



Contemporary Fiqh Review on the Sale of Sacrificial Animals that Have Not Reached Sufficient Age from the Perspectives of Islamic Economic Law and Positive Law

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ABSTRACT

The practice of selling sacrificial animals (qurban) that have not reached the minimum legal or religious age required for qurban remains widespread in Indonesian society. This phenomenon often raises both practical and jurisprudential dilemmas, especially in the months leading up to Eid al-Adha. Many qurban committees and buyers choose animals that appear large and healthy but are in fact below the required age. This article examines the legal validity of such practices through three analytical lenses: contemporary Islamic jurisprudence (fiqh mu'āshir), Islamic economic law, and Indonesian positive law. Using a normative-juridical method with a qualitative-descriptive approach, this study explores classical and contemporary fiqh texts, official fatwas from bodies such as MUI and Dar al-Ifta' Egypt, and relevant Indonesian laws including consumer protection regulations. The findings reveal that although the majority of classical scholars maintain strict requirements regarding animal age, contemporary scholars introduce a more purposive approach, prioritizing animal quality and the maqāṣid al-sharī'ah over rigid literalism. In Islamic economic law, transparency and mutual consent remain core principles for valid transactions, especially concerning goods intended for religious rituals. Under Indonesian positive law, a qurban transaction remains valid as long as all terms are agreed upon by the parties and the buyer is not misled. The study concludes with policy recommendations for Islamic legal institutions, local governments, and livestock sellers to provide better guidance and protections for Muslim consumers in fulfilling their religious obligations.

Keywords: *Halal Transaction, Islamic Jurisprudence, Underage Livestock*

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INTRODUCTION

The practice of Qurban (sacrifice) is an integral part of Islamic law, encompassing broad spiritual, social, and economic dimensions. This act is closely associated with the celebration of Eid al-Adha, which is commemorated annually by Muslims worldwide. In Indonesia, the tradition of Qurban has become an annual event that not only signifies submission to Allah SWT but also serves as a platform for social solidarity among

community members. Amidst the enthusiasm for performing Qurban, various fiqh (Islamic jurisprudence) issues arise that require deeper examination, one of which concerns the validity of sacrificial animals that are not of sufficient age, considering aspects of religious law, sales contracts, and legal protection for the participants involved.

Normatively, the majority of scholars from the four Islamic schools of thought assert that sacrificial animals must meet certain minimum age requirements. For instance, a goat must be at least one year old, a cow two years, and a camel five years. However, the reality on the ground does not always align with these stipulations. Factors such as limited animal stock, economic conditions, and a lack of education are primary reasons why animals that are not of sufficient age continue to be chosen and traded in the lead-up to Eid al-Adha. In fact, many people are unaware that age is one of the main requirements for a valid Qurban. This discrepancy between theory (law in books) and practice (law in action) raises a fundamental question: what is the actual legal status of the sale of sacrificial animals that are not of sufficient age from the perspective of contemporary fiqh, Islamic economic law, and positive law in Indonesia?

The debate regarding the legal status of sacrificial animals that have not reached the required age is not only an issue in academic forums but also in official discussions such as Bahtsul Masail and fatwa sessions. On one hand, there are scholars who adhere strictly to classical textual provisions; on the other hand, some propose a contextual approach based on maqashid al-shariah (the objectives of Islamic law). This approach emphasizes that the primary goal of Qurban is to draw closer to Allah and to distribute meat to those in need, rather than merely focusing on the age of the animal. In this context, fatwas from various institutions, such as the Indonesian Ulema Council (MUI), Dar al-Ifta' in Egypt, and the Permanent Committee for Scholarly Research and Ifta in Saudi Arabia, become crucial for analysis and comparison.

In addition to the fiqh aspect, the practice of selling sacrificial animals that are not of sufficient age also needs to be analyzed from the perspective of Islamic economic law. Principles such as clarity of contract (contracts free from gharar), honesty in information disclosure (transparency), and the free will of the parties are essential conditions for a valid sale according to sharia. When consumers purchase an animal under the assumption that it is valid for Qurban, but it does not meet the age criteria, this may lead to elements of tadlis (deception), which is prohibited in Islam. Therefore, further investigation is needed to determine whether such transactions can be deemed valid or void, and how to avoid gharar and tadlis in Qurban transactions.

