

## ANIMAL ABUSE IN THE PERSPECTIVE OF POSITIVE LAW AND ISLAMIC CRIMINAL LAW

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**Abstract:** Massive cases of animal abuse occur and are left unchecked, requiring more attention. This article aims to analyze cases of dog abuse in the perspective of positive law in Indonesia and Islamic criminal law. This article is qualitative with a normative juridical legal research method and is presented descriptively. Field case data were obtained through interviews with dog lover's communities, police, and former dog slaughterers in Yogyakarta. This article finds that the criminal act of molesting dogs at slaughterhouses in Yogyakarta has fulfilled the criminal element of violating Law no. 41 of 2014 concerning Amendments to Law No. 18 of 2009 concerning Livestock and Animal Health and Government Regulation no. 95 of 2012 concerning Veterinary Public Health and Animal Welfare. Mistreatment of dogs has fulfilled the elements of an act called *jarīmah* and is subject to *ta'zīr* whose punishment provisions are the authority of the government. So that according to both perspectives, animal abuse is a criminal act and deserves punishment. The omission of the case proves that the law is not implemented properly. This article recommends all parties to participate in

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guarding and monitoring the welfare and safety of animals from acts of abuse.

*Kasus penganiayaan hewan yang massif terjadi dan terbiarkan, membutuhkan perhatian lebih. Artikel ini bertujuan untuk mengalisis kasus penganiayaan anjing dalam perspektif hukum positif di Indonesia dan hukum pidana Islam. Artikel ini bersifat kualitatif dengan metode penelitian hukum yuridis normatif dan disajikan secara deskriptif. Data kasus lapangan didapatkan melalui wawancara dengan komunitas pecinta anjing, Polsek Pundong, dan mantan jagal anjing di Yogyakarta. Artikel ini menemukan bahwa tindak pidana penganiayaan anjing di rumah jagal di Yogyakarta telah memenuhi unsur pidana melanggar UU No. 41 Tahun 2014 tentang Perubahan Atas UU No. 18 Tahun 2009 tentang Peternakan dan Kesehatan Hewan dan PP No. 95 Tahun 2012 tentang Kesehatan Masyarakat Veteriner dan Kesejahteraan Hewan. Penganiayaan anjing telah memenuhi unsur-unsur suatu perbuatan disebut jarīmah dan dikenakan ta'zīr yang ketentuan hukumannya menjadi wewenang pemerintah. Sehingga menurut kedua perspektif, tindakan penganiayaan hewan merupakan tindakan pidana dan layak mendapatkan hukuman. Pembiaran kasus membuktikan bahwa hukum tidak terlaksana dengan baik. Artikel ini merekomendasikan kepada semua pihak untuk ikut serta mengawal dan mengawasi kesejahteraan dan keamanan hewan dari tindakan penganiayaan.*

**Keywords:** Animal abuse; positive law; jarīmah; ta'zīr

## INTRODUCTION

The 1945 Constitution mandates that biological wealth be used for the welfare of all Indonesian people. Utilization of such wealth should be

carried out in a good, non-exploitative, and torturous process. Animals, as one of the assets owned by Indonesia, are part of the property that can be used, but still with a good process. Law no. 41 of 2014 concerning Livestock and Animal Health states that animals need to get protection. So that in addition to ensuring its use, its sustainability is also maintained.

Torture of animals is categorized as a form of crime. The form of torture is in the form of torture and torture with the aim of obtaining an advantage. Perpetrators of abuse thus need to be punished. (Maharani 2020:677) One of the factors causing the occurrence of animal abuse is the lack of public understanding of animal welfare. This is exacerbated by the provision of light sanctions for perpetrators of animal abuse and the lack of firm action. In fact, today, there are still many cases of animal abuse and torture that are not reported to the authorities, or are reported but are ignored by the authorities. (Ivan 2014; Mareta 2019:72-74)

One of the animals that is often the target of persecution in Indonesia is the dog. Dogs can be referred to as social pets and can be good friends, loyal, and protectors for humans. Ironically, dogs are abused by being slaughtered and their meat traded for human consumption. Dog meat trade is an act that violates animal rights and animal welfare. (Senaputri 2022:1-3) Cases of dog abuse that often occur, attract the attention of the Animal Lovers Community.

Referring to Law no. 18 of 2012 concerning Food Article 1 Paragraph (1), dog meat is not part of the food. It is not included in consumption food because it is not a biological source of livestock, forestry, agricultural and other types of products. In addition, in part E of the

Circular of the Directorate General of Livestock and Animal Health of the Ministry of Agriculture Number 9874/SE/pk.420/F/09/2018 it has been emphasized that dog meat is not included in the definition of food.(Oktavira 2019)

Although there is already a ban on the dog trade for consumption, in reality, in some areas there are dog slaughterhouses (dog slaughterhouses). Slaughter of dogs is an act of abuse. In fact, in slaughterhouses, dog meat is obtained by means of harm. The dog is put in a sack, snared by the neck with a rope, beaten on the head, or put into water to death or by burning the dog with a welding torch while it is alive in order to prevent blood from escaping and it is believed that the taste will be better. After death, the dog meat is processed.(Chandra and Astuti 2018:2-3)

The Dog Meat Free Indonesia Community (DMFI) states that every year, millions of dogs are illegally transported throughout Indonesia for human consumption. According to the animal watch community, dogs sold for consumption are obtained by stealing them from people's pets or picking them up from the streets to be deposited on the black market. Not only stray dogs, breeds of dogs were also targeted.(Perkasa n.d.)

