

## Review

# Religious Slaughter and Supranational Jurisprudence in the Context of Animal Welfare Science

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**Abstract:** Within the European socio-cultural landscape, which is increasingly attuned to animal welfare concerns and characterized by growing multiculturalism, ritual slaughter has become a subject of considerable debate due to its legal, economic, and health implications. This debate is increasingly fueled by interventions by judicial bodies that, not infrequently, have filled protection gaps in legislation on the relationship between human rights and the treatment of animals. In this review, the authors aim to describe the evolutionary path of supranational jurisprudence in the case of religious slaughter, focusing on the most recent animal welfare decision rendered by the European Court of Human Rights (ECHR) on 13 February 2024. This innovative judgement, in line with other precedents, indicates the orientation of the international and European law, which, driven by public morality, is increasingly characterized by the compression of human rights in favor of animal interests.

**Keywords:** religious slaughter; supranational jurisprudence; animal welfare; public morality



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## 1. Introduction

Within the European socio-cultural landscape, which is increasingly attuned to animal welfare concerns and characterized by growing multiculturalism, ritual slaughter has become a subject of considerable debate due to its legal, economic, and health implications (Barrasso et al. 2020; European Union 2024; Adam and Tizzano 2024; Villani 2024).

This debate is increasingly fueled by interventions by judicial bodies that, not infrequently, have filled protection gaps in legislation on the relationship between human rights and the treatment of animals. Despite various acts aimed at protecting animals, the approach of legislators has always been to regulate the protection of animals as being functional to human beings from an economic, health, or affection perspective (Italian Criminal Code 1930).

The increase in litigation resulting from the increasing rigor of these rules, thanks precisely to judicial interpretation, seems to clarify the gradual evolution of animal welfare into something more than a set of rules aimed at limiting the suffering of non-humans during their exploitation. In this direction, public morality, understood precisely as the common sentiment of populations and which is by its very nature changeable, constitutes an essential element in the development of a new legal approach to the subject of the treatment of animals. And, as will be seen, public morality also characterizes the judgement here considered, which is innovative because, in line with other precedents, it leads the system of the European Convention on Human Rights (ECHR) along a jurisprudential path that is increasingly characterized by the compression of human rights in favor of animal interests (Council of Europe 1950; Law No. 848 of 4 August 1955; Bartole et al. 2012; Pisillo

[Mazzeschi 2023](#)). Therefore, in this review, the authors aim to describe Islamic and Jewish ritual slaughter by highlighting their peculiarities and differences. This is in order to understand the evolutionary path of supranational jurisprudence in the case of religious slaughter, focusing on the most recent animal welfare decision rendered by the ECHR on 13 February 2024.

### 1.1. Religious Slaughter Framed Within Council Regulation (EC) No. 1099/2009

Protecting animal welfare is crucial during slaughter operations at the slaughterhouse. With this aim in mind, Council Regulation (EC) No. 1099/2009 of 24 September 2009 on the protection of animals at the time of slaughter was adopted, entering into force on 1 January 2013 ([Council of Europe 2009](#); [Ministry of Health 2021](#)).

Some exemptions or restrictions to the application of Council Regulation (EC) No. 1099/2009 exist, including specific exemptions for cases of killing without stunning, such as emergency killing in exceptional circumstances, the killing of animals unfit for transport due to injuries and/or pathologies, and ritual slaughter ([Council of Europe 2009](#)).

Ritual slaughter, performed in adherence to the religious precepts characteristic of Jewish and Islamic cultures, involves specific blessings, invocations, and gestures, and, notably, omits any form of stunning. This kind of slaughter falls within the exempted cases, provided it takes place in an authorized slaughterhouse, as stated in Art. 4 paragraph 4 of Council Regulation (EC) No. 1099/2009 ([Council of Europe 2009](#)).

The exemption aims to uphold religious freedom by allowing Muslim and Jewish believers to abide by the specific rules imposed by the sacred texts of their religions, which contribute to the sacred nature of the procedure ([Italian National Bioethics Committee 2003](#)).

Muslims and Jews practice religious slaughter to produce *halal* and *kosher* food, respectively ([Council of Europe 2009](#)). With the exception of pre-stunning, ritual slaughter must comply with the requirements of Council Regulation (EC) No 1099/2009 in order to be approved by the competent authority. Included in these requirements is the possibility of using individual and mechanical restraint methods in ritually slaughtered ruminants, unlike manual restraint methods, which are forbidden (e.g., rope used as halter). Furthermore, the restraining system must be applied until the animal is completely bled out. At the same time, the operator in charge, who must hold a certificate of competence in accordance with Art. 21 of the aforementioned regulation, must carry out systematic checks on all animals to assess the absence of any signs of consciousness, signs of sensibility, or signs of life before undergoing subsequent slaughter stages ([Council of Europe 2009](#)). Where signs of life are detected in animals during ritual slaughter, alternative methods of killing must be used to avoid unnecessary suffering. In such cases, it is also necessary to review slaughter operations in order to identify the weakness in the slaughtering process and to introduce corrective measures.

