



# **A Different Look at the Law and Ethics of Trophy Hunting**

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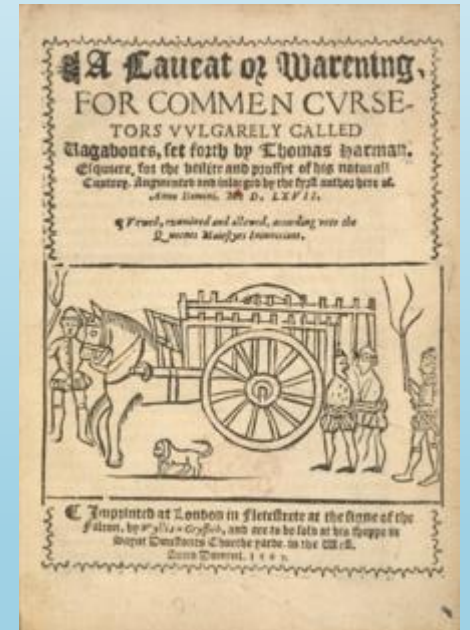
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**Note:** The views expressed in this presentation are those of the author's and should not be attributed to her employer

# If we are lawyers – there must be some caveats . . .

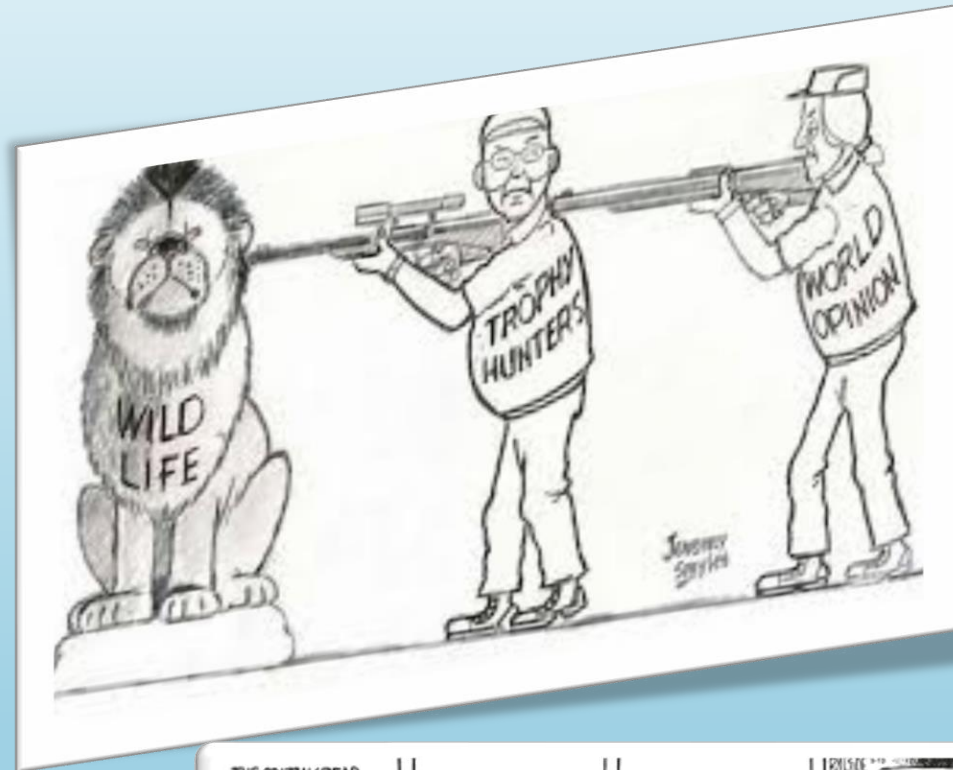
- This talk is not intended to prove the conservation merits of trophy hunting.
- Instead, the purpose of this talk is to consider the ethical implications of imposing limits or restrictions on trophy hunting
  - if trophy hunting does provide benefits to conservation, and
  - if a loss of trophy hunting would undermine those conservation benefits.



