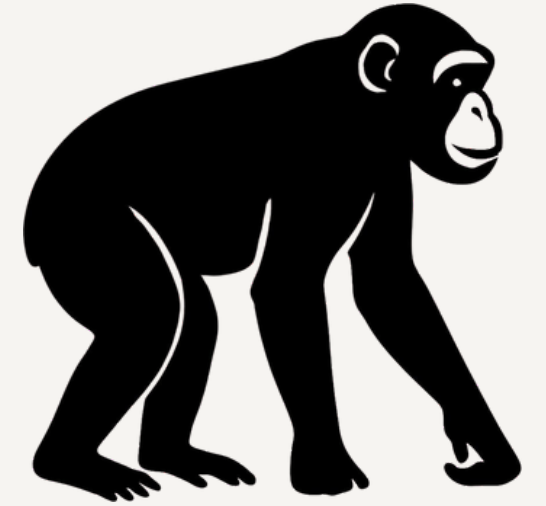
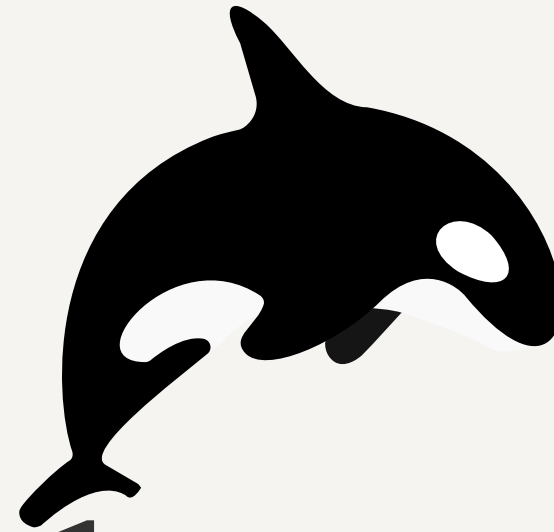
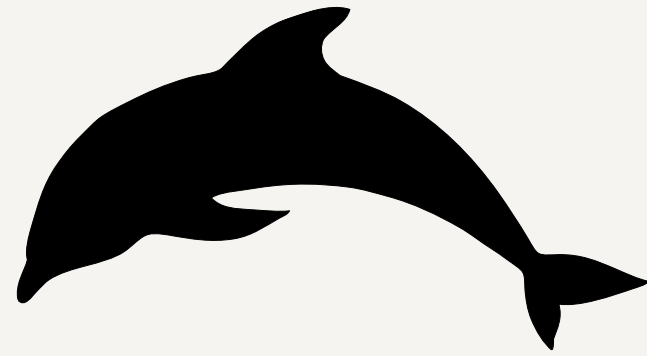
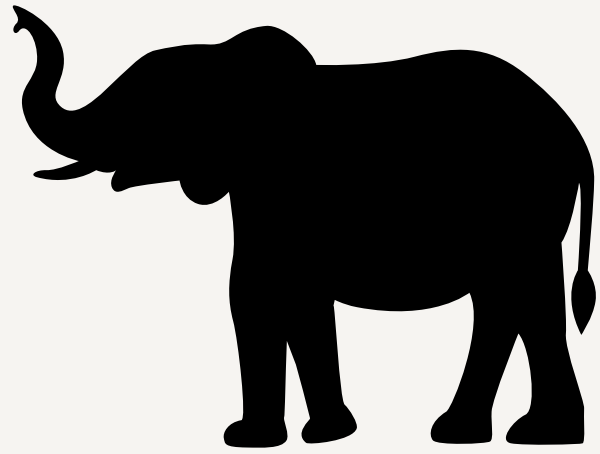




Legal Personhood and Animal Rights

Author: Visa Kurki

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Main Focus of the Article

- ▶ Kurki examines the concepts of personhood, legal personhood, and rights
- ▶ He focuses on how these concepts are connected in animal rights litigation
- ▶ Therefore, the article discusses the legal strategy of the Nonhuman Rights Project
- ▶ Kurki criticizes the concept of legal personhood used by the Nonhuman Rights Project
- ▶ As an alternative, he presents the Bundle Theory of Legal Personhood
- ▶ Key Question: Do animals first need to be recognized as legal persons before they can have legal rights?

