

**AN APPRAISAL OF THE CONCEPT OF ANIMALS PROTECTION AND ITS
APPLICATION UNDER STATUTORY AND ISLAMIC LAWS IN NIGERIA:
A CASE STUDY OF SOKOTO AND ZAMFARA STATES**

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MARCH, 2021

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**DEPARTMENT OF PUBLIC LAW,
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MARCH, 2021

DECLARATION

I declare that the work in this thesis entitled: AN APPRAISAL OF THE CONCEPT OF ANIMAL PROTECTION AND ITS APPLICATION UNDER STATUTORY AND ISLAMIC LAWS IN NIGERIAN: A CASE STUDY OF SOKOTO AND ZAMFARA STATES has been carried out by me in the Department of Public Law. The information derived from the thesis has been duly acknowledged in the text and a reference list provided therein. No part of this thesis has been previously presented for any other program in this or any other institution.

Isiyaku Aliyu Abdullahi
Name of Student

Signature

Date

CERTIFICATION

This thesis entitled AN APPRAISAL OF THE CONCEPT OF ANIMAL PROTECTION AND ITS APPLICATION UNDER STATUTORY AND ISLAMIC LAWS IN NIGERIAN: A CASE STUDY OF SOKOTO AND ZAMFARA STATES by Isiyaku Aliyu ABDULLAHI meets the regulations governing the award of the Degree of Master of Laws-LL.M of the Ahmadu Bello University, Zaria and is approved for its contribution to knowledge and literary presentation.

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DEDICATION

This work is dedicated to All-Wise and Almighty Allah, the source of all true wisdom and provider of best protection, for making things possible for me and to my family members for their love and support.

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TABLE OF CASES

	Pages
FOREIGN CASES	
Garrison vs. Anderson (1986) C.C.h - - - - -	24
Lawson vs. Emerson Inc. Ltd. (2007) H. 121 KB - - - - -	26
Preston vs. Mayer (1984) KB – H.ch. 239 - - - - -	26
Pendlton vs. Lucky Organization (1938) 170 VG 95 - - - - -	26
Tillery vs. Grook (1957) SW 29 - - - - -	26
Tyson vs. Madison (1899) Ch. 23 A39 - - - - -	62
Naryanv v. Union of Indian &ors (unreported) Case No. Fh. 235 App. - - - - -	27
LOCAL CASES	
Amara vs. Nkoli (2012) 5 NWLR (Pt. 567) 345 - - - - -	62
C. O. P. vs. MaigwanduAmiru& 5 Ors Case No. USC/CR/S/(2001) - - - - -	76
Muyiwa vs. Atoba (1976) 2 NWLR, Pt. 321, - - - - -	75
R. vs. Olume (1946) WACA, Vol. 5, 890 - - - - -	75

TABLE OF STATUTES

	Pages
FOREIGN STATUTES	
Abandonment of Animal Act (UK) 1960 - - - - -	19
Animal Boarding Establishment Act 1963 - - - - -	19
Anti Cruelty Act, (USA) 1925 - - - - -	25
Animal Welfare Act (USA) 1970 - - - - -	19,24,25,33
Animal Disease Control Act (UK) (1947) - - - - -	25
Animal Welfare Act, (UK) 2007 - - - - -	19
Animal Protection Act, (UK) 1911 - - - - -	19
Animal Preservation Act, (UK) 1913 - - - - -	19
Bleedings of Dogs Act, (UK) 1973 - - - - -	19
Bleedings and Sale of Dogs (Welfare) Act, (UK) 1999 - - - - -	19
Dangerous Wild Animal Act, (UK) 1976 - - - - -	19
Furriers (Registration) Act (UK) 1975 - - - - -	19
Performing (Regulation) Act, (UK) 1925 - - - - -	19
Pet Animal Act (UK) 1952 - - - - -	19
Protection against Cruel Tethering Act (UK) 1988 - - - - -	19
Prevention and Control of Animal Cruelty Act, (UK) 1911 - - - - -	19
Riding Animal Act (UK) 1964 and 1970 - - - - -	19
Wild Animal Preservation Act (UK) 1935 - - - - -	19
Veterinary Act (UK) 1976 - - - - -	19
Zoo License Act (UK), 1981 - - - - -	19

LOCAL STATUTES

Constitution of the Federal Republic of Nigeria 1999 (as amended) -	-	62, 63
Animal Disease (Prevention and Control) Ordinance (1941)-	-	34
Animal Diseases (Control and Prevention) Law of Sokoto State, 1995	-	72
Criminal Code Ordinance, 1906	- - - - -	20,24,62,64
Endangered Species Act, Cap E 12, Laws of the Federation, 2004	-	73
Federal Environmental Protection Act, Cap F 10, Laws of the Federation, 2004		74
Hides and Skin Act, Cap H 3, Laws of the Federation, 2004	- - -	73
Interpretation Act of the 1945-	- - - - -	74
Kainji, Lake National Park Act Cap K 197, Laws of the Federation, 2004	-	74
Land Use Act, Cap L5, Laws of the Federation, 2004	- - -	74
Live Fish (Control of Importation) Act, Cap L 27, Laws of the Federation, 2004	-	73
Local Government Law of Sokoto State, 1996	- - - - -	72
National Park Act, CAP N 23, LFN 2004	- - - - -	70
National Crop Varieties and Life Stock Act, Cap N 17, Laws of the Federation, 2004	- - - - -	73
Penal Code 1960	- - - - -	20, 68, 75
Pest (Control and Produce) Act, Cap P9, Laws of the Federation, 2004	-	73
Quarantine Act, Cap Q 2, Laws of the Federation, 2004-	- - -	73
River Basin Development Authority Act Cap R9, Laws of the Federation, 2004	- - - - -	74
Sea Fisheries Act, Cap S 54, Laws of the Federation, 2004 --	- -	74

Sharia Penal Code Law of Sokoto State, 2000	-	-	-	-	69, 70
Supreme Court Ordinance of 1900	-	-	-	-	61
Territorial Water Act, Cap T 5, Laws of the Federation, 2004	-	-	-	-	74
Veterinary Surgeon Act, Cap V3, Laws of the Federation, 2004	-	-	-	-	73
Wild Animal Preservation Ordinance 1939	-	-	-	-	62
Wild Animal Preservation Law of Sokoto State, 1996	-	-	-	-	71, 72

INTERNATIONAL INSTRUMENTS

International Trade on Endangered Species of Wild Fauna and Flora (1973)	-	-	-	-	20, 74
International Convention on the Protection of Biological Diversity (1992)	-	-	-	-	20, 74
International Convention on Migratory Species of Wild Animals	-	-	-	-	20, 74
International Convention on Fishing in High Sea	-	-	-	-	20
Universal Declaration on Animal Welfare	-	-	-	-	21
World Charter for Nature	-	-	-	-	20, 74

ABBREVIATIONS

ASPCA	American Society for the Protection of Cruelty to Animals
KB	Kings Bench
NWLR	Nigerian Weekly Law Report
P.	Page
Pp.	Pages
SPAC	Society for the Protection of Animals against Cruelty
UK	United Kingdom
USA	United States of America
WACA	West African Court of Appeal
WAP	World Animal Protection

TABLE OF CONTENTS

	Pages
Title Page - - - - -	i
Declaration - - - - -	ii
Certification - - - - -	iii
Dedication - - - - -	iv
Acknowledgement - - - - -	v
Table of Cases - - - - -	vi
Table of Statutes - - - - -	vii
International instrument - - - - -	ix
Abbreviations - - - - -	x
Table of Contents - - - - -	xi
Abstract - - - - -	xvii

CHAPTER ONE

GENERAL INTRODUCTION

1.1	Background to the Study	- - - - -	1
1.2	Statement of the Research Problem	- - - - -	3
1.3	Aim and Objectives of the Research	- - - - -	6
1.4	Justification	- - - - -	7
1.5	Scope of the Research	- - - - -	8
1.6	Limitation of the Research	- - - - -	8
1.7	Research Methodology	- - - - -	9
1.7.1	Research Design	- - - - -	9

1.7.2	Sample and Sampling Procedure of the Research	-	-	-	-	-	-	10
1.7.3	Instrument of Data Collection	-	-	-	-	-	-	12
1.7.4	Validity and Reliability of the Research Instrument	--	-	-	-	-	-	12
1.7.5	Method of Data Analysis	-	-	-	-	-	-	13
1.7.6	Population/ Participant in the Study	-	-	-	-	-	-	13
1.8	Literature Review	-	-	-	-	-	-	13
1.9	Organizational Layout	-	-	-	-	-	-	20

CHAPTER TWO

HISTORICAL DEVELOPMENT, MEANING, NATURE, SCOPE, THEORIES AND SIGNIFICANCE OF ANIMAL PROTECTION

2.1	Introduction	-	-	-	-	-	-	21
2.2	Origin and Historical Development of the Concept Animal Protection-							22
2.3	Nature and Scope of the Concept of Animal Protection				-	-		27
2.4	Ethology and Animal Protection	-	-	-	-	-	-	31
2.5	Definition of Animals	-	-	-	-	-	-	32
2.6	Theories of the Concept of Animal Protection				-	-	-	34
2.6.1	Rationality Theory	-	-	-	-	-	-	34
2.6.2	Moral Judgment Theory	-	-	-	-	-	-	35
2.6.3	Speciesism Theory	-	-	-	-	-	-	36
2.6.4	Contractarian Theory	-	-	-	-	-	-	37
2.6.5	Subject of Life Theory	-	-	-	-	-	-	34
2.6.6	Prima facie Theory	-	-	-	-	-	-	38
2.6.7	Sentient Theory	-	-	-	-	-	-	38
2.7	Significance of Animal Protection	-	-	-	-	-	-	39

2.8	Conclusion	-	-	-	-	-	-	-	-	43
-----	------------	---	---	---	---	---	---	---	---	----

CHAPTER THREE

ANIMAL PROTECTION UNDER STATUTORY LAWS IN NIGERIA

3.1	Introduction	-	-	-	-	-	-	-	-	44
3.2	Animal Protection under Customary Practice in Nigeria-	-	-	-	-	-	-	-	-	44
3.3	The Role of Colonialism to the Development of Animal Protection Laws in Nigeria	-	-	-	-	-	-	-	-	46
3.4	Animals Protection under Nigerian Constitution	-	-	-	-	-	-	-	-	48
3.5.	Legislations for the Protection of Animals in Nigeria	-	-	-	-	-	-	-	-	50
3.5.1	Criminal Code	-	-	-	-	-	-	-	-	50
3.5.2	Penal Code	-	-	-	-	-	-	-	-	54
3.5.3	Sharia Penal Codes	-	-	-	-	-	-	-	-	56
3.5.4	National Park Act	-	-	-	-	-	-	-	-	56
3.5.5	Wildlife Preservation Laws	-	-	-	-	-	-	-	-	57
3.5.6	Local Government Laws	-	-	-	-	-	-	-	-	58
3.5.7	Animal Diseases (Control and Prevention) Laws	-	-	-	-	-	-	-	-	59
3.5.8	Dog Control Laws	-	-	-	-	-	-	-	-	60
3.5.9	Grazing Reserves Laws	-	-	-	-	-	-	-	-	61
3.5.10	Forestry (Preservation and Control) Laws	-	-	-	-	-	-	-	-	61
3.5.11	Fisheries Control Laws	-	-	-	-	-	-	-	-	62
3.5.12	Other Legislations dealing with Animals in Nigeria	-	-	-	-	-	-	-	-	62
3.6	International Instruments dealing with animals ratified by Nigeria-	-	-	-	-	-	-	-	-	63

3.7	Enforcement of Animal Protection Laws in Nigerian Courts	-	63
3.8	Challenges to the Application and Enforcement of Animal Protection Laws in Nigeria	- - - - -	65
3.9	Challenges to Animal Protection in Nigeria	- - - -	67
3.10	Conclusion	- - - - -	69.

CHAPTER FOUR

ANIMAL PROTECTION IN ISLAM

4.1	Introduction	- - - - -	70
4.2	Status of Animals Prior to Islam	- - - - -	71
4.3	Status of Animals in Islam	- - - - -	72
4.4	Islamic Safeguards for the Protection of Animals-	- - - - -	76
4.4.1	Human Being Limited Dominion Over Animals-	- - - - -	77
4.4.2	Animals Entitled to Bounties of Allah on the Earth	- - - - -	78
4.4.3	Accountability for Actions Done to Animals-	- - - - -	79
4.4.4	Duty to Deal with Animals Kindly and Compassionately	- - - - -	81
4.4.5	Duties of Animals' Owners	- - - - -	81
4.4.6	Prohibition against Unjustifiable Killing of Animals	- - - - -	82
4.4.7	Prohibition against Cruelty to Animals	- - - - -	84
4.4.8	Prohibition against Starving Animals	- - - - -	85
4.4.9	Prohibition against Subjecting Animals to Upset and Discomfort	- - - - -	86
4.4.10	Prohibition against Subjecting Animals to Overwork	- - - - -	86
4.4.11	Prohibition against Inflicting Mental and Emotional Distress to Animals-	- - - - -	87
4.4.12	Humane Rules Guiding Slaughtering of Animals in Islam	- - - - -	87

4.5	The Stand of Islam on the Contemporary agitation for Animal Rights -	88
4.6	Conclusion - - - - -	89

CHAPTER FIVE

DATA PRESENTATION AND ANALYSIS

5.1	Introduction - - - - -	91
5.2	Socio-Demographic Characteristics of the Respondents - -	91
5.3	Correlation between the Respondents and the Animals - -	94
5.3.1	Research question one - - - - -	94
5.3.2	Research question two - - - - -	95
5.3.3	Research question three- - - - -	96
5.4	Respondents' General Perception/Experience on Animal Abuse - -	97
5.4.1	Research question one - - - - -	97
5.4.2	Research question two - - - - -	98
5.4.3	Research question three - - - - -	98
5.4.4	Research question four - - - - -	99
5.4.5	Research question five- - - - -	100
5.4.6	Research question six- - - - -	101
5.4.7	Research question seven- - - - -	102
5.4.8	Research question eight- - - - -	102
5.4.9	Research question nine- - - - -	103
5.4.10	Research question ten - - - - -	104
5.4.11	Research question eleven - - - - -	105

5.4.12 Research question twelve	-	-	-	-	-	-	-	105
5.4.13 Research question thirteen	--	-	-	-	-	-	-	106
5.4.14 Research question fourteen	--	-	-	-	-	-	-	107
5.5 Respondents' Knowledge/ Experience on Animal Protection Laws in Nigeria								-108
5.5.1 Research question one	-	-	-	-	-	-	-	108
5. 5.2 Research question two	-	-	-	-	-	-	-	109
5.5.3 Research question three	-	-	-	-	-	-	-	110
5.5. 4 Research question four	-	-	-	-	-	-	-	110
5.5.5 Research question five	-	-	-	-	-	-	-	111
5.5.6 Research question six	-	-	-	-	-	-	-	112

CHAPTER SIX

SUMMARY AND CONCLUSION

5.1 Summary	-	-	-	-	-	-	-	114
5.2 Observations/Findings	-	-	-	-	-	-	-	117
5.3 Recommendations	-	-	-	-	-	-	-	119
Bibliography	-	-	-	-	-	-	-	122
Appendix	-	-	-	-	-	-	-	127

ABSTRACT

Generally, human beings relate and deal with animals in many instances. However, in the course of dealing or relating with animals, human beings take undue advantage of animals thereby subjecting them to abuses, and needless exploitations. Thus, cruelty and maltreatment of animals are common practices in various local communities, particularly in underdeveloped countries like Nigeria. Hitherto, the concept of animal protection was developed out of empathy for the plight of animals. In recent time, however, animal protection has become integral part of human development, and gradually grows to be concern of many contemporary societies. However, little or no attention is so far paid to view animal protection from ethological perspective.

From practical perspective, there are various national and international legal frameworks which seek to provide protection to animals. However, in Nigeria, these laws appear to be ineffective and inefficient and invariably fail to protect animals. The objective of this research is to examine animal protection as a concept, as well as its application under statutory and Islamic laws in Nigerian not only from dominant view of human perspective, but also, from ethological perspective of animals as an independent species. Using both doctrinal and empirical methodology, the research establishes that animal protection as a concept is a controversial subject that is founded on unrealistic assumptions. The research also established that there is need to holistically review and change the narrative about animal protection from the perspective of human selfish interest, to ethological perspective that sees animals as an independent species. Also, the relevance and significance of animal protection to human development and animals as species cannot be overemphasized. The research has further showed that animal protection is not an unknown phenomenon to Nigerian laws including Islamic law. There are many laws that seek to protect animals in the country. However, in practice, these laws are archaic, ineffective and inefficient. It is disheartening to say, considering the rate at which animals are being abused in Nigeria; one tends to wonder whether there is any law protecting animals in the country. Often, the laws are flouted and violated with impunity. The Islamic rules which promote animal welfare and protection are neglected and flouted by Muslims. The research finds that ignorance, cultural orientation and poor animal governance are the major factors responsible for the ineffectiveness of these laws in Nigeria. Therefore, to develop an effective and efficient animal protection laws in Nigeria, there should be review and change of narrative about the concept, including legal reforms that would bring forth viable, acceptable and realistic animal protection laws. Also, there should be a rigorous public enlightenment and campaign on animal protection laws and their benefits to human society. Beyond this, governments and its relevant agencies should take enforcement of animal protection laws serious. Concerted efforts should be made by government to ensure that violators of animal protection laws are brought to book. As a viable and effective animal protection system is now an ingredient of human and environmental development.

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Background to the Study

From genesis and cradle of human existence, in every century and civilization, human beings relate and deal with animals. Whether at home, farm, places of work and in routines of life, human beings used animal as means of livelihood. In various aspects, human beings profitably benefits from animals. For instance, animals are used as foods, raw materials, in research, sports, entertainments, medicines, power generation and tourism. Also, different species of animals are used for conservation, preservation of environment, balancing of ecosystem and other aspect of human development. Naturally, the relationship between human beings and is designed to be mutual. However, despite the immeasurable benefits derived from animals, over the years, human beings take undue advantage of this relationship, at the expense, detriment and disadvantage of animals. Often, animals are victims of cruelty and abuses.

It is this unwarranted suffering and abuse that evoked concern and sympathy for animals. Consequently, over the years, various intellectual arguments have been advanced by philosophers and scholars to justify the imperatives of providing certain legal protection to animals. These intellectual arguments have further sparked off agitations and calls for legal reforms.¹ It is these intellectual arguments that gave to birth the concept of animal protection. Although, as a concept, animal protection means different thing to different people, it is generally refers to an attempt to justify the need to regulate human dealing with animals. It started as an expression of sympathy for the plights and suffering of the animals to a formidable legal concept.

¹Harrison P. (2003). *Animals and Law*, Darlington, London, P. 45

In recent times, the idea of animal protection has gradually become concern contemporary societies. Thus, various national and international legal frameworks have been made to provide one form of protection or the other to animals. For instance, anti-cruelty legislations have been enacted in various countries to protect animals against cruelty. Also, animal disease control legislations have been enacted in various countries of the world to regulate the spread of diseases to, or among animals. Moreover, many countries have enacted animal welfare legislations to promote welfare and wellbeing of animals. Furthermore, many laws have been made around the world to regulate indiscriminate killing of animals in order to prevent extinction of such animals and conserve environment. There are many legal frameworks either at the national or international levels that seek to protect animals for the purpose of conserving environment. In recent years, attempt has been made to expand the scope of animal protection with a view to change the status of animals. This gave birth to the concept of animal right, where the proponents called for treatment of animals as holders of legal rights. It is interesting to note, today, the basis of animal protection goes beyond expression of sympathy for the plights and suffering of animals. Rather, animal protection is now seen as potential ingredients of economic development. In recent time, environmentalists and animal protection advocates have consistently raised concern on the effect of animal abuse to economy, environment and human development.

“Animal protection is far beyond expression of empathy for animals, it is an issue that goes to the essence of humanity, and it deals with the promotion of animal productivity that translates into increase volume of foods production. Effective animal protection and governance increases income of farmers and promote conservation of environment. The national GDP is positively affected when we fixed our laws that provide safer and comfortable environment for our

*animals.*²

It is imperative to note that the idea of according legal protection to animals against abuse is not a strange phenomenon to Nigerian laws. This is because there are various legislations that seek to provide certain protection to different species of animals against abuse. Similarly, by its all inclusive character, Islam has also made elaborate and comprehensive provisions for the protection of animal and promotion of their welfare. However, considering the rate of animal abuse in the country, these laws appear to be ineffective and inefficient.

1.2 Statement of Research Problem

The concept of animal protection is considered to be one of the most controversial subjects that means different thing to different people. There are different perspectives attempting to explain or justify why legal protection should be accorded to animals. However, the dominant view justifies animal protection from the perspectives of empathy, environment and human development. Mostly, the concept of animal protection is considered from narrow and limited perspective of its benefits to environment and human society as against the wider perspective that also considers the concept from the perspective of animals as an independent species. This dominant perspective sees animals as objects that mean to serve human selfish interest alone. Thus, the protection to be accorded to animals is determined from human interests at the detriment of animals and their interests. Arguably, the shortcoming of this perspective is responsible for the alarming rate of animal abuses in various societies. Therefore, there is need to reconstruct the concept of animal protection through ethological perspective in order to accord necessary legal protection for the best interest of animals. .

Furthermore, although there are many laws in Nigeria that seek to protect animals against cruelty

² Japer R. (2007). *The Laws and Animals for the Better Economy*, Central County, London, p. 12

and abuse, in practical sense, the laws appear to be ineffective. Considering the rate at which animals are being subjected to abuse in various local communities in Nigeria, one can easily conclude that the laws are shambolic and mere “toothless bulldog”. It is obvious; these laws have failed to curb animal abuse in the country. Often, the laws are flouted and violated with impunity. For instance, it is a common practice to see animal being subjected to malnourishment or starvation. The practice of subjecting animals to cruelty such as mutilation, castration, sexual abuses (*bestialism*), indiscriminate killing for rituals and other indecent purposes are common in various local communities. Subjecting farm animals such as donkeys, cattle, camels and horses to overwork is also a common practice in many villages in Northern Nigeria. The animal husbandry system is outdated. Thus, keeping animals in filthy, rowdy, densely, overcrowded and uninhabitable environment is notorious practice by animal owners. Inhumane and appalling handling of animals is common practice in abattoirs, markets and slaughtering houses in Nigeria. The prevalence of animal abuse in various local communities has defeated the essence of anti-cruelty provisions under the Penal and Criminal Codes. It is disheartening to note, even the endearing Islamic safeguards for the protection and promotion of animal welfare are neglected and flouted with impunity. The Islamic rules requiring kindness and compassion to animals are disregarded and jettison by Muslims in their dealing with animals.

Moreover, the law enforcement agencies that are statutorily vested with powers to enforce these laws have abdicated their responsibilities. The stakeholders in animal governance are not doing enough to protect animals against abuse. Animal welfare which gains prominence in Europe involving provisions of medications, good habitations or qualitative feedings and comforting environment to animals is yet to gain prominence in many local communities in Nigeria. The system of transporting or conveying animals from one destination to another in Nigeria is

causing lots of suffering and discomfort to animals. For instance, the aged long trade of transporting cattle from Northern to Southern part of Nigeria is not without causing lots of discomfort and suffering to animals suffering to animal. In the process of such transportation, animals particularly cattle, goats, sheep and donkeys are overloaded in vehicles and subjected to hunger, thirsty, discomfort and in some instances death. So also, the practice of moving herds of cattle from Northern to Southern part of the country has become outdated and causing serious security challenges.³ The ineffectiveness of animal protection laws does not only pose dangers to the wellbeing of these animals but also their quality and productivity and by extension human health and safety.

Similarly, the ineffectiveness of forestry and wildlife laws in Nigeria has failed to curb human activities such as bush burning, damming of rivers, draining swamps, environmental pollution, indiscriminate hunting, killing and poaching thereby posing serious threat to the environment and existence of many species of animals⁴. Nigeria is a member of the World Health Organization, but it has yet to enact animal welfare code as required by the Organization. The ineffectiveness of animal health laws lead to poor veterinary system in Nigeria, which is negatively affecting state of animal health. The nomadic tradition of moving cattle by Fulani herdsmen from Northern to the Southern part of the Country has become outdated and unproductive practice. In recent time, cattle rustling and incessant bloody clashes between herdsmen and farmers, resulting in loss of lives and properties in the country have been attributed to poor animal governance and protection laws. The rate of animal abuses in Nigeria

³ The research conducted in 2003 by Center for Animal Research Productivity, Denmark in respect of KOBE Beef originated in Japan has shown that animals that are allowed to move freely tend to be more productive, healthy and have good test compare to animals whose movements are restricted. See the Report at <https://cap-report2003.css.com>, accessed on 17th March, 2021 by 10: am.

⁴Okechuwu C., (2004). *The Effect of Indiscriminate hunting and Killing of Animals to Environment in Nigeria*, Longman Publication, Lagos, p. 43

was confirmed by the Animal Protection Report Index recently released by the World Animal Protection (WAP).⁵ The report scored Nigeria dismal low in animal protection. The report further indicates that institutions and legal framework regulating governance of animals in the Country are impotent and ineffective.⁶ Questioningly, the piteous situation of animal makes one to wonder whether there is any law in existence that seek to protect animals in Nigeria. It is obvious, animal protection laws in Nigeria have failed to achieve their purposes.

From the foregoing, three fundamental research questions have been raised as thus:

1. Whether the concept of animal protection should be reconstructed away from the dominant perspective of empathy, environment and human development, and to be determined from the ethological perspective that sees animals as independent species?
2. Whether the concept of animal protection is known to Nigerian laws and to what extent?
3. Whether the laws for the protection of animals in Nigeria laws are effective and efficient?

1.3 Aim and Objectives

The aim and objectives of this research are as follows:

1. To determine and appraise the strength and weakness of the various perspectives and arguments of the concept of animal protection.
2. To establish the essence and significance of animal protection to human development beyond the notion of expression of sympathy for the animals.
3. To examine the nature and scope of various safeguard for protection of animals as

⁵An international non-profit animal welfare organization operating for over 30 years and reviews report of animal protection in over 174 countries.

⁶ See the Report at <https://apl.worldsnimslprtection.org/org/country/nigeria>, accessed on 6th July, 2017 by 3:45pm.

provided under Islamic and statutory laws in Nigeria.

4. To assess the rate of animal abuses in Nigeria with a view to determine the effectiveness or otherwise of animal protection laws in Nigeria and its effect to the society.
5. To stimulate consciousness on the need to address the plight and suffering of animals through legal process.
6. To identify the challenges to the attainment of effective animal protection system in Nigeria and proffer workable solutions to the challenges.

1.4 Justification

It is evident; the laws for the protection of animals against abuse in Nigeria are ineffective. The laws have failed to achieve their purposes. Animal cruelty, suffering and abuse are common practices in local communities. Animal welfare, medication, caring, compassion and humane treatment are uncommon in Nigeria. Ignorance and harmful cultural practices seem to have contributed to the abuse of animal in various societies in Nigeria. It is obvious, the livestock officers, veterinarians, animal health workers, forest officers, law enforcement officers and other stakeholders have failed to effectively discharge their statutory obligations of affording protections to animals. The poor animal protection and governance has largely contributed to poor productivity of animals in Nigeria. Recurrence of animal transmitted disease is attributed to poor animal husbandry. Likewise, the resurgence of crisis between farmers and herders is caused by poor animal governance and protection.

