

2022

Demons & Droids: Nonhuman Animals on Trial

Gerrit D. White

University of North Florida, n01478424@unf.edu

Faculty Mentor: Dr. Brandi Denison, Associate Professor
Philosophy and Religious Studies

Follow this and additional works at: https://digitalcommons.unf.edu/pandion_unf



Part of the [Animal Law Commons](#), [Applied Ethics Commons](#), [Catholic Studies Commons](#), [Christianity Commons](#), [Courts Commons](#), [Ethics in Religion Commons](#), [European History Commons](#), [History of Christianity Commons](#), [History of Religion Commons](#), [Intellectual History Commons](#), [Legal History Commons](#), [Medieval History Commons](#), [Metaphysics Commons](#), and the [Renaissance Studies Commons](#)

Recommended Citation

White, Gerrit D. (2022) "Demons & Droids: Nonhuman Animals on Trial," *PANDION: The Osprey Journal of Research and Ideas*: Vol. 3: No. 1, Article 17.

Available at: https://digitalcommons.unf.edu/pandion_unf/vol3/iss1/17

This Article is brought to you for free and open access by the Student Scholarship at UNF Digital Commons. It has been accepted for inclusion in PANDION: The Osprey Journal of Research & Ideas by an authorized administrator of UNF Digital Commons. For more information, please contact [Digital Projects](#).

© 2022 All Rights Reserved

Demons & Droids: Nonhuman Animals on Trial

Gerrit D. White

Faculty Mentor: Brandi Denison, Ph.D.
Department of Philosophy and Religious Studies
University of North Florida

Abstract

Nonhuman animal trials are ridiculous to the modern sensibilities of the West. The concept of them is in opposition to the idea of nonhuman animals—entities without agency, incapable of guilt by nature of irrationality. This way of viewing nonhuman animals is relatively new to the Western mind. Putting nonhuman animals on trial has only become unacceptable in the past few centuries. Before this shift, nonhuman animal trials existed as methods of communities policing themselves. More than that, these trials were part of legal systems ensuring they provided justice for all. This shift happened because the relationship between Christian authorities and the nature and consciousness around them changed significantly. As this piece argues, this relationship was based on an underlying personification that was lost due to two key theological/philosophical ideas, being the status of nonhuman animal's rationality and the status of their diabolical nature. This personification—this personhood—formed the basis for allowing nonhuman animals to be tried. According to some legal systems and lawyers, the capability of being on trial, of being part of a legal proceeding, is essential to personhood.¹ The concepts are inextricably linked; the marker between property and person. Knowing why this shift occurred can allow for a greater understanding not only into the ethics of human beings' relationships with nonhuman animals, but also how Christianity has interacted with nature.

Background

To better understand the context of nonhuman animal trials in Christian Europe, one can examine their pre-Christian history. Early in the Western Canon, the ancient Greeks would put nonhuman animals on trial. All living things, and anecdotally nonliving things as well, that had committed crimes against the community were considered to produce a kind of pollution that would arouse the *furies* and

bring about all kinds of ills.² It should be stated that the institution of nonhuman animal trials was not singular in its reasoning, neither for the Ancient Greeks nor the rest of Medieval Europe.³ However, this belief in criminal nonhuman animal's "pollution" producing ills continued to be held by European authorities well into the Renaissance. Though the

1 Katie Sykes, "Human Drama, Animal Trials: What the Medieval Animal Trials Can Teach Us about Justice for Animals," *Animal Law* 17, no. 2 (2011): pp. 273-311, 275; Steven M. Wise, "Legal Personhood and the Nonhuman Rights Project," *Animal Law* 17, no. 1 (2010): pp. 1-11, 2.

2 Edmund P. Evans, *The Criminal Prosecution and Capital Punishment of Animals*, version #43286 (London: William Heinemann, 1906), <https://www.gutenberg.org/files/43286/43286-h/43286-h.htm>, 9.

