

## *Animal Rights in Islamic Jurisprudence*

Among legal rules practiced during pre-Islamic era, there is no sign of rights protecting animal rights. If any rules existed in pre-Islamic and post-Islamic eras among other ethnic groups or nations; there was no motivation but respecting the people's own emotions. In other words, such rights were merely legislated because of humans' emotional aspects. They offer no obligation nor guarantee to be implemented, and in fact, they have respected non-binding emotional rules about the animals!

In Europe's past century (twentieth century), there have been moves towards protecting animal rights which were, as mentioned before, based on pure affection, with no real legal basis. In Islam, any animal's life is respected unless it is pestiferous for humans, forasmuch; this respect has caused the legislation of legal laws for animals. Therefore, the jurists discuss the value of life for every animal as the reason for legislation of laws for animals. Considering these laws for a phenomenon as life, it is obvious how valuable the human life is. Hence, this value is not meaningful unless we view this phenomenon through a superior position. In other words, the value of a wonderful phenomenon such as life is only understood by those who accept God's special providence. What accepts God's special providence about life, is the human's pure nature and conscience which share with other animals in both pleasures and pains. A person, who is not disturbed by seeing unreasonable torture of an animal or a human, has definitely lost his conscience and original nature.

Herein, we briefly present the ground for Islamic jurisprudence on these laws:

- 1) Any being held by a person must be purveyed by that person. The word “being” includes all types of animals, other than those pestiferous for human such as scorpions and vipers which are essentially harmful or rabid dogs or any animal which transmit incurable diseases. Therefore, the legislated laws include every animal, whether with edible or inedible flesh, whether with serviceable organs or not.<sup>1</sup>
- 2) Holding an animal causes legal issues including possession, loaning, lending, and other exercises.
- 3) Purveyance include: food, wear, drink, habitation and shelter, medication, etc.
- 4) If the animal can be fed in pastures and meadows, the owner can put it out to pasture to be fed or drunk. If the animal is unable to supply food for itself, the owner is bound to sustain the animal. Also, if the animal is unable to adequately supply itself with food, the owner is obliged to supply the rest of the food to be adequate.
- 5) If the owner of an animal refuses to perform the mentioned duties, the religious ruler will first guide him, and then makes him sustain the animal.
- 6) If the owner of the animal disobeys the ruler, the ruler has to consider other options, in order to save the animal’s life such as selling the animal, slaughtering the animal (if edible), or releasing the animal so that others would hold it and sustain it.  
Proviso: If releasing the animal causes trouble for those who repossess, then the ruler can sell the animal as a whole or under a lease. He then pays the fee to the owner.

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<sup>1</sup> Javaher-ul-Kalam; vol. 31; p. 394 ; Tehran. Quoted from Saheb Javaher: “and even if the animal is not serviceable...”

- 7) If none of the above means could sustain the animal, the ruler himself will sustain the animal instead of the owner. The ruler is allowed to decide in the best way he can, according to the facilities and the animal's status.
- 8) If the owner of the animal refuses to submit, the ruler can sell other properties of the owner in order to sustain the animal. If the animal can be supplied through leasing, the ruler is permitted to lease the animal.  
Proviso: Saheb Javaher says: As soon as the owner refuses to sustain the animal and takes no action to release it, the ruler does not have to make the owner do that, but he himself will sustain the animal due to his wardenship.
- 9) If the owner of the animal does not have the necessary stuff to sustain the animal, and if that necessary stuff is available through a third party, the owner has to purchase that stuff.
- 10) If the person who has the necessary stuff refuses to sell the stuff, the owner of the animal is permissible to arrogate the stuff in return for the same stuff later, or its price. As, arrogating what is necessary for life is permissible for man.<sup>1</sup>  
Proviso 1: Arrogating the necessary stuff in order to sustain the animal is permissible only if the owner of the stuff or his animals do not need the stuff.  
Proviso 2: The stuff which is necessary for life includes drugs and other life-sustaining stuff.
- 11) If the animal has offspring being milked, enough milk must be left in the udder for the offspring. Therefore, if the animal's milk only suffices the offspring, milking the animal is unlawful. Some Sunnite

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<sup>1</sup> This decree is seen in the book Masalik by the Second Martyr.

jurisprudents argue that it is essential to leave enough milk for the *survival* of the offspring.<sup>1</sup>

- 12) If milking the animal is harmful for it, as the animal might not receive sufficient nutrition, milking is unlawful.
- 13) If milking the animal is not harmful for the animal and its offspring, it is wajib (obligatory) to milk it, since not milking the animal equals squandering useful property.
- 14) One should not milk the animal to the last drop, as the animal will be annoyed.
- 15) The one who milks the animal is better to clip his nails in order not to disturb the animal.
- 16) In case of the honeybee, some honey must be left in the beehive so that the bees will not be hungry.
- 17) Oppressing the animals, in any form, is unlawful such as putting heavy loads on them, making the animal move fast when it is disturbed, and beating the animal more than needed.
- 18) Cursing the animal and beating them into the face is forbidden. Amir al-Momenin (P.B.U.H.) prescribes: God curses the one who curses the animals.<sup>2</sup>
- 19) Beating the animal during taming process is permissible to the necessary extent, but beating the animals while they are slipping, is forbidden.

