



# Rights and Duties Pertaining to Kept Animals

*A Case Study in Islamic Law and Ethics*

MUSA FURBER

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### *Summary*

Animals are at the heart of many of today's heated ethical and legal debates. This paper presents a survey of Qur'anic verses and prophetic narrations related to kept animals, and a study of one school's application of this evidence to the topic of kept animals. This ethical and legal study will also throw into relief some of the mechanism of madhhab-based jurisprudence and fiqh reasoning. This study serves as a basis for understanding and applying Islamic moral theology to the numerous contemporary issues related to kept animals.

### *About the Author*

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**T**HROUGHOUT OUR HISTORY, humans have kept animals for a variety of purposes and benefits. Livestock animals are kept for their meat, hair, wool, and labor. Working animals are kept to perform tasks, such as drawing carts or plows, and for hunting or guarding. Lab animals are kept for experimentation and testing. Pets are kept for companionship and protection. Animals are a part of our everyday lives and environment. Even individuals who do not themselves keep animals experience the beneficial and harmful consequences of kept animals. For example, intensive animal farming has been developed to meet the demand for meat. Numerous criticisms have been raised regarding the treatment and welfare of the animals kept at these farms, and the detrimental impacts this type of farming has on the environment. So our relationship to animals and how we treat them should be of concern to each individual human.

Muslims should be even more concerned since animals and their treatment are mentioned in Islam's primary textual sources (the Qur'an and hadith), and developed even further in commentaries and in legal and moral literature. The Qur'an and hadith indicate that Allah has granted humankind dominion over animals. The limitations of this dominion are clarified through numerous injunctions concerning animals. These injunctions form part of the evidence that Muslim scholars used when discussing the legal and ethical rulings related to kept animals. Scholars note that humans must treat animals with mercy and kindness, and avoid harming or annoying them. As a general rule, humans cannot kill animals except in a narrow range of exceptional cases, such as for their meat

or self-defense. Keepers of animals must provide sufficient upkeep for their animals. When keepers fail to do so, the authorities and the community may be required to intervene. Most scholarly discussions on these issues occur within legal (*fiqh*) literature, which focuses on the status of actions with respect to permissibility and validity. Legal literature tends to approach these discussions from the perspective of legal obligations of animal keepers towards the animals they keep, and the rights of those animals. But there are other writings that focus on the same actions but from the perspective of animal welfare (*maṣlaḥah*), and of beneficence (*iḥsān*).

These laws, attitudes, and concerns were not seen as mere niceties or optional virtues, but rather as part and parcel of Islam's worldview and social philosophy, and what it meant to live a life in obedience and pleasing to Allah Most High. This is reflected in Muslim history, as can be seen in the many endowments that were established for the sake of providing for animals.

Few Muslims today are aware of Islam's rulings and history related to animals. The behavior of individuals and Muslim social norms towards animals are often at odds with the injunctions mentioned in the Qur'an and hadith and, thus, at odds with the Islamic laws and ethics that should determine and advise their treatment of kept animals. Proper treatment of animals is not a concern only for those individuals who keep animals, as mankind has been appointed stewards of the earth and the Muslims are responsible for carrying out the details of the Divine Legislation. (Indeed: some scholars consider proper treatment towards kept animals to be among the objectives of the religion.<sup>1</sup>) There is thus a need to remind contemporary Muslims of these rulings so that they can obey Allah's clear commands and prohibitions regarding animals, in order to carry out their role as stewards, and put them into practice and serve as an exemplar for the rest of mankind.

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1. Musa Furber, *Obligations to Future Generations*, Tabah Papers Series 6 (Abu Dhabi: Tabah Foundation, 2012), 19; see also Ibn 'Āshūr, *Treatise on Maqāṣid al-Sharī'ah* (Herndon: International Institute of Islamic Thought, 2006), 257, 260–5; idem, *Maqāṣid al-Sharī'ah al-Islāmiyyah* (Cairo: Dār al-Salām, 1428/2007), 154, 155.

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Although the classical texts cover a wide range of issues that are applicable today, there are also many contemporary issues that are in need of specific treatment. These issues include factory farming, machine slaughtering, animal experimentation, pet abandonment and caring for strays, declawing and debeaking, and the types of animals that can be kept. Does the Sacred Law praise or censure the way animals are kept in order to meet our demands for meat and milk, or abandoning house pets who have never been out of doors to fend for themselves once they become inconvenient, or dumping fish down the toilet? Does the Sacred Law approve of sterilization, or amputating the last joint of a cat's digits in order to keep the drapes and sofa pristine? Anyone who wishes to provide an Islamic perspective on issues and questions such as these will benefit greatly by first examining the literature that scholars have already written related to the legal and ethical treatment of animals.

Knowledge of the laws and guidelines pertaining to animals is essential to ensure that individual Muslims treat their own kept animals in a way that is both legal and ensures welfare for all parties (in this world and the Afterlife), to achieve an objective of Islamic law, and to answer contemporary issues related to animals. This paper will introduce these rules and guidelines in order to increase awareness of Islamic legal and ethical norms regarding the treatment of animals and their welfare, and to facilitate responding to new issues.

The paper begins with a look at several key words from the Arabic language that are used to refer to living creatures. Next the paper presents a survey of texts from the Qur'an and hadith related to the treatment of animals. The paper then presents a case study of how rulings pertaining to kept animals developed within one Sunni school of law (the Shāfi'ī school). This legal case study will then be supplemented with literature from within the same school that approaches the same topic from the perspectives of obtaining animal welfare (*maṣlahah*), and beneficence (*iḥsān*). This case study is the primary focus of this paper, as it serves as a basis for Muslim and other scholars, ethicists, policy makers, activists (and others) seeking to understand or apply Islamic moral theology to the numerous contemporary issues related to kept animals.

## Major Classes of Animals in the Arabic Language

The Arabic language refers to classes of living creatures using a variety of words. The four primary words are *ḥayawān*, *dābbah*, *naʿam*, and *bahimah*.

The word *ḥayawān* refers to any creature that is alive. Every creature that possesses a soul is a *ḥayawān*, whether the creature is rational or irrational. An example usage of this meaning from the Qur'an is found in the verse "And indeed, the home of the Hereafter—that is life (*la-hiya al-ḥayawān*)" (Q29:64).<sup>2</sup>

The word *dābbah* refers to any creature that walks, crawls, or creeps upon the earth, rational or irrational. Example usage of this meaning in the Qur'an is in the verse "Allah has created every creature (*kulla dābbah*) from water. And of them (*fa-minhum*) are those that move on their bellies, and of them (*fa-minhum*) are those that walk on two legs, and of them (*fa-minhum*) are those that walk on four" (Q24:45).<sup>3</sup> The verse is understood to include rational beings since it repeatedly uses the phrase *fa-minhum*, which includes such beings. If the verse had intended just nonrational beings, the phrase *fa-minhā*, or *fa-minhunn*, would have been used instead. The word *dābbah* is commonly understood to refer to beasts that are ridden.

The word *naʿam* comes from the root *nūn-ʿayn-mīm*, which indicates ease, plentifulness, and pleasantness. The word *naʿam* (pl. *anʿām*) refers to camels, sheep, and goats when they are together. It can refer to camels alone, but not just sheep and goats.<sup>4</sup>

The word *bahimah* comes from the root *bāʾ-hāʾ-mīm*, which indicates confusion, dubiousness, or things that cannot be known. The word *bahimah* refers to every four-legged creature of the land or sea that does not discriminate or make its distinctions and discriminations known to others. The phrase *bahimat al-anʿām* is used in the verse "Lawful for you are the animals of grazing livestock

2. Ibn Manẓūr, *Lisān al-ʿArab* (Beirut: Dār al-Šādir, 1414/1993), s.v. "*ḥāʾ-yāʾ-alif*"; see also Edward Lane, *Arabic-English Lexicon* (Cambridge: Islamic Texts Society, 1984), 2:628.

3. Ibn Manẓūr, *Lisān al-ʿArab*, s.v. "*dāl-bāʾ-bāʾ*"; see also Lane, *Lexicon*, 3:842.

4. Ibn Manẓūr, *Lisān al-ʿArab*, s.v. "*nūn-ʿayn-mīm*"; see also Lane, *Lexicon*, 2:3035.

(*bahīmat al-an‘ām*)” (Q5:1), since every living creature that does not discriminate is a *bahīmah* as they are not able to speak.<sup>5</sup>

## Using and Keeping Animals: Evidence from Primary Sources

The primary sources for Islamic ethical and legal rulings are the Qur’an and hadith. Qur’anic texts give permission for humans to make use of animals. Hadiths reiterate this permission and add specific guidelines for interacting with animals. Living creatures are a significant part of the Qur’anic text. The Qur’an mentions many classes and specific species of animals. The classes include: birds, fish, game animals, hunting animals, land predators, and livestock. The most frequently mentioned species of animals are all sources for lawful food: livestock, camels, birds, cows, sheep, and fish. Six suras of the Qur’an are named after animals: The Cow (Q2), Livestock (Q6), The Bee (Q16), The Ant (Q27), The Spider (Q29), and The Elephant (Q105).<sup>6</sup> Many verses in the Qur’an clarify the relationship between mankind and nonhuman animals, and urge humans to ponder the creation of animals so that they better appreciate their Lord.

