



Trophy or Travesty: Granting Animals Legal Personhood in an Attempt to End Trophy Hunting

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Agenda

- **Definitions**
- **Ethical Questions and Answers**
- **Legal Rights for Animals and the Environment**
- **Legal Personhood and Trophy Hunting**
- **Application to Case Studies**

Types of Hunting

- **Trophy Hunting**
- **Canned Hunting**
- **Contrast with Poaching and Market Hunting**

Trophy Hunting

Where is trophy hunting most prevalent?

- Trophy hunting is most commonly a tourism-based activity with trophy hunters traveling to particular regions and countries to hunt specific animals
- The countries that account for the largest sources of imported animal trophies in the United States are **Canada, South Africa, and Zimbabwe**.¹

1. *Humane Society International Trophy Hunting by the Numbers: The United States' Role in Global Trophy Hunting. (2016).*

Trophy Hunting

What animals are most hunted?

- Specific animals that are hunted for trophies are often referred to as the "**Africa Big Five**" including: African lions, African elephants, African leopard, Southern White rhino, and African buffalo.²
- In Canada, the most targeted animals are mountain lions, mountain caribou, lynx, and elk.²

2. Humane Society International Trophy Hunting by the Numbers: The United States' Role in Global Trophy Hunting. (2016).

Legal Personhood

Legal Person / Artificial Person

“An [e]ntity, as a firm, that is not a single natural person, as a human being, authorized by law with duties and rights, recognized as a legal authority having a distinct identity, [or] a legal personality.”³

Non-Living Entities can be Legal Persons

- Corporations are not humans, but are legally treated like humans in most respects

3. Legal Person Definition, Black's Law Dictionary (11th ed. 2019)

Rights of a Legal Person

- The right to sue
- The ability to be sued by other parties
- The ability to be a party to contracts
- The right to possess property

Giving and Taking Rights

Inverse Relationship of Rights

- When rights are given to animals, the rights of humans to perform certain actions against animals are taken away

Example

- If a person lives in a country where there is an existing right to hunt animals, a human's right to hunt animals will be taken away if animals are given the right to live without human interference

Giving and Taking Rights

- Rights for animals and humans do not have to be viewed as coming from a single finite supply of rights
- If more rights are “given” to animals, they have not necessarily been “taken away” from humans on a hypothetical sliding scale of rights

Giving and Taking Rights

Status Quo and Inherent Rights

- Legally and philosophically, it is fair to say that the status quo is that humans have a right to control and kill animals

Moving Beyond Ethical Issues

- **No “right answers”**
- **Moving beyond ethics into law**
- **Focus on the goal**

Academic and Legal Background

- “*Should Trees Have Standing? Toward Legal Rights for Natural Objects*” published by Christopher Stone in 1972
- Presented the idea that natural objects should have legal rights and that these legal rights should be independent of the rights of humans

Academic and Legal Background

- The concept of legal personhood for animals, or any natural object, can be seen as not granting *new* rights to animals but removing the reliance on humans to *exercise* existing rights

Rights for Environmental Objects

Sierra Club v. Morton (U.S. Supreme Court)

- Seminal case establishing standing requirements
- Important takeaway from this case came from Justice William Douglas' dissent
- **“Valleys, alpine meadows, rivers, lakes, estuaries, beaches, ridges, groves of trees, swampland, or even air that feels the destructive pressures of modern technology and modern life”⁴** should be afforded the same level of personhood that is given to corporations.

4. Sierra Club v. Morton, 405 U.S. 727 (1972)

Limits of Current Opinions and Laws

EU Recognizes Animals as Sentient Beings

- Lisbon Treaty recognizes that animals are “**sentient beings**”, but fails to extend more robust rights and **does not grant animals legal personhood**
- “In formulating and implementing the Union's [policies,] the Union and the Member States shall, **since animals are sentient beings**, pay full regard to the welfare requirements of animals [...]”⁵

5. EU (2009). The Lisbon Treaty.

Limits of Current Opinions and Laws

Shift in viewing animals as purely chattel

- Changes in U.S. divorce laws allow courts to consider the emotional and physical well-being of an animal
- However, pets are still **considered property**
- “If the court finds that a companion animal of the parties is a marital asset [...] **the court shall take into consideration the well-being of the companion animal**”⁶

6. Illinois Public Act 100-0422

Case Law:

Animals are not Persons

Tilikum v. Sea World

- Lawsuit filed by the People for the Ethical Treatment of Animals (PETA) on behalf of numerous orcas that were owned and held in captivity by Sea World
- Case raised the question of the constitutional standing of whales
- This idea was rejected by the court because slavery and involuntary servitude are human activities and can only be applied to **“persons, and not to non-persons such as orcas”**⁷
- **“[Only] human beings, or persons, are afforded the protection of the Thirteenth Amendment.”**⁷

7. *Tilikum v. Sea World Parks & Entertainment, Inc.*, 842 F. Supp. 2d 1259.

