

A Jurisprudential and Legal Analysis of Keeping Animals in Apartments with a Comparative Approach to the Laws of Other Countries

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Abstract.

One of the recurring challenges of social life is the conflict of interests among individuals. Every person, in seeking to exercise their rights—including property rights—may act in ways that inadvertently infringe upon the rights of others. A clear contemporary example of such conflict is the growing disputes among residents of apartment complexes regarding the keeping of animals within their private residential units. The root of these disagreements can be traced back to two foundational jurisprudential principles: *the principle of taslīt* (the owner's dominion over property) and *the principle of no-harm* (*lā ḍarar*). (Animal owners invoke the principle of *taslīt* to justify the legitimacy of keeping pets in their homes, whereas neighbors argue that no individual may exercise proprietary rights in a manner that causes harm or disturbance to others, thereby appealing to the principle of no-harm.

In shared or common areas of an apartment building, this conflict rarely escalates because existing legal rules and cooperative norms typically enable residents to coexist peacefully. However, in private units, disagreements become more evident and have even led to divergent views among jurists and legal scholars regarding which principle should take precedence. The central question is whether the right belongs to the animal owner or whether the neighbor's right to be free from harm prevails. The present article, through a detailed and research-oriented approach, examines classical and contemporary jurisprudential opinions as well as existing statutory rules to provide a rational and balanced resolution to these conflicts. Solutions are proposed that allow each party to enjoy their rightful benefits without infringing upon the rights of others, ensuring that such conflicts of interest can be effectively avoided.

Keywords: keeping animals, shared spaces in apartments, private units in apartments, principle of *taslīt*, principle of no-harm

Extended Abstract

The increasing complexity of urban living has brought about new patterns of social interaction, shared spaces, and intertwined personal interests, particularly in densely populated residential environments such as apartment complexes. Among the most notable contemporary challenges is the growing tension between individuals who keep animals—whether for companionship, therapy, protection, or personal preference—and those who may be adversely affected by the presence of such animals in close residential proximity. This conflict is not merely a practical or administrative issue but reflects deeper jurisprudential and legal dilemmas rooted in classical Islamic legal principles and modern statutory frameworks. At the heart of this discussion lie two fundamental doctrines: the principle of *taslīt*, which affirms an owner's dominion over property, and the principle of *lā ḍarar*, which prohibits actions causing unjustifiable harm to others. Reconciling these two principles in the context of modern apartment living requires not only a nuanced understanding of jurisprudence but also a comprehensive analysis of legal systems in other countries that face similar societal challenges.

Urbanization has dramatically transformed residential structures. With apartments becoming the most common form of housing in major cities, personal freedoms increasingly intersect with communal rights. Whereas traditional housing models provided individuals with ample private space in which their actions, including keeping animals, had minimal direct impact on neighbors, contemporary apartment units create a different dynamic. Sound transmission, shared ventilation, common hallways, elevators, and thin internal partitions amplify the effects of noise, odor, allergens, and safety concerns related to domestic animals. Therefore, behaviors that once fell comfortably within the sphere of private autonomy now carry consequential communal impacts. This transformation makes the jurisprudential balancing of ownership rights and the prevention of harm more complicated than ever before.

In Islamic jurisprudence, the principle of *taslīt*—derived from the well-known maxim “people have authority over their property”—confers broad discretionary power upon owners. Under this doctrine, an individual generally has the right to use, enjoy, and dispose of their possessions, including animals, unless explicitly prohibited by law or unless such use infringes upon the rights of others. Historically, this principle has supported a wide range of proprietorial freedoms, allowing owners considerable latitude in determining how their properties, assets, and resources should be utilized. Applied to the modern context, owners of animals often invoke this principle to argue that keeping pets within their privately owned residential units is a legitimate extension of their property rights.

However, the opposing principle of *lā ḍarar*, established through prophetic tradition and widely accepted across Islamic schools of jurisprudence, stipulates that no individual may exercise their rights in a manner that causes harm or undue hardship to others. Harm is understood broadly, encompassing physical, psychological, financial, environmental, and even moral or spiritual forms of injury. When animal ownership results in noise disturbance, aggression, unpleasant odors, property damage, or allergic reactions, neighbors may appeal to this principle, asserting that such consequences constitute actionable harm. Islamic jurists have historically treated the *lā ḍarar* principle as corrective in nature—capable of limiting or negating otherwise valid rights when their exercise becomes harmful. Thus, in the context of apartment living, these two principles create an inherent tension. Determining which principle takes precedence requires careful analysis of the nature, severity, and unavoidability of the harm in question.