Allah informs us that He created everything that is in the earth for mankind to use, and that He has given mankind dominion over them: “It is He who created for you all of that which is on the earth” (Q2:29). Animals are included among “that which is on the earth”. He also informs us that this creation has been subjected for human use: “Do you not see that Allah has subjected to you whatever is on the earth and the ships which run through the sea by His command? And He restrains the sky from falling upon the earth, unless by His permission. Indeed Allah, to the people, is Kind and Merciful” (Q22:65).

Additional verses clarify some of the uses that mankind has for animals. These uses include being sources of nourishment and transportation, clothing and shelter, warfare, and hunting.

5. Ibn Manzūr, *Lisān al-‘Arab*, s.v. “*bā’-hā’-mīm*”; see also Lane, *Lexicon*, 1:269.

6. Muzaffar Iqbal and Naseer Ahmad, *Integrated Encyclopedia of the Qur’an* (Sherwood Park, AB: Center for Islamic Sciences, 2012), 189–210.

Livestock animals (primarily camels, cows, sheep, and goats) are useful as sources of milk and meat, and for providing transportation: “And indeed, for you in livestock is a lesson. We give you drink from that which is in their bellies, and for you in them are numerous benefits, and from them you eat. And upon them and on ships you are carried” (Q23:21–2).

The hair, wool, and skins of animals are also useful for making clothing and tents to protect us from the elements: “And Allah has made for you from your homes a place of rest and made for you from the hides of the animals tents which you find light on your day of travel and your day of encampment; and from their wool, fur, and hair is furnishing and enjoyment for a time” (Q16:80). The same verse reiterates their use for transportation for people and loads.

Trained predators (such as dogs and birds of prey) can be used to hunt and catch edible game: “They ask you [O Muhammad], what has been made lawful for them. Say, ‘Lawful for you are [all] good foods and [game caught by] what you have trained of hunting animals which you train as Allah has taught you. So eat of what they catch for you, and mention the name of Allah upon it, and fear Allah.’ Indeed, Allah is swift in account” (Q5:4).

In addition to the physical uses mentioned above, reflecting upon animals and the many benefits they provide us is a means to strengthening our belief in and appreciation of Allah, since reflecting upon that which is created leads to knowledge of its Creator’s supreme ability, and points to His ultimate exaltedness, which in turn leads to His obedience. Allah says, “And give thought to the creation of the heavens and the earth” (Q3:191).<sup>7</sup> Animals are part of our natural environment and, thus, “a source from which to draw lessons, or *‘ibara’*.”<sup>8</sup>

The Qur’an also clarifies that our treatment of animals is a reflection of our guidance. Improper treatment of animals and tampering with Allah’s creation are both manifestations of misguidance. Allah Most High says, “For [Satan] had said, ‘I will surely take from among Your servants a specific portion. And I will mislead

7. Ibn ‘Abd al-Salām, *Shajarat al-ma‘ārif* (Beirut: Dār al-Fikr, 1421/2000), 212.

8. Jihad Hashim Brown, *Metaphysical Dimensions of Muslim Environmental Consciousness*, Tabah Essays Series 3 (Abu Dhabi: Tabah Foundation, 2013), 6–7.



them, and I will arouse in them [sinful] desires, and I will command them so they will slit the ears of cattle, and I will command them so they will change the creation of Allah.’ And whoever takes Satan as an ally instead of Allah has certainly sustained a clear loss” (Q4:118–119). How we treat animals is a reflection of the state of our guidance: proper treatment reflects proper guidance, improper treatment reflects misguidance. It is thus important to have more specific guidelines concerning our interactions with animals.

Hadiths reiterate the Qur’anic permission for humans to make use of animals, and add specific guidelines for interacting with them. As mentioned above, verses in the Qur’an state that Allah has given mankind dominion over animals. This dominion is tempered by general injunctions to avoid harm towards animals, to provide for them, to show them kindness, to avoid harming or abusing them, and to relieve their suffering, as well as more specific injunctions.

The hadiths presented below show some of these details, sometimes with brief, related commentary and what scholars understood from them.

One of the foundational and well-known hadiths regarding treatment of animals is regarding the fate of a woman who starved a cat to death. Ibn ‘Umar (may Allah be pleased with him) reported

The Messenger of Allah (may Allah bless him and give him peace) said: “A woman was tormented because of a cat which she had confined until it died and [for this] she entered Hellfire. She did not provide it with food or drink as it was confined, nor did she free it so that it might eat the vermin of the earth.”<sup>9</sup>

The hadith indicates that people who keep animals must either provide for their animals or let them provide for themselves. It also indicates that it is unlawful to confine or starve an animal. The hadith is understood to support the keeping (*imsāk*) of animals that are permissible to have (*muqtanā*).

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9. Muslim ibn al-Ḥajjāj, *al-Musnad al-ṣaḥīḥ* (Beirut: Dār Iḥyā’ al-Turāth al-‘Arabī, n.d.), 4:1760.2242–3; see also Muḥammad ibn Ismā‘īl al-Bukhārī, *al-Jāmi‘ al-ṣaḥīḥ al-mukhtaṣar* (Beirut: Dār Ibn Kathīr, 1407/1987), 2365, 3482.

Other hadiths mention injunctions against using animals as targets. One of these hadiths states that

Ibn ‘Umar (may Allah be pleased with him) came across some young men from the Quraysh tribe who had tied a bird at which they then shot arrows. Every arrow that missed would then belong to the bird’s owner. The men scattered as soon as they saw Ibn ‘Umar. Thereupon Ibn ‘Umar said, “Who has done this? Allah has cursed him who does this. Indeed, the Messenger of Allah (may Allah bless him and give him peace) invoked curses upon whomever makes a live thing a target [for one’s marksmanship].”<sup>10</sup>

Another variation of the hadith ends instead with “Allah curses anyone who mutilates an animal”.<sup>11</sup>

And in another hadith, Hishām ibn Zayd (may Allah be pleased with him) narrated:

Anas and I went to al-Ḥakam ibn Ayyūb (may Allah be pleased with them all). Anas saw some boys shooting at a chicken that had been tied down. Anas said, “The Prophet (may Allah bless him and give him peace) has forbidden targeting tied or confined animals.”<sup>12</sup>

These two hadiths indicate that it is unlawful to take any living thing which has been tethered or confined as a target for sport, since it is unlawful to harm or abuse an animal unless one has legal cause for doing so (such as the five vermin which will be mentioned below). The first hadith indicates that Allah curses people who do use a tethered or confined animal as a target for sport, meaning that they will be barred from Paradise and subject to punishment in the Hellfire. This curse is understood to indicate that the act is not a lesser sin (*ṣaghīrah*), which is forgiven over time and through good works, but rather it is an enormity (*kabīrah*), which requires

10. Muslim, *Ṣaḥīḥ*, 3:1550.1958; see also al-Bukhārī, *al-Ṣaḥīḥ*, 5512.

11. al-Bukhārī, *al-Ṣaḥīḥ*, 7:94.5515.

12. Ibid., 7:94.5513-14.

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an individual act of repentance. So not only are making animals the object of mutilation and target practice both unlawful, they are of such gravity that unrepentant perpetrators deserve enormous punishment in the Afterlife. These hadiths combined with the general prohibition against taking animal life should prompt us to think carefully about the status of experimentation on live animals.

Branding animals on the face is also considered an enormity. Ibn ‘Abbās (may Allah be pleased with them) said:

An ass with a brand on the face happened to pass before the Prophet (may Allah bless him and give him peace). Thereupon he said, “May Allah curse the one who has branded it [on the face].”

Another variation of this hadith mentions the prohibition against hitting animals on the face. Ibn ‘Umar (may Allah be pleased with him) said:

The Messenger of Allah (may Allah bless him and give him peace) forbade us from hitting across the face and branding on the face [of an animal].<sup>13</sup>

Commentators explain that branding and striking the face are unlawful since the face is tender (*laṭīf*) and is the locus of beauty (*maḥāsin*) and the senses (*ḥawāss*).<sup>14</sup> Branding or striking the face leads to incapacitating the senses and blemishing (*tashwīḥ*) the face. The injunction against beating the face is general, meaning that it is a prohibition against striking the face of humans and (nonhuman) animals. Since the effect of branding is more severe than the effect of striking, the prohibition against branding is even more appropriate.