# Trophy Hunting is Under Attack in the Court of Public Opinion



"Killing endangered wildlife to save it is just wrong. It does not make sense morally, economically, biologically, or from a conservation-incentive point of view. It is a philosophy that has no place in modern conservation." Jeffrey Flocken, Senior Vice President, Programs and Policy, Humane Society International.



"Trophy hunting is cruel, immoral, and it's killing endangered wildlife. " Campaign to Ban Trophy Hunting.



# The Ethical Questions About Trophy Hunting



Some ask (and answer) the question:

*“Is trophy hunting ethical?”*



Some take it farther and suggest:

*“Based on my moral code, I think trophy hunting is wrong, so others should not be allowed to do it.”*

Some go even farther and demand:

*“Measures must be taken to make trophy hunting and associated activities illegal.”*

What if this is all based on the wrong ethical question?

# Definitions – “Trophy Hunting”

✓ Killing wild animals, predominantly for “fun” or recreation

✓ **Hunter generally retains the antlers, horn, tusks, head, skin, teeth or other body parts of the animal as a memento or “trophy”**

✓ **Guided activity**

✓ Targeting animals of specific species or characteristics (e.g. large size or antlers)

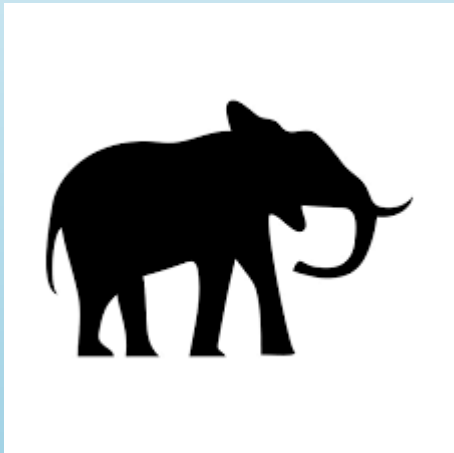
✓ **Payment of a generally high fee**

✓ **Local community or the hunter usually uses the meat for food**

✓ Managed as part of a programme administered by a government, community-based organization, NGO, or other legitimate body

✓ **Characterized by low off-take volume**

✓ Usually (but not necessarily) undertaken by hunters from outside the local area (often from countries other than where the hunt occurs).



## Conservation Hunting



# Difficult Questions – Trophy Hunter – or Not?

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- *Does a hunter with dual motivations of keeping an inedible portion of the animal AND donating all the edible portions to the local community qualify as a “trophy hunter?”*
- *Does a hunter who enjoys hunting and hunts with both the intention of displaying the inedible portion of the animal AND putting all the meat into his/her freezer constitute a “trophy hunter?”*
- *Is an individual a “trophy hunter” if he kills a member of a protected species, but harvests an animal that would otherwise be killed by government officials or local residents as a nuisance animal because it has been causing crop damage to their village or interfering with the breeding of stronger members of the population?*

