

LEGAL PROTECTION OF ANIMAL RIGHTS AND WELFARE: A COMPARATIVE ANALYSIS OF FRENCH LAW AND SHIA MUSLIM LAW

Nzengeja SABITI NGOY

*Department of Law and Political Science, Faculty of Private Law,
Al-Mustafa International University, Qom, I. R. Iran*

Nowadays, natural terrestrial ecosystems have been profoundly altered by human activity. Many animal species are threatened with extinction, while the survival and health of humanity depend on a healthy environment and preserved biodiversity. Animal welfare, the legal protection of animals and the conservation of species are attracting the attention of governments, organizations and environmental defenders around the world. This study, using a descriptive-analytical method, aims to compare the approach of French law and Shiite Muslim law to the protection of animal rights and their welfare. It highlights the similarities and differences between these two legal systems regarding the preservation of animal welfare, by analysing the legal texts and ethical principles that guide their respective approaches. In France, the legal status of animals has evolved from “movable property” to “living beings endowed with sensitivity”. Many provisions now aim to protect him against ill-treatment. Islam also places significant importance on environmental protection and animal welfare. Islamic legal sources contain specific prescriptions on the treatment of animals, which Muslims must respect. The responsibility for this protection lies not only with the owners, but also with the State, insofar as it is in the public interest and the preservation of public order.

Keywords: *animal welfare, legal protection of animals, environment, animal law, comparative law, French law, Shia Muslim law*

1. Introduction

The Earth's natural ecosystem is intricately organized, with the survival and well-being of every living organism inextricably linked to others. Disrupting this delicate balance jeopardizes the survival of all species, including humans. Humanity's health and survival are deeply tied to a healthy environment and the preservation of biodiversity. However, human actions—such as the destruction of forests and grasslands—have pushed many animal species toward extinction. Animals are an integral part of the natural environment, playing a vital role in maintaining ecological balance. As a result, animal welfare, the legal protection of animal rights, and the conservation of species are increasingly attracting attention from governments, non-governmental organizations, and conservationists worldwide. Like humans, animals possess fundamental rights, including the right to life, the right to welfare, and protection from cruelty. Violations or neglect of these rights constitute a breach of animal rights and should entail accountability.

In Islam and other religious traditions, it is widely acknowledged that every creation has significance in the order of existence. Nothing in the natural world is superfluous or inherently harmful but instead forms part of a complementary cycle of life, reflecting the wonders of existence. This perspective underscores the necessity of addressing animal welfare and protection not only philosophically but also through the development of robust legal frameworks and institutions to safeguard these rights. Animals are generally categorized based on two criteria: their proximity to humans and their functional relationship with humans. Broadly, animals are classified into domestic and wild categories. Domestic animals include pets, livestock, and animals kept in captivity, each with varying degrees of vulnerability. Wild animals are divided into protected species, game animals, and pests. These distinctions inform the level of protection or regulation applicable to each group.

In France, the legal framework for animals ranges from hyper-protection, such as for companion animals, to minimal or no protection for certain pests. French animal law spans multiple legal disciplines, including environmental law, criminal law, civil law, and rural law. It addresses issues such as animal protection, welfare, owner responsibility, experimental use, food production, hunting, agriculture, transport, and the keeping of live animals. In Shia Muslim law, there is a significant emphasis on environmental stewardship and animal welfare. Islamic legal sources outline various provisions mandating humane treatment of animals. The Prophet Muhammad stated: "All cruelty and pain inflicted on animals without reason are satanic

acts”, emphasizing that unwarranted harm to animals is a grievous offense. Similarly, Imam Ali declared: “By Allah, even if I were given the seven heavens and the seven earths and all that is in them, I would not do injustice to an ant by snatching a grain of wheat from it” (Muhaddith Nouri 1830: XIII/211). Such teachings highlight the moral and spiritual imperative to protect animals.

This study begins with the premise that animals deserve universal legal protection from suffering. It aims to evaluate the extent to which French and Shia Muslim legal systems effectively protect animal rights, ensure their welfare, prevent mistreatment, and promote compassionate behavior. Through this analysis, readers will gain insight into the complexities of animal protection laws, the challenges involved, progress made, and prospects for future development in both French and Islamic law.

2. Conceptual Framework

2. 1. Law

There is no universal definition of law, as its interpretation and application vary across France and other countries worldwide. However, the term “law” is generally understood in two principal ways: “objective law” and “subjective rights”. Objective law refers to the set of legal rules that govern relations among individuals within society and whose enforcement is ensured by public authorities. In essence, objective law encompasses the overarching system of rules designed to regulate interactions within a given society. On the other hand, subjective rights are the individual rights or prerogatives recognized by objective law and granted to legal subjects. These rights empower individuals or entities (natural and legal persons) to enjoy a particular thing, value, or demand a service from others in their interest (Guinchard & Debard 2017). If a person’s subjective right is violated by another, the holder of the right may take legal action to defend it. Thus, subjective rights operate within the framework of objective law, ensuring that individuals and entities can exercise and protect their entitlements.

2. 2. French Law

In France, law is defined as the set of official legal rules established by society to organize and regulate relations among individuals. More specifically, law can be described as “the set of rules of conduct that govern relations between individuals and whose observance is ensured by the French public authority”. In essence, law comprises interpretative provisions and directives

that, at a given time and within a specific state, regulate the status of persons and property, as well as relations between public and private entities. Indeed, animal welfare law and the legal protection of animals in France are governed by a complex and multifaceted legal framework. This framework spans several branches of law, including environmental law, criminal law, civil law, and rural law. These laws address various issues such as the responsibilities of animal owners, the regulation of experimental activities involving animals, the use of animals in food production, hunting, agriculture, transport, and the keeping of live animals.

