

00:00:00:01 - 00:00:02:03

Travis

Hello everyone. My name is Travis.

00:00:02:05 - 00:00:03:15

Hope

And my name is Hope.

00:00:03:17 - 00:00:05:21

Travis

Welcome to VJEL Talks.

00:00:05:23 - 00:00:14:16

Hope

Today we're speaking with Professor Delci Winders. Professor Winders is the Director of the Animal Law and Policy Institute at Vermont Law and Graduate School.

00:00:14:18 - 00:00:25:16

Travis

Her work has been published in a variety of journals, including NYU Law Review and The Animal Law Review. We will be talking with her today about the field of Animal Law.

00:00:25:18 - 00:00:29:14

Hope

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Travis

Thank you for listening and please enjoy. Without further ado, Professor Delci Winders. Thank you so much for joining us here on VJEL Talks. If we could just start out, could you, tell us a little bit about yourself? and, you know, just to start out kind of the background of your legal career before we hop into the more specifics.

00:00:50:08 - 00:02:18:10

Prof. Delci Winders

Yeah, absolutely. So my current role is as a member of the faculty at Vermont Law and Graduate School and the Director of the Animal Law Policy Institute here at the school. Also the faculty advisor of VJEL, so I'm a big fan. I went to law school 20 plus years ago specifically to practice Animal Law. there was a time when people told me that was not a thing that I could do, and I better find something else to do, but I was pretty, intent on doing it and was successful. So I have practiced for well over 15 years in Animal Law specifically. And, I came to teaching sort of indirectly. So I started teaching Animal Law as an adjunct at other schools while I was working, practicing full time. And, gradually got into teaching more and more, starting with establishing a clinic at Lewis and Clark Law School and then coming here to establish the Animal Law and Policy Institute. So I've practiced in a variety of settings, a public interest firm, a nonprofit focused on farmed animal advocacy, the PETA Foundation and other places. And my key areas of expertise are captive wildlife and farmed animals.

00:02:18:12 - 00:02:36:20

Travis

So I got a question going back to, your entrance into law school. Animal Law wasn't much of a thing. So what was your impressions about Animal Law at that time? What did you feel it was lacking the space and where was it going to go in your mind? when you were starting out?

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Prof. Delci Winders

Yeah. So I... There were some innovators who were already doing things in the Animal Law space, including, a woman named Nicole Paquette, who graduated from Vermont Law School, I believe, in 1998. And she's now, in a leadership role at the Humane Society of the United States, overseeing all of their policy work. I saw her give a talk, and she encouraged me to go to law school when everyone was encouraging me not to. So I knew that some people were doing it. And I knew that the law was not just failing to adequately protect animals, but actively facility in their exploitation in a lot of ways. And so I knew there was a lot of work to be done there. I wasn't under any illusion it was going to be profitable work. but I knew there was work to be done, and I wanted to do that work.

00:03:33:02 - 00:03:44:18

Travis

So this is a good segue into, asking, broadly speaking, what is Animal Law and its general, overview?

00:03:44:20 - 00:04:27:21

Prof. Delci Winders

Yeah. So Animal Law is any type of law that impacts the status and treatment and conditions of non-human animals. And so it's an incredibly broad area. There are, you know, so many millions of different species, and they intersect with all areas of the law, whether you're talking about torts or contracts or Environmental Law, Animal Law touches every single area of the law. So it's a quite broad field, but for my purposes at least, it's focused on improving the lives and status of animals.

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Hope

Kind of going off of that Professor Winders, when we're doing these podcasts, something that I like to focus on is how we can make legal concepts, more accessible to the average person. So if you had to explain a concept from Animal Law that's important to just the average Joe on the street. What exactly would that be? What does the average person need to know about Animal Law?

00:04:54:19 - 00:05:00:09

Prof. Delci Winders

I think there are two that come to mind. If you'll give me permission to give to you.

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Hope

Absolutely.

00:05:01:06 - 00:05:02:16

Travis

By all means.

