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# Wild Animals and Justice: The Case of the Dead Elephant in the Room

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## 1. Introduction

Elephants, the largest terrestrial representatives of the animal kingdom, are high-order mammals with complex ethology and social dynamics, looming large both in natural landscapes and cultural settings in diverse locations.<sup>1</sup> Elephants are “wonderful or terrible, depending on where or who you are.”<sup>2</sup> Rupp and Hitchcock have noted that ideas about elephants persist in people’s imaginations and expressions, in children’s literature, and in commercial and political emblems.<sup>3</sup> Elephants rank alongside gorillas, pandas, tigers, and lions in their status as so-called flagship or iconic species.<sup>4</sup> In social sciences, human–elephant interaction has been studied through ethnozoology,<sup>5</sup> multispecies ethnography,<sup>6</sup> and ethnoelephantology.<sup>7</sup>

The cultural significance and social roles of elephants emphasized by anthropologists, cultural geographers, and political ecologists suggest that perceptions of elephants are neither uniform nor constant. Elephants are represented as at once religious figures (Ganesh, the elephant-god in India),<sup>8</sup> as political emblems (the

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<sup>1</sup> J. Lorimer, *Elephants as Companion Species: The Lively Biogeographies of Asian Elephant Conservation in Sri Lanka*, 35 *TRANSACTIONS OF THE INST. OF THE BRITISH GEOGRAPHERS* 491–506 (2010).

<sup>2</sup> D. Peterson, *Talking About Bushmeat*, in *IGNORING NATURE NO MORE: THE CASE FOR COMPASSIONATE CONSERVATION* 64–76 (M. Bekoff ed., 2013).

<sup>3</sup> S. Rupp & R. Hitchcock, *Elephant Engagements: Cultural Values, Ecological Roles, and Political Action*, Panel Presentation for American Anthropological Association (November 22, 2015) (transcript on file with author).

<sup>4</sup> See M. Barua, *Mobilizing Metaphors: The Popular Use of Keystone, Flagship and Umbrella Species Concepts*, 20 *BIODIVERSITY & CONSERVATION*, 1427–1440 (2011); M. Barua, S.A. Bhagwat, & S. Jadhav, *The Hidden Dimensions of Human–Wildlife Conflict: Health Impacts, Opportunity and Transaction Costs*, 157 *BIOLOGICAL CONSERVATION* 309–316 (2013); S. Jadhav & M. Barua, *The Elephant Vanishes: Impact of Human–Elephant Conflict on People’s Wellbeing*, 18 *HEALTH & PLACE* 1356–1365 (2012); D. Verissimo, T. Pongiluppi, M.C.M. Santos, P.F. Develey, I. Fraser, R.J. Smith, & D.C. MacMilan, *Using a Systematic Approach to Select Flagship Species for Bird Conservation*, 28 *CONSERVATION BIOLOGY* 269–277 (2014).

<sup>5</sup> K. Mackenzie & P. Locke, *Ethnozoology of Human Elephant Relations*, *INT’L SOC’Y OF ETHNOBIOLOGY NEWSL.* 1–4 (2012).

<sup>6</sup> L.A. Ogden, B. Hall, & K. Tanita, *Animals, Plants, People, and Things: A Review of Multispecies Ethnography*, 4 *ENV’T & SOC’Y: ADVANCES IN RES.* 5–24 (2013).

<sup>7</sup> P. Locke, *Explorations in Ethnoelephantology: Social, Historical, and Ecological Intersections Between Asian Elephants and Humans*, 4 *ENV’T & SOC’Y: ADVANCES IN RES.* 79–97 (2013).

<sup>8</sup> See *Ganesh*, *NEW WORLD ENCYCLOPAEDIA*, <http://www.newworldencyclopedia.org/entry/Ganesh> (last visited June 3, 2016) (discussing the iconography of the god Ganesh).

Republican Party in the United States),<sup>9</sup> as faithful laborers to loggers,<sup>10</sup> and as sources of coveted ivory.<sup>11</sup> In Africa, for example, the cultural meanings and ecological agency of elephants vary from southern African countries, where elephants pose threats to agricultural fields, to eastern Africa, where elephants provide an important source of international revenue from tourism, and to central Africa, where elephants play a pivotal role in cultural cosmology and yet are under severe pressure from international ivory syndicates.<sup>12</sup>

Despite human fascination with these charismatic megafauna,<sup>13</sup> recent decades have seen elephant numbers decline worldwide because of destruction of habitat and poaching.<sup>14</sup> The Secretariat for the Convention on International Trade in Endangered Species of Wild Fauna and Flora (“CITES”),<sup>15</sup> an international treaty that regulates trade in wild flora and fauna, estimated that more than 25,000 elephants were poached in Africa 2011.<sup>16</sup> Central Africa has lost more than half of its elephants in the last decade.<sup>17</sup> Continuous elephant slaughter resulted in the violent death of 60 percent of the elephant population in Tanzania in the last five years, as documented in the Great Elephant Census.<sup>18</sup>

Another trend is evident in the increased abuse of elephants as objects of entertainment, from circuses to zoos to street shows. While there is much debate about the role of elephants in zoos and circuses in some countries,<sup>19</sup> the scale of elephant abuse is global. The elephants used in the tourism industry in Thailand, for example, are subjected to “sleep-deprivation, hunger, and thirst to ‘break’ the elephants’ spirit and make them submissive to their owners,” with some handlers driving nails into the elephants’ ears and feet.<sup>20</sup>

Another source of abuse comes from a traditional practice known as *phajaan*, a technique used for centuries to domesticate wild elephants in the Karen province of

<sup>9</sup> See Jimmy Stamp, *Political Animals: Republican Elephants and Democratic Donkeys*, SMITHSONIAN (October 23, 2012), <http://www.smithsonianmag.com/arts-culture/political-animals-republican-elephants-and-democratic-donkeys-89241754/?no-ist> (explaining the origin and use the Republican elephant).

<sup>10</sup> T.T.C. Lin, *Cross-Platform Framing and Cross-Cultural Adaptation: Examining Elephant Conservation in Thailand*, 6 ENVTL. COMM. 193–211 (2012).

<sup>11</sup> Rupp & Hitchcock, *supra* note 3.

<sup>12</sup> *Id.*

<sup>13</sup> P. Waldau, *Venturing beyond the Tyranny of Small Differences: The Animal Protection Movement, Conservation, and Environmental Education*, in IGNORING NATURE NO MORE: THE CASE FOR COMPASSIONATE CONSERVATION, *supra* note 2, at 27–44.

<sup>14</sup> K. H. Fitzgerald, *The Silent Killer: Habitat Loss and the Role of African Protected Areas to Conserve Biodiversity*, in PROTECTING THE WILD: PARKS AND WILDERNESS, THE FOUNDATION FOR CONSERVATION 170–188 (G. Wuerthner, E. Crist, & T. Butler eds., 2015); A.R.E. SINCLAIR, SERENGETI STORY: LIFE AND SCIENCE IN THE WORLD’S GREATEST WILDLIFE REGION (2014).

<sup>15</sup> March 3, 1973, 27 U.S.T. 1087, 993 U.N.T.S. 243.

<sup>16</sup> Fitzgerald, *supra* note 14.

<sup>17</sup> B. Scriber, *100,000 Elephants Killed by Poachers in Just Three Years, Landmark Analysis Finds*, NAT. GEO. (August 18, 2014), <http://news.nationalgeographic.com/news/2014/08/140818-elephants-africa-poaching-cites-census/>.

<sup>18</sup> *Great Elephant Census*, THE PAUL G. ALLEN FAM. FOUND., <http://www.greatelephantcensus.com/> (last visited June 10, 2016).

<sup>19</sup> J.P. Cohn, *Do Elephants Belong in Zoos?*, 56 BIOSCIENCE 714–717 (2006), available at <http://bioscience.oxfordjournals.org/content/56/9/714.full>; M. Cronin, *Necropsy Reveals Disturbing Death of Seattle Zoo Elephant*, THE DODO (October 8, 2014), <https://www.thedodo.com/zoo-elephant-watoto-death-754793660.html>; J.C. Schaul, *Elephants in Captivity: A Perspective from Former AZA Director/William Conway Chair of Conservation & Science*, NAT. GEO. (May 5, 2013), <http://voices.nationalgeographic.com/2013/05/05/elephants-in-captivity-a-perspective-from-former-aza-directorwilliam-conway-chair-of-conservation-science>.

