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**Article:**

Fraundorfer, M (2018) The Rediscovery of Indigenous Thought in the Modern Legal System: The Case of the Great Apes. *Global Policy*, 9 (1). pp. 17-25. ISSN: 1758-5880

<https://doi.org/10.1111/1758-5899.12517>

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## The revival of indigenous thought: the great apes as legal persons

For centuries, chimpanzees, bonobos, orangutans and gorillas have been shot, tortured, jailed and traded around the world, suffering severe physical and psychological abuse on the hands of human beings. In the Anthropocene, with human-induced climate change and the destruction of the great apes' last natural habitats, these animals may be doomed to disappear from this planet forever.

Various international treaties, such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), international organisations like the Great Apes Survival Partnership (GRASP), and an almost infinite number of research institutes, sanctuaries and other NGOs dedicated to the protection of the great apes and their wildlife habitats have not been able to turn the tide. Between 2005 and 2011 alone, 'a total average of 3,174 great apes disappeared each year from the forests of Africa and Asia through illegal hunting and trade' (Stiles et al. 2013: 37) and the number of the great apes continues to decline rapidly due to natural habitat loss, wildlife trade and hunting (IUCN 2015). According to Steven Wise, a US legal scholar and animal rights activist, the global abuse, trade, murder and torture of the great apes represent a genocide perpetrated by human beings against members of their own kind (Wise 2000: 7).

Many scholars and animal rights activists argue that welfarist and conservational efforts have failed to tackle the root of this on-going massacre: the status of the great apes, and any other animal, as legal objects to be treated like things. Therefore, there seems to be only one instrument left to save the great apes and other animals from extinction: a change in perspective. The transformation of animals from legal things (objects) into legal persons (subjects) would change the legal nature of animals before the law and thus create powerful legal restrictions for human behaviour towards animals (Dunayer 2013: 35–38).

Against the backdrop of several looming global catastrophes in the Anthropocene, we need to recognise that the human species is just one piece in the larger planetary ecosystem. This recognition needs to be reflected in our ways of thinking and doing politics, particularly as far as our relationship with other species is concerned. The concession of rights, and as such legal personhood, exists to protect the weak and vulnerable from any kind of violence and injustice, legally guaranteeing 'that an individual's most basic interests cannot be sacrificed for the greater good of others' (Donaldson and Kymlicka 2011: 19). As long as individuals are not included in any rights discourse, they are defined as legal property, prone to arbitrary, violent and unjust exploitation.

The exclusion of some groups of humans from rights discourses – such as indigenous people, black African slaves or women – has happened frequently in human history and is still the case in some societies (Clark 1999; Wise 2000). Legal personhood is not carved in stone but is subject to ever-changing power relations, the sway of ideologies and the recognition of autonomy to living beings (Wise 2000: 255). Otherwise, how to explain that in many societies it is even common to consider ships, trusts and corporations as legal persons (Wise 2000: 248).

The granting of legal personhood is a means to protect individuals (and things) from exploitation. As a logical consequence, rights could also be used to legally protect parts of our natural environment from human exploitation and complete destruction. In 2008 and in 2009 respectively, Ecuador and Bolivia were the first countries worldwide to write the rights of nature into their constitutions, providing a constitutional basis for the legal protection of nature against human exploitation (Lalander 2014). In March 2017, the government of New Zealand granted legal personhood to the Whanganui River due to its importance for the local Maori tribe (Roy 2017). Only a few days later, an Indian court ruled that the Ganges and the Yamuna Rivers be treated as legal persons to guarantee better environmental protection of the two rivers from severe pollution (Safi 2017). In other words, these rivers were granted rights and legal personhood because of their ecological and cultural importance, which will provide civil society, local communities and government authorities with legal tools to protect those parts of nature from the destructive and exploitative impact of humans.

These decisions were largely inspired by indigenous thought. Many indigenous cultures see the world as a living organism where everything is connected. That is, where the modern world sees distinctions, separations and hierarchies, indigenous people see connections and interrelations. If we want to escape a dystopian future of unprecedented scale, we are forced to rethink and reformulate our place on this planet on many fronts. One of those fronts touches our relationship with other species on this planet.

