



# Civil Liability for the Protection of Animals in Imamī Jurisprudence and Law

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## Abstract

Nowadays, animal rights and the preservation of different animal species are among the issues that attract the attention of governments, organizations, and all those interested in environmental issues and animal protection around the world. In Islam too, issues relating to the environment and in particular animals have been the subject of debate, in addition to issues related to human rights. In Islamic legal sources, based on numerous Quranic verses and prophetic narrations, various rights were stated regarding animals, obliging Muslims to respect them, and the civil responsibility for the protection of animals was affirmed. The protection of animal rights is not only the responsibility of their owners but also involves the responsibility of everyone. Islamic legal texts even go so far as to explicitly designate the religious magistrate responsible for examining situations and taking legal action to improve the living conditions of animals in certain circumstances.

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## Introduction

In Islam and in all religious thoughts, it is generally accepted that everything that has been created in the order of existence has a necessity or a life that justifies it. Nothing in this world is intrinsically superfluous, accidental, or harmful to others, but everything forms a chain of order in which each plays its complementary role in the harmony of life and also reflects the sublime beauties and mysteries. This statement actually reflects the core of the theory expressed by Shaykh Maḥmūd Shabistarī in his work "Golshan-e Rāz": *"The world is like an eye, a line, a spot, and an eyebrow, everything is in its rightful place. If you remove a particle from its place, the whole universe would be disturbed from one side to the other..."*

Hence, among the phenomena, the more capacities and living conditions they have, the more important they will be in the cycle of life. Beyond the fact that some animals play a direct role in producing and meeting the daily needs of humans, animals play dozens of other roles in the environment, and any neglect or indifference to them could cause irreparable damage to nature and the human life cycle. Today, humans have discovered and understood some of these functions through experimental science, but a larger proportion remains unknown. Several organizations and institutions have been established globally to advocate for animal rights, and some of them provide specific protection for endangered species.

Because of these considerations, it is necessary to explore the issue of caring for and protecting animals from the perspective of Islamic law; for simply acknowledging that the life and existence of animals are a necessity in the order of existence or the cycle of life is not enough. Even the development of rights or the creation of protection institutions cannot protect and defend them. First of all, we must know the religious duties and responsibilities that we have in this area.

Most States, as well as at the international level, have integrated animal rights or protection mechanisms into their long and short-term programs, and are working to complement and develop them. However, what is more important before that are Islamic legal guidelines and views, so that responsibilities at different levels are clarified. Less than that, all efforts and struggles, no matter how they are covered, will not be very effective.

## Conceptual Framework

### 1. Civil Liability

Civil liability in law: Civil liability in legal terms has a general meaning and a specific meaning. In its general sense, civil liability is any obligation imposed by law on a person to compensate for damage caused to another person, whether or not it has a contractual origin. On this basis, civil liability is divided into two branches: "contractual civil liability" and "extra-contractual liability". But in its specific sense, civil liability only covers extra-contractual civil liability (Bādīnī, 2005: 32-33). The term "*mas'ūliyyah*" in the Arabic language is a coined verbal noun derived from "*mas'ūl*" (one who is held accountable). In Quranic verses and Islamic narrations, it is used in the sense of being questioned or punished for performing or refraining from an action (Quran 17:36). The meaning of civil liability in Islamic jurisprudence must be sought in the word "*ḍimān*" (liability). According to its etymology, the term "*ḍimān*" (guarantee/liability) means to assume responsibility, to become obligated, or to act as a guarantor. (Ibn Manẓūr, 1993: 13/257). In the technical sense, the term "*ḍimān*" (liability) means commitment, obligation, and constraint. Shaykh 'Anṣārī defines the "*ḍimān*" (liability) as follows: "*Ḍimān* (liability) means that the object is under the responsibility ('*uhdah*) of the guarantor (*dāmin*), and any loss pertaining to it is borne by him" ('Anṣārī, 1994: 3/183).

### 2. Fiqh (Islamic Jurisprudence)

Arabic linguists have defined the word "*Fiqh*" as understanding, knowledge, and perception (Jawharī, 1989: 6/2243; Fayyūmī, n.d: 2/479; Ibn Manẓūr, 1993: 13/522). In Islamic terminology, the term "*fiqh*" refers to the science of judgments of Islamic law derived from the evidence inferred from the Quran, the Sunnah, consensus, and reason ('Āmilī, n.d: 26). The Shahīd Ṣadr defines *fiqh* as follows: "*The science of fiqh exposes our practical obligations to Islamic law, through reasoning and proof. In the science of fiqh, the work of the jurist is always to determine the obligation in every case and event among the facts and events of life... Given the above, it can*

therefore be said that the science of *fiqh* consists of the science of inference from the judgments of Islamic law or, in other words, the science of inference (Shahīd Ṣadr, 1984: 1/36).

### 3. Harm (Ziyān)

The Persian word "*ziyān*" is synonymous with the Arabic term "*ḍarar*" [harm or loss] (Dehkhudah, 1998: 9/13056; Mo'īn, 1981: 2/1767; Langarūdī Ja'farī, 1999: 345). Lexicologists have used the word "*ḍarar*" and its derivatives in such senses as: "opposite of benefit," (Firūz'ābādī, 1994: 2/75) "contrary to benefit," (Jawharī, 1989: 2/219) "a bad condition," (Rāghib al-Iṣfahānī, 1991: 503) "a deficiency that befalls something," (Ṭurayhī, 1995: 3/373; Ibn Athīr, n.d: 3/81; Fayyūmī, n.d: 2/460) and "hardship." (Murtadā Zubaydī, 1993: 7/122) In Islamic jurisprudence (*fiqh*), the term "*ḍarar*" (harm) is used to denote actions such as: inflicting bodily injury upon oneself or others; violating the dignity of others or damaging one's own reputation; infringing upon the honor of others; destroying or damaging one's own or others' property; or unlawfully seizing the property of others through means such as usurpation (*ghaṣb*), breach of trust (*khiyānah fī al-amānah*), or embezzlement (*ikhtilās*). It also applies to preventing the realization of a benefit that would otherwise be expected to occur (i.e., non-benefit). However, in civil law, *ḍarar* may refer more narrowly to the loss of property or the failure to obtain a benefit resulting from the non-fulfillment of a contractual obligation. *Ḍarar* (harm) may be either material or moral. Material harm includes financial or bodily damage to others, while moral harm refers to injury to a person's honor or reputation (Langarūdī, 1999: 415).

Given the definitions of destruction (*takh'rīb*) and harm (*ḍarar*)—considering that destruction may also be non-material, such as the ruining of natural landscapes, and that harm and loss can apply to both private and public property—it may be said that there exists a relation of equivalence between destruction and harm, and thus the use of the term destruction in place of harm is not objectionable.

