

# Animal Rights Protection in Modern Islamic Law's Perspective

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**Abstract:** Animals possess certain rights like human beings, including the right to life, liberty, health, well-being and reasonable abode. So far, only the right to life of animals has been given due consideration; however, unlike other inanimate objects, animals are emotional and intelligent beings who also deserve dignity and respect. Sometimes animals are killed without reason, which violates their right to life. Some of them, including chickens, pigs and cows, do not see outdoors except on their way to slaughterhouses, which violates their right to liberty. Business has been cited as justification, but mistreatment should be stopped at any cost by way of minimising the use of animals for industrial purposes and reducing their pain and suffering during this process. Available laws focus on the right to life of animals, while other rights, including the right to liberty, dignity and health, are ignored. While animals are emotional and intelligent beings, they are also entitled to all other rights associated with them, just like humans. Therefore, it is imperative that all other rights available for animals should also be protected. The paper argues that animals possess certain rights that are available to human beings and also intends to focus on the rights of animals on the basis of their emotional and intelligent characteristics using doctrinal and socio-legal research methodology. This paper further provides a comprehensive framework for the rights of animals that are ignored under available laws and to also suggest possible measures to implement the same.

**Key words:** animals; rights; intelligent; violations; legislation.

## 1. Introduction

Many countries are facing the challenge of a lack of suitable legal frameworks to protect animal rights. For instance, various legal experts have observed that the prevailing laws in the United States of America (USA) and particularly North America do not provide robust protection to animals.<sup>1</sup> It is also debatable whether the animals possess rights, which appears to be the primary reason for the failure to provide suitable legislation in many countries, including the USA. A few legal experts have

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<sup>1</sup> Mary Ann Vasbinder, C. Terrance Hawk, and B. Taylor Bennett, "Regulations, Policies, and Guidelines Impacting Laboratory Animal Welfare," in *Laboratory Animal Welfare* (Elsevier, 2014), 17–28, <https://doi.org/10.1016/B978-0-12-385103-1.00003-8>. Kimberly C. Moore, "Challenges to Legal Reform," 2023, 231–55, [https://doi.org/10.1007/978-3-031-46065-4\\_5](https://doi.org/10.1007/978-3-031-46065-4_5).



argued that animals are things and objects and not persons. This kind of categorisation is the first crucial aspect with respect to the determination of animal rights.<sup>2</sup> Scientists use the term ‘animal welfare’ to describe the quality of life an animal requires at a particular time.<sup>3</sup> For a long time, animals were considered property and objects under various laws and were granted protection only that was available for property and objects.<sup>4</sup> However, the opinion of legal experts over this aspect started changing, and many have now adopted an opposite view. Those who are against the concept of animals being property assert that they should not be treated as property, as once a thing becomes the property of the owner, it is the discretion of the owner to treat it as he or she wants. Additionally, animals cannot be treated as property because they possess moral and legal rights.<sup>5</sup> However, the counter argument is that animals are sold and purchased in the market against a certain amount, which renders their status as property and they are not considered as property, they cannot be sold or purchased or used for any other purpose; rather, in that situation, animals should be left at their sweet will to eat, drink and move wherever they want. On the basis of this concept, billions of animals are killed for human needs. In a year, around 10 billion animals are slaughtered for meals. In Canada, this number is estimated at approximately 650 million. Many animals are kept in dark or artificial light in compounds for the entire period of their life and see the sunlight only on their way to slaughterhouses. The procedure for slaughtering animals is also debatable, where animals are slaughtered without a proper anaesthesia and without a proper procedure to reduce their pain and suffering.<sup>6</sup> These are two extreme positions that require a balanced approach.

There are other issues as well. Many animals are used in bioexperiments, and they are injured and medicated. Their organs and limbs are removed, kept in the dark and caged. They are sometimes killed after experiments or are repeatedly used in these kinds of experiments. Some animals are largely used in the fashion industry to provide

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<sup>2</sup> Oliver Wendell Holmes Jr, *Book Review Compte Rendu De Lecture, Animal Rights: Current Debates and New Directions* by Cass R. ed. Sunstein and Martha C Nussbaum (Toronto: Oxford University Press, n.d.), <https://doi.org/10.1093/acprof:oso/9780195305104.001.0001>. 351

<sup>3</sup> Donald M Broom, *Animal Welfare in the European Union, Rights and Constitutional Affairs*, vol. 14 (Policy Department for Citizens’ Rights and Constitutional Affairs, 2017), <http://www.europarl.europa.eu/supporting-analyses>. Donald M. Broom, “Animal Board Invited Opinion Paper: The Use of Sustainability Scoring to Evaluate Food Production and Prepare for the Future,” *Animal* 16, no. 12 (December 2022): 100680, <https://doi.org/10.1016/j.animal.2022.100680>.

<sup>4</sup> For instance, see Article 23(g) of the Hague Regulations of 1899 and 1907.

<sup>5</sup> Cass R. Sunstein, “The Rights of Animals: A Very Short Primer,” *SSRN Electronic Journal* 157, no. Jhon M. Olin Law & Economic Working Paper No. 157 (2d Series) Public Law and Legal theory Working Paper no. 30 (2002), <https://doi.org/10.2139/ssrn.323661>.

<sup>6</sup> Holmes Jr, *Book Review Compte Rendu De Lecture, Animal Rights: Current Debates and New Directions* by Cass R.

us with clothes, shoes and bags. They are also killed and sometimes used in a way that makes their life miserable. Many other species are favourite species for hunting and are hunted regularly or are kept in captivity and zoos for our entertainment.<sup>7</sup> It is also evident that previously animals were in a race of survival from each other but now they need to survive alongside human beings.<sup>8</sup> Many voices have been raised against their use as such, with the contention that they are not created to serve human beings only; rather, they are also living creatures and entitled to certain rights like other living creatures.