Some scholars argue that the wisdom of indigenous thought contains important clues to the challenges and problems in the Anthropocene (Acosta 2013; Behera 2010; Danowski and Viveiros de Castro 2016; Shiva 2016, Tickner 2015). By looking at the on-going legal developments in the worldwide struggle for legal personhood for the great apes, this article argues that we are witnessing an unintended (but welcome) re-introduction of several aspects of indigenous thought to modern political and legal thought. The article first introduces the philosophical roots of our treatment of non-human animals as legal objects and how scientists and animal rights movements have gradually questioned this view in the second half of the 20<sup>th</sup> century. Then, the article introduces the view on humans and animals in the cosmologies of

Amerindian cultures, characterised by Brazilian anthropologist Eduardo Viveiros de Castro as Amerindian Perspectivism. Thereafter, the article traces the legal developments which culminated in the historic decision of an Argentine judge to grant legal personhood to a female chimpanzee in 2016. In this context, the article seeks to explain to what extent these legal developments along with this historic decision represent a revival of indigenous thought potentially reshaping our modern worldviews in times of major ecological challenges.

### Challenging the blind spot of modern thought: nonhuman animals as objects

Since Antiquity, and reinforced through the ideological dogmas of monotheist religions such as Judaism and Christianity, humans have considered themselves as special among all the species on this planet and superior to any other animal, believing that other nonhuman animals were made for humans to be used and exploited (Clark 1999; Singer 1990: 185–212; Taylor 1999: 23–41). Philosophical giants such as Aristotle, Saint Augustine, Thomas Aquinas, René Descartes, Thomas Hobbes and Immanuel Kant were instrumental in establishing the dominant view that animals lacked consciousness, morality and any cognitive abilities and thus were nothing else than dumb and mechanistic objects to be used as a resource and disposed of at the whim of humans (Corbey 2013: 69; Taylor 1999: 23–41).

The derogative view dominating our relationship with other non-human animals is therefore not the result of a natural fact but due to a social construction in political and philosophical thought, which has framed the understanding of our relationship with other non-human animals for more than two millennia. The consequences of this view have been disastrous for all nonhuman animals, ultimately leading to the first mass extinction of animal life on this planet caused by the devastating impact of one species, the human being. The great apes belong to those thousands of animals threatened with extinction. What exactly gives humans the right to torture, massacre and kill animals at whim as well as wipe them from the face of the Earth? After all, many animal species contribute to the flourishing of the Earth's ecosystems and biodiversity, which guarantees our own survival. Joan Dunayer even argues that '[i]n terms of their lives' objective value to most other beings, humans probably rank lowest of all animals' (2013: 29).

The artificial abyss formed between human and nonhuman life in European philosophical thought has not only brought mayhem to all other life forms on this planet. It has pushed us, the human species, to the very edges of this abyss. How do we want to survive on a planet where entire ecosystems regulating the planet's climate have broken down due to our

own destructive and arrogant behaviour? Corbey and Lanjouw argue that we have to challenge our dominant philosophical tradition and move from ‘the institutionalized ecological dominance of humans’ towards an attitude that embraces our ‘ability to share resources and space, as well as to respect each other’s needs and self’ (2013: 2).

Many animal rights activists and scholars base their arguments for animal rights on the fact that animals are sentient beings, just like us, feeling pain and suffering from violence. Scientific evidence has abundantly shown that animals are not machine-like beings, as thought by those philosophers responsible for the artificial formation of the abyss between humans and nonhuman animals. On the contrary, all vertebrates can be considered as sentient beings. In the same vein, all invertebrates who have a brain or at least a nerve system are also sentient (Dunayer 2013: 35). Apart from emotional abilities, many nonhuman animals have impressive cognitive abilities as well. The great apes represent just one of the most poignant examples.

Pioneers like Jane Goodall, Dian Fossey and Biruté Galdikas were the first primatologists to seriously question the artificial boundaries between human beings and the great apes with hard evidence (Fossey 2000; Galdikas 1995; Goodall 2010). Beginning in the 1950s, these three women had lived for years together with the great apes in their natural habitats – Goodall with chimpanzees, Fossey with gorillas and Galdikas with orangutans – to observe and study their behaviour and social lives. Their research results revolutionised the field of primatology and our view of these creatures. Today, it is an established and scientifically undisputed fact that human beings and the great apes share the same common ancestor and that human beings diverged from this common evolutionary line only about seven million years ago (Boehm 1999; Diamond 1993: 94).