### 4. Ḥuqūq (Rights/Law)

The word *ḥuqūq* is the plural of *ḥaqq*, which means that which

is established, the opposite of falsehood, or that which conforms to truth and correctness. (Ibn Manẓūr, 1993: 10/49; Rāghib al-Iṣfahānī, 1991: under the word “*Ḥaqq*”) In technical usage, *ḥuqūq* (law/rights) has various definitions, one of which is as follows: In order to regulate interpersonal relations and maintain social order, legal norms assign certain privileges to individuals concerning others, thereby granting them specific capacities and entitlements. These privileges and capacities that the law of any organized society recognizes for its members are called subjective rights (Kātūziyān, 2000: 14).

## A. Civil Liability for the Protection of Animal Rights

### 1. Protection of Animals’ Life and Health

#### 1-1. Right to Life

The protection of the life and soul of animals, like the protection of the life of humans, is a principle of Islamic law (‘Āmilī, 1992:12/120) that all Muslims have the duty to implement (ibid, 1992: 6/266; Sabzwārī, 1992: 2/70; Fayḍ Kāshānī, 1985: 3/198). The noble Qur’an considers the value of the life of a human being to be equal to the value of the life of the entire human beings, and giving life to a human being is equivalent to giving life to all human beings: “*Whoever kills a man who is not guilty of murder or corruption on earth, it is as if he had killed all men. And whoever gives him the gift of life, it is as if he gave life to all men.*” (Quran 5:32)

A similar expression is also used in ḥadīth sources with regard to animals. For example, the Commander of the Faithful, Imam Ali (a.s), speaking of taking charge of the life of an animal whose owner abandoned it, was unable to pay for its needs and whose life was in danger, uses the expression “*to give back life*” (Kulaynī, 1986: 5/141). Even the life of insects is protected in Islamic thought. The Beloved Prophet of Islam (PBUH) advises Muslims to refrain from unnecessary walking in the streets at night so that these small creatures that usually come out of their nests at night to feed are not crushed under the feet of passers-by (Ṭūsī, 1970: 2/86’; Majlisī, 1982: 73/264). In the texts of Shi’a Islamic jurisprudence, emphasis is placed in various ways on the protection of animal lives and the provision of water and fodder,

obliging Muslims to respect them (Ibn Ḥamzah, 1986: 287; Ṭūsī, 1967: 6/47; Ḥillī, 1998: 3/332; ‘Āmilī, 1989: 5/481; Fāḍil Hindī, 1988: 7/611).

Some jurists write: *"In the same way that it is obligatory to spend money to preserve the lives of human beings, it is also obligatory to spend money to preserve the life of a domestic animal, even if it belongs to someone else... And if a man has a harmless hungry dog and a sheep, he is obliged to give water and fodder to the sheep"* (‘Āmilī, 1992: 12/120).

The late Najafī, the author of *Jawāhir* said: In case of insufficient resources to preserve the life of the dog and that of the sheep, gives priority to the preservation of the life of the dog, because one can slaughter the sheep and use its meat, which is not possible with the dog’ (Najafī, 1983: 36/437). Some legal scholars have explicitly stated that the slaughter of animals, even to eat them, is prohibited if there is a risk of extinction of the species (Ḥusaynī, 1999: 234). The protection of animals is so emphasized that if a person has a limited amount of water that could be used for ablution, but giving it to an animal would prevent its dehydration, the animal should be watered, and the person should perform *tayammum* (dry ablution) for prayer. In this case, the life of the animal takes precedence over performing ablution (Najafī, 1983: 5/114). To protect an animal's life and water it, it doesn't have to be so thirsty that if it doesn't drink, it will die of thirst. It is enough that there is a risk to animal's life, even in the future, will give priority to watering the animal over ablution (ibid: 5/115). In the past, on the battlefield, warriors would sometimes castrate their horses so that they would not fall into the hands of the enemy when they could no longer use them. Jurists do not consider this action to be lawful and forbid it (ibid, 21/82). It is stated in the jurisprudential sources that it is not permissible to kill the horses, quadrupeds, and domestic animals of the unbelievers except for military necessity, even if it is to provoke the anger of the enemy because these animals are protected and have the right to life (Ṭūsī, 1986: 5/518-519; Ḥillī, 1993: 9/71-73).

Shi'a jurists, relying on the ḥadīths that have been passed down to us from the Infallibles (a.s), do not consider it permissible to attack animals and kill them, because animals, like humans, have the right to life (Ḥillī, 1991: 2/909-910; ‘Āmilī, 1992: 15/383).

Some jurists write on this subject: *"Since we have no religious evidence to kill harmless animals or those whose harm is minimal - such as ants - killing these animals is not permitted. However, killing harmful animals such as wild beasts and snakes is permissible"* (Mūsavī, 1984: 2/37). The preservation of animal lives and the avoidance of killing them is so strongly emphasized in Shia jurisprudence that hunting and capturing animals without necessity is considered impermissible. Moreover, if hunting animals requires travel, such a journey is deemed sinful, and the hunter, being a traveler, must perform full prayers. If this occurs during the month of Ramadan, fasting remains obligatory for him (Hillī, 1984: 91; Hillī, 1998: 1/50).

The numerous ḥadīths on this subject form the basis of the rulings of the jurists (Tūsī, 1967: 6/47; Fāḍil Hindī, 1988: 611; Najafī, 1983: 31/395) concerning the right to life of animals, some of which we quote. According to a ḥadīth, Imam Ṣādiq (peace be upon him) said: *"The most despicable sins are three: killing animals, not paying dowries to women, and not paying workers' wages"* (Ṭabarsī, 1991: 237). This ḥadīth explicitly states that killing and destroying animals is one of the worst and most despicable sins. Of course, what is meant by killing animals is killing them without proper slaughter and any necessity.

In another ḥadīth, Sakūnī reported Imam Ṣādiq (a.s) to have said: *"Animals have six rights over their owners: not to impose work on them beyond their abilities, not to use their backs as a place to sit and converse with others, to remember to provide them with food and fodder when one gets off their backs, not to insult them, not to strike them in the face, for they glorify God, and to offer them water when one comes to a spring"* (Kulaynī, 1986: 6/537). In this ḥadīth, which has a genuine and reliable chain of transmission, the rights of animals and the respect due to them are set forth, and animal owners are urged to respect their rights. It was narrated from the Prophet (peace and blessings of God be upon him and his family) that he said: *"On the night of the Heavenly Ascension, I saw a woman in paradise who had a bad life. I asked why she had entered heaven and was told: she had passed by a dog that had fallen into a well, about to die of thirst. This woman threw her garment into the well and squeezed water with it into the dog's mouth until it quenched its thirst. God then forgave her"* (Tūsī, 1967: 6/47).

This ḥadīth makes it clear that all humans have a responsibility towards animals to respect their rights and save them from destruction. Because making animals suffer is a reprehensible act that leads to punishment in the afterlife. Conversely, preserving the life of an animal is obligatory and causes the forgiveness of sins.

