

PRESERVATION OF ANIMAL RIGHT IN ISLAMIC JURISPRUDENCE

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ABSTRACT

Islam places great emphasis on the protection and care of animals, as it is a fundamental principle of the religion. Prophet Muhammad (Peace Be Upon Him) himself was known for his love and compassion towards animals, and stressed the importance of treating them with kindness. In fact, the Prophet once narrated a story about a woman who was condemned to hell for mistreating a cat by not providing it with food. This article aims to explore the views of Islamic jurists on animal rights and the responsibilities that humans have to protect and care for them, as a means of upholding the principles of Islam related to animal welfare.

Keywords: *protection, animal rights, and Islamic law.*

INTRODUCTION

The preservation of the right to life is a crucial aspect of Islamic jurisprudence.. Islam has carefully regulated all matters related to the lives of living beings, both human and animal. Among the basic principles upheld by Islamic law is to be good to animals. Animals have the right to be treated well and have their needs fulfilled just like humans. Allah says: "And there is no creature on [or within] the earth or bird that flies with its wings except [that they are] communities like you" (Al-An'am: 38). In Islam, animals have the right to be treated well, the right to have adequate food and drink, just like humans. Islam prohibits humans from engaging in actions that can cause harm or suffering to animals, especially their livestock for which they are responsible. This article will explain the views of Islamic jurists on the rights of livestock to have access to food and drink, as well as the types of food that are allowed to be given to them.

The Law Of Providing Food For Livestock

All jurists agree (Ibnu Qudamah, 1997) that it is obligatory for livestock owners to provide food and drink for their livestock. The evidence for this is:

1. The hadith narrated by Abu Hurairah (may Allah be pleased with him) from the Prophet (peace and blessings of Allah be upon him): "A woman was put in Hell because of a cat that she tied up and did not feed or let it eat from the vermin of the earth until it died of hunger."

This hadith is evidence that a woman entered Hell because of her action of not providing food to her pet cat, which shows that providing food for livestock is obligatory.

If an animal owner refuses to provide food to their pet, can a judge force them to provide food? There are two views of Islamic jurisprudence (fiqh) on this matter:

The first view: according to Abu Yusuf, a Hanafi jurist (Ibnu Abidin, 1386H), Maliki (Ibn Al-Azhari, 1997), Shafi'i (Al-Qalyubi, 1996), Hanbali (Ibnu Taimiyah, 1404H), a judge has the right to force the animal owner to provide food to livestock whose meat is edible. If the owner is unable to provide food, the animal must be sold or slaughtered. This is based on the following evidence:

1. Abu Hurairah narrated that the Prophet (ﷺ) said: "A woman was punished because she had kept a cat tied until it died, and (as a punishment of this offence) she was thrown into Hell. She had not given it food or drink, nor had she freed it to eat the insects of the earth." (Ahmad, 2/424).
2. It is narrated in Sahih Bukhari and Muslim: "A prostitute saw a dog panting with thirst on a hot day, so she drew water for it in her shoe, and Allah forgave her because of that." (Al-Bukhari, 2/832).
3. Refusing to provide food to one's pet is a form of animal cruelty and also a waste of wealth, since it can cause the animal to die (Ibnu Abidin, 1386H).
4. Animals have a soul that must be protected, even if it means providing them with food through unlawful means to save their lives, just like humans (Ibnu Najim, 1999).

The second view: according to the second narration of Hanafi (Ibnu Abidin, 1386H) and az-Zahiri (Ibnu Hazam, 2000), a judge cannot force the animal owner to provide food to their livestock, unless they have a business partner in owning the animal. In this case, the judge can force the owner to provide food to their livestock, as not doing so would cause harm to their business partner.

The evidence for this view is that animals do not have the right to make legal claims or complaints, just as inanimate objects have no rights to make demands or complaints.