It is certainly right that the great apes lack those extraordinary abilities that made human beings build cities and aeroplanes, land on the moon and shape huge parts of the surface of this planet according to their own needs and interests. Less than two percent of the genetic material, however, is finally responsible for this major evolutionary development of the human being. The genetic material of humans and chimpanzees/bonobos only differs by 1.6 per cent. The genetic material of gorillas differs about 2.3 per cent from that of humans. And the genetic difference of the orangutan is about 3.7 per cent (Diamond 1993: 94). To put it differently, the closest living relative of chimpanzees and bonobos is neither the gorilla nor the orangutan but the human being (Diamond 1993: 95). Given the genetic similarity between chimpanzees and homo sapiens, some scientists argue that ‘[w]e humans appear as only slightly remodelled chimpanzee-like apes’ (Wildman et al. 2003: 7181). Thus, it makes complete sense to enlarge

the family of the genus homo by including not only homo sapiens (human being) but also homo troglodytes (chimpanzee) and homo paniscus (bonobo) (Wildman et al. 2003: 7182).

This close genetic similarity is also reflected in appearance and behaviour. Studies on the territorial behaviour of chimpanzees provide us with invaluable insight into our own territorial behaviour, which ultimately culminated in the creation of nation-states (de Waal 2007; Goodall 2010). The egalitarian and hierarchical features in chimpanzee and bonobo societies make us better understand our own societies that are constantly marked by hierarchical power struggles and egalitarian ambitions (Boehm 1999; de Waal 2007; Goodall 2010). Chimpanzees and bonobos are capable of organising themselves in alliances to create power balances (Boehm 1999; de Waal 2007). They create hierarchies to organise their societies (Boehm 1999; de Waal 2007). They are aware of notions of fairness and unfairness; they are competitive and power-driven; they engage in efforts of reconciliation after fights and power struggles; they know how to deceive and free-ride; and they are capable of altruistic behaviour, caring about the well-being of others (Boehm 1999; de Waal 2013, Goodall 2010, Fossey 2000, Cavalieri and Singer 1993). In other words, the great apes show us how notions of morality, cooperation, power and empathy have evolved over millions of years (de Waal 2013).

In light of the scientific evidence regarding just one group of animal species, the artificial abyss formed between humans and nonhumans by a long line of philosophers does not make sense at all. On the contrary, scientific evidence points into a new direction in which the emotional and cognitive abilities of other nonhuman animals can only be properly respected by conceding them a set of inviolable rights. This idea is not entirely new in modern philosophical thought. There have always been thinkers and philosophers defending a more sympathetic and humble view towards nonhuman animals.

In Antiquity, Pythagoras, Empedocles and Theophrastus, one of Aristotle's pupils, emphasised the similarities regarding emotional and cognitive abilities between humans and animals. Francis of Assisi held that animals needed to be esteemed (Taylor 1999: 23–41). Jeremy Bentham famously argued in favour of legal rights for animals by writing that a decision to give animals legal rights should not be based on cognitive or linguistic abilities but the ability to suffer (Taylor 1999: 23–41). Although those thinkers harboured more sympathetic views towards nonhuman animals, they never bothered to develop them into major treatises, which is why these ideas did not unfold any practical impact (Cochrane 2010: 29–49).

This changed in the 1970s when the Australian moral philosopher Peter Singer published his book *Animal Liberation*, the first major treatise on animal rights based on the argument that the interests of animals should be considered because of their sentience

(Cochrane 2010: 29–49; Singer 1990). Singer’s treatise spawned an abundant literature on the recognition of the interests of animals, resulting in the proposals of various rights frameworks debating how and under which circumstances rights and which kind of rights could be conceded to which kind of animals (Taylor 1999; Wise 2000).

