

Regulations on Animal Rights in the Ottoman Empire and Punishment for Actions Against Animals

Alev OZEROGLU (1)

(1) Department of Criminal and Criminal Procedure Law, Faculty of Law,
Ozyegin University, TR-34794 İstanbul- Turkiye

ABSTRACT

It is seen that the institutions allocated for animals in the Ottoman Empire and the regulations for the protection of animals displayed an attitude ahead of their time and the importance given to animals is clearly seen in the edicts, regulations and practices of these regulations. One of the important documents in terms of animal rights regulations, III. The edict (firman) of the reign of Murad III is important in that it is the first comprehensive document for the Ottoman Empire, and that it regulates animal nutrition, torture and transportation. The regulations made mostly contain details about the draft animals, and these regulations include the rules for working conditions, not tormenting animals with heavy loads and their care. The edicts issued within the scope of animal rights since this date, as well as the correspondence and practices, not only show the importance given to animals in the Ottoman Empire, but also constitute a basis for laying the foundations for animal rights studies.

KEYWORDS

Ottoman law, Animal rights, History, Crimes against animals

1. INTRODUCTION

Considering the conditions of the period, it is seen that the regulations and practices regarding the protection of animals in the Ottoman Empire were at a level that would form the basis for animal rights studies. The regulations regarding the riding animals, the rules regarding the feeding of the animals in the establishment conditions of the established foundations and the institutions established for the treatment of the animals reveal that there is an approach ahead of the period regarding the protection and treatment of animals.

When we look at the institutions dedicated to animals in the Ottoman Empire; it is seen that there are only nursing homes and hospitals dedicated to the care and treatment of animals. Cat and dog hospitals were established in Damascus, Jerusalem and Cairo for the treatment of sick animals; In Istanbul, a bird hospital in Dolmabahçe, a cat hospital in Üsküdar and a stork hospital in Bursa under the name of *Gurabahane-i Laklakan* were established, and these institutions have served for the care and treatment of animals for a long time.

In addition to animal hospitals, foundations established in the Ottoman Empire also have practices related to the care of animals, such as allocating resources for feeding animals. For example, in the Bayezid Mosque Foundation established by Bayezid II, as a condition of the foundation, there was an obligation to have an attendant to provide food for birds and dogs and an annual budget was allocated for the feeding of birds; in the Hacı İbrahim Ağa Foundation in İzmir, resources were allocated to provide food for birds; in Sivas, a portion of the income from the shops in the Sivas Bazaar was transferred for crippled birds that could not migrate; and as a condition of the Sultan Ahmed Mosque Foundation, leftover food was given to birds. In addition to animal care homes and foundations, the fact that there is a separate profession for the feeding of animals is another practice that shows the point of view towards animals in Ottoman society. The contribution of the people to the feeding of animals by giving a certain amount of money to peddlers who sell offal on poles, known as "*Mancaci*", shows the importance that the people give to the protection of animals, not only at the level of institutions and foundations, but also culturally.

2. REGULATIONS FOR ANIMALS IN THE OTTOMAN EMPIRE

It is seen that the edicts and laws regarding animals in the Ottoman Empire were mostly directed towards beasts of burden. The first document containing statements on the protection of animals was written in 1502. During the Bayezid period, there were Specialization Laws (Bursa, Istanbul and Edirne Specialization Laws) and the following expressions were used in the said document, prohibiting overloading horses, mules and donkeys: And the horse and the mule and the donkey watch the foot and see the saddle. And do not carry heavy burdens, for he is a dumb beast. If hen's kang is found to be missing, have his owner complete it. Those who do not will deal with it as it should." However, it should be noted that the first comprehensive document on animal rights in the Ottoman Empire was Sultan III. It is a document dated March 15, 1587, belonging to the period of Murat. The aforementioned edict, addressed to the *Kadi* of Istanbul, contains provisions regarding not tormenting pack animals.