In addition to forbidding animal abuse in general, the Prophet (may Allah bless him and give him peace) also forbade taking their young, burning them, or damaging their habitats. Ibn Mas‘ūd (may Allah be pleased with him) reported:

13. Muslim, *Ṣaḥīḥ*, 3:1673.2117–18.

14. Muṣṭafā Sa‘īd al-Khinn et al., *Nuzhat al-muttaqīn* (Beirut: Mu’assasat al-Risālah, 1422/2001), 2:323.

We were with the Messenger of Allah (may Allah bless him and give him peace) on a journey when he drew apart to relieve himself. We saw a red bird that had two young ones with it. We caught them and the red mother bird came, beating the earth with its wings. The Prophet (may Allah bless him and give him peace) then returned and said, “Who has distressed this bird on account of its young? Return them to her.” He also noticed an ant mound which we had burnt up. He asked, “Who has set fire to this?” We replied, “We did.” He (may Allah bless him and give him peace) said, “None should torture with fire save the Lord of the fire.”<sup>15</sup>

Some commentators note that the prohibition against burning an ant nest does not apply if the nest is empty.

Other hadiths show that it is sometimes permissible to kill vermin. One of these hadiths is a narration from ‘Ā’ishah (may Allah be pleased with her and her father):

The Prophet (may Allah bless him and give him peace) said, “Five kinds of animals are mischief-doers and can be killed even in the Sacred Precinct: rats, scorpions, kites, crows, and rabid dogs.”<sup>16</sup>

‘Abd Allāh ibn Mughaffal (may Allah be pleased with him) narrated:

The Prophet (may Allah bless him and give him peace) said: “If dogs were not a community (*ummah*) I should command that they all be killed. Rather kill every pure black one.”<sup>17</sup>

15. Abū Dāwūd, *Sunan Abi Dāwūd* (Beirut: al-Maṭba‘ah al-‘Aṣriyyah, n.d.), 2675, 5268. Imam al-Nawawī, in his *Riyāḍ al-ṣāliḥīn* (1610), noted that the chain of transmission is *ṣaḥīḥ*.

16. al-Bukhārī, *al-Ṣaḥīḥ*, 4:129.3314, 3315; see also Muslim, *Ṣaḥīḥ*, 1198; Mālik ibn Anas, *Muwatta’ Mālik* (Beirut: Dār Iḥyā’ al-Turāth al-‘Arabī, 1406/1985), 90.

17. Abū Dāwūd, *Sunan*, 3:108.2845; see also Abu Muḥammad al-Dārimī, *Sunan*

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While these hadiths permit the killing of these specific animals as vermin, the second hadith indicates that it is not permissible to make dogs extinct due to their being a community. The Qur'an states that all flying and creeping creatures are also communities: "And there is no creature on [or within] the earth or bird that flies with its wings except [that they are] communities like you. We have not neglected in the Register (*al-Kitāb*) a thing. Then unto their Lord they will be gathered" (Q6:38). If the Prophet (may Allah bless him and give him peace) prevented the extermination of dogs due to their being a community, it follows that we ought to similarly prevent the extermination of other animals since they, too, are also communities.

Several hadiths indicate that in cases where it is permissible to take an animal's life (such as when slaughtering it to make use of its meat), care must be taken to avoid unnecessary pain. In one hadith, Shaddād ibn Aws (may Allah be pleased with him) said:

Two things I remember the Messenger of Allah (may Allah bless him and give him peace) having said: "Verily Allah has enjoined goodness to everything. So when you kill, kill in a good way, and when you slaughter, slaughter in a good way. So every one of you should sharpen his knife, and let the slaughtered animal die comfortably."<sup>18</sup>

Another hadith forbids cutting off a piece of an animal while it is still alive, as pre-Islamic Arabs sometimes did. Abū Wāqīd (may Allah be pleased with him) said:

The Prophet (may Allah bless him and give him peace) came to Medina where they would cut off the

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*al-Dārimī* (Riyadh: Dār al-Mughnī, 1421/2000), 2051; Ibn Mājah, *Sunan Ibn Mājah* (Beirut: Dār Iḥyā' al-Turāth al-ʿArabī, 1406/1985), 3205; Muḥammad ibn ʿĪsā al-Tirmidhī, *Sunan al-Tirmidhī* (Cairo: al-Bāb al-Ḥalabī, n.d.), 1486, 1489; Abu ʿAbd al-Raḥmān al-Nasāʾī, *al-Muḥṭabā* (Aleppo: Maktab al-Maṭbūʿāt al-Islāmiyyah, 1406/1986), 4280; Ibn Ḥibbān, *Ṣaḥīḥ Ibn Ḥibbān* (Beirut: Muʾassasat al-Risālah, 1408/1988), 5656–7.

18. Muslim, *Ṣaḥīḥ*, 3:1548.1955.

humps of camels and the buttocks of sheep [while still alive]. He said, “Whatever is cut from an animal while it is alive, is [like] it being [cut from one that is] dead.”<sup>19</sup>

Clearly, butchering a live animal is an act of unnecessary torture. If the butchery is not fatal, the animal is left to continue to suffer the loss of the butchered part.

Most of the hadiths mentioned above establish duties and rights related to animals. Other hadiths show that good treatment towards animals is a cause for forgiveness. One hadith mentioned that

a prostitute from the Israelites [*Banī Isrāʾīl*] happened to see a dog on the verge of dying from thirst, circling a well. She removed her shoe, drew water with it, and gave it to the dog to drink. She was pardoned because of this.<sup>20</sup>

Another hadith mentioned that

a person suffering from intense thirst while on a journey came upon a well. He climbed down into it and drank. When he exited the well he saw a dog lolling its tongue on account of thirst and eating the moistened earth. The person said, “This dog has suffered from thirst just as I had.” He climbed down into the well, filled his shoe with water, then caught it in his mouth until he climbed up and gave it to the dog to drink. Allah thanked him for this act and pardoned him. [The Companions (may Allah be pleased with them)] said, “O Messenger of Allah, is there a reward for us even for [serving] these animals?” He said, “Yes, there is a reward for [rendering service to] every living animal.”<sup>21</sup>

Both of these hadiths show how good behavior towards dogs—an animal which is not permitted for Muslims to keep except for

19. Abū Dāwūd, *Sunan*, 3:111.2858; al-Tirmidhī, *Sunan*, 1480, who considered it fair and whose wording is used here.

20. Muslim, *Ṣaḥīḥ*, 4:1761.2245.

21. al-Bukhārī, *al-Ṣaḥīḥ*, 8:9.6009; Muslim, *Ṣaḥīḥ*, 2244.

hunting, guarding crops or livestock; and which requires special treatment with regards to ritual purity—is a cause for sins being pardoned. If this is the case for dogs, then it is even more appropriate for animals free of such restrictions. This is confirmed in the second hadith which explicitly indicates that there are rewards for kindness to all living things.<sup>22</sup>

In another hadith, a camel complains to the Prophet (may Allah bless him and give him peace) about its treatment. This is one of several events where the Prophet communicated with nonhumans. ‘Abd Allāh ibn Ja‘far (may Allah be pleased with him) said:

The Messenger of Allah (may Allah bless him and give him peace) seated me behind him [on his ride] one day, and told me secretly a thing asking me not to tell it to anyone. The place most dear to the Messenger of Allah for relieving himself was a mound or copse of palm trees by which he could conceal himself. He entered the garden of a man from the Medinan Helpers. When a camel saw the Prophet (may Allah bless him and give him peace), it suddenly wept tenderly, making a yearning sound, and its eyes flowed with tears. The Prophet came to it and wiped the temple of its head. So it kept silence. He then said, “Who is the master of this camel? Whose camel is this?” A young man from the Medinan Helpers came and said, “This is mine, Messenger of Allah.” He said, “Do you not fear Allah about this beast which Allah has put in your possession? It has complained to me that you keep it hungry and load it heavily, which fatigues it.”<sup>23</sup>

This hadith shows that animals need to be given adequate food and should not be loaded with more than they can bear. The hadith also shows that animals experience feelings and mental states. This was also evidenced in an earlier hadith, where stealing her young

22. Although I have not seen any commentators mention this, the hadiths also show the exercise of empathy for other beings—something that is sorely lacking in our day.

23. Abū Dāwūd, *Sunan*, 3:23.2549; see also Abū Bakr al-Bayhaqī, *Ma‘rifat al-sunan wa al-āthār* (Damascus: Dār Qutaybah, 1412/1991), 15631.

put a bird into distress. While someone might object that the earlier hadith was an anthropomorphic explanation of the bird's behavior, here the camel's reaction upon seeing the Prophet (may Allah bless him and give him peace) shows conscious volition, as the camel sought aid from the very individual who was sent as a mercy to all worlds—including the various worlds of man, jinn, and beast.

