

This is a very early and rough draft of part of a new project on animals in constitutions, a project that I might expand to include not only Egypt but also India, Germany, and a few other countries. I am still working out the argument and I have just begun conducting interviews with the relevant participants. Your comments and questions on all aspects of this project will be very welcome.

Constitutionalizing Animals

Kristen Stilt¹

Attention to animal rights and welfare is growing worldwide. The typical path of change is through legislation, regulation, and, in the U.S. in particular, ballot initiatives. Despite this growing legal attention to animals, very few countries provide protections for animals in their constitutions. India's post-independence 1949 constitution was probably the first to explicitly recognize the interests of animals. Article 51A(g) states: "It shall be the duty of every citizen of India ... to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures."²

In 2002, Germany amended its constitution to add recognition of animals in Article 20a: "Mindful also of its responsibility towards future generations, the state shall protect the natural foundations of life and animals by legislation and, in accordance with law and justice, by executive and judicial action, all within the framework of the constitutional order." Unlike basic

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² India's constitution also contains a section on the directive principles of state policy, which includes Article 48 on agriculture and animal husbandry ("The State shall endeavor to organize agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, or cows and calves and other milch and draught cattle") and Article 48A on the environment and wildlife ("The State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country.")

rights more generally, where a trend towards textual convergence in constitutions around the world is noticeable and well-studied, granting constitutional rights to animals is a new, diverse, and slow-moving development.

Earlier in 2014, Egypt joined this small club. Its constitution recognizes animals not in a specific article, but rather in the middle of an article dealing mainly with the environment. Article 45 reads: “The state shall protect its seas, shores, lakes, waterways, and natural reserves. Trespassing, polluting, or misusing any of them is prohibited. Every citizen has the guaranteed right to enjoy them. The state will provide for the protection and development of green space in urban areas; the preservation of plant, livestock, and fish resources; the protection of endangered species and species threatened by extinction; and the kind treatment of animals (*al-rifq bi-l-hayawan*), all according to law.”

How did animal welfare—for the animals’ own sake, and not limited to animals as resources for human use—enter the Egyptian constitution? If there were a world index for animal welfare, Egypt would place very poorly. The list of violations to the welfare, interests, and rights of animals is long. Egyptian activists have documented them extensively and submitted volumes of complaints to the relevant authorities. These are usually to no avail. And while there are laws that include provisions dealing with animals, notably the Penal Code of 1937, the Agricultural Law of 1966, and the Environmental Law of 1994, these provisions are outdated, inadequate, and not enforced.

The complaints are wide-ranging, and this is merely a summary of the main problematic areas. Wildlife is not protected: reports of wealthy tourists guided by Egyptian profiteers to hunt endangered wildlife in the Sinai have been documented. Cairo is a well-known illicit

transportation hub for wildlife captured in sub-Saharan Africa and traveling to private zoos in Europe and the Gulf. Captive-bred wildlife--the offspring of animals captured in the wild and now held in zoos, national and private—also fare very poorly. One of the activists carefully monitors the lions at the Giza Zoo and the private zoos that line the Cairo-Alexandria Road, documenting their treatment and their deaths. Horses and donkeys still pull carts on busy roads alongside cars and trucks. Often, these animals are worked to death. Horse stables line the streets around the Giza pyramids, some more conscientious than others in their treatment of their horses. But when the tourists stopped coming after the revolution, income came to a halt at these stables, and many owners simply stopped feeding their horses. Pet shops are unregulated, so animals suffer and die in misery there. Feral dogs and cats roam the streets of every city in numbers probably in the millions. The government's leaves strychnine-laced meat on the ground in hopes that these animals eat it—and die a long and horrible death—and attempts to fatally shoot the dogs. Neither strategy is necessarily effective in killing the individual animal, nor do they reduce overall population. Most animals in Egypt meet their end in the slaughterhouses, where abuses are so great that it is difficult to call their meat halal. The government's decision in 2009 to brutally kill the more than 300,000 pigs in the country as a preventative measure against swine flu drew international criticism as an attack against Christian Egyptians.