00:05:02:18 - 00:06:41:03

Prof. Delci Winders

So one is that the legal status of all animals is property. That animals have the same legal status as the chair I'm sitting in the computer we're speaking on, and they are deemed to not really have much value. And so that impacts a whole universe of things in terms of being able to advocate for their interests, what types of recovery are available and most people don't realize that because polling consistently shows that people do not think of the animals they share their homes and lives with as property, they see them as members of the family. And then the other thing is, the largest number of animals that we interact with are the animals that we raise and kill for food. And most people assume that surely there's some law protecting how those animals are raised, regulating the conditions in which they're raised. And unfortunately, that is not true. There is not a single federal law governing the treatment of animals while they're on the farm and at the state level, in theory, there are cruelty to animals laws, but there are no inspections happening. These are criminal laws with very high burdens of proof and also carve outs for a lot of exploitation, including particularly farmed animals. There are exceptions called Common Farming Exemptions that say if it's a common farming practice, the cruelty law doesn't apply to it. so I think those are two really important concepts that everyone should know, really.

00:06:41:05 - 00:07:19:23

Travis

Let me ask you this, within the debate, providing more protections to animals is one side providing a slippery slope debate, as if we give my lovely dog Kira rights, then we have to open it up to every every pig, every cow and so, unfortunately, the golden retrievers aren't going to get rights, even though we recognize our dogs and our cats to be somewhat, you know, even some people consider them as human to provide those rights. Is there a debate within the within the community about this? Is that, present thought?

00:07:20:01 - 00:09:04:23

Prof. Delci Winders

Yeah. So it's it's not a debate within the animal protection community, but it is certainly an argument that is looming out there more broadly. And in particular, the industrial animal agriculture community, if you can call it that, is very, very much afraid of slippery slopes. And so they will come in. I've seen them do this over and over again. You know, there was a case that one of our, another alum, Monica miller, argued on behalf of the elephant Happy in New York State's highest court. And the argument was that Happy was being unlawfully held, imprisoned at the Bronx Zoo. And there was an amicus briefs filed by the New York dairy industry that quite literally said, "if you grant legal personhood to Happy, if you say Happy is entitled to go to sanctuary, you will crush the dairy industry and agriculture as we know it". Similarly, there was a case in, Oregon based on a legal theory that I developed, that the Animal Legal Defense Fund brought on behalf of a horse named Berkshire, whose owner had been convicted of severely neglecting him. And he suffered long standing health problems that were going to require expensive care for the rest of his life. And so after she was convicted, a negligence per se action was brought on behalf of justice, seeking to recover the cost of his medical care for the rest of his life. And again, Oregon Farm Bureau filed an amicus brief saying the sky will fall if you grant justice this relief. So it's something very prevalent and if we're talking about a dog or an elephant, you still have to think about how industrial agriculture will respond.

00:09:05:01 - 00:09:39:13

Hope

Thinking in this similar vein of how in the animal legal field, there is, you know, sometimes difficult up to approach arguments. something else that we've spoken about before and, something that I think is really important to address in a space, like this is the core differences between animal welfare and animal rights. I think sometimes people use these terms interchangeably. but they are different, right?

00:09:39:15 - 00:11:54:21

Prof. Delci Winders

Yes. So, at least in theory, there are two quite different concepts. Animal welfare being the idea that it's okay to use animals, but we should treat them as humanely as possible in doing so. And so our state cruelty to animals laws are rooted in an animal welfare approach. And so they use language like needless suffering or unnecessary suffering, unjustifiable suffering is prohibited. and so some is seen as necessary, including in many instances for grazing animals, for food, for experimentation. On the right side of things, rights are much more absolute and so the idea is animals have some basic, at least absolute rights that cannot be infringed on, even if it does provide some benefit to humans in the form of food or testing or something else. And so, there's definitely a philosophical divide there, and it can be quite paralyzing as an advocate because some animal rights advocates, who call themselves abolitionists, take the position that anything you do to further animal welfare is actually further entrenching animal exploitation. And that can be really hard because it's, you know, we have a lot of work to do and animals are suffering a lot. And there are things we can do to at least reduce the harm that's being inflicted on them right now, even without recognizing full rights for them. And so, as a practical matter, I don't dwell on that distinction as much. You know, I think about it in terms of my overall goals, but I really am focused on what can I do to help this animal and other animals in its situation and their situation. given the tools that we currently have and as the director of the Animal and Policy Institute, I'm I'm here to support students whether they want to focus on rights or welfare or something in-between, or interwoven.

