THE LIMITATION OF ANIMAL PROTECTION FOR RELIGIOUS OR CULTURAL REASONS

*Olivier Le Bot**

The relationship between the animal protection and the respect of tradition is an important issue in Animal law. The question is examined from a perspective which is both empirical and comparative. The case-law of several countries and legal systems have been taken into account: United-States, Israel, Poland, Brazil, European Court of Human Rights, International Court of Justice. In the light of the courts decisions, it appears that, tradition tends to prevail over protection when a religious tradition is at stake. However, when a superior norm of protection is invoked, this usually leads to an overruling of a regulation or a legislation allowing mistreatment of animals.

INTRODUCTION.....	1
I. FIRST DIMENSION: THE LAW FORBIDS ANIMAL ABUSE COMMITTED IN THE NAME OF TRADITION	3
A. <i>Legislation Which Protects the Sensitivity of Animals against Tradition Exists</i>	3
B. <i>Ritual Slaughter</i>	3
C. <i>Hunting with Hounds</i>	6
II. SECOND DIMENSION: THE LAW AUTHORIZES ANIMAL ABUSE ON THE BASIS OF A TRADITION	7
A. <i>First Situation: A Superior Norm Protecting Animals Exists</i>	8
B. <i>Absence of Superior Norm: The Question of a Differentiation</i> ..	11
CONCLUSION.....	11

INTRODUCTION

Modern legislation concerning animal protection is justified by animals' sensitivity. Since the 19th century, we have been protecting

* Professor of Public Law at Aix-Marseille University. Research fields: Constitutional Law, Administrative Law, Animal Law.

animals because they are sensitive beings¹.

However, it is not because animals are recognized as sensitive beings that they benefit ipso facto from a protection. Indeed, various considerations may oppose their protection.

Economic considerations first: using or exploiting animals brings in money, a lot of money (for example, 75 billion euros per year, for the agri-food industry in France²); in order not to thwart these interests, we accept hens confined in cages where they can not even turn around; in short, we allow methods of animal farming that cause suffering to animals.

Recreational considerations may also run counter to respecting the sensitivity of animals (we use animals for entertainment, in bullrings, in zoos, in circuses, at Marineland or SeaWorld, etc.) and, because we have fun with them, we may deny their most fundamental ethological needs, for example, confining killer whales in a few cubic meters of water when they need to swim dozens of kilometres every day.

Among the reasons that can justify restrictions to animal protection (or animal welfare), we also find (and here the author comes to his subject) *social* considerations (in a broad meaning): tradition, culture, religion. We do that because we have always done that (it's tradition). Or, in our region, locality, culture, we do that (it's a local or cultural tradition). Or through our mystical—or non rational—vision of the world, we do that (it's a religious tradition).

The legislator may take position in two different ways when faced with animal abuse justified by tradition. Either it accepts the abuse, it legalizes it (it considers this abuse legitimate and, in this case, tradition prevails over protection); or it chooses to prohibit the abuse, considering that protection must prevail over tradition.

We could study, in detail, the considerations put forward by the legislator in either case to justify its choice. But it would be essentially a political or a sociological approach. We could also expose, in details, the cases when the legislator gives prevalence to tradition and cases when he gives prevalence to protection. But such a presentation would be static and would present a contingent character.

What is interesting for the jurist, is to know whether the legislator's choice can be contested. The legislator makes a political choice: giving

¹ At least in western countries. In India, protections are based on the intrinsic value of the animal (see S. L. Goodkin, *The Evolution of Animal Rights*, 18 COLUMBIA HUMAN RIGHTS LAW REVIEW 283 (1987)).

² Figures from the French Ministry of Agriculture and the National Institute of Statistics. Available at http://www.insee.fr/fr/themes/document.asp?ref_id=T10F181.

prevalence to animal protection or to tradition. Can this choice be questioned by the judge (on the basis of superior instruments)?

Let's consider the matter in its two dimensions.

I. FIRST DIMENSION: THE LAW FORBIDS ANIMAL ABUSE COMMITTED IN THE NAME OF TRADITION

A. *Legislation Which Protects the Sensitivity of Animals against Tradition Exists*

Question: can fundamental rights be invoked in order to make tradition prevail over this legislation? In other words, can someone invoke a fundamental right in order to bring the legal order in line with his or her vision of the world, in such a way, that he or she can freely inflict suffering on an animal, in the name of tradition?

This question is raised, very clearly, in two areas: ritual slaughtering and hunting with hounds.