Moreover, the context of positive law in Indonesia cannot be overlooked. In the national legal system, sales transactions are civil agreements subject to the provisions of the Civil Code (KUHPer) and the Consumer Protection Law. If information regarding the age of the animal is concealed by the seller, and the animal is found to be invalid for Qurban, the buyer has the right to sue for damages. The seller in this case may be subject to charges of fraud or violations of the principles of honesty and transparency in agreements. Thus, the perspective of positive law provides protection to consumers who

engage in transactions based on trust.

This article is significant as a scholarly contribution that bridges these three approaches: contemporary fiqh, Islamic economic law, and positive law in Indonesia. This research also aims to address practical issues faced by Muslims each year leading up to Eid al-Adha. In addition to providing a theoretical foundation, this article is expected to offer practical guidelines for livestock entrepreneurs, Qurban committees, and the general public. Through an interdisciplinary approach, this article presents a comprehensive analysis that combines textual study, social contextualization, and applicable legal analysis.

Subsequently, this article will be divided into several main sections. The first section will review the literature and opinions of classical and contemporary scholars. The second section will explain the research methodology. The third section will present the results and discussions from the three legal perspectives employed. The final section will provide conclusions and recommendations that are both practical and normative for policymakers, academics, and the general public.

In classical fiqh studies, the age requirement for sacrificial animals is a crucial part of the conditions for the validity of this worship. Based on a hadith narrated by Muslim, the Prophet Muhammad SAW said: "Do not slaughter (the sacrificial animal) except for a musinnah, unless you find it difficult, then slaughter a jadza'ah from the goats." (HR. Muslim). In the explanations of scholars, musinnah refers to an animal that has reached adulthood according to its type: a camel five years old, a cow two years, a goat one year, and a sheep six months if it appears large like a one-year-old. Imam Nawawi, in his commentary on Sahih Muslim, states that this is a provision that has reached consensus (ijma') among scholars. However, the social and technical contexts vary across different regions, leading to differences in implementation.

The Hanafi, Maliki, Shafi'i, and Hanbali schools agree on the principle that the age of the sacrificial animal must meet the minimum threshold; however, they also allow for emergency conditions or *uzur* that permit the use of animals that are not of sufficient age, especially if the physical quality of the animal is equal to or exceeds that of an adult animal. In this regard, the concept of *istihsan* (legal preference due to necessity or benefit) and *darurat syar'iyyah* (legal emergency) serve as references in certain cases. This is emphasized by Wahbah az-Zuhaili in *al-Fiqh al-Islami wa Adillatuhu*, stating that in the practice of both *muamalah* (transactions) and worship, the principle of benefit often becomes the basis for contemporary *ijtihad* (juridical reasoning).

In contemporary contexts, the discourse surrounding the age requirement for sacrificial animals has shifted. Scholars such as Yusuf al-Qaradawi and Abdullah bin Bayyah propose a *maqashid al-shariah* approach that emphasizes the essence and objectives of the law, namely self-sacrifice to Allah, rather than merely focusing on the age of the animal. Al-Qaradawi even states in some of his writings that if the animal is healthy, fat, and free from defects, and can fulfill the social distribution value of Qurban, it is permissible to slaughter it even if it has not reached the required age.

Contemporary fatwas also serve as important references in this study. The fatwa

from the Indonesian Ulema Council (MUI) states that in certain difficult conditions or when animal prices are excessively high, the use of sacrificial animals that are not of sufficient age but are large and healthy is permitted with certain conditions, such as informing the buyer or Qurban participants and ensuring there is no element of deception. Similarly, the fatwa from Dar al-Ifta' in Egypt allows for a *maslahat* (benefit) approach, as long as the intention and substance of the Qurban are not compromised. This view aligns with the perspective of scholars like Sheikh Ali Jum'ah, who asserts that the age requirement is a *ghayah* (goal) rather than a *wasilah* (absolute means).

On the other hand, it is also important to compare *fiqh* perspectives with theories in Islamic economic law. In sales transactions, principles such as honesty (*ṣidq*), information openness (*bayan*), clarity of the goods (*ma'lum al-'ayn*), and avoidance of *gharar* (uncertainty) and *tadlis* (deception) are fundamental principles. The contract in the sale of sacrificial animals is not merely an ordinary transaction but is related to the validity of worship. Therefore, the aspect of caution (*iḥtiyāt*) becomes crucial. If the animal is not of sufficient age, the seller is obliged to disclose this fact openly and honestly. When information is not transparent, the contract may be deemed defective from the perspective of sharia law and could affect the validity of the Qurban worship.

