

Owls in Islam and Pakistan: Loopholes and Suggestions for Conservation and Management of this Highly Ecologically Important Niche

Mubasher Hussain

Islamic Research Institute, International Islamic University, Islamabad, Pakistan,
mubashir.hussain@iiu.edu.pk

Jamil Akhtar

Department of Islamic Studies, University of Gujrat, Gujrat, Pakistan, jamil.akhtar@uog.edu.pk

Follow this and additional works at: <https://corescholar.libraries.wright.edu/jbm>



Part of the [Animal Law Commons](#), [International Trade Law Commons](#), [Legislation Commons](#), and the [Religion Law Commons](#)

Recommended Citation

Hussain, M., & Akhtar, J. (2021). Owls in Islam and Pakistan: Loopholes and Suggestions for Conservation and Management of this Highly Ecologically Important Niche, *Journal of Bioresource Management*, 8 (1).

DOI: <https://doi.org/10.35691/JBM.1202.0164>

ISSN: 2309-3854 online

(Received: Jan 30, 2021; Accepted: Feb 11, 2021; Published: Jan 27, 2021)

This Article is brought to you for free and open access by CORE Scholar. It has been accepted for inclusion in *Journal of Bioresource Management* by an authorized editor of CORE Scholar. For more information, please contact library-corescholar@wright.edu.

Owls in Islam and Pakistan: Loopholes and Suggestions for Conservation and Management of this Highly Ecologically Important Niche

Cover Page Footnote

Dr. Mubasher is a Harvard Law Graduate.

© Copyrights of all the papers published in Journal of Bioresource Management are with its publisher, Center for Bioresource Research (CBR) Islamabad, Pakistan. This permits anyone to copy, redistribute, remix, transmit and adapt the work for non-commercial purposes provided the original work and source is appropriately cited. Journal of Bioresource Management does not grant you any other rights in relation to this website or the material on this website. In other words, all other rights are reserved. For the avoidance of doubt, you must not adapt, edit, change, transform, publish, republish, distribute, redistribute, broadcast, rebroadcast or show or play in public this website or the material on this website (in any form or media) without appropriately and conspicuously citing the original work and source or Journal of Bioresource Management's prior written permission.

OWLS IN ISLAM AND PAKISTAN: LOOPHOLES AND SUGGESTIONS FOR CONSERVATION AND MANAGEMENT OF THIS HIGHLY ECOLOGICALLY IMPORTANT NICHE

MUBASHER HUSSAIN¹ AND JAMIL AKHTAR*²

¹*Islamic Research Institute, International Islamic University, Islamabad, Pakistan.*

²*Department of Islamic Studies, University of Gujrat, Gujrat, Pakistan.*

*Corresponding author's email: jamil.akhtar@uog.edu.pk

ABSTRACT

Due to their vital ecological significance, owls drew the attention of several groups working on wildlife protection and conservation management across the globe. Hence, certain legal provisions have been articulated in the wildlife protection acts of the advanced countries to ensure full legal protection of wildlife including owls. Although there are certain laws concerning the protection of wild life in Pakistan, the specific and consistent legal provisions are still required for owl's full protection. This article highlights a dire need of the articulation of such provisions respecting the prohibition of owl hunting on several religious, legal and ecological grounds.

Keywords: Ecology, Islamic law, legislation, owl-hunting, wildlife acts.

INTRODUCTION

Pakistan is an Islamic state with the Hanafi Sunni majority Sect (Swad-e Azam), and, therefore, the legal system of the state reflects, in general, an influence of the Hanafi branch of Sunni Islam. No specific and consistent legal provisions are articulated so far concerning the protection of owls in Pakistan. Therefore, owl being hunt is attributed to many superstitious people who practice black magic using its blood and bones in their magical activities and some others kill owls for the medicinal purposes too (Dawn, 2015). A lack of strict and consistent law and enforcement makes it difficult to prevent owl hunting on one hand and on the other hand, some latter Hanafi scholars did not enlist owls in the Haram (forbidden to eat) birds (Muhammad, 2004) and, therefore, it may be difficult for the contemporary Ulama who belong to the Hanafi school to issue a Fatwa (legal opinion) affirming the prohibition of owl-hunting until they take into consideration the rectification of the legal opinion made by some of their

