

# SUSTAINABILITY & WELFARE: THE ROLE OF ANIMAL LAW

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Lewis & Clark Law School, Masters in Animal Law, 2019



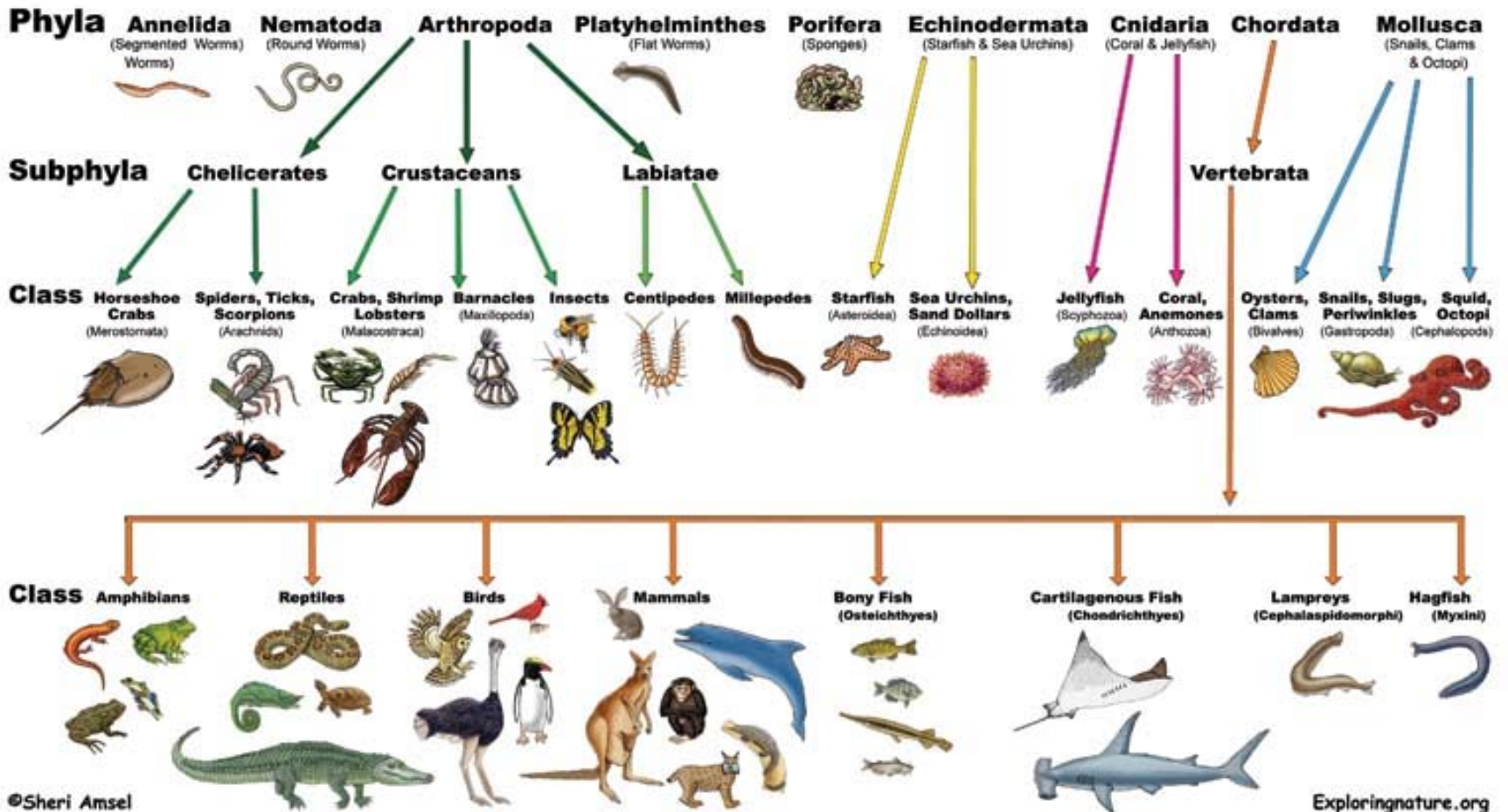
# TALK OUTLINE

1. Complexities & limitations of Animal Law
  - Scope
  - Animals as property
  - Relationship with Environmental Law
2. How law & current sustainability advocacy might be applied to improve welfare of
  - Wild Animals
  - Farmed animals
3. Conclusions