3 Anila Srivastava, "Mean, Dangerous, and Uncontrollable Beasts: Mediaeval Animal Trials," *Mosaic: An Interdisciplinary Critical Journal* 40, no. 1 (March 2007): pp. 127-143, 133.

belief itself was held, the reasons behind it changed. After all, ecclesiastical authorities could not continue referring to pagan *furies*, and so demonic influence became a chief concern in nonhuman animal trials.⁴ Even though the explanations for the prosecution of nonhuman animals were constantly changing, there was something underlying all of them: personification. There was an idea of what scholars like Cynthia Willett call solidarity.⁵ Solidarity is a relationship not based on sympathies or stewardship but rather a recognition of agency.⁶ In Greco-Roman sacrificial practices, nonhuman animals had to ritually “consent” to their role, and within medieval European communities secular and ecclesiastical authorities treated nonhuman animals (domesticated and feral) as members of their community.⁷ As members of the community, they had certain rights, rights also held by their human compatriots. The right to a lawyer, to a trial, and to fair consideration were all afforded to nonhuman animals in these courts.⁸ Court proceedings were carried out carefully and meticulously, the rights of any defendant, even the nonhuman, were not to be violated. One particularly famous example is the defense of rats by Bartholomew Chassenée. Chassenée managed to delay a trial long enough for the case to be dismissed by arguing his clients were not properly summoned, had trouble traveling, and had been intimidated by their mortal enemies (cats).⁹ Chassenée was intent on all those he defended receiving justice, even nonhuman animals.¹⁰ These arguments were accepted by the courts because Chassenée’s beliefs were a commonly held sentiment. It was also held that all manner of nonhuman animals

lived in their own communities and were accustomed to having their own laws, providing more reason for them to be held accountable.¹¹ Further, observed guilt in nonhuman animals was taken as a sign of distinguishing right and wrong.¹² In modern Western society, this is no longer the case. As this piece demonstrates, this is no longer the case because the consensus in Western society concerning nonhuman animals lost the underlying personification that had been key to trying, defending, and convicting nonhuman animals. This was caused by two specific arguments concerning nonhuman animals’ nature gaining traction amongst European thought: the likening of nonhuman animals to machines and the likening of nonhuman animals to demons. To analyze and understand these arguments, various nonhuman animal trials will be examined.

Hermeneutics

The way to examine these nonhuman animal trials is simply by taking them at their word. No doubt context and overarching historical themes of their times are important, and should be carefully considered, but it is best to, first and foremost, trust the account of those present as authentic. It is easy to fall into a trap of seeing the potential contradictions between papal bulls, court decisions, and larger movements of Christian people throughout Europe as a reason to try and look at these trials through materialist and reductionist lenses. These lenses have their places; indeed, they have been used already in examining the development of nonhuman animal trials. By looking at them purely as a means by which a community cleanses itself, as a communal function for a society to reduce their fears and ailments, these trials were reduced to an act that was potentially very sacred and/or religious to functions of psychology and practicality. Going forward, these trials are examined

4 See note 2.

5 Cynthia Willett, *Interspecies Ethics: Communitarian Justice and Cosmopolitan Peace* (New York, NY: Columbia University Press, 2014), 38.

6 See note 5.

7 Willett, 34.

8 See note 7.

9 Evans, 18-19.

10 Evans, 20.

11 Evans, 35.

12 Evans, 247.

and accepted at face value. In doing so, more will be revealed about the complicated texture of beliefs held by Christian authorities at large. Potential cognitive dissonance of colonial decrees and trial verdicts should not be dismissed as human moral failings, but as examples of complex opinions informed by a world of factors and listening to these sources as “truth” helps accomplish that.

The Paradoxical Nature of Nonhuman Animal Trials

The court case that best demonstrates the tensions within Christian beliefs is a trial in 1575 Savoie, France, where weevils were accused of destroying vineyards on Mont Cenis. The weevil’s appointed lawyer, Pierre Rembaud, did not try to use court proceedings to defend them like Chassenée had. Instead Rembaud asked for a summary judgment, declaring that, yes, his clients did eat the grape leaves, but that they had a solemn right to do so!¹³ He did so through a theological argument, noting that God had created nonhuman animals for humans and had promised them “all of the grasses, leaves and green herbs for their sustenance”.¹⁴ His arguments relied on concepts of original ownership, of the weevils having prior claim to the land. He won. This is strictly opposed to arguments made by scholars about the theological roots of Christian colonialism and exploitation of nature.