Religious slaughtering taking place on the “Feast of the Sacrifice” (عيد الأضحي) must comply with the requirements of Council Regulation (EC) No 1099/2009 ([Council of Europe 2009](#); [Caliskan et al. 2020](#); [Brandeis University 2024](#)). During this holiday, celebrated in the month of *Dhū l Hijja* (when the annual pilgrimage to Mecca, *l hajj*, takes place), Muslims are called upon to perform a ritual sacrifice in memory of the sacrifice Abraham made in place of his son, Ishmael. The sacrificed animal, killed by throat-cutting and bleeding, must be physically intact and adult and can only be a sheep, goat, bovine, or camelid ([Brandeis University 2024](#); [Yusuf Ali 1983](#)). Since it is practically impossible, given the huge number of pilgrims, to sacrifice such a large number of animals in the same area at the same time, the pilgrim may make the necessary purchase of the sacrificial victim in advance, according to his financial possibilities. The sacrifice is carried out according to religious prescriptions in authorized slaughterhouses by specialized and salaried personnel capable of processing the edible meat and preserving it in order to export it to Islamic countries that demand it ([Caliskan et al. 2020](#); [Brandeis University 2024](#); [Yusuf Ali 1983](#)). Each year, the central competent authority in each member state shares additional modules to support official veterinary control activities and to ensure greater attention to

animal welfare during this feast. These modules include instructions for official veterinarians to assess slaughterhouses authorized for ritual slaughter and for the collection of data at the end of the holiday. In addition, operational instructions are provided to the Food Business Operator (FBO) as management support in this specific circumstance (Ministry of Health-Department of Human Health, Animal Health and Eco-system (One Health), and International Relations 2024).

### 1.2. Islamic Religious Slaughter

The term *halal* (حلال), derived from the Arabic language, denotes any act or object permissible under *Sharia* law. For meat to be suitable for consumption by Muslims, the slaughtering process must adhere to specific regulations outlined in the *Qur'an* (القرآن) and *Hadith* (الحديث) (Fuseini et al. 2016). *Halal* slaughter mandates that animals undergo a period of rest prior to slaughter and receive adequate feeding and care during this time (Rahman 2017). They must be conscious at the time of slaughter, and if stunning is employed beforehand, it must be reversible and not fatal. Should stunning occur without subsequent slaughter, the animal must be capable of full recovery (Fuseini et al. 2016). The individual carrying out the slaughter must be mentally sound and have reached the age of maturity. Although the slaughterer should preferably be a Muslim, the *Qur'an* allows Muslims to consume meat slaughtered by *People of the Book*, specifically Christians and Jews (أهل الكتاب) (Yusuf Ali 1983). During the act of slaughter, the name of Allah (الله) must be invoked, and the animal should ideally face the (قِبْلَة) *Qibla* (the term indicates the direction of the city of Makkah and the *Kaaba* shrine) (Yusuf Ali 1983). Prior to cutting the throat, the animal must be securely restrained, with particular attention to the head and neck. The slaughter must be conducted with a single, swift stroke using a very sharp knife, minimizing any injury or stress to the animal (Rahman 2017). The knife should be sharpened away from the view of other animals, and care must be taken to ensure that other animals do not witness the bloodshed (Fuseini et al. 2016). The incision should be made from the front (towards the chest) rather than from the back (towards the spine), and the head should not be fully severed during the slaughter process (Riaz and Chaudry [2003] 2004). The slaughtering process should begin with a precise incision below the glottis, ensuring the severance of the trachea and esophagus while maintaining the integrity of the spinal cord to minimize the risk of immediate and severe hemorrhaging (Fuseini et al. 2016). Lastly, no processing of the carcass, such as skinning or removing the hocks, is permitted until the animal has succumbed to death (Riaz and Chaudry [2003] 2004).

### 1.3. Jewish Religious Slaughter

The term *shechitah* (שחיטה) specifically denotes the method of slaughtering that adheres to Jewish dietary laws, encompassing precise regulations for identifying *kosher* animals and selecting them for religious slaughter, even during the breeding phase (Farouk et al. 2014).

Animals deemed acceptable for slaughter are processed by a specially trained religious slaughterman, known as a *shochet* (שוחט), who utilizes a specialized knife called a *chalef* (חלף) (Regenstein et al. 2003). The cutting technique is meticulously designed to induce a rapid drop in cerebral blood pressure and prompt exsanguination and swift loss of consciousness. This method must be performed with a precise back-and-forth motion, ensuring the animal is rendered insensible to pain (Rosen 2004). Following slaughter, the *shochet* (שוחט) performs a meticulous post-mortem examination of the carcasses to identify any pathological lesions, particularly focusing on the pleura, lungs, and liver (Bozzo et al. 2017; Farouk et al. 2014). This process includes inflating the lungs with air to detect signs of disease. Should any pathological indications be present, the animal is deemed unsuitable for consumption. Carcasses are subsequently classified based on the severity and type of pulmonary and hepatic lesions: *chalak* (חלק חלק) or *glatt* (גלאט) for top quality, *kosher* (כשר) for medium quality, and *terif* (טריף) for those deemed unfit for consumption (Mast and Mac Neil 1983).