Since the interests of animals are neglected and violated in Egypt, the constitutional language seems peculiar. It would not be far-fetched to call this a cynical effort to cover up a contrary reality. Egypt is constantly at odds with international organizations, especially those trying to stop wildlife smuggling. Australian animal organizations have documented the horrific treatment of the live sheep and cattle their country exports to Egypt, shocking the Australian public and government into stopping the trade on more than one occasion, to the great

consternation of the Egyptian government. Perhaps this language is meant to enable the government to reassure external critics that the situation will improve in Egypt. While this intent or possible subsequent use of the clause cannot be disproven, it does not account for the origins of the language.

This paper seeks to explain how this particular language was adopted, and focuses on the strategies employed by the Egyptian animal advocates who were instrumental in the process. The final phrasing of the language regarding animals is far shorter than the paragraph-length proposals that activists submitted, first to the 100-member drafting committee that was appointed by the People's Assembly and produced the 2012 constitution, and then to the Committee of 50 tasked with amending that constitution. Nevertheless, the activists agree it is a significant victory.

The Egyptian Animal Activists

Egyptian animal activists are a diverse group with many internal divisions. There are four main organizations and one very active individual not attached to a group. The oldest group is the Brooke Hospital, which was founded by a British woman, Dorothy Brooke, in 1934 as the Old War Horse Memorial Hospital. It was eventually nationalized and became an Egyptian NGO, although it still receives funds from Brooke UK, a British institution also founded by Dorothy. Brooke Egypt's motto is "animal welfare and human development for the Arab region." It provides free veterinary care for working equines, and advocacy is only incidental to this mission.

In the early 2000s, three new Egyptian NGOs emerged, each focused on a common set of goals: sheltering for cats and dogs in urgent need of medical attention; supplementing Brooke's work with equines; and advocating for legal and societal change towards the treatment of animals. In 2001, journalist Amina Abaza founded the Society for the Protection of Animal Rights in Egypt (SPARE), an Egyptian NGO that operates a shelter for cats and dogs and a small donkey sanctuary.³ The Egyptian Society of Animal Friends (ESAF), established as an Egyptian NGO in 2002 by a group of Egyptians and non-Egyptians, mainly British, opened a small cat and dog shelter. Over time, the involvement of non-Egyptians has decreased, and the society is now headed by an Egyptian lawyer.⁴ ESAF also operates a mobile clinic for working equines. The Egyptian Society for Mercy to Animals (ESMA) was founded as an Egyptian NGO by a mostly-Egyptian group in 2004, and runs a large cat and dog shelter; its chairperson is television journalist Mona Khalil.⁵ Dina Zulficar, a long-time activist, works on her own and has focused on the zoo and captive wildlife.

This is a diverse group with many disagreements, although they do agree on a small set of core issues. In their advocacy, they have preferences on strategies, but generally invoke a range of argumentation that is based on Islam, international standards, international agreements, the connection between violence to animals and violence to humans, the relationship between animal and human health, the sentience of animals, and ethics. Some emphasize one argument

³ SPARE's Facebook page gives a good sense of its range of activities: while focused on individual rescue, it places more emphasis on education and larger impact issued. It has 15,000 members

⁴ ESAF has the least amount of activity on Facebook of the three groups, but it is still an active organization, and focuses mainly on treating equines through its mobile clinic, attempting to train government vets in basic procedures such as spaying and neutering cats and dogs, and some cat and dog rescue.

⁵ ESMA's Facebook page serves to connect its many volunteers across Cairo and other parts of the country. On any one day, several volunteers will post pictures and locations of animals injured by cars or otherwise, and call for someone to assist in the capture and transport of the animal to a nearby vet or the ESMA shelter. These posts attract dozens of comments, until someone is usually ultimately able to catch the animals. ESMA's Facebook page has 6,000 members, and the ESMA shelter is the largest in Egypt.

more than others, and some have changed the weight they place on a particular argument over time.