At the normative level, Indonesia has regulated provisions for slaughterhouses. There are at least two regulations, namely Minister of Agriculture Regulation Number 13 of 2010 concerning Requirements for Ruminant Slaughterhouses and Meat Cutting Plants and Government Regulation Number 95 of 2012 concerning Veterinary Public Health and Animal Welfare. Some of the rules related to slaughterhouses are, first, obtaining a permit from the livestock service or agriculture service or food

security service. Second, the location does not make people feel disturbed. Third, the quality of infrastructure is guaranteed. Fourth, the process of slaughtering animals and disposing of waste takes into account the safety of consumers and the environment. Fifth, the slaughter is carried out in a halal way according to Islam, except for pigs that can be slaughtered without halal conditions and may only be slaughtered at the Pig Slaughterhouse with due observance of health and ethical obligations. Sixth, the slaughtered animal is not a productive female animal and is in good health.(Pappa 2019; Soekarto 2020:41)

The purpose of the existence of law is to protect humans and the universe from all evil, including from animal abuse. Article 302 of the Criminal Code categorizes persecution into two forms, namely mild persecution and severe persecution. The act of injuring an animal or injuring its health and not providing the food necessary for the animal's life, is classified as mild maltreatment with a maximum penalty of three months and a maximum fine of four thousand five hundred rupiah.(Effendi and Gunadi 2016:201) Meanwhile, acts that cause an animal to be sick for more than a week, to be disabled or missing one of its bodies, and to be seriously injured to cause death, are classified as severe maltreatment with a maximum penalty of nine months and a maximum fine of three hundred rupiahs.(Tim Redaksi BIP 2017:163)

In addition to the Criminal Code, the prohibition of abusing animals is regulated in Article 66 Paragraph (2) letter g of Law 41/2014 concerning Amendments to Law Number 18 of 2009 concerning Animal Husbandry and Health. The article explains the prohibition of abuse and

abuse of animals. Article 67 explains that the implementation of animal welfare is carried out by the Government and Regional Government together with the community.

Doing good to animals in Islamic literature is part of worship (mu'āmalah).(Amnan 2020:38) The Islamic vision of raḥmah li al-'ālamīn should be applied in all aspects of life, including caring for nature and loving every element in it, including dogs which according to the al-Shāfi'iyah and Hanābilah Schools are classified as severely unclean (mughallaḏah). In contrast to the Mālikī School which states that dogs are not unclean. While the Ḥanafiyah School states that the impurity of dogs lies in their mouth, saliva, and feces.(Shihab 2004:67-68)

The command to do good and the prohibition of harming dogs is contained in a ḥadīth as follows: "a prostitute was forgiven by Allah, because, passing by a panting dog near a well and seeing that the dog was about to die of thirst, she took off her shoe, and tying it with her head-cover she drew out some water for it. So, Allah forgave her because of that." Ḥadīth narrated by al-Bukhārī and Muslim. This ḥadīth provides an understanding of the command to do good to anyone and to anything. Even doing good to dogs can be a pardon for sins. The opposite meaning of the ḥadīth is that hurting animals is a disgraceful act.

Seeing the great attention of Islam and positive law on animal welfare, this paper is directed to see and analyze cases of animal abuse in slaughterhouses that are left by the authorities in the perspective of positive law in Indonesia and Islamic law.

## **METHODOLOGY**

This article is a descriptive normative juridical law research. The source of law in this paper refers to the Criminal Code, Law no. 41 of 2014 concerning Livestock and Animal Health, and Government Regulation Number 95 of 2012 concerning Veterinary Public Health and Animal Welfare. The case in the spotlight is dog abuse at a slaughterhouse in Srihardono Village, Kec. Pundong Kab. Bantul. Data were collected through observations at the Ron-Ron Dog Care shelter belonging to a dog lover community and interviews with dog slaughterhouse owners, dog lovers in Yogyakarta, and the police at the Pundong Police Station. Once collected, the data is analyzed using a comparative method between positive criminal law and Islamic criminal law.(Marzuki 2016:119)

## **DISCUSSION**

### **Overview of the Crime of Animal Abuse according to Positive Law and Islamic Criminal Law**

According to the Big Indonesian Dictionary, persecution is arbitrary treatment or torture, oppression, and acts of violence that are intentionally carried out against someone so as to cause physical disability or even death.(Badan Pengembangan dan Pembinaan Bahasa Kemendikbudristek RI 2016) According to jurisprudence, persecution is defined as an act that intentionally causes unpleasant feelings, causes pain or even causes injury. Deliberately harming another person's health is also included in the definition of persecution.(Effendi and Gunadi 2016:96) Meanwhile, the definition of animal is explained in Article 1 Paragraph (3) of Law no. 41 of

2014 concerning Amendments to Law No. 18 of 2009 concerning Livestock and Animal Health, namely animals or animals whose whole or part of their life cycle is on land, water, and/or air, both those that are kept and those in their habitat.