00:11:54:23 - 00:12:32:16

Travis

A case that came up before the Supreme Court, I think touches on perhaps generally this idea of rights and welfare, which is the National Pork Producers versus Ross. Could you explain a little bit about that? Because as I see it, it's less rights, it doesn't even... it's not a legal question about rights, but there is a welfare point of captivity and we'll we'll talk about the case first and then get into more questions. But, it's sparked a, an interest. So yeah. Can we, can we go in and talk a little bit about that case.

00:12:32:18 - 00:15:27:21

Prof. Delci Winders

Yeah, absolutely. And you're completely right. It is. It is a case about a welfare statute. So National Pork Producers versus Ross was, the National Pork Producers the industry groups challenge to a law that California voters overwhelmingly passed at the ballot. So direct democracy, that banned the cruelest confinement systems used to raise animals for food. So battery cages used for egg laying hens, which are cages that give hens less than a piece of paper size eight and a half by 11 size. Look at a regular sized piece of paper and imagine being a hen and spending your entire life in that amount of space and that is how many, many egg laying hens are still raised. And then veal crates are confinement systems for the male calves who are byproducts of the dairy industry, because calves cows need to be impregnated and in order to produce milk. And so we can give the milk to humans, we take their babies away and males of those breeds are not going to produce good meat and they're not going to produce milk. So they are going to the veal industry and are confined so that they're flush, stays tender, they don't develop muscle. And then most importantly for our purposes here, gestation crates for breeding pigs. So about

80% of the pigs, the mother pigs who are used to give birth to the pigs who become our sausage and bacon, spend much of their lives in gestation crates, which are very narrow crates that they cannot turn around in. As they get further into their pregnancy, they can't even, move really. They're virtually immobilized. and so what the California ballot initiative did was not just ban the use of these system within the state of California. It went a step further and said "No products can be imported into California that were made using these confinement systems". And California, of course, is a big state, they import a lot of their products. And so this was going to have an impact on production that happened out of state. And the pork producers, did not like this, they didn't want to have to change over their systems, use a more expensive way of breeding pigs, or keeping breeding pigs. And so they argued that California's law violated the dormant commerce Clause, because of its extraterritorial effects. They argued California was basically regulating other states in what they did. And I can I could speak to how the court answered that, but I don't want to just keep rambling.

00:15:27:23 - 00:15:50:13

Travis

No rambling is exactly what podcasts are for, and oh, is that even a ramble? So don't worry about it. there are probably, maybe a couple one L's checking off their dormant commerce clause jurisprudence right now. Trying to. Yeah, they're remembering mud flaps. Something about, you know, melons in Arizona or something like that.

00:15:50:15 - 00:15:51:16

Prof. Delci Winders

yeah.

00:15:51:18 - 00:16:11:23

Travis

So, yeah. No, please continue, if you will. the, you know, the assessment. Well, first the holding and then the assessment. A lot of the, I'm looking at the the bench right now, most of them joined some in part, some and not so this was this was a win as, as far as I can tell.

00:16:12:01 - 00:17:17:12

Prof. Delci Winders

Yeah, absolutely. A win and a big win. However, it's really unclear where we go from here. So what the Supreme Court did was it upheld the Ninth Circuit decision dismissing the pork producers lawsuit, saying you failed to allege a dormant Commerce Clause claim here. but the reasoning for upholding that is extremely fractured. So really, the only thing that we have a majority opinion on is that there is not a per say rule that merely because a law has an extraterritorial regulatory impact, it will be invalid. So that's... We know that's not the case. The court's not going to go for that. Pork producers was pushing really hard for that because that would be helpful for them. But what else is left of the dormant Commerce clause? We have to wait until future litigation to see. But California's ban gets to stay in place.

00:17:17:14 - 00:17:23:07

Travis

And speaking of future litigation, a like case came up in Massachusetts, I believe.

00:17:23:09 - 00:17:59:05

Prof. Delci Winders

Exactly. So Massachusetts actually passed a law analogous to what California did two years prior to California, to Californians was in 2018. Massachusetts was 2016 also done through ballot initiative and,

pork industry also challenging that law and raising very similar arguments, but now also trying to respond to the Supreme Court's holding in National Pork Producers versus Ross and trying to see if they can craft some other sort of dormant Commerce Clause argument that will win the day for them.