2. 3. Shia Muslim Law

The term “fiqh” in Arabic literally means: deep understanding (Jawhari 1987: VI/2243; Fīrūz Ābādī 2005). Understanding and reasoning are the foundational tools for anyone wishing to engage in the field of “fiqh”. Conventionally, “fiqh” is defined as the interpretation and inference of the practical laws of religion from specific arguments and sources, including the Qur’an, the Sunnah, consensus (ijma’), and reason (aql) (Amili n. d.: I/90). Fiqh constitutes a set of laws, rules, obligations, and prohibitions deduced by jurists from detailed sources and evidence. These laws guide the faithful in their practical relationship with the Creator, their interactions with fellow humans, and their conduct toward nature. It therefore represents the legal framework governing the actions of believers in relation to God, society, and the natural world, as derived through the interpretation and reasoning of jurists from revealed texts.

Muslim law is studied across several legal schools, including the four Sunni schools (Hanafi, Shafi’i, Maliki, and Hanbali) and the Shia Imamite (Ja’fari) school. This study, however, will focus exclusively on the perspective of Shia law regarding animal welfare. Shia Muslim law addresses all major aspects of life, reflecting Islam’s nature as a comprehensive way of life. It extends beyond cultural practices to encompass all domains of existence, integrating legal, ethical, and spiritual principles.

2. 4. Animal Law

Animal law is a field of law that governs the relationship between humans and other animal species. It encompasses a range of topics, including laws related to pets, liminal animals, free and captive wildlife, as well as animals used for food production and scientific research. By extension, animal law also involves the study of animals’ legal status in statutory and case law. In its broadest sense, animal law refers to all legal matters concerning non-hu-

man animals. More specifically, it addresses the legal framework governing how humans treat these animals (Curnutt 2001). This field also intersects with other areas of law, such as wildlife conservation, which falls under environmental law. Animal welfare law, a subset of animal law, focuses on protecting individual animals as sentient beings capable of experiencing suffering. It is often referred to as “animal protection law” within the broader context of animal law.

2. 5. Animal Welfare Law

Animal welfare law focuses on measures designed to reduce animal suffering and improve their quality of life (and dying), even in contexts where animals are used for human purposes. These purposes include food production, clothing, pharmaceuticals, cosmetics, scientific research, education, companionship, and entertainment¹. Since law serves to regulate relationships and actions within human society (Cornu 2001), animal welfare law specifically addresses the ethical and practical considerations involved in the various ways humans use animals. Such uses, or instrumentalizations, of animals are deeply ingrained in societies worldwide (Ockerman & Hansen 2000). This field of law seeks to balance human needs with the ethical responsibility to treat animals with care and dignity.

2. 6. Animal

Etymologically, the word “animal” derives from the Latin *anima*, meaning breath or life. Most dictionaries define an animal as an “organized, heterotrophic living being, endowed with sensitivity and motility”. Scientifically, an animal is identified as a living organism possessing the essential characteristics of life: metabolism², growth, and reproduction (Bautz, Anne-Marie & Bautz, Alain 2007). From these definitions, it is evident that life is the fundamental criterion for classifying a being as an animal. Life, therefore, forms the basis and foundation of the discussion on animal rights. All rights attributed to animals - and, more broadly, to all living beings—stem from their status as living entities. If a being is not alive, the question of its rights becomes irrelevant and devoid of meaning.

1 These include methods of breeding, transporting and slaughtering production animals; laboratory animal experimentation; hunting, fishing, capturing and captivity of wild animals; as well as the treatment of pets and animals used for fights, competitions or other shows.

2 Metabolism: all the chemical and biological transformations that take place in the body.

3. Discussion and Research Results: The Legal Status of Animals in French Law and Shia Muslim Law

3. 1. The Legal Status of the Animal under French Law

Since the reform of the Civil Code on February 16, 2015, Article 515-14 of the Civil Code acknowledges animals as sentient living beings. However, despite this recognition of their sensitivity, animals remain subject to the general legal regime of property.

A. Historical Evolution

Under French law, animals were historically classified as movable property and governed by the same property laws. This view persisted until the 2015 amendment to the Civil Code, which recognized animals as “living beings endowed with sensitivity”. Article 515-14, introduced by this reform, states: “Animals are living beings endowed with sensitivity. Subject to the laws that protect them, animals are subject to the property regime” (French Civil Code, February 18, 2015). This legislative change aimed to provide animals with enhanced protection, or at least a recognition of their distinct status. However, the idea of animals as sentient beings was not new. The Law of July 10, 1976 had already added Article L.214-1 to the Rural Code, stipulating: “Any animal being a sentient being must be placed by its owner in conditions compatible with the biological imperatives of its species” (Rural and Maritime Fishing Code, July 10, 1976). Thus, even before 2015, the law had acknowledged animal sentience. Nonetheless, the addition of Article 515-14 to the Civil Code sought to break the strict dichotomy between property and persons by assigning animals a distinct status.

Indeed, French civil law traditionally makes a fundamental distinction (*summa divisio*) between persons and property. All legal entities must fall into one of these two categories. Even assets that receive special legal protection - such as human remains after death - are still classified as property. The same principle applied to animals, a status the 2015 reform sought to partially alter. Article 515-14 recognizes animals as sentient beings, acknowledging their unique nature. However, this recognition does not disrupt the foundational distinction between people and property. Animals, while afforded specific protections, remain legally classified as property. In essence, the 2015 reform represents a significant step toward animal rights, acknowledging their sensitivity while maintaining their categorization under the property regime. This dual approach reflects an evolving perspective on the legal status of animals in French law.