<sup>20</sup> J. Hile, *Activists Denounce Thailand’s Elephant “Crushing” Ritual*, NAT. GEO. TODAY (October 16, 2002), [http://news.nationalgeographic.com/news/2002/10/1016\\_021016\\_phajaan.html](http://news.nationalgeographic.com/news/2002/10/1016_021016_phajaan.html).

Thailand.<sup>21</sup> It involves “crushing” a young elephant’s spirit in order to domesticate it, in the belief that establishing domination through torture is the only way to make the animal tame.

The phajaan is a centuries old training method used to break an elephant’s spirit. It involves separating a baby elephant from its mother (which alone is extremely traumatic), at around 4 years of age, and placing it in a cage like structure called a training crush. The goal is to literally crush their independence and make them forever submissive to humans. The cage is just big enough for the elephant to fit inside it and it is tied up with ropes so it can’t escape. The elephant is then beaten by multiple men and stabbed repeatedly with sticks that have sharp nails attached to them. This intense beating lasts for 4–7 days. Throughout this period of “training” they are deprived of food and water and subjected to sleep deprivation to heighten the trauma. The more the elephant struggles, the more severely it is beaten. They get stabbed repeatedly in the most sensitive parts of their bodies—their inner ears and eyes. Some elephants go blind from this abuse. Throughout the phajaan the infant is petrified, confused, in pain and in the end, broken.<sup>22</sup>

Elephants in zoos, while treated better, are sometimes euthanized because they become too costly for zoo management due to illness or old age.<sup>23</sup> Researchers at the Royal Society for the Prevention of Cruelty to Animals (“RSPCA”) compiled data on over 4,500 African and Asian elephants over 45 years in European zoos and compared their lifespans with the median life expectancy of elephants in preserves in their home countries. The study showed that African elephants can expect to live 36 years in Kenya’s Amboseli National Park, more than double the 17-year life span of zoo elephants.<sup>24</sup> The elephants in protected areas of Africa and Asia live more than twice as long as those in European zoos.<sup>25</sup>

Since “politicized moral discourses ... are inevitably at the heart of all conservation projects,”<sup>26</sup> elephants have also served as catalysts of a moral debate about elephant conservation and welfare. Yet discussion of the abuses is hard to find in the work of scholars who describe elephants as companion species or “boundary objects,”<sup>27</sup> embracing narratives of “mutual ecologies.”<sup>28</sup> In the case of expert animal handlers at a Nepalese elephant breeding center, elephants are described as “divine, human-like persons,” although little is said about how they “collude in their captivity.”<sup>29</sup> In social science, the emphasis is often placed on social and cultural interpretations of interactions between elephants and people and on cosmological

<sup>21</sup> Pipa, *Elephant Cruelty in Thailand*, ALTERNATIVE WAY (April 6, 2013), <http://www.alternativeway.net/blogs/activism-stories-from-the-web-worth-reading/7644599-elephant-cruelty-in-thailand>.

<sup>22</sup> *Id.*

<sup>23</sup> B. Borrell, *How Zoos Kill Elephants*, SCI. AM. (December 11, 2008), <http://www.scientificamerican.com/article/how-zoos-kill-elephants/>; Cronin, *supra* note 19.

<sup>24</sup> Borrell, *supra* note 23.

<sup>25</sup> M. Mott, *Wild Elephants Live Longer Than Their Zoo Counterparts*, NAT. GEO. NEWS (December 11, 2008), <http://news.nationalgeographic.com/news/2008/12/081211-zoo-elephants.html>.

<sup>26</sup> R. L. Bryant, *Politicized Moral Geographies: Debating Biodiversity Conservation and Ancestral Domain in the Philippines*, 19 POL. GEOGRAPHY 673, 678 (2000).

<sup>27</sup> Lorimer, *supra* note 1.

<sup>28</sup> A. Fuentes, *Natural Cultural Encounters in Bali: Monkeys, Temples, Tourists, and Ethnoprimatology*, 25 CULTURAL ANTHROPOLOGY 600–624 (2010).

<sup>29</sup> P. Locke, *The Ethnography of Captive Elephant Management in Nepal: A Synopsis*, 34 GAJAH 32, 36 (2011).

and terminological dilemmas,<sup>30</sup> rather than on the abuse, domination, and violence inflicted by hunters, poachers, or zookeepers and circus trainers.

This article focuses on engagements with elephants in diverse contexts, inquiring why some scholars are indifferent or even actively opposed to discourses that emphasise elephant suffering. In order to address this question, this article will explore three interrelated streams within social science: one that criticises conservation as an elitist, neo-colonial enterprise;<sup>31</sup> one that is preoccupied with the social construction and cultural interpretation of natural phenomena;<sup>32</sup> and a third sometimes referred to as the new conservation science that focuses on economic valuations of the benefits of nature,<sup>33</sup> viewing “nature as a warehouse for human use.”<sup>34</sup>

Embedded in each of these “moral narratives” are assumptions about the proper relationships that ought to obtain between people, on the one hand, and the environment and other species, on the other hand.<sup>35</sup> The argument here is that all these streams of thought and research rest on an exclusively anthropocentric ethics. The article then juxtaposes these established narratives with three alternative strands of non-anthropocentric ethics: the land ethic, deep ecology, and animal liberation.

## 2. The causes and consequences of elephant decline

One of the consequences of habitat appropriation by a growing human population is decreased connectivity between natural areas. This exacerbates competition for land and resources that has already put humans and elephants in conflict with one another.<sup>36</sup> In India, according to the report of a task force appointed by the Ministry of Environment and Forests, the geographic range of elephants has dwindled by 70 percent since the 1960s.<sup>37</sup> The loss of forest cover since the 1950s has been

<sup>30</sup> P. Locke, *The Anomalous Elephant: Terminological Dilemmas and the Incalculant Domestication Debate*, 41 GAJAH 12–19 (2014).

<sup>31</sup> D. BROCKINGTON, R. DUFFY & J. IGOE, NATURE UNBOUND: CONSERVATION, CAPITALISM AND THE FUTURE OF PROTECTED AREAS (2008); B. Büscher & M. Ramutsindela, *Green Violence: Rhino Poaching and the War to Save Southern Africa's Peace Parks*, 115 AFRICAN AFF. 1–22 (2016); R. Duffy, *Waging a War to Save Biodiversity: The Rise of Militarised Conservation*, 90 INT'L AFF. 819–834 (2014); J. Igoe & D. Brockington, *Neoliberal Conservation: A Brief Introduction*, 5 CONSERVATION & SOC'Y 432–449 (2007); N.L. Peluso, *Coercing Conservation: The Politics of State Resource Control*, 3 GLOBAL ENVTL. CHANGE 199–217 (1993); S. Sullivan, *The Elephant in the Room? Problematizing 'New' (Neoliberal) Biodiversity Conservation*, 33 FORUM FOR DEV. STUD. 105–135 (2006); D. Ojeda, *Green Pretexts: Ecotourism, Neoliberal Conservation and Land Grabbing in Tayrona National Natural Park, Colombia*, 39 J. OF PEASANT STUD. 357–375 (2012).

<sup>32</sup> T. Dunkel, *Can We Move Beyond Man vs. Nature?*, NAT. CONSERVATION MAG. 32–45 (2011); A. Escobar, *Constructing Nature: Elements for a Post-Structuralist Political Ecology*, in LIBERATION ECOLOGIES 46–68 (Richard Peet & Michael Watts eds., 1996); R. FLETCHER, ROMANCING THE WILD: CULTURAL DIMENSIONS OF ECOTOURISM (2014); Fuentes, *supra* note 28; Locke, *supra* note 30.

