



LEGAL PERSONALITY OF CHIMPANZEES IN LIGHT OF STANLEY AND LAVERY CASE

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RESEARCH DESIGN

Aims and Objectives:

This paper is written as a review of a very important cases *Matter of Nonhuman Rights Project, Inc. v Lavery 2014* and *Matter of Nonhuman Rights Project, Inc. v Stanley 2015*. The aim of the paper is to determine the impact of this judgment, in respect to the legal personhood of chimpanzees. In analyzing this matter, the paper also dwells into the aspect of legal personality. In light of these problems, the paper aims to provide a solution to the complications faced in the litigations vouching for personhood of chimpanzees.

Scope and Limitations:

This paper is limited to the subject and issues of the cases that is to be reviewed. Various other cases have been referred to for supporting the arguments. Relevant parts of the judgment have been extracted. All the works and cases referred to in this paper have been properly cited and are related to the cases of *Matter of Nonhuman Rights Project, Inc. v Lavery (2014)* and *Matter of Nonhuman Rights Project, Inc. v Stanley (2015)*.

Statement of Problem:

With the increase in number of legislations revolving legal personality without any mention of chimpanzees, a practical and just solution to the problem is the need of the

hour. The U.S. Judgment furthering the same is crippled with various loopholes which deem to do more harm than good for the society.

Research Questions:

This paper will answer the issues raised by the case. They are:

- i. Are chimpanzees capable of holding rights and enforcing duties?
- ii. Will conferring the title of legal personality to chimpanzees reduce cruelty towards them?

Sources:

1. **Primary Sources:**

- International Judgements
- Supreme Court Judgments
- Books

2. **Secondary sources:**

- Online Publications

Citation Method:

A uniform mode of citation has been used throughout this project, based on the style specified in THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION, 19TH EDITION.

CHAPTER I **INTRODUCTION**

For any Animal Welfare legislation to optimally function in our country, what is most important is understanding the stand of the courts on the personality of animals. A legal personality is any human or non-human entity, in other words, any human being, firm, or government agency that is recognized as having legal rights and obligations, such as having the ability to enter into contracts, to



sue, and to be sued. Therefore, any such personality that can hold rights and perform its corresponding duties as per Salmonds' Jurisprudence is a befitting legal personality. Animals, according to this theory cannot be considered to be a legal personality as they cannot hold rights as they are unable to exercise these rights and sue for infringement of the same. Also, they cannot perform any duties allotted to them at all as they do not have the mental capacity to comprehend and thereby perform their duties. Law does not recognise beasts or lower animals as persons because they are merely things and have no natural or legal rights. Salmond regards them mere objects of legal rights and duties but never subjects of them.¹ Animals are not capable of having rights and duties and hence they are not legal persons. Modern Law does not recognise animals as bearer of rights and duties. Law is made for human beings and all things including animals are for men. No animal can be the owner of property from a person to an animal. Animals are merely the object of transfer and are a kind of property, which are owned and possessed by persons. Of course, for the wrongs done by animals the master is held liable. This duty of liability of the master arises due to public policy and public expediency. The liability of the master is strict and not a vicarious liability. The animal could be said to have a legal personality only if the liability of the master is considered vicarious.

In certain cases, the law assumes the liability of the master for an animal as direct while in other cases, liability is not direct. Thus, for keeping animals that are not of dangerous nature the master is not liable for the damage

it may do, unless he knows that it was dangerous. The knowledge of the defendant must be shown as to their propensity to do the act in question. However, if the animal is of ferocious nature, the master is responsible for the wrong if he shows negligence in handling it. The owner of animals of this class is also responsible for their trespasses and consequent damage.² If a man's cattle, sheep or poultry, stray into his neighbour's land or garden, and do such damage as might ordinarily be expected to be done by things of that sort, the owner is liable to his neighbour for the consequences.