00:17:59:07 - 00:18:36:05

Hope

Taking a second to consider for the interconnectedness of various environmental issues. So something we think about a lot in the EJ community is how can we connect human environmental justice issues to other issues and Environmental Law like conservation, animal rights, you know, public lands, stuff like that. And so I was wondering if you might speak for a moment about the interconnections between Animal Law and something like environmental justice. What are the human connections between Environmental Law or between Animal Law and environmental justice?

00:18:36:07 - 00:19:45:04

Prof. Delci Winders

Yeah, I think particularly when we talk about industrial animal agriculture or factory farming, the connections are vast because holding corporate, industrial animal agriculture accountable helps humans, helps animals, helps the environment. There's a very small handful of multibillion dollar multinational corporations that control these industries, and they are harming everyone in their wake. They are harming animals. They are harming the workers in their facilities. They're harming the people who live next door to their facilities and deal with direct discharges into their drinking water, massive air pollution. And so looking at these interconnected interests and the ways in which the carve outs from the law for these facilities harms these communities, it's something that I've focused on in my scholarship and tried to focus on in my advocacy as well. And I think there is a lot more room for collaboration on these different interest communities.

00:19:45:06 - 00:20:45:15

Travis

Yeah, it brings to mind like, particularly like the mental health of a lot of slaughterhouses and the workers that have to deal with that day to day. And then to Hope's Point, it brings to mind, like, other theories of law that can back end into, expanding environmental, I'm sorry, Animal Law and exposure alone, perhaps. And I think that the pork producers case is kind of like that where it's a dormant commerce clause question, but effectively allows for animal welfare to win the day on that one. And I don't know, I don't claim to know. And I haven't read a case about employment law at all, but, or labor laws. But if you've got such mental health crisis as it is for slaughterhouses, there might be a coming together in that regard.

00:20:45:17 - 00:22:29:03

Prof. Delci Winders

Absolutely. Yeah. So, slaughterhouse workers are among the most exploited workers on the planet. So as you mentioned, they do suffer documented mental health issues. It's been shown, for example, that there's more violence in communities, where slaughterhouse workers are living. Which is not really surprising when you think about it, when they're being forced to confront this violence over and over every single day, but they also suffer tremendously high rates of injury, a lot of them arising from repetitive motion and also high rates of illness. So slaughterhouse workers were hit really hard by the Covid 19 pandemic. And, slaughterhouses were not taking precautions to protect them and the government allowed that to happen. And so I have collaborated with some employment advocacy groups, who represent workers and workers interest. Particularly I've done a lot of work around slaughter line speeds and the effort to speed up slaughter, which already happens at an unbelievably fast pace. And that's something that harms animals because it increases the overall numbers of animals who are raised and

slaughtered. It, because workers are forced to rush, they're more likely to drag animals to fail to properly stun them before their throats are slit or they're dropped into scalding tanks. But it also increases injury to workers. And so, working together in coalition with employment groups, labor union groups has been really useful in that space.

00:22:29:05 - 00:23:43:17

Hope

Truly, I don't think that there is an aspect of Environmental Law that isn't connected to a single other aspect of Environmental Law. Don't know if that's a controversial take or not, but I truly believe that, with every fiber of my being. Another interesting case that I remember reading about during my undergrad years, surrounded something that, to take us away from the farmed animal focus, surrounded, animals utilized for research purposes. Particularly, and I'm not recalling the details specifically, but, there's a group of gorillas that were being used for research purposes and were then removed from the lab because there were some really egregious treatments given to these animals. And I do think some of those animals or chimps maybe are still alive today in a reserve in Florida, but I don't know if, like, you can speak a little bit to, like, kind of how animal welfare comes into play when we consider research animals or animals used for scientific research. Since I think that is like a really big, huge topic that we just simply don't talk about enough.