After considering the two opinions on this matter, the author is inclined to the first view, which holds that a judge can force the animal owner to provide food to their livestock. This is because animals are living creatures that cannot survive without food and water, just like humans. Refusing to provide food and water to an animal is considered a sinful act, as it can cause the animal to perish. Animals have the right to obtain food and water, just like humans, in order to maintain their lives. Although animals do not have the right to make legal claims or complaints, their right to receive good treatment has been guaranteed by Islam based on the aforementioned evidence.

Giving Food Containing Filth To Livestock

Regarding the issue of giving food containing filth to animals, there are two opinions among the fuqaha (Islamic jurists):

The first opinion: it is permissible to give food containing filth other than animal waste to livestock:

The Maliki school of thought (Al-Qurtubi, 1372H) in one of its views states that it is permissible to give food containing filth to livestock, while the Hanafi school of thought (Al-Kasani, 1982) states that it is permissible to give food mixed with filth if the amount of filth is small. The Hanbali school of thought states that it is permissible to give food containing filth if the animal will not be slaughtered in the near future (Al-Bahwati, 1402H).

The evidence for this first opinion is a narration from Ibn Umar that when the Prophet Muhammad (Peace Be Upon Him) and his companions stopped at a place in Thamud during their journey, they took water from a well at that place (which contained various types of filth) for their needs and for making dough. Then, the Prophet Muhammad (peace be upon him) commanded them to dispose of the water they had taken and used the dough made with the water from the well as food for the camels (Al-Qurtubi, 1372H). This narration shows that the Prophet Muhammad's command to use the dough made with the water from the well as food for the animals indicates that it is permissible to give food containing filth to animals.

Sometimes, shepherds let their livestock graze in the fields, and the animals are free to eat whatever they find, without rejecting the possibility that the grass they eat is mixed with filth (Al-Bahwati, 1402H).

The second opinion: The Shafi'i school of thought (Al-Nawawi, 1417H) states that it is disliked (makruh) to give food that is considered filth, such as human blood and waste, to livestock. As for food that is mixed with filth, such as wheat flour mixed with filth, it can be used as food for cows or sheep, and other animals.

In general, the majority of fuqaha state that it is permissible to give food mixed with filth to animals, but some require that the amount of filth mixed in the food is small, and others require that the animal given food containing filth will not be slaughtered in the near future to ensure that the meat of the slaughtered animal is clean and good for human consumption. The Shafi'i school of thought states that it is disliked to give livestock food that comes from human filth such as blood and waste.

After studying the opinions of the fuqaha and the evidence that supports their views, the author chooses the first opinion that states that it is permissible to give food containing filth to animals, because it is difficult to separate the filth from the animals, and the Prophet Muhammad (peace be upon him) once ate chicken, and chicken food is sometimes mixed with filth. Abu Musa Al-Ash'ari said, "I saw the Prophet Muhammad (peace be upon him) eating chicken" (Al-Bukhari, 5/2100).

Feeding Livestock With Animal Feed Mixed With Fish Carcasses

Fish are one of the ingredients in making animal feed. Some of the fish used in animal feed are caught from the sea while still alive, and some have already become carcasses (Shebir, 2001). All the fuqaha agree that if the fish was caught alive and then died, it is considered pure and halal to eat (Ibnu Abdul Barr, 1387H). However, regarding fish that has died before being caught, there are two views among the fuqaha on this issue:

The first view: The Maliki (Al-Zarqani, 1411H), Shafi'i (al-Syarbini, 1998), Hanbali (Ibnu Taimiyah, 1412H), and az-Zahiri (Ibnu Hazam, 2000) schools of thought consider that fish that have died and become carcasses in the sea are pure and halal to eat.

Their argument is based on evidence from the Quran: "The two bodies of water are not alike: one is fresh, palatable, and pleasant to drink and the other is salty and bitter. Yet from them both you eat tender seafood and extract ornaments to wear. And you see the ships ploughing their way through both, so you may seek His bounty and give thanks   to Him" (Fatir: 12). And: "It is lawful for you to hunt and eat seafood, as a provision for you and for travellers. But hunting on land is forbidden to you while on pilgrimage. Be mindful of Allah to Whom you all will be gathered" (Al-Maidah: 96).

