

Crimes against Animals

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Abstract

This study delves into the proportionality of the Iraqi legislator's treatment of crimes against animals, the potential legislative flaws in the Iraqi Penal Code, and the issue of enforcement of these provisions require a more in-depth analysis of the legal texts and their practical application. The present research employs a methodological approach to examine the crimes of killing animals and causing them harm, as addressed in the Iraqi Penal Code No. 111 of 1969. This involves analyzing the relevant legal provisions and evaluating the adequacy and proportionality of the legislator's treatment of such crimes. Findings showed that, in the Iraqi law, the animal is considered the victim of the crime, and it enjoys criminal protection to limit the crimes committed against it. Islamic law prohibits the killing or harming of an animal without justification, and considers that an assault on the animal's ownership. The Iraqi law imposes penalties on crimes committed against animals, whether intentional or negligent, and the penalties vary between imprisonment and fines. The study recommends the Iraqi legislator to amend the Penal Code to remove the requirement of animal ownership, expand the protection to unowned animals, and strengthen the punishments for intentional killing or harm to animals, in order to better safeguard animal wealth. Additionally, raising public awareness about the importance of animals for environmental balance through ethical education and awareness programs is crucial.

Keywords: *Animal Rights, Animal Harm, Animal Killing, Livestock.*

Introduction

Talking about protecting animals –in the light of situations in which humans are humiliated – may be considered a very strange matter by a huge percentage of people today, while Islamic law emphasizes the importance of respecting animal rights and international laws stipulate mercy for animals. However, we find some individuals or countries deal with these creatures brutally and without respect for them, using cruelty to them and perhaps even sexual assault on them. Therefore, it has become necessary to have laws that specify appropriate penalties imposed on aggressors, that is, everyone who uses violence and cruelty to animals, while providing sufficient penalties to achieve deterrence so as to protect these creatures and put an end to the pain they are exposed to. Because they are vulnerable creatures that are unable to complain or obtain their rights as humans do.

Animals are considered one of the most important natural components of the environment. They constitute a valuable resource that humans depend on in various aspects of their lives, such as food, the food industry, medicine, and other interests. Animals are an essential element in achieving environmental balance and restoring the inhabited world. Yet, animals are harmed by human beings. This study clarifies the actions that the Iraqi legislator has criminalized, which constitute attacks on animals, and explaining their punishments. The study also highlights the shortcomings in the legal texts related to the protection of animals from the attacks that occur against them. Additionally, the study aims to shed light on the vulnerable group of living beings, namely animals, who do not have the same protection as humans in exercising their rights and freedoms.

Research Problem

The main research problem lies in answering the following question:

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Is the Iraqi legislator's treatment of crimes against animals proportionate to their gravity? Or is there a legislative flaw in the Iraqi Penal Code? Or does the fault not only lie in the Iraqi legal texts, but also in the neglect of the enforcement of these provisions?

Methodology

The present research focuses on examining the crimes of killing animals and causing them harm, as addressed in the Iraqi Penal Code No. 111 of 1969. Specifically, the Iraqi legislator has categorized these offenses under the "Crimes against Persons" section, within the "Crimes against Property" chapter, in the eleventh part titled "Crimes of Killing Animals and Causing Them Harm." Beyond the legal framework, the study also explores relevant provisions from Islamic Sharia law that emphasize the importance of compassionate treatment and care for animals. Additionally, the research delves into the laws and regulations regarding animal protection that have been established in some ancient civilizations.

In this research, we employ the analytical approach by analyzing the provisions contained in the law. Our study focuses specifically on the Iraqi Penal Code No. 111 of 1969.

Structure of the Research

To comprehensively address the research topic, we have divided the study into two main sections. The first section defines the concept of "animal," while the second section examines the different forms of crimes against animals. We conclude the research with a final section that presents the key findings and recommendations derived from the study.

Animals

When we contemplate the creation of Allah, we realize that the creation consists of different species and types, each excelling in certain attributes and differing in others, and that is the will of God Almighty. Among this creation is the animal. So, what do we mean by the term "animal"? And what is its importance? To address this, this section is divided into looking at the definition of animal while the second focuses on the importance of animal.

Animal's Definition

In the Arabic language, the term "animal, (alhayawan(refers to any living being that possesses life (Aldamiyri, 2006). In other words, it is applied to everything that has a permanent, enduring life. This is affirmed in the Quran, where God Almighty refers to the Hereafter as alhayawan (the life/living), as stated in the following verse, "this worldly life is no more than play and amusement. But the Hereafter is indeed the real life, if only they knew" (Quran 6:32).

