

Research Article

RELIGIOUS SLAUGHTER AND ANIMAL WELFARE: A COMPARATIVE LEGAL STUDY OF KAZAKH AND EUROPEAN LEGISLATIONS

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ABSTRACT

Background: In Kazakhstan, until recently, issues regarding the responsible and humane treatment of animals were unregulated. The first law, “On Responsible Treatment of Animals,” was adopted in 2021, defining the place of animals in the system of public relations and guaranteeing their protection. However, the law includes an exception regarding the slaughter of animals during religious ceremonies, which has caused discussions and disputes between public organisations for the protection of animals and religious communities. Impressive results of balancing animal welfare with religious freedom can be found in the EU. This article conducts a comparative legal study of Kazakh and some EU Member State legislations with regard to religious slaughter.

Methods: This study employed various methodologies, utilising both theoretical and empirical approaches. These methodologies encompassed the comparative legal method, which allowed the authors to analyse and research foreign experience in animal rights protection to pinpoint the most important features applicable to Kazakh legislation.

Statistical data was also collected to identify patterns and trends. Based on this, a forecast was made indicating a growing population, thereby suggesting an increase in animal consumption and utilisation. Therefore, this article on the protection of animal rights is a timely and relevant study.

Moreover, the authors conducted an analysis of specific cases from foreign countries, aiding in the identification of the features and challenges of law enforcement practice.

The dialectical method was central to examining the research problem. It enabled the identification of contradictions and interrelationships between classical and religious methods of mortification.

Results and Conclusions: Based on the study's results, several practical proposals are put forward to eliminate or regularise the existing legislative derogation in respect of religious slaughter. The present contribution concludes that the Kazakh legal framework on animal rights protection has shortcomings that require improvements by enshrining specific methods of animal slaughtering, which can be drawn on European experience.

1 INTRODUCTION

“Anyone who shows mercy, even to an animal meant for slaughtering, will be shown mercy by Allah on the Day of Rising.” - The Prophet Muhammad (Peace be upon him)¹

Over the past century, human-animal relationships have evolved into a major ethical issue. An organised animal rights movement has emerged, achieving significant results both in practice and in the legislative sphere for the benefit of animals worldwide. Animal rights were captured in the Universal Declaration of Animal Rights (Paris, 1978),² which proclaimed *inter alia* that if an animal must be killed, it should be done rapidly and without distress.³

The statutory requirement for stunning an animal before slaughter has been enshrined in numerous acts and international agreements, including the legislation of the European Union (hereinafter “EU”). EU law concerning animal welfare at the time of killing prohibits the slaughter of animals without prior stunning but includes an exemption allowing non-stunned slaughter for ritual rites.⁴ This exemption exists because the dietary dogma of Jews and Muslims requires food animals to be alive and healthy until the very moment of physical death, which, according to the laws of the religion, comes from a single cut in the neck.⁵

Various scientific research justifies that non-stunned ritual slaughter through the neck incision inflicts pain, fear, distress, and suffering on animals. Member States that have taken actions towards banning non-stun slaughter, in accordance with EU values on animal welfare,⁶ have faced formidable domestic challenges, as the prohibition is claimed to violate the right to the freedom of religion.

1 Imam Al-Bukhari, *Al-Adab Al-Mufrad* (Dakwah Corner Publ 2014).

2 Universal Declaration of Animal Rights (15 October 1978) <<https://www.esdaw.eu/unesco.html>> accessed 4 December 2023.

3 Georges Chapouthier and Jean-Claude Nouët (eds), *The Universal Declaration of Animal Rights: Comments and Intentions* (LFDA 1998).

4 Council Regulation (EC) No 1099/2009 of 24 September 2009 ‘On the Protection of Animals at the Time of Killing’ [2009] OJ L 303/9, art 4(4).

5 Stéphanie Wattier, ‘Ritual Slaughter Case: The Court of Justice and the Belgian Constitutional Court Put Animal Welfare First’ (2022) 18(2) *European Constitutional Law Review* 264, doi:10.1017/S1574019622000189.