In general, they typically lead with arguments based in Islam when speaking to a general audience or Muslim individuals. When Amina Abaza first started working on animal issues, she obtained a copy of the short book “*al-rifq bi-l-hayawan fi din al-Islam*,” written by Hasanayn Muhammad Makhluf, who served as the Grand Mufti of Egypt from 1946-1950 and 1952-1943. Abaza photocopied the book and routinely carried hundreds of copies in the back of her car, passing them out whenever she had an opportunity. But the language was too difficult for most Egyptians, and the photocopied presentation was not appealing. The three groups then worked together to produce a short booklet, “*al-rifq bi-l-hayawan fi al-sharia al-Islamiyya*.” The simple treatise covers the main issues the activists encounter in their daily work: the treatment of dogs and working animals and the issue of slaughter, referring mainly to efforts by individuals to slaughter their own animals on religious holidays. They have handed out thousands of copies of this booklet and are currently updating and reprinting it.

The activists have turned to religious authorities for opinions on the treatment of animals. In the early 2000s, investigators from the NGO Animals Australia carefully documented conditions inside Cairo’s largest slaughterhouse. The Australian group was interested in the conditions because Australia was shipping live cattle and sheep to Egypt for slaughter and consumption. The Australian industry body behind the exports, the Meat and Livestock Association, made public guarantees that the animals were treated humanely during the long boat trip and upon arrival in Egypt, and were slaughtered in Egypt in accordance with Australian standards. At great personal risk, some of the Egyptian groups assisted Animals Australia in the investigation, and the footage they showed the Australian public created such a national scandal

that the Australian government temporarily banned exports to Egypt. The Egyptian government was largely unreceptive, claiming that the Australian activists had filmed isolated incidents, which clearly was not true.

Finding no receptivity within the Egyptian Ministry of Agriculture or other entities responsible for the slaughterhouses, the Egyptian groups turned to Shaikh Tantawi, the Grand Imam of al-Azhar. In 2006, the Chairperson of the Egyptian Society of Animal Friends, Ahmed el-Sherbiny, submitted two questions pertaining to behavior in the slaughterhouse and to the long-distance transport of animals for slaughter (the full text of the fatwa is included as an attachment to this paper):

Question 1

Some of the people who slaughter animals and prepare the meat for consumers in the slaughterhouses commit cruel and violent acts with the aim of debilitating the animal so that they are able to control the animal. These acts include gouging the eye of the animal, cutting the tail, cutting a tendon of the legs, and piercing its body with a knife so that it bleeds and loses strength, all of which are done to control the animal with the least amount of human effort. What is the view of Islamic law on this?

Question 2

During long-distance transport between the countries of animals' rearing and the countries of their slaughter, the animals are exposed to all types of cruelty, such as hunger, thirst, and severe crowding. These types of cruelty lead to the death of some of them or their affliction with deadly diseases that affect the animal's surroundings and their meat. These results could be transmitted to human health. What is the rule of Islamic law on this? And what are the correct Islamic legal ways of transporting animals, from the perspective of the length of time and the care that must be provided to them?

In 2008, Shaikh Tantawi answered the questions at some length, concluding in the case of the first question that "any action incompatible with kindness to animals or treating them any way other than with mercy at the time of slaughter—such as in the manners mentioned in detail in the question—is a forbidden and sinful act, and is inconsistent with the kindness to animals that

Islam requires.” As for the second question, he concluded that “Causing pain to the animal during transport as described in the letter is considered an action prohibited and forbidden in Islamic law.”

The challenge for the Egyptian activists was how to use this fatwa, which clearly supported their positions. Sherbiny was able to persuade the Egyptian authorities to allow his group to offer some training sessions in the slaughterhouses, but to little tangible results. The Egyptian government pointed to the training as a reason that Australia should resume its exports to Egypt, although the activists knew that nothing had actually changed. Ultimately, the problems of the slaughterhouses proved too complex and entrenched for the Egyptian animal groups to tackle. After the revolution, a government veterinarian with a supervisory position in the slaughterhouses became a “whistle blower” and has undertaken his own campaign to expose slaughterhouse abuses on the grounds that the treatment of the animals means that the meat is not halal.