It does run opposite of the famous papal bull of *Inter Caetera*, which divided South America between Spain and Portugal, with little regard for the native

inhabitants.¹⁵ This was also in 1493, a century before Rembaud’s victory. This was one of many papal bulls and laws passed that would form the so-called “Doctrine of Discovery”, which was anathema to concepts of original ownership and prior claim. It was the loss of a cosmopolitan solidarity that was an important factor in the eventual domination over the arguments of Montaigne, Rembaud, Chassenée, and others like them.

Looking more in depth at the weevil trial in St. Julien, Savoie, France, more granularity is revealed. Though Rembaud made arguments about original ownership, citing Genesis and commandments from God, he also states that it is ridiculous to bring civil and ecclesiastical law against “brute beasts”, who are subject not to reason but instinct and natural law.¹⁶ It should not be assumed however that Rembaud positions nonhuman animals necessarily below humans, as his response to the prosecution’s claim that “lower animals” have been made subject to human beings is a fiercely opposed one. Rembaud argues that this positioning of nonhuman animals is neither true nor relevant to the case.¹⁷ With these facts and the trial’s verdict in mind, this case can be understood as a focal point in the development of how the Church viewed nonhuman animals and by extension nature.

Rembaud can simultaneously argue that nonhuman animals, lacking reason, are simply acting by instinct as well as arguing that these nonhuman animals are most assuredly not made subject to humans. This ordering of the cosmos, accepted by the court, is one that both uplifts humans with their reason while also placing weevils on something

13 Jason Hribal and Jeffrey St. Clair, “Fear of the Animal Planet: The Hidden History of Animal Resistance,” in *Fear of the Animal Planet: The Hidden History of Animal Resistance* (New York, NY: AK Press, 2011), pp. 1-20, 4.

14 See note 13.

15 Alexander VI, “The Bull *Inter Caetera*,” in *European Treaties Bearing on the History of the United States and Its Dependencies to 1648*, ed. Frances G. Davenport and Charles Oscar Paullin (Washington, D.C: Carnegie Institution of Washington, 1917), pp. 71-78.

16 Evans, 42-43.

17 Evans, 43.

of the same level. If humans are not these weevil's sovereign but are still clearly set apart and endowed with reason—something positive within the systems of the time—then there is a clear tension in the relationship between humankind and nature in this cosmos. In a similar vein is the tension that exists from the system surrounding nonhuman animal trials themselves: ecclesiastical courts, which did not deal with singular, individual nonhuman animals, primarily punished those creatures found guilty with excommunication.¹⁸ Excommunication implies membership in the Church, with all the metaphysical qualities that came with it. These tensions are recognized by different theologians, and the ways they were often resolved resulted in greater loss of personification of nonhuman animals, the primary factor in the shifting concerns of animal trials. The ways it has been resolved have also differed from each other significantly while still ending at the same loss of personification (and thus an eventual cessation of animal trials). The topic of nonhuman animals having rationality, counter to Rembaud's argument, is contentious within the Church but seemingly necessary for a just and proper trial.

Nonhuman Animals as Irrational Machines

Scholars agree that a focus on the rationality of nonhuman animals was a key factor in the shifting notions around nonhuman animal trials. Anselm Oelze argues that there was a paradigm shift due to new theological arguments about cognition.¹⁹ Susan Pearson argues that this shift happened because of a new prevailing philosophy in Europe: Rationalism, or, perhaps better phrased: Enlightenment era

thinking.²⁰ Enlightenment rationalism changed the place of nonhuman animals within human communities.²¹ This is possibly best illustrated by Rene Descartes' arguments that nonhuman animals are like machines.²² Descartes argued that nonhuman animals were automata that, due to lacking a rational soul, are feelingless, senseless, instinct-driven beasts. Similar to modern beliefs concerning machines and automata, nonhuman animals were made to be tools to be used to further human goals. Descartes was not unique in proposing this idea either, with the Spanish philosopher Gomez Pereira positing much the same a few decades earlier.²³ The historian Lynn White recognizes this shift and points to innovations with plows as a possible factor in it. With the advent of a new plow that generated much more friction, peasant farmers, used to subsistence farming with two oxen, now could till the soil much better with eight.²⁴ Most farmers, lacking this amount of oxen, had to pool their resources as well as distribute the fruits of their (and the oxen's) labor in accordance with their contribution.²⁵ White argues this fundamentally shifted the relationship humans had with not only nonhuman animals, but nature in general. He writes, "Thus, distribution of land was based no longer on the needs of a family but, rather, on the capacity of a power machine to till the earth... Formerly man had been a part of nature; now he was the exploiter of nature."²⁶

