13634 - Rulings on destruction of property

the question

What is the ruling in a case where a person destroys the property of another? Does the ruling differ according to whether that is done deliberately or otherwise?

Detailed answer

Praise be to Allah.

Allaah has forbidden aggression against people’s property and taking it unlawfully. He has prescribed that whatever is destroyed unlawfully is to be replaced, even if it is destroyed by mistake. Whoever destroys the property of another person which was sacred (i.e., protected by sharee’ah), and destroys it without the owner’s permission, is obliged to replace it.

Imaam al-Muwaffaq said: “We do not know of any dispute concerning this matter. It is the same regardless of whether that was done deliberately or by mistake, and whether (the person who destroyed it) was told by someone else to do it or not. The same applies if he causes it to be destroyed, such as if he opens a door and causes something which was locked up to be lost, or he tilts a vessel and allows what is inside it to flow out and be lost – he is obliged to replace it. The same applies if he loosens the reins of an animal or ties it up, and it gets lost or dies – he has to replace it. The same applies if he ties up an animal in a narrow street, resulting in a person stumbling over it and dying or being injured as a result – he is responsible for that because he transgressed the limits by tying it up in a narrow street. The same applies if he stops his car in the street resulting in another car or a person hitting it, causing harm – he is responsible because of the report narrated by al-Daaraqutni and others, which says that whoever makes an animal stop in the way of the Muslims or in one of their marketplaces, and it steps with its front or back leg on something – he is responsible. The same applies if he leaves a pile of mud or some wood or rocks in the street, or he digs a hole and that results in a passer-by being killed or injured, or he throws a melon rind or similar thing into the street, or spills water and someone else slips on it and is killed

or injured, the one who did that in all cases is responsible, because by doing that he was transgressing. How lightly these matters are taken nowadays. How often holes are dug in the streets and the way is blocked, and they put obstacles in the roads, and how much harm and damage results from these actions, without anyone watching over such matters and putting them right, to the extent that a person may take over the entire road and use it for his own purposes, annoying and causing harm to passers-by, and not caring at all that he may be sinning by doing that. Another of the cases in which a person is held to be responsible is if he keeps a vicious dog and it attacks a passer-by or kills someone – he is held to be responsible because by keeping this dog he was transgressing. If he digs a well in his courtyard for his own purposes he is held to be responsible for any harm that this may cause, because he is obliged to maintain it in a manner that does not harm passers-by. If he leaves it without taking proper care of it, then he is transgressing. If he has livestock he has to take proper care of them at night to prevent them from damaging people's crops; if he leaves them and they do damage someone's crops, he is held to be responsible for that, because the Prophet (peace and blessings of Allaah be upon them) decreed that people who have property must take care of it during the day, and whatever is damaged at night, they must be compensated for that." (Narrated by Ahmad, Abu Dawood and Ibn Maajah). So the owner of an animal is not held to be responsible any damage that was done during the day, unless he sent the animal near a place where it could do damage. Imaam al-Baghawi (may Allaah have mercy on him) said: "The scholars said that whatever is destroyed at night, the owner (of the animal) is held to be responsible for that, because customarily the owners of gardens and orchards guard them during the day, and the owners of livestock guard them at night, so whoever goes against that practice has gone against what is customary. This applies if the owner of the animals is not with them; if he is with them then he is held to be responsible for whatever damage they did."

Allaah mentioned the story of Dawood and Sulaymaan concerning this matter, as He said (interpretation of the meaning):

"And (remember) Dawood (David) and Sulaymaan (Solomon), when they gave judgement in the case of the field in which the sheep of certain people had pastured at night; and We were witness

to their judgement.

And We made Sulaymaan (Solomon) to understand (the case); and to each of them We gave Hukm (right judgement of the affairs and Prophethood) and knowledge…”

[al-Anbiya’ 21:78]

Shaykh al-Islam Ibn Taymiyah (may Allaah have mercy on him) said: “The text of the Qur’aan praised Sulaymaan for his understanding that compensation meant replacing it with something similar. Pasturing the sheep at night means taking them out to graze at night, which took place in a vineyard. Dawood ruled that the value of what had been destroyed should be paid in compensation. He thought that the sheep were equal in value to the destroyed crops, and he wanted to give them to the owner of the cultivated field. But Sulaymaan ruled that the owners of the sheep were obliged to pay compensation, and that they should repay in kind, by tending the field until it was restored to its former state. He also took into account the benefits that would be lost whilst the field was being restored, so he ruled that the owners of the garden were to be given the livestock and that they could take what the produced until it was equivalent to the produce of the garden. They could benefit from the produce of the sheep in place of the produce of the garden which they had lost. He found that what the sheep produced during this period would be equivalent to what the garden would have produced. This is the knowledge which Allaah gave exclusively to Sulaymaan and for which He praised him.”

If the animal is under the control of a rider or of a person who is leading it or driving it, then he is responsible for any damage that it may cause with its front legs or mouth, but not for any damage that it may cause with its back legs, because of the hadeeth, “There is no compensation for the back legs.” According to the report of Abu Hurayrah, (the hadeeth is), “There is no compensation for the back legs of a dumb animal.” The animal is described as dumb because it does not speak. Compensation here refers to compensation for damage done by the animal.

Shaykh al-Islam Ibn Taymiyah (may Allaah have mercy on him) said: “In the case of every dumb animal – such as cattle, and sheep – there is no compensation for damage done by the animal if it

did it by itself (i.e., was not under the control of anyone), such as if it ran away from the person under whose control it was and it did some damage. No one is obliged to pay any compensation, so long as it was not vicious and its owner was not being negligent about restraining it at night or keeping it away from the markets and gathering-places of the Muslims. More than one of (of the scholars) mentioned that there is no compensation to be paid if the animal had escaped and was going by itself without anyone leading it or driving it, except in the case of savage animals."

If it attacks a human being or another animal, and the only way of warding it off is by killing it, and it is killed, then there is no obligation to pay compensation, because it was killed in self-defence, and defending oneself is permissible. So he does not have to pay compensation for the consequences and because he killed it in order to ward off its evil; if he killed it in order to ward off its evil, then the attacker is the one who has killed himself.

Shaykh Taqiy al-Deen said: "He has to defend himself from the one who is attacking him, and if he can only do that by killing him (the attacker), then he has the right to do that, according to the consensus of the Fuqahaa'".

Among the items for which there is no obligation to pay compensation if they are destroyed are: musical instruments; crosses; vessels for wine; books of misguidance, myths and promiscuous material, because Ahmad narrated from Ibn 'Umar that the Prophet (peace and blessings of Allaah be upon him) told him to take a dagger then they both went out to the market of Madeenah in which there were wineskins that had been brought from Syria. (Ibn 'Umar) tore them open in the presence of the Prophet (peace and blessings of Allaah be upon him) spilled their contents, and he commanded his companions to do likewise." This hadeeth indicates that it is required to destroy them and that no compensation for that is due. But their destruction must be done on the authority of the ruler and under his supervision, so as to protect people's interests and avoid mischief.