## 1-2. Right to Physical Health

### Prohibition of Animal Cruelty:

Violation of animal rights is among the actions that all divine religions unanimously regard as prohibited. However, in every society, we encounter incorrect and inappropriate traditions that are fundamentally based on the abuse and mistreatment of animals. Among these superstitious traditions, traces of which can be found in other forms in other societies, are the two superstitions "*Habs al-balāya*" and "*Dharb al-thawr*" which were widespread in the Arabian Peninsula. Whenever a person died, a camel belonging to him was kept in a hole dug next to his grave, without water or food, until it died. Such a camel was called a "*baliya*" and this action was called "*Habs al-balāya*", and the goal was that the deceased would not lack a mount on the Day of Judgment (Nūrī, 2006: 509). Another superstition that was rampant during the period of Arab ignorance was "*Darb al-Thawr*". When they took the cows to drink water, if they saw that a cow wasn't drinking, they thought that an evil creature between the male bull's horns was preventing him from drinking! For this reason, they struck the bull in the face to drive out the demon (Pīshvā'ī, 2006: 57).

One of the first measures taken by Islam was to combat such superstitions, which were more or less prevalent in the Arabian Peninsula. The Holy Prophet of Islam (PBUHH) repeatedly forbade his companions from committing such acts. A ḥadīth says: "*The Prophet (PBUHH) forbade the torture of animals*" (Majlisī, 1982: 61/244). Imam Ali (a.s) clearly stated: "*By God, even if I were given the seven realms with all that lies beneath their heavens in exchange for disobeying God by wrongfully taking a single grain of barley from an ant, I would not do it.*" (Nahj Al-Balāghah, Sermon 225).

Based on this, not only is it impermissible to engage in any act that causes harm or distress to animals, but remaining silent in the face of others' inappropriate behavior toward animals is also not



allowed. One must prevent others from harming and mistreating animals. In a narration, Imam Ṣādiq (a.s) reported of his pious predecessors that the Holy Prophet (peace be upon him) said: *"Animals have rights over their owners, do not to hit them in the face, because they glorify God"* (Ḥurr 'Āmuli, 1988: 11/478). This narration, which has a genuine chain of transmission, clearly indicates the respect due to animals and the prohibition of mistreating them. In Shi'a jurisprudence, the emphasis is on the rights of animals to the extent that it is forbidden to cause them pain and distress during slaughter, and it is emphasized that the slaughter of animals must be carried out easily to reduce suffering. Some jurists write: *"It is not permissible to slaughter any animal 'ṣabrā', which means to slaughter an animal while another animal is watching. Nor is it permissible to skin the slaughtered animal before it has cooled down. If it is skinned before cooling, or even a part of it is skinned prematurely, its consumption is not lawful. Therefore, slitting the throat of an animal while another animal is watching is not allowed, and skinning the animal is not permitted unless it has cooled down. If the whole animal or a part of it is skinned before it has cooled, eating it is not permissible"* (Ṭūsī, 1967: 584).

### **Prohibition of Pitting Animals Against Each Other:**

One of the long-standing pastimes that men engaged in for entertainment was instigating fights between animals. Today, in different parts of the world and even in developed countries, the entertainment of having animals fight is common, even on social networks where these competitions are recorded and broadcast, thus playing a role in their promotion. Among them, enlightened men and various animal protection associations have always sought to prevent this practice, although they have hardly succeeded and this reprehensible act has not yet been abolished. However, this practice is forbidden and made illegal in Islam. Ibn Sa'īd al-Ḥillī, quoting a hadith from the Prophet of Islam (peace be upon him and his family), writes: *"The Prophet (PBUHH) forbade the fighting of animals, except dogs"* (Ḥillī, 1984: 398).

In another hadith, Imam Ṣādiq (a.s) is asked about instigating a fight between animals. The Imam (a.s) said: *"This action is detestable in all cases, except between dogs"* (Kulaynī, 1986:

6/553). This ḥadīth, which is authentic in its chain of transmission, clearly and explicitly indicates the prohibition of instigating fights between animals. In another ḥadīth, Masma' said: "I asked Imam Ṣādiq (a.s) about instigating a fight between animals. The Imam (a.s) said: *"I hate it, except for dogs"* (ibid, 554).

‘Allāmah Majlisī, explaining and clarifying this authentic ḥadīth, writes: What is meant by the permission of dogs to do this is not to throw the dogs against each other, but to train and prepare them for hunting so that they can be sent to hunt other animals (Majlisī, 1982: 64/227). Although the ḥadīths refer to the "repugnance" of this action, what is meant by repugnance is not a terminological repugnance, but repugnance in the common understanding of ḥadīths encompasses prohibition, and it is not unlikely here - because of the futile nature of this action and the harm caused without any benefit to animals - to consider this unlawful (ibid). Some jurists have also considered repugnance to include prohibition and, because of the futility of the act and the harm caused to the animal, have considered it unlawful (Fayḍ Kāshānī, 1985: 20/873).

### 1-3. Right to Sexual Health

One of the common practices throughout history has been the sterilization and castration of animals. In addition to the fact that this action involves the distress and pain of the animal, it deprives the animal of its right to reproduce during its lifetime. Some jurists, relying on the principle of ownership, claim that since human owns animals and the owner can dispose of his property as he sees fit (people have authority over their property), he can therefore sterilize or castrate animals to suppress their sexual urges or fatten them, while the ḥadīths that forbid castration of animals should be interpreted as repugnance (Ḥillī, 1989: 2/215-216).

On the other hand, jurists such as Abu Al-Ṣalāḥ Ḥalabī and Ibn Barrāj consider such an action to be unlawful, because the beneficial nature of an action justifies its permission only if there is no religious obstacle, whereas the sterilization of animals, in addition to the prohibition of mistreating animals, the statements of the Prophet and the Infallible Imams on the iniquity of this action are sufficient to prove its illegality (Ḥalabī, 1982: 281; Ibn Barrāj Tarābulusī, 1982: 1/345).

## 2. Protection of Animals During their Utilization

### 2-1. Providing for Animals' Sustenance

One of the rights of animals is to provide them with the means of subsistence. Sustenance includes providing the animals basic needs such as water, fodder, or any other food that the animal needs. The jurists consider it obligatory for the owner to provide the means of subsistence for the animal, whether it is used or not, whether its meat is lawful (*ḥalāl*) or unlawful (*ḥarām*), whether it is a bird or other, because animals possess dignity and sanctity, and just like humans, they have the right to life (Ṭūsī, 1967: 6/47; Hillī, 1986: 2/298; 'Āmilī, 1989: 5/481-482; Fāḍil Hindī, 1995: 7/611; Ṭabāṭabā'ī, 2001: 10/553; Najafī, 1983: 31/392).