18 Peter Dinzlacher, "Animal Trials: A Multidisciplinary Approach," *The Journal of Interdisciplinary History* 32, no. 3 (2002): pp. 405-421, <https://doi.org/10.1162/002219502753364191>, 408-409.

19 Anselm Oelze, *Animal Rationality: Later Medieval Theories 1250-1350* (Leiden: Brill, 2018), 23-25.

20 Susan J. Pearson, *The Rights of the Defenseless: Protecting Animals and Children in Gilded Age America* (Chicago: University of Chicago Press, 2011), 9.

21 See note 7.

22 Rene Descartes, *Meditations on First Philosophy*, trans. John Veitch, 1901.

23 Evans, 66-67.

24 Lynn White, "The Historical Roots of Our Ecologic Crisis," *Science* 155, no. 3767 (March 10, 1967): pp. 1203-1207, <https://doi.org/10.1126/science.155.3767.1203>, 1205.

25 See note 24.

26 See note 24.

In the relegation of nonhuman animals to the status of machine—of automata, there is a resolution to the tensions arising in Rembaud’s defense. The stripping of will and agency from nonhuman animals made trials unreasonable as well as continued the trend White discussed in his famous essay.

As was said by Rembaud: If “brute beasts” live by nature’s instinct alone, lacking experience and sense of reason, how could they stand under canon and civil law? This defense was made elsewhere, especially as The Enlightenment further solidified its hold over European thought. In trying to defend nonhuman animals from punishment through this stripping of reason, attorneys subjected nonhuman animals to worse conditions by increasing the removal of personification.

This can be seen well in one trial concerning problematically burrowing bunnies. The first argument of the defender of these rabbits was that they, lacking reason, could not be culpable and therefore could not be put to trial in the first place.²⁷ He states that the whole process would mean that “the parties summoned are endowed with reason and volition and are therefore capable of committing crime”, which he quickly argues against with various legal and theological texts.²⁸ The theological arguments made stem from both nonhuman animals lacking immortal souls (and therefore not being members of the Church, which the apostle Paul said was required to be judged) and nature, through God, doing nothing in vain (and the bunnies being able to explain their reasons, if only they were rational and could speak).²⁹

The court sided with the plaintiff, but it should be noted that the prosecutor’s response to these arguments did not refute the underlying premises (that nonhuman animals were irrational beings lacking immortal souls), but rather stated that the

courts had the right to prosecute them anyway, given their ability to arrest and punish the insane. More importantly, the prosecutor highlights the actions of the accused: “doing harm to man by eating and wasting the products of the soil designed for human sustenance”.³⁰ This focuses not on whether the creatures act maliciously, or consciously, or even their culpability, but rather their direct effects on human beings. This highlights the arguments made by scholars like Cynthia Willett and Lynn White, the courts recognized and accepted many of the arguments made by the prosecutor but— perhaps given the nonhuman animals irrational and profane nature—went with the more “practical” route that placed humans on top and as the primary focus. The personhood that the beasts may have had was gone.

Nonhuman Animals as Demons

One of the other ways the tensions found in Rembaud’s case were resolved can be found earlier in a ninth century plague of locusts in Rome. After widespread failed extermination efforts, the locusts were finally dealt with by copious amounts of holy water from Pope Stephen VI being used to expel the pests.³¹ The usage of holy water is vital here. It raises questions about the nature of locusts and other nonhuman animals. How they relate to the divine is shown in prayers concerning this plague. Their nature is all but assured: “insects, mice, moles, serpents and other foul spirits”.³² This demonic character is emphasized in other prayers, which gives locusts (and other “pests”) both a malicious character and direct line to “the wiles of Satan”.³³ In this instance there is an acceptance that nonhuman animals have malice, and attribute it to Satan. Nonhuman animals are granted agency and reason; it is simply the incarnation of evil spirits/demons.