In this verse, the word, alhayawan (the real life) refers to the eternal, everlasting life in the Hereafter, which is in contrast to the transient and fleeting nature of this worldly life (ibn Kathir, 1338 AH). Conceptually, the term "animal" is defined as the living, sentient, and self-moving body (Tāhanawī, n.d.). This definition encompasses all self-moving living beings, such as livestock (camels, cattle, horses, donkeys, and mules) (Raqqādi, 2012).

There are also other related terms, such as "creature", "beast" and "livestock" () which all fall under the conceptual meaning of "animal." This study focuses on animals that do not have the ability to speak and whose rights are protected by positive laws.

Some statutory laws have defined animals and clarified what is meant by them(). Others have categorized animals into groups and provided protection for them without defining animals in general, along with an explanation of each category. The Iraqi legislator has moved towards classifying and specifying protected animals without providing a general definition of animals ().

The Importance of Animal

In this section, we discuss the status of animals in ancient laws such as Roman laws, Persian laws, and the Code of Hammurabi, as well as the status of animals in Islamic law. This is covered in the first sub-section. In the second sub-section, we explain the importance of animals to humans. In the third section, we explore the status of animals as subjects of crime.

Historical perspective on the status of animals

Animals in Ancient Laws

From Roman laws, it is understood that Romanes viewed animals as accountable for their actions and behaviors. If an animal misbehaved and trespassed its boundaries, the punishment would be shared between the animal and its owner. For instance, if a bull trespassed the boundary between a cultivated field and an adjacent one, both the bull and its owner would be punished by execution (Raqqādi, 2012).

In ancient civilizations like the Persians, their laws stated that if a dog bit a sheep or a human and caused injury, its right ear would be cut off. If it repeated the offense, its left ear would be cut off. On the third offense, its right front leg would be cut off, on the fourth offense, its left front leg would be cut off, and on the fifth offense, its tail would be amputated (Raqqādi, 2012).

As for the Code of Hammurabi, Article 247 states: "If a man rents an ox and the man the ox eye, he shall pay half its price in silver to the owner of the ox." Article 248 states: "If a man rents an ox and he hit it with an instrument, yet it dies, the man who rented the ox shall swear by the god that he is not responsible for the ox's death, and he shall go free." This indicates the concern of ancient laws like the Code of Hammurabi with protecting the rights of animals as well.

Animals in Islamic law

In Islamic law, animals have their own world, with their own existence, characteristics, and nature, similar to humans. Allah says, "All living beings roaming the earth and winged birds soaring in the sky are communities like yourselves. We have left nothing out of the Record. Then to their Lord they will be gathered all together." (Quran, 6:38). The Prophet Muhammad (peace be upon him) said, "The merciful are shown mercy by Ar-Rahman. Be merciful on the earth, and you will be shown mercy from Who is above the heavens." (Jami` at-Tirmidhi, Book 27, Hadith 1924). Allah has subjected animals to humans for their benefit and use, but He has regulated how to deal with them. Dealing with animals is based on compassion and a broad concept of mercy. The hadith "Be merciful to those on the earth" includes animals as well. " (Quran 16:5-7).

The Importance of Animals to Humans

The relationship between humans and animals holds immense significance, and its importance grows as human sciences progress and new benefits of animals are discovered. As mentioned in the Quran, "And He created the cattle for you as a source of warmth, food, and 'many other' benefits. They are also pleasing to you when you bring them home and when you take them out to graze. And they carry your loads to 'distant' lands which you could not otherwise reach without great hardship. Surely your Lord is Ever Gracious, Most Merciful." (Quran, 16:5-7).

Animals are a valuable resource for humans, with some being permissible (halal) for consumption and others prohibited (haram). They can be used for transportation, carrying loads, and fulfilling various other human needs allowed by Islamic law. Moreover, animals contribute to maintaining ecological balance by controlling each other's populations (Raqqādi, 2012). Some animals are also a source of medicinal products derived from their venom. Additionally, different parts of animals, like wool and leather after tanning, are utilized for food, clothing, and transportation purposes.