Some other animals are used as pets. Animals used as pets are usually taken care of by house owners. However, normally, dogs and cats are used as pets and are given a quality life by the house owners. They are properly fed, kept in the houses to be loved, given proper medical treatment and nourished properly. On the contrary, there are other animals that are not taken care of to this extent even though they are used for human benefit in some manner.<sup>9</sup> Therefore, there are different categories of animals. A few are properly taken care of, while others are not given due consideration for the protection of any type of rights. Here, the question arises as to what type of rights animals possess and the main criteria for the protection of animals from any harm. If protection from harm is considered a right, then there is no dispute that animals possess rights regarding protection from any harm.

However, regarding the rights of animals, there are two main opinions among the legal experts. A few say that they have legal rights, and a few others say that they possess moral obligations, unlike legal rights. With regard to moral obligations, the proponents of this idea assert that animals have certain rights to be treated appropriately. A third view is that animals are emotionless beings. Thus, they are similar to robots given totally at the disposal of human beings and can be treated by their owners in whatever manner they want to.<sup>10</sup> This kind of treatment is unacceptable by anyone because even ethical considerations cannot accept the maltreatment of animals in the hands of human beings. Therefore, this argument is not acceptable in a civilised society.

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<sup>7</sup> Holmes Jr.

<sup>8</sup> Michiel Korthals, 'Humanity in the Living, the Living in Humans', in *Animals in Our Midst: The Challenges of Co-Existing with Animals in the Anthropocene*, ed. by Bernice Bovenkerk and Jozef Keulartz (Cham: Springer, 2021), pp. 141–154 <[https://doi.org/10.1007/978-3-030-63523-7\\_8](https://doi.org/10.1007/978-3-030-63523-7_8)>.

<sup>9</sup> Patrick Bateson, "Ethics and Behavioral Biology," 2005, 211–33, [https://doi.org/10.1016/S0065-3454\(05\)35005-4](https://doi.org/10.1016/S0065-3454(05)35005-4). Renata Batista da Silva and Tatiana Tavares da Silva, "Principio de Las 3R Como Ética Mínima En La Experimentación Animal," *Revista Bioética* 32 (2024), <https://doi.org/10.1590/1983-803420243782es>.

<sup>10</sup> Cass R Sunstein, "The Rights of Animals: A Very Short Primer," *Public Law and Legal Theory Working Paper*, no. 30 (2005).

## 2. Methods

The present study employs a comparative legal methodology to examine how animal rights are conceptualised and protected across different legal systems, including Islamic law and the statutory frameworks of several representative countries. This research draws on both doctrinal and socio-legal approaches. Doctrinal analysis is employed to examine the normative texts of Islamic law, primarily the Qur'an, Hadith and classical jurisprudential interpretations, to extract principles related to animal welfare and rights. These principles are then compared with statutory provisions and case law from a selection of jurisdictions, including the United States, Canada, New Zealand, Pakistan and several Western European nations, such as the United Kingdom, France and Norway.

This comparative approach facilitates a multifaceted understanding of animal rights, encompassing not only legal definitions and protections but also the underlying moral and philosophical justifications across legal traditions. The selection of countries was deliberate to ensure a diverse legal and cultural spectrum. This ranged from religiously informed systems, such as Islamic law and Pakistan's hybrid model, to secular liberal democracies with evolving legislative trends in animal welfare. This analysis examines how each system perceives fundamental animal rights, including the rights to life, liberty, dignity and well-being. Furthermore, it evaluates the extent to which these rights are legally recognised and enforced.

## 3. Results and Discussion

### 3.1. Nature of the Animal Rights

The idea of animal rights has evolved through different perceptions. Generally, the term 'animal rights' was interpreted by some people as the moral and ethical considerations of human beings towards animals.<sup>11</sup> The debate over the consciousness and emotional status of animals is another issue among legal experts who seek to extend rights to them, and it also leads to the question of the nature of the rights to be extended. Some people contend that animals do not have consciousness, which is the basic reason they are called animals. However, a few experts have asserted that animals have communication skills, and scientific research has also verified the fact that animals communicate and adopt a social life. The mere fact that they do not have oral communication language does not make them disentitle themselves from consciousness and lose their rights based on the same. They do not have written and oral language understandable by human beings, but they do have communication

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<sup>11</sup> David R Schmahmann and Lori J Polacheck, "The Case against Rights for Animals," *Boston College Environmental Affairs Law Review* 22, no. 4 (1995): 747, <http://lawdigitalcommons.bc.edu/ealr/vol22/iss4/3>.

skills and an environment in which to live, and all this is based on their consciousness.<sup>12</sup> If they are taken out of the said environment and deprived of their social life, their rights will be violated.

On the basis of the same, some legal experts argue that animals have legal rights, while others say that they only have moral obligations and not legal rights. Legal rights are those that are protected by law, rules and regulations. In contrast, moral rights are those rights that are not protected by laws, rules and regulations, but rather are ethics that human beings follow. These types of rights are already available in every society because animals must be protected from harm and treated fairly. However, advocates of legal rights for animals say that animals possess legal rights and on the basis of the same they cannot be used for human service like work, eggs, meat and experiments as they cannot give consent to it and as a general principle animals are not likely to agree to provide us eggs, meat etc. This is an extreme position whereafter animals cannot be used for human service. There is also a third view, and proponents of this view argue that animals can be used for human service but should be given rights under the prevailing laws, including proper food, shelter and humane treatment.<sup>13</sup>

The above-mentioned positions among the legal experts not only indicate the entitlement of animals for rights but also the category of rights to be extended.<sup>14</sup> If they are considered property of human beings, their rights entirely depend on the discretion of the owner. On the contrary, if they are considered an independent living species like human beings, then modern research clarifies that they are emotional and intelligent beings and that they express their emotions and communicate in one way or the other. These characteristics make them entitled to independent rights just like human beings, and accordingly, they become entitled not only for protection of any harm but also for all other rights, including the right to reasonable abode, food, shelter, natural environment of their habitat and social well-being.

