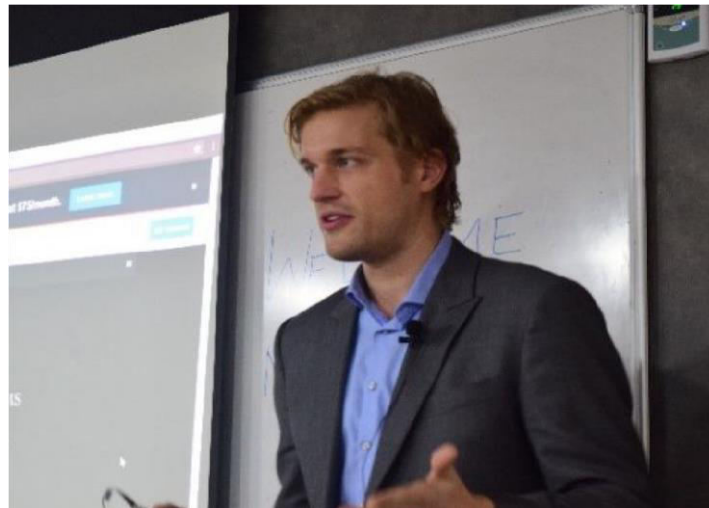


## Guest lecture on Legal Personhood of Animals by Mr. Kevin Schneider

### **SOLink Team**

In a guest lecture conducted under the subject area of Constitution – III, Mr. Kevin Schneider (Executive Director, Nonhuman Rights Project) visited Kirit P Mehta School of Law - NMIMS for a session with students of second-year BA LL.B. (Hons.) & BBA LL.B. (Hons.) students. The lecture was conducted in classroom No. 911, from 11:00 am to 1:00 pm on 30th November 2017.



*Inset: Mr. Kevin Schneider beginning his introductory speech.*

### About the Nonhuman Rights Project

*Founded in 1996 by attorney Steven M. Wise, the Nonhuman Rights Project (NHRP) is the only civil rights organisation working to achieve actual legal rights for members of species other than our own. Mr. Kevin has been a passionate campaigner for NHRP. In addition to his interest in nonhuman rights and personhood, Kevin is an advocate for reforming the food system with a focus on plant-based foods.*



*Inset: Documentary screening; Mr. Schneider addressing the students.*

Mr. Schneider initially screened a small 90-minute film on the Non-human Rights campaign that covered the intent of Prof. Steven M. Wise towards securing legal personhood status to Chimpanzees. The documentary broadcasted the hardships and the legal battles on one side and the humiliation of narrow-minded people on the other side. The students applauded the attempts by Nonhuman Rights Project in campaigning around the world for animals. Post the session, Mr. Schneider gave his comments and opened for Q & A with the students. When asked why NhRP didn't take the legislative route, Schneider commented that it is a tedious process as many vested groups will lobby against it and generally it is considered as a low priority affair for any ruling dispensation. Schneider took many questions thereafter. He ended his session with a relief that this project has raised hopes and the legal ambit of Habeas Corpus for animals while they eagerly await the court's verdict in support towards their petition. Mr. Schneider acknowledged the warmth exhibited by the students of KPM SoL to him and the campaign. The session assumes more relevance as India is going through an emerging jurisprudential concept of non-humans as legal entities being debated in the judiciary. This session may have sparked a new possibility for a better tomorrow.

## Get Inspired: Interview with Mr. Kevin Schneider

**Interviewer: You have been working on this program for a while now, what are your future plans with regards to your mission of providing legal rights to non-human animals? Tell us something about your campaigns and some cases which you have come across that have motivated you to take this struggle ahead?**

**A.** We (Nonhuman Rights Project), filed our first lawsuits in December, 2013, and as of November 2017 we expanded into our second US state and we just filed our first lawsuit on behalf of elephants, specifically three elephants who are today travelling for circus in the North-eastern part of the country. We think this case could be a breakthrough for us, because we are dealing with different judges (in Connecticut, our first cases are still ongoing in New York) and we also think there is a lot of sympathy for elephants, even more so than for chimpanzees. It seems that, in the US, people generally seem to have this deep appreciation for elephants, no matter what their political opinions or affiliations might be.