00:23:43:19 - 00:27:46:02

Prof. Delci Winders

Yeah. So like 50 different things I want to say in response to you. I'm going to try and keep my thoughts ordered. So I believe the case you're thinking about is, *State v Taub*, which came out of Maryland. And it was... There was an undercover investigation by Alex Pacheco, who went on to become the co-founder of PETA, and he documented horrific treatment of these, they weren't great apes., they were monkeys, who were being used for federally funded experimentation. What was being done to these animals is, they were basically... A stroke was mimicked, so they were basically cut off from being able to use their limbs. And then there were attempts made to try to force them to use those limbs. So to shock them so much that they would want to use those limbs and other cruel things. And what was prosecuted against Taub was not the experimentation itself, but rather the fact that he wasn't even providing veterinary care to these animals when they had wounds from what are, you know, very commonly documented injuries to animals held in solitary confinement, used for experimentation where they, you know, they they chew on themselves, they pull out their hair, they sometimes gnaw off their fingers. And these animals were just being if they had a bandage, it was nasty, sometimes infected. And so he was prosecuted ultimately convicted of one charge. And the Maryland Supreme Court overturned that conviction. And that was the first and last conviction that an animal experimenter has ever faced in the United States, almost certainly the world. And, the reasoning of that case was, was really nonsensical. They basically said, this is... This facility has a license from the USDA under the animal welfare Act to experiment on animals, and they're getting funding from the NIH, National Institutes of Health. So we don't really feel comfortable stepping in and saying what they're doing is illegal. It's important to know that the Animal Welfare Act, not only is... does not preempt state law, it actually affirmatively states that it is not intended to prohibit even stricter state or local standards. but this very powerful industry, the biomedical industry, has been able to avoid scrutiny because of this. That was quite a few years ago but like I said, there has not been another conviction since. And the US holds the dubious distinction of holding the most humans and the most non-human primates in solitary confinement in the world, that of any country. And, I wrote an article about this actually, again, talking about the overlaps between advocating for humans and non-humans, because oftentimes in the human prisoner advocacy context, you'll hear arguments like animals are treated better than prisoners, and it's not true. They're both treated horribly and and I think there's work again to collaborate there. I think it's important to know that although the Animal Welfare Act does regulate animal

experimentation, it does so very, very loosely. So it does not prohibit anything being done to an animal. It's more of a paperwork kind of statute. And even then, even when violations happen, it's extremely rare for enforcement to be taken. And when enforcement is taken, the fines tend to get discounted to just pennies on the dollar. And the USDA's own Office of Inspector General has repeatedly condemned the agency for failing to properly implement the law.

00:27:46:04 - 00:27:54:06

Travis

Do you recall what the charge was for this, animal experimenter?

00:27:54:08 - 00:28:02:21

Prof. Delci Winders

I believe it was a neglect charge, and it was neglect for failing to provide veterinary care to a monkey named Nero.

00:28:02:23 - 00:28:16:16

Hope

Do you know, is there any, like, current advocacy in this area that, you know, students should be paying attention to if they want to get involved or anything like that that people should take a look at?

00:28:16:18 - 00:30:36:12

Prof. Delci Winders

Yeah, I think one area of very active advocacy right now is, there are numerous federal primate research centers. so I believe it's seven and they are mostly at universities across the United States. So Tulane has one, Oregon Health and Sciences University has one. and so the federal government is funding primate experimentation at facilities that have been documented, violating even the minimum requirements of the Animal Welfare Act, sometimes in pretty horrific ways. And so there are people who are advocating to stop the federal funding of these facilities, including former workers inside those facilities. Something else that's actively happening is that, the type of macaque that is used extensively for experimentation in the US has become endangered. And so we have been importing massive numbers of monkeys every single year for experimentation. And sometimes those are laundered, they're wild captured, and they're, put... labels are put on saying that they're captive bred when they're not. But the species is becoming endangered, which means it's much harder to import them. And, as a result, there are plans underway to build a massive monkey breeding facility in the United States so that we have our own domestic supply. There's a lot of advocacy opposing that. And then the last one I'll mention is, for chimpanzees, the National Institutes of Health in 2013 said that we are going to stop, experimenting on chimpanzees. We have analyzed it, we don't think there's any benefit to humans and the chimpanzees were supposed to be assessed for, being sent to sanctuary. There's a federally funded sanctuary in Louisiana, and there are still quite a few of those chimpanzees all these years later. Now, more than a decade later, being held at Alamogordo, just languishing. They're not being used, not being allowed to be sent to sanctuary. So there's ongoing litigation related to that as well.

