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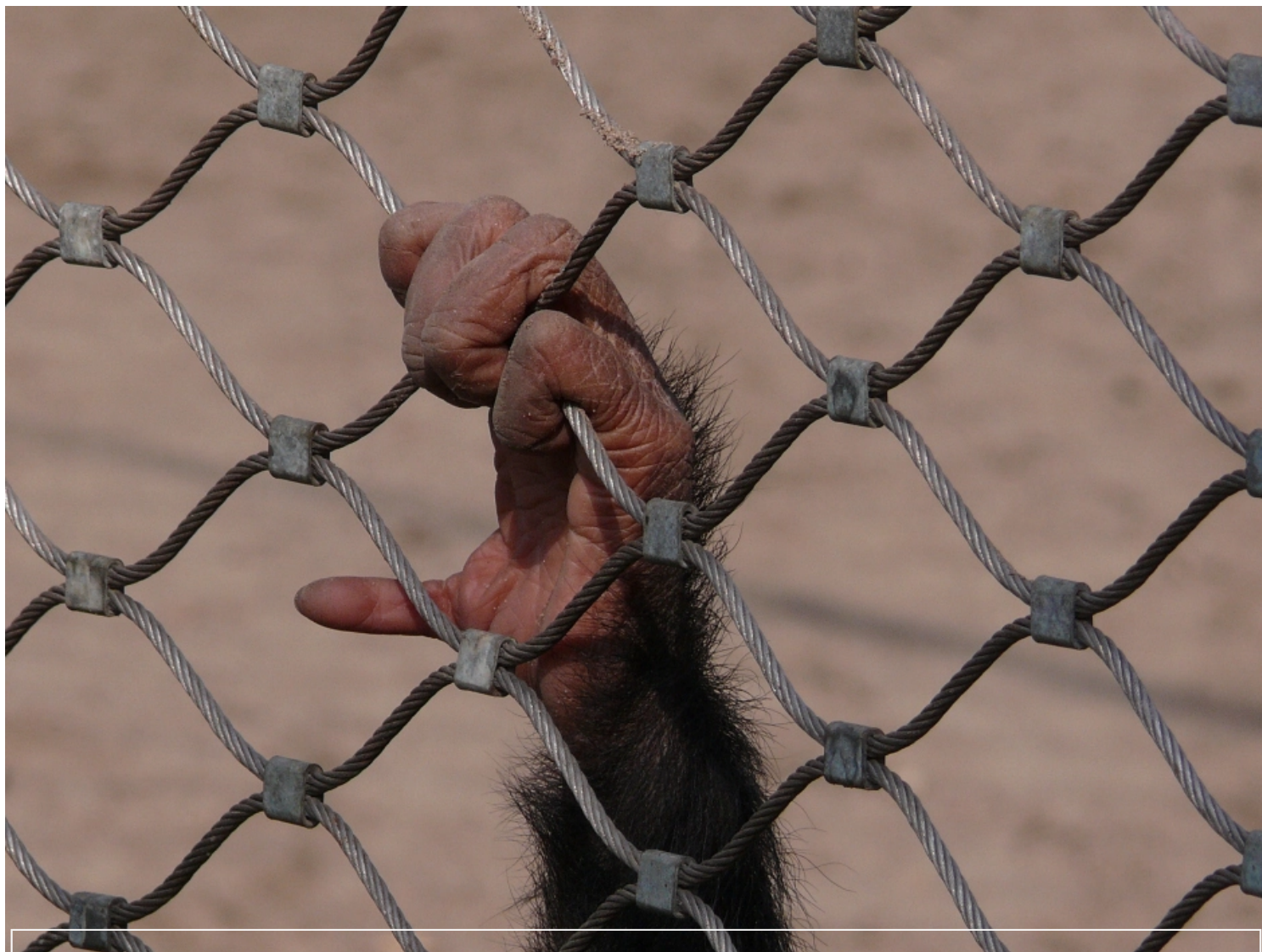
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Habeas for Homo troglodytes

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<https://ggulawreview.files.wordpress.com/2016/04/monkey-in-cage.jpg>

Millions of people around the world still fight for basic rights. In the United States alone, women continue to fight for the right to have an abortion; Muslims fight to practice their religion without retribution; and gay couples fight for the same benefits given to those who are heterosexual. When we look beyond the U.S. border, the battles loom even larger. Women in Saudi Arabia just received the right to vote (<http://www.cnn.com/2015/08/21/world/saudi-arabia-women-voting/>) last year!