As far as, what motivated me to do this work; I grew up liking animals, like a lot of Americans, we had pets, but I didn't really think too deeply about how we treat them, I ate meat like everyone else in my family. Then, I happened to see a slaughterhouse video online about 10 years ago, and becoming aware of industrial agriculture and other largescale abuses of animals, it really inspired me to change my own lifestyle and stop consuming animals. I also began thinking about animal protection as a career because it seemed like such a big problem and to me and the most important thing that I could be spending my time doing. I think the tendency is you want to rush into those places where the problem is the worst and the biggest (like factory farming), because that feels like the most urgent and immediate issue. But I recognize that the fundamental problem facing animals—their status as “things”—is so big and so old, thousands of years, and our entire history as a species is built upon commodifying or owning the planet or the other inhabitants of it, and so it became clear to me that this problem required a very radical approach. That's why I was drawn about 8 years to the Nonhuman Rights Project, which takes this problem head-on by pursuing legal personhood for nonhuman animals. I started volunteering at the time I started law school and that was my really my inspiration to study law.

**Interviewer: A blood sport usually involves that of an animal, the animal may or may not be eaten later what are your views on such sports and adventures that involve cruel treatment of animals?**

**A.** It is terrible. But it is changing, and it can continue to change. It all stems from the fact that they are treated by the law as “things” and that we don't yet fully recognize and appreciate who and what they are. Our own human history is full of examples of arbitrarily oppressing different groups, whether it is women or children or by race or religion, for no real good reason, treating one group worse than the other. We are now realizing that this just holds back our collective development. The project of expanding rights to nonhuman animals is not about wanting to control every aspect of human interaction with animals and the planet. It is not my inspiration to stop people from doing what they like to do, even if they like to shoot innocent defenceless animals, because I recognize that this is a system, it is deeper than any individual person. Nobody invented it, we all inherited this really wrong and unjust system and so when I see an image of somebody hunting an animal it makes me sick but I also recognize that these things change very slowly and that I'm not the type that will jump up in somebody's face, necessarily. I know people who do that kind of activism, and I think it can be effective, the in-your-face kind of activism, but I was

just drawn to this legal, much deeper approach, out of the belief that it will ultimately, lead to much bigger things. Because I don't think you can just tell people, don't do this, don't do that, don't consume this, you have to provide them with some positive basis to operate on because prohibitions don't generally seem to work on people. Like with meat, there are a lot of important efforts ongoing to replace animals in the food system and in other sectors, sort of like how the automobile replaced horse-drawn carriages.

A story illustrates our split-thinking about animals: The week before my visit to India, it was ironic because we just filed this elephant lawsuit and President Trump's administration comes out and there is this whole thing about reversing a ban and allowing people to import dead elephants that they hunted in Africa. It just seemed like such odd timing that here we are trying to create rights and you have done the exact opposite, literally treating them as things and importing them as furniture, decorations if you can imagine, stick an elephant's head on their wall and that to me is sick, but rather than getting bogged down with individuals I try to focus on the bigger picture what makes this possible to begin with. And in the case of the elephant trophy ban, even conservatives were so furious that Trump had to come out and say that the ban will remain in effect—for now.

**Interviewer: In Indian mythology, animals have often been portrayed as Gods and Goddesses. Animals like Elephants, monkeys, cows and the Bengal tiger are worshipped in this manner. What are your views on such means of recognizing animal's rights?**

**A.** It's funny because a part of me says I don't care how it happens as long as it happens but, I also think that it can be troubling when you are dictating to other people who may not have the same beliefs. You want them to agree with you that these are persons but you also want that recognition to run deeper than any one religion or worldview, to make it the universal law. I still think it's important to include reference to philosophy and worldview, even in our court cases, wherever we can. The reference we make to the river in New Zealand, the Whanganui River as a legal person, that's also in part a religious consideration.

I definitely think that you can't ignore faith and philosophy, I think it's powerful and it should be used. I hope to see it getting used in a way that it does not discriminate against others who do not hold that belief or to whom it does not make sense. It should be phrased in a broad way. Things like autonomy and liberty, we think, are pretty universal values. We are building connections with people of different faiths and hoping to create ambassadors who can talk to their people, in church or temple, wherever people will listen, who can voice it and make sense with respect to their particular religious context. That can be very valuable for this cause.

**Interviewer: Keeping pets involves dampening the animal spirit and curbing animal instincts to a certain level. Pets might also be subject to abuse and cruel treatment. Do you think keeping pets violates the rights of animals? What kind of protection can we expect for pets on the grant of legal personhood to Animals?**

**A.** I think it gets very complicated when you deal with domesticated animals; dogs, for instance, they have been with us for so long, or cattle or cats, we've have changed them to the point that they probably can't really survive on their own at least not in a way that they were used to or that might not be a very nice way. They have become members of our human community in so many ways, and we have a duty to protect them. It might not be right for those domesticated animals to be so intertwined with us, but I think there are ways to embrace that shared history without using them as property. I personally don't think that there should be a concept of buying an animal, but the idea of people living respectfully with animals is I think very good one. Without animals, we would not be ourselves.