B. Recognition in Principle of the Specific Status of Animals

As previously noted, while Article 515-14 of the French Civil Code recognizes the special status of animals as sentient living beings, it does not exempt them from the general regime of property. This acknowledgment of animals' sensitivity represents an undeniable novelty in French civil law. However, the legal community has often criticized the wording of this article for its lack of substantive legal impact. Despite its symbolic value, the article remains primarily declaratory and does not introduce a specific legal regime for animals. As a result, the recognition of animals' sensitive nature, though significant, is seen by some as largely symbolic rather than legally transformative (Desmoulin-Canselier 2016: 360).

While the French legislator's intention to grant animals a special status is commendable, the fact remains that animals are still classified as property, "subject to the laws that protect them". This clarification, though notable, has been criticized by legal scholars as largely redundant. It is notable because it explicitly acknowledges the existence of laws specifically protecting animals, hinting at a potential framework for greater legal protections. This recognition signals both the possibility of further development in animal rights and a formal acknowledgment of animals' unique status (*Idem*).

However, the practical legal utility of this clarification is limited. Article 515-14 does not specify or provide direct access to the laws protecting animals, rendering its immediate legal effect negligible. For instance, criminal provisions against animal cruelty would remain applicable without this article, as would Article 522 of the Civil Code, which addresses the assimilation of animals included in an estate as immovable property by destination (*Ibid*). In conclusion, while Article 515-14 symbolically highlights the need for greater protection for animals, its impact on their legal status remains minimal. Animals are still classified as property, and the article serves more as a symbolic gesture than as a transformative legal provision. The reality is that the legal status of animals as property remains unchanged, despite the aspirational tone of the reform.

C. The Application of the General Property Regime to Animals

Despite the acknowledgment of animals as sentient beings under Article 515-14 of the French Civil Code, they remain subject to the general property regime. This classification does not disrupt the fundamental dichotomy of civil law, which categorizes all entities as either persons or property. Indeed, the final sentence of Article 515-14—stating that animals are "subject to the laws that protect them"—is the only legally significant portion of the article. However, its practical impact is minimal, as animals were already treated as property under French law prior to the 2015 reform.

The 2015 amendment has not notably influenced case law. For instance, a ruling by the 1st Civil Chamber of the Court of Cassation on December 9, 2015, leveraged the notion of animal sentience but did so without fundamentally altering the property regime. In a dispute involving a defective dog sold to a buyer, the Court emphasized the dog's unique and irreplaceable nature, ruling that monetary compensation was appropriate because the dog could not be replaced. However, this decision, while citing the sensitive nature of the animal, could have been reached under pre-2015 law without reference to Article 515-14 (Reboul-Maupin 2016: 1779 et seq.).

The paradox remains stark: although animals are recognized as sentient beings, they are still treated as property under the law. The Court's reasoning in this case reflects this duality—it considered the animal as a unique “good” requiring specific treatment but remained firmly within the regime of property law. Thus, the 2015 amendment did little to challenge the traditional separation between property and persons (Marguénaud 2014: II/15). The 2015 reform aimed to eliminate language in the Civil Code implying that animals were mere furniture or objects. However, without creating a distinct legal category for animals, the reform only altered terminology, not foundational legal concepts. Animals remain classified as movable or immovable property, as demonstrated by Article 522 of the Civil Code, which regulates animals as immovable property when integrated into an estate. The practical effect of this classification is unchanged, as it reflects the broader binary division of civil law.

While Article 515-14 does not establish a third legal category for animals, its inclusion in the Civil Code marks a symbolic step toward acknowledging the unique nature of animals. The reform has contributed to raising public and legal awareness about the special considerations animals merit within the legal framework. Despite its limited practical impact, the reform represents a shift in how animals are perceived within the French legal system, signalling a growing trend toward increased protections for animals.

In conclusion, while animals continue to be classified as property, the recognition of their sentience under Article 515-14 serves as a stepping stone for further legal developments. However, substantive changes to their legal status would require a more profound reevaluation of the binary structure of civil law.

3. 2. The Legal Status of the Animal in Shia Muslim Law

Before examining the legal status of animals in Shia Muslim law, it is necessary to first address the sources of Shia Muslim law and then discuss the concept of the status of animals within this legal system.

3. 2. 1. *Sources of Muslim Law*

Shia Muslim law, commonly known as Imamite Fiqh, is based on four main sources: the Qur'an, the Sunnah¹, reason, and ijma'².

A. The Qur'an

As the word of Allah revealed to the Prophet Muhammad, the Qur'an is the primary source of Shia law. Several verses in the Qur'an urge Muslims to treat animals with kindness and mercy. Indeed, the Qur'an considers all living beings, including birds, insects, and animals, to be endowed with sensitivity, and it refers to them as "communities" similar to human societies. Allah says: "And there is not one creature on the earth, nor a bird that flies with its two wings, that is not a community like you. We have omitted nothing in the Book, and then all will be gathered before their Lord" (Surah 6: 38, Surah 29: 60, and Surah 4: 119).

The Qur'an also condemns any form of mistreatment or mutilation of animals, such as cutting off their ears or tails, deeming it an act of cruelty and satanic behavior: "I will certainly lead them astray, I will inspire them with desires, I will command them to pierce the ears of cattle. I will command them to disfigure God's creation. Whoever takes the Devil as an ally rather than God will suffer an obvious loss" (Surah 4: 119). Thus, the mistreatment of animals is viewed in the Qur'an as a satanic act, one that leads to great loss.