Therefore, this research is not only timely, but desirable in view of its significance to animals as species and for human and economic development in general. The research does not only serve as medium of enlightenment and education, but also, succinctly establish a nexus between animal protection and human development, environment and ecosystem generally. There is no

doubt, the findings and recommendations of the research would help policy makers in addressing the menace of animal abuses in Nigeria. Thus, the research is pivotal to building a viable, efficient and effective animal protection system that is beneficial not only to animals as species, but also to human development and environment. The research tends to serve as a pill for addressing problems of animal abuse in Nigeria. Needless to say, this research serves as a springboard for the promotion of animal productivity. It also serves as a compass for anyone that is sympathetic to the plights of animals.

It is resourceful to researchers, students, animal protection advocates, animal owners, veterinaries, livestock officers, environmentalists, policy makers and stakeholders in animal governance in Nigeria, who will find it interesting and useful for study, reference and guide for further research.

1.5 Scope of the Research

The research is limited to appraisal of the concept of animal protection and its application under Islamic and statutory laws in Nigeria. Thus, the scope of the research is in two folds. Firstly, the research examines animal protection as a concept. In this regard, the research is restricted to examination of various arguments of the concept, as well as historical background and significance of the concept to human development.

Secondly, the research appraises the practical application of the concept. To this end, the research is limited to appraisal of the application of various Islamic and statutory laws for the protection of animals in Nigeria. However, in order to test the effectiveness of animal protection laws in Nigeria, the research uses Zamfara and Sokoto States as a case study. Similarly, the research largely focuses on domestic animals, such as cattle, horses, donkeys, camel, goats, sheep, dogs and poultry animals.

1.6 Limitation of the Research

This research is constrained by number of factors. Firstly, absence of local materials compels the researcher to heavily rely on foreign materials. Although, the research intends to examine the concept of animal protection and its application under Nigerian laws generally, due to geographical vastness of country, limited time and paucity of funds, the scope and focus of the research is limited to Sokoto and Zamfara State as a case study.

1.7 Research Methodology

The research uses two methodology, namely doctrinal (library base) and empirical (field research). In doctrinal methodology, reliance is placed on foreign text books, journals, international legal frame works, and conference and seminar papers mostly downloaded from internet. Also, various foreign and local legislations and enactments have been consulted in the course of this research, particularly Laws of the Federation, 2004. Moreover, the research substantially gets information from translated version of the Holy Qur'an, Prophetic traditions and other juristic opinions contained in various Islamic literatures. Pieces of information obtained from these sources are critically analyzed and discussed to achieve the objective of the research. In empirical methodology, the research placed reliance on data collected and analyzed from questionnaires in order to determine and assess the application and effectiveness of animal protection laws in Nigeria.⁷ This empirical process involved used of research design, sample and sampling procedure of data collection through validated and reliable means. These processes are briefly discussed below.

⁷ Details of how the empirical research is conducted are discussed in Chapter 5.

1.7.1 Research design

The design of the research involved use of qualitative method. This type of research design allows researcher to understand meanings, describe experiences, ideas, beliefs, values and such intangible variables as opposed to quantitative method that is highly statistical and mathematical⁸. The research also used descriptive method which is a form of qualitative method whereby data collected are described in a systematic manner stating characteristics, features or fact about a given population.

It involves describing certain variables in relation to the population as they are. The research also used survey method whereby data or information is collected as a sample from the segment of a target group. In short, this research used qualitative, descriptive and survey/sampling method to appraise the concept of Animal Protection and its Application under Islamic and Statutory Laws in Nigeria using Sokoto and Zamfara States as a Case Study.

1.7.2 Sample and Sampling Procedure of the Research

In a research, it is always difficult or almost impossible to study the whole population under consideration or to collect data from the whole population under study. Thus, sampling procedure allows a researcher to collect data from segment or group respondents as a sample representative of the whole group under study. Accordingly, this research used Sokoto and Zamfara States as a case study in order to appraise the application of animal protections laws in Nigeria. Sokoto is situated in the extreme Northwest Nigeria, near the confluence of Sokoto River and Rima River. The State created on 3rd February, 1976. It has a land mass of 25, 973 km² with an estimated population of 3, 702, 676. On the other hand, Zamfara State also located

⁸Olawepo, R. A. *et al* (2014) Data Collection Strategies in Social Sciences, in Jimoh, A. (ed.), Research Method in Social Sciences, College Press, Ibadan, p. 74

in Northwest Nigeria was created on 1st October, 1996. It has a land mass of 39, 762 km² and estimated population of 3,278, 873⁹. The two states almost share the same climate conditions and geographically located in the dry Semi Arid Sahel with high temperature and low seasonal rainfall compare to other part of the country. The predominant ethnic groups in the two states are Hausa- Fulani and largely practice Islamic religion. The major occupation of the people of the states is agriculture.

Therefore, the choice of these two states as a case study is purposeful. This is because; the two states are agrarian societies that largely deal with animals. Although, there is no comprehensive and accurate official estimate of livestock in Sokoto and Zamfara States and Nigeria in general, it was roughly estimated that Nigeria has the population of about 34.5 millions goats, 22 million sheep and 13 million cattle and millions of other domestic and wild animals.¹⁰ The larger proportion of these animals is concentrated in the Northern Region that comprises Sokoto and Zamfara State among others.¹¹ However, it is obvious, husbandry and rearing of domestic animals such as cattle, camels, horses, goats, sheep and other livestock is a common practice and mainstay of the people of the two States. As the research seeks to comparatively deal with both Islamic and statutory laws on animal protections, the choice of Sokoto and Zamfara States as a case study is appropriate, as both Islamic and conventional legal system are applicable in the two states.¹²

⁹ Report of the Nigerian National Bureau for Statistic 2018 at <http://www.nigerian-national-bureau-for-statistics/2018.gov.ng>, accessed on 13th August, 2019 by 11:40 am

¹⁰O.A.Lawal, (2011) Dynamics of Ruminant Livestock Management in the Context of Nigerian Agricultural System, p.2 accessed online at www.intecchopen.com/books/livestock-production/dynamics-of-ruminant-livestock-management-in-the-context-of-the-Nigerian-agricultural-system, accessed on September, 23, 2019 by 10: am

¹¹ ibid.

¹² The two states have predominant Muslims population and in 2000, adopted Sharia legal system.

In the research, 600 questionnaires were issued to 600 respondents, 300 from each state. Out of these 600 questionnaires, only 533 were returned. Furthermore, out of the 533 questionnaires returned, 33 declared invalid because they were improperly filled. Thus, the research used sampling population of 500 respondents drawn from both Sokoto and Zamfara States. However, the research employed multi-stage sampling technique, thereby selected 10% of the respondents which stands as 50 respondents as a working tool Multi-stage sampling technique is a method of determining acceptable sample size which is usually set at 10% of the total of studied populations¹³.

1.7.3 Instrument of Data Collection

Both primary and secondary sources were used to generate or collect data in this research. The primary data were generated using questioners. Questionnaire is one of the most effective instruments of eliciting information from large representative sample within a relatively short period of time. The questionnaire used in the research consists of four major segments. The first segment collected socio- demographic data of the respondents. The second segment obtained information on the occupational link between the respondents and animals, the subject matter of study. The third segment, deal with the respondents general experience/ perception on animal abuse, while the fourth segment, deals with the respondents' perception on the problems and other issues associated with animal protection in Nigeria.

Also, to make the research in depth, interview method was also used to collect that from the target group using open ended questions. The advantage of interview method using open ended questions, it allows the researcher to understand how the respondents are doing, what their experiences are, and recognize important outcomes of interest that cannot be effectively determine using questionnaires.

¹³Olawepo R.A. op.cit. p. 79

1.7.4 Validity and Reliability of the Research Instrument

The validity deals with the degree of accuracy of the instrument of research in relation to what it measures. Reliability of research findings is highly dependent on the question of validity of the instrument.

The validity or otherwise of an instrument of research is seen from the way it fulfils or fails to achieve the functions for which it is meant for.¹⁴ In order to achieve validity and reliability of the instrument of this research, questioners were presented to the supervisors of this thesis with a view to ascertaining the measurability or otherwise of the variables used therein. Items believed to be irrelevant to the study were discarded, while relevant ones were included.

1.7.5 Method of Data Analysis

Also uses descriptive and inferential method to present and analyze the data collected research. Similar method was also employed to appraise the perception of the respondents and make conclusion on the situation surrounding question of animal protection in Nigeria.

1.7.6 Population/ Participants in the Study

The participants in this research are stakeholders in animal protection in Nigeria, comprising of animal owners or herders, animal traders, animal transporters, veterinarians, livestock officers, law enforcement officers (police), butcher/ meat processor and hunters selected from various farms, villages, towns, markets, veterinary clinic, slaughtering houses other relevant government organizations in Sokoto and Zamfara States respectively.

1.8 Literature Review

Though the concept of animal protection is yet to gain wide acceptance in many societies, particularly in Nigeria, however, there are numerous literatures discussing different aspects of

¹⁴

the subject. From antiquity and ancient Greek, down to contemporary, philosophers, academics, social scientists and right activists have immensely written on the concept.

Often, the preoccupation of these writers is on the plights and suffering of animals and the need to evolve legal mechanism that would give them adequate protection. Conversely, various writers and scholars evolved different approaches and perspectives to discuss the concept.

The work of Henry S.¹⁵ is considered as one of the early leading literature which laid a foundation for the development of the concept of animal protection in modern times. In his book *Salt* rejected the notion that animals have no purpose of creation. Salt called for discarding the antiquated notion of great gulf founded between humans and animals and urged for a common bound of humanity that unites “all living beings.” However, the book is seen as a product of social progress that brought industrialization in Europe at that time. It is criticized for its failure to present any theoretical justification for the presumption of equal protection between humans and animals. The book was more or less philosophical than legal analysis of the concept. It is also criticized for failing short to proffer solutions to the problems associated with the sufferings of animals, which is focal point of this research.

The work of Singer P.¹⁶ is considered as iconic contemporary writings on the subject of animal protection and one of the founding philosophical statements on the concept. In the book, Singer employs utilitarian theory to justify legal protection to animals in form of right. According to him, animals are victims of humans’ actions. He contends that humans in their relation with animals are under obligation to refrain from subjecting them to unnecessary suffering and pains. This obligation according to him transcends to legal rights. However, the book is centered on treatment of animals as holders of legal rights.

¹⁵Henry S.H. (1987). *The Animal Rights :Considered in Relation to Social Progress*, Mac Milan & Co. p. 19

¹⁶Singer P. (1985). *In Defense of Animals*, the Second Wave, New York

The utilitarian theory discussed in the book appears to lean toward consequences of action that gives happiness to greatest number of humans. The Utilitarian theory is meant to serve humans rather than animals, while this research intends to examine animal protection in Nigeria.

Tom R's, ¹⁷ is among the formidable literatures on the concept of animal protections. The book focuses on suffering and cruelty to animals. Regan contends that "possession of Life" is a primary criterion for according protection to any being. He develops the theory of "moral agents" and "moral patient" to advance reasons why animals should be protected. However, the theory formulated in the book is criticized for being unrealistic hypothesis and assumption. The Regan's "moral agents" and "moral patient" theory seems to be inadequate explanation of why animals should be treated as holders of legal rights.

Adam C. J., ¹⁸ brought a different dimension to the argument of the concept of animal protection, in an attempt to draw attention to the suffering and hardship of animals. Carol makes a comparative study between Animal rights and feminism. According to him, both animals and women folk are victims of discriminations because both are weaker and vulnerable. He therefore concludes that animal protection advocates and feminists have something in common which is fighting against discrimination. However, Carol heavily relies on political variables to converse his argument. The book is criticized for being sympathetic to feminism rather than animals. The focus of the book is more or less geared toward justifying feminism, while this research will focus more on animal protection in selected states in Nigeria.

¹⁷ Tom R. (1983). *The Case for Animal Rights*, Barkley University of Californian Press

¹⁸ [Adams, C. J.](#), (1996). *The Sexual Politics of Meat: A Feminist-Vegetarian Critical Theory*, Continuum Publishers, New York.

Bob T.,¹⁹ made a strong argument against killings of animals. He further made effort to justify political and economic implication of killing animals by humans. The book generally promotes abolitionist idea of animal rights. This however makes the book out of tune with reality. His suggestion that human beings should stop consuming animals as panacea to animal suffering is a mirage and unattainable. It is obvious, Tores fails to imagine how humans' world would have been without using animals. It is believe that this research intends to strike a balance between animal rights and animal welfare, and how animals are to be located in process of consumption and keeping.

The Gary L. F.'s work,²⁰ has eminently contributed to the literatures in the field. In all his works, Gary is preoccupied with justifying animals as holders of legal rights synonymous with humans. In other words, his work is mainly an attempt to elevate the status of animals on the same footing like humans. It is apparent; Gary did not put socio- cultural and religious impediment into consideration before arriving at his conclusion that vegan life is the only inevitable solution to the plights of animals. This research fills this gap, as the socio-cultural and religious orientation is put into consideration in dealing with the subject matter.

David F.,²¹ focuses on how international control would be employed to promote welfare of animals. In other word, the work seeks to explore how international treaties, conventions, declaration and other international instruments would be used to evolve universal standards that would promote animal care and welfare.

¹⁹Bob T. (2007). *Making Prohibition against Killing, Political and Economic Rights of Animal*, Bright Ford, London.

²⁰ Gary L. Francoine, (1995). *Introduction to Animal Rights*, Philadelphian Press, U.S.A.

²¹David F.(2012). *Examination ofInternational Treaties for Animal Welfare*, Digital Commons, Michigan University College, USA.

Similarly, Kelvin T.,²² and Sabine B.,²³ in their respective works tried to promote animal welfare through the instrumentality of international law. However, these works concentrated only on international treaties and ignores the role of other sources of international law, like customary practices of states. The works also did not put into considerations the international politics associated with enforcement of international treaties particularly on issues that involve economic interests. It is common knowledge that states ignore their international obligations, if doing so may pose danger to their national interest. Therefore, the works are not a final answer to attainment of effective animal protection regime. Often, applicability and enforcement of international law are recurrent questions, particularly where states are not willing to submit or comply. Similarly, Magbo, T.C.,²⁴ examines animal cruelty, different forms of cruelty and circumstances under which animals are subjected to cruelty. However, the work failed short to state how animals would be prevented from being victims of humans' cruelty. Other current leading literatures on the subject are the works of Gene B.,²⁵ Joann R.,²⁶ and Steven M. W.,²⁷ the works of these writers greatly contributed to development of various aspects of the concept of animal protection. However, the setting of the works is Europe based and limited by socio-cultural and religious challenges which make the ideas conversed therein alien and hardly acceptable in Nigeria.

²²Kelvin, T. (2014).*The Ethics of International Animal Law*, (unpublished) Master's Thesis, College of Law, Helsinki University. Retrieved from [Http://www.helsinki.fi/lawmastersthesis.com](http://www.helsinki.fi/lawmastersthesis.com) on the 13th February, 2016 by 4.pm.

²³ Sabine B. (2000). *Animal Welfare Protection: A Universal Concern to Properly Address in International Law*, Lava University, Canada.

²⁴Magbo,T.C. *et al*, (2005). Animal Cruelty: In: *Journal of Natural Science*, Vol. 3, No 8,IISTE , 2013, retrieved from [https://www.animalcruelty.com/research gate. com](https://www.animalcruelty.com/researchgate.com). Accessed on 19th February, 2017, by 9:30.

²⁵Gene B. (2002). *Being Vegan in a Non- Vegan World*, Bright Field, Canada.

²⁶ John R. (2001). *Foods Revolution*, Stanford, Georgia, USA.

²⁷ Steven M. W. (2000). *The Rattling of the Case: Toward Legal Right for Animal*, Pretax Publisher, London.

On the other hand, there is sizeable number of literatures which examine the concept of animal protection from Islamic perspective. For instance, Kristen S.,²⁸ examines various rules of animal welfare from Islamic perspective. Although, the book extols the comprehensive approach of Islam on animal welfare, the writer restricts the scope of the work to abuses of dogs and cats in Egypt. It is obvious, it is not only in Egypt that Islamic rulings on animal welfares and protections are neglected, even in other Muslims societies; such rulings are disregarded with impunity. The work of classical scholar IzzuddenIbnAbdussalam is very instrumental Islamic literature on the subject²⁹. In his book, he elaborately examines the humane and compassionate treatment of animals in Islam.³⁰ Although, the work is instructive and useful, yet being a classical book, it has not answers new challenges bring forth by modern civilization and modernity like use of animal in vivisection and research. Also, in their respective works, Reza G.,³¹ and Khalifa E.,³² examines various prophetic traditions which provide for comprehensive animal protection and welfare in Islam. However, the works did not make categorical statement on the stand of Islam *vis-a-viz* the contemporary idea of treating animals as holders of rights like humans beings. More also, Muhammad M.,³³ discusses the rules and ethics guiding use of animals in laboratory from Islamic perspectives. The work argues that the general principles of Islam which mandate humane treatment of animals also apply to laboratory animals.

However, the work excludes animals that are used in industries and modern farms who also suffer the same treatment with animals in laboratory.

²⁸Kristen S., (2005). *Animal Welfare in Islam*, Northwestern University Press, Chicago.

²⁹Popularly Known as Sultan Ulama, born in Damascus in 577 A.H, a famous Mujtahid, theologian and leading Shafi'i jurist of his generation.

³⁰ Muhammad, A. H. (2004). *The English Version of the Qawa'id Al-AhkamFiyl-Islah Al-An'am*, written by Izzudeen Abdul- azizIbnAbds-salam, Hounsfeld Publication, Ottawa.

³¹Reza G., *et al*, (2007). *Animal Rights in Islam*, a Paper, Presented at 6th International Conference on Alternative Uses of Animals, Organized by CICAR, held between 21st and 24th May, 2007 in Tokyo, Japan.

³²Khalifa E. (2009). *The Rights of Animals in Islam*, London Publication.

³³Muhammad M. *et al*, (2006). Regulation and Ethical Considerations in Animal Experiments, International Law and Islamic Perspective, In: *Journal of Medical Biotechnology*, Vol.4, pp. 21-35.

In his contribution, Harfiya H.,³⁴ explores Islamic virtues on animal protection and welfare. However, Harfiya only focuses on the miraculous stories of animals. Like the conversation that ensued between Prophet Suleiman (AS) and ants and various instances where the Prophet Muhammad (SAW) was reported talking with animals. Khalid A. E.,³⁵ also contributes eminently on the literature of animal protection in Islam, but this work falls short to address the contemporary burning issue of animal rights, which this research intends to address.

Although the efforts of most of these writers are commendable towards the development of literatures in this field, it is obvious; these literatures mainly focus on the plight and suffering of animals without connecting animal protection to human development. This research intends to fill this gap, by identifying and underscoring the significance of animal protection laws to socio-economic and development of human society particularly in Nigeria. It is further observed that most the reviewed literatures are foreign based, which did not put Nigerian peculiarities into considerations. Thus, this research intends to localize the concept in order to suit Nigerian peculiarities.

Therefore, this work is an attempt to bring the subject to a local limelight and within the Nigerian context and circumstances with a view to bridge the gaps created by the existing texts.

Similarly, perhaps, this work may be unique not only because of its local coloration and character, but also, for its attempt to comparatively examine the application of the concept under Nigerian

³⁴Harfiya H. (2011). *Animal Rights in Islam*, a Paper, Presented at the Conference of Animal as Religious Subjects, Organized by University of Chester, U.K. held on 3rd March, 2011, Published Online at <https://www.globerthics.nrt>, accessed on 24th Fe. 2017, by 3: 00 pm

³⁵Hannafi, K.A. (2012). *The World of Animal in Islam*, Haneris Publication, London.

laws and Islamic laws. The research further confirms the saying that nothing is left untouched in Islam.³⁶

1.9 Organization Layout

To accomplish this adventure, the research is succinctly and chronological divide into six chapters. The first chapter provides a general background of the study, highlighting statement of problem of the research, justification, objectives, scope and limitation of the study. It also includes methodology, literature review and organizational layout of the thesis. The Chapter two of the work examines the history, meaning, nature, scope and theories of the concept of animal protection. The Chapter also explores the significance of the concept to human development. The Chapter three extensively examines the concept of animal protection from Islamic perspective. It also discusses the status of animals in Arabian societies before the coming of Islam and the changes brought by Islam concerning to status and treatment of animals. Various mechanisms for the protection of animals as provided by various sources of Islamic laws are discussed in the chapter. Chapter four of the thesis examines the concept of animal protection under Nigerian laws. Thus, various constitutional and statutory provisions on animal protection in Nigeria are examined. The Chapter also examines the enforcement and challenges to the application of animal protection laws in Nigeria. Chapter five of the research, empirical data of the research is presented and analyzed. Finally, Chapter six contains summary, findings/observations and recommendations of the research.

³⁶ Q: 6: 38

CHAPTER TWO

HISTORICAL DEVELOPMENT, NATURE, SCOPE AND THEORIES OF THE CONCEPT OF ANIMAL PROTECTION AND ITS SIGNIFICANCE

2.1 Introduction

Over the years, the practices of subjecting animals to abuses, cruelty, mishandling and exploitation have evoked concern and sympathy around the world. In this regard, various intellectual arguments have been advanced by classical and contemporary writers to justify the imperatives of providing legal protection to animals. These intellectual arguments and scholarly debates have further sparked off varying agitations and calls for social and legal reforms that would provide effective protection to animals particularly against cruelty and abuses³⁷. In recent years, animal protection has evolved many concept and technical terms like animal rights, animal welfare, abolitionist, and veganism to mention but few. It is interesting to note, animal protection goes beyond expression of sympathy for the plights and suffering of animals. Today, animal protection is seen as part of component of environment. Recently, animal protection is reckoned as one of the factors that contribute to human development. Therefore, objective of this chapter is to examine the origin and historical development of the concept of animal protection from antiquity down to contemporary periods. The chapter also intends to explain various meanings, nature, scope and arguments of the concept with the objective to clarify conceptual terms and theories associated with the concept. The chapter also intends to underscore the significance of animal protection to environment, economy, food production, human health and other human endeavors.

³⁷ Harrison P. op. cit. P. 45

2.2 Origin and Historical Development of the Concept of Animal Protection

The origin and history of the concept of animal protection goes back to the writings of ancient Greek philosophers. The Pythagoras theory of reincarnation of humans' souls to animals is one of the early perceptions about humans' relation with animals. According to this theory, human beings are under moral duty to respect and protect animals. Similarly, the philosophy of hierarchy of being, propounded by Aristotle in his theory of chain of being, considers animals as subservient to humans. According to this theory, the animals are purposely created to serve humans³⁸. This Aristotelian theory has greatly influenced Christian perspective towards animals. In the Book of Genesis, Adam was said to have been given dominion over all animals on the earth³⁹. This conception sees animals as property meant to serve human. On the other hand, the works of philosophers like Porphyry (234 C-305 BCE) and Theophrastus (C 371-C 287 BCE) laid a foundation for the perception which regards animals as independent and sentient beings deserving both moral and legal protection. Centuries thereafter, this perception has significantly led to the development of the modern doctrine of abolitionism⁴⁰ or veganism⁴¹.

Subsequently, the sequence of events and historical processes in 17th Century has reshaped and repositioned the worldview and perception about the status of animals. For instance, Danes Descartes developed a mechanistic theory which sees animals as *automata* i.e. being without rationality. This view seeks to justify the dominant view that treats animals as subservient to

³⁸Beauchamp, T. (2001).*Theories of Animal Rights*, the Oxford Hand Book of Animal Ethics, Oxford Press (2011, p.19 accessed at www.wikipediaencyclopedia.animalrights.com on 23rd June, 2017.

³⁹ Chapter 1, Verse 26, New International Version Bible

⁴⁰ Is one of the theory of animal rights which calls for human to stop consuming or using animals in any respect as a way of protecting animals

⁴¹This is a practice of consuming plants and vegetables products and abstaining from consuming or using animal products.

humans. According to Descartes, animals are not entitled to any legal protection except doing so would serve humans' interests.

However, Thomas Jefferson's theory of "being of life" has expanded the *Theophrastus* philosophy. The work of Charles Darwin on the origin of species has significantly reshaped the world perception about the status of animals⁴². Darwin contended human beings were originated from apes/higher animals. This conception and many others have significantly influenced the development of the modern concept of animal protection. The influence of these scholarly arguments, arouse consciousness and sympathy for animals. Consequently, by the second quarter of the 17th Century, agitations for animal protection particularly against cruelty began to spring up in Europe. Thus, by 1635, the first legislation in the world for the protection of animals was enacted in Ireland. The legislation prohibited subjecting cattle to cruelty. Though, this piece of legislation was sketchy and incomprehensive, it is seen as a milestone for the history and subsequent development of animal protection laws in the world. In 1654, English Civil War Leader Oliver Cromwell banned cockfighting, dog fighting, bull baiting and bull running. However, this law was over turned by King John.. By the end of 18th Century, the agitation for animal protection against cruelty began to win recognition under English common law. As in 1793, there was incidence of trial of one John Cornish for maltreating a horse before an English court. Even though he was not found guilty for lack of evidence of malice to the owner of the horse, it was considered as a landmark and significance to the subsequent development of animal protection regime⁴³.

⁴²Beauchamp T. op.cit. p.23

⁴³ibid. p. 31

Afterward, by 1822, the British Parliament enacted a first legislation on animal protection, known as Martin's Act. The Act prohibits subjecting domestic animal, particularly cattle to cruelty and improper treatment. It is worth noting, Martin's Act was a statute of general application.

This technically means that its application extended to all British colonies and protectorates. It was in this connection, the first prosecution of the offence of animal cruelty was considered by American court in 1822. However, poor enforcement of Martin's Act in England, led to the emergence of a group known as Society for the Prevention of Animals against Cruelty (SPAC) in 1824. The supervisory role of the Society got a royal recognition in 1840. This was the first Animal protection group in the world. Similarly, between 1859 and 1889, several American states enacted different laws prohibiting one form of cruelty or the other against some animals. Furthermore, by 1850, the French Parliament also enacted first animal protection legislation in France. Also, by 1866, the first animal protection group was established in America known as American Society for the Prevention of Cruelty to Animal (ASPCA). Thereafter, other groups sprang up both in Europe and America imitated the English Parliament by passing a law which outlawed cruelty to domestic animals.