Appeals to the first Constitutional Drafting Committee

The activists have been seeking, unsuccessfully, a comprehensive animal law since the early 2000s. When the first constitutional drafting commission was formed, some of the activists thought of appealing to it; if they could not manage to pass an animal welfare law, why not go straight to the constitution, they thought. Dina Zulficar began these efforts with an individual vigil in front of the Shura Council where the drafting commission was meeting. Her

large green placards contained the well-known Quranic verse, “There is not an animal on earth, nor a being that flies on its wings, but [forms part of] communities like you.”⁶

The first constitutional drafting commission was selected by the first People’s Assembly elected after the revolution. That body was heavily dominated by the combination of the Muslim Brotherhood’s Freedom and Justice Party and the Salafist Nur Party, and the drafting commission reflected their influence. Dina Zulficar approached the Nur Party and found several receptive members; she held meetings with them, the Freedom and Justice Party, the Wafd, and anyone else she could gather. Brooke Hospital and the Egyptian presence of the UK organization Donkey Sanctuary also participated.⁷

Zulficar’s group looked at examples from other countries, notably India, but thought that the language was vague. They drafted their own proposed article:

The state confirms that animals are creatures with rights as living beings; they are not things. To preserve animal resources of different kinds, the state through its legislation ensures the availability of basic rights to animals. And this is done in a way that will fulfill human benefits from them while also providing protection, care, and kindness (*al-rifq*) in dealing with them, according to what the relevant laws provide and according to the Islamic Sharia and international treaties and agreements.⁸

This language reflects the range of interests of the participants in the drafting. Animals are recognized as living creatures with their own rights, but they are also explicitly recognized as

⁶ Quran 6:38. Zulficar participated in a conversation on the television program al-Mihwar on Nov. 14, 2012, where she stated that the Quran provides all of the justification ever needed to recognize the interests of animals in the constitution.

⁷ Interview with Dina Zulficar, March 17, 2014.

⁸ Interview with Dina Zulficar, March 17, 2014.

instruments that humans may use, as long as they are used humanely. The article rests on three standards for the treatment of animals: Egyptian laws that will be drafted (recognizing that the existing laws are inadequate), Islamic law, and international agreements.

This proposal was submitted on Brooke Hospital letterhead to the drafting commission, but ultimately no language reflected animal interests in the 2012 constitution, which was adopted in a public referendum and went into force on December 26, 2012. Article 15 references the state's role in the growth of animal stocks, but without any mention of animals as deserving of protection for their own sake. Dina Zulficar commented on this result: "We are in a crisis and what has happened is a joke. ... How can a country want to advance and write a respectful constitution and not pay attention to a matter of this importance?"⁹ She attributed the failure to the lack of enthusiasm by the Freedom and Justice Party. She commented that the Nur party was much more enthusiastic because they believed animal welfare to be required by Islamic law.¹⁰ In her view, the Freedom and Justice Party was more interested in pragmatic politics and did not see the value of such a clause.¹¹

Appeals to the Committee of 50

The 2012 constitution did not last long. President Morsi was ousted in July 2013 and the new interim President, Adly Mansur, selected a committee of 50 to amend the constitution. The

⁹ Even the Cats and Dogs Demand a Provision to Meow and Bark in the Constitution, El-Watan News, Nov. 25, 2013.

¹⁰ A number of the Salafi deputies proposed to add articles specifically dealing with the rights of animals, and emphasized that Islam and the other heavenly religions have encouraged kindness to animals. The Salafis Suggest Adding a Provision on Animal Rights, Masress, Aug. 28, 2012, available at <http://www.masress.com/egyptpress/16692>.

¹¹ Interview with Dina Zulficar, March 17, 2014.

activists saw another chance to influence the process. Dina Zulficar's group submitted its proposal to the committee, and heard nothing more than an acknowledgement that it had been received.