6 Consolidated Version of the Treaty on the Functioning of the European Union [2016] OJ C 202/54, art 13.

The European halal meat market is expected to grow due to the increasing Muslim population in European countries. According to the Pew Research Center, the Muslim population is at the level of 4,9%, and even if migration were to permanently and immediately stop, this population is expected to rise to 7,9% by 2050.⁷

Animal welfare legislation of the Republic of Kazakhstan (hereinafter - "Kazakhstan") is at its origin and has introduced its first act defending the rights of vertebrates only in 2022. Unsurprisingly, the Law "On the Responsible Treatment of Animals"⁸ (hereinafter - "LRTA") contains the same derogation as in the EU legislation with regards to religious slaughter. Despite being a secular state, Kazakhstan has a vast Muslim majority population, whose opinions it must strongly regard.

Taking into account the evident growth of the Muslim population in Europe, it becomes somewhat feasible to compare EU states and Kazakhstan in terms of trends in developing animal welfare legislation on religious slaughter.

In light of the above, the welfare of animals at the time of killing emerges as an issue that should encourage destructive dialogue between religious minorities, animal rights advocates, and states. This article ascertains how kosher and halal slaughter without prior stunning cause unnecessary suffering to food animals and proposes solutions to be implemented into Kazakh legislation, drawing from the experiences of EU states.

2 METHODOLOGY OF THE STUDY

The article uses empirical and theoretical research methods. The choice of the research topic is based on general scientific and philosophical approaches to the humane treatment of animals, the recognition of their rights and the need to protect them from any suffering. The article emphasises that animals are not just a thing but creatures capable of feeling pain and suffering. During the study, the authors conducted a comparative legal analysis based on the experience of some European countries such as England, Germany, and Belgium. This subsequently made it possible to identify the weaknesses of the Kazakh legislation and areas of further development and improvement.

Taking into account that the majority of the population of the Republic of Kazakhstan are Muslims, the focus was on respecting everyone's right to freedom of religion. The results of the study confirmed the fact that the slaughter of livestock by humane methods does not contradict the canons of religion. The primary needs of animals, especially the need to avoid

7 Pew Research Center, 'Europe's Growing Muslim Population' (*Pew Research Center*, 29 November 2017) <<https://www.pewresearch.org/religion/2017/11/29/europes-growing-muslim-population/>> accessed 4 December 2023.

8 Law of the Republic of Kazakhstan no 97-VII LRK of 30 December 2021 'On Responsible Treatment of Animals' <<https://adilet.zan.kz/eng/docs/Z2100000097>> accessed 14 February 2024.

pain, should be considered no less valuable than similar needs of humans. It asserts the equality of suffering between beings, human or not, with no moral basis to believe that some of them are more important than others.⁹

As for empirical methods, the team conducted extensive research involving the search and collection of normative legal material from European Union countries and the United Kingdom regarding animal rights protection, namely in terms of their killing for religious purposes. In addition, statistical data on demographic processes on the European continent and their forecasts for further development were analysed by the research team. This comprehensive approach enabled them to assess the current situation and identify key trends and challenges that may affect the future demographic structure of Europe. As a result of the study, specific recommendations were proposed to improve legislation in the field of animal rights protection and mitigate possible negative consequences. The situation is similar in Kazakhstan; population growth will lead to greater consumption and use of animals. Therefore, the study is timely and relevant in identifying the contradictions and interrelationships between classical and religious methods of slaughter, which are directly related to the study of religious norms of law. The analysis of the revealed disagreements made it possible to determine the most acceptable method of killing as a reversible method of stunning. According to the authors, using this method will ensure the humane treatment of animals and not violate the religious canons of believers.

An analysis of specific cases was conducted, which helped to identify the features and problems of slaughter for religious purposes and the main answer was received that humane killing does not violate people's rights to freedom of religion.

The authors employed the dialectical method to study the basic patterns of development and functioning of the Institute for Animal Protection in the legislation of the European Union and the United Kingdom. This included an examination of the legal norms regulating animal slaughter, including for religious purposes. Additionally, using the descriptive legal method, the authors analysed international documents such as the Universal Declaration of Animal Rights and others.

In parallel, this article includes a study on the formation of legislation in the Republic of Kazakhstan on the responsible treatment of animals, beginning in 2021. This law is expected to lay the foundation for establishing and developing the Institute for the Protection of Animal Rights. As a result, the ongoing research should be the basis for further developing the Institute for the Protection of Animal Rights and bringing it in line with international standards. Legal norms analysed by the authors enabled them to draw certain conclusions and critical remarks regarding the need for further development of Kazakh legislation.

9 Act of the Parliament of the United Kingdom of 22 July 1822 'An Act to Prevent the Cruel and Improper Treatment of Cattle' (Martin's Act) <https://en.wikisource.org/wiki/Martin%27s_Act_1822> accessed 4 December 2023.

