

# Follow-up Questions for the Nonhuman Rights Project (2017)

**Does the NhRP have any formal policies in place to prevent harassment or discrimination?**

This evaluation process has been very helpful for me to lobby for changes with NhRP. Happy to report that a formal policy harassment is being drafted by a labor law firms now and should be adopted within a few weeks. We have a policy on discrimination but that is being updated by the law firm.

**Does NhRP have a formal statement of their mission that they can share with us?**

We work to secure legally recognized fundamental rights for nonhuman animals through litigation, advocacy, and education.

**Does NhRP have a strategic plan document, or a write-up of their short-term goals, that they can share with us?**

We do have a few strategic documents including monthly work plans, yearly goals and objectives, and a ladder of clarity that we adopted after speaking with several folks in the LGBTQ movement.

**We don't necessarily need to know this, but it would be nice to have more information about NhRP's donor base, specifically whether they rely on a small number of large donors, a large number of monthly donors, etc.**

We have a handful of large donors who have been funding the NhRP for several years. The majority of our budget is from larger donors but we find that those who learn about our work tend to donate large sums, instead of a small amount. We have a lot of \$1,000 and \$2,000 donors. We're working on getting more recurring donors and have implemented new tools to make this recruitment easier.

**Does your organization receive any restricted donations?**

No.

**Does the NhRP have any revenue-generating programs?**

No.

**Do you find that people's attitudes or arguments in response to your work have changed at all over the course of your work? Do you think you'll be able to measure such change in the near future?**

Humans and human institutions legally and routinely exploit, hold captive, and kill nonhuman animals because they are all legal "things" that lack the capacity for any legal rights. The only reason human beings [today](#) are not legally and routinely exploited, held captive, and killed is that they are legal "persons" who possess the capacity for a theoretically infinite number of legal rights. And they have painstakingly won recognition of numerous fundamental rights.

This dichotomy between "things" and "persons" is traceable back two millennia to Roman law. The thinghood of many human beings was slowly extinguished over centuries. Now the Nonhuman Rights Project is leading a worldwide movement to extinguish the thinghood of as many nonhuman animals as it can. This is not going to happen immediately, but nor will it take centuries, but decades and years. Indeed, it has already begun.

In 2015, the NhRP, for the first time in history, persuaded a court (the Supreme Court of the State of New York, a trial court) to issue a writ of habeas corpus on behalf of two nonhuman animals that required their captors to come into court and give a legally sufficient ground for holding them captive. And multiple courts outside the United States (Argentina and the Supreme Court of Columbia) have granted legal personhood to nonhuman animals in habeas corpus cases based in large part on the work of the NhRP.

Until the NhRP began litigating the legal personhood of chimpanzees in New York State in late 2013, no one had seriously contemplated or pursued the legal personhood of a nonhuman animal. However, because the the NhRP's arguments were intentionally situated in the mainstream of modern jurisprudence and carefully constructed over many years to appeal to the values and principles that judges in a particular jurisdiction say they believe in, many immediately grasped their power.

Now, in less than four years, the attention paid to the work of the Nonhuman Rights Project has exploded. The NhRP's work has been the subject of a 2015 TED Talk that has garnered more than one million views, of an HBO film that has been played more than a million times and counting and is often shown at international conferences around the world, and even a music video. There has already been steady and measurable substantial progress in the discussion, understanding, and acceptance of the NhRP's work and arguments outside the courtroom, which is a necessary predicate for being accepted inside the courtroom.

In the period between [March 1, 2017](#) (starting in the two weeks leading up to the appellate court hearing in Tommy's and Kiko's cases) and [September 30, 2017](#) (in the three months following the appellate court's ruling) alone, there were approximately 2,100 media articles about the NhRP's work published worldwide and on every inhabited continent with a reach of about one and half

billion, including extensive coverage in the *Wall Street Journal*, *NBC News*, and the *Washington Post*, while the work of the NhRP is regularly featured in the *New York Times*.