**Interviewer: How is the grant of legal personhood to animals going to affect the commercial use of animals for scientific and medical experiments? Do you think that the commercial lobby involved in these practices will be adversely affected by such litigation?**

**A.** In the long term, yes but in the short term, not really. Chimpanzees and all the species we have identified, for now, are not really being used for research. It's still technically legal to experiment on any nonhuman animal within certain limited legal parameters, but the government agency that funds most of this research, the National Institutes of Health, has said that it will no longer fund chimpanzee research because of ethical concern.

When we are talking about primates, there's something like hundreds of species of different kinds of monkeys. A lot of them are still used gruesomely for experiments. It reminds me of the food situation. We can't seriously pursue the personhood of the food animals until the day when they are not really consumed by most people. And the same is true in the scientific context. You see a lot of interesting innovation now that are removing animals from the process altogether, things like cell-cultured skin, the replica of human skin that you can directly test substances on or supercomputers and microchips that simulate human organs. The Food and Drug Administration, the US agency that oversees drug testing and safety, supports the move to animal-free alternatives. Seen in this light, this idea of, you know, drugging and testing on animals is really antiquated. Not only is it cruel, it's stupid. It doesn't get reliable results. It really, I think, holds us back. But somehow it feels right and necessary to use animals this way, an unfortunate sacrifice, but a necessary one for the good of human beings.

I think that's the wrong way to look at it. It's like if you're trying to do a painting and there's like no borders around it then you just splatter over the place, so you're not really doing anything. I think that giving rights to animals, and thereby limiting ourselves in being able to use them, can actually force us to be better, to be more creative. But the big pharma companies don't see it the same way right now; it is a gigantic industry that's been out for a very long time and it takes a very long time to shift the direction of something like that. But I am encouraged to see more and more institutions coming out and endorsing animal-free alternatives in every sector. And I think, when they see what the Nonhuman Rights Project is doing it may not directly impact them today but, it might be in the back of their head and help give them a



framework to say, yes, this is the just and smart thing to do for the future, to respect the rights of nonhuman animals.

**Interviewer: In Indian society, where human rights as a concept is yet to bear fruit among the less aware individuals, how would you demarcate the line between animal welfare and animal rights for common man?**

**A.** I think that it's useful to come back to the idea of them being “things.” That is how the legal system sees all nonhuman animals. So, when it comes down to a chimpanzee and this chair, they have the same status in the eyes of the law. And even if someone doesn't get all the legal nuances, I think they can agree that that doesn't feel right. That they are obviously not humans, they are not the same as us, they don't have the same rights as us, but they certainly shouldn't just be things that can be used and killed for trivial interests.

**Interviewer: It is a well-established principle that every right corresponds to a duty, how is this norm differently applicable in case of animal rights?**

**A.** Coming from a US law background, we actually have a different take on that because, as we describe in our briefs, there are different kinds of rights. Not every right has a duty attached to it. There is what's called a claim right, that does have a duty attached to it, which means if I have a claim to something, then say, you have a correlative duty to do that. This comes up with things like government benefits, where citizens make a claim to a right that the government has a duty to fulfil. But if you are looking at something like what's called immunity right, that does not create a duty in the same way. For example, in the US Constitution, slavery is made illegal by the Thirteenth Amendment, except in punishment for a crime, which means that persons are immune from being enslaved, they have a right not to be enslaved, but that doesn't create a correlative duty not to enslave the way a claim right would. Suffice to say, it gets very complicated very quickly. But, as we always argue, duties are irrelevant to the question of rights and personhood.