It is stated in the book *Sharā'i' Al-Islām* (Islamic legal manual): *"As for the necessary expenditure on the animals that one owns, it is obligatory, whether they are edible or not. The obligation is to provide for their needs. If they are content to graze, so much the better; otherwise, they have to be fed"* (Hillī, 1986: 2/298). It is therefore obligatory to provide the means of subsistence to the possessed quadrupeds, whether their meat is halal or haram, and all their needs must be provided. Thus, if the animal provides for its needs by grazing, it is not necessary to give it a means of subsistence; otherwise, it is mandatory to provide it with fodder.

The jurisprudential texts indicate that if the owner refuses to provide for the needs of the animal and the animal is ritually edible, the judge must oblige the owner to one of these three actions:

1. To provide for the needs of the animal and to take care of it;
2. Sell the animal to someone else;
3. Slaughter the animal in accordance with Islamic precepts and make it fit for consumption. If the owner refuses these actions, the judge sells his property and uses the money to provide for the animal. If he does not own any property, the judge sells the animal. And if the animal cannot be made fit for consumption, the judge obliges the owner to provide for his needs or to sell it (Hillī, 1998: 3/118; Ṭūsī, 1967: 6/47; Fāḍil Hindī, 1995: 7/612). Islam attaches such importance to the care of animals and the saving of their lives that the illegal seizure of other people's property to save an animal is

permitted (Ḥillī, 1984: 491; ‘Āmilī, 1992: 8/503; Najafī, 1983: 31/396; Fāḍil Hindī, 1995: 7/612); and the interesting point is that saving the life of an animal is compared to saving the life of a human being (Najafī, 1983: 31/212; Fāḍil Hindī, 1995: 7/212). This means that just as it is permissible to seize the property of others to save a human life, so are animals. Of course, this rule applies only in cases where there is no other way to obtain fodder for the animal (Ḥillī, 1967: 3/290).

Some jurists say in this regard: "The provision of sustenance for honeybees and silkworms is a legal obligation upon the owner of the animal. If the owner lacks the necessary provisions and they are only available from an individual who refuses to sell them, the owner is permitted to compel the sale and seize the provisions to sustain the animal, similar to obtaining food to preserve one's own life" (ibid).

The rulings of the jurists are based on narrations recommending that the needs of animals be provided. Here are a few examples:

Sakūnī reported Imam Ṣādiq (a.s) to have said: *"Animals have six rights over their owners: not to impose work on them beyond their abilities, not to use their backs as a place to sit and converse with others, to remember to provide them with food and fodder when one gets off their backs, not to insult them, not to strike them in the face, for they glorify God, and to offer them water when one comes to a spring"* (Kulaynī, 1986: 6/537). This authentic narration clearly indicates the obligation to provide for the needs of the animal. In another ḥadīth, Imam Ṣādiq narrates from his grandparents that the Prophet (PBUH) said: Animals have rights over their owners: when one gets off their backs, give them food first; when passing near a watering hole, give them something to drink; not to strike them in the face, for they glorify God; not to stop on their backs except during jihad; not to impose an excessive burden on them; not to make them walk more than they can" (Ḥurr Āmilī, 1988: 11/478). Like the previous ḥadīth, this one clearly states the obligation to provide for the needs of animals and to respect their rights.

## 2-2. Ensuring Animal Hygiene

One of the rights of animals is to keep their living space clean

and to ensure their hygiene. Just as humans naturally love cleanliness and want to keep their homes and environments clean, which is important for their mental health and physical well-being, animals also prefer to have a clean living environment that is free of dirt and impurities. In accordance with Islamic narrations, the great jurists have explicitly emphasized the importance of maintaining the hygiene and health of animals and their offspring (Āmilī, 1989: 4/245; Baḥrānī, 1994: 21/417; Najafī, 1983: 27/109). In a narration narrated from Imam Ṣādiq (a.s), the Prophet (peace and blessings of God be upon him and his family) said: *"Clean the sheepfold and wipe their nostrils"* (Kulaynī, 1986: 6/544; Ḥurr 'Āmilī, 1988: 11/508).

This authentic narration clearly indicates that the resting places of animals must be cleaned and their living area must be kept clean. In another narration, the Prophet (peace and blessings of God be upon him and his family) said: *"Clean the sheepfold, wipe their nostrils, for sheep are animals of paradise"* (Ḥurr Āmilī, 1988: 11/513).

This account also explicitly states that the resting place of animals must be kept clean and healthy. Pet owners have a responsibility to keep their living space clean. Among the duties of pet owners in terms of hygiene is the treatment of their diseases. Some jurists write: *"The obligations to feed animals also include the medicines they need in case of illness"* (Āmilī, 1992: 5/88). It is also stated in the Islamic jurisprudential sources that it is detestable (makrūh) to give alcohol or other intoxicating beverages to animals (Ṭūsī, 1967: 592; Ḥillī, 1989: 3/132; Ḥillī, 1986: 4/75; Ḥillī, 1998: 2/33) because it is harmful to them (Ardabīlī, 1982: 11/283).

### 2-3. Providing Shelter for Animals

Among the primary needs of animals is a place for rest and comfort. The owner must provide a suitable and proper shelter for the animal. From the perspective of jurists, providing housing and anything that protects the animal from cold and heat is considered obligatory and is counted as part of the animal's sustenance and care (*nafaqah*). (Āmilī, 1989: 2/301). Some jurists write on this subject: *"What is obligatory is to provide for the animal's needs—such as food, water, shelter, cleaning, and the like—which may*

vary depending on time and place." (Najafī, 1983: 31/395)

The important and notable point in this sentence is that the appropriate living place for the animal must be provided according to the customs of the time and place. The place where animals are kept differs depending on the hot or cold regions, and according to the summer or winter seasons. Similarly, if today the usual places where animals are kept have special equipment and comply with certain standards in terms of construction and hygiene, the owner has to provide this equipment to the animal. The owner of the animal cannot, under the pretext that he is the owner, treat the animal as he pleases and keep it in old, unsanitary stables. Just as humans have a responsibility to treat the animals in their care well and provide them with appropriate shelter, they also have a responsibility to respect their natural habitat and not to destroy or pollute their environment.

Among the reprehensible behaviors is the dumping of human waste into the animals' environment. The beloved Prophet of Islam (peace and blessings be upon him and his family) warned Muslims against urinating in a burrow where animals live (Fāḍil Hindī, 1988: 9/364). Jurists have also considered such an act to be blameworthy and detestable (*makrūh*) (Ḥillī, 1986: 1/15; 'Āmilī, 1992: 1/33; Ardabīlī, 1982: 10/94; Najafī, 1983: 2/67), for two reasons: On the one hand, it endangers the health of the animals, and on the other hand, it exposes humans themselves to reprisals from certain animals (Ḥillī, 1998: 1/83; Ḥillī, 1991: 1/41; 'Āmilī, 1990: 1/179).