Allah has given the attribute of halal in general to all animals that live in the sea and has not specified whether they are caught alive or have become carcasses in the sea (Ibnu Hazam, 2000).

This argument is criticized by the Hanafi school of thought, as they argue that this verse cannot be used as evidence because the "food" referred to in Allah's verse is the animal that is thrown by the waves onto the shore and then dies. If that is the case, then the animal is halal and is not considered a carcass. What is called a sea animal carcass is an animal that dies in the sea for a certain period of time, whereas an animal that dies because it is thrown by the waves onto the shore is not considered a carcass (badai as-Sanai).

This criticism by the Hanafi fuqaha is answered by Ibnu Hazam: Allah has given the attribute of halal to all animals that live in the sea, without giving any specificity to animals caught alive or caught as carcasses (al-Muhalla).

The evidence for the first view is from the hadith of the Prophet (Peace Be Upon Him): "Two types of carcasses and two types of blood are halal for us to eat, namely fish and locusts, and the liver and spleen" (Muslim).

Also, from the hadith of the Prophet sallallahu alaihi wa sallam: "In the sea, its water is pure and its carcass is halal." These two hadiths indicate that fish taken from the sea, whether alive or dead, is halal to eat.

Meanwhile, the evidence from the atsar of the Companions: regarding the shark they found dead on the seashore, then they ate the shark and brought some of it to the Prophet sallallahu alaihi wa sallam, and then the Prophet also ate it (Mughni al-Muhtaj). The companions' action became evidence that sea animals found dead are halal to eat and not considered najis.

The second view: Hanafi school of thought (Al-Kasani, 1982), is that it is haram to eat fish that have become carcasses in the sea. And what is meant by a sea carcass is an animal that dies in the water without any cause (Al-Kasani, 1982).

The evidence from the Hanafi school of thought:

A hadith narrated by Abdullah, may Allah be pleased with him, states that the Prophet, Peace Be Upon Him, said: "Eat what comes out of the sea, and eat what is thrown by the sea, and do not eat what you find dead and floating on the surface of the sea" (Al-Daruqutni, 3/267).

The citation of this hadith has been criticized by Ibn Hazm. He stated that "the narration of this hadith is not authentic. This hadith was narrated from Jabir, but Abu al-Zubayr did not mention that he heard this hadith from Jabir, and the hadith he did not mention is considered to be mudallas." (Ibn Hazm, 2000).

The Hanafi evidence from the atsar of the Companions:

1. Ali, may Allah be pleased with him, said: "Do not sell us dead fish that float on the surface of the sea,"
2. Ibn Abbas, may Allah be pleased with him, said: "Eat what is thrown by the sea, and do not eat what you find dead and floating on the surface of the sea."

These narrations from the companions serve as evidence for the Hanafi school's position that dead sea animals should not be consumed.

After discussing the two views of the fuqaha and the evidence supporting each view regarding the carcass of sea animals and its suitability for consumption, the author chooses the first view which states that the fish that died in the sea and became a carcass is pure and halal to eat. Based on this view, it is permissible to use the carcass of fish in animal feed because it is difficult to distinguish between dead and live fish during the catching process. However, if the carcass of the sea fish has decayed and is feared to cause harm when consumed, then it is prohibited to eat it due to harm.

CONCLUSION

Every living creature created by Allah Subhanahu wa Ta'ala has the right to live and obtain the rights that it deserves. This includes animals as well. If they are under the care of humans, their rights to food and well-being cannot be neglected by their owners. The scholars of Islamic jurisprudence have given their views regarding the welfare of domestic animals. They even believe that the state, through the decision of the qadi, can take legal action against the owner of an animal if they neglect the welfare of the animal under their care. This shows that Islam is concerned about the welfare of all living beings created by Allah on this earth. Regarding the provision of food containing impurities and dirt to animals, there are different views among the scholars, but generally, the majority of scholars state that it is permissible to provide food containing impurities and dirt to animals under certain conditions. One of the conditions given is that the ratio of impurities is small, and the animal that consumes such food will not be slaughtered in the near future.