Animal abuse is defined as an act to obtain satisfaction and benefit from animals by treating animals beyond the limits of their biological or physiological capabilities. The consequences that can result from abuse are that animals experience suffering, are disabled for life, and can even cause death if the abuse that has been carried out has reached an intolerable level.

The rampant abuse of animals in general is caused by a lack of public awareness about how to treat animals properly in accordance with animal welfare. Article 302 of the Criminal Code contains two types of criminal acts of animal abuse. First, the criminal act of petty petting (*lichte dierenmishandeling*) in Paragraph (1). Second, the crime of severe animal abuse (*dierenmishandeling*) in Paragraph (2). (Pinontoan, Lembong, and Muaja 2021:216)

The rules regarding animal abuse are regulated in detail in Law no. 41 of 2014 concerning Amendments to Law No. 18 of 2009 concerning Livestock and Animal Health as follows. First, Article 66 Paragraph 1. This article is in the second part on animal welfare. The contents of this article are: "Everyone is prohibited from abusing and/or abusing animals which results in disability and/or unproductiveness." Second, Article 66 Paragraph 2. Provisions regarding animal welfare as referred to in paragraph (1) shall be carried out humanely which includes:



- a. Capture and handling of animals from their habitats must comply with the provisions of laws and regulations in the field of conservation;
- b. Placement and cages are carried out in the best possible way so as to allow animals to express their natural behavior;
- c. Maintenance, security, care, and protection of animals are carried out as well as possible so that animals are free from hunger and thirst, pain, abuse and abuse, as well as fear and stress;
- d. Transportation of animals is carried out in the best possible way so that animals are free from fear and stress and free from abuse;
- e. The use and utilization of animals is carried out in the best possible way so that animals are free from abuse and abuse;
- f. Slaughtering and killing of animals is carried out in the best possible way so that animals are free from pain, fear and distress, persecution and abuse; and
- g. Treatment of animals must be avoided from acts of abuse and abuse.

Article 83 Paragraphs (1) and (2) Government Regulation Number 95 of 2012 concerning Veterinary Public Health and Animal Welfare also regulates animal welfare as follows. First, animal welfare is applied to every type of animal whose survival depends on humans which includes animals with backbones and animals without backbones that can feel pain. Second, animal welfare as referred to in paragraph (1) is carried out by applying the principle of animal freedom which includes freedom from: hunger and thirst; pain, injury, and disease; discomfort, abuse, and abuse; fear and depression; and to express his natural behavior.

Meanwhile, criminal acts in the study of Islamic criminal law are called *jarīmah*.(Haq 2017:22–25) It is interpreted as doing something that is contrary to or not in accordance with truth, justice, and deviates from the straight path.(Mardani 2019:1) That is, the perpetrators of *jarīmah* have carried out forbidden acts and left mandatory actions that were threatened by *shara'* with *ḥad* and *ta'zīr* penalties.(Misran 2017)

Based on this articulation, animal abuse is committing a prohibited act in the form of animal abuse which is punishable by *shara'* with punishment. Islamic criminal law does not regulate in detail the crime of animal abuse. However, Islam teaches humans to be kind to every creature, including animals, so it is clear that humans are forbidden to abuse animals. A Muslim must avoid acts that lead to acts of injustice towards animals, such as hurting or torturing animals or even pitting animals for the benefit of humans in the form of material.

The Qur'an and *ḥadīth* have encouraged humans to do good to animals and all animals that have a heart.(Darmadi 2018:507) The prohibition of harming and abusing animals in Islam has been mentioned in various verses and *ḥadīths*,(Nurulloh 2019:239) including Surah Al-A'rāf Verse 56. "Do not do mischief in the earth, after (Allah) has repaired it, and pray to Allah with fear (will not be accepted) and hope (will be granted). Indeed, the mercy of Allah so near to those who do well."

In addition, the prohibition of harming animals is also mentioned in the *ḥadīth*. Once the Messenger of Allah saw people targeting birds with arrows, he said: "From Ibn 'Abbās, he said that the Prophet said, "Do not

make a living animal as a target (shoot or arrow)." Ḥadīth narrated by Muslim. (Muslim bin Al-Ḥajjāj 1992)

One way to fulfill animal rights is to care for and love them. Humans are forbidden to do wrong and arbitrarily to him. One of these prohibitions has been explained in the following ḥadīth. "Having told us, 'Abdullāh Ibn Muḥammad Ibn Asmā', has told us, Juwayriyah Ibn Asmā' from Nāfi' from 'Abdullāh Ibn 'Umar, the Messenger of Allah said: "A woman was tortured because of a cat which she held until it died. So, he went to hell because of that. He did not give him food and drink while holding him, and he did not let him (let him) eat from ground animals (termites)". Ḥadīth narrated by al-Bukhārī.(Al-Bukhārī 2002)

The recommendation to do good to animals is also carried out at the time of slaughtering animals. Slaughtered animals must still be treated well. As the ḥadīth of the Prophet: "From Shaddād ibn Aws, he said: Two things that I always remember from the Messenger of Allah, he said: "Allah has obligated to always be kind to everything, if you kill then kill in a good way, if you slaughter then slaughter in a good way, sharpen your knife and please your slaughtered animal." (Muslim bin Al-Ḥajjāj 1992)

The ḥadīth commands humans to be kind to animals, including when slaughtering them. One of the virtues of cutting an animal is to use a sharp cutting tool. The reason is, if the cutting tool is blunt, of course it is difficult to slice the neck and veins of the animal. As a result, the animal is sick for a long time.(Suwanto and Fatahuddin 2017:62–63)

Although the prohibition of harming animals appears in many arguments, the absence of sanctions for perpetrators is a problem in itself.