<sup>33</sup> K. THOMPSON, DO WE NEED PANDAS?: THE UNCOMFORTABLE TRUTH ABOUT BIODIVERSITY (2010); B. HARING, PLASTIC PANDAS (2011); P. Kareiva, R. Lalasz, & M. Marvier, *Conservation in the Anthropocene: Beyond Solitude and Fragility*, BREAKTHROUGH J., 27–29 (2011); M. Marvier, *A Call for Ecumenical Conservation*, 17 ANIMAL CONSERVATION 518–519 (2014).

<sup>34</sup> B. Miller, M.E. Soulé, & J. Terborgh, “*New Conservation*” or *Surrender to Development?*, 17 ANIMAL CONSERVATION 509, 509 (2014).

<sup>35</sup> R. Witter, *Elephant-Induced Displacement and the Power of Choice: Moral Narratives and Conservation Related Resettlement in Mozambique's Limpopo National Park*, 11 CONSERVATION & SOC'Y 406–419 (2013).

<sup>36</sup> T. Milliken & L. Sangalakula, *ETIS Update Number Two: Progress in the Implementation of the Elephant Trade Information System*, 46 PACHYDERM 53–55 (2009); E. MARTIN & L. VIGNE, THE IVORY DYNASTY: A REPORT ON THE SOARING DEMAND FOR ELEPHANT AND MAMMOTH IVORY IN SOUTHERN CHINA (2011).

<sup>37</sup> B. Mohanty, *Elephants Face Jumbo Problems in India*, ALJAZEERA (February 7, 2013), <http://www.aljazeera.com/indepth/features/2013/02/20132772531808802.html>.

especially severe, probably reducing the habitat that is eminently suitable for elephants in India by more than half.<sup>38</sup> This is significant in light of the estimate by Chartier et al. that human–elephant conflict in India escalates appreciably when the loss of forest cover passes a critical 30–40 percent tipping point.<sup>39</sup> The impact of these changes can be seen clearly in analyses of human–elephant conflict due to crop raiding by the Asian elephant in the Sonitpur District of Northeast India, a region that is home to more than 10,000 wild elephants, or about 25 percent of the world’s Asian elephant population, and a place therefore where the nexus between increasing human populations and threatened wild habitats is dramatic.<sup>40</sup> The impacts of conflict are further compounded by the increasing wildlife crime attributable to elephants being poached for their ivory tusks. Moreover, every poaching event skews the sex ratio, which constrains breeding rates for the species and makes elephants more mistrustful and defensive vis-à-vis humans.<sup>41</sup>

The African elephant is under threat where human–animal conflict provokes retaliation killing by local community members in response to harvest damage. Mariki et al. describe an incident in Engare Nairobi, Tanzania, where a large group of local people chased elephants with the aid of torches, motorcycles, fire, and noise towards a cliff, from which elephants fell to their deaths, attributing this to local people’s feeling of being marginalized and disempowered.<sup>42</sup> But such conflict is more generally due to the shrinking of protected areas, which locks elephants into fragmented habitats bordering on cultivated land.<sup>43</sup> The same decline in the connectivity of protected areas also reduces the gene flow between elephant populations and facilitates poaching for the illegal ivory trade.<sup>44</sup>

Ivory has historically been valued in Europe and in the United States as a source of novelty artefacts and status symbols, as well as highly sought after at present as a source of alternative medicine in East Asia, particularly in China.<sup>45</sup> Despite the United for Wildlife Initiative and the London Declaration intended to implement an effective ban on international commercial trade in ivory, the ivory trade proceeds at an accelerated pace.<sup>46</sup> In the United States, because of variations in state laws, legal loopholes allow those who owned ivory before 1989 to continue selling it legally, encouraging wildlife criminals to pass off recently poached ivory as pre-ban carvings and jewelry.<sup>47</sup> How are the issues of elephant welfare and endangered elephant population addressed in the social science of conservation?

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<sup>38</sup> A. Choudhuri, *Human–Elephant Conflicts in Northeast India*, 9 HUMAN DIMENSIONS OF WILDLIFE 261, 263 (2004).

<sup>39</sup> L. Chartier, A. Zimmermann, & R. J. Ladle, *Habitat Loss and Human–Elephant Conflict in Assam, India: Does a Critical Threshold Exist?*, 45 ORYX 528–533 (2011).

<sup>40</sup> Choudhuri, *supra* note 38.

<sup>41</sup> World Wildlife Fund, *Asian Elephant: Indian Elephant*, <https://www.worldwildlife.org/species/indian-elephant> (last visited June 6, 2016).

<sup>42</sup> S.B. Mariki et al., *Elephants over the Cliff: Explaining Wildlife Killings in Tanzania*, 44 LAND USE POL’Y 19 (2015).

<sup>43</sup> T. Caro, *Conservation in the African Anthropocene*, in PROTECTING THE WILD: PARKS AND WILDERNESS, THE FOUNDATION FOR CONSERVATION, *supra* note 14, at 164.

<sup>44</sup> *Id.*

<sup>45</sup> Caro, *supra* note 43; Fitzgerald, *supra* note 14; SINCLAIR, *supra* note 14.

<sup>46</sup> SINCLAIR, *supra* note 14.

<sup>47</sup> World Wildlife Fund, *Ivory Crush in New York City: US Destroyed More than One Ton of Ivory in Times Square Today* (June 19, 2015), <https://www.worldwildlife.org/stories/ivory-crush-in-new-york-city>.

### 3. Conservation critique

Despite the evidently adverse impacts on elephants attributable to expanding human settlement, poaching, and abuse, some researchers have focused on the social, cultural, and economic aspects of human–elephant relations, emphasizing the human victimhood in human–elephant conflict.<sup>48</sup> Some have even called for the decriminalization of poaching on the grounds that it is a form of traditional culture and that strict controls on it could be viewed as inhumane.<sup>49</sup>

Environmental justice proponents have argued that the creation of protected areas infringes on human or indigenous rights, claiming that Western environmental nongovernmental organizations (ENGOS) perpetuate a form of neo-colonial control over the developing world.<sup>50</sup> Conservation is thus linked to “green violence” and “green grabbing,”<sup>51</sup> by which Western elites supposedly marginalize local communities using “green pretexts of paradisiacal spots in need of protection.”<sup>52</sup> Baxter connects this to a notion of environmental justice that is defined strictly in terms of human entitlements to environmental risks and benefits.<sup>53</sup> Human–wildlife conflicts are then described in terms of the detrimental effects they have on humans rather than on wildlife.<sup>54</sup> This is the context in which Duffy and Büscher and Ramutsindela have proposed the decriminalisation of poaching, which they see as hunting undertaken as a traditional cultural activity.<sup>55</sup>

Sullivan suggests that one of the other great dangers of conservation is the profit-driven neoliberalism that sells nature as a commodity.<sup>56</sup> This tendency to commodify nature is explicitly endorsed in the new conservation science,<sup>57</sup> which has as its ultimate goal the realization of conservation as the “better management of nature for human benefit.”<sup>58</sup> This highly instrumental view of nature is usually intertwined with a form of philosophical constructivism, which assumes that wilderness and endangered species are social constructs.<sup>59</sup> The broader argument is that Western neo-colonial and neoliberal elites and celebrities<sup>60</sup> use idyllic views of nature and intrinsic value argument for their own benefit.<sup>61</sup> The critics of conservation want this intrinsic value discourse abandoned, and, with it, what they see as a false dichotomy between anthropocentric and ecocentric values.<sup>62</sup> In the argument that follows, I contest these claims.

<sup>48</sup> Mariki et al., *supra* note 42; Jadhav & Barua, *supra* note 4; Barua, *supra* note 4.

<sup>49</sup> See, e.g., Büscher & Ramutsindela, *supra* note 31; Duffy, *supra* note 31.

<sup>50</sup> Büscher & Ramutsindela, *supra* note 31; Fletcher, *supra* note 32; D. Brockington, *Powerful Environmentalisms: Conservation, Celebrity, and Capitalism*, 30 MEDIA CULTURE & SOC'Y 551 (2002).