By 19th Century, the idea of animal welfare came to a limelight in Europe. There are various scholarly arguments justifying the imperative to promote welfare of animals. In recent years, there are many legal frameworks seeking to promote animal welfare. For example, English Animal Welfare was enacted Act in 1967 and thereafter underwent series of amendments with most recent amendment in 2007. There are also several legislations which seek to protect animals or regulate human conducts toward animals in England.⁴⁴ In America, there are number

⁴⁴Animal Protection Act, 1911, Animal Preservation Act, 1913, Performing (Regulation) Act 1925, Pet Animal Act 1952, Abandonment of Animal Act 1960, Animal Boarding Establishment Act 1963, Riding Animal Act 1964 and

of legislations that protect animals against abuse and cruelty. More so, many countries provide one form of legislation or the other seeking to protect or promote welfare of animals like Germany, Luxembourg, Switzerland, India, Bolivia, and many other European Countries.⁴⁵

However, by 20th Century, the scope of animal protection was taken to another dimension with the emergence of idea of animal rights. This is a revolutionary perspective that seeks to change the status of animals. The conception extends animal protection beyond improved welfare and humane treatment to rights bearing. Animal rights conception was promoted by scholarly writings of Peter Singer, Tom Regan among many other scholars. So many groups were founded in England, America and many other European countries to promote this conception. Though animal rights perspective is yet to gain general acceptance, however, few countries have made legislations that altered the status of animals recognizing some species or classes of animals as sentient beings. The New Zealand granted basic right to five species of apes by banning their use in research and testing. Similarly, in 2002, Germany amended its constitution to recognize animals as sentient being becoming the first European Union country to do so. In Nigeria, there are legislations which seek to protect animals. The provisions of Penal Code, Criminal Code and Wilds Life Preservation Laws of various states have provided appreciable protections to animals, particularly against cruelty and indiscriminate killing⁴⁶.

Recently, animal protection has become concern of international community. This area is largely covered by international environmental law This branch of international law, however, limits its concerns to animals instrumental values either as natural resources, or as component of

1970, Bleedings of Dogs Act, 1973, Furriers (Registration) Act 1975, Veterinary Act 1976, Dangerous Wild Animal Act, 1976, Zoo License Act 1981, Protection Against Cruel Tethering Act 1988, Bleedings and Sale of Dogs (Welfare) Act, 1999, Animal Welfare Act, 2007.

⁴⁵Kivinem, T. op.cit. p.19

⁴⁶ Section 209 of the Penal Code and Section 495 Criminal Code

environment. Between the last quarter of the 20th Centuries and the first quarter of 21st Century, there are number of international instruments, which sought to regulate humans' activities toward animals. For instance, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (1973) which sought to regulate trans-border trades, posing threat to the existence of some wild animals⁴⁷.

The Convention on the Conservation Migratory Species of Wild Animals 1979 known as Bonn Convention, seeks to protect species of wild animals that habitually migrate from one country to the other. The Convention was ratified by over 120 member states including Nigeria⁴⁸ The Convention on the Protection of Biological Diversity (1992) seeks to protect various species from extinction as a result of human' endangered activities⁴⁹. The World Organization for Animal Health (OIE) was established and mandated by member states to *inter alia* take lead on matters related to animal welfare issues. The Organization set animal welfare standard to be incorporated by municipal laws of members states. The United Nations General Assembly had for the first time stressed the need to safeguard animal welfare and conserve biodiversity for future generations. This position was re-echoed at the United Nations Conference on Sustainable Development, in which the issue of animal welfare protection through sustainable consumption and production goals was conversed.⁵⁰

The Universal Declaration on Animal Welfare was another giant stride for the global protection of animals under international law. Article 1 of the Declaration states that animals are sentient beings, and their welfare should be respected. Article 4 of the Declaration provides a general obligation for every member states to take appropriate steps to prevent cruelty to animal and

⁴⁷ The Convention was ratified over 180 member state by the end of 2018 including Nigeria.

⁴⁸David F op.cit.

⁴⁹ ibid.

⁵⁰ ibid.

reduce their suffering. Article 5, 6 and 7 enjoyed members' states to make policies, legislations and standards that will give effect to the measures contained in the Declaration. Though, the Declaration is a non-binding instrument, but its adoption is seen as a giant step toward building animal welfare protection law at the international level.

Currently, there is ongoing effort by various animal rights advocates through lobbying, for the adoption of Convention for the Protection and Welfare of Animals and "Universal Declaration on Animal Rights" which has the semblance of the Universal Declaration on Human Rights.

It is imperative to note that public international law does confer legal rights to animals in a manner accorded to humans as advocated by animal rights advocates. And it is yet to lay down any strong principle of states customary practices in that regard. However, these instruments are considered helpful in complementing animal protection laws already existing at different national and regional levels. Similarly, other element of animal protection and welfare can be found in various international environmental instruments like World Charter for Nature, Convention on Fishing and Conservation of High Seas and International Convention for the Regulation of Wailing.

2.3 Nature and Scope of the Concept of Animal Protection

The concept of animal protection is elusive and subjective. The concept means different thing to different people. As sarcastically puts by Mc. Millard, the difficulty in determining the exact meaning of the concept is not only because animals are not in the position to speak out, but also because of the diverse perspectives and arguments associated with it.⁵¹ From its evolution, the concept has evoked unending arguments and debates between the proponents and opponents of the concept. The concept of animal protection is known in Latin as *jus animalium*. The concept

⁵¹Mc James, J. op.cit. p. 36

is considered as one of the controversial social phenomenon.⁵² Bethel G. Benton opines that animal protection is a conscious attempt to extend such legal protection enjoyed by humans to cover animals.

Australian philosopher, Benedict Phantom posits that the concept of animal protection is an attempt to recognize and protect certain basic interests of non-human species through instrumentality of law.⁵³ Unarguably, animal protection is not only developed out of sympathy for the suffering of animals, but also out of the needs to satisfy humans' socio-economic needs.

The concept of animal protection represents broad spectrum of approaches. From philosophical approach, it means attempts by philosophers and advocates, to justify protection of animals against abuse, cruelty or inhumane treatments. While from legal perspective, it means an attempt to regulate human conducts and dealings with animals through legal instrumentality. It is pertinent to note, for purpose of this research, animal protection refers to laws that regulate human relations and conducts toward animals either in their status as property or as beings or as component of environment in order to allow animals have better living and optimum productivity.

Furthermore, there are contending arguments on the nature and scope of the concept of animal protection. Generally, these arguments are represented by two broad perspectives, namely; animal rights and animal welfare. Animal rights argument also known as abolitionist perspective contends that animals are entitled to legal protection in the same manner and extent in which human beings are being protected. This argument sees animals as end to themselves or, as independent beings at par with human beings. The argument treats or places animals on the same

⁵²Mosh J.J. op.cit. 36

⁵³Harrison P. op.cit.p. 13.

status with humans⁵⁴. According to this argument, animals should not be treated as properties rather as being. This argument further contends that animals are entitled to at least five freedoms. Namely: freedom from hunger, thirst and malnutrition; freedom from fear and distress; freedom from physical and discomfort, freedom from pain, injury and disease; freedom to express normal pattern of behavior. Moreover, an extreme perspective of this argument goes as far as advocating right to life for animals⁵⁵.

This view totally rejects the use of animals in agriculture, industry, vivisection, research, sport, entertainment, pet, medicine and consumption. This argument promotes veganism. However, this view appears to be utopia and unrealistic. It is doubtful, if there is any country in the world subscribing to this view.

However, in recent years, countries like; Germany, Luxembourg, Switzerland and India have enacted legislations which tend to treat some species of animals as sentient beings⁵⁶. In this regard, recently, in a landmark judgment, an Indian High Court of Pujab and Haryana declared all animals deserve justice and entitled to be treated with honor and dignity and inherent life to life. The court further declared every human being as a *locus parentis* of animals⁵⁷. The court relied on the decision of the Supreme of India in arriving at such decision, where it was held that the right of dignity and fair treatment as enshrined in Article 21 of the Indian Constitution is not confined to human beings alone, but also animal as well.⁵⁸ Conversely, even at that instance, these laws did not out rightly treat animals as bearers of legal rights in the same footing with humans. It is worth noting; from legal perspective, animals are generally seen as property

⁵⁴Lindy R. (2004). *Animal Rights and Human Rights*, Amazon Publisher, London, p. 45

⁵⁵Harrison, P. *op.cit.* p. 32

⁵⁶Emanuel S. (2014). *Animals Protection in Europe*, Lewis Press, London, p. 35

⁵⁷*Naryan v. Union of Indian Animal Welfare &ors.*(unreported) <https://www.bioedge.org/bioethics>, accessed on 3 August, 2019

⁵⁸*ibid*

capable of being owned by individuals. This status of animal was echoed by the Chancery Court of Her Majesty as thus: “by our legal system, animals are objects, capable of being owned by individual.”⁵⁹ As pointed out by Prof. M.C. James “in law, the term ‘property’ is broad to include every tangible thing, including living things like animals.”⁶⁰ In the same vein, Criminal Code defines property to include animate or inanimate thing which is capable of being stolen.⁶¹

On the other hand, welfare perspective, as the name implies, seeks to promote welfare and wellbeing of animals through legal reform. According to this view, every human being is under direct duty to promote welfare and humane treatment of animals under his control. This argument seeks for reforms that would promote animal welfare, which includes: improving quality of life, feeding, housing, medication, physical and psychological well being, freedom of expression of behavior and freedom from suffering. This argument does not treat animals as an independent beings or ends to themselves rather as a means to human ends.⁶²

Animal welfare perspective seems to be more realistic approach than animal rights perspective. The animal welfare arguments did not seek to equate animals with humans or change their status. Animal welfare is accepted by many countries in the world. In recent years, there are many legal frameworks which seek to promote humane treatment of animals through promotion of their welfare. For instance, in England, Animal Welfare Act, 2007 was enacted to protect animals against cruelty and promote their welfare and well being.

The Act did not only protect animals against cruelty and unnecessary suffering, but also ensure promotion of their welfare, physical state and ability to fulfill natural needs. Similarly, in America, there are number of legislations that which seek to protect animals against abuse and

⁵⁹*Garrison vs. Anderson* (1896) C. C.h KB p. 45

⁶⁰Mc James, op.cit. p. 48

⁶¹Chapter 1, Part 1 of the Criminal Code Act

⁶²Mosh J.J. op.cit. p. 38

cruelty and further promote their welfare.⁶³

2.4 Ethology and Animal Protection:

The term *ethology* is derived from Latin word “*ethos*” which means character. It is a branch of biology, which involves scientific and objective study of behaviors of animals as species in natural condition/ environment.⁶⁴ The significance of *ethology* to the concept of animal protection cannot be overemphasized. This is because *ethology* gives room for proper understanding of varying behaviors of animals as an independent as species. These include animals behaviors in communications, expression of emotions and feelings, culture, learning, sexuality, mating and breeding feeding and nutrition, relaxations and comfort among others⁶⁵ Although, *ethology* typically focuses on behavioral process, it is essential in determining animal welfare and protection. This is because, knowledge of behavioral process and adaptive conduct are vital factors in determining what constitute welfare and protection to animals as species. Therefore, ethological parameters are useful in evaluation of animal welfare and protection.⁶⁶ The concept of animal protection should not only be considered from the perspective of environment and human development, but also, from the fact that animals are species of creatures that ought to be protected by laws. This is because protection is not only about preservation, but also promotion and guaranteeing of welfare of the subject.

Arguably, since animals are not in position to speak about what constitute their basic needs, it is only through ethological study such can be determined. For this reason, there is nexus between *ethology* and animal protection. Animal protection should not be determined from the perspective of human benefits/ ends alone, but also from the perspective of its benefits to animals

⁶³ American Animal Welfare Act, 1966 amended in 1970, 1976, 1985, 1990, 2002 and 2008.

⁶⁴ McGreevy (2011) *Ethology and Animal Welfare*, Green House, Edintong p. 23

⁶⁵ *ibid.*

⁶⁶ *ibid.*

as species. In other words, animal protection should not only be seen as means to human ends, but also, as an end to animals as species.

2.5 Definition of Animals

The term “animal” is susceptible to varying meaning and definition. For instance, etymologically, the word animal is a derivative of the Latin word “*animalis*” meaning “having breath” or “having soul” or “living being.”⁶⁷ Literally, the word animal refers to non-human creatures that are close relatives to human species, such as mammal and other vertebrate creatures.⁶⁸

In natural Science, the meaning of the word is wider and encompasses all living creatures both lower and higher animals, including human species.⁶⁹ Statutorily, there is hardly a single definition ascribed to the word animals. For instance, the American Animal Welfare Act (1970) defines animal to mean “worm blooded animal.”⁷⁰ English Animal Disease Control Act 1947 referred to animals as “any kind of mammals except man.”⁷¹ English Prevention of Cruelty Act 1911 defines animals to mean “mammal, birds, reptile, amphibian, fish or any other vertebrates or invertebrates.”⁷² On the other hand, the English Wild Animal Preservation Act 1935 defines animals to mean: “all vertebrates and invertebrates (including non-edible fish) their nest, eggs, shells, skin and plumage.”⁷³ American Anti- Cruelty Act 1925 defines animals from the context of domestic and wildlife animals to mean “horse, mule, donkeys, camels, cattle, cows, bulls, sheep, goats, swine, laboratory animals, and wild animals.”⁷⁴ The Penal and Criminal Codes operational in Nigeria define animals to mean creatures other than human for the purpose of

⁶⁷Mosh J.J. (1986). *Animals and Legal Rights*, Minnesota, U.S.A. p.56

⁶⁸Ibid. p.56

⁶⁹ Philips K.. (2001). *X-ray of Biology of Beings*, Lincoln Publisher, New York, p. 221.

⁷⁰ Section 61

⁷¹ Section 47

⁷² Article 16

⁷³ Section 36

⁷⁴ Section 24

penal sanction against cruelty⁷⁵.

From judicial perspective, the word “animals” received diverse definitions. Lord Valentine of the Australian Court of Appeal defines animal to mean “any creature with power of motion and locomotion, and in the language of law, the term does not include human beings”⁷⁶.

Similarly, the Supreme Court of Virginia, USA⁷⁷ held that: “the word animal in the language of the law is used in contradistinction to human beings to signify inferior living creatures having power of self-motion.” Also, in *Tillary vs. Groom*⁷⁸ the word “animal” has received judicial sanctification to mean “any animate being, endowed with power of voluntary motion, in its common acceptance, the word connotes all irrational beings. The term is less extensive in law than in natural science and its legal sense does not include mankind.” Furthermore, analogous definition was recently adopted by the High Court in Australia, where it was held that “animal means any living creature other than human beings”⁷⁹. From the foregoing, it is obvious, judicial definitions of the word animals are quite restrictive and narrow, as locomotive ability is placed as a central factor. However, there is no doubt; animals possess other characteristics other than locomotive ability which make them distinctive. For instance; animals possess lives, they usually live in community, and are conscious and sensitive to their environment.

Furthermore, there is no consensus of scholars and advocates on which species or classes of animals are entitled to legal protection. Preston Johnson is of the view that all living creatures, both lower and higher animals are entitled to legal protection. However, he contends that the nature and extent of such protection may differ from one class or species of animal to the other. Moreover, Campbell Hoover argues that it is only vertebrate animals that are entitled to legal

⁷⁵ Section 209 of the Penal Code and Section 495 Criminal Code

⁷⁶ *Preston vs. Mayer* (1984) KB-H 234

⁷⁷ *Pendleton vs. Lucky Organization*, 170, (1938), VG. 95

⁷⁸ (1957) SW, 29

⁷⁹ *Lawson vs. Emerson Inc. Ltd.* (2007) H 123 KB

protection. According to him, only vertebrate animals have membranes and other body system that make them conscious of their environment. Thomas J. opines that only higher animals like mammals are entitled to protection of law. According to him, mammals should enjoy priority of protection over other classes of animal, because they possess body systems similar to humans. Other view contends that only domestic and termed animals are entitled to legal protection. Maria M. argues that classes or species of animals should not be used as yardstick for determining how to accord them legal protection, rather the extent at which human beings relate with such animals⁸⁰. This view appears to be convincing, in view of the fact that the essence of providing protection to animals is to regulate human conduct in his dealings with animals. In support of this view, the neighborhood principles should be adopted to determine which animals entitled to legal protection⁸¹. Thus, any animal that is likely to be affected by humans' conduct is entitled to be protected by law to such extent and degree it would be injuriously affected by such consideration irrespective of the class or specie of such animals. Be that as it may, it worth nothing, in law, animals are classified into three, namely; domestic animals "*domiteanaturea*" tamed animals "*mansuetaenaturae*" and wild animals "*feraenaturea*". However, for the purpose of this research, except where the context expressly provides otherwise, "animals" means domestic animals

2.6 Theories of the Concept of Animal Protection

In an attempt to explain or justify why animals should be protected by law, various theories have been propounded by scholars and advocates as discussed below.

2.6.1 Rationality theory

The theory uses rational ability as criteria to determine whether animals are entitled to protection

⁸⁰ Morgan F. (2009) *Classes of Animals and Law*, Edison, p. 23

⁸¹Neighborhood principle in law of tort imposes duty of care to any person whose conduct is likely to affect another. See *Donoghue vs. Stevenson* (1932) A.C. 562

by law. Using this theory as basis, Thomason Smith, one of the leading critics of the concept argues that only human beings are entitled to legal protection because only human beings possess rational ability and disposition. In other word, animals are not entitled to legal protection because they are not rational⁸². Thomas Aquinas postulates that animals act on instinct, while human act on rational thought, this according to him, provides a frontier bridge between animals and humans. In support of this argument, a French philosopher, Rennes Descartes, in his mechanistic theory propounds that animals are automata beings in capable of acting rationally. However, the proponents of the concept argue that it is wrong to assume that animals are not rational. According to them, animals act rationally at their own levels. They response to their own needs and desires, and are conscious of their environment. Peter Singer contends that animals are rational beings, but their rational ability differs with human⁸³. From the foregoing, it is apparent, rational ability is not an appropriate criteria for determining who entitled to protection by law, otherwise, even some categories of human beings like mentally incapacitated and infants would have been deprived protection of law. It is certain, often, a law leans toward protecting those with weak rational capacity than those with higher rational ability.

2.6.2 Moral judgment theory

Slightly similar to the rationality theory, a moral judgment theory contends that the appropriate yardstick for determining who entitled to legal protection is the capacity of such being to comprehend rules of duty. In applying this theory to dismiss the idea of conferring legal protection to animals in the manner accorded to humans, Carl Cohen, argues that it is only in human, capability of moral judgment can be found, and the idea of legal protection can be invoked correctly.

⁸²Singer, P. (1980). *Animal Liberation*, Aston Publication, Burch ham, p. 45 accessed at <http://petersinger/animalliberation/> on 19th June 2017 by 8:45pm

⁸³Mosh J.J. op.cit. p.14

He concludes that although animals are not entitled to legal protection to such extent as accorded to humans, they are entitled to certain protection for their common goods⁸⁴. However, it is obvious, capacity for moral judgment falls short of being an appropriate criterion for determining who entitles to legal protection, otherwise even in human community, some categories of persons cannot comprehend rules of duty governing them. For instance, mentally incapacitated persons, infants and illiterates all lack capacity to comprehend rules of duty governing them.

2.6.3 Speciesism theory

The *speciesism* theory contends that specie of beings should be a basis for determining legal protection. In this regard, the proponents of the theory contend that human beings are exclusively entitled to legal protection by virtue of their species, while animals by their species are not entitled to legal protection in the same manner enjoy by humans. This argument is predicated on the natural law theory, which accords certain moral values to humans over and above other beings.⁸⁵ However, the proponents of animal protection reject the use of species as criteria to deny protection to animals. This is because; human beings have no physiological compositions that make them different from other higher animals. They further argue that if specie is the considerations for according legal rights to humans, racism would have been accepted in the contemporary world. *Richard D, Ryder*, opposes protection on the basis of species membership.⁸⁶ The proponents of the concept rely on Charles Darwin's theory which postulates that human beings have a direct kinship with other species to justify their argument⁸⁷.

It is obvious; Charles Darwin's theory on the origin of species is cloaked with uncertainty and

⁸⁴ Cohen C. (2001). *The Animal Rights Debate*, Rowman and Littlefield, Cheshire p.15

⁸⁵ *ibid* p. 34

⁸⁶ *Ryder, R., op. cit. p.198*

⁸⁷ *ibid.*

2.6.4 Contractaria theory

This theory was propounded by the critics of animal rights to justify why legal protection should not be accorded to animals in the same manner accorded to humans. According to a leading proponent of this theory, Mark Rowland, legal protection is a direct product of justice.

He based his argument on the social contract theory, propounded by John Lock, in which it was asserted that during the state of nature, human individuals chose principle of justice on what kind of society to form and how primary social goods would be distributed⁸⁸. He further argues that since animals are not in position to enter into social contract, they are not entitled to legal protection⁸⁹. However, the argument of this theory is quite elusive and unfounded, this is because, the social contract theory; being the fulcrum upon which this argument was sustained is unrealistic and utopian. It is doubtful, if the purported imaginary “state of nature” ever existed. There was no scientific or any verifiable historical evidence to show that there was an epoch of state of nature, in which human society ever met to make or ratify social contract agreement as eluded by the proponent of this theory.

2.6.5 Subject of life theory

This theory was formulated by Tom Regan, who argues that life and cognate abilities should be the basis for according legal protection to any being, whether humans or non humans. It is on this premise, he concludes that both humans and animals are subject of life with intrinsic value, as such; they are entitled to legal protection. However, Regan argues that for the purpose of legal protection, there are two categories of beings; moral agents and moral patients.

⁸⁸Roland, M. (2009).*Animal Right: A Defense*, Palgrave McMillan, p.17,

⁸⁹ Ibid..105

According to him, only humans of full age and mental capacity are “moral agents”, while minors, mentally incapacitated persons and some animals are “*moral patient*.”⁹⁰ However, this categorization is criticized for being an imaginary assumption. In reality, there is not any categorization of beings as moral agents and moral patients.

2.6.6 Prima facie theory

This theory was propounded by American philosopher, Timothy Garry who argues that every being is entitled to legal protection. According to him, this protection may either be prima facie or real. Real protection supersedes and overrides prima facie protection. However, he concludes that animals are entitled to prima facie protection, which is overridden by many other real considerations, especially those conflicting with human rights to life, liberty, property, and pursuit of happiness⁹¹. The categorizations of legal protection into prima facie and real is utopia and unrealistic and did not state what constitute real and prima facie rights.

2.6.7 Sentient theory

This theory is founded on the belief that the relevant consideration for according legal protection to individual beings is not about their rational ability, but is whether such beings are capable of being subjected to suffering. According to this theory, rationality or any other consideration are extraneous factors in determining who entitled to legal protection. This theory further postulates that human beings are not entitled to legal protection, because of their distinctive rationality or from natural law, but because they are sentient beings⁹². It is in this regard, the theory concludes that animals are entitled to legal protection, because they are capable of being subjected to suffering.

⁹⁰Regan, T. (2008). *Case for Animal Rights*, Newton p. 109

⁹¹Timothy G. (2007). *Animal Rights and Law*, Edinburgh Publication, P. 19

⁹²ibid. p.20

Jeremy Bentham, an English philosopher is a leading proponent of this theory. He argues that “the ability or capacity to suffer should be the bench mark of how we treat other beings.” He further argues that if rationality is the criterion for according legal protection “some classes of humans would have to be treated as though they were things”⁹³. However, this theory is criticized for being sympathetic to animals rather than promoting their welfare.

From the foregoing; it is apparent, all theories of animal protections focus on suffering of animals without going further to show how animal protection would impact on human development. However, sentient theory appears to be more realistic argument. Sentient means capacity to perceive or experience sensation, pleasure, pains and suffering. As argued by Jeremy Bentham, the law protecting animals is not concern about “can they talk or reason? But can they suffer?” Therefore, in determining whether animals are entitled to legal protection, the most suitable consideration should be whether such animals can be subjected to suffering.

It is apparent, capacity to feel pains or suffering should be the most important consideration of any law that seeks to prevent abuses and cruelty. It is certain; the argument of sentient theory is convincing and more realistic than other theories.

2.7 Significance of Animal Protection

Today, animals contribute eminently to the development of human societies. Animals are used in industries, research, and vivisection; and for various facets of life. Therefore, the need for laws regulating human conduct toward animals connote be overemphasis. In recent time, the idea of animal protection has gradually become concern of many contemporary societies. Various national and international legal frameworks have been promulgated to provide one form of protection or the other to animals.

⁹³Nussbaum, M. (2007). Beyond Compassion and Humanity: Justice for Nonhuman Animals, In: *Animal Right: Current Debate and New Directions*, Oxford University Press. P. 34

These laws are mainly enacted to serve numerous socio-economic and environmental needs of human development. Therefore, animal protection laws are not only developed out of empathy for the animals or to serve the interest of animals alone, but also, for human development. In modern time, animal protection laws are relevant to socio-economic development of human society. For instance, animal welfare regulations that seek to improve animals' wellbeing in terms of provision of feeding; housing and medication are invariably capable of enhancing health condition, productivity and safety of animals. This means that both animals and human society tend to benefit from the laws that seek to improve animal welfare. Animal welfare is an essential element of food safety and quality production. The report of English Bureau for Economic Planning has shown that with the review of the English Animal Welfare Act in 2007, animal productivity has increased by 47% in England.⁹⁴ The poor quality and productivity of animals in many underdeveloped countries like Nigeria can be attributed to poor animal governance and ineffective regulatory framework for the promotion of their welfare. Therefore, animal welfare laws have nexus with the productivity of farm animals.

Similarly, there is a link between animal health and human health. In recent time, there were incidences of outbreak of various diseases in many societies which are attributed to animals. For examples, *Ebola*, *Lasa* Fever, Bird Flu, Rabbit and other diseases transmittable from animals to humans. Thus, if there are no effective laws for the prevention and control of spread of animal diseases, human societies would be at the receiving end. The World Health Organization has released a report in 2006, indicating that about 13 animal diseases are responsible to the death of about 2.3 million people across the world.⁹⁵

⁹⁴See the Report at <http://apliamalwelfare/uk.org>, accessed on 18th May, 2018 by 12.00 pm

⁹⁵ See the Report at <http://who.animdiseasesdatabase//org.>, accessed on 8th December,, 2017 by 2.00pm

The outbreaks of these diseases can be attributed to ineffective legal frame for the control and management of animals. For instance, in Nigeria, Animal Disease (Prevention and Control) Act is not only archaic but also ineffective.⁹⁶ The report was further confirmed by the findings of this research.⁹⁷ It is certain, regulations dealing with animal health would invariably prevent and control spread of contagious diseases to humans. Thus, if there are effective laws that protect animals against contagious and infectious diseases, human beings would be saved from contracting such diseases. Also, regulations promoting enhanced use of animals in research and vivisection would contribute to human development. Moreover, animals are considered as components of environment; therefore, regulations seeking to protect them against exploitation, indiscriminate killing or extinction are significant to the conservation and preservation of environment for the benefits of both humans and animals. There are various environmental laws that seek to protect animals against extinction and exploitation. The game reserve laws are made not only with the intention to protect animals against extinction and indiscriminate hunting, but also to ensure conservation and preserve environment. In recent times, game reserves and animal parks have become major hubs of tourism and means of generating income to government. For instance, effective game reserves governance contributes eminently to the economies of Kenya, Tanzania, Botswana and South Africa in recent years.⁹⁸

⁹⁶Wale Y. (2008). The Control of Animals' Diseases in Nigeria In: *Journal of Animal Science*, Gorge Allen and Unwind, London, p. 51

⁹⁷ See Chapter 5 of this work for details.