Positive law in Indonesia also provides a legal basis regarding sales transactions. The Civil Code (KUHPer) in Article 1320 regulates the conditions for the validity of agreements, namely the agreement of the parties, legal capacity, a specific object, and a lawful cause. Meanwhile, the Consumer Protection Law No. 8 of 1999 states that consumers have the right to receive accurate, clear, and honest information about the condition and guarantees of goods. If the seller conceals information about the age of the sacrificial animal, this may constitute a violation of civil law, and even criminal law if there is an element of intent. Therefore, the sale of sacrificial animals must be positioned not only as an ordinary economic transaction but also as one that involves trust and spiritual values that must be upheld.

Overall, this literature review indicates that the issue of selling sacrificial animals that are not of sufficient age involves the intersection of worship law, muamalah law, and positive law. All three provide guidance that, when wisely integrated, can offer solutions for Muslims to continue performing Qurban in a valid, correct, and dignified manner, without neglecting aspects of justice and legal protection for consumers.

RRESEARCH METHOD

This research employs a juridical-normative approach with a descriptive qualitative method. The juridical-normative approach is chosen because this study begins with the exploration and analysis of Islamic legal norms, Islamic economic law norms, and positive law norms applicable in Indonesia. Meanwhile, the descriptive qualitative approach is utilized due to the nature of this research, which emphasizes a deep understanding of the legal substance and the social-religious practices occurring in society, rather than merely quantifying statistical data.

This type of research falls into the category of library research, where data is

collected from various relevant and authoritative literature sources. Primary sources include classical fiqh texts from the four schools of thought, such as al-Majmu' by Imam Nawawi, Bidayatul Mujtahid by Ibn Rushd, and al-Mughni by Ibn Qudamah. Additionally, contemporary fiqh texts and official fatwas from authoritative institutions such as the Indonesian Ulema Council (MUI), Dar al-Ifta' in Egypt, and the Permanent Committee for Scholarly Research and Ifta in Saudi Arabia are also utilized. The primary sources of positive law include the Civil Code (KUHPer), the Consumer Protection Law No. 8 of 1999, as well as other civil law and consumer protection literature.

Secondary sources used include scientific articles in nationally and internationally accredited journals, contemporary Islamic law books, and various relevant official documents. An interdisciplinary approach is employed in analyzing the data, combining normative Islamic legal analysis and positivistic methods while considering the socio-economic context of Indonesian society. In this regard, the maqashid al-shariah approach is also used as an analytical method for the dynamics of worship and muamalah law in contemporary contexts.

The data analysis technique employed is a descriptive-analytical method, which involves systematically describing each legal provision from each perspective (fiqh, Islamic economics, and positive law), followed by a comparative analysis of the similarities, differences, and points of convergence among these perspectives. This research also utilizes a deductive method, starting from general principles of law and sharia, and then analyzing them in the context of the practice of buying and selling sacrificial animals that are not of sufficient age in the field. In the discussion section, hypothetical and real case examples will also be presented to provide illustrations and strengthen the arguments.

With this method, it is hoped that a legal conclusion will be produced that is not only normative from a textual standpoint but also considers social practices, the welfare of the community, and balanced legal protection for business actors, consumers, and those performing the Qurban worship. This comprehensive approach also aims for the results of this research to be used as a basis for policy considerations, community education, and the development of contemporary muamalah fiqh that is contextual and solution-oriented.

RESULT AND DISCUSSION

In the implementation of Qurban worship in Indonesia, the practice of buying and selling sacrificial animals that have not reached the required age has become a dominant phenomenon. This situation arises not only from the public's ignorance of the provisions of sharia law but also due to market conditions that struggle to meet the demand for sacrificial animals that meet the valid age requirements. Based on field observations, many farmers sell sheep or goats that are under one year old but appear fat, healthy, and large physically. Meanwhile, buyers, especially from the general public, often assume that physical indicators alone are sufficient to replace the age requirement. This raises

serious issues regarding the validity of the Qurban worship, the legality of the transactions, and the legal responsibilities of the parties involved in the sale.

From the perspective of contemporary fiqh, scholars are divided into two major currents. The first adheres to the textual provisions established in the hadith of the Prophet, which stipulates musinnah as the minimum age standard for sacrificial animals. This group believes that the age requirement is qath'i (definitive) and cannot be negotiated, as it directly relates to the validity of the worship. Meanwhile, the second current tends to be more flexible, adopting a maqashid al-shariah approach that prioritizes maslahat (public interest) as the main consideration. Scholars like Yusuf al-Qaradawi state that in emergency conditions or general difficulties, it is permissible to perform Qurban with animals that have not reached the required age if the animals are healthy, free from defects, and physically resemble older animals. This view emphasizes that the primary goal of Qurban is to draw closer to Allah SWT through the sacrifice of the best animals, rather than merely focusing on age calculations.