On the other hand, in a law of 1680 regarding the loads to be loaded on the pack animals, "Lumbers, wood is the wood of the mule load. be six spans of a camel's

load and two and a half spans of a donkey's load. Don't find the amount close to the city and have loads of them. Don't put too much weight on the cattle, and their horses and saddles should be a crew. Deal with those who persist." arrangement stands out. In addition to the detailed rules on the carrying capacity of load animals; In 1722 and 1766, as a result of the determination that the porters did not comply with the edicts issued, edicts were issued to comply with these edicts and not to ride on them by using the load horses for transportation purposes. In the edict of 1729 to the judges of Istanbul, Üsküdar, Galata, and the Aga of the *Dergah-ı Mualla* Janissaries, it was stated that "the orders of the edict given beforehand should be obeyed so that the animals are not tortured after the horse porters have unloaded their load and the bread they carry is not insulted".

Similarly, in an edict dated 1813, previous edicts regarding not loading heavy loads on load-bearing animals, arranging the working hours of animals and not working animals on Fridays were reminded, and it was requested to comply with the specified issues. In the "Instruction given to the Police Officers and All the Police Officers in the Headquarters about the Required Police Officers, and to the Police Officers of the Headquarters" dated July 31, 1861, within the scope of the instruction given to the municipal police, injured, weak and disabled animals that cannot carry the load should not be used, Detailed rules have been brought about that there should be no nails on the saddles of the pack horses, that the pack horses and donkeys will not be ridden when they return from the load, and it has been regulated that a fine will be imposed if these rules are not followed. Within the scope of these instructions, it is stated that the police officers make the necessary inspections and stop the overloaders and reduce the excess load.

Another detailed document on the subject is dated 1877- to be dragged on the ground, to carry loads at night in streets without lighthouses, to load lagar and injured and disabled animals, and to load more than one hundred and twenty kilos into the intact load barges and sixty kilos into the donkeys". In the Instruction for Porters of 1909, the weights of the animals were determined in order to prevent torture to the pack animals and it was stated that the weight specified for each pack animal was not exceeded, and a fine would be imposed if this amount was exceeded.

In addition to the loads and working conditions of pack animals, there are also regulations regarding the protection of natural habitats and hunting. For example, in a journal entry dated 1579; In the edict issued for the judges of Üsküdar, Şile and Yoros, it was regulated that hunting in miri groves was prohibited. However, it is necessary to draw attention to two basic regulations, especially with regard to natural habitats. The Forest Regulation of 1870 and the Regulation of the Municipal Police of 1882 regulated in detail the matters related to the use of natural areas and natural assets. In particular, the Municipal Police Regulation contains detailed regulations on hunting and imposes

restrictions on both water areas and land hunting. The regulation regulates penalties such as issuing hunting permits to those who want to hunt, prison sentences, fines or confiscation of hunting equipment in case the convicts commit a crime again within 1 year. In the 1900s, there were regulations to prevent fish breeding by throwing a torpedo into the sea and to prevent the hunting of small birds useful for agriculture.

There are also records in the archives regarding the measures to be taken to prevent animals from being left in bad conditions and to prevent hunger and thirst. For example, taking the necessary action on the telegram sent by the rangers stating that the animals were starving in the Erzurum camps; some of the examples that show the measures taken by the state regarding the protection of animals are the precautions such as taking care not to squeeze and starve the mechanics and the animals purchased for the cavalry, which are kept in wagons and stations.

3. PUNISHMENT FOR ACTIONS AGAINST ANIMALS

When the actions against animals in the Ottoman Empire are considered in terms of criminal law, they are considered as actions that require the penalty of ta'zir. For example, actions such as harming a person's pet, taking actions against the fish in his pool, killing an animal, leaving it without food or water, or poisoning it require the penalty of ta'zir. In the event that these actions take place, the owner of the animal is compensated for the cost of the animal as well as a fine. Since sexual assaults against animals are not considered adultery, they are not punished with hadd. For example, in one case, the act of having sexual intercourse with an animal was punished by hard labor.