predecessors. This aspect is discussed in this paper concluding that the majority of the Sunni Muslim jurists considered owls as the Haram birds. By drawing attention to its ecological importance and focusing on the legal protection they enjoyed across the globe, it is concluded that new provisions must be introduced to the existing wildlife acts to ensure full protection of owls in Pakistan.

Religious Laws Concerning Owls

i. Owls in Islamic Sharia Law

The consumption and utilization of certain animals and birds has been discouraged in the classical Islamic Sharia Law. The Quran (2:173), among the two primary Islamic sources of law, categorically forbids only one animal: eating and consuming the Pork (swine-flesh). The Quran (7: 157) also reads that, "He (the Messenger of Allah, peace be upon him) makes lawful to them what are pure [Tayyibat] and makes unlawful what

is foul [Khabith/impure/unclean]". Although there is confusing demarcation between pure and foul, thus, several muslim jurists considered a number of animal species as impure or unclean and hence probably on the basis of their looks, habitat or diet enlisted them among the prohibited ones, including owls (Muhammad, 1994) as discussed in the following paragraphs.

According to the mainstream Islam, the second primary Islamic source is the Sunnah (sayings and actions) of the Prophet Muhammad (peace be upon him) and it also refers to the prohibition and disapproval of certain animal species for the purpose of their consumption. However, there is a disagreement between the jurists that whether this prohibition constitutes a permanent/binding ruling valid for all times or it merely falls under the category of Makruh (disapproved or abominable due to certain temporal reasons but not prohibited/Haram at all) (Muhammad, 1994). Thus, the majority of the Sunni jurists, except the Malikis, considered the eating of the flesh of all quadrupeds equipped with fangs and birds provided with claws/talons (birds of prey) as Haram (Muhammad, 2004), because of a report (Hadith) which explicitly states that the Prophet (peace be upon him) "forbade the eating of any wild animal with a canine tooth/dhu nab (Muhammad ibn Ismail, 1996) and of any bird with talons" (Muslim Ibn al-Hajjaj, 2004). Zoologists doubt that canine and talons refer to grab live prey for eating purpose and this hints that the predators or probably flesh-eating animals are forbidden to eat under this Hadith. Thus, the majority of the jurists, including the Hanafis, considered this Hadith as a basic criterion in order to determine the legal taxonomy of a wide range of animal species on one hand. On the other, the Maliki jurists observe reconciliation between this Hadith and the Quran which does not explicitly enlist the predators among the Haram category by construing

the proscription laid down in the Hadith to imply abomination of the said species rather their prohibition at all (Muhammad, 1994). Thus, this approach provides the legal basis of eating the flesh of all the predators, including owls.

Taking into consideration the aforementioned criterion, which is based on an explicit statement of the Prophet concerning the certain animal species, all the predatory quadrupeds/carnivores (Michael, 2003) are generally identified by the majority of the Sunni jurists, excluding the Malikis, as mentioned above, the Haram species, and so the case of owls. In contrast to the Malikis, the Hanafis principally do agree with the majority opinion respecting the above-mentioned criterion of legal taxonomy according to which owl must be classed among the Haram birds; although there is no explicit mention of owls as a Haram bird in the manuals of the early leading scholars of the Hanafi school. However, some latter Hanafi jurists surprisingly did not include owls among the birds of prey and, therefore, excluded it from the list of Haram birds (Muhammad, 2004). The owls are pure carnivores and birds of prey under scientific classification. Thus, they along with the Malikis, constitute the legal justification of hunting and eating of owls. But the opinion of the latter Hanafi jurists is weak and required to be rectified on the following two grounds.

