

ANIMAL SENTIENCE

February 2020

This Fact Sheet is for general information purposes and is not legal advice. It provides a brief overview only of this area of the law. If you require legal advice relating to your particular circumstances you should contact the ADO or another solicitor.

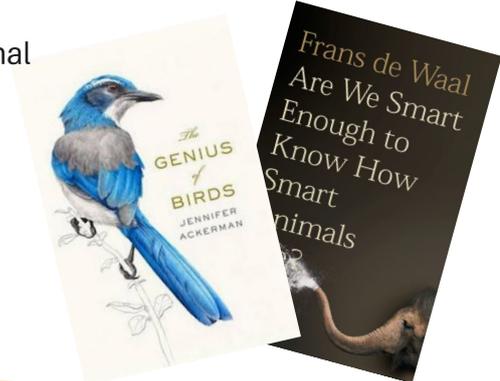
WHAT IS SENTIENCE?

- Sentience refers to a being's capacity to experience the world around them subjectively - to be conscious and able to feel pain and pleasure.
- Sentience can also refer to the capacity to learn from experience, make choices, and have memories of oneself as an individual over time
- Research from anatomical, cognitive, and behavioural sciences is increasingly suggesting that many nonhuman animals can feel positive and negative emotions
- Sentience is a key concept in animal rights and is starting to be a central feature in law reform regarding the humane treatment of animals

LEARN MORE!

Many recent books look at the evidence for animal sentience. Good places to start are:

- *Are We Smart Enough to Know How Smart Animals Are?* by Frans de Waal
- *Drawing the Line* by Steven Wise
- *What a Fish Knows* by Jonathan Balcombe
- *The Genius of Birds* by Jennifer Ackerman



WHAT DOES THE LAW SAY ABOUT

ANIMAL SENTIENCE?

Several countries and states have formally recognised animal sentience in law, including in our own region:

- In 2015 New Zealand amended the long title of its *Animal Welfare Act 1999* 'to recognise that animals are sentient'.
- In 2019 the ACT became the **first** jurisdiction in Australia to recognise animal sentience when it updated the objects of the *Animal Welfare Act 1992* to state:
 - (1) The main objects of this Act are to recognise that—
 - (a) **animals are sentient beings** that are able to **subjectively feel and perceive the world around them**; and
 - (b) animals have **intrinsic value** and deserve to be treated with compassion and have a quality of life that reflects their intrinsic value...



WHAT CAN SENTIENCE LAWS ACHIEVE?

Animal lawyers and advocates hope that recognising animal sentience in law will lead to greater legal protections for animals, and perhaps even legally enforceable animal rights. It is hoped that acknowledging animal sentience in law will support attempts by some animal lawyers to convince courts that animals should be recognised as legal persons, which is a key step on the road to getting animals legal rights. For example:

- In Oregon (a U.S. state that recognises animal sentience in law), the Animal Legal Defense Fund is representing an abused horse named 'Justice' whose former owner was found guilty of criminal animal neglect; the Fund is arguing that (as a legal person), Justice should have the right to sue his former owner for the costs of his ongoing medical treatment.
- The Nonhuman Rights Project is pursuing several cases on behalf of captive animals like Happy the elephant and chimpanzees Tommy and Kiko; the goal is to convince courts that these animals should be the subjects of a writ of habeas corpus, which has traditionally been used to free humans who are being unlawfully held in captivity (like slaves).

Jurisdictions may be reluctant to recognise sentience or grant legal personhood to animals for concern about the possible implications of these moves. But **nonhuman** personhood is already recognised! Corporations have long been considered legal persons, and recently even environmental entities, such as the Whanganui River in New Zealand, have been granted legal personhood.



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'THEY'RE JUST WORDS - THEY WON'T LEAD TO ANYTHING BETTER!' ...OR WILL THEY?!

It's not the first time in recent human history when aspirational goals have been enshrined in law despite an enormous gap between the goals and reality. For example:

"We must remember that when the U.S. Declaration of Independence proclaimed that 'We hold these truths to be self evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty, and the pursuit of happiness,' millions of persons within the borders of the new United States were held in slavery."

Alan Watson in Gary Francione, *Introduction to Animals Rights. Your Child or the Dog* (2000)

DISCLAIMER

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