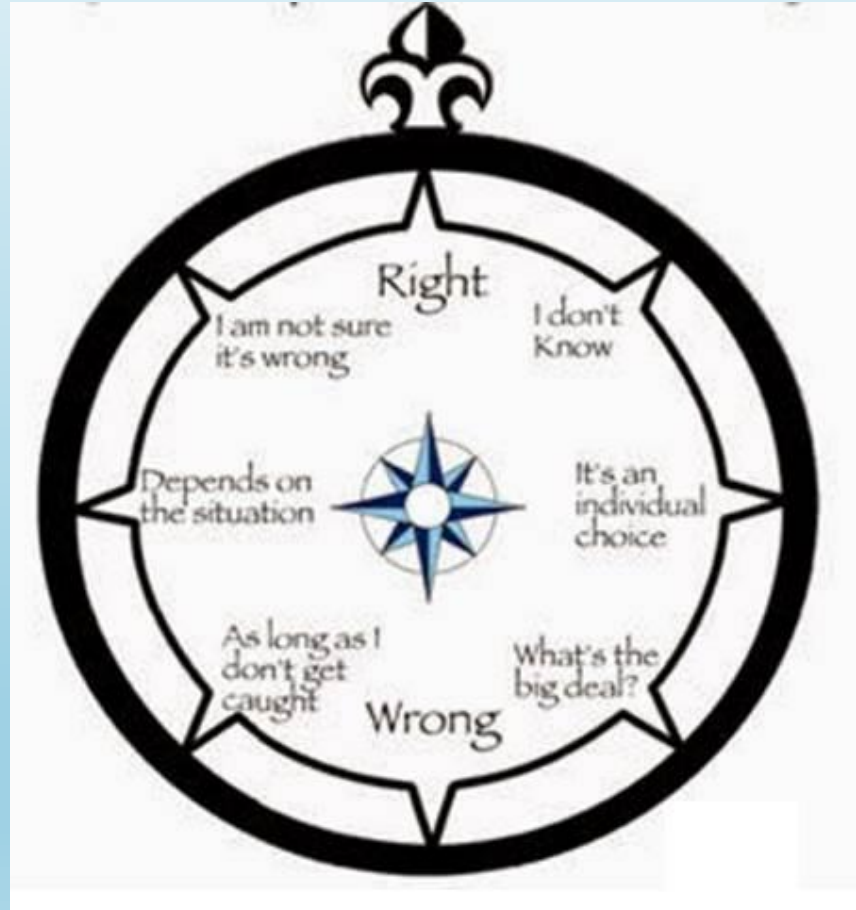


# Definitions – “*Ethical Conduct*”

## Subjective

What some but  
not all people  
consider to be  
morally good or  
correct.

English Oxford Living  
Dictionaries



## Objective

Avoids actions  
that cause harm  
to the  
environment.

English Oxford Living  
Dictionaries

# Are there Conservation Benefits from Hunting? -- Who Says So? (Not Just Hunters)

CITES: “[W]ell-managed and sustainable trophy hunting is consistent with and contributes to species conservation, as it provides both livelihood opportunities for rural communities and incentives for habitat conservation, and generates benefits which can be invested for conservation purposes.” *Resolution Conf. 17.9 – 1*

U.S. Congress: “[T]here is evidence that the proper utilization of well-managed elephant populations provides an important source of funding for African elephant conservation programs.” African Elephant Conservation Act, 16 U.S.C. §4202 (8).

U.K. Government: “The Government considers that properly managed, legal and sustainable trophy hunting can play a part in species conservation efforts, including by providing an important source of funding for conservation in some countries.” Rory Stewart, former Minister of Defra,

United Nations Environment Programme: “Well managed trophy hunting can benefit conservation in various ways *and may in some cases be the best option* to ensure the preservation of habitats, protection of species and the support of livelihoods.” Report prepared for European Commission, 2013 (emphasis added).

IUCN: “[H]unting can be a positive driver for conservation because it increases the value of wildlife and the habitats it depends on, providing critical benefit flows that can motivate and enable sustainable management approaches.” Briefing Paper, Informing Decisions on Trophy Hunting, April 2016, at 5.



# Are there Conservation Benefits from Hunting? -- Who Says So? (Not Just Hunters)

**WWF:** “When strict criteria are met, multi-pronged conservation strategies including trophy hunting enable communities to prioritize habitat and wildlife conservation over alternatives such as cattle raising and converting habitats for farming.” WWF and Trophy Hunting.

**TRAFFIC:** “The impact of these successes is clear, as trophy hunting continues to fund conservation action in Africa and contribute to the protection of species from extinction, and the provision of income to local communities.” Trophy hunting and the White Rhino.

**Save the Rhinos:** “[T]he reality is that rhino conservation is incredibly expensive and there are huge pressures for land and protective measures; field programmes that use trophy hunting as a conservation tool, can use funds raised to provide a real difference for the protection of rhino populations.”

**Report for the Born Free Foundation:** “While we would not advocate that BFF explicitly supports trophy hunting it should be noted that elimination of trophy hunting could possibly result in its replacement by livelihood activities that are even more damaging to predator and wildlife populations (subsistence agriculture or livestock raising).” Report prepared for Born Free Foundation by Drs. A.J. Loveridge and S. Canney, 2009.