According to Abu Hanifah, the eponym of the Hanafi school anything that eats meat is a predator, so that the lion and leopard, and even the hyena, and the gerbil are also included under predators in the Hanafi school, as are cats (Muhammad, 1994). Thus, the principle could be extended to owls as well.

As the zoologists classify owls amongst predatory birds under the order of the *Strigiformes* (a distinctive order of nocturnal predators) and, discussing their food/diet, maintain that all owls have a strongly hooked beak and sharp talons that they use to capture and eat live animals

(Michael et al., 2002). If we take this scientific information into account, the opinion of the latter jurists of the Hanafi school which is the major representative of the main stream Islam across the globe including Pakistan today, must be revised in order to recognize owls among the predators and, hence, enlisting them in the Haram birds too.

ii. Owls in Non-Islamic Religious Literature

Other than Islam, religious literature has also classified owls among the forbidden ones as follows. The Bible, particularly the Old Testament, enlisted owls in the Haram forbidden to eat birds for three reasons as follows:

It is enlisted among abdominal birds as Leviticus (Leviticus, 11:13-17) (King, 1769) says: "And these are they which ye shall have in abomination among the fowls; they shall not be eaten, they are an abomination: the eagle, and the ossifrage (bearded vulture), and the osprey. And the vulture, and the kite after his kind; Every raven after his kind; And the owl, and the night hawk, and the cuckoo, and the hawk after his kind, And the little owl, and the cormorant, and the great owl."

It is considered as one of the unclean birds as Deuteronomy (14:11-19) (King, 1769) says: "Of all clean birds ye shall eat. But these are they of which ye shall not eat: the eagle, and the ossifrage, and the ospraying, And the glede, and the kite, and the vulture after his kind, And every raven after his kind, And the owl, and the night hawk, and the cuckoo, and the hawk after his kind, The little owl, and the great owl, and the swan, And the pelican, and the gier eagle, and the cormorant, And the stork, and the heron after her kind, and the lapwing, and the bat. And every creeping thing that flieth is unclean unto you: they shall not be eaten".

Owls are recognized as wild predators that feed on small animals, birds and reptiles (Leviticus, 11:30) (King,

1769). Owls' wildness behavior is also mentioned in the Bible (Jeremiah, 50:39) (King, 1769). Moreover, owls are associated with the utter desolation and mourning, symbolically (Isaiah, 34:11; Zephaniah, 2:13) (King, 1769) and referred to as a species of demon (II Chronicles, 11:15) (King, 1769). In Hindu religious literature, owls are associated with evil, misfortune and death (Puliyur, 2009). Due to its negative associations and evil omens, the Indian people dislike it (Charles, 1905). The Hindu scriptures also call the owl a powerful bearded vulture (Sharada, 1978).

Nutritional Facts and Properties

By nature, people dislike owl and therefore do not prefer its hunting for food purpose; although they kill it for various other reasons including medicinal (Austin, 1948; Gore and Won, 1971) and magical (Cocker and Mikkola, 2001) use. Owl's per area unit nutritional properties also discourage its hunting (Richard, 1962).

The Ecological Importance/Implications

Every individual of animal kingdom demonstrates its unique role in the ecological system, indeed (Quran, 46:3). The biodiversity values of owls, however, are manifold. Possessing nocturnal habits, they are natural predators of rodents (Claus, 2009), and thus are very helpful in rodent control (Meyrom et al., 2009). Their value is acknowledged both in forest management (Forsman et al., 2011) and in agriculture in several ways (Duckett, 1984) as they help prevent huge crop losses and chemical use (Satish, 2012). They are also considered as bio-monitors, bio-regulators and bio-indicators of environmental contamination (Sheffield and Steven, 1997). Some studies show their medicinal uses in several parts of the world (Austin, 1948; Gore and Won, 1971).

Legal Provisions Concerning Owls

In order to ensure the conservation and full legal protection of the owl species under various circumstances, all the advanced countries of the world including the UK, USA, Australia and India, have strict laws in this regard which constitute major consequences, such as fine or imprisonment or both, in-case of violation as listed in "List of Protected Species March" (2020).