Although the term "*juhr*" (burrow) in the words of the Prophet (peace be upon him and his family) and "*thuqb*" (crevice) in the statements of jurists refer specifically to the dwellings of animals that live underground or in mountain crevices, it appears that the disapproval of such actions is not limited to only a specific group of animals. Rather, it extends to all animals. Evidence supporting this view includes narrations (Ibn Bābawahy, 1963: 1/283) in which the Infallible Imams (peace be upon them) prohibit urinating in flowing or stagnant water. In explaining this ruling, they point out that there are living creatures within the water, and such actions cause them harm—even though they may also have harmful consequences for humans themselves.

## 2-4. Utilization and Capacity of Animals

In jurisprudential sources, rulings regarding the utilization and benefit of animals are established based on justice and free from excess or negligence. While prioritizing the right to human life and the stability of the social order, the use of animals is deemed permissible. God Almighty says: *"It is Allah who created the cattle for you that you may ride some of them, and some of them you eat"* (Quran 40:79). And in another verse, the Holy Qur'an says: *"He created the cattle, in which there is warmth for you and [other] uses, and some of them you eat."* (Quran 16:5)

Because of these quoted verses, Islam permits the proper and balanced utilization of animals and requires respect for the rights of animals in this exploitation. Islam recommends that justice be respected in the use of animals and considers mistreatment and cruelty to them to be reprehensible. Some jurists write: *"One does not impose on them what they cannot bear, such as carrying a heavy burden and traveling a long journey, and therefore it is forbidden to put three people on an animal or to impose on it work that is too difficult and incompatible with customs and habits"* (Najafi, 1983: 31/397).

From the point of view of the jurists, it is not permissible to rent an animal for uses that would cause harm and damage to it or that are beyond its capacity (Ḥillī, 1993: 2/307; 'Āmilī, 1998: 7/219-220). In the use of animals, their health must be taken into account, as the health of the animal takes precedence over human interests, and the owner has the right to use the animal only to the extent that it does not endanger its health (Ḥillī, 1998: 3/118; 'Āmilī, 1989: 5/486). Some jurists have said on this subject: *"If milking harms the animal itself because of a lack of fodder, it is not permissible to milk it, even if it does not harm its young and there is enough milk to support it. However, it is not recommended or forbidden not to milk if it does not harm the animal or its young, as this would constitute a waste. Of course, you shouldn't milk everything, but you should leave a certain amount in the udders because milking completely causes the animal to suffer."* (Najafi, 1983: 31/397)

The rulings of the jurists concerning observing justice towards animals and taking into account their capacities are based on ḥadīths reported on this subject, some of which we mention. In a

ḥadīth, Imam Ṣādiq (a.s) reported of his blessed ancestors that the Prophet (PBUHH) said: *"Animals have rights over their owners: when one stops, one must first feed them; when you pass near a watering hole, you must give them something to drink; they must not be beaten in the face, for they glorify God; one must not remain on their backs except for the cause of God; they should not be burdened beyond their capacity; and they must not be pushed to walk beyond their strength"* (Ḥurr Āmilī, 1988: 11/478).

This ḥadīth, which has a genuine chain of transmission, clearly shows the obligation to stop all mistreatment of animals and to respect their ability to use and exploit them. In another ḥadīth, the Prophet (PBUHH) said: *"Place the load on the rear part of the animal's back, for its front limbs are free while its hind legs are firm and stable."* (Ibid) This narration also clearly indicates the obligation to treat animals justly. In another ḥadīth, it is narrated that the Prophet (PBUH) saw a tethered camel carrying its load on its back. The Prophet then said: *"Where is the owner of this camel? Tell him to prepare for accountability"* (Ibn Bābawahy, 1992: 2/292). Shaykh Ṣadūq explains this narration as follows: *"That is, he must prepare himself to give an account on the Day of Judgment because tying a camel while it is carrying a load is cruelty to the animal. Thus, when the Day of Judgment comes, the animal will complain to God about the injustice of its owner, saying, 'What was my sin that you did this injustice to me?' Then God will demand justice from him"* (ibid).

This ḥadīth, which has a genuine and reliable chain of transmission, clearly indicates the obligation to treat animals justly. It is not excluded that one can also deduce this obligation of justice and the prohibition of cruelty to animals from the dozens of verses relating to justice, hundreds of ḥadīths on the obligation of justice, from the tradition and practice of the Prophet (peace and blessings be upon him and his family), as well as hundreds of verses strongly condemning injustice.

### 3. Protection of Animal Species

Within the sphere of global biodiversity, animals constitute a significant portion. In Iran, 362 species of reptiles have been identified so far, of which 76 species are endemic or unique to the



country. Among these, six species have been classified as endangered at the global level. The number of wild mammal species in Iran is 160 species, which is equivalent to all mammal species on the European continent. As for the other animal classes, birds with 502 species, freshwater fish with 269 species, and amphibians with 11 species, nearly half of which are endemic to Iran, reflect the biological richness of the country (Weekly Program Magazine, 1383 Sh: 6). Unfortunately, every year, human society loses 3,000 species of plants and animals and half of all living things will be extinct by the end of this century. In addition, 5453 animal species are threatened, including 181 species of mammals, 182 species of birds, 55 species of reptiles, 30 species of amphibians, 257 species of fish, 46 species of insects, and 222 species of mollusks that are in a very critical situation and seriously threatened with extinction (Bahāreh Šafavī, 1383 Sh). Of the estimated 500 million species of plants and animals that have existed since life first appeared on Earth, only about 2 million species remain today. This means that 99.5% of species are extinct (Miller, 2014: 338). Because of these crises, in order to protect endangered animal species, the first "Animal Protection Act" was passed in 1822 in the British Parliament. This Act was supplemented in 1911. According to this law, the following acts are prohibited against animals: 1. Transporting and pushing animals in a manner that causes them pain and distress; 2. Provoke fights and altercations between animals; 3. Killing animals with toxic substances; 4. Use dogs to pull loads; 5. Hunting in an enclosed environment; 6. Trimming horses' tails, except with the permission of a veterinarian; 7. Hunting deer at night; 8. An animal cannot be rejected for any reason and the one who does so is considered a criminal; 9. Animal diseases must be eradicated; 10. In slaughterhouses, the animal must be stunned and then slaughtered.

Following England, biodiversity advocacy groups have also formed in other European countries. Through the passing of laws, the organization of conferences and speeches, and media work, they have issued alerts on the loss of animal biodiversity reserves. Although animal rights associations carry out their activities with motivation and respect for ethical, humanistic, biodiversity preservation considerations, etc., Islam has already given a very important place to nature, the environment, and its components

such as water, earth, plants, and animals 1200 years ago. On this subject, Gustave Le Bon writes: *"In Muslim countries, it is not necessary to have societies for the protection of animals and this part of the world can be considered a paradise for them. Muslims respect the rights of dogs, cats, and birds. Especially in mosques and streets, birds fly freely and nest in minarets. On this subject, Muslims are such that we Europeans should learn a lot from them"* (Gustave, 1884: 446).