Case Law: Animals are not Persons

People ex rel. Nonhuman Rights Project, Inc. v Lavery

- Attempt to have chimpanzees released from captivity using the writ of habeas corpus
- NhRP asked the court to “**enlarge the common-law definition of ‘person’ in order to afford legal rights to an animal**” but the Supreme Court of New York denied this request⁸
- The court held that the “**incapability [for chimpanzees] to bear any legal responsibilities and societal duties [renders] it inappropriate to confer upon chimpanzees [legal personhood]**”⁸

8. *People ex rel. Nonhuman Rights Project, Inc. v Lavery*, 124 AD3d 148 [3d Dept 2014], lv denied 26 NY3d 902 [2015]

Case Law: Animals can be Persons

Sandra the Orangutan is (not) a Legal Person

- Argentina's Association of Professional Lawyers for Animal Rights (AFADA) filed a writ of habeas corpus to release Sandra, an orangutan, from captivity
- The court's ruling was interpreted as saying that Sandra was a non-human person, however this is not exactly what the court ruled⁹
- Ultimately, after many rounds of appeals, an appellate court reversed the ruling that Sandra was a non-human person

9. *Asociacion De Funcionarios Y Abogados Por Los Derechos De Los Animales Y Otros Contra Gcba Sobre Amparo*" Expte. A2174-2015/0

Case Law: Animals can be Persons

Cecilia the Chimpanzee is a Legal Person

- Argentina’s Association of Professional Lawyers for Animal Rights (AFADA) filed a writ of habeas corpus to release Cecilia, a chimpanzee, from captivity in a zoo
- In 2016, Judge María Alejandra Mauricio of the Third Court of Guarantees in Mendoza, Argentina rules that **Cecilia is a “non-human legal person” with “inherent rights”** and can be transferred from the zoo to a sanctuary ¹⁰
- Expands on ideas in the holding from Sandra’s case

10. File no. P-72.254/15: presented by A.F.A.D.A about the chimpanzee Cecilia, non human individual

Limits and Application

Creating Boundaries of Legal Personhood

- Legal personhood should be granted to animals for the specific purpose of dismantling the trophy hunting industry

Two methods to apply Legal Personhood

- Entire species of the most-threatened animals
- Classes of more narrowly focused animals would be granted legal personhood by area

Giving Animals Standing to Sue

Injunctions against hunting

- If entire species of animals, or a class of animals, is given legal personhood, the class of animals now has the right to sue
- This new class of animals could file an injunction against governments that issue hunting permits as well as the hunters themselves

Giving Animals Standing to Sue

Satisfying Standing Requirements

- The risk to the animals in most situations is quite literally life or death and would easily satisfy even the most stringent standing requirements
- This scenario can only occur if animals are given legal personhood and therefore standing in courts

Owning Land Would Limit Hunting

Background on a Unique Application of Rights

- “The Tree that Owns Itself”
- The tree was given ownership of itself and of all land within eight feet of the base of tree
- No one can cut down the tree unless the tree itself grants approval
- What if this idea was applied to animals?

Owning Land Would Limit Hunting

Animals with legal personhood can own land

- A legal person has the ability to buy, sell, and own land. This right is related to the ability for a legal person to enter into legally binding contracts.
- Trophy hunting, unlike poaching, occurs through an agreement with the owner of land, either a private land owner or the government, and the hunter.
- These two key elements of trophy hunting and legal personhood can be combined in a novel solution

Owning Land Would Limit Hunting

Owning land provides continual protection

- If a class of animals within a national park, nature preserve, or designated protected area of habitat was given legal ownership to the land, any actions that take place on that land would have to be in the best interest of the animals

Changes to Laws after Legal Personhood

Collaborative Conservancies

- Lion conservation has been shown to be successful in both Zimbabwe and South Africa when communities and landowners manage collaborative conservancies.¹¹
- If lions were granted legal personhood in these countries, the lions themselves could be the owners of the conservancies, enhancing their legal rights.

11. *International Trophy Hunting*. Congressional Research Service. 2019.

Changes to Laws after Legal Personhood


Punishing offenders: An Example

- If the Canadian Lynx was uniformly granted legal personhood and granted the rights to live without being killed, this could effectively end the legal practice of trophy hunting this specific species.
- But what happens if an animal's right is violated? In this scenario, legal damages could be assessed against the offender. Illegal hunting would no longer be a violation of a statute, but the violation of an individual animal's right.¹²

12. C.B. Bevilaqua, *'Chimpanzees in Court: What Difference Does It Make?'* (2013.)



Summary

- Currently, animals are not universally given status as legal persons
 - Case law shows a trend towards giving animals more rights and recognizing animals as beings that are entitled to rights
 - Individual animals have been granted legal personhood on a case by case basis
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Summary

- Legal personhood could be used as a tool to stop trophy hunting
 - Extending unique rights to animals, such as the right to sue and the ability to own property, would create a new legal framework for animals to defend their right to live
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