

THE LEGAL HISTORY OF THE ANIMAL RIGHTS MOVEMENT IN AMERICA:

OUR LEGACY

By

Chelsea C. Little

A Project Presented to

The Faculty of Humboldt State University

In Partial Fulfillment of the Requirements for the Degree

Master of Arts in Education

Committee Membership

Gayle Olson-Raymer, Ph.D., Committee Chair

Eric Van Duzer, Ph.D., Graduate Coordinator

May 2015

ABSTRACT

By

Chelsea C. Little

The Legal History of the Animal Rights Movement in America should be a part of the United States history curriculum of secondary education. The Animal Rights Movement and its legislative victories have been a part of the tapestry of American history since the Puritan settlements of the 1600s. Its inclusion can have important applications in the curriculum of high school courses, highlighting a part of American history that is largely unseen.

ACKNOWLEDGMENTS

I dedicate this project to my son Tully. Words cannot express the gratitude I have to the universe for the blessing of allowing me to be the catalyst to bring you into this world and for being the mother honored to love and guide you. From the moment of your conception I have felt the deepest sense of contentment and fulfillment knowing that you are the very best of everything in me. Each moment with you is a blessing beyond measure. You make me immeasurably proud with your wild spirit, the genuine joy you have that brings everyone you know happiness, your inquisitive mind and your resolute sense of your own voice. You are the world to me and I cannot wait to spend the rest of my life on this journey with you, creating adventure and providing love beyond measure.

This project exists due to the relentless support, unconditional love and unwavering faith of some truly remarkable individuals I have been lucky to share my life with.

To my parents, Ramona and Kevin Little, thank you for instilling in me a lifelong desire for education, a sense of security and unconditional love, and for your never-ending faith in my capacity to succeed. My compassion, altruism, competitiveness and self-confidence sustains because of your examples as parents and extraordinary grandparents. I am indebted to you beyond measure and I only hope to make you proud of me as a mother, and in some way reflect the parents you have been to me. I love you.

To my sister and brother, Sunshine and Bentley Little. You are the security I have in the world that people are good. You both have integrity, an amazing work ethic and are incredibly loving. I feel so lucky to be sharing this journey with you as we work towards our dreams and hopefully build huge families, with lots and lots of cousins for Tully. No pressure. I love you both so much.

To Ajay, for showing me both the light and dark in love and for giving me a newfound sense of connection to the world as it is and not just as I wish it was. I know our son carries with him all the beauty and inspiration your love provided me and which brought him into this world in all his glory.

To my mentor, Gayle Olson-Raymer. I met you when I was barely 18 and newly enrolled as freshman at Humboldt State University almost 13 years ago. I can remember those days as if they were yesterday; sitting in your lecture hall and being inspired by your intelligence, the amazing ability you have to teach with passion and conviction, and for providing an example of true academic integrity and faithful honesty to a narrative of history based in truth and not fiction. Thank you for being what brought me back to Humboldt State for my credential degree, for your countless hours of lecture and feedback, and for your unconditional support and inspiration throughout all of these years. I look forward to following you on your next adventure in life, I am forever your student and grateful to have found you.

To my teachers, Ann Diver-Stammes and Eric Van Duzer. Ann, being your student was a remarkable and life changing experience. I looked forward to every moment with you in the classroom, being inspired by your passion for education and your amazing, joyful and incredibly nurturing presence. Thank you so much for your support throughout my journey through my

credentialing year and into my graduate degree. Eric, you have been the rock that has keep me tethered to this degree. I cannot thank you more for your constant support and your endless patience in answering all of my questions, signing all of my documents and teaching me the methodology that I have hopefully presented here well enough to make you proud.

To my graduate cohort Gwen, Tim and Leif. You are all such amazing people and I feel lucky to have shared my Teaching American History days and East Coast history/brewery tour extravaganza with you during our years together at HSU. Thank you for being supportive, super cool and so very inspiring with your own thesis projects. I also want to thank Jack Bareilles from the bottom of my heart for everything he brought into my life so generously. The TAH experience truly changed my life and I am forever grateful to have been a part of the community he helped build and support.

To my friends Melissa, Rose, Tiffany, Megan, Allison and Cathy. Thank you for sharing my journey at Humboldt State from 2002 to the present. You ladies have my unending love, respect and gratitude for sharing many of the best moments of my life thus far and for being incredibly lovely human beings. I cannot wait for the adventures that await us together in the future. Someday I look forward to the day when we are old ladies, hopefully living on a commune together, sharing stories of our glory days and having a constant stream of grandbabies visiting us. I love you all so much!

To my aunt Sunday Larson, for being honest with an inquisitive eight year old when she asked where her (last) hamburger came from. Thank you for answering all of my questions about the nature of life and love, for cultivating my creativity and inspiring me with yours, for gifting me as a child with cards from wild wolf sanctuaries who sent me pictures of “my wolf” for birthdays and holidays, for introducing me to your feminist animal rights activist friends, who like you, became my childhood heroines, and for being my fairy godmother who protects the integrity of the sweet little girl who loved animals fiercely and reminds me of her own inherent right for happiness always and unconditionally. Thank you for telling me that education is the only thing no one can take away from you, teaching me to value a universal education and continue it for life.

And finally, to all of the passionate, dedicated, fearless, and compassionate animal rights and environmental protection activists I have met (and not met) fighting for your convictions to protect life in all of its beautiful incarnations. You do it for our children and for the generations that follow and you do it for those that cannot speak for themselves, who wait for their inherent right to a life free of needless suffering. You are my heroines and heroes and I live my life hopefully in some measure being worthy of sharing in the world that you manifest through your blood, sweat and tears.

I hope to honor those both waiting and fighting for justice, by some small measure, through my attempt to document their legacy within this project. Particular love goes out to both my son and I’s favorite animal, the humble cow.

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CHAPTER I: NATURE AND SCOPE OF THE PROJECT

Introduction

The history of the Animal Rights (AR) movement has largely been marginalized as a radical social justice movement, firstly dismissed as being taken up by sentimentalists and later by so-called terrorists. In reality, the AR movement and its legislative victories has been a part of the tapestry of American History since the Puritan settlements of the 1600s. It deserves a place in the canon of U.S. History and can have important applications in the curriculum of high school classrooms, highlighting a part of American history that is largely unseen. Typically, the categories in which one would find the topic of animal rights history and its accompanying legislation would be marginalized circles of academia that regard animal rights as a worthwhile issue. In a larger category this could be a part of the greater legacy of social justice movements highlighted as part of the curriculum of American history in secondary education classrooms and beyond. I vote for its inclusion as part of the social justice history of in the United States of America. It would peak student interest by including it as social justice and would be more relevant to the K-12 community.

My topic is significant because it helps to offer an alternative perspective on social justice, American history and the legacy of the law than what is often highlighted

in the classroom. I believe that students will identify with the legacy of Animal Rights law in the United States and will see it as a valid contemporary issue of justice that has deep historical roots not normally seen. With the current political climate that students face in 2015, issues such as racism, sexism and homophobia are widely considered. I believe that the issue of animal rights will also continue to be topical and will in the future become a more widely accepted idea, much like the progression of acceptance that other social justice movements have had throughout American history. The animal rights movement has a much longer history than other social justice movements in America including even abolition or the children's rights movement.

In fact, many of our most amazing cultural and social transformations were started, supported and ultimately secured by animal rights activists and early vegetarians. From abolition to children's rights to environmental protection, these animal rights figures highlighted to society the importance of kindness, decency and justice. Their early legislative victories helped support additional changes to our society, whereby they used their rationalizations to secure support for the most vulnerable members of our society over and over again. I argue that the animal rights movement and its changes to our society is not only fundamentally part of our legacy as Americans, but that the people making these changes are true American heroes and heroines and should be recognized as such.

CHAPTER II: REVIEW OF THE LITERATURE

Universal Animal Rights Beginning in the American Colonies

The universality of animal rights is apparent once its legal history is highlighted and its particular legacy in the United States, once rightly acknowledged, show how it is indeed a genuine American social movement, that has made significant contributions to the development of legislative protection for animals, and by extension, to society at large. In fact, as early as 1641, the Puritans of Massachusetts Bay Colony forbade cruelty against “any brute creature kept by man” (Finsen & Finsen, 1994; Ryder, 1989). These Puritan American colonists were the first in the world to enact legislation aimed at protecting animals from cruel and abusive treatment (Finsen & Finsen, 1994; Leavitt & Halverson, 1990).

In the years between 1641 and 2015 Americans have seen a great change in the predominance and acceptance of animal rights in American society. The United States, with its democratic constitution and powerful economic system, has become a perfect staging ground for revolutions and social justice progress, and this is where the animal rights movement continues to find a willing ear. Perspectives on animal rights can vary from a complete denial of the rights of any species to anything more than equal

consideration, to treaties that equate the nature of animals to human beings (Singer, 1990). Collectively most Americans, if not all, would agree that progress towards legislation and protection for animals has continued to be an issue of great importance. The recognition of the “legal rights” of animals is decidedly a part of our domestic policy concerns.

Legal Context

While this literature review focuses on the legal history of Animal Rights Movement in America it is important to note that the history of the animal rights and the welfare movement can be traced back thousands of years. From ancient Greece to the modern day, there have been efforts to protect the non-human inhabitants of the world (Finsen & Finsen, 1994). Diverse views abounded and varied significantly across cultures towards the treatment of animals, as well as the attitudes towards animals in relationship to their inherent value (Ryder, 1989). Animal rights is not a contemporary issue, but is a part of the historical canon of philosophy and ethics. Cruelty imposed upon animals is not a new phenomenon due to the fact that humans have abused and neglected them for centuries; however, some progress has been made, particularly in laws addressing animal cruelty in the United States and Europe (Perrett, 2003).

Anti-Cruelty Legislation

Before the adoption of animal cruelty statutes, domestic animals were provided minimal protection through statutory prohibitions of malicious mischief and trespass (Leavitt & Halverson, 1990). Malicious mischief statutes typically required that the

offending act manifest malice toward the owner of the injured or killed animal (Ingham, 1900). The shift from malicious mischief statutes to animal cruelty statutes represented a shift from pure property protection to a concern for animals generally, whether they were owned or not. States began to introduce animal cruelty statutes in the mid to late nineteenth century (Finsen and Finsen, 1994; Leavitt and Halverson, 1990).

Cruelty is defined as having or showing an indifference to, or pleasure in, another's pain or suffering (Dryden, 2001). Animal cruelty and suffering has been categorized in three areas: neglect, failing to provide an animal with a vital requirement such as food, water, or shelter; abuse, which is striking, or willfully harming an animal with a club or instrument of harm; and deprivation, limiting an animal's freedom or preventing an animal from being with others of its kind (Dryden, 2001). Socially unacceptable behavior that intentionally causes unnecessary pain, suffering, or distress to and/or death of an animal can be considered animal cruelty (Ascione, 1993).

The intent of anti-cruelty laws is twofold. First, they seek to protect animals from mistreatment by imposing a penalty for such behavior. Second, such laws are intended to conserve public morals by deterring all forms of violent human behavior (Sauder, 2000). Anti-cruelty statutes are the only form of legal protection ever provided to animals in American society; but they do not bestow rights upon them due to the fact that human interests outweigh any benefit toward nonhuman animals thus far (Cramton, 2000). Laws specifically exclude from their purview anything accepted as standard practice in any industry "ministering to the necessities of man" (Rollin, 1981, p. 12). Indeed, this

philosophy continues to be the foundation upon which current laws are built (Sauder, 2000).

Despite monumental revolutions in science beginning in the 16th century, and in philosophy in the 19th and 20th centuries, both of which challenged core beliefs of the Christian-Greek worldview hence, the treatment of animals has remained largely unchanged (Singer, 1990). The basic legal framework dealing with animals has remained untouched and for all intents and purposes, animal law is still Roman law (Francione, 1995).

Legal Rights for Animals

The wave of new “legal rights” for animals is part of a phenomenon that arose with the modern animal rights movement of the 17th century (Ryder, 1989). Legislation for animal rights protection may have found its time and place in contemporary society based on a series of factors including increased urbanization, industrialization, and population growth, all of which have brought widespread human, animal and environmental progress and accompanying degradation, the likes of which the world has never seen (Finsen & Finsen, 1994).

The Origins in Detail: Early Vegetarianism

The idea that eating animals is morally wrong was recorded over 1000 years ago when Pythagoras and his followers advised vegetarianism, while Plutarch, Empedocles, Theophrastus, Plotinus, and Porphyry all preached philosophical vegetarianism, resulting

in a community where philosophical vegetarians abounded (Finsen & Finsen, 1994). In the Catholic tradition, Saint Francis of Assisi, the Patron Saint of Animals, called for kindness and benevolence towards animals (Finsen & Finsen, 1994). Leonardo Da Vinci refused to eat animals out of concern for their suffering during the Italian Renaissance, while Albert Einstein and Mahatma Gandhi followed in his footsteps during much later centuries (Finsen & Finsen, 1994).

Early Western Civilization

Human-animal hybrids in Egypt were important symbolic representations of gods and highlighted the inter-relatedness of human and nonhumans (Ryder, 1989; Finsen & Finsen, 1994). Alternatively, in Mesopotamia, animals held no important role and were regarded solely as property. The Greeks wrote the first documented treatises on animal welfare in Western civilization, often playing a pivotal role in the Greek philosophical questioning of life, religion, ethics and morality (Ryder, 1989). Opinions varied widely: the animists (Pythagoras, 530 B.C) considered that both, animals and people had a soul, the vitalists (Aristotle, 384-322 BC) considered that humans are animals but they are on top of the scale, therefore humans can use animals on their own benefit (theory upon which anthropocentrism is based) and for the mechanists, people and animals were both mere machines without a soul (Ryder, 1989).

Rome

In ancient times Roman society, little distinction was made between human slaves and property where women, children, slaves, and animals were considered objects and property (Best, 2002; Spiegel, 1996). Today the view that once reduced human beings to slaves and property have been largely dismissed, yet there has not been widespread recognition that the theories justifying the exploitation of animals are just as arbitrary and wrong and that the same logic that freed human slaves ought to emancipate non-human slaves (Best, 2002; Spiegel, 1996).

Notably however some writers during the era of the Roman Empire challenged the famous cruelty of the period, such as Pliny in his *Naturalist Historian*, an early encyclopedia published circa AD 77–79 (Ryder, 1989). Pliny the Elder wrote several stories about the intelligence and religiousness of elephants and the love of dolphins towards music and children (Ryder, 1989). The Roman politician Cicero wrote about the agonized trumpeting of some elephants when being butchered in the amphitheater, raising the compassion of many spectators (Ryder, 1989). While Greek historian Plutarch based his vegetarianism upon his conviction that it was not moral to kill animals for food, and that much of the world's cruelty came from eating meat (Ryder, 1989).

Middle Ages

The medieval years were basically anthropocentric (Wise, 2000). The Middle Ages saw animals remain as brutes though held as valuable sources of property and wealth as well

(Wise, 2000). Although baiting and torturing animals kept being a regular norm, animals that worked had their place in their community. Interestingly, during the 1400's and the 1500's, in England, France, Germany, and other European countries, animals could be responsible for crimes and, after the correspondent trial, they could be sentenced to exile or, more frequently, tortured to death (Evans, 1906; Wise, 2000). These cases have reminded many legal scholars that the issue of attributing legal personality to animals (although passively and without individual rights) is not new in the western world (Evans, 1906; Wise, 2000).

Arguably, some of the cruelest years for animals occurred during the 16th Century Elizabethan period, with the rise of much scientific inquiry and subsequent vivisection (Ryder, 1989). Although their status of property never changed, the Black Act of 1723 established that it was a big offense to destroy properties (animals included). Doubts about the ethics of castrating domestic animals were also raised as early as 1714 (Guither, 1998). Later in the era, the torturing of animals decreased and the first attempt of enacting legislation to protect animals came from two different settings, the Puritans and the British Royalty, later making the United States and England the leading countries in the world to endorse the moral consideration towards animals in the law (Finsen & Finsen, 1994; Ryder, 1989; Wise, 2000).

1600s: Massachusetts Bay Colony

While much of the precedents of the U.S. tradition of concern for animals come from the British, the earliest legislative act to protect animals from cruelty is from the American Puritans of the Massachusetts Bay Colony in 1641 (Leavitt & Halverson, 1990). The United States was, in fact, the first country in the world to enact legislation aimed at protecting animals from cruel and abusive treatment (Leavitt & Halverson, 1990).

Historically, animal cruelty was not a crime, resulting in the absence of any law prohibiting even the most extreme violence toward animals ((Leavitt & Halverson, 1990; Sauder, 2000). Animals were considered property; therefore owners could treat them as they pleased, and abusing one's horse was no more a crime than kicking one's plow ((Leavitt & Halverson, 1990; Sauder, 2000). In an attempt to end such conduct, the first anti-cruelty law adopted in 1641 by the Massachusetts Bay Colony, Article 92 in the colony's legal code, the "Body of Liberties," declared "that no man shall exercise any Tirranny or Crueltie towards any Bruite creature which are usuallie kept for man's use" (Leavitt & Halverson, 1990; Finsen & Finsen, 1994). Sec. 93 stated as well that, "If any man shall have occasion to lead or drive cattle from place to place that is far off, so that they be weary, or hungry, or fall sick or lame, it shall be lawful to rest and refresh them for a competent time in any open place that is not corn, meadow, or enclosed for some particular use" (Leavitt and Halverson, 1990; Finsen & Finsen, 1994). Puritan minister Nathaniel Ward, who had once been a lawyer in England before being driven out for

heresy, compiled these liberties due to his familiarity with the Common Law of England (Leavitt & Halverson, 1990).

1800s: New York State Legislation

The first American animal cruelty act in was passed much later, in 1829, when a New York State measure passed stating that “every person who shall maliciously kill, maim or wound any horse, ox or other cattle, or any sheep, belonging to another, or shall maliciously and cruelly beat or torture any such animal, whether belonging to himself or another, shall upon conviction, be adjusted guilty of a misdemeanor” (Favre & Tsang, 1993). The New York anti-cruelty law became a model for a number of other states (Sauder, 2000). A similar measure passed in Massachusetts in 1836 (Leavitt & Halverson, 1990). No organization to enforce these provisions existed however for another 30 years when a more serious anti-cruelty movement emerged and new leaders took the reigns (Finsen & Finsen, 1994).

Anti-Cruelty Societies

In 19th century Britain and after the Civil War in North America, the sentiments of the century began to move toward critical action to produce social change for animals (Finsen & Finsen, 1994). In 1824, Britain’s Royal Society for the Prevention of Cruelty to Animals (RSPCA) was founded (Finsen & Finsen, 1994). Throughout the 19th century in the United States and Canada a large number of societies to prevent cruelty to animals were founded following the example of the RSPCA, including the American Society for the Prevention of Cruelty to Animals (ASPCA) in 1866 (Finsen & Finsen, 1994; Masci,

1996). The ASPCA introduced and enforced legislation to protect animals, educating the public about cruelty and kindness in relation to working animals and pets, building veterinary hospitals, providing ambulance services and shelters for abandoned and lost animals, and agitating for humane treatment for work animals and in the transportation and slaughter of cattle (Finsen & Finsen, 1994).

Henry Bergh and George Angell:

Early American Heroes of the Animal Rights Movement and Founders of the ASPCA

The founders of the American humane movement are widely known to be Henry Bergh and George Angell (Leavitt & Halverson, 1990; Finsen & Finsen, 1994).

Concerned with the mistreatment of work animals Henry Bergh began the first leading figure in the humane movement beginning in the 1860s (Finsen & Finsen, 1994). Bergh, appointed by President Lincoln as a secretary of legation and acting consul in Russia, was dismayed by the treatment of Russian peasants towards their horses and often used his considerable influence to intervene on behalf of the animals (Finsen & Finsen, 1994). A visit to the RSPCA in London inspired him to seek a charter to incorporate the American Society for the Prevention of Cruelty to Animals in 1866 (Finsen & Finsen, 1994). The founding of the ASPCA was the beginning of an organized movement to protect animals in America, although many legislative efforts occurred well before 1866 (Finsen & Finsen, 1994). The ASPCA was permitted by its charter to supply its own prosecutors and arrest violators of the anti-cruelty statutes (Finsen & Finsen, 1994). Bergh personally enforced many of the statutes, becoming known for defending abused and overworked

carriage horses in New York City and for stopping the cruel whippings and overloading that were common occurrences (Finsen & Finsen, 1994). Bergh pursued the prosecution of a butcher, who was fined \$10 and served a day in jail, for tying the legs of calves and piling them in a cart, winning the first conviction for animal cruelty in the United States (as opposed to the colonies) (Finsen & Finsen, 1994). Within the first year of the ASPCA Bergh successfully prosecuted others for overloading carriages, cruel treatment of livestock, cock fighting, dog fighting, and limiting the time cattle could be left on rail cars for up to 28 hours (Finsen & Finsen, 1994).

The Massachusetts SPCA was founded a few years later by George Angell who focused more intently on human education while also pursuing the police and prosecutorial powers employed by Bergh at the ASPCA (Finsen & Finsen, 1994). Many members of the upper class, including prominent financiers, bankers, merchants, industrialist, clergy, former senators, governors and journalist, became charter members of the ASPCA, including such notable figures as J.J. Astor, George Bancroft, John Dix, Peter Cooper, Francis Cutting, Caroline Earle White, John Van Buren and Hamilton Fish (Finsen & Finsen, 1994).

Early Antivivisectionism Timeline: Caroline Earle White and the AAVS

Much like the influence of the British model of the humane movement and its influence on the American movement, the British antivivisectionist movement inspired an American counterpart (Finsen & Finsen, 1994; Leavitt & Halverson, 1990). Henry Bergh, George Angell and Caroline Earle White all opposed all forms of vivisection and Henry Bergh tried in vain to legislate against vivisection in the early years of the ASPCA

(Finsen & Finsen, 1994). The Pennsylvania SPCA rejected an attempt by Philadelphia surgeons in 1871 to secure dogs for their experimental use (Finsen & Finsen, 1994).

Caroline Earle White founded the American Antivivisection Society (AAVS) in 1883 with the intent of regulating vivisection (Finsen & Finsen, 1994). Fierce opposition by the medical community allowed no legislation to pass and eventually the AAVS changed their purpose to the goal of absolute abolition of vivisection (Finsen & Finsen, 1994). American science was significantly behind European scientific advancement and American antivivisectionist hoped to prohibit vivisection before it became commonplace like it was in Europe (Finsen & Finsen, 1994).

Henry Bergh introduced antivivisectionist bills before the New York State legislature almost annually and every time they went down in defeat. Although this first wave of antivivisection movement did not generate a large following, it did seem that restrictive or abolitionist legislation had a reasonable chance of being enacted. In 1894 George Angell and the MSPCA secured legislation that prohibited the exhibition of vivisection or dissection in public schools in Massachusetts (Finsen & Finsen, 1994). Representative James McMillan introduced a bill to Congress to regulate vivisection in the District of Columbia in 1896 (Finsen & Finsen, 1994). The bill was expected to pass as Six Supreme Court justices; endorsed by leading Washington clergymen, eminent academics, practicing physicians, and Senate hearings were held by an antivivisectionist physician and New Hampshire Senator Jacob Gallingery (Finsen and Finsen, 1994). However, the bill died in the House due to the strenuous opposition of the Academy of Sciences and the American Medical Association (AMA), modeling many of the strategies

that animal researchers had used in Britain including pamphlets, public advocacy and congressional testimony that depicted vivisection as vital and fully capable of self-regulation (Finsen and Finsen, 1994). In contrast, the antivivisection movement in American suffered due to its inconsistent testimony, as some sought absolute abolition of vivisection and others sought to regulate the research (Finsen & Finsen, 1994; Turner, 1980). Public perception of the benefits of medical research were successfully presented to the public as well as successfully lobbied to congress and, thus, secured repeated victories against the antivivisection movement (Finsen & Finsen, 1994; Turner, 1980).

Institutional Backlash

Containment of this first wave of animal rights sentiment in America was the result of the effectiveness of the biomedical community to combat antivivisection, the death of many of the founders and leaders of the movement, and the emergence of World War I (Finsen & Finsen, 1994; Ryder, 1996). Wars especially had a disruptive effect on the advancement of humanitarianism movements, including the antivivisection and humane movements in America (Ryder, 1996; Finsen & Finsen, 1994). From WWI to WWII, and through the postwar eras, significant gains in the animal cause were thwarted by the science and commercial industries that profited from animal use and exploitation (Finsen & Finsen, 1994; Ryder, 1996). Few exceptions existed like the mass efforts to rescue soldiers and warhorses, and the successes of the animal cause continued to follow those of the major humanitarian and social reform movements (Finsen & Finsen, 1994). In California an antivivisection initiative was placed on the ballot in 1920 and was

quickly defeated by the research community, defeating the bill by a two-to-one vote (Finsen & Finsen, 1994; Rowan, 1984). In the same year a bill that was introduced in Congress, designed to prohibit the use of dogs in research on Washington D.C., never successfully made it to the Senate floor for debate (Finsen & Finsen, 1994; Roberts, 1979). Social interests, especially the post depression climate where the application of technology within agribusiness to produce larger quantities at cheaper prices persuaded the American people that animal foods were essential to human health (Finsen & Finsen, 1994).

Despite Congressional internal tensions, there were multiple successes of the humane movement, and by 1907 an anti-cruelty statute existed in every state in the union (Schultz, 1924; Finsen & Finsen, 1994). By 1923 the amount of issues addressed were widespread including: docking horses' tails; failure to feed, water, or shelter; abandonment of decrepit or disabled animals; maliciously killing or injuring another's animal; cock fighting; prohibition of certain traps; failure to visit traps; bristle burs; cutting off more than half an ear of domestic animals; cruelty in filmmaking; and careless exposure to barbed wire (Schultz, 1924; Finsen & Finsen, 1994).

