

**A Response to "No monkey business: Chimps don't have human rights, philosophers say"**  
<http://www.nathannobis.com/2018/05/a-response-to-no-monkey-business-chimps.html>



In "[No monkey business: Chimps don't have human rights, philosophers say](#)" (Friday, May 11, 2018; "Before It's News" website) the recent case for believing that [chimpanzees are persons and so should have legal rights is engaged](#) (see also [NhRP](#)). Two philosophy professors are quoted, arguing that chimpanzees are not persons and cannot have rights. Let's think about what they have to say.

Dr. [John Crosby](#), a philosophy professor at Franciscan University of Steubenville in Ohio, is quoted:

“Undeniably, there is something there mysterious [about {chimpanzees}]. There is something of worth, but there is not a person. And therefore, because they are not a person, there are no real rights the chimp has.”

So why are they not persons? What's the reason or reasons?

Crosby offers this definition of a person:

“A person is a being that possesses himself and is capable of originating action, where he freely determines himself. It's very difficult to claim that any chimp, however amazingly skilled, is a free agent.”

But many human beings -- e.g., babies, severely mentally challenged persons, and others -- are not free agents, "freely determining themselves," whatever this might mean. (We might wonder if the meaning implies that many animals *are* free agents, however: doesn't an uncooperative house cat freely determine herself? If so, so do many other animals, including chimps, and so would be persons on this definition). But these human beings *are* persons, so this definition surely is mistaken: free will, or free agency, is not needed for personhood.

The page reports (although does not quote) Crosby responding this way to this objection: "Babies grow into morally responsible adults and comatose patients may potentially get better. Even if the patient does not get better . . . people 'are the kind of being that in the normal instance has moral agency and something is blocking exercise of it.'"

He also argues -- according to the site - that because chimpanzees permanently lack moral culpability, they are not persons.

While Crosby's arguments are quick, a few replies should be given.

- First, some human beings *permanently* lack moral culpability, but they are still persons. Some babies *don't* grow into responsible adults, yet they are persons. (And doctors might even say of some comatose patients that they lack the relevant potential to get better.) So *even if it's true* that chimpanzees permanently lack moral culpability (which, they might not, given the evidence of their abilities to understand and reason), this isn't a good reason to think that they are not persons.
- Second, in general, we aren't, and shouldn't, be treated in terms of our *potentials*: *potential* doctors, lawyers, judges, parents, spouses, criminals, saints, and on and on are all quite different from *actual* individuals of these kinds. So, at least, appeals to *potential*, say, free agency are a doubtful way of grounding personhood. Perhaps it can be done, but the pattern -- that *potential things of a kind rarely, if ever, have the rights of actual things of that kind* -- suggests that this is not likely to be a fruitful way to ground the personhood of human beings who lack free agency, rationality and other sophisticated mental capacities. So, this doesn't help undercut the case for chimpanzee personhood.
- Third, recall that Crosby states that people "are the *kind* of being that in the *normal* instance has moral agency and something is *blocking* exercise of it." But rarely, if ever, should individuals be treated as "normal" instances of their "kind," if they are not normal instances of their kind. For example, human beings *are* bipedal and can see with their eyes -- that is *normal* for their *kind* -- but people without legs or who are blind -- because of something "blocking" exercise of the normal capacities -- should be treated in light of their special conditions, not in ways that are "normal" for their "kind." The same is true for "normal" mental and emotional capacities of the kind of beings who are human beings. The point here is that we should be treated as individuals, which might be different from how normal members of our kind should be treated, and so this too is not likely to be a fruitful way to ground the personhood of human beings without "normal" capacities and abilities. So, this response also doesn't help undercut the case for chimpanzee personhood.

- Finally, it's worthwhile to notice that Crosby's case against chimpanzee personhood seems to imply that human embryos and fetuses are persons, given their potential and what "kind" they are. While some will happily accept this result, others will be surprised and wonder if they *must* think this in order to argue against chimpanzee rights: to oppose chimpanzee rights, must we also think that abortion is likely wrong? This connection would be, at least for many people, a surprising and unexpected consequence, and so might lead them to at least doubt, if not reject, Crosby's reasoning.

Again, Crosby's case is quick, but any *developed* case along his lines would need to engage these concerns.

Finally, the web page concludes with this:

[Father Brian Chrzastek](#), a philosophy professor at the Dominican House of Studies, also reflected on the difference between chimps and people. He said that humans have a higher potential for abstract thought and originality. While animals act by instinct, he said people engage rationally with the world.

“Humans are different in kind. It’s not like we are just smart chimpanzees or something. We’re an entirely different level of thought, an entirely different kind of species,” he told CNA.

In reply:

- First, while *perhaps* humans *in general* have a higher potential for abstract thought and originality -- or perhaps not, since some animals *might* be capable of even *more* abstract thought about matters that concern them, and perhaps might be original in ways that don't compare to any human originality -- not all human beings have that potential.
- Second, again, we shouldn't be treated in terms of our potentials: if I'm not a very abstract thinker and am rather unoriginal in everything I think and do, I shouldn't be treated as someone who excels in original, abstract thought.
- Third, animals do not merely act "by instinct": this is naive to the best scientific and common-sense understanding of many animals.
- Fourth, sadly many human people often *do not* engage rationally with the world: read the daily news.