From the hadiths that have come down to us from the Infallible Imams (a.s) about animals, we can clearly deduce a classification and an order of priority in the way in which human beings should treat them. The first priority is the type of animal and its importance and usefulness in the daily life of the community in terms of economic, social, and human well-being. From this point of view, animals and birds such as camels, horses, sheep, cows, dairy goats, pigeons, and even swallows and geese have priority over other animals. A review of the various animal species that have received special attention and protection reveals that they are mostly vulnerable species and that the Orders in question were intended to prevent their extinction. This demonstrates the importance given by the Imams (a.s) to environmental issues. In many hadiths, it is forbidden to kill swallows (Kulaynī, 1986: 6/223; Majlisī, 1982: 23/392-393). In a hadith, Imam Ja'far al-Šādiq (a.s) reported that the Prophet (peace and blessings be upon him and his family) forbade the killing of certain animals, including the swallow (Ibid; Ibid).

According to these ḥadīths, Muslim jurists consider it wrong to kill or slaughter swallows or to eat their meat (Ḥillī, 1986: 3/173; Ḥillī, 1999: 4/635; Ḥillī, 1998: 3/327; ‘Āmilī, 1992: 21/43; Najafī, 1983: 36/310). Some jurists even consider that eating their meat is unlawful (Ṭūsī, 1967: 6/577; Ḥillī, 1989: 3/104; Ibn Barrāj Tarābulusī, 1982: 2/429). Various ḥadīths also forbid killing bees, because by producing pure honey, they cure many pains and diseases (Nūrī, 16/121). Regarding the black swift, a hadith narrated by Imam Riḍa (a.s) highlights its importance and indirectly forbids killing it: *"Do not eat the black swift, do not insult it and do not give it to children to play with, for the black swift glorifies God more than any other bird with this supplication: May the curse of God be upon those who harbor*

*resentment against the Family of Muhammad (peace be upon them)"* (Kulaynī, 1986: 6/225; Ḥurr 'Āmilī, 1988: 23/396).

According to Shi'a jurisprudence, based on this ḥadīth, it is forbidden to kill, slit the throat or eat the black swift (Ḥillī, 1986: 3/173; Ḥillī, 1999: 4/635; Ḥillī, 1998: 3/327; 'Āmilī, 1992: 21/43; Najafī, 1983: 36/310). Many ḥadīths of the infallible Imams (a.s) deal with the protection and safeguarding of pigeons. Imam Ja'far al-Ṣādiq (a.s) even considers that keeping pigeons is part of the tradition of the Prophets and places great value on them (Kulaynī, 1986: 6/547; Ḥurr 'Āmilī, 1988: 11/521). Imam al-Bāqir (a.s) reported: *"The Prophet (PBUHH) forbade eating the meat of donkeys and mules, because these animals carry loads, and he feared that eating their meat would lead to their extinction"* (Nūrī, 16/174). Imam Riḍa (a.s) said: *"Eating donkey meat or mule meat is detestable."* In these two ḥadīths, the reason for this prohibition is also mentioned. At the end of the first ḥadīth, it is said that the prohibition of slaughtering these animals is to prevent their extinction because they are used as beasts of burden.

This ban on the consumption of meat from these two animal species is because they were used for transport and were essential to human society at the time. Allowing their consumption risked causing them to become extinct because their numbers were small. In the second ḥadīth, it is explained that the reluctance to eat the meat of donkeys and mules is related to the need of people for beasts of burden for transport and riding. Authorizing their consumption would run the risk of seeing them disappear because there are not many of them; not that their creation is bad or ugly, or that eating their meat has any disadvantage ('Alām al-Hudā, 1994: 411-412). Another narration relates that the Prophet of Islam (PBUHH) forbade eating the meat of donkeys and mules during the Battle of Khaybar because these animals were used as beasts of burden and that allowing their consumption would make their species disappear (Nūrī, 16/174). The scholar Sayyid Murteḍa adds: *"This reason also applies to the consumption of horse meat because allowing it would put the species in danger of extinction and expose the environment to irreparable risks"* ('Alām al-Hudā, 1994: 411-412).

Article 45 of the Constitution of the Islamic Republic of Iran states: *"Public property such as dead or abandoned land, mines,*

seas, lakes, rivers and other public waters, mountains, valleys, natural forests, pastures outside protected areas, inheritances without heirs, property without known owners and public property recovered from usurpers shall be at the disposal of the Islamic Government to dispose of them in the public interest. The law determines the details and terms of use of each." (Ashrafī, 24)

This article defines the Islamic government's duty to the environment. The Islamic ruler must fulfill his obligations to the environment and animals conventionally (Husaynī, 2011: 54). Article 50 of the same law states: *"In the Islamic Republic, the protection of the environment, in which the present and future generations must lead a thriving social life, is considered a public duty. Therefore, economic and other activities that are accompanied by environmental pollution or irreversible destruction of the environment are prohibited. It is clear that the notion of "environment" is understood here in its broad sense, encompassing in a general way the living space of humans, animals, and plants, including the air, the sea, the mountains, and the plains. The city and the countryside, the sea and the desert, the forest and the pastures are all living environments that must be protected and preserved from destruction and pollution. This preservation is a public duty and everyone must refrain from polluting water, and air, destroying pastures and forests, and harming the life of plants and animals"* (Yazdī, 1996: 389). Article 679 of the Penal Code of Iran, aimed at protecting animals and preserving animal species, provides: *"Any person who, unnecessarily and intentionally, kills or poisons an animal whose meat is lawful to eat belonging to another, or an animal whose hunting is prohibited by the State, or causes damage or defects to it, shall be sentenced to imprisonment for 91 days to 6 months or a fine of 1,500,000 to 3,000,000 Rials."*

Article 680 of the same law: *"Any person who, in violation of the regulations and without legal authorization, engages in hunting or fishing for protected wild animals shall be sentenced to imprisonment for a term of 3 months to 3 years or a fine of 1,500,000 to 18,000,000 Rials."*

Article 6 of the Iranian Law on Hunting and Fishing adopted on June 6, 1967, defines the responsibilities of the Office of Hunting and Fisheries Supervision as follows: *"To preserve and protect*

*hunting territories and the living areas of wild animals, to protect them from hunger, thirst, overfishing and overhunting, and against adverse weather and natural factors and events such as forest and pasture fires, floods, contagious diseases, plant poisoning. To provide favorable conditions for the reproduction of wild animals."* (Article 6 of the Approved Hunting and Fishing Law)

In accordance with Article 1 of the Law on the Amendment of the Law on Hunting and Fishing adopted on 20 January 1975, the Environmental Protection Organization of Iran is responsible for the preservation, protection, and reproduction of wild animals. Thus, in the Hunting and Fishing Act, the protection of animals is considered one of the duties of the State and State bodies.