Here, there was much deliberation done in the two cases

- **Matter of Nonhuman Rights Project Inc. v Stanley³**
- **Matter of Nonhuman Rights Project, Inc. v Lavery⁴**

These two cases looked deeply into the aspect of legal personality of animals. It looked into specifically the legal personality of chimpanzees, contending that chimpanzees having near human intellect must be considered as a legal personality.

Is a chimpanzee a person? If you asked the average human being that question, you'd probably get a quick "no." In the eyes of the law, however, that's still an open question. The distinction of "persons," not "people," is important. Part of the apparent absurdity is that on the surface, arguing for personhood might sound like saying a chimpanzee should have the same rights as an adult human, like the right to own

¹ N.V. Paranjape, Studies in Jurisprudence and Legal Theory, Central Law Agency, Allahabad, 2010, p. 343.

² Baldwin v. Casella, 1872 LR 7 Ex 325

³ Matter of Nonhuman Rights Project, Inc v Stanley [2015] NY Slip Op 31419(U) 'Stanley (2015)

⁴ People ex rel Nonhuman Rights Project, Inc v Lavery [2014] 124 A D 3d 148 'Lavery 2014'



property and vote in elections. Instead, the category of “person” is a legal one referring to a being entitled to certain fundamental rights. The case of the chimpanzees is about their right to bodily liberty—recognizing the animals as legal beings instead of “things.” There’s a big difference between having rights that you can enforce, and just being the object of protections that someone wants to give you.

CHAPTER II **MATTER OF NONHUMAN RIGHTS** **PROJECT INC. V STANLEY**

In 2015, a New York Supreme Court judge submitted a court order that appeared to give two research chimpanzees the writ of habeas corpus—the right to challenge unlawful detainment. Previously, habeas corpus has been extended only to legal persons, so experts speculated that the order implicitly acknowledged the chimps, named Hercules and Leo, as legal persons. But the very next day, the judge amended the order. In the document, she scribbled over the words “writ of habeas corpus,” apparently to sidestep any speculation about the chimps’ personhood status. Stony Brook University, where Hercules and Leo are being held, will have to present a legal argument for why they are detaining the chimps.⁵

Petitioner is a non-profit organization with a mission to "change the common law status of at least some nonhuman animals from mere things,' which lack the capacity to possess any legal rights, to persons,' who possess such fundamental rights as bodily integrity and bodily liberty, and those other legal rights to which evolving standards of

morality, scientific discovery, and human experience entitle them. Hercules and Leo, on whose behalf petitioner seeks a writ of habeas corpus, are two young adult male chimpanzees who, since November 2010, have been held at the University and used as research subjects in studies on the locomotion of chimpanzees and other primates. The University, located in Suffolk County, New York, is part of the State University of New York, a statewide system of geographically diverse university and college campuses established to "provide to the people of New York educational services of the highest quality, with the broadest possible access."

In accordance with its mission, petitioner commenced this litigation and has filed similar cases in several other New York courts with the goal of obtaining legal rights for chimpanzees, and ultimately for other animals. Petitioner filed its first cases in New York after learning that three of seven known chimpanzees being held in New York had recently died. It hopes for a successful outcome here, given this state's recognition of legal personhood for some nonhuman animals under the Estates, Powers and Trusts Law, which expressly permits a "domestic or pet animal" to be designated as a beneficiary of a trust.

Hercules and Leo’s case is one of several lawsuits filed by the Nonhuman Rights Project, an animal rights non-profit. In the eyes of the law, animals are still considered things. They can be given protections—for instance, the Animal Welfare Act lays out guidelines for the ethical treatment of research animals, while the Humane

⁵ Keeton, *Elementary Principles of Jurisprudence*, p. 149.



Slaughter Act sets standards for farming animals—but without personhood, they are still subject to be kept as human property. This is what the NhRP seeks to change; they believe that seeking legal personhood for animals will make the task of arguing for the chimps’ freedom from detainment an easier process.