In this regard, Islamic criminal law recognizes the term *ta'zīr*. Simply put, it is interpreted as a punishment whose procedure is left to the discretion of the judge (*qāḍī*), either in the form of physical punishment or a fine. (Munajat 2009:4) As for the language, the word *ta'zīr* comes from *azzara-yu'azziru-ta'zīran* which means to refuse and prevent, and can also mean to educate, glorify and respect, help, strengthen, and help. It is interpreted by refusing and preventing because the goal is that the perpetrator does not repeat it and other people do not do it. It is interpreted by educating because *ta'zīr* is educational, either for the perpetrator or for others so as not to imitate and behave in a good and right manner. Meanwhile, in terms of terminology, *ta'zīr* is a form of punishment whose legal content is not stated by *shara'* and becomes the power of *ulī al-amr* or judges. (Sabiq 1990:X: 51)

Islam states that punishment is a form of justice and compassion. Through punishment, Islam wants an orderly, peaceful and serene life. In addition, through punishment, neither the perpetrator nor anyone else did anything wrong. (Wahyuni 2016:102) This is in the concept of *uṣūl al-fiqh* known as the *sadd al-dharī'ah* theory, which is a form of prevention of negative things. (Adinugraha, Fahrodin, and Mujaddid 2021; Al-Burhānī 1985; Rosyid and Hapsin 2020)

### **Animal Violence in Dog Slaughterhouses in Bantul Regency: A Chronology**

In mid-September 2022, a dog slaughterhouse raid was carried out in Srihardono Village, Pundong District, Bantul Regency. The news of the raid started with a post on the Instagram account Ron-Ron Dog Care (RRDC) asking for help from anyone with access to the police, civil service

police unit, livestock service, or local government to help them secure the dogs there. RRDC is a shelter or home for abandoned dogs.(IDN Times Editor 21AD) It has been established since November 1, 2018 at Kaliurang Km 12 Street in Sleman, Special Region of Yogyakarta.

Based on an interview with Mr. Viktor as the owner of the RRDC shelter on May 10, 2022, it is known that the raid took place on Sunday, September 19, 2021. It started with a report from someone who was visiting his relative's house and then heard the sound of a tortured dog. After the origin of the sound was found, the person took a photo and uploaded it on Instagram by mentioning the @rrdcjogja account. Knowing this, Mr. Viktor immediately contacted his friends to help the dogs, but unfortunately no one could. So Mr. Viktor went there alone and asked to be accompanied by the police.<sup>2</sup>

Mr. Viktor also said that from the slaughterhouse, eight dogs were rescued. In detail, one adult and seven dogs were aged four to six months. The condition of the dogs were wrapped in sacks and only their heads were not wrapped. While the muzzle is tied using a rope. Apart from the eight rescued dogs, the other dogs were skinned. However, Mr. Viktor did not take photos. In the end, after making a bargaining process, Pak Bejo as the butcher handed over the dogs that had not been slaughtered at a price of Rp. 25,000 per kilogram. Pak Bejo then promised not to sell dog meat again. Mr. Viktor can replace the dogs with money obtained from donations and

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<sup>2</sup> Interview with Mr. Viktor, on May 10, 2022 at 13.17 at the Ron-Ron Dog Care shelter, Jalan Kaliurang Km 12, Sleman, Yogyakarta.

people who leave their dogs to be cared for at the RRDC shelter. The rescued dogs were taken to the RRDC shelter for treatment.<sup>3</sup>

Regarding the condition of the rescued dogs, Mr. Viktor informed that apart from experiencing physical pain, he also experienced stress and trauma. When they see humans, the dogs are frightened and immediately hide. The reason is that the dogs saw their friends being killed directly in front of them at the slaughterhouse. In addition, the attitude of the dogs became vicious. Mr. Viktor believes that a dog's attitude depends on the way humans treat him. While at the slaughterhouse, dogs are wrapped in sacks and excrete inside, causing the dogs to become stressed and vicious. There is also a dog that has its muzzle strapped and looks limp from not being fed for four days. The RRDC community took months to heal. At the RRDC shelter, the dogs were treated with food and medicine. Dogs that look thin and sick will be separated in separate kennels and given more specialized care.<sup>4</sup>

Mr. Viktor believes that the dogs were obtained by stealing. There are two main indicators, first, when being held and petted, the dogs give a good response. The second indication is that dog care is expensive. Dog food must be dog food. Dogs are carnivores, so no dog eats plants. If you eat plants, your dog will get sick. The high cost of caring for a dog becomes impossible if the butcher makes a profit by selling it for IDR 25,000 per kilogram. Meanwhile, regarding how to steal a dog, Mr. Viktor said that

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<sup>3</sup> Interview with Mr. Viktor, on May 10, 2022 at 13.17 at the Ron-Ron Dog Care shelter, Jalan Kaliurang Km 12, Sleman, Yogyakarta