The fatwa from the Indonesian Ulema Council (MUI) represents a middle ground between these two views. MUI acknowledges that the age requirement is a valid condition for Qurban, but it also allows for dispensations in certain circumstances, provided there is transparency of information to the Qurban participants. If participants are informed that the animal is not yet of sufficient age but still willingly contribute or purchase it sincerely, then this is considered socially valid and can be tolerated from a fiqh perspective. However, MUI also emphasizes that sellers should not conceal important information regarding the age of the animals, as this can undermine trust and compromise the value of the worship.

From the perspective of Islamic economic law, this issue falls within the realm of sales contracts that must meet the elements of clarity (bayan), agreement (ridha), and avoidance of gharar (uncertainty) and tadlis (deception). If a seller sells a sacrificial animal without informing the buyer that the animal is not of sufficient age, then the transaction contains elements of tadlis that could invalidate the contract or cause harm to the buyer. Within the framework of muamalah, information transparency is a fundamental principle that must be upheld, especially when the object of the contract is an animal used for worship. Therefore, transactions are only considered valid if both parties are aware of the actual conditions and provide consent without coercion or misleading information. Islamic economic law also regulates against exploiting consumer ignorance, thus emphasizing the importance of education and moral responsibility among those involved in the Qurban livestock business.

In the context of positive law in Indonesia, the sale of sacrificial animals falls under the category of agreements as regulated in Article 1320 of the Civil Code. If any of the conditions, such as "agreement of the parties" or "specific object," are not met due to dishonest information, the agreement may be canceled or subject to civil litigation. The Consumer Protection Law emphasizes that business actors are required to provide accurate, clear, and honest information about the goods and/or services offered. Violations of these provisions can have legal implications, including compensation

claims and administrative or criminal sanctions. Therefore, consumer protection in the context of buying and selling sacrificial animals is crucial to affirm that healthy transactions are those conducted based on openness and social responsibility.

The review from these three perspectives indicates that the practice of buying and selling sacrificial animals that have not reached the required age is not a trivial matter. It involves dimensions of worship, muamalah, and legal legitimacy that are interconnected. When sellers and buyers do not understand the legal provisions or fail to maintain transparency in transactions, the Qurban worship, which should serve as a means of drawing closer to Allah, may instead become a legally flawed activity. Therefore, harmonizing sharia provisions and positive law is essential to ensure that Qurban worship is conducted correctly, validly, and beneficially for both individuals and society.

Table: Comparative Analysis of Three Legal Perspectives on the Sale of Underage Qurban Animals

Legal Aspect	Contemporary Fiqh	Islamic Economic Law	Indonesian Positive Law
Minimum Age Requirement	A strict requirement under classical fiqh; however, contemporary scholars may allow exceptions under <i>darurah</i> (necessity) or <i>maqāsid</i> -based reasoning.	Age is not a primary determinant; what matters is the clarity of the object of freedom from agreement and deception.	No specific regulation on age; validity depends on mutual agreement and full disclosure.
Validity of Sale Contract	Permissible if no concealment (<i>tadlīs</i>) is involved; ideally, sellers must disclose the animal's actual age.	Validity depends on fulfilling the pillars and conditions of a sale (offer, acceptance, object).	Valid if the agreement meets the four elements under Article 1320 of the Civil Code.
Consumer Protection	Rooted in the ethical dimensions of <i>mu'āmalāt</i> ; relies on the honesty, fairness, and seller's moral integrity and transparency.	Sellers are obliged to uphold principles of honesty, fairness, and non-exploitation of buyer ignorance.	Consumers are legally entitled to truthful and accurate information under Law No. 8/1999.
Solution in Exceptional Cases	Permissible if the animal is physically fit and no alternatives are available; intention and context are key.	Permissible if both parties are aware; seller explicitly declare facts.	Buyers may seek fully compensation or legal remedies in case of misrepresentation or fraud.

CONCLUSION

The practice of buying and selling sacrificial animals that have not reached the required age is a complex contemporary issue, as it touches on aspects of worship, muamalah, and legal protection. From the perspective of contemporary fiqh, there is room for ijtihad that allows for flexibility based on maqashid al-shariah. As long as the animal is healthy, large, and physically resembles older animals, and no defects that invalidate it are found, some scholars permit its use as a sacrificial animal under certain conditions. However, this opinion does not negate the importance of education so that the public remains aware of the fundamental provisions of Qurban as established in the hadiths of the Prophet and the consensus of classical scholars.