⁹⁸Keson Y.C. (2008) *The Contribution of Animal Parks to the development of Southern Africa*, Miscoy Press, Pretoria, p. 12

Furthermore, the regulations seeking to control indiscriminate movements of animals, particularly domestic one would help to curb incidence of destruction of farm produce by animals. In recent time, the incidences of clashes between herdsmen and farmers have become source of serious security challenges in Nigeria. It is certain, if laws regulating movements of animals in Nigeria are effective, the recurrent and lingering crises and clashes between herdsmen and farmers across the country would have been either averted or reduced to barest minimum. The clashes do not only pose threat to national security, but endanger the agricultural and economic sector of the country.

Similarly, the laws regulating movement of animals will help in averting incidence of straying animals causing obstruction in highways or littering local environments. The incidences of hostile animals attacking human beings are also common in Nigerian due to absent of effective control of movement of animals.⁹⁹ Furthermore, Nelson H. argues that there is nexus between cruelty to animals and social violence. According to him, “cruelty to animal harden human’s mind and whoever is cruel to animal is likely to be cruel to his fellow humans.”¹⁰⁰ Therefore, if this argument is something to go by, then, there is a link between cruelty to animal and social violence, as less cruelty to animals’ means less incidence of violence in the society.

It is worth noting, animal protection is not only beneficial to human development, but also significance to animals as species. For examples, animal protection and welfare laws are said to be significant in promoting their life expectancy and quality of life.¹⁰¹

⁹⁹Adamu H. (2017). *Animal Welfare and Control and Regulation: Call for Action in Nigeria*, A paper presented at the Department of Commercial Law Series, Faculty of Law, Ahmadu Bello University, Zaria, on the 16th May, 2017. P.3

¹⁰⁰Nelson H. (2001). *Animal Cruelty and Social Violence*, Easton, 3416. Retrieved on June 31, 2018 from <http://animalcruelty/research/database> p. 12

¹⁰¹Wale Y. op.cit p. 23

Similarly, animal protection and welfare laws are said to be essential in behavioral process that assist animals to express their natural ways of life.¹⁰² Also, animal health laws are not only significance to human beings, but also relevant to animals as species because it helps in boosting health condition. Animal anti-cruelty laws are also vital in providing protection to animals for their existence and wellbeing. In the same vein, wildlife protection laws are not only significance for the preservation of environment, but are also important instrument for the protection of animals against abuse, exploitation and extinction.

From the foregoing, it is obvious, the significance of animal protection not only to human development, but also to animals as species cannot be overemphasized. Undoubtedly, animal protection laws play vital roles to the development of human society, particularly in the area of food production. It is therefore imperative to note, the abolitionists perspective of animals rights which seeks to halt consumption and use of animals in every endeavor of life is retrogressive to human development.

2.8 Conclusion

From the foregoing, this chapter has clearly established that the concept of animal protection is highly controversial and contentious. The weakness and strengths of various arguments of the concept is also established in this chapter. Above all, the chapter establishes the significance of animal protection laws to human development. There is no doubt; this chapter has laid a foundation that would enrich better understanding of the application of animal protection laws in the proceeding chapters.

¹⁰² *ibid.*

CHAPTER THREE

ANIMALS PROTECTION UNDER STATUTORY LAWS IN NIGERIA

3.1 Introduction

In recent years, animal protection has become concern of many countries in the world. Consequently, various legislations and policies have been made to provide protections to animals. The most prominent of these laws are anti-cruelty and welfare laws. Like many other countries in the world, Nigeria has also enacted number of laws for the protection of animals. Therefore, the objective of this chapter is to examine the concept of animal protection under Nigeria laws. To achieve this, the chapter briefly examines the status of animals under various customary practices in Nigeria. Also, the Chapter examines animal protection under 1999 Constitution of Nigeria. Furthermore, the protections given to animals by various legislations in Nigeria are critically examined. The enforcement and challenges to application of animal protection laws in the country are also examined. It is believed that the chapter would enlighten and demonstrate the significance of effective animal protection laws to human development in Nigeria.

3.2 Animals Protection under Customary Practices in Nigerian

Generally, it is a common fact that Nigeria is conglomeration of different independent societies, nationalities, kingdoms, empires and chiefdoms; who prior to colonialism, were governed under diverse system of governments, religions and cultures. In the Northern part of the Country, the predominant religion is Islam, while Christianity is predominant in the Southern part of the country¹⁰³. However, there is sizeable number of adherents of traditional religion spreading across different parts of the country. Nigerian societies are predominantly agrarians. That is to say, the predominant occupation of Nigerian societies is farming, animals rearing, husbandry and

¹⁰³Adelola J., (1987). *The Customary Practices of Nigerian people*, McMillan Publication, Lagos, p. 23

hunting. This agrarian character of the Nigerian societies has placed animals in a sensitive and integral part of social and cultural relations. Like many other societies in the world, various societies in Nigeria use animals as source of foods, as pets, for sports, or as means of transportation. Animals like horses, camels and cows are used for royal activities, ritual and religious sacrifice. At any rate, animals are in strategic position in socio-economic, cultural and religious life of the various Nigerian Societies.

However, it is worth noting, under diverse cultures and customary practices of the Nigerian societies, various species of animals have different status. Some classes or species of animals are seen as agents of good omen, while others are given bad attribute. For example, in Hausa culture, cows, sheep, horses, donkey camels are seen as symbol of affluence and royalty, while dogs and pigs are treated with disdain. This perception may not be unconnected with the influence of Islam to Hausa culture. By the Fulani culture, cows are synonymous to life. A typical Fulani man treats his cows dearly and can spend all his life serving his cows. Similarly, according to the belief of Adigun people of Yoruba extraction, cats symbolize honesty and fraternity. Thus, it is a customary practice for barely every household to keep cats as pets¹⁰⁴. To the Umuka people of Ohaozara, it is a taboo to kill snakes within the community, as they are seen as representative of omodioha god of protection. In the same way, to Utokun culture, bareness is attributed to red cocks, while fertility is attributed to white pigeons. According to Eseyi culture, agama lizards are believed to represent sign of fortune. It is an annual mandatory ritual to spill blood of a living cow as a sacrifice to the Ofun goddess of rain under the custom of Ifeoma community. It is believed that if such sacrifice is not done, it would spell doom to the community¹⁰⁵.

¹⁰⁴ibid. p. 36

¹⁰⁵ibid. p 47

More also, in most Nigerian societies, snakes, black dogs or black cats represent spiritual viciousness and manifestation of evil. Thus, there are many customary practices, rituals and superstitious beliefs held by different societies in Nigeria attributing different status to different animals. It is worth nothing, these diverse customs and practices of Nigerian societies generally treat animals as objects, capable of being owned as properties. It is doubtful, if there is any enforceable customary rule that protect animals against cruelty and abuses or seek to promote their welfare. Therefore, the concept of animal protections in its modern sense is not entrenched in customary practices of Nigerian societies. It is doubtful, if there is any enforceable or binding customary practice or mechanism which seeks to protect animals against mishandling. It appears under many customary laws in Nigeria animals are at the mercy of their owners. There is no customary obligation to treat animal with care and compassion. For many years, the practice of subjecting animals to cruelty and mishandling is prevalence in many Nigerian societies.

Therefore, in many instances, animals are victims of obnoxious cultural practices in Nigeria. Even in Muslim dominated communities in Nigeria, the teaching of Islam on humane and compassionate treatment of animal is neglected. The data generated in this research has confirmed the prevalence of animal abuse in total disregard to the reaching of Islam on humane treatment of animals¹⁰⁶. From the foregoing, it is apparent, the idea of animal protection is not well entrenched under various customary practices of Nigerian people.

3.3 The Role of Colonialism to the Development of Animal Protection Laws in Nigeria

Colonialism has brought “significant” changes to the socio-political, economic and legal system of Nigeria. As echoed by Peterson Marbella, colonialism is a game changer, epitomizing rebirth of new era which brought multifarious changes in various facet of historical process of human

¹⁰⁶ See data presentation and analysis in Chapter 5.

existence.¹⁰⁷ Thus, by 1900, the British colonialists were able to accomplish their mission of annexing Nigerian people. By 1914, the Northern and Southern Protectorates were amalgamated to create entity called Nigeria. With the introduction of colonial rule, English laws were introduced to Nigeria. This started in 1863 in the Colony of Lagos and subsequently extended to the Northern and Southern Protectorates through the instrumentality of the Supreme Court Ordinance of 1900.¹⁰⁸ The Interpretation Act of the 1945 fully introduced English laws into the Nigerian territory. Section 45 of the Act “received” common law, doctrine of equity and statutes of general application in force in England, on the 1st January, 1900. However, the reception and application of English law was made subject to local circumstances¹⁰⁹. By the strength of the purported “reception clause”, English statutes were introduced into Nigerian, including animals’ protection laws that were in force in England at that time.

For instance, English Animal Anti-Cruelty Act, 1897 became integral part of Nigerian laws. Similarly, by this reception clause, many rules of common law and equity crept in to become part of Nigerian laws. For example, the common law rules of cattle trespass, the rules of owner’s strict liability for straying animals, the rule of *mensutaenatura and fareanaturea*” in tort¹¹⁰ and the rule that wild animal belongs to the owner of a land where it is found¹¹¹.

The colonial regime has introduced number of legislations that sought to regulate dealing and use of animals in Nigeria. These include; Wild Animal Preservation Ordinance 1939, which sought to regulate hunting and other human activities that threaten wild animals; Animal Disease (Prevention and Control) Ordinance (1941) which sought to protect animals against contagious diseases.

¹⁰⁷Njoven P. (1969). *The Africa and Colonialism*, London Publication, London, p. 223

¹⁰⁸Okwonko C.H (2006.) *Introduction to Nigerian Criminal Law*, Spectrum Publication, 2006, p. 6

¹⁰⁹Section 45 of the Interpretation Act, 1945

¹¹⁰ Meaning; domestic animals and wild animals

¹¹¹*Tyson vs. Madison* (1899) Ch. 23 A39 p. 345

Criminal Code Ordinance, 1906, which sought to protect animals against cruelty. These legislations and rules of law have all become part of Nigerian laws¹¹². Although, these colonial legislations did not change the traditional perspective and attitude in which animals are treated in Nigeria, it has laid a foundation for further development of enforceable animals' protection laws in Nigeria. This filled the gap left by the customary laws.

3.4 Animal Protection under Nigerian Constitution of Nigeria

The Constitution of the Federal Republic of Nigeria, 1999 defines the rights and duties of individuals. The Constitution also states functions and extent of powers of various organs of governments. It is a supreme point of reference in which any action, decision or policy is measured, and any action that is inconsistent or in conflict with the provisions of the Constitution is a nullity and void¹¹³. The ideology and directive principle in which Nigeria is founded is the provision of security, good governance and welfare to the people.¹¹⁴

It is worth noting, protection of human life and properties is the preoccupation of the Nigerian Constitution. The idea of animal protection is not the preoccupation of the Nigerian Constitution. As sarcastically puts by Nelson Gary “always the framers and draftsmen of our constitution are oblivious or unmindful of the imperative of including animal protection in our grand norm”¹¹⁵. Thus, the Constitution defines and identifies the inalienable rights of individuals in their capacity as citizens, or as human beings. It makes adequate and elaborate provisions for the enforcement of these rights.¹¹⁶ Similarly, the Constitution mandates Nigerian government to *inter alia* protect, preserve and promote human dignity.¹¹⁷

¹¹²Njoven P. op.cit. p. 69

¹¹³Section 1 (3) of the 1999 Constitution of the Federal Republic of Nigeria (as amended); *Amara vs. NkoliNdem* (2012) 5 N.W.L.R. (pt. 567) @ 345, p.344

¹¹⁴Chapter 2, 1999 Constitution of the Federal Republic of Nigeria, (as amended)

¹¹⁵Timothy Gary, op.cit. p. 38

¹¹⁶Sections 33- 46 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended)

¹¹⁷Section 21 (a) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended)

Furthermore, the Constitution preserves and respects the dignity of human person. It prohibits torture and inhumane and degrading treatment.¹¹⁸ However, prohibition against torture and inhumane and degrading treatments is only applicable to human beings; it does not apply to animals.

Arguably, although Nigeria Constitution does not expressly deal with animal protection or animal related issues, it contains implied provisions which can be construed to mean a safeguard to animals. For instance, the Constitution provides that “the state shall protect and improve environment and safeguard the water, air and land, forest and wild life of Nigeria”¹¹⁹. Obviously, this provision has placed Nigerian government under a duty to *inter alia* protect and safeguard animals and environment generally. More also, Section 17(c) of the Constitution provides that “all governmental actions shall be humane.” Similarly, Section 17 (d) of the Constitution provides that “exploitation of humans and natural resources in any form whatsoever for reasons, other than the good of the community shall be prevented.” It is contended that since wild animals are considered as part of natural resources, their exploitation or abuse would not be for the common good of the people. Even though, these constitutional provisions are referring to human beings, they seem to have imposed duty on everyone to be humane in conducting his affairs. Thus, any form of inhumane conduct either against humans or animals can be arguably said to have been prohibited by the constitution. Inhumane treatment in any character or context seems to be contrary to spirit of the constitution. However, Sections 17 and 20 of the Constitution, upon which this implied inference of the animal protection can be made is unenforceable in court¹²⁰.

¹¹⁸ Section 34 (a) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended)

¹¹⁹Section 20 of the 1999 Constitution of the Federal Republic of Nigeria (as amended)

¹²⁰Section 6 (6) (c) 1999 Constitution of Nigeria

Furthermore, animals are generally considered as properties under Nigerian laws, in this regard, the Constitution has provided that every citizen is vested with a right to own moveable and immovable property. And such property or interest therein, shall not be compulsorily taken away except in a manner that is prescribed by law¹²¹. Therefore, the animal rights perspective which seeks to confer animals with the “personhood” status has no basis under Nigerian Constitution.

3.5 Legislations for the Protection of Animals in Nigerian

It interesting to note, there are legislations in Nigeria which provide one form of protection to animals or the other. Some of these legislations seek to directly protect animals against cruelty and abuse. Similarly, a number of these legislations seek to protect animals as properties, while others protect animals as component of environment. These legislations are discussed below as thus:

3.5.1 Criminal Code

The Criminal Code Act applicable to Southern Nigeria is one of the most significant and cornerstone legal framework that provides for the protection of animals in Nigeria. The Code expressly defines, criminalizes and prohibits cruelty to animals. For instance, Section 495(1) of the Code provides wide ranges of protection to animals against cruelty thus: It is a criminal offence to “... cruelly beats, kicks, ill-treats, over-rides, over-drives, over-loads, tortures, infuriates, or terrifies any animals or causes or procures, or being the owner permits any animal to be so used.”

Similarly, it is a criminal offence for any person to “wantonly or unreasonably do or omit to do any act, or cause or procure the commission or omission of any act, which causes unnecessary suffering or permits any unnecessary suffering against any animal.”

¹²¹Section 44 of the 1999 Constitution of Nigeria (as amended).

Also, it is cruel for any person to convey, carry or move animals in such a manner that would cause them unnecessary suffering. Thus, by this provision, the aged –long practice of conveying animals from one part of Nigeria to the other in a despicable and appalling manner is prohibited. Although, there is no formal recognition of animal sentient as an independent in Nigeria, by the offence of cruelty, it can be said that Nigerian law partially or indirectly noted the fact that animal can be subjected suffering or their psychological terrified. The offence of cruelty to animals under the Code also includes; any act of poisoning or administering of injurious or poisonous drugs or substance to animals willfully and without any reasonable cause or excuse. More so, the Code prohibits subjecting animals to any work that is appalling or handling of animals without due care. It is also provides that:

Whoever causes, procures, assists at the fighting or baiting of any animal, or keeps, uses, manages, or acts or assists in the management of any premises or place for the purpose, or partly for the purpose of fighting or baiting any animal, or permits any place to be so kept, managed or used, or receives or causes or procures any person to receive money for the admission of any person to such premises or place, is guilty of the offence of cruelty¹²².

It is obvious; the above provision seeks to protect the use of animals in a cruel and exploitative manner. By and large, by the foregoing provision, whoever commits the offence of animal cruelty shall be “liable to imprisonment for a period of six months or fine of fifty naira, or to both.¹²³ Furthermore, by Section 495 (2) of the Code, an owner of animal will be guilty of cruelty, if he fails to exercise reasonable care and supervision in respect of animals under his control. The significance of this provision cannot be overemphasized, as it places owners of animals under legal duty to cater for the needs and welfare of animals under their control.

¹²²Section 495(1)(f) of the Criminal Code Act

¹²³ Ibid.

This means that omission or failure to act do something by animal owner which resulted suffering of animals is also an offence.

It is worth noting, Section 496 of the Code has vested the courts with power to order for the destruction of any animal which is incapacitated by cruel actions, if keeping the animal would subject it to further cruelty. Conversely, this provision is somewhat outlandish. The law ought to have been sympathetic to an incapacitated animal by making provision for its treatment rather than its destruction. Moreover, under the Code, the court has powers to order any person convicted for animal cruelty to treat the animal or bear cost for its veterinary treatment. Also, the court is vested with power to, upon conviction of animal's owner, deprive him ownership of such animal as it deemed fit¹²⁴.

However, this provision will not apply unless there is evidence of previous conviction or evidence which shows that if the animal is left to the convicted owner, there is likelihood he would expose it to further cruelty. Section 498 also confers police with powers to keep any animal which is subjected to cruelty for safe custody until court directs otherwise. Thus, Section 496 of the Code confers certain roles to both the courts and police in the protection of animals against cruelty. Equally, it is punishable offence to willfully and unlawfully kill, maim or wound any animal capable of being stolen. It is provided:

Any person who willfully and unlawfully kills, maims, or wound any animal capable of being stolen is guilty of an offence, If the animal in question is a horse, mare, gelding, ass, mule, camel, bull, cow, ox, goat, pig, ram, wither, or ostrich or the young of any such animal, the offender is guilty of a felony, and is liable to imprisonment for seven years in any other case, the offender is guilty of misdemeanor and is liable to imprisonment for two years.¹²⁵

¹²⁴ Section 497 of the Criminal Code Act

¹²⁵Section 450, Criminal Code Act

The aforesaid Section has provided additional safeguard against indiscriminate and wanton physical maiming or killing of animals.

It is interesting to note, the sanction provided under Section 450 is stiffer than the offence under the Section 495, and it applies to every offender whether an owner of animal or not. However, the Section is narrow in scope, as it only applies to animal capable of being stolen. And Section 382 of the Code defines “animal capable of being stolen to only include; domestic and tamed animal. By implication, the Section exempts wild animals from the protection under the law. Section 456 of the Code prohibited willful spreading of infectious diseases among animals. This provision is laudable as it sought to health condition of animals.

However, the Code provided for exceptions to the offence of animal cruelty. For instance, it is not an offence for any act done to due to be slaughter and use as foods, unless if they subjected to unnecessary suffering¹²⁶. But the Code does not define what constitute “unnecessary suffering”. Similarly, the provision does not apply hunted and captive animal unless it was liberated in an injured or mutilated or exhausted condition. Therefore, under the Code any act or omission done to animals for the purpose of using them as foods, or in the course of hunting is exempted from the offence of cruelty. This provision of the Code is inversely inconsistency with the abolitionists’ principle that seeks for stoppage of using animals for consumption.

Although, Criminal Code has provided marvelous and laudable safeguards for the protection animals, it is criticized for being inadequate. For instance, for the purpose of the offence of animal cruelty, Section 499 of the Code defines animals to mean domestic, captive and termed animals. Apparently, this definition has exempted wild animals from the protection of the law.

¹²⁶ Section 495 (3) of Criminal Code Act

It is further observed that the payment of fine of fifty naira upon conviction for the offence of cruelty to animal is quite obsolete, inconsequential and cannot achieve any purpose of deterrence thereby defeating the essence of the law.

Lamentably, the proviso to Section 495 (2) of the Code has shielded a convicted owner of animal, who failed to take reasonable care and supervision from being sentenced to imprisonment irrespective of the gravity of the cruelty he committed. However, notwithstanding the inadequacies of the Code, it remains cornerstone legal frame work for the protection of animals in Nigeria. Also, under Section 214 of the Code, any person having carnal knowledge of animal is said to have committed unnatural offence and may be liable upon conviction to 14 years imprisonment. This provision therefore seeks to protect animals against sexual and immoral abuse of animals.

3.5.2 Penal Code

The Penal Code was enacted by the Regional Government of Northern Nigeria in 1960 to regulate crime in the Region. And just like its counterpart in the Southern Region as discussed earlier in this Chapter, the Penal Code has made provisions for the protection of animals against cruelty. Section 207 of the Code succinctly provides that it is an offence punishable “for a term which may extend to one year or with fine, which may extend to fifty pound”, if any person is found guilty for the offence of “cruelly beating, torturing or otherwise willfully ill-treating any tame or domestic animal or any wild animal.” It is also an offence for any person to arrange, promote or organize sport-fight between domestic animals.

Similarly, Section 208 of the Code provides another protection to animal by criminalizing any act of “wanton overriding or overdriving or over-loading or over use of any animal which by reason of its age, sickness, wound or infirmity is not in a condition to work in that manner.” The

Section also prohibits and criminalizes neglecting animal under control or possession of someone in such a manner as to cause it unnecessary suffering.

These offences under this Section are punishable with imprisonment for a term which may extend to one year, or with fine which may extend to fifty pound. In the same vein, Section 209 of the Code vested courts with power to order police to temporary take custody of any animal subject matter of cruelty upon conviction. And if it deems fit, it may ask the convicted person to bear the cost of maintaining the animal. It is interesting to note, the Penal Code has provided additional protections to animals. Section 329 of the Code provides that “whoever commits mischief by killing, poisoning, maiming or rendering useless any animal or animals shall be punished with imprisonment for a term which may extent to three years or fine or both.”¹²⁷ And where the mischief involved a camel, horse, donkey, mule, bull, cow or ox of whatever value, the punishment may extend to a term of five years imprisonment or with fine or both.¹²⁷ Section 284 of the Code makes it an offence for anyone to have carnal knowledge against order of nature with animals and whoever is found guilty upon conviction, may be sentence of to 14 years imprisonment.

Although, the provisions of the Code are intended to protect the proprietary interest of owners of animals, yet it goes a long way in providing protection to animals. It is interesting to note, the punishment provided under Penal Code is stiffer than that of the Criminal Code. However, the protection accorded to animals under Penal Code is not as comprehensive and wide as provided under Criminal Code. For instance, unlike in Criminal Code, the Penal Code does not make it an obligation for owners of animals to take reasonable care and supervision of their animals.

Ordinarily, as the Penal Code came much later, one would have expected it to be an improvement of the Criminal Code in this regard. This seeming inadequacy of the Penal Code,

¹²⁷Section 330 of the Penal Code

being a homemade, is a reflection of the nonchalant attitude of Nigerian societies toward the flight of animals.

3.5.3 Sharia Penal Codes

The Sharia Penal Codes in force in some states of the Northern Nigeria, also like other codes regulating crime in Nigeria have made provisions for the protection of animals against cruelty. It is worth noting, the provisions of Sharia Penal Codes in the 12 Northern States of Nigeria against animal cruelty are *impari material* with the provisions of the Penal Code. For instance, Section 401-402 of the Sharia Penal Code Law of Sokoto State is a replication of 207-209 of the Penal Code. This is an indication that the protection accorded to animals under criminal justice system in Nigeria is all encompassing. Similarly, with the reintroduction of Sharia legal system in 12 Northern States in Nigeria 2000¹²⁸ arguably, all the protections given to animals under Islamic law as discussed in chapter three of this work also formed part of the animal protection law in Nigeria¹²⁹.

It is imperative to note that the protections given to animals by the criminal justice laws in Nigeria, being criminal in nature is an offence against the state, in which either the police or attorney general of the Federation or State or their agent or representative can prosecute.¹³⁰ However, an owner of animal affected by cruelty or mischief or any person having sufficient interest or lawful possession may institute criminal action against the offender by way of direct criminal action as provided under Section 143 of Criminal Procedure Code.

3.5.4 National Park Act

¹²⁸Zamfara State, Sokoto State, Katsina State, Kano State, Jigawa State, Kaduna State, Bauchi State, Niger State, Borno State, Yobe State, Kebbi State and Gobe State

¹²⁹Section 14 of the Sharia Courts Law of Sokoto State (2000)

¹³⁰ Section 174 and Section 2011 of the 1999 Constitution of Nigeria

As discussed earlier in this Chapter, the Nigerian Constitution vested every citizen with inalienable right to own immovable and moveable properties including animals. This right is however exercisable subject to limitations that may be imposed by the Constitution or any extant law¹³¹. It is against this background, the provisions of National Park Act restricts the right of individual to only own domestic and tamed animals, while States and Federal Government are vested with powers to own domestic, tamed and wild animals¹³². By the combine effect of the provisions of the Act, all wild animals in designated areas called national parks or national game reserves belong to the Federal Government. The Act has reaffirmed the traditional status of animals as property capable of being owned as against being holders of legal rights as championed by the hardcore proponents of animal rights.

3.5.5 Wildlife Preservation Laws

Generally, the Nigerian Constitution has placed animals' related issues which are constituents of agriculture under Concurrent Legislative Lists in which both the States and Federal Government can legislate upon¹³³. It is in this regard, various states of the Federation enacted wild animal preservation laws for the protection of feral animals against indiscriminate hunting and abuse, particularly in designated areas called game reserves. For instance, the Wild Animal Protection Law of Sokoto State¹³⁴ has categorized wild animals into three. The prohibited wild animals¹³⁵ protected animals and specifically protected wild animals¹³⁶.

Under the law, hunting of prohibited animals is forbidden except for an important scientific purposes or essentials administrative reasons as permitted by a commissioner in charge of animal

¹³¹ Section 44 of the 1999 Constitution

¹³² Section 18 and 19 of the National Park Act, Cap N17, Laws of the Federation, 2004

¹³³ Section 20, Part 2 of the Second Schedule of the Constitution of the Federal Republic of Nigeria(1999)

¹³⁴ Cap 151, Laws of Sokoto State, 1990

¹³⁵ Section 4

¹³⁶ Section 6

resources in the State. The hunting of specifically protected animals is also prohibited, except with a license granted by a commissioner in charge of animal resources.

By Section 7 and 8 of the Law, it is a criminal offence to hunt or kill wild animals in a designated area called game reserve without a valid license. The law also prohibits hunting of female animals that are nursing young ones, except in exceptional circumstances as may be approved by the relevant authority¹³⁷. However, the law provides for exceptional circumstances under which wild animals may be killed without permission. For instance, it is permissible to kill wild animal without license for self-defense or defense of another person, provided such killing must be reported to relevant authority thereafter.¹³⁸

At any rate, the intendment of this law is to preserve wild animals as constituent of environment. Although, the provisions of these legislations provide wide protection to animals, it is lamentable; these laws are hardly being observed and enforced. With the rate at which wild animals are indiscriminately being hunted and killed in various local communities, coupled with poor or none enforcement of this legislations, one would tend to wonder whether these laws ever exist.¹³⁹

3.5.6 Local Government Laws

In the same vein, local government laws of various states also make provisions for the protection of animals against cruelty. For instance, Section 68 of the Local Government Law of Sokoto State confers Local Governments Authority with powers to prohibit cruelty to animals or specified any act of cruelty to animals¹⁴⁰. The law also gives Local Governments Authorities powers to regulate movement and keeping of animals. Furthermore, the law vested local

¹³⁷ Section 9

¹³⁸ Section 12

¹³⁹ The law also applies to Zamfara States given the fact that the law was enacted in 1990 prior to the creation of the State in 1996.