Moreover, by employing the dialectical method of scientific and research cognition and aligning with modern, generally recognised trends in the development of states, the authors obtained previously unexplored results regarding the procedure for recognising halal food products in Kazakhstan. This issue is most relevant because Islam is the predominant religion among the population in the country.

The article concludes that the best practices of European Union countries are acceptable for application in the protection, consolidation, protection, and enforcement of animal rights. The method of comparative legal analysis made it possible to identify existing gaps in the legislation of Kazakhstan that allow unnecessary suffering of food animals.

3 RELIGIOUS DOGMA AND SCIENTIFIC RATIONALE

Concretely ascertainable, it is necessary to provide factual background and evidence of animal suffering during non-stunned slaughter from the standpoint of religious rules and science to enforce arguments for the legitimate outlaw of the existing derogation.

The laws for kosher slaughter (“*shechita*”) and halal slaughter (“*dhabihah*”) are stipulated in the books of the Holy Scriptures for Jews and the Qur’an for Muslims. Both methods have specific instructions for killing religiously acceptable nonhuman animals but generally include a transverse incision of the neck using a smooth knife with further rapid exsanguination.¹⁰ The process involves cutting the skin, muscles, trachea, oesophagus, carotid arteries, jugular veins, and the cervical plexus's major, superficial, and deep nerves. Death of a vertebrate comes from the rapid loss of blood volume after severing the major blood vessels of the neck.¹¹

Many adherents of Islam and Judaism believe that *dhabihah* and *shechita* are humane ways of killing an animal. They are convinced that the requirement to perform a cut with a well-sharpened blade causes the least suffering and that the animal loses its senses when the throat is cut, after which death immediately occurs, i.e., there is no delay between stunning and death.¹²

It was extensively construed that religions promote anthropocentrism, place humans at the top of the hierarchy, and even require people to sacrifice animals for religious purposes, e.g., Qurbani.¹³ However, both Jewish and Islamic injunctions guide believers to treat animals with kindness and compassion and forbid them to be cruel to animals.

10 Temple Grandin and Joe M Regenstein, 'Religious Slaughter and Animal Welfare: A discussion for Meat Scientists' [March 1994] Meat Focus International 115.

11 A Velarde and others, 'Religious Slaughter: Evaluation of Current Practices in Selected Countries' (2014) 96(1) Meat Science 278, doi:10.1016/j.meatsci.2013.07.013.

12 Rabbi Lord Jonathan Sacks, 'Animal Welfare and Shechita' (*The Rabbi Sacks Legacy*, 17 January 2014) <<https://www.rabbisacks.org/archive/animal-welfare-shechita/>> accessed 24 December 2023.

13 Sarra Thili, *Animals in the Qur'an* (CUP 2012).

The Jewish Torah mandates not to cause pain to any living creature (*tsa'ar ba'alei chayim*), whereas in Islamic teachings, any cruelty towards animals is considered a sin.¹⁴ In view of this, it is of the essence to provide scientific evidence of the suffering of animals during non-stunned slaughter so that religious groups may consider such slaughter as cruelty towards creatures of God.

Rene Descartes was one of the first philosophers and scientists to consider the feelings of Animalia. A well-known “fan” of vivisection denied the ability of animals to feel joy or pain and described animals as “machines” or “automata”.¹⁵ However, over the past decades, various scientific studies justified that vertebrates can sense pain and suffer during slaughter, which led to a “science versus religion” debate.¹⁶ The following groundbreaking works clearly show the implications inflicted on animals before and during slaughter without stunning.

The DIALREL, an international research project subsidised by the European Commission, was the largest project addressing issues of religious slaughter, collecting and disseminating information, and encouraging dialogue between religious and scientific communities. In one report, different views of scientists on animal feelings of pain, fear, distress, and stress during slaughter were discussed.¹⁷

It was outlined that farm livestock can experience two types of pain during neck incisions. Nociceptive pain occurs from the mechanical forces of cutting, whereas inflammatory pain results from chemical stimuli due to tissue damage. It was stated that the severity of the inflammatory pain can be reduced if a clean cut is performed using a sharp knife; however, it has no effect on nociceptive pain. Thus, numerous scientists concluded that “with the utmost probability, animals feel pain during the throat cut without stunning”.