The Rise of the Modern Animal Liberation Movement

The humane movement focused broadly on issues of individual cruelty and the rescue of individual animals. Stronger challenges by those willing to taking on these institutions and their ideologies of oppression would have to wait until the second wave of the animal rights movement in America, beginning in the 1960s. It wasn't until the

1960s and 1970s, with the popularization of mass social movements for civil rights, women's rights, nuclear disarmament and peace, and environmental protection, that the animal protection movement reemerged. During this period a radical wing of the animal protection movement emerged and began to dominate the scene and image of the cause. These activists drew on the emerging discourses against colonialism, patriarchy, consumerism, technocentrism, and ecological crisis to address the intersecting connections between racism, sexism and "speciesism," a term coined in the 1970s describing a bias humans may have against all nonhumans (Li, 2004). Not unlike human groups of the period who were using politically charged language such as "rights" and "liberation" to resist discrimination, domination, and degradation, animal activists did the same. They also worked jointly on the protection of endangered species and wildlife, using a common critique of instrumentalist and anthropocentric views of nature. The disruptive direct action traditions and civil disobedience strategies developed in the 1960s were also used by some anti-vivisection, anti-hunting, and anti-live export activists as they mirrored their equivalents in other protest movements and, therefore, were no more irrational or incomprehensible or "radical" (Li, 2004).

State Anti-Cruelty Laws

A federal animal cruelty law does not exist in the United States. To compensate for the lack of federal animal cruelty laws, all fifty states have some type of animal cruelty legislation (Frasch, Otto, Olsen, & Ernest, 1999). The treatment of companion animals is regulated by state animal cruelty legislation. These animal cruelty acts are

designed to protect animals against intentional infliction of pain, suffering, injury and death. Some states have legislation against animal fighting as well. State animal cruelty statutes account for almost all criminal convictions for animal abuse (Frasch et al., 1999). A federal law on the treatment of companion animals arguably is necessary to help prevent certain abuses from occurring in the first place through the regulation of who can own and sell pets (Frasch et al., 1999). Some suggest the regulation of spaying and neutering should also be part of federal law (Frasch et al., 1999). In most states, however, pets are considered the mere property of their owners and are regulated as such. Colorado, however, provides an example of a state that has gone beyond such minimal protection. The Colorado Companion Animal Bill (CO 03 -1260 (2003)) permits an owner of an injured companion dog or cat under certain circumstances to recover damages for loss of companionship (Frasch et al., 1999). It also imposes an informed consent requirement on a veterinarian before he or she performs a service involving a substantial risk to a companion dog or cat and exempts a veterinarian under certain circumstances from local and regional companion dog and cat inoculation requirements (Frasch et al., 1999).

Federal Statutes on Animal Welfare

Three primary federal statutes govern animal welfare in the United States; the Animal Welfare Act, (7 United States Code (hereinafter 7 U.S.C. §§ 2131-2157 (1966)), the Humane Slaughter Act, (7 U.S.C. §§ 1901-1906 (1960)), later amended. Humane Methods of Slaughter Act, (7 U.S.C. §§ 1901-1906 (1978)), and the Twenty-Eight Hour

Act of 1877, (49 U.S.C. § 80502 (1995)). None of these statutes create legal rights, but merely direct that humans try to respect some interests of a few animals in limited situations (Francione, 1995; 1996a).

Twenty-Eight Hour Act of 1877

The federal Twenty Eight Hour Act of 1877 addresses the transportation of animals, including those raised for food or in food production, across state lines. The statute provides that animals cannot be transported by “rail carrier, express carrier or common carrier” (except by air or water) for more than 28 consecutive hours without being unloaded for five hours for rest, water and food (49 U.S.C. § 80502 (1995)). The Twenty Eight Hour Act of 1877 failed to prevent the cruel transport of livestock to slaughter due to lack of inspection and enforcement of the law (Regan, 2001).

Humane Methods of Slaughter Act

In 1958 progress was made with the passage of the Humane Slaughter Act, a victory that had taken nearly a century to achieve by the humane movement. In 1910 Roswell C. McCrea advocated for “humane slaughter” reform and Massachusetts passed a law allowing the MSPCA to inspect slaughterhouses the same year (Schultz, 1924). Together, Christine Stevens, who founded the Society for Animal Protective Legislation (SAPL) in 1955, and Senator Hubert Humphrey, who authored the bill, the Humane Slaughter Act bill was passed through Congress and enforced in 1958. The bill requires packers selling meat to the government to provide either anesthetization or an electrical or mechanical stun to all animals prior to slaughter, with the exception of kosher meat.

The federal Humane Methods of Slaughter Act “regulates the slaughter of livestock” to prevent “needless suffering” (7 U.S.C. §1901 (1978)). There are exemptions, which include ritual slaughter and the slaughter of poultry. In addition, regulations enacted pursuant to the Humane Methods of Slaughter Act of 1978 forbid the dragging of conscious non-ambulatory animals (downer), livestock that cannot rise from a recumbent position. Stunned animals may, however, be dragged. Disabled animals and other animals unable to move on their own may be moved, while conscious, on equipment suitable for such purposes; i.e., “stone boats” (concrete slabs used for transport) (Code of Federal Regulation) (9 C.F.R. § 313.2 (d)(2)(3) (1997)).

The statutes only apply to slaughterhouses under federal inspection, and the statutes exclude chickens and other animals used in ritual slaughter (Wolfson, 1996). State inspected and small slaughterhouses are not covered under these federal statutes. It is difficult to ascertain the effectiveness of the statutes, because there is insufficient enforcement and the slaughterhouses are off limits to the general public (Wolfson, 1996).

The SAPL was also key in the passage of the 1959 Wild Horses Act that prohibited the poisoning of horses and burros, as well as prohibiting the use of aircraft to round them up for slaughter.

Animal Welfare Act (AWA)

The first national law to regulate animal experimentation was passed in Britain in 1876—the Cruelty to Animals Act of 1876. This bill created a central governing body that

reviewed and approved all animal use in research. After that, there were numerous countries in Europe that adopted some regulations regarding research with animals. Although there were state initiatives to protect laboratory animals, it was many years until there was a National law to protect laboratory animals in the U.S. where a number of states passed anti-cruelty laws between 1828 and 1898. Fourteen states exempted animal experiments. There were only two times when anti-cruelty laws were invoked on behalf of laboratory animals. There were also numerous bills proposed and enacted in various places, but the U.S. Federal legislation did not pass until 1966.

Since its inception in 1966, the U.S. Animal Welfare Act (AWA) has been shaped and expanded upon by political and social influences. In general, the Animal Welfare Act applies to some animals used in scientific experiments, (mice, birds, and rats are excluded from protection) exhibitions, and commercial breeders of dogs and cats sold for research. It does not pertain to companion animals (i.e., pets) or farm animals raised for food or food production. The AWA became the first Federal law protecting the welfare of laboratory animals and brought the issue of stolen pets to the forefront of animal welfare concerns. On August 24, 1966, President Lyndon Johnson signed the bill into law (P.L. 89-544). Amendments to the AWA enacted in 1970, 1976, 1985, 1990, and 2002 refined standards of care and extended coverage to animals in commerce, exhibition, teaching, testing, and research. The 1966 act set minimum standards for the handling, sale, and transport of cats, dogs, nonhuman primates, rabbits, hamsters, and guinea pigs held by animal dealers or pre-research in laboratories. The 1976 amendment established

standards for shipping containers, feed, water, rest, ventilation, temperature, and handling in order to promote better care for animals during their transport.

Silver Spring Monkey Case

By the early 1980s, the animal welfare/rights movement was gaining momentum in the United States. In 1981, Alex Pacheco, cofounder of the newly formed group People for the Ethical Treatment of Animals (PETA), volunteered in the research laboratory of Dr. Edward Taub at the Institute for Biological Research in Silver Spring, Maryland. He documented numerous violations of the Animal Welfare Act, eventually prompting the Montgomery County police to seize 17 monkeys from the laboratory. The case, often referred to as the Silver Spring Monkey case, led to many legal trials and was highly publicized in newspapers nationwide (Carlson, 1991). Congress held hearings before the House of Representatives Subcommittee on Science, Research and Technology in October 1981, prompted in part by Pacheco's documented claims of animal mistreatment and the public concern that followed (Brown, 1997). Between 1981 and 1984, several bills were introduced into the House and Senate regarding the care of animals in research laboratories. Eventually Senator Robert Dole of Kansas included Amendment No. 904--the Improved Standards for Laboratory Animals Act--as part of the Food Security Act (Farm Bill) of 1985 and President Ronald Reagan signed it into law on December 23, 1985.

AWA Amendments

Although the AWA was modified in the 1970 amendments to allow coverage of all warm-blooded animals, the Secretary of Agriculture administratively excluded rats, mice, and birds from the definition of animal in the accompanying regulations. The USDA was sued and in 2000 agreed to amend the definition of animals in the AWA regulations and cover rats, mice and birds in addition to the species already covered. In 2002, Sen. Helms added an amendment to the AWA in the Farm Bill, signed by President George W. Bush on May 13, 2002, that redefined the term animal in the law to match the current definition in the regulations. This change means that the definition of animal in the AWA excludes birds, mice of the genus *Mus*, and rats of the genus *Rattus*, bred for use in research from the definition of animal. By changing this term, the USDA does not have the authority to regulate animals excluded by the new definition. However, the USDA General Counsel has determined that the law now covers the uses of these animals for other purposes (Finsen & Finsen, 1994).

President George W. Bush signed the Animal Fighting Prohibition Act on May 3, 2007. This bill amends the AWA to prohibit knowingly selling, buying, transporting, or delivering, in interstate or foreign commerce, a knife, a gaffe, or any other sharp instrument for attachment to the leg of a bird for use in an animal fighting venture (Finsen & Finsen, 1994).

The Modern Rise of the Rights for “Personhood” and Legal Rights for Animals

Other progress in the United States towards laws for protection against cruelty include the addition of courses on animal rights and animal law offered in universities and law schools. More and more books and articles on animal rights and animal law are being published. Advocates of animal rights and animal welfare are in great demand as lecturers. The rights and welfare of animals are increasingly being argued in courts and slowly people are realizing that it is not necessary to eat, use, wear or exploit animals to survive. As of 2015, American lawyers such as Steven Wise are advocating for limited “personhood” rights for certain animals, on behalf of four captive chimpanzees in New York State (Siebert, 2014). If successful, Mr. Wise will be filing the first-ever lawsuits in the United States demanding that an animal can transition from a thing without rights to a person with legal protections, or in other words guaranteeing animal personhood rights for chimpanzees, elephants, whales and dolphins — animals whose unusually high level of intelligence has been recognized by scientific research. Unlike welfare statutes, legal personhood would give some animals irrevocable protections that recognize their critical needs to live in the wild and to not be owned or abused. The status of animals as property has severely limited the type of legal protection that society extends to them (Francione, 1995, 1996). The law and legal systems of most western nations have been primary culprits in facilitating the exploitation of animals (Livingston, 2001). Common-law and civil-law traditions are dualistic in that there are two primary normative entities in these systems: persons and things (Francione, 1996). Animals are treated as things, and, more specifically, as the property of persons. Until animals are accorded legal rights that protect their interests, their exploitation is likely to continue (Francione, 1996).

Conclusion

The general consensus is that, despite perception to the contrary, the animal rights movement has been an important part of the growth of humanitarianism and social justice in America, since its colonial origins.

CHAPTER III: METHODOLOGY

A comprehensive literature review was conducted using the ERIC, OmniFile Full Text Mega, America: History and Life, and JSTOR databases. The primary search terms were Animal Rights; Animal Welfare; Law Related Education; Secondary Education; Laws; Legal Problems; Social Studies; United States History; World History; Government Role; Legal Information; Social Justice; and Activism. From this review a research-based 11.5 day lesson plan for a U.S. History secondary education course was developed to meet the standards adopted by the state of California. Per the CA standards and the U.S. Common Core Standards, the project addresses not only grade level and content standards, but also supports mastery of the ELA literacy standards. Beginning with the fact that the Animal Rights movement has been a part of the tapestry of American History since the Puritan settlements of the 1600s, The history of Animal Rights in America was introduced within a unit addressing, “Innovations in Law”.

The curriculum presented in Appendix A: Lesson Plans was initially motivated by my experience with “The Bill of Rights in Action”, a set of lessons from the Constitutional Rights Foundation’s newsletter. The published activity included three sections highlighting historical and recent advances in law. The first examined the code of laws from an historical perspective; the second explored the ideas underlying Jefferson’s

writing of the Declaration of Independence; the final section examined the animal-rights movement seeking recognition of the basic rights for animals. Each article included questions for class discussion and writing, a further reading list, and classroom activities. Total days for the unit were 11.5 and included 50-minute class periods for each day. My experience with this unit was the impetus for the current project to expand on and further integrate the Animal Rights movement into the fabric of history as taught in our schools.

A brief review of the Constitutional Rights Foundation (CRF) lesson on animal rights and my experience teaching it provides a context for later work and is therefore presented here. I taught the CRF lesson in a class composed of 10th grade World History students, with 35 students total. Students were asked to read an article with the leading statement of, “Do animals, like human, possess certain inalienable rights? A growing movement in America believes they do.” After reading the article, students were asked to answer three discussion questions:

1. What is “speciesism”? Do you think that it is a valuable concept? Why or why not?
2. Do you think human life is more valuable than animal life? Explain.
3. What rights, if any, do you think animals should have?

Students were then led in a class discussion about their question responses. Finally students were assigned to small groups and asked to complete an activity, entitled “Should it continue?” exploring current issues in the use and value of animals leading to

a value based conclusion as to whether the behavior (e.g., putting chimpanzees in zoos) should continue.

Following this activity it became apparent that students identify with the legacy of Animal Rights law in the United States, and see it as a valid contemporary issue of justice that has deep historical roots not normally included in history instruction but that should be considered. Student response to the activity was enthusiastic and participation was widespread. Students were successfully able to make connections to the unit theme of the “Bill of Rights in Action,” supporting the argument that the Animal Rights Movement in American deserves a place in the cannon of US History and can have important applications in the curriculum of high school classrooms. I was inspired by the student’s reactions to this short, 2-day activity on Animal Rights, to develop the curriculum further. This is what led me to develop the 11.5 lesson unit project on the legislative history of the Animal Rights Movement in America presented in Appendix A: Lesson Plans, in order to further supplement student understanding of this part of U.S. History.

Appendix A: Lesson Plans “The Legal History of the Animal Rights Movement in America” presents a thorough examination of the history and evolution of animal cruelty laws in the United States. Specifically the legacy of the Puritan colonists laws, the impact of the British Animal Rights movement on the United States, an overview of the Western legislative legacy of animal rights, important figures in the U.S. anti-cruelty and anti-vivisection groups, early state statutes passed, as well as a in depth analysis of the federal

animal protection laws are discussed. Based on the literature review of the impact of recent legislation aimed at bestowing personhood rights for animals is also presented, as well as other ways the movement continues to grow into the 21st century.

Information will be collected through will contribute to the research as well. After careful research, including scholarly journals, articles in popular magazines, books. Internet searches, court records, and video footage the results are synthesized and presented in the Appendix A: Lesson Plans and Chapter IV: Conclusion sections.

CHAPTER IV

SUMMARY AND CONCLUSION

American history, and indeed the history of humankind, is a series of moments in time when the things that were once hidden become illuminated. Civilizations greatest triumphs, namely science, medicine, religion, and philosophy, all have been engaged in a struggle forwards towards a greater understanding of our world. We can see countless examples of how these moments of realization, based a large measure on self-reflection and necessity, have spurred social and societal change of great magnitude and arguably, great progress. Whereas once one's own race, sex, and/or sexual orientation once dictated the ability to survive and thrive in the United States, the social justice movements of our American history have reshaped these assumptions based on racism, sexism, and homophobia. Arguably many of these amazing cultural and societal transformations have been based a large part of the legacy of compassion, not only towards each other as human beings, but also our compassion towards other sentient life with whom we share our world, as I have intended to show throughout this project.

This legacy of animal rights law in the United States, the topic for the duration of the content of my project, "THE LEGAL HISTORY OF THE ANIMAL RIGHTS MOVEMENT IN AMERICA," is I argue an important part of our legacy as Americans. Like many things left unseen, it has been cast in the shadows of our collective mind and

often belittled, ignored and challenged for fear of the revelations inherent in its aim. Those aims being namely that all animals, not merely the human species, should have protections and perhaps even legal rights ensuring their own inherent dignity and rights to life are being respected, and that they have been afforded protection from needless suffering and exploitation. Highlighting this aspect of our American legal heritage goes a long way in further illuminating the tenets of American morality we all hold dear: freedom, liberty, justice, and the not always highlighted but equally important tenet, compassion.

The future of the Animal Rights movement in America is away from welfare statutes towards legal "personhood". This may someday give some animals irrevocable protections that recognize their critical needs to live in the wild and to not be owned or abused. Until the status of animals as property changes, the type of legal protection that society extends to them has severely been limited and until animals are accorded legal rights that protect their interests, their exploitation is likely to continue. The modern animal rights movement is working to secure those legal rights and is indeed succeeding, per the example of cases brought by the Nonhuman Rights Project (NhRP) to the Manhattan Supreme Court. In the most recent case, on April 22, 2015, Justice Barbara Jaffe issued an order to show cause and writ of habeas corpus on behalf of two chimpanzees, Hercules and Leo, who are being used for biomedical experimentation at Stony Brook University on Long Island, New York. Under the law of New York State, only a "legal person" may have an order to show cause and writ of habeas corpus issued

in his or her behalf. The Court has therefore implicitly determined that Hercules and Leo are “persons.” The order does not necessarily mean that the Court has declared that the two chimpanzees, Hercules and Leo, are legal persons for the purpose of an Article 70 common law writ of habeas corpus proceeding. In two similar cases on behalf of two other chimpanzees, Tommy and Kiko, the Nonhuman Rights Project has filed Motions for Leave to Appeal to New York’s highest court, the Court of Appeals. Decisions in all cases are pending as of May 2015.

If indeed cases such as these succeed, much like the legacy of abolition, one day the treatment of non-human animals will be seen as something equally otherworldly and unconscionable. This is a legacy begun in the American colonies to which American students can be proud to share and perhaps one day personally become a part of as well. It was my attempt to contribute, in a small way, to the continuation of this legacy of compassion and to pass these values to the next generation of citizens who need examples of "personhood" that protect the beauty of the diversity in our world and the sanctity of life within its many inhabitants, human and non-human alike.

In conclusion, the history of the Animal Rights (AR) and its legislative victories has been a part of the tapestry of American History since the Puritan settlements of the 1600s. It deserves a place in the canon of U.S. History and can have important applications in the curriculum of high school classrooms, highlighting a part of American history that is largely unseen. I vote for its inclusion as part of the social justice history of the United States of America. It would peak student interest by including it as social

justice and would be more relevant to the K-12 community. Many of our most amazing cultural and social transformations were started, supported and ultimately secured by animal rights activists and early vegetarians. From abolition to children's rights to environmental protection, these animal rights figures highlighted to society the importance of kindness, decency and justice. Their early legislative victories helped support additional changes to our society, as they repeatedly used their rationalizations to secure support for the most vulnerable members of our society. I further argue that the animal rights movement and its changes to our society is not only fundamentally part of our legacy as Americans, but that the people making these changes are true American heroines and heroes, and should be recognized as such.

REFERENCES

- Animal Welfare Act (7 U.S.C., 2131-2159 (1966).
- Bartlett, S. J. (2002). Roots of human resistance to animal rights: Psychological and conceptual blocks. *Animal Law*, 8, 143-171.
- Best, S. (2002, August-September). Legally blind: The case for granting animals legal rights. *Impact Press*, 40, 12-24.
- Coleman, S. H. (1924). Humane society leaders in America; with a sketch of the early history of the humane movement in England. *Mississippi Valley Historical Review*, 72(1), 123-125.
- Dryden, A.J. (2001). "Overcoming the inadequacies of animal cruelty statutes and the property-based view of animals". *Idaho Law Review* 38.
- Favre, D. (2011). *Animal Law- Welfare, Interests, and Rights*. New York: Wolters Kluwer.
- Favre, D. & Tsang, V. (1993). The development of anti-cruelty laws in the 1800's. *Detroit College of Law Review*, 1, 1-23.
- Finsen, L. & Finsen, S. (1994). *The animal rights movement in America: From compassion to respect*. New York: Twayne.
- Frasch, P.D., Otto, S.K., Olsen, K.M., & Ernest, P.A. (1999). State animal anti-cruelty statutes: An overview. *Animal Law*, 5, 69-80.
- Francione, G. L. (1995). *Animals, property, and the law*. Philadelphia: Temple University Press.
- Francione, G. L. (1996a). Animal rights and animal welfare. *Rutgers Law Review*, 48, 397-434.
- Francione, G. L. (1996b). *Rain without thunder: The ideology of the animal rights movement*. Philadelphia: Temple University Press.
- Greenwood, Arin. "Oregon Court Say Animals Can Be Crime 'Victims', Like People. So What Does That Mean?" *Huffington Post* 26 Sept. 2014:
<http://www.huffingtonpost.com/2014/09/26/oregon-court-animals->

[victims_n_5883588.html](http://www.victims_n_5883588.html).

Siebert, C. "Should a Chimp Be Able to Sue It's Owner?" New York Times Magazine 23 April 2014: <http://nyti.ms/1fhm0kb>

Ingham, J.H. (1900). *The law of animals*. Philadelphia: T & J.W. Johnson & Co.

Li, Hon-Lam. "Animal research, non-vegetarianism, and the moral status of animals—Understanding the impasse of the animal rights problem." *Journal of Medicine and Philosophy* 27.5 (2002): 589-615.

Leavitt, E. S. (1970). *Animals and Their Legal Rights* (2nd ed.). Washington, DC: Animal Welfare Institute.

Leavitt, E. S. & Halverson, D. (Eds.). (1990). *Animals and their legal rights: A survey of American laws from 1641 to 1990* (4th ed.). Washington, DC: Animal Welfare Institute.

Martz, C. & Hayes, B. (Eds.). (2000) *Innovations in Law- Bill of Rights in Action*; v16 n4 Fall 2000. Constitutional Rights Foundation, Los Angeles, CA.

Regan, T. (1983). *The case for animal rights*. Berkeley: University of California Press.

Regan, T. (2001). *Defending animal rights*. Champaign: University of Illinois Press.

Rowan, A.N. (1984) *Of Mice, Models, and Men: A Critical Evaluation of Animal Research*. Albany: State University of New York Press.

Rowan, A.N., O'Brien, H., Thayer, L. & Patronek, G.J. (1999). *Farm Animal Welfare: The focus of animal protection in the USA in the 21st century*. Retrieved September 8, 2014, from Tufts University School of Veterinary Medicine, Tufts Center for Animal and Public Policy Web site <http://www.tufts.edu/vet/cfa/faw.pdf>

Ryder, R. D. (1989). *Animal revolution: Changing attitudes towards speciesism*. Oxford, UK: Basil Blackwell.

Sauder, J.G. (2000). Enacting and enforcing felony animal cruelty laws to prevent violence against human. *Animal law*, 6, 1-21.

Singer, P. (1975/1990). *Animal liberation*. (Rev. ed.). New York: Avon.

Spiegel, M. (1996). *The dreaded comparison: Human and animal slavery*. New York: Mirror Books.

Tresl, J. (2002). A broken window: Laying down the law for animals. *Southern Illinois University Law Journal* 26, 277-311.

Turner, J. (1980). *Reckoning with the beast: Animals, pain, and humanity in the Victorian mind*. Baltimore: The Johns Hopkins University Press.

Wilkins, D. B. (Ed). (1997). *Animal Welfare in Europe: European legislation and concerns*. London: Kluwer Law International.

Wise, S. M. (1996). The legal thinghood of nonhuman animals. *Boston College Environmental Affairs Law Review*, 23, 471-530.

Wise, S. M. (2000). *Rattling the cage toward legal rights for animals*. Cambridge, MA:Perseus.

Wise, S. M. (2002). *Drawing the line: Science and the case for animal rights*. Cambridge, MA: Perseus.

Wolfson, D.J. (1996). Beyond the law: Agribusiness and the systematic abuse of animals and used for food and food production. *Animal Law*, 2, 123-154.

United States. U.S. Department of Education. ERIC. *Innovations in Law*. By Carlton Martz and Bill Hayes. 4th ed. Vol. 16. Los Angeles: Constitutional Rights Foundation, 2000. Fall 2000. ERIC. Web. 08 Sept. 2014.

APPENDIX

Appendix A: Lesson Plans

LESSON CONTENT

Introduction to the teacher

Brief narrative.

The length of the unit is 11.5 days, with a 20-minute pre-viewing activity to be completed the day before the unit begins, along with a reading assignments with reflection questions to be completed for homework (length to complete, approximately 45 minutes).

The focus of the lesson is **THE LEGAL HISTORY OF THE ANIMAL RIGHTS MOVEMENT IN AMERICA.**

Teachers can refer to the annotated chronology in Appendix A to inform them of the lesson content background, as well as helping further their understanding of the subject. They should also read the pre-viewing assignment reading on “Animal Rights”, found in Appendix B, and read through the entire unit curriculum for an extensive understanding of the topic.

Grade Level and Standards.

The lesson is especially focused on topics related to the California standards for 11th grade, as seen in Appendix M.

Objectives.

The student will be able to correctly identify key figures, as well as the vocabulary and the specific historical legacy of the legal history of the Animal Rights Movement in America from 1641-2015. Students will be able to identify how the legal history of the Animal Rights Movement in America has contributed to the social justice legacy that Americans share based out of a shared pursuit for justice and equal consideration under the law.

Academic Language.

In each lesson, words or phrases are included to help the students understand the lesson. These words will appear under “Academic Language” in each lesson.

Prior Content.

The students will be continuing their study into the historical and recent innovation in Western law, specifically United States law in this unit. They will be familiar with concepts as they relation to the Bill of Rights, Declaration of Independence, Legal Information, Government Role, Law Related Education, Laws, Legal Problems, Social Studies, United States History and World History. Students will be confident in their understanding of the developments of the code of laws developed by the ancient Hebrews, which influenced Roman law, English Law and the U.S. Declaration of Independence and Constitution. They will be familiar with the process of law making and the role of civil society on cultural and social movements for legislative change in the United States. The introduction of the animal-rights movement, an active movement seeking recognition of basic rights for animals will be greatly supplemented with a pre-viewing reading with reflection questions, to be completed before Day 1 of the UNIT: THE LEGAL HISTORY OF THE ANIMAL RIGHTS MOVEMENT IN AMERICA begins. The pre-viewing activity includes an article found in Appendix C.