Given the strong similarities between humans and the great apes, the early 1990s witnessed a global movement advocating the application of a particular rights framework to the great apes. In 1993, under the leadership of the two philosophers Paola Cavalieri and Peter Singer, scientists from different disciplines including philosophy, ethics, education, law, anthropology, biology and primatology launched the Great Ape Project (GAP). This global initiative demanded that great apes enjoy similar basic moral rights as humans: (1) the right to life, (2) the protection of individual liberty and (3) the prohibition of torture (Cavalieri and Singer 1993). In practical terms, GAP has sought to implement these three basic rights, stipulated in the World Declaration on Great Apes, by rescuing and liberating great apes from zoos, circuses or amusement parks and give them a new home in sanctuaries where they are provided with high-quality care, medical treatment and protection from human aggression and abuse.

The last few decades have witnessed a gradual change in perspective in our relationship with other animals, particularly with our closest living relatives, and philosophers and political theorists have resuscitated sidelined strands of modern philosophical thought. This new evolving perspective, however, would not come as a surprise to indigenous cultures from the American continent who have always seen animals as persons.

#### Amerindian Perspectivism: animals as subjects

The Brazilian anthropologist Eduardo Viveiros de Castro is famous for having coined the concept of Amerindian Perspectivism, based on his theoretical and practical studies of ‘a limited number of native cultures from Lowland South America (mainly from Western Amazonia) and from septentrional North America (Northwest Coast, N. Athapaskan, N. Algonquian, Eskimo)’ (Viveiros de Castro 2012: 63). He showed that Amerindian indigenous tribes have an entirely different view on humanity and its relationship with other beings. According to Amerindian cosmologies, ‘the way humans perceive animals and other subjectivities that inhabit the world – gods, spirits, the dead, inhabitants of other cosmic levels, meteorological phenomena, plants, occasionally even objects and artefacts – differs profoundly from the way in which these beings see humans and see themselves’ (Viveiros de Castro 2012: 47).

Typically, in normal conditions, humans see humans as humans and animals as animals; as to spirits, to see these usually invisible beings is a sure sign that the ‘conditions’ are not normal. Animals (predators) and spirits, however, see humans as animals (as prey), to the same extent that animals (as prey) see humans as spirits or as animals (predators). By the same token, animals and spirits see themselves as humans: they perceive themselves as (or become) anthropomorphic beings when they are in their own houses or villages and they experience their own habits and characteristics in the form of culture – they see their food as human food [...], they see their bodily attributes [...] as body decorations or human instruments, they see their social system as organised in the same way as human institutions are [...]. (Viveiros de Castro 2012: 47–48)

In Amerindian thought, animals are perceived as people or persons with their own (humanised) cultures to the same extent that spirits, the dead, plants and other subjectivities are. This does not mean that for these indigenous cultures animals are the same as humans. There are differences between humans and animals. Under certain points of view, however, some animals are (or become) humans. The jaguar, for example, is human but at the same time a jaguar with a hidden feature that is human, meaning that humanity (or personhood) is a capacity of the jaguar (Viveiros de Castro 2013: 484).

This idea of Perspectivism, however, does not apply to all animals. Amerindian thought particularly attributes personhood to animal species which have a key symbolic and practical role to play in Amerindian cultures, such as predators like the jaguar or the vulture or animal prey like fish, deer or monkeys (Viveiros de Castro 2012: 53; Viveiros de Castro 2013: 353). In this sense, ‘personhood and ‘perspectivity’ – the capacity to occupy a point of view – is then a question of degree and/or context [...], rather than one absolute, diacritical property of some species and not of others’ (Viveiros de Castro 2012: 54). The possibility of including other beings and/or animal species remains always open because in Amerindian thought ‘the personhood of animals (and of humans) is in effect a question of context’ (Viveiros de Castro 2012: 54).

The key difference between modern thought and Amerindian thought ‘is that of an original state of undifferentiation or “undifference” (don’t mistake this for “indifference” or “sameness”) between humans and animals’ (Viveiros de Castro 2012: 55). In Amerindian thought, *‘the original common condition of both humans and animals is not animality, but rather humanity’* (Viveiros de Castro 2012: 56). Animals, such as the jaguar or the vulture, are humans clad in animal cloths to hide their true human form, which is only visible to members

of their own species or trans-specific beings like shamans (Viveiros de Castro 2013: 351). Thus, animals are persons and see themselves as such.

