Hunt and prey from legal view in Iran

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Abstract

Importance of hunt and prey topic in the regard that it is the primer of human civilization is attention worthy. Population growth and increasing need of human of its environment particularly food supply practically have endangered many wild life animals. Therefore, if some criteria and regulations have not been considered for protection and survival, these god creatures will be dead during a very short time. In the international arena, no country can fulfill programs related to economic, social and cultural development without considering this consequential. In year 1992, because of necessity and sensitivity and importance of environment protection in the global level, international conference of development and environment was held in ((Rio de Janeiro)). Results of this conference, specially its 27 articles statement and also agenda 21 that have been approved by participants on that conference including Iran offered a global pattern for achieving the desired goals in order to modulate the environmental considerations in economic development program and attaining a stable development that considering it in economic, social and cultural development programs of Islamic republic of Iran its absolute necessary. Because protecting the environment balance and as the result wild life protection and preventing irregular hunt and prey that cause environment destruction and irrecoverable damages, and also hunt and prey legality and legalizing guarantee of necessary performs and ... are issues that neglecting them will make problems for us in the future. Nevertheless, what has the key aspect and is qualified to be studied in this essay is the state of the international standards effect on internal law. Thus, this essay is trying to survey on hunt and prey legal system in Iran country.

Keywords: hunt and prey, legal resources, environmental issues, hunt and prey locations, legal and retribution laws and provisions.
Introduction
Research and investigation about hunt and prey, takes us to the far back and discover and reveal angles of human history and this a point that have not been hidden from sight of historians, rather historians like Will Durant had mention it and had speech about it. As we read, the truth is that hunt and fishing are not two levels of economic evolution and improvement, rather destiny of this two forms of human activity was to stay at highest forms of civilized society. Before this, these two factors occupied the main center of life and now, they are as the hidden foundation.
Since Islam has two characters of generality and durability, and is adjusted according to human nature, hence, by presence of Islam, hunt and hunting regulations have been changed and transformed as well as other social matters, and proceeding the hunt have been limited in order to type and method and location and for the first time in Iran, some provisions and criteria have been codify and carried out hereof.
Many topics of the general law in Islamic jurisprudence include topic of sufficiency obligations and probate matters, and also one of the sufficiency obligations that have been proposed on our time and has no certain responsible, means it is among probate matters, is environment protection issue that one of its important parts is animal environment protection and legislating laws and provisions about irregular hunt and prey by government. However, in our jurisprudence books unlike many probate matters which have no independent title in jurisprudence books, fortunately has an independent chapter as subtitle of ((prey and Slaughter)).
After gun invention and its generalization and use, mass cruel killing of animals began and danger of destruction and generation removal of many of them has been felt. By raising such problem, afterthought need have been proposed and as the result, in some developed industrial countries, laws about hunt and prey and animal hunt limitation or prohibition of hunt and prey by weapon have been approved. This evolution in Iran happened slowly, despite of entering gun in Iran at early Safavi period and gradually used by hunters. But in Iran like the other countries, ruination and destruction and of natural environment during the last generation have been accelerated apparently and as the result, animals and other unique and important resources are superimposed on dissipation exploitation without anyone be in thought of the future.
In this regard, environment protection organization (that was named hunt keeping organization before and hunt center before that) that its chairmanship is the coadjutant of the president and president also take his legitimation after people election and former confirmation of security council from revolution leader. Now, environment protection organization is as the main custodian of environment protection in Iran. This organization is one of the institutions dependants to presidency and has a legal personality and financial independence and acquits under supervision of supreme council of environment protection. Therefore, due to the mentioned articles, it's necessary to research and survey on various aspects of environment from legal view in our country. Environment and its protection have two sections, one is protection of natural environment and the other is from human resources. Hunt and prey topic is one of the most important natural environment issues. This essay is looking for survey on the legal system of hunt and prey in Iran country.
Legal position of hunt and prey
a) Hunt and prey position in internal resources

1- Constitution law

The most important evolution in reinforcing the environmental regulations field after victory of Islamic Revolution was approval of article 50 of Islamic Republic of Iran constitution law. In fact, by assigning one article of constitution law articles to environment protection matter, there have been an emphasis on necessity and credibility of executing environment related regulations. Articles 45 and 48 BC are also about natural resources.