A groundbreaking study conducted by New Zealand scientists using an electroencephalogram (EEG) also proved that non-stunned slaughter of food animals by ventral-neck incision is “associated with noxious stimulation that would be likely to be perceived as painful”. It was stated that cattle can feel pain and distress for 60 seconds or more between the incision and loss of consciousness.¹⁸

14 Krista Kihlander, ‘What Each Major Religion Says About Animal Rights’ (*Sentient Media*, 15 November 2019) <<https://sentientmedia.org/what-each-major-religion-says-about-animal-rights/>> accessed 4 December 2023.

15 René Descartes, *Discourse on the Method* (Les prairies numériques 2020).

16 Mara Miele, ‘Religious Slaughter: Promoting a Dialogue about the Welfare of Animals at Time of Killing’ (2013) 21(5) *Society & Animals* 421, doi:10.1163/15685306-12341308.

17 Karen von Holleben and others, ‘Report on Good and Adverse Practices – Animal Welfare Concerns in Relation to Slaughter Practices from the Viewpoint of Veterinary Sciences’ (DIALREL 2010).

18 DJ Mellor, TJ Gibson and CB Johnson, ‘A Re-Evaluation of the Need to Stun Calves Prior to Slaughter by Ventral-Neck Incision: An Introductory Review’ (2009) 57(2) *New Zealand Veterinary Journal* 74, doi:10.1080/00480169.2009.36881.

In its report, the FAWC declared that non-stunned slaughter is unacceptable and outlined three main issues regarding the method: pre-slaughter handling, the potential for pain and distress during exsanguination, and the time to loss of brain responsiveness. It was stressed that the un-stunned slaughter process should involve greater restraint as smaller animals can be exposed to severe pain and injuries, e.g., the head could slip out of the restraining mechanism or leg injuries may occur. Despite the receipt of representations that neck incision is not painful, the organisation was persuaded that such major injuries lead to significant pain and distress. Further, it was reassured that the insensibility does not occur immediately after the cut. For instance, in case of occlusion (retraction of arteries after transverse incision), cattle can remain conscious for up to two minutes.¹⁹

The EFSA, in its Scientific Opinion, affirmed that there are no preventive measures available to mitigate the animal welfare consequences caused by cutting except for pre-cut stunning and reiterated that “slaughter without stunning should not be practiced”.²⁰

In light of the available evidence, it can be concluded that farm livestock is exposed to noxious stimulation (i.e. feels pain) in advance of and during non-stunned slaughter, and from an animal welfare standpoint, there is a need for outlawing. The legitimacy of such an outlaw from the legal viewpoint will be considered in the following section.

4 GROUNDS FOR THE LEGITIMATE OUTLAW OF NON-STUNNED RELIGIOUS SLAUGHTER

4.1. EU Law On Religious Slaughter

The legal regime on ritual slaughter differs among Member States. Despite the existing derogation in relation to ritual rites, some states prohibit non-stunned slaughter (Slovenia, Sweden, Denmark, etc.), require post-cut stunning (Austria, Estonia, Greece, Latvia), or concurrent sedation (Finland). In contrast, some countries do not require stunning for ritual slaughter (Germany, Italy, Hungary, France, etc.).²¹ This dissimilarity exists due to the subsidiarity given to the Member States in Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing (hereinafter -

19 Farm Animal Welfare Council, *Report on the Welfare of Farmed Animals at Slaughter or Killing*, pt 1: *Red Meat Animals* (FAWC 2003). It was renamed to Animal Welfare Committee (AWC) on 1 October 2019.

20 Søren Saxmose Nielsen and other, 'Welfare of Cattle at Slaughter' (2020) 18(11) EFSA Journal 107, doi:10.2903/j.efsa.2020.6275.

21 Zack Udin, 'Legislation Factsheet: Ritual Slaughter Laws in Europe' (*USCIRF United States Commission on International Religious Freedom*, 07 October 2020) <<https://www.uscirf.gov/newsroom/releases-statements/uscirf-releases-ritual-slaughter-factsheet-highlighting-range>> accessed on 24 December 2023.

“Regulation No. 1099/2009”), allowing them to implement national rules aimed at ensuring more extensive protection of animals at the time of killing in relation to ritual slaughter.²² The same subsidiarity is enshrined in the Council of Europe’s European Convention for the Protection of Animals for Slaughter.²³

A great example of the examination of such rights took place in Belgium. Flemish and Walloon regions enacted decrees applicable to animal slaughter; however, the same attempt in Brussels, an area with the highest Jew and Muslim population in Belgium, is still pending.²⁴

After the outlawing, a dispute concerning the Flemish and Walloon decrees was referred to the Court of Justice of the EU (“CJEU”) by the Constitutional Court of Belgium.²⁵ The ban was claimed to infringe on the right to the freedom of religion protected under Article 9(1) of the European Convention on Human Rights (“ECHR”). However, in its endorsement, the CJEU held that the stunning requirement does not fundamentally violate the right to freedom of religion and meets the requirements for promoting the welfare of animals.