Following the organ inspection, specific portions of fat and organs such as the kidneys, intestines, and sciatic nerve are removed through a meticulous process known as *nikkur* (ניקור). While *nikkur* in the forequarters is relatively straightforward, it becomes notably intricate in the hindquarters, necessitating the expertise of highly trained operators. Due to the scarcity of such skilled personnel and the substantial time and cost involved, certain Jewish communities prefer to entirely avoid processing the hindquarters. Consequently, the *shochet* systematically excludes these portions, even from carcasses deemed *kosher* following *shechitah* (שחיטה). Additionally, all major arteries, veins, bruised meat, and coagulated blood are meticulously removed, as blood is not considered permissible for consumption. Following this rigorous selection process, the meat undergoes *koshering* to ensure the complete removal of any remaining blood traces by soaking the carcasses in water and salt (Farouk et al. 2014). The primary basis for carcass rejection lies in the identification of specific inflammatory, non-specific, or reparative-type processes, notably including the presence of adhesions within the thoracic and abdominal cavities. Carcasses suspected of lesions are evaluated by the religious inspector—referred to as *bodek* (בודק)—and subsequent re-assessment (Bozzo et al. 2017).

#### 1.4. Similarities and Differences

Gregory and Grandin (2007) discusses both the similarities and differences between *halal* and *kosher* slaughter methods. *Kosher* procedures require that the animal be alive and fully conscious at the moment of slaughter, whereas *halal* methods require only that the animal be alive beforehand. Both traditions typically consider pre-slaughter stunning to be incompatible with their religious guidelines. However, some Muslim authorities and certifiers permit certain reversible stunning methods, as long as the animals can fully recover if the neck incision does not occur (Needham 2012). The *halal* method also permits post-slaughter stunning to prevent uncontrolled movements following the exsanguination of the animal.

In accordance with Jewish religious practice, the act of cutting the throat during slaughter is of paramount importance, and the *shochet* must avoid five prohibited techniques: (i) the incision must be continuous without interruption (*shehiyah*, שהייה, pause); (ii) the blade must not exert pressure on the neck, ruling out the use of a guillotine (*drasah*, דרסה, pressure); (iii) the blade must not be obscured by the hide of cattle, the wool of sheep, or the feathers of birds (*haladah*, חלדה, stabbing); (iv) the incision must be executed at an exact location on the neck to ensure the rapid and clean severance of neck structures. Generally, the carotid arteries are severed at the C2 (cervical 2) to C4 vertebral levels; however, incising at the C1 level reduces the likelihood of false aneurysm formation and the premature cessation of blood flow (*hagramah*, הגרמה, slanting). Furthermore, there must be no tearing of tissues (*iqqur*, עיקור, tearing) (Rosen 2004; Gregory et al. 2012). Non-compliance with any of these regulations results in the disqualification of the *kosher* cut, rendering the animal non-*kosher* and unsuitable for consumption (*terif*, טריף) (Rosen 2004).

Additionally, Jewish law mandates the use of a specialized knife (*chalef*, חלף) for each species, though individual blessings for each animal are not required. In contrast, Islamic practices do not require a specific knife, permitting the same knife to be used for different species, but a blessing (Bismillah) must be pronounced over each animal. Both religious rites stipulate that the cut be executed in a single motion; however, any error in *kosher* slaughter deems the meat unfit for consumption, unlike in *halal* practices. Furthermore, Jewish dietary laws forbid the consumption of certain parts of the carcass, while in Islam, all parts of the animal are permissible except for blood, and post-mortem inspection is not mandated for *halal* certification (Farouk et al. 2014).

This discrepancy presents significant challenges, particularly in the area of labelling. A recent study (Bozzo et al. 2017) identified a significant legislative gap with regard to the labelling of portions of meat that do not comply with religious standards but are deemed suitable by the inspecting veterinarian who establishes the hygienic sanitary standards of the meat. This meat is marketed in normal sales channels without any information in-



dicating that it comes from animals slaughtered without stunning. This situation poses a problem for non-Jewish consumers, as the unrestricted sale of *terif* meat (not fit for consumption on religious grounds alone) without clear labelling on the slaughter method does not adequately inform them about the process used to slaughter the animals (Havinga 2010; Needham 2012).

The lack of transparency regarding the use of stunning methods could potentially undermine consumers' ability to make informed purchasing decisions, thus presenting an ethical dilemma regarding the disclosure of complete information throughout the food chain. In this sense, Bozzo et al. (2017) highlighted that a substantial share of carcasses (52.4% of the total slaughtered animals) from Koscher slaughtering is discarded for religious reasons and placed on the market without any indication of the lack of stunning during slaughter (Bozzo et al. 2019).

## 2. The Legal Perspective: International and European Law

International law has always, with few exceptions, regarded animals as an integral part of the environment. Nature, as is well known, is a long-standing and well-established object of protection, as can be seen from the numerous treaties adopted since the 1972 Stockholm Conference (Fodella and Pineschi 2010; Munari and Schiano di Pepe 2012; Dupuy and Viñuales 2015; Rajamani and Peel 2021; Celentano 2017a). Nonetheless, since this is a very recent topic, it is not surprising that there is a paucity of binding acts specifically regarding animals as bearers of potential rights or interests (Favre 2012).