The Nonhuman Rights Project's habeas corpus personhood arguments have catalyzed the development of an entirely new field of academic research and writing—Animal Rights Jurisprudence—another necessary predicate to ultimate success in the courtroom that has generated extensive discussion and analysis in dozens of law review articles, multiple academic books, and several legal industry publications, including the following non-exhaustive list:

- Richard A. Posner, Book Review of *Rattling the Cage: Towards Legal Rights for Animals* by Steven M. Wise, in *The Animal Ethics Reader* (Susan J Armstrong & Richard G. Botzler eds., 2017)
- Steven M. Wise, *A Great Shout: Legal Rights for Great Apes*, in *The Animal Ethics Reader* (Susan J Armstrong & Richard G. Botzler eds., 2017)
- Steven M. Wise, *Animal Rights, One Step at a Time*, in *Animal Rights: Current Debates and New Directions* (Cass R. Sunstein & Martha C. Nussbaum eds. 2004)
- Steven M. Wise, *The Capacity of Non-Human Animals for Legal Personhood and Legal Rights*, in *The Politics of Species: Reshaping our Relationships with Other Animals* (Raymond Corbey & Annette Lanjouw eds., 2013)
- Lane K. Bogard, *An Exploration of How Laws Tend to Maintain the Oppression of Women and Animals*, 38 *Whittier L. Rev.* 1, 49 (2017)
- Taimie L. Bryant, *Social Psychology and the Value of Vegan Business Representation for Animal Law Reform*, 2015 *Mich. St. L. Rev.* 1521, 1556 (2015)
- David E. Burke, *Lawsuits Seeking Personhood for Chimpanzees Are Just the Tip of the Iceberg*, *Orange County Law.*, April 2014, at 18; Ross Campbell, *Justifying Force Against Animal Cruelty*, 12 *J. Animal & Nat. Resource L.* 129, 151 (2016)
- Richard L. Cupp, Jr., *Human Responsibility, Not Legal Personhood, for Nonhuman Animals*, 16 *Engage: J. Federalist Soc'y Prac. Groups* 34 (2015)
- Richard L. Cupp, Jr., *Focusing on Human Responsibility Rather Than Legal Personhood for Nonhuman Animals*, 33 *Pace Env'tl. L. Rev.* 517, 518 (2016)
- Jenny B. Davis, *Animal Instincts This Washington, D.C., Lawyer Wants the Common Law to Evolve to Grant Basic Human Rights to Complex Animals*, *ABA J.*, November 2015, at 11
- Alexis Dyschkant, *Legal Personhood: How We Are Getting It Wrong*, 2015 *U. Ill. L. Rev.* 2075, 2109 (2015)
- Craig Ewasiuk, *Escape Routes: The Possibility of Habeas Corpus Protection for Animals Under Modern Social Contract Theory*, 48 *Colum. Hum. Rts. L. Rev.* 69 (2017)
- Emily A. Fitzgerald, *(Ape)rsonhood*, 34 *Rev. Litig.* 337, 338 (2015); Andrew Jensen Kerr, *Coercing Friendship and the Problem with Human Rights*, 50 *U.S.F.L. Rev. F.* 1, 6 (2015)
- Andrew Jensen Kerr, *Writing About Nonpersons*, 164 *U. PA. L. Rev. Online* 77, 84 (2016)
- Angela Lee, *Telling Tails: The Promises and Pitfalls of Language and Narratives in Animal Advocacy Efforts*, 23 *Animal L.* 241, 254 (2017)
- Emma A. Maddux, *Time to Stand: Exploring the Past, Present, and Future of Nonhuman Animal Standing*, 47 *Wake Forest L. Rev.* 1243, 1261 (2012)