B. The Sunnah

In Shia Islam, unlike in Sunni Islam, the Sunnah refers to the deeds, words, and approvals of those who have been purified and completely cleansed of all defilement, including the Prophet Muhammad, Fatima Zahra, and the Twelve Immaculate Imams. It provides practical guidance on how to implement Qur'anic precepts in daily life, including the treatment of animals. Not only did the Prophet instruct Muslims to avoid mistreating animals, but he also emphasized the importance of feeding and watering them properly. He even forbade cruelty towards insects. For instance, the Prophet advised Muslims to refrain from unnecessary walking at night to avoid crushing insects (Ibn Hamzah Toussi 1986: 287).

1 In Shi'a terminology, the sunnah refers to the set of traditions and teachings of the Prophet Muhammad, his daughter Fatima Zahra and the twelve infallible imams descended from the Prophet's descent through his daughter Fatima and his cousin and son-in-law Ali ibn Abi Talib.

2 In Shia Muslim law, ijma' represents the consensus of religious scholars (jurisconsults) of the Shia school of thought at a given time, regarding a specific legal or theological issue. This consensus is considered a source of law and proof of the validity of a legal opinion.

C. The Reason

Reason refers to the intellectual faculties that enable one to make informed judgments and decisions, such as distinguishing beauty from ugliness or truth from falsehood. The Holy Qur'an encourages Muslims to engage in reflection, reasoning, observation, and meditation, as evidenced by the following verses: "We have sent down the Book upon you so that people may meditate on its verses and that the intelligent may reflect" (Surah 38: 29, Surah 7: 185). It is important to note that "reason" here refers to the intellectual capacity to make informed judgments about various matters. The use of reason is encouraged in the Qur'an to better understand divine teachings. Indeed, reason allows for the derivation of new legal principles from the scriptural sources. This method has helped extend protections for domestic animals to other species as well.

D. The Ijma'

The Ijma' refers to the consensus of Muslim jurists on matters not explicitly addressed in the Qur'an or the Sunnah. Regarding animals, there is a consensus that gratuitous cruelty towards them is prohibited.

In summary, these sources establish legal and ethical principles concerning the treatment of animals, recognizing them as sentient beings deserving of respect and compassion.

3. 2. 2. *Concept of the Legal Status of Animals in Shia Muslim Law*

Unlike French law, which has only recently recognized a specific status for animals, Islam has recognized animals as sentient beings with a distinct status since its advent in the 7th century. As mentioned earlier, the sources of Shia Muslim law emphasize the welfare of animals. For example, the Prophet of Islam said: "All cruelty and pain inflicted on animals without good reason are satanic acts". This means that anyone who inflicts pain on an animal without just cause is considered to act in a manner similar to Satan. Respect for animal rights and fair treatment are so important in Islam that Imam Ali said: "By Allah, even if I were given the seven heavens and the seven earths and all that is in them, I would not do injustice to an ant by snatching a grain of wheat from it" (Muhaddith Nouri 1830: XIII/211).

Based on this perspective, it is important to note that the issue of changing the legal status of animals has not been a significant concern among Shia jurists. Such a change would have no substantial impact on the legal protections for animal rights or their welfare. Therefore, Muslim jurists generally consider that altering the legal status of animals would be unnecessary and offer no

concrete legal benefit beyond the symbolic. Its legal significance would thus be null, as it would be based more on symbolism than on any practical legal domain.

Although in Shia Muslim law animals remain subject to the general legal regime of property, and Sharia does not grant them a legal status equivalent to that of humans or an intermediate status between persons and property, it still acknowledges that animals are sentient beings capable of feeling sensations such as pain. As such, their legal status is that of movable property, meaning they are considered objects that can be owned, and susceptible to private ownership and commercial transactions.

However, Shia Muslim law promotes values of compassion and good treatment towards Allah's creatures, including animals. While animals are no longer seen as mere inanimate objects but are recognized as sentient beings, their classification under the legal category of "property" remains unchanged in Shia law. The general legal regime governing them is still that which applies to property and real rights.

In Shia Muslim law, the importance of protecting animal rights and ensuring their well-being is so great that some jurists have considered it to be part of the "rights of God". For instance, the author of *Al-Jawahir* writes in the section on deposits: "If the owner instructs the one who has taken the animal in custody not to feed or water it, it is not permissible for him to obey. On the contrary, it is obligatory for him to feed and water it, out of respect for the right of God the Most High. In fact, if the owner refuses to provide for the animal's basic needs, and the case is brought before the judge, the person who took the animal in custody may be ordered to provide for its needs by their own means, and legal action may be taken against the owner to assert the animal's rights and obtain compensation" (Najafi 1983: XXVII/111).

The concept of considering the rights of animals as a "right of God" can be supported by Qur'anic verses such as: "And cattle we have created for you" (Surah 16: 5). This suggests that while animals were created to serve and benefit human beings, this does not mean they are of no value in the eyes of God, nor does it imply that their rights can be disregarded.

In the section on food and drink in his book *Al-Masalik*, Shahid Al-Thani writes: "Just as it is obligatory to spend money to preserve the life of a human being, it is obligatory to spend money to preserve the life of a respectable animal, even if it belongs to someone else... If a man has a hungry, harmless dog and a sheep, and the food available is insufficient to feed both, he must prioritize feeding the sheep to save its life" (Amili 1992: II/250). From the second part of his remarks, it is understood that he believes the life of the sheep must take precedence in this case. However, the author of *Al-Jawahir* criticizes this view, stating: "This is debatable; one could even argue that the dog should be

prioritized, because the sheep can be slaughtered for consumption, unlike the dog” (Najafi 1983: XXXVI/437).