Our current legal system just isn't set up to incorporate the nuances of our growing knowledge about animal cognition. Given that corporations, counties, and cities can be legal persons, it doesn't seem like a huge stretch to confer personhood to animals too. This practice of declaring clearly-not-people as legal persons is called a “legal fiction.” Because we’ve created such a complex labyrinth of laws, it’s easier to fit in new concepts (like non-human entities having rights) by incorporating them into the old legal architecture. This leads to all sorts of weird exceptions; for instance, while corporations and cities can be legal persons, they are not actual people and they are incapable of emotions, and therefore aren’t able to act with malice or having privacy.

The law is a reflection of a general trend among humans: anthropocentrism, which basically says that people conceive of everything relative to the very distinct human experience. Whether the NhRP strategically planned to start with lawsuits on behalf of primates, it was a smart strategy; it takes advantage of our intuitive sense that primates are somehow like us—and therefore might also deserve rights.

In any case, what qualifies a being as deserving of rights? The NhRP has vowed to fight for personhood for other

“intelligent” animals, like dolphins, whales, and elephants. But exactly what constitutes intelligence is hotly debated in the animal cognition world, and, ultimately, our definition is heavily biased toward our own species’ traits.. We think of ourselves as the smartest creatures around, so we look for human-like traits in animals. Some markers researchers have identified include self-awareness, planning and problem solving, learning from peers, and communication skills. Given these human-centric criteria, it’s unsurprising that humans are the only animals known to reliably meet all of them. Still, many other species have been shown to possess a subset of these indicators. While the NhRP recognizes animals like the primates, dolphins, whales, and elephants as intelligent, there are many other animals that we regularly overlook: Bees perform complex dance moves to show their peers where food is; crows wait for cars to crush nuts for them to eat; and lizards are capable of problem solving.

This cumbersome process of recognizing animals as “persons” is essentially a band-aid for a bigger problem: we don’t have any other legal concept in place that can be used to define rights for non-human beings.

In any case, it doesn’t seem like the cognitive abilities of animals have any bearing on their legal protection. There are plenty of smart cold-blooded animals—birds, reptiles, fish, even insects—but only warm-blooded animals are covered by the AWA, which defines standards for research animals or animals for commercial sale. Standards for farm animals are generally lower—they are designed to ensure animals will not suffer “unnecessary cruelty”—though farm animals are not necessarily



any less intelligent than animals covered under the AWA. Chickens are adept at problem-solving, especially when food is involved, and appear to empathize with peers in distress. Octopuses solve complicated problems, and can even form opinions about individual humans. Pigs appear capable of deception. Fish learn from watching other fish.

Regardless, what qualifies a being as meriting rights? The NhRP has pledged to battle for personhood for other "savvy" creatures, similar to dolphins, whales, and elephants. In any case, precisely what constitutes insight is fervently in the creature cognizance world, and, at last, our definition is vigorously one-sided toward our own particular species' attributes.. We consider ourselves the most intelligent animals around, so we search for human-like attributes in creatures. A few markers analysts have recognized incorporate mindfulness, arranging and critical thinking, gaining from companions, and relational abilities. Given these human-driven criteria, it's obvious that people are the main creatures known to dependably meet every one of them. In any case, numerous different species have been appeared to have a subset of these pointers. While the NhRP perceives creatures like the primates, dolphins, whales, and elephants as smart, there are numerous different creatures that we routinely neglect: Bees perform complex move moves to demonstrate their associates where nourishment is; crows sit tight for autos to pulverize nuts for them to eat; and reptiles are equipped for critical thinking. It seems inevitable that as we learn more, the way we think about and treat animals will change. But our current legal system

just isn't set up to incorporate the nuances of our growing knowledge about animal cognition. In Hercules and Leo's case, the NhRP is pursuing personhood status for the chimpanzees really just for one right: freedom from detainment. Still, an argument for personhood presents the simplest strategy to obtaining that freedom. This cumbersome process of recognizing animals as "persons" is essentially a Band-Aid for a bigger problem: We don't have any other legal concept in place that can be used to define rights for non-human beings. Developmental psychologist Jean Piaget's theories about infant learning come to mind. Piaget postulated that when babies come across new ideas, they must decide either to assimilate the idea into an existing concept they have, or, if the idea doesn't fit well into any existing concepts they have, to create a new concept to accommodate the idea.