2- Normal Laws

Normal laws include:

1- Civil law article 179 to 182 q. m³ have been assigned to hunt.
2- Executive regulation of hunt and prey law have been approved by ministers’ board according to article 28 of hunt and prey law.
3- Executive regulation of environment protection and improvement law including 9 chapters and 48 articles and appendant article 49 that have been approved by ministers’ board.
4- Approvals of supreme council of environment protection according to paragraph 1 reformed article 2 24/8/1371 of reforming law of environment protection and improvement and its appendant and paragraph 2 of mentioned article.
5- Instructions of environment protection organization.

On survey and comparing hunt and prey law with constitution law, this question raises Aren't irregular hunt and prey and destroying different animal kinds one of the manifest examples of environment irrecoverable destruction? If they are, this existed prohibitions and limitations are sufficient or insufficient? And are these items completely determined in

1. Article 50 of Islamic Republic of Iran constitution law- environment protection that today generation and next generations must have a growing social life in it deemed as a general task. Hence, economic activities and other than that which accompanied with environment pollution or irrecoverable destruction are forbidden.
2. Article 45 of Islamic Republic of Iran constitution law- enfal and general wealth including uncultivated or abandoned lands, mines, seas, lakes, rivers and other public waters, mountains, valleys, forests, canebrares, natural tickets, grasslands that are not private, inheritance without heir, unknown owner estates and general estates that refund from usurpers, are in authority of Islamic state to be operated according to public interest; law determines detail and arrangement of using each one.
3. Article 48 of Islamic Republic of constitution law, there has to be no discrimination in exploitation of natural resources and use of national outcomes in provinces and distribution of economic activities between the provinces and different areas of country, that each area has access to necessity capital and facilities according to their needs and talents and growth.
4. Article 28, the executing obligations of this law is provided and approved by the organization.
   a) Definitions of hunt and prey and supported animals and offender animals and national park and protected area and particular protection.
   b) Determining the provisions about national park and protected areas and particular protection.
   c) Determining prohibition and limitation provisions of buy and sell present and keeping the wild animals and also propagation and training and importing and exporting them by cooperation of related organizations within the country’s laws.
   d) Determining the cooperation method of ministries and other organization related to government or organization.
   e) Determining types of mentioned licenses in article 7 of this law and its issuance conditions.
normal laws (like hunt and prey law and environment protection and improvement law) and are responsibilities and duties determined for people? What are the guarantees? Are these guarantees sufficient or insufficient? Are ((General Task)) action ways of people about environment protection and improvement and preventing irregular natural environment destroyer hunt and prey included in normal laws? In the other word, how to perform ((people partnership))? And do all of these correspond with principle 50 q. a of Islamic republic? It seems that since procedural rules hierarchy practically "cause corporeal hierarchy as well" means the lower rules content have to be in correspond and not violating the higher rules and this principle of lower rules correspond with higher rules arises from legality principle. Meanwhile, it closes up normal survey of researchers from general and principles world to sensible facts territory and shows that principles of Islamic republic of Iran constitution law especially about hunt and prey and wild life protection and its reasonable exploitation and preventing irregular hunt and prey and ((General Task)) action ways have been fulfilled for environment protection. Therefore, it has to be said that Islamic republic constitution law considering that it commented environment protection as a ((general task)); it should predicted its acts’ ways in normal laws at last. This important state matter that is correspond and contents of principle 50 q. a illustrate it, have not been accomplished. Lots of hunt and prey law’s articles have been deleted and canceled too. Even if as described, lots of regulations’ articles have also been implicit prescriptions or inapplicable to the point that a law like environment protection and improvement don’t have power to do such mission, however punishments and performs guarantee related to hunt and pay crimes were insignificant. In the other word, hunt and prey law and also environment protection and improvement law have imperfections that can be said that will cause environment irrecoverable damage that principle 50 q. a has prohibited it and its elusive and tremulous from it so much; But since prudence and thought and precaution is requisite of researcher’s work, therefore, it should not be said that hunt and prey law and even environment protection and improvement law are not correspond with principle 50 of Islamic republic constitution law or are in contrast with them, rather must be said that ((are not completely correspond)); in this sense, matching necessity is sensible and obvious. Thus, the necessity of approving a new hunt and prey law and environment protection and improvement law with a new method is essential and this is nothing than verdict requirement of a legal logic. Because of the law angles is logic and legal logic necessitate that we place laws on branches of tangible facts of Islamic society and this matter has not been hidden from specialists and experts of environment protection, on the contrary they are submissive and familiar with it.