Although these two scholars disagree on this particular case, their views highlight the obligation to preserve the life of an animal, even one considered impure in Islam, such as a dog. Muslim jurists have developed a body of law governing the breeding, slaughter, and hunting of animals to minimize unnecessary suffering.

4. The Legal Regime Governing Animal Rights and Welfare in French Law and Shia Muslim Law

After examining the legal status of animals, it is now appropriate to analyze the main legislative provisions aimed at protecting their rights and well-being in both French and Shia Muslim legal systems. One of the primary objectives of the law is to provide protection from harm and abuse. Consequently, the recognition of animal rights necessarily implies that animals benefit from legal protection. In order to ensure that these rights are respected and effectively implemented, it is essential to identify, within both the Shia and French legal frameworks, laws that prohibit and prevent acts of cruelty toward animals.

Beyond the general prohibition of mistreatment, a meaningful consideration of animal welfare requires the establishment of binding standards governing various contexts in which animals are involved, whether in breeding, scientific experimentation, recreational activities, or the keeping of pets. These regulations must set minimum standards of treatment that reflect the animals’ status as sentient beings, ensuring that their welfare is adequately safeguarded.

4. 1. The Legal Regime Governing Animal Rights and their Welfare in French Law

In France, a complex and multifaceted body of legislation governs the status and treatment of animals, particularly domestic animals. This legal framework aims to ensure their protection, define the responsibilities of animal owners, and regulate various activities involving animals. Among the key areas covered are animal testing, which is subject to strict regulations to ensure the welfare of animals used for scientific purposes, and the use of animals in food production, which is regulated by standards governing breeding, slaughter, and processing. Additionally, hunting, a traditional activity in France, is subject to specific rules aimed at balancing the preservation of wildlife with the continuation of this practice.

A. Animal Abuse

The fight against animal abuse in France has primarily taken the form of criminal protection. The Grammont Law, promulgated on July 2, 1850, was the first French criminal law to punish animal abuse in public. The law stated: “Those who have publicly and abusively mistreated domestic animals shall be punished by a fine of five to fifteen francs, and may be punished by one to five days in prison”. Although the Grammont Law was limited to the protection of domestic animals and only applied to public acts of cruelty, it was a pivotal step in recognizing animals as sentient beings. Before this law, animals in France were not afforded specific legal protection. The Grammont Law thus marked a turning point in French animal protection legislation, paving the way for more comprehensive laws and regulations. However, some animal rights organizations, such as the 30 Million d’Amis Foundation, argue that the law was insufficient, as it protected the sensitivity of spectators from witnessing abuse rather than addressing the welfare of the animals themselves.

To further improve animal protection, the Michelet Decree of 1959 repealed the Grammont Law’s requirement for “publicity of actions”, extending the scope of animal protection to include the private domain. The Michelet Decree thus became the first major text protecting animals for their own sake, beyond just the protection of human observers. This law also extended its protections to wild animals kept in captivity. However, since free wild animals have no owner, they were presumed not to be subjected to ill-treatment, which has led to a gap in their legal protection—wild animals are still vulnerable to cruelty.

In 1994, the French Penal Code was reformed to further deter cruelty to animals by placing most offenses against animals outside the category of property crimes. Animal cruelty offenses were moved to “Other Crimes and Offenses” (Book Five), rather than being categorized under property offenses in “Crimes and offenses against Property” (Book Three).

Today, French criminal law includes provisions that impose severe penalties for acts of cruelty to animals, whether they occur in public or private settings.

B. Intentional Attacks on the Life of an Animal

One of the most significant provisions in French criminal law concerning animal protection addresses deliberate attacks on an animal’s life. Article 522-1 of the French Criminal Code stipulates a penalty of six months’ imprisonment and a fine of €7,500 for voluntarily killing a domesticated animal, tame animal, or an animal kept in captivity without necessity and outside the framework of lawful activities.

This provision seeks to punish acts of deliberate killing that serve no legitimate purpose and are not carried out within specific legal contexts. Exceptions are made for legal activities such as hunting, fishing, the slaughter of animals for food, or euthanasia performed by veterinarians for medical reasons. This legal provision reflects the French legislator's commitment to protecting animals from gratuitous and unjustified harm, and it marks a broader societal shift toward greater consideration of animal welfare and stronger condemnation of cruelty.

The legal framework surrounding attacks on animals' lives is a critical aspect of animal protection in France, reflecting societal changes and citizens' growing expectations for better treatment of animals. However, beyond criminal penalties, the law also emphasizes the need for a cultural shift toward responsibility and respect for all living beings, promoting a harmonious coexistence between humans and animals.

C. Serious Abuse and Cruelty to Animals

Despite legislative advances and growing public awareness, acts of cruelty and severe abuse are still perpetrated against animals, whether domesticated, tame, or held in captivity. In response, the French legislator has enacted strict penalties to punish these reprehensible acts. Under French law, serious abuse or acts of cruelty, whether sexual or non-sexual, are punishable by three years in prison and a fine of €45,000. This provision applies whether the acts were committed publicly or privately. The French Penal Code (Articles 521-1 and 521-1-1) states: "The fact, publicly or not, of exercising serious abuse or committing an act of cruelty towards a domesticated animal, or tamed, or kept in captivity, is punishable by three years' imprisonment and a fine of 45,000 euros. Sexual abuse of a domesticated animal, tamed or kept in captivity is punishable by three years' imprisonment and a fine of 45,000 euros".