<sup>51</sup> See, e.g., Fletcher, *supra* note 32; BROCKINGTON, DUFFY & IGOE, *supra* note 31; Igoe & Brockington, *supra* note 31; Sullivan, *supra* note 31; Peluso, *supra* note 31.

<sup>52</sup> Ojeda, *supra* note 31, at 357.

<sup>53</sup> B. Baxter, *A Theory of Ecological Justice*, in ROUTLEDGE RESEARCH IN ENVIRONMENTAL POLITICS (2005).

<sup>54</sup> See, e.g., Barua, Bhagwat & Jadhav, *supra* note 4; Locke, *supra* note 7.

<sup>55</sup> Büscher & Ramutsindela, *supra* note 31; Duffy, *supra* note 31.

<sup>56</sup> Sullivan, *supra* note 31.

<sup>57</sup> Marvier, *supra* note 33; Kareiva, Lalasz & Marvier, *supra* note 33.

<sup>58</sup> Dunkel, *supra* note 32 (quoting Marvier).

<sup>59</sup> Fletcher, *supra* note 32; Escobar, *supra* note 32.

<sup>60</sup> Brockington, *supra* note 50.

<sup>61</sup> Marvier, *supra* note 33.

<sup>62</sup> See, e.g., Fletcher, *supra* note 32; Marvier, *supra* note 33; Kareiva, Lalasz, & Marvier, *supra* note 33.

#### 4. Anthropocentric bias

Over the long course of human history, supposedly inferior humans and wild nature have both been displaced or relegated to the fringes of earthly landscapes and human mindscapes.<sup>63</sup> This displacement serves to place elements of wild nature or savage humans into a category of otherness separated by a gaping and hierarchically ordered chasm. The putatively superior human races are seen to possess the capacity for reason, morality, civilization, technology, and free will—all qualities that have been regarded as lacking in animals or inferior races or minority groups.<sup>64</sup> This same displacement also made it permissible for nature to be exploited as a means for human betterment.

The anti-conservationists rarely tackle “either the broader distribution of poverty or its root social causes; rather, strictly protected areas are scapegoated and wild nature, once again, is targeted to take the fall for the purported betterment of people, while domination and exploitation of nature remain unchallenged.”<sup>65</sup> Dismissing any concerns about nonhumans’ lives seems to serve this imperialist function, similar to that of past slave owners. In the words of Spiegel:

Comparing the suffering of animals to that of blacks (or any other oppressed group) is offensive only to the speciesist: one who has embraced false notions of what animals are like. Those who are offended by comparison to a fellow sufferer have unquestioningly accepted the biased worldview presented by the masters. To deny our similarities to animals is to deny and undermine our own power. It is to continue actively struggling to prove to our masters, past or present, that we are *similar to those who have abused us*, rather than to our fellow victims, those whom our masters have also victimized.<sup>66</sup>

Conservation critics often imitate the neoliberal discourses by speaking about wildlife in terms of carrying capacity, natural resources, and the economic benefits of exploitation.<sup>67</sup> Elephants, “too social and sagacious to be resource” and yet “too strange to be human,” thus become commodified and objectified, as slaves once were.<sup>68</sup> Duffy et al. have argued that, in the light of shifting economic circumstances in developing countries, wildlife poaching and trafficking may not warrant the sort of moral opprobrium usually accorded to them.<sup>69</sup> It is also implied that any traditional practices governing relations between humans and elephants ought to be tolerated and perhaps even encouraged.

Speaking of elephant conservation as an asset or as a burden for local communities ignores the imbalances created by the expansion of industrial development and

<sup>63</sup> E. Crist & H. Kohnina, *Unsettling Anthropocentrism*, 38 DIALECTICAL ANTHROPOLOGY 387 (2014).

<sup>64</sup> *Id.*

<sup>65</sup> E. Crist, *I Walk in the World to Love It*, in PROTECTING THE WILD: PARKS AND WILDERNESS, THE FOUNDATION FOR CONSERVATION, *supra* note 14, at 82, 93.

<sup>66</sup> M. SPIEGEL, THE DREADED COMPARISON: HUMAN AND ANIMAL SLAVERY 1, 30 (Mirror Books ed., 1996).

<sup>67</sup> Marvier, *supra* note 33; B.B. Walters, *Do Property Rights Matter for Conservation? Family Land, Forests and Trees in St. Lucia, West Indies*, 40 HUMAN ECOLOGY 863 (2012).

<sup>68</sup> Lorimer, *supra* note 1.

<sup>69</sup> R. Duffy et al., *The Militarization of Anti-Poaching: Undermining Long Term Goals?*, 42 ENVTL. CONSERVATION 345 (2015).



population growth.<sup>70</sup> In talking about local economic inequalities that result from conservation policies, the critics of conservation turn away from the larger forces at work, such as an “insatiably hungry energy regime that has no regard for nature or culture, transnational resource trading without accountability, economic systems that disregard ecosystems, and fickle but ravenous consumer desires. These forces conspire not just against the poor [who live near protected areas] but also against wild places [themselves].”<sup>71</sup> The conservation struggle, then, is not just between the ENGO conservation elites and poor communities in developing countries, as some conservation critics imply. It is also between the larger forces of industrialism.

Community-level participation is often essential to the success of conservation.<sup>72</sup> However, attempts to promote community-based conservation and the local economic value of conservation are constrained by the same utilitarian moral narrative that drives these larger forces of industrial development.<sup>73</sup> Conservation is still contingent on the contribution it makes to human welfare, and that brings certain risks.<sup>74</sup>

Another consideration is demographic. While the earlier evidence of hominid interaction with mammoths, elephants’ predecessors, is found in the archaeological and paleontological records,<sup>75</sup> and there is evidence of early human hunting,<sup>76</sup> the present-day interaction is characterized by skewed demographics of growing human and declining elephant populations. As Choudhuri has phrased it, human population growth must be addressed before any permanent solutions to human–elephant conflict can be reached.<sup>77</sup> While the human population issue is a complete taboo for conservation critics who tend to evoke high moral narrative to frame those concerned with population as—once again—misanthropic elitists and even racists,<sup>78</sup> the collective human responsibility towards other species needs to be considered. In fact, the war in conservation is often not between the greedy elites and impoverished populations but between well-organized and heavily armed poachers, using equipment ranging from helicopters to advanced weaponry and often operating as part of international criminal cartels, and those who are trying to protect the most vulnerable human and nonhuman communities.<sup>79</sup>

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<sup>70</sup> M. van Damme et al., *Global Distributions and Trends of Atmospheric Ammonia (NH<sub>3</sub>) from IASI Satellite Observations*, 13 *ATMOSPHERIC CHEMISTRY & PHYSICS* 24301 (2014); W.F. Laurence et al., *Agricultural Expansion and Its Impacts on Tropical Nature*, 29 *TRENDS IN ECOLOGY & EVOLUTION* 107 (2014).

<sup>71</sup> E. Wakild, *Parks, People, and Perspectives: Historicizing Conservation in Latin America*, in *PROTECTING THE WILD: PARKS AND WILDERNESS*, THE FOUNDATION FOR CONSERVATION, *supra* note 14, at 41, 52.

<sup>72</sup> P. BROSIUS, A. TSING & C. ZERNIER, *COMMUNITIES AND CONSERVATION: HISTORIES AND POLITICS OF COMMUNITY-BASED NATURAL RESOURCE MANAGEMENT* (2005); P. Brosius, *Green Dots, Pink Hearts: Displacing Politics from the Malaysian Rain Forest*, 101 *AM. ANTHROPOLOGIST* 36 (1999).

<sup>73</sup> Witter, *supra* note 35.

<sup>74</sup> E. Shoreman-Ouimet & H. Kopnina, *Reconciling Ecological and Social Justice to Promote Biodiversity Conservation*, 184 *BIOLOGICAL CONSERVATION* 320 (2015).

<sup>75</sup> Rupp & Hitchcock, *supra* note 3.

<sup>76</sup> J. RICHARDS, *THE WORLD HUNT: AN ENVIRONMENTAL HISTORY OF THE COMMODIFICATION OF ANIMALS* (2014).