¹⁴⁰ Cap 151, Laws of Sokoto State, 1990

government with powers to regulate provision of proper sanitary and veterinary services to animals.

However, often, local government authorities in Nigerian have abdicated these onerous responsibilities for the protection of animals under these laws.¹⁴¹ The Law also applies to Zamfara State as it was enacted before the creation of the State from Sokoto State.

3.5.7 Animal Diseases (Control and Prevention) Laws

Various states in Nigeria have also enacted Animal Diseases (Control and Prevention) Laws. The laws are enacted to prevent and control spread of contagious and infectious diseases among animals. For instance, Section 3 of the Sokoto State Animal Diseases (Control and Prevention) Law vested Governor of the State with powers to make regulations for the control of animal diseases in the State¹⁴². The law also confers the Governor with powers to take all necessary measures that would ensure prevention or control of outbreak or spread of any contagious or infectious diseases among animals. The law also empowers the Governor to appoint officers that would ensure compliance with the law¹⁴³. Similarly, Section 5 of the law compels owners of animals or any person in control of animals to ensure timely treatment of animal for any disease and report any incident of outbreak or spread of animal diseases to relevant authority. The law empowers the governor of the state to make regulations keeping animals in sanitary and healthy conditions in private premises, farms, market, slaughtering houses, trucks and carriage.

The law also empowers government to take steps to eradicate, control or remove or prevent outbreak or spread of animal disease. However, the law is limited in scope, and not every animal is covered by the law. The Section 1 of the Law defines animals to mean “stock, camels,

¹⁴¹ Adamu H. op. cit p. 14

¹⁴² Cap 5, Laws of Sokoto State, 1990

¹⁴³ Section 4

dogs and ostrich and include any animal or bird which the Governor may by notice in the State Gazette declare to be included in the term animal for the purpose of the law.”

It is pertinent to note that at the federal level there is also Animal Disease (Control and Prevention) Act, 2004 complementing states laws. Both the Federal Act and Sokoto State Law are the same in letters and spirit. However, the Act seeks to regulate the manner in which animals would transport from one place to another. For instance, Section 12 (6) provides that the journey for the transportation of animal for slaughtering of animal should not exceed 30 kilometer per day. Section 12 (7) provides that transportation of animal for trade by road or rail requires the person in charge to stop and feed and rest the animals at every hours. Section 12 (8) of the Act prohibits stock densely keeping of animals in order to give them adequate ventilation. Furthermore, Section 12 (9) of the Act makes provision of safety equipment or tools, while uploading or unloading of animals to reduce injury. It is pertinent to note that none compliance with these laws is a criminal offence punishable with term of imprisonment or fine.¹⁴⁴ It is worrying to say, this law, like many other legislations for the protection of animals is neglected and hardly being enforced. The aged long trading of transporting animal from Northern to Southern part of the country is certainly in violation of the provision of the law¹⁴⁵.

¹⁴⁴ This law also applies to Zamfara State as it was made prior to creation of the State in 1996.

¹⁴⁵ On the 25th July, 2019, the researcher was informed, (while conducting research interview) by the SarkinKasuwa of Illella Market, SokotoSokoto State that every week about 80 –100 trucks of cattle, sheep or goats are transported from the market to Southern part of the Country, particularly Lagos and Port Harcourt, and each truck carries not less than 70 – 100 heard of cattle/ sheep or goat. The journey takes about 3- 5 days depending on the destination. During the transit, these animals are not fed except on exceptional situation, and in some instances d death of the animal or even accident is encountered. Similarly, SarkinPawanGada, Sokoto State and ShugabanDillalai, Goronyo Market when interviewed by the researcher on the 26th July, 2019 corroborated this experience. Also, similar experience was recounted by the SarkinKasuwarDabobi, Shankafi Market, Zamfara State when he was interviewed by the researcher on 29th July, 2019.

3.5.8 Dog Control Law

The Dog Control Law of Sokoto State regulates keeping and rearing of dogs in Sokoto State¹⁴⁶.Section 4, 5 and 6 of the Law provides that dogs can only be reared or kept upon issuance of license by the relevant authority.

Section 14 15 and 16 of the law mandated dogs owners to takes steps to control, prevent, cure and treat any dogs against disease and ailment. Section 17 of the Law vested Governor of the State with power regulate movement of dogs generally. By Section 21, none compliance of the Law is a punishable offence.

3.5 . 9 Grazing Reserve Law

The Sokoto State Grazing Reserve Law was enacted to designate, preserve and control certain area in the State as cattle route and grazing reserves for animals¹⁴⁷. The Law empowers the state governor and Local Government to make regulations for the use, management and control of the grazing reserve and control. It is obvious that this legislation was enacted to cater for the need to provided grazing areas for the animals particularly cattle. Provision of cattle routes is like provision of road to the people. This law mandated government at the state and local government level to provide places of grazing for animals. However, Grazing Reserve law seems to be ineffective. The law is also applicable to Zamfara State as it was enacted before the creation of the State in 1996. However, the ineffectiveness of the law can be evident from the recurrent clashes between farmers and herdsmen in Sokoto-Zanfara axis in recent time.

¹⁴⁶ Dog Control Law, Cap 45, Laws of Sokoto State, 1996

¹⁴⁷Grazing Reserve Law, Cap 56, Law of Sokoto State, 1996

3.5.10 Forestry Preservation and Control Law

The Sokoto State Forestry Preservation Law seeks to protect designated forests for the purpose of preservation and conservation of environment¹⁴⁸. The Law empowers the governor of the state on the advice of the Chief Conservator of Forest to declare a particular forest as a protected area.¹⁴⁹ It is certain; the significance of forest preservation legislation is not only limited to preservation and conservation of environment but also instrumental to the protection of wild animal against extinction and exploitation. Like other laws discussed above, violation of Forest Preservation Law is a criminal offence. The law is also applicable to Zamfara State.

3.5.11 Fisheries Control Law

The Sokoto State Fisheries Control is enacted in 1988 to regulate fishing activities within territorial waters of the defunct Sokoto State, now comprising of Sokoto, Zamfara and Kebbi States¹⁵⁰. By Section 3, 4 and 5 of the Law, fishing is prohibited in the territorial waters of the state except upon receiving license from appropriate authority or for scientific or experimental purposes. The Law also prescribed approved methods of fishing and the types and sizes of fishes to be caught¹⁵¹. Section 7 empowers police district heads and village heads to ensure compliance with the Law. Under Section 9 of the Law, it is criminal offence to engage in fishing without license. In essence, the Law seeks to regulate indiscriminate fishing with a view to protect various species of fishes from extinction and preserve and conserve the environment generally.

3.5.12 Other Legislations dealing with animals in Nigeria

Furthermore, there are other legislations which directly or indirectly regulate animal related issues in Nigeria, like: The Endangered Species Act which seeks to protect various species of

¹⁴⁸ Cap 5, Laws of Sokoto State, 1996

¹⁴⁹Section 8 and 9 of the Law.

¹⁵⁰Cap 51, Laws of Sokoto State, 1996.

¹⁵¹Section 6 of the Law.

animals against endangered humans' activities against extinction¹⁵². Other legislations are Hides and Skin Act, Live Fish (Control of Importation) Act, National Crop Varieties and Life Stock Act, Pest (Control and Produce) Act, Quarantine Act, Veterinary Surgeon Act, River Basin Development Authority Act, Sea Fisheries Act, Territorial Water Act, Kainji, Lake National park Act, Land Use Act, and Federal Environmental Protection Act¹⁵³.

3.6 International Instruments for the Protection of Animals Ratified by Nigeria

It is interesting to note, mostly, the enactment of animal protection statutes in Nigeria was influenced by events and change of global trend and attitude toward animals. The consistent growing campaign for the protection of animals in different parts of the world, particularly in Western Europe and America has influenced the development of these laws in Nigeria. Between the last quarter of the 20th Centuries and the first quarter of 21st Century, Nigeria signed many international instruments, which sought to regulate human activities toward animals¹⁵⁴.

Nigeria is a member of International Organization for Animals Health, and recently, participated in the United Nations General Assembly, which for the first time supported the need to safeguard and uphold animal welfare and conservation of biodiversity for future generations¹⁵⁵.

Nigeria also participated in the United Nations Conference on Sustainable Development, in which animal welfare protection through sustainable consumption and production goals was

¹⁵² Cap E 12, Laws of the Federation, 2004Cap H 3, Laws of the Federation, 2004, Cap L 27, Laws of the Federation, 2004,CaCap V3, Laws of the Federation,2004p N 17, Laws of the Federation, 2004,Cap P9 , Laws of the Federation, 2004Cap Q 2, Laws of the Federation,2004,Cap V3, Laws of the Federation,2004, Cap R9, Laws of the Federation, 2004,Cap S 54, Laws of the Federation, 2004Cap T 5, Laws of the Federation, 2004,Cap K 197, Laws of the Federation,2004,Cap L5, Laws of the Federation, 2004 and Cap F 10, Laws of the Federation, 2004

¹⁵³ Cap F 10, Laws of the Federation, 2004

¹⁵⁴Convention for International Trade on Endangered Species of Wild Fauna and Flora (1973), the Convention for the Protection of Migratory Species of Animals and the Convention for the Protection of Diversity

¹⁵⁵United Nations General Assembly Resolution No: A/66/750/ of 20th March, 2012. Accessed from <http://www.unga/resolutionsdatabase.com>, on 13th June, 2017 at 10: am

conversed¹⁵⁶. The domestication of most of these conventions in Nigeria is in line with Section 12 of the Constitution of Nigeria which gave birth to most of the animal protection legislations.

3.7 Enforcement of Animal Protection Laws in Nigerian Courts

As it is commonly said, the test for determining the efficacy and rigor of law is determined by how it is enforced in courts of law. Thus, borrowing from the word of John Munich, adjudication is a significant process for testing the strength and weakness of any law¹⁵⁷.

Relying on the result of the empirical research conducted in this study one can confidently conclude that if there is any area of law that is poorly observed and negligibly enforced in courts in Nigeria is animal protection laws¹⁵⁸. However, notwithstanding this worrisome state of affairs, this research was able to discover few instances where judicial process was invoked against violation of animal protection laws particularly, anti-cruelty laws under Criminal and Penal Codes respectively. For instance, the West African Court of Appeal has once had the opportunity to make pronouncement on the offence of cruelty to animal under Criminal Code in the case of *R. vs. Olume*¹⁵⁹. In the instant case, the accused, Olume was arraigned, tried and convicted for causing grievous injury to his neighbor's dog by a trial court. On appeal, the accused contended that offence of causing grievous injury to animals was unknown to Nigerian laws. However, the West African Court of Appeal affirmed the conviction of the accused on the ground that the offence of cruelty to animal is an integral part of the Nigerian criminal law.

Similarly, the Court of Appeal had held in the case of *Muyiwa vs. Atoba*¹⁶⁰ that "the offence of cruelty to animal is embedded into our criminal justice system out of conscious need to protect

¹⁵⁶Held in Rio, Brazil, on the 20th-22nd June, 2012.

¹⁵⁷See data presentation and analyses in Chapter.

¹⁵⁸Sikiru O. A. (2007). *The Legal Right of Animals and Animal Owners*; Paper Presented at the Conference of Nigerian Vet. Medical Association, held at Edison Hotel, Ibadan, on 15th July, 2007, p. 7.

¹⁵⁹(1946) WACA, Vol. 5, 890

¹⁶⁰(1976) 2 NWLR, pt. 321, p. 467

animals as property and as sentient beings.” It seems that the reasoning of the court is in line with the argument of sentient theory as discussed elsewhere in this research. More also, a case of cruelty to animal was once brought before Upper Sharia, Sokoto in an unreported case of *C.O P. vs. MaigwanduAmiru & 5 Ors.*¹⁶¹ In the instant case, the accused persons were arraigned for the offence of burying rams alive, with intent to perform rituals under Sharia Penal Code Law of Sokoto State. Though, the accused persons denied the allegation against them, however, before the case could reach its logical conclusion, the accused persons were discharged upon withdrawal of the case by the police. The poor adjudication of the animal protection laws in Nigeria is a reflection of general nonchalant attitude toward the plight of animals.

3.8 Challenges to the Application of Animal Protection Laws in Nigerian

Although, there are many laws that seek to protect animals, these laws appear to be ineffective. The animal protection report index on Nigeria released by the World Animal Protection (WAP) in 2007 has shown that the animal protection laws in Nigeria are ineffective. The report indicates that the regulatory frame work and institution for the protection of animals are weak. It also shows that animal welfare and caring in terms of provision good feeding, medication, habitation and sanitary condition which gain prominence in European countries are not well entrenched in Nigeria. Furthermore, the empirical findings of this research have confirmed the report of the Animal Protection Index. For example, from the data collected in course of this research, it is obvious that animal laws have failed to protect animals¹⁶².

There are many factors that posed challenges to the applications of these laws. One of such factors is poor enforcement of the law by the relevant government agencies that are vested with power to ensure enforcement of these laws. For example, the Nigerian police that are vested with

¹⁶¹Case No: USC/C/S/32/2001

¹⁶² See Chapter 5 of this work for details.

powers to enforcement criminal and penal codes have woefully failed in their responsibility to arrest and prosecute animal cruelty offences. Similarly, poor enforcement and prosecution of animal abuse offenders in court is another challenge to the application of animal protection laws in Nigeria. Also, animal protection laws are scattered in various legislations, this makes it difficult to know all the laws on animal protection.

Therefore, absence of animal protection laws in single document creates obstacle or challenge to the application of animal protection laws in Nigeria. Moreover, absence of codification of comprehensive Islamic injunctions for the protection of animals is another challenge to the effective application of the laws in Nigeria. The failure of Nigerian government to enact animal welfare code is another important challenge to the application of animal protection laws in the country.

Other challenges to the application of animal protection laws in Nigeria is the fact that the punishments for the offence of animal abuse and cruelty, particularly as provided under Criminal and Penal Codes are trivial. This inconsequential punishment of fines cannot achieve deterrence. Another defect is the fact that Nigerian laws are yet to give formal recognition of animal sentient. In other word, there is no policy or legislation that formally recognized animal sentient. Although, the Criminal and Penal Code made reference to the ability of animal to suffer, such is not sufficient in order to address problem of animal cruelty. There should be legal reform where animal sentient would recognize as independent issue. Also, the provisions of anti-cruelty under Criminal and Penal Codes are limited in scope as it is only applicable to domestic, tamed animals and animals to the exclusion of wildlife, animals due to be slaughtered and other species of animals. Besides, animal protection laws mostly do not make provision for the allocation of finance or resources to under implementation of the protections sought to be provided. Also, the

existing laws on animal protection did not make specific provision concerning animal husbandry, shelter, food, humane management. Similarly, most of the laws only seek to protect farm animals without having much regard to other animals used in sports entertainment, recreation, research and experiments.

3.9 Challenges to Animal Protection in Nigerian

There is no doubt, animal protection as a system is facing serious challenges in Nigeria. Many factors contributed to these challenges. For instance, ignorance is considered as one of the major factors posing challenge to animal protection in Nigeria. There is high rate of ignorance of animal protection laws and their significance. The report of World Animal Protection Index has shown that about 84 % majority of Nigerians interviewed in 2007 were not aware of the existence of any animal protection laws. Majority of them did not know that it is a criminal offence to cruelly treat or to beat, overload, starve or over work animals. Worse still, many police officers who are saddled with responsibility of enforcing these laws in the country are mostly ignorant about the existence of the laws¹⁶³. Likewise, the Islamic rules requiring kindness and compassion to animals are not known to many Muslims. Even in Muslim communities hardly an owner of animal is rebuked for subjecting his animals to cruelty. Despite the attention giving to Islamic laws in recent years, the aspect of animal protection and welfare gets little or no attention and perhaps completely neglected. The Report of the World Animal Protection Index was further confirmed by the findings of this research, where it was found that about 78 % of the respondents interviewed were not aware of the existing animal protection laws or its significance to human development.

¹⁶³ On 20th June, 2017, the researcher informally interacted with some men and officers of the Nigerian Police, at Area Command, Sokoto, on their perception about cruelty of animals. However, it was stunning, when it turned out that majority were not laws.

Another challenge to the application of animal protection in Nigeria is the people cultural orientation toward animals. By cultural orientations of Nigerians, animals are seen as properties and owners of animals are not placed under any moral duty to protect their animals. This means that an owner of animal has right to deal with his animal in any manner he likes without any restraint, as there is no any cultural obligation toward protecting the animals. Apparently, most of the cultural obligations to animals in Nigeria are concerned about protecting interest of the owners of animals. The data collected from this research has shown that about 72% of the respondents interviewed were not aware of any customary practice that seeks to protect animals against abuse. Therefore, cultural orientations and attitudes have immensely contributed toward ineffectiveness of animal protection laws in Nigeria.

Moreover, law enforcement agencies also contributed to the failure or ineffectiveness of animal protection laws in the country. For instance, the Nigerian police vested with powers to enforce the provisions of Penal and Criminal Codes in Nigeria including arrest and prosecutions of those who subjected animals to cruelty usually slept over their duties. Although, cases of animal abuses and cruelty are bound in many communities in Nigeria, it is doubtful, if there is any effort to enforce provisions of these laws. The police that are vested with powers to arrest and prosecute offenders and general compliance with animal protection laws seems to have abdicated their responsibilities. The poor enforcement of animal protection laws by law enforcement agencies in Nigeria is a carryover of the cultural attitude toward animals or may not be unconnected with ignorance and general mentality of the people toward animals. Thus, until Nigerian Government comes up alive to its responsibility and develop a formidable action plan to change cultural mindset of Nigerians and enlighten them about the significance of animal protection to development, animal protection laws would remain ineffective. The result of the

data collected in this research has shown that majority of the respondents interviewed are of the view that police and other law enforcement agencies are not effectively enforcing animal protection laws.

Furthermore, absence of regulatory body specifically empowered to oversee the observance and enforcement of animal protection laws and governance has also contributed to the ineffectiveness of these laws. To achieve effective animal protection system, there should be a statutory body with responsibility to develop policies and ensure observance of such policies that will improve animal welfare in the country. The ministries for agriculture that is responsible for formulating, supervising and overseeing policies on animal governance at the federal and state level are not doing enough toward achieving effective animal protection laws.

Lack of government's commitment toward animal protection is another factor responsible for the ineffectiveness of the laws in Nigeria. For instance, although Nigeria is a member of the World Animal Health Organization (OIE), it has yet to incorporate the Organization's principles on animal welfare into its legislations and policies. This has created a gap to the effective attainment of a modern system of animal governance in Nigeria. Furthermore, the Nigerian government has yet to pledge in principle to support for the ongoing agitation for the Universal Declaration on Animal Welfare, which is a proposed formal international acknowledgement of a set of principles guiding animal welfare by governments and the international community. Also, the study of animal welfare, care and protection has not been included in the nation's educational system.

3.10 Conclusion

From the foregoing, it is obvious; the concept of animal protection is not an uncommon phenomenon in Nigerian laws. This is because, there are various constitutional provisions and statutory laws seeking to provide protection to animals against abuse and cruelty on one hand,

promote their welfare on the hand. However, there is apparent poor application and enforcement of the laws. The laws have failed to effectively addressing the plight and suffering of animals. The resultant effect of this is widespread cases of animal abuses in local communities. The ineffectiveness of animal protection laws is largely attributable to ignorance of the general public about the existence of such laws and their significance to humanity. Other major factors include cultural impediments and poor commitment by government.

CHAPTER FOUR

ANIMAL PROTECTION IN ISLAM

4.1 Introduction

Islam is a comprehensive and all-encompassing religion that guides and deals with every aspect of human life. This all encompassing character of Islam is illustrated in the Qur'an where Allah (SWA) says "...we have left nothing untouched in the Book..."¹⁶⁴ Commenting on this verse, AllamaFarooqMuhamuduKufi says "It is only in Islam the characteristics of flexibility, dynamism and comprehensiveness can be found and fully interconnected. This comprehensive character of the religion adores and befits it with an imbued flexibility to respond to every contemporary issue"¹⁶⁵. Similarly, Islam is an epitome of mercy that extends everywhere and to every creature. It is stated in Qur'an that the Prophet Muhammad (SAW) was not only sent as a mercy to mankind but to all creatures¹⁶⁶. The Arabic word "*Al-alamīn*" used in the verse was interpreted by Imam Qurtabi in his commentary of the Glorious Qur'an¹⁶⁷ to mean "all creatures" as against restrictive meaning of "all mankind"¹⁶⁸. Therefore, the concept of animal protection is not a strange or unknown phenomenon to Islam. There are various Quran injunctions, Prophetic traditions, juristic expositions that provide comprehensive and pragmatic approach for the protection of animals. This compassionate approach of Islam towards animal protection was acknowledged by even non-Muslim writers like Kristen S.¹⁶⁹ and Thomason J. who noted with amazement how Islam makes comprehensive rules for the protection of animals and promotion

¹⁶⁴Ali A.Y., (1933). *The Glorious Qur'an: Translation and Commentary*, DarulFikr, Beirut, Lebanon, p. 456: Quran 6: 38

¹⁶⁵Qadri, A.A.(1982). *Islamic Jurisprudence in Modern World*, Taji Co., Delhi, p.67

¹⁶⁶Qur'an 21: 107

¹⁶⁷Aisha B.(2003). *Tafsir Al-qur'tabi; the Classical Commentary of the Holy Qur'an (English Translation)*, Dar-Attaqwa Publication, London, Chapter 21: 107, p. 45: Quran 21: 107

¹⁶⁸The original Arabic name of the commentary is *Al-Jami'u Lil-Ahkamil Qur'an*

¹⁶⁹Kristen, S. (2008). *Animal Welfare in Islam*, Northwestern University, Chicago,P.1

of their welfare¹⁷⁰.

Thus, this chapter intends to examine the concept of animal protection from Islamic perspective. The various Islamic regulations and safeguard for the protection of animals and promotion of their welfare as contained in the Qur'an, prophetic traditions and different opinions, expositions and arguments of early as well as contemporary Muslim jurists are examined in the chapter. Similarly, the stand of Islam on the contemporary trending idea of animal rights is examined in the chapter. The objective of this chapter is to explore the richness and comprehensive character of Islam in dealing with all contemporary issues. Unarguably, Islam is neither an archaic nor inflexible religion. Indeed, nothing is left untouched or unregulated in Islam.

4.2 Status of Animals Prior to Advent of Islam

It is worth noting, prior to the advent of Islam; there were many traditional practices, superstitious beliefs across the world, which attributed different status to various classes and species of animals. For instance, in pre- Islamic Arabian society, some animals were considered as omen of goodness, while others were given bad attributes. However, like in many other societies in the world, there were no enforceable rules for the protection of animals in Arabian societies prior to the advent of Islam, It was reported that:

Cruelty, brutality and maltreatments of animals were the overwhelming practice in the pre-Islamic Arabian societies, just as the atrocious customs of killing and maiming of humans souls at slighted provocation or the practice of rejecting female child by burying them a live for fear of penury were predominant practices of Arabs.¹⁷¹

During the dark period, animals were at the mercy of their owners, as there was no moral or legal obligation to treat them with care and compassion. Animal abuse was common in Pre-Islamic Arabian Societies. The practice of staving, maiming, hurting or disfiguring animals or subjecting

¹⁷⁰Thomason J. (1996). *Status of Animals in Islam*, Edward Publishing Inc., London, p.23

¹⁷¹ibid.

them to cruelty was predominant. The Arabs customary practices did not impose any duty for treating animals humanly and kindly.

The obligation of treating animals with compassion and care was not known to pre-Islamic Arab societies. The owner of flocks of camel was never placed under any duty for their care and welfare. It was only with the blowing wind of change brought by Islam, the idea of humans' duty to treat animals fairly and compassionately came to a limelight and fully entrenched.¹⁷²

It was further reported that during the Pre-Islamic Arabian societies, the practice of cutting and eating parts of animal while alive known as *murthilaw* was common. Animals were also used in many other cruel ritual practices such as sucking of blood of living animals. Likewise, there were no rules guiding slaughtering of animals in Arabian societies before the coming of Islam.¹⁷³ Therefore, prior to the coming of Islam, there idea of animal protection and welfare was not accommodated by Arabs customary practices. However, the emergence of Islam did not only serve as a sigh of relief for human but also to all creatures.

4.3 Status of Animals in Islam

It is evident, Islam has brought significant changes to the socio-religious and political pattern of life in Arabian societies and by extension the entire world. With the coming of Islam, many obnoxious, degrading and repugnant cultural practices and superstitious beliefs were nullify or abrogated¹⁷⁴.

With the coming of Islam, animal abuses were absolutely abhorred and prohibited while compassion, sympathy and kindness to animals were firmly enjoined and encouraged.¹⁷⁵

Although Islam urges for humane and compassionate treatment of animals, various species of animals have different status in Islam.

¹⁷²Hannafi, K. A. (2012).*The World of Animals in Islam*, Haneris Publication, London, p. 17

¹⁷³:*ibid.*

¹⁷⁴:*ibid.* P. 18

¹⁷⁵:*ibid.* p.18

While some species of animals are made lawful for Muslims to consume, or deal with them others are prohibited¹⁷⁶. For instance, cats have special regard in Islamic culture. The Prophet was said to have loved his cat called *Mueza*. It was reported that there was a time when the Prophet was sitting, the cat came and slept on his gown. When the Prophet wanted to go, he had to tear a portion of the gown, which the cat was laying, in order not to disrupt its sleep¹⁷⁷. Obviously, this event demonstrates the extent at which the Prophet loves the cat and his compassion for animals generally. Also, the camel of the Prophet named *Qaswaw* was said to be dear to him to the extent that it miraculously determined where he would reside when he migrated to Medina from Mecca¹⁷⁸. Arguably, the role played by this camel in resolving the dispute arising among enthusiastic people of Medina; who warmly welcomed the Prophet had historical significance in Islam indicating that animals have value in Islamic culture.

On the other hand, however, dogs have little regard in Islamic culture. This may not be unconnected with many *hadiths* attributed to the Prophet (SWA) which degraded their status. For instance, it was reported by Imam Muslim, that the Prophet (SWA) says black dogs are manifestation of evil in animals form¹⁷⁹. Also, in a tradition reported in *Musnad Annasa'i*, it was narrated that the Prophet (SWA) has directed Muslims to desist from trading in dogs¹⁸⁰. Similarly, Imam Hajar Al-askalani reported in *Fathul Bari* that the Prophet has said, angels of mercy do not enter a house where there is a dog¹⁸¹. Furthermore, Imam Muslim reported a *hadith* where people of Medina complained to the Prophet that dogs have become nuisance to

¹⁷⁶Qur'an 5:15

¹⁷⁷Hannafi, K. A. op.cit. p. 301

¹⁷⁸ibid.