Serious abuse can take various forms, including physical violence, extreme neglect, abandonment, or deprivation of food, water, or care. Cruelty is characterized by intentional acts meant to cause suffering, injury, or inhuman treatment. Sexual abuse of animals, a particularly shocking form of cruelty, is also covered under this legal provision. It is important to note that the intentional recording and dissemination of images of cruelty or sexual abuse committed against animals are also punishable under French law. Article 521-1-2 of the French Criminal Code specifies that those who record or distribute such images are guilty of complicity in cruelty and sexual abuse and face the same penalties as the direct perpetrators of these acts. The inclusion of these provisions reflects a broader legislative intention to not only punish those who directly engage in cruelty but also deter those who contribute to the normalization or

spread of such behavior by distributing visual content. The law underscores the importance of collective responsibility and the need to promote a culture of respect for animals.

In agriculture, farm animals are protected by legal standards that regulate their housing and treatment to ensure their welfare. The transport of live animals, whether for breeding, slaughter, or as pets, is also strictly regulated to minimize stress and ensure safety (Rural and Maritime Fishing Code, Arts. L214-1, L214-2, L214-3, L214-6, L214-12).

The keeping of pets is similarly governed by regulations that require owners to meet specific obligations regarding the care, identification, and control of their animals. Owners can be held liable for damage caused by their pets, reinforcing the need for responsible animal stewardship (Law No. 2021-1539 of 30 November 2021, which aims to combat animal abuse and strengthen the human-animal bond). This multifaceted legal framework reflects French society's growing recognition of animals as sentient beings deserving of protection. It also demonstrates a commitment to ensuring that human activities align with respect for animal welfare and biodiversity preservation.

In conclusion, the fight against cruelty and abuse is a shared responsibility. By promoting public awareness, holding perpetrators accountable, and encouraging citizens to report cruelty, society can foster a more compassionate and respectful environment for all living beings.

4. 2. The Legal Regime Governing Animal Rights and Welfare in Shia Muslim Law

Muslim law advocates for the preservation of animal rights and welfare through several principles, such as the prohibition of cruelty, the requirement for prompt and painless slaughter, and the obligation to care for domestic animals.

A. Protection of Animal Life

Life forms the foundation of the question of animal rights, as all rights associated with animals—and indeed any living being—are contingent upon their existence. If a being is not alive, discussing or examining its rights becomes meaningless. It can certainly be said that the value Islam places on animal life is not inferior to that of human life, and this is reflected in both religious teachings and various chapters of Muslim law.

In the texts of Shia Islamic law, emphasis is placed in several ways on the protection of animal life. Najafi, one of the great Shia jurists, wrote: “Just as it is obligatory to spend money to preserve the life of a human being, it is

obligatory to spend money to preserve the life of a respectable animal, even if it belongs to someone else..." (Najafi 1983: XXVII/111).

These words underscore the importance of preserving animal life, even that of a dog, which is considered impure in Islam. Shia Muslim law strictly prohibits the deliberate and unnecessary killing of animals. Hadiths mention that anyone who takes the life of an animal without necessity will be held accountable on the Day of Judgment. The Prophet Muhammad said: "Whoever kills a sparrow without necessity will be judged on the Last Day for this act of cruelty. This sparrow will come on the Day of Resurrection to complain to God, saying, 'O Lord, this person killed me for no reason, did not benefit from me, and did not let me feed on the little creatures of the earth'".

Another narration from the Prophet states: "It is forbidden to kill any being with a soul, unless it is harmful" (Muttaqî Hindî 1988: XV/39). A further narration recounts: "On the night I was ascended to heaven, I saw a woman being tormented in Hell. I asked about her and was told that she had tied up a cat without giving it food or water, or even allowing it to feed on what the earth produces, until the animal starved to death. For this reason, Allah punished her severely. I also looked at Paradise and saw a fornicating woman there. I asked for information about her and was told that she had passed by a dog panting with thirst. She then lowered her loincloth into a water well, pressed it into the dog's mouth until it was quenched. For this act of compassion towards an animal, Allah forgave her sins and granted her a place in Paradise" (Sheikh Tusi 1967: VI/47). This hadith highlights the importance of treating animals with compassion and ensuring their well-being. It serves as a reminder that our actions towards vulnerable creatures can significantly impact our own fate.

Further legal evidence for the prohibition of unnecessary killing includes the prohibition of throwing live animals into the water to lighten a ship and prevent it from sinking. Shahid Thani, a prominent Shia jurist, states that if the same goal can be achieved by throwing away other objects, it is forbidden to throw animals into the water (Amili 1992: XV/383). The preservation of life is so vital in Islam that, even in the context of prayer—considered the most important religious obligation—it is stipulated that if a person has a small amount of water, and its use for ablution would endanger the life of a respectable being, the water must be saved to preserve life, and Tayammum (dry ablution) should be performed instead. It does not matter whether the life at risk is that of a human or an animal, even if the animal belongs to someone else. Shahid Thani notes that among the cases where Tayammum is obligatory is when there is a fear of thirst for a respectable soul, even if it is an animal.

In light of these teachings, it is clear that Islam places immense value on life, whether human or animal. This legislation reflects the Shia Muslim law

legislator's commitment to protecting animals from wanton and unjustified cruelty, prohibiting their deliberate and unnecessary killing, and emphasizing the importance of helping them—even in circumstances that may interfere with religious obligations.