The court agreed that the freedom to manifest religious beliefs is under the scope of Article 9(1). Interestingly, the same outcome was derived from the European Court of Human Rights (“ECtHR”) in *Eweida v United Kingdom*. It was stated that all religious acts that are “intimately linked to the religion or belief” are included within the scope of the article.²⁶ Thus, the act of ritual slaughter is indeed under the protection of the article and is considered a *forum externum*, the freedom to act according to the prescriptions of one’s religion. However, if the *forum internum* is absolute and unconditional as it includes the freedom to have a religion, conscience, or belief, the *forum externum* may be subject to limitations.²⁷

Article 9(2) of the ECHR requires limitations to the *forum externum* to be prescribed by law, necessary in a democratic society, and to pursue legitimate aims. Accordingly, any

22 Council Regulation (EC) No 1099/2009 (n 4) art 26(2)(c).

23 European Convention for the Protection of Animals for Slaughter of 5 October 1979 [1988] OJ L 137/33, art 17.

24 Dylan Carter, ‘Ritual Slaughter Ban Proposal Divides Brussels Lawmakers’ *The Brussels Times* (Brussels, 9 June 2022) <<https://www.brusselstimes.com/235556/ritual-slaughter-ban-proposal-splits-ruling-brussels-coalition>> accessed 4 December 2023.

25 Case C-336/19 *Centraal Israëlitisch Consistorie van België and Others* (CJEU, 17 December 2020) ECLI:EU:C:2020:1031 <<https://curia.europa.eu/juris/liste.jsf?num=C-336/19>> accessed 4 December 2023.

26 *Eweida and Others v United Kingdom* App nos 48420/10, 59842/10, 51671/10 and 36516/10 (ECtHR, 15 January 2013) para 82 <<https://hudoc.echr.coe.int/eng?i=001-115881>> accessed 4 December 2023.

27 Carla M Zoethout, ‘Ritual Slaughter and the Freedom of Religion: Some Reflections on a Stunning Matter’ (2013) 35(3) *Human Rights Quarterly* 651.

ban on ritual slaughter must adhere to the prescribed criteria. The CJEU has held that the legitimate goal of general interest, namely animal welfare, can justify interference with religious freedom.²⁸

It is important to note that the same conclusion has been drawn by the ECtHR previously, which iterated that in banning the hunting of mammals with dogs, the UK government pursued a legitimate aim of the protection of morals.²⁹ The same parallel argument can be made regarding ritual slaughter.³⁰

It can be assumed that the choice to outlaw the un-stunned slaughter would result in privileging one fundamental right over the other. However, such a choice was considered a political choice that could be justified in reference to plenty of scientific evidence of suffering and pain inflicted on animals (please refer to the previous section).³¹

To balance the two sensitive values, decrees prescribed the reversible stunning method, which cannot result in the death of the animal.³² The CJEU affirmed that reversible stunning allows “a fair balance to be struck between the importance attached to animal welfare and the freedom of Jewish and Muslim believers to manifest their religion”.³³ It was stated that the Flemish authorities touched upon only one aspect of a specific ritual act and that the decree respects religious freedom since it does not prohibit ritual slaughter as such.³⁴

The reversible stunning purports an electrical head-stunning, which does not result in the death of a vertebrate but a loss of consciousness. The position of religious communities on the permissibility of such a method is ambiguous.

In a fatwa, the Mufti of Delhi affirmed that stunning is acceptable under Islamic prescriptions, as reversible stunning does not kill the animal. As long as the animal is alive before the incision, the meat is considered halal. Similarly, the Rector of the Al-Azhar University of Cairo stated that stunning does not make the practice un-Islamic.³⁵

The Jewish community is more sensitive to the stunning matter. However, Rabbi Jonathan Romain of Maidenhead Synagogue, head of the Assembly of Reform Rabbis, advocates for

28 Wattier (n 5) 279.

29 *Friend and Others v United Kingdom* App nos 16072/06 and 27809/08 (ECtHR, 24 November 2009) para 22 <<https://hudoc.echr.coe.int/eng?i=001-96372>> accessed 4 December 2023.