<sup>4</sup> Interview with Mr. Viktor, on May 10, 2022 at 13.17 at the Ron-Ron Dog Care shelter, Jalan Kaliurang Km 12, Sleman, Yogyakarta

basically dogs are not easy to steal. When there is a slight disturbance, the dog will immediately bark. So, the easy way is to be poisoned or snared using a thin wire that causes the dog's neck to be easily slashed and will not rebel, if the dog struggles it will feel more pain. Some of the dogs that were rescued, some experienced infections due to these untreated wounds.<sup>5</sup>

In addition to the dog slaughterhouse in Pundong, Joko Waluyo (Head of Agriculture, Food, Marine and Fisheries (DP2KP) Bantul) found seven dog slaughter points operating in Bantul. Each slaughterhouse slaughters at least one dog a day to sell to dog meat processors. He learned this when he escorted one of the officers from the Wates Veterinary Center (BBVet) who wanted to find a dog brain sample for research related to exposure to rabies. Joko confirmed that currently there are no cases of dogs contracting rabies. This is because there is a free rabies vaccine injection service at ten animal health posts. According to Mr. Viktor, until now there have been no cases of rabies in dogs because the dogs in the slaughterhouse are mostly obtained through stealing, so the dogs before being stolen were well cared for by their owners.<sup>6</sup>

At the same time, slaughterhouses are required to produce meat of guaranteed quality, safe, healthy, and halal. This prompted the Government to issue Ministerial Regulation Number 13 of 2010 concerning Requirements for Ruminant Slaughterhouses and Meat Cutting Plants to organize a standardized slaughtering process and meet ASUH criteria (Safe,

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<sup>5</sup> Interview with Mr. Viktor, on May 10, 2022 at 13.17 at the Ron-Ron Dog Care shelter, Jalan Kaliurang Km 12, Sleman, Yogyakarta

<sup>6</sup> Interview with Mr. Viktor, on May 10, 2022 at 13.17 at the Ron-Ron Dog Care shelter, Jalan Kaliurang Km 12, Sleman, Yogyakarta

Healthy, Whole, and Halal) for consumption by Public. UU no. 41 of 2014 Articles 61 to 63 explain that animal slaughter must be carried out in a slaughterhouse by fulfilling the requirements determined by religious principles, animal welfare and sanitation hygiene. In addition, the abattoir must be under the supervision of an authorized veterinarian in the field of Veterinary Public Health supervision. This is stated in the Minister of Agriculture No. 13/ Ministry of Agriculture/ OT. 140/1/2010 Article 1 point 15 and 16.

The dog slaughterhouse located in Padukuhan Piring has been established since 1990. This means that the dog slaughterhouse, until 2022, has been operating for 31 years. The slaughterhouse operates alone without having employees. The building is shaped like an ordinary house in general and does not look like a slaughterhouse. The requirement for a slaughterhouse or slaughterhouse is to maintain cleanliness in every room, from the farm room to the slaughterhouse. In addition, the waste disposal site must also be safe for the slaughterhouse building and the surrounding environment, and there are many other requirements. The dog slaughterhouse in Padukuhan Piring which does not meet the requirements of the abattoir permit, does not have a permit for the building. That is, the slaughterhouse of dogs is illegal so the meat produced is also illegal. Illegal meat is defined as meat whose method of obtaining it is not in accordance with the regulations that have been set in Indonesia.

Although the dog slaughterhouse is illegal, it turns out that he is not in a hidden place. The slaughterhouse is next to the highway and in the middle of a residential area. Around the slaughterhouse there are people's



houses, the shape of which is like an ordinary house, not like a slaughterhouse, making the building unobtrusive. In addition, access to the slaughterhouse is easy. This is supported by the strategic location of the building and the condition of the main road in Srihardono Village being paved. As for the entrance to the residents' settlements, most of them have been cast in concrete.

The dog slaughterhouse in Srihardono Village only slaughters when there is an order. If someone ordered, Mr. Bejo would find a dog and then cut it. Usually, dog meat orders amount to one or two tails. While the order is also only one or two people. The customer does not always ask for a dog that has been slaughtered, because there are also those who order a dog alive. But for slaughtered dogs the price is higher than live dog messages. The price of dog meat that has been cut at the slaughterhouse is Rp. 25,000 per kilogram.<sup>7</sup>

The dog slaughterhouse only provides raw dog meat, not in the form of cooking. Most buyers are sellers of dog meat dishes. Processed dog meat that is often found in stalls is satay, rica-rica, and tongseng. Dog meat fans admit that the enjoyment of the dish depends on the way the seller gives the spices and herbs to the dish. These various preparations can be found around the streets in the form of street tents covered with banners. Some also open stalls like food stalls in general.

The majority of consumers like young dogs, because the texture of the meat is softer. Sales of dog meat are priced based on the weight of the

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<sup>7</sup> Interview with Pak Bejo (a former dog butcher) on 10 May 2022 at 16.00 at Pak Bejo's house.

dog meat, not per dog. One dog is usually 4-10 kilograms with the price when it has been deducted Rp25,000/kg.