Day 0: Pre-viewing activity and Day 1: Lesson Plan - THE LEGAL HISTORY OF THE ANIMAL RIGHTS MOVEMENT IN AMERICA

Introduction. (30 min of homework assigned)

Students will begin a 10-day unit on the Legal History of the Animal Rights Movement in America. Students will receive a handout entitled, “HANDOUT #1: Pre-viewing activity” on the day preceding the start of the Unit, Day 0 (See Appendix C). Students will complete Step #1 and #2 for homework over the weekend prior to the lesson beginning on Monday. Step #1 is an introductory reading entitled, “Animal Rights: Do animals, like humans, possess certain inalienable rights? A growing movement in American believes they do.” This reading is from “The Bill of Rights in Action”, Constitutional Rights Foundation, Fall 2000, Volume 16, and Number 4 by Martz, Carlton. Step #2 defines important academic vocabulary that the lesson will address the in the week that follows (See Appendix C). Teachers may choose to give students time on the Friday before the weekend to complete this pre-viewing activity Step #1 and #2. *Note for the teacher:* if time is offered in class, students will need access to a dictionary or computers to complete Step #2, the definition section.

Hook. (15 minutes)

Students will begin their first lesson on Day 1 with a pre-viewing activity on HANDOUT #2 entitled Step #1. They will complete this activity in the first ten minutes of class on Day 1, using the definitions they've prepared for homework. Students will complete the pre-viewing activity highlighting important academic language for the lesson and offering an initial personal investment in the topic with the student poll (See Appendix D). Students will then receive the poll results, with the teacher using an anonymous tallying strategy to get the results. Students will put their heads down and raise a right hand for TRUE and a left hand for FALSE when prompted by the teacher. The teacher will record these answers on the board for the students to see once the tally is complete.

Transition. (15 minutes)

Teachers will lead the students in a discussion of the poll results on Day 1 when the tallying is complete. Students will be prompted in Step #2 of their handouts to "Fill in the space below with your notes following our class discussion on the prompts above. What was the general consensus of the course regarding animal rights law and its role in American history? Were you surprised by any opinions that conflicted from yours?" Teacher led discussion can follow for 5 minutes.

Lesson Content. (20 minutes)

Following the completion of HANDOUT #2, the teacher will collect the student work to be graded for participation. Students will then receive HANDOUT #3: "To see or not to see? That is the question"(See Appendix E). The teacher will then prompt the students with the following questions:

Class discussion prompt

- What is it to "see"?
- How do we decide what to "see" and what "not to see" (aka ignore) in our lives?
- What things remain invisible and why?

Allowing for a few minutes of dialogue per question, the teacher will then direct students to their handout. Students will then complete Step #1 and Step #2 silently.

Conclusions.

The teacher will bring the students back after 5-7 minutes. The teacher will then refer to the question posed in Step #3- 5. Students will have the remaining time in the class period to complete these last three steps.

Assessment.

If students need additional time the remaining work is to be completed for homework and submitted on Day 2 at the beginning of class for participation credit.

Conclusions.

The teacher will bring the students back after 5-7 minutes. The teacher will then refer to the question posed in Step #3- 5. Students will have the remaining time in the class period to complete these last three steps.

Assessment.

If students need additional time the remaining work is to be completed for homework and submitted on Tuesday at the beginning of class for participation credit.

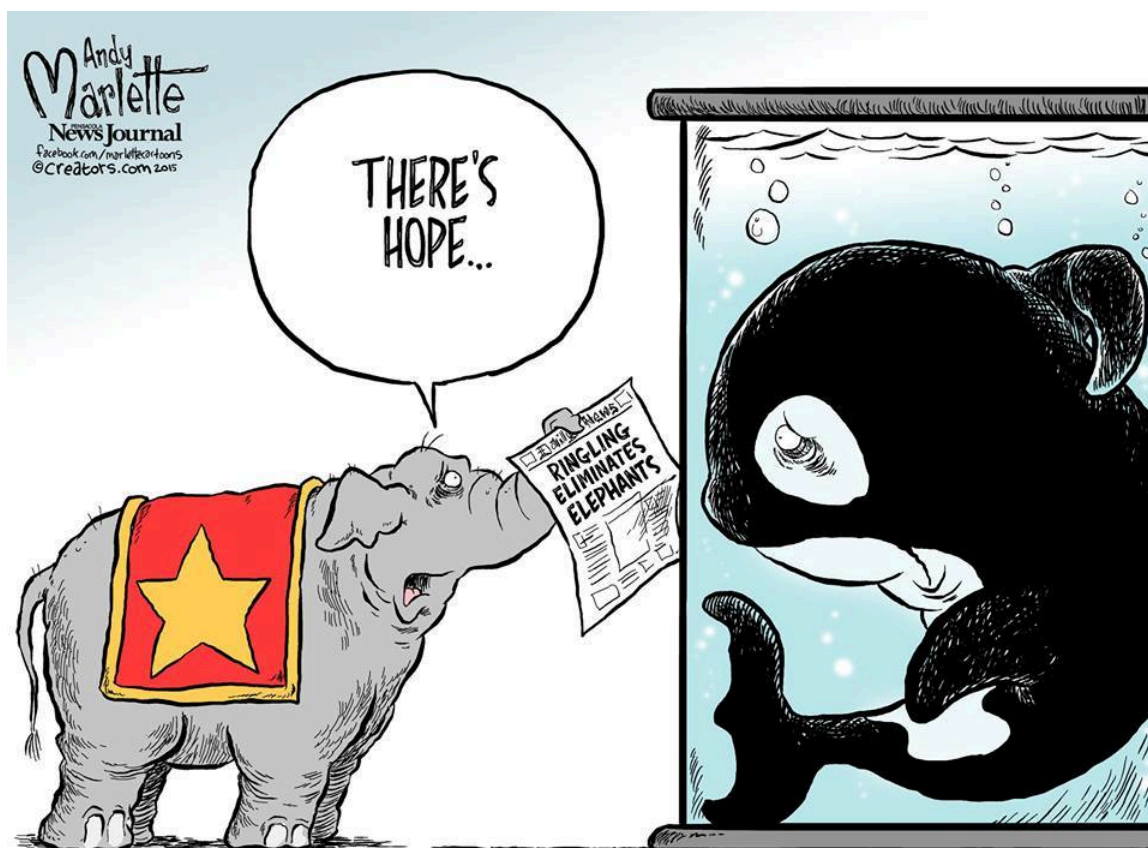
Day 2 Lesson Plan

Introduction.

Students will continue the discussion of what is “seen or unseen”. The teacher will use student handouts to guide the lecture (See Appendix F). The teacher can also choose to project the handouts on a classroom projector or upload them and present them visually, using additional technological resources available in the classroom.

Hook. (10 minutes)

The teacher will distribute HANDOUT #4 (See Appendix F). A cartoon image of a circus elephant holding a sign to an orca in a tank, reading “There’s hope...” is included in the “Hook Prompt” section of the handout (See Appendix F). The teacher can also choose to project the image on a classroom projector or upload it and present it visually, using additional technological resources available in the classroom.



The teacher will then discuss with students some of their observations based on Handout #2's questions. Specifically the teacher will prompt to student with these questions (See Appendix F):

- In what ways are the animals presented in this image unseen in our lives and perhaps even in our society as a whole?
- What does this cartoon say about the possible shift these animals are experiencing with greater public awareness of their needs? And perhaps even their rights?

Transition. (10 minutes)

HANDOUT #3 will be collected from the students (See Appendix E). The teacher will then shift the conversation with a short reading of the introduction prompt from the handout (See Appendix F).

Lesson Content. (25 minutes)

The teacher will then go through “STEP #2: AN ANALYSIS OF CONFLICTING PERSPECTIVES” (See Appendix F). The teacher will read each quote aloud, then direct the students to translate the quote into their own words. The teacher will offer the students’ 3-5 minutes to write, then will call on students randomly to offer their translations/ interpretations with the class. The teacher will continue this practice for each quote, ensuring that the students understand the quote correctly and then will move on.

Conclusion.

Students will then refer to the “REFLECTION QUESTIONS THUS FAR” (See Appendix F). Teacher will read the following: “Directions: Record answers on a separate sheet of lined paper. Name, date, class period on top, right hand corner of each page. Each answer should be at least 3-5 sentences each. Grammar and spelling will count towards your grade.” Students will have the remainder of the class to answer these questions in Step #2 (See Appendix F). Students can complete these questions if additional time is needed for homework. These questions will be written on a separate sheet of paper and collected for credit at the beginning of class on Day 3.

Assessment:

These questions will be written on a separate sheet of paper and collected for credit at the beginning of class on Day 3.

Day 3 Lesson Plan

Introduction.

Yesterday we discussed early advocates for animal’s rights. Today we will continue with this discussion, talking specifically about the overarching perspectives of these advocates as well as their early legislative victories.

Hook. (5 minutes)

The teacher will distribute HANDOUT #5- FROM PHILOSPHICAL PLEADING TO ACTUAL LEGISLATION ON THE BEHALF OF ANIMALS (See Appendix G). The teacher will then refer the students to the “Hook Prompt” (See Appendix G). The teacher can also choose to project the handouts on a classroom projector or upload them and present them visually, using additional technological resources available in the classroom.

Hook Prompt: The animal rights movement has a much longer history than other social justice movements in America including even abolition or the children's rights movement. In fact, many of our most amazing cultural and social transformations were started, supported and ultimately secured by animal rights activists and early vegetarians. From abolition to children's rights to environmental protection, these animal rights figures highlighted to society the importance of kindness, decency and justice. Their early legislative victories helped support additional changes to our society, whereby they used their rationalizations to secure support for the most vulnerable members of our society over and over again.

Student response question: Considering that the animal rights movement and its changes to our society is not only fundamentally part of our legacy as Americans, do you think that the people making these changes are true American heroes and heroines and should be recognized as such? Why or why not?

Transition. (5 minutes)

Teacher will collect the student responses to grade for class participation and then will ask students to hand in their answers to "REFLECTION QUESTIONS THUS FAR" (See Appendix F) from yesterday's lesson, answers they have written on a separate sheet of paper, as discussed on Day 2. Students will be then be directed to HANDOUT #4, STEP #3: AN ANALYSIS OF CONFLICTING PERSPECTIVES (See Appendix F).

Lesson Content. (PART 1: 20 minutes) (PART 2: 20 minutes)

Students will complete the HANDOUT #4, STEP #3: "CONFLICTING PERSPECTIVES" activity (See Appendix F). Students will then be introduced to key figures in the legal history of animal rights in America. They will also be introduced to important legislation passed.

Day 3, PART 1:

The teacher will direct the students to the next two quotes after the section, "REFLECTION QUESTIONS THUS FAR" in HANDOUT #4, Step #3 (See Appendix F). The teacher will again, as was done on Day 2, read each quote aloud, and then direct the students to translate the quote into their own words. The teacher will offer the students' 3-5 minutes to write, then will call on students randomly to offer their translations/ interpretations with the class. The teacher will continue this practice for each quote, ensuring that the students understand the quote correctly and then will move on. The teacher will then ask the question posed under, "In CONCLUSION: What three

perspectives are present in these readings?” The teacher will write on the board the three perspectives addressed within the quotes. Students will be directed to copy these verbatim on their handouts. The teacher will then collect HANDOUT #4 for participation credit (See Appendix F).

Day 3, PART 2:

The teacher will direct student attention once again to HANDOUT #5- FROM PHILOSPHICAL PLEADING TO ACTUAL LEGISLATION ON THE BEHALF OF ANIMALS (See Appendix G).

The teacher will ask the class, “What is legislation?” The teacher will allow for 5 minutes of brainstorming, recording the student responses on the board.

The teacher will then ask the students to transcribe the following definition on their handout under the prompt, “What is legislation?” Answer: “Legislation is the record, printed and public, which expresses the moral conscience of a people. Laws say, here it is in black and white, voted by the majority; you must abide by it or pay the penalty”.

The teacher will verbally say that much of the western tradition of the law comes from Greece and English roots.

The teacher will verbally say that many of the early legislation and leaders within the animal rights movement came out of England.

The teacher will then begin lecturing on each of the legislation and figures presented in the handout and their corresponding contributions to the legal legacy of animal rights, using the handouts as a guide (See Appendix G).

The teacher will first discuss the Puritans of the Massachusetts Bay Colony who voted for their first legal code, “The Body of Liberties”, in 1641 as listed in Step #2 on Handout #5 (See Appendix G).

The teacher can also choose to project the handouts on a classroom projector or upload them and present them visually, using additional technological resources available in the classroom.

Conclusions.

The teacher will inform the students that this topic will continue into Day 4.

Assessment.

The teacher will collect HANDOUT #4 for participation credit at the end of class (See Appendix F). The teacher will also check HANDOUT #5 for the “What is legislation?” student response for participation in the brainstorming activity and written definition (See Appendix G). The teacher will stamp each handout for future collection and points for participation.

Day 4 and 5 Lesson Plans

Introduction.

Yesterday we were introduced to the Puritans of the Massachusetts Bay Colony who voted for their first legal code, “The Body of Liberties”, in 1641 (See Appendix G). Today we are going to continue talking about important figures or heroes in the animal rights movement, namely Richard Martin and Nathaniel Ward. Other early figures and legislation in England and American are both discussed and finally the evolution of anti-cruelty laws in the United States will be discussed in some detail.

Hook.

Teacher directions: Look at Handout 5, Step #5, Day 4 for a Chronological Enactment of the United States Anti-Cruelty Laws (See Appendix G). What do you find interesting or notable about the timeline? Make three observations (See Appendix G).

Transition.

Now we are going to discuss the evolution of anti-cruelty laws in the United States in some detail along with notable figures of the Animal Rights Movement.

Lesson Content.

The teacher will then direct the students to Handout 5, Step #3, Day 4: “RICHARD MARTIN OR NATHANIEL WARD: WHO WAS THE ANIMAL RIGHTS MOVEMENT FIRST LEGAL HERO?” (See Appendix G). Students will be called upon to read through sections as the teacher leads the discussion. Next students will read as a class Step #4, Day 4: THE EVOLUTION OF ANTI-CRUELTY LAWS IN THE UNITED STATES (See Appendix G). The teacher will pause and clarify as needed, and to ask probing questions to informally assess student understanding.

Conclusions.

Students will be asked to pair up into groups of 3-5 for a group project that will begin on Day 6 of the unit. There should be a total of 6 groups. The teacher can alternatively assign groups randomly. The teacher will then pass out HANDOUT #6: Day 5, “Anti-Cruelty Laws Case Selections from California, Colorado, Maine, Montana, New Mexico, Pennsylvania, Massachusetts” (See Appendix H). Students will be directed to read through the state case study their group is assigned, taking notes for use on Day 6 to produce a state poster, which should list the anti-cruelty statutes in the state and explain what is covered in the statute and what is missing. Students will be directed to bring supplies for the group poster project, namely poster board, markers, pens, scissors, or anything else they want to use. The teacher will supply additional materials as needed as well for groups that have limited budgets.

Assessment.

Student assessment will be informally assessed through class participation as well as checked formally on Day 6 for notes taken on their case statute for homework.

Day 6 Lesson Plan

Introduction. (5 minutes)

Today please move seats immediately and sit with your group assigned on Day 5.

Hook. (5 minutes)

Students will be given images of animals, maps of their states, and images of animal rights cartoons to use to decorate their posters. Teachers may want to request students to bring images or magazines, or have access to computers and printers for downloading images, instead of providing these images to them. In that case, prior warning or an additional homework requirement could be given a day or days before this assignment begins.

Transition. (10 minutes)

We will begin today’s lesson by reading together Step #1 from HANDOUT #6: Day 5, “Anti-Cruelty Laws Case Selections from California, Colorado, Maine, Montana, New Mexico, Pennsylvania, Massachusetts” (See Appendix H).

Lesson Content.

Students will do a group activity, studying case selections from California, Colorado, Maine, Montana, New Mexico, Pennsylvania, and Massachusetts and then presenting the

findings to the class in small groups. Students will be given 15 minutes to compile their notes, make their posters and prepare to present to the group on Day 7. Students will be asked to address each aspect of the “Present Anti-Cruelty Laws” in their states’ statutes, remarking on what aspects are included or absent (See Appendix H).

PROJECT DIRECTIONS

Teacher Guidelines:

Students will be asked to pair up into groups of 3-5 for a group project that will begin on Day 6 of the unit. There should be a total of 6 groups. The teacher can alternatively assign groups randomly. The teacher will then pass out HANDOUT #6: Day 5, “Anti-Cruelty Laws Case Selections from California, Colorado, Maine, Montana, New Mexico, Pennsylvania, Massachusetts” (See Appendix H). The teacher will assign a state to each group for a total of 6 groups. Students will be directed to read through the state case study their group is assigned, taking notes for use on Day 6 to produce a state poster, which should list the anti-cruelty statutes in the state and explain what is covered in the statute and what is missing. Students will be directed to bring supplies for the group poster project, namely poster board, markers, pens, scissors, or anything else they want to use on Day 5 so that they are prepared to begin the project on Day 6. The teacher will supply additional materials as needed in class for groups that have limited budgets.

Student directions for the assignment:

HANDOUT #6: Day 5, “Anti-Cruelty Laws Case Selections from California, Colorado, Maine, Montana, New Mexico, Pennsylvania, Massachusetts” PROJECT GUIDELINES (See Appendix H).

Conclusions.

Students will present to the class highlighting the “Present Anti-Cruelty Laws” in their states’ statutes, remarking on what aspects are included or absent on Day 7.

Assessment.

Each student group will be assessed on their participation and graded on their posters presented on Day 7 using the following criteria:

- Name of state indicated on the poster. (10 points)
- What is included in the statute based on the guidelines of Present Anti-Cruelty Laws listed in Step #1, Day 5 on HANDOUT #6. (25 points)
- What is missing in the statute based on the guidelines of Present Anti-Cruelty Laws listed in Step #1, Day 5 on HANDOUT #6. (25 points)

- Any other identifying or notable information present in the case selection for the individual state.
- Any other identifying or notable information about the state, represented visually to create an appealing and artistic representation of your state.
- Student names, class period and date on the back of the poster. (10 points)
- Individual participation towards the poster and classroom presentation as indicated by a short survey taken at the end of the class presentations. (30 points) [See Appendix H]

POSTER PROJECT PARTICIPATION SURVEY (30 points)

Describe what role you had in creating the group poster, as well as the content you were responsible for presenting during class. Include any other information you would like to share about your group contribution to the poster project.

Day 7 Lesson Plan

Introduction.

Today each group will present their Anti-Cruelty Laws Case Selections from California, Colorado, Maine, Montana, New Mexico, and Pennsylvania. Each group has 5 minutes to present their posters to the class.

Conclusions.

Students will present to the class highlighting the “Present Anti-Cruelty Laws” in their states’ statutes, remarking on what aspects are included or absent. Students will be asked to address each aspect of the “Present Anti-Cruelty Laws” in their states’ statutes, remarking on what aspects are included or absent (See Appendix H). Each student group will be assessed on their individual participation and graded on their posters presented (See Appendix H).

Assessment.

For homework students will read a New York Magazine article entitled, “Should a Chimp Be Able to Sue Its Owner?” by Charles Siebert (<http://nyti.ms/1fhmOkb>, APRIL 23, 2014) (See Appendix L). This article will prepare them for the final activity of the Unit, “Should it Continue?” (See Appendix I) as well as serve as a preview for the video hook on Day 8.

Day 8 Lesson Plan

Introduction. (5 minutes)

Today we will discuss a modern movement within the legal history of the United States. The question of “personhood” and its relationship to animal rights will be examined.

Hook. (10 minutes)

Students watch video (6 minutes):

Animals Are Persons Too

This short documentary follows the lawyer Steven Wise’s effort to break down the legal wall that separates animals from humans. Video by Chris Hegedus and D.A. Pennebaker on April 23, 2014 for *New York Magazine*.

Video review questions:

1. What is the fundamental difference in law?
ANSWER: Either being considered a “thing” and/or being considered a “person”.
2. What is one heartbeat worth of animals as described by Steven Wise?
ANSWER: Every heartbeat is equal to the death of 160 animals.
3. What animals is Steven Wise trying to get rights of “personhood” for?
ANSWER: The different species of great apes, species of elephants and cetaceans (marine mammals commonly known as whales, dolphins, and porpoises).
4. What state has Mr. Wise chosen as the best state to argue for personhood rights for chimpanzees?
ANSWER: New York State.
5. When did Mr. Wise file the first habeas corpus lawsuits demanding limited personhood rights for four captive chimpanzees?
ANSWER: In December 2013.

Transition. (5 minutes)

The teacher will distribute **HANDOUT #7**, the final assessment for the lesson, “Should It Continue?” (See Appendix I). The teacher will introduce the students to their final activity and culminating project for the unit. Students will get form groups of 4. Students will then divide into two groups of 2, one PRO and one CON team. Students will be given a topic listed below and will answer questions 1 and 2 together as a group of 4. In their 2-person group, they will either take the Pro or Con side of the third question, “Do you think the activity should continue? Explain your answer.” (See Appendix I).

Lesson Content. (40 minutes)

The teacher will now give students the opportunity to form their groups and prepare their arguments. Students will have the next 20 minutes to answer the questions, “What are the benefits of the behavior? And What are the burdens to animals?” These answers should include thoughtful analysis and reflection. Students will have the remainder of the period to form their groups of 2 Pro or 2 Con per topic and to answer the third question for debate, “Do you think the activity should continue? Explain your answer.”

Conclusions.

Students’ presentations of the “Should it Continue?” debate will take place on Day 9 and 10 of the unit. 4 groups will present on Day 9 and 3 groups on Day 10. A final student poll will take place on Day 10 following the class presentations (See Appendix J).

Students will be encouraged to use the time preparing for their oral presentation to research their “Behavior” topic in greater detail to help support their PRO or CON stance on the subject. The teacher should note that the student need not agree with the stance their small group has taken on the behavior, either PRO or CON, they need only to provide a persuasive and well informed argument so that their peers have the opportunity to see the issue from both sides, much like the work of the prosecutor and defendant when holding up the laws that protect both humans and non-humans alike in the United States.

Assessment.

Students’ will be assessed on their participation, their critical analysis, and their ability to synthesize the information presented in the unit as a whole and apply it to the topic at hand. Students will also be graded on the quality of their oral presentation to the class. The students’ written answers and preparatory material will be handed in to account for their group participation.

Day 9 and Day 10 Lesson Plans

Introduction (5 minutes)

Students’ presentations of the “Should it Continue?” debate will take place on Day 9 and 10 of the unit. 4 groups will present on Day 9 and 3 groups on Day 10. Each group will be given 12-15 minutes each for the presentations.

Lesson Content.

Day 9 and 10 Final Assessment for the lesson. Student presentation 4 X 12 minutes on Day 9 (48 minutes). 3 X 12-15 minutes on Day 10 (36-45 minutes).

Conclusions.

Students will be referred to another article for continued study as well as an extra credit opportunity to read it and write a two-paragraph summary, due on Day 11. The article is listed in Appendix J. Citation listed below: Greenwood, Arin. "Oregon Court Say Animals Can Be Crime 'Victims', Like People. So What Does That Mean?" *Huffington Post* 26 Sept. 2014: http://www.huffingtonpost.com/2014/09/26/oregon-court-animals-victims_n_5883588.html.

Assessment.

The teacher will return the remaining collected handouts with grading and feedback provided, as well as provide grading and feedback on the students' presentations of the "Should it Continue?" debate project in a timely manner. Students' will be assessed on their participation, their critical analysis, and their ability to synthesize the information presented in the unit as a whole and apply it to the topic at hand. Students will also be graded on the quality of their oral presentation to the class. The students' written answers and preparatory material will be handed in to account for their group participation. A final rubric is open to teacher adaptation for their particular student groups.

Day 11 Lesson Plan

Introduction.

Day 11 of the unit is set aside for the final reflection and summarization of the unit, **THE LEGAL HISTORY OF THE ANIMAL RIGHTS MOVEMENT IN AMERICA.**

TOPIC: "The Debate Continues... 2015 and beyond!"

Hook.

Day 11: FINAL POLL will be given and tallied for the class (10 minutes). (See Appendix J)

The teacher will once again take an anonymous polling of the student's answers to these questions, posting the results on the board and then lead the students into a discussion of the results. Special consideration should be given to addressing how student perception has changed or remained the same since the first poll.

Lesson Content.

The teacher will then lead the students into a discussion in two parts, PART #1: SUMMARIZATION OF THE UNIT THEME AND CONCLUSIONS (See Appendix J) and PART #2: "THE DEBATE CONTINUES... 2015 and BEYOND!" (See Appendix M).

PART #1: SUMMARIZATION OF THE UNIT THEME AND CONCLUSIONS

The teacher can adapt or read the prompt verbatim as it is written in the following paragraphs:

American history, and indeed the history of humankind, is a series of moments in time when the things that were once hidden become illuminated. Civilizations greatest triumphs, namely science, medicine, religion, and philosophy, all have been engaged in a struggle forwards towards a greater understanding of our world. We can see countless examples of how these moments of realization, based a large measure on self-reflection and necessity, have spurred social and societal change of great magnitude and arguably, great progress. Whereas once one's own race, sex, and/or sexual orientation once dictated the ability to survive and thrive in the United States, the social justice movements of our American history have reshaped these assumptions based on racism, sexism, and homophobia. Arguably many of these amazing cultural and societal transformations have been based a large part of the legacy of compassion, not only towards each other as human beings, but also our compassion towards other sentient life with whom we share our world.

This legacy of animal rights law in the United States, the topic for the duration of the content of this unit, "THE LEGAL HISTORY OF THE ANIMAL RIGHTS MOVEMENT IN AMERICA," is an important part of our legacy as Americans. Like many things left unseen, it has been cast in the shadows of our collective mind and often belittled, ignored and challenged for fear of the revelations inherent in its aim. Those aims being namely that all animals, not merely the human species, should have protections and perhaps even legal rights ensuring their own inherent dignity and rights to life are being respected, and that they have been afforded protection from needless suffering and exploitation. Highlighting this aspect of our American legal heritage goes a long way in further illuminating the tenets of American morality we all hold dear:

freedom, liberty, justice, and the not always highlighted but equally important tenet, compassion.