B. *Ritual Slaughter*

Ritual slaughter, as ritual sacrifice, is a tradition, a very old tradition³. Both traditions cause suffering to animals. In order to drain the blood of the animal out of its body (so that, the animal is bloodless when it is eaten), it is slaughtered without prior stunning. It feels an intense pain between the moment bleeding starts and the moment the animal stops living.

The case-law that I have found is largely oriented towards a *protection* of those traditions⁴. The accomplishment of a rite is considered as a way of exercising freedom of religion. Consequently, it benefits fully from the protection granted to this freedom⁵.

³ Their origin dates, for Jewish and Muslims, to the first sacred texts (the Torah, the Koran) and, in some religions, corresponds to an ancestral practice (as the case, for example, in the Santeria religion, that will be further explored below).

⁴ The European Convention for the Protection of Animals kept for Farming Purposes of 10th May, 1979 also provides a specific derogation for the accomplishment of religious rituals. According to Article 13, "In the case of the ritual slaughter of animals of the bovine species, they shall be restrained before slaughter by mechanical means designed to spare them all avoidable pain, suffering, agitation, injury or contusions".

⁵ See, for example ECHR, June 27, 2000, Cha'are Shalom Ve Tsedek v. France, n° 27417/95, § 73: "Article 9 lists a number of forms which manifestation of one's religion or belief may take, namely worship, teaching, practice and observance (...). It is not contested that, ritual slaughter, as indeed its name indicates, constitutes a rite (...), whose purpose is to provide" that animals are "slaughtered in accordance with religious prescriptions". Thus this tradition is protected by Article 9 of the Convention, "since ritual slaughter must be considered to be covered by a right guaranteed by the Convention" (§ 74).

Three solutions can be mentioned.

The first one is the most protective of religion (and consequently, the less protective of animals). It recognizes a *right* to practice ritual slaughter. It is the option adopted by the constitutional court of Austria. In 1998, the court considered that, an obligation to slaughter animals *with* anaesthesia is unreasonable for Muslims or Jews⁶.

The situation is similar in Germany. In 2002, the court of Karlsruhe declared that, the law could not restrain the possibilities to practice ritual slaughter⁷. The law (the TSchG, §4) prohibits ritual slaughter. It establishes a general prohibition of ritual slaughter, ie without prior stunning. The law provides that, administrative authorities can exceptionally give permissions on one strict condition: when ritual slaughter is necessary to respond to the needs of the members of a religious community whose imperative rules prescribe ritual slaughter. In 1999, a Muslim butcher filed a lawsuit to an administrative Court after authorities had refused him permission to practice ritual slaughter. In 2002, the constitutional Court of Karlsruhe concluded to a violation of the butcher's freedom of work and of his customers' freedom of religion. For the Court, the law, which has an inferior value, cannot legally restrain these fundamental rights, because (as the Court underlines) the protection of animals does not have a constitutional value. The situation has not changed since 2002 when a constitutional goal of animal protection was introduced (Art. 20 a). In 2006, the Federal administrative Court considered that, the legislative provisions ruling ritual slaughter achieves an appropriate balance between freedom of religion and the constitutional aim of animal protection⁸.

A second solution seems less absolute: it is the solution adopted by the US Supreme Court. The Court was confronted with the matter from the ritual sacrifice perspective (it seems that, the issue of ritual slaughter has not generated decisions in constitutional litigation, probably because it is allowed by the law⁹). The precedent or the most important decision, named "Lukumi", was given in 1993¹⁰. Several ordinances from the city of Hialeah

⁶ VfGH 17/12/1998, B 3028/97; Available at www.icl-journal.com Vol 3 3/2009, 229, 231. M. Vašek, Available at

http://staatsrecht.univie.ac.at/fileadmin/user_upload/inst_staatsrecht/inst_staatsrecht_thienel/Vasek__Ritual_Slaughter.pdf. Here, an administrative authority convicted the applicant under the animal protection Act for having known and tolerated the ritual slaughter of 26 sheep on his farm. In the light of the Constitution, the law was interpreted as allowing ritual slaughter. As a result, the conviction delivered against the farmer was annulled by the constitutional Court.

⁷ BVerfG, 1783/99, January 15, 2002.

⁸ BVerwG 3 C 30/05, November 23, 2006.

⁹ See the Humane slaughter Act (P.L. 85-765; 7 U.S.C. 1901 et seq.).

