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4 Chimps vs Habeas Corpus. Are they Persons?

According to new research published in the scientific journal *Cognition*, chimpanzees possess meta-cognition—the capacity to analyze and evaluate one's own ideas and mental processes. This ability was found by researchers from multiple US colleges. They found that primates are able to make intelligent decisions because they exhibit a degree of confidence in their responses and respond accordingly, knowing what they know and don't know.¹

Chimpanzees and humans have a tight link, as evidenced by a recent study on their behavior and intellect. Like humans, chimpanzees show signs of playfulness, laughter, and social awareness. Additionally, social games help kids form close bonds with one another and develop cooperative behaviors that eventually turn competitive as they get older. Their capacity to convey happy feelings through facial expressions disproves earlier notions about what makes humans special. A moral sense is also demonstrated by chimpanzees, who react angrily and with outrage to acts of cruelty against young members of their species. Furthermore, when compared to adult humans, young chimpanzees exhibit greater numerical memory, which may be related to the eidetic or photographic memory found in young humans. All things considered, these results highlight the remarkable emotional and cognitive similarities between chimpanzees and humans.

Now the real question is this: Considering the fact that humans and chimps share 98.6% - 98.8% DNA, can we categorize and treat them as “non-human persons”? And if so, can they be served with a writ of habeas corpus?

¹ Sanz A. (2016) Eight Striking Similarities between Humans and Chimpanzees. *Ventana al Conocimiento (Knowledge Window)* <https://www.bbvaopenmind.com/en/science/bioscience/eight-striking-similarities-between-humans-and-chimpanzees/>

The fates of Leo, Hercules, Tommy and Kiko...

In a groundbreaking move in US legal history, a judge granted two chimpanzees represented by human attorneys a hearing to defend their rights against unlawful imprisonment. Lead attorney Steven Wise emphasized the intelligence, emotional complexity, and self-awareness of chimpanzees, advocating for their recognition of basic human rights such as protection against illegal detention and cruel treatment. He described chimpanzees as autonomous and self-determining beings deserving of legal consideration.²

Manhattan supreme court justice Barbara Jaffe initially issued a writ of habeas corpus on behalf of the chimpanzees named Hercules and Leo, who were being used for medical experiments at Stony Brook University. However, Jaffe later clarified her order, striking the words "writ of habeas corpus" to avoid implying legal personhood for the chimpanzees.

The attorneys from the Nonhuman Rights Project (NhRP) argued that under New York law, only a legal person could have such an order issued on their behalf, suggesting that the court implicitly recognized the chimpanzees as persons. Despite the amendment to the order, NhRP expressed gratitude for the opportunity to litigate the issue further, acknowledging the novelty of the cases.

Despite the fact that the Nonhuman Rights Project had the legal authority to file the lawsuit on behalf of Hercules and Leo, a higher court ruling determined that Tommy was property, not a person, and thus required the lawsuit to be dismissed. In this case The Nonhuman Rights Project filed an appeal on behalf of two captive chimpanzees, Tommy and Kiko, who were confined in small cages by their owners. The lower courts, including the Appellate Division, rejected the petition for habeas relief, citing the dictionary definition of "person" and arguing that chimpanzees lack the capacity for legal duties or accountability. The courts also emphasized that chimpanzees are not members of the human species. The Court of Appeals of New York denied the motion for leave to appeal. In a concurring opinion, Judge Fahey

² Yuhas. A (2015, April 22). Chimpanzees granted petition to hear 'legal persons' status in court. *The Guardian*. <https://www.theguardian.com/world/2015/apr/21/chimpanzees-granted-legal-persons-status-unlawful-imprisonment>

suggested that the focus should be on whether chimpanzees have the right to liberty protected by habeas corpus, rather than whether they fit the definition of a person.³

The concept of 'Personhood.'

The primary purpose of a writ of habeas corpus in the majority of legal systems, including those founded on English common law, is to defend the rights of individuals. Its purpose is to avoid wrongful detention or imprisonment by mandating that the individual in custody appear before a judge or court to ascertain the legitimacy of their detention. sonhood.

The term 'person' seems to have at least two distinct senses, viz., the metaphysical and the moral. Daniel Dennett delimits these senses by roughly equating the metaphysical notion with the notion of an intelligent, conscious, feeling agent, and by roughly equating the moral notion of 'person' with 'the notion of an agent who is accountable, who has both rights and responsibilities'.⁴ That a being might possess all the characteristics requisite for inclusion in the class of metaphysical persons, but fail to meet the requirements for moral personhood may strike some people as odd.

When we run over the proposed conditions for personhood in our minds, what we come up with, when applied to some individual or other, is a person in a distinctly metaphysical sense. Where could the individual, as moral person, be located here? Any being who possesses each of the above characteristics certainly is a highly complex information processing organism. However, unless this individual also has the consciousness that at least some of her/his actions may be either morally right, or morally wrong, this being lacks what is necessary as well as sufficient for being taken for a morally responsible person.⁵

³ 31 N.Y.3d 1054, 100 N.E.3d 846 (2018)

⁴ Dennett, Daniel G, 'Conditions of Personhood' in *The Identities of Persons*. A.O. Rorty, ed., (California, 1976); 176.

⁵ Goodman, M. F. (1992). A Sufficient Condition for Personhood. *The Personalist Forum*, 8(1), 75–81. <http://www.jstor.org/stable/20708623>

Since chimpanzees are non-human creatures, they do not now have the rights and obligations that come with personhood under the law. As such, they are not afforded the same protections or obligations under the law. This may or may not change sometime down the road.