Animals As the Object of Crime

Crimes against animals, such as killing or harming them, are regulated by Article 482 of the Iraqi Penal Code. This article applies to beasts of burden or riding animals owned by others, including horses, mules, and donkeys. It stipulates that the animal must be owned by someone else. This condition is unnecessary because the legislator considers the animal as property 1.

This condition aims to prevent owners from harming or killing their animals without consequences, thereby avoiding acts of negligence. Additionally, Article 482 covers crimes related to live fish found in rivers, canals, swamps, or basins. For the offense to apply, the fish must be alive; if found dead, the crime is considered null. Fish are classified as vertebrate animals with gills, comprising more than 2,700 species (Al-Janabi & Aliwi, 2016). Article 482/ second also specifies the locations where the crime applies, including rivers, canals, streams, swamps, or basins.

Therefore, the legislator specified that the crime must occur in a particular location. For instance, if the fish is in the waters of the Gulf, the crime does not apply because the Gulf is not among the locations specified in the aforementioned article. Ideally, the legislator should have used a broader term, such as "any fish from rivers, seas, or any other water body." According to Article 483, the crime also encompasses earthworms or a group of bees. This implies that the crime is only committed if the killing targets a group of earthworms or bees. Additionally, the animal must be owned by someone else, although this requirement is unnecessary.

Forms of Crimes Against Animals

Crimes against animals, reflecting criminal behavior and the environment of the perpetrator, are subject to legal intervention for determining appropriate punishments. To qualify as a crime under criminal law, specific elements must be met. These general elements apply to all types of crimes, including those against animals. In our examination of crimes against animals, we categorize them into two groups: animal killing crimes and animal harm crimes. We discuss the common elements of these crimes and outline their respective penalties as follows:

Crimes of Killing Animals

The Iraqi Penal Code, in Articles (482, 483, 485), addresses crimes involving the intentional killing of animals. Article 482 prescribes punishment, either imprisonment or a fine, for those who intentionally kill, injure, or cause significant harm to riding, draft, or pack animals owned by others, or poison fish in rivers, canals, swamps, or basins using means such as explosives, chemicals, or electric methods. Article 483 defines the punishment, either imprisonment for up to one year or a fine of up to one hundred dinars, for those who intentionally and unjustifiably kill earthworms, bees, or any domestic animal or poultry belonging to others, or cause them serious harm. Article 485 imposes imprisonment for up to ten days or a fine of up to ten dinars on those who unintentionally cause injury or death to animals or cattle belonging to others. It's important to note that the fine amounts were revised by Law Amendment No. 6 of 2008, with fines for misdemeanors ranging from two hundred and one dinars to one million dinars, and for violations, from fifty thousand dinars to two hundred thousand dinars. In this study, we divide this topic into two sections to explain the material and moral elements of the crime and specify the associated punishment.

The Material Element

Every crime must have a material element that embodies the criminal behavior. A crime is generally defined as an act or omission prescribed by law and punishable by the law (Khalaf & A-Shādi, 2015). Article 28 of the Iraqi Penal Code defines the material element as "the criminal behavior of committing an act prohibited by law or abstaining from an act required by law." Thus, the material element in a complete crime consists of three components: the criminal behavior, the criminal result, and the causal relationship. We will explain these elements as follows:

The Criminal Conduct

The criminal conduct refers to the activity undertaken by the perpetrator, which is then criminalized and punished by the law. This criminal conduct can be manifested through either a positive act or a negative act, i.e., an omission (Husnī, 1982). There can be no crime without criminal conduct (Aldurrah, 1990). By examining Sections 485, 482, and 483 of the Iraqi Penal Code in force, we can see that the crime is constituted by an act that results in the death of an animal. If the perpetrator commits an act with the intention of killing the animal, but only inflicts non-fatal injuries, and the animal does not die, the perpetrator cannot be held liable for the completed crime, as the criminal consequence has not materialized. The key point is that the means used by the perpetrator to end the animal's life are irrelevant, whether it is through slaughtering, strangling, poisoning, shooting, or any other method of mass destruction, such as explosives, chemicals, or electrical means. The essential element is the criminal conduct that leads to the criminal consequence, which in this case is the death of the animal.

The Criminal Consequence

The criminal consequence represents the second element of the material element. It is the change that occurs in the external world as a result of the criminal conduct, for which the law prescribes a criminal sanction. In other words, it is the change that the criminal conduct brings about in the external world, which infringes upon an interest or a right that the legislator has deemed worthy of criminal protection (Al-Hadithi, 2010). The criminal consequence has both a material and a legal connotation. The material connotation refers to the effect resulting from the criminal act or conduct, such as the death of an animal. The legal connotation of the criminal consequence, on the other hand, represents the infringement upon the animal's right to life.