One of the implications of the Amerindian [...] ontology is, indeed, that there are no autonomous, natural facts, for what we see as 'nature' is seen by other species as 'culture,' i.e., as institutional facts – what we see as blood, a natural substance, is seen by jaguars as manioc beer, an artefact; our mud is the hammock of the tapirs and so on. (Viveiros de Castro 2012: 112)

Given the fact that humans and animals share human roots and that animals are seen as humans and persons, it does make a lot of sense that Amerindian cosmologies do not distinguish between 'culture' (as reserved for humans) and 'nature' (as reserved for animals) and also largely lack a proper collective concept of 'animal' or 'nonhuman animal' as opposed to 'human'. While these indigenous languages certainly do have words that in their translations correspond to 'animal', the actual meaning of these words often refers to what we might denote as informal meanings of 'animal', such as 'prey', 'victim' or 'game' (Viveiros de Castro 2012: 78–79). Terms for our corresponding word 'animal' are used in a distributive, relational and perspectival sense rather than to denote an 'animal kingdom' in opposition to humans and humanity (Viveiros de Castro 2012: 78–79).

Humans are a species among others, and sometimes the differences internal to humanity are on par with species-specific ones: [...] If this is true, then at least one basic meaning of the standard opposition between nature and culture must be discarded when we move to Amerindian contexts: nature is not a domain defined by animality in contrast with culture as the domain of humanity. The real problem with the use of the category of 'nature' in these contexts, therefore, lies not so much with the fact that animals also have (or are in) 'culture', but rather with the assumption of a *unified* non-human domain. (Viveiros de Castro 2012: 78)

To the same extent that the words for 'animal' have different meanings in Amerindian cultures, the words for 'human being' are also used very differently. Instead of denoting humanity as a species (*homo sapiens*), Amerindian words for human being refer to the 'social condition of personhood' (Viveiros de Castro 2012: 97), functioning as pronouns rather than nouns and emphasising the point of view of the subject rather than the belonging to a particular group or the human species.

This is why terms such as *wari`* (a Txapakuran word), *masa* (a Tukanoan word) or *dene* (an Athapaskan word) mean ‘people’, but they can be used for – and therefore used by – very different classes of beings: used by humans they denote human beings; but used by peccaries, howler monkeys or beavers, they self-refer to peccaries, howler monkeys or beavers. [...] As it happens, however, these non-humans placed in the subjective perspective do not merely ‘call’ themselves ‘people’; they see themselves anatomically and culturally as *humans* (Viveiros de Castro 2012: 99–100).

Instead of treating animals as legal objects, Amerindian thought sees animals as subjects without creating an artificial realm to separate humans from nonhuman animals. Amerindian cultures are very clear in their conviction that humans are just one species among many and that all living species have the capacity to be persons, depending on the context and the situation. Amerindians recognise that animals ‘are subjects not because they have cognitive capabilities similar to ours, be it noted, but because we all share the same embodied awareness of being-in-the-world’ (Viveiros de Castro 2012: 119). In this regard, Amerindian Perspectivism can be characterised as anthropomorphic, for it attributes human qualities to animals. But it is far from being anthropocentric (Viveiros e Castro 2012: 100–101), establishing between humans and other beings ‘relations, totalities, connections, and embeddednesses’ (Viveiros de Castro 2012: 61), where modern thought posits ‘substances, individuals, separations, and oppositions’ (Viveiros de Castro 2012: 61).

When looking at the astonishing legal developments in the modern world over the last few years in changing the perspective on the great apes, it is remarkable to witness that key aspects of Amerindian Perspectivism are at the same time silently crawling into the underwood of modern philosophical thought, gradually reshaping our very relationship with other species.

#### An emerging change in perspective: nonhuman animals as legal persons

Following the launch of the Great Ape Project in the early 1990s, no significant progress had been made in granting legal personhood to the great apes. Several countries worldwide, among them New Zealand, the US, Japan and countries of the EU, did introduce legislation to better protect the welfare of the great apes, such as banning or limiting the use of great apes in research, prohibiting private ownership of the great apes or creating sanctuary systems (AWA 1999; Chimp Act 2000; Chimp Haven is Home Act 2007; Michigan State University 2015; Project r&r 2017). These measures, however, did nothing to change our relationship with the great apes, let alone turn them into legal persons.