ANIMAL LAW: SCOPE

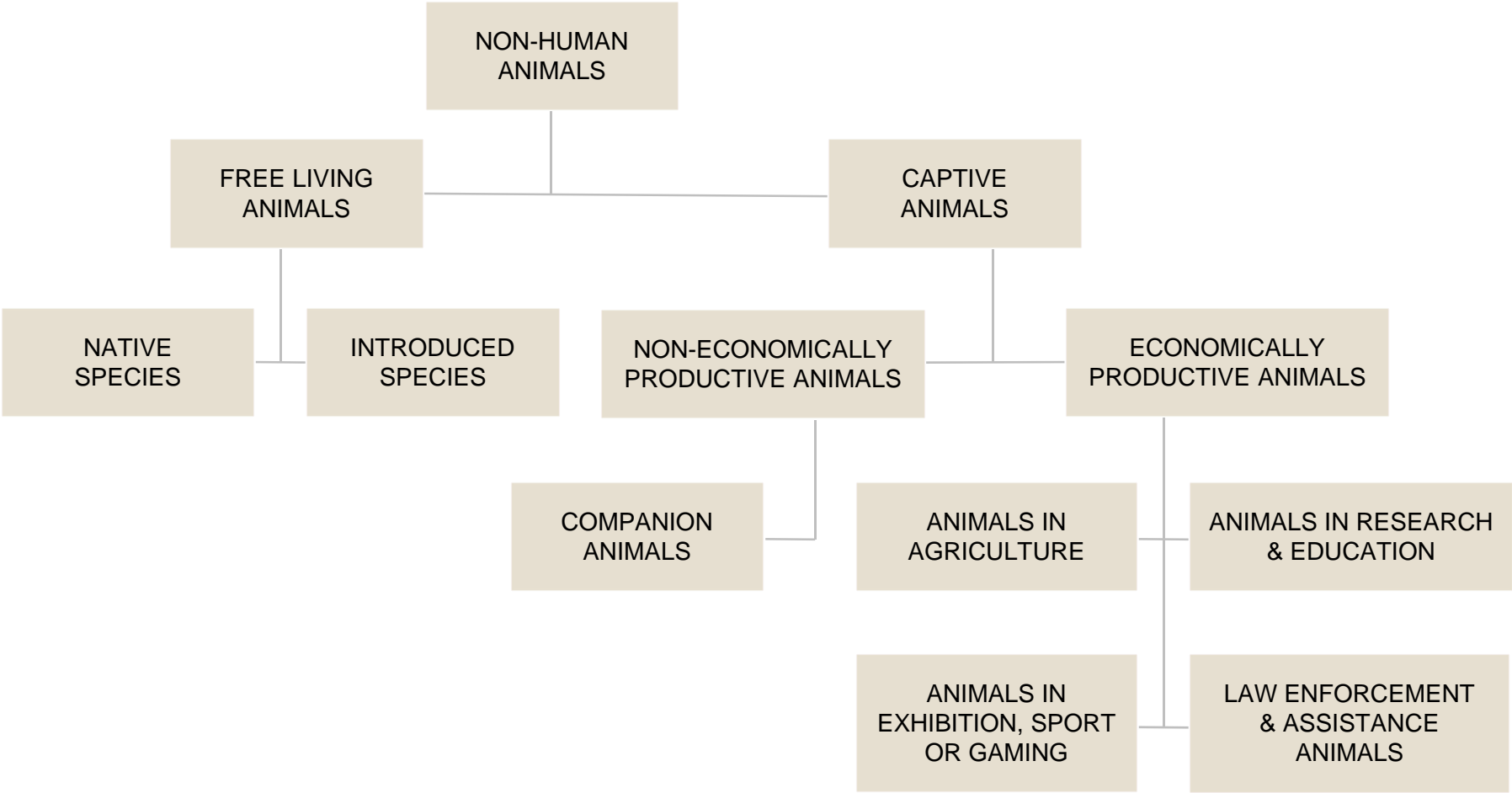
# SCALE OF THE NATURAL KINGDOM

## Animal Kingdom



ANIMAL LAW: SCOPE

# CATEGORISATION OF ANIMALS



FUNDAMENTAL PROBLEMS WITH ANIMAL LAW

# PROPERTY STATUS OF ANIMALS

FEATURE

**ANIMALS'  
LEGAL STATUS:  
ANIMALS ARE  
INDIVIDUALS  
NOT THINGS.**

*pg. 4*



ENVIRONMENTAL LAW AS A WELFARE TOOL?  
**SUSTAINABLE USE?**



IMAGE: BANKSY

## NEW DEVELOPMENTS: WILDLIFE LAW (1)

# JUDGMENTS DEVELOPING THE LAW

National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another 2016 ZA SACC 46

[c]onstitutional values dictate a more caring attitude towards fellow humans, animals and the environment in general...[t]his obligation was especially pertinent because of our history.

Therefore, the rationale behind protecting animal welfare has shifted from merely safeguarding the moral status of humans to placing intrinsic value on animals as individuals.