People who are of the opinion that animals do not have legal rights are of the view that they do not think, do not have emotions and do not feel pain and suffering as human beings do.<sup>15</sup> However, a few others have stated that animals have emotions

<sup>12</sup> Bernardo Alfredo Hernández Umaña, "¿Cuáles Son Los Fundamentos de Los Derechos de Los Animales?," *Análisis Jurídico - Político* 4, no. 7 (January 31, 2022): 129–30, <https://doi.org/10.22490/26655489.5594>.

<sup>13</sup> Marisa Erasmus, "Animal Welfare and Animal Rights: Ethics, Science and Explanations," 2020, <https://edustore.purdue.edu/as-662-w.html>.

<sup>14</sup> Jessica Eisen, "Of Linchpins and Bedrock: Hope, Despair, and Pragmatism in Animal Law," *University of Toronto Law Journal* 72, no. 4 (September 1, 2022): 468–90, <https://doi.org/10.3138/utlj-2021-0127>. Lee McConnell, "When Is It Right to Speak of Animal Rights?," *Canadian Journal of Law & Jurisprudence* 37, no. 2 (August 9, 2024): 507–43, <https://doi.org/10.1017/cjlj.2024.4>.

<sup>15</sup> Jason P. Kight and T. S. Johnson, "Legal Personhood: An Analysis of the Legal Rights of Corporations and Their Relation to Animal Ethics," *Journal of Animal Ethics* 12, no. 1 (April 1, 2022): 23–31,

and sentiments that they often express. Typically, these sentiments are supported by children and families who adopt these animals as pets. People negating the legal rights of animals have adopted the theory presented by contractarians. They are of the opinion that legal rights can only be possessed by those who can enter into and sign agreements. Because animals are not capable of signing and entering into agreements, they cannot be held entitled to legal rights. This argument is primarily based on the concept that animals lack intelligence, autonomy and reasoning. However, it can be seen that certain human beings also lack these characteristics or have some sort of deficiency. For instance, certain human beings are mentally sick or lack intelligence and reasoning ability in one way or another. Following contractarians, it can be said that they do not have legal rights as animals do because both lack intelligence and reasoning.<sup>16</sup> Therefore, the concept is not well founded, and animals are deprived of their legal rights merely on the basis that they lack intelligence and reasoning.

It has also been long debated whether animals can have rights or, in other words, whether legal rights can be extended to animals. Based on the general theories of right holders in the context of jurisprudence, this dilemma can be solved easily. However, one of the factors for rights holders also stipulates the corresponding duties against those rights. Legal experts have provided different answers to this and accordingly differed on the issue of animals as legal rights holders.<sup>17</sup>

Recognising this fact, many jurisdictions have adopted their relevant legislations, but advocates of animal rights still assert that these laws do not sufficiently protect animal rights. A few of the recommended animal rights proposed for legislation are that the animals should not be used for food, they should not be hunted and killed, the habitats of animals should be protected from any kind of interference and they should not be disturbed to live according to their chosen environment, animals should not be selected for breeding except for their own benefits and they should not be used for work by human beings.<sup>18</sup> However, this appears to be an extreme position that has beyond practical implications, as none of the countries around the globe have implemented this strategy.

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<https://doi.org/10.5406/21601267.12.1.03.Silvina> Pezzetta, "Animals as Subjects or Citizens: Can Animals Have Rights without Duties?," *Derecho Animal. Forum of Animal Law Studies* 15, no. 1 (March 25, 2025): 19–39, <https://doi.org/10.5565/rev/da.654>.

<sup>16</sup> Tom Regan, "A Case for Animal Rights. In M.W. Fox & L.D. Mickley (Eds.)," *Advances in Animal Welfare Science* (Washington, DC: The Humane Society of the United States, 1986), 179–89, [https://www.wellbeingintlstudiesrepository.org/acwp\\_awap](https://www.wellbeingintlstudiesrepository.org/acwp_awap).

<sup>17</sup> Saskia Stucki, "Towards a Theory of Legal Animal Rights: Simple and Fundamental Rights," *Oxford Journal of Legal Studies* 40, no. 3 (September 1, 2020): 536, <https://doi.org/10.1093/ojls/gqaa007>.

<sup>18</sup> Naresh Kumar R. and Yudesh Raghavan K, "A Study on Animal Rights," *International Journal of Engineering Applied Sciences and Technology* 6, no. 11 (2022): 76–79, <http://www.ijeast.com>.



There is also a need to distinguish between animal rights and animal welfare.<sup>19</sup> Animal rights are legal obligations to be followed by everyone, with adverse consequences in case of any violation. Contrarily, animal welfare involves policies that benefit animals.<sup>20</sup> The difference is based on the concept of legal obligations. Animal welfare normally does not contain a binding legal obligation with adverse consequences in the case of failure to be followed.<sup>21</sup> Nevertheless, legal obligations cannot be violated, and if violated, would result in adverse consequences. It is quite possible that animal welfare is observed, but legal obligations towards animals are bypassed and surpassed. For instance, if it is a legal obligation not to kill animals for food, then they cannot be killed unless they are treated humanely and their welfare is ensured during the process of their breeding to produce meat. Many believe that animals do not possess these legal rights but are entitled to human ethics. Their primary argument is based on the fact that animals do not think, they do not have a mind and consciousness and they do not make judgement. Another argument is that animals are created for the benefit of human beings and nothing else.<sup>22</sup> These are the two extreme positions. There are many other reasons for animal killing. Although a few seem justified, others do not.<sup>23</sup> The ideal course of action is the recognition and enforcement of animal rights and their benefits.