At this juncture, SPARE's Amina Abaza decided to make her own appeal. She prepared a draft article focusing on Egypt's compliance with its international agreements dealing with animals: "The state is required to adhere to all of the international agreements and conventions that it has ratified regarding *al-rifq bi-l-hayawan* as part of achieving rights for animals, and the citizens of Egypt are also required to adhere to them." In drafting this language, Abaza assumed that it would still be difficult to get a good domestic animal protection law for some time, and that persuading the Egyptian government to implement its international agreements would be a major advance for the cause. In particular, she had in mind the Convention on International Trade in Endangered Species (CITES) and the requirements of the World Organization for Animal Health (OIE). Abaza collected 10,000 signatures in support of her draft proposal, but initially was not sure how to capture the attention of the drafters.¹²

Due to her political involvement on issues including rights for women and Coptic Christians, Abaza was invited by Committee of 50 member Mervet El-Talawy, who is also the Chairperson of the National Council for Women, to a conference on women's rights. At that time, Abaza was still very upset by murders that had taken place on the Saqqara Road in Shubramant, where the SPARE shelter is located. She has worked for more than a decade to

¹² E-mail correspondence with Amina Abaza, March 15, 2014.

stop the animal abuse she constantly witnesses in the area and to teach people about kindness to animals, and is very invested in the welfare of the community surrounding her shelter.¹³

On June 23, 2013, four Shia men were attacked and killed on the Saqqara Road. According to reports, “a large group of villagers surrounded the house of a local Shia Muslim resident ... where a religious ceremony was being held. ... According to eyewitnesses, villagers forced their way into the house, breaking down the roof, doors and windows. Using sticks and knives, they beat and stabbed some individuals, dragged them along the ground and attempted to set the house on fire.”¹⁴

At the conference on women’s rights, Abaza began her talk with this report and went on to link abuse against humans to abuse against animals. To tie this to the topic of the conference, she highlighted that women and children are the most common victims of abuse in Egyptian society. She said, “We are an animal welfare organization. We have worked for years in this street, helping the poor farmers, giving out religious books, speaking about God and the Prophet and how the Prophet was kind to animals, trying to send a message of compassion, trying to talk to people about kindness and religion, and this is the result! The same people who tortured animals in our area and our street did the same to the four Shia.” She went on to blame herself: “It seems we had not been courageous enough to deliver our message [of compassion] strongly. Cruelty towards animals ended up with humans.”¹⁵

The reaction to Abaza’s speech was so positive that she was invited to speak to the Committee of 50 in the discussion of women’s rights. According to Abaza, she was worried

¹³ E-mail correspondence with Amina Abaza, March 8, 2014.

¹⁴ Amnesty International, “Egypt: President Morsi must send clear message against attacks on Shia Muslims,” June 24, 2013.

¹⁵ E-mail correspondence with Amina Abaza, March 8, 2014.

about being ridiculed for discussing animals alongside women's rights. She gave the same speech, adding at the end: "it is time to teach people and kids to respect life." Egypt should take animal welfare seriously, she said, and also respect agreements on that topic with the European Union and OIE. According to Abaza, the reaction to her speech was very positive, with the exception of the head of a woman's association. Amina told her afterwards: "Remember El Torbini who raped and killed more than 60 homeless kids? He started with cats—he was a cat abuser."¹⁶ Abaza typically relied on Islamic arguments when making the case for animal welfare in Egypt, but took a different approach when talking to the Committee of 50. Emphasizing scientific evidence about the link between animal abuse and human abuse would be more effective, she believed, and she also wanted to avoid the "Islamic hysteria" that she perceived in the era of President Morsi.¹⁷

Committee of 50 Spokesperson Mohamed Salmawy was interviewed not long after Abaza's speech to the Committee and spoke positively of her suggestions regarding animals. He repeated her claim of the link between violence against animals and humans: "The point of view of Amina and her group is very good because they say that violence in society—at a time when we are combatting violence and terrorism—begins with treating animals with cruelty. For people became used to cruelty in this way. If people get used to treating animals kindly, they will be kind to humans also."¹⁸

A news report later summarized her participation: "Amina Abaza ... suggested to the Committee of 50 to amend the constitution to include a number of provisions to ensure the

¹⁶ E-mail correspondence with Amina Abaza, March 8, 2014.

¹⁷ E-mail correspondence with Amina Abaza, March 7, 2014.