On survey and comparing hunt and prey law with civil law, the discussion is

Meanwhile, in civil law article 179 said that: ((hunting results in possession)) because hunt prey are permissible and people will be owner of the hunt from hunting and prey, however in the other hand, if a person perform an illegal hunt, according to hunt and prey law, the hunt will be recorded and the hunter must pay the solarium. Therefore, does not this order result in conflict between civil law and hunt and prey law? In another word, how to solve this ((conflict doubt1))?

In the answer we should say that from a abuse in conflict, one general law and one specific law will be carried out and also plural interest and plural interest is prior on the individual

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1 We call it ((conflict doubt)) because it seems that there is doubt of this conflict. But actually there is no conflict.
interest. Also, self right acts must not cause others` harm, however the person be infected by
the losses in the future as said on principle 40 of Islamic republic constitution law. In
the other hand, according to article 182 of civil law, other provisions about hunt will be
determined according to special regulations. And also, according to article 147 of civil law,
anyone who possess a legitimate property with observing the law about it, will be its owner.
Therefore, civil law itself have answered and solved this ((fine conflict)). In the other word, if
this was not article 182 or 147 Q.M, according to total legal principles and legal deduction
regulations and the other legal standards that some of them have been mentioned, it can also
be argued that since civil law is a general law and prior, hunt and prey law is a specific law
and posterior, so it will be execute. In the other hand, article 179 of civil law have noted the
private law aspect, but hunt and prey law regards to the environmental aspect and its
relations. Therefore, since environment protection and balance protecting issue is a general
matter and is related to general interests, so hunters who want to hunt and prey irregularly
and destroy the different animal kinds without any attention to environmental criteria and
regulations, in fact they have violated general laws and interests. However, in the future the
hunters and fishers will not be excluded from the damage of their own harms. Finally,
because of the mentioned reasons and this clear word of civil law that hunt and prey law is
prior to civil law, and in the fact in this way the mentioned conflict will be elevated. However
as noted, this conflict is in the fact a doubt that come to the mind, but actually there is no
conflict, because the civil law itself is referred to hunt and prey law.

b) Position of hunt and prey in international law

Nowadays, international law has various topics that one of its important topics is codification
and development of international law. In the other hand, one of the issues that there has been
a great attention on it in codification and development of international law is the environment
issue; as far as various conventions have been concluded at this part of international law
(means environment) that one of the environment issues in the world is protection of natural
resources and in the other hand, protection of protection of wild life and prevention of
irregular hunt and prey topic is considered as a part of protecting natural resources issue and
at the last protection of environment in the world. Some of the international resources related
to wild life and hunt and prey that are related to legal system of hunt and prey in Iran as well,
are as following:
1- International Waterfawl Research Bureau. (IWRB)
2- International Council For Birds Preservation. (ICBP)
3- Convention on International Trade In Endanqered Species of Wild Tauna and Fiora. (CITES)
4-convention of ponds and refugee birds (Ramsar Convention)
5-International Union for Conservation of Nature and Natural Resources. (IUCN)

Importance of hunt and prey from economic and environmental aspect

Destruction of natural ecosystems extinction of vegetal and animal kinds would be one of the
limitation causes of financial growth. Therefore, while considering the financial aspect of
hunt and prey, to its environmental aspects which are the protection of wild life and
prevention from irregular hunt and prey that results in extinction of animals` generation and
also irrecoverable destruction of environment must be considered by observance of
environmental laws and provisions, because a wisdom and philosophy lies in designing of the
nature. Human beings are a part of nature and have the power of protection and destruction of

1 Principle 40 of Islamic republic constitution law: no one can place his own right acts as an instrument of
damaging to others or violating the general interest.
the nature. Thus, human should try for the aim of protecting balance and harmony between him and nature because balance is the guarantees of human survival and he should to try for protecting revival of these natural gifts. Because protecting and surviving the animal kinds and wild life need a healthy environment. But who can fulfill the facts and rules of environment and protect the positions, since we have to strive and smooth the development path.