Before being slaughtered, the dog is killed first. The process of killing a dog is not an easy matter. Instinctively, when they are about to be executed, they will feel it. Some ways to kill a dog are hitting its head, drowning it in water, and other methods provided that it is not slaughtered directly. This is to make it easier to cut and avoid dog bites. In addition, when the dog's meat is killed not to bleed, it is believed that the taste will be better. Dead dogs were hanged and skinned. The skin is separated from the flesh. After it was cut and cleaned, Mr Bejo then sold it.

According to information from Mr. Viktor, dog meat sells well on Thursday nights and weekends. People who like to eat dog meat believe that dog meat can be a strong medicine for having sex with husband and wife. In addition, dog meat is usually a partner when drinking liquor and speeds up the hangover process on weekends. People who are very close to myths, believe that dog meat can be an itching medicine, body warmer, and strong medicine. When they feel tired, what they look for is processed dog meat.

Dog meat is in great demand by low-income people. The reason is, if dog meat is in demand by the upper economic community, then it is sold in restaurants. Another factor is the cheap price of dog meat. On Thursday nights and weekends, the dog meat processor can cook five dogs. Meanwhile, on weekdays, often one tail is not used up. Buyers of processed dog meat are usually students who in their place of origin are used to eating dog meat.

While studying in Yogyakarta, they missed these processed foods.<sup>8</sup>

On September 19, 2021, when Mr. Viktor received a report regarding dog abuse at the slaughterhouse, he asked for help from the Pundong Police to jointly visit the location of the slaughterhouse owner. The Pundong Police Sector is the implementing element of the main functions and duties of the police in the Pundong District which is under the Bantul Police. Pundong Police Station is located on Jl. Klegen Pundong, Piring, Srihardono, Bantul, Special Region of Yogyakarta.

On September 19, 2021, the police were willing to accompany and bring together Mr. Viktor with the owner of the slaughterhouse. In the end, an agreement was made to buy the dogs that had not been slaughtered at a price of Rp. 25,000 per kilogram by Mr. Viktor. In addition, the slaughterhouse owner also promised to sell ordinary pets and no longer sell dog meat.

### **Animal Abuse at the Dog Slaughterhouse: Positive Legal and Islamic Criminal Law Perspectives**

Dog meat in a dog slaughterhouse in Srihardono Village, Pundong District, Bantul Regency is obtained by hurting dogs. After death, the dog is skinned and cleaned of fur. The final stage, the dog is slaughtered and the meat is sold. Generally, meat buyers will process it into a variety of dishes to serve their fans.

Article 302 of the Criminal Code, Article 66 Paragraph 1 and Paragraph 2, Article 91B Paragraph 1 of Law no. 41 of 2014 concerning

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<sup>8</sup> Interview with Mr. Viktor, on May 10, 2022 at 13.17 at the Ron-Ron Dog Care shelter, Jalan Kaliurang Km 12, Sleman, Yogyakarta

Amendments to Law No. 41 of 2014 concerning Amendments to Law No. 18 of 2009 concerning Livestock and Animal Health and Article 83 Paragraphs (1) and (2) PP No. 95 of 2012 concerning Veterinary Public Health and Animal Welfare has regulated criminal acts of animal abuse.

Basically, acts of mistreatment of animals have been regulated in terms of criminal sanctions. Animal abuse, even if it's minor, still has to be proven legally. Not taking legal action against the practice of animal abuse, as well as legalizing animal torture. The law has guaranteed and protected the welfare of pets, but what happens in the field, the practice of animal abuse is still allowed.

The act of hurting and torturing dogs in the practice of slaughtering dogs in slaughterhouses is a violation of the law. The following is an analysis of several articles contained in the Criminal Code and laws outside the Criminal Code against criminal acts of animal abuse in slaughterhouses. The first is article 302 Paragraphs (1) and (2) of the Criminal Code are contained in the Second Book (Crime) Chapter XIV (Crimes against Morals). The article states "Threatened with a maximum imprisonment of three months or a maximum fine of four thousand and five hundred rupiahs for committing minor mistreatment of animals: Any person who without a proper purpose or in an overreach, to achieve that goal intentionally harms or injures an animal or injures its health; If the act causes illness for more than a week, or is disabled or suffers other serious injuries, or dies, the guilty person is threatened with a maximum imprisonment of nine months or a maximum fine of four thousand five hundred rupiahs, for animal abuse."

To prove that dog slaughter is a criminal act of animal abuse, the elements of a criminal act of animal abuse must be fulfilled. These elements are contained in Article 302 Paragraph 1 of the Criminal Code as follows:

a. Subject elements (actors)

The element “whoever” refers to any legal subject who intentionally harms, injures, or damages animal health where the act is carried out without proper intent or exceeding the permitted limits. (Wiratama 2016) The Criminal Code provides limitations that the perpetrator or subject of a crime is only human. The human being referred to here is a butcher. Humans can be punished for a crime if they have the ability to be responsible. The ability to be responsible is related to two important factors. First, the reason factor to distinguish between permissible acts and prohibited or unlawful acts. Second, the feeling or will factor that determines his will by adjusting his behavior with full awareness.

b. Without a proper purpose or exceeding the limits to achieve a permissible goal;