In addition to compensation for harm in acts against animals, there are also examples of beating and imprisonment for the person who committed the act. For example, in an incident in the book of mühimme dated 1572, a person who cut off an animal's ear and tail was sentenced to hard labor. In another case, it was stated that a person who drives his horse without shoes on rough roads until the evening should be given the penalty of falaka. In the records in the Ottoman State Archives, there are documents of investigation about the actions taken against animals. For example, in an incident in Muş, legal proceedings were brought against those who cut off the tails of animals; in another incident, it was decided that the person who poisoned the dog of the owner of the inn, of which he was the tenant, should be warned and removed from the house where he lived; another document included the investigation regarding the arrest of those who used to tie a tin cross to a dog's tail in Arapgir; in another case fined in Skopje in which two puppies were crushed as a result of carelessness; also in Skopje, an investigation was initiated against an Austrian who had culled a dog. It is also seen that the punishments of these people are commuted to prison sentences if the fines for the actions against animals are not paid. For example,

in one case, a prison sentence was imposed for non-payment of the fine for buying, selling or showing a shot bird at mating time.

Information about crimes against animals in the Ottoman Empire can also be obtained from the travel books of foreign travelers. For example, the foreign traveler Hans Dernschwam included some anecdotes about the application of the law in the 1540s in his memoirs.

According to Dernschwam's memoir, the governor of the Grand Viziership saw the horse with a load on its back while its owner was eating and sentenced the owner to have the hay removed and to load the horse's load on the owner. These and similar penalties were also applied in the 1600s and 1800s, and they are also included in the travel books of different travelers where the owner was given a penalty to carry the load of the horse.

4. ANIMAL RIGHTS ORGANIZATIONS

The first animal rights association in the Ottoman Empire was established under the leadership of Alice Washburn Manning under the name of Armies of Mercy, within the body of Robert College, and then the first animal rights association was established in Istanbul in 1912 as an official association, called the Society for the protection of animals. It is closely related to the establishment of the Society for the protection of animals with a grave practice that took place in 1910 regarding animals. The incident, known as the "The Hayirsizada incident", in 1910, when the stray dogs in Istanbul were collected and sent to Hayirsizada (also known as Sivriada or Oxia) in the Marmara Sea, is a grave event that led to the emergence of criticisms against animal rights. In the same year, the organization of bullfights in the acrobat in Taksim is another event that accelerated the establishment of the association.

After these grave events, the Society for the protection of animals was established within the Beyoğlu Municipality, known as the Sixth Department. As stated in the second article of the regulation of the society, the purpose of the society is; It is expressed as preventing injustice against animals, awakening the feelings of kindness and justice in children towards animals, and trying to develop laws to be enacted in this regard by ensuring the implementation of the regulations on the protection of animals. The aforementioned society was re-established as "Turkey Animal Protection Association" after the establishment of the Republic and continued its activities.

CONCLUSION

Considering the conditions of the period regarding the regulations regarding the pack animals in the Ottoman Empire, the rules regarding the excessive load carrying of pack and riding animals, and the improvement of their care and feeding conditions show the value given to the animals. The institutions

established for the care and treatment of animals and the practices related to the protection of animals were also recorded in the travel books written by foreign travelers, and these records reveal the perspective of animals in the Ottoman Empire; At the same time, it reveals that the protection of animals is not limited to legal regulations, but that this is the point of view of the society. In terms of criminal law, penalizing acts of cruelty and injury against animals and including regulations on hunting expresses an understanding that not only animals of burden and passenger carriage, but also domestic animals and other living creatures in the natural life want to be protected.

The regulations and practices regarding animal rights in the Ottoman Empire are, of course, not sufficient when considered in terms of modern animal rights understanding today. However, considering the date and conditions in which the regulations were made, it is striking that animals were wanted to be protected from a very advanced point of view even for that period, and these practices constitute an important basis for animal rights studies applied today. The regulations and practices regarding animal rights in the Ottoman Empire are, of course, not sufficient when considered in terms of modern animal rights understanding today. However, considering the date and conditions in which the regulations were made, it is striking that animals were wanted to be protected from a very advanced point of view even for that period, and these practices constitute an important basis for animal rights studies applied today.