Cameron JA's minority judgment in Openshaw recognised that animals are worthy of protection not only because of the reflection that this has on human values, but because animals "are sentient beings that are capable of suffering and of experiencing pain". **Animal welfare is connected with the constitutional right to have the "environment protected . . . through legislative and other means". This integrative approach correctly links the suffering of individual animals to conservation, and illustrates the extent to which showing respect and concern for *individual animals* reinforces broader environmental protection efforts. Animal welfare and animal conservation together reflect two intertwined values.'**

## NEW DEVELOPMENTS: WILDLIFE LAW (1)

# JUDGMENTS DEVELOPING THE LAW

### **NSPCA v Min & DG of Environmental Affairs & SA Predators Association [2019] ZAGPPHC 367**

The quota is a signalling to the world at large and the captive lion industry in particular that the state will allow exports in a determined quantity of lion bone. ... [I]t cannot be correct to assert that such signalling can occur at the same time as indicating to the world at large and to the same industry that the manner in which lions in captivity are kept will remain an irrelevant consideration in how the quota is set... [S]imply put if as a country we have decided to engage in trade in lion bone ... then at the very least **our constitutional and legal obligations that arise from Section 24, NEMBA and the Plan require the consideration of animal welfare issues** .



## NEW DEVELOPMENTS: WILDLIFE LAW (2)

# MASS EXTINCTIONS

Nature is essential for human existence and good quality of life. Most of nature's contributions to people are not fully replaceable, and some are irreplaceable.

Nature across most of the globe has now been significantly altered by multiple human drivers, with the great majority of indicators of ecosystems and biodiversity showing rapid decline.

Human actions threaten more species with global extinction now than ever before. An average of around 25 per cent of species in assessed animal and plant groups are threatened (figure SPM.3), suggesting that around 1 million species already face extinction, many within decades,

Goals for conserving and sustainably using nature and achieving sustainability cannot be met by current trajectories, and goals for 2030 and beyond may only be achieved through transformative changes across economic, social, political and technological factors.



NEW DEVELOPMENTS: WILDLIFE LAW (3)

# HUMAN INFLUENCE OVER THE NATURAL WORLD

**Biomass of all the land mammals on planet Earth:**

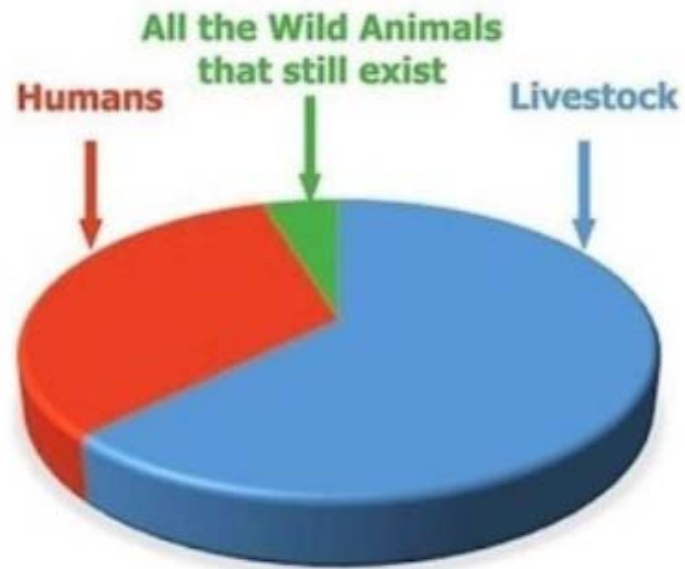


IMAGE: VACLAC SMIL, HARVESTING THE  
BIOSPHERE

## NEW DEVELOPMENTS: WILDLIFE LAW (4)

# LAW AS A MODERATOR OF MARKET FORCES

August 22, 2019

## CITES protects giraffe for the first time

**Wildlife advocates applaud global wildlife convention's decision to regulate international trade in the species**

*Humane Society International / Global*



Wild giraffes in South Africa. Michelle Riley/HSUS  
Makalali Game Reserve

GENEVA—The Conference of the Parties to the UN Convention on International Trade in Endangered Species (CITES) today agreed to protect giraffes for the first time by **listing the species on Appendix II**, which will now regulate international trade in giraffe parts, such as hides, bones and meat. Today's decision now moves forward to the plenary session for full ratification on 27/28<sup>th</sup> August.

**Adam Peyman, Humane Society International's wildlife programs and operations manager**, said: *“Securing CITES Appendix II protection for the giraffe throws a vital lifeline to this majestic species, which has been going quietly extinct for years. This listing could not come soon enough. CITES listing will ensure that giraffe parts in international trade were legally acquired*

*and not detrimental to the survival of the species.*

Humane Society International is concerned the giraffe has been in danger of suffering a silent extinction, because the 36-40% population decline it has suffered over the past 30 years has received insufficient attention.