The purpose of the butcher is none other than to make a profit from selling dog meat which is used for his own benefit. The law regulates which animals may be slaughtered in abattoirs for consumption, while dogs are not considered consumption animals. To get a profit, it can be done by slaughtering animals that already have provisions. One of the conditions for slaughtering animals at a slaughterhouse must be done in a halal way according to the Islamic religion. Only pigs can be slaughtered without halal conditions, and can

only be slaughtered at the Pig Slaughterhouse (RPB) with due observance of health and ethical obligations.

c. Deliberately injuring, injuring or damaging animal health;

The element of intentionally hurting, injuring and damaging a dog is carried out by butchers by hitting, tying the dog's neck to the wound and drowning it so that the dog is not slaughtered and does not bleed. Several dogs rescued by the RRDC had neck injuries and were traumatized every time they saw humans. It took months for the wounds and trauma to heal. Butchers also consciously know that what they are doing is hurting, injuring or damaging the dog's health.

Paragraph 2 of Article 302 of the Criminal Code explains that if the act causes the animal to be sick for more than a week or is disabled or suffers other serious injuries or dies, the perpetrator will be subject to a criminal act of animal abuse with a heavier penalty, namely imprisonment for a maximum of nine months or a maximum fine of four thousand five hundred. At the slaughterhouse, before being slaughtered the dog is required to die in various ways, as long as it does not bleed.

These elements have been fulfilled when mistreating dogs in slaughterhouses. So that the perpetrators of the dog slaughter have abused the animal in violation of Article 302 of the Criminal Code. The types of crimes listed in the article are imprisonment or fines. Judging from the criminal threat formulation system used is an alternative formulation system. The use of the word "or" between imprisonment and fines in the article indicates that the main punishment is only imposed one type, so that it is threatened alternatively.

First, Article 66 Paragraph 2 letters c, e, f and g of Law no. 18 of 2009 concerning Amendments to Law no. 18 of 2009 concerning Livestock and Animal Health. 1) Letter c Article 66 Paragraph 2: "Maintenance, safeguarding, care and protection of animals is carried out as well as possible so that animals are free from hunger and thirst, pain, abuse and abuse, as well as fear and pressure;" 2) Letter e Article 66 Paragraph 2: "The use and utilization of animals is carried out as well as possible so that animals are free from abuse and abuse;" 3) Letter f Article 66 Paragraph 2: "Slaughtering and killing of animals is carried out in the best possible way so that animals are free from pain, fear and distress, abuse, and abuse;" 4) Letter g Article 66 Paragraph 2: "The treatment of animals must be avoided from acts of abuse and abuse."

Article 66 paragraph 2 letters c, e, f, and g are articles that prohibit animal abuse. When the surviving dogs were rescued by the RRDC, it was seen that the dogs were not given proper care, were not given food and water, and were even traumatized for a long time. Likewise, the dogs that have not been rescued have been slaughtered in inappropriate ways, namely beaten, drowned and tied with a thin wire around the neck so that the dog feels pain. Dogs that are supposed to be pets are abused for consumption. Thus, the act of the dog slaughterer has been proven to have violated the provisions of these articles.

Second, Article 83 Paragraphs (1) and (2) Government Regulation Number 95 of 2012 concerning Veterinary Public Health and Animal Welfare. 1) Animal welfare is applied to every type of animal whose survival depends on humans, which includes animals with backbones and animals

without backbones that can feel sick. 2) Animal welfare as referred to in paragraph (1) is carried out by applying the principle of animal freedom which includes freedom from: hunger and thirst; pain, injury, and disease; discomfort, abuse, and abuse; fear and distress; and to express his natural behavior.

Dogs are animals with backbones. Moreover, in the slaughterhouse the dogs are placed carelessly and wrapped in sacks, only their heads are outside the sacks. After that, the dog was beaten, some were tied with a thin wire around the neck so that it was impossible to rebel because if they rebelled, the dog would be in pain. Before death, the dogs were not given food and water. The ways that the perpetrators make the dog feel pain and even injury. The condition of the dog being wrapped in a sack makes the dog excrete there and makes him feel uncomfortable and even stressed. Dogs are pets abused for consumption. When a dog is mistreated, other dogs will see it and cause fear and trauma.

Criminal acts in the study of Islamic criminal law are known as *jarīmah*, namely all *shara'* prohibitions which are threatened with *had* or *ta'zīr* penalties. The meaning of the word prohibition is to ignore the actions ordered by *shara'* which is a provision of the texts. *Had* is the provision of punishment that has been determined by Allah, while *ta'zīr* is a punishment or teaching whose size is determined by the ruler. (Jazuli 2000)

The persecution of dogs in slaughterhouses has been referred to as *jarīmah* because it has fulfilled the following three elements:

- a. Formal elements, namely the existence of rules (*naṣṣ*) that indicate an action as *jarīmah*. This element is in accordance with the principle of



legality which states that *jarīmah* is considered non-existent if it is not stated in the text. (Saija and Taufik 2016) In the case of animal abuse, the prohibition has been stated in the Qur'an and *ḥadīth*. One of the *ḥadīths* that regulates the prohibition of animal abuse: From Abū Hurayrah from the Messenger of Allah said, “A prostitute from the Children of Israel saw a dog curled up near a well, almost dying of thirst. So, he took off his shoes, then scooped up water with him and gave the dog a drink, then his sins were forgiven by that act” Narrated by Bukhari and Muslim.