¹⁸ Akhar al-Nahar, [DATE?], available at <http://www.youtube.com/watch?v=DSEUSOWV0jo>

protection of animal rights in Egypt. She said that the most important of these demands is that the state be required to implement all of the international agreements related to kindness to animals, and to criminalize and increase the punishment for violence against God's creatures, human and non-human. Whereas violence against them—what is it but the introduction to forming a sadistic personality who will carry out transgressions towards society and is characterized by depravity towards both people and animals equally.”¹⁹

However, the language regarding animals that the Committee of 50 included in Article 45 fell far short of the proposals submitted by the activists. Article 45 in the 2012 constitution focused on the Nile and the protection of water resources more generally. In the amendment process, the Committee of 50 gave the River Nile its own article, Article 44, and Article 45 became a catch-all article for other water resources, animal resources, and animal welfare, with a lukewarm obligation on the state to provide for “*al-rifq bi-l-hayawan*.” This phrase is often translated as the prevention of cruelty to animals, because this is a common English formulation, as in the “Society for the Prevention of Cruelty to Animals,” but this is not accurate. It connotes both kindness to animals or humane treatment of animals—the promotion of something positive—as well as the prevention of harm. The Brooke Hospital proposal used the term “*rifq*” in the sense of kindness in dealing with animals, but began its proposed article with the stronger assertion that animals have rights (*huquq*), and Abaza's proposal also used the phrase “*al-rifq bi-l-hayawan*” in the context of achieving rights (*huquq*) for animals.

The phrase “*al-rifq bi-l-hayawan*” has deep roots in Islamic legal texts. The medieval author Sakhawi (d. 1497), for example, wrote a book on the rulings of *al-rifq bi-l-hayawan* in the

¹⁹ Animal Rights are in the Constitution alongside Human Rights, Copts United, Oct, 13, 2013, available at <http://www.copts-united.com/article.php?I=392&A=114303>.

Prophetic Hadith, for example. According to ESMA Chairperson Mona Khalil, the Committee of 50 was persuaded that some mention of protection for animals should be in the constitution, and they took the least controversial path of doing so. “Since ‘*al-rifq bi-l-hayawan*’ has a clear religious connotation, no one can object to it,” she said. By using this language, the Committee of 50 was insuring itself against attacks of adopting western priorities or frivolous concerns, she speculated. Khalil also commented that the Committee was careful to place attention to animals on a far lower scale than humans by the contrasting “*al-rifq*” for animals and “*huquq*” for humans.²⁰

The media response to the issue of animal protection in the constitution has not been significant. In the 2012 process, an article addressed the questions of priorities directly: “Many have asked what is the point of this now? Have we finished drafting what we need for human rights so that we can ask what is needed for animal rights? The truth is that the two are related and both are needed for a civilized society.”²¹

During the drafting process for the 2014 constitution, one article summarized the ways in which politicians and activists had “made fun of the attention in the constitution to animals and plants,” commenting that this attention came at the same time as the new law on demonstrations that threatened human rights.²² And about the same time, another article in al-Wafd took the opposite perspective: “Why doesn’t the constitution include an article on kindness to animals to protect them? Islam is the religion of the state and Islam is very attentive to kindness to

²⁰ Interview with Mona Khalil, March 18, 2014.

²¹ Animal Rights: Only on Facebook, Ahram Editorial, Feb. 2, 2012, available at <http://digital.ahram.org.eg/articles.aspx?Serial=1081621&eid=461>.

²² “The New Egyptian Constitution Protects the Rights of Animals and Plants,” Erem News, Nov. 29, 2013.

animals.” The article then cited several of the most famous hadith on kindness to animals, and added that “animals are partners in achieving economic growth, especially in the countryside.”²³

The activists all view Article 45 as a victory even as they recognize that the language is weak. The content of “*al-rifq bi-l-hayawan*” is unclear and there is no clear obligation on behalf of the state. But their cause has been endorsed in the constitution, and that gives them a new argument when talking about their work in any context. Prior to the revolution, Amina Abaza and Mona Khalil in particular were sometimes invited for radio or television interviews, and they rightly expected that the interviewer might take a condescending or sarcastic tone. Over time, they were able to establish themselves as serious activists with worthy goals, but there was always the possibility that denigrating their project would be the interviewer’s aim. Now, Abaza says, “our cause cannot be ridiculed anymore.”²⁴ Most activists agree that the next important step is to press for a comprehensive animal welfare law after parliamentary elections, but recognize that they have to be sensitive in their approach. Everyone is in “such a state of tension” and we do not want to lose any of the widespread support we have gained, said Khalil.²⁵