The future of the Animal Rights movement in America is away from welfare statutes towards legal "personhood". This may someday give some animals irrevocable protections that recognize their critical needs to live in the wild and to not be owned or abused. Until the status of animals as property changes, the type of legal protection that society extends to them has severely been limited and until animals are accorded legal rights that protect their interests, their exploitation is likely to continue. The modern animal rights movement is working to secure those legal rights and is indeed succeeding, per the example of cases brought by the Nonhuman Rights Project (NhRP) to the Manhattan Supreme Court. In the most recent case, on April 22, 2015, Justice Barbara Jaffe issued an order to show cause and writ of habeas corpus on behalf of two chimpanzees, Hercules and Leo, who are being used for biomedical experimentation at Stony Brook University on Long Island, New York. Under the law of New York State, only a "legal person" may have an order to show cause and writ of habeas corpus issued in his or her behalf. The Court has therefore implicitly determined that Hercules and Leo are "persons." The order does not necessarily mean that the Court has declared that the two chimpanzees, Hercules and Leo, are legal persons for the purpose of an Article 70 common law writ of habeas corpus proceeding. In two similar cases on behalf of two other chimpanzees, Tommy and Kiko, the Nonhuman Rights Project has filed Motions for Leave to Appeal to New York's highest court, the Court of Appeals. Decisions in all cases are pending as of May 2015.

If indeed cases such as these succeed, much like the legacy of abolition, one day the treatment of non-human animals will be seen as something equally otherworldly and unconscionable. This is a legacy begun in the American colonies to which American students can be proud to share and perhaps one day personally become a part of as well.

In conclusion, perhaps surprisingly at first, many of our most amazing cultural and social transformations were started, supported and ultimately secured by animal rights activists and early vegetarians. From abolition to children's rights to environmental protection, these animal rights figures highlighted to society the importance of kindness, decency and justice. Their early legislative victories helped support additional changes to our society, as they repeatedly used their rationalizations to secure support for the most vulnerable members of our society. The animal rights movement and its changes to our society is not only fundamentally part of our legacy as Americans, but that the people making these changes are true American heroines and heroes, and should be recognized as such.

PART #2: "THE DEBATE CONTINUES... 2015 and BEYOND!"

Students will read the transcript of the Diane Rehm show from Monday, April 28, 2014 recorded at 10 a.m. (ET) (See Appendix M). The recording and transcript can also be found at: <http://thedianerehmshow.org/shows/2014-04-28/fight-legal-rights-animals>

The teacher will read aloud the show overview title, “The Fight For Legal Rights For Animals”, as well as its description (See Appendix M):

“In the U.S. there are many laws on the books to protect animals from abuse. But a group of lawyers is trying to take animal rights a huge step further. Led by longtime animal advocate Steven Wise, the Nonhuman Rights Project filed a lawsuit recently on behalf of a chimpanzee named Tommy. Citing evidence of the cognitive sophistication of chimps and other species, the group ultimately seeks personhood status for animals. A number of leading primatologists are among those who support the effort. But there is also enormous opposition – on legal, moral and practical grounds. Diane and her guests discuss the fight for legal rights for animals.

The teacher will also introduce the guests, reading aloud their names and qualifications (See Appendix M). The guests are namely: Alan Dittrich president of the Massachusetts Society for Medical Research, Steven Wise lawyer and president of the Nonhuman Rights Project; author of "Rattling the Cage: Toward Legal Rights for Animals", Robert Destro professor of law and director of the Interdisciplinary Program in Law & Religion, Columbus School of Law, at The Catholic University of America and Charles Siebert poet, journalist, essayist and contributing writer for The New York Times magazine.

Finally the teacher will direct the students to the final reflection questions and students will be required to turn in the answers on the following day. Students will be informed that this debate is available online, and that they can listen to the recording if desired.

Conclusions:

PART #2: “THE DEBATE CONTINUES... 2015 and BEYOND!”

Students will answer the following debate reflection questions (See Appendix M):

- #1. What is the definition of “personhood” in regards to the debate?
- #2. How is the writ of habeas corpus being used to petition the U.S. courts?
- #3. What arguments oppose “personhood” for animals? Why?
- #4. What is moral agency and why is it important for the rights for animals?
- #5. What are the limitations of animal welfare statutes?

- #6. What moral objections are raised against “personhood” rights for animals?
- #7. What rights are raised based on the capacity for suffering argument versus cognitive ability?
- #8. If arbitrary denying the rights of personhood to a complex chimpanzee leads to the possible opening for another kind of arbitrary definition that could include other humans, is Mr. Wise successful in proving his point for the inclusion of animals such as Tommy in the definition of personhood? Why or why not?
- #9. How does Tommy perceive the world according to Mr. Wise and leading affidavits of leading primatologists? What example does he give to support his argument?
- #10. What evidence is provided to show the ability of chimpanzees to show empathy?
- #11. What evidence is provided to show the effects of captivity on animals?
- #12. What effects would personhood rights have on their use in medical research?
- #13. How was the Animal Welfare Act referenced to object to the rights of personhood to animals used in medical research. What point was the scientist trying to make?
- #14. What were Steven Wise’s arguments to counter the opinion of the bio-medical scientist who using chimpanzees in medical testing?
- #15. Were his appeals for empathy and compassion persuasive?
- #16. What were the parallels with the unborn rights of fetuses to the argument for personhood for animals?
- #17. What connections or concerns were raised with the historical parallel of African American rights to personhood in the US Constitution?
- #18. What concerns did the caller raise about the effects of the violence against animals has on human beings?
- #19. What are Steven Wise’s future plans for his fight for “personhood” rights for autonomous animals? Name three.
- #20. What is common law as described by Steven Wise?

Assessment:

Students will be given participation points for the Day 11: FINAL POLL given and tallied for the class. Once the reflection questions are completed, students will turn in this final assignment for credit and the unit is completed. The teacher will return the remaining collected handouts with grading and feedback provided, as well as provide grading and feedback on both group projects and mark the unit complete.

Appendix B: Chronological Enactment of the United States Anti-Cruelty Laws

United States Animal Cruelty Law Provisions Updated October 2003 (Adapted from the Animal Welfare Institute)

Chronological Enactment of the UNITED STATES ANTI-CRUELTY LAWS

	1641 Massachusetts Bay Colony "The Body of Liberties"
1828 New York	1871 Montana
1835 Massachusetts	1872 Colorado
1838 Connecticut	1873 Delaware
1838 Wisconsin	1873 Indiana
1842 New Hampshire	1873 Nebraska
1845 Missouri	1875 Georgia
1848 Virginia	1879 Arkansas
1851 Iowa	1879 Louisiana
1851 Minnesota	1880 Mississippi
1852 Kentucky	1880 Ohio
1854 Vermont	1881 North Carolina
1856 Texas	1881 South Carolina
1857 Rhode Island	1883 Alabama
1858 Tennessee	1883 Maine
1859 Kansas	1884 Hawaii
1859 Washington	1887 New Mexico
1860 Pennsylvania	1887 South Dakota
1861 Nevada	1889 Florida
1864 Idaho	1890 Maryland
1864 Oregon	1891 North Dakota
1867 New Jersey	1893 Oklahoma
1868 California	1895 Wyoming
1868 West Virginia	1898 Utah
1869 Illinois	1913 Alaska
1871 District of Columbia	1913 Arizona
1871 Michigan	1921 Virgin Islands

Appendix C: HANDOUT #1: Pre-viewing activity and homework

Name: _____

Date: _____

Period: _____

UNIT: THE LEGAL HISTORY OF THE ANIMAL RIGHTS MOVEMENT IN AMERICA.

HANDOUT #1: Pre-viewing activity and homework, Day 0

Step #1: Read: “ANIMAL RIGHTS: Do animals, like humans, possess certain inalienable rights? A growing movement in American believes they do.”

The article looks at the animal-rights movement, an active movement seeking recognition of basic rights for animals. “The Bill of Rights in Action”, Constitutional Rights Foundation, Fall 2000, Volume 16, Number 4 by Martz, Carlton.

ANIMAL RIGHTS

Do animals, like humans, possess certain inalienable rights? A growing movement in American believes they do.

Concern for animals has a long history. The ancient Greek philosopher and mathematician Pythagoras argued against cruelty to animals. St. Francis of Assisi, who founded the Franciscan order of Catholic monks in the middle ages, taught that animals are our brothers. In 1641, Massachusetts Puritans wrote a code of laws called “The Body of Liberties.” One of the laws in this code said, “No man shall exercise any tyranny or cruelty towards any brute creatures which are usually kept for man’s use.” This law seemed to imply that animals, at least farm livestock, had the right to life free of unnecessary suffering.

The American Society for the Prevention of Cruelty to Animals started in New York in 1866. Through its efforts, New York drafted an animal protection law that became a model for other states. This law prohibited any needless torture, overloading, beating, mutilation, or killing of “any living creature.” It still permitted, however, “properly conducted scientific experiments” involving animals. The Society for the Prevention of Cruelty and similar organizations worked for many years at the state and local levels to monitor animal dealers, circuses, zoos, moviemakers, and pounds.

THE NEW MOVEMENT

In the second half of the 20th century, a new wave of more aggressive animal-rights activists formed. They differed from previous activists because they do not simply want people to stop treating animals cruelly. They believe that animals, like humans, have certain inalienable rights. Peter Singer, author of *Animal Liberation*, is one of the activists. He argues that all animals are equal. By this he does not mean that all animals should vote or have freedom of speech. These rights would be meaningless for animals other than humans. Nor does he mean that all animals should be treated the same. He means that all animals should have equal consideration for their well-being. The well-being of a pig and a human are far different, he says. A pig belongs with other pigs where they can eat and run freely. A child needs to learn how to read.

Singer says that it is morally irrelevant that animals cannot speak and are not as intelligent as humans. He points out that we still accord human infants and mentally retarded people equal consideration. According to Singer, the characteristic that gives a being the moral right to equal consideration is the capacity for suffering and enjoyment. "If a being suffers, there can be no moral justification for refusing to take that suffering into consideration. No matter what the nature of the being, the principle equality requires that its suffering be counted equally with the like suffering... of any other being." Singer has a term for those who allow the interests of human "to override the greater interests of members of other species." He calls them "speciesists".

Few argue with Singer that we should take an animal's suffering into account. Those disagreeing with him, however, believe that human life is worth more than animal life. R. G. Frey, a philosopher and author of *Interests and Rights: The Case Against Animals*, says that most people believe that the value of animal life varies. He notes that most people value dogs, cats, and chimps more than mice, rats and worms. He gives the example of a dog and a human on a raft. If only one can be saved, he says, few would disagree that it should be human.

The reason he thinks human life is more valuable is that it has more potential richness to it. He says that unlike animals, "there are... whole dimensions to our lives- love, marriage, educating children, jobs, hobbies, sporting events, cultural pursuits, intellectual development and striving, etc. – that greatly expand our range of absorbing endeavors and ... significantly deepen the texture of our lives."

The debate over animal rights, however, does not usually occur in the abstract. It has taken place over a series of issues.

ANIMAL EXPERIMENTATION

In the 1980s, groups like People for the Ethical Treatment of Animals (PETA) protested the use of animals in cosmetics testing. Revlon tested the safety of its eye makeup by applying substances directly on the eyes of rabbits. Protestors carried signs saying, “How many rabbits does Revlon blind for beauty’s sake?” Within six months Revlon agreed to a permanent ban on animal tests. Over the next ten years, protests forced more than 500 other cosmetics companies to give up animal tests.

Other protests targeted medical research. During the early 1960s, investigators revealed that laboratory test animals were often forced to live under filthy conditions in cages that were too small with any veterinary care to ease the pain caused by the experiments. A movement soon emerged to ban all testing on animals. But alarmed medical researchers argued that animal testing played a necessary role in ending diseases such as polio, making human organ transplants possible, and developing many kinds of life-saving drugs.

Congress passed the first federal law regulating the treatment of lab animals in 1966. The Animal Welfare Act did not become effective, however, until Congress passed strengthening amendments in 1985. The amendments require humane treatment and adequate feeding, sanitation, shelter, and vet care for lab animals. The amendments also call for “a physical environment to promote the psychological well-being of primates.” Farm animals as well as birds, rats, and mice (which are used the most in laboratory experiments) are not covered by this law. The strengthened Animal Welfare Act applies not only to research facilities, but also to animal dealers and exhibitors like zoos.

The dispute boils down to two main issues: First, does animal research improve human health? Dr. Michael E. DeBakey, chairman of the Foundation for Biomedical Research, states: “Not one advancement in the care of patients- advancements that you use and take for granted every day- has been realized without the use of animal research.”

PETA disputes this. It says that rats and mice are so different from humans that studies on them tell little about humans. It asserts that “sophisticated non-animal research methods are more accurate, less expensive, and less time-consuming than traditional animal-based research methods.”

The second issue is: Even if it helps humans, is it ethical? It is clearly not ethical to conduct medical experiments on humans. IS it all right to conduct them on animals?

HIGHLY INTENSIVE ANIMAL PRODUCTION

Before World War II, animals meant for food usually lived outdoors, except in extreme weather. Today, these animals live on what animal-rights activists call “factory farms”. Chickens, an important part of the American diet, live in small cages stacked one on top of another in temperature-controlled, windowless barns. Other their beaks and claws are

trimmed so they cannot harm one another if they fight. They are fed a special diet that promotes their growth and includes antibiotics to control disease. Other food animals- pigs, turkeys, and calves- live in similarly controlled environments.

Animal-rights activists consider these environments unnatural, inhuman, and incredibly exploitative of animals. They say that the food producers are treating the animals as machines, ignoring their pain, frustration, and natural desires. The Humane Society of the United States says: “Factory farms deny animals many of their most basic... needs... Such artificial conditions cause animals to suffer from boredom, frustration and stress, which often leads to abnormal behavior, including unnatural aggression.” The society claims hundreds of thousands of chickens die every day due to these conditions, but the companies simply consider this a cost of doing business.

Farmers deny all this. They say that their most important concern is the health of their animals because their businesses depend on this. They point out that American food production is the envy of the world. They say that animal-rights activists overly idealize animal life on a traditional farm. The Animal Industry Foundation, says: “Housing protects animals from predators, disease , and bad weather or extreme climate. Housing also makes breeding and birth less stressful, protects young animals, and makes it easier for farmers to care for both healthy and sick animals. Modern housing is well ventilated, warm, well-lit, clean and scientifically designed for the specific needs of the animal, such as the regular availability of fresh water and a nutritionally balanced diet.”

Animal experimentation and intensive animal production are the two issues in the forefront of the animal rights movement. But they are not the only ones. Animal-rights activists have also questioned the value of hunting animals, horse and dog racing, using animals for entertainment (in films, circuses, and zoos), eating meat, wearing fur, and even owning pets.

For Discussion

1. What is “speciesism”? Do you think that it is a valuable concept? Why or why not?
2. Do you think human life is more valuable than animal life? Explain.
3. What rights, if any, do you think animals should have?
4. Do you believe animal rights should be included in a discussion of social justice? Why or why not?

ACADEMIC VOCABULARY

Step #2: *Please define-*

Marginalize:
Sentimentalist:
Deranged:
Eco-terrorist:
Anthropocentric:

Appendix D: Handout #2

Name: _____

Date: _____

Period: _____

UNIT: THE LEGAL HISTORY OF THE ANIMAL RIGHTS MOVEMENT IN AMERICA.**HANDOUT #2: Day 1**

STUDENT POLL

Step #1:

Directions: Carefully read each statement below and mark either “True or False” based on your own prior knowledge and/or your current personal opinion.

1. AR history is often marginalized and treated as a cause only for sentimentalists or deranged eco-terrorists.

TRUE OR FALSE

2. Animal rights law is not a commonly known of aspect of the law.

TRUE OR FALSE

3. Humans are naturally anthropocentric, therefore animal lives and animal law doesn't merit the same consideration as other aspects of US History.

TRUE OR FALSE

4. Highlighting the history of AR law brings up negative feelings, particularly as it may challenge the religious, cultural or social beliefs held by Americans towards their own behavior towards animals, which tends to be routinely barbaric, cruel and criminal.

TRUE OR FALSE

5. Despite being present since before American Independence, the legacy of AR law is seen as a recent addition to the legacy of American law.

TRUE OR FALSE

CLASS DISCUSSION NOTES

Step #2:

Fill in the space below with your notes following our class discussion on the prompts above. What was the general consensus of the course regarding animal rights law and its role in American history? Were you surprised by any opinions that conflicted from yours?

Appendix E: Handout #3

Name: _____

Date: _____

Period: _____

UNIT: THE LEGAL HISTORY OF THE ANIMAL RIGHTS MOVEMENT IN AMERICA.

HANDOUT #3: Day 1- “To see or not to see? That is the question.”

Class discussion prompt

- What is it to "see"?
- How do we decide what to “see” and what “not to see” (aka ignore) in our lives?
- What things remain invisible and why?

Class activity

Step #1: Turn directly to your neighbor. Describe below what you visually see. Feel free to make assumptions based on your own perception. This will not be shared with the class.

Step #2: Now write down two things that remain invisible or “unseen” about them outside of what is directly visible to you.

Appendix F: Handout #4

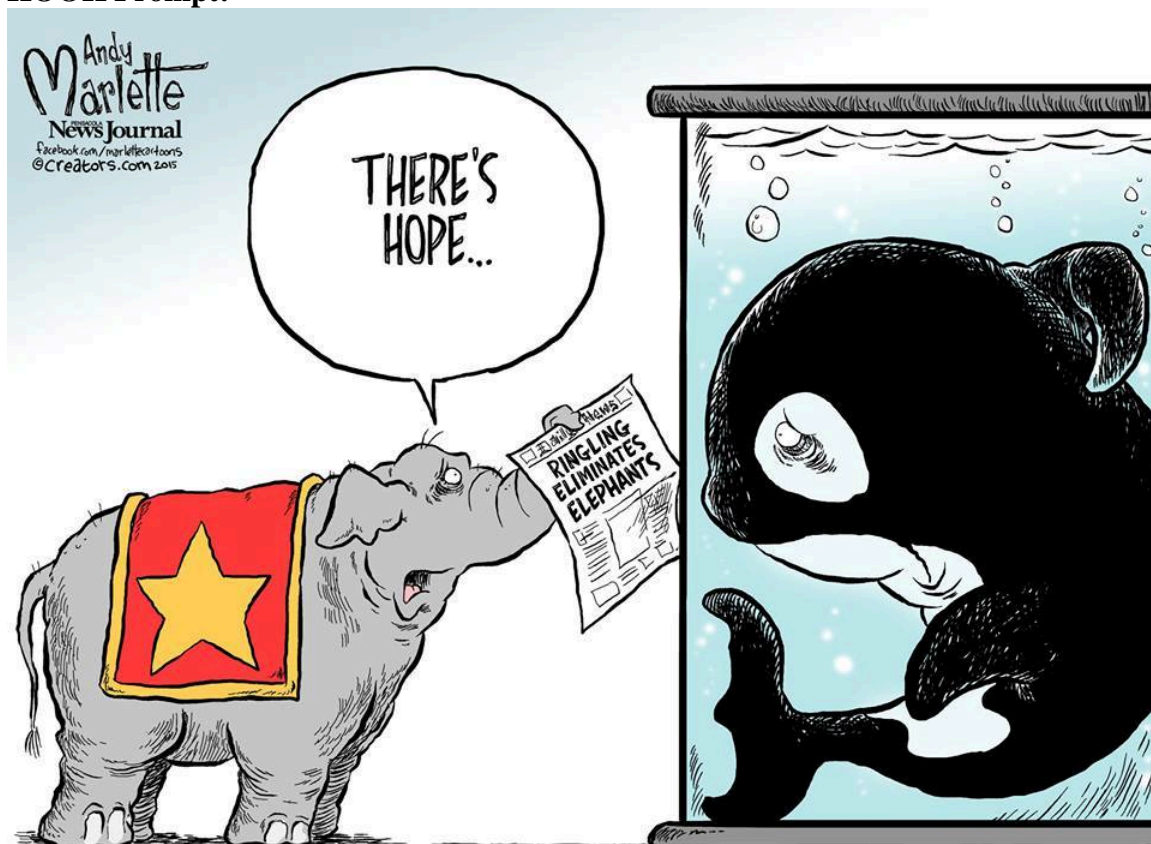
Name: _____

Date: _____

Period: _____

UNIT: THE LEGAL HISTORY OF THE ANIMAL RIGHTS MOVEMENT IN AMERICA.**HANDOUT #4: Day 2 and 3- "CONFLICTING PERSPECTIVES"**

A question of morality? Ethics? Compassion? Legality? A history of competing moral, ethical and legal perspectives towards animal rights.

HOOK Prompt:

- In what ways are the animals presented in this image unseen in our lives and perhaps even in our society as a whole?
-

- What does this cartoon say about the possible shift these animals are experiencing with greater public awareness of their needs? And perhaps even their rights?

Step #1, LESSON INTRODUCTION:

American history, and indeed the history of humankind, is a series of moments in time when the things that were once hidden become illuminated. Civilizations greatest triumphs, namely science, medicine, religion, and philosophy, all have been engaged in a struggle forwards towards greater understanding of our world.

We can see countless examples of how these moments of realization, based a large measure on self-reflection and necessity, have spurred social and societal change of great magnitude and arguably, great progress.

Whereas once race, sex, and sexual orientation dictated the ability to survive and thrive in the United States, the social justice movements of our American history have reshaped these assumptions based on racism, sexism, and homophobia.

Arguably many of these amazing cultural and societal transformations have been based a large part of the legacy of compassion, not only towards each other as human beings, but also our compassion towards other sentient life whom we share our world.

The legacy of animal rights law in the United States, our topic for the duration of this unit, is an important part of our legacy as Americans. Like many thing unseen, it has been cast in the shadows of our collective mind often belittled, ignored and challenged for fear of the revelations inherent in its aim.

Namely that all animals, not merely the human species, should have protections and perhaps even legal rights ensuring their own inherent dignity and rights to life are respected, and that they have protection from needless suffering and exploitation.

Highlighting this aspect of our American legal heritage goes a long way in further illuminating the tenets of American morality we all hold dear: freedom, liberty, justice, and not always highlighted but equally important, compassion.

Introduction reflection questions:

1. How does animal rights fit into the continuum of social justice movements?
NOTE: Social justice movements work to create justice and equality in terms of the distribution of wealth, opportunities and privileges.

2. What backlash have social justice movements faced in their attempts for equality and justice? EXAMPLES: Abolition, suffrage, civil rights, gay marriage equality, reproductive rights of women.

3. In your opinion, how can the animal rights movement appeal to the generation of today? Give 4 ways that the public perception of animal rights could be presented. NOTE: Think like an promoter, advertiser, politician, marketer, or publicist might when promoting a little known product, issue, public figure or brand.

STEP #2: “CONFLICTING PERSPECTIVES”

Animals as “things” (Soame Jenyns, 1782)

“The carman drives his horse, and the carpenter his nail by repeated blows; and as long as these produce the desired effect, and they both go, they neither reflect nor care whether either of them have any sense of feeling. The butcher knocks down the stately ox with no more compassion than the blacksmith hammers as horseshoe, and plunges his knife into the throat of the innocent lamb with as little reluctance as the tailor sticks a needle into the collar of a coat... there is scarce one who entertains the least idea that justice or gratitude can be due to their merits or their services.”

Animals have no rights (Philip Austin, 1885)

they are our slaves, not our equals, and for this reason it is well to keep up such practices as hunting and fishing, driving and riding, merely to demonstrate in a practical way man’s dominion over the brutes... It is found that an advocacy of the rights of brutes is associated with the lowest phases of morality...

Animals have no rights, with some considerations (“The Lower Animals” in the Catholic Dictionary by Addis and Arnold, 1884)

as the lower animals have no duties since they are destitute of free will... so they have no rights... The brutes are made for man... But a limitation must be introduced here. It is never lawful for a man to take pleasure directly in the pain given to brutes, because in doing so, man degrades and brutalizes his own nature.

The role of humanness (J.B. Austin, 1887)

While not reasoning beings, animals are “sensitive beings”. By cultivating the faculty of sympathy and by considering that sensibility to pain is common to both man and animals, we soon perceive that to inflict needless and unjust pain upon animals is to sin against one’s own nature, and therefore to commit a crime.

The role of mercy (Cardinal Henry E. Manning, July 13, 1891)

“We owe ourselves the duty not to be brutal or cruel; and we owe to God the duty of treating all His creatures according to His own perfections of love and mercy”

REFLECTION QUESTIONS THUS FAR

(Directions: Record answers on a separate sheet of lined paper. Each question should be at least 3-5 sentences each. Grammar and spelling will count towards your grade.)

1. Who were the earliest advocates for animals based on these quotes?
2. What role did religion play in the role of mercy and humanness towards animals?
3. Were these early perspectives concerned more for justice for animal themselves or to the nature of man being respected and preserved from the dehumanizing effects of cruelty?

Step #3:

Humane feelings towards animals (English printer George Nicholson, 1825)

treat the animals which is in your power, in such a manner as you would willingly be treated were you such an animal... May we learn to recognize and to respect, in other animals, the feelings, which vibrate in ourselves.

A plea for the immortality of animals (Rev. J. G. Wood, 1874)

the lower animals share with man the attributes of Reason, Language, Memory, a sense of moral responsibility, Unselfishness, and Love, all of which belong to the Spirit and not to the body.

IN CONCLUSION: What three perspectives are present in these readings?

1. Animals are mere things to be used in any way that humans choose
2. Animals are seen indistinctly without much interest but are acknowledged to deserve decent treatment
3. Animals are fellow mortals with individual natures that can be developed and enjoyed while being used as helpers or companions.

Appendix G: Handout #5

Name: _____
Date: _____
Period: _____

UNIT: THE LEGAL HISTORY OF THE ANIMAL RIGHTS MOVEMENT IN AMERICA

**HANDOUT #5: Day 3 and 4
*FROM PHILOPHICAL PLEADING TO ACTUAL LEGISLATION ON THE BEHALF OF ANIMALS***

HOOK:

The animal rights movement has a much longer history than other social justice movements in America including even abolition or the children’s rights movement. In fact, many of our most amazing cultural and social transformations were started, supported and ultimately secured by animal rights activists and early vegetarians. From abolition to children’s rights to environmental protection, these animal rights figures highlighted to society the importance of kindness, decency and justice. Their early legislative victories helped support additional changes to our society, whereby they used their rationalizations to secure support for the most vulnerable members of our society over and over again.

- Considering that the animal rights movement and its changes to our society is not only fundamentally part of our legacy as Americans, do you think that the people making these changes are true American heroes and heroines and should be recognized as such? Why or why not?

Step #1, Day 3: What is legislation?

Legislation is the record, printed and public, which expresses the moral conscience of a people. Laws say, “here it is in black and white, voted by the majority; you must abide by it or pay the penalty”.

Step #2, Day 3:

THE NEW ADVOCATES FOR ANIMAL PROTECTION UNDER THE LAW

What was the first county to acknowledge the rights of animals by enacting statutory legislation to protect them from cruel treatment? The answer may surprise you...

IT WAS AMERICA IN 1641!