¹⁷⁹Al-Katabi, N. (1997). *The English Translation of Sahih Muslim*, Al-Arabi Publication, Doha p. 635

¹⁸⁰Sharafy, M.A. (2002). *Sunanu An-nasa'i (English Translation)*, Xenon Edition, p. 456;

¹⁸¹Hafiz A. H. (2001) *Fathul Bari*, (English Translation), Noor Publication, London, p. 567

them, he then ordered for killings of the dogs with concession that they might be kept for security and hunting¹⁸².

Moreover, it was further reported in *Sahih Bukhari* that the Prophet (SWA) says: when a dog licks utensil, it should be washed seven times¹⁸³. It is in the light of these prophetic traditions, some jurists considered dogs to be religiously unclean. However, these prophetic traditions were criticized as weak, which only re-echoed pre-Islamic Arabian customs and attitudes that cast dogs in negative light¹⁸⁴. It is obvious, the kindness and mercy of the Prophet extends to every creature including dogs. This is exemplified by his various actions towards animals.

It is imperative to note, there are about six chapters of the Qur'an named after animals and over 200 verses dealing with animals in one way or the other¹⁸⁵. The act of naming some chapters of the Qur'an after animals is symbolic toward indicating their status in Islam. It is worth noting, the Qur'an is full of verses describing nature and its components in which mankind is exhorted to study. The preoccupation of the Qur'an in relation to animals is purposely directed toward drawing the attention of mankind to the manifestation of the exalted, omnipotent, ubiquitous and gracious divine powers and signs of Allah (SWT). For instance, Allah (SWT) urges mankind to reason how camel is created, or how lamb is created. The Qur'an says: "Do they not see the birds above spreading and closings their wings? It is only the Lord of Mercy who holds them up, He watches over everything"¹⁸⁶. Several verses also invited mankind to learn lessons from animals.

¹⁸²Al-Katabi, N. op.cit. p. 456,

¹⁸³Muhsin Khan, M. (2009). *The Translation of the Meaning of Sahih Al-Bukhari (Arabic –English)*, Darussalam Publication, Riyadh, p. 1234

¹⁸⁴Khalid A. E., (2004). The Dogs in the Islamic Tradition and Nature, in: *Encyclopedia of Religion and Nature*, Scholar of the House, New York, PP.337-378

¹⁸⁵Chapter 2, *SuratulBakra* (cow) , Chapter 6, *Suratul An-am* (Animals), Chapter 29 *SuratulAnkabut* (Cob), Chapter 27 *SuratulNamli* (Ant) Chapter 16, *Suratul Nahal* (Bee) and Chapter 105, *SuratulFiyl* (Elephant).

¹⁸⁶Ali A.Y. op.cit. p.345: Quran 64: 19

Furthermore, the Qur'an has acknowledges the rational and community behaviors of animals as signs of Allah's powers which can be observed by humans. The Holy Qur'an says "there are neither animals on earth, nor birds that fly on their wings, but they are community like you, nothing we have omitted from the Book and they shall be gathered to their Lord in the end"¹⁸⁷. These verses demonstrate how animals live in their own respective societies according to their divine inspired rules. Like humans beings, animals have their own individual and social pattern of life on the basis of which they act to survive. Commenting on these verses, Imam *Qurtabi* says Animals are community like humans, in that Allah, the Exalted has created and provided for them, and make justice between them. Thus, humans should not wrong or abuse them or transgress the limit prescribed for them by Allah¹⁸⁸. The incident between King Solomon (Prophet Suleiman) and the Ants, narrated by the Quran was significant not only in showing the extent of the omnipotent powers of Allah and His blessing, but also, go a long way in confirming the rational behaviors of animals. The speaking ability of animals was further buttressed by conversations which the Prophet had with animals at different occasions. Furthermore, contrary to contemporary postulations and theories, in Islam, animals are servants of Allah. According to Qur'an, animals worship and submit to the will of Allah:

Do you realize that everything in the Heavens and Earth bows down to Allah: the sun, the moon, the stars, the mountains, the trees and animals? So do many human beings, though for many others punishment is well deserved."¹⁸⁹

The Seven Heavens and Earth and everyone in them glorify Him. There is no single thing that does not celebrate His praise, though you (humans) do not understand their praises.¹⁹⁰

¹⁸⁷ibid p. 485 ; Q: 35: 38

¹⁸⁸Aisha B. op.cit. p. 4432

¹⁸⁹Quran 17:44

¹⁹⁰Qur'an 41: 7

These verses clearly contravene the Aristotelian, Mechanistic, Darwin theories, and other postulations which contend that animals are either created without purpose or meant only to serve humans' pleasures.

From Islamic point of view, the creation of all animals is useful and purposeful as signs of Allah's might and wisdom. The Qur'an says "we have not created the earth and sky and whatever among them for fun, but because of justice, which many people are not aware of"¹⁹¹. Similarly, there are many prophetic traditions which confirmed that animals possess extraordinary character, distinctive from humans. For instance, animals can hear voices of dead people in graves. And they can also see hidden creatures like jinn. The Prophet was reported saying "when you hear barking of dogs or roaring of donkeys, seek refuge with Allah as they see what you cannot see"¹⁹².

These verses and prophetic traditions have shown that animals are organized, sensitive and possess feelings which deserve to be respected by humans. They are neither deaf nor dumb. They have their own community structure, means of communication, though in a manner not understood by humans, except in exceptional miraculous circumstances as it happened to the King Solomon¹⁹³. It is interesting to note, recently, scientists have found facts about this rational and social behavior of animals, confirming the Qur'an statement¹⁹⁴. From the foregoing, it is clear that in Islam, animals are seen as organized and distinctive beings created to serve the will of Allah which should not be abused by humans.

¹⁹¹ Qur'an 44 : 39

¹⁹² Hafiz A. H. op.cit. p. 345

¹⁹³ Qur'an 35: 38 and 27;16-18

¹⁹⁴ The University of Hanover has recently conducted a research which has confirmed that animals are organized social creatures. The research was retrieved from <http://animalsocialaharceter/research/ks/> on 19th March, 2018 by 8:45pm

4.4 Islamic Safeguards for the Protection of Animals

Islam has stipulated rules for the protection of animals against abuses and cruelty. These rules of protection are contained in the Qur'an and exemplified by various actions and sayings of the Prophet (SWA). These serve as a benchmark for the protection of animals. These safeguards are discussed below.

4.4.1 Human being limited dominion over animals

Although, animals are meant to submit and serve Allah (SWT), human beings are honored with dominion over them. In other words, in Islam, humans are allowed to use animals in a manner prescribed by Allah (SWT). Quran says:

We have honored the children of Adam and carried them by land and sea. We have provided good sustenance for them and favored them especially above many of those we have created¹⁹⁵.

He has subjected or tamed all that is in heavens and earth for your benefits¹⁹⁶.

And livestock, He created them for you too. You get warmth and other benefits from them; you eat some of them; you find beauty in them, when you bring them home to rest and when you drive them out for pleasure¹⁹⁷.

Other usefulness of animals to human beings has been further stressed by the Quran as thus:

They carry your loads to land you could not reach without great hardship- truly your Lord is kind and merciful – horses, mules and donkeys for you to ride and use for show and other things you know nothing about¹⁹⁸.

In livestock, too, you have an instructive lesson. We give you a drink from contents of their bellies, between waste matter and blood, pure milk, which sweetens the drinker¹⁹⁹.

Your Lord inspired the bees, saying; build yourselves houses in the mountains and trees and what people construct. Then feed on all

¹⁹⁵Aisha B. op.cit. Qur'an 17:70

¹⁹⁶ibid. Qur'an 45:13

¹⁹⁷ibid. Quran 16: 5

¹⁹⁸ibid. Qur'an: 16: 66

¹⁹⁹ibid. Quran 23: 21-22

kinds of fruits and follow the bellies come a drink of different colors in which there is healing for people. Truly, there is a sign in this for you that think²⁰⁰.

Islam allows humans to own or acquire animals as property or use them for consumptions and other lawful uses. These verses have clearly debunked the abolitionists' argument that calls for humans to stop consuming and using animals in all respect. In Islam, Muslims are at liberty to consume or use animals in conformity with set out prescription. For instance, the Qur'an expressly prohibits Muslims from consuming some animals. "It is forbidden to you the dead, the meat of swine, carrion, or that which was slaughtered for a purpose other than Allah except upon fear of starvation or any justifiable reason"²⁰¹. The dominion given to human beings over animals is a privilege in their capacity as vicegerents of Allah on the earth. This implies that such dominion does not confer blanket discretions to humans to spitefully treat or abuse animals or breach established rules designed to protect them. There are various restrictions and limitations set out by Islam on how animals should be treated or used by humans. Therefore, whoever misuses or violates this vicegerent responsibility, he will be made to face the wrath of Allah in the Hereafter. Therefore, human beings are under duty not to subject animal to abuse, and whoever transgresses the limit set out by the Allah will be punished on the Day of resurrection.

4.4.2 Animals entitled to bounties of Allah on Earth

The Qur'an informs mankind that the bounties and goodies of Allah on earth are not exclusively for them alone.

Which is harder to create; you people or the sky that He built, raising it high and perfecting it, giving darkness to its night and bringing out its morning brightness, and the earth that He spread out, bringing waters and pastures out of it and setting mountain firm on it for you and your animals.

²⁰⁰ibid. Quran 6:188

²⁰¹ibid. Quran 35 : 39

We send down pure water from sky, so that we can revive a dead land with it, and we give it as drink to many animals and people we have created²⁰².

These verses demonstrate that animals are also entitled to enjoyment the bounties of Allah on the earth. This means that humans should not deprive animals from enjoying such bounties called *rizkin* Arabic. Apparently, these verses provide basis for the promotion of animal welfare.

Commenting on this verse, a contemporary scholar, Muhammad Al-Muhsin argues that whoever deprives animals from eating or drinking from the bounty of Allah without justifiable reason is in violation of the verse. This is because; the bounty of Allah is meant for all creatures and has made the earth to be enjoyed by His creatures.²⁰³ Islam is a manifestation of mercy for every creature as the Allah (SWT) says “We have not sent you except as mercy to all creatures²⁰⁴. And that He has made the earth for (His) creatures, therefore, animals are entitled to enjoy the bounties of Allah on the earth which they should not be deprived.

4.4.3 Accountability for actions done to animals

In Islam, every human being would be held responsible for his every actions or conduct on the earth in the Day of Judgment. Therefore, whoever does a good thing, or a bad thing, either to humans or animals would be held responsible²⁰⁵. Abu Huraira (RA) reported that the Messenger of Allah, peace and blessings of Allah be upon him, saying the rights of everyone will be restored on the Day of Resurrection until justice is fulfilled, even between the hornless and horned sheep²⁰⁶. This principle places humans on a duty to be accountable for all their actions.

While commenting on the *hadith*, Imam Tabri says when Allah gathers all his creation altogether on the Day of Resurrection; the beasts, the creatures, the birds, everything would seek justice

²⁰²Ali A.Y. op.cit. p. 1,556; Quran 30: 33-34

²⁰³Quran: 21 : 107 and 56:107

²⁰⁴Quran: 21: 107

²⁰⁵Qur'an 99;8

²⁰⁶Al-Katabi, N. op.cit. p. 2335

from Allah on that Day, even between the hornless sheep and the horned sheep²⁰⁷. This means that people would be called to account for their conduct even against animals. It is worth noting, in Islam, any benevolent or kind treatment given or done to animal is considered as a charity, which shall be rewarded on the Day of Judgment. Therefore, whoever does a good thing to animals he would be rewarded; likewise, whoever does a wrong thing to animals would be dealt accordingly.

It was further reported in *Sahih Muslim*, Anas Ibn Malik narrated that the Messenger of Allah has said: there is no Muslim who plants a tree or sow a seed and then a bird, a person or an animal eats from it, except that it is regarded as a charity for him.²⁰⁸ Similarly, Imam Bukari reported a *hadith* narrated by Abu Huraira in which the Prophet (SWA) was saying:

A man suffered from thirst while he was on a journey, when he found a well, he climbed on it and drank from it. Then, he came out and saw a dog lolling its tongue from thirst and licking the ground. The man said ‘this dog has suffered thirst just as I have suffered from it’. He then climbed down into the well, filled his shoe with water, and caught it with his mouth and climbed up. Then, he gave it to the dog to drink. Allah appreciated this deed, so he forgave him for his sins. The companions asked the Prophet ‘O Messenger of Allah is there a reward even for charity done to animals?’ Then, the Prophet replied ‘in every living being, there is a reward for charity²⁰⁹’.

In another tradition reported in *Sahih Bukhari*, the Prophet (SAW) was reported saying that a prostitute was magnanimously forgiven by Allah for her sin, as a result of her sympathetic act of giving water to an extremely thirsty dog²¹⁰. More also, it was also reported by Imam Bukhari that the Prophet says “a good deed to a dog is as good as to a human and cruelty to an animal is as

²⁰⁷Thabit A.U. (2007). *The English Translation of the Commentary of the Holy Qur'an (Tafsir Tabri)*. Oxford, London, p. 445.

²⁰⁸Al-Katabi N. op.cit. p. 2186

²⁰⁹Muhsin K. M. op.cit, p. 578.

²¹⁰ibid. p.577

bad as cruelty to human²¹¹ From the foregoing, it is obvious; on the Day of Judgment, human beings would be called upon to account for their actions toward animals. Therefore, whoever treats animals kindly and humanly would be rewarded and whoever treats animals wrongly would also face the wrath of Allah.

4.4.4 Duty to deal with animals kindly and with compassion

Islam requires Muslims to be kind and humane while dealing with animals. Even while disciplining or training them, animals should be handled softly or with minimum harm. Aisha (RA) reported “I was on a camel that was misbehaving, so I started beating it, the Messenger of Allah (P.B.H) said to me ‘you must be gentle. Verily, gentleness is not in anything except that it beautifies it, and it is not removed from anything except that it disgraces it’²¹². In another incident, Imam Ahmad and Imam Muslim reported Yahya Ibn Saed, narrating that the Prophet was one day seen wiping the face of his horse with his gown, when asked by his companions, what was the reason for doing so, he said “ last night my attention was drawn by Allah for having a bit neglecting it”²¹³. Therefore, in Islam, it is a duty upon Muslims to deal with animals under their control kindly, with care and compassion. Furthermore, in Islam, having sexual or immoral affair with animal is viewed as a great sin (*kaba'ir*) in which upon trial and conviction, the culprit is liable to be sentenced to death²¹⁴. In Islam, *bestialism* is seen as a reprehensible and irresponsible conduct that it is equated with rape and carries the same punishment. This is because the offender commits the act without the consent of other partner. In this regard, Islam protects animals as human beings are protected.

²¹¹ibid. p. 678

²¹²Faruk M,(1998).*The Abridge English Translation of the Musanab Imam Ahmad*, Hikmah Publication, p.221.

²¹³Al-Katabi, N. op.cit.

²¹⁴Faruk M. op.cit. p. 341

4.4.5 Duties of animals' owners

The classical Islamic scholars have made elaborate explanation on the duty of animal owners. They usually prescribed good practices for keeping animals. For example, Imam Izzudden prescribed the following husbandry practice that imposes certain duties on animal owners as thus:

The rights of animals over humanity are: the owner must provide them as they required, even if they are aged or sickened that they have no benefits comes from them; he must not burden them beyond what they can bear; that he must not put them together with other animals that may injure them, whether of their own kind or of other species; that he slaughter them with gentleness, and he does not flay their skin or break their bones until their bodies becomes cold and passed away. That he should not slaughter their young ones within their sight; that he makes their resting and watering places comfortable; he should put the male and female together during their mating season, he should also not discard what he has hunted; he should not shoot them with anything that breaks bones or harms them by any means that would render their meat forbidden to eat.²¹⁵

Therefore, Islam imposes duties on the owners of animals to cater for their needs. It is the duty of animal owners to ensure that his animals are fed adequately; they are given befitting shelter and medication within his capability. This means that animal welfare is integral part of Islam.

4.4.6 Prohibition against unjustifiable killing of animals

Islam prohibits unnecessary, indiscriminate and unjustifiable killing of animals. This is on the authority of a *hadith* narrated by Abdullahi Ibn Umar and reported in *Muwatta Malik* and *Mus'nad Abu Dawud* in which the Prophet (SWA) says "there is no man who without justifiable reason kills (even) a sparrow or anything smaller, that would not be questioned on the Day of

²¹⁵Muhammad, A. H. (2004). *The English Version of the Qawa'id Al-Ahkam Fiyl-Islah Al-An'am*, by Izzudeen Abdul-aziz Ibn Abds-salam, Hons filed Publication, Ottawa. 167.

Judgment. And whoever is kind to creatures of Allah, also he is kind to himself²¹⁶. In another narration in *Sununu Annasa'i*, the Prophet (SWA) was reported saying “whoever kills as little as sparrow unjustly, he would have it pleading to the Allah on the day of resurrection saying ‘O Lord, he killed me for no reason, or he did not kill me for any beneficial purpose’²¹⁷ .

Similarly, Muslims are enjoined to spare the lives of animals, if there is no pressing need for killing them. This was narrated by QurraIbnIyas, where he reported that “a man said to the Prophet (SWA) ‘O Messenger of Allah, I would have slaughtered a sheep, but I had a mercy for it’ the Messenger of Allah said ‘if you have mercy on the sheep, then Allah will have mercy on you twice.’²¹⁸

Also, Islam prohibits killing of animals for pleasure or recreational purpose. Imams Bukhari reported the Prophet opposing recreational hunting, saying “whoever shoots at a living creature for a sport is cursed²¹⁹. The Prophet (SAW) tersely condemned people who take up life of animal for sport.²²⁰ More also, it was reported in *SunanuAnnasa'i* that AbdullahiIbn. Ja'afar narrated, when the Prophet (SAW) was passing by and saw some children who were shooting arrow at a bird. He asked them to stop maiming a poor beast²²¹. In another incidence reported by both Imam Bukhari and Imam Muslim, Umar IbnKhadab (R.A.) was passing by, when some men, who tied a hen and were shooting arrow at it as a target, when the men saw him coming, they ran away, he said “who has done this? Verily, the messenger of Allah has cursed whoever does this kind of thing”²²². Similarly, the Prophet (SWA) was reported in *Sunanu Abu Dawud*,

²¹⁶Saleh H.A.(1999).*The Fundamental of Maliki School, (English Translation of Muwatta Maliki)*, Radwa, London, p. 678; See also El-Ibrahim M. op.cit. p. 671

²¹⁷Sharafy M. A. op.cit p.647

²¹⁸Yahya A. A. (1999). *Al-Adab Al-Mufrad, (English Version)*, Al-katab Publication, Bairut, 368

²¹⁹Muhsin K. M. op.cit p. 1445; see also Al-Katabi, N. op.cit. p. 2001

²²⁰Ibid. p. 678;

²²¹Sharafy, M. A. op.cit.

²²²Muhsin K. M. op.cit.; p. 672: Al-Katabi N. op.cit. 532

forbidding Muslims from capturing birds unnecessarily²²³ and burning anthills or animals alive²²⁴. It is worth noting, even during a holy war, Islam prohibits wanton killing of animals. It was reported that the Caliph Abubakar (R.A) had *inter alia* instructed Muslim soldiers being dispatched to a battle field to avoid causing wanton destruction or mischief to animals belonging to the enemies²²⁵.

In view of the above, it is clear, that Islam has prohibited indiscriminate killing of animals. In other words, killing and maiming of animals without any justifiable reason is considered as sin in Islam. These prophetic traditions have laid formidable foundation for the protection of animals against cruelty and abuse.

4.4.7 Prohibition against Cruelty to Animals

Furthermore, Islam is an epitome of mercy which prohibits subjecting animals to any form of cruelty. When the Prophet migrated to Medina, he prohibited the barbaric Arabs practices of cutting and eating of camels' humps and fat tail of sheep, while such animals were alive. Emphatically, Islam prohibits mutilation of animal body. In a *hadith* reported both in Sahih Bukhari and Muslim, Jabir Ibn Abdullahi narrated that "when an ass which has been mutilated on its face passed by the Prophet, he said 'Allah has cursed the one who disfigured it.'²²⁶ In another tradition reported in *Musnad Imam Ahmad*, the prophet was also reported prohibiting Muslim from unnecessary whipping of animals.²²⁷ Also, Imam Abu Dawud reported that the Prophet said "do not clip forelock of a horse, as decency is attached to it, nor its mane, or its tails, for it fly-flop"²²⁸. Similarly, Abdullahi Ibn Umar was reported in Sahih Bukhari

²²³El-Ibrahim M. op.cit. p. 3471

²²⁴Muhsin K. M. op.cit, p. 578.

²²⁵Hafiz A. H. op.cit. p.23

²²⁶Muhsin K. M. op.cit p. 678; Al-Katabi, N.op.cit p.789

²²⁷Faruk M., op.cit. p. 2341

²²⁸El-Ibrahim M. op.cit. p981

narrating that “the Prophet has cursed whoever cut some part of animal while alive.”²²⁹ Commenting on this *hadith*, Imam IbnHajar Al-asqalani states that the curse by the Prophet to whoever abuses animals is an indication that the act is sternly prohibited in Islam. He says “whoever treats animals harshly and does not repent, on the Day of Judgment, Allah will also treat him harshly”²³⁰. Therefore, for whatever guise, animal cruelty is absolutely prohibited in Islam.

4.4.8 Prohibition against starving animals

Furthermore, Islam prohibits subjecting animals to starvation or denying foods or water to animals or depriving them freedom to look for foods. AbdullahiIbnJaafar reported in Sunanu Abu Dawud that one day, the Prophet (S.W.A.) entered a garden together with some *Ansar*,²³¹ when a camel saw the Prophet; it started weeping and making sound as if its tears would flow. The Prophet came and patted it on the head, so it became silent. The Prophet said ‘who is the master of this camel?’ A young man came out and said ‘it is mine O Messenger of Allah’, the Prophet then says to the man ‘do you not fear Allah regarding this animal that Allah has put in your possession? Verily, it has complained to me that you keep her hungry and tired’²³².

Generally, Muslims are urged to look after animals under their care and control. Islam warns those who starve animals with punishment in the hereafter. As it was reported in *SahihBukhari* that AbdullahiIbn Umar narrated, the Prophet (S.W.A) says a lady would be punished on the Day of Judgment because of a cat, which she had starved to death. The lady would enter a hell, because of that act, as she did not set the cat free to eat from the vermin on the earth²³³. Obviously, this *hadith* indicates that keeping animals under one’s possession or control in

²²⁹Muhsin K. M. op.cit p. 678

²³⁰ Hafiz A. H. op. cit. p. 567

²³¹Referring to People of Madina during the time of the Prophet (S.A. W.)

²³²El-Ibrahim M. op. cit. p.

²³³Muhsin K. M. op.cit, p. 578

starvation is a prohibitory act in Islam. Umar IbnKhatib (R.A) was also reported saying: if a lost sheep under his care was to die on the banks of River Euphrates, he would expect Allah to question him about it on the Day of Judgment²³⁴. As a way of showing kindness to animals, the Prophet (S.AW) advised owners of animals on a journey through a verdant land to go slow, so as to let them graze and to move fast when they are in withering land.

Furthermore, it was reported by AnasIbn Awn that the Prophet (SWA) and his companions used to delay their prayers, when they stopped at a journey, until they have taken the burden off their camels' back and attended their needs²³⁵.The above authorities are testimony to the fact that animal protection and welfare is within the teaching of Islam.

4.4.9 Prohibition against discomfoting animals

Islam resents subjecting animals to discomfort and needles distress. The Prophet (SAW) was reported in SahihBukhari reprimanding some men, who were sitting idly on the back of their camels in a market place, directing them to either ride them or leave them alone. He said “ride them safely and then leave them safely. Do not use them as chairs, as the ridden animal may be better than the one who rides, and may remember Allah more than he does”²³⁶. Therefore unjustifiable discomfoting and distressing of animals is absolutely prohibited in Islam

4.4.10 Prohibition against Subjecting Animals to Overwork

Islam has prohibited over using animals or using them beyond their capacity. It is stipulated that that animals in service of man should only be used when necessary and humanely. Imam Muslim reported that the Prophet once passed by and saw a man riding a lean camel whose belly had shrunk to its back. He said to the owner “fear Allah, use this animal and ride it when it is fit to be

²³⁴Jabir Ahmad, (2004). *HiyatAuwalayat*, (English Version) New York Publication, New York, p. 137

²³⁵ibid.

²³⁶Muhsin K. M. op.cit, p. 778

ridden, and let it go free when it to rest.”²³⁷ A popular maxim attributed to AliyuIbnAbiTalib is that “be kind to pack of animals; do not hurt them; and do not load them more than their ability can bear”²³⁸.

This has shown that the practice of overusing animals in farm or for carriage of goods and person as commonly practice in our various communities is prohibited in Islam.

4.4.11 Prohibition against Inflicting Mental/Emotional Distress to Animals

Islam does not only prohibit cruelty to animals but also prohibits subjecting them to mental or emotional distress. Imam Muslim reported that Abu Abdurrahman Ibn Mansur narrated, they were on a journey with the Apostle of Allah, he left them for a while, during his absence, they saw a bird, with its two siblings, and they took away the young ones. The mother kept circling on the air beating it wings. When the Prophet returned, he noticed the hurting feeling of the bird. He ordered them to return the sibling to the mother.²³⁹ This *hadith* clear indicates that Islam frown at subjecting animals to emotional/ mental distress. Anything that hurts the feeling of animals is prohibited in Islam except if there is justifiable reason.

4.4.12 Humane Rules Guiding Slaughtering of Animals in Islam

Generally, Islam permits slaughtering of animals for consumption or any other justifiable course. However, Muslims are required to do so decently and in prescribed manners. For instance, Muslims are required to sharpen their knives while slaughtering animals. Imam Muslim reported ShaddadIbnAws narrating that the Prophet (SAW) has said “Verily, Allah, who is blessed and exalted has prescribed benevolence toward everything (and has ordained that everything be done in good way); so when you kill a living being, do it in the best manner, and when you intend to

²³⁷Al-Katabi,N. op.cit. p. 671

²³⁸Jabir Ahmad op.cit. p. 145

²³⁹ibid p.567

slaughter an animal, you should sharpen your knife so as to ease the pain of death for the animal”²⁴⁰. It was further reported that out of sympathy, the Prophet forbids sharpening of a knife in the sight of animal due to be slaughtered “do you intend to inflict pains on the animal twice, by sharpening a knife within its sight and then cutting its throat?”²⁴¹ Ali IbnAbiTalib (R.A) was reported saying “do not slaughter a sheep in the presence of other sheep or any animal in the presence of another”²⁴². It was also reported that Umar IbnKhadab had beaten a man, who refused to give water to a thirsty sheep which was due to be slaughtered. He said to him “go and give water to the animal to drink properly before its death”²⁴³. Also, the Prophet urges Muslims not to hastily slice or cut off animal after slaughtering until its body is completely dead. Khalifa Umar IbnKhatab instructed that time should be given to animal which is slaughtered for it to finally die²⁴⁴. The conditions set out by the Prophet for slaughtering animals are made out of mercy in order to ensure that they pass through death with ease and little pain. This indicates that the mercy of Islam to animals has extended even to the point of slaughtering. However, recently, animal rights advocates contended that slaughtering of animals as stipulated in Islam is inhumane and cruel. Conversely, this argument was dismissed by the verdict of the German Constitutional Court in 2004, which relied upon a study carried out by Prof. Wilhelm Schulze of the University of Veterinary Medicine, Hanover²⁴⁵. At any rate, Islam unlike any other religion has prescribed certain process and procedure for slaughtering of animals with a view to ease their pain at the point of death.