¹⁰ USSC, June 11, 1993, Church of Lukumi Bbalu Aye, Inc. vs. City of Hialeah, 508 U 520.

were at stake. Those ordinances were adopted immediately after the setting up of a Santeria place of worship in the city (and they were clearly targeting the practice of ritual slaughter by its members)¹¹. In a decision mainly based on facts, the Supreme Court considered that, these ordinances were not neutral toward religion and that they targeted the Santeria Church.

The Court notes that, other practices inflicting pain to animals are not counteracted by local authorities, for example hunting with animals alive. It also underlines that, the considerations based on sanitary protection are not pertinent because “The city does not (...) prohibit hunters from bringing their kill to their houses” (544). As a result, the contested decisions were enacted not to protect animals but to counter a religion. The city prohibited a practice just because it was inspired by religious considerations. Therefore, the Court concluded that, there had been a violation of the freedom of religion¹². In this decision, the Court did not recognize a constitutional right to kill animals in accordance with a religious rite. It only censored discriminatory ordinances toward a religion¹³.

The third solution, which makes less concession to religion, corresponds to the European Court of Human Rights case law. It results from a decision of 2000, *Cha'are Shalom Ve Tsedek* against France¹⁴. The request had been made by a minority Jewish group (ultra-orthodox) who considered that, the majority group, having obtained from the authorities the agreement to practice ritual slaughter, were not slaughtering in a sufficiently traditional manner. The court rejected its request. It considered that, the European Convention on Human Rights does not recognize an individual right to practice ritual slaughter¹⁵. The Court of Strasbourg only recognizes a right to *consume* meat from animals slaughtered in accordance with a ritual proceeding. Since a believer may get such a meat, even by importing it, there is no interference with his freedom of religion. According to the

¹¹ Santeria (also known as Lukumi) is a syncretic religion of West African and Caribbean origin influenced by and syncretized with Roman Catholicism. This cult is essentially practiced in Cuba, Colombia and Venezuela.

¹² If the city's motivations had been other (i.e., if the city had been engaged in a sincere attempt of animal protection, in which the prohibition of ritual slaughter would have been only one aspect), then maybe those decisions would have passed the test of constitutionality.

¹³ A legislation or an administrative act that would target a religious practice as a laic one could thus be conform to the Constitution. See S. L. Doheny, *Free Exercise Does Not Protect Animal Sacrifice. The Misconception of Church of Lukumi Babalu Aye v. City of Hialeah and Constitutional Solutions for Stopping Animal Sacrifice*, JOURNAL OF ANIMAL LAW 121 (2006). Available at http://www.animallaw.info/articles/arus2journalanimallaw121.htm#_ftnref156.

¹⁴ ECHR, June 27, 2000, *Cha'are Shalom Ve Tsedek v. France*, n° 27417/95.

¹⁵ ECHR, June 27, 2000, *Cha'are Shalom Ve Tsedek v. France*, n° 27417/95, § 82: “the Court takes the view that the right to freedom of religion guaranteed by Article 9 of the Convention cannot extend to the right to take part in person in the performance of ritual slaughter (...)”.

Court, “there would be interference with the freedom to manifest one’s religion only if the illegality of performing ritual slaughter made it impossible for (believers) to eat meat from animals slaughtered in accordance with the religious prescriptions they considered applicable”¹⁶. Thus the choice whether to forbid or not ritual slaughter seems to fall into the domestic margin of appreciation of each member State.

In any case, the general trend of the case law shows a strong protection of ritual slaughter and ritual sacrifice. A legislation or a regulation may be overruled if it prohibits the practice of ritual slaughter (Austria, Germany), if the prohibition targeted specifically a religious practice (USA) or if it prohibits the consumption of meat from animals slaughtered in accordance with a ritual proceeding (ECHR).

C. *Hunting with Hounds*

The question of a conflict, at the individual level, between tradition and protection, also appears in another area, namely hunting with hounds (which consists in chasing a wild animal with a pack of dogs till it is exhausted, and then encircling the animal; at that point, it is left to dogs or killed with a dagger or a spear). There again, a tradition is at stake¹⁷, and a tradition which provokes suffering for the hunted animal. It endures an important amount of stress throughout the chase and also the way it is killed is painful (whether the animal is left to the dogs or killed with a blade).

This is why, in the early 2000’s, Great Britain banned hunting with hounds¹⁸.

The compatibility of this ban with the European Convention on Human Rights was contested by hunters who invoked a breach of their traditions. In their opinion, this constituted a violation of their right to privacy. The applicants submitted more precisely that hunting with hounds was part of their *lifestyle* and, was protected as such by Article 8 of the convention.