The Causal Relationship

The causal relationship refers to the link between the criminal conduct and the resulting consequence. If the criminal act is committed but the intended material consequence does not occur, there is no need to examine the causal relationship. The consequence that must be connected to the act is only the one required by the law for the crime to be legally established.

In crimes such as the killing of an animal, if the perpetrator's act is sufficient on its own to cause the criminal consequence, which is the death of the animal, according to the normal course of events and the nature of things, the causal relationship between the criminal act and the resulting criminal consequence is established. Additionally, there must be a psychological link between the criminal conduct and the perpetrator, meaning that the act was carried out with the intention of violating the law. The Iraqi legislator has addressed the issue of proving the causal relationship in Article 29 of the Iraqi Penal Code (Mohamed, 2017), where it has adopted the theory of the equivalence of causes. This theory holds that the causal relationship is present even if other independent factors, whether prior, concurrent, or subsequent to the perpetrator's activity or omission, contributed to the occurrence of the consequence. The causal relationship is only severed if those prior, concurrent, or subsequent events were sufficient on their own to bring about the punishable consequence.

The Moral Element

The moral aspect of a crime represents its psychological dimension. Every crime includes this psychological component, which manifests as either intent or negligence. In the case of crimes against animals, they can occur either intentionally or unintentionally. According to Article 33 of the Iraqi Penal Code, criminal intent is defined as "the actor's will directed toward committing the act constituting the crime, with the aim of the resulting crime or any other criminal outcome." Criminal intent is based on two elements: knowledge and will. Therefore, for the crime of intentionally killing an animal, the perpetrator must be aware of their actions and understand that these actions will result in the death of the animal. As per Articles (482, 483), this constitutes an intentional crime, which doesn't require a specific criminal intent but is established as

long as there is a general intent. If the elements of the crime are fulfilled, the perpetrator is held accountable for an intentional crime according to the provisions of Articles) 482, 483).

Article 482 of the Iraqi Penal Code states that a person will be punished with imprisonment, a fine, or both if they intentionally or without justification kill, seriously injure, or harm an animal such as a riding, draft, or carriage animal owned by another. Additionally, those who poison fish in rivers, canals, lakes, marshes, or tanks, or use methods of mass destruction such as explosives or chemicals in fishing will be punished. Article 483 specifies that a person will be punished with imprisonment for up to one year or a fine of no more than one hundred dinars if they intentionally and without justification kill worms, ants, or any domesticated animal or poultry owned by another, not mentioned in Article 482, or severely harm them.

According to the provisions of these articles, intentionally killing an animal is considered a misdemeanor, punishable by imprisonment, a fine, or both. However, the punishment does not match the severity of the crime, particularly regarding fishing using mass destruction methods, which harms animal wealth. These methods cause significant damage to animal wealth, and the cruelty involved harms it more than the benefits it brings. Those who fish with intent do not resort to such methods, emphasizing the need to protect fish wealth. Moreover, the legislator sometimes opts for imposing only a fine, granting the judge the discretion to choose between imprisonment or a fine, which often proves ineffective and inadequate. Hence, the Iraqi legislator should amend the law to mandate both imprisonment and a fine. The law should state, "Anyone who intentionally kills an animal without justification and causes damage to animal wealth shall be punished by both imprisonment and a fine," removing the judge's discretion in choosing between the two penalties.

Regarding fish wealth and fishing, contrary to the law, Law Amendment No. 63 of 1978 imposes imprisonment for ten years plus a fine, making it a felony instead of a misdemeanor. This is due to the fact that this crime not only harms animal wealth but also affects the national economy. This amendment reflects the path the legislator has taken in addressing this issue.

As for unintentional crimes, the moral element appears in the form of negligence. The Iraqi legislator did not define negligence, but he provided examples when explaining unintentional crimes. Article 35 of the Iraqi Penal Code defines unintentional crimes as follows: "A crime is considered unintentional if the criminal result occurs due to the perpetrator's mistake, whether this mistake is due to negligence, recklessness, lack of attention, failure to take precautions, or failure to comply with laws, regulations, or orders." Negligence is defined as "a failure in human conduct that does not fall within the behavior of an average person under the same external circumstances, or it means that the perpetrator anticipates the result of his intentional act but does not accept it, falsely believing that it will not happen, or failing to anticipate it when he could have." (Al-Hadithi, 2010; Husnī, 1982).