<sup>77</sup> Choudhuri, *supra* note 38, at 261–270.

<sup>78</sup> FLETCHER, *supra* note 32.

<sup>79</sup> J. Goodall, *Caring for People and Valuing Forests in Africa*, in *PROTECTING THE WILD: PARKS AND WILDERNESS*, THE FOUNDATION FOR CONSERVATION, *supra* note 14, at 21–26.

It is one thing to claim that the militarization of conservation to combat poaching is not really going to help conservation,<sup>80</sup> but it is a very different thing to assert that counter-wildlife crime efforts are per se immoral, unjust, and generally anti-human.<sup>81</sup> While conservationists and animal rights activists are branded as radical,<sup>82</sup> misanthropic,<sup>83</sup> and even criminal,<sup>84</sup> human responsibility towards non-humans is left entirely out of moral consideration. In real terms, the distinction between poachers, traditional hunters, and the retaliation killing of elephants by local communities is blurred, with the distinct possibility that a soft approach to conservation and wildlife law enforcement will essentially be unable to prevent mass slaughter.<sup>85</sup> If poaching or traditional hunts are not counteracted, then it is likely that before too long there will be no elephants left in the wild. In the expanding Anthropocene, elephants simply have nowhere to go.

## 5. The land ethic, deep ecology, and animal liberation

The land ethic, developed by Aldo Leopold,<sup>86</sup> embraced an intrinsic value system in which, to paraphrase, something is right when it preserves the integrity, stability, and beauty of biotic communities and wrong when it does otherwise. Leopold's land ethic thus highlighted the value of restoring natural processes to the greatest degree possible, not just for the sake of humans but also because nature has intrinsic value.

Also recognising intrinsic value, deep ecology, described by Arne Naess,<sup>87</sup> builds from the assumption that all life has inherent worth and that all human communities are supported by their surrounding ecosystems or biotic communities. It differs from shallow ecology, in which people care about the environment only insofar as it serves them. While it is eco-centric, the position of deep ecology is that humanity is also part of the biosphere and, therefore, needs to reinvent its relationships with nature. "Instead of entrenching the domination of nature to secure civilization's future—and today extending the reaches of exploitation into genes and cells, biosphere-scale engineering and manipulation, and the final takeover of wild places—the biocentric standpoint advocates reinventing ourselves as members of the biosphere."<sup>88</sup>

Since humans depend completely on earth's ecosystems and their services, such as "clean air, food, water, disease management, climate regulation, spiritual fulfilment,

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<sup>80</sup> R. Duffy, *Waging a War to Save Biodiversity: The Rise of Militarised Conservation*, 90 INT'L AFF. 819–834 (2014).

<sup>81</sup> *Id.*; Büscher & Ramutsindela, *supra* note 31.

<sup>82</sup> D.R. LIDDICK, *ECO-TERRORISM: RADICAL ENVIRONMENTAL AND ANIMAL LIBERATION MOVEMENTS* (2006).

<sup>83</sup> M. Marvier, *A Call for Ecumenical Conservation*, 17 ANIMAL CONSERVATION 518–519 (2014).

<sup>84</sup> G. WENZEL, *ANIMAL RIGHTS, HUMAN RIGHTS: ECOLOGY, ECONOMY AND IDEOLOGY IN THE CANADIAN ARCTIC* (1991).

<sup>85</sup> SINCLAIR, *supra* note 14; A.R.E. Sinclair, *Protected Areas Are Necessary for Conservation*, in *PROTECTING THE WILD: PARKS AND WILDERNESS, THE FOUNDATION FOR CONSERVATION*, *supra* note 14.

<sup>86</sup> A. LEOPOLD, *A SAND COUNTY ALMANAC* (1949).

<sup>87</sup> A. Naess, *The Shallow and the Deep: Long Range Ecology Movements*, 16 INQUIRY 95–100 (1973).

<sup>88</sup> Crist, *supra* note 65.

and aesthetic enjoyment,”<sup>89</sup> there are material, spiritual, educational, and recreational benefits to nature protection.<sup>90</sup> There is also evidence that high interdependency among all species is a precondition for sustaining human welfare.<sup>91</sup> Therefore, conversion theorists postulate that preservation of nature for the sake of humanity is most effective.<sup>92</sup> Based on the assumption of this conversion, critics chastise “naïve environmentalists” who try to save “imaginary wilderness” and perpetuate a supposedly “false dichotomy” between anthropocentric and eco-centric values.<sup>93</sup> Yet these critics rarely address the claim of deep ecology that anthropocentric motivations for environmental protection are insufficient.

In fact, most deep ecologists claim that moral eco-centrism is necessary.<sup>94</sup> While an anthropocentric motivation can produce environmentally positive outcomes, especially in situations where both humans and more-than-humans are negatively affected as in cases linking ecological and human health,<sup>95</sup> anthropocentrism is not enough to protect nonhumans that have no utilitarian value.<sup>96</sup> While environmental problems, such as climate change and species extinctions, may affect human welfare, they have an existential effect on more-than-humans.<sup>97</sup> In fact, in asking what effect biodiversity loss would have on humans, the answer is that the loss of some biodiversity would not affect humanity in any negative way.<sup>98</sup> The anthropocentric position does not protect “leftover” species, nor does it safeguard animal welfare.

Answering this challenge is the ethical field of animal liberation. It is associated with the animal rights and animal welfare movement, originated with Peter Singer, who argued that the interests of animals warranted moral consideration and should be treated justly because animals are sentient and can experience pain and suffering.<sup>99</sup> “All the arguments to prove man’s superiority,” Singer wrote, “cannot shatter this hard fact: in suffering the animals are our equals.”<sup>100</sup> This is a view that has direct application to the treatment of elephants in captivity, from zoos to amusement parks, because captive elephants often have very poor mental and physical health.<sup>101</sup>

The differences between land ethic, deep ecology, and animal liberation perspectives have to do with the units of ethical concern—whether, for example, it should

<sup>89</sup> P. Tedeschi, S.M. Bexell, & J. NeSmith, *Conservation Social Work: The Interconnectedness of Biodiversity Health and Human Resilience*, in *IGNORING NATURE NO MORE: THE CASE FOR COMPASSIONATE CONSERVATION*, *supra* note 2.

<sup>90</sup> Miller, Soulé, & Terborgh, *supra* note 34.

<sup>91</sup> S. Polasky, K. Johnson, B. Keeler, K. Kovacs, E. Nelson, D. Pennington, A.J. Plantinga, & J. Withey, *Are Investments to Promote Biodiversity Conservation and Ecosystem Services Aligned?*, 28 *OXFORD REV. OF ECON. POL’Y*, 139–163 (2012); Tedeschi, Nexell & NeSmith, *supra* note 89.

<sup>92</sup> B.G. NORTON, *WHY PRESERVE NATURAL VARIETY?* (1987).

<sup>93</sup> Kareiva, *supra* note 33; FLETCHER, *supra* note 32; Marvier, *supra* note 83.

<sup>94</sup> E. Katz, *Envisioning a De-Anthropocentrised World: Critical Comments on Anthony Weston’s “The Incomplete Ecophilosopher,”* 14 *ETHICS, POL’Y & ENV’T* 97–101 (2011); Crist & Kopnina, *supra* note 63; D.F. Doak, V. J. Bakker, B. E. Goldstein, & B. Hale, *What Is the Future of Conservation?*, in *PROTECTING THE WILD: PARKS AND WILDERNESS*, THE FOUNDATION FOR CONSERVATION, *supra* note 14; Shoreman-Ouimet & Kopnina, *supra* note 74.

<sup>95</sup> Tedeschi, Bexell, & NeSmith, *supra* note 89.

<sup>96</sup> Katz, *supra* note 94.

<sup>97</sup> Crist, *supra* note 88.

<sup>98</sup> THOMPSON, *supra* note 33; HARING, *supra* note 33.

<sup>99</sup> P. SINGER, *ANIMAL LIBERATION: A NEW ETHICS FOR OUR TREATMENT OF ANIMALS* (1975).

