

15. Nonhuman Persons

In May 2015, Justice Barbara Jaffe of the Manhattan Supreme Court ordered Stony Brook University to show cause and writ of habeas corpus in a case involving two chimpanzees, Hercules and Leo, whom Stony Brook was using for medical research. The ruling, while not explicitly granting legal personhood to the chimps, arguably implied legal personhood by granting them a right to appear in court. The Nonhuman Rights Project (NhRP) which filed the suit on behalf of the chimps, claimed a major victory in a news release with the headline, “Judge Recognizes Two Chimpanzees as Legal Persons, Grants them Writ of Habeas Corpus.” The next day, however, Justice Jaffe amended the order to remove any reference to habeas corpus.

In 2013, the NhRP had embarked on a mission of filing civil lawsuits, state by state and as funding allows, with the goal of getting certain animals recognized as legal persons. While there are many groups dedicated to animal welfare, the NhRP, according to its website, is “the only organization working through the common law to achieve actual LEGAL rights for members of species other than our own.” The group believes that a legal person is a being capable of possessing certain rights, such as the right to bodily integrity and the right to bodily liberty. A case can be made against animal research if the animals involved have the right to bodily integrity; a case can be made against captivity if the animals have a right to bodily liberty. But none of these cases can get off the ground unless animals are recognized as legal persons.

The NhRP has developed a practical-autonomy scale by which it classifies various species. The animals at the top of the scale, the so-called Class One species, are those for which the strongest cases for personhood can be made. Class One species demonstrate an awareness of oneself, complex communication skills, and a “theory of mind” (that is, a recognition that there may be a difference between what they see and think and what another animal sees and thinks). This class includes chimps and other non-human members of the Hominidae family, as well as dolphins, orcas, and elephants.

The NhRP’s strategy is similar to that once used to secure the freedom of slaves before the passage of the Thirteenth Amendment. It consists of identifying some particular animals in captivity and suing on behalf of those animals for their release. The strategy has a better chance of success in some states than in others, and the NhRP’s website explains the legal issues involved in each of the fifty states.

The animal rights movement has made significant headway in countries outside the United States. In February 2007, the parliament of the Balearic Islands, an autonomous province of Spain, became the first legislative body to grant legal rights to all members of the Hominidae family.

Case from the 2016 Intercollegiate Ethics Bowl National Competition

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