REFERENCES

- [1] Aydın, A. (2006). Çoruh Vadisi (Tao) ve Oltu'nun Osmanlı Hâkimiyetine Girmesi, Atatürk Üniversitesi Sosyal Bilimler Enstitüsü Dergisi, VII/ I, pp. 205-221
- [2] Aksulu, M. (2013). Yeni Toplumsal Hareketler: Türkiye'de Hayvan Hakları Savunuculuğu ve Sosyal Medya (Yüksek Lisans Tezi), Maltepe University Institute of Social Sciences.
- [3] Altınbaş, M. (2021). Osmanlı Devleti'nde Çevre Hukukuna İlişkin Düzenleme ve Uygulamalar, International Social Sciences Studies, C: 7, S: 89, pp. 4672- 4679.
- [4] Alvan, T. (2014). Devrinden Seyrine Sultan III. Murad'ın Kitâbü'l-Menâmât'taki Mektuplarına Dair Bazı Tespitler, FSM İlmî Araştırmalar İnsan ve Toplum Bilimleri Dergisi, S: 3, pp. 27- 60.

- [5] Çetin, F. (2010). XVI. Asır Alman Seyyahlarına Göre Osmanlı Toplumu (Müslüman Davranış ve Törenleri ile Dini Mekanizmalar), Vakıflar Dergisi, S: 34, pp. 19- 33.
- [6] Demiray, K. (2019). Alman Seyyahların Gözüyle İstanbul'da Sosyal ve Kültürel Hayat (1808- 1918)"(Yüksek Lisans Tezi), Istanbul University Institute of Social Sciences.
- [7] Dodurka, T. (2007). Geçmişten Günümüze Avrupa Ülkeleri ve Türkiye'de Hayvan Hakları, <https://www.yedikulehayvanbarinagi.com/prof-dr-tamer-dodurka/gecmisten-gunumuze-avrupa-ulkeleri-ve-turkiye-de-hayvan-haklari/1/156> (Erişim Tarihi: 07. 12. 2023).
- [8] Işın, M. (2008). Yabancı Seyahatnamelere Göre Osmanlı Kültüründe Hayvan Hakları ve Hayvan Sevgisi, II. Ulusal Veteriner Hekimliği Tarihi ve Mesleki Etik Sempozyumu Bildiriler Kitabı, pp. 185- 194.
- [9] Kılıç, D. A. & Şahin E. & Çalışkan, S. (2022). Osmanlı Arşiv Belgeleri Işığında Çevre, Şehir ve İnsan: T.C. Çevre, şehir ve İklim Değişikliği Bakanlığı, 2022.
- [10] Kızılay, M. E. (2021). Osmanlı Devleti'nde Cinsel Saldırı Suçları: 1869 Vakayii Zabtiye Gazetesi Örneği", Din Bilimleri Akademik Araştırma Dergisi, C: 21, S: 2, pp. 987- 1018.
- [11] Kızılkaya, N. (2020). Be Gentle to Them: Animal Welfare and the Protection of Draft Animals in the Ottoman Fatwa Literature and Legislation, Religions, C: 11, S: 10, pp. 538- 552.
- [12] Koç, B. (2009). Tanzimat Sonrası Hukuk Metinlerinde Av Yasakları, Çevrimiçi Tematik Türkoloji Dergisi, C: 1, S:1.
- [13] Melikoğlu, B. (2009). Türkiye'de Kurulan İlk Hayvanları Koruma Derneğinin Tarihsel Gelişimi, Veteriner Hekimler Derneği Dergisi, pp. 37- 44.
- [14] Menekşe, M. (2022). "Osmanlı Medeniyetinde Hayvan Sevgisinin Mesleğe Dönüşümü: Mancacılık, Süleyman Demirel Üniversitesi Fen-Edebiyat Fakültesi Sosyal Bilimler Dergisi, S: 55, 2022, pp. 84- 101.
- [15] Menekşe, M. (2018). Batılı Seyyahlar Gözünden Osmanlı İstanbul'unda 'Köpekler'", Social Sciences Studies Journal, C: 4, S: 28, 2018, pp. 6321- 6334.