## **B: The Constituent Elements of Civil Liability for the Protection of Animals**

For civil liability to exist and be invoked before the courts, three elements are necessary and mandatory: 1. Damage 2. A harmful event 3. A causal link. These elements must be present under each of the foundational theories: fault, risk creation, and guarantee of rights. Under the fault-based theory, the focus is on the civil punishment of the wrongdoer and analyzing the wrongful act concerning their will and intent. In contrast, the risk-based theory emphasizes the harmful act in a general (objective) sense rather than a personal one. However, in civil liability based on the guarantee of rights, the legitimacy of the right is prioritized over the freedom of action, and the importance of the protected right is emphasized.

### **1. Damage**

The first element of civil liability is damage, i.e., as long as there is no damage, civil liability cannot be incurred. Damage or prejudice must occur for liability to be incurred and for a debt to be imputed to the person responsible for compensation. Civil liability actions should never be used as a means of enrichment. Thus, the existence of damage must be regarded as an essential element of civil liability. Article 1 of Iran's Civil Liability Law adopted in 1960 also requires the existence of damage: *"Any person who, without lawful authorization, intentionally or through lack of care, causes damage to life, property, liberty, honor, business reputation, or any other right created by law for the benefit of*

*individuals, likely to cause material or moral damage to another person, is required to make reparation for the damage resulting from his act."* Article 2 of the same law provides: *"In the event that the act of the perpetrator of the damage has caused material or moral damage to another person, the court, after investigation and recognition of the responsibility of the perpetrator, shall order him to compensate for the said damage."* Thus, for the guarantee and civil liability, causing damage, i.e., the existence of a "prejudice," is a certain and definite condition. If no harm to others has been caused, it is obvious that the discussion of "reparation" and "civil liability" is moot.

In international law, concerning environmental damage, it is stated: *"Environmental damage is a change that has a measurable adverse effect on the quality of the environment or its components, whether or not they have commercial value. They also cover changes that impair the ability of the environment to ensure the maintenance of acceptable quality and the protection of a balanced and sustainable life"* (Mūsawī, 2012: 333).

The Convention on the Regulation of Activities Related to the Exploitation of Antarctic Mineral Resources defines environmental damage as any adverse effect on living or non-living elements of the environment, including damage to the atmosphere, marine, and terrestrial life, that is more than insignificant (‘Ilm Khānī, 2014: 64).

## 2. Committing an Adverse Act

The second pillar for the realization of civil liability is the occurrence of a harmful or unlawful act by the liable party. A necessary condition for liability under involuntary (strict) liability is the commission of an act that causes harm. In some cases, a person may not have control over another's property, yet through an action or omission, they may cause harm to another. Therefore, it is important to consider whether omission (failure to act) can also be regarded as a harmful act. This issue is examined under the subject of the *legal status of omission*.

### 2.1. Omission in Civil Liability

The term referring to the element of the harmful act in the evidence of civil liability is "damage" in the rule of causation.

Rather, this expression refers to a positive act. The question that arises is whether it is possible to find cases where the failure to act also causes the damage, or whether we are still dealing with positive aspects of the acts. The damage is of two types: direct and indirect. In direct damage, there is a positive act, but in indirect damage, the question of failure to act arises, which takes different forms and must be examined.

### 2.1.1: Omission of an Act within Another Act

Sometimes a person is engaged in an activity during which they fail to perform another action, and this omission causes damage. For example, a person is driving, and in a dangerous situation, they should apply the brakes but fail to do so, causing harm to others. In this case, civil liability falls upon them because they could stop the car. Here, the liability is attributed to the positive action itself and falls outside the scope of omission.

### 2.1.2: Omission Preceded by a Duty of Care in Safeguarding Objects and Animals

Sometimes a person has a responsibility to protect something or an animal so that if they don't protect it, it can be damaged. In this case, the failure to comply with the duty of care and the damage will result in civil liability. Hadith and legal texts refer to such cases. Hillī writes: *"A person who is required to protect something or an animal... if he neglects or fails in this duty of protection, he will be responsible for the damage they cause"* (Najafī, 1983: 43/129).

This fatwa is based on hadiths to the same effect (Ḥurr 'Āmilī, 1988: 29/250-251, ḥadīths 1 and 2). Although the subject mentioned in the legal texts and ḥadīths concerns animals, in reality, this responsibility is not limited to animals and also applies to objects available to man. For this reason, some jurists, in providing a general judgment, have considered the cases mentioned in the ḥadīths to be examples (Sabzvārī, 1991: 29/140-141). Therefore, a person who had a responsibility to protect something and who, by omitting that responsibility, caused damage will be held liable.

### 2.1.3: Omission Preceded by a Duty of Care in Protecting Persons

Another form of failure to act that gives rise to civil liability

occurs when the act of another person occurs between the failure to protect and the damage caused. Nevertheless, the responsibility lies with the person who has failed to act. For example, in the case of a swimming instructor who, due to failing to provide proper instruction, causes the drowning of a swimmer, the instructor will be held liable. (Najafi, 1983: 43/106). In this case, the act of another person occurs between the failure to protect and the damage caused, but the responsibility lies with the person who failed to act.

### 2.1.4: Omission as the Sole Cause of Damage

According to the jurisprudential sources, if a person is injured and the only doctor present at the scene fails to treat him, or if a person is starving to death and another person who has food does not give it to him, the person who failed to act (the doctor or the food holder) will be held liable (Sabzvārī, 1991: 29/158). It seems problematic to attribute liability in these two examples to the person who failed to act (the physician or the food holder) because the damage in these cases cannot be attributed to the person who failed to act, but rather to illness or other accident of which the physician or food holder was not the cause. Although a distinction can be made between these two examples, by saying that the one who has food and does not give it while the other is starving is failing in his duty to preserve life and is therefore held responsible; but in the case of illness, as death is due to illness, the doctor is not held responsible. Thus, in the first example, responsibility is established, but not in the second (Qāsim Zādeh, 2004: 80-81).

### 3. Establishing the Causal Relationship

The mere existence of damage and an injurious act is not sufficient to incur the civil liability of a person; a causal link must also be established between the damage and the harmful act. For example, if someone leaves their car unlocked in a public crossing and a thief steals it and accidentally causes damage to a pedestrian, the owner of the car, although negligent in leaving his car like this, is not the cause of the damage, the thief is. Establishing a causal link between negligence and damage sometimes raises complex questions that are not easy to resolve.



In cases where liability arises from the act of a person, the causal link between the defendant's negligence and the damage must be established. However, when liability results from the act of a third party, it is not essential to establish it in this way. But it must be proved that there is a causal link between the act or negligence of the person whose acts, the defendant is responsible for and the damage caused. For example, it is alleged that a worker caused damage to others in the course of his work and that the employer must take care of the damage caused by his worker. In this case, it is not necessary to establish a causal link between the employer's negligence and the damage, but it must be established that the damage resulted from the act of the worker. It is said that in these cases, there is an indirect causal link between the act of the person responsible and the damage and that these two elements are not unrelated.