Based on Article 485 of the Iraqi Penal Code, the crime of animal killing can occur unintentionally, regardless of the form of negligence, whether it is due to negligence, recklessness, lack of attention, failure to take precautions, or failure to comply with laws, regulations, or orders. The legislator has set the punishment for the crime, which is killing an animal unintentionally, as imprisonment for a maximum of ten days or a fine. The legislator has classified this crime as an offense, and if the fine exceeds 50,000 dinars but does not exceed 200,000 dinars, it becomes a violation according to Law Amendment No. 6 of 2008. We see the inadequacy of the punishment as the perpetrator did not intend to kill the animal; therefore, we believe that imposing only a fine is insufficient.

Crime of Harming Animals

We refer to crimes of animal abuse as causing harm to animals, whether it is severe harm or less severe harm, as defined by the Iraqi legislator in the Penal Code articles (482-484). This includes hitting the animal, as stipulated in Article 486, and harming the animal, as defined in Article 486. Thus, the act of assault encompasses hitting or harming the animal, using excessive force to kill or injure it, or subjecting the animal to cruel methods (485-486). Accordingly, we have divided the requirement into two subsections, with the first addressing the elements of the crime, and the second explaining its punishment.

The Elements of The Crime

For a crime to be considered as such, certain elements must be present for it to be established (Mahmoud, 2002). These elements are the general elements and include the material element and the moral element. Therefore, we have divided this branch into two paragraphs. In the first paragraph, we will discuss the material element, while the second paragraph will be dedicated to examining the moral element, as follows:

The Material Element

The material element is based on three components: the act, the consequence, and the causal relationship:

The Act

The act in the crime of intentional harm to an animal is any behavior that affects the animal's safety, i.e., an assault on the animal, whether it is manifested by damaging the animal, harming it, injuring it, or using it in cruel ways. We will clarify the meaning of these terms:

Damaging the Animal

This means inflicting harm on the animal. Harm, in general, refers to anything that is contrary to the animal's wellbeing. Legally, harm denotes the assault or injury that affects the animal. Accordingly, assaulting the animal and causing bodily harm is considered harm. The harm inflicted on the animal can either be serious harm or non-serious harm. Article 482 states: "Shall be punished with imprisonment or a fine, or one of these two punishments: First: Whoever intentionally kills or without necessity a beast of burden, riding, drawing, or carrying, owned by another, or wounds it severely, or strikes it in another way causing serious harm." The article mentions the term "serious harm." Additionally, Article 484 states: "Shall be punished with imprisonment for a period not exceeding one month or a fine, whoever intentionally harms any animal owned by another, with non-serious harm." Therefore, the harm may be serious and severe, or it may be minor harm (Al-Haidari, 2008). The legislator has differentiated the punishment and graded it based on the severity of the harm. We see that it is sufficient to use the term "damaging the animal" instead of looking at beating, wounding, and harming, as they all constitute harm.

b) Beating the animal is a form of physical aggression against the animal's body (Al-Durrah, 2007). Although it has a visible external impact, it does not cause any damage or tearing to the animal's tissues. In other words, it is any application of force on the animal's body that does not result in the tearing of its tissues. The Iraqi legislator has addressed this in Article 486 of the Penal Code, which states: "Shall be punished with imprisonment for a period not exceeding three months or a fine, whoever brutally beats or tortures a tamed or domesticated animal..."

Harming Animal

Harming the animal refers to injuring the animal, especially if it is subjected to cruel treatment. Injury implies any impact on the animal's body tissues that leads to tearing or cutting (Al-Haidari, 2009). In other words, it encompasses any cutting or tearing that affects any part of the animal's body. Generally, any physical impact that results in noticeable changes to its tissues is considered an assault on the animal's body. The Iraqi Penal Code, in Article 485, uses the term "injuring the animal," stating: "Shall be punished with imprisonment for a period not exceeding ten days or a fine, whoever accidentally causes the death or injury of an animal or beast of burden owned by another."