²⁴⁰ibid. p.712

²⁴¹Muhsin K. M. op.cit, p129

²⁴²Jabir A. op.cit. p. 303

²⁴³ibid.

²⁴⁴ibid.

²⁴⁵Haleen H. op. cit p.31-42.

4.5 The Stand of Islam on the Contemporary Idea of Animal Rights

As discussed above, Islam has laid down comprehensive rules of protection for animals and promotion of their welfare. However, it is interesting to note, Islam treats animal protection in a perspective and spectrum different from the contemporary approach. In Islam, animals are seen and treated as creatures meant to serve the will of Allah (SWT). This is contrary to some contemporary arguments that treat animal as creation without purpose. The Islamic perspective of animal protection is anchored on divine obligation upon Muslims to treat animals humanely with care and compassion. This is different from contemporary approach which is driven by self-inclined desire and compassion for animals or for economic and environmental reason.

It is interesting to note, Islamic approach to animal protection is pragmatic and realistic. This is because, Islam does not seek to confer legal rights to animals or place them on same footing with humans as advocated by some contemporary animal rights activist. Rather, Islam only seeks to promote welfare of animals and their protection particularly against cruelty and abuse. Therefore, the concept of animal rights as advocated by abolitionists and vegans is not acceptable in Islam.

In regulating Muslims' conducts in an attempt to protect animals, Islam does not confer to animals competing rights with humans. Therefore, Islam is more inclined toward animal welfare and protection as against animal rights. It is obvious, animal right is in conflict with the Islamic stand on animal protection.

4.6 Conclusion

From the foregoing, it is evident; Islam is a front runner champion for the protection of animals and promotion of their welfare. Many centuries ago, the Prophet (SAW) has built a magnificent standard for the protection of animals. The repeated calls for kindness to animals by the Prophet

have evolved formidable rules for the protection of animals in Islam and value system that has a respect for animals. It was reported that the practice of establishing animal shelter, game reserve, grazing reserve, resting place, water trough was pioneered by early Muslims societies many centuries ago.²⁴⁶

However, over the years, these rules have been neglected and disregarded by Muslims across the world, particularly in Nigeria. Even in Muslim dominated communities, hardly owners of animal observe and uphold the tenets of Islam concerning animals. Despite the attention giving to Islamic teaching in recent years, the aspect of animal protection and welfare get little or no attention. The empirical data generated in course of this research has clearly shown that there is substantial disregard to the application of the various protection accorded to animals by Islam.²⁴⁷

²⁴⁶Kriten S. op.cit. p. 8

²⁴⁷ See Chapter 5 of this research for details.

CHAPTER FIVE

DATA PRESENTATION AND ANALYSIS

5.1 Introduction

Generally, empirical research is a process that involves taking numerous steps and procedures. Viability and reliability of the outcome of such research depends upon the degree to which it conforms to such procedures. One of such procedure is presentation and analysis of data collected or generated from the research. This chapter, therefore, it intends to present and analyze the data collected in course of the research through the use of questionnaire. In doing so, the chapter is divided into four segments. The first segment, deals with the socio- demographic characteristics of the respondents or studied population. The second segment deals with the occupational relationship of the respondents with animals, the subject of study in the research. The third segment analyzes the respondents 'experiences on animal abuses. The fourth segment deals with the respondents' knowledge or perception on animal protection laws in Nigeria. The significance of this chapter becomes obvious, given the fact that only an accurate presentation, analysis and interpretations of the data collected can lead to reliable and valid conclusions in the research.

5.2 Socio-Demographic Characteristics of the Respondents

This sub-section analyses data collected concerning the socio-demographic characteristics of the respondents. This comprises of the particulars of the respondents, such as age, sex, religion, tribes and level of education and state of residents.

Table 1: showing the distribution of the respondents' socio-demographic characteristics.

1	Age in Years	Frequency	Percentage
	Below 20	3	6
	21 – 30	5	10
	31 – 40	9	18
	41 – 50	15	30
	51 – 60	11	22
	Above 60	7	14
	Total	50	100
2	Sex	Frequency	Percentage
	Male	43	86
	Female	7	14
	Total	50	100
3	Religion	Frequency	Percentage
	Islam	39	78
	Christianity	11	22
	Total	50	100
4	Ethnicity	Frequency	Percentage
	Hausa – Fulani	37	74
	Yoruba	4	8
	Igbo	2	4
	Others	5	10
	Total	50	100
5	Level of Education	Frequency	Percentage
	Informal Education	12	24
	Primary Education	9	18
	Secondary School	16	32
	Tertiary	13	26
	Total	50	100
6	Stats of resident	Frequency	Percentage
	Sokoto State	28	56
	Zamfara State	22	44
	Total	50	100

From table 1 above, it is shown that the age distribution pattern of the respondents is divided into six categories. The first category, deals with respondents that are within 20 years and below. The second category deals with those standing between 21- 30 years. The third category covers those that are between 31- 40 years.

The fourth category includes respondents between 41-50 years. The fifth and sixth categories deal with the respondents that are within between 51- 60 years and between 61 years and above respectively. From the data collected in the research, it has shown that the distribution of the respondents between 21 to 60 years are higher compared to what obtained in the remaining two groups i.e. those in the age brackets of 20 and below and those within 60 years and above. This implies that the majority of the sampled population is in the economic active group. Furthermore, the data collected as indicated in the table above has shown that about 86% (43) of the respondents were males while the remaining 14% (7) were females. This suggests a form of gender bias of the research considering the sex distribution pattern of the respondents.

On the issue of religious backgrounds of the respondents, the table reveals that about 78% (39) of the respondents were Muslims, while 22% (11) of them were Christians. This shows that the setting where the research was conducted is a Muslim dominated area in which opinions of the respondents on the subject matter may be influenced by Islamic religious belief. Similarly, the data collected as shown in table above, indicates that majority of the respondents are Hausa-Fulani ethnic group, who constituted about 74% (37). The Yoruba ethnic group constituted 8 % (4) of the respondents, while Igbo ethnic group has 4% (2) of the respondents and other ethnic groups constituted 10 % (5). This suggests ethnic plurality of the respondents which may also influence their understanding, perception and response to the subject matter. On the educational background of the respondents, the data collected has shown that 24% (12) of the respondents have no formal education, while 26% ((13) have tertiary educational qualifications. In between these two categories, 18 % (9) of the respondents have primary education, and 32 % (16) of them have secondary school educational qualification.

This shows that the research has cut across of people of diverse educational background and majority of the respondents were fairly educated. As regards to the setting or place of the research, the data collected has shown that 56% (28) of the respondents were residents of Sokoto State while 44% (22) were resident of Zamfara State. This reveals that respondents have covered scope of the studied area of the research.²⁴⁸

5.3 Correlation between the Respondents and the Animals

This segment seeks to analyze the occupational relationship or correlation between the respondents and the animals, the subject matter of study in the research. The essence of this segment is to determine the competence of the respondents to give a valid and reliable experience, perception or knowledge on the subject matter.

5.3.1 Research question one

How do you relate with animals?

In response to this question, 24% (12) of the respondents indicated that they were farmers/ animal owners or herders. And 16% (8) of the respondents indicated that they were in the business of buying and selling of animals or transportation of the animals, whereas 22% (11) of the respondents were shown to either veterinarians or livestock officers. Furthermore, the data has shown that 20 % (10) of the respondents were police or other law enforcement agents; and 10% (5) of them were butchers or meat processors. The data also shows that 6% (3) were professional hunters, while 2 % (1) of the respondents were in other professional or dealing not specified. This information is represented in the table below.

²⁴⁸ Researcher's field work, 2019

Table 2: showing the distribution of the Respondents' affinity with Animals.

S/N	Occupation/dealing with animals	Frequency	Percentage
1	Famers/ animal owners/ herders	12	24
2	Animal traders/ transporters	8	16
3	Veterinary/ livestock officer	11	22
4	Law enforcement officers	10	20
5	Butchers/ meat processors	5	10
6	Professional hunters	3	6
7	Others	1	2
	Total	50	100%

The information presented in the table 2 above, suggests that the respondents are within the targeted group. This implies that they are competent to respond to the question raised in the questionnaire and make a valid opinion on the subject matter²⁴⁹.

5.3.2 Research question two

How long do you relate with animals?

In responding to this question, the data collected has shown that 14 % of the respondents said they been relating or dealing with animals less than five years ago. While 18 % of the respondents have been dealing or relating with animals for more than five years but less than 10 years. However, 68 % of the respondents averred that they have been relating or dealing with animals for 10 years and above. This information is represented in the table below.

Table 3: showing the distribution of how long the respondents have been relating or dealing with animals.

²⁴⁹ Ibid.

S/N	Period of dealing with animals	Frequency	Percentage
1	Less than 5 years	7	14
2	More than 5 years but less than 10 years	9	18
3	10 years and above	34	68
	Total	50	100%

The table above shows that majority of the respondents are in better position to have knowledge and experience on the subject matter, since they have been relating or dealing with animals for some time²⁵⁰.

5.3.3 Research question three

What type of animals do you relate with?

In response to this question, 54% of the respondents said they were relating or dealing with cattle sheep or goats or both. On the other hand, 22 % of the animal deals with only donkeys, horses or camels. 8% said they were dealing with only poultry animals, 16% deal said they were dealing with the combination of all the animals stated above. And 2% of the respondents said they were dealing with other species of animals not specified. This information is represented in the table below.

Table 4: showing the distribution of types of animal the respondent's deal with.

S/N	Types of animals deal with by the respondents	Frequency	Percentage
1	Cattle , sheep and goats	26	52
2	Donkeys, horses and camels	10	20
3	Poultry animals	4	8
4	All of the above	8	16
5	Other animals	2	4
	Total	50	100%

²⁵⁰ *ibid.*

This shows that the respondents' were mainly dealing with domestic animals within the scope of this study and in position to make valid opinion on animal related issues²⁵¹.

5.4 Respondents' General Perception/Experience on Animal Abuse

This segment appraises the respondents' perception and experience on animal abuses. The significance of this section is to test the hypothesis of the study that animals are commonly abused in various communities in Nigeria.

5.4.1 Research question one

Do you agree that animals are commonly subjected to abuse in your locality?

In response to this question, 66 % (33) of the respondents answered in the affirmative, indicating that animal abuse is common in their localities. On the other hand, 22 % (11) of the respondents answered the question in the negative, showing that animal abuse is not common in their localities, while 12% (6) of the respondents said they did not know whether animals are being subjected to abuse in their locality or not. This is represented in the table 1 below.

Table 5: showing the distribution of the respondents' general perceptions on animal abuse in their locality.

S/N	Frequency	Percentage	Response
1	33	66	Yes
2	11	22	No
3	6	12	Neutral
	50	100%	

The information stated above has confirmed the hypothesis of the research that animal abuse is very common in Nigeria. This is because, the majority of the respondents believed that animals are commonly subjected to abuse in their localities²⁵².

²⁵¹ibid.

5.4.2 Research question two

Do you agree that the modern system of animal husbandry is not common in your locality?

In answering to this question, 86 % (43) of the respondents agreed that modern system of animal husbandry is not common in their localities. However, 10 % (5) of the respondents answered in the negative, disagreeing that modern system of animal husbandry is common in their respective localities. 4% (2) of the respondents indicated that they did not know whether modern system of animal husbandry is common in their locality or not. This information is reflected in the table below.

The table 6: showing the distribution of the respondents' general perception on animal husbandry practice in their locality.

S/N	Frequency	Percentage	Response
1.	43	86	Yes
2.	5	10	No
3.	2	4	
	50	100%	Neutral

The information presented above implies that majority of the targeted respondents were of the view that modern system of animal husbandry is not a common practice in their respective locality. The question is significant because effective animal husbandry is part of animal welfare and caring²⁵³.

5.4.3 Research question three

Do you agree that the cruel practice of kicking, mutilation, castration and other inhumane treatments of animals are common in your locality?

²⁵² Ibid.

²⁵³ Ibid.

58 % (29) of the respondents answered this question in the affirmative, confirming that the practice of subjecting animals to cruelty such as unnecessary kicking, mutilation, castration and other inhumane treatments is common in their respective localities. However, 42 % (21) of the respondents disagreed and answered in the negative. 3% (6) of the respondents were neutral. This implies that majority of the target respondents were of the view that animal cruelty and inhumane treatments are common in their communities. This is shown in the table below.

Table 7: showing the distribution of the respondents on their perception on animal cruelty in their locality.

S/N	Frequency	Percentage	Response
1.	26	52	Yes
2.	21	42	No
3.	3	6	
	50	100%	

The significance of the data shown above is to determine whether animal cruelty and other inhumane practices are common in Nigeria. The data collected on this question has shown that majority of the respondents agreed with the hypothesis that animal cruelty is common in various local communities.²⁵⁴

5.4.4 Research question four

Have you ever encountered a case where animal was subjected to sexual or immoral abuse in your community?

In response to this question, 16 % (8) of the respondents answered this question in the affirmative, indicating that they had encountered a situation whereby animals were subjected sexual, indecent or immoral abuse.

²⁵⁴ Ibid.

However, 84 % (42) of the respondents disagreed and answered in the negative. This implies that majority of the target respondents had never encountered a situation where animals were subjected to sexual or immoral abuse. This information is shown in the table below.

Table 8: showing the distribution of the respondents on their experience/ knowledge on the frequency of the incidents of subjecting animals to sexual or immoral abuse with.

S/N	Frequency	Percentage	Response
1	8	16	Yes
2	42	84	No
	50	100%	

From the information stated above, it is obvious that the practice of subjecting animals to sexual or immoral abuse is not common in the area of study. This is because, majority of the respondents claimed they had never encountered a situation where animals were being subjected to sexual abuse. This suggests that the incident is not common.²⁵⁵

5.4. 5 Research question five

Do you agree that cases of animal malnutrition and underfeeding are common in your locality?

In answering this question, 50% (25) of the respondents were of the view that cases of animal malnutrition and underfeeding are common in their respective localities. On the other hand, 42% (21) of the respondents were of the view that cases of animal malnutrition and underfeeding are not common in their localities. And 8% (4) of the respondents were neutral. This data is shown in the table below.

Table 9: showing the distribution of the respondents on their perception on the incidence of animal malnutrition and underfeeding in their localities.

²⁵⁵ Ibid.

S/N	Frequency	Percentage	Response
1	25	50	Yes
2	21	42	No
3	4	8	
	50	100%	

From the data presented above, it is clear that majority of the respondents were of the view that cases of animal malnutrition and underfeeding are common in various local community of area of research. This suggests poor handling or caring for animals²⁵⁶.

5.4.6 Research question six

Do you agree that animals are not receiving adequate veterinary care and treatment in your locality?

In answering this question, 34% (17) of the respondents were of the view that animals are provided with adequate veterinary care in their respective localities. However, 62% (31) of the respondents were of the view that animals are not given adequate veterinary care in their communities. 4% (2) of the respondents could not decide whether animals are provided with adequate veterinary care in their community. This is shown in table 10 below.

Table 10: showing the distribution of the respondents on their perception about lack provision of adequate veterinary care for animals in their respective localities.

S/N	Frequency	Percentage	Response
1	17	34	Yes
2	31	62	No
	2	4	
	50	100%	

From the statistics presented above, indicates that animals do not receive adequate veterinary care in various local communities in Nigeria.²⁵⁷

²⁵⁶ Ibid.

²⁵⁷ Ibid.

5. 4.7 Research question seven

Do you think that animals are provided with comfortable habitation in your locality?

42 % (21) of the respondents answered the question in the affirmative, agreeing that animals are provided with comfortable environment or habitation in their respective locality. 52% (26) of the respondents were of the view that animals are not provided with comfortable habitation.6% (3) of the respondents were neutral on the question. This is shown in the table below.

The table 11: showing the distribution of the respondents on their perception about the lack of provision of comfortable habitation for animals in their locality.

S/N	Frequency	Percentage	Response
1	21	42	Yes
2	26	52	No
3	3	6	Neutral
	50	100%	

The significance of this question to the subject of study cannot be over emphasized. This is because; provision of comfortable habitation to animals is one of the aspects of animal welfare. The statistics presented above, indicates that majority of the respondents were of the view that animals are not provided with comfortable habitation in their respective local communities.²⁵⁸

5.4.8 Research question eight

Do you think that animals such as donkeys, cattle, horses and camels are subjected to overuse, / overwork in farms or carriage of goods and persons at their detriment?

48 % (24) of the respondents were of the view that animals are overused for farm works or carriage of goods and persons at the pleasure of their owners and to their health detriments.

²⁵⁸ Ibid.

However, 34 % (17) of the respondents did not agree, while 18% (9) were neutral on the question. This information is shown in the table below.

Table 12: showing the distribution of the respondents on their perception about how animals are subjected to overwork and overburden in their respective localities.

S/N	Frequency	Percentage	Response
1	24	48	Yes
2	17	34	No
3	9	18	Neutral
	50	100%	

The statistics presented above, indicates that majority of the respondents were of the view that animal owners mostly subjected animals to overuse at the health detriment of such animals²⁵⁹.

5. 4. 9 Research question nine

Do think that animals are subjected to suffering and abuse while being transported in vehicles in your locality?

In response to this question, 76% (38) of the respondents were of the view that animals are being subjected to abuse and suffering while being conveyed in vehicles. 18% (9) of the respondents were of the view that animals are not subjected to suffering or abuse while being transported in vehicles. 6 % (3) of the respondents chose to be neutral in responding to the question. This is shown in the table below.

Table 13: showing the distribution of the respondents on their perception about how animals are abused while being transported.

S/N	Frequency	Percentage	Response
1	38	76	Yes
2	9	18	No
3	3	6	Neutral
	50	100%	

²⁵⁹ *ibid.*

The table above shows that majority of the respondents agreed that animals are usually subjected to suffering and abused while being conveyed or transported in vehicles in their various localities. This suggests that there is abuse in the process in which animals are being conveyed or transported in vehicles²⁶⁰.

5.4. 10 Research question ten

Do you think that in your community slaughtering houses and animal markets do subject animals to abuse?

In answering this question, 54% (27) of the respondents said that in their localities slaughtering houses and animals markets use to mishandled and subject animals to suffering and abuse. However, 42% (21) of the respondents disagreed and said that slaughtering houses and animal markets do not subject animals to suffering or abuse in their respective localities. 4% (2) of the respondents were neutral in responding to the question view. This statistic is shown in the table below.

Table 14: showing the distribution of the respondents on their perception about abuse of animals in slaughtering houses, farms and animals markets.

S/N	Frequency	Percentage	Response
1	27	54	Yes
2	21	42	No
3.	2	4	Neutral
	50	100%	

The information shows that majority of the respondents agreed that slaughtering houses and animals' market in their community subject animals to abuse²⁶¹.

²⁶⁰ *ibid.*

²⁶¹ *ibid.*

5.4. 11 Research question eleven

Have you ever reported incidence of animal abuse to police or any other law enforcement agency?

In responding to this question, all the respondents 100% (50) were unanimous that they have never reported incidence of animal abuse to police or any other relevant authority. This is statistic is shown in the table below.

Table 15: showing the distribution of the respondents on their attitude toward reporting incidence of animal abuse to the police or any other relevant law enforcement agency.

S/N	Frequency	Percentage	Response
1	50	100	Yes
2	0	0	No
3	0	0	Neutral
	50	100%	

The above information shows that all the respondents agreed that they had never reported incidence of animal abuse to appropriate authority. The significance of this statistic to the hypothesis of this research cannot be overemphasized. This is because; it has buttressed the general attitude of the ordinary Nigerian toward animals and poor enforcement of animal protection laws is Nigeria²⁶².

5.4 12 Research question twelve

Have you ever encountered a situation where police or any law enforcement agency investigate or prosecute cases of animal abuses or cruelty in your community?

In response to this question, 98% (49) of the respondents said they had never encountered a situation where police or any law enforcement arrested, investigated or prosecuted cases of animal abuses or cruelty in their respective communities.

²⁶² Ibid.

However, 2% (1) of the respondents claimed to have encountered a situation where law enforcement agency investigated animal abuse. This is statistic is shown in the table below.

Table 16: showing the distribution of respondents on the attitude of police and other law enforcement agencies toward investigating and prosecuting cases of animal abuses.

S/N	Frequency	Percentage	Response
1	1	2	Yes
2	49	98	No
	50	100%	

The information stated above shows that all the respondents but one agreed that they had never reported or witnessed a situation where laws that seek to protect animals against abused or cruelty was sought to be enforced. This statistic has reflected the fact that there is poor implementation and enforcement of animal protection laws in Nigeria²⁶³.

5.4. 13 Research question thirteen

Do you agree that there is indiscriminate hunting and killing of wildlife in your locality?

In response to this question, 60% (30) of the respondents agreed there was indiscriminate killing and hunting of wildlife in their respective communities. However, 24 % (12) of the respondents disagreed and said they were indiscriminate killing and hunting of wildlife in their communities.

On the other hand, 16% (8) of the respondents claimed neutrality on the question. This information is shown in the table below.

Table 17: showing the distribution of the respondents on their perception about the rare of indiscriminate killing and hunting of wildlife.

²⁶³ Ibid.

S/N	Frequency	Percentage	Response
1	30	60	Yes
2	12	24	No
3.	8	16	Neutral
	50	100%	

The above fact shows that majority of the respondents agreed that there was indiscriminate killing and hunting of wildlife in their communities. This suggests ineffectiveness of Wildlife Preservation laws²⁶⁴.

5.4. 14 Research question fourteen

Do you observe increased rate of human activities that caused destruction to natural environment/ habitat in your locality?

In response to this question, 66% (33) of the respondents said that they have observed increased of activities that caused destruction to natural habitat/ environment in their localities. However, 24% (12) of the respondents claimed not to have observed such increased rate of activities that destroyed natural environment in their locality, while 10% (5) of the respondents were neutral in responding to the question. This is statistic is shown in the table 18 below:

This is statistic is shown in the table below.

Table 18: showing the distribution of the respondents on their perception about the rate of human activities that caused destruction to environment/ natural habitats.

S/N	Frequency	Percentage	Response
1	33	66	Yes
2	12	24	No
3	5	10	Neutral
	50	100%	

The data generated on this question depicts a picture of increased human activities that caused destruction to natural environment which is detrimental to wildlife and animals in general. This suggests ineffectiveness of environmental preservation laws in Nigeria²⁶⁵.

²⁶⁴ Ibid.

5.5 Respondents General Knowledge/ Experience about Animal Protection Laws in Nigeria

This sub-section seeks to investigate the general knowledge of the respondents on animal laws in Nigeria.

5.5.1 Research question one

Do you know any customary law or practice that seeks to protect animals against cruelty or abuse in your locality?

In response to this question, 84 % (42) of the respondents answered in the negative. Meaning, they were not aware of any existing customary law or practice that sought to protect animals against cruelty or abuse in their localities. On the other hand, 16 %(8) of the respondents answered the question in the affirmative, claiming that they were aware of an existing customary practice that protected animals against cruelty or abuse in their local communities. Some respondents identified the taboo associated with using animals in rituals as a customary practice that sought to protect animals against abuse. This implies that majority of the respondents were not aware of any customary practice for the protection of animals against cruelty or abuse. This information is represented in the table 19 below.

Table 19: showing the distribution of the respondents on their level of awareness/ knowledge about customary practice for the Protection of Animals in their localities. ²⁶⁶

S/N	Frequency	Percentage	Response
1	8	16	Yes
2	42	84	No
	50	100%	

²⁶⁵ Ibid.

²⁶⁶ Ibid.

The information in the table above has clearly shown that majority of the respondents are of the view that they are not aware of any existing customary practice that seeks to protect animals against abuse.²⁶⁷

5. 5.2 Research question two

Are you aware of any law that seeks to protect animals against abuse in Nigeria and its significance?

In response to this question, 78% (39) of the respondents answered in the negative. That is, they were not aware of any law that seeks to protect animals against abuse in Nigeria. However, 22% (11) of the respondents answered in affirmative. Meaning, they were aware of animal protection laws in Nigeria. They mostly identified animal anti-cruelty provisions in the Penal and Criminal Codes, while few of the respondents identified some Islamic injunction imploring humane and compassionate handling of animals as the laws they know which to protect animals. The data collected shows that majority of the target respondents were not aware of existing laws for the protection of animals. This information is shown in table 20 below.

Table 20: showing the distribution of the respondents on their level of awareness/knowledge on the existence of animal protection laws in Nigeria.

S/N	Frequency	Percentage	Response
1	11	22	Yes
2	39	78	No
	50	100%	

Verily, the above information has shown high level of ignorance of the people on the existing animal protection laws in Nigerian²⁶⁸.

²⁶⁷ Ibid.

²⁶⁸ Ibid.

5.5.3 Research question three

Do you think that the laws for the protection of animals against abuse in Nigeria are ineffective?

In response to this question, 72% (36) of the respondents answered in the affirmative. That is, animal protection laws in Nigeria are ineffective. However, 12 % (6) of the respondents answered the question in the negative, signifying that animal protection laws in Nigeria are effective. On the other hand, 16% (8) of the respondents did not know whether animal protections laws are effective or not. This data is represented in the table below.

Table 21: showing the distribution of the respondents on their view about the ineffectiveness of animal protection laws in Nigeria.

S/N	Frequency	Percentage	Response
1	36	72	Yes
2	6	12	No
3	8	16	Neutral
	50	100%	

This entails that majority of the target respondents were of the view that animal protection laws in Nigeria are ineffective.²⁶⁹

5.5.4 Research question four

Do you think that police and other law enforcement agency are doing enough for the protection of animals or enforcement of animal protection laws in Nigeria?

Out of the bench mark of 50 respondents, 6 of them representing 12% answered the question in the affirmative, implying that police and other relevant law enforcement agencies are doing enough to protect animals against abuse or enforce animal protection laws in Nigeria.

²⁶⁹ Ibid.

However, 35 respondents representing 70 % were of the view that police and other law enforcement agencies are not doing enough to protect animals against abuse or enforce animal protection laws in the country. On the other hand, 9 of the respondents representing 18% were neutral on the question. This data is represented in the table below:

Table 22: showing the distribution of the respondents on their view concerning as to the poor enforcement of animal protection laws.

S/N	Frequency	Percentage	Response
1	6	12	Yes
2	35	70	No
3	9	18	Neutral
	50	100%	

This implies that majority of the target respondents were of the view that police and other relevant law enforcement agencies are not doing enough to protect animals against abuse or enforce animal protection laws in Nigeria.²⁷⁰.

5.5.5 Research question five

Do you agree that ignorance, cultural orientation and lack of government’s commitment are major factors responsible for the ineffectiveness of animal protection laws in Nigeria?