### 3-1. The Concept of Causal Relationship

It has been stated in the (definition of cause) that, it is an act which, if it had not been committed, there would have been no damage caused (Kātūziyān, 2000: 204). The difference between a condition and a cause is also that the mere fulfillment of a condition does not result in harm, but from the point of view of custom, where there is a cause, there is also harm. This is why, in philosophy, a condition is considered to be something whose non-existence necessarily entails a non-existence, but whose existence does not necessarily entail an existence; and a cause is something whose existence entails an existence and whose non-existence entails non-existence (Fahīmī, 2017: 295).

Some believe that while destruction is the source of liability, causation and indirect destruction also are, generally speaking, the cause of civil liability. In this area, the search for a criterion for the cause is futile, and the only recourse is to refer to the hadiths: wherever the hadiths consider causality to involve responsibility, it must be accepted. Sheikh al-'Anṣārī writes: *"The fact is that there is no criterion for causation other than interpretations drawn from texts in which responsibility is stipulated, and extension to similar cases based on consensus or customary interpretation so that custom considers what is mentioned in the text as an example of similar cases"* (Najafī, 1983: 43/96-97).

Some jurists believe that causation applies when an act makes the attribution of damage to the one who causes it applicable, and this is when between causality and damage, the will of a moral agent does not intervene; as in the case of someone digging a well and another person falls into it. Or if there is indeed another will at stake, but it is as if it is non-existent; as in the case of the will of a child sent to destroy property (Shahīd Ṣadr, 1987: 2/227).

The late Marāghī has given a useful explanation in this regard: *"It is not considered whether the mutlaf (one who damages other's property) does it directly or through a medium because the two are not assigned to a specific level, but sometimes it is the cause or the cause of the cause and... Based on what is obtained from narrations and fatwas, the origin of the liability is the loss, therefore, in terms of custom, the attribute of being mutlaf must be true. The fact that the jurists have limited the loss to the agent and the cause is due to the presentation of a customary criterion, otherwise, there is no evidence for the agency, the cause, and the precedence over the other. So, the criterion is customary truth. This criterion sometimes applies to the agent, sometimes to the cause, and sometimes to both."* (Marāghī, 2/435)

### 3.2: Proving the Causal Relationship

It is up to the victim to prove the link between the harmful act and the damage suffered, and he or she must establish this in court. Sometimes, too, the defendant is forced to provide evidence, and it is not always up to the plaintiff to do so. For example, if a building collapses and it is presumed that the architect was negligent, and the architect claims that an external factor and not his negligence caused the collapse, in that case, the defendant will have the burden of proof and will have to substantiate his allegation.

### C: Jurisprudential and Legal Foundations of Civil Liability for the Protection of Animals

When we discussed the issue of animal rights and their respect, we also addressed some Quranic and traditional foundations of civil liability for the protection of animals. We now look at the legal and religious foundations of civil liability for the protection of animal rights. From the point of view of the legal basis of civil liability, if a person fails in his duty to protect animals (through

negligence) or undertakes to create a dangerous environment (creation of danger) and thus harms the life and health of animals (violation of rights), he will be held liable and must compensate for the damage caused. The religious foundations of civil liability for the protection of animals are as follows:

### 1. The Principle of no Harm

According to this principle, which is well established in jurisprudence and law, any harmful action that leads to environmental pollution or damage to its elements, such as threatening the lives of animals, and consequently causes harm to humans and other living beings, is prohibited, unlawful, and entails liability. Given the application of the "*Lā ḍarar*" principle (the principle of no harm) in negative matters and its affirmative role, the Islamic government and environmental authorities are obligated to dedicate all their efforts, at the stage of enacting protective regulations and implementing appropriate executive measures, to improving and safeguarding the environment (Ja'farī Sir Yazdī, 2007: 104).

### 2. The Principle of Destruction

The rule against the destruction of other people's property is one of the most important rules that Muslim jurists rely on when it comes to liability. One of the ḥadīths cited in support of this principle is the following: Concerning the one who kills an animal in vain, cuts down a tree, destroys a crop, demolishes a house, dries up a well or a canal, the Commander of the Faithful (a.s) has ruled that such a person must pay the price for what he has destroyed and spoiled, and if it was intentional, he must also suffer a criminal penalty. But if he did so in error, he only incurs damages and will not be imprisoned or suffer corporal punishment. And if he mutilates an animal, he must pay its owner the difference in value (Nūrī, Mustadrak al-Wasā'il, 1987: 17/95). This ḥadīth clearly states civil liability for the protection of animals and other elements of the environment.

### 3. The Principle of Causation

According to this rule, any damage caused to the elements of the environment and natural resources, even indirectly, engages the responsibility of its perpetrator. It should be noted that this

rule also covers causal roles resulting from omissions (Muḥaqqiq Dāmād, 1986: 1/120). For example, if the competent authorities do not intervene in time to stop the mass slaughter of animals and overfishing, they will be held liable for damages under this rule.

#### 4. The Principle of Prohibition of Wastefulness

Much damage to the environment results from waste, that is, from the excess in the exploitation of divine gifts. This also fully applies to resources in the environment. On the other hand, the prohibition of waste is clearly established. The rule against waste can therefore be invoked to prevent the abusive exploitation of the environment (Makārim Shīrāzī, 2013: 3/82). God has made animals available to man to make optimal use of; overfishing and mass slaughter of animals, as well as the extinction of rare animal species, can be seen as forms of waste that God prohibits.

## Conclusion

Today, animal rights and the preservation of various species are among the issues that have gained attention worldwide, from governments and organizations to individuals who are concerned about environmental issues and animal welfare. In Islam, alongside matters related to humans and their rights, environmental issues, including animal rights, have also been discussed. In jurisprudential sources, various rights for animals have been established based on Qur'anic verses and hadiths, obliging Muslims to commit to the civil responsibility of protecting animals.

For civil liability to arise and be actionable in courts, three essential elements must be present:

1. Harm;
2. Harmful act;
3. Causal relationship.

From the perspective of civil law, if someone neglects their duty to protect animals (negligence), creates a dangerous environment (creating risk), or causes harm to the life or well-being of animals (violation of rights), they will be held responsible for compensating the resulting damages. The jurisprudential foundations of civil liability for the protection of animals include:

1. The Principle of No Harm (Qā'idat Lā Darar);
2. The Principle of Destruction (Qā'idat al-Itlāf);
3. The Principle of Causality (Qā'idat al-Tasbīb);
4. The Principle of Prohibition of Wastefulness (Qā'idat Ḥurmat al-Isrāf).

When the conditions and elements of civil liability are met, the injured party has the right to claim compensation for the damages incurred. The party responsible for the harm is also obligated to compensate for the loss they have caused.

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