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Travis

When it comes to animal rights, what is the conversation in terms of developing them? Are we talking about like a bill of rights for animals? Are we talking about amendments expanding within the Animal Welfare Act? is there... is it creating whole cloth? What's the general idea?

00:30:56:14 - 00:32:16:09

Prof. Delci Winders

Yeah. So this is one of the things I love about Animal Law, honestly, is that there's so much happening every day almost there's a new development. And there are a lot of people pursuing different pathways. So you have the Nonhuman Rights Project, for example, that is entirely focused on seeking personhood for elephants, chimpanzees and orcas, animals who the science shows are similar to humans in ways that we have deemed to matter, under the law. So that's, you know, very much in the Rights vein. And there are others doing similar work there too, including PETA and the Animal Legal Defense Fund groups that tend to work across the spectrum. And then there are people who are trying to amend the Animal Welfare Act. So it's... All of it, and more is happening. And I think it's really important that we pursue all of those things, because I think we need to get help immediately to animals who are suffering. But we also need to re-envision how we are thinking about them, conceptualizing them, treating them in our legal system. So, I mean, there are scholars who are working on what does it mean for an animal to be the subject of a democratic constitutional state. And we need that theoretical work to help us vision where we ultimately want to go.

00:32:16:11 - 00:33:42:15

Travis

Yeah. The first thing that comes to mind is, for me, as a comparison, is how we treat different scrutiny within constitutional law. You know, not all... not all discrimination is treated equally. And, to your point about the orcas and the group that is, being advocated for personhood, yeah, I kind of see similarities there where you can start to draw lines around certain animal species. And then to your point and, just to press it a little bit of a finer point, these emotions are cognitive, realities of animals that we deem important, I would guess, is empathy, some form of, I guess, love or relationship, familial relationship. I know, you know, orcas, for example, hearing orcas cry when their calves are taken, I think is a very human, you know, we can connect with them there. And I think pigs have gotten a glow up in the recent. Yeah, in recent times being very, you know, elevated in their, in their humanness. and I guess that's the question, you know, I it's, I guess through a mirror, we're asking what are human traits. We're kind of we're using it as a mirror to analyze what we believe are essential human traits.

00:33:42:16 - 00:34:55:23

Prof. Delci Winders

Yeah. And I think that's one of the naughtiest issues in Animal Law is that our legal system is necessarily human centered because it's created and implemented by humans. And so we have these anthropocentric standards. And we're saying if you are sufficiently like us in XYZ way, then we will extend recognition to you. Some of the values, just to add on to what you mentioned that are particularly emphasized are self-recognition. So animals who pass the mirror, self-recognition test. Happy, The elephant herself did, you know, lots and lots of species have done that, but it's also a very narrow way of thinking about intelligence or capacity or deserving this, of having your interest recognized. I think animals are amazing for the ways in which they're different from us. In ways that we can never wrap our heads around. They experience the world through senses that we don't have. And, I think we need to find a way to recognize that in the law as well, and not only to recognize animal interests if they're sufficiently similar to us.

00:34:56:01 - 00:35:47:09

Hope

Something that pings for me, when we have this kind of discussion about, like creating a definition of human and whether if you meet that definition, then you get access to rights or you don't. and something that I just thought of when you were explaining that is that there might be inherent dangers in establishing

something like that because, that might limit access of rights for disabled people and also for any, any person on the outskirts of society really, truly. And so to me, I feel like animals don't need to be human to deserve rights. They should just deserve rights for being animals. and like, there's... I just... that makes me anxious.

00:35:47:11 - 00:36:36:18

Prof. Delci Winders

Yeah. No, you're spot on. And that has been a major critique of Peter Singer, the philosopher who wrote *Animal Liberation*, which is widely considered to be sort of the genesis of the modern animal rights movement. Although he was a utilitarian, not someone who believed in rights. but he critiques human exceptionalism and says it's completely irrational to say someone deserves protection merely because they're human, even if they're comatose. And he has been, very heavily critiqued by disability rights community and others. And I think you're right, they should be recognized because they're animals. And I think to the interests that are protected or the rights that they get should center on what their particular needs and needs are.