There are two main extremes to the protection of animals—abolitionists and welfarists. The former are of the opinion that every kind of suffering for animals should be immediately stopped, while the later views that animals are made for human use and can be used provided they are provided welfare and are well treated. Both concepts do not appear practicable in today's scenario. On the one hand, human survival without the use of animals seems difficult, whereas on the other hand, the free hand cannot be given to use animals on the pretext that welfare is provided to the animals as concept of welfare would differ from case to case basis.

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<sup>19</sup> E. Anne McBride and Stephen Baugh, "Animal Welfare in Context: Historical, Scientific, Ethical, Moral and One Welfare Perspectives," 2022, 119–47, [https://doi.org/10.1007/978-3-030-85277-1\\_7](https://doi.org/10.1007/978-3-030-85277-1_7). Kathryn Gillespie, "Animal Welfare," in *International Encyclopedia of Human Geography* (Elsevier, 2020), 133–38, <https://doi.org/10.1016/B978-0-08-102295-5.10331-2>.

<sup>20</sup> Yeonjin Park, Hochul Shin, and Dahee Park, "South Korea's National Animal Welfare Policies in Comparison to Legal Frameworks and Systems in Other Countries," *Animals* 15, no. 9 (April 26, 2025): 1224, <https://doi.org/10.3390/ani15091224>.

<sup>21</sup> Linda J. Keeling et al., "A Global Study to Identify a Potential Basis for Policy Options When Integrating Animal Welfare into the UN Sustainable Development Goals," *Frontiers in Animal Science* 3 (August 29, 2022), <https://doi.org/10.3389/fanim.2022.974687>.

<sup>22</sup> R. and K, "A Study on Animal Rights."

<sup>23</sup> Benjamin L Allen et al., "Why Humans Kill Animals and Why We Cannot Avoid It," *Science of The Total Environment* 896 (October 2023): 165283, <https://doi.org/10.1016/j.scitotenv.2023.165283>.

An animal provided every kind of food and shelter if killed at the end, used for human amusement or confined in a cage without any reason cannot be regarded as being provided welfare. Therefore, both concepts should be integrated to provide a better solution that bridges the gap between the two extremes.<sup>24</sup> Unless legal rights are provided for by the animals, their protection cannot be ensured effectively.<sup>25</sup> Therefore, there is a need for the legal theory of animal rights to be developed, meaning that ethical and moral rights for animal protection would not work unless they are incorporated into legal rights.<sup>26</sup> It is also important to note that in our legal system, laws sometimes contain general directions without any sanctions or consequences in cases of violation. In my view, simple directions, even if incorporated into legal rights, would not work unless they are properly implemented with sanctions and consequences in case of violation.

Irrespective of debates over legal and moral rights, animal suffering continues throughout the world. Even in states where laws for animal protection are enforced, it cannot be asserted that animals are effectively protected from all kinds of suffering, including death. Reasons for the disobedience of enforced laws can vary, but political forces and economic aspects seem to be the major ones, among many others. Therefore, a lot of work is still required to be done, and legislation does not seem sufficient to solve the issue. In order to effectively implement animal protection laws, the will of the people is the primary requirement. We have to change our daily habits, including hobbies, workforce and eating habits, keeping in view the protection of animals and only this way we can better protect animals.

### 3.2. Legal Framework:

Despite the differences in philosophical debates, many national and international laws have been enacted to provide animal rights on the basis of being living creatures.<sup>27</sup> For instance, in some parts of the United States, laws have been enacted to protect animals for their protection from harm. It is generally forbidden to transport animals in a cruel and inhuman manner and do anything that comes under the ambit of torture.

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<sup>24</sup> Peter Sankoff, "The Animal Rights Debate and the Expansion of Public Discourse: Is It Possible for the Law Protecting Animals to Simultaneously Fail and Succeed," *Animal Law Review* 18, no. 2 (2012): 281–320, <https://lawcommons.lclark.edu/alr/vol18/iss2/6>.

<sup>25</sup> Fabien Marchadier, "The Legal Status of Animals in European Law," in *Animal Suffering* (Wiley, 2023), 67–84, <https://doi.org/10.1002/9781394228935.ch4>.

<sup>26</sup> Stucki, "Towards a Theory of Legal Animal Rights: Simple and Fundamental Rights."

<sup>27</sup> Marco Roscini, "Animals as Property and as Objects U. of Westminster School of Law Research Paper in Anne Peters, Robert Kolb, Jérôme de Hemptinne (Eds), *Animals in the International Law of Armed Conflict* (Cambridge University Press 2022)," *SSRN Electronic Journal* Cambridge (2022): 23, <https://doi.org/10.2139/ssrn.4242552>.



A few states and cities have more specific laws. For instance, in New York, whoever transports an animal in a car or railroad is required to provide proper rest and food to the animal, with an additional condition that the animal should be taken for a rest break after every five hours. Working animals are also entitled to basic rights, including food and proper shelter, along with the condition that they should not be overburdened in work and should be given proper rest. In New York, using an animal for overworking is prohibited.