The present study explores this tension by examining both classical interpretations and modern legal applications. A detailed review of juristic writings reveals that while Islamic scholars consistently affirm the broad scope of property rights, they simultaneously recognize that these rights are not absolute. Many jurists, for example, note that the exercise of ownership must not infringe on the rights of neighbors regarding peace, health, and safety. Classical fiqh texts contain numerous rulings prohibiting owners from using their property in ways that produce excessive noise, foul smells, or hazardous conditions. These discussions, though rooted in pre-modern contexts, establish foundational principles that remain applicable today: property rights may be limited when they materially interfere with the well-being of others.

Modern statutory laws in Iran and other countries reinforce these jurisprudential foundations. Iranian urban planning laws and regulations, while not explicitly prohibiting the keeping of animals in private residential units, impose general restrictions on behaviors that constitute nuisance, endanger public health, or threaten safety. The Civil Code and Apartment Ownership Law provide broad principles governing shared living spaces, emphasizing mutual respect, avoidance of harm, and compliance with building rules. Yet ambiguity remains regarding what constitutes “harm” and how such harm should be measured. Courts and administrative authorities often rely on case-by-case evaluations, which can lead to inconsistent rulings and continued disputes among residents.

To enrich this analysis, the study adopts a comparative approach by examining the legal frameworks of other jurisdictions. In countries such as Germany, France, and Canada, residential animal ownership is generally permitted but subject to specific limitations based on noise, aggression, hygiene, and breed-related risks. These jurisdictions often require owners to comply with building-specific bylaws, ensure vaccination and registration of animals, and prevent disturbance to other residents. Some condominium associations impose total bans on certain animal species, while others allow pets under strict conditions. In the United States, state and municipal laws vary widely but tend to prioritize both the rights of animal owners and the rights of neighbors to a peaceful living environment. Many municipalities classify violations such as persistent barking or aggressive behavior as public nuisances, leading to fines or forced removal of the animal. Taken together, comparative legal analysis demonstrates a global trend toward conditional acceptance of animal ownership in apartments, grounded in balancing personal freedoms with community welfare.

Synthesizing jurisprudential principles, Iranian law, and comparative models, the study finds that the conflict between *taslīf* and *lā ḍarar* is not irreconcilable. Rather, proper regulatory frameworks can allow both principles to operate harmoniously. Owners may keep animals within the privacy of their homes in exercise of their property rights, but only so long as their actions do not cause substantiated harm. Defining and measuring harm, therefore, becomes central. Harm should not be assumed merely because an individual dislikes animals or holds cultural aversions; instead, it must be linked to objective indicators such as noise levels, documented health risks, physical danger, or measurable disturbance. This distinction is essential to prevent arbitrary restrictions on property rights while ensuring genuine protection for affected residents.

The study proposes several solutions to reduce conflicts and establish predictable legal standards. First, legislative authorities in Iran could adopt clear statutory guidelines specifying under what conditions keeping animals in apartments is permissible or prohibited. These guidelines should be consistent with both Islamic jurisprudential principles and international best practices. Second, residential complexes should be encouraged to establish internal regulations—approved by the majority of residents—governing pet ownership, including provisions related to animal size, species, noise control, hygiene, and safety obligations. Third, judicial and administrative authorities should employ expert evaluations, including veterinary assessments and environmental health reports, to determine whether alleged harms meet the legal threshold. Fourth, awareness

programs may help educate both animal owners and neighbors regarding their respective rights and responsibilities, fostering mutual understanding and reducing unnecessary disputes.

In conclusion, the issue of keeping animals in apartments reflects broader societal transformations and legal challenges associated with modern urban life. The delicate balance between individual autonomy and communal rights necessitates a careful and principled approach. By grounding the analysis in the principles of *taslīt* and *lā ḍarar*, while incorporating comparative legal insights, the study demonstrates that protecting both the rights of owners and the welfare of neighbors is not only possible but essential for sustainable social coexistence. Clear laws, well-defined standards, and responsible behavior by all parties can help ensure that both human and animal inhabitants of residential communities coexist peacefully, without diminishing the rights or well-being of others.

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