00:36:36:19 - 00:36:43:01

Travis

Just as a kind of pet interest of mine. What's the conversation like around hunting in this space?

00:36:43:03 - 00:38:31:17

Prof. Delci Winders

Yeah. So the critiques of hunting tend to focus on particular types of hunting, certainly not subsistence hunting. So, I've been involved in work challenging trophy hunting, imports of endangered animals. So, imports of endangered, critically endangered rhino trophies, for example, elephant trophies are still coming into the U.S, all sorts of animals that you would think surely shouldn't be allowed because they're on the Endangered Species Act list, for example. But the, U.S. Fish and Wildlife Service is issuing permits for these imports. So that's one that has come under a lot of scrutiny here in Vermont. There is a lot of work being done to try and ban coyote hounding, which is the practice of sicking dogs on coyotes, which is not a really good situation for the dogs or the coyotes, or the people whose property they might end up cornering the coyote on. And so there's a big focus around that. There's in, a number of states. There have been, efforts to ban bear baiting or cougar baiting, basically putting out food for animals day after day until they get accustomed to it and then shooting them point blank when they're coming for their daily, donut or whatever it is. So those are the types of things that tend to be focused on or, you know, shooting with a bow and arrow in a way that you're not certain the animal is killed immediately and they may run away and languish and not die for days like Cecil the Lion several years ago.

00:38:31:19 - 00:39:21:11

Travis

There's so many, as we're just talking, there's just so many avenues, that you can take. And I guess, I guess gets to a good question. and it might be a good time to bring up just other. You know, we've been focusing on more heavy animal, topics currently, but certainly there's there's lighter fare I am aware of, like, the Bird Migration Act and the like and different treaties, which is a different area of Animal Law. And just to provide a more expansive look at the industry. What are some of those... not just treaties, not just the, Migration Act, but I guess in light of what we've been talking about, the lighter areas of Animal Law, if you will.

00:39:21:13 - 00:41:06:05

Prof. Delci Winders

Yeah. So I think I don't know if this is responsive. The Migratory Bird Treaty Act is a hugely important one. It's a really powerful statute, because it provides pretty much strict liability for harming migratory birds. And, you know, there's discussions underway about and it's a very old statute, 1918 I think, but there are discussions underway about how do we have accountability under that for birds who run into windows, for example, because many, many, many birds are killed by flying into windows every year. The Endangered Species Act is an incredibly powerful statute and that protects species and their habitats in the wild. It has a citizen supervision, so any person who has standing can sue to challenge unlawful takes of protected species. Very, very useful statute. I've used it on behalf of captive wildlife because it's better than the Animal Welfare Act and the USDA isn't enforcing the Animal Welfare Act. So those are those are like the big guys. I would say, there are also what are called Puppy Lemon Laws, which are basically consumer protection laws that are intended to protect people from unscrupulous dog breeders who are shipping people or giving... selling people dogs who are sick. Which is very, very common. I don't know if that's light. That's probably not light I mean, all of this is aimed at addressing a problem, so there's a certain heaviness to it.

00:41:06:07 - 00:41:13:06

Travis

I guess a spectrum of lawyers can talk about what's light or not. It's overall... Yeah, pretty heavy stuff.

00:41:13:08 - 00:41:37:13

Prof. Delci Winders

This is a maybe this is light. There is a trend in state legislation. I think there's a federal bill pending as well to require that animals used for experimentation be able to go to sanctuary, once the researchers are done experimenting on them. So the traditional practice is to kill them. And so this is something saying, you know what? They should they should at least get to live out the rest of their lives.

00:41:37:15 - 00:41:51:07

Travis

We'll take that. That's light. And one that actually, I'm reminded of now. I think it was last year, amidst the Tiger King phenomenon on Netflix. I believe the big cat act got amended to where...

00:41:51:07 - 00:41:52:03

Prof. Delci Winders

Yes.

00:41:52:04 - 00:41:55:01

Travis

Yeah, you can't hold Tigers anymore, I guess.