27 Evans, 98-99.

28 See note 27.

29 Evans, 98-101.

30 Evans, 103.

31 Evans, 64-65.

32 Evans, 65.

33 See note 32.

In the centuries following Descartes's and Pereira's arguments that nonhuman animals were simple automata—machines without reason, this demon-animal confluence became something of the response to it. A Jesuit priest, one Père Bougeant, asserted that nonhuman animals could not be simple automata.³⁴ His argument mainly relies on one principle: The reasoning that other human beings are intelligent and conscious applies to nonhuman animals as well. With this, nonhuman animals could not only have emotions and reason (and therefore guilt and culpability), but also have a spiritual principle. A spiritual principle that, practically speaking, does not differ very much to the human soul.³⁵ This kind of solidarity, however, ran into the same issue other conceptions of nonhuman intelligence ran into: Orthodoxy.

Bougeant recognized this problem. He found that nonhuman animals might have an immortal soul and could be worthy of redemption, retribution.³⁶ This conclusion meant that “Beasts, in that case, would be a species of man or men a species of beast, both of which propositions are incompatible with the teachings of religion.”³⁷ How could theologians who were staunchly within a Christian framework with little desire to break out of it reconcile nonhuman animals being more than machines? The answer reflects what was seen in Rome. Nonhuman animals were incarnations of demonic spirits. Bougeant mentions the exorcism of demon(s) Legion into the swine at Gersaene as an example of this, believing that the swine ran off the cliffs not because a demon was introduced to a host, but because not even a swine could contain more than one demon.³⁸ Bougeant's conclusion, and its demonic slant, does two things. Firstly, it allows for nonhuman animals to continue

being guilty or not guilty. Culpability requires a will in these courts, and this explanation, unlike the more materialist explanations of Descartes and Pereira, gives nonhuman animals agency. Secondly, it further entrenches nonhuman animals as *lesser*. It deprives nonhuman animals of the personification that might have been granted to them by virtue of having a will and having culpability. While they can still be guilty or not guilty, at their heart they are still demonic. Demons who are not worthy of redemption, only retribution. As had been determined numerous times within the Church, Satan and his cohort of demons were irrevocably damned.³⁹ Even early influential Church fathers such as Origen who opposed this line of thinking had been declared heretics. Either nonhuman animals took on this position of damnation, or they were relegated to being automata.

Opposition to Loss of Personification

This loss of personification was a large factor in the decline of putting nonhuman animals on trial as well as the way humans have interacted with them since. Though this loss of personification (through both the rendering of nonhuman animals as automata or as demons) became the dominant line of thinking within Europe, it did not lack opposition. Michel de Montaigne, who lived just a few years before Descartes and who was a contemporary of Pereira, is an example of a prominent thinker who did not seek to strip the personhood of nonhuman animals. Montaigne, in his essay *On Cruelty*, outright says: “I abate a great deal of our presumption, and willingly resign that imaginary sovereignty that is attributed to us over other creatures.”⁴⁰ He writes that even if there was a sovereignty of humans above other creatures, there is a “certain respect” and a “general duty of humanity” not just to the nonhuman animals, but

34 Evans, 66.

35 See note 34.

36 Evans, 67.

37 See note 36.

38 Evans, 68-69.

39 Evans, 67-68.

40 Michel Montaigne, “On Cruelty” in: *The Essays of Michel De Montaigne*, trans. Charles Cotton, 1913.

to all nature, trees and plants included.⁴¹ Montaigne connects this concept of a respect and solidarity-filled relationship with a long tradition of various Western civilizations treating nonhuman animals with respect and care. He points towards the Roman public care of Geese, the Athenian care of mules, and the Turkish hospitals for nonhuman animals.⁴² It is important to point out this opposition because it shows that the thought surrounding the relationship that humans and nonhuman animals had was granular and not hegemonic, even with Catholic philosophers and theologians like Montaigne.