In Islamic economic law, the validity of the sales contract heavily relies on openness and honesty of information. Sellers are obliged to convey the actual condition of the animals being sold, including their age. If this information is concealed, the contract may contain elements of gharar or tadlis, which are prohibited in Islam. Therefore, Islamic business ethics demand that every business actor not only focus on profit but also on the welfare and trust of consumers.

From the perspective of positive law in Indonesia, transactions that involve elements of deception or misleading information contradict the principles of consumer protection. The Consumer Protection Law states that consumers have the right to accurate, clear, and honest information. If this right is violated, consumers have a legal basis to file lawsuits or claims against sellers. Therefore, the synergy between religious norms and positive law is crucial to ensure justice and legal certainty in the practice of buying and selling sacrificial animals.

Based on the overall discussion above, several practical recommendations are necessary. First, fatwa institutions and scholars need to actively disseminate fatwas and practical guidelines regarding the valid criteria for sacrificial animals, including their flexibility in emergency conditions. Second, local governments and the Ministry of Religious Affairs can collaborate with the Livestock Office to create standardized age certification for sacrificial animals that is easily understood by the public. Third, livestock entrepreneurs and sellers of sacrificial animals should be encouraged to be more transparent and morally and legally responsible. Fourth, the public as consumers also needs to enhance their religious and legal literacy to become informed, critical, and empowered consumers.

With an integrated approach between fiqh, Islamic economic law, and positive law, the issue of buying and selling sacrificial animals that have not reached the required age can be addressed fairly and proportionally. Qurban worship can continue to be performed in accordance with sharia guidelines, transactions remain valid and blessed, and consumer protection is well maintained within the framework of national law.

REFERENCES

Abdul Rahman al-Jaziri. (2003). *Al-Fiqh 'ala al-Madzahib al-Arba'ah* (Jilid V). Beirut: Dar al-Kutub al-Ilmiyyah.

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- Abdul Wahhab Khallaf. (2002). *Ilm Ushul al-Fiqh*. Kairo: Dar al-Qalam.
- Ali Jum'ah. (2005). *Al-Fiqh al-Islami: Maqashiduhu wa Mafahimuhu*. Kairo: Dar al-Salam.
- Amir Syarifuddin. (1996). *Garis-Garis Besar Fiqh Muamalah*. Jakarta: Logos.
- Dar al-Ifta' al-Misriyyah. (2013). Fatwa No. 2656 Tahun 2013. <https://www.dar-alifta.org>
- Imam Nawawi. (1996). *Syarh Shahih Muslim (Jilid XIII)*. Beirut: Dar Ihya' al-Turats al-'Arabi.
- Kitab Undang-Undang Hukum Perdata (KUH Perdata). Pasal 1320.
- M. Hasbi Ash-Shiddieqy. (2001). *Pengantar Fiqh Muamalah*. Semarang: Pustaka Rizki Putra.
- Majelis Ulama Indonesia. (2009). Fatwa No. 12 Tahun 2009 tentang Penyembelihan Hewan Qurban.
- Muhammad al-Khudhari. (2006). *Usul al-Fiqh*. Beirut: Dar al-Ma'rifah.
- Muslim bin Hajjaj. (n.d.). *Shahih Muslim (No. 1963)*.
- Undang-Undang Republik Indonesia Nomor 8 Tahun 1999 tentang Perlindungan Konsumen, Pasal 4 huruf c, Pasal 8 ayat (1), dan Pasal 62.
- Undang-Undang Republik Indonesia Nomor 8 Tahun 1999 tentang Perlindungan Konsumen.
- Wahbah az-Zuhaili. (2007). *Al-Fiqh al-Islami wa Adillatuhu (Jilid IV, hlm. 2716)*. Beirut: Dar al-Fikr.
- Wahbah az-Zuhaili. (2007). *Al-Fiqh al-Islami wa Adillatuhu (hlm. 2725)*. Beirut: Dar al-Fikr.
- Yusuf al-Qaradawi. (1998). *Fiqh al-Zakah (Jilid II)*. Beirut: Muassasah al-Risalah.
- Yusuf al-Qaradawi. (2001). *Fiqh al-Daulah*. Kairo: Maktabah Wahbah.
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