<sup>100</sup> *Id.*

<sup>101</sup> Lorimer, *supra* note 1.

be entire ecosystems or species of animals or individual animals.<sup>102</sup> Yet rather than sorting out philosophical units of analysis, supporters of generalised eco-centric perspective explore possibilities for ethical engagement and environmental action offered by combined perspectives.<sup>103</sup> A combined approach that integrates care for the land, for species, and for individuals is therefore best suited for ethical framing of the elephant issue. Simply put, the moral narrative in all three perspectives considers the elephant himself or herself, in a group, and in the landscape.

So to return to the question posed at the outset about why some wildlife conservation scholars appear indifferent to elephant suffering, the truth is that prevailing conceptions of social and economic justice are viewed mostly through an anthropocentric lens and are, therefore, blind to considerations of justice between species.<sup>104</sup> In fact, anthropocentrism itself is a heritage of industrial neoliberalism.<sup>105</sup> Kidner maintains that the current industrialist neoliberal ideology is the enemy of both human and ecological interests, and that we may, in fact, speak not so much of anthropocentrism but of industrocentrism, which is against humans and animals alike.<sup>106</sup>

The neoliberal view of nature that sees it as a commodity and talks about it in monetized terminology has not historically been the dominant worldview of nature.<sup>107</sup> There is evidence, for example, that the love of nature and animals is not exclusive to one group of people, with many examples of cross-cultural biophilia.<sup>108</sup> Non-Western cultural traditions often promote eco-centrism, or at least a form of non-anthropocentrism emphasizing interconnectedness between species.<sup>109</sup> By the same token, animal activism inspires moral passions around the globe, despite culturally variable definitions of animal cruelty and welfare<sup>110</sup> According to Zaleha, when they seek to delegitimize the affective bond that non-Western people feel for wild spaces and species, researchers critical of conservation are guilty of an imperialist imposition of their own elitist, anthropocentric value norms, despite their

<sup>102</sup> J.B. Callicott, *Moral Monism in Environmental Ethics Defended*, in *BEYOND THE LAND ETHIC: MORE ESSAYS IN ENVIRONMENTAL PHILOSOPHY* (1999); NORTON, *supra* note 92; A. Light, *Compatibilism in Political Ecology*, in *ENVTL. PRAGMATISM* 161–184 (A. Light & E. Katz eds., 1996).

<sup>103</sup> D. Jamieson, *Animal Liberation Is an Environmental Ethic*, 7 *ENVTL. VALUES* 41–57 (1998); Waldau, *supra* note 13.

<sup>104</sup> Baxter, *supra* note 53; H. Kopnina, *Environmental Justice and Biospheric Egalitarianism: Reflecting on a Normative-Philosophical View of Human–Nature Relationship*, 1 *EARTH PERSPECTIVES* 8 (2014); Crist, *supra* note 65; Shoreman-Ouimet, *supra* note 94; E. SHOREMAN-OUIMET & H. KOPNINA, *CONSERVATION AND CULTURE: BEYOND ANTHROPOCENTRISM* (2016); V. Strang, *Justice for All: Uncomfortable Truths—and Reconciliation—in Human–Non-Human Relations*, in *ROUTLEDGE HANDBOOK OF ENVIRONMENTAL ANTHROPOLOGY* (H. Kopnina & E. Shoreman-Ouimet eds., 2016).

<sup>105</sup> H. Kopnina, *Education for Sustainable Development (ESD): The Turn Away from “Environment” in Environmental Education?*, 18 *ENVTL. EDUC. RES.* 699–717 (2012); D. Kidner, *Why “Anthropocentrism” Is Not Anthropocentric*, 38 *DIALECTICAL ANTHROPOLOGY* 465–480 (2014).

<sup>106</sup> Kidner, *supra* note 105.

<sup>107</sup> H. Kopnina, *Towards Conservational Anthropology: Addressing Anthropocentric Bias in Anthropology*, 36 *DIALECTICAL ANTHROPOLOGY* 127–146 (2012); H. Kopnina, *Re-Examining Culture/Conservation Conflict: The View of Anthropology of Conservation Through the Lens of Environmental Ethics*, 9 *J. OF INTEGRATIVE ENVTL. SCI.* 9–25 (2012); Shoreman-Ouimet & Kopnina, *supra* note 74; SHOREMAN-OUIMET & KOPNINA, *supra* note 104.

<sup>108</sup> S.R. KELLERT & E.O. WILSON, *THE BIOPHILIA HYPOTHESIS* (1993); H. Kopnina, *Revisiting the Lorax Complex: Deep Ecology and Biophilia in Cross-Cultural Perspective*, 43 *ENVTL. SOC.* 315–324 (2015); Shoreman-Ouimet & Kopnina, *supra* note 74; C. Black, *Schooling the World: Land-based Pedagogies and the Culture of Schooling*, in *ROUTLEDGE HANDBOOK OF ENVIRONMENTAL ANTHROPOLOGY*, *supra* note 104; Strang, *supra* note 104.

<sup>109</sup> H. KOPNINA, ED., *ANTHROPOLOGY OF ENVIRONMENTAL EDUCATION* (2012); Black, *supra* note 108; Strang, *supra* note 104.

<sup>110</sup> K. McClellan & A. Concha-Holmes, *Multispecies Morality and More-Than-Human Ethics*, Panel Presentation for American Anthropological Association (September 29, 2015).

claim that they are upholding the interests of marginal local communities against international environmental elites.<sup>111</sup> There is a double standard at work.

The liability of considering only the human side of things is that we forget how dependent humans are on nature and how destruction of habitats and wildlife victimises both people and elephants. This leads us to treat elephants as mere objects and not as beings capable of personhood, of life within a complex social structure, and with the capacity to exhibit a range of emotions. We deny them their will or, to use a legal term, their *right*, to live, and to live without pain and humiliation. As Fitzgerald observes:

When the matriarch approaches the top of the bank, she looks down, leans onto her back knees, and slides down. Imagine a three-ton animal sand-sledding. It is incredible to watch; the scene makes it hard not to imagine hearing an anthropomorphic “Yee-haw” coming out of their mouths. We sit in awe watching as each elephant in turn follows the matriarch’s action and does the same.

When one of the baby elephants follows suit, rather than sledding easily down like the others, she is forced into somersaults by the river bank’s steepness and she rolls down, spiralling like a tire going down a hill, and lands at the bottom on her back with her legs flailing up in the air. One of the other elephants trumpets, and immediately six elephants run to help her. They protectively surround the baby and nudge her over and up onto her feet, whereupon she wobbles off, flanked by her protectors, the collective herd giving an amazing glimpse into the complex familial systems of elephants.<sup>112</sup>

## 6. Non-anthropocentric alternatives and ways forward

In the non-anthropocentric conception, the discussion of environmental justice is not limited to humans, but encompasses the moral and legal consideration of non-humans.<sup>113</sup> In the particular case of elephants, which seem repeatedly to stand to lose when their lifeways overlap with those of humans, environmental justice extends to both conservation and captivity contexts.

Of course, elephant populations are invariably dependent on humans, and conservation decisions and protection strategies applied on a case-to-case basis seem to work best. Conservation might require investments in awareness campaigns in countries where demand for animal parts, such as ivory or rhino horn, is high. Other regions require more effective anti-poaching measures, as well as investment in family planning and education.

While zoos are not a benign option for elephants,<sup>114</sup> research in zoos has shown that appreciation and affection for zoo animals is quite common, and that

<sup>111</sup> B.D. Zaleha, *Battle of the Ecologies: Deep vs. Political: An Investigation into Anthropocentrism in Social Sciences*, in ROUTLEDGE HANDBOOK OF ENVIRONMENTAL ANTHROPOLOGY, *supra* note 104.

<sup>112</sup> Fitzgerald, *supra* note 14.