In the early 2000s, animal rights activities in Europe and the Americas embarked on a different strategy which does have the potential to bring about a fundamental change in perspective. Animal rights activities started to challenge the court system and file writs of habeas corpus, allowing lawyers to challenge the illegal detention and imprisonment of a legal person. Since the law does not regard great apes as legal persons, these writs of habeas corpus serve to challenge this legal view and establish legal personhood for the great apes in legal systems throughout the modern world.

In 2005, several Brazilian animal rights organisations filed a writ of habeas corpus in favour of the female chimpanzee Suiça, living in the Zoological Garden of Salvador, Bahia, with the request to transfer her, after a favourable court ruling, to the Sorocaba Sanctuary for Great Apes in the state of São Paulo, one of several great apes sanctuaries of the Great Ape Project (Cruz 2006). Shortly before the final court decision, Suiça was found dead in her enclosure, which brought to an abrupt end any further court proceedings (Cruz 2006). The responsible judge, Edmundo Cruz, however, accepted the debate on potential personhood for the great apes to draw attention to the issue and make it the subject of ample debate. In his opinion ‘criminal procedural law is not static but subject to constant change where new decisions have to get adapted to modern times’ (Cruz 2006: 284, own translation). Cruz also believed that even with Suiça’s death his writ would not end the debate and continue to provoke controversies (Cruz 2006: 284).

In 2009, the GAP Project together with other Brazilian animal rights organisations filed a lawsuit against the city of Niterói in the Brazilian state of Rio de Janeiro, in order to free the chimpanzee Jimmy, held captive in a private zoo in Niterói and who became famous as a painter (GAP 2009; Rogar 2010). The judges of the Court of Rio de Janeiro differed very much in their opinion from Judge Edmundo Cruz and rejected the request of habeas corpus outright (GAP 2011). At least, the Brazilian Environmental Institute IBAMA was successful in closing the zoo on the basis of irregular conditions (Jimmy lived in a tiny concrete enclosure behind bars). Jimmy, together with other animals, was transferred to one of GAP’s sanctuaries in the state of São Paulo (GAP 2011).

Austrian animal rights activists prepared a lawsuit in 2007 to protect the chimpanzee Hiasl by appointing him a human being as his legal guardian (GAP Germany 2009). Hiasl was freed by activists from a pharmaceutical lab and landed in Vienna’s animal shelter, which normally receives cats and dogs (Balluch and Theuer 2007: 337). Due to high maintenance costs, the animal shelter wanted to sell Hiasl (most likely to a zoo, circus or lab) or have him euthanised (GAP Germany 2009; Balluch and Theuer 2007: 337). According to animal rights

activists, the only way to avoid Hiasl's sale or euthanasia would have been to change his status from a thing to a person, whose eventual sale or euthanasia would then be seen as a criminal offence (GAP Germany 2009). In the same vein, the recognition of Hiasl as a person would also have given his defendants the right to sue the pharmaceutical lab responsible for Hiasl's initial kidnapping from his African home, his subsequent imprisonment and maltreatment (Hiasl had to live in a windowless basement in tiny cages of about 0.7 m x 1.2m at the beginning and cages of 2.2m x 2.2m at the end of his imprisonment) (Balluch and Theuer 2007: 335, 341). Similarly, if Hiasl had been recognised as a person, he or his defendants could legally have received donations to improve his situation, which is not possible due to Hiasl's status as a thing (GAP Germany 2009). After both the provincial court and Austria's Supreme Court had denied the petition for a legal guardian, Hiasl's defendants brought the case before the European Court of Human Rights, where the case was rejected in 2010 (ORF 2013).

In the US, the Nonhuman Rights Project (NhRP), headed by legal scholar Steven M. Wise, and supported by other rights organisations, legal scholars and famous primatologists, such as Jane Goodall, prepared an ambitious long-term multi-state litigation campaign, in which NhRP started to file lawsuits in several US states to grant personhood to imprisoned and personally owned chimpanzees. The state of New York, due to its very favourable legal context for habeas corpus lawsuits, was selected as the first state for lawsuits to be filed in December 2013 (NhRP 2013a). The lawsuits involve four chimpanzees held captive in different places in the state of New York: Tommy, who lives an isolated life in a cage in a trailer lot; Kiko, who, also caged, had to work in the entertainment industry; and Hercules and Leo, owned by a research centre and subject to medical experiments (NhRP 2013a). So far, all courts have denied the four chimpanzees the recognition as legal persons (NhRP 2013b).