¹⁶ ECHR, June 27, 2000, *Cha’are Shalom Ve Tsedek v. France*, n° 27417/95, § 80. This solution would condemn a prohibition to sell a meat coming from ritual slaughter. Such a proposal was made in Switzerland at the early 2000’s. A popular federal initiative was launched in 2002 “against ritual slaughter of animals without prior stunning” (March 12, 2002, FF 2002 2454). It aimed to prohibit the bleeding of animals without prior stunning, but also to forbid the import, commercialization and consumption of meat from animals that would not have been stunned. This initiative has not obtained the required number of signatures (October 26, 2003, FF 2003 5947).

¹⁷ An old tradition. Painting from the 15th century represents scenes of hunting with hounds (*see The Hunt in the Forest*, Paolo Uccello, 1460’s).

¹⁸ In Scotland, by the Protection of Wild Mammals Act adopted on February 13, 2002 and entered into force on August 1, 2002. In Britain and in Wales by the Hunting Act of 2004, applicable since February 18, 2005.

What was the answer of the Strasbourg's Court¹⁹? It said: "The Court accepts (...) that, the hunting of wild mammals with hounds had a long history in the United Kingdom; that hunting had developed its own traditions, rituals and culture; and, consequently, that it had become part of the fabric and heritage of those rural communities where it was practised". "for the individual applicants in the present cases, the Court accepts (...) that hunting formed a core part of their lives. It accepts therefore that, for various reasons, hunting came to assume a particular importance in the lives of these applicants". However, "the Court is unable to regard the hunting community as an ethnic minority (...). The inter-personal ties which are then created cannot be taken to be sufficiently strong as to create a discrete minority group. Finally, (...) the Court does not consider that, hunting amounts to a particular lifestyle which is so inextricably linked to the identity of those who practise it that to impose a ban on hunting would be to jeopardise the very essence of their identity".

It results from the two areas mentioned above (ritual slaughter and hunting with hounds) that, in the current state of the law, legislation protecting animals can be overruled in the name of tradition only if the fundamental rights contained in it are closely linked to the individual (ie are part of his religious identity or his personal identity). If so, the tradition of abuse can prevail over the legislation of protection.

Let's consider now the opposite hypothesis: when a public authority (legislative or administrative), concerned by tradition, decides that it should prevail over protection.

II. SECOND DIMENSION: THE LAW AUTHORIZES ANIMAL ABUSE ON THE BASIS OF A TRADITION

In the name of tradition, this authority admits restrictions to animal protection or animal welfare. On this point, we may observe that, the Treaty on the Functioning of the European Union specially provides a possibility to derogate to animal protection in the name of tradition²⁰. When such decision has been made, in the name of tradition, is it possible to challenge its legality (here again, by invoking superior norms)? The answer is different depending on whether or not a superior norm of animal protection exists.

¹⁹ ECHR November 24, 2009, *Friend and others v. The United Kingdom*, n° 16072/06.

²⁰ Article 13 TFUE: "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 in particular to religious rites, cultural traditions and regional heritage".

A. *First Situation: A Superior Norm Protecting Animals Exists*

When such a norm exists, we observe that, animal abuse justified by tradition does not resist jurisdictional control.

They are materially incompatible with the norm of animal protection and, thus, the judge declares them invalid with no regard for the tradition that justified their enactment. All the examples that the author found come along these lines, whether the norm of protection is legislative, constitutional or international.

The first example, regarding opposition to a legislative norm, bring us to Israel. It is related to the question of foie gras, more exactly the force-feeding of geese and ducks to product foie gras. The question was submitted to the Israeli Supreme Court in 2001 by Noah, The Israeli Federation of Animal Protection Organizations. It was judged in 2003²¹. The Supreme Court had to determine whether force-feeding (*traditional* method) was contrary to the Animal Protection Act, which prohibits torture, cruelty and abuse to animals.

The issue at stake is the proportionality of the offence. Judges all agree that, force-feeding is torture, cruelty or abuse. But they had to determine whether the means were proportionate to the ends. This is where, in an underlying way, tradition interferes. Foie gras is presented as a luxury product. And this element is decisive to exclude the proportionality of the offence. To put it simply: force-feeding generates a *lot* of suffering for *little* pleasure. As a consequence, judges decided that, traditional force-feeding constitutes a violation of the Animal Protection Act. The regulation allowing force-feeding is thus declared void by the Supreme Court.