These battles are often won because eventually a voice is heard. But what if no one can understand your voice, despite the fact that you share 98.6% (<http://www.janegoodall.ca/about-chimp-so-like-us.php>) of the same genetic makeup as a human?

The chimpanzee is the human's closest living relative. In fact, chimps (<http://www.savethechimps.org/about-us/chimp-facts/>) are closer to humans than to gorillas or orangutans. Given this, there are those who propose chimpanzees be reclassified to the human genus, *Homo*, giving them the scientific name *Homo troglodytes* (<http://www.janegoodall.ca/about-chimp-so-like-us.php>). The change in the classification could prove critical, as the rights held by men and women today have repeatedly hinged on how they were defined.

Historically, there are many groups who have fought to gain status as a "person" to receive equal treatment under the laws of the United States. In the late 1800s, Native Americans (<http://www.nps.gov/mnrr/learn/historyculture/standingbear.htm>) were still not regarded as "persons" under federal law. Standing Bear and his followers were arrested and detained because they left a reservation without permission (http://www.nebraskastudies.org/0600/frameset_reset.html?http://www.nebraskastudies.org/0600/stories/0601_0104.html). Attorneys filed a *writ of habeas corpus* (a legal action to seek relief from unlawful imprisonment) and succeeded in obtaining the freedom of Standing Bear and his supporters.

A Writ of Habeas Corpus

The *writ of habeas* (http://www.huffingtonpost.com/2015/05/27/new-york-court-chimps_n_7447952.html) has long been used to obtain rights for those historically denied it, like the Native and African Americans of the 1800s. Activists also fought long and hard for the rights of persons with disabilities, who were regularly institutionalized (<http://dredf.org/news/publications/the-history-of-the-ada/>) and deprived of their freedom. Ultimately, the Americans with Disabilities Act of 1990 (ADA) (<http://dredf.org/news/publications/the-history-of-the-ada/>) prohibited discrimination and proscribed rules and services that allowed these individuals to live equally within the community.

Like the activists who have come before them, the Nonhuman Rights Project (“the Project”) (<http://www.nonhumanrightsproject.org>) has been working tirelessly to provide chimpanzees the opportunity to live freely, with minimum confinement. Their aim is to change the common law status of nonhuman animals from “things (<http://www.nonhumanrightsproject.org/wp-content/uploads/2015/12/NhRPTommyRefileRelease12-3-15.pdf>)” (which lack the capacity to possess any legal right) to “persons (<http://www.nonhumanrightsproject.org/wp-content/uploads/2015/12/NhRPTommyRefileRelease12-3-15.pdf>)” (who possess fundamental rights such as bodily integrity and bodily liberty).

Given that chimpanzees have been scientifically proven to be self-aware and autonomous (<http://www.nonhumanrightsproject.org/wp-content/uploads/2015/12/NhRPTommyRefileRelease12-3-15.pdf>), they should be afforded the right to be free from imprisonment like any innocent person. Instead, many are locked away in what amounts to solitary confinement – a punishment usually reserved for the most brutal criminals.

The Project has filed habeas proceedings for four chimpanzees, stating that they deserve the right to bodily liberty (<http://news.sciencemag.org/plants-animals/2014/12/chimpanzee-personhood-fails-appeal>). Two of those chimpanzees (Tommy and Kiko) are confined in the hands of private owners, while the other two (Hercules and Leo) are held in a lab at Stony Brook University.

Unfortunately, the New York County Supreme Court recently concluded that, because a chimpanzee has no ability to bear any legal responsibilities and societal duties (<http://news.sciencemag.org/plants-animals/2014/12/chimpanzee-personhood-fails-appeal>), they cannot be considered a “person” and cannot receive the same legal rights as a human.

The Executive Director of the Project obviously disagreed with the results, and noted a fundamental aspect of common law that the court ignored. “[C]ommon law is supposed to change (<http://news.sciencemag.org/plants-animals/2014/12/chimpanzee-personhood-fails-appeal>) in light of new scientific discoveries, changing experiences, and changing ideas of what is right or wrong. It is time for the common law to recognize that these facts are sufficient to establish personhood for the purpose of a writ of habeas corpus.”