Background: The Nonhuman Rights Project

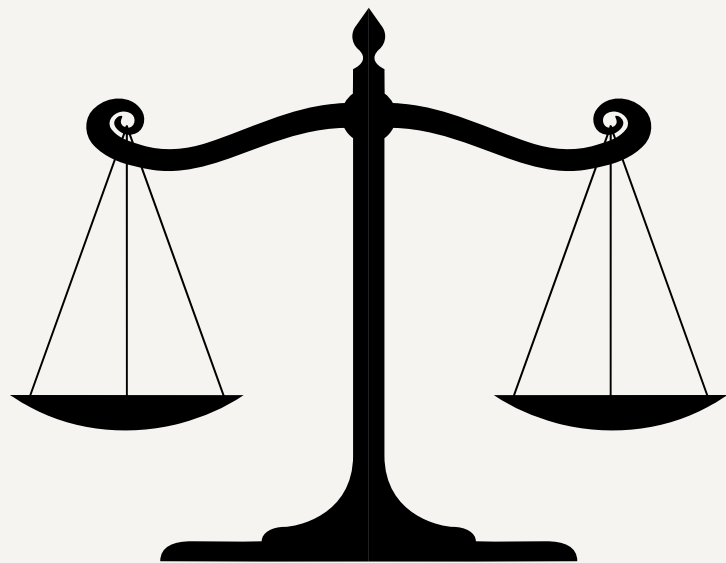


A unique and vital mission

The Nonhuman Rights Project is the only civil rights organization in the United States dedicated solely to securing rights for nonhuman animals.

- ▶ The Nonhuman Rights Project (NhRP) is one of the pioneers of this legal approach
- ▶ It was founded by Steven Wise in 1995
- ▶ The NhRP wants to change the legal status of some animals from mere “things” to “legal persons”
- ▶ The animals mainly discussed are great apes, elephants, dolphins, and whales
- ▶ The goal is to secure fundamental rights such as bodily liberty and bodily integrity

Habeas Corpus



- ▶ Habeas corpus is a legal remedy that protects personal freedom
- ▶ It is usually used against unlawful detention
- ▶ In legal tradition, it is normally understood to protect persons
- ▶ Its claim is that some nonhuman animals should be treated as legal persons for this purpose
- ▶ Kurki points out that most courts have rejected this argument

Animal Welfare vs. Animal Rights

Welfare



- allows the use of animals
- protects against “unnecessary” suffering
- focuses on animal welfare and anti-cruelty laws

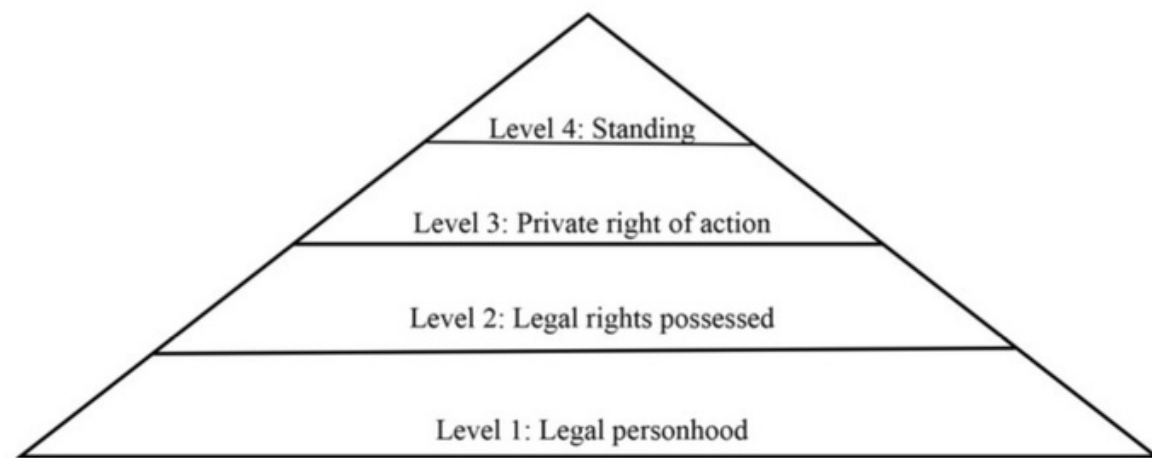
Rights



- demands stronger protection
- challenges animal exploitation
- can include strong fundamental rights

Kurki argues that welfare and rights are not complete opposites.