00:41:55:01 - 00:42:57:06

Prof. Delci Winders

Yeah. No. Absolutely huge. Thank you for reminding me of that. So, Tiger King I have... I worked on every single one of the men featured in that film. Most of them are now shut down. Most of their cats are in sanctuary now. Few of them are not, yet. And the big Cat Public Safety Act, which prohibits private ownership of big cats because that was totally legal until recently. It had been introduced year after year after year, in the federal government and it went nowhere. And Tiger King for all its flaws. And I do think it has flaws. I in particular, I think it, misrepresented Carole Baskin and her accredited sanctuary. It did raise

public awareness. And I think it lit the fire that let or led to the big Cat Public Safety Act finally being enacted, which is massive change for big cats.

00:42:57:07 - 00:43:04:08

Travis

It goes to show kind of the, the, the, non-legal advocacy that can be.

00:43:04:09 - 00:43:05:10

Prof. Delci Winders

Yes.

00:43:05:12 - 00:43:38:18

Travis

That can be. So, you know, I always balance, try to balance the, judicial court with the public court of opinion and how those go back and forth. And, for me, I feel as if the court public opinion is becoming much more progressive on points of animal welfare. That could be a East Coast mentality or a city mentality. But I think, you know, Hope you're from Michigan and can speak to that portion of the country.

00:43:38:20 - 00:44:19:06

Hope

Yeah. I mean, like, just to add to what you're saying, Travis, as, I did theater during my undergrad, and so something I think it's so essential to any legal movement is the arts. And while we can debate the artistic quality of Tiger King, it is undoubtably, you know, a lot of careful actors went into that and script writers and, certainly, though probably unintended, had, activist effects, which I think is an incredible tool we have at our disposal now.

00:44:19:08 - 00:44:39:00

Hope

And I think we're getting close to the end of our time here, if I'm looking correctly. So I just thought that I would offer it up to you Professor Winders, if you had any final things that you would like viewers of this podcast to leave this podcast with.

00:44:39:01 - 00:46:54:19

Prof. Delci Winders

Yeah. If I may, I wanted to speak to the media piece as well first. Because I think that's such an important observation. Particularly in the animal protection space. Our laws are way behind where public sentiment is, and polling shows this consistently, and it's primarily because of committees that can paralyze any bill that's introduced affecting animals being captured, beholden to industries. And that's why direct democracy mechanisms like ballot initiatives have been so important for animal advocacy but media is hugely important. And so whenever I teach a clinic or any skills class, really, I do media training as part of it. I think it has to be part of your advocacy strategy. and I think, animal protection is one of the issues that is still bipartisan, and people from all walks of life think animals should be treated well and don't know what's happening to animals, because lots of money is being spent to keep it secret and to make it illegal to reveal it. So with that said, I'll just... I mean, thank you so much. It's been really fun chatting with you. I think I would encourage folks, even if you're not, you know, animal rights isn't everybody's issue, you may be focused on other issues. But I think no matter what you do, no matter where you are, you are going to come across times when you have the ability to make a difference on an animal protection issue. And so I hope folks will take advantage of that ability. Particularly people with the privilege of graduate degrees, law degrees, which brings power and the ability to effectuate change. And for those who are interested in

pursuing it in a more focused way, I would just encourage you not to be discouraged. I had a mentor in law school, one of my law professors told me that wasn't a thing. He wrote it in a letter of recommendation "She's great, but she wants to do this weird Animal Law thing that isn't a real thing". And so part of what I'm trying to do now is make it easier for other people.

00:46:54:21 - 00:46:58:08

Travis

And not write that in someone else's letter of recommendation.

00:46:58:09 - 00:46:59:02

Prof. Delci Winders

Yup

00:46:59:04 - 00:47:03:05

Travis

Oh, man, that hits hard as we're all applying for jobs at the moment. So yeah.

00:47:03:10 - 00:47:06:23

Prof. Delci Winders

I only found that out years later.

00:47:07:01 - 00:47:12:01

Travis

Well, Professor, we thank you very much for joining us on VJEL Talks. It's been a pleasure talking with you.

00:47:12:03 - 00:47:13:16

Prof. Delci Winders

Been great chatting with you. Thanks

00:47:13:18 - 00:47:14:14

Hope

Thank you.