REFERENCES

- Ibnu Qudamah, Muwaffiquddin Abi Muhammad Abdullah bin Ahmad. (1997). *Al-Mugni*. Darul Fikr, Beirut, Lebanon.
- Ibnu Abidin, Muhammad Amin bin bin Umar bin Abdul Aziz. (1386H). *Hasyiyah Ibnu Abidin. Raddul Mahtar Ala Al-Durr Al-Mukhtar*. Darul Fikr, Beirut, Lebanon.
- Ibn Al-Azhari, Salih Abdus Sami. (1997). *Jawahir Al-Iklil*. Dar Ihya Al-Kutub Al-Arabiyyah, Eisa Al-Bab Al-Halabi Wa Syuraka`uh, Cairo, Egypt.
- Ibnu Taimiyah, Ahmad bin Abdul Halim. (1404H). *Majmu Fatawa Ibnu Taimiyyah*. Maktabah Ibnu Taimiyyah.
- Ibnu Hanbal, Ahmad bin Hanbal Abu Abdullah al-Syaibani. (2001). *Musnad Ahmad*. Muassasah Qurtubah, Egypt.
- Al-Bukhari, Muhammad bin Ismail Abu Abdullah. (1987). *Sahih Al-Bukhari*. Dar Ibnu Katsir, Al-Yamamh, Beirut, Lebanon.
- Ibnu Hazam, Ali bin Ahmad bin Said. (2000). *Al-Muhalla*. Darul Afaq Al-Jadidah, Beirut, Lebanon.
- Al-Kasani, Ala Al-Din. (1982). *Bada`i` al-Sana`i`*. Darul Kitab Al-Arabi, Beirut, Lebanon.
- Al-Nawawi, Abu Zakariya Yahya bin Syaraf . (1417H). *Al-Majmu Syarh Al-Muhazzab*. Darul Fikr, Beirut, Lebanon.
- Al-Bahwati, Mansur bin Yunus bin Idris. (1402H). *Al-Rawd Al-Murba`*. Maktabah Al-Riyad Al-Haditsah, Riyad, Saudi Arabia.
- Shebir, Utsman. (2001). *Al-Najasat Al-Mukhtalith Bil-A`laf Wa Atsaruha Fil-Mantujat Al-Hayawaniyyah Fil-Fiqh Al-Islami*. Dar al-Nafais, Jordan.
- Ibnu Abdul Barr. (1387H). *Al-Tamhid Li Ibni Abdul Barr*. Wizarah Al-Awqaf Wa Al-Syu`un Al-Islamiyyah, Morocco.
- Al-Zarqani, Muhammad bin Abdul Baqi bin Yusuf. (1411H). *Syarh al-Zarqani Al Al-Muwatta`*. Darul Kutub Al-Ilmiyyah, Beirut, Lebanon.
- al-Syarbini, Syamsuddin Muhammad bin Ahmad. (1998). *Al-Iqna` Li Al-Khatib*. Maktab Al-Buhuts Wad-Dirasat, Darul Fikr, Beirut, Lebanon.
- Ibnu Taimiyah, Ahmad bin Abdul Halim. (1412H). *Syarh Al-Umdah Libni Taimiyyah*. Maktabah Al-Ubaikan, Riyad.
- Al-Daruqutni, Ali bin Umar Abul Hasan. (1966). *Sunan al-Daruqutni*. Darul Ma`rifah Beirut.
- Al-Qalyubi, Al-Syaikh Syihabuddin. Al-Syaikh Umairah. (1996). *Hasyiyata Al-Syaikh Syihabuddin Al-Qalyubi Wa Al-Syaikh Umairah Ala Syarh Jalaluddin Al-Muhalla Ala Minhaj Al-Talibin Lin-Nawawi*. Dar Ihya Al-Kutub Al-Arabiyyah. Faysal Isa Al-Bab Al-Halabi, Cairo, Egypt.