The acts of all the Pakistani provinces, indeed, have mentioned overall prohibition of trading, selling and purchasing the meat (it includes fat, blood, flesh or any eatable part of wild animal, whether fresh or preserved), hunting (it includes any act directed immediately to the killing or capturing of a wild animal and shall include taking the nest or egg of a wild animal) or eating the wildlife birds/wild animals(it means a wild bird or animal specified in the First, Second, Third and Fourth Schedules), as well as capturing and taking their nests or eggs ("Khyber Pakhtunkhwa wildlife act," 2015), and even, in case of violation of these laws, a number of strict fines and penalties have been defined ("The Balochistan wildlife protection act," 2014). But surprisingly there is no mention of owls at all as a wild bird specified in the First, Second, Third and Fourth Schedules articulated in this regard. Taking advantage of this ambiguity and believing it Halal, many people in Pakistan catch or kill owls for its blood which they use for black magic (Dawn, 2015). Hence, one of the main reasons behind owl-hunting is the absence of any specific act about owl protection in the Wildlife Protection Ordinance of certain Pakistani Provinces such as "The Punjab Wildlife (Protection, Preservation, Conservation And Management) Act, 1974" ("The Punjab wildlife Act," 1974) and "KPK Wildlife and Biodiversity Protection, Preservation, Conservation and Management Act 2015" ("Khyber Pakhtunkhwa wildlife act,"

2015); although "The Sindh Wildlife Protection Ordinance, 1972" (The Sindh wildlife protection (amendment) Act," 2008) and "The Baluchistan (Wildlife Protection, Preservation, Conservation and Management) Act 2014", ("The Baluchistan wildlife protection act," 2014) have added owls to the protected/endangered animal species. The same amendment is needed to be reinforced in Punjab and KPK wildlife Protection ordinance with further legal provisions in order to ensure the protection of such a highly ecologically important bird.

CONCLUSION

The aforementioned discussion on the Haram animal species conclude that two Islamic schools, namely the Shafis and the Hanbalies, categorically forbid killing of an owl as long as it does not harm the human being. By virtue of the verse of the Quran mentioned above, they allow hunting and eating of any Haram animal species only in an 'extraordinary situation' that may lead to death of a human being or some serious consequences otherwise. After considering the legal rectification suggested above for the Hanafi law, the three Islamic schools altogether constitute a majority opinion respecting the prohibition of owl-hunting for the purpose of its consumption and utilization under normal circumstances for all ages and places. The existing wildlife protection acts of different provinces of the country are inconsistent and ambiguous on owls' protection. Therefore, it is recommended that new provisions respecting the prohibition of owl-hunting should be incorporated and major penalties should be imposed in case of violation.