A few other states, for instance, California, has criminalised overworking of the animals. However, these laws and regulations do not seem sufficient to protect animals. A lot more must be done, particularly about hunting, experimentation and use of animals for work and entertainment. Laws are required to be promulgated concerning the use of animals in experiments to ensure that they are used where it is absolutely necessary and are not given unnecessary suffering. Many nations have moved in this direction, and this seems to be the right direction.<sup>28</sup>

The UK's legislation is the most recent. After the Animals Welfare Act, 2006, the Animals Welfare (Sentience) Act, 2022 was enacted to incorporate modern trends towards animal protection. The UK passed another Pet Abduction Bill in 2024 to curb the abduction of pets. The former regards animals as emotional beings, i.e. creatures with emotions and feelings. Therefore, the idea of animals being conscious and emotional has been formally recognised by the UK. Later legislation tends to criminalise the abduction of dogs and cats and treats it as an offence. The UK has tried to bring these laws in accordance with internationally settled norms and principles.<sup>29</sup>

The Canadian law on animal rights was one of the earlier laws dating back to the 19<sup>th</sup> century. Before that time, animal rights were primarily based on the values and customs of that time.<sup>30</sup> Animals were primarily treated as human property, along with all other nonhuman creatures. Any harm to animals was considered a harm to the environment and society as a whole and not an act against the animals in their personal capacity or in violation of their personal rights, and animals were not considered legal rights holders by that time. Reforms have been made with the passage of time in Canada, and any act of cruelty to animals has now been considered a crime under the Criminal Code, which is the primary legislation of the country on criminal law.

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<sup>28</sup> Sunstein, "The Rights of Animals: A Very Short Primer," 2002.

<sup>29</sup> Roma Beke, "To What Extent Should Non-Human Animals Have Legal Rights?," *York Law Review* 5 (2024), <https://doi.org/10.15124/yao-bq0q-9m47>. accessed January 21, 2025

<sup>30</sup> Jr. Oliver Wendell Holmes, *Book Review of Cass R. Sunstein, and Martha C. Nussbaum, 'Animal Rights: Current Debates and New Directions,' Ottawa Law Review*, vol. 36 (Oxford University Press, 2005), <https://doi.org/10.1093/acprof:oso/9780195305104.001.0001>. 353

The Canadian Criminal Code provides that ‘everyone commits an offence who wilfully causes or, being the owner, wilfully permits to be caused unnecessary pain, suffering or injury to an animal or a bird’.<sup>31</sup> The Code also provides that ‘everyone commits an offence who being the owner or the person having the custody or control of a domestic animal or a bird’ . . . fails to provide suitable and adequate food, water, shelter and care for it’.<sup>32</sup>

In addition to the Code, animal rights are protected under some federal laws, including those promulgated for animal food. However, despite these comprehensive laws criminalising any act of cruelty against animals, Canada still failed to adopt modern philosophies developed in favour of animal rights protection.<sup>33</sup>

In contrast to Canadian law, New Zealand has adopted a slightly different approach, which so far seems to be the most suitable legislation in the world. In this regard, New Zealand has adopted a centralised legislation in the form of the Animal Welfare Act, 1999, which provides strict guidelines regarding food, shelter, humane treatment, welfare and well-being of animals, including all other measures falling within the ambit of good behaviour. Any violation or deviation has been dealt with under the Act, and more than fourth deviations are criminalised under the Act. In fact, the Act provides for almost everything that can be considered universally accepted legal rights for animals. Another major aspect of New Zealand legislation is that it provides protection to every type of animal in captivity, including companion animals. The legislation provides a comprehensive framework for measures to be adopted by everyone regarding all types of animals as an uniform policy without leaving the discretion to the owners.<sup>34</sup> The practice adopted by New Zealand is expected to be followed by other states until more comprehensive and robust legislation comes to the surface.

Apart from different laws adopted across the globe, there are certain cases in which animal rights have been not only discussed but key principles regarding animal protection have been set out. For instance, the European Court of Human Rights (Court) discussed animal rights in a number of cases. In 1998, in the case of *Steel and others*,<sup>35</sup> the Court took up the matter over the arrest of the applicant over the disruption of a grouse hunting party.

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<sup>31</sup> “The Canadian Criminal Code Section 445.1(A)” (1985).

<sup>32</sup> “The Canadian Criminal Code, Section 445.1 (B)” (1985).

<sup>33</sup> Sankoff, “The Animal Rights Debate and the Expansion of Public Discourse: Is It Possible for the Law Protecting Animals to Simultaneously Fail and Succeed,” 17.

<sup>34</sup> Sankoff, 300.

<sup>35</sup> *Steel and Others v. UK*, ECtHR Application No. 24838/94. (1998).

The Court examined the complaint under Article 5 of the European Convention on Human Rights (Convention) regarding arbitrary interference with liberty and interference with the right to free expression.<sup>36</sup> The Court noted that 'Ms. Steel had been subjected to serious interferences with the exercise of her right to freedom of expression', balancing this approach by saying that the same was the result of 'obstruction of the lawful pastime of the hunting party and apprehension for law and order'.

However, in some future cases, the Court also examined the importance of animal rights by declaring that animal welfare is a matter of public importance and should be protected at all levels. In another case, *Chassagnou v. France* (1999)<sup>37</sup>, the Court took up the matter of certain applicants challenging the pool of their land holdings for hunting purposes where under the relevant law, each land falling below a certain threshold was required to be given in the pool of hunting area. The Court examined the case in light of the general principles of human rights, including discrimination and protection of property, but ultimately these rights were given preference over the rights of the hunting association, which were directly related to animal protection. The primary concern of the Court was animal protection. This is evident from the fact that in 2012, the Court again examined the case of an applicant in *Chabauty v. France*<sup>38</sup>, where the applicant challenged the inclusion of his land in the hunting area but not on an ethical basis or violation of animal rights, rather on the ground that it amounted to a violation of his right to rent his land privately for hunting. The Court distinguished this case from the case of *Chassagnou* by holding that no violation of the Convention was found.

However, disruption to hunting was not prevented in other cases. For instance, in *Steel and others v. UK*, the Court held that the act of the applicant by throwing herself before the hunting party amounted not only to endanger her own life but also to create disorder and amounted to interference; therefore, no violation of Articles 10 & 11 was committed. The same reasoning was adopted by *Geet Drieman and others v. Norway*<sup>39</sup>, where the protesters obstructed a whale hunt and the Court considered it interference, although the application was later dismissed as being ill-founded. The Court, for the first time, considered the protest on animal protection as a matter of public interest in the case of *Bladet Tromsø and Stensaas v. Norway*.<sup>40</sup>

<sup>36</sup> Lewis Graham, "Liberty and Its Exceptions," *International and Comparative Law Quarterly* 72, no. 2 (April 9, 2023): 277–308, <https://doi.org/10.1017/S0020589323000027>.