- Blake M. Mills, Steven M. Wise, *The Writ De Homine Replegiando: A Common Law Path to Nonhuman Animal Rights*, 25 *Geo. Mason U. Civ. Rts. L.J.* 159 (2015)
- Martha C. Nussbaum, *Working with and for Animals: Getting the Theoretical Framework Right*, 94 *Denv. L. Rev.* 609, 615 (2017)
- Tania Rice, *Letting the Apes Run the Zoo: Using Tort Law to Provide Animals with A Legal Voice*, 40 *Pepp. L. Rev.* 1103, 1128 (2013)
- Joan E. Schaffner, Chapter 11 *Blackfish and Public Outcry: A Unique Political and Legal Opportunity for Fundamental Change to the Legal Protection of Marine Mammals in the United States*, 53 *IUS Gentium* 237, 256 (2016)
- Brian Sullivan, *Instant Evolution Some Espouse Fauna/Flora Fast Track to Personhood As Means of Legal Protection*, ABA J., February 2014, at 71
- Erica R. Tatioian, *Animals in the Law: Occupying A Space Between Legal Personhood and Personal Property*, 31 *J. Envtl. L. & Litig.* 147, 156 (2015)
- Joyce Tischler, *A Brief History of Animal Law, Part II (1985–2011)*, 5 *Stan. J. Animal L. & Pol'y* 27, 60 (2012)
- Joyce Tischler, Monica Miller, Steven M. Wise, Elizabeth Stein, *Manumission for Chimpanzees*, 84 *Tenn. L. Rev.* 509, 511 (2017)
- Bryan Vayr, *Of Chimps and Men: Animal Welfare vs. Animal Rights and How Losing the Legal Battle May Win the Political War for Endangered Species*, 2017 *U. Ill. L. Rev.* 817, 857 (2017)
- Steven M. Wise, *Introduction to Animal Law Book*, 67 *Syracuse L. Rev.* 7 (2017)
- Steven M. Wise, *Legal Personhood and the Nonhuman Rights Project*, 17 *Animal L.* 1 (2010)
- Steven M. Wise, *Nonhuman Rights to Personhood*, 30 *Pace Envtl. L. Rev.* 1278 (2013)
- Steven M. Wise, Elizabeth Stein, Monica Miller, Sarah Stone, *The Power of Municipalities to Enact Legislation Granting Legal Rights to Nonhuman Animals Pursuant to Home Rule*, 67 *Syracuse L. Rev.* 31, 32 (2017)
- Justin F. Marceau and Steven M. Wise, "Exonerating the Innocent: Habeas for Nonhuman Animals, in *Wrongful Convictions and the DNA Revolution—Twenty-Five Years of Freeing the Innocent* (Daniel S. Medwed, ed. Cambridge University Press 2017)
- Randall S. Abate and Jonathan Crowe, "From Inside the Cage to Outside the Box," in 5(1) *Global Journal of Animal Law* (2017)
- "Why Things Can Hold Rights: Reconceptualizing the Legal Person" in *Legal Personhood: Animals, Artificial Intelligence and the Unborn* (Tomasz Pietrzykowski and Visa Kurki (eds.) Springer, 2017)
- Jonas-Sebastian Beaudry, "From Autonomy to Habeas Corpus: Animal Rights Activists Take the Parameters of Legal Personhood to Court," in 4(1) *Global Journal of Animal Law* (2016)
- Natalie Prosin and Steven M. Wise, "The Nonhuman Rights Project—Coming to a Country Near You," in 2(2) *Global Journal of Animal Law* (2014)

In the next three to six months, the NhRP will begin to work with an Assistant Professor in the Department of Communications and Media Studies at Fordham University on a multi-method empirical exploration of public opinion on the topic of nonhuman animal legal personhood and

rights. The research will use a combination of focus groups and randomly sampled online surveys to gauge public perceptions of key nonhuman rights issues.

The NhRP is working with a growing group of lawyers and advocates on every continent to assist them in winning fundamental rights for nonhuman animals in their jurisdictions.

**If the NhRP's tactics were to succeed for apes, how likely is it that this would lead to progress for farmed animals or other animals?**

The arguments of the NhRP are not geared to any specific species of nonhuman animals. Nor are any species of nonhuman animal excluded. The personhood of every species is solely a public policy and moral principle decision that is to be fought out jurisdiction by jurisdiction in the courts and legislatures, a struggle continuously influenced by a stream of scientific discovery of advanced cognitive abilities in numerous species, including those denominated as farmed animals. Thus the NhRP works closely with biologists of every stripe, but it is frequently consulted not just on the issue of the personhood of nonhuman animals, but on the potential personhood of robots, artificial intelligence entities, aliens, such species as Neanderthals if they should ever be made to return, and natural objects such as rivers, as it is the world leader in the extension of legal personhood to entities other than human beings.

Factory farming proponents themselves see the NhRP's work as a potential threat. In 2016, for example, food industry journalist Dan Murphy offered a word of warning to the readerships of PORK Network and DROVERS: Driving the Beef Market: "Some 30 years after [Steven] Wise launched his movement, many people are now taking him and his legal enterprise seriously. And so should you."