Before focusing attention on the regulatory framework under investigation here, however, it should be made clear that pro-animal regulations are mainly divided into two categories: (i) the rules aimed to safeguard endangered species, or in any case, particular types of animals, all referring to wild animals (International Whaling Commission 1946; Law No. 408 of 10 November 1997; Convention for the Conservation of Antarctic Seals 1972; Law No. 149 of 23 April 1991; CITES 1973; Law No. 874 of 19 December 1975; Maffei 1992; Favre 2021); and (ii) the rules aimed to safeguarding farm animals, which exist because the animals are useful for producing goods and not for their own sake, unlike with wild animals. This second category of animals, which is much more substantial in terms of quantity, is the origin and subject of the protection of so-called animal welfare (Compassion in World Farming 2024).

Therefore, separate from the system of rules set up to protect the first category of animals, which we believe to be fully integrated, *ratione materiae*, with the broader international law of the environment, the legal framework specifically concerning the welfare of animals used for economic purposes and in the food industry is relevant for the purposes of this investigation.

The set of rules referring to animal welfare (in livestock) has its roots in science via the Brambell Report, drawn up in the 1960s by a commission of experts set up by the UK Government (Ohl and Van der Staay 2012; Celentano 2021; Great Britain. Technical Committee to Enquire into the Welfare of Animals Kept Under Intensive Livestock Husbandry Systems 1965). The study theorized, in an unprecedented way, the need to guarantee animals the so-called five freedoms: that is, from hunger and thirst; from discomfort, pain, and disease; from the impossibility of giving vent to their ethological needs; and from fear. These were then transposed into the oldest legal system on the subject, the one negotiated in the Council of Europe (hereafter CoE) starting in the 1970s and which later became part of the more recent set of European Union (hereafter EU) rules in this area.

Indeed, the CoE has promoted the adoption of five different conventions aimed at safeguarding the interests of animals, three of which deal precisely with their use in economic activities (Council of Europe 1987; Law No. 201 of 4 November 2010; Council of Europe 1986; Moschetta 2018).

The first of these was the European Convention for the Protection of Animals during International Transport, signed on 13 December 1968 (Council of Europe 1971; Law No. 222 of 12 April 1973).

The treaty, updated in 2003, although dealing with an issue that is very difficult to manage primarily because of the transnationality of trade, emphasized that the signatory states were “animated by the desire to avoid, as far as possible, any suffering to the animals being transported” and that “progress in this direction can be achieved by the adoption of common provisions (...)”. Therefore, to ensure the welfare of animals at a time of high risk to their safety, such as during transport, multilateralism, appeared to be the ideal instrument from the very beginning of the regulatory phase.

With the Convention for the Protection of Animals kept for Farming Purposes of 10 March 1976, discussions began on common rules in this area ([Council of Europe 1976](#); [Law No. 623 of 14 October 1985](#)). The agreement clarifies in Article 1 that animals are defined as those “kept by technical means and intensively for the production of food, wool, fur or other agricultural purposes”. The treaty, recalling the above-mentioned five freedoms, states in Article 4 that “When an animal is continuously or habitually tethered, shackled or restrained, it shall be given a space appropriate to its physiological and ethological needs, in accordance with experience and scientific knowledge”.

The breeding phase is preparatory to the slaughter phase. In this sense, the CoE favored the adoption of the Convention on the Protection of Animals for Slaughter signed on 10 March 1976, thus providing a regulatory instrument relating to one of the most controversial areas: the phase involving the transformation of the animal into food ([Council of Europe 1976, 1982](#)).

The provision is the one that most of all reveals the initial rationale of the regulation under consideration, namely anthropocentrism. Indeed, the treaty makes it clear from the preamble that it is necessary to “spare animals as far as possible suffering and pain at the slaughter stage, taking into account that the fear, tension, pain and suffering of an animal at the time of slaughter may affect the quality of the meat”. At the same time, a balancing of interests is provided for, such as in Article 2: “No provision (...) shall limit the authority of the Contracting Parties to adopt stricter measures aimed at the protection of animals” on the understanding that “Each Party shall take care to spare animals slaughtered in or outside slaughterhouses any avoidable pain or suffering” ([Council of Europe 1976, 1982](#)).

In laying down a series of detailed rules concerning the phases prior to slaughter, the Convention intends to guarantee the so-called humane treatment of the animal during the transformation process, providing for certain exceptions, such as that to the obligation of prior stunning to protect religious sensitivities, the result of a complex balancing act between human rights and animal needs (or interests). In this direction, the 24 Articles of the Treaty, while taking it for granted that the animal remains a part of the food production chain, provide for a series of well-defined obligations on states ([Council of Europe 1982](#)).

This pragmatically up-to-date vision makes this agreement, albeit an old one, an indispensable reference point for regulation in the sector, as well as a potential model for possible regulatory developments in a universal sense.

