecution. Up to 4 February 2003, there had been one successful prosecution of a bushmeat case brought by a local authority and six cautions issued by the London Port Health Authority. HM Customs and Excise had prosecuted nobody under the CITES provisions in 2002 and three people in 2001.¹³

'Real' Crime

Neither the Products of Animal Origin Regulations nor the Food Safety Act has proved effective in regulating food crimes that may be described as being truly of a criminal nature. Such crimes are at present 'beyond regulation' and occur when:

1. there is deliberate flouting of the law;
2. offences are committed for financial gain, stimulated by the prospect of making huge amounts of money;
3. there is a high degree of planning and organisation;
4. little or no consideration is given to risks to public health.

The preparation for sale of bushmeat has all these characteristics, as does the trade in 'smokies' and offences which involve the introduction of condemned meat into the food chain. Occasionally such offences of a truly criminal nature have been prosecuted using conspiracy and fraud charges rather than those founded on food law. Criminal charges requiring proof of intent have sometimes been preferred by prosecutors because these reflect the reality of the offence more accurately than breaches of the Food Safety Act 1990, which are generally strict liability offences. The maximum sentences available on conviction for fraud and conspiracy to defraud are considerably higher, with substantial prison sentences being likely to be handed down to convicted persons. But such offences are difficult to prove, particularly those based on conspiracy charges. Understandably, local authority prosecutors are extremely wary of using them and the Crown Prosecution Service tends to see them as only rarely applicable to food crime.

At present there is a gap in the law because existing food safety legislation does not truly engage with 'beyond regulation' offences. Unfortunately, there is no consensus on this issue in the UK. Important professional and trade associations, such the Chartered Institute of Environmental Health (CIEH) and the Local Authorities Coordinators of Regulatory Services (LACORS) have called for new legislation to deal with serious food crime. However, the Food Standards Agency has resisted, arguing that to introduce a new offence would breach European Community law.¹⁴ The importation, supply and preparation for sale of bushmeat need to be considered as specific and more serious offences, as does the sale itself. Stringent financial penalties, prohibition orders giving powers to close down businesses and to prevent directors and employees from further involvement in the food industry, powers to give substantial prison sentences - such as up to 10 years - are required. For these more serious offences, proof of criminal intent will be necessary to avoid the usual limitation with crimes

of strict liability: that sentencers will rarely impose penalties to match culpability. To leave things as they are will jeopardise public health and make the extinction of non-human primates in Central and West Africa increasingly likely.

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¹ Dr Yunes Teinaz, 'Meat Crimes in the UK', speech given to The Royal Society for the Promotion of Health, 19 May 2004, Fellows Lunch, at The Royal Overseas League, Piccadilly, London.

² Cm. 3830, published in January 1998.

³ *Report on Local Authority Food Law Enforcement Activity in the UK* (Food Standards Agency: January 2002).

⁴ Report by Omar Al-Zobaidy in *Jamiatul-Ulama (KZN)*, 14 August 2002.

⁵ In the US, details on feed contents are provided in a Federal Department of Agriculture document updated on 5th March 2001: www.fda.gov/cvm/guidance/guida76.htm

⁶ A. Martin & M. Fox, in *Food Pets Die For: Shocking Facts about Pet Food* (New Sage Press, 1997) describe the rendering process as: "A cheap, viable means of disposal. Pets are mixed with other material from slaughterhouse facilities that have been condemned for human consumption – rotten meat from supermarket shelves, restaurant grease and garbage, '4-D' (dead, diseased, dying and disabled) animals, roadkill and even zoo animals."

⁷ See R. Malcolm & J. Pointing, *Food Safety Enforcement* (London: Chartered Institute of Environmental Health, 2004) for an analysis of this legislation.

⁸ *Illegal Meat: Enforcement Guidance for Local Authority Officers in England* (Food Standards Agency: July 2004).

⁹ *Fact Sheet*, June 2003, www.bushmeat.org

¹⁰ SI 1995/1763.

¹¹ SI 2002/1227. These regulations have been further amended in 2003 and 2004. Similar regulations are in force for the rest of the UK.

¹² Customs and Excise Management Act 1979, s.50(2) and (3).

¹³ *Hansard*, House of Lords Written Answers for 10th May 2002, Lord Whitty.

¹⁴ S. Spear, 'Stamping out meat crime', *Environmental Health Journal*, August 2004, p. 237.