Conclusion

Despite opposition like this though, the “question” on nonhuman animal trials was answered. The tensions found within Rembaud’s case which simultaneously saw nonhuman animals as peers as well as uplifted

humans above the rest of the nature were resolved. It was after the development of two key ideas that these kinds of trials fell out of favor and nonhuman animals found themselves in a position lacking personification. The first idea, defining of nonhuman animals as irrational “machines”, can be seen with Enlightenment philosophers and the burrowing bunnies trial. The second idea, nonhuman animals being diabolical in nature, can be seen in the arguments made by thinkers like Bougeant and the Church’s response to various pests. These ideas were both theological and secular in nature but were still either in the direct context of the Church, as in the case of ecclesiastical courts, or in the indirect context of the Church, as in the case of the (Catholic) Christian religion dominating the philosophy of the discussion. In all cases, the consensus on the personhood of nonhuman animals changed greatly and granularly as these shifting ideas of nonhuman animals being demons and droids were spread and accepted.

⁴¹ See note 40.

⁴² See note 40.

Bibliography

- Alexander VI, "The Bull Inter Caetera," in *European Treaties Bearing on the History of the United States and Its Dependencies to 1648*, ed. Frances G. Davenport and Charles Oscar Paullin (Washington, D.C.: Carnegie Institution of Washington, 1917).
- Descartes, Renes. *Meditations on First Philosophy*. Translated by John Veitch, 1901.
- Dinzelbacher, Peter. "Animal Trials: A Multidisciplinary Approach." *The Journal of Interdisciplinary History* 32, no. 3 (2002): 405–21. <https://doi.org/10.1162/002219502753364191>.
- Edmund P. Evans, *The Criminal Prosecution and Capital Punishment of Animals*, version #43286 (London: William Heinemann, 1906), <https://www.gutenberg.org/files/43286/43286-h/43286-h.htm>.
- Fudge, Thomas A. *Medieval Religion and its Anxieties: History and Mystery in the Other Middle Ages*, (New York, NY: Palgrave Macmillan, 2016).
- Girgen, Jen. "The Historical and Contemporary Prosecution and Capital Punishment of Animals." *Animal Law* 9 (2003): 97-133.
- Hribal, Jason and St. Clair, Jeffrey, "Fear of the Animal Planet: The Hidden History of Animal Resistance," in *Fear of the Animal Planet: The Hidden History of Animal Resistance* (New York, NY: AK Press, 2011).
- Kastner, Jeffrey. "Animals on Trial." *Cabinet Magazine* 4 (2001).
- Koyuncu, Embre. "Animals as criminals: Towards a Foucauldian analysis of animal trials." *Parergon* 35, no. 1 (2018): 79-96.
- Montaigne, Michel. "On Cruelty" in: *The Essays of Michel De Montaigne*. Translated by Charles Cotton, 1913.
- Oelze, Anselm. *Animal Rationality: Later Medieval Theories 1250-1350*. Leiden: Brill, 2018.
- Phillips, Patrick J.J. *Medieval Animal Trials: Justice for All* (Lewiston, NY: The Edwin Mellen Press, 2012).
- Pearson, Susan J. *The Rights of the Defenseless: Protecting Animals and Children in Gilded Age America* (Chicago: University of Chicago Press, 2011).
- Sorabji, Richard. *Animal Minds and Human Morals: The Origins of the Western Debate*. Ithaca: Cornell University Press, 1995.
- Srivastava, Anila. "Mean, Dangerous, and Uncontrollable Beasts': Mediaeval Animal Trials." *Mosaic: An Interdisciplinary Critical Journal* 40, no. 1 (March 2007): 127–43.
- Sykes, Katie. "Human Drama, Animal Trials: What the Medieval Animal Trials Can Teach Us about Justice for Animals." *Animal Law* 17, no. 2 (2010): 273–311.
- Willett, Cynthia. *Interspecies Ethics: Communitarian Justice and Cosmopolitan Peace* (New York, NY: Columbia University Press, 2014).
- Wise, Steven M. "Legal Personhood and the Nonhuman Rights Project." *Animal Law* 17, no. 1 (2010): 1–11.
- White, Lynn. "The Historical Roots of Our Ecologic Crisis," *Science* 155, no. 3767 (March 10, 1967): pp. 1203-1207, <https://doi.org/10.1126/science.155.3767.1203>
- Yamamoto, Dorothy. *The Boundaries of the Human in Medieval English Literature*. Oxford: Oxford Univ. Press, 2000.