Therefore, it seems clear that the aim of the set of rules drawn up within the CoE is to limit the suffering of animals without renouncing their use. Increasing regard is also paid to the public morality, as will be illustrated and as was already mentioned in the first of the conventions on international transport ([Council of Europe 1986](#)). Indeed, the document states in its preamble that member states are “aware that every person has a moral obligation to respect animals and to take due account of their sensitivity to pain”. In fact, the need to consider the interests of non-humans has over time become part of law at every level, including at an inter-state and, for some countries, a constitutional level ([Cerini and Lamarque 2023](#); [Blattner 2015](#); [Mucci 2022](#)).

Lastly, it is worth remembering that, like other issues of global relevance, a special international organization has been set up for animals, albeit with little legal incidence: the World Organization for Animal Health (OIE), formally established in 2003 to replace the International Office of Epizootics, resulting from a special Agreement signed, also by Italy, on 25 January 1924. This is an organization with technical aims primarily related to the protection of the health of livestock as a potential cause of human diseases ([Dominelli 2023](#)).

Among the main acts adopted in this intergovernmental context are two codes aimed at defining minimum standards—which are as such non-binding—for the treatment of terrestrial and aquatic animals used in production activities ([World Organisation for Animal Health 2024](#); [African Union Interafrican Bureau for Animal Resources 2024](#)). The scope of OIE’s work should not, however, be underestimated. In fact, as often happens in international law, the multilateral activity of states on a specific issue contributes, albeit gradually, to the formation or strengthening of normative provisions. In this direction, the specialized organization has concluded international cooperation agreements with other organizations, including the World Trade Organization (WTO) and the World Health Organization, among others, as well as the European Union, which is formally a member ([World Trade Organization 1988](#); [World Organisation for Animal Health 2021](#)). The fact that these three organizations, among others, have adopted the OIE standards for the purpose of regulating issues within their competence that involve animals certifies the non-marginal importance and increasingly rigorous approach of states towards an issue as complex as it is controversial, due to its numerous social and economic repercussions, as the one under consideration.

The most advanced legal context in the area under analysis remains the continental one: the European Union has made the CoE rules its own, updated them, and in fact become the most relevant of the global players in this sector, particularly in light of its international activity and the importance of its single market ([European Union 2016](#); [Celentano 2022](#)). The regional organization has even incorporated animal welfare into its own primary law, making it the only one on a global scale to contain provisions of this type. In this sense, the assessments through which, with the Lisbon Treaty of 13 December 2007, the EU countries made animal welfare not only a shared value but also one of the objectives to be pursued by the Union, appear convincing ([Barzanti 2014](#); [Scovazzi 2014](#)). Art. 13 of the Treaty on the Functioning of the EU (hereinafter TFEU) states, in fact, that:

In formulating and implementing the Union’s agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall, since animals are sentient beings, pay full regard to the welfare requirements of animals, while respecting the legislative or administrative provisions and customs of the Member States relating to religious rites, cultural traditions and regional heritage. ([European Union 2016](#))

The provision constitutes a legal unicum of great significance and presents, with due proportion, similarities with human rights norms that amplify its innovative scope and prospective value. First, it defines animals as sentient beings, giving them an unprecedented value that brings them closer to humans and distancing them from things. This requirement also clarifies, by defining its scope, the obligation of states with respect to the issue, which is of tenuous consideration in this case, and then states the contexts in which this interest to be considered must be mediated and in which it can thus be derogated.

The second part of the rule, which opens possible exceptions to the duty of consideration, is also the most contestable due to a generic reference to compliance with the provisions in certain areas that, not by chance, constitute, as will be seen below, the subject of growing litigation at every level.

Therefore, the regulation, given the historical period of its adoption, is certainly innovative in that it legitimizes interests hitherto contained only in acts of relative importance and lacks concrete effects on a large scale, but it has little impact on the great issues of the human–animal relationship, which are left, in fact, to the assessment of judges ([Molinaro 2022](#); [Celentano 2017b](#)). This, as will be seen, is not necessarily a negative note considering the possible extensive role, through interpretation, that case law can play in structurally evolving contexts such as the one analyzed here.

### 3. A New Public Moral in the Field of Animal Welfare

The set of rules on animal welfare that is articulated is still partial in terms of territorial spread and, as will be seen, highly derogatory. This has favored, on the one hand,

constant evolution, allowing adaptation to the mentioned requests of citizens, and, on the other hand, a growing role of judges at all levels to whom disputes are submitted because of the breadth of some provisions or for reasons connected to the difficulty of striking a balance with other, consolidated branches of law. Among all, human rights are often in conflict with the protection of animal interests for reasons relating to religion or cultural traditions described as *minorities*, making them a possible cause of discrimination, which is also prohibited, as is well known, on a domestic and international level.