Personhood Status and What’s at Stake

On January 7, 2016, the Project re-filed (<http://www.nonhumanrightsproject.org/wp-content/uploads/2016/01/NhRPKikoAlertFINAL1.pdf>) its common law *writ of habeas corpus* on behalf of Kiko, who is held in a cage in a cement storefront in Niagara Falls, New York. This new attempt targets the court’s explanation of their defining issue: personhood status, which is whether the chimpanzees are able to carry out duties and responsibilities.

There is ample support that chimpanzees do in fact have the capacity to assume duties and responsibilities (<http://www.nonhumanrightsproject.org/wp-content/uploads/2015/12/NhRPTommyRefileRelease12-3-15.pdf>). They routinely shoulder duties and responsibilities both within chimpanzee societies and within mixed chimpanzee/human societies (<http://www.nonhumanrightsproject.org/wp-content/uploads/2016/01/NhRPKikoAlertFINAL1.pdf>). The Project's founder, Attorney Steven M. Wise, submitted over 60 pages of affidavits from leading chimpanzee cognition experts from around the world, including Jane Goodall.

Given the treatment and number of chimpanzees in captivity, the stakes are high. Over the past 50 years, chimp numbers in the wild fell (<http://www.savethechimps.org/about-us/chimp-facts/>) from roughly 1 million to 170,000. There are currently over a thousand chimps in the U.S. living (<http://www.savethechimps.org/about-us/chimp-facts/>) in laboratories or in the private hands of entertainers, pet owners, and roadside zoos.

Specifically, Hercules and Leo face miserable lives (<http://www.nonhumanrightsproject.org/2015/11/24/open-letter-and-petition-demand-sanctuary-for-hercules-and-leo/>) in a lab setting. They live without companionship, undergo invasive testing, and have not received the sort of education that all intelligent and autonomous beings need and deserve. Furthermore, Chimpanzee experts are certain that Hercules and Leo have suffered severe emotional and mental trauma.

As with any voice that has long been unheard or ignored, it takes time to amplify the message. Fortunately, there are actually many milestones that have been accomplished in this latest battle for chimpanzees.

Signs of Progress

The case of Hercules and Leo marked the first time a U.S. court issued an Order to Show Cause (<http://www.nonhumanrightsproject.org/2015/11/24/open-letter-and-petition-demand-sanctuary-for-hercules-and-leo/>) to an institution holding a chimpanzee in captivity. In April 2015, Stony Brook University was forced to defend their confinement of Hercules and Leo in court. New York Assistant Attorney General Christopher Coulston argued a lack of precedent, but Justice Barbara Jaffe countered that the issue was at the very essence of common law (<http://www.nonhumanrightsproject.org/2015/05/29/media-coverage-hercules-and-leos-court-hearing/>) and asked, "isn't it incumbent on judiciaries to at least consider whether a class of beings may be granted a right?"

While Justice Jaffe ultimately ruled against Hercules and Leo, she concluded that a human had standing (<http://www.nonhumanrightsproject.org/2015/07/30/new-york-justice-denies-habeas-corpus-relief-for-hercules-and-leo-given-precedent-set-in-previous-case-for-now/>) to bring suit on behalf of injured, nonhuman animals, and she rejected all the procedural barriers (<http://www.nonhumanrightsproject.org/2015/07/30/new-york-justice-denies-habeas-corpus-relief-for-hercules-and-leo-given-precedent-set-in-previous-case-for-now/>) that the Attorney General of New York attempted to place before the court. Although not a complete victory, this marked a major milestone for chimpanzee rights.

As for where this is all heading, no one can quite know – however, Justice Jaffe and the New York courts have helped frame the future (<http://www.nonhumanrightsproject.org/2015/07/30/new-york-justice-denies-habeas-corpus-relief-for-hercules-and-leo-given-precedent-set-in-previous-case-for-now/>). "Legal personhood" may not be synonymous with "human," but its parameters, including "what rights" exist

and “who counts” under the law, will continue to be actively debated and discussed. Against a backdrop where the United States Supreme Court has granted personhood to nonhuman corporate entities (<http://reclaimdemocracy.org/corporate-personhood/>), it is crucial for fierce advocates to hold their ground and forge ahead like Standing Bear did in 1879.

The Project’s January 2016 writ of habeas for Kiko (documenting the ability of chimpanzees to carry out duties and responsibilities) marks the latest legal effort in the battle. To follow the cases concerning Hercules, Leo, Kiko, and Tommy, go to www.nonhumanrights.org (<http://www.nonhumanrights.org>).

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