Hadiths related to milking introduce another set of rulings related to kept animals. These hadiths indicate that some milk should be left behind in accordance with a belief that this would promote its replenishment. They also indicate that a portion of milk must be left behind that is adequate to feed the animal's young. Also, fingernails need to be kept trimmed in order to avoid harming the animal's udders during milking. Ḍirār ibn al-Azwar (may Allah be pleased with him) said:

I gifted a female sheep to the Messenger of Allah (may Allah bless him and give him peace) and he ordered me to milk it. I milked it vigorously. He said, "Leave [the remainder of the milk, in the udder] that is to draw the milk [that comes after it]"—meaning not to exhaust it entirely.<sup>24</sup>

There are also hadiths from Sawādah ibn Rabīʿ (may Allah be pleased with him) where he asked the Prophet (may Allah bless him and give him peace) for a gift. In the first hadith he said:

I came to the Prophet (may Allah bless him and give him peace) and asked him [for a gift]. He ordered a group of camels for me. He said, "When you return to your sons, order them to be beneficent in feeding their quadrupeds. And order them to pare their nails and not let your nails make the udders of your livestock bleed when you milk them."<sup>25</sup>

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24. al-Dārimī, *Sunan*, 2:1270.2040; Aḥmad, *Musnad* (Beirut: Mu'assasat al-Risālah, 1421/2001), 16702; see also al-Bayhaqī, *Ma'rifat al-sunan*, 15633.  
 25. Aḥmad, *Musnad*, 25:323.15961; see also al-Bayhaqī, *Ma'rifat al-sunan*, 15634.



## RIGHTS AND DUTIES PERTAINING TO KEPT ANIMALS

In the second hadith he said:

I came to the Prophet (may Allah bless him and give him peace) and he ordered a group of camels for me. He said to me, "Order your sons to trim their nails for the udders of their camels and livestock. Tell them to leave its young with it so they don't reach [the end of] a year emaciated." And he said to me, "Do you have any property?" I said, "Yes, I have property: camels, horses, and slaves." He said, "You must keep horses. Engage yourself with them since horses have goodness attached to their forelocks."<sup>26</sup>

Some animals were common inside houses or even kept as pets. One hadith mentions cats mingling and circulating within the house. Abū Qatādah (may Allah be pleased with him) said:

The Messenger of Allah (may Allah bless him and give him peace) said concerning cats that "they are not unclean, but rather are amongst those who intermingle with you".<sup>27</sup>

One thing to note here is that cats were not kept simply as pets, but rather they were kept as working animals tasked out for pest control.

Another very famous hadith mentions children keeping pet birds. Anas ibn Mālik (may Allah be pleased with him) reported:

The Messenger of Allah (may Allah bless him and give him peace) had the sublimest character among mankind. I had a brother called Abū 'Umayr. I think he was weaned. When the Messenger of Allah (may Allah

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26. al-Bukhārī, *al-Tārikh al-kabīr* (Hyderabad: *Dā'irat al-Ma'ārif al-'Uthmāniyyah*, n.d.), 4:184.2418; see also al-Bayhaqī, *Ma'rifat al-sunan*, 15635.

27. Mālik, *Muwatta'*, 13; al-Dārimī, *Sunan*, 763; Abū Dāwūd, *Sunan*, 75, 76; al-Tirmidhī, *Sunan*, 92, who said *ḥasan ṣaḥīb*; al-Nasā'ī, *al-Mujtabā*, 68, 340; Ibn Khuzaymah, *Ṣaḥīḥ Ibn Khuzaymah* (Beirut: al-Maktab al-Islāmī, n.d.), 104; Ibn Hibbān, *Ṣaḥīḥ*, 1299.

bless him and give him peace) came to our house, he saw him [in a state of sadness] and said, “Abu ‘Umayr, what has the sparrow done?” He [Anas?] said that he had been playing with it.<sup>28</sup>

Al-Khaṭṭābī explained the phrase “playing with” meant by restraining and keeping it.<sup>29</sup> He also mentioned that the type of bird in the hadith was one not known for having a good voice, so it was not kept merely for its sound.<sup>30</sup> Al-Māwardī cited the hadith as evidence for the permissibility of boys playing with living things.<sup>31</sup> Al-Nawawī<sup>32</sup> cited it as evidence for the permissibility of boys playing with birds, and for their guardians allowing them to do so.<sup>33</sup>

When commenting on this hadith in *Faṭḥ al-Bārī*, Ibn Ḥajar al-‘Asqalānī mentions that the hadith is rich in legal, ethical, and literary points. He mentions that when the Shāfi‘ī legal scholar Ibn al-Qāṣ was told that the folk of hadith (*ahl al-ḥadīth*) relate hadiths which have no benefit—with this being an example—he authored a monograph listing over sixty specific points derived from this hadith. These points included the permissibility of young people playing with birds, parents letting their young do this, and spending money on young people’s permissible play things. Allowing children to play with and keep birds (or other animals) is permitted only so long as there is no abuse. It is not permissible to allow children to abuse the animals—especially if it results in death, as this is absolutely never permitted. Ibn al-Qāṣ also mentioned that the hadith indicates the permissibility of keeping birds in cages and the like,

28. Muslim, *Ṣaḥīḥ*, 3:1692:2150; al-Bukhārī, *al-Ṣaḥīḥ*, 6129, 6203.

29. al-Khaṭṭābī, *Ma‘ālim al-sunan* (Aleppo: Maṭba‘at Muḥammad Rāghib al-Ṭabbākh al-‘Ilmiyyah, 1351/1932), 4:129.

30. Ibn Ḥajar al-‘Asqalānī, *Faṭḥ al-Bārī* (Beirut: Dār al-Ma‘rifah, 1379/1959), 10:584–6.

31. al-Māwardī, *al-Hāwī al-kabīr* (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1419/1999), 15:55.

32. al-Nawawī, *Sharḥ Ṣaḥīḥ Muslim* (Beirut: Dār Iḥyā’ al-Turāth al-‘Arabī, 1392/1972), 14:129.

33. In addition to providing companionship, entertainment, and aesthetic pleasure, taking care of pets also helps children learn to responsibly care for others.

and trimming their wings; since only one of them must have been done with Abū ‘Umayr’s bird, and each is analogous to the other.<sup>34</sup>

The hadiths presented above show that animal welfare and care has been an integral part of Islam from its very beginning. How Muslim scholars understood textual evidence—like the hadiths presented here and the Qur’anic verse presented before—is the subject of the next sections drawn from scholarly literature.

## Kept Animals: A Case Study from the Shāfi‘ī School

The Qur’anic verses mentioned above show that humans have permission to keep and make use of animals for certain purposes. These verses do not give specific guidance on how animals are to be treated. Hadiths, however, do provide specific guidance on this matter. These verses and hadiths are part of the source material that Muslim scholars consider when developing rulings related to the treatment of animals. The bulk of rulings related to the treatment of kept animals is found within the chapter of marriage, within sections dealing with financial support of dependents (*nafaqah*). This section will present a case study showing how those legal rulings developed over time in writings from the Shāfi‘ī school of law.

The scope of this case study is restricted to this section of rulings and to writings from the Shāfi‘ī school of law.<sup>35</sup> The study does not attempt to cover writings from other schools of law, nor to present an exhaustive survey of legal rulings related to animals; so this presentation will not include general rulings related to purity, slaughter, hunting, financial transactions, or contests. Neither does it attempt to cover the history of animals in Islam, or Muslim literature related to animals.

34. al-‘Asqalānī, *Fath al-Bārī*, 10:584–6.

35. For similar rulings in other schools, see Ibn ‘Ābidīn, *Radd al-Muṭtār* (Beirut: Dār al-Fikr, 1412/1992), 3:638; al-Kāshānī, *Badā’i‘ al-ṣanā’i‘ fī tartīb al-sharā’i‘* (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1406/1986), 4:40; Ibn ‘Ulaysh, *Minaḥ al-Jalīl Sharḥ Mukhtaṣar Khalīl* (Beirut: Dār al-Fikr, 1409/1989), 4:413–14; and Maṣṣūr al-Buhūti, *Kashshāf al-qinā‘ ‘an matn al-Iqnā‘* (Beirut: Dār al-Kutub al-‘Ilmiyyah, n.d.), 5:480, 5:494–5.

The case study will include material from five legal texts chosen from key periods of the school's history. These five texts show the initial conceptualization, content, and presentation of the rulings, and how they then developed over time. These books include (a) *al-Umm* by Imam al-Shāfi'ī (d. 204/820), (b) *al-Muhadhdhab* by Abū Ishāq al-Shīrāzī (d. 476/1063), (c) *al-Wasīṭ* by Imam al-Ghazālī (d. 505/1111), (d) *Minhāj al-ṭālibīn* by Imam al-Nawawī (d. 676/1277), and (e) *al-ʿUbāb* by al-Muzajjad (d. 930/1523). Each of these books contain opinions which were considered reliable sources for rulings (*muṭamad*) for their age. The rulings included in the *ʿUbāb* and *Minhāj al-ṭālibīn* are considered reliable unto this day. Four of these books share a common genealogy, which was a significant factor in choosing them.<sup>36</sup>

The material presented in this case study comes from the section on upkeep of animals (*nafaqat al-bahā'im*). Most books place this section at the end of the chapters on marriage, right before the chapter on personal injuries (*kitāb al-jināyāt*).