The second example relates to a contrariety with an international treaty. The norm of protection is the International Convention for the Regulation of Whaling (1946). This convention established an International Whaling Commission having the power to regulate whale hunting. In 1986, the Commission issued a moratorium banning whale hunting.

However, Japan keeps killing whales, invoking culture and tradition. This practice led Australia to file a lawsuit in the International Court of Justice. The Court handed down its judgement on March 31, 2014²².

As in the previous case, the conflict does not *legally* oppose tradition to protection. Indeed, since tradition does not constitute a ground admitted by the Convention to derogate to the ban on whale hunting, Japan put forward

²¹ Israeli Supreme Court, August 13, 2003, Noah vs. The Attorney General, HCJ n° 9232/01, IsrLR 512.

²² ICJ, March 31, 2014, Whaling in the Antarctic (Australia v. Japan).

another argument, constituting the only ground legally admitted, namely the pursuit of scientific research²³.

The International Court of Justice examined very carefully the arguments given by Japan in order to protect its programme of research on whales (called JARPA II²⁴). And, over dozens of pages, the Court refuted every element put forward by Japan, showing the incoherence of the programme: no limits of time are fixed; it is based exclusively on lethal method (ie, allegedly to learn about whales, they are killed when they should be observed in their natural environment); no real scientific production has come out so far; at last the programme does not cooperate with other national and international scientific programmes.

Consequently, the Court considers that, taken as a whole, JARPA II involves activities that can broadly be characterized as scientific research, but that “the evidence does not establish that the programme’s design and implementation are reasonable in relation to achieving its stated objectives”. The Court concludes that, the special permits granted by Japan for the killing, taking and treating of whales in connection with JARPA II are not “for purposes of scientific research” pursuant.

Under the cover of scientific research, Japan actually pursues a commercial goal. Whale hunting, perpetrated exclusively in the name of tradition, is consequently prohibited, said the Court.

The third example refers to a violation of a norm of protection of constitutional rank. It brings us to Brazil. A very interesting decision was granted on this point on the basis of Article 225 of the Constitution, which prohibits cruelty to animals. This decision is doubly interesting for our subject. First, as the previous cases mentioned, it concerns a practice justified by tradition. Secondly (and it distinguishes this decision from the previous ones), it puts at stake *legally*, a conflict between two norms of equal value: a constitutional norm of protection on the one hand, and a

²³ Article VIII § 1: “Notwithstanding anything contained in this Convention any Contracting Government may grant to any of its nationals a special permit authorizing that national to kill, take and treat whales for purposes of scientific research subject to such restrictions as to number and subject to such other conditions as the Contracting Government thinks fit, and the killing, taking, and treating of whales in accordance with the provisions of this Article shall be exempt from the operation of this Convention. Each Contracting Government shall report at once to the Commission all such authorizations which it has granted. Each Contracting Government may at any time revoke any such special permit which it has granted”. A second ground is also admitted by the International Whaling Commission regarding the “Aboriginal Subsistence Whaling”. This derogation is not justified by the defence of culture, in anyway not principally by it. As the name suggests, it aims above all to permit the survival of some populations (located in Greenland, Siberia and Alaska) by allowing them to kill whales to cover their nutritional needs in an inhospitable environment.

²⁴ Japanese Whale Research Program under Special Permit in the Antarctic.

constitutional norm of tradition on the other hand.

This decision, granted in 1997, concerns “*farra do boi*”, that we can translate as “Festival of the ox”²⁵. It’s a feast (we should rather say an “event”) which takes place in the state of Santa Catarina, in the south of Brazil. Animals are literally tortured, then killed, by villagers²⁶.

In 1997, a claim was registered against the state of Santa Catarina. The Federal Supreme Tribunal had to arbitrate between protection and tradition: between Article 225 of the Constitution, which prohibits acts of cruelty, and Article 215, which protects the expression of cultural rights²⁷. The Tribunal declared that, the state’s obligation to guarantee the full exercise of cultural rights, by encouraging the promotion and the diffusion of traditional events, does not exempt the state from also respecting Article 225 of the federal Constitution. As a result, the tribunal judged *farra do boi* as unconstitutional.

Similarly, a legislation of the state of Rio de Janeiro, which authorized cockfighting, was quashed in 2011 for violation of Article 225 of the Constitution²⁸. The federal Tribunal considered that, cockfighting does not represent a cultural event and, for this reason, is not protected by the constitutional provisions related to the protection of culture.