<sup>113</sup> E. Crist & P. Cafaro, *Human Population Growth as If the Rest of Life Mattered*, in LIFE ON THE BRINK: ENVIRONMENTALISTS CONFRONT OVERPOPULATION 3–15 (P. Cafaro & E. Crist eds., 2012); Kopnina, *supra* note 108; E. Shoreman-Ouimet & H. Kopnina, *Reconciling Ecological and Social Justice to Promote Biodiversity Conservation*, 184 BIOLOGICAL CONSERVATION 320–326 (2015); Strang, *supra* note 104; J. TERBORGH, REQUIEM FOR NATURE (1999).

<sup>114</sup> B. Borrell, *How Zoos Kill Elephants*, SCI. AM. (2008), <http://www.scientificamerican.com/article/how-zoos-kill-elephants>; Cohn, *supra* note 19; Cronin, *supra* note 19; Mott, *supra* note 25; Schau, *supra* note 19.

interaction between animals and human visitors can serve to enhance the latter's sense of belonging to the same community of living beings as the exhibits they go to see.<sup>115</sup> Yet by itself, this is clearly an insufficient basis for treating animals justly. Many animal lovers find no dissonance between pampering their pets and eating the meat of animals kept in cruel conditions, or between admiring the elephants at the zoo and being complicit in the destruction of elephant habitat.<sup>116</sup> Since habitat loss is African wildlife's silent killer, it, too, needs urgent attention.<sup>117</sup>

Once the welfare of elephants in captivity is judged according to the best practices of those zoos where habitation territory is large, animals are essentially undisturbed by the public, and euthanasia is not conducted, some concessions to the morality of keeping elephants in zoos can be made. Such concessions can be made, however, only if elephants would otherwise not be able to survive in the wild and only if strict welfare conditions governing their captivity are upheld.

In the conservation context, habitat preservation for elephants requires multiple, often contradictory strategies, such as community involvement, on the one hand, and keeping people out, on the other hand, when there is no other way to guarantee animal protection or habitat recovery. Community involvement might entail the training and financing of local park guards and the regulation of eco-tourist operators. These steps are not just needed to provide tourist "clients with the authentic un-spoilt nature they wish to consume on their holidays," as Brockington mockingly asserts,<sup>118</sup> but are also the means of providing much of the motivation for local communities to spare nature.<sup>119</sup>

The relationship between the alleviation of local poverty and the promotion of wildlife conservation is clearly complex. But there is no inherent contradiction. Indeed, as Doak et al. claim, the advancement of human well-being, broadly understood, is already a core feature of conservation policy.<sup>120</sup> By contrast, the new conservation science position conflates the advancement of human well-being with a narrow definition of economic development and thereby marginalizes efforts to preserve diverse, natural ecosystems or to protect nature for its aesthetic or other noneconomic benefits.

Moreover, the strict control of illegal activities, such as logging or slash-and-burn agriculture on land appropriated both inside and outside of protected areas, typically requires local goodwill. Yet taking local goodwill as the only going principle of conservation denies elephants any ecological justice.<sup>121</sup> Animal welfare is rarely taken into account when the questions of justice in conservation are discussed.<sup>122</sup> As "unemployment" in the logging industry in Asia and abuse in the tourist industry

<sup>115</sup> J. Vining, *The Connection to Other Animals and Caring for Nature*, 10 HUMAN ECOLOGY REVIEW 87–99 (2003).

<sup>116</sup> S. Clayton, *Nature and Animals in Human Social Interactions Fostering Environmental Identity*, in IGNORING NATURE NO MORE: THE CASE FOR COMPASSIONATE CONSERVATION, *supra* note 2, at 211–222.

<sup>117</sup> Fitzgerald, *supra* note 14, at 170–188.

<sup>118</sup> BROCKINGTON, *supra* note 31, at 555.

<sup>119</sup> Goodall, *supra* note 79, at 21–26.

<sup>120</sup> Doak et al., *supra* note 94.

<sup>121</sup> Baxter, *supra* note 53.

<sup>122</sup> D. Fennell, *Tourism and Animal Welfare*, 38 TOURISM RECREATION RES. 325–340 (2013); V. Turesson, *On the Back of an Asian Elephant (Elephas Maximus): The Backside of the Elephant Tourism with Focus on Welfare* (2014), available at <http://stud.epsilon.slu.se/7487/>.

have affected many domesticated elephants in Asia, they face endangerment with a 3 percent annual decrease in population.<sup>123</sup> If an inclusive notion of justice is to prevail, then conservation decisions will have to balance social and elephant interests outside of their utilitarian use.

Conservationists have suggested the need to increase the territory of protected areas, with corridors to enable elephants to cross from one protected area to another without conflict with humans.<sup>124</sup> These corridors are more likely to lead to mutual coexistence benefits for local people and elephants.<sup>125</sup>

Strict regulations on poachers and on those who drive demand for ivory are required. The same is true of fighting wildlife crime. Strong regulations to end commercial ivory sales and a move forward with regulations to tighten existing loopholes that enable the laundering of illegal ivory in the United States and globally are necessary, but laws alone cannot stop wildlife crime. There also needs to be a substantial effort to curb demand for ivory.<sup>126</sup>

Changing consumer tastes is probably best accomplished on a case-by-case basis rather than with a grand strategy. In some cases, celebrities, for example, can help, as in the case of Chinese film icon Li Bingbing and sport star Yao Ming campaigning against demand for ivory in their own country.<sup>127</sup> In other cases, large corporations that invest money in conservation have also been known to make a difference in conservation outcomes.<sup>128</sup> But we need to be cautious.

Although sometimes groups with competing interests, such as corporate and conservation partners—for example, Patagonia, which has historically invested in conservation—can negotiate useful agreements,<sup>129</sup> and should certainly do so when it is truly beneficial for them, it is rarely possible to identify solutions that maximize both economic and ecological benefits as readily as the proponents of new conservation science like to imagine.<sup>130</sup>

In some cases, local participation in conservation decision-making can result in blatant abuse of wildlife. In other cases, it is local communities themselves that offer the best hope for species almost driven to extinction. As Steven Best reflects:

Despite the fact that indigenous peoples (such as the Clovis Indians who first inhabited North America) have often throughout history overshot ecological limits and driven animals into extinction, they nonetheless are clearly more suited “custodians” of the earth than the IMF, World Bank, WTO, ExxonMobil, Shell, Monsanto, Cargill, Maxxam, Du Pont, Japanese whalers, NGOs, ignorant narcissistic Western consumers, and so on.<sup>131</sup>

<sup>123</sup> Lin, *supra* note 10.

<sup>124</sup> A. Kikoti, C.R. Griffin, & L. Pahlphil, *Elephant Use and Conflict Leads to Tanzania's First Wildlife Conservation Corridor*, 48 *PACHYDERM* 57–66 (2010); SINCLAIR, *supra* note 14; Sinclair, *supra* note 85.

<sup>125</sup> SINCLAIR, *supra* note 14, at 74.

<sup>126</sup> World Wildlife Fund, *supra* note 41.

<sup>127</sup> P. Kahumbu, *African Leaders Must Emulate Chinese Celebrities to Save Elephants*, THE GUARDIAN (May 16, 2013), <http://www.theguardian.com/environment/africa-wild/2013/may/16/african-leaders-chinese-celebrities-save-elephants>.

<sup>128</sup> H. KOPNINA & J. BLEWITT, *SUSTAINABLE BUSINESS: KEY ISSUES* (2014).

<sup>129</sup> See generally CONSERVATION PATAGONIA, <http://www.conservacionpatagonica.org>.

<sup>130</sup> Doak et al., *supra* note 94.

<sup>131</sup> S. Best, *Factory Farming* (January 1, 2013), <https://drstevebest.wordpress.com/category/factory-farming-2/>.

The fact that corporate players might not be the best custodians of the land or animals does not mean that cultural traditions are better—to recall the elephant-crushing ritual in Thailand.<sup>132</sup> The critique of corporate-led conservation as a neoliberal enterprise does have a truth value to it, however, and that should make advocates of animal justice wary of throwing in their lot with large environmental NGOs whose boards are increasingly representative of financial and corporate interests.<sup>133</sup>

## 7. Reflection

Human relationships with other species commonly involve a kind of moral reckoning, a process by which people determine how to use, categorize, treat, and feel about nonhuman others using structures of ethics and morality.