This line of thinking can be applied to the chimpanzee court case. The legal system has chosen to assimilate animals, corporations, and counties into its already-existing legal definition of "person," rather than accommodating the idea with a new legal category all its own. Though we're making do with these legal fictions for now, defining rights for non-humans beyond bestowing them with "personhood" can only become more important as we learn more about animal cognition or if we encounter new classes of things we want to give rights to, like machines and artificial intelligence.

According to the experts, humans and chimpanzees share almost 99 percent of their DNA, and chimpanzees are more closely related to human beings than they



are to gorillas. They share with humans similarities in brain structure and cognitive development, including a parallel development of communications skills, as shown by their use and understanding of sign language. Chimpanzees also demonstrate self-awareness, recognizing themselves in mirrors and photographs and on television, and have the capacity to reflect on their behavior. They manifest a capacity for empathy, are attuned to the experiences and emotions of others, and imitate and emulate others. They behave in ways that reflect moral inclinations, and demonstrate compassion and depression when a member of their community or familial group dies. They also have a cooperative social life, engage in imaginary play, and display a sense of humor.

As indicated by the specialists, people and chimpanzees share right around 99 percent of their DNA, and chimpanzees are more firmly identified with individuals than they are to gorillas. They share with people similitudes in cerebrum structure and subjective improvement, including a parallel advancement of interchanges abilities, as appeared by their utilization and comprehension of communication via gestures. Chimpanzees likewise show mindfulness, perceiving themselves in mirrors and photos and on TV, and have the ability to think about their conduct. They show a limit with regards to sympathy, are sensitive to the encounters and feelings of others, and impersonate and imitate others. They carry on in ways that reflect moral slants, and show sympathy and misery when an individual from their group or familial gathering kicks the bucket. They likewise have an agreeable social life,

participate in nonexistent play, and show a comical inclination.

Based on this research and the belief that chimpanzees are autonomous and self-determining beings entitled to such fundamental rights as bodily liberty and equality, petitioner seeks the issuance of a writ and a determination that Hercules and Leo are being unlawfully deprived of their liberty.

Regardless of whether Hercules and Leo are recognized as legal persons, their case has started a dialogue about animal cognition that society will be forced to revisit as we reconcile our knowledge about animals' intelligence with our treatment of them. If there's one thing that's clear about animal cognition, it's this: We humans are certainly the only animals that create laws to govern other animals.

CHAPTER III **MATTER OF NONHUMAN RIGHTS** **PROJECT, INC. V LAVERY**

Law should not consider the Apes things, but rather "legal persons" that have a right to bodily liberty. It's an argument that, if successful, could lead to revolutionary changes in legal status for animals. But it's one that has so far failed to convince judges.

The chimps in question at this week's hearing are Tommy and Kiko, both of which are held by private owners in New York, according to Wise's group, the Nonhuman Rights Project. In a bid to persuade courts to recognize the animals as "legal persons," the group has filed writs of habeas corpus, which would allow the



chimps to challenge the legality of their detention in court. Any court that granted such a writ would be acknowledging the ape's legal "personhood" — and right to be free.

Courts have already granted personhood to other non-humans, which is not the same as declaring them people, Wise often notes. Corporations can be legal persons, as can ships. Petitioner's additional argument that "person" need not mean "human," as evidenced by a river in New Zealand designated as a legal person owning its own riverbed pursuant to a public agreement with indigenous peoples of New Zealand and pre-independence Indian court decisions recognizing various sacred entities as legal persons is not relevant to the definition of "person" here in the United States and certainly is of no guidance to the entitlement of habeas relief by nonhumans in New York.