The Puritans of the Massachusetts Bay Colony voted for their first legal code, “The Body of Liberties”, in 1641. 100 “liberties” were written, including Liberty 92 whereupon cruelty to animals was forbidden. The Puritans were expected follow the liberties and “to be respectfully impartiallie and inviolably enjoyed and observed throughout our Jurisdiction forever”. Liberty 92 in the legal code remarkably challenged the notion that animals were mere property, to be used or abused at the whim of man. Instead in the section entitled, OFF THE BRUITE CREATURE, read:

92. No man shall exercise any Tirranny or Crueltie towards any burite Creature which are usuallie kept for man’s use.

In addition to the first anti-cruelty law, the first law to protect animals in transit was introduced, Liberty 93:

93. If any man shall have occasion to leased or drive Cattel from place to place that is far of, so that they be weary, or hungry, or fall sick, or lambe, It shall be lawful to rest or refresh them, for a competent time, in any open place that is not Corne, meadow, or inclosed for some peculiar use.

Liberty 92 was not only an anti-cruelty law but was also used successfully for prosecution including an “interesting case of condemnation for cruelty to an ox, in Records of Quarterly Courts of Essex County [Massachusetts] III, 305” (Morison, Samuel Eliot. *Builders of the Bay Colony*, page 232).

Step #3, Day 4:

RICHARD MARTIN OR NATHANIEL WARD: WHO WAS THE ANIMAL RIGHTS MOVEMENT FIRST LEGAL HERO?

Important early figures and legislation- ENGLAND

Jeremy Bentham (1748-1832)

- English barrister
- Wrote *An Introduction to the Principles and Legislation*, first published in 1780

“If [animals] being eaten were all, there is very good reason why we should be suffered to eat such of them as we like to eat: we are the better for it, and they are never the worse. They have none of those long protracted anticipations of future misery that we have. Their death they suffer in our hands commonly is, and always will be, a speedier, and by that means a less painful one, than that which would await them in the inevitable course of nature. If the being killed were all, there is very good reason why we should be suffered to kill such as molest us: we should be the worse for their living, and they are never the worse for being dead. But is there any reason why we should be suffered to torment them? Not any that I can see. Are there any why we should *not* be suffered to torment them? Yes, several... The French have already discovered that the blackness of the skin is no reason why a human being should be abandoned without redress to the caprice of a tormentor. (Louis XIVth’s Code Noir). It may come one day to be recognized that the number of legs, the villosity of the skin, or the termination of the *os sacrum* are reasons equally insufficient for abandoning a sensitive being to the same fate. What else is it that should trace the insuperable line? Is it the faculty of reason or, perhaps, the faculty of discourse? But a full-grown horse or dog is beyond comparison a more rational, as well as a more conversible animal than an infant of a day, or a week, or even a month, old. But suppose the case were otherwise, what would it avail? The question is not, Can they *reason*? nor, Can they *talk*? but, Can they *suffer*?”

Lord Thomas Erskine (1750-1823)

- Introduced the bill for the prevention of cruelty to animals into the House of Lords on May 15, 1809, the bill was passed by the lords but lost in the commons 37 to 27.

- Speech before the House of Peers in 1809:

“Nothing is more notorious that that it is not only useless, but also dangerous, to poor suffering animals, to reprove their oppressors, or to threaten them with punishment. The general answer, with the addition of bitter oaths and increased cruelty is, WHAT IS THAT TO YOU?”

“If the offender be a servant, he curses you, and asks if you are his master? and if he be the master himself, he tells you that the animals is his own... Animals are considered as property only – To destroy or to abuse them, from malice to the proprietor, or with an intention injurious to his interest in them, is criminal- but the animals themselves are without protection- that law regards them not substantially- they have no RIGHTS!”

Richard Martin (1754-1834)

- “Humanity Martin”- Nickname given by his friend, King George IV.
- Represented County Galway in Parliament
- Collaborated with John Lawrence to pass the first legislation in England for the prevention of cruelty to animals, known as “Martin’s Act” and was passed July 22, 1822.
- The act was entitled “An Act to prevent the cruel and improper Treatment of Cattle”. Magistrates could inflict a penalty of 10 shillings to 5 pounds or imprisonment not exceeding three months on persons convicted of cruel treatment of “Horses, Mares, Geldings, Mules, Asses, Cows, Heifers, Steers, Oxen, Sheep and other Cattle”.

John Lawrence (1753-1839)

- Authority on agriculture and the management of domestic animals.
- Co-authored “Martin’s Act” (passed July 22, 1822)
- Lawrence wrote “A Philosophical Treatise on Horses and on the Moral Duties of Man towards the Brute Creation”:

Justice, in which is included mercy, or compassion, obviously refers to sense and feeling..... (xiv)

Important early figures and legislation- AMERICA

Nathaniel Ward (1578-1652)

- Puritan minister.
- Born in England.
- Studied law at Cambridge, became a barrister.
- Driven out of England for heresy, came to New England in 1624, settling in Ipswich, Massachusetts.
- Compiled “The Body of Liberties”, adopted by the General Court of Massachusetts in December of 1641.

Common Law punishments for cruelty (late 19th and early 20th century)

- Aside from the Puritan laws, the only instances where early legislation proved useful in prosecuting cruelty to animals under common law whereupon the ‘cruelists’ were tried for committing “nuisances”.
- In Philadelphia in the years between 1910-1922, a cartman was ordered “to give bond for his good behavior for one year” in addition to a fine of \$30 and costs after being indicted and found guilty of cruelly beating his horse.
- The Digest of New York Statutes and Reports has a provision entitled Animals III. Treatment-Preservation-Destruction of Animals. 28. Cruelty. That wanton cruelty to an animal- e.g. excessive beating of his horse by a cartman,- is punishable at common law as a misdemeanor. Gen. Sess., 1822, People v. Stakes, 1 Wheel. Cr. Cas., 111. And see Ross’ Cass, 3 City H. Rec 191.

Step #4, Day 4:

THE EVOLUTION OF ANTI-CRUELTY LAWS IN THE UNITED STATES

1827-28, B.F. Butler and John C. Spencer, New York State.

- Revisors of the Statutes for the New York State Legislature
- The first anti-cruelty in the United States was enacted in 1828.
- Sec. 26. Every person who shall maliciously kill, maim, or wound any horse, ox, or other cattle, or sheep, belonging to another, or shall maliciously and cruelly beat or torture any such animal, whether belonging to himself or another, shall, upon conviction, be adjudged guilty of a misdemeanor.
- This law takes animals for the first time out of the class of mere property and gives them the legal right to be well treated in an established State of the Union, protecting them from their owners’ cruel treatment.
- Limitations of the provision include not addressing the rights of all any other animal not listed.

1835, Massachusetts.

- Second state to pass anti-cruelty legislation.

- Wording of law similar to New York State.
- Punishment designated by “by imprisonment in the county jail, not more than one year, or by fine not exceeding one hundred dollars”.

1938, Connecticut and Wisconsin.

- Added an anti-cruelty law to their statuses.
- Connecticut’s penalty was imprisonment not exceeding one month or a fine not exceeding twenty-five dollars.
- Wisconsin set imprisonment at not more than thirty day and fine from five to fifty dollars.

1856, Texas.

- Fine up to \$250

1860, Pennsylvania.

- Fine up to two hundred dollars, imprisonment up to one year, or both, at the discretion of the court.

1864, Idaho.

- Fine not more than five hundred dollars, no exceeding six months imprisonment, or both.
- Passed in addition a companion law (Sec. 142) to impose a similar penalty to any person “who shall willfully administer any poison to cattle or domestic animal or maliciously expose any poisonous substance, with the intent that the same shall be taken or swallowed by cattle or domestic animal...”
- First law in the United State to protect domestic animals from poisoning.

1866-67, Henry Bergh.

- Secured legislative consent for the incorporation of the American Society for the Prevention of Cruelty to Animals in 1866
- Passed an anti-cruelty law on April 19, 1866 in New York State that added sections to the 1828 New York law to protect disabled horses and mules from abandonment.
- Famously and notoriously took a bullwhip from a cartmen beating his workhorse and turned it on the man himself on the public streets of New York City.
- Masterpiece of legal draftsmanship considered to be “An Act for the more effectual prevention of cruelty to animals” passed on April 12, 1867. The Act has ten sections and has since been used as the example for drafting many succeeding anti- cruelty laws.
- Forty-one states and the District of Columbia have present laws based on this Act.

Step #5, Day 4.**Chronological Enactment of the UNITED STATES ANTI-CRUELTY LAWS**

	1641 Massachusetts Bay Colony "The Body of Liberties"
1828 New York	1871 Montana
1835 Massachusetts	1872 Colorado
1838 Connecticut	1873 Delaware
1838 Wisconsin	1873 Indiana
1842 New Hampshire	1873 Nebraska
1845 Missouri	1875 Georgia
1848 Virginia	1879 Arkansas
1851 Iowa	1879 Louisiana
1851 Minnesota	1880 Mississippi
1852 Kentucky	1880 Ohio
1854 Vermont	1881 North Carolina
1856 Texas	1881 South Carolina
1857 Rhode Island	1883 Alabama
1858 Tennessee	1883 Maine
1859 Kansas	1884 Hawaii
1859 Washington	1887 New Mexico
1860 Pennsylvania	1887 South Dakota
1861 Nevada	1889 Florida
1864 Idaho	1890 Maryland
1864 Oregon	1891 North Dakota
1867 New Jersey	1893 Oklahoma
1868 California	1895 Wyoming
1868 West Virginia	1898 Utah
1869 Illinois	1913 Alaska
1871 District of Columbia	1913 Arizona
1871 Michigan	1921 Virgin Islands

What are three notable or interesting things you notice about the timeline? Can you identify any patterns to the enactment of the laws? Why might some states have enacted laws sooner or later than others? Name three notable or interesting things you notice about the timeline below:

1.

2.

3.

Appendix H: Handout #6

Name: _____
 Date: _____
 Period: _____

UNIT: THE LEGAL HISTORY OF THE ANIMAL RIGHTS MOVEMENT IN AMERICA.
HANDOUT #6: Day 5
PRESENT ANTI- CRUELTY LAWS and CASE SELECTIONS from California, Colorado, Maine, Montana, New Mexico, Pennsylvania

STUDENT DIRECTIONS FOR THE POSTER PROJECT:**PROJECT GUIDELINES**

- #1. Pair up into groups of 3-5 students. There should be a total of 6 groups for the class.
- #2. Read Step #1, Day 5 on HANDOUT #6 as a group, either aloud or silently (5 minutes).
- #3. Read Step #2 for the state that your group has been assigned, either California, Colorado, Maine, Montana, New Mexico, Pennsylvania, or Massachusetts.
- #4. After reading the case selection for your state, your group must identify:
 - What is included in the statute based on the guidelines of Present Anti-Cruelty Laws listed in Step #1, Day 5 on HANDOUT #6.
 - What is missing in the statute based on the guidelines of Present Anti-Cruelty Laws listed in Step #1, Day 5 on HANDOUT #6.
 - Any other identifying or notable information present in the case selection for the individual state.
- #5. You will now create a visual poster of your state for class presentation on Day 7. The poster must include:
 - Name of state.
 - What is included in the statute based on the guidelines of Present Anti-Cruelty Laws listed in Step #1, Day 5 on HANDOUT #6.
 - What is missing in the statute based on the guidelines of Present Anti-Cruelty Laws listed in Step #1, Day 5 on HANDOUT #6.
 - Any other identifying or notable information present in the case selection for the individual state.
 - Any other identifying or notable information about the state, represented visually to create an appealing and artistic representation of your state.
 - Student names, class period and date on the back of the poster.

Each student group will be assessed on their participation and graded on their posters presented on Day 7 using the following criteria:

- Name of state. (10 points)
- What is included in the statute based on the guidelines of Present Anti-Cruelty Laws listed in Step #1, Day 5 on HANDOUT #6. (25 points)
- What is missing in the statute based on the guidelines of Present Anti-Cruelty Laws listed in Step #1, Day 5 on HANDOUT #6. (25 points)
- Any other identifying or notable information present in the case selection for the individual state.
- Any other identifying or notable information about the state, represented visually to create an appealing and artistic representation of your state.
- Student names, class period and date on the back of the poster. (10 points)
- Individual participation towards the poster and classroom presentation as indicated by a short survey taken at the end of the class presentations. (30 points)

Step #1, Day 5:

PRESENT ANTI- CRUELTY LAWS

Current anti-cruelty laws in all fifty states show that the public generally agrees that all have the right to (1) protection from cruel treatment; (2) protection from abandonment; (3) protection from poisoning; (4) the provision of food, water and shelter.

Protection from Cruel Treatment

Almost half that states have laws stipulating that cruel treatment must have been committed willfully, maliciously, or cruelly.

Provision of Food, Water and Shelter

Nearly 20 states prohibit depriving an animal of “necessary sustenance” and failing to provide “food and water” or “food, water and shelter”.

Provision of Exercise, Space, Light, Ventilation and Sanitary Living Conditions

These are infrequent requirements of state anti-cruelty laws but reference to them is included in a number of states.

Protection from Abandonment

In several states, the prohibition is restricted to willful, cruel or intentional abandonment; to abandoning animals to die; to abandoning disabled animals or to abandoning domestic animals (leaving in question the protection of wild animals in captivity).

Kinds of Animals Protected

State laws in half the states define animals to be protected from cruel treatment as non-human living creatures or “any animal”, defining animals as all living creatures except human beings. The rest of the states use words “animal”, “captive animals” or “warm-blooded creatures”.

Protection From Poisoning

A person who intentionally injures or kills an animal belonging to another commits a criminal act. The anti-cruelty laws of half the states specifically prohibit the use of poison to inflict injury or death.

Humane Transport of Animals

Anti-cruelty acts of most states require that transport of animals be conducted in a humane manner.

The Value of Specific Language

Cruelty, as defined in the anti-cruelty codes, usually consists of “every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted.”

Step #2:

Anti-Cruelty Laws Case Selections from California, Colorado, Maine, Montana, New Mexico, Pennsylvania

California

597. Cruelty to animals.

(a) Except as provided in subdivision (c) of this section or Section 599c, every person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal, is guilty of an offense punishable by imprisonment in the state prison, or by a fine of not more than twenty thousand dollars (\$20,000), or by both the fine and imprisonment, or, alternatively, by imprisonment in the

county jail for not more than one year, or by a fine of not more than twenty thousand dollars (\$20,000), or by both the fine and imprisonment.

(b) Except as otherwise provided in subdivision (a) or (c), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animals, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animals with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for every such offense, guilty of a crime punishable as a misdemeanor or as a felony or alternatively punishable as a misdemeanor or a felony and by a fine of not more than twenty thousand dollars (\$20,000).

599.b... 'animal' includes every dumb creature; the words 'torment', 'torture' and 'cruelty' include every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted...

[In 1989, California prohibited disciplining elephants by beating that may break the skin, electrical shocking, starving, and the use of martingales and block and tackle for their restraint.]

Colorado

18-9-201. Definitions. As used in section 18-9-202, unless the context otherwise requires:

(1) 'Abandon' includes the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care.

(2) 'Animal' means any living dumb creature.

(3) 'Mistreatment' includes every act or omission which causes, or unreasonably permits the continuation of, unnecessary or unjustifiable pain or suffering.

(4) 'Neglect' includes failure to provide food, water, protection from the elements, opportunity for exercise, or other care normal, usual, and proper for an animals' health and well-being.

18-9-202. Cruelty to animals- neglect of animals- offenses.

(1) A person commits cruelty to animals if, except as authorized by law, he knowingly or with criminal negligence overdrives, overloads, overworks, tortures, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, needlessly mutilates, needlessly kills, carries in or upon any animals in a cruel manner, or otherwise mistreats or neglects any animal, or causes or procures it to be done, or, having the

charge and custody of any animal, fails to provide it with proper food, drink, or protection from the weather, or abandons it.

35-42-112. Cruelty to animals- penalty.

Every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, needlessly mutilates or kills, or carries in or upon any vehicles or otherwise in a cruel or inhumane manner any animal or causes or procures it to be done or who, having charge and custody of an animal, unnecessarily fails to provide it with proper food, drink, or protection from the weather or cruelly abandons it commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106.

[Penalty: Minimum sentence is six months' imprisonment or \$500 fine, or both; maximum sentence is 24 months' imprisonment or \$5,000 fine, or both(18-1-106).]

Maine

7:3907. Definitions.

As used in this Part, and in every law relating to or affecting animals, unless the context indicates otherwise, the following terms have the following meanings...

2. Animal. 'Animal' means every living, sentient creature not a human being...

26. Torment, torture and cruelty. 'Torment, torture and cruelty' means every act, omission or neglect, whether by the owner or any other person, where unjustifiable physical pain, suffering or death is caused or permitted...

29. Well cared for. 'Well cared for' means that the animal is receiving necessary sustenance, necessary medical attention, proper shelter, protection from the weather and humanly clean conditions and that the animal has not been nor is being injured, overworked, tormented, tortured, abandoned, poisoned, beaten, mutilated or exposed to a poison with the intent that it be taken by the animal..

7:4011. Cruelty to Animals.

1. Cruelty to animals. A person is cruel to animals if he:

- A. Kills any animal belonging to another person without legal privileged or consent of the owner, or kills or intends to kill any animal with the owner's consent, by means which will cause undue suffering. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal;
- B. Injures, overworks, tortures, torments, abandons, gives poison to, cruelly beats or mutilates any animal or exposes a poison with the intent that it be taken by an animal;

- C. Deprives any animal which he owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions; or
- D. Keep or leaves a domestic animal on an uninhabited or barren island lying off the coast of Maine during the months of December, January, February, or March without providing necessary sustenance and proper shelter.

7:4013. Necessary sustenance.

No person owning or responsible for confining or impounding any animal may fail to supply the animal with a sufficient supply of food and water as prescribed in this section.

- 1. Food. The food shall be of sufficient quantity and quality to maintain all animals in good health.
- 2. Water. If potable water is not accessible to the animal at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

7:4014. Necessary medical attention.

No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter, protection from the weather or humanely clean conditions as prescribed in this section. In the case of farm animals, nothing in this section may be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practice in the particular county where the animal or shelter is located. For purposes of this section, horses shall not be considered farm animals.

- 1. Indoor standards. Minimum indoor standards of shelter shall be as follows.
 - A. The ambient temperature shall be compatible with the health of the animal.
 - B. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animal at all times.
- 2. Outdoor standards. Minimum outdoor standards of shelter shall be as follows.
 - A. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, 'caged' does not include farm fencing used to confine farm animals.
 - B. Shelter from inclement weather shall be as follows.
 - (1) An artificial shelter with a minimum of 3 sides and a waterproof roof appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.

- (2) If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter or suitable size with a floor above ground and waterproof roof shall be provided to accommodate the dog and protect it from the weather and, in particular, from severe cold. Inadequate shelter may be indicated by the shivering of the dog due to cold weather for a continuous period of 30 minutes.
 - C. No animal may be confined in a building, enclosure, car, boat, vehicle or vessel of any kinds when extreme heat or extreme cold will be harmful to its health.
3. Space standards. Minimum space requirements for both indoor and outdoor enclosures shall include the following.
 - A. The housing facilities shall be structurally sound and maintained in good repair to protect the animal from injury and to contain the animal.
 - B. Enclosures shall be constructed and maintained to provide sufficient space to allow each animal adequate freedom of movement, Inadequate space may be indicated by evidence of overcrowding, debility, stress or abnormal behavior patterns.
4. Humanely clean conditions. Minimum standards of sanitation necessary to provide humanely clean conditions for both indoors and outdoor enclosures shall include periodic cleaning to remove excretions and other waste materials, dirt and trash to minimize health standards.

7:4016. Violation.

Any person who violates this chapter commits a civil violation for which a forfeiture of \$500 for each offense may be adjudged and such other relief as may be necessary to restore the animal to good health or to ameliorate the effects of cruelty and to ensure that the animal is well cared for.

Montana

45-8-211. Cruelty to animals.

- (1) A person commits the offense of cruelty to animals if without justification he knowingly or negligently subjects an animals to mistreatment or neglect by:
 - a. Overworking, beating, tormenting, injuring, or killing any animal;
 - b. Carrying any animal in a cruel manner;
 - c. Failing to provide an animal in his custody with proper food, drink, or shelter;

- d. Abandoning any helpless animal or abandoning any animal on any highway, railroad, or in any other place where it may suffer injury, hunger, or exposure or become a public charge; or
 - e. Promoting, sponsoring, conducting, or participating in a horse race of more than 2 miles.
- (2) A person convicted of the offense of cruelty to animals shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. If such person is the owner, he may be required to forfeit to the county in which he is convicted any animal affected. This provision does not affect the interest of any secured party or other person who has not participated in the offense.
- (3) In addition to the sentence provided in subsection (2), the court may require the defendant to pay all reasonable costs incurred in providing necessary veterinary attention and treatment for any animal affected.

New Mexico

30-18-1. Cruelty to animals.

Cruelty to animals consists of:

- A. torturing, tormenting, depriving of necessary sustenance, cruelly beating, mutilating, cruelly killing or overdriving any animal;
- B. unnecessarily failing to provide any animal with proper food or drink;
or
- C. cruelly driving or working any animal when such animal is unfit for labor. Whoever commits cruelty to animals is guilty of a petty misdemeanor.

[Penalty: Imprisonment not to exceed 6 months or a fine of not more than \$500.00, or both (31-19-1).]

Pennsylvania

18:5511. Cruelty to animals...

- (4) As used in this subsection, the following terms shall have the meanings given to them in this paragraph:
'Domestic animal'. Any dog, cat, equine animal, bovine animal, sheep, goat or porcine animal...

(c) Cruelty to animals. – A person commits a summary offense if he wantonly or cruelly ill-treats, overloads, beats or otherwise abuses any animal, whether belonging to himself or otherwise, or abandons any animal, or deprives any animal of necessary sustenance, drink, shelter, or veterinary care...

[Penalty: Summary Offense: Fine not exceeding \$300 (1101).]

Date: _____

Period: _____

UNIT: THE LEGAL HISTORY OF THE ANIMAL RIGHTS MOVEMENT IN AMERICA. Final Assessment for the lesson
HANDOUT #7: Day 8

“Should It Continue?”

DIRECTIONS:

In this activity, students evaluate different behavior using animals.

1. Please move to your assigned group of 4-5 students.
2. Each group will be assigned to examine one of the behaviors listed below, answering part “a” and “b” with the large group of 4-5 students.
3. Students will then form two groups of 2-3, choosing to take the position of PRO or CON for the debate, answering part “c” with their small group of 2-3 students.
4. Each group should discuss the following questions and prepare to report their answers to the whole class.
 - a. What are the benefits of the behavior? (Answer together as a group of 4-5)
 - b. What are the burdens to animals? (Answer together as a group of 4-5)
 - c. Do you think the activity should continue? Explain your answer. (Answer as a group of 2-3 PRO or 2-3 CON)

Behavior

Group One	Creating tumors in laboratory mice in order to see if a drug will reduce the tumor.
Group Two	Keeping chickens on what animal-rights activists call a “factory farm”.
Group Three	Deer hunting for sport.
Group Four	Eating meat.
Group Five	Wearing fur.
Group Six	Putting chimpanzees in zoos.
Group Seven	Owning a cat or dog for a pet.

Appendix J: Handout Day 10 Final Poll

Name: _____
Date: _____
Period: _____

UNIT: THE LEGAL HISTORY OF THE ANIMAL RIGHTS MOVEMENT IN AMERICA.
HANDOUT #8 Day 10 and 11

FINAL POLL

Based on what you have learned over the past 10 days of the unit, “THE LEGAL HISTORY OF THE ANIMAL RIGHTS MOVEMENT IN AMERICA”, carefully read each statement below and mark either “True or False” based on or your current, hopefully better informed, personal opinion on the legal history of the Animal Rights movement in America.

#1. The animal rights movement in America is as important as any other social justice movement in American history.

TRUE OR FALSE

#2. The legacy of Animal Rights law in the United States has deep historical roots not normally seen.

TRUE OR FALSE

#3. The animal rights movement in America is a valid contemporary issue of justice

just like any other social justice movement in modern American culture.

TRUE OR FALSE

#4. The study of the legal history of the Animal Rights movement serves to highlight an important historical example of the American legislative legacy we share.

TRUE OR FALSE

#5. The study of the legal history of the Animal Rights movement make me a better informed citizen of animal rights law, as well as more aware of the role that animals have in our lives.

TRUE OR FALSE

DAY 11

“The Debate Continues...2015 and Beyond!”

PART #1: SUMMARIZATION OF THE UNIT THEME AND CONCLUSIONS

The teacher can adapt or read the prompt verbatim as it is written in the following paragraphs:

American history, and indeed the history of humankind, is a series of moments in time when the things that were once hidden become illuminated. Civilizations greatest triumphs, namely science, medicine, religion, and philosophy, all have been engaged in a struggle forwards towards a greater understanding of our world. We can see countless examples of how these moments of realization, based a large measure on self-reflection

and necessity, have spurred social and societal change of great magnitude and arguably, great progress. Whereas once one's own race, sex, and/or sexual orientation once dictated the ability to survive and thrive in the United States, the social justice movements of our American history have reshaped these assumptions based on racism, sexism, and homophobia. Arguably many of these amazing cultural and societal transformations have been based a large part of the legacy of compassion, not only towards each other as human beings, but also our compassion towards other sentient life with whom we share our world.

This legacy of animal rights law in the United States, the topic for the duration of the content of this unit, "THE LEGAL HISTORY OF THE ANIMAL RIGHTS MOVEMENT IN AMERICA," is an important part of our legacy as Americans. Like many things left unseen, it has been cast in the shadows of our collective mind and often belittled, ignored and challenged for fear of the revelations inherent in its aim. Those aims being namely that all animals, not merely the human species, should have protections and perhaps even legal rights ensuring their own inherent dignity and rights to life are being respected, and that they have been afforded protection from needless suffering and exploitation. Highlighting this aspect of our American legal heritage goes a long way in further illuminating the tenets of American morality we all hold dear: freedom, liberty, justice, and the not always highlighted but equally important tenet, compassion.