A recent story illustrates this: for the last few years, most of the courts ruling against us have cited Black's Law

Dictionary for its definition of “person.” Black's is one of the most cited legal dictionaries and it's seen as authoritative by US judges and lawyers. And you can look it up now, Black's definition of person has all this stuff, and towards the end, it says “*a person is a subject of rights and duties*”, so kind of like you're saying it's very much, I think, the common conception of how you understand rights. It's almost like a bargain, you give up something to get something. But the reality is, that's not really what it ever was designed to be. I think in certain application it is that way, but the bigger picture is not. We contacted the editors of Black's law dictionary, earlier this year, because we had found all this research essentially when it turned that they had a typo. They had been citing all these old sources, for this premise that you have to have rights *and* duties. We found out that this is not correct and the sources they are citing are wrong. The sources have always spoke of persons being the subject of rights OR duties, with either being sufficient for personhood. We wrote this letter and they agreed that their definition of persons is wrong, and they are going to change it. So,

we already have now, the most authoritative legal dictionary that has been relied on, to agree with us that it's not rights *and* duties, it's right *or* duties. That, of course, makes sense because it allows for a situation, like, a child or mentally incapacitated adults who is never going to be able to take on a duty in a serious way. And yet, they still have rights. The "duties" argument is one of the most frequent things we deal with. We always solicit legal briefs from prominent legal scholars and others, and we now have a group of 17 philosophers writing a brief that lays out why it's a bad idea to require duties in order to recognize rights, that it's not backed up by political philosophy, and it's just not a good idea to require reciprocal duties to recognize rights.

**Interviewer: Once animals are given due consideration and their rights are given due recognition, what steps do you propose that civil society needs to take in order to ensure that these animal rights are upheld, as animals themselves cannot fight or litigate for their rights?**

**A.** In the US, we are making these very deep but also narrow arguments that have these big implications, and we have the luxury of litigating cases involving captive animals. So, it kind of simplifies things. So it's one captive situation and we are asking that they go to a sanctuary. With species like chimpanzees and elephants that are not native to the US, you won't ever really be in a situation where they are trespassing on someone's land or there is some kind of human-wildlife conflict that comes up. But my hope and expectation is that as we begin to win these captive cases that we have out there, you know, then the legislators and others will have to take it in a serious way and then ultimately it gets to the physical world, the "wild," I think having to change in terms of our own development. For example, there are efforts for animals in Africa to have a right to use specific wildlife corridors to migrate because otherwise there are situations like two national parks in a plow-off where other animals would normally have been able to go back and forth, and they have issues of inbreeding that happen because they simply don't have adequate room to move around and meet others of their species. We see the same thing at times with efforts to protect vulnerable human groups, this really interesting problem of substituting judgment, because like you said elephants and chimpanzees and other nonhuman animals can't file their own case. But I also think that the idea that they can't object or let their feelings be known is also not true, because there are some very obvious and powerful examples of it, for example on YouTube in a video of a chimpanzee behind glass in cage in a zoo using sign language to tell people to open the door. She's literally asking to be let out. So, I'd argue that in some circumstances that we have not taken the time to understand what they are thinking and even saying. And I think I'm kind of the mind that they are much more aware of us than we are of them. And I think that's more evident in our latest case of elephants. There's scientific evidence that they know which humans want to hurt them and which humans don't want to hurt them and they act accordingly.

For example, there's a tribe in parts of Africa that have a rite of passage where the young men will go out and kill elephants. This tribe wears red clothing primarily. So the elephants in that area, if they see a red garment, they will run. If they hear the specific dialect of the hunter tribe, they run. If they smell them, they will run. So I

think that animals do have their ways of telling us what their wishes are. It's just a matter of us taking the time to actually be able to sit there and understand it.

**Interviewer: What are a few areas that you think young law students like us can work on in promoting animal rights?**

**A.** We are always looking for collaborators, especially those interested in taking up these issues in their home countries. The Nonhuman Rights Project works with groups in over a dozen countries outside the US, including in India, providing whatever assistance we can to lawyers and activists interested in changing the legal status of at least some species in their countries and—for the first time—winning fundamental rights for them.

Complementing the rights approach is the business side of replacing animals in commerce, and I really think there's a need for good lawyers in that area, here in India as well. It's a very different approach but I think this is a part of the same project because like in the case with meats, if we can replace it technologically, then we can really cut down the number of domesticated animals that have been forced to exist solely for our ends. And that, in turn, allows the planet to breathe and eases stress on wildlife. Particularly in the U.S., we have gobbled up so much land in order to provide more land to the animals that we want to kill and eat. And so, as we slowly move away from that we begin to think of returning that land, to restoring more of a natural balance. I think our treatment of animals and neglecting their rights is a big part of larger environmental and social problems that impact humans. And it creates a lot of opportunities for law students and advocates to lead positive changes.

**Interviewed by:** SOLink Team, NMIMS Kirit P. Mehta School of Law, Mumbai.

**Original Version available at:** <http://law.nmims.edu/docs/march-2018-newsletter-kpmsol.pdf>