And, fifth and finally, while it's true that humans are "different in kind" from animals, we are also the *same in kind* to many animals, especially chimpanzees: we are conscious, aware, with thoughts, feelings and perceptions, and personalities: we are *persons*. And persons should have legal rights that protect us against certain types of harms and wrongdoing, whatever species the person is.

Nathan Nobis, Ph.D.  
Associate Professor of Philosophy, Morehouse College, Atlanta, GA  
[www.NathanNobis.com](http://www.NathanNobis.com)

Note: This paper is based on arguments I developed in greater detail in “[Tom Regan on ‘Kind’ Arguments against Animal Rights and for Human Rights](#)” in [The Moral Rights of Animals](#) (Lexington Books, 2016).

Posted by the Nonhuman Rights Project:  
<https://www.facebook.com/NonhumanRights/posts/1895153570529490>

Original article:

<http://beforeitsnews.com/religion/2018/05/no-monkey-business-chimps-dont-have-human-rights-philosophers-say-2540706.html>

# No monkey business: Chimps don't have human rights, philosophers say

Friday, May 11, 2018 10:17



Denver, Colo., May 11, 2018 / 11:00 am ([CNA/EWTN News](#)).- After a New York judge said that courts must seriously consider whether animals deserve some legal protections afforded to

people, Catholic philosophers say that human beings are unique, and that, when it comes to law and ethics, that matters.

“Chimps are amazing living beings... and it could be a big mistake to just think of the chimps as things or instruments,” said Dr. John Crosby, a philosophy professor at Franciscan University of Steubenville in Ohio.

“Undeniably, there is something there mysterious [about them]. There is something of worth, but there is not a person. And therefore, because they are not a person, there are no real rights the chimp has,” he told CNA.

Nonhuman Rights Project has sought to release two New York-based chimpanzees, Tommy and Kiko, from the cages of private owners, and into a wild animal sanctuary. Steven Wise is the lawyer in charge of the animals’ defense.

In March 2017, Wise filed for *habeas corpus* relief, citing the similarities between mankind and primates. The filing alleged that chimps’ captivity constituted a kind of unlawful imprisonment.

On May 8, New York’s highest court rejected an appeal from Wise aimed at freeing the chimpanzees. The Court of Appeals voted 5-0 in favor of an intermediate appellate court in Manhattan that denied the chimps’ legal status in June 2017. The appellate court ruled that chimps are not legal persons.

“The asserted cognitive and linguistic capabilities of chimpanzees do not translate to a chimpanzee’s capacity or ability, like humans, to bear legal duties, or to be held legally accountable for their actions,” wrote Justice Troy Webber last year, according to the Chicago Tribune.

Judge Eugene Fahey, who voted against the chimps’ rights to *habeas* relief on Tuesday, argued that while a chimp might not be considered a person, animals might have the right to legal redress.

“While it may be arguable that a chimpanzee is not a ‘person,’ there is no doubt that it is not merely a thing,” he said in an opinion statement. “In elevating our species, we should not lower the status of other highly intelligent species.”

“The Appellate Division’s conclusion that a chimpanzee cannot be considered a ‘person’ and is not entitled to *habeas* relief is in fact based on nothing more than the premise that a chimpanzee is not a member of the human species,” Fahey wrote.

There are a lot of similarities between chimps and people, Fahey said, drawing attention to chimps’ advanced cognitive skills, ability to self-recognize, and a high percentage of shared DNA with humans, at least 96 percent.

He asked whether some animals should have the right to readdress wrongs committed against them. Animals are not morally culpable or legally responsible, he said, but neither are infants and some ill people, and therefore they might enjoy similar legal rights.

“Even if it is correct, however, that nonhuman animals cannot bear duties, the same is true of human infants or comatose human adults, yet no one would suppose that it is improper to seek a writ of habeas corpus on behalf of one’s infant child.”

Dr. Crosby agreed that animals should not be treated poorly, and he lamented over the mistreatment of animals by farms and luxury product testing. However, he disagreed with the judge’s argument about babies and comatose adults, noting chimpanzees permanently lack moral culpability.

Babies grow into morally responsible adults and comatose patients may potentially get better, he said. Even if the patient does not get better, he added, people “are the kind of being that in the normal instance has moral agency and something is blocking exercise of it.”

Animals do not have moral agency or free will, he said, while highlighting a few major differences between chimpanzees and people.

“A person is a being that possesses himself and is capable of originating action, where he freely determines himself,” said Crosby. “It’s very difficult to claim that any chimp, however amazingly skilled, is a free agent.”

Cautioning against conferring upon them the status of persons, Crosby said people should instead remember their moral obligations towards animals.

“These animals merit a certain reverence. We ought to think of ourselves not just as users of them, but somehow custodians of them,” he said. “There are right and wrong ways of acting towards chimps and other animals, but they are not the subject of rights since they are not persons.”

Father Brian Chrzastek, a philosophy professor at the Dominican House of Studies, also reflected on the difference between chimps and people. He said that humans have a higher potential for abstract thought and originality. While animals act by instinct, he said people engage rationally with the world.

“Humans are different in kind. It’s not like we are just smart chimpanzees or something. We’re an entirely different level of thought, an entirely different kind of species,” he told CNA.