77% (80) of the respondents answered the question in the affirmative. That is, they agreed that ignorance, cultural orientation and poor government’s commitment are major factors responsible for the ineffectiveness of animal protection laws and governance in Nigeria. However, 6% (3) of the respondents disagreed, while 14 % (7) of the respondents were neutral. This information is represented in the table below.

²⁷⁰ Ibid.

The table 23: showing the distribution of the respondents on their view about the major causes of ineffectiveness of animal protection laws in Nigeria

S/N	Frequency	Percentage	Response
1	40	80	Yes
2	3	6	No
3	7	14	Neutral
	50	100%	

The data stated above implies that majority of the target respondents had agreed that that ignorance, cultural orientation and lack of commitment by government are some of the major factors responsible ineffectiveness of animal protection laws in Nigeria²⁷¹.

5.5.6 Research question six

Do you agree that effective animal protection can be achieved in Nigeria through public enlightenment, education, cultural re-orientation, legal reforms and government’s commitment?

78% (39) of the respondents answered the question in the affirmative, implying that they agreed that effective animal protection system can be achieved through public enlightenment, education, cultural re-orientation, legal reforms and government’s commitment. However, 4 %(2) had a contrary view, while 7% (14) of the respondents were neutral. That is, they were neutral and cannot decide whether animal protection can be effectively achieved through enlightenment, education, cultural re-orientation, legal reforms and government commitment. This information is represented in the table 23 below.

Table 2: showing the distribution of the respondents on their views about the viable means of addressing ineffective animal protection laws in Nigeria.

²⁷¹ Ibid.

S/N	Frequency	Percentage	Response
1	39	78	Yes
2	4	8	No
3	7	14	Neutral
	50	100%	

This implies that majority of the target respondents were of the view that effective animal protection can be achieved mainly through enlightenment, education, cultural re-orientation, legal reforms and government commitment²⁷².

²⁷² Ibid.

CHAPTER SIX

SUMMARY AND CONCLUSION

6.1 Summary

This research examines animal protection as a concept, as well as, its application under Nigerian laws. Using Sokoto and Zamfara States as a case study, the research appraises the application of both Islamic and statutory laws in Nigeria with a view to test the effectiveness or otherwise of the laws. Generally, human beings relate and deal with animals in various situations. However, while relating with animals, human beings usually take undue advantage to subject them to suffering and abuses. Therefore, the idea of according protection to animal is evolved out of concern for the plight of animals. Animal protection is an attempt to regulate human conducts towards animals. It is aimed at providing certain legal protections to animals against abuse and cruelty. From its foundation, the concept is elusive, subjective and its arguments controversial. The history of the idea of animal protection dated back to ancient Greek philosophers such Aristotle and Socrates.

As concept, animal protection was variously developed by many scholars and advocates at different time and occasions over the centuries. Thus, the concept of animal protection has varying perspectives and theories. The most prominent of these perspectives are animal welfare and animal rights. Animal welfare seeks for the promotion of animal welfare through legal instrumentality by improving their wellbeing in terms quality feeding, housing, medication and protection against subjection to suffering. On the other hand, animal right perspective seeks for a paradigm change of human orientation toward animals. It seeks for the treatment of animals as holders of legal rights in the same manner human beings are being treated.

The extreme perspective of animal rights is abolitionists who called for according right to life to animals. Animal welfare perspective appears to be more realistic approach to animal protection. Initially, the concept of animal protection evolved out of expression of empathy for the animals. But over the years, the concept has evolved to become part of human development and conservation of environment. However, the concept has been extended to viewed animals from ethological perspective. Many countries of the world have made various legislations for the protection of animals and promotion of their welfare. Likewise, in recent time, international community has become awaken on the need to conserve and preserve environment as a stimulant to socio-economic development. There are many international instruments that seek to protect animals against abuses and promote their welfare generally. These international instruments mostly protect animals as components of environment.

In Nigeria, there are a good number of legislations that seek to protect animals particularly against cruelty, extinction and abuses. The most prominent of these laws are the constitution which mandated the government to protect and improve environment and safeguard water, air, land forest and wildlife in the country. The Penal Code, Criminal Code and Sharia Penal Code of various States in the Country make provisions for the protection of animal against cruelty, sexual abuses known as *bestialism*. Wildlife Preservation laws of various States of the Federation seek to protect wild animals against indiscriminate hunting and killings with a view to preserve and conserve environment. Animal Diseases Control and Preservation Laws of various States seek to protect animals against contagious and infectious diseases. The purpose is to protect both animal and human health.

However, the justification of animal protection should go beyond preservation of environment and human development. Rather, it should include protection of animals as species/ creatures. This is because protection is not only about preservation, but also promotion and guaranteeing of welfare of the subject.

Similarly, from Islamic perspective, there are comprehensive and elaborate safeguards for the protection of animals against cruelty and inhumane treatment. Islam prohibits subjecting animal to indiscriminate killing or physical and emotional discomfort. Islam also outlines humane manner of slaughtering. Islam prescribes duties to animal owners such as duty to cater for their needs. In Islam, any good deed done to animals is considered as an act of worship that can be rewarded by Allah, while any bad treatment meted on animals is considered as sin.

However, notwithstanding these laws, animal abuses are common in many local communities. Cruelty, indiscriminate killing, mutilation and castration are common. Animal welfare and caring is virtually not formidable in the country. Poor animal governance is responsible for the abuse of animal. The laws for the protection of in the country are seemed to mere “toothless bulldog”. The laws are ineffective and failed woefully to address the challenges confronting animal governance in the country. The police and other law enforcement agencies have failed in discharging this onerous responsibility of ensuring observance and enforcement of animal protection. The government does not show any commitment toward animal governance generally. That is why the laws are flouted with impunity. Similarly, unlike other countries such as England and United States, in Nigeria there is no code of animal welfare legislation.

There are myriad of factors that combined to impede effective attainment of animal protection in Nigeria. Ignorance is seen as one of the major challenges responsible for ineffectiveness of animal protections.

Stakeholders in animal governance are not only ignorant of the existence of animal protection laws but also lack knowledge of the significance of animal protection to human development and environment. The cultural orientation of the Nigerians has also contributed to the failure of the country to accomplish an effective animal protection system.

From the foregoing, it is evident; the essence of animal protection laws goes beyond conceptual expression of sympathy and concern for the plights and sufferings of animals. Today, animal protection laws play significant roles to human development. It is obvious, the challenges of animal protection in Nigeria are not about lack of laws but poor implementation and enforcement of laws. Therefore, to attain an effective animal protection regime in Nigeria, government at all levels must pay more attention to this area of law. All hands should be on deck to ensure legal and social reforms that would change the cultural mindsets of the Nigerian populace toward implementation and enforcement of animal protection laws. Until this is done, the attainment of effective animal protection and governance would remain a mirage.

6.2 Findings and Observations

From the foregoing, the research has established as follows:

1. The concept of animal protection is not only a controversial subject, but also, it is dominantly determined from parochial human selfish interest as against an ethological perspective that sees animals as independent species/creatures. Moreover, the theories and arguments of the concept are founded on spurious and unrealistic assumptions. For instance, the idea of animal rights that seeks to treat animals as holders of legal rights in a similar manner with human beings is utopia. Similarly, the abolitionist and vegan theories that advocate for human beings to stop using animals for any reason is unrealistic and practically untenable.

2. The concept of animal protection is known to Nigeria legal system, as there are many laws that seek to protect animals against cruelty and abuse. However, these laws mostly seek to protect animals for the sake of human interests, as against the interest of animals as independent species. In other words, animal protection laws in Nigeria only protect animals as means to human ends, not as an end to animal interests. For instance, the Criminal and Penal Codes only seek to protect animals against human cruelty because they are seen as objects for human development, not for the reason that they are independent species. Similarly, the wildlife preservation legislations only protect animals as component of environment, not because animals are considered from ethological perspective as an independent species.
3. There are many laws for the protection of animals against cruelty and abuse in Nigeria. However, considering the higher rate of animal cruelty and abuses in the country, animal protection laws appear to be ineffective and inefficient. For instance, the provisions of Criminal Code and Penal Code which criminalized and prohibited animal cruelty are being flouted and violated with impunity in various local communities in Nigeria. Worse still, the sanctions and punishment for the violations of these laws are paltry with little or no retribution. In the same way, the comprehensive protections accorded to animals under Islamic laws are also neglected and disregarded by Muslims in Nigeria. The Islamic rules requiring kindness and compassion to animals are being flouted.
4. Ignorance is one of the major factors that contributed to the ineffectiveness of animal protection laws in Nigeria. Citizens, law enforcement agencies and stakeholders in animal governance are ignorant about the animal protection laws and its significance either to animals as species or for human development.

Furthermore, cultural orientation has also contributed to the ineffectiveness of animal laws in Nigeria. In Nigerian cultural orientation, animals are generally regarded as properties which can be owned and kept at the mercy of the owner. There is hardly a known enforceable customary practice in Nigeria for the protection of animals against abuse.

5. Lack of government agency or institution specifically created and empowered to enforce animal protection laws is another factor that contributed to the ineffectiveness of animal protection laws in Nigeria. Often, defaulter of animal protection laws go unpunished, because, the police and other law enforcement agencies are not living up to their responsibilities in this regard. .
6. Unlike in advance countries, where governments have consistently shown commitment toward protection of animal and promotion of their welfare generally. In Nigeria, there is apparent lack of political will and commitment towards developing policies and program for the protection of animals. For instance, Nigeria is a member of World Animal Health, but it has failed to enact animal welfare a code that prescribed standard of care expected to be accorded to animals by animal owners as obtainable in developed in countries. Lack of this code has created a huge gap in Nigeria's animal protection laws. Also, absence of budgetary provision for the protection of animals is an indication that Nigeria government is not highly committed toward animal protection.

6.3 Recommendations

From the above findings and observations, the following recommendations are made:

1. There is need to change the perception and narrative of the concept of animal protection from superficial and white-washed to a constructive and real one. Animals should be protected not only because of human selfish interests, goals or desires, but also, for their interests as

independent species/creatures that need to survive and coexist with human beings, who are superior due to their intelligence, and have advantage and upper hand to control and manipulate animals. Similarly, scholars and animal protection advocates should adopt realistic and practicable approach in dealing with the concept of animal protection. It is recommended that animal protection should be tailored toward animal welfare as against the unrealistic attempt to treat animals as holders of legal side by side with human beings. However, animal protection should be treated without prejudice to the dominance and proprietary rights of human beings over animals.

2. Nigerian animal protection laws should be holistically reviewed with a view to make them effective and efficient. The laws should be reviewed to protect animals not only for the sake of human interests, but also, animal interests as well. Animal protection laws should be directed toward treating animals not only as means to human ends, but also as ultimate to animals ends. In other words, animal protection laws should be reviewed to see animals from ethological perspective, not from human beings selfish interest.
3. Animal protection laws in Nigeria should be activated to become effective and efficient. All hand should be on deck by governments and other relevant stakeholders in animal governance in Nigeria in order to address the menace of animal abuse in the country. Effective mechanism should be put in place to reduce animal cruelty and abuse in Nigeria.
4. To achieve effective and efficient system of animal protection, it is recommended that government should embark on general public enlightenment, education and campaign with a view to educate and enlighten animal owners and relevant stakeholders in animal governance on the existing animal protection laws and their significance. Also, government should also devise way to change the cultural orientation and mindset of the people toward

animals. People should be educated on the effect of abusing animals and the need to uphold their welfare. Muslims should be taught about the excellent teachings of Islam on animal protection. In the same vein, animal protection subject should be introduced into education curriculum in Nigerian. .

5. A special task force or regulatory body should be established to ensure strict observance, application and enforcement of all animal protection laws in Nigeria. Alternatively, Nigerian Police and other relevant agencies should rise up to their responsibility of ensuring effective and strict implementation and enforcement of all animal protection laws in the country. Concerted efforts should be made by government to ensure that violators of animal protection laws are brought to book.
6. Just like in advance countries, government should show political will and commitment toward animal protection and governance generally. Nigerian government should enact animal welfare code that would prescribe standard of care expected to be accorded to animals by animal owners as obtainable in developed in countries. By doing this, the existing gap in Nigeria's animal protection laws would be filled. Also, Nigerian should allocate resources for the enforcement of animal protection laws in the country.

BIBLIOGRAPHY

BOOKS

- [Adams, C.J.](#), (1996). *The Sexual Politics of Meat: A Feminist-Vegetarian Critical Theory*, Continuum Publishers, New York.
- Adelola J., (1987). *The Customary Practices of Nigerian people*, McMillan Publication, Lagos.
- Adullah, Y. A., (1933). *The Glorious Qur'an: Translation and Commentary*, DarulFikr, Beirut, Lebanon.
- Aisha B. (2003). *Tafsir Al-qur'tabi; the Classical Commentary of the Holy Qur'an (English Translation)*, Dar- Attaqwa Publication, London.
- Al-jazair, S. (2006). *The Golden Age and Decline of Islamic Civilization*, Bayt Al- hikmah, U.K.
- Beauchamp T. (2001) *the theories of animal Rights*, Oxford Hand Book of Animal Rights, Oxford Press
- Bob T. (2007). *Making a Killing Political and Economic Rights of Animal*, Bright ford, London.
- Cohen C. (2001). *The Animal Rights Debate*, Rowan and Littlefield, Cheshire
- David F. (2012). *International Treaty for Animal Welfare*, Digital Commons, Michigan University College.
- Emanuel S. (2014). *Animals Protection in Europe*, Lewis Press, London.
- Faruk M, (1998) .*The Abridge English Translation of the Musanab Imam Ahmad*, Hikmah Publication.
- Gary L. Francoine, (1995). *Introduction to Animal Rights*, Philadelphia Press, U.S.A.
- Gene B. (2002). *Being Vegan in a Non- Vegan World*, Bright Field, Canada.
- Hafiz A. H. (2001). *English Translation of Fathul Bari (By IbnHajar Al- askalani)*, Noor Publication, London.
- Harrison P. (2003). *Animals and Law*, Darlington, London.
- Henry S.H. (1987). *The Animal Rights (Reviewed); Considered in Relation to Social Progress*, Mac Milan & Co

- Jabir A. (2004). *The English Translation of the Book of HiyatAulawiyat*, New York Publication, New York.
- John R. (2001). *The Foods Revolution*, Stanford, Georgia. U.S.A.
- Kelvin, T. (2014). *The Ethics of International Animal Law*, Master's Thesis, (unpublished) College of Law, Helsinki University. Retrieved from [Http://www.helsinki University/lawmastersthesis.com](http://www.helsinki.fi/lawmastersthesis.com). accessed on the 13th February, 2016 by 4.pm.
- Khalid A. E., (2004). *The Dogs in the Islamic Tradition and Nature*, in: *Encyclopedia of Religion and Nature*, Scholar of the House, New York.
- Khalifa E. (2009), *The Rights of Animals in Islam*, London Publication.
- Kristen S., (2005). *Animal Welfare in Islam*, Northwestern University Press, Chicago.
- Lindy R. (2004). *Animal Rights and Human Rights*, Amazon Publisher, London.
- Mc James, J. (1986). *The Earth and Creature*, Derby Publication, London.
- Morris J. and Mathew P. M. (1978). *The Man and Environment* (6th Edition), Dendron Publication, New York.
- Muhammad, A. H. (2004). *The English Version of the Qawa'id Al-AhkamFiyl-Islah Al- An'am*, by IzzudeenAbdul-azizIbnAbds-salam, Honsfiled Publication, Ottawa.
- Muhsin Khan, M. (2009). *Translation of the Meaning of Sahih Al-Bukhari (Arabic – English)*, Darussalam Press, Riyadh.
- Nelson H. (2001). *Animal Cruelty and Social Violence*, Easton, 3416. Retrieved on June 31, 2018 from <http://animalcruelty/research/database>
- New International Version Bible, Chapter 1, Verse 26.
- Njoven P. (1969). *The Africa and Colonialism*, London Publication, London.
- Nussbaum, M. (2007). *Beyond Compassion and Humanity: Justice for Nonhuman Animals*, In: *Animal Right: Current Debate and New Directions*, Oxford University Press.
- Okechuwu C. (2004). *The Effect of Indiscriminate Hunting and Killing of Animals to Environment in Nigeria*, Longman Publication, Lagos.
- Okwonko C.H. (2006.) *Introduction to Nigerian Criminal Law*, Spectrum Publication.
- Olarewaju, M. (1989). *Animal Trading in Nigeria*, Ibadan press, Oyo State.

- Philips K. (2001). *X-ray of Biology of Beings*, Lincoln Publisher, New York.
- Qadri, A.A. (1982). *Islamic Jurisprudence in Modern World*, Taji Co. Delhi.
- Regan, T. (2008). *Case for Animal Rights*, Newton, U. S. A.
- Roland, M. (2009). *Animal Right: A Defense*, Palgrave McMillan.
- Saleh H.A. (1999). *The Fundamental of Maliki School, (English Translation of Muwatta Maliki)*, Radwa, London.
- Sharafy, M.A. (2002). *Sunanu An-nasa'i (English Translation)*, Xenon Edition.
- Singer P. (1985). *In Defense of Animals, the 2nd Wave*, New York accessed at <http://petersinger/animalliberation/> on 19th June 2017 by 8:45pm
- Singer, P. (1980). *Animal Liberation*, Aston Publication, Burchham, accessed at <http://petersinger/animalliberation/> on 19th June 2017 by 8:45pm
- Steven M. W. (2000), *The Rattling of the Case: Toward Legal Right for Animal*, Pretax Publisher, London.
- Thabit A. U. (2007). *The English Translation of the Commentary of the Holy Qur'an (Tafsir Tabri)*, Oxford.
- Thomason J. (1996). *Status of Animals in Islam*, Edward Publishing Inc., London.
- Timothy G. (2007). *Animal Rights and Law*, Edinburgh Publication.
- Tom R. (1983), *the Case for Animal Rights*, Barkley University of Californian Press.
- Yahya A. A. (1999). *Al-Adab Al-Mufrad, (English Version)*, Al-katab Publication, Bairut.

JOURNALS

- Hannafi, A. (2012). *The World of Animal in Islam*, Journal of Biodiversity, Haneris1.
- Magbo, T.C. *et al*, (2005). Animal Cruelty In: *Journal of Natural Science*, Vol. 3, No 8, IISTE, 2013. Retrieved from <https://www.researchgate.sooll//com>. Accessed on 19th February, 2017, by 9:30.
- Muhammad M., *et al*, (2006). *Regulation and Ethical Considerations in Animal Experiments, International Law and Islamic Perspective*, In: Journal of Medical Biotechnology, Vol.4.
- Wale Y. (2008). The Control of Animals' Diseases in Nigeria. In: *Journal of Animal Science*, Vol. 6 Gorge Allen and Unwinds, London.

CONFERENCE PAPERS

Adamu H. (2017). *Animal Welfare and Control and Regulation: Call for Action in Nigeria*, A paper presented at the Department of Commercial Law Series, Faculty of Law, Ahmadu Bello University, Zaria, on the 16th May, 2017.

Ahmad A. (2015) *Fulani and Nomad Life*, a Paper presented at a Conference on Search for Sustainable Peace between Farmers and Herdsmen in Nigeria, Organized by International Peace Initiative, held at Balingo Resort, Abuja, held on the 16th Nov, 2015.

Haleen H. (2011). *Animal Rights in Islam*, Paper, Presented at the Conference of Animals as Religious Subject, and Held on May, 2011, at the University of Chester, England.

Harfiya H. (2011). *Animal Rights in Islam*, a Paper, Presented at the Conference of Animal as Religious Subject, Organized by University of Chester, U.K. and held on 3rd March, 2011, Published Online at <https://www.globerthics.nrt>, accessed on 24th Feb. 2017, by 3; 00 pm.

Reza G., *et al*, (2007). *Animal Right in Islam*, Conference Paper, Presented at the 6th International Conference on Alternative Uses of Animals, Organized by CICAR, held between 21st and 24th May, 2007, Tokyo, Japan.

Sikiru O. A. (2007). *The Legal Right of Animals and Animal Owners*; Paper Presented at the Conference of Nigerian Vet. Medical Association, held at Edison Hotel, Ibadan, on 15th July, 2007.

NEWS PAPERS

Abubakar M. (2007). *Herdsmen and Farmers Clashes and Threat to National Security*, Daily Trust Newspaper, 26th November, 2017.

Adeyanju M. (2005). *Poor State of Animal Condition in Nigeria*, Daily Time, Feb. 5, 2005.

REPORTS

Report of World Animal Protection Organization accessed at <http://apl.worldsnimslprtection.org/org/country/nigeria>, on 6th July, 2017 by 3:45pm

Report of World Health Organization accessed at <http://who.animdiseasesdatabase> on 8th December, 2017 by 2.00pm.

Research conducted by Hanover University, Germany accessed at: <http://animalsocialbehavior/research/ks/> on 19th March, 2018 by 8:45pm.

The Report of English Bureau for Economic Planning accessed at: <http://apiamwelfare/uk.org> on 18th May, 2018 by 12.00 pm

United Nations General Assembly Resolution No: A/66/750/ of 20th March, 2012. Accessed from <http://www.un.org/resolutionsdatabase.com>, on 13th June, 2017 at 10: am

APPENDIX A

FACULTY OF LAW

AHMADU BELLO UNIVERSITY, ZARIA

QUESTIONNAIRE ON THE APPRAISAL OF THE CONCEPT OF ANIMAL PROTECTION AND ITS APPLICATION UNDER ISLAMIC AND STATUTORY LAWS IN NIGERIA: A CASE STUDY OF SOKOTO AND ZAMFARA STATES

Dear Respondent,

I am an L.L.M student of the aforementioned Faculty, carrying out a research on “ **Appraisal of the Concept of Animal Protection and its Application under Islamic and Statutory Laws in Nigeria: A Case Study of Sokoto and Zamfara States**” in partial fulfillment of the requirement for the award of L.L.M. Degree. I will be glad if you respond to the questions below as objectively as possible, and your anonymity will be guaranteed.

Thank you in anticipation of your cooperation.

Yours faithfully,

Abdullahi Isiyaku Aliyu

P14LAPU 8005

APPENDIX B

SECTION A: SOCIO-DEMOGRAPHIC DATA OF RESPONDENTS

Guideline: Indicate answers by means of (x) in the appropriate box

1. Your age (years)
 - (a) Below 20 years []
 - (b) 21 – 30 []
 - (c) 31 – 40 []
 - (d) 41 – 50 []
 - (e) 51 - 60 []
 - (f) Above 60 []
2. Sex
 - (a) Male []
 - (b) Female []
3. Religion
 - (a) Islam []
 - (b) Christianity []
 - (c) Traditional []
4. Ethnicity:
 - (a) Hausa- Fulani []
 - (b) Yoruba []
 - (c) Igbo []
 - (d) Others (specify)
5. State your level of education:
 - (a) No formal education []
 - (b) Primary School education []
 - (c) Secondary School education []
 - (e) Tertiary education []
6. State of residence
 - (a) Sokoto State []
 - (b) Zamfara State []
 - (c) Others (specify)
5. How do you relate with animals?
 - (a) Farmer/animal owner/ herder []
 - (b) Animal trader/transporter []
 - (c) Veterinary/ livestock officer []
 - (d) Law enforcement officer []
 - (e) Butcher/ meat processor []
 - (f) Hunter []
 - (d) Others (specify)
6. How long do you relate with animals?

- (a) Less than 5 years []
 - (b) More than 5 years but less than 10 years []
 - (c) 10 years and above []
7. What type of animals do you relate with?
- (a) Cattle, sheep and goats []
 - (b) Poultry animals []
 - (c) Donkeys/ horses/ camels []
 - (d) All of the above []
 - (e) Others (specify)

SECTION B: PERCEPTION/EXPERIENCE OF THE RESPONDENTS ON ANIMAL ABUSES IN NIGERIA

Instructions: Kindly, evaluate the following questions and choose one of the options which you feel is in line with your personal experience/ perception on the subject matter.

1. Do you agree that animals are commonly subjected to abuse in your locality?
 - a. Yes []
 - b. No []
 - c. I don't know []
2. Do you agree that modern system of animal husbandry is not common in your locality?
 - a. Yes []
 - b. No []
 - c. I don't know []
 - d. Do you agree that the cruel practice of kicking, mutilation, castration and other inhumane treatments of animals are common in your locality?
 - a. Yes []
 - b. No []
 - c. I don't know []
3. Have you ever encountered a case where animal was subjected to sexual or immoral abuse in your community?
 - a. Yes []
 - b. No []
4. Do you agree that cases of animal malnutrition and underfeeding are common in your locality?
 - a. Yes []
 - b. No []
 - c. I don't know []
5. Do you agree that animals are not receiving adequate veterinary care and treatment in your locality?
 - a. Yes []
 - b. No []

- c. I don't know []
6. Do you think that animals are provided with comfortable habitation in your locality?
- a. Yes []
- b. No []
- c. I don't know []
7. Do you think that animals such as donkeys, cattle, horses and camels are subjected to overuse, / overwork in farms or carriage of goods and persons at their detriment?
- a. Yes []
- b. No []
- c. I don't know []
8. Do think that animals are subjected to suffering and abuse while being transported in vehicles in your locality?
- a. Yes []
- b. No []
- c. I don't know []
9. Do you think that in your community slaughtering houses and animal markets do subject animals to abuse?
- a. Yes []
- b. No []
- c. I don't know []
- 10 Have you ever reported incidence of animal abuse to police or any other law enforcement agency?
- a. Yes []
- b. No []
12. Have you ever encountered a situation where police or any law enforcement agency investigate or prosecute cases of animal abuses or cruelty in your community?
- a. Yes []
10. No []
13. Do you agree that there is indiscriminate hunting and killing of wildlife in your locality?
- a. Yes []
- b. No []
- c. I don't know []
14. Do you observe increased rate of human activities that caused destruction to natural environment/ habitat in your locality?

- a. Yes
- b. No
- c. I don't know

SECTION C: KNOWLEDGE/ PERCEPTION OF THE RESPONDENTS ON ANIMAL PROTECTION LAWS

Instructions: Kindly, evaluate the following questions and choose one of the options which you feel is in line with your personal knowledge / perception on the subject matter.

1. Do you know any customary law or practice that seeks to protect animals against cruelty or abuse in your locality?
 - (a) Yes
 - (b) No
2. If yes, briefly mention such customary practice.....
3. Are you aware of any law that seeks to protect animals against abuse in Nigeria and its significance?
 - (a) Yes
 - (b) No
4. If yes, briefly mention the legislation (s)
5. Do think that the laws for the protection of animals against abuse in Nigeria are ineffective?
 - a. Yes
 - b. No
 - c. I don't know
6. Do you think that police and other law enforcement agency are doing enough for the protection of animals or enforcement of animal protection laws in Nigeria?
 - a. Yes
 - b. No
 - c. I don't know
7. Do you agree that ignorance, cultural orientation and lack of government's commitment are major factors responsible for the ineffectiveness of animal protection laws in Nigeria?
 - a. Yes
 - b. No
 - c. I don't know

8. Do you agree that effective animal protection can be achieved in Nigeria through public enlightenment, education, cultural re-orientation, legal reforms and government's commitment?

d. Yes

e. No

f. I don't know