# What Is Well Regulated Hunting?

Environmental principles of Namibia's Environmental Management Act of 2007, for example . . .

Renewable resources must be *used on a sustainable basis* for the benefit of present and future generations

*Community involvement in natural resources management* and the sharing of benefits arising from the use of the resources, must be promoted and facilitated

*The participation of all interested and affected parties* must be promoted and decisions must take into account the interest, needs and values of interested and affected parties

Equitable access to environmental resources must be promoted and the *functional integrity of ecological systems* must be taken into account to ensure the sustainability of the systems and to prevent harmful effects

*Assessments must be undertaken* for activities which may have a significant effect on the environment or the use of natural resources

*Sustainable development* must be promoted in all aspects relating to the environment

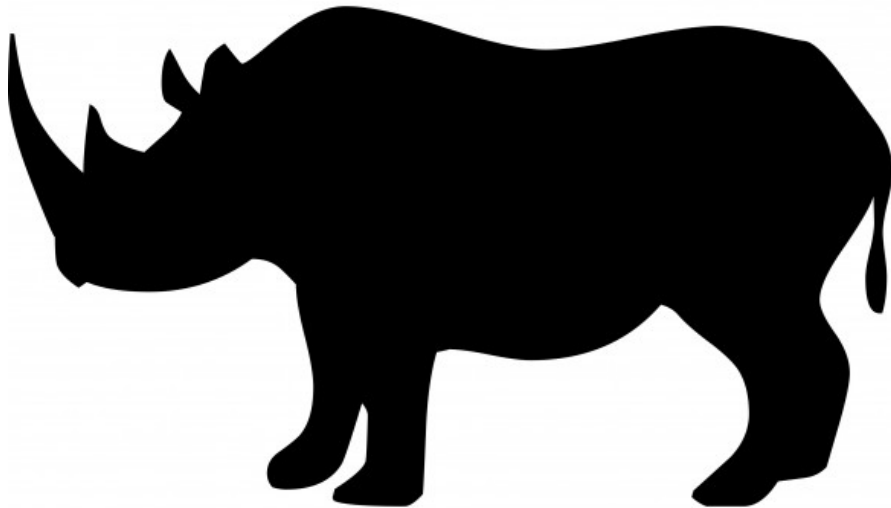
Namibia's cultural and natural heritage including, its *biological diversity*, must be *protected* and respected for the benefit of present and future generations

*The option that provides the most benefit or causes the least damage to the environment as a whole*, at a cost acceptable to society, in the long term as well as in the short term must be adopted to reduce the generation of waste and polluting substances at source

*The reduction, re-use and recycling of waste* must be promoted

*A person who causes damage to the environment must pay the costs associated* with rehabilitation of damage to the environment and to human health caused by pollution.

# Namibian Black Rhino Hunting



“In the case of Namibia’s black rhino hunts, all proceeds after expenses . . . go into an account within the [Namibian Game Products Trust Fund] *that can only be used for approved rhino conservation projects.*”

M. Knight and R. Emslie, Black rhino hunt: Why killing one bull is worth it for conservation, May 21, 2015.

# Is It Ethical Enough?

## Does the enjoyment of hunting make it less ethical?

- What if the same principles were applied to other forms of conservation and governments imposed laws that mandated that *all* acts that benefit conservation must be experienced without enjoyment?
- What if visits to zoos were restricted to those who hated going to the zoo? - What would the reduction in visitation do to the zoos' operating budgets and abilities to finance in situ conservation projects?
- What if wildlife management activities (e.g. lethal removal of problem animals) could not be conducted by individuals who enjoyed their jobs? *WildEarth Guardians v. Nat'l Park Serv.*, 703 F.3d 1178, 1192 (10th Cir. 2013).