<sup>37</sup> *Chassagnou and Others v. France*, Grand Chamber Judgment, ECtHR Applications Nos. 25088/94, 28331/95, and 28443/95. (1999).

<sup>38</sup> *Chabauty v. France*, Grand Chamber Judgment, ECtHR Application No. 57412/08. (2012).

<sup>39</sup> *Geert Drieman and Others v. Norway*, ECtHR Application No. 33678/96. (2000).

<sup>40</sup> *Bladet Tromsø and Stensaas v. Norway* Grand Chamber Judgment, ECtHR Application No. 21980/93. (1999).

The case involved pleas by the Bladet Tromsø newspaper and its editor after successful defamation proceedings over the allegation of a seal hunt and many other illegal practices in the relevant organisation. The Court for the first time examined the role of the media in spreading and sharing information within the limits of respecting the rights of others and for highlighting the matters of public importance and declared that highlighting the importance of the allegations made was a matter of public interest and a major concern at the local, national and international level for animal protection.<sup>41</sup>

Adopting the same approach, the national courts of Pakistan have also begun to use the lens of international best practices on animal welfare. Pakistan is rich enough to adopt different animal rights laws. Almost all provinces have adopted the relevant legislation.<sup>42</sup> Courts in Pakistan have also sought to protect animal rights. For instance, the Supreme Court of Pakistan has begun to interpret animal rights considering other constitutional provisions and international treaties. It has also been observed by the Supreme Court that favourable conditions should be created for animal protection. In some other cases, the courts have started making their endeavours to protect endangered species. For instance, in one of these cases, the Lahore High Court took up the matter of the Black Buck deer, ruling that it is an endangered species and that the provincial government should adopt appropriate measures to protect it.<sup>43</sup>

In another case before the Islamabad High Court, the rights of animals in captivity came under discussion, and the Court held that animals were being kept in small, uneasy and unhealthy environments, which amounted to a violation of relevant obligations towards animal rights and that appropriate measures should be adopted to provide a healthy and suitable living environment for these animals. The Court took up the matter of animals kept in captivity in a zoo in Islamabad and observed that the environment and the facilities in the zoo were not sufficient to deal with the behavioural, social and psychological needs of the animals and directed that these animals be relocated.<sup>44</sup> The Court recognised the social and psychological needs of

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<sup>41</sup> Tom Sparks, "Protection of Animals Through Human Rights: The Case-Law of the European Court of Human Rights," in *Studies in Global Animal Law* (Mpil Research Paper Series No. 2018-21, Max Planck Institute for Comparative Public Law and International Law, 2020), 153–71, [https://doi.org/10.1007/978-3-662-60756-5\\_13](https://doi.org/10.1007/978-3-662-60756-5_13).

<sup>42</sup> See for instance, West Pakistan Wildlife Protection Ordinance, 1959; Pakistan Wildlife Protection Rules, 1960; Pakistan Wildlife Ordinance, 1971; Wildlife Protection Ordinance Sindh, 1972; Baluchistan Wildlife Protection Act, 1974; Punjab Wildlife Act and Rules, 1974; Azad Jammu and Kashmir Wildlife Act, 1975; NWFP Wildlife Act, 1975; Northern Areas Wildlife Preservation Act, 1975.

<sup>43</sup> Ali Imran, v. Forest Wildlife and Fishery Department, PLD 24 Lahore. (2020).

<sup>44</sup> Islamabad Wildlife Management Board v. Metropolitan Corporation Islamabad, CLC 262 Islamabad, Pakistan. (2021).

the animals, recognising that they are emotional beings and are required to be treated accordingly; however, it also observed that they were the property of the zoo. The Court relied primarily on the Prevention of Cruelty to Animals Act, 1890, which is a centuries-old legislation and unable to contain modern philosophical considerations. However, all the laws and rights recognised and enforced by courts in Pakistan are the basic rights of animals and lot of animals suffer. Pakistan still lacks a legal framework for the effective protection of wildlife, protection of the rights of animals in captivity and determination of the rights of animals used for human benefit.

### 3.3. Islamic Law Perspective

Islam adopts a balance approach towards the rights and duties of animals.<sup>45</sup> The primary principles are contained in the holy Quran, where it has been said by Almighty ALLAH: 'We have honoured the children of Adam and carried them by land and sea'. We have provided good sustenance for them and favoured them especially above many of those we have created'.<sup>46</sup>

The verse indicates that among all creatures, human beings are given preference, but creation of everything else has been recognised, which includes animals. In respect of taking advantage of human beings from other creatures, the holy Quran states the following: 'He has subjected/tamed all that is in the heavens and the earth for your benefit'.<sup>47</sup> This means that it is absolutely permissible under Islam to take benefits from animals. Islam also imposes certain duties on animals, including that they should not be killed without reason and should be well treated and fed properly. Detailed duties and obligations towards animals have been provided in the Sunnah of the holy Prophet Mohammad.<sup>48</sup> With regard to the right to life of animals, the Prophet Prophet Mohammad warned against the killing of animals and is reported to have said: 'There is no person who kills a small bird or anything larger for just nothing, but Allah, the Mighty and Sublime, will ask him about it'. When he was asked about the concept of 'nothing', he stated: 'that you slaughter the animal and eat

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<sup>45</sup> Bagher Larijani, Nazafarin Ghasemzadeh, and Mansoureh Madani, "Animal Rights in Islam: The Use of Animals for Medical Research," 2017, 183–95, [https://doi.org/10.1142/9781783267507\\_0009](https://doi.org/10.1142/9781783267507_0009). Dževad Hodžić, "Živa Bica U Islamskoj Religijskoj Bioetičkoj Perspektivi," *Socijalna Ekologija* 17, no. 4 (2008): Soraya Ghotbi, "Ethical Rights of Animals in Islam," 2020, 255–68, <https://doi.org/10.22034/ri.2020.189042.1334.361-78>. Md Nazrul Islam and Md Saidul Islam, "Human-Animal Relationship: Understanding Animal Rights in the Islamic Ecological Paradigm," *Journal for the Study of Religions and Ideologies* 14, no. 41 (2015): 96–126, <https://jsri.ro/ojs/index.php/jsri/article/view/773>.