REFERENCES

- Austin OL (1948). The birds of Korea. *Bull Mus Comp Zool., Harvard University.* 101 (1): 301.
- Charles RL (1905) Ed. *Atharva Veda: Harvard University Series, Cambridge, Massachusetts, Harvard University.* 6:19-2.
- Claus KFW, Jan HB (2009). *Owls of the World.* 2nd Edition, Christopher Helm / A&C Black Publishers Ltd. Pp: 24, 43.
- Cocker M, Mikkola H (2001). Magic, myth and misunderstanding: cultural responses to owls in Africa and their implications for conservation. *Bulletin of the African Bird Club.*, 8 (1): 30–35.
- Duckett JE (1984). Barn Owls (*Tyto alba*) and the “second generation” rat-baits utilized in oil palm plantations in peninsular Malaysia. *Planter (Kuala Lumpur).* 60: 3-11.
- Forsman ED, Otto IA, Sovern SG, Taylor M, Hays DW, Allen H, Roberts SL, Seaman DE (2001). Spatial and temporal variation in diets of spotted owls in Washington. *J Raptor Res.*, 35:141–150.
- Gore MEJ, Won PO (1971). *Birds of Korea.* Royal Asiatic Society, Seoul, Korea. Pp: 231, 233.
- Grzimek's animal life encyclopedia, eds. Michael H, Devra G. Kleiman, V G, Melissa C. McDade, Farmington H, MI: Gale Group, 2003., 14: 266.
- Khyber Pakhtunkhwa Wildlife Act (2015). P:4. Accessed from http://kpwildlife.com.pk/Downloads/wildlife_act_2015.pdf
- King James Bible (2017). (Original work published 1769). Accessed from <https://www.kingjamesbibleonline.org/>
- List of Protected Species (March, 2020). Retrieved from <https://www.fws.gov/birds/management/managed-species/migratory-bird-treaty-act-protected-species.php>
- Meyrom K, Motro Y, Leshem Y, Aviel S, Izhaki I, Argyle F, Charter M (2009). Nest-box use by the Barn Owl *Tyto alba* in a biological pest control program in the Beit She'an valley, Israel. *Ardea.*, 97: 433–467.
- Muhammad Amin IA (2004). *Radd Al-Muhtar 'ala Al-Durr Al-Mukhtar Sharh Tanwir Al-Absar.* Beirut: Dar al-Kutub al-'Ilmiyya. 6: 306
- Muhammad Ibn Ahmad (1994) *Bidayatal-Mujtahid wa Nihayatal-Muqtasid, (The Distinguished Jurist's Primer)* trans. Imran Ahsan Khan Nyazee, Qatar: The centre for muslim contribution to civilization. 1:570.
- Muhammad Ibn Ismail al-Bukhari (1996). *al-Jami' al-Sahih, Kitab al-Zaba'ih wa al-Sayd, Bab Akl Kull Dhi Nab min al-Siba',* Riyaz: Darussalam. Hadith No., 5530.
- Muslim Ibn al-Hajjaj (2004). *Sahih Muslim, Kitabal-Zaba'ihwa al-Sayd, Bab Tahrim Akl Kull Dhi Nabmin al-Siba',* Riyaz: Darussalam. Hadith No., 1934.
- Puliyur K (2009). Ed. *Purananuru: Thelivurai.* Chennai: Parry Nilayam. Pp: 240, 261, 364.
- Quran (2008) *Oxford World's Classics* edition.
- Reproduced by Sharada Rani from the collection of Raghuvira (1978). *Skandapurana: a Sanskrit manuscript from Nepal containing the Kasi-Khanda.* New Delhi: S. Rani, 31: 44-45.
- Richard RG (1962). Food and Oxygen Consumption in Three Species of Owls. *The Condor.*, 64 (6): 473-487.
- Satish AP, Neelash D (2012). Reversed Sexual Dimorphism and Differential Prey Delivery in Barn Owls (*Tyto alba*). *J Raptor Res.*, 46 (2): 184-189.
- Sheffield, Steven R (1997). Owls as biomonitors of environmental

- contamination. In: Duncan, James R.; Johnson, David H.; Nicholls, Thomas H., eds. *Biology and conservation of owls of the Northern Hemisphere: 2nd International symposium*. Gen. Tech. Rep. NC-190. St. Paul, MN: U.S. Dept. of Agriculture, Forest Service, North Central Forest Experiment Station. Pp: 383-398.
- Staff Reporter (2015). Falcons, owl released into wild. Retrieved from <https://www.dawn.com/news/1213098>
- The Baluchistan Wildlife Act (2014). Pp: 9-19. Retrieved from http://pabalochistan.gov.pk/pab/pab/tables/alldocuments/actdocx/2019-09-19_14:51:46_ca72a.pdf
- The Punjab wildlife Act (1974). Retrieved from <http://punjablaws.gov.pk/laws/290.html>
- The Sindh Wildlife protection (amendment) Act (2008). Retrieved from <http://extwprlegs1.fao.org/docs/pdf/pak116151.pdf>