Legal Personhood and the Orthodox View



- ▶ Kurki calls the traditional understanding of legal personhood the orthodox view
- ▶ In the orthodox view, legal personhood means having rights, duties, or the capacity to hold them
- ▶ This creates a strict distinction between:
 - legal persons
 - legal things
- ▶ Animals are usually classified as legal things
- ▶ Therefore, many courts conclude that animals cannot have legal rights
- ▶ Key idea: The orthodox view treats legal personhood as an all-or-nothing concept

Kurki's Criticism of the Orthodox View



Examples

- Children have rights, but cannot exercise all legal powers themselves.
- Corporations have rights, although they are not human beings.
- Enslaved people historically had some legal protections, although they were not treated as full legal persons.



Kurki argues that the orthodox view is too rigid



It links legal personhood and legal rights in a strict either-or model



According to this view:

- legal person = can have rights
- legal thing = cannot have rights



Kurki calls this problematic because legal reality is more complex



Legal rights and legal personhood do not always appear together in a consistent way



For this reason, he rejects the idea that personhood is a simple condition for rights

Bundle Theory

- ▶ Kurki proposes the bundle theory of legal personhood as an alternative to the orthodox view
- ▶ Legal personhood consists of different legal incidents
→ legal personhood should therefore be understood as a bundle
- ▶ The incidents do not always appear together
- ▶ A being does not need to possess the complete bundle.
- ▶ Different beings can possess different parts of legal personhood.

Passive and Active Incidents

Passive incidents



- protect a being
- do not require legal agency
- can apply to infants and nonhuman animals
- life
- liberty
- bodily integrity
- standing before courts
- victim status in criminal law

Active incidents

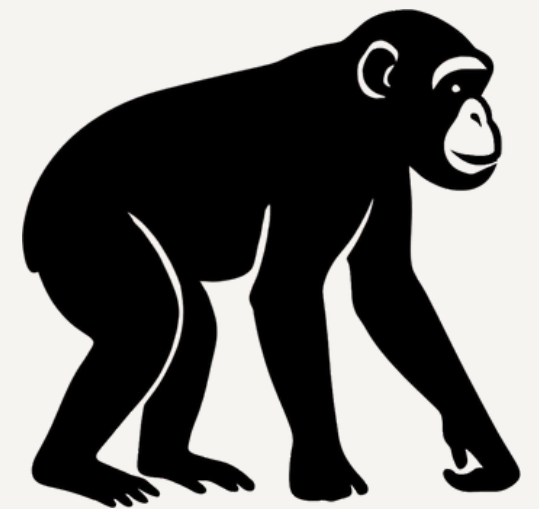
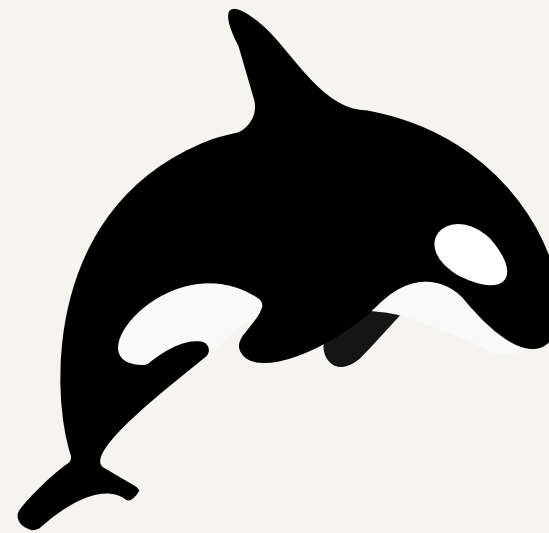
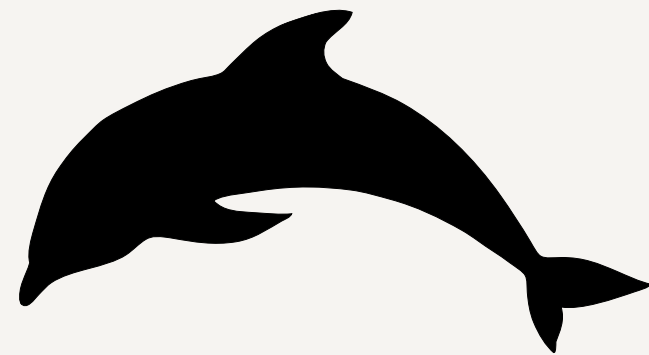
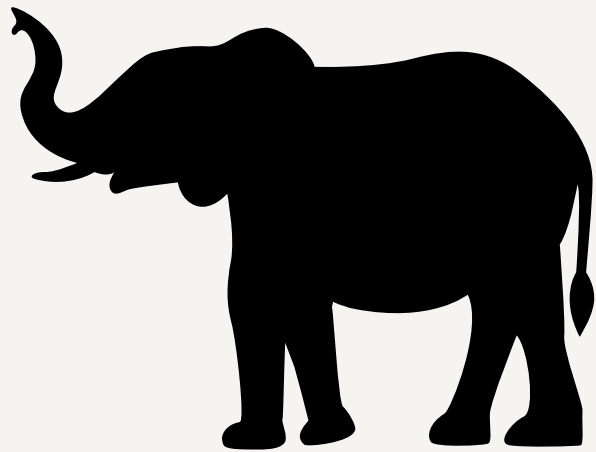


