

An American lawyer is rattling cages in the field of rights for the world's creatures.  
**Catherine Masters met him**

**C**ELEBRITY animal rights lawyer Steven Wise usually steers clear of zoos, which is why we take him to the one in Auckland.

On the way to see Janie, the last tea party chimp, I explain her performances were a long time ago and the zoo is quite different today. Wise is concerned because chimps are complex and social animals and Janie is now on her own.

"The whole idea there'd be a single chimpanzee is awful to think about. It's like being in a solitary confinement for a human," he says.

Wise is interested in seeing Janie because he plans to go to court in an attempt to get fundamental human rights for chimpanzees.

He's deadly serious. He just hasn't decided on the jurisdiction and he needs to find an appropriate chimp.

Janie is nowhere to be seen in her cage. This is good, says Wise. It means she has some privacy. As we move on, he says enthusiastically "that's great" if he can't spot any of the animals in their enclosures.

Like the mothers and toddlers out in force this morning, Wise is mesmerised by the animals he does see. He spends a long time at the orang-utan enclosure and almost has to be dragged away from the underwater sea lion viewing.

But while the kids are going "ooh", Wise is looking through different eyes. Orang-utans can do maths, he says: "Oh yeah, they can add and subtract."

And some seals have been taught language, which means they have the capacity for abstract thinking.

"They're pretty smart guys." It's obvious the lawyer is having a pleasant time and he admits he has taken his children to zoos — they, too, are drawn to cute animals — but justified the excursions by lecturing them on the cognitive abilities of the animals. The atmosphere at this