Regarding the use of the animal in cruel ways or mistreating it, or employing it beyond its capacity to endure, or using a beast of burden that is unfit for work due to disease, injury, or disability, these acts are addressed in Article 486 of the Iraqi Penal Code: The article states, "Shall be punished with imprisonment for a period not exceeding three months or a fine not exceeding 30 dinars, whoever brutally beats a tame or domesticated animal, or tortures it, or abuses it, or mistreats it, or uses a cruel method to kill it without necessity." Additionally, the article stipulates that "the same punishment shall be imposed on whoever

employs a beast of burden for riding, carrying, or transporting beyond its capacity to endure, or employs it while it is unfit for work due to disease, injury, or disability."

Consequence

It is represented by the perpetrator's action via the harm inflicted on the animal's body. This harm includes any physical contact with the animal, whether through hitting, injuring, using it in cruel ways, or causing damage to it.

Causal Relationship

When it comes to defining the causal relationship, our stance aligns with what we discussed regarding animal killing crimes. Therefore, a causal relationship is established when the criminal outcome directly stems from the perpetrator's action. This implies that the outcome is intricately linked to the action in a way that, without the perpetrator's action, the criminal result would not have happened. If unusual factors intervene and contribute to the outcome, the perpetrator is not held responsible for the criminal result. According to Iraqi law, the external factor that interferes with the perpetrator's behavior must be significant enough on its own to cause the criminal outcome. However, the law does not require this factor to be independent of the perpetrator's behavior. In such cases, the perpetrator is only held accountable for the action committed without the criminal result, as long as the external cause was sufficient to bring it about.

The Moral Element

The crime of assaulting an animal can be either intentional, in which the moral element appears in the form of criminal intent, or unintentional, in which the moral element appears in the form of negligence. We address both scenarios as follows;

Intentional Crime: The general criminal intent is composed of two elements - knowledge and will. In the crime of intentionally assaulting an animal, the perpetrator must have knowledge of their actions, whether it involves causing damage, beating, or cruel treatment of the animal. They must also know that their actions are unlawful and that the animal belongs to someone else. Regarding the act of beating, the crime is committed if the animal is tame. As for the will element, the perpetrator must have the willful intent to carry out the act of assault. Accordingly, if the perpetrator's knowledge of any of these material facts is lacking, the general criminal intent is absent due to the absence of the aforementioned willful direction, and thus the criminal responsibility for the crime is eliminated.

Unintentional Crime: In the crime of assaulting an animal, the unintentional form manifests when the act of assault results in injury. All other forms of assault fall under the category of intentional crime. According to Article 485, "Whoever accidentally causes the death or injury of a beast or animal owned by others shall be punished by imprisonment not exceeding ten days or by a fine not exceeding ten dinars ." In this case, the crime is committed in the form of negligence, and the injury is inflicted on an animal belonging to someone else. The perpetrator's negligence is established if they are found to have failed to take the necessary precautions and care to anticipate or prevent the harmful consequences of their actions, when such precautions were within their capability (Al-Durrah, 2007).

The law specifies the forms of negligence that can give rise to criminal liability, which include negligence, recklessness, inattention, lack of precaution, or failure to comply with applicable laws, regulations, and orders. Notably, the crime of assaulting animals can be committed through any of these forms of negligence(). In other words, the crime is considered unintentional if the criminal consequence arises due to the perpetrator's negligence, manifested in any of the forms specified in the law, such as negligence, recklessness, inattention, lack of precaution, or non-compliance with applicable laws, regulations, and orders.

In other words, criminal responsibility for the offense of animal assault can only be established if the prosecution proves the existence of either the perpetrator's intent or their negligence, as the basis for determining criminal culpability.

Punishment for the Crime

The Iraqi legislator considered the crime of harming animals as a misdemeanor. Upon examining the legal provisions, we note that the punishment of imprisonment does not exceed three months, except for the crime of causing serious harm to animals, for which the perpetrator is punished with imprisonment and a fine, with the maximum punishment being imprisonment without limitation, i.e., more than three months up to five years. Regarding the crime of assaulting an animal by causing damage, if the damage is considered serious, the legislator has set provisions for this harm under Article 482, which states that "whoever intentionally kills or without justification a beast of burden, draft animal, or pack animal belonging to another, or severely injures it or otherwise causes it serious harm, shall be punished with imprisonment and a fine or either of these two punishments."