- require agency and responsibility
- usually apply fully to adult humans
- making contracts
- managing rights independently
- waiving or enforcing rights
- legal responsibility

A being can possess passive incidents without possessing active incidents.

What the Bundle Theory means for animals

- ▶ The bundle theory makes it possible to argue that animals may have some legal rights
- ▶ They do not need to be recognized as full legal persons first
- ▶ This changes the structure of the debate
- ▶ The main question is no longer simply whether animals are persons
- ▶ The more important question is which specific legal rights animals should have

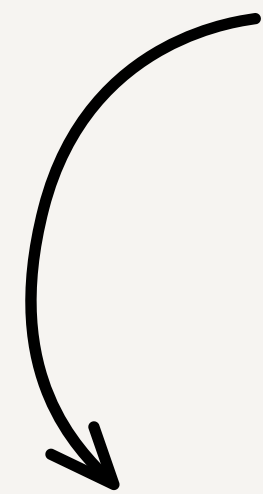


Conclusion

- ▶ Kurki argues that animal welfare and animal rights are not complete opposites
- ▶ Animals may already hold some weak legal rights, even if they are not legal personhood → although these rights are not strictly enforced, they are still rights
- ▶ He rejects the idea that legal personhood is a simple all-or-nothing model
- ▶ Furthermore, Kurki argues that a court granting habeas corpus to an animal would not suddenly transform that animal from a “thing” with no legal rights whatsoever into a full legal persons → Instead, it would expand the animal's legal status to include one additional right
- ▶ Therefore, Kurki suggests, as a central point, that courts should focus less on whether animals are “persons” and more on what specific rights they should have
- ▶ Despite the criticism of the project, the work of the Nonhuman Rights Project is extremely important in raising awareness of animal rights and sparking a global discussion on the issue

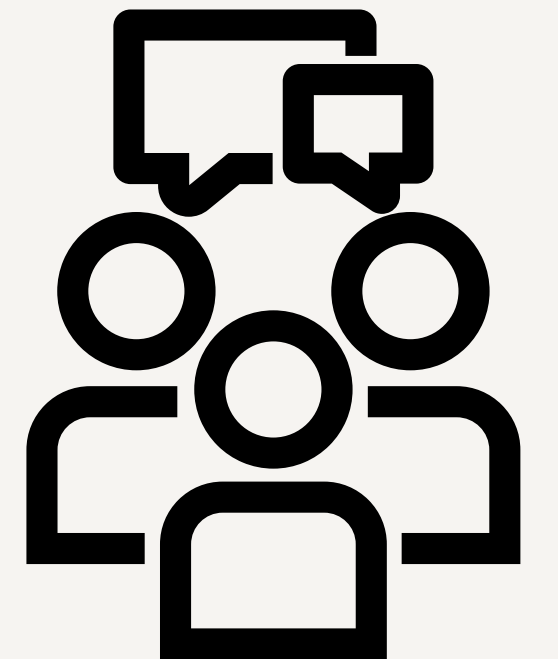
Thank you for your attention

Questions?



Discussion

1. Is it enough to give animals specific rights, or do they need legal personhood?
2. Should highly intelligent animals, such as chimpanzees or elephants, have stronger legal rights than other animals?



Sources

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- Graphics created with ChatGPT (Slide 6, 10)