B. Serious Abuse and Cruelty to Animals

Shia Muslim law places great emphasis on the protection of animals, including the prohibition of willful bodily harm and the condemnation of serious abuse and cruelty. Sheikh Tusi, one of the most eminent Shia jurists, addresses these issues in his work *An-Nihayat*. He states that it is prohibited to slaughter an animal in the presence of another animal, as this could cause psychological distress to the latter. He further emphasizes that it is forbidden to skin an animal before it has fully cooled, warning that doing so would render the meat unlawful for consumption (Sheikh Tusi 1979: 584).

These prohibitions are based on the recognized sensitivity of animals and the duty to spare them unnecessary suffering. Animals, like humans, are capable of feeling pain and distress, and it is the responsibility of human beings to treat them with compassion and respect. A hadith narrated by Ibn Ash'ath illustrates this concern perfectly. According to this narration, the Prophet Muhammad once encountered a group of people who were mistreating a live animal, seemingly for their pleasure and entertainment. Outraged by this cruel behavior, the Prophet is said to have cursed them, asking: "Who are these people?" (Ibn Ash'ath n. d.: 84)

This hadith underscores the importance Islam places on the protection of animals and the firm condemnation of cruelty towards them. It serves as a reminder of humanity's responsibility to treat God's creatures with kindness, mercy, and respect. Through the teachings of the Prophet and the writings of eminent jurists like Sheikh Tusi, Shia Muslim law advocates an ethical approach to animals, prohibiting bodily harm, serious abuse, and cruelty, while encouraging believers to show compassion and care for all living beings.

C. Slaughter and Preservation of the Animal's Right to Life

Animal abuse is universally condemned because it involves unjustified acts of cruelty towards sentient beings. However, the ritual slaughter of animals, as practiced in certain religions such as Islam and Judaism, remains a subject of debate among animal rights organizations. Some view this practice as a violation of animal rights, while others recognize the necessity for humans to consume animals for survival, considering them part of God's creation, alongside plants. While vegetarianism is a personal choice, the

nutritional benefits of meat and other animal products underscore their importance in the human diet.

Ritual slaughter rites aim to ensure that the meat consumed is licit (halal) and that the animal is killed in the quickest and least painful way possible. Islam stresses that these practices reflect deep respect for the animal, aiming to minimize its suffering. Islamic faith provides strict instructions, recommendations, and rules regarding the slaughter of animals, establishing the rights of animals in line with the sacred law. These rules ensure that animals are treated with dignity, their well-being is considered, and unnecessary suffering is avoided.

a) Avoid Causing the Animal to Suffer during Slaughter

Numerous recommendations exist concerning the slaughter process (Sheikh Tusi 1986: 584), many of which have been outlined in this study. All these instructions highlight the importance of safeguarding the rights and well-being of animals and emphasize the prohibition of making them suffer or mistreating them. For instance, Shaheed Thani refers to a narration from the Prophet Muhammad, who said: “God has imposed goodness on you in all things; when you slaughter an animal, do it in the best way possible” (Shaybânî 1992: IV/124). Similarly, the author of *Al-Jawahir* explains that it is detestable to slaughter an animal at night. This prohibition stems from the Prophet’s command and Imam Sadiq’s narration, where he stated: “Do not slaughter an animal until dawn, for God has made the night a time for rest”. The night, being a time of rest and tranquility for all creatures, must not be disturbed by acts of slaughter. This subtle rule reflects sacred law’s commitment to the protection and well-being of animals (Najafi 1983: XXXVI/134).

b) The Need for a Quick and Painless Killing during Slaughter

One of the core principles of Sharia law regarding animal slaughter is to ensure that the animal does not suffer unnecessarily. Several guidelines have been established to uphold this principle. First, the slaughtering tool must be perfectly sharp. A blunt knife causes additional pain, which contradicts Islamic ethics.

Furthermore, the slaughter must be performed quickly and efficiently to minimize the animal’s pain and distress. The Prophet Muhammad emphasized this point in a hadith: “When you slaughter an animal, do not torture it, and ensure that your slaughtering tool is sharp” (Tamimi Maghrebi 2006: II/174; Hurr al-Amili 1993: XVI/25). This injunction underscores the importance of swift and humane killing.

Another hadith adds that the Prophet instructed that the knife be sharpened and that the slaughter should take place away from other animals. He also emphasized that all necessary tools should be gathered before beginning the slaughter (Bayhaqî 1993: IX/280). These recommendations are designed to protect animals from witnessing the suffering of their companions and to ensure that the slaughter is carried out under the best possible conditions.

Thus, Shia Muslim law places great importance on animal welfare, especially during slaughter. Muslims are obligated to treat animals with respect and compassion, ensuring that they experience as little suffering as possible. The use of sharp tools, swift slaughter, and the requirement to carry out the act away from other animals are all measures that reflect Islam's commitment to ensuring a humane and merciful killing process.

5. Conclusion

The legal protection of animal rights and their welfare is a pressing issue that generates considerable debate in both France and Shia Muslim countries. This comparative study has highlighted the similarities and differences between French law and Shia Muslim law in this area. From the analysis, it is evident that, while French law has evolved over the years, its approach to animal rights remains predominantly focused on human interests. Although animals are recognized as sentient beings, their protection is often secondary to human needs. In contrast, Shia Muslim law appears to place greater emphasis on the intrinsic value of animals as divine creations, reflecting a more holistic view of their role in the world. However, it is important to note that these religious principles are not always fully reflected in the national laws of Muslim-majority countries. The effective protection of animals in these countries is frequently constrained by cultural and religious considerations, which can limit the scope of legal safeguards. Despite these differences, both French law and Shia Muslim law share common principles, particularly the prohibition of cruelty to animals and the need for humane and respectful treatment of them.

