

The case for chimpanzee 'personhood'

May 20 2015, by Jane Johnson



Should primates such as chimpanzees be given rights normally reserved for humans? Credit: phil/Flickr, CC BY-NC-SA

Hercules and Leo don't know it, but a decision about their future has made history. In granting an [order to show cause](#) on whether Hercules and Leo (who just happen to be chimpanzees) are illegally imprisoned, a Supreme Court judge in Manhattan has kept open the possibility that some nonhuman animals will be granted legal rights under common law.

The plaintiffs are currently used for biomedical research at New York's

Stony Brook University. What the lawyers running the case hope to show is that Hercules and Leo shouldn't be treated as if they were just things or property, but should instead be given the status of persons.

Showing that any animal has what is needed for legal personhood is a difficult task. But chimpanzees seem promising candidates as there is a wealth of scientific evidence showing they possess complex cognitive abilities, like self-awareness and autonomy.

The order to show cause on the issue of [habeas corpus](#) is the first step in a process which [Steven Wise](#) and the Nonhuman Rights Project ([NhRP](#)) hope will secure Hercules and Leo's bodily liberty and integrity.

If the court were to find in their favour, the chimpanzees would no longer be kept for research and could be moved to a sanctuary in Florida.

NhRP was founded by Wise in 2007 and after years of research it filed its first cases back in December 2013. To date it has brought three cases on behalf of chimpanzees held in captivity in the state of New York. But NhRP is ambitious, aiming to run as many cases on behalf of animals as it can fund.

If it can find suitable plaintiffs, NhPR hopes to mount cases for the personhood of elephants, whales and dolphins too.

Different perspectives on personhood for animals

Reactions to treating nonhuman animals as persons vary widely. Some people think it is [ridiculous](#) to even entertain the idea. Persons have to be human – end of story.

For philosophers, this is not very satisfactory. It tries to answer the

question of whether animals can be persons by asserting a definition rather than offering an argument. It gets more interesting when people give reasons to support their view.

One approach to defending the idea that only humans are persons involves saying that persons need to participate in society. Society is founded on reciprocity; you can't just take rights without also assuming responsibilities. And animals like [chimpanzees](#) can't take on responsibilities, so they can't have rights.

Another tactic is to suggest that there is a whole heap of criteria that one has to meet to be a person. And although humans meet these criteria, nonhuman animals don't. These criteria could include things like being rational, self-aware, autonomous, having culture and being able to communicate.

The problem is neither of these kinds of arguments stand up to interrogation. There are lots of humans who get the benefit of rights without living up to reciprocal responsibilities, such as young children and people with certain physical or mental impairments.

There are similar difficulties when using a criteria based approach. Just as there are many humans who don't meet certain criteria for personhood, there are some nonhuman animals [who do](#).

This is known as the "problem of marginal cases". Taking a consistent approach would mean treating some animals, but not all humans, as worthy of moral consideration.

There are other people who are sympathetic towards giving greater ethical consideration to animals, but who don't think using personhood is the best approach. Utilitarians, for example, worry about the capacity to suffer. If a chimpanzee – or for that matter a dog, cat or rat – can

experience pleasure and pain, then they matter regardless of whether they meet a test for [personhood](#).

Implications of nonhuman animals as persons

If Wise and the NhRP win their case it will be a significant precedent and other cases will surely follow. Chimpanzees in jurisdictions where successful cases are mounted will no longer be permitted to be used in research or kept in zoos and circuses.

However, less charismatic animals – ones that don't look like us or where it is not in our interests to grant them rights – won't be so fortunate. Historically, there is a deep inconsistency in how we treat different types of animals that is not easily overturned, even in the face of compelling legal and ethical arguments.

The case of Hercules and Leo also has connections to Australia. Wise was inspired to practice animal law back in the 1980s after reading the work of Australian philosopher, Peter Singer. The hearing of the case in New York was actually interrupted due to Wise's long-standing commitment to visit Australia and deliver the 2015 Voiceless Animal Law Lecture Series.

The hearing is now scheduled for 10:30am Wednesday May 27 at the New York County Supreme Court. Those interested in seeking rights for nonhuman animals keenly await the outcome.

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