

ISSUES IN PERSPECTIVE

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14 June 2014

Seeking Legal Personhood for Animals

Steven Wise, a 63-year-old animal rights legal scholar, and the Nonhuman Rights Project (Nh.R.P.) are seeking to establish the legal personhood of animals. It has only been in the last 30 years that the distinct field of animal law (i.e., laws and legal theory for and about nonhuman animals) has emerged. There are now over 100 such programs in various law schools across the nation. For example, the Nh.R.P. has filed a lawsuit on behalf of Tommy, a chimpanzee who lived in a cage at the “Circle L Trailer Sales” lot in Gloversville, New York. The Nh.R.P. plans to file similar lawsuits on behalf of other members of the great ape family (bonobos, orangutans and gorillas) as well as dolphins, orcas, belugas, elephants and African gray parrots. The legal memo on behalf of Tommy reads: “Like humans chimpanzees have a concept of their personal past and future . . . they suffer the pain of not being able to fulfill their needs or move around as they wish; [and] they suffer the pain of anticipating never-ending confinement.” Wise argues that “A legal person is not synonymous with a human being. A legal person is an entity that the legal system considers important enough so that it is visible and [has] interests” and also “certain kinds of rights. I often ask my students: ‘You tell me, why a human should have fundamental rights?’ There’s not a single person on earth I’ve ever put that question to who can answer that without referring to certain qualities that a human has.” For that reason, Wise bases his lawsuits on behalf of animals on the writ of habeas corpus—a court order requiring that a prisoner be brought before a judge by his or her captor in order to rule on the legality of that prisoner’s detainment. For Wise, habeas corpus is a form of redress for the denial of “legal person’s” right to bodily liberty, not necessarily a “human being’s.”

As a part of Nh.R.P.’s long term strategy to establish legal personhood for animals (Wise speaks of a 25 year plan), it has established a Science Working Group, assigned with the task of gathering available research and expert testimony on the cognitive abilities of (animal) plaintiffs it seeks to represent; a Legal Working group which selects optimal jurisdictions for their lawyers and then finds potential clients there; and a Sociological Working Group, which collects whatever information it can on the judges within a prospective jurisdiction, everything from their sex, age and political party to their leisure activities and whether or not they own pets. Several thoughts about this effort to establish legal personhood for animals:

- First, history helps us understand how the perspective about nonhuman animals has changed over time. Aristotle argued for the Great Chain of Being that ranked animals, because they lacked reason, below man. Rene Descartes viewed animals as complex but soulless. Immanuel Kant argued against cruelty to animals, not because of any ethical obligation to them, but because of the adverse effect such cruelty had on humans. But it was the British philosopher Jeremy Bentham who reframed the argument about animals and their rights. He believed that the key issues are not whether they can reason or whether they can talk. For him the issue was, can they suffer. Bentham’s question

greatly influenced the current leader in animal rights, Peter Singer, whose book, *Animal Liberation*, was a watershed book for the animal rights movement.

- Second, Charles Siebert, *New York Times* writer, interviewed Wise and pointed out some seeming inconsistencies about his efforts: (1) Are not his efforts actually also guilty of speciesism when it chooses only certain sophisticated animals to represent in court? Siebert asked him if he would file a suit on behalf of a captive tortoise or a rat. He really did not answer these questions in a comprehensive manner. (2) The result of the various lawsuits Wise has filed will only result in a “kinder type of captivity.” Animals such as Tommy will not be free to roam or do whatever he wants. He will still be confined!
- Finally, how should we think about such developments within the broader Christian church? Is this a biblical response to our stewardship responsibility as dominion stewards of God’s world? How should we think biblically about our pets? There are several biblical principles to aid Christian believers in thinking about animal life, the larger physical world, and our relationship to both. The non-human creation is of great significance to God. He created the physical world as a deliberate act. God also takes pleasure in His physical world. This is clear from the Creation Ordinance in Genesis 1 and 2 and from 1 Timothy 4:4: “For everything created by God is good and nothing is to be rejected, if it is received with gratitude.” (See also Psalm 104:31 where we see God rejoicing in His works.) The point is that if the physical world is important to God, then it must be to us—His creatures—as well (see also Job 39:1-2, Colossians 1:16 and Psalms 19:1-4). As Ron Sider points out, it is likewise imperative to note that God has a covenant, not only with humans, but also with the nonhuman creation. After the flood, God made a covenant with the physical creation: “Behold, I establish my covenant with you and your descendants after you, and with every living creature that is with you, the birds, the cattle, and every beast of the earth with you, as many as came out of the ark” (Genesis 9:9-10). The physical world has dignity, worth and value quite apart from its service to humanity. Incredibly, God’s redemptive plan has a cosmic quality to it. Further, Sider argues, “This fact provides a crucial foundation for building a Christian theology for an environmental age.” The biblical hope that the whole created order, including the material world of bodies and rivers and trees, will be part of the kingdom confirms that the created order is good and important. Romans 8:19-23 demonstrates that at Christ’s return the groaning of creation will cease, for the creation will be transformed: “The creation itself will be liberated from its bondage to decay and brought into the glorious freedom of the children of God” (v. 21).

We honor animals as valuable beings, a part of God’s world. It is our stewardship responsibility to treat them well, and care for them. But, animals are not persons. They do not deserve to have the rights associated with personhood. Only humans bear God’s image and that is the fundamental difference between animals and humans—an eternally significant difference. Jesus’ death, burial and resurrection were accomplished for the justification of human beings, not animals.

See Charles Siebert, “The Rights of Man . . . and Beast,” *New York Times Magazine* (23 April 2014) and James P. Eckman, *Christian Ethics* (2013), pp. 109-120.