These shared values could serve as a foundation for further dialogue on how to balance animal protection with the cultural and religious realities of each society. Indeed, the legal protection of animal rights and welfare remains a significant challenge for contemporary societies, whether in France or in Shia Muslim regions. It is essential to continue fostering dialogue and exchange between different legal traditions to develop more ethical and respectful approaches to the treatment of animals, while also considering the socio-cultural contexts of each country. Ultimately, the way in which we treat animals reflects our values as a society. It is our collective responsibility to prioritize their welfare while respecting the diversity of religious beliefs and

practices. By working together—through openness, mutual understanding, and shared commitment—we can move towards a harmonious coexistence between humans and animals, grounded in empathy, compassion, and respect for life in all its forms.

Received: April 21st, 2025

Accepted: September 21st, 2025

References

- Amili, Shahid Al-Thani (1992), *Masalik al-Afham ila Tanqeehi Shara'i al-Islam*, Qom, Moassasat al-Ma'arif al-Islamiyyat.
- Amili, Hasan bin Zayn al-Din (n. d.), *Maalim al-Din*, Qom, Moassasat al-Fiqh lil-Tiba'ah wal-Nashr.
- Bautz, Anne-Marie & Bautz, Alain (2007), *Mini manuel de biologie animale*, Paris, Dunod.
- Bayhaqî, Abî Bakr Aḥmad ibn al-Ḥusayn ibn 'Alî (1993), *Al-Sunan al-Kubrâ*, Beirut, Dâr al-Kutub al-'Ilmiyya.
- Cornu, Gérard (eds.) (2001), *Vocabulaire juridique*, Paris, PUF.
- Curnutt, Jordan (2001), *Animals and the law: a sourcebook*, Santa Barbara, Calif/ABC-CLIO.
- Desmoulin-Canselier, Sonia (2016), "De la sensibilité à l'unicité: une nouvelle étape dans l'élaboration d'un statut sui generis pour l'animal?", *Recueil Dalloz* 6.
- Firûz Âbâdî, Muḥammad ibn Ya'qûb (2005), *Al-Qamus al-Muhit*, 8th ed., Beirut, Moassasat al-Risâlah lil-Ṭabâ'a wal-Nashr wal-Tawzî'.
- French Civil Code, of 18 February 2015.
- French Penal Code, of 1 March 1994.
- French Rural and Maritime Fishing Code, of 10 July 1976.
- Guinchard, Serge & Debard, Thierry (2017), *Lexique des termes juridiques*, 25th ed., Paris, Dalloz.
- Hurr al-Amili, Muḥammad ibn Ḥasan (1993), *Wasâ'il al-Shî'a*, 2nd ed., Qom, Mu'assasat Âl al-Bayt li-Ihyâ' al-Turâth.
- Ibn Ash'ath, Muhammad ibn Muhammad (n. d.), *Al-Ja'fariyat*, Tehran, Maktabat Al-Ninawi Al-Haditha.
- Ibn Hamzah Toussi, Mohammad Ibn Ali (1986), *Al-Wasilat*, Qom, Library of Aya-tollah Mar'ashi Najafi.
- Jawhari, Abu Nasser Isma'il ibn Hammad (1987), *Taj al-Lugha wa Sihah al-Arabiya*, Beirut, Dâr al-'Ilm lil-Malâ'yîn.

- Marguénaud, Jean-Pierre (2014). “L’entrée en vigueur de ‘l’amendement Glavaney’: un grand pas de plus vers la personnalité juridique des animaux”, *RSDA* 2: 15.
- Muhaddith Nouri, Mirza Husayn (1830), *Mustadrak al-Wasa'il wa Mustanbat al-Masail*, Qom, Moassasat Aal al-Bayt Li Ihya' al-Turath.
- Muttaqî Hindî, ‘Alâ’ al-Dîn ‘Alî ibn Ḥusâm (1988), *Kanz al-'Ummâl fi Sunan al-Aqwâl wa al-Af'âl*, 2nd ed., Beirut, Mu'assasat al-Risâla.
- Najafi, Mohammed Hassan (1983), *Jawahir al-Kalam fi Sharhi Shari'i al-Islam*, Beirut, Dâr Ihya' al-Turâth al-'Arabî.
- Ockerman, H. W. & Hansen, C. L. (2000), *Animal by-product processing & utilization*, Lancaster, Technomic Publishing Company.
- Reboul-Maupin, Nadège (2016), *Droit des biens*, Paris, Dalloz.
- Shaybânî, Ahmad ibn Ḥanbal (1992), *Musnad al-imâm Ahmad ibn Hanbal*, Beirut, Dâr Ihya' al-Turâth al-'Arabî.
- Sheikh Tusi, Abu Ja'far Muhammad Ibn Al-Hassan (1967), *Al-Mabsut Fi Fiqh Al-Imamiyat*, 3rd ed., Tehran, Al-Maktabat al-Murtaḍawīyat li-ihyâ' al-âthâr al-Ja'farīyat.
- Sheikh Tusi, Abu Ja'far Muhammad Ibn Al-Hassan (1979), *Al-Nihayah fi Mujarrad al-Fiqh wa al-Fatawa*, Beirut, Dar al-Kitab al-'Arabi.
- Sheikh Tusi, Abu Ja'far Muhammad Ibn Al-Hassan (1986), *Al-Wasîla ilâ Nayl al-Faḍîla*, Qom, Library of Ayatollah Mar'ashi Najafi.
- Tamimi Maghrebi, Nu'mân ibn Muḥammad ibn Manṣûr (2006), *Da'â'im al-Islam*, 2nd ed., Qom, Mu'assasat Âl al-Bayt.