In light of these examples, we see that, legislation or regulations allowing cruel treatment of an animal in the name of tradition does not resist a superior norm of animal protection (even in the hypothesis whereby culture and tradition have a constitutional guarantee)²⁹.

Invoking a superior norm of animal protection is a powerful argument against animal abuses established or justified (at a lower legal value) by tradition.

What happens when such a norm does not exist? Is there a way of challenging a provision which, by derogating to a text on animal protection, admits cruel treatment to be imposed to an animal?

²⁵ STF RE, June 3, 1997, n° 153.531-8, DJU October 13, 1998.

²⁶ For days before *Farra do Boi* starts, oxen are starved; food and water are placed just out of the animals’ reach. The days-long festival begins when drunken villagers release the oxen and chase, punch, kick, and attack the animals with sticks, knives, whips, stones, bamboo lances, ropes, and anything else they can get their hands on. The torture escalates as the festival drags on. Eyes are rubbed with hot pepper and then gouged out; limbs are broken and tails are snapped and hacked off; in a number of cases, gasoline is poured on these animals and people set them aflame. Some animals escape into the sea and drown. Any ox who survives the torment are eventually killed, their flesh divided among the participants.

²⁷ “The State shall protect the expressions of popular, Indian and Afro-Brazilian cultures, as well as those of other groups participating in the national civilization process”.

²⁸ STF, June 26, ADI 1.856 Rio de Janeiro.

²⁹ See also, in India: Supreme Court, May 7, 2014, *Animal Welfare Board of India Vs. A. Nagaraja & Ors*, n° 5388 of 2014 & ors.

B. Absence of Superior Norm: The Question of a Differentiation

Here is the hypothesis: a legislative provision prohibiting in general animal cruelty exists, but, by derogation, allows some of them in the name of tradition.

Can we criticize the very principle of a derogation justified by tradition? Is this ground of differentiation admissible? Or, in legal terms, is it compatible with the principle of equality?

The French constitutional council decided, in 2012, that it *is* compatible with equality³⁰. Its decision was about bullfighting, a practice prohibited by law as constituting an act of cruelty, but a practice also allowed by law in the localities where a tradition of bullfighting can be established.

The roots of this exception are very old. During one entire century, in the name of tradition, the regions of bullfighting tradition have been rebelling against the law of 1850 prohibiting mistreatments on animals and refused to apply this legislation to bullfight.

To take into account this tradition, a century later, in 1951, the legislator, yielding to this situation, introduced derogation.

The constitutional council decided that, this legislative justification, based on *tradition*, was relevant to validate the exception provided for bullfighting.

This solution shows that, without a superior norm of protection, it is difficult to challenge the choice of the legislator to favor tradition over protection.

CONCLUSION

In the end, what comes out of this overview? What do superior principles of our legal orders, reveal of the relationship between tradition and protection in animal law? First, they reveal that, religious tradition benefits from an extremely high guarantee and is likely to call into question legislations prescribing prior stunning of animals. Secondly, they reveal that, beyond the question of ritual slaughter, the superior norms of protection tend to prevail on tradition, even when tradition has a legal value equivalent to the norm of protection, as is the case (for example) in Brazil.

To close this study, it should be noted the unity or in any case the link between the two dimensions of the topic (the tradition of animal abuse prohibited by law and the tradition of animal abuse accepted by law). To

³⁰ CC, dec. n° 2012-271 QPC, September 21, 2012.

[underline this link](#), the author has chosen a telling example.

In May, 2013, a bill aiming at prohibiting the *sale* of foie gras was discussed before the Knesset (the Israeli parliament) (its production in Israel being forbidden since the 2003 decision previously mentioned).

What is interesting, is the reaction provoked by this initiative outside Israel. The Israel newspapers reported that, in France, a high representative of the Jewish religion expressed concerns about the bill. It addressed a letter to the Israeli Minister of agriculture, asserting that, the Israeli law prohibiting the sale of foie gras could jeopardize the practice of ritual slaughter in Europe. Actually, Israel does establish, through a law, that a tradition (a culinary tradition) cannot justify animal abuses. According to him, this law could be used in Europe (by animal activists) to argue that, another tradition (a religious tradition) cannot justify animal abuses too. If tradition is no longer a justification in one case, how could it be in another case?

Such a reaction reveals the link between both dimensions. Each new text favoring animal protection over traditions weakens the admissibility of tradition as a justification of the infringement upon animal rights.