It is specifically the risk of compressing certain fundamental rights and discriminating against groups of individuals, united by specific traditions or religious beliefs, which has led to recourse to the courts at different times and in different contexts. Indeed, it is worth emphasizing that the most relevant judgments on the subject concern the derogations provided for by current legislation with respect to the minimum welfare guarantees that must be ensured by states, including through the control of companies and operators that use and handle animals. Leaving aside the large body of domestic case law, which is very uneven in terms of the states and legal systems involved, it is worth drawing attention to several rulings made in inter-state courts for the purposes of the investigation that is being carried out here (Dominelli 2022; Sparks 2020; Mussawir 2024; Albisinni 2021).

From these, as will be seen, the existence of a single thread emerges: the balancing of human rights and public perception of animal exploitation, an element constituting so-called public morality, which is already the basis of some of the European convention provisions.

#### 4. Supranational Jurisprudence in the Case of Religious Slaughter

If at the international level, the European Union has had to justify its policies regarding possible discrimination of Indigenous minorities, the more complex area of application of pro-animal rules remains that of freedom of worship at the domestic level. Postponing the analysis of this right, which is considered fundamental and inclusive not only of the freedom to profess one's religion but also the freedom to manifest it, for the purposes of this analysis, three decisions of the EU Court of Justice relating to so-called ritual slaughter, among others, are relevant (Focarelli 2017; Pustorino 2022; Alicino 2017; Ventrella 2020).

Jewish and Muslim believers may only consume meat if it is produced according to the precepts of their respective religions. Both rites require the animal to be in a fully conscious state during slaughter. This implies a derogation from the rules of the CoE and the European Union concerning the obligation of prior stunning of the animal to be slaughtered, a practice that is useful, according to science, to considerably reduce the suffering of animals during a very traumatic and painful phase (Federation of Veterinarians of Europe 2024). In this sense, in fact, several European countries (Austria, Belgium, Finland, Sweden, Denmark, Lithuania and Slovenia) have, over time, begun to restrict the margins of this derogation in compliance with the provisions of Council Regulation (EC) No. 1099/2009 of 10 September 2009 on the protection of animals for slaughter, which has incorporated, in detail, the provisions of the CoE Convention on the same subject (Council of Europe 2009).

The EU Court of Justice has therefore intervened on several occasions on the issue at hand (Maffei 2019). These cases, like the one discussed in the WTO, concern on the one hand the protection of animal welfare and on the other the balance between human rights and the rules of the European single market.

With the judgment in *Liga van Moskeeën en Islamitische Organisaties Provincie Antwerpen, VZW and Others v. Vlaams Gewest* of 29 May 2018, the judges were called upon to settle a very complex issue concerning the implementation of ritual slaughter during a specific Islamic holiday, namely the *Feast of sacrifice* (CJEU 2018; Peters 2019). In this context, the contrast between an essential human right, such as the right to manifest one's cult, and animal welfare emerged sharply.

The regional government of Flanders, Belgium, had imposed, as from 2015, the obligation to also carry out ritual slaughter in suitable places and in the presence of experienced operators, as provided for in the relevant EU legislation already cited above. The applicants, on the other hand, contested on the one hand the infringement of the EU Regulation



on Slaughter, which provides for the exemptions, and on the other hand the rules on the free manifestation of one's religion, laid down, *inter alia*, in the Charter of Fundamental Rights of the European Union, which, like the Treaties, is part of EU primary law ([European Parliament, Council of Europe, European Commission 2012](#)).

The judges ruled in favor of the Flanders government, which had imposed strict enforcement of existing legislation. This, although derogable, provides for uniform standards regarding the places and operators involved, regardless of the method of slaughter, and favors both animal welfare and the health of consumers potentially exposed to risks arising from unhealthy or otherwise unsuitable places to handle food. In this direction, in fact, the EU courts welcomed the view presented on 30 November 2017 by Advocate General Wahl, who pointed out, *inter alia*, that “it should be found that the rule set out (...) in Council Regulation (EC) No 1099/2009 constitutes a restriction on freedom of religion” ([CJEU 2018](#)). As such, the question would arise as to whether it could be justified on legitimate grounds of public interest relating to food safety and human health. Thus, it is the protection of human and consumer health that is the linchpin of the animal welfare guarantee system. The decision may appear limiting with respect to the autonomy of the system being analyzed here, but if read with an evolutionary perspective, it constitutes yet another confirmation of a necessary interconnection between interests (human, market, and animal) that constitutes, in fact, the best guarantee for regulatory development.

The following year, in a judgment delivered on 26 February 2019, in *Oeuvre d'assistance aux bêtes d'abattoirs (OABA) v. Ministre de l'Agriculture et de l'Alimentation and Others*, the Court intervened with respect to the circulation of foodstuffs produced according to the aforementioned religious methods but bearing the designation ‘organic’ on its product label ([CJEU 2019](#); [Saija 2019](#)).

This definition, as is well known, concerns goods produced in compliance with high environmental protection standards, including animal welfare rules. In the present case, the appellant association, which has lost several domestic judgments, argued that meat resulting from ritual slaughter was incompatible with those standards and that, among other things, it violated the confidence of European consumers with respect to the affixing of a label that clearly does not presuppose the greater suffering of the slaughtered animal.