We note that the animal referred to here is specifically a beast of burden, draft animal, or pack animal, such as a donkey, mule, or horse. The law has previously defined "serious harm" as severe damage or impairment. Article 484, on the other hand, addresses the punishment for causing non-serious harm to an animal, classifying it as a misdemeanor punishable by imprisonment not exceeding one month or a fine not exceeding 20 dinars, stating that "whoever intentionally harms any animal belonging to another person in a non-serious manner shall be punished with imprisonment not exceeding one month or a fine not exceeding 20 dinars."

Regarding the negligent harming of an animal, the legislator has addressed this in Article 485, which states that "whoever accidentally causes the death or injury of a beast or animal belonging to another person shall be punished by imprisonment not exceeding ten days or by a fine not exceeding ten dinars." The punishment in this case is either a short term of imprisonment (up to 10 days) or a fine. Article 486 further provides two additional provisions: 1) Imprisonment for up to 3 months and a fine not exceeding 30 dinars for "whoever beats an animal with cruelty, tortures it, mutilates it, or mistreats it in another way, or uses a cruel method to kill it without necessity ." 2) The same punishment applies to "whoever works a beast of burden, draft animal, or transport animal beyond its capacity to bear, or works it while it is unfit for work due to illness, injury or disability." These are considered misdemeanor crimes, with punishments of imprisonment exceeding three months or a fine ranging from 50,000 dinars to 200,000 dinars, as per the amendment. This is the punishment for the cruel treatment of animals, including beating, torturing, or working them excessively.

Conclusion

Findings

Animals have rights that are guaranteed by positive laws, and the law has provided criminal protection to limit crimes against them. The Iraqi legislator considers the animal as the object of the crime in this study.

The old laws in Romania and Persian civilization did not stipulate animal rights, but the Code of Hammurabi showed progress compared to other laws. The Roman law viewed the animal as a punishable agent, and the same was true in Persian civilization, where the animal was held accountable for its actions. However, in the Code of Hammurabi, the animal was considered property. Under Islamic law, which is based on mercy, killing or harming an animal without justification is prohibited, and the default is that it is not permissible to assault an animal unless there is a text that authorizes it.

The Iraqi legislator punished the crime of killing an animal or harming it, whether the crime was intentional or unintentional, i.e. he expanded the scope of protection and did not limit it only to intent. Sometimes he

punished the crime by considering the animal as property, and sometimes he did not consider it as property but as a living being.

The Iraqi legislator imposed penalties on crimes committed against animals, considering them crimes against property. The legislator distinguished between intent and negligence. In the case of intent, he punished crimes against animals, whether it was intentional killing or intentional harm, in Article 482 of the Penal Code, with imprisonment and a fine or either of these two penalties. The legislator used the term "imprisonment", meaning that the crime is a misdemeanor, and the judge can impose a sentence of imprisonment not exceeding five years or a fine or both, according to his discretionary authority. In the case of negligence, under Article 485 of the Penal Code, the punishment is imprisonment not exceeding 10 days and a fine from 50,000 to 200,000 Iraqi dinars, and the crime is considered a violation.

The crime of intentionally poaching fish is considered a felony punishable by imprisonment not exceeding 10 years or imprisonment not exceeding 3 years, as stated in Law No. 63 of 1978.

Recommendations

We urge the Iraqi legislator to remove the requirement that the animal be owned by others, as the assault may occur on unowned animals, which also causes harm to animal wealth. Additionally, the issue of illegal collective hunting of waterfowl should be addressed. To this end, we recommend amending Article 483 of the Penal Code from the phrase "shall be punished with imprisonment not exceeding one year or a fine for intentionally killing without justification silkworms..." to "shall be punished with imprisonment for intentionally killing without justification any domesticated or tame animal or a group of birds, causing harm to animal wealth." The purpose is to protect animal wealth without the ownership requirement, and to strengthen the punishment by including both imprisonment and a fine, rather than just a fine.

We call for amending Article 485 of the Penal Code, limiting the punishment to a fine in cases of accidentally harming an animal. The text should be revised to state "shall be punished with a fine not exceeding 200,000 for causing by mistake damage to an animal, causing harm to animal wealth" instead of the term "owned by others." Using "causing harm to animal wealth" broadens the protection beyond just owned animals.

We recommend the legislator amend Article 484 of the Penal Code by removing the phrase "owned by others" and using the term "causing harm to animal wealth."

There is a critical need to raise public awareness about the importance of animals for environmental balance, by promoting ethical values and establishing awareness programs to protect animal wealth.

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