Conclusion
Survey on legal system of hunt prey in Iran was an excuse that we can become acquainted with this young field scilicet environment law that there have been no research and study about it yet. Because balance protection of environment and wild life protection and preventing irregular hunt and prey as the result, that cause environment destruction and irrecoverable damages and also legalizing hunt and prey and guarantee the necessary performances and … are some issues that neglecting them will make problems for us in the future.

1- General Education: in spite of paragraph kh- M 6 of hunt and prey law and paragraph D- M 6 of environment protection and improvement law emphasis on adjust and perform the educational programs in order to illuminate and guide the general thoughts base on environment protection and improvement and stimulating zoophilous and resource protection feeling in country, therefore, there should be actions in regard to introducing environment and its issues for people and more familiarity of them with environmental criteria and principles and importance of protecting balance and equilibrium in environmental relations. It means that for example "arranging some plans so people can become acquainted with areas under protection of organization, and to realize its importance. People also become acquainted with wild life closely, but for recreation to become familiar and acquainted with wild animals' protection and what rule each animal plays in the nature? And also the life space of the wild animals (such as Khojir that development of city is migrating from there) and their habitats. In the other hand, a journal can be publish among the society to inform the environmental issues rightly with a simple and general language, in order to introduce the importance of the environment protection (natural environment) and also importance of protecting the human environment to people.

Many people are still unfamiliar with environment protection organization name and sometimes in some cities they name it as ((hunt keeping department or forestry department)). Yes, we have to acquaint children of this country with the importance of environment ((especially from natural environment and wild life aspect)), so the Zoophilous feeling forms in child from the beginning.

2- Public Partnership: Principle 50 of the constitution law of Islamic Republic of Iran has this title: ((In Islamic Republic, environment protection that today generation and next generations must have a growing social life in it, is considered as a general task,)) now does this general task realize with other way than ((public partnership))?
Therefore if we act regularly and detailed in ((general thoughts illumination)) field and to take steps by important programming in this way, then we can entice the ((public partnership)) interestingly. Nevertheless, when people find out the importance of nature protection, they will play their rule effectively. In this way that they establish communities, associations, NGO institutes, Non-governmental organizations that their main aim is to protect the environment (such as lovers of nature and environment committee and, green
community and … that are active in some cities). In the other hand, when all the people became environmental, automatically, people avoid any activity that is in order to destruction and destroying environment (such as wild life) in different ways (sometimes protestation). Thus, we can fulfill principle 50 which considers protection as a public task.

3- **Paying attention to international importance of environment protection**: since biology science had great developments, as the result, value and position of each creature in nature is known. Meanwhile, many international organizations have been formed in different creatures’ species protection field and for this purpose, different conventions have been concluded. Therefore, we have to consider these principles and goals and study and survey on them more and more; so in future we won’t afoul damages and losses about environment.

4- **Modern overview, correction and codification of hunt and prey law and environment protection and improvement law and the related regulation to them**: due to the constructional plans that government considers and will ratify, and also intense regard to industry growth and naturally Agriculture, as the result the environment issues will be at the least attention, therefore, if this procedure continues, in the not far future, will be witness of destroying the most unique biological relations. Therefore, it has been suggested to pay attention to environmental dimensions, and some articles be allocated to environment protection in development and construction programs of country in order to contain this program. Means no movement and program must be predicted or provided unless the environmental damage decrease in long term has been considered, because there is no contour between development and environment. Human can ignore the environment in harm cost. In summary, in this case, a new view on the environment laws and provisions of the country (specially mentioned laws and regulations), and performing necessary corrections and changes in them it's necessary, so they can resolve the country needs as far as possible.

5- **Paying attention to environmental values in government programming**: since in current situation, environment protection organization is not active enough in order to goals that are predicted for it in law, it's necessary to improve the organization by paying attention to environmental values, for this purpose, organization equipment in terms of human forces and necessary outfit for protection of wild life and supervising on hunt and prey license and preventing from illegal hunt and prey in terms of local, time, way, typical, Quantitative and qualitative prohibitions and limitations is necessary. Therefore, while equipping the organization, it's necessary to perform wide researches in environmental law issues field from the organization itself or from centers which study this field, so therefore the weakness points of organization will be resolved and the strong points will be reinforced.
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