(a) *al-Umm*

The Shāfi'ī school of law has included rulings related to keeping animals since its earliest days. This is evident by their inclusion in the case study's first book: Imam al-Shāfi'ī's own *al-Umm*. This book was written by the eponymous founder of the school during his own life. Imam al-Shāfi'ī wrote some of its sections himself by hand; others he dictated to his students for them to write down.

Al-Shāfi'ī said: If a person has an animal in an urban setting (or a sheep or camel), he feeds it fodder that sustains it. If he refuses to do this, the Sultan admonishes him to feed or sell it.

36. *al-ʿUbāb* is an abridgment of Imam al-Nawawī's *Rawḍat al-ṭālibīn*, itself an abridgment of *Fath al-ʿAzīz Sharḥ al-Wajīz* of Imam al-Rāfi'ī (d. 623/1226), a commentary on *al-Wajīz* by Imam al-Ghazālī. *Minhāj al-ṭālibīn* is an abridgment of al-Rāfi'ī's *al-Muḥarrar*, itself an abridgment of *al-Wajīz*. Imam al-Ghazālī's *al-Wajīz* is an abridgment of his *al-Wasīṭ*, itself an abridgment of his *al-Basīṭ*. His *al-Basīṭ* is an abridgment of *Nihayāt al-maṭlab fī dirāyat al-madbḥab* by Imam al-Ḥaramayn al-Juwaynī (d. 487/1094)—a commentary on the *Mukhtaṣar* of al-Muzanī (d. 284/897), which is an abridgment of *al-Umm* of Imam al-Shāfi'ī.

If the animal is in a rural setting and the sheep, camel, or cow were taken to pasture and left to graze without being confined, and the land then becomes barren [due to drought]: I prefer that he feed, slaughter, or sell it—not that he restrain it until it dies of emaciation.

If there is no ground covering [grass and shrubs], he is forced—in my opinion—to sell, slaughter, or feed the animal.

If there is ground covering, he is not—in my opinion—forced to sell, slaughter, or feed; since the animal makes use of what is on the ground. They are not like creatures who do not graze [even] while the land is fertile except weakly; and the animal—due to drought—does not sustain [itself] sustenance of animals pastured by themselves.

Al-Shāfiʿī said: Mothers with progeny are not milked except what is in excess of their children's sustenance. They are not milked while the offspring are left to die of emaciation.<sup>37</sup>

In this text, Imam al-Shāfiʿī presents two major sets of rulings. The first set regards the responsibility of keepers to provide for their kept animals. The second set regards guidelines to follow when milking.

Imam al-Shāfiʿī does not present detailed evidence for the rulings here. Evidence for the rulings is provided by the fifth-century Shāfiʿī scholar al-Bayhaqī (d. 458/1065) in his *Maʿrifat al-sunan wa al-āthār*.<sup>38</sup> The evidence he listed was included in the previous section. Evidence for the rulings related to the responsibility of keepers to provide for their kept animals includes the hadith of the camel who complained about its owner,<sup>39</sup> and the hadith about the woman who starved her cat.<sup>40</sup> Evidence for the rulings related to milking include the three hadiths on milking mentioned earlier.<sup>41</sup>

37. al-Shāfiʿī, *al-Umm* (Beirut: Dār al-Maʿrifah, 1410/1990), 5:510–11.

38. al-Bayhaqī, *Maʿrifat al-sunan*, 11:310–12.

39. See p. 13.

40. See p. 7.

41. See pp. 14–15 for these hadiths.

(b) *al-Muhadhdhab*

Over the following centuries, scholars refined the presentation of the rulings, identified similar cases and nuances, and added related rulings. Our next example comes from *al-Muhadhdhab*, authored by Abū Ishāq al-Shīrāzī.

Whoever owns an animal is required to provide its fodder, due to what Ibn ʿUmar (may Allah be pleased with him and his father) related, that the Messenger of Allah (may Allah bless him and give him peace) said: “A woman was tortured and was put in Hell because of a cat which she had kept locked until it died of hunger. It was said to her—and Allah knows best—‘You neither fed it nor watered it when you locked it up, nor did you set it free to eat the insects of the earth.’”<sup>42</sup> It is not permissible for him to burden [an animal] with more than it can bear, since the Prophet (may Allah bless him and give him peace) “barred that a slave be responsible for carrying what he cannot bear”,<sup>43</sup> so it is necessary that [the ruling] is the same for an animal. Her milk is not milked except what is in excess of her child[’s needs], since it is nutrition for the child and, thus, it is not permissible to bar him [from it].

If [an owner] refuses to provide for his slave or his animal, he is compelled to do so—just as he is compelled to provide for his wife. If he does not possess wealth, [the animal] is rented out if possible. If it is not possible, it is sold from him—just as he loses his authority over his wife if he is unable to provide for her. And Allah knows best.<sup>44</sup>

The section in *al-Muhadhdhab* covers the same two major sets of rulings that *al-Umm* mentioned. It also introduces another major set related to limits on animal usage. The presentation of the first issue (providing for kept animals) is more concise than

42. al-Bukhārī, *al-Ṣaḥīḥ*, 1:149.745.

43. Muslim, *Ṣaḥīḥ*, 3:1284.1662; Mālik, *Muwattaʿ*, 40.

44. al-Shīrāzī, *al-Muhadhdhab* (Damascus: Dār al-Qalam, 1417/1996), 4:638–9.

it was in *al-Umm*. Also, *al-Muhadhdhab* introduces evidence to support some of its rulings. The evidence includes hadiths, such as the hadith concerning restraining cats that was mentioned in the previous section,<sup>45</sup> as well as several types of legal analogy (*al-qiyās al-fiqhī*). The legal analogies include their apparent rationale (*‘illah*), which establishes the potential for extending the rulings given here to similar cases.

(c) *al-Wasīṭ*

Our next sample is from Imam al-Ghazālī’s *al-Wasīṭ*, which is the author’s abridged abridgment of Imam al-Juwaynī’s *Nihāyat al-maṭlab*, itself a commentary on al-Muzanī’s abridgment of *al-Umm* of Imam al-Shāfi‘ī. Similar to the previous book (*al-Muhadhdhab* of Abū Ishāq al-Shirāzī), *al-Wasīṭ* presents some evidence for the rulings—though it is limited to stating the apparent rationale behind the rulings. *Al-Wasīṭ* also shows a similar refinement in the presentation of the issues, as well as the inclusion of additional rulings.

It is obligatory [for an owner] to provide fodder for his animals, since their lives are inviolable. Due to this [inviolability], it is not permissible to abuse them nor to slaughter them except to eat. Similarly, he does not exhaust their milk thereby harming their progeny.

It is permissible to steal fodder and thread [to suture a wound] if it is on the verge of dying—according to the evident opinion of the school (*al-madhhab al-aẓhar*).

A traveler puts the need of animals for water above his ablution [i.e., for prayer] and, thus, makes dry ablution.

If the land becomes barren, he must provide fodder for animals that graze.

It is not obligatory for him to maintain his house, [irrigation] canals, and immovable property—even if those are on the verge of destruction, since inviolability is for that which possesses life.

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45. See p. 7 for this hadith.

If he refuses to provide fodder [to an animal], the judge can force him to sell it, or sell it on his behalf.<sup>46</sup>

The rulings here include the two major sets seen in the earlier books: responsibility of keepers to provide for their kept animals, and limitations regarding milking. The presentation of these rulings includes mention of the underlying rationale: protecting the inviolability of living creatures.

The prohibition of over-loading animals that was included in *al-Muhadhdhab* is not included here. The section does include three sets of additional rulings.

The first set of new rulings concerns the permissibility of appropriating fodder or thread that is necessary to save a starving or wounded animal. This is in line with Imam al-Ghazālī's ordering of the overall objectives of the Sacred Law: religion, life, intellect, lineage, and wealth (in that order).<sup>47</sup> Although it is not stated explicitly here, other parts of *al-Wasīṭ* clarify that lawfully appropriated fodder or thread must be reimbursed, just as it is in the case where food is appropriated to prevent a human from dying of starvation.<sup>48</sup> It is understood that this appropriation is limited to cases of necessity where the owner does not have similar need of the item. These limitations are understood through well-known legal maxims related to harms and hardship, most particularly that "Harm is not repelled by its equal", "The more severe harm is ended through the lesser harm", "Necessities render permissible the impermissible", and "Having dire need for something does not void the rights of others".

The second set of rulings concerns water management during travels, and shows that sanctity of animal life has priority over obtaining ritual purity. This ordering does not disagree with preservation of religion having priority over preservation of life, since ritual purity is considered supplementary (*taḥsīnī*), whereas food or medical treatment are necessary (*ḍarūrī*) or needed (*ḥājī*). Addi-

46. al-Ghazālī, *al-Wasīṭ* (Cairo: Dār al-Salām, 1417/1996), 6:248–9.