Conclusions

The conversations and debates around the Egyptian constitutional provision for animals are taking place at the intersection of Islamic law, governance, and development. The Egyptian

²³ Animal Rights, Al-Wafd, Nov. 9, 2013, available at <http://www.alwafd.org/%D9%85%D9%82%D8%A7%D9%84%D8%A7%D8%AA-%D8%A7%D9%84%D8%B1%D8%A3%D9%89/263-%D9%85%D8%AD%D9%85%D9%88%D8%AF-%D8%BA%D9%84%D8%A7%D8%A8/569136-%D8%AD%D9%82%D9%88%D9%82-%D8%A7%D9%84%D8%AD%D9%8A%D9%88%D8%A7%D9%86>.

²⁴ E-mail correspondence with Amina Abaza, March 7, 2014.

²⁵ Interview with Mona Khalil, March 18, 2014

animal activists who fought for some kind constitutional recognition all believe that better protection for animals is a key component of the country's development. The protection might be for the sake of the individual animals, as sentient creatures, or it might be more instrumental, as in the argument that animal abuse leads to human abuse. In terms of governance, they believe that the state has been committed negligence and malfeasance in its duty to protect the animals in the country. In the absence of adequate laws and adequate law enforcement, they decided to appeal to the constitutional drafting committees, in the hopes that the constitutional language will then lead to parliamentary willingness to adopt laws. And they all believe that Islamic law contains ample support for the concept of kindness to animals and even animal rights, and that this body of rules should be influential in this context.

Abaza's choice to deemphasize Islamic law in her presentation to the Committee of 50 reflected both her own feelings of frustration with the excessive attention to Islamic arguments in the Morsi era and a strategic choice about how to best capture the attention of the Committee. The Committee members may have been persuaded by her argument that abuse of animals leads to abuse of humans, but they did not adopt the full article on the protection of animals that she suggested. It seems that the Committee was willing to acknowledge the independent interests of animals in the constitution, but only in the least controversial way possible.

FATWA ON SLAUGHTER AND LONG-DISTANCE TRANSPORTATION

[Document One: Letter from Ahmed el-Sherbiny to Shaikh Tantawy]

Egyptian Society of Animal Friends

Communication 2798 of year 2006

In the name of God, the Most Compassionate and Most Merciful

His Excellency Dr. Muhammad Sayyid Tantawy

Shaikh of Azhar

May God protect Him

God's Peace, Blessing and Mercy upon You:

It is well-known that Islam has called for kindness to animals, and has made human beings responsible for caring for them in order that animals remain beneficial for humans and do not turn into a source of danger to life and health. This Islamic care for animals stands out as one of the aspects of Islamic civilization that is concerned with animals and humans alike.

In a time when Islam is subjected to these unjust attacks that accuse it of aggressiveness, wanton disregard for human life, and destruction of the environment, highlighting Islam's concern with kindness to animals is regarded an effective subject area through which to defend against many of these wrongful accusations.

In order to achieve this lofty goal, we submit to Your Excellence two questions that call for correct answers according to Islamic law, so that the West is able to be informed of the civilized face of Islam on the matter of kindness to animals. Because these two questions are related to

violent and incorrect Islamic practices in the treatment of animals, from which one could understand that they are part of Islam, Islam could be insulted as a result.

These two questions are:

Question 1

Some of the people who slaughter animals and prepare the meat for consumers in the slaughterhouses commit cruel and violent acts with the aim of debilitating the animal so that they are able to control the animal. These acts include gouging the eye of the animal, cutting the tail, cutting a tendon of the legs, and piercing its body with a knife so that it bleeds and loses strength, all of which are done to control the animal with the least amount of human effort. What is the view of Islamic law on this?

Question 2

During long-distance transport between the countries of animals' rearing and the countries of their slaughter, the animals are exposed to all types of cruelty, such as hunger, thirst, and severe crowding. These types of cruelty lead to the death of some of them or their affliction with deadly diseases that affect the animal's surroundings and their meat. These results could be transmitted to human health. What is the rule of Islamic law on this? And what are the correct Islamic legal ways of transporting animals, from the perspective of the length of time and the care that must be provided to them?