<sup>46</sup> Allama Abdullah Yusuf Ali (tr), *Qur'an, Surah Al-Isra (The Night Journey) 17:70 'The Holy Qur'an: Arabic Text, English Translation & Commentary'* (Lahore: Sh. Muhammad Ashraf, 1934).

<sup>47</sup> Allama Abdullah Yusuf Ali (tr), *Qur'an, Surah Al-Jathiyah (The Kneeling) 45:13. 'The Holy Qur'an: Arabic Text, English Translation & Commentary'* (Lahore: Sh. Muhammad Ashraf, 1934).

<sup>48</sup> Peace be Upon Him.

it and do not cut off its head and throw it aside'.<sup>49</sup> These principles clearly illustrate that the killing of animals for the purpose of eating and use is allowed in Islam, but they cannot be killed without a justified reason or without adopting a less painful procedure and their meat cannot be wasted.

As far as the question about the consciousness of animals and their emotional and intelligent beings, Islam recognised them as conscious beings and capable of perceiving emotions, intelligence and sentiments. Rather, Islam also asserts that animals are capable of perceiving a few things that human beings cannot. The Prophet Mohammad in this regard said 'When you hear the barking of dogs and the braying of asses at night, seek refuge in Allah, for they see which you do not see'.<sup>50</sup> This *hadith* has been interpreted by scholars of *hadith* to say that animals are capable of seeing other creatures like *jinn* and angles which human beings cannot see and even sometimes they can perceive the feelings of natural calamity like flood, hurricane and earthquake etc.

There are many other traditions dedicated to the holy Prophet Mohammad where all the rights of animals have been recognised and enforced. In accordance with the teachings of the holy Prophet Mohammad, animal welfare has been ensured, the unjust killing of animals has been prohibited and compassion has been shown to animals. For instance, the holy Prophet Mohammad passed through a man dragging a sheep by its ear; he stopped and said: 'Leave its ear and hold it by the sides of its neck'<sup>51</sup> for the reason that holding an animal by its ears and dragging is more painful than holding it by its neck. It has also been reported that the holy Prophet Mohammad has forbidden beating animals on the face,<sup>52</sup> as the face is a sensitive part of the body. The holy Prophet Mohammad also forbidden the fighting of animals against each other because it also causes pain and suffering to the animals.<sup>53</sup> Mutilation of animals is also forbidden by the holy Prophet Mohammad.<sup>54</sup> Regarding mercy for the animals, it is reported that a man came to the holy Prophet Mohammad and said that he was going to slaughter a sheep, but when he intended, he felt mercy

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<sup>49</sup> Abu Abd-ur-Rahman Ahmad ibn Shuayb ibn Ali ibn Sinan ibn Bahr Al-Khurasani An-Nasai, *Sunan Al-Nasa'i (in Arabic) [The Collection of Nasa'i]* (Halb: Maktabat ul Matboaat, 1986), hadith no. 4446.

<sup>50</sup> Abu-Dawud Sulaiman bin Al-Aash'ath Al-Azdi as-Sijistani, *Sunan Abu Dawud (in Arabic) [The Collection of Abu Dawud]*, Book 43 (Beirut: Maktabat ul Asria, n.d.), vol. 5, hadith no. 5103.

<sup>51</sup> Ibn-e-Majah M., *Sunan Ibn-e-Majah (in Arabic) [The Collection of Ibn-e-Majah]* (Halb: Daar ul Ihya il Kutub Al Arabiah 1422 A.H. hadith no. 3171, n.d.).

<sup>52</sup> Muḥammad ibn Isma'il Bukhari, *Al-Jami'al-Ṣaḥiḥ (in Arabic) [The Authentic Collection]* (Beirut: (Beirut: Daar ul Tawqal Najjah, vol. 7, hadith no. 449., n.d.).

<sup>53</sup> Abu-Dawud Sulaiman bin Al-Aash'ath Al-Azdi As-Sijistani, *Sunan Abu Dawud (in Arabic) [The Collection of Abu Dawud]* (Beirut: Maktabat ul Asria, Book 15, hadith no. 86., n.d.).

<sup>54</sup> Ibn-e-Majah M., *Sunan Ibn-e-Majah (in Arabic) [The Collection of Ibn-e-Majah]* (Halb: Daar Ul Ihya Il Kutub Al Arabiah 1422 A.H., Book, vol. 27, n.d.).



for the sheep, and the holy Prophet Mohammad said: 'since you showed mercy to the sheep, Allah will show mercy to you'.<sup>55</sup> Regarding the use of animals in experiments, Abdul Rahman Ibne Usman reported that when a physician consulted the holy Prophet Mohammad about the use of frogs for experiments, he forbade him from killing them.<sup>56</sup>

With regard to showing mercy to the animals, Abdul Rahman Bin Abdullah quoted his father as follows:

'When we were on a journey with the Messenger of Allah, and he had gone to relieve himself, we saw a Hummarah with two young ones. We took the young ones. The Hummarah came and began to spread its wings. Then the prophet (May peace be upon him) came and said: who has pained this young woman by the loss of her young? Give her the young ones back to her. We also saw an ant-hill that we had burned. He asked? Who burned this? We replied: we have. He said: it is not fitting that anyone but the lord of the fire should punish with fire'.<sup>57</sup>

Mercy has also been ordered to be shown at the time of slaughter. In this regard, the holy Prophet Mohammad said: 'Allah has decreed that everything should be done in a good way, so when you kill an animal, use a good method'. And when you slaughter, sharpen your knife and give the animal as little pain as possible'.<sup>58</sup> In another *hadith*, the holy Prophet Mohammad is reported to have said: 'verily Allah has enjoined goodness to everything; so when you kill, kill in a good manner and when you slaughter, slaughter in a good manner'. It was further said that 'everyone must sharpen their knives, and let the slaughtered animal die comfortably'.<sup>59</sup>

All these teachings of the holy Prophet Mohammad clearly illustrate that animals are entitled to certain rights. Islam recognises that animals are emotional beings, and they have feelings of pain, suffering and happiness. Islam also recognises that animals can be used for human benefit, but not unnecessarily or in a way that causes pain and suffering to the animals. While slaughtering animals, they are ordered to show mercy. These rights are still disputed in the context of modern animal rights, but they were recognised and enforced by Islam centuries ago.

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<sup>55</sup> Muḥammad ibn Isma'il Bukhari, *Al-Jami' Al-Ṣaḥiḥ (in Arabic) [The Authentic Collection] Vol. 7* (Beirut: Daar ul Tawqal Naijah, n.d.), hadith no. 373.

<sup>56</sup> Sulaiman bin Al-Aash'ath Al-Azdi as-Sijistani, *Sunan Abu Dawud (in Arabic) [The Collection of Abu Dawud]*, hadith no. 475.

<sup>57</sup> Sulaiman bin Al-Aash'ath Al-Azdi as-Sijistani, *Sunan Abu Dawud (in Arabic) [The Collection of Abu Dawud]*, hadith no. 496.

<sup>58</sup> Abul Husain Muslim Al-Hajjaj Al-Qushairi An-Naisaburi, *Sabih Muslim (in Arabic) [The Authentic Collection of Muslim]*, *Hadith No. 84, Book*, vol. 34 (Beirut: Daar ul Ihya il Turath, 1955).

<sup>59</sup> Al-Hajjaj Al-Qushairi An-Naisaburi.

In summarising the above discussion, it can be said that theories regarding animal rights take unique stands but have been reconciled by recent jurisprudence. Theoretically, we can still debate whether animals possess legal or moral rights or no rights at all and whether animals are intelligent and emotional beings or otherwise, but in essence, humans consider animals to be the right holders. It has been proven scientifically that animals are emotional and intelligent beings. They express their emotions, feelings of pain, suffering and every other kind of treatment in the hands of human beings. Therefore, they are entitled to all the rights available for a living creature, including proper food, shelter, environment, privacy and natural habitat suitable for their healthy life.

Many countries all over the world have adopted laws with the approach that animals are entitled to legal rights, and in one way or another, the concept of animal rights has been recognised all over the world. Therefore, the question of the entitlement of animals as rights holders has been resolved by the current legal framework. Many international and national courts have also adopted jurisprudence in respect of the protection of the rights of animals, considering them as rights holders, and have adopted the approach of feeling the importance of animal welfare and declaring it a matter of human concern. However, many legal frameworks are still based on general guidelines amounting to moral obligations, which is the main obstacle to the protection of animal rights. In this regard, a comprehensive legal framework at the international level is the need of the time.

#### **4. Conclusion**

The debate about the legal status of animals is relevant to their rights. Previously, it was a common perception among legal experts that only species falling within the category of persons are entitled to legal rights and not things owned and possessed by human beings, as they can be used at the discretion of the later. Animals were treated as things and property, depriving them of their basic legal rights. Arguments in favour and against may contain value, but current studies have shown that depriving animals of their legal rights is not only an old concept but goes against the welfare and basic interest of human beings. The concept has been changed over the passage of time, and using animals at the discretion of humans without recognising their legal rights has been replaced by recent legal developments. Despite the existence of debates over the nature of rights available for animals, the modern world has adopted legal frameworks that not only recognise but also protect animal rights. The protection afforded in this regard has been sanctioned with criminal offences in many countries, and this practice is being followed by many others, thus recognising the legal rights

of animals. However, the legal framework differs from state to state, and the world still lacks a comprehensive code of legal rights at the international level to be adopted by all countries in a uniform manner.

Certain countries also lack a uniform legal framework within their jurisdictions, as applicable laws are at variance in different parts of a country. The lack of uniformity in this regard gives rise to further debate as to which policy is best suited and better protects the rights of animals on the one hand and the interests of human beings on the other hand. Although certain countries have adopted uniform policies containing concrete rules and principles with regard to the protection of animal rights, legal frameworks of this nature meet the requirements of a particular country but create complications when it comes to the regional enforcement of animal rights. This issue has also been one of the major issues in regional courts' uniform interpretation of animal rights. Therefore, it is necessary for international bodies to adopt a uniform set of principles to be followed by each country either as a legal obligation after becoming a party to it or at least by taking guidance for developing their national legal framework on the basis of universally accepted legal principles. It has also been noticed that merely enlisting legal rights would only amount to laying down some basic ethical values and not serve the purpose unless violations of animal rights are criminalised, as has been done in New Zealand. This objective can be achieved by adopting a universally applicable treaty on animal rights and establishing an international body to monitor the compliance of the principles set out therein by the state parties, as with other international bodies created to comply with human rights at the international level. It shall also ensure the application of these principles at the domestic level with strict compliance by bodies established domestically.

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