47. al-Ghazālī, *al-Mustaṣfā* (Beirut: Dār al-Kutub al-ʿIlmiyyah, 1413/1993), 174.

48. al-Ghazālī, *al-Wasīṭ*, 6:528.



tionally, some scholars see preservation of life to come before preservation of an individual's own religious practice.

The third set of new rulings relates to immovable ("soul-less") properties. These rulings were not included in *al-Wasīṭ*'s ancestors (*al-Umm*, *Mukhtaṣar al-Muzanī*, and *Nihāyat al-maṭlab*<sup>49</sup>). It is possible that the rulings were included in *al-Basīṭ* (Imam al-Ghazālī's abridgment of *Nihāyat al-maṭlab*, which served as the source for *al-Basīṭ*'s abridgment), though this cannot be verified since the book has yet to be printed. The inclusion of these rulings here in *al-Wasīṭ* is the earliest explicit mention that I have been able to find. From *al-Basīṭ* onwards, it has become standard practice to include rulings related to maintaining immovable properties within the section on maintaining one's kept animals.

(d) *Minhāj al-ṭālibīn*

The endeavors to combine the regional lines of the school, and to gather and sift out the soundest rulings therein, both reached fruition with the work of the seventh-century Damascene scholar Imam al-Nawawī. His concise legal manual *Minhāj al-ṭālibīn* and his more comprehensive *Rawḍat al-ṭālibīn* became and remain the mainstays for the Shāfi'ī school, both as a source for authentic rulings as well as a source for commentaries, abridgments, and other derivative works.

It is incumbent upon one to feed his animals and water them. If he refuses, he is forced—concerning edible animals—to sell, feed, or slaughter it; or—concerning inedible animals—to sell, or feed it. He does not milk [in a way that] harms her child. That which has no soul—such as an irrigation canal and house—is not obligatory to maintain.<sup>50</sup>

49. al-Shāfi'ī, *al-Umm*, 5:510–11; Ismā'īl ibn Yaḥyā al-Muzanī, *Mukhtaṣar Kitāb al-Umm li al-Shāfi'ī* (Beirut: Dār al-Ma'rifah, 1425/2004), 318–19; 'Abd al-Malik al-Juwaynī, *Nihāyat al-maṭlab* (Jeddah: Dār al-Minhāj, 1428/2007), 15:576–7.

50. al-Nawawī, *Minhāj al-ṭālibīn* (Beirut: Dār al-Fikr, 1425/2005), 268.

*Minhāj al-ṭālibīn* covers the same two major sets of rulings mentioned in *al-Umm*, though it offers a more concise presentation of the first set (providing for kept animals). It also includes the rulings related to soul-less properties that were introduced sometime between the time of Imams al-Juwaynī and al-Ghazālī.

(e) *al-ʿUbāb*

Much more is seen when we look at the section in al-Muzajjad’s *al-ʿUbāb*, which is an abridgment of Imam al-Nawawī’s *Rawḍat al-ṭālibīn*. It aims to cover most issues in the Shāfiʿī school of law. The section in *al-ʿUbāb* provides the most comprehensive collection of rulings related to kept animals that I have found so far. The section itself is comprised of the basic rulings regarding feeding animals, then followed by secondary issues (*furūʿ*). The contents of the section include what is required of owners of animals; what is permissible for owners in times of necessity; what is offensive for owners of crops and buildings; and miscellaneous animal rights. Due to the length of the text, each section will be presented on its own, followed by my own observations and notes about the evidence.

Al-Muzajjad opens with a set of rulings concerning what is required of owners of animals. He writes:

Owners are required to provide a sufficiency for their honorable animal—even if the animal is a dog, or incapacitated due to sickness or age—of food and water. This consists of giving them food and drink that reaches the initial stages of sufficiency—not the furthest extent. Or [it is done] by sending grazing animals to pasture and leaving them water—if this suffices them. If he refuses, he is required [to provide it] from his wealth, or to sell it, or rent it out, or to slaughter an edible animal so it can be eaten. If he refuses, the judge (*qāḍī*) does whichever of the two he sees [as best]; if he doesn’t have property, the judge sells the animal—or part of it to provide for the rest; then rents it out; then from the Muslim Common Fund (*bayt al-māl*); or it is [a duty incumbent] upon the Muslims.

If the animal is, for example, a dog, he gives it to whomever is permitted to have it, or it is set free.

If [an owner has] two animals, one edible and the other inedible, and he has the sufficiency for one of them and is not able to sell [the other]; does he give priority to the inedible animal and slaughter the edible, or are they equal? There is indecision concerning this.<sup>51</sup>

At the heart of the rulings that al-Muzajjad presented is the sanctity of creatures possessing a soul, again supported by the hadith about the woman who confined a cat.<sup>52</sup>

The phrase “honorable animal” excludes animals which are not respected, such as the five malicious animals (*fawāsiq*) that are permissible to kill.<sup>53</sup>

Upkeep is required even for dogs and for animals that do not provide their intended benefit. The act of keeping an animal is what makes the keeper responsible for its upkeep—not the animal’s own provision of instrumental value to the owner.

In the absence of anyone else, providing for kept animals becomes the responsibility of the Muslim community. Today we might ask how this applies to pets that have been abandoned by their owners in urban settings, especially when the animal’s survival is diminished due to difficult weather conditions, scarcity of food and water, when household confinement has left it unable to provide for itself, or when declawing has rendered it incapable of defending itself from common predators.

The requirement that dogs be transferred to someone who is permitted to have them is due to the permissible uses for dogs being restricted to people who are actively using the dog to hunt, guard crops, or guard livestock.<sup>54</sup> Dogs can only be kept when they are used as working animals, so it is not permissible to give the dog to someone who will merely keep the dog as a pet.<sup>55</sup>

51. Aḥmad ibn ‘Umar al-Muzajjad, *al-‘Ubāb* (Jeddah: Dār al-Minhāj, 1431/2011), 3:212.

52. See note 9 above; see also Zakariyyā al-Anṣārī, *Asnā al-maṭālib* (Cairo: al-Maṭba‘ah al-Maymaniyyah, 1312/1895), 3:455.

53. See p. 10 for this hadith; see also al-Anṣārī, *Asnā al-maṭālib*, 3:455.

54. al-Muzajjad, *al-‘Ubāb*, 2:10.

55. Ibid.

Concerning the indecision mentioned for the last ruling: the preponderant opinion is that the edible animal is slaughtered to save the one that is inedible.<sup>56</sup>

Al-Muzajjad then writes about more specific issues related to what is required of owners during time of necessity.

When there is necessity, an owner can steal fodder for his animal, a sheep for his dog, and thread for his [animal's] wound—when this is specifically needed and it is not for sale.

It is unlawful for him to continue to make it carry something it is not always able to; to strike it purposelessly; to milk what harms it or its child—rather he leaves it what maintains it...like a slave woman's child...until it does not need it via grazing, fodder, or milk from someone other than his mother. It is unlawful to omit milking her [when its omission] hurts her.

It is recommended that the person who milks not be excessive in milking, but rather leaves something behind in the udder, and that he trims his fingernails.

The owner must leave behind enough honey [in the hive] to suffice his bees—if honey is specifically required.

He obtains mulberry leaves for his silkworms, or sets it free to eat them if they are available. He may expose the worm to the sun in order to obtain its benefit [of its silk, at harvest time]—even if it destroys it.

It is unlawful to pluck a living creature's wool from its roots, or to shave it [down to its roots].<sup>57</sup>

Concerning stealing fodder: the preponderant opinion is that owners must do this.<sup>58</sup> Fodder or thread that is taken must be reimbursed. Also, if he has just enough water to make ablution or to give an animal that needs it, that he gives it to the animal and then makes dry ablution (*tayammum*).<sup>59</sup>

56. al-Ramli's marginalia on al-Anṣārī, *Asnā al-maṭālib*, 3:456.

57. al-Muzajjad, *al-'Ubāb*, 3:213.

58. al-Ramli's marginalia on al-Anṣārī, *Asnā al-maṭālib*, 3:456.

59. al-Anṣārī, *Asnā al-maṭālib*, 3:456.