On Wednesday, New Zealand's parliament officially recognized the Whanganui River as a legal person. And so far, courts have been willing to at least listen to Wise's arguments on behalf of chimps, if not rule in their favor.

Courts have effectively conceded personhood to other non-people, which isn't the same as pronouncing them individuals, Wise frequently notes. Organizations can be legitimate people, as can ships. Applicant's extra contention that "individual" need not signify "human," as prove by a waterway in New Zealand assigned as a legitimate individual owning its own particular riverbed as per an open concurrence with indigenous people groups of New Zealand and pre-freedom Indian

court choices perceiving different holy elements as lawful people isn't significant to the meaning of "individual" here in the United States and positively is of no direction to the privilege of habeas help by nonhumans in New York.

Despite the defeats, Wise said he was encouraged by a 2015 state Supreme Court ruling that rejected his group's arguments but called the quest "understandable" and acknowledged that the definition of legal personhood has evolved over time. But the judge in that case said she was bound by a higher court's previous ruling that chimpanzees could not be granted legal rights because they're unable to bear "legal responsibilities and societal duties."

Wise says that's wrong for a couple of reasons that he plans to present on Thursday. First, he said, he'll argue that legal personhood does not require the ability to assume duties or responsibilities — children cannot do so, for example, nor can some Alzheimer's patients.

"No other court has said you have to have the capacity to assume duties and responsibilities in order to be a legal person and have rights," Wise said. "In fact, millions of people in the state of New York can't assume duties and responsibilities. But I assure you they aren't legal things." If that argument doesn't work, Wise says he has a backup: Sixty pages of affidavits from six experts on the behavior and cognition of chimpanzees, including the famous primatologist Jane Goodall. They present evidence that these highly intelligent animals can — and do — assume duties and responsibilities in their own societies and in



chimp-human “societies” created for research purposes.

Petitioner has filed four identical petitions in four separate state courts in four different counties in New York. Each petition was accompanied by virtually the same affidavits, all attesting to the fact that chimpanzees are intelligent, and have the ability to be trained by humans to be obedient to rules, and to fulfill certain duties and responsibilities. Petitioner has failed to present any new information or new ground not previously considered. The "new" expert testimony presented by petitioner continues to support its basic position that chimpanzees exhibit many of the same social, cognitive and linguistic capabilities as humans and therefore should be afforded some of the same fundamental rights as humans.

Any new expert testimony/affidavits cannot be said to be in response to or counter to the reasoning underlying the decision of the Court in *People ex rel. Nonhuman Rights Project, Inc. v Lavery*⁶. In declining to extend habeas relief to chimpanzees, the Court in *Lavery* did not dispute the cognitive or social capabilities of chimpanzees. Nor, did it, as argued by the petitioner, take judicial notice that chimpanzees cannot bear duties and responsibilities. Rather, it concluded:

Unlike human beings, chimpanzees cannot bear any legal duties, submit to societal responsibilities or be held legally accountable for their actions. In our view, it is this incapability to bear any legal responsibilities and societal duties that renders it inappropriate to confer upon

chimpanzees the legal rights — such as the fundamental right to liberty protected by the writ of habeas corpus — that have been afforded to human beings.

Solicitor has documented four indistinguishable petitions in four separate state courts in four unique districts in New York. Each request of was joined by for all intents and purposes similar sworn statements, all verifying the way that chimpanzees are canny, and can be prepared by people to be devoted to rules, and to satisfy certain obligations and duties. Candidate has neglected to exhibit any new data or new ground not beforehand considered. The "new" master declaration displayed by applicant keeps on supporting its essential position that chimpanzees show a large number of a similar social, intellectual and semantic abilities as people and in this manner ought to be managed a portion of an indistinguishable major rights from people.