**Some people might be concerned that NhRP's current approach either (i) lacks tractability and/or (ii) seems unlikely to translate to a success for a vast amount of animals. What signs do you look for that would tell you that this either is or is not the case?**

In light of our answer to number 6, the burden is on those expressing these concerns to offer valid evidence that supports their concern and further demonstrates that an alternate avenue is superior. We have seen none. It is clear that the cause of nearly all nonhuman animal suffering is they lack the capacity for legal rights. And they will continue to suffer until that lack is remedied. Working to remedy the actual cause of suffering—their legal thinghood—constitutes the most efficacious and ethically responsible way to end the suffering and exploitations of nonhuman animals.

**Some have been critical of NhRP's strategy on the grounds that courts are not yet likely to treat nonhuman animals as legal persons, and having cases like Tommy's dismissed now might set a bad precedent. Is NhRP concerned that the dismissal of Tommy's case might delay legal progress for animals?**

Quite the opposite. Tommy's case or any case is merely one judge (or a handful of judges in a single jurisdiction out of hundreds) with early opinions on the legal personhood of a nonhuman animal. Because the Nonhuman Rights Project's litigation is based almost entirely on invoking the values and principles of the judges before whom it appears, the NhRP has slowly and strategically pushed these judges into a legal corner in which they must (1) rule in the NhRP's favor as doing so vindicates the values and principles the judges themselves have long espoused, such as liberty and equality; (2) find that the judges no longer believe in those principles and values, which is unlikely, or (3) arbitrarily and/or irrationally and/or as a result of bias simply rule against the NhRP, which they have often done to date. But such decisions cannot survive as they conflict with the judicial requirement that decisions be rational, non-arbitrary, and unbiased. To the extent they are not they are unstable and liable to be overturned or not followed.

An example of this is the June, 2017 decision in Tommy's and Kiko's cases. Appearing to recognize the obvious frailty of a previous court's declaration that nonhuman animals could not be "persons" because they could not bear duties and responsibilities (itself substantially based on an erroneous entry in Black's Law Dictionary that Black's recanted after the NhRP brought its error to its attention), the Tommy and Kiko court noted that: "Petitioner argues that the ability to acknowledge a legal duty or legal responsibility should not be determinative of entitlement to habeas relief, since, for example, infants cannot comprehend that they owe duties or responsibilities and a comatose person lacks sentience, yet both have legal rights." Then the court threw off any pretense at reasoned argument and nakedly declared that the NhRP "ignores the fact that these are still human beings, members of the human community."

The NhRP has responded in its subsequent filings that similar examples of such biased decision-making have constituted lasting and egregious errors of historic proportions. Before the United States Supreme Court in 1857, Dred Scott's lawyers "ignore[d] the fact" that he was not white. *Dred Scott v. Sandford*, 60 U.S. 393 (1857). The lawyers for the Native American, Chief Standing Bear, "ignore[d] the fact" that Standing Bear was not white when, in 1879, the United States Attorney argued that a Native American could never be a "person" for the purpose of habeas corpus after Standing Bear was jailed for returning to his ancestral lands. *United States ex. rel Standing Bear v. Crook*, 25 F. Cas. 695, 700-01 (C.C.D. Neb. 1879) (No. 14,891). The California Attorney General "ignore[d] the fact" that a Chinese witness to a murder was not white when he insisted, in 1854, without success before the California Supreme Court, that a Chinese person could testify against a white murderer in court. *People v. Hall*, 4 Cal. 399 (1854). The lawyer for Ms. Lavinia Goodell "ignore[d] the fact" that she was not a man before the Wisconsin Supreme Court that, in 1876, denied her the right to practice law because she was a woman. In *re Goodell*, 39 Wis. 232 (1875).

The age of the dominance of animal welfare and animal protection—the advances of which are relatively minor, often achieved at huge expense, and easily reversed—is rapidly coming to a close, in large part because of the efforts of the NhRP. Such welfare advances are necessary to try to protect the interests of nonhuman animals while they there remain "legal things." But all

human legal history tells us that the legal thinghood of sentient beings leads to slavery and genocide. Legal history gives us the answer: "personhood." Here the NhRP is striking at the root of the problem, which is the legal thinghood of every nonhuman animal, and we are making rapid and irreversible progress.