The NhRP also filed a lawsuit against the State University of New York at Stony Brook that held captive the chimpanzees Hercules and Leo. While again the New York Supreme Court Judge Barbara Jaffe denied habeas corpus relief to Hercules and Leo, she explained in her justification in July 2015 that she was bound by precedent (she was also the responsible judge in the cases of Tommy and Kiko) and recognised that chimpanzees *could be* legal persons in the future. At the same time, she conceded that '[c]ourts, however, are slow to embrace change, and occasionally seem reluctant to engage in broader, more inclusive interpretations of the law' (Supreme Court of the State of New York 2015).

After this first indirect concession of the possibility of nonhuman rights for chimpanzees, a decision by an Argentine court caused some furore. In Buenos Aires on 18 December 2015 an Argentine criminal appeals court categorised the female orangutan Sandra

of the Buenos Aires zoo as a nonhuman person. The responsible judge Elena Amanda Liberatori emphasised that by categorising Sandra as a nonhuman person, she does not enjoy the benefits of human rights, which, in her opinion, are not transferable to nonhuman beings. Instead, the term of nonhuman person means recognising her own rights as part of our obligation to respect life and the dignity of sentient beings (Intimate Ape 2015).

While this decision was interpreted by many animal rights organisations and the media as an important breakthrough in the recognition of legal personhood for the great apes, a closer look at the decision revealed that the criminal court in question only had the power to treat cases of animal mistreatment. Therefore, the whole case was regarded by the court as an animal welfare issue without any binding consequences on Sandra's legal status (Wise 2015). It appears, however, that even with regard to welfare protection, the court ruling has had no consequences whatsoever. Even two years after the judge's recognition of Sandra's basic rights, she is still imprisoned in the Buenos Aires zoo, held captive as the only representative of her species in a small enclosure of concrete comparable to solitary confinement (GAP 2017a).

The real breakthrough happened one year later. In November 2016, Maria Alejandra Maurício, another Argentine judge in the city of Mendoza granted legal personhood to the chimpanzee Cecilia, arguing that Cecilia had been illegally and arbitrarily deprived of her right to freedom and a dignified life by the zoo of the city of Mendoza. Cecilia had lived almost her entire life in conditions comparable to solitary confinement, locked away in isolation behind prison bars in a small enclosure of concrete soil and walls (Poder Judicial Mendoza 2016: 2).

The judge's decision was based on two principal arguments (Poder Judicial Mendoza 2016: 32–43): first, animals are sentient and emotional beings. The great apes in particular distinguish themselves through their genetic proximity to humans, their cognitive abilities, their use of tools and their own cultures. And second, the human being today stands at a crucial ecological crossroads where humanity is confronted with self-inflicted ecological disasters and catastrophes. By referring to theories of Gaia (the Greek goddess of mother Earth), Pachamama (the Andean goddess of mother Earth) and indigenous thought – which all hold that the Earth is a living organism and that all the species and ecosystems, including humans, are interrelated – she emphasised that it was our human responsibility to protect the environment and the ecosystems which the human being is also a natural part of. Thus, the most effective way to protect the great apes is to recognise them as legal subjects entitled to nonhuman rights. In her decision, Judge Maurício stressed that the concession of legal personhood to the great apes is not about giving the human rights but the recognition that they are subjects rather than mere objects.

As a consequence of this unprecedented and historic court ruling, Cecilia, the first nonhuman legal person in history, was liberated from her life-long prison and transported to the GAP sanctuary in Sorocaba in the Brazilian state of São Paulo (Poder Judicial Mendoza 2016: 43). In April 2017, Cecilia arrived at her new home in Brazil, stepping for the first time in her life on green grass and climbing a real tree (GAP 2017b); things so fundamental to a chimpanzee's natural habitat and natural way of living that had been denied Cecilia for almost her entire life. She met other members of her own species and even found a new friend, Marcelino, a chimpanzee who was born in the sanctuary (GAP 2017c); another fundamental right that Cecilia had been deprived of for almost her entire life.