The gravamen of petitioner's argument that chimpanzees are entitled to habeas relief is that the human-like characteristics of chimpanzees render them "persons" for purposes of CPLR article 70. This position is without legal support or legal precedent. In support of its argument, petitioner submits several expert affidavits, including one by Dr. Jane Goodall, the well-known primatologist, purportedly showing, based on academic research and hands-on experience, that chimpanzees have many human-like capabilities. These include recognizing themselves in reflections; setting and acting toward goals such as obtaining food; undergoing cognitive development with brains having similar

⁶ 124 AD3d at 148



structures to those of humans; communicating about events in the past and their intentions for the future, such as by pointing or using sign language; exhibiting an awareness of others' different visual perspectives, such as by taking food only when it is out of their competitors' line of sight; protecting others in risky situations, such as when relatively strong chimpanzees will examine a road before guarding more vulnerable chimpanzees as they cross the road; deceiving others (implying that they are able to anticipate others' thoughts); making and using complex tools for hygiene, socializing, communicating, hunting, gathering, and fighting; counting and ordering items using numbers; engaging in moral behavior, such as choosing to make fair offers and ostracizing chimpanzees who violate social norms; engaging in collective behavior such as hunting in groups of chimpanzees adopting different roles; showing concern for the welfare of others, particularly their offspring, siblings, and even orphans they adopt; protecting territory and group security; resolving conflicts; and apologizing.

“They just give example after example,” Wise said of the affidavits. “For example, when a chimpanzee band crosses a road, a male will go to the front and another male will go to the back and allow others to cross. And when they engage in hunts, they each have separate duties. They each have to do their job.”

But, unlike most humans, chimps clearly can't be held accountable for not doing their societal duties, which is one reason some legal scholars reject Wise's argument. Critics also warn of a slippery

slope that could theoretically lead to the prohibition of all pet-keeping.

Wise said the goal at this point is to get Tommy and Kiko sent to a sanctuary — an outcome that, so far, New York courts have not come close to letting happen. (It did happen recently in Argentina, where a judge ruled that a chimpanzee named Cecilia had “non-human rights” and must be transferred from the zoo where she lived to a sanctuary.)

But the Nonhuman Rights Project has plans to see if other American states' courts might be more open to the idea. Wise said the group is preparing a case on behalf of an elephant in a state that is not New York, eyeing the case of some chimpanzees in California and “looking very closely” at orcas owned by SeaWorld.

CHAPTER IV **CONCLUSION**

It is of paramount importance to reduce the number of reported cases for animal cruelty and crimes against animals. Being creatures that lack the ability of reflection of the same and their inability to be a plaintiff, it here becomes harder to ensure that these animals are not exploited. In order for this to not happen, the NGO Matter of NonHuman Rights Project filed this case before the US Court for this purpose, initially for acceptance of chimpanzees as a plaintiff and then to guarantee fundamental and legal rights to be protected for such chimpanzees by the law. However, these contentions of the plaintiff NGO were rejected by the Court and it was decided that there shall be no legal status for chimpanzees and that they shall not be



considered as a legal personality as they are incapable of holding and enforcing these rights and not qualified to fulfil their duty. For these reasons, the courts held that chimpanzees do not need be given a legal personality as they do not fulfil Salmond's right-duty correlation. The problem here that arises is of protecting such animals without giving them a legal personality. For proper and efficient protection under the law, such animals need to be treated as the subject of the law and not merely the object of the law in order to provide better protection. For protecting animals, a few decisions need to mandatorily be made in favour of animals to reduce cruelty against them. It is time for society to understand that being the 'smartest' species doesn't give humans the right to meddle with the peaceful and undisturbed existence of such animals.

Solutions-

- Acceptance of Animals as a legal personality
- Animal Welfare oriented laws
- Providing Animals with Fundamental and other Legal Rights
- Stricter punishments for animal cruelty