The future of the Animal Rights movement in America is away from welfare statutes towards legal "personhood". This may someday give some animals irrevocable protections that recognize their critical needs to live in the wild and to not be owned or abused. Until the status of animals as property changes, the type of legal protection that society extends to them has severely been limited and until animals are accorded legal rights that protect their interests, their exploitation is likely to continue. The modern animal rights movement is working to secure those legal rights and is indeed succeeding, per the example of cases brought by the Nonhuman Rights Project (NhRP) to the Manhattan Supreme Court. In the most recent case, on April 22, 2015, Justice Barbara Jaffe issued an order to show cause and writ of habeas corpus on behalf of two chimpanzees, Hercules and Leo, who are being used for biomedical experimentation at Stony Brook University on Long Island, New York. Under the law of New York State, only a "legal person" may have an order to show cause and writ of habeas corpus issued in his or her behalf. The Court has therefore implicitly determined that Hercules and Leo are "persons." The order does not necessarily mean that the Court has declared that the two chimpanzees, Hercules and Leo, are legal persons for the purpose of an Article 70 common law writ of habeas corpus proceeding. In two similar cases on behalf of two other chimpanzees, Tommy and Kiko, the Nonhuman Rights Project has filed Motions for Leave to Appeal to New York's highest court, the Court of Appeals. Decisions in all cases are pending as of May 2015.

If indeed cases such as these succeed, much like the legacy of abolition, one day the treatment of non-human animals will be seen as something equally otherworldly and unconscionable. This is a legacy begun in the American colonies to which American students can be proud to share and perhaps one day personally become a part of as well.

In conclusion, perhaps surprisingly at first, many of our most amazing cultural and social transformations were started, supported and ultimately secured by animal rights activists and early vegetarians. From abolition to children's rights to environmental protection, these animal rights figures highlighted to society the importance of kindness, decency and justice. Their early legislative victories helped support additional changes to our society, as they repeatedly used their rationalizations to secure support for the most vulnerable members of our society. The animal rights movement and its changes to our society is not only fundamentally part of our legacy as Americans, but that the people making these changes are true American heroines and heroes, and should be recognized as such.

Appendix K: Oregon Court Says Animals Can Be Crime 'Victims,' Like People. So What Does That Mean?

“Oregon Court Says Animals Can Be Crime 'Victims,' Like People. So What Does That Mean?”

Posted: 09/26/2014 11:12 am EDT Updated: 09/26/2014 12:59 pm EDT
Arin Greenwood Email: arin.greenwood@huffingtonpost.com

Last month, the Oregon Supreme Court issued two rulings widely celebrated as major victories for animal rights, granting animals legal protections formerly reserved for humans.

In *State v. Nix*, the court held that animals -- namely, 20 goats and horses, found starving among the bodies of others that hadn't made it, on the defendant Arnold Nix's farm -- can each be considered individual "victims" under the law.

In *State v. Fessenden*, also involving an emaciated horse, the court upheld the warrantless seizure of an animal found to be starving, under an "exigent circumstances" exception to the Fourth Amendment.

These decisions have been cheered by many in the animal welfare community and by law enforcement.

But some, like the Animal Legal Defense Fund and Oregon animal welfare attorney Dane Johnson have pointed out the rulings' limits.

ALDF, for example, expressed disappointment that the court did not go even further and explicitly decide if a broader Fourth Amendment exception -- the "emergency aid exception" -- also applies to animals. This exception, ALDF writes, is "similar to the exigent circumstances exception in that it allows warrantless entry to save life, but does not require probable cause."

Johnson expands on this in his own blog post, taking issue with the decisions' legal limitations as well as their moral boundaries:

Why, for example, do we consider the recognition that individual animals are as much victims of inflicted suffering as human crime victims significant when we kill billions of sentient animals in violent and painful ways every year unnecessarily for food?

The Huffington Post recently caught up with Johnson by email to find out more:

Can you tell us about *State v. Nix*, and what's important about the ruling?

State v. Nix is a criminal case involving what the Oregon Court of Appeals described as “dozens of emaciated animals, mostly horses and goats, and several animal carcasses in various states of decay.”

A jury convicted the defendant of 20 counts of second-degree animal neglect. At the defendant's sentencing hearing, the state asked the trial court to impose 20 separate convictions because the jury had found the defendant guilty of neglecting 20 different animals. But the trial court “merged” the guilty verdicts into a single conviction, then sentenced the defendant to 90 days in jail and three years of probation.

The Oregon Court of Appeals reversed that decision. Oregon’s lower appellate court ordered the entry of separate convictions on each guilty verdict for a violation of ORS 167.325 and resentencing. The defendant appealed to the Oregon Supreme Court, which affirmed the Court of Appeals.

Presumably, the defendant will now receive a stricter sentence.

What does it mean to say that animals can now be considered "victims" under the law? How does this change things?

The *Nix* case clarifies that under existing Oregon animal cruelty laws, criminal neglect of multiple animals cannot be grouped together into a single charge. It treats animals as individual “victims” for purposes of sentencing.

Under Oregon law, when a defendant is found guilty of committing multiple crimes during a single criminal episode, those guilty verdicts “merge” into a single conviction, unless they are subject to one of a series of exceptions.

One of those exceptions provides that when the same conduct involves two or more “victims,” there are as many separately punishable offenses as there are victims. The defendant in *Nix* argued that because animals are not “victims” as the law defines that term, only one conviction for multiple counts of animal neglect was allowed.

The Oregon Supreme Court found nothing in the statutes limiting the meaning of the word “victim” to human beings. It determined that a “victim” was instead the subject of whatever protection is provided by the underlying law being violated.

The court rejected the defendant's view that the victim of an animal neglect case is either the public at large or the owner of the animal. The court reviewed the development of animal cruelty law in the United States and Oregon. It explained that while “early animal cruelty legislation may have been directed at protecting animals as property of their owners or as a means of promoting public morality, Oregon's animal cruelty laws have been rooted -- for nearly a century -- in a different legislative tradition of protecting individual animals themselves from suffering.”

Animals are ordinarily considered to be property under the law. Does this opinion mean that, legally speaking, animals are no longer mere property?

The Nix case does not change the fact that animals are considered to be property under Oregon law. In fact, in its opinion, the Oregon Supreme Court expressly acknowledged that “Oregon law regards animals as the property of their owners.”

The court emphasized that its opinion in Nix was not a policy statement about whether animals generally “deserve” to be treated as victims. It explained that the Nix decision “is based on precedent and on a careful evaluation of the legislature's intentions as expressed in statutory enactments.”

The court found that these intentions were to protect the individual animal’s interest in not being treated with criminal neglect and cruelty, not just to protect the owner’s economic interest in the animals.

This case comes on the heels of another Oregon Supreme Court case finding that police can execute warrantless searches when they believe an animal is in imminent danger. Can you tell me why that case is important?

In its recent opinion in *State v. Fessenden*, the Oregon Supreme Court upheld the warrantless seizure of a horse in critical condition that led to a successful criminal prosecution for animal abuse and neglect.

The court upheld the seizure as valid under both the Fourth Amendment and the Oregon constitution, which makes warrantless entries and searches unreasonable unless one of a few narrow exceptions applies. One is the "exigent circumstances" exception, which applies to situations in which police must act swiftly to prevent danger to life or serious damage to property.

Since animal neglect is a crime, animals are considered property under Oregon law, and the horse would probably have died before a warrant could be obtained, the court found the circumstances sufficiently “exigent” to justify the warrantless seizure.

Unfortunately, the court in Fessenden did not go further and consider whether an officer could seize an animal without a warrant under the broader "emergency aid" exception.

These two cases, individually and together, seem to show a major shift away from how animals are usually treated under the law: as mere property. Is that right, do you think?

The Nix and Fessenden cases apply existing Oregon law without narrowing it to be even less protective of animals, so in that sense they are helpful to animals. The opinions may also hopefully persuade courts in other states that have held that animals cannot qualify as victims for sentencing purposes.

Unfortunately, however, I don't think that these two cases represent any major shift away from a view of animals as property. As the court in Nix explained, "Oregon's animal cruelty laws have been rooted -- for nearly a century -- in a ... legislative tradition of protecting individual animals themselves from suffering."

This tradition has stood along one that regards animals as property. The court cautiously avoided giving any opinion that animals "deserve" to be treated as victims.

As sentient beings, however, animals have interests that are incompatible with their being treated as mere property. Animals therefore inherently "deserve" to be treated other than as human resources.

But individual animals by the billions continue to be subjected to horrible suffering and death, mostly in industrial agriculture. This exploitation is not considered criminal animal abuse or neglect.

Do you think animals in Oregon have enough legal protections now? How about outside Oregon?

Because animals are generally treated as property under the law, they have few legal protections in Oregon or in other states, and the protections that do exist generally require only that property owners provide the minimal level of care needed to accomplish the owner's particular human purpose.

Animal interests for legal purposes are usually restricted to not being deprived of the minimal care required to provide an economic benefit to their owners.

You work as an animal welfare lawyer. What do you see as the parts of the law that haven't yet caught up with how society now thinks of animals?

Society displays profound moral confusion when it comes to animals. The law reflects this confusion despite the fact that it is becoming increasingly clear that nonhuman animals share with us characteristics of sentient beings. Some of these characteristics are being perceptually aware, feeling pain, caring for their offspring and desiring to continue to live.

In other words, society seems to understand that all animals are sentient, but it allows the horrific exploitation of most of them, mainly in industrial agriculture. At the same time, it protects against the neglect and abuse of some of them, such as dogs, cats and the horses and goats involved in the Nix case.

There is no legitimate justification for this different treatment because there is no morally significant difference between the horses and goats in the Nix case and the animals exploited for human purposes, including billions of farmed animals.

Attorney Steven Wise, who brought the personhood suits on behalf of captive chimpanzees in New York, argued in *The Oregonian* that these recent decisions are a step toward legal personhood for animals. Do you think that's correct?

The Nix and Fessenden decisions indicate the Oregon Supreme Court's awareness that, as Professor Wise quoted in his editorial, "the day may come when humans perceive less separation between themselves and other living beings than the law now reflects."

Although the court acknowledged the current legal status of animals as property, it recognized that individual animals have interests that are incompatible with being classified as property. Hopefully, other courts and lawmakers will also recognize these interests.

You have a statement on your professional website encouraging people to go vegan. Why is that, and how does that statement fit into your practice?

Because animals are sentient, we have a moral obligation not to view and treat them as human resources. The most important thing that we can do to stop exploiting animals is to go vegan.

This interview has been lightly edited for length.

Appendix L: Should a Chimp Be Able to Sue Its Owner?

For homework students will read a New York Magazine article entitled, “Should a Chimp Be Able to Sue Its Owner?” by Charles Siebert. (<http://nyti.ms/1fhmOkb>, APRIL 23, 2014).

This article will prepare them for the final activity of the Unit, “Should it Continue?” as well as serve as a preview for the video hook on Day 8.

Should a Chimp Be Able to Sue Its Owner?

By CHARLES SIEBERT

APRIL 23, 2014

Just before 4 p.m. on Oct. 10, Steven Wise pulled his rental car in front of a multiacre compound on State Highway 30 near the tiny Adirondack hamlet of Gloversville, N.Y., and considered his next move. For the past 15 minutes, Wise had been slowly driving the perimeter of the property, trying to get a better read on the place. An assortment of transport trailers — for horses and livestock, cars, boats and snowmobiles — cluttered a front lot beside a single-story business office with the sign “Circle L Trailer Sales” set above the door. At the rear of the grounds was a barn-size, aluminum-sided shed, all its doors closed, the few small windows covered in thick plastic.

With each pass, he looked to see if anybody was on the grounds but could find no one. A number of times Wise pulled off the road and called his office to check whether he had the right place. It wasn’t until he finally spotted a distant filigree of deer antlers that he knew for certain. The owner of Circle L Trailer, Wise had read, runs a side enterprise known as Santa’s Hitching Post, which rents out a herd of reindeer for holiday events and TV spots, including commercials for Macy’s and Mercedes-Benz.

After spotting a man tightening bolts on one of the trailer hitches, Wise paused to explain his strategy to me and the documentary filmmaker Chris Hegedus, who had a video camera. “I’m just going to say that I heard their reindeer were on TV,” Wise said. “I happened to be driving by and thought I might be able to see them in person.”

The repairman told Wise that the owner wasn’t on the premises that day. Wise mustered as many reindeer questions as he could, then got to his real agenda.

“So,” he finally asked, doing his best excited-tourist voice. “Do you keep any other animals around here?”

“Yeah,” the man answered, nodding toward the aluminum-sided shed. “In there. Name’s Tommy.”

Inside the shed, the repairman inched open a small door as though to first test the mood within. A rancid milk-musk odor wafted forth and with it the sight of an adult chimpanzee, crouched inside a small steel-mesh cell. Some plastic toys and bits of soiled

bedding were strewn behind him. The only visible light emanated from a small portable TV on a stand outside his bars, tuned to what appeared to be a nature show.

“It’s too bad you can’t see him when he’s out in the jungle,” the repairman said, pointing to a passageway nearby, which opened onto an enclosure that housed a playground jungle gym. “At least he gets fresh air out there.”

Tommy’s original owner, we learned, was named Dave Sabo, the one-time proprietor of a troupe of performing circus chimps. The repairman said that Sabo raised Tommy, who appears to be in his 20s, from infancy. Sabo, who had been living for a number of years in a trailer on the grounds of Circle L Trailer, recently died.

“He’s back in there now somewhere,” the repairman said, quickly tracing with his hands what seemed to be the outline of an urn of ashes. “In a room next to Tommy’s.”

On the way back out to the car, Wise paused.

“I’m not going to be able get that image out of my mind,” he said, his voice quavering.

“How would you describe that cage? He’s in a dungeon, right? That’s a dungeon.”

Seven weeks later, on Dec. 2, Wise, a 63-year-old legal scholar in the field of animal law, strode with his fellow lawyers, Natalie Prosin, the executive director of the Nonhuman Rights Project (Nh.R.P.), and Elizabeth Stein, a New York-based animal-law expert, into the clerk’s office of the Fulton County Courthouse in Johnstown, N.Y., 10 miles from Circle L Trailer Sales, wielding multiple copies of a legal document the likes of which had never been seen in any of the world’s courts, no less conservative Fulton County’s.

Under the partial heading “The Nonhuman Rights Project Inc. on behalf of Tommy,” the legal memo and petition included among their 106 pages a detailed account of the “petitioner’s” solitary confinement “in a small, dank, cement cage in a cavernous dark shed”; and a series of nine affidavits gathered from leading primatologists around the world, each one detailing the cognitive capabilities of a being like Tommy, thereby underscoring the physical and psychological ravages he suffers in confinement.

Along with chimps, 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 — all beings with higher-order cognitive abilities. Chimps were chosen as the first clients because of the abundance of research on their cognitive sophistication, and the fact that, at present, there are sanctuaries lined up to take in the plaintiffs should they win their freedom. (There are no such facilities for dolphins or orcas in the United States, and the two preferred sanctuaries for elephants were full.)

“Like humans,” the legal memo reads, “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.” What Tommy could never have anticipated, of course, huddled just up the road that morning in his dark, dank cell, was that he was about to make legal history: The first nonhuman primate to ever sue a human captor in an attempt to gain his own freedom.

Animals are hardly strangers to our courts, only to the brand of justice meted out there.

In the opening chapters of Wise's first book, "Rattling the Cage: Toward Legal Rights for Animals," published in 2000, he cites the curious and now largely forgotten history, dating at least back to the Middle Ages, of humans putting animals on trial for their perceived offenses, everything from murderous pigs, to grain-filching rats and insects, to flocks of sparrows disrupting church services with their chirping. Such proceedings — often elaborate, drawn-out courtroom dramas in which the defendants were ostensibly accorded the same legal rights as humans, right down to being appointed the best available lawyers — were essentially allegorical rituals, a means of expunging evil and restoring some sense of order to a random and disorderly world.

Among the most common nonhuman defendants cited by the British historian E. P. Evans in his 1906 book, "The Criminal Prosecution and Capital Punishment of Animals," were pigs. Allowed to freely roam the narrow, winding streets of medieval villages, pigs and sows sometimes maimed and killed infants and young children. The "guilty" party would regularly be brought before a magistrate to be tried and sentenced and then publicly tortured and executed in the town square, often while being hung upside down, because, as Wise explains it in "Rattling the Cage," "a beast . . . who killed a human reversed the ordained hierarchy. . . . Inversion set the world right again."

The practice of enlisting animals as unwitting courtroom actors in order to reinforce our own sense of justice is not as outmoded as you might think. As recently as 1906, the year Evans's book appeared, a father-son criminal team and the attack dog they trained to be their accomplice were prosecuted in Switzerland for robbery and murder. In a trial reported in *L'Écho de Paris* and *The New York Herald*, the two men were found guilty and received life in prison. The dog — without whom, the court determined, the crime couldn't have been committed — was condemned to death.

It has been only in the last 30 years or so that a distinct field of animal law — that is laws and legal theory expressly for and about nonhuman animals — has emerged. When Wise taught his first animal-law class in 1990 at Vermont Law School, he knew of only two others of its kind in the country. Today there are well over a hundred. Yet while animal-welfare laws and endangered-species statutes now abound, the primary thrust of such legislation remains the regulation of our various uses and abuses of animals, including food production, medical research, entertainment and private ownership. The fundamental legal status of nonhumans, however, as things, as property, with no rights of their own, has remained unchanged.

Wise has devoted himself to subverting that hierarchy by moving the animal from the defendant's table to the plaintiff's. Not in order to cast cognitively advanced beings like Tommy in a human light, but rather to ask a judge to recognize them as individuals in and of themselves: Beings entitled to something that, without us, no wild animal would ever require — the fundamental right, at least, not to be wrongfully imprisoned.

Tracking down captive backyard chimps as clients is not the sort of career Wise imagined for himself. But then neither was law. A self-described apolitical lead singer in a rock band who thought he would have a career in music, Wise's increasing involvement in the anti-Vietnam War movement while at the College of William and Mary began to stoke a growing interest in social activism.

Over lunch in Manhattan one afternoon a few weeks after finding Tommy, Wise told me he thought that he was going to be a doctor, but he didn't get into medical school. He ended up working as a lab technician in Boston, all the while continuing his antiwar activities. "Then one day, I thought to myself, You know, I think I want to be a lawyer," he said. "I had become really interested in issues of social justice."

Several years after graduating from Boston University School of Law, he sat down with a copy of Peter Singer's seminal work, "Animal Liberation," and got the "jolt" that has directed his passions ever since. "It was a total epiphany," he recalled. "I just had never thought about what was going on out there with our treatment of animals. First, I became a vegetarian. Then I thought to myself, Well, if I'm interested in social justice, I can't imagine beings who are being more brutalized than nonhuman animals. People could do whatever they wanted with them and were doing whatever they wanted with them. Nonhuman animals had no rights at all. I couldn't think of any other place where my participation could do more good. I suddenly realized this is why I became a lawyer." He dedicated himself to getting a better sense of the general arc over the course of history of human thinking about animals. From Aristotle's Great Chain of Being that ranked animals, because they lacked reason, below man; to René Descartes's view of animals as complex but soulless automatons; to Immanuel Kant's argument against cruelty to animals, not because of any specific obligation to them but because such cruelty had an adverse effect on human relations; to the assertion by the 19th-century British philosopher and jurist Jeremy Bentham that the only arbiter of how we treat animals "is not 'can they reason?' nor 'can they talk?' but 'can they suffer?'" a view that would profoundly influence the work of modern-day animal rights thinkers like Peter Singer. In 1991, Wise filed an early animal rights lawsuit that both underscored the difficulty of the challenge he would be facing and helped him hone his legal strategy. The case, filed in the United States District Court of Massachusetts against the New England Aquarium, was on behalf of Kama, a 6-year-old dolphin, and several animal rights groups that objected to the aquarium's transfer of Kama to the Navy for training at the Naval Ocean Systems Center in Hawaii, a violation, the suit claimed, of the Marine Mammal Protection Act.

The judge immediately dismissed Kama's part of the suit due to insufficient "standing": the legal requirement that a plaintiff personally speak to the injury that has been done to him or her by the defendant and then show that such harm can be properly redressed by the court — a requirement that Kama, of course, could never have met.

A nonhuman is, in fact, so invisible in a court of law that the only way such a creature can seek redress is if the human plaintiffs representing that animal can prove that the injury done to it has in some way injured them. After several days of deliberation, the judge ultimately decided that the humans, too, had failed to adequately prove injury and threw out their part of the suit on the basis of standing as well.

"The lawyer for the aquarium was so outraged," Wise said. "He kept saying, 'Judge, our own dolphin is suing us!' And I understand that outrage. He felt: 'We own this. This is completely ours, and what is ours is now claiming we can't do something to it?' But what these cases made me realize is that the issue wasn't really about standing at all. What

lawyers and judges had been calling an ‘animal- standing problem’ was really a ‘not-being-a-legal-person problem.’ We could show the animals had been injured, that the defendants were responsible and that the judge could remedy it. But because animals are not legal persons, they don’t even have the capacity to sue in the first place. They’re totally invisible. I knew if I was going to begin breaking down the wall that divides human and nonhumans, I first had to find a way around this issue of personhood.”

A few years later, while continuing to lecture in animal jurisprudence to law students, Wise revisited the famous case of *Somerset v. Stewart*. In 1772, the chief justice of the English Court of King’s Bench, Lord Mansfield, issued a 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 — on behalf of a slave named James Somerset, a being as invisible then to the law as any nonhuman. Mansfield ultimately decided to free Somerset from his Scottish- American owner, Charles Stewart — a landmark decision that would drive one of the first wedges into the wall then dividing black and white human beings from one another.

The Somerset case soon had Wise exploring other habeas corpus cases. He noted that many of them were filed on behalf of those unable to personally appear in court: prisoners, for example, or children, or mentally incapacitated adults. Habeas corpus cases, Wise realized, have the most relaxed standing requirements, precisely because the circumstances necessitate that a proxy like Wise plead the plaintiff’s case.

As Wise started to formulate it further, he saw habeas corpus as a form of redress for the denial of a “legal person’s” right to bodily liberty, not necessarily a “human being’s.” At lunch, he outlined a broad spectrum of cases in which nonhumans have been held to be legal persons, like ships, corporations, partnerships and states. He invoked cases in India in which the holy book of the Sikhs was deemed a legal person, as well as Hindu idols. He spoke of a dispute between the Crown of New Zealand and the Maori tribe in which a river was held to be a legal person.

“A legal person is not synonymous with a human being,” he told me. “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 should a human 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.”

In his animal-law classes, Wise told me, he has his students consider the actual case of a 4-month-old anencephalic baby — that is, a child born without a complete brain. Her brain stem allows her to breathe and digest, but she has no consciousness or sentience. No feelings or awareness whatsoever. He asks the class why we can’t do anything we want with such a child, even eat her.

“We’re all instantly repelled by that, of course,” Wise said. When he asked his students that question, they “get all tied up in knots and say things like ‘because she has a soul’ or ‘all life is sacred.’ I say: ‘I’m sorry, we’re not talking about any characteristics here. It’s that she has the form of a human being.’ Now I’m not saying that a court or legislature can’t say that just having a human form is in and of itself a sufficient condition for rights.

I'm simply saying that it's irrational. . . . Why is a human individual with no cognitive abilities whatsoever a legal person with rights, while cognitively complex beings such as Tommy, or a dolphin, or an orca are things with no rights at all?"

The other advantage of habeas corpus cases, Wise said he realized, is they allow him to circumvent federal courts, where judges tend to rule in accordance with what they perceive to be the original intentions of pre-existing statutes and laws. State courts, by contrast, where almost all habeas corpus cases are heard, are the home of common law — what Wise often characterizes as a breeding ground of ever-evolving laws where for the past 800 years judges have been making decisions based more on the available evidence and on broader principles like equality and liberty and what is morally right. The common law is the realm in which Wise feels he has the best chance to succeed. "I have to present an argument that a judge can grasp quickly. I have to go bang, bang, bang, detailing the distinct qualities of my clients. We're definitely asking a judge to make a leap of faith here; what some might see as a quantum leap. My job is to make it seem as small as possible."

No recent case better underscores the unique nature of Wise's present endeavor than the one that seemed, at first, to most resemble it. In October 2011, despite Wise's objections, People for the Ethical Treatment of Animals (PETA) filed a lawsuit on behalf of five orcas at SeaWorld San Diego and SeaWorld Orlando, accusing the theme park of violating the 13th Amendment, which abolished slavery. The suit was dismissed by Judge Jeffrey Miller of the U.S. District Court for Southern California, who wrote in his ruling that "the only reasonable interpretation of the 13th Amendment's plain language is that it applies to persons, and not to nonpersons such as orcas."

Wise was furious over what he considered the grossly premature timing of PETA's case. After the judge's decision, Wise called a PETA lawyer to "share his thoughts" with him. Natalie Prosin was on that call too. "She really let me have it afterward," Wise said. "She said, 'You acted like you were the professor and he was your student, lecturing him for over 30 minutes on why his case was so bad.' I said: 'I know. And frankly 30 minutes wasn't nearly enough.' It was idiotic to invoke the Constitution the first time around. You know maybe in 50 years, after you've already laid a foundation of courts recognizing that nonhuman animals could be considered legal persons under the common law. That's precisely why we're avoiding the federal courts."

As hasty an overreach as Wise thought PETA's legal gambit to be, the Nh.R.P.'s has been plodding and precise. As many as 70 volunteers have been working over the past four years on different facets of his legal offensive. Perhaps the most important is the Nh.R.P.'s Science Working Group, which collaborates with Dr. Lori Marino, an Emory University specialist in the cetacean brain and the evolution of animal intelligence. This group is assigned the task of gathering available research and expert testimony on the cognitive abilities of the plaintiffs that the Nh.R.P. plans to represent.

As recently as 10 years ago Wise's effort would have been laughed out of a courtroom. What has made his efforts viable now, however, is in part the advanced neurological and genetic research, which has shown that animals like chimpanzees, orcas and elephants possess self-awareness, self-determination and a sense of both the past and future. They

have their own distinct languages, complex social interactions and tool use. They grieve and empathize and pass knowledge from one generation to the next. The very same attributes, in other words, that we once believed distinguished us from other animals. Wise intends to wield this evidence in mounting the case that his clients are “autonomous beings,” ones who are able, as Wise defines that term, “to freely choose, to self-determine, to make their own decisions without acting from reflex or innate behavior.” He sees these abilities as the minimum sufficient requirement for legal personhood. Another element of the Nh.R.P.'s strategy is the Legal Working Group, which selects optimal jurisdictions for their lawyers and then finds potential clients there, a reversal of the typical process in which a lawyer has a client and then argues their case in whatever jurisdiction that client happens to live. For the first set of cases, the 20 or so members of the Legal Working Group scoured the records on the habeas corpus rulings of all 50 states and composed memos, each at least 15 pages, before finally settling on New York, where seven privately owned chimps were being held throughout the state.