These legal developments, which culminated in the unprecedented recognition of a chimpanzee as a legal person and legal subject, have started to redefine the meaning of 'animal' and 'human being' in ways reminiscent of Amerindian Perspectivism. Amerindian cultures recognise the humanity of other nonhuman animals because of their awareness of being-in-the-world, the fact that they live, breathe, feel and suffer just like us. That is, that they are sentient beings. In addition, Amerindian thought has never doubted the existence of cultures among animals; and any idea of an animal as a machine-like thing without feelings and thoughts or an 'animal kingdom' separated from and inferior to human beings would be incomprehensible. For Amerindians, animals are 'humans in disguise' and therefore it is unthinkable to create those distinctions and separations we are so familiar with in modern philosophical thought. Modern science has, over the last few decades, clearly demonstrated how close the great apes are to ourselves – in terms of genetics, cognitive abilities and behaviour – and that we definitely share a common humanity with those 'humans in disguise'. Therefore, there is no other possibility than to concede legal personhood to the great apes and finally rediscover what Amerindians have never forgotten: that humans are just one species among many without any entitlement to subdue, dominate and exploit entire species and ecosystems.

### The renewed relevance of indigenous thought

When we look into the searching eyes of a chimpanzee, we may catch a glimpse of ourselves in a distant past long buried by the passing of millions of years. Modern science made it possible for us to understand and value this deep connection. In Amerindian cultures, it is shamans who communicate with other animals through their capacity to assume alternating points of view. Shamans can see animals as humans and humans as animals as well as look at the world through

the eyes of animals. Modern scientific discoveries have opened our eyes for the human traces in animals and animal traces in humans, blurring the line between humans and other animals.

Amerindian cultures have always taken for granted what in the modern world is only starting to take hold now: that personhood is a question of context and situation. Rather than relying on absolute values, the possibility of including other beings in the realm of personhood and considering them as subjects remains always flexible. The initiators of the Great Ape Project have always emphasised that the recognition of basic rights for the great apes can only be the first step in a revolutionary movement that should extend to other animals as well (ideally to all sentient beings) (Wise 2000; Cavalieri 2015). This way many other animals could be saved from extinction and the daily cruelties perpetrated by humans. And even more than this, it might be a way to save our own environment, our ecosystems and ourselves from complete destruction.

Thus, it does not come as a surprise that in July 2017, a court in Bogotá, Colombia, granted nonhuman personhood to the bespectacled bear Chucho who had been moved from the natural reserve of Río Blanco to the zoo of Barranquilla. The court order freed the bear from his captivity in the zoo of Barranquilla and ordered to move Chucho back to his old home in the natural reserve, an area much closer to the bear's natural habitat (El Heraldo 2017). It would not come as a surprise either if in the months and years to come elephants, dolphins, whales and other animals were granted legal personhood and a set of fundamental rights.

If we want to stand a chance in the Anthropocene, we will need to rethink our relationship with other species. We need to recognise that we are intrinsically connected to the species living on this planet. The abyss formed by modern philosophical thought to artificially separate us from all other animals is no longer unbridgeable. Several bridgeheads, piers and posts are being built. One of the unintended consequences of these bridgeworks refers to our rediscovery of philosophical traditions that had been buried away in the nooks and crannies of this abyss for a very long time.

Key tenets of indigenous thought, and in our case Amerindian cultures, are creeping back into our consciousness and may help us to correct some errors and aberrations of modern philosophical thought. They may help us to find a way over the abyss that is not only threatening the survival of almost all animal species on this planet but essentially the survival of ourselves. As Eduardo Viveiros de Castro emphasised, 'not only would Amerindians put a wide berth between themselves and the great Cartesian divide, which separated humanity from animality, but their views anticipate the fundamental lessons of ecology which we are only now in a position to assimilate (Viveiros de Castro 2012: 95).

Indigenous thought, particularly Amerindian Perspectivism, can guide us in the question of how to view and treat the great apes and other animals. It can also guide us in our future actions and thoughts in the Anthropocene.

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