- [16] Menteş Gürler, A. & Osmanağaoğlu, Ş. (2009). Türkiye’de Hayvanları Koruma Kanununun Tarihsel Gelişimi, Kafkas Üniversitesi Veterinerlik Fakültesi Dergisi, C: 15, S: 3, 325- 330.
- [17] Özbilgen, E. (1999). Hayvanların Hakları in: Sungurbey, İsmet, Hayvan Hakları- Bir İnsanlık Kitabı, Maltepe Üniversitesi Hukuk Fakültesi Yayınları, No: 4, pp. 987- 989.
- [18] Özen, A. (2023). Hayırsız Ada Katliamına Peter Singer Üzerinden Bakış: İnsanmerkezciliğin Eleştirisi (Yüksek Lisans Tezi), Uludağ Üniversitesi Sosyal Bilimler Enstitüsü.
- [19] Sarıcık, M. (1999). III. Murad Devrinden Hayvan Haklarıyla İlgili Bir Ferman, Süleyman Demirel Üniversitesi İlahiyat Fakültesi Dergisi, S: 6, pp. 69- 78.
- [20] Sunar, Mert M.: “Hayvanlar”, Osmanlı İmparatorluğunda Çevre ve Şehir, 2015, s. 113- 153.
- [21] Sungurbey, İ. (1999). Hayvan Hakları- Bir İnsanlık Kitabı, Maltepe Üniversitesi Hukuk Fakültesi Yayınları, No: 4.
- [22] Tandoğan, O. (2022). “Bağlamında Sokak Hayvanlarının Değişen Statüsü, Kent Akademisi, C: 15, S: 4, pp. 1884- 1905.
- [23] Tekeli, İ. (2017). Yabancı Seyyahların Gözüyle Osmanlı Toplumunda Suç ve Ceza, Osmanlı Mirası Araştırmaları Dergisi, C: 4, S: 8, pp. 183- 202.
- [24] Toklucu, M. (2022). Yirminci Yüzyılda İstanbul’da Sokak Hayvanları ve Hayvanseverlik Üzerine Notlar, Hayvan Hakları Tarihi ve Türkiye, İstanbul Büyükşehir Belediyesi, 272- 297.
- [25] von Moltke, Helmuth: Türkiye’deki Durum ve Olaylar Üzerine Mektuplar (1835- 1839) (Çev.: Hayrullah Örs), İş Bankası Yay., Ankara, 1960.
- [26] Yaşar, A. & Yerlikaya, H. (2004). Dünya’da ve Türkiye’de Hayvan Haklarının Tarihsel Gelişimi, Veteriner Bilimleri Dergisi, C: 20, S: 4, pp. 39- 46.
- [27] Yediyıldız, M. A. (2008). Osmanlı Toplumunu ve Çevre, Uludağ Üniversitesi İlahiyat Fakültesi Dergisi, C: 17, S: 2, pp. 147- 158.

References of Archive Documents

BOA.A.DVNSMHM.d. 135/1391.
A.DVNSMHM.d 136/846 (H-29-02-1143).
BOA. DH. MUİ. 50/1.
BOA.MD.d.no 69, h.no. 22.
BOA. DH. MKT. 1671/66 (H-08-03-1307).
BOA, DH.MKŞ, 14/1; BOA, DH.İ.U, 19-14/1.
BOA. DH.MKT., 187/28 (H-14-06-1311).
BOA. Y. PRK. BŞK., 50/45 (H-02-10-1314).
BOA. DH. MKT., 865/107 (H-18-04-1322).
BOA.MD.d.no 12.h.no 977.
BOA. DH. TMİ. K. M., 9/73 (H-29-01-1314); BOA. HR. SFR. 1, 182/8 (M- 22-07-1896).
BOA. MKT. MVL. 29/61 (H-11-09-1266).
BOA. Y.A. HUS. 256/16 (H-03-07-1309).
BOA. YB. 021, 109/9 (R- 24-06-1321).
BOA. HR. HMS. İŞO. 11/24 (R- 21-05-1328).