The Courts of Luxembourg found an infringement of certain provisions of Council Regulation (EC) No 834/2007 of 28 June 2007 on the organic production and labelling of organic products ([Council of Europe 2007](#)). The Article 3 (a) thereof provides, as one of the requirements for affixing the mark in question, that the product “must comply with strict animal welfare criteria and in particular meet animals’ species-specific behavioral needs”.

Furthermore, Article 14 (1b) states that “animals shall be spared as far as possible suffering, including mutilation, throughout their lives, including at the time of slaughter”. Thus, these provisions cannot be reconciled with a very bloody method of slaughter that is condemned by experts in the field, such as ritual slaughter ([Federation of Veterinarians of Europe 2024](#); [Council of Europe 2007](#)).

In this case, the Court made it clear that granting the organic product label to foodstuffs produced in this way would betray consumer confidence. Therefore, albeit for a small quantity of meat compared to that produced annually in the Union, it opted for a balancing of interests inclined towards animals. In this sense, the opinions of Advocate General Wahl, presented on 20 September 2018, seem to us once again convincing: Wahl emphasized that there is no *de facto* right of access to organic food and that, therefore, given the possibility of continued access to the traditional market, the increased protections offered to animals would not have an impact on human rights. Speaking of regulatory developments, any remaining doubts about ritual slaughter were dispelled with the most recent ruling in the case *Centraal Israëlitisch Consistorie van België and others v. Vlaamse Regering* of 17 December 2020 ([CJEU 2020](#); [Hehemann 2021](#)).

The Constitutional Court of Belgium, hearing the question arising from a new obligation, of a reversible stunning of the animal before slaughter, which was imposed by the

regional government of Flanders, in turn referred the matter to the Court of Justice to clarify the compatibility of this new provision with the EU provisions.

On this occasion, the judges clarified that a government-imposed requirement for prior reversible stunning, even in the case of ritual slaughter, is certainly permissible. In fact, recalling both the scientific evidence supporting the usefulness, for the animal, of such a procedure, and the EU legislation, the EU judges ruled that states enjoy a margin of appreciation in terms of regulating the issue and that, in any case, the contested procedure does not compromise the mode of production according to religious precepts. They reiterated, moreover, that the possibility for the communities concerned to source meat within the European market produced according to their own standards renders any ban moot and thus not detrimental to the right to manifest one's beliefs. In an unprecedented way compared to the two previous cases, the EU Court then highlighted a very essential aspect, namely that of social and legal evolution. At paragraph 77 of the judgment, the judges write that:

(...) like the ECHR, the Charter is a living instrument which must be interpreted in the light of present-day conditions and of the ideas prevailing in democratic states today, with the result that regard must be had to changes in values and ideas, both in terms of society and legislation, in the Member States. Animal welfare, as a value to which contemporary democratic societies have attached increasing importance for several years, may, in the light of changes in society, be considered to a greater extent in the context of ritual slaughter and thus help to justify the proportionality of legislation such as that at issue in the main proceedings. (CJEU 2020)

An assessment that shows how, starting with the protection of human health first and then of the market, the set of rules on animal welfare is destined to be, as public awareness of the issue grows, a subject of future and much-needed regulatory interventions at several levels.

The subject matter of the last of the EU Court of Justice rulings was the reason for the most recent animal welfare decision rendered by the ECHR on 13 February 2024 in the case *Executief van de Moslims van België and Others v. Belgium*. In this case, what changed were the arguments of both the appellants and the judges (Sparks 2020). The appellants complained about the violation of Article 9 of the aforementioned European Convention, concerning freedom of worship and its manifestation. They put forward reasons that refer to the absence of explicit protection of animals in the reference Convention (unlike in EU primary law) and to the alleged discrimination against them deriving from the obligation to procure imported meat at higher costs. Finally, they highlight that there is no univocal idea on the subject of ritual slaughter, given that, while there are states that prohibit it, there are others that allow it.

The judges, also referring to the assessments made in the Court of Justice, found that the applicants' complaints were unfounded. First, they took as their starting point the decision taken in the long-running case of *Cha'are Shalom Ve Tsedek v. France* of 27 June 2000, in which, rejecting the applicants' petitions, the Court had recognized the possibility of restricting the right to freedom of religious expression in the presence of proportionate measures if they benefited health and public order (Parisi 2002).

It is exactly public order as a derogation to fundamental rights, as is known to be provided for in several treaty instruments, that underlines the innovativeness of the most recent judgment of the ECHR, which, as mentioned above, is part of the interpretative vein that sees public morality as a legitimizing element of any interference in fundamental rights.

The Court's analysis focused, first, on the actions taken by the State to avoid the alleged infringement. In this sense, it is pointed out that the extensive parliamentary debate, documented by the Belgian Government, demonstrates a correct use of the margin of appreciation of the country involved. For these reasons, as stated in paragraph 88 of the judgment: "The Court is prepared to accept that there has been interference with the applicants'

freedom of religion as guaranteed by Article 9". Indeed, on the question of adherence to the conventional dictates, the judges then clarified that such interference is provided for by law and that it pursues a legitimate aim. Therefore, this second assessment constitutes the element of relevance of the decision under analysis.