For instance, conceptualizations of life forms classified as endangered species appeal to very different ethical stances and practices than those classified as invasive. And the ethics of hunting, slaughter, and meat consumption are often couched in ideologies stemming from economic, political, and religious ideals. These moral ideologies are often deemed reflective and constitutive of the humans who use and produce them: multispecies morals are not just about the animal, but also engender the moral natures of humans. Moreover, as a process of constant negotiation and action, the production of multispecies morals shifts alongside political, economic, scientific, and moral changes in culture and society.<sup>134</sup>

Many scholars, myself included, have an aversion to the neo-colonial, top-down, profit-motivated conservation practices that lead to the marginalisation, impoverishment, and dispossession of local communities. The bigger question, however, is why so many advocates of greater justice for animals have moral myopia when it comes to nonhumans, and what might be done about it.

One possibility might be to zone the world, in effect, so that different ethical approaches to animals are represented, much as we now designate urban districts, villages, industrial zones, agricultural or subsistence cultural zones, national parks, wilderness, and other areas.<sup>135</sup> There would be some debate about how much to allocate to each approach, with some arguing that nature needs at least half.<sup>136</sup> A reasonable starting point might be to use the designations already recognized in international law and policy.

Thus the land ethic, deep ecology, and animal liberation might correspond, respectively, to natural wilderness, mixed society, and industrial society. In the wilderness, where both habitats and individual animals need protection, animal liberation and holistic eco-centered views would apply. In mixed-society places, where there are agriculture and horticulture and other activities dependent on ecosystems,

<sup>132</sup> Pipa, *supra* note 21.

<sup>133</sup> B. Miller et al., *New Conservation or Surrender to Development?*, 17 ANIMAL CONSERVATION 509–515 (2014).

<sup>134</sup> McCellan & Concha-Holmes, *supra* note 110.

<sup>135</sup> T. Yamauchi, *Animal Liberation, Land Ethics and Deep Ecology*, 29 J. KYOTA SEIKA UNIV. 44–60 (2002).

<sup>136</sup> E.g., H. Locke, *Nature Needs (at Least) Half: A Necessary New Agenda for Protected Areas*, in PROTECTING THE WILD: PARKS AND WILDERNESS, THE FOUNDATION FOR CONSERVATION, *supra* note 14, at 3–17.



the emphasis would be on creating symbiotic communities of humans, animals, and plants and on taking into account the interests of sentient beings and the welfare of ecosystems. In areas where we might find elephant suffering in zoos or in the tourist industry, principles derived from animal liberation would apply.<sup>137</sup>

A number of practical steps might be taken based on this general framework. The most helpful solution is to expand the habitat of elephants and address human needs simultaneously,<sup>138</sup> which can be done with a combination of cooperative work among grass-roots organizations, committed individual members of local communities, and international ENGOs.<sup>139</sup> The World Society for the Protection of Animals,<sup>140</sup> for example, implemented humane education programs, helped set up beekeeping as a sustainable income source, employed former poachers as anti-poaching rangers, and helped provide chili pepper fences to prevent elephants from destroying crops.<sup>141</sup> Understanding the interconnection of animal welfare and poverty was, in other words, key to establishing meaningful and effective programs of change.<sup>142</sup>

What is also needed, though, is a more nuanced understanding of the driving forces and complex interconnections involved in poaching and animal abuse and a consistent vision in which the killing or abuse of an elephant simply becomes morally wrong and the protection of the animal becomes an ethical imperative.<sup>143</sup> Among current initiatives to improve the fate of elephants, rewilding—the reintroduction of captive elephants into protected sanctuaries to allow a natural replenishing of endangered populations—and back-breeding exemplify such positive strategies.<sup>144</sup> Other ways forward involve stronger protection policies at both local and international levels of government, better education about the vital roles of elephants, alternative economic opportunities for those whose livelihoods depend on elephants, and improved treatment for captive elephants.<sup>145</sup> It would also help to have stronger enforcement of legislative measures against the illegal ivory trade, specifically by breaking trafficking links, having a sharper focus on zero poaching programs, and reducing demand for illegal wildlife parts and products.<sup>146</sup>

## 8. Conclusion

This article discusses three sets of work in the social science of biological conservation, particularly that dealing with human–elephant interactions. It focuses

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<sup>137</sup> Yamauchi, *supra* note 135.

<sup>138</sup> Choudhuri, *supra* note 38, at 261–270.

<sup>139</sup> L. BARBOSA, *GUARDIANS OF THE BRAZILIAN AMAZON RAINFOREST: ENVIRONMENTAL ORGANIZATIONS AND DEVELOPMENT* (2015).

<sup>140</sup> WORLD SOC. FOR THE PROTECTION OF ANIMALS, *CASE STUDY: COMBATING POVERTY: THE ROLE OF ANIMAL WELFARE EDUCATION AND NEW SKILLS* (2009), available at [http://www.worldanimalprotection.ca/sites/default/files/ca\\_-\\_en\\_files/udaw\\_casestudy\\_poverty\\_tcm22-8311.pdf](http://www.worldanimalprotection.ca/sites/default/files/ca_-_en_files/udaw_casestudy_poverty_tcm22-8311.pdf).

<sup>141</sup> K.H. Redford & W.M. Adams, *Payment for Ecosystem Services and the Challenge of Saving Nature*, 23 *CONSERVATION BIOLOGY* 785–787 (2009).

<sup>142</sup> Tedeschi, Bexell, & NeSmith, *supra* note 89.

<sup>143</sup> Miller et al., *supra* note 133; Shoreman-Ouimet & Kopnina, *supra* note 74.

<sup>144</sup> Lorimer, *supra* note 1; Doak, Bakker, Goldstein, & Hale, *supra* note 94; Locke, *supra* note 136.

<sup>145</sup> See generally *WORLD ELEPHANT DAY*, <http://worlddephantday.org/about/elephants>.

<sup>146</sup> Caro, *supra* note 43; SINCLAIR, *supra* note 14.

on the constructed meanings people have given to social engagements with elephants under such rubrics as ethnozoology, multispecies ethnography, and ethno-elephantology. After discussing threats to elephants, including those stemming from the expansion of the human population, the shrinking of wild habitat, the killing associated with poaching and retaliation for damages, and the very real threat represented by government failure to protect elephants and to eliminate demand for animal parts, the article outlines several conservation perspectives that could provide more justice in the world both for elephants and for people. The discussion accepts that criticisms of neoliberal conservation and the associated commodification of nature are well made and have particular force against the new conservation science that sees conservation in very narrow economic terms.

On the other hand, criticisms of conservation from a constructivist and exclusively social justice perspective are less convincing. They are inclined to portray conservationists as naively romantic or as neo-colonial advocates for imaginary wilderness in a world in which the violence and abuse inflicted by hunters, poachers, zookeepers, and circus trainers on elephants is essentially ignored. Moreover, an exclusive concern with social justice simply perpetuates dominant ideologies in which the notion that elephants can be victims is put beyond the pale. Such robustly anthropocentric views about elephants do little more than promote indifference or even opposition to any discourse that emphasises existential threats to elephants.

After examining prevailing moral narratives in relation to elephants, the article then highlights the promise of three alternative strands of non-anthropocentric ethics: the land ethic, deep ecology, and animal liberation. This discussion puts the ethics of human–elephant interactions in a new light. It reinforces the view that those who sacrifice other beings for their own gain, those who pay for illegal ivory, for example, and those who condone elephant torture either in zoos, circuses, or even in traditional cultural settings are appropriate targets of criticism, and much more deserving of criticism for the injustices they visit on elephants than those who want to save elephants as part of an agenda for saving imaginary wilderness.

The benefits for elephants of wilderness are real, and those who cannot see this are, metaphorically speaking, failing to see the dead elephant in the room. In a world where there are, give or take a few million, seven billion people in the wild enjoying freedom, there are less than a million elephants enjoying freedom in what is left of their wild. If we consider seriously the justice of only the human side of this imbalance, then we run the risk of jeopardizing our capacity for empathy and compassion with all the creatures that inhabit the earth.