NEW DEVELOPMENTS: FARMED ANIMALS (1)

# INDUSTRIALISED INTENSIVE ANIMAL AGRICULTURE AS A POLICY PROBLEM



SOURCE: KARAN BEEF

## NEW DEVELOPMENTS: FARMED ANIMALS (2)

# FARMED ANIMALS EXCLUDED FROM LEGAL PROTECTIONS

Animal Welfare Act U.S.C.7, Ch 54, S2132(g),

**'The term "animal"** means any live or dead dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, rabbit, or such other warm-blooded animal, as the Secretary may determine is being used, or is intended for use, for research, testing, experimentation, or exhibition purposes, or as a pet; **but such term excludes** (1) birds, rats of the genus *Rattus*, and mice of the genus *Mus*, bred for use in research, (2) horses not used for research purposes, and (3) **other farm animals, such as, but not limited to livestock or poultry, used or intended for use as food or fiber**, or livestock or poultry used or intended for use for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber. With respect to a dog, the term means all dogs including those used for hunting, security, or breeding purposes.

# NEGATIVE EXTERNALITIES OF FACTORY FARMING: POLICY CHALLENGES

- Reduce the food balance
- Reliance on food fuels and energy consumption
- Anthropogenic emissions – Climate change
- **Largest sectoral source of fresh water pollution and eutrophication of coast areas**
- Emergence of systemic antimicrobial resistance
- Land conversion of feed a key driver of deforestation, loss of biodiversity, land degradation, pollution, overfishing, human wildlife conflict, species invasion
- Zoonotic disease
- Food supply inequality: obesity and mal- or under-nutrition
- Environmental injustice

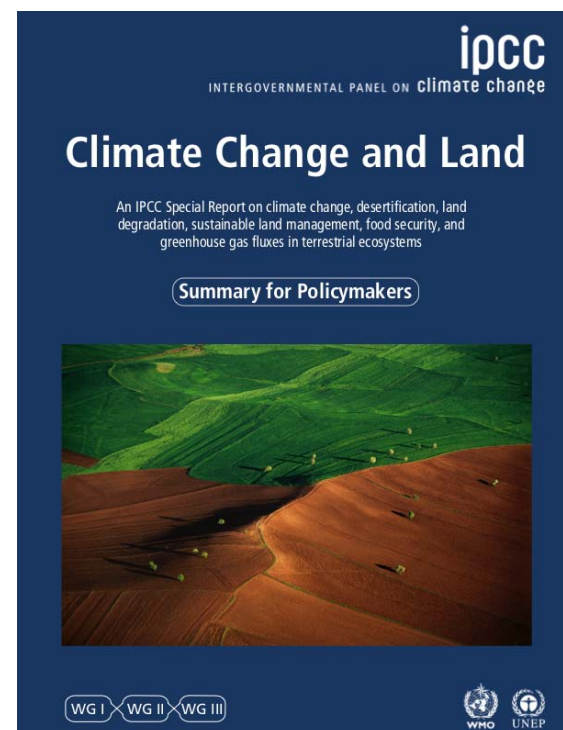
# NEW DEVELOPMENTS: FARMED ANIMALS (4)

## THE LIVESTOCK INDUSTRY & CLIMATE CHANGE

' [e]missions associated with pre- and post-production activities in the global food system are estimated to be 21-37% of total net anthropogenic GHG emissions

Emissions from agricultural production are projected to increase (high confidence), driven by population and income growth and changes in consumption patterns

Land is simultaneously a source and a sink of CO<sub>2</sub> due to both anthropogenic and natural drivers...[n]et emissions are mostly due to deforestation ...and emissions and removals by other land use activities'.



NEW DEVELOPMENTS: FARMED ANIMALS (5)  
**OIE LAYING HENS CHAPTER**





## CONCLUSIONS

# MAKING ANIMAL WELFARE LAWS A POLICY OUTCOME

ENVIRONMENT

## NSPCA wins lion bone trade case against department

Simon Bloch 06 Aug 2019 14:08



Last September, the NSPCA lodged an urgent interdict against the then department of environmental affairs to suspend the department's authorisation of the lion bone export quota. (Image via The Hawks)

## Court victory for NSPCA over welfare of captive lions, bone exports

2019-08-08 12:55

Don Pinnock, Correspondent

news24



The Gauteng High Court in Pretoria has ruled in favour of the NSPCA regarding the welfare of lions in captivity and how that should affect the setting of an export quota for lion bone.

In a judgment this week, Judge Jody Kollapen said it was inconceivable that the Department of Environmental Affairs (DEA) could have ignored the welfare considerations of lions in setting the annual export quota of lion skeletons.

"My view is that the minister erred in concluding that since she was not seized with the welfare mandate for lions in captivity, she was not obliged to give consideration to welfare issues relating to lions in captivity when determining the quota," the judge said.



Lion. (file)

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