Wise, Prosin, Stein and Monica Miller, another lawyer, filed habeas corpus petitions on behalf of four of the chimps (the three others died before the Nh.R.P. could do so). The day after Tommy's case was presented, the lawyers were in Niagara Falls, N.Y., filing on behalf of a chimp there named Kiko. Two days after that, they traveled to Riverhead, N.Y., on Long Island, to file a third suit in the name of Leo and Hercules, two chimps being kept at Stony Brook University for studies on human locomotion.

In addition, the Nh.R.P.'s Sociological Working Group has been collecting 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. It's all by way of getting the best sense of the kind of judge the plaintiffs might be facing. The hope is that they will get what Wise calls a “substantive-principles judge,” one not as bound by precedent, who makes what he or she believes is a just decision, regardless of what ramifications the decision may have. A judge like Lord Mansfield, who before setting the slave James Somerset free, said, “*Fiat justitia, ruat coelum*” (“Let justice be done, though the heavens may fall”).

“I'm looking for a Lord Mansfield,” Wise told me, “but as I often tell my students, be careful what you wish for. You may get a principles judge, and it turns out that the principles the judge holds are the ones that make him say: ‘You lose. I don't agree with your principles. I agree with the principle that God created humans, and we all have souls, and we're special, and nonhuman animals do not and so aren't.’ And in that case you've just shot yourself in the head.”

Of course, a number of people both in the legal world and beyond find the very premise of seeking legal personhood for animals an oxymoron. There are, they assert, already ample protections available under current animal-welfare laws, on both the federal and state levels, without having to go down the practically and philosophically fraught path of extending a human right to a nonhuman.

Richard Epstein, a New York University law professor, is an outspoken critic of Wise and of the notion of extending rights to animals. He bristles at what he sees as the

potential practical consequences of such an outcome, a slippery-slope effect that would eventually abolish long-established institutions like the agriculture- and-food-production industry. “[T]here would be nothing left of human society,” Epstein once asserted in a 1999 essay, “The Next Rights Revolution?” “if we treated animals not as property but as independent holders of rights.” He also considers Wise’s legal approach to be “completely misguided.”

“Steven is extremely ingenious,” Epstein told me in his N.Y.U. office in January. “I don’t think he’s a great intellect. He’s a man of tremendous persistence. He just doesn’t think there is any serious argument that can be made on the other side. It’s like watching someone with tunnel vision. . . . My attitude is this: There are two ways to think about it. He thinks of it as rights. I think about it as protection. You can guarantee the things he’s seeking through animal-protection legislation without calling them rights. I mean, you may want to enforce the laws better. I just think the argument of making animals into sort of human beings is what’s crazy.”

But Wise contends that present forms of protection are effectively unenforceable in a case like Tommy’s, primarily because under current animal-welfare laws on both the state and federal levels, it isn’t illegal to keep a chimp in a cage, Tommy’s present owner, Pat Lavery, has said that Tommy’s cage is legal and inspected annually. In those cases in which cages do not meet proper standards, animals are rarely taken from their owners because they’re still considered private property.

Ultimately, Wise is not interested in trying to distinguish between bad and better forms of captivity. What he is trying to provoke is a paradigm shift in how we think of our relationship to animals. “One day we’ll be filing a suit on behalf of SeaWorld orcas,” Wise said, “these amazingly intelligent and social animals who were captured from the ocean and are now being kept in a tiny pool, and yet obviously it’s not illegal. SeaWorld is making tens of millions of dollars a year. No one is suggesting they be charged with cruelty to animals, and nobody has any ideas about how to get those orcas out. It’s the same thing with chimpanzees. So

the reason we chose habeas corpus over other causes of action is that it’s the only possible remedy.”

Even some in the animal rights community have criticized Wise for the anthropocentrism of stressing his clients’ similarity to us rather than that basic Benthamic barometer of “can they suffer?” For Wise, though, “can they suffer?” is still the defining arbiter. It’s simply one that has been lent a whole new meaning and level of urgency by something obviously unavailable to a 19th-century British philosopher: the ever-growing body of scientific evidence pushing us into the increasingly discomfiting corner of knowing that, in the end, it isn’t really his clients’ likeness to us but their distinctly different and yet compellingly parallel complexity that now may command not just a philosophical regard but a legal one as well.

At just past 2 p.m. on Dec. 2, Nh.R.P.’s legal team of Wise, Prosin and Stein sat at the plaintiff’s table in the main courtroom of the Montgomery County courthouse in Fonda, N.Y., nervously awaiting the entrance of Justice Joseph M. Sise.

Wise had told me what he could expect from a decision made in a lower court like this

one. “At this level,” he said, “it’s not going to be an emotional decision, but a very practical, serious one. The judge is going to want to rule in a way in which he feels reasonably supported by the existing laws. He doesn’t want to look like an idiot. But if he’s willing to hear the case, or even write a decision on it, as long as his rejection goes on the record, we can go to the Court of Appeals. That’s where you can argue with more emotion and where most common law gets made anyway.”

On the drive from Johnstown to the courthouse, Prosin was on her phone, trying to get information on Sise, a justice on the State Supreme Court. “Brother was a judge,” Prosin muttered. “Father a judge. He’s young. Graduated law school 1988. Conservative Republican.” There was, however, little clear indication of whether he might be a Lord Mansfield.

Now in the courtroom, a voice called, “All rise.” Through a sudden opening in the room’s oak paneling, Sise, a tall, lean, dark-haired man in his early 50s, emerged and strode swiftly to his seat at the bench. Wise listened, rapt as Sise

spoke the words he had been waiting his entire career to hear in court: “This is in the matter of . . . an application . . . seeking a writ of habeas corpus for a nonhuman.”

When Sise asked Wise why Article 70 of the Civil Practice Law and Rules — New York State’s habeas corpus provision — “should be enlarged to include an animal, a chimpanzee,” the typically voluble Wise struggled to speak. You could almost hear the gears of his brain snagging, the various lines of argument that he had been planning and honing over the years for this very moment, getting all bound up now into one hopeless snarl.

“I couldn’t believe I was finally about to argue this case before a judge,” he told me later. “I really got choked up for a moment.”

The hearing took no more than 20 minutes. The justice interrupted often at the start, preempting Wise’s attempts at building an argument, knocking him back on his heels with repeated questions about why Article 70 was the only form of redress in this instance.

“Isn’t there a different way,” Sise asked at one point, “for you to petition the court for . . . relief other than attempting to have the Supreme Court . . . enlarge the definition of ‘human-being’ under Article 70 to include an animal?”

“We are most definitely not asking the court to redefine the term ‘human being,’ ” Wise boomed, his heart at last having loosened its grasp on his throat. “We brought a writ of habeas corpus because [it] is aimed at the denial of a legal person’s, not necessarily a human being’s, but a legal person’s right to bodily liberty.”

Wise next began to make his case for why all chimps in New York should be declared legal persons, arguing that they are fully autonomous beings. “Says who?” Sise asked.

“And . . . I’m asking the question because that’s beyond your ken and beyond my ken. It’s beyond the ken of the normal fact-finder. You’re stating something that only expert testimony could supply.”

Wise quickly cited the affidavits from the world’s leading primatologists. The previously curt and pre-emptive Sise fell silent, leaning in, his head nodding slightly.

“So what is it that you’re asking the court to do in terms of Article 70, make an exception for chimpanzees only?” Sise asked. “You understand the question, right? The legal

conundrum the court is in based upon your argument?”

“We are, in a specific, legal way . . . simply asking that you issue the writ of habeas corpus on behalf of Tommy,” Wise began calmly. “We are saying the reason that this court should do that is Tommy, as these experts pointed out, is autonomous. . . . Being a member of the species *homo sapiens* is indeed a sufficient condition for personhood, but there are other sufficient conditions for personhood, as well. . . . Autonomy is an extraordinarily important attribute, and we argue . . . that a being who is autonomous, who can choose, who is self-aware, these, your honor, are essentially us.”

“All right,” Sise said. “What else? Anything else?”

Wise appeared spent. “No, your honor.”

The justice sat back in his chair. “Your impassioned representations to the court are quite impressive,” he said. “The court will not entertain the application, will not recognize a chimpanzee as a human or as a person . . . who can seek a writ of habeas corpus under Article 70. I will be available as the judge for any other lawsuit to right any wrongs that are done to this chimpanzee, because I understand what you’re saying. You make a very strong argument. However, I do not agree with the argument only insofar as Article 70 applies to chimpanzees. Good luck with your venture. I’m sorry I can’t sign the order, but I hope you continue. As an animal lover, I appreciate your work.”

I managed to get hold of Sise on the phone a few weeks later and asked him about his ruling. “I thought they should have an opportunity to make their argument as to why Article 70 should be enlarged to include nonhumans,” Sise said. “Ultimately, I felt that they had the right to make a record so that they could appeal. I thought, Here’s this group of lawyers, living and dying this, they deserve due process, and they deserve to be told just how impressed at least I was by the effort they’re making on behalf of animals.”

I said that I imagined it wasn’t the sort of case that came across his desk very often. “Obviously not,” he said, laughing. “But in terms of the legal questions before the court, it was very similar to many applications we have: Whether or not a petition has been rightfully filed under an article and whether that article applies. So the legal analysis was not novel, although the facts certainly were.”

The Nh.R.P. ended up losing their other two New York cases as well, with the judges arguing that the petitioners had other remedies they could seek through existing animal-protection laws. But before Justice Ralph A. Boniello III, of the State Supreme Court for the County of Niagara, rendered his decision, Wise was given full leave to air for the record his petition on behalf of Kiko. The justice called the argument “excellent” but concluded that he was “not prepared to make this leap of faith.”

On balance, Wise and his colleagues emerged from their first round of suits ecstatic. They had all they needed to take the cases to the appellate level to keep making their argument.

In February, the Nh.R.P. lawyers were in New York City for a weekend-long meeting to refine their pending appeals for later this year and to decide on the next roster of plaintiffs. In a couple of weeks Wise would be back on the road, reviewing new prospects: mostly chimps and a few circus elephants. For the latter, Wise told me, the California-based animal-protection organization PAWS is willing to provide sanctuary on

a case-by-case basis.

Over dinner one night, I asked Wise about the oft-stated position that there are already ample forms of redress for the likes of Tommy. Did he ever feel that gaining legal rights for such creatures is really a symbolic gesture? As Richard Epstein put it in his N.Y.U. office, “He’s just sticking his fingers in your eyes.”

“In whose eyes?” Wise said, smiling. “In the world’s eye? For what purpose? Look, he’s a law professor. He doesn’t practice law. If he does, it isn’t this kind of law. It’s hardly symbolic for the animals.”

I reminded Wise at one point that he, the crusader against speciesism and ordained hierarchies, has been accused of erecting a speciesist hierarchy of his own by singling out only certain sufficiently sophisticated animals to represent in court. I asked him, for example, if he would also consider filing a suit on behalf of a captive vervet monkey or a tortoise or a rat.

“I don’t know the answer to the question,” he responded. “The reason I do know the answer for the animals we are currently choosing to represent is we’ve spent years trying to understand what their cognitive capabilities are. But we feel very comfortable in saying that for any nonhuman animal who is autonomous, whatever species they may be, then we will go into court and make the argument that they have a sufficient condition for rights. We’ve never claimed it’s a necessary condition, and as the public debate evolves, people may be making other arguments based on other factors. I mean, how autonomous do you have to be anyway? Look at human beings. We all have rights, and we range from drooling, nonautonomous people to people who are extraordinarily autonomous, like Richard Epstein.”

Wise told me he was well aware of the fact that for creatures like Tommy, a victory in court could only result in transfer to a kinder type of captivity. The larger significance of winning for Wise, however, is the clear message it sends about the wrongfulness of holding captive a chimp or a circus elephant or a SeaWorld orca in the first place.

In a 2001 debate with Peter Singer, Judge Richard Posner of the United States Court of Appeals for the Seventh Circuit — who has debated Wise as well — argued that only facts will lead to according animals rights, not intuitions. “Much is lost,” Posner stated at one point, “when . . . intuition is made a stage in a logical argument.”

And yet in that same debate, Posner stated that the special status we humans accord ourselves is based not on tests or statistics but on “a moral intuition deeper than any reason that could be given for it and impervious to any reason that you or anyone could give against it.” That inherent irrationality at the heart of humanity’s sense of exceptionalism is what most worries Wise.

“It’s those deeply held beliefs that I’m concerned about,” he told me. “The judge who either doesn’t recognize that he’s ruling against us on those grounds, or who does, and decides that way anyway. Our challenge is to lay bare that bias against our facts. I will say: ‘Judge, you know, we’ve been here before. We’ve had people who’ve essentially said, ‘I’m sorry, but you’re black.’ Or ‘I’m sorry, you’re not a male or a heterosexual.’” And this has led us to some very bad places.’ ”

Much like other civil rights movements, the Nh.R.P.'s efforts are designed to be a

systematic assault; a continued and repeated airing of the evidence now at hand so that other lawyers and eventually judges and society as a whole can move past what Wise considers the increasingly arbitrary distinction of species as the determinant of who should hold a right.

Wise said he doesn't expect to win in the first round of suits, and neither does he in the fifth or the 20th. "For me this has been a 25-year plan. All my books and my courses were designed to help me think through this problem. Now I want to spend the rest of my life litigating. If we lose, we keep doing it again and again, until we find a judge who doesn't feel that the way is closed off. Then our job is to produce the facts that will allow that judge to make that leap of faith. And when it happens, it will be huge. I wouldn't be spending my life on this otherwise."

Charles Siebert is a contributing writer and the author, most recently, of "Rough Beasts: The Zanesville Massacre, One Year Later."

Editor: Ilena Silverman

A version of this article appears in print on April 27, 2014, on page MM28 of the *Sunday Magazine* with the headline: "The Rights of Man...and Beast".

Appendix M: The Fight For Legal Rights For Animals



A chimpanzee stands behind the window of his cage as a person knocks at the window on March 28, 2014 at the Bioparco of Rome. TIZIANA FABI/AFP/GETTYIMAGES

Monday, Apr 28 2014 • 10 a.m. (ET)

<http://thedianerehmsshow.org/shows/2014-04-28/fight-legal-rights-animals>

The Fight For Legal Rights For Animals

In the U.S. there are many laws on the books to protect animals from abuse. But a group of lawyers is trying to take animal rights a huge step further. Led by longtime animal advocate Steven Wise, the Nonhuman Rights Project filed a lawsuit recently on behalf of a chimpanzee named Tommy. Citing evidence of the cognitive sophistication of chimps

and other species, the group ultimately seeks personhood status for animals. A number of leading primatologists are among those who support the effort. But there is also enormous opposition – on legal, moral and practical grounds. Diane and her guests discuss the fight for legal rights for animals.

Guests

. **Alan Dittrich** president of the Massachusetts Society for Medical Research.

. **Steven Wise** lawyer and president of the Nonhuman Rights Project; author of "Rattling the Cage: Toward Legal Rights for Animals."

. **Robert Destro** professor of law and director of the Interdisciplinary Program in Law & Religion, Columbus School of Law, at The Catholic University of America.

. **Charles Siebert** poet, journalist, essayist and contributing writer for The New York Times magazine.

Transcript

**10:06:
53**

MS. DIANE REHM □ Thanks for joining us. I'm Diane Rehm. A growing body of research indicates many animals share more human qualities than previously thought. Self awareness, language, emotions. Now lawyers are using this evidence to fight for personhood status for nonhuman species. Joining me in the studio to talk about the implications of granting legal rights to animals, Robert Destro of the Catholic University of America, joining us from WLRN in Miami, Steven Wise of the Nonhuman Rights Project.

**10:07:
35**

MS. DIANE REHM □ And from an NPR studio in New York Charles Siebert, author of yesterday's New York Times magazine cover story on animal rights. I know many of you have strong feelings about these issues. Give us a call, 800-433-8850. Send us your email to drshow@wamu.org. Follow us on Facebook or send us a tweet. Thank you all for joining us.

10:08:

MR. ROBERT DESTRO □ You're welcome.

08	
10:08: 10	<p>MR. STEVEN WISE □ Thank you.</p>
10:08: 11	<p>MR. CHARLES SIEBERT □ Thanks for having me.</p>
10:08: 12	<p>REHM □ Good to have you all. Steve Wise, let me start with you. What got you started as an animal rights lawyer?</p>
10:08: 23	<p>WISE □ Well, it's been now 34 years. I read Peter Singer's book in 1980 and I was a much younger practicing lawyer and I had gone into law because I was interested in social justice issues. And Peter Singer's book opened my eyes to the fact that nonhuman animals were terribly suffering and were being abused and exploited and I thought there was nothing better I could do than to spend my legal career trying to help them.</p>
10:08: 52	<p>REHM □ You're talking about Peter Singer's book, "Animal Liberation," published in 1975.</p>
10:09: 01	<p>WISE □ Yes, I am.</p>
10:09: 03	<p>REHM □ Tell us about the lawsuit you and your organization have filed on behalf of the chimp named Tommy.</p>
10:09: 12	<p>WISE □ Well, we actually filed three lawsuits on behalf of four chimpanzees in the state of New York as those are all the chimpanzees who we could identify in the state of New York. And Tommy especially was in a small time, Gloversville, New York, and we found him all by himself in a cage and we decided to file a writ of habeas corpus, a common law writ of habeas corpus on behalf of Tommy, on behalf of Kiko, another solo chimpanzee at Niagara Falls and two young chimpanzees who were being</p>

	held for biomedical research, locomotion research at Stonybrook University.
10:09: 54	WISE □ And all three of them are common law writs of habeas corpus. We affidavits, about 100 pages of affidavits from the leading working primatologists in the world who attested to the fact that chimpanzees are autonomous, can self determine, an extraordinarily complicated, cognitive lives and we filed those, along with our common law petition for habeas corpus and said that a chimpanzee like Tommy has the cognitive abilities, can self determine, is autonomous, has all of the qualities that a writ habeas corpus is meant to protect.
10:10: 35	WISE □ And we asked that the court extend the writ of habeas corpus to such autonomous animals as Tommy.
10:10: 43	REHM □ And what would it have meant if you had succeeded in gaining that writ of habeas corpus for Tommy and the others?
10:10: 57	WISE □ Well, we still hope to do it. We lost at the lower court, which we fully expected to do. We're hoping to win in the higher courts in New York and what it would do, it would have a court recognize that Tommy and the other three chimpanzees are legal persons, which means they have the capacity for one or more legal rights and the right that we are asking the courts to recognize is their fundamental right to bodily liberty that is protected by a common law habeas corpus and order them to sanctuaries, which we've already reserved spots for them in sanctuaries where they'll be able to spend the rest of their lives with dozens of other chimpanzees living life as a chimpanzee.
10:11: 39	REHM □ Steve, I gather the judge in that first case was sympathetic but he would not recognize the argument.
10:11: 50	WISE □ He was very sympathetic. This was Judge Sise, who is a Supreme Court judge. He, of course, as did another judge in Niagara Falls, had never seen a case like this. Nobody ever has. And they're lower court judges. They're supposed to do what the higher court judges say they're supposed to do and they didn't really have any

guidance. So they said that they weren't going to recognize Tommy as a legal person or Kiko as a legal person or Hercules and Leo as legal persons, but now we're taking these up to the appellate courts where we can make our common law arguments to those judges who might have the duty to listen carefully to our arguments and change the law, if they have to do so.

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WISE □ The higher courts can do that. The trial courts really can't.

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REHM □ Steven Wise, he's an attorney. He's president of the nonhuman rights project, author of "Rattling The Cage Toward Legal Rights for Animals." Robert Destro, as a professor of law and director of the interdisciplinary program in law and religion at Catholic University, you are, I gather, opposed to giving animals personhood status. Talk about why.

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DESTRO □ Well, Diane, I think that personhood status is a package. I mean, I think we need to understand that in the law, when we characterize something, when we give it a name, you know, that has certain legal implications to it. And so I'm certainly not opposed to laws that regulate human conduct toward animals. I mean, I don't think anybody is. And in particular, you know, as we learn more and more about the capabilities, the cognitive ability of animals, that's going to affect the moral calculus that we bring to the policy table.

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DESTRO □ But the question of do we count animals as legal persons inverts the whole notion of what personhood is in the constitution.

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REHM □ How so?

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DESTRO □ Well, you know, generally speaking, if we go back certainly to the foundational documents, like the Declaration of Independence, you know, and then certainly to the constitution which is built on it, the idea that persons are human beings and when we say a more perfect union for, you know, ourselves and for our

posterity, you know, we're talking about human beings who have the capability of being moral agents, of undertaking duties, and as Thomas Jefferson said, man has no right in opposition to his social duty.

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REHM □ At the same time, that same document identified African Americans as only three-fifths human.

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DESTRO □ Actually, that's not exactly right. I mean, that was actually a political maneuver, but it did recognize other persons and so the framers of the constitution took great pains not to put slaves outside the role of persons. And as we have seen, the obligations -- and this is really the part I want to emphasize -- we're really talking about here, even if we take Mr. Wise's suggestions to heart, we're talking about the obligations of people toward animals.

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DESTRO □ We're not talking about the obligation of animals toward people.

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REHM □ Charles Siebert, you've written about orcas and elephants and other animals. What does the research tell us about the ability of animals to think and feel?

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SIEBERT □ Well, it's opened our eyes to, as I say in the piece, not so much their likeness to us, but their compelling sort of parallel complexity that I think definitely deserves a new kind of philosophical regard in accordance with what Steven's efforts are trying to do, perhaps a legal one as well. And I'm not a legal expert in any way. And I got to know Steven and to eventually write this piece through what you're saying my experience writing about these various animals.

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SIEBERT □ And, you know, on the legal front, I don't even know the ramifications, but I do ask the question in the piece -- and Steven can speak to this better because he's of the mind that a lot of people say, well, current animal protection laws could be expanded or are sufficient as they are to deal with these problems. And Steven has maintained -- and I put that question to him many a time -- and he maintains that they're not and can detail the reason.

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SIEBERT □ But primarily, as I remember him saying, it's that animals are still property and people -- it's very hard to take that property from them. And in the instance of an orca, for example, at Sea World, it's not only legal to have them, but they make tens of millions of dollars a year off of them and, you know, this is an animal that roams oceans, you know, daily, hundreds of miles in complex social groups.

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SIEBERT □ Elephants, same complex social groups, culture is a word we don't hesitate to use toward these animals. Chimps, the same way. And to be wrenched from their rightful or natural place and put in our world to be ogled at, you know, is legal. And Steven maintains that the only way to change that is not through animal protection laws, but to give them the right to their bodily liberties so they can't be wrested away.

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SIEBERT □ And the ones who are -- for the ones that are now, it's too late, in captivity, at least they can be repaired to a nicer, kinder version of captivity.

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REHM □ Charles Siebert, he's a journalist and author. He's contributing writer for the New York Times magazine. His article, "The Rights of Man and Beast," was the New York Times magazines cover story yesterday. You can find a link to it on our website, drshow.org. When we come back, we'll talk further, take your calls, comments, questions, stay with us.

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REHM □ And in this hour we're talking about human rights for animals. Just before the break we were talking with Charles Siebert. He's a journalist and author. He wrote a piece for the New York Times magazine yesterday as the cover story, "The Rights of Man and Beast." You can find a link to it on our website drshow.org. Steven Wise, I want to come back to you, as I know you know we have many, many laws to protect animals. They might not be enforced well enough but they do exist. How is what you are seeking different?

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WISE □ Well, the problem is is that while there are animal welfare laws, animal welfare statutes, they really don't do a very good job in protecting nonhuman animals. Sometimes I speak to my students and I say, imagine that all of the laws that protect you in every way were repealed.

And the only law that existed was one that said, you can't be treated cruelly. And if you are you have to go to the D.A. to bring a criminal action against the person you think treated you cruelly. Would you think that you were being adequately protected? And the answer that everyone gives is, no.

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WISE □ You know, all of human history shows that the only way in which an entity can be protected is if the law recognized them as legal persons, which means they have the capacity for one or more legal rights and then acknowledges that indeed they should have certain sorts of fundamental rights that protect their fundamental interests. By the way, the Nonhuman Rights Project does not invoke either federal or state constitutional law. What we do is we rely upon the common law, which is a law that state courts make. And that is a very different thing than constitutional law.

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REHM □ Interesting. Bob Destro, how do you see the differences here? Personhood for animals, how does that differ, for example, from corporations having the right to be considered a person as was decided in the Citizens United case?

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DESTRO □ Well, there's a big difference. I mean, we, as human beings, form associations. We actually have a First Amendment right to peaceable assembly. And so when we look at groups of people, whether it's a married couple, a church, a corporation, these are organizations of people. So in order to the -- my reaction to a case like Citizens United is to say, well, why do you lose your First Amendment rights when we do -- when we get together as a group?

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DESTRO □ When we're talking about nonhuman rights, it still is a question of, as Mr. Wise just put it, he says the capacity for one or more legal rights, okay. And the -- but the question still -- it begs the question, what duty do I owe? Now the -- as he says, and he's quite right when he says that he's relying on common law and that's very different than constitutional law. The problem is that the common law has always seen animals as being the subject of human rights. So people can own animals. They can possess animals. They can eat animals.