30 Joe Wills, 'The Legal Regulation of Non-stun Slaughter: Balancing Religious Freedom, Non-Discrimination and Animal Welfare' (2020) 41 *Liverpool Law Review* 145, doi:10.1007/s10991-020-09247-y.

31 Wattier (n 5) 284.

32 Case C-336/19 (n 25) para 13.

33 *ibid*, para 80.

34 *ibid*, para 61.

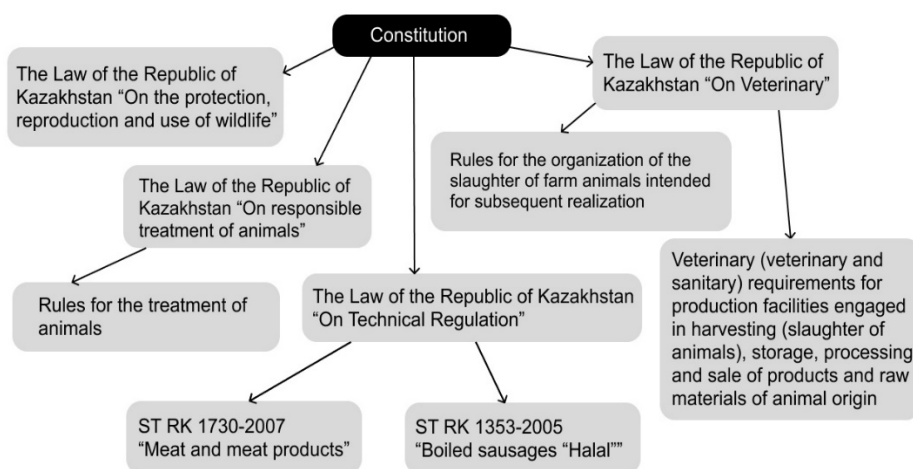
35 Zoethout (n 27) 666.

stunning animals before slaughter.³⁶ It is also compelling that conservative Rabbi Mayer Rabinowitz accepted post-cut stunning in his article “A Stunning Matter”.³⁷ Thus, there is no certain consensus within religious groups on whether ritual slaughter involving reversible stunning is against Islamic and Jewish laws.

Considering the above, it can be concluded that EU legislation permits the ban of ritual slaughter without prior stunning, and Member States are in the process of application of this right, which is legitimate with respect to the right to the freedom of religion.

4.2. Shortcomings of the animal welfare law of Kazakhstan and proposals for the enhancement

To develop the system of Kazakhstan legislation in the field of regulating the treatment of animals the following active legal sources need to be analysed:



The authors analysed all the above-mentioned normative legal acts and concluded that none of them adequately provides for or meets the requirements of the humane killing of an animal.

36 Simon Rocker, ‘Animals Should be Stunned before Shechita, Report to Reform Rabbis Says’ (*The Jewish Chronicle*, 14 July 2022) <<https://www.thejc.com/news/news/animals-should-be-stunned-before-shechita-report-to-reform-rabbis-says-4R2WYxFDRSKJVT1bIMI9Dw>> accessed 24 December 2023.

37 Rabbi Mayer Rabinowitz, ‘A Stunning Matter’ (adopted CJLS 13 March 2001) <<https://perma.cc/2D3F-MBT9>> accessed 24 December 2023.

Article 4 of the LRTA bans the cruelty to animals and lists actions that comprise animal abuse, which inter alia include:

*“1) beatings, torture of an animal, including hunger, thirst, and other violent acts by dismemberment, burning, drowning, strangulation, butchering of an animal, which have led or may lead to death, mutilation or other harm to the animal's health;”*³⁸

However, the same article prescribes that “*slaughter of animals during religious ceremonies by followers of religious associations registered in the Republic of Kazakhstan, if this is provided for by their creed*”³⁹ is not considered an act of cruelty to animals. This constitutes an exemption, allowing the infliction of suffering on animals if the religion dictates as such.

Religious freedom is enshrined in the Constitution of Kazakhstan, having supreme juridical power, which states that “*No one may be subjected to any discrimination based on ... attitude to religion, beliefs...*”⁴⁰ For its part, animal rights are not addressed in the Constitution, accordingly, not entitling them any fundamental rights. It is only stated that “animality” belongs to the nation of Kazakhstan.⁴¹ Therefore, any attempts to outlaw the derogation will be considered an infringement of the fundamental right to the freedom of religion.