The above *ḥadīth* reveals the virtue of doing good to creatures. Even a prostitute by giving a drink and saving a dog which is considered an unclean animal by some scholars can be a means of forgiveness of her sins. And vice versa, hurting and persecuting creatures can actually be a means for someone to fall into sin. So it is prohibited.

Actions carried out by butchers in slaughterhouses by hitting, snaring necks to wounds and drowning dogs to death for consumption are acts of hurting animals and are categorized as animal abuse. Basically, humans can use animals for their needs based on the provisions that Allah has set. Allah has recommended which animals are allowed to be consumed and how to slaughter them. Although some Muslims believe that dogs are heavy dirt (*mughallazah*), this does not mean that it is permissible to abuse dogs, because dogs are a living creation of Allah.

- b. Material elements, namely the existence of an action that forms the *jarīmah*, either in the form of an active act or an attitude of not doing

something from an order that must be done. There are many kinds of abuse of animals that occur, for example, abuse that is carried out without intent or in an excessive manner causing injuries and loss of limbs resulting in disability, even abuse that causes death of the animal.

Actions carried out by butchers to gain profits by hitting, snaring the neck until the wound and drowning the dog to death are acts that are carried out improperly and exceed the permissible limits. Especially considering that dogs are not animals for consumption. So that the action is included in the category of animal abuse.

- c. Moral element, namely the perpetrator of *jarīmah* can be held accountable (*mukallaf*) for the actions he has done. (Nur 2016) There are three criteria for the *mukallaf*, namely being Muslim, balligh (adult), and *'āqil* (intelligent functioning normally).

Islamic criminal law recognizes the material principle which states that a crime is anything that is prohibited by law, either in the form of taking a prohibited action or not taking an ordered action, which is threatened by law (*ḥad* or *ta'zīr*). Based on this material principle, there are two types of Islamic criminal law sanctions, namely *ḥad* and *ta'zīr*. *Ḥad* is a legal sanction whose level has been clearly determined based on the texts. While *ta'zīr* is a legal sanction that does not specify the type and type

Animal abuse is not included in the *jarīmah ḥad* or *jarīmah qiṣāṣ-diyat* because the texts that explain the prohibition of molesting animals do not mention the level and type of punishment. Therefore,

the punishment for animal abuse is categorized as *jarīmah ta'zīr*. That is, mistreatment of dogs in slaughterhouses is categorized as *jarīmah ta'zīr*.

Judging from the legal basis for its determination, *jarīmah ta'zīr* is not determined directly by the texts. Therefore, the determination of punishment becomes the authority of the local authorities (*ulī al-amr*). Financing for perpetrators of dog abuse in slaughterhouses should not occur. He must be sentenced to *ta'zīr* according to his actions. Although basically, the act of animal abuse does not have a clear threat of punishment. As for determining the punishment, the authorities only set the punishment globally. That is, legislators do not stipulate punishments for each *jarīmah ta'zīr*, but only stipulate a set of punishments, from the lightest to the most severe. (Marsaid 2020:53)

There are four kinds of *ta'zīr* sanctions, ranging from the lightest to the most severe, as follows: (Irfan and Masyrofah 2013) First, *ta'zīr* sanctions related to the body. *Ta'zīr* sanctions are divided into two types, namely the death penalty and flogging/whipping. Second, *ta'zīr* sanctions related to one's independence. These sanctions are divided into two types of punishment, namely imprisonment and exile. Third, *Ta'zīr* punishment related to property. This form of punishment is to confiscate the property of the perpetrator. *Ta'zir* punishment by taking property does not mean that the perpetrator's property is taken for the judge or for the state treasury, but holding it for a while. Meanwhile, if the perpetrator does not want to repent, then the judge can surrender the property for interests that contain benefits. Fourth, other *ta'zīr* sanctions are punishments other than those mentioned above, namely:

stern warning, presented at trial, given advice, reproach, ostracized, fired, and announced the fault openly.

Mistreatment of dogs in slaughterhouses, even though human lives are not in danger, does not mean that the act is justified. This is because in the Qur'an and ḥadīth, Allah SWT encourage humans to do good to every creature. If humans are going to take advantage of animals, then it must be done in a good way. So that the appropriate sanction imposed on the perpetrator is one of the various forms of ta'zīr sanctions.

## CONCLUSION

The crime of mistreatment of dogs at the slaughterhouse in Srihardono Village, Pundong District, Bantul Regency has fulfilled the elements and violated Article 302 Paragraphs (1) and (2) of the Criminal Code, Article 66 Paragraph 2 letters c, e, f and g of the Law of the Republic of Indonesia Number 41 Year 2014 concerning Amendments to Law Number 18 of 2009 concerning Animal Husbandry and Health and Article 83 Paragraphs (1) and (2) of Government Regulation Number 95 of 2012 concerning Veterinary Public Health and Animal Welfare. Sanctions that can be imposed are contained in Article 302 Paragraph (1) number 1 and paragraph (2) of the Criminal Code. The mistreatment of dogs in the slaughterhouse has fulfilled the elements of an act called jarīmah and more specifically falls into the category of jarīmah ta'zīr whose punishment provisions are the authority of the government (judge). [W]

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