DESTRO □ And so when you ask the courts to

10:23: 49	change that rule, you're going to be undoing a whole lot of law. And it's always going to be subject later to legislative revision.
10:24: 00	REHM □ But now in addition to the legal arguments, you really have moral objections to giving legal rights to animals. Why?
10:24: 13	DESTRO □ Well, I do because the -- it really -- we do come down to the question of duty. And whether we talk about it in terms of morality, in terms of philosophy, in terms of justice, the question is, how do we define the category of persons? And if a person is a -- is more than a human being then we have to have a definition. So our usual understanding is that persons, human beings have natural rights that arise from their nature as is when you start saying, well all right, it doesn't arise from your nature. It arises from your capacity.
10:24: 53	DESTRO □ Okay. So if your capacity for understanding, for communication, all of those things then, you know, my argument in justice is that we are then going to lower the protection that we have for human beings. Because infants, as Peter Singer himself has written, really don't have as -- they don't have the same kinds of interests. They can't -- they may be able to suffer but they certainly don't have the same cognitive ability as maybe an older chimpanzee does. So the question of how we define who counts as a person becomes very, very important.
10:25: 32	REHM □ Steven Wise, what's your response?
10:25: 36	WISE □ Well, it's that the professor has it backwards, that by granting legal personhood to such an extraordinarily complex being as Tommy, what that does is it enhances the argument for human beings having legal personhood. If you deny personhood to an entity who is so extraordinary and is autonomous and can self determine and he would otherwise clearly be entitled to personhood except he is a chimpanzee.
10:26:	WISE □ At that point you are allowing an arbitrary irrational characteristic to undermine the whole definition of person. And some day that can then return to human

10	beings because if you can arbitrarily deny personhood to Tommy, then you can begin to arbitrarily deny personhood to any of us as well.
10:26: 31	REHM □ Steve, tell us a little more about Tommy. Who or how he behaves, what he does, how you perceive him and how you believe he perceives the world.
10:26: 51	WISE □ I think Tommy perceives the world in a way that we would find very familiar. The 100 pages of affidavits from the world's leading primatologists make it really clear that he is conscious, he's self conscious. He likely has all or even -- or some elements of a theory of mind. He know that others have minds. He knows what's in their minds. He knows that he has a past. He knows that he has a future. He can plan for his future. He's...
10:27: 15	REHM □ Can you give us examples...
10:27: 21	WISE □ Of -- well, there have been...
10:27: 23	REHM □ ...or demonstrations of how he -- you know he perceives others and knows what they are thinking and how he is thinking?
10:27: 35	WISE □ Well, that's in the 100 pages of affidavit so...
10:27: 38	REHM □ I understand but I'm just...
10:27: 40	WISE □ I'll give you an example from there.
10:27:	REHM □ Okay, good.

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WISE □ Oh, if -- for example, there's a Swedish researcher named Mathias Oswalt (sp?) who's done a whole series of experiments in which the only way that a chimpanzee could show -- that could pass is that he has to understand that there is a future that he's planning for. And he also talks about a chimpanzee who is in a zoo in Sweden. And what that chimpanzee does -- he obviously doesn't wish to be incarcerated in that zoo and he's angry.

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WISE □ What he does early in the morning, he gets up, he goes around his enclosure. He picks up stones and then he hides them and he waits for hours later for people to come see him and then he starts throwing stones at them. And he does that often, week after week, month after month. That's just one kind of simple example of -- that clearly shows that chimpanzees understand that there's a future, can anticipate it, can plan for it and then can carry out what they're planning.

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WISE □ There have been other experiments where it's clear that a chimpanzee understands, for example, what another chimpanzee is looking at, can engage in not only mental time travel, as Mathias Oswalt shows, but can also put his mind in the mind of another chimpanzee and can see what that chimpanzee's seeing. There are experiments done at Yerkes for example where a submissive chimpanzee will not eat food that a dominant chimpanzee can see. And so when you put up a barrier so that the dominant chimpanzee cannot see the food, the submissive chimpanzee's able to put her mind into the mind of the dominant chimpanzee, see that the dominant chimpanzee cannot see the food and then she can take the food.

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WISE □ So we have dozens and dozens and dozens of examples like this. We have one showing that they have language or language-like abilities that they can engage in in simple mathematics. In fact, I think we list almost 60 different complicated cognitive characteristics that chimpanzees show. And we say, look these are extraordinary beings. Why do we think that we should have the right to keep them locked up in a prison in solitary?

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REHM □ All right.

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10:30: 01	<p>WISE □ They should be entitled to exercise their ability for self determination and autonomy and be able to use -- invoke a writ of habeas corpus so they can go to someplace where they'll be able to live a chimpanzee life with other chimpanzees.</p>
10:30: 14	<p>REHM □ We have a posting on Facebook, a question. "If we say animals have rights, where do we draw the line, cats, dogs, turtles, flies? How about trees? There's evidence that plants think." Facebook message goes on to say, "I'm all for preventing cruelty but does that equal rights? And if so, what rights? Should they be allowed to vote?" Steven Wise.</p>
10:30: 52	<p>WISE □ Well, that is the beauty of the common law. The common law is supposed to change and expand as new scientific facts come in, as moral views change, as experience changes. And it's clear that the science has changed and the public morality has changed. So it's now time for nonhuman animals such as Tommy to no longer be seen as legal things the same way my car is seen or the chair I'm sitting on is seen. But have them be seen as legal persons with a capacity for at least the fundamental right to bodily liberty.</p>
10:31: 31	<p>WISE □ Now where you draw the line, that is a matter of scientific fact. The Nonhuman Rights Project can say that any nonhuman being who is autonomous can self determine, can live their own lives in the way in which they wish. That entity, no matter what her species is and it should be entirely irrelevant, should have legal personhood. And at least the legal capacity for bodily liberty that would allow her to invoke a writ of habeas corpus and be sent to a place where she can fulfill her self determination, where she can live an autonomous life.</p>
10:32: 11	<p>REHM □ Steven Wise. He's lawyer and president of the Nonhuman Rights Project and author of "Rattling the Cage Toward Legal Rights for Animals." And you're listening to "The Diane Rehm Show." Charles Siebert, I gather more and more medical search centers are phasing out using chimps. Talk about why.</p>
10:32:	<p>SIEBERT □ Well, you know, to add on to what Steven was just saying, a bunch of those examples, I thought of another study where a chimp, I think also at</p>

45	<p>Yerkes, was side by side one chimp totally stuffed with food to his heart's content and the other one kept from eating. And there were these big heavy pulleys with handles reaching into each of the chimps' cage. And the hungry chimp needed that full chimp to pull on his side of the pulley to get the food he needed. And the chimp decided as full as he was, to help out his starving buddy. So there's empathy as well.</p>
10:33: 20	<p>SIEBERT □ There's also studies that show that the chimp's brain on the neuronal level is actually stunted by the trauma of confinement. In other words, that they suffer post traumatic stress in the same way humans do. And these are not conjectural studies. These are studies of the actual neurons in the brain in the same homologous portion of their brain, the neocortex as our brain. So right there on a neuronal level we understand there's like the physical evidence of the scarring of captivity on their psyches.</p>
10:33: 58	<p>SIEBERT □ And parallel studies have been done on elephants the same way. And, you know, these are creatures that develop these brains millions of years before we did, parallel evolution. So I think on balance, knowing all these -- the compendium of these kinds of facts on top of the fact that it's been shown over and over again that very little is to be drawn from biomedical research on chimps, the biggest explosion of chimps in captivity was perpetrated under the -- what proved to be the delusion that they would help in AIDS research. And they proved totally useless.</p>
10:34: 38	<p>SIEBERT □ I mean, age -- AIDS made a zoonotic leap from chimps to us. And so chimps can't even get that human AIDS. And so we had this excess of chimps. And all the other types of experiments from pharmaceuticals and cosmetics were just wholly inhumane to begin with. So Bill Clinton's last act, the Chimp Act was to get at least a retirement home called Chimp Haven for a lot of these biomedical chimps. Yeah.</p>
10:35: 08	<p>REHM □ And now joining us by phone from Wellesley, Mass. is Alan Dittrich. He's president of the Massachusetts Society for Medical Research. Alan, tell us what effect it could have on medical research if animals were given personhood status.</p>
	<p>MR. ALAN DITTRICH □ Thanks, Diane.</p>

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Starting with chimps, which is really the subject of focus today, I think Charles is right. There aren't many chimps used in research. They are essential for the projects they're in however. And personhood would have a devastating effect on that research and would have a further devastating effect if it were extended to other species. The main concern, of course, would be that it would breathe uncertainty in the research community. How would personhood actually be interpreted?

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MR. ALAN DITTRICH □ Would every chimp in a research facility suddenly be required under a habeas corpus activity to go to a place like Chimp Haven? Or would guardians have to be appointed for the chimps or third party advocates? Would it even be possible to continue to do research at all? And the answer is probably not if personhood, the way that Mr. Wise is defining it occurred.

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REHM □ Do you think that there are enough safeguards in medical research now protecting animals?

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DITTRICH □ I do. Now, Mr. Wise talks about the common law but of course under federal law we do have the Animal Welfare Act. And chimps and many other animals used in research are covered by these laws that require a detailed study of the proposed protocols before they happen.

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REHM □ All right. And we'll have to take a short break now. I hope you can stay with us. We'll be right back.

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REHM □ And as we talk about personhood for animals, most especially primates, we were talking just before the break with Alan Dittrich. He's president of the Massachusetts Society for Medical Research. Alan, I do want to ask you, which animals are absolutely necessary for medical research and why?

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DITTRICH □ It's an excellent question, Diane. I don't think I could narrow it to one species or another. Each kind of research depends on the special characteristics of a different species. And so, for example, vaccine research on, let's say, hepatitis C, requires an animal like a chimp.

	Whereas certain kinds of reproductive research can be done in zebrafish. So it's really dependent on the biomedical concern that the investigator is looking at.
10:41: 21	DITTRICH □ And as a consequence, a lot of species that you might not expect, in addition to, say, rats and mice and fish, turn out to be good research species. And following today's theme, if personhood were granted to some or all of these species, in effect, research would have to stop on them.
10:41: 48	REHM □ Steven Wise, do you want to comment?
10:41: 51	WISE □ Yes, research should stop on chimpanzees immediately, as I speak. It is grotesque, it is immoral. I think that the doctor may want to think what his grandchildren are going to think of him and what his place in history is. He's on the wrong side of history. He's still advocating as -- and I debated his predecessors 30 years ago. And I hear the same arguments. And he's still advocating enslaving and brutalizing and terribly exploiting beings that are extraordinarily as complicated and cognitively complex and autonomous and self-determined as are chimpanzees. They're placed in solitary confinement.
10:42: 35	WISE □ They're extraordinary social beings. I've been to Africa. I've seen them in the wild. I know what kind of beings they are. I've spoken to the greatest primatologist in the world. Jane Goodall is a member of my board of directors. And to advocate for any reason putting a chimpanzee into the kind of hell that they go through, not only in biomedical research laboratories, but sitting in someone's garage or sitting in a cage in a place where they sell used trailers, like Tommy. Or sitting in a small place at Stony Brook, either by themselves or outside of the group.
10:43: 15	WISE □ It's just, in the year 2014, immoral and it's unjust. And these beings need to be protected by writs of habeas corpus. They need to be legal persons so they have the fundamental right to bodily liberty that protects them, because other than that, they will continue to be naked to our power, the way they always have been. And it has to change.
	REHM □ Robert Destro.

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DESTRO □ Well, the biggest problem I have with Mr. Wise's argument, as I said at the very beginning, I accept the proposition that we have moral obligations to animals. And to the extent that there's cruelty, that ought to stop. But at the same time, I have a very fundamental problem with the idea that we, whoever the collective we is -- and we're talking about human beings now -- have the right to decide that somebody is a person or is not a person. And if we take away this notion that person is congruent with the definition of human being, then all bets are off.

DESTRO □ And this is the point about -- this is all the emphasis on cognitive ability and autonomy. You know, if you go into Peter Singer's work, you will see the argument that a pig has more rights than a newborn baby, or certainly a fetus. And so, you know, the big fight over abortion has always been the legal personhood of the unborn. And so, and all of that, the court said we're completely aware of the development of the unborn human being. It didn't make any difference. The court said we're not going to consider them persons.

DESTRO □ The argument that Mr. Wise is advocating and the arguments that Mr. Singer have advocated basically makes your personhood turn on what you can do. And that's where I have a real problem.

REHM □ Steven Wise.

WISE □ Yes, well, as the professor I'm sure knows, fetuses of course have rights under the common law and under many state constitutions in every state in the United States. They are only not persons within the meaning of the 14th Amendment to the United States Constitution, which has its own particular meaning. Also autonomy is not what philosophers might call a necessary condition. We're saying it's sufficient. It's simply if somebody has autonomy, that alone should qualify them for rights. And finally, personhood is not now nor has it ever been congruent with human beings.

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WISE □ I wrote a whole book about the Somerset case in 1772, where James Somerset used the common law writ of habeas corpus to become a person, because black slaves were not person, either in England or in the United States. What personhood means is that the entity who is a person, it's someone that the court should recognize as being important in some fundamental way. So some examples we give in our brief in other common law countries is in Pakistan, a court has recognized a mosque as a person. In India the holy books of the Sikhs are recognized as persons.

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WISE □ And in 2012, the crown and the indigenous peoples of New Zealand entered into a treaty in which a river was seen as a person. So persons have never, ever been seen as being congruent with human beings. And so it means simply that they're important, that they ought to count in a courtroom.

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REHM □ Steve, you tried to sue on behalf of a dolphin in 1991. What happened in that case?

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WISE □ Ah, yes. I actually filed two lawsuits on behalf of dolphins when I was -- that was 23 years old, when I was younger and more foolish than I am now. What -- although we did indeed enter into an agreement with the New England Aquarium and the U.S. Navy not to transfer a dolphin named Rainbow to the U.S. Navy from the New England Aquarium. I then filed a second lawsuit on behalf of a dolphin named Kama, which I lost.

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WISE □ And the reason I lost, actually, has been a -- one of the catalysts for the work I've done in the last 23 years, and I lost on grounds of standing. The dolphin herself was not seen as being a legal person and no humans were seen as being injured. And so they could not sue on her behalf. And that was one of several cases that caused me to believe that functionally it was impossible for human beings to protect the interests of even such extraordinary beings as dolphins and now chimpanzees and others as well, who are legal things, who are seen in law as chairs and automobiles.

REHM □ All right.

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10:48: 14	<p>WISE □ And that the only way they're going to be protected is if they're legal persons.</p>
10:48: 18	<p>REHM □ All right. I'm going to open the phones now. First, we'll go to Orlando, Fla. Hi there, Chris. You're on the air.</p>
10:48: 29	<p>CHRIS □ Hey, Diane. First-time caller, long-time listener. I've got to say, I love your show.</p>
10:48: 34	<p>REHM □ Thank you.</p>
10:48: 35	<p>CHRIS □ You're welcome. I have to say one thing. As an African American hearing this topic right now by your talkers, I find it kind of funny because we live in a country right now where, right now, Syria, Ukraine, even in Africa, you have violations on humans on civil right -- on human rights acts. And now we're trying to infuse animals into the mix? He sounds a little, you know, confusion and silly to me just to hear something like that. But that's just me. I'd like to hear your opinion.</p>
10:49: 01	<p>REHM □ All right. Thanks for calling. Steven Wise, how do you make your case?</p>
10:49: 06	<p>WISE □ Well, one time the whole idea that African Americans or blacks anywhere in the world would be legal persons and have any kind of rights was seen as silly. It was not silly. It was deadly serious. And the reason that they were not given rights is that they were the victim of invidious discrimination. And they now have their rights, even though they're not treated the way they should be, as the events of the last week have shown, where twice people in public have said terribly racist things. But there are other entities who are deserving of personhood, because they are not like human beings, but they're like themselves.</p>

10:49: 48	<p>WISE □ We're not asking for human rights for chimpanzees. We're asking for chimpanzee rights for chimpanzees.</p>
10:49: 53	<p>REHM □ All right.</p>
10:49: 54	<p>WISE □ We're not asking orca rights for orcas but - - I mean, we are asking for orca rights for orcas, not human rights for orcas.</p>
10:49: 59	<p>REHM □ All right. Let's go to Joanne in St. Louis, Mo. You're on the air.</p>
10:50: 06	<p>JOANNE □ Thank you. Interesting discussion. I want to make a couple of points. Are you there? I'm not hearing you.</p>
10:50: 12	<p>REHM □ Yes.</p>
10:50: 12	<p>JOANNE □ Oh, great. Okay. First of all, I'm disturbed by the medical research personnel who has indicated that research would be devastating -- or devastated if we were not to use animals in research. I guess my feeling is, once again, humans are reducing animals to things and property and using them as means to our ends -- noble ends, for sure, but means to our ends. And that does violence to our own souls. That's very disturbing to me. And the second point I want to make is to continue to regard animals as mere things is to -- it lets us off the hook.</p>
10:50: 55	<p>JOANNE □ It allows us to avoid really, really hard questions about our industrial food production system, about sport hunting, about the lab research and about environmental protection regarding wildlife habitat, et cetera, et cetera. I think it's really time we reexamined our attitudes toward animals. And I'd appreciate your comments. Thank you so much.</p>

10:51: 19	<p>REHM □ All right. First to you, Alan Dittrich. Alan, are you there?</p>
10:51: 28	<p>DITTRICH □ Yes, I'm here, Diane. Can you hear me okay?</p>
10:51: 31	<p>REHM □ Yeah. Go right ahead.</p>
10:51: 33	<p>DITTRICH □ I'd like to respond to two things. One, to Steven Wise's somewhat colorful and I would say very prejudicial language about biomedical research. As he knows, the world of research has changed in the 30 or 40 years that he's been involved in this project. And even the great Jane Goodall says this, as long as chimpanzees are used in medical research, it's our responsibility to treat them as humanely as possible. And I think that that is really the goal of the researchers right now -- humane treatment.</p>
10:52: 17	<p>DITTRICH □ And in answer to your most recent caller, of course, I think it's fair to say that, yes, the fundamental primary goal of animal research right now is to help humans. But let's not forget that a lot of that then goes back to veterinary medicine or medicine for animals in the wild and the vast improvements in veterinary care over the last 30 years can in part be attributed to the animal research that we do fundamentally for humans.</p>
10:52: 56	<p>REHM □ Steven Wise.</p>
10:52: 58	<p>WISE □ Well, of course, Jane Goodall, when she said that, was advocating for a second that any chimpanzee should every be used in biomedical research or even be in a cage. She was saying, if they have to be, then you should treat them as humanely as possible. But Jane in no way supports ever putting a chimpanzee in a cage for biomedical research or for any other purpose.</p>
	<p>REHM □ And you're listening to "The Diane Rehm Show." Many of our listeners want to know what Joanne</p>

10:53: 20	<p>was getting to at the end of her question. If animals are declared persons, what are the potential ramifications for agri-business, meat-packing plants, or simply the right to eat meat. Robert Destro.</p>
10:53: 48	<p>DESTRO □ Well, she's put her -- she's certainly put her finger right on the nub of the problem, which is going to raise really hard questions. And indeed it is. And that's why, using the common law, I think it's a very creative way to use the courts. But you're not going to be able to avoid this, because legislatures can turn around and change the common law by statute.</p>
10:54: 09	<p>DESTRO □ And that's why there are plenty of statutes preventing animal cruelty. But you will see, if you look in Poland for example, just recently they outlawed kosher slaughter. You know, and so there's a movement across the board to get us away from using animal protein. And that raises really hard questions.</p>
10:54: 29	<p>REHM □ All right, so what's next in this argument, Steven Wise? Where do you go from here?</p>
10:54: 38	<p>WISE □ Well, we are going to be continually filing a whole -- a series of suits. The suits involving the four chimpanzees in New York are simply the first salvos in a long-term strategic litigation campaign. It's taken me 25 years to be able to get to the point where we're able to file our first suits. And now there's going to be a lot more coming down the pike. We may be filing our next suit within the next month in New York. We certainly are preparing other suits to be filed in other states.</p>
10:55: 08	<p>WISE □ And we're going to begin to challenge courts to do the right thing, to do what is just, to understand that experience has changed, morality has changed, what we know about non-human animals has changed and that there are at least some who are autonomous and can self-determine, who indeed ought to, under any calculus and using the principles that they use now of liberty and equality, should be recognized as legal persons, with the capacity to have at least one right, but perhaps more.</p>
10:55:	<p>WISE □ And then we're going to challenge them as to which rights these non-human animals should have. And that's what judges will have to grapple with and we feel</p>

44	confident that they'll do their duty.
10:55:55	REHM □ Do you believe it's going to go as high as the Supreme Court?
10:56:02	WISE □ Well, it'll go as high as the supreme courts of the various states. The common law is not something that the Supreme Court of the United States deals with. It deals with federal statutes, the federal Constitution...
10:56:14	REHM □ Right.
10:56:15	WISE □ ...and treaties. But it'll be going to a lot of supreme courts, in New York, where they call it the court of appeals, and in many other states, too, as we continue to bring these sorts of lawsuits.
10:56:27	REHM □ Well, I want to thank you all for a most interesting discussion. Steven Wise, he is president of the Nonhuman Rights Project. Robert Destro, professor of law at Catholic University of America. Charles Siebert, he's a journalist and author. He wrote the cover story for yesterday's New York Times magazine, titled, "The Rights of Man and Beast." You can link to that story through our website, drshow.org. And Alan Dittrich, president of the Massachusetts Society for Medical Research. Thank you all. Thanks for listening. I'm Diane Rehm.

PART #2: "THE DEBATE CONTINUES... 2015 and BEYOND!"

Please answer the following debate reflection questions (See Appendix M):

- #1. What is the definition of "personhood" in regards to the debate?
- #2. How is the writ of habeas corpus being used to petition the U.S. courts?
- #3. What arguments oppose "personhood" for animals? Why?
- #4. What is moral agency and why is it important for the rights for animals?
- #5. What are the limitations of animal welfare statutes?
- #6. What moral objections are raised against "personhood" rights for animals?
- #7. What rights are raised based on the capacity for suffering argument versus cognitive ability?

- #8. If arbitrary denying the rights of personhood to a complex chimpanzee leads to the possible opening for another kind of arbitrary definition that could include other humans, is Mr. Wise successful in proving his point for the inclusion of animals such as Tommy in the definition of personhood? Why or why not?
- #9. How does Tommy perceive the world according to Mr. Wise and leading affidavits of leading primatologists? What example does he give to support his argument?
- #10. What evidence is provided to show the ability of chimpanzees to show empathy?
- #11. What evidence is provided to show the effects of captivity on animals?
- #12. What effects would personhood rights have on their use in medical research?
- #13. How was the Animal Welfare Act referenced to object to the rights of personhood to animals used in medical research. What point was the scientist trying to make?
- #14. What were Steven Wise's arguments to counter the opinion of the bio-medical scientist who using chimpanzees in medical testing?
- #15. Were his appeals for empathy and compassion persuasive?
- #16. What were the parallels with the unborn rights of fetuses to the argument for personhood for animals?
- #17. What connections or concerns were raised with the historical parallel of African American rights to personhood in the US Constitution?
- #18. What concerns did the caller raise about the effects of the violence against animals has on human beings?
- #19. What are Steven Wise's future plans for his fight for "personhood" rights for autonomous animals? Name three.
- #20. What is common law as described by Steven Wise?

Appendix N: California State Content Standards for Social Science

California State Content Standards for Social Science

Grade Level and Standards.

The lesson is especially focused on topics related to the California standards for 11th grade and 12th grade. Namely the standard US 11. 1 that requires that, “Students analyze the major social problems and domestic policy in contemporary American society” and the standard 12.3 that requires that “Students evaluate and take and defend positions on what the fundamental values and principles of civil society are (i.e., the autonomous sphere of voluntary personal, social, and economic relations that are not part of government), their interdependence, and the meaning and importance of those values and principles for a free society”.

Specifically addressing the Historical and Social Science Analysis Skills (Grade 11) of *Chronological and Spatial Thinking*:

- Students compare the present with the past, evaluating the consequences of past events and decisions and determining the lessons that were learned.
- Students analyze how change happens at different rates at different times; understand that some aspects can change while other remain the same; and understand that change is complicated and affects not only technology and politics but also values and beliefs.

Specifically addressing the Historical and Social Science Analysis Skills (Grade 11) through *Historical Interpretation*:

- Students show the connections, casual and otherwise, between particular historical events and larger social, economic, and political trends and developments.
- Students recognize the complexity of historical causes and effects, including the limitations of determining cause and effect.
- Students interpret past events and issues within the context in which an event unfolded rather than solely in terms of present day norms and values.
- Students understand the meaning, implication, and impact of historical events recognizing that events could have taken other directions.

Specifically addressing the Historical and Social Science Analysis Skills (Grade 12) through the study of the *Principles of American Democracy*:

- Explain how civil society provides opportunities for individuals to associate for social, cultural, religious, economic, and political purposes.
- Explain how civil society makes it possible for people, individually or in association with others, to bring their influence to bear on government in ways other than voting and elections.

Common Core State Standards developed by the Council of Chief State School Officers (CCSSO) and the National Governors Association Center for Best Practices (NGA Center)

However, it also address topics related to various elementary and/ or secondary grades as well as aligns with the Common Core State Standards developed by the Council of Chief State School Officers (CCSSO) and the National Governors Association Center for Best Practices (NGA Center). Specifically addressing the English Language Arts Standards » History/Social Studies » Grade 11- through the *Key Ideas and Details*:

- CCSS.ELA-LITERACY.RH.11-12.1 Cite specific textual evidence to support analysis of primary and secondary sources, connecting insights gained from specific details to an understanding of the text as a whole.
- CCSS.ELA-LITERACY.RH.11-12.2 Determine the central ideas or information of a primary or secondary source; provide an accurate summary that makes clear the relationships among the key details and ideas.
- CCSS.ELA-LITERACY.RH.11-12.3
- Evaluate various explanations for actions or events and determine which explanation best accords with textual evidence, acknowledging where the text leaves matters uncertain.

Specifically addressing the English Language Arts Standards » History/Social Studies » Grade 11- through the *Craft and Structure*:

- CCSS.ELA-LITERACY.RH.11-12.4 Determine the meaning of words and phrases as they are used in a text, including analyzing how an author uses and refines the meaning of a key term over the course of a text (e.g., how Madison defines *faction* in *Federalist* No. 10).
- CCSS.ELA-LITERACY.RH.11-12.5 Analyze in detail how a complex primary source is structured, including how key sentences, paragraphs, and larger portions of the text contribute to the whole.
- CCSS.ELA-LITERACY.RH.11-12.6 Evaluate authors' differing points of view on the same historical event or issue by assessing the authors' claims, reasoning, and evidence.

- Integration of Knowledge and Ideas:
- CCSS.ELA-LITERACY.RH.11-12.7 Integrate and evaluate multiple sources of information presented in diverse formats and media (e.g., visually, quantitatively, as well as in words) in order to address a question or solve a problem.
- CCSS.ELA-LITERACY.RH.11-12.8 Evaluate an author's premises, claims, and evidence by corroborating or challenging them with other information.
- CCSS.ELA-LITERACY.RH.11-12.9
- Integrate information from diverse sources, both primary and secondary, into a coherent understanding of an idea or event, noting discrepancies among sources.
- Range of Reading and Level of Text Complexity:
- CCSS.ELA-LITERACY.RH.11-12.10
- By the end of grade 12, read and comprehend history/social studies texts in the grades 11-CCR text complexity band independently and proficiently.