May God give you success in serving Islam and the Muslims.

Sincerely,

Ahmed el-Sherbiny

Attorney at Law

Chairperson of the Egyptian Society of Animal Friends

[Document Two: Shaikh Tantawi's reply to Ahmed el-Sherbiny]

In the Name of God, Most Compassionate and Most Merciful

Thanks to God, and prayers and peace upon the noblest of God's messengers, Muhammad b. Abdullah, and God' prayers be upon Him, His family, His companions, upon whomever has followed them to the Day of Judgment, and upon all of the Prophetic Messengers.

Mr. Ahmed el-Sherbiny, lawyer before the Court of Cassation and Chairman of the Egyptian Society for Animal Friends, has presented a letter that includes a request for a legal opinion on two matters. The first matter deals with those people who torture an animal at its slaughter by committing acts that are contradictory with treatment with mercy. The second matter deals with long-distance transport of animals from one country to another by means that do not provide for the animal's safety or its kind treatment, in the method described in detail in the letter.

First:

Islamic law requires that the animal at the time of its slaughter must be treated with kindness and with procedures that guarantee to it mercy. All of this is covered by the beneficence that the Prophet (God's peace and blessings upon Him) ordered in his authenticated saying: "God has ordered beneficence in everything, so if you kill, be as kind as possible in the killing, and if you slaughter, be as kind as possible in the slaughtering. One of you should sharpen your knife and one should make the animal be slaughtered comfortable." (Related by Muslim). This saying of the Prophet proves that slaughter must be done with kindness and mercy to the animal, and is part of the meaning conveyed by the required beneficence pronounced in the saying.

Kindness and mercy to the animal is also understood from the requirement of sharpness of the knife that will be used in the slaughter, so that the animal is not pained by slaughter with a dull instrument. This is also what He (God's peace and blessings upon Him) clearly shows in His saying "one should make the animal comfortable." Fulfilling this order requires doing everything that makes the animal comfortable at the time of slaughter.

Many authenticated sayings of the Prophet show the prohibition on undertaking to sharpen or hone the instrument of slaughter in front of the animal to be slaughtered. The Prophet (God's peace and blessings upon Him) saw a man sharpening his knife in front of the animal that was going to be slaughtered, and the Prophet forbade that, and said to the man: "Do you want to slaughter the animal twice—once by sharpening the knife in front of the animal, and the second time by cutting its throat?"

Imam Ali (May God be pleased with him) also forbade slaughtering a sheep in front of the other sheep or any other animal, so that the animal's perceptions are not harmed at the last moment of its life.

All of this proof clearly shows that any action incompatible with kindness to animals or treating them any way other than with mercy at the time of slaughter—such as in the manners mentioned in detail in the question—is a forbidden and sinful act, and is inconsistent with the kindness to animals that Islam requires. This is the answer to the first question.

Second:

With regard to the second question, we advise that Islam's call for kindness to animals and for treating them with mercy applies to all of the situations in which this mercy is necessary. This includes transporting animals. The transport must be done in a way that is comfortable and that ensures the animal's safety. The means of transport must protect against the causing of pain to the animal, threat to the life of the animal, or affliction of the animal with diseases contagious to humans or others. This rule is inferred from the saying of the Prophet, God's peace and blessings upon Him, that "Humans have the chance to perform a charitable act in their treatment of every living being." And also in His saying, Peace be upon Him: "A woman went to hell because of a cat that she had confined without leaving it any food, or allowing the cat access to bugs or fruits of the earth to eat." These two sayings of the Prophet, and others like them, show that the treatment of animals must be based upon the principle of mercy in every situation, including in the transport of them from one place to another.

Causing pain to the animal during transport as described in the letter is considered an action prohibited and forbidden in Islamic law, assuming, of course, that the situation is as described in the question.

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God knows best and is most supreme.

Chief Imam and Shaikh of al-Azhar

Dr. Muhammad Sayyid Tantawi

signed April 24, 2008