An animal's child has priority over its owner's milking since the milk is the child's nourishment, just as a slave woman's milk is her child's nourishment [and that a slave woman's milk cannot be taken if her child needs it].<sup>60</sup> Some scholars add that the keeper must supplement her milk if it is not sufficient for her young.<sup>61</sup>

Nails should be trimmed out of compliance with the specific order to do so,<sup>62</sup> and to avoid the general prohibition of hurting or annoying the animals. Al-Adhrā'ī (d. 708/1308) said, "It is apparent that if one has extremely long nails that would annoy the animal, that it is not permissible to milk so long as he has not trimmed what annoys the animal."<sup>63</sup>

Leaving behind honey that the hive needs to survive resembles both the obligation to provide for kept animals and the order to leave milk that the child needs. One difference with milk is that a child has more right to the milk even when a substitute will suffice. Imam al-Rāfi'ī quotes statements that, in place of honey, a roasted chicken can be hung on the door of the hive for the bees to eat.<sup>64</sup>

Silkworms are analogous to livestock with respect to the obligation to provide for them and the permissibility to kill them in order to obtain their [full, intended] benefits.<sup>65</sup>

Plucking or shaving a living creature's wool or hair all the way from its roots is unlawful since it torments the animal, which in itself is unlawful.<sup>66</sup>

Next, al-Muzajjad writes about rulings concerning the responsibilities of owners of crops and buildings. It is not offensive for owners to forgo cultivating their land [with crops] or planting [trees in] it. It is offensive to forgo watering crops or trees, or to forgo maintaining its house or canal or the like if it leads to its destruction. If a renter has claims against the property or it belongs to someone who is suspended from transactions [...] it is best not to build beyond what is needed.<sup>67</sup>

60. Ibid.

61. al-Ramli's marginalia on Ibid.

62. See p. 15 for the hadith.

63. al-Ramli's marginalia on al-Anṣārī, *Asnā al-maṭālib*, 3:456.

64. al-Anṣārī, *Asnā al-maṭālib*, 3:456.

65. Ibid.

66. Ibid.

67. al-Muzajjad, *al-'Ubāb*, 3:213.

There has been a large expansion to the rulings related to plants and buildings (“soul-less” properties; in contrast to “soul-possessing” properties, such as slaves, camels, cats, and dogs) that were introduced into this genealogy during the time of Imam al-Ghazālī. Here it is now made explicit that the rulings related to soul-less properties also apply to plants.

Several reasons are given for it not being obligatory to water plants and trees, nor to maintain buildings. One reason is that they lack of sanctity owed to soul-possessing creatures. A second reason is that watering plants and maintaining buildings are for the sake of growing wealth, and since growing wealth is not obligatory, neither is maintaining soul-less properties. This is the ruling regarding duties and obligations owed to Allah. Maintenance and growing wealth are obligatory when individuals do have claims against the plants or buildings, such as in the case of an endowment, or when a guardian acts on behalf of an owner suspended from engaging in transactions or disposing of his own property.<sup>68</sup>

Additionally, it is unlawful to actively destroy one’s own property, whereas it is offensive to choose to forgo maintenance that results in its destruction.<sup>69</sup> (In other words: there is a distinction between ruining and letting something go to ruin.) Some scholars consider it offensive to leave crops unwatered only in cases where what the crops currently bear is enough to defray the costs of watering them. Also, it ceases to be offensive to leave trees without water when the intention is for them to dry out so they can be used as lumber or firewood.<sup>70</sup> This differentiation is valid for soul-less properties. It does not apply to soul-possessing properties such as kept animals.

Al-Muzajjad closes this section with miscellaneous animal rights.

The rights of animals include gathering males and females together during mating season. It is offensive to urge donkeys to mate with horses. It is unlawful to

68. al-Anṣārī, *Asnā al-maṭālib*, 3:456.

69. al-Ramlī’s marginalia on Ibid.

70. Ibid.

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urge horses to mate with cows due to the enormity of their organ.

It is unlawful to incite animals to fight one another.<sup>71</sup>

Mules are the offspring of a male donkey with a female horse. It is offensive to seek to produce mules because

‘Alī ibn Abī Ṭālib (may Allah be pleased with him) reported that the Messenger of Allah (may Allah bless him and give him peace) was presented with a she-mule which he rode. ‘Alī said, “If we made asses cover [i.e., mate with] mares we would have animals of this type.” The Messenger of Allah said, “That is only done by those who do not know [of its prohibition].”<sup>72</sup>

That the Messenger of Allah (may Allah bless him and give him peace) rode the mule is one reason why the action is considered offensive instead of unlawful. It is argued that he would not have ridden the mule and remained silent about its process if either had been unlawful.

Urging animals to fight one another is unlawful because it is an act of idiocy (*safah*),<sup>73</sup> and because Ibn ‘Abbās (may Allah be pleased with him) reported that the Prophet (may Allah bless him and give him peace) forbade provoking animals to fight one another.<sup>74</sup>

The cases presented above show the legal rulings that Shāfi‘ī scholars understood from the material presented in the Qur’an and hadiths related to kept animals. Shāfi‘ī scholars understood the evidence to indicate that people who keep animals are legally (and morally) responsible for the well-being of their kept animals, and that they must go to great lengths to avoid injuring or annoying their animals. The underlying core reason is that living creatures have sanctity of life, and that this sanctity cannot be taken save in the few exceptional circumstances where Allah has given human-

71. al-Muzajjad, *al-‘Ubāb*, 3:213.

72. Abū Dāwūd, *Sunan*, 3:27.2565; al-Nasā’ī, *al-Mujtabā*, 3580-1.

73. al-Nawawī, *Rawḍat al-ṭālibin*, 10:351; al-Anṣārī, *Asnā al-maṭālib*, 4:229.

74. Abū Dāwūd, *Sunan*, 3:26.2562; al-Tirmidhī, *Sunan*, 1709.

kind permission to do so, and then only to the extent required. The importance of the sanctity of animal life is found since the earliest texts, but it becomes even more evident with the introduction of the ruling concerning keepers stealing to save their animals, and the inclusion of rulings related to soul-less properties.<sup>75</sup> The last two cases also demonstrate the additional breadth and depth that more comprehensive compendia, like al-Muzajjad's *al-ʿUbāb*, offer over concise abridgments, like al-Nawawī's *Minhāj al-ṭālibīn*.

## Welfare and Beneficence towards Kept Animals

Legal (*fiqh*) literature focuses on the status of actions with respect to permissibility and validity. There are other Shāfiʿī writings that focus on actions but from a different perspective. So alongside discussions concerning legal obligations of animal keepers towards the animals they keep, and the rights of those animals (like those presented above); there are also discussions related to the welfare of kept animals (*maṣlahah*), and beneficence towards them (*iḥsān*). The importance of beneficence—especially towards animals—is evident in the saying of the Prophet (may Allah bless him and give him peace):

Verily Allah has prescribed beneficence (*iḥsān*) in all things. When you kill, kill well; and when you slaughter, slaughter well. Let each one of you sharpen his blade and let him spare suffering to the animal he slaughters.<sup>76</sup>

(a) *Qawāʿid al-aḥkām fī maṣāliḥ al-anām*

One of the Shāfiʿīs who wrote about welfare of and beneficence towards kept animals is al-ʿIzz ibn ʿAbd al-Salām (d. 660/1261), a scholar from the seventh century. His book *Qawāʿid al-aḥkām fī maṣāliḥ al-anām* [Rules of the derivation of laws for reforming the people] includes a section devoted to man's duties towards animals.

75. For more details, see the selection from al-Ghazali's *al-Wasīṭ* above on p.22.

76. Muslim, *Ṣaḥīḥ*, 1955.



The section includes duties related to slaughtering and hunting, and duties related to kept animals. The duties of keepers towards kept animals include that keepers continue to provide for their animals' needs even when an animal is ill or no longer provides a benefit. The duty to provide for animals that are not useful is particularly interesting. It shows that the sanctity of animal life is not purely instrumental. It also suggests keepers of animals do not have an absolute right to dispose of and manage their kept animals however they see fit. If an owner has a duty to provide for an animal even after it is sick or infirm, then what about releasing an animal (whether it be a working animal or pet) that cannot fend for itself? Other duties include not burdening an animal beyond its capacity, and separating aggressive or harmful animals from their victims. It is also a duty to provide animals with shelter and pasture that is appropriate and well kept, and to allow animals to mate during their mating season.<sup>77</sup>

(b) *Shajarat al-ma'ārif wa al-aḥwāl*

Al-'Izz ibn 'Abd al-Salām also wrote about beneficence (*iḥsān*) towards kept animals in several parts of his *Shajarat al-ma'ārif wa al-aḥwāl* [Trees of all sorts of knowledge and states]. Section 390 of the book is titled “Beneficence (*iḥsān*) towards Owned Animals”. The section covers many of the same issues related to keeping and slaughtering animals, but with additional details and an explanation of the reasoning.

[Beneficence towards kept animals] is by providing its fodder or grazing it as much as it needs. [It is] by being gentle when loading it and traveling it, so one does not make them responsible for something they are not able to do. [It is] by not milking its milk except what is in excess of its children[’s needs], to treat its mange, and to treat its sicknesses.

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77. al-'Izz ibn 'Abd al-Salām, *Rules of the Derivation of Laws for Reforming the People*, trans. Muhammad Anas al-Muhsin (Kuala Lumpur: IBFIM, 2010), 223–4. For the original Arabic, see *Qawā'id al-aḥkām fī maṣāliḥ al-anām* (Damascus: Dār al-Ṭabbā', 1413/1992), 240.