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<sup>1</sup> Saheb Javaher says: Failure of such decree is clear

<sup>2</sup> Articles 17, 18, and 19 from the book *Vasa-el-shia*, vol. 8; pp. 350, 353, and 356; Tehran

- 20) Haunting animals for entertainment is unlawful when it is not necessary and essential.<sup>1</sup> Therefore, the one who goes hunting for entertainment is taking a sinful trip and has to say whole prayers.
- 21) Making the animals fight with each other is detestable.
- 22) It is unlawful to hunt the birds' chicks in their nest unless they start flying, since the chick in the nest is under the protection of God.<sup>2</sup>
- 23) Sometimes the food or drink is adequate enough for one of few animals, as one of them can survive with the stuff and others will die. For instance, we have little water enough to save one of the animals. In such a case we can follow one of the cases:
- a) For animals equal in every regard, the person is authorized to use the food or drink for the survival of any of those animals.
  - b) The animals which are not equal, such as a harmless dog and sheep. As slaughtering sheep according to religious orders is legal, but letting a dog die due to thirst is against the law; the water will be given to the dog in order to prevent it from dying.<sup>3</sup>
- Based on the above criterion, if an animal such as camel can survive up to two days without water, but another animal cannot survive until then; the water must definitely be given to the latter. Amir al-Momenin (P.B.U.H.) has issued orders to the assessors of animals, which can be regarded as animal rights considering the life respect and also the dictations included.<sup>4</sup>
- Of course, as seen in the order, his Excellency has issued the orders for the animals bridled by the government's officer, which will be consigned to the Bait-ul-mal (treasury). Though, as mentioned before, these orders only care the animals' right to life including all animals under human's control:

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<sup>1</sup> Ibid. p.361

<sup>2</sup> Ibid. vol. 16, p. 241

<sup>3</sup> This article is given by Second Martyr in Masalik

<sup>4</sup> Nahj ul Balagha, Letter number 25

- 24) Delegate the delivery of animals to one who provokes no violence, without abusing, oppressing, and exhausting the animals!
- 25) The one who does not divide between a camel and its calves.<sup>1</sup> One who does not wholly milk the animal so that the calf gets harmed.<sup>2</sup>
- 26) One who does not ride the animal to the extent which distresses the animal, but does justice to the animals when riding them. The order also holds in the case of loading, that is, one must not heavily load the animal so that the animal is troubled, but one must dispense the load on different animals.
- 27) If an animal is exhausted, one must ease off the animal, giving it some rest.
- 28) One who is gentle with an animal with broken hooves, or those which drag while walking.
- 29) One who stops the animals at ponds through the path.
- 30) One who does not lead the animals from the pastures towards the wastelands.
- 31) One who leaves them to rest every few hours.
- 32) One who puts the animals out to pasture in places with water and grass.

What matters greatly following Amir al-Momenin's (P.B.U.H.) orders for animals, is that His Excellency prescribes:

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<sup>1</sup> Undoubtedly the instance of camel and its calf can be held for all the female animals and their gets.

<sup>2</sup> This article has also been mentioned in number 12, and has been included here in order to bring all the orders by Imam Ali (P.B.U.H.)

*Verily, the collection of the dues of Allah in the way that I have explained to you is a pious deed and a religious duty which will carry its reward before the Lord.*<sup>1</sup>

This proves that respecting the animal is caused by the fact that the animal is alive, not because it is considered as a useful capital asset, but because it is the factor for the human to move towards perfection. Considering these articles and orders, one could grasp the value and respect of human's nature which is not comparable in magnitude with any other living animal.

Besides, such reality is proven to be true that every individual and community who does not respect the nature of human's life, is engaged in self-deception, lying, and teasing others; when claiming perfection and growth!

Another point reached by taking such orders into consideration, is that one must reconsider the claims brought by those who say: "We are seeking the humans history through history books!!". Meanwhile, as we view, the most remarkable lines of such histories include such words and phrases: hit, killed, burned, looted, overbore, eradicated, destroyed and left...!

Perhaps if at least once, they want to suitably entitle their findings; they should say: "Through the history books, except few lines in every book, we are studying the natural history of creatures which have been called humans."

**All praise belongs to the Lord of the universe, and peace be upon the master of all prophets, Muhammad, and upon his pure and clean descendants of innocents,**

**Mohammad Taghi Jafari, January 8, 1983**

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<sup>1</sup> Nahj ul Balagha, Letter number 25