In light of the above, firstly, it is important to mention that the LRTA is silent on any other provision regarding killing animals for consumption. Therefore, it is ambiguous whether slaughter not in accordance with ritual rites constitutes animal abuse or not. In fact, slaughter using the stunning may be treated as a violation.

Further, there is no regulation governing the slaughter process. There are rules for the organisation of the slaughter of farm animals intended for subsequent sale. However, it mainly concerns requirements for veterinary examination and documentation to be obtained. In this regard, it can be assumed that the whole process of slaughter is regulated by religious rules due to the absence of an alternative.

Currently, the issues of compliance with the requirements of religious norms of the mechanism (procedure) of slaughter of food animals in Kazakhstan are handled by several organisations, including the republican enterprise KazStandart, the Association of Halal Industry of Kazakhstan (AHIK), Halal Damu LLP of the Spiritual Administration of Muslims of Kazakhstan, HALAL Quality Center LLP and others. These organisations receive permission from the National Accreditation Center to carry out Halal certification work.

38 Law of the Republic of Kazakhstan no 97-VII LRK (n 8) art 4, para 2(1).

39 *ibid*, art 4, para 4(5).

40 Constitution of the Republic of Kazakhstan of 30 August 1995 (amended 17 September 2022) art 14, para 2 <https://adilet.zan.kz/eng/docs/K950001000_> accessed 14 March 2024.

41 *ibid*, art 6, para 3.

Regarding the classification of “Halal” products, Kazakhstan has adopted two national standards: ST RK 1353-2005 “Boiled sausages “Halal”. General technical conditions”⁴² and ST RK 1632-2007 “Tourist and excursion service of the Halal hotel. Classification”.⁴³

One standard, ST RK 1353-2005 "Boiled sausages "Halal". General technical conditions," is relevant to the research topic. The standard establishes requirements for technological instructions, recipes for the production of sausages (requirements for ready-made raw materials and auxiliary materials), organoleptic and physical-chemical parameters of sausage, weight of finished products, packaging (containers), rules for product acceptance, transportation and storage of products and more.⁴⁴

At the same time, a careful study of this document allowed us to conclude that there are no requirements specifically for slaughtering livestock.

Due to the lack of legislation on Halal product certification in the country, any company can operate in the field of Halal certification based on its own knowledge and skills.

In general, the authors consider the situation to be unfavourable, requiring appropriate intervention by the state to avoid the cruel treatment of food animals for religious purposes. Organisations involved in the killing of animals formally prescribe religious norms for the slaughter of food animals but do not adhere to the procedure for conducting the sacrifice ceremony.

Given that the majority of the population of Kazakhstan adheres to the Muslim religion, the issues of animal slaughter are very relevant. Unfortunately, the level of humane treatment of animals is low. For example, during the mass slaughter of artiodactyls (Qurbani), animals are killed in front of each other, and knives are sharpened in their presence. This practice of sacrifice in Kazakhstan contradicts the established religious humane slaughter rules.

All of the above proves the need for state regulation through the adoption of appropriate regulations on the procedure for killing animals for religious purposes, on the certification of Halal products, as well as the implementation of appropriate control over these processes.

The experience of the EU countries will be valuable for Kazakhstan to improve the situation with responsible treatment of animals. In Kazakhstan, the branch of legislation in the field of fauna, namely non-wild fauna, is only at the stage of formation. It should be noted that at the legislative level, there are no acceptable, humane methods of killing food animals.

42 ST RK 1353-2005 ‘Boiled Sausages “Halal”: General Technical Conditions’ <https://online.zakon.kz/Document/?doc_id=30163009> accessed 4 December 2023.

43 ST RK 1632-2007 ‘Tourist and Excursion Service of the “Halal” Hotel: Classification’ <https://online.zakon.kz/Document/?doc_id=31554325> accessed 4 December 2023.

44 ST RK 1353-2005 (n 42).

Humane methods of killing food animals should be adopted at the legislative or subordinate level precisely for the religious purposes permitted by the above-mentioned law.

As such, the authors propose to develop a regulation that aims to minimise the pain and suffering of animals through properly approved stunning methods, including the reversible ones for ritual rites. It may be argued that the inclusion of such a requirement will infringe on the right of freedom of religion; however, as discussed in the previous section, the European experience shows that it is legitimate as the reversible stunning method does not violate this right and it is acceptable for halal slaughter. As the majority of the Kazakhstani population is Muslim, by means of proper dialogue from the state's side, it is expected that no complications should arise.