If he slaughters, he does it with beneficence: by sharpening the blade, cutting quickly, with the animal laid down gently. [It includes] leaving it alone after slaughtering until it becomes cool.

[Beneficence includes] that if some animals harm other animals, such as by goring—even if some annoy others through head-butting, or something else—he separates between it and what annoys it, since [the Prophet (may Allah bless him and give him peace) said that] “there is a reward for service to every living animal”,<sup>78</sup> and “So whoever does an atom’s weight of good will see it” [Q99:7]; [the Prophet also said that] “On Resurrection Day, rights will be paid to those to whom they are due so much so that a hornless sheep will be retaliated for by punishing the horned sheep which broke its horns.”<sup>79</sup>

Whoever sees someone load an animal with more than it can bear is to order him to reduce it. If [the owner] refuses, he removes it with his hand, since “He who amongst you sees something abominable should modify it with the help of his hand; and if he has not strength enough to do it, then he should do it with his tongue, and if he has not strength enough to do it, [even] then he should [abhor it] from his heart, and that is the least of faith”.<sup>80</sup>

He (may Allah bless him and give him peace) said, “When you travel [through a land] where there is plenty of vegetation, you should [go slow and] give the camels a chance to enjoy the benefit of the earth. When you travel [through a land] where there is scarcity of vegetation, you should hasten with them.”<sup>81</sup> A prostitute was forgiven as a result of giving water to a dog.<sup>82</sup>

78. al-Bukhārī, *al-Ṣaḥīḥ*, 2363; Muslim, *Ṣaḥīḥ*, 2244; and others.

79. Muslim, *Ṣaḥīḥ*, 4:1997.2582; al-Tirmidhī, *Sunan*, 2420; Ibn Ḥibbān, *Ṣaḥīḥ*, 7363.

80. Muslim, *Ṣaḥīḥ*, 1:69.49; Ibn Mājah, *Sunan*, 1275, 4013; Abū Dāwūd, *Sunan*, 3430; al-Nasāʾī, 5008; Ibn Ḥibbān, 306, 307.

81. Muslim, *Ṣaḥīḥ*, 1926; Abū Dāwūd, *Sunan*, 2569; al-Tirmidhī, *Sunan*, 2858; Ibn Khuzaymah, *Ṣaḥīḥ*, 2548, 2550; Ibn Ḥibbān, *Ṣaḥīḥ*, 2703, 2705.

82. Ibn ‘Abd al-Salām, *Shajarat al-ma‘ārif* (Beirut: Dār al-Fikr, 1421/2000),

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A significant addition here is applying the principle of enjoining the right and forbidding the wrong when someone has overburdened their animal. If it applies in this particular type of animal abuse, it follows that it applies likewise to other types as well. Advocating on behalf of voiceless animals to ensure they receive the rights that the Sacred Law gives them is one form of carrying out this religious duty.

The penultimate hadith in the passage may also hint at sustainable usage of the land. It is better to quickly cross through places where vegetation is scarce to ensure that the camels are not weakened by the limited vegetation. Additionally, if the camels overgraze scarce vegetation, there may not be enough for subsequent travelers or to establish regrowth. Overgrazing not only hurts the next group of travelers, but may also destroy the earth, thus rendering it useless to others.

The next section in the book is titled “Beneficently Attending to Animals”. The bulk of the section concerns an incident where the Prophet (may Allah bless him and give him peace) was rubbing his camel’s back with tar, which is done to treat mange.<sup>83</sup>

Anas took his [newborn] brother (may Allah be pleased with them both) to the Prophet (may Allah bless him and give him peace) to put chewed dates in his mouth (*taḥṇīk*). He found him wearing a woolen cloak, rubbing tar (*qiṭrān*) on his camel. He chewed some dates which he put in the mouth of Anas’s brother, and named him ‘Abd Allāh.<sup>84, 85</sup>

This hadith is evidence for treating mange and sickness, mentioned above. Personally attending to one’s animals with kindness is not only a command, but something the Prophet (may Allah bless him and give him peace) did himself.

The writings of al-‘Izz ibn ‘Abd al-Salām mentioned in this section approached kept animals from the perspective of welfare

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sec. 390. For the hadith, see note 20 above.

83. Ibn al-Jawzī, *Kashf al-mushkil min ḥadīth al-Ṣaḥīḥayn* (Riyadh: Dār al-Waṭan, n.d.), 3:200.

84. Muslim, *Ṣaḥīḥ*, 2:144; Abū Dāwūd, *Sunan*, 4951.

85. Ibn ‘Abd al-Salām, *Shajarat al-ma‘ārif*, sec. 391.

(*maṣlahah*) and beneficence (*iḥsān*). Although there is a high degree of overlap between the material in this section and the legal writings presented earlier, the material here added two major points. The first is the importance of sustainability. The second is that the individual can command the right and forbid the wrong in matters related to kept animals.

## Conclusion

This paper provided a survey of Qur’anic verses and prophetic narrations related to kept animals, and a case study of how one legal school understood these, using the aforementioned material. Allah has granted humankind dominion over animals, though it has been tempered in many ways. The legal and ethical contents of this “tempered dominion”—when followed—lead to welfare and beneficence for both man- and animal-kind, which are part of mankind’s appointment to stewardship over the earth. It is a religious obligation that keepers of animals provide sufficient upkeep for their animals. This upkeep is a requirement of keeping any creature possessing a soul. This requirement can be enforced by the authorities; in some situations, the Muslim community may be required to assist in providing for the animal. It is also a religious obligation to treat animals with all manners of mercy and kindness, and to avoid unnecessarily harming or annoying them in any way. These attitudes and concerns informed Islam’s worldview and social philosophy. They were reflected in Muslim history, as can be seen in the many endowments that were established for the sake of providing for animals.

It is important to reiterate that these rulings are not something optional that Muslims are just free to take or leave as they see fit. The obligation to provide for kept animals is a personal obligation upon anyone who keeps animals. The prohibitions against animal abuse are personal obligations upon all people who encounter non-aggressive animals. Failing to act according to these obligations and prohibitions is disobedience against Allah and His Messenger.

Unfortunately, many of the details and more nuanced rulings are not covered in the more basic legal manuals that are most familiar to students of Islamic law, so there is a need to consult more

comprehensive and expansive reference works. Even when commentaries do provide these additional rulings, these additions can be easy to overlook amid the various layers of text.

This paper presented rulings related to kept animals from books that are legal references as well as from works that focus on welfare and beneficence. While the content is largely the same, non-Muslims (and indeed many Muslims) may find the books focusing on welfare and beneficence to be more palatable. However, evidence and rational arguments are also needed, and those tend to be found in the legal texts and in commentaries on the particular textual evidence. When addressing issues like those mentioned in the previous paragraph, it may be best to draw on several genres of Islamic literature.

The legal rulings and hadiths mentioned in this paper show that, in general, it is unlawful to intentionally and directly harm an animal, or to arrange things whereby harm is a foreseeable direct consequence. These rulings and hadiths indicate that it is also unlawful to exterminate a species—even one that is typically impermissible to keep. There is a need to clarify the status of acts where harm is a foreseeable but unintended consequence, such as deforestation, overgrazing, and pollution, which lead to destruction of animal habitats. There is also a need to clarify whether it is sometimes permissible to cause harm to animals as a side effect of bringing out some good, even though it would not be permissible to cause harm to animals as a means to bringing about that same good.<sup>86</sup>

It is hoped that this paper will enable a reassessment of our treatment of kept animals—both those we keep ourselves and those that are kept for our benefit. It is not just legal and ethical issues such as intensive animal farming, machine slaughtering, animal experimentation, pet abandonment and caring for strays, declawing, and the types of animals that can be kept that need to be assessed in light

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86. This is known as the doctrine of double effect, which Thomas Aquinas (d. 1274) introduced to Western audiences in his discussion on the permissibility of self-defense in the *Summa Theologica* (II-II, Qu. 64, Art. 7). Alison McIntyre, “Doctrine of Double Effect”, *The Stanford Encyclopedia of Philosophy* (Winter 2014 Edition), ed. Edward N. Zalta, <<http://plato.stanford.edu/archives/win2014/entries/double-effect/>>.

of the Sacred Law; but also our fulfillment of our role as stewards of the earth. As crucial as it is that we remind ourselves of how we are supposed to treat the animals we keep and to reassess how we keep them, it is even more crucial that we always keep in mind that while the Divine Law has placed such a high value on the sanctity of animal life, it places even greater value on the sanctity of human life. Indeed, how we treat humans and other animals today is part of what determines our collective futures in this world and the next.

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Animals are at the heart of many of today's heated ethical and legal debates. This paper presents a survey of Qur'anic verses and prophetic narrations related to kept animals, and a study of one school's application of this evidence to the topic of kept animals. This ethical and legal study will also throw into relief some of the mechanism of madhhab-based jurisprudence and fiqh reasoning. This study serves as a basis for understanding and applying Islamic moral theology to the numerous contemporary issues related to kept animals.

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