Indeed, recalling certain precedents in which, albeit in different contexts, the Court had allowed interference in the applicants' lives in favor of animal welfare elevated to a matter of general interest, the judges made it clear that "(...) the protection of public morals referred to in the second paragraph of Article 9 (as a ground for derogation) cannot be understood as aiming exclusively at the protection of human dignity in relations between individuals". Therefore, the Convention could not be interpreted as promoting the absolute fulfilment of the rights and freedoms it enshrines without considering the suffering of animals. This assessment was in line with previous decisions in which, it must be emphasized, it was mainly the applicants' right to hunt that was called into question, thus making it a marginal context compared to the one under consideration here ([European Court of Human Rights 2009](#); [Maffei 2015, 2016](#)).

Moreover, in those cases, it was the reasons connected with the protection of the environment, *lato sensu*, that came to the fore, and not issues relating to the morals of the society to which they belonged.

And again, recalling what the Belgian Constitutional Court and the EU Court of Justice have stated, the ECHR reiterates that the protection of animals is to be considered "a moral value shared by many people" in the regions in which the legislation was adopted and that this is also borne out by the large parliamentary majority that approved the rules that are the subject of the complaint. In this direction, pointing out that other states are also proceeding with the development of stricter rules in this area, the Strasbourg judges ruled, rejecting the appeal, that "(...) the protection of animals can be linked to the concept of public morality, which constitutes a legitimate aim (...)".

Finally, before also rejecting the complaints concerning the alleged discrimination of the applicants, which was claimed to be in violation of Article 14 of the Convention, the ECHR ruled that there was no violation also because the authorities involved, with reference to their margin of appreciation, "(...) adopted a measure that is justified in principle and can be considered proportionate to the objective pursued, namely the protection of animal welfare as an element of public morality" ([Council of Europe 1976, 1982](#)). Thus, demonstrating once again that the European Convention is a very lively and flexible instrument thanks to the various elements, among them the margin of appreciation, available to the states, the Court has placed animal welfare among the issues of general interest much more clearly than before, given the relevance of the right potentially infringed. This decision is evidently in line with the evolution illustrated so far and a harbinger of potential new developments in the light of the possibility of its *appeal* before the Grand Chamber, which could overturn the assessments made or hopefully enrich the reasoning with further evaluations destined to guide future and very probable similar cases. This evolutionary process is already evident from the analysis made with respect to the jurisprudence of the two supranational courts present at the European level, which differ in terms of their deciding seat but not in the guidelines taken. In fact, as anticipated, it is easy to note a coherence between the different pronouncements that find, at different times and in different ways, in public policy but specifically in public morality, the guiding thread of a path aimed at strengthening the application of norms, even recent ones, but not enough with respect to the evolution of social communities.

## 5. Conclusions

It is undoubtedly the case that the legally protectable interests of animals may appear to be highly unsuited to a context in which human rights are still violated or, in certain regions, completely disappplied, such as that of international law. On the other hand, less developed areas of the law of states, such as the one analyzed here, can demonstrate its importance and evolutionary capacity more than others.

Already, with the above-mentioned Convention on the Transport of Animals, it was stated that “progress in this direction can be achieved through the adoption of common provisions”, and indeed, from what emerges from reading the judgments, it seems clear that both the few existing agreements and the comparison of national legal practices have favored a slow but steady evolution ([Council of Europe 1971](#); [Law No. 222 of 12 April 1973](#)). It is no coincidence, for example, that in 2000, the ECHR ruled that the suppression of rights for reasons connected with public order was admissible but then, in 2024, confirmed this orientation, linking it to public morality. This is certainly relevant but—as pointed out in the WTO—much more generic, because it is non-technical and therefore difficult to typify. In this sense, a desire for the protection of animals that goes beyond the current, easily derogated standards of their welfare during exploitation has become evident.

Even if the judge’s decision, aforementioned in this analysis, does not create obligations for States—apart for the ones involved in the disputes—it constitutes important precedent useful to orientate future legislative processes. The innovative element is, therefore, the social perception of the issue, which is increasingly included as part of a public morality that finds in the market an instrument of policy orientation and in legislative activity a means of transposing these into rules. The changing legislation, as most recently highlighted by the Strasbourg judges, shows the growing attention of legislators, who in turn express a sentiment shared by the populations. Therefore, by considering the evolution of human rights, apparently placed in contrast to animal interests, it is possible to state that the progress of law, especially international law, does not contemplate utopias but only (albeit) gradual achievements. And it is just from this perspective that animal welfare, which arose as a technical concept and became, over the decades, a shared interest, should be understood ([Canfora 2018](#)). It is precisely the technical, or rather scientific, nature of animal welfare that has ensured that its development, among other things, can be defined as neutral. This neutrality, with respect to the many different ethical and moral profiles involved in the use of animals, finds precisely in ritual slaughter its main context of disapplication. And this is why the role of supranational judges in their activity of interpreting and adapting norms to socio-economic contexts becomes an indispensable tool of normative development. Thus, bringing out the necessary interdisciplinary vision that characterizes this branch of veterinary medicine and law.

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