Thus, a similar procedure is provided for in European legislation in Council Regulation (EC) No. 1099/2009 on the protection of animals during slaughter.⁴⁵ Impressively, it contains rules for the killing of animals that are raised or kept not only for the production of food, but also for wool, leather, fur or other products, as well as the killing of animals for depopulation and related operations. It describes the methods for stunning, control of the stunning process, instructions for using the equipment for restraining and stunning, requirements for design, construction and equipping the slaughterhouses, appointment of the animal welfare officer, establishes responsibility for non-compliance in the form of fines, etc. Such requirements should be implemented in the Kazakh law to regulate the animal slaughter process.

5 CONCLUSION

The invisible ideology of carnism is dominant in our society. Whilst the increasing population of vegetarian and vegan people, the great majority consume meat and animal products daily. Although the community is still on its way toward advancing animal welfare and animal rights, there are possible solutions to mitigate pain and suffering during animal slaughter for food production. The imposition of the requirement to stun animals for religious groups can serve as a significant measure towards such an enhancement.

This article has discussed that animals are exposed to significant implications in the process of un-stunned slaughter and that the EU law authorises states to legitimately outlaw an existing derogation on religious slaughter without fundamentally infringing the right to the freedom of religion by invoking the reversible stunning method.

As part of the study, the authors propose amending paragraph 4 of the LRTA to reference similar European standards on humane animal killing methods, including preliminary stunning. Through such discussions, they offer practical solutions for enhancing

45 Council Regulation (EC) No 1099/2009 (n 4).

Kazakhstani legislation on animal welfare at the time of killing for consumption purposes, which do not violate religious rights. This would represent a vital step in balancing animal welfare with religious freedom.

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АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

ВБИВСТВО З МЕТОЮ ЖЕРТВОПРИНОШЕННЯ І ДОБРОБУТ ТВАРИН: ПОРІВНЯЛЬНО-ПРАВОВЕ ДОСЛІДЖЕННЯ КАЗАХСТАНСЬКОГО ТА ЄВРОПЕЙСЬКОГО ЗАКОНОДАВСТВА

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Бакит Жусіпова та Нурсултан Ибирай**

АНОТАЦІЯ

Вступ. Донедавна у Казахстані питання відповідального та гуманного ставлення до тварин були нерегульовані. Перший закон «Про відповідальне ставлення до тварин» ухвалили у 2021 році, у якому було визначено місце тварин у системі суспільних відносин та гарантовано їх захист. Однак закон містить виняток щодо забою тварин під час релігійних церемоній, що викликало дискусії та суперечки між громадськими організаціями із захисту тварин та релігійними громадами. Приголомшливі результати балансу між добробутом тварин і релігійною свободою можна знайти в ЄС. У цій статті проведено

порівняльно-правове дослідження законодавства Казахстану та деяких держав-членів ЄС щодо вбивства з метою жертвоприношення.

Методи. У цьому дослідженні використовувалися різні методології, застосовувались як теоретичні, так і емпіричні підходи. До них належить порівняльно-правовий метод, завдяки якому автори проаналізували і дослідили зарубіжний досвід захисту прав тварин, що дозволило виявити найважливіші особливості, які можуть бути застосовані в законодавстві Казахстану.

Статистичні дані були використані для виявлення закономірностей і тенденцій. З огляду на це зроблено прогноз, що оскільки кількість людей зростає, то зростатиме споживання та використання тварин. Тому ця стаття про захист прав тварин є своєчасним і актуальним дослідженням.

Крім того, авторами проведено аналіз конкретних випадків в іноземних державах, що допомогло виявити особливості та проблеми застосування права на практиці.

Центральним у розгляді досліджуваної проблеми був діалектичний метод, який дав змогу виявити протиріччя та взаємозв'язки між класичним і релігійним способами вбивства.

Результати та висновки. На основі результатів дослідження було висунуто кілька практичних пропозицій щодо усунення або врегулювання існуючих законодавчих відступів щодо вбивства з метою жертвоприношення. Можна дійти висновку, що законодавча база Казахстану щодо захисту прав тварин має недоліки, які потрібно вдосконалити, закріпивши конкретні методи забою тварин, які можуть бути використані з європейського досвіду.

Ключові слова: кошерний і халяльний забій, релігія, тварини, їжа, етичні проблеми.