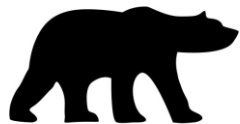






## Is It Ethical Enough?

Does the hunt become less ethical if the contribution is solely financial?



Is it a “pay to play” system or is it simply how governments finance wildlife and habitat management and conservation?

U.S. Federal Duck Stamp program requires each hunter to purchase a \$25.00 “stamp” to hunt waterfowl. 98 percent of the purchase price goes directly to help acquire and protect wetland habitat, 16 U.S.C. §§ 718-718j.

The U.S. Wildlife Restoration (Pittman-Robertson) Act imposes as 11% federal excise tax on firearms and ammunition that helps U.S. states pay for wildlife and habitat conservation, research etc. Together with a similar program for wild fish restoration, the program has resulted in \$20 billion for these purposes. 16 U.S.C. § 669-669i.

U.S. Marine Mammal Protection Act’s \$1000 fee for each legally harvested polar bear imported into the U.S. (between 1994-2008) resulted in almost \$1million exclusively for the development and implementation of cooperative research and management programs to conserve polar bears in Alaska and Russia. 16 U.S.C. § 1374.



**Is it Ethical Enough? – Should imperfections due to corruption and mismanagement serve as an excuse to reject the benefits?**

- “Widespread anecdotal reports indicate that regulatory weaknesses and illegal activities exist in the trophy-hunting sector in some countries, sometimes at a very serious scale and sometimes involving official corruption.” R. Cooney *et al.*, *The baby and the bathwater: trophy hunting, conservation and rural livelihoods*, *Unasylva*, Vol. 68, 2017/1.
- ***But* corruption and mismanagement follow the money – and infiltrate non-consumptive tourism as well.**
  - Phototourist geotagging has led poachers to protected wildlife;
  - “[C]orrupt governments frequently take a large cut of the profits from ecotourism, leaving little or none for local communities that are directly affected by the influx of visitors.” A. Woods, *Problems with Ecotourism*, *USA Today*, March 21, 2018.
- Non-consumptive tourism often causes harm to wildlife and habitats: “We conclude . . . that the majority (approximately two thirds to three quarters) of [non-consumptive] wildlife tourist attractions have negative welfare impacts on individual animals and on their taxon’s conservation status.” T. Moorhouse *et al.*, *The Customer Isn’t Always Right – Conservation and Animal Welfare Implications of the Increasing Demand for Wildlife Tourism*; *PLOS/ONE*, October 2015.

# An End to Trophy Hunting? – More Harm Than Benefit?

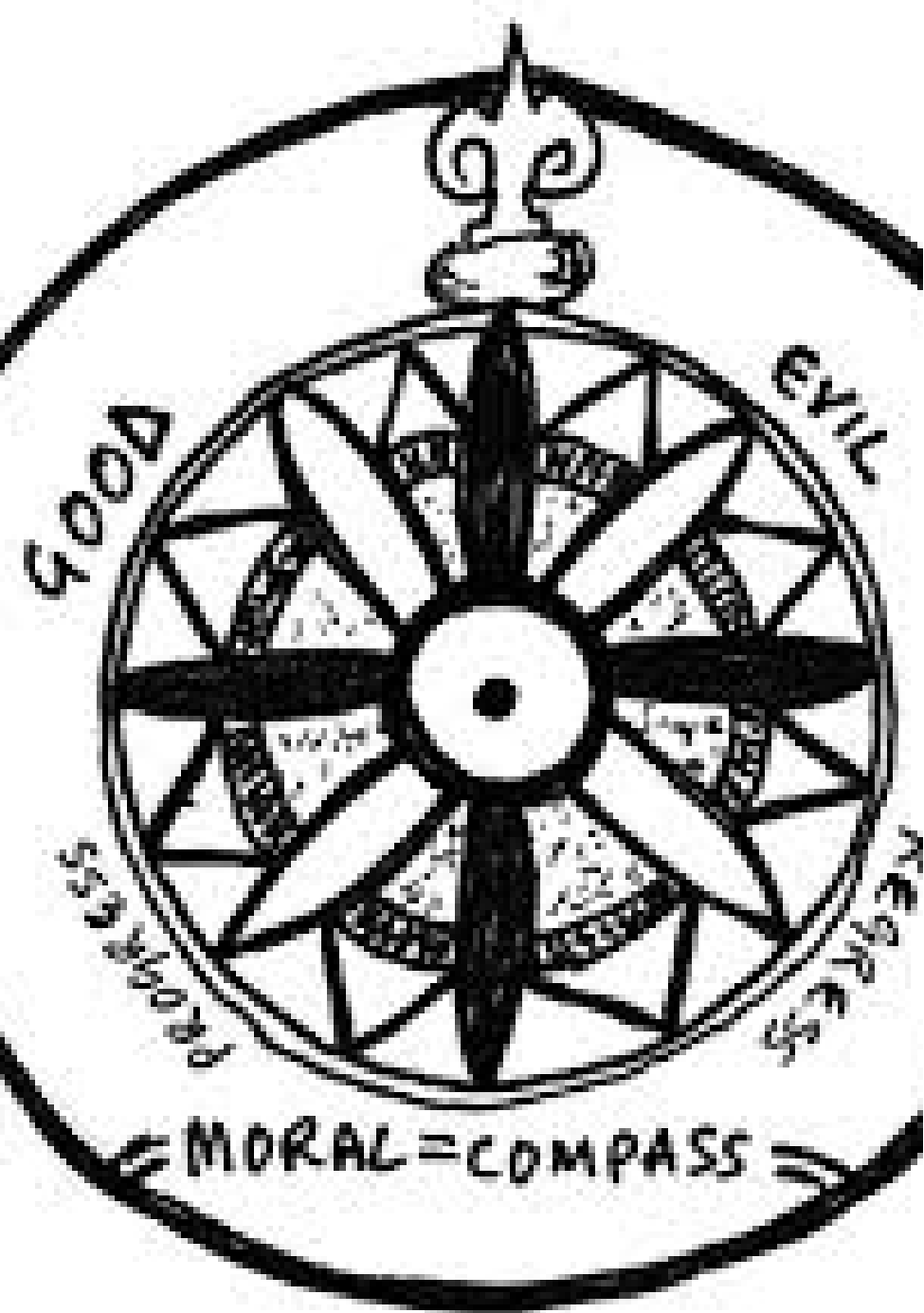


The IUCN: “Poorly targeted or blanket bans or restrictions affect both good and bad hunting practices. They are blunt instruments that risk undermining important benefits for both conservation and local livelihoods, *thus exacerbating rather than addressing the prevailing major threats* of habitat loss and poaching. Rather than bans on trophy hunting, poor practices could be improved by sustained engagement with and support for responsible national agencies to improve governance frameworks and on-the ground management.” Briefing Paper, Informing Decisions on Trophy Hunting, April 2016, at 2 (emphasis added).

Save the Rhinos: “Some have argued that – given the high numbers of rhinos being poached every year in South Africa – trophy hunting should be suspended, in order to prevent further (legal) depletion of overall rhino numbers.

We believe that *this will worsen the problem*, as private rhino owners lose a major source of income-generation, while protection costs increase, and believe that this will lead to disinvestment in rhinos, resulting in a reduction of land available for rhino conservation.

[https://www.savetherhino.org/assets/0001/7279/What\\_is\\_trophy\\_hunting.pdf](https://www.savetherhino.org/assets/0001/7279/What_is_trophy_hunting.pdf) (emphasis added).



# Time to Ask a Different Ethical Question

- If ethical behavior, as *objectively* defined, prohibits actions that harm the environment; and
- If “trophy hunting” provides some conservation benefits; and
- If the loss of “trophy hunting” would cause harm to programs currently benefitting wildlife and habitat conservation; then
- The question should not be “Is Trophy Hunting Ethical?”
- Instead it should be “Is it ethical to promote bans, restrictions and other forms of impediments to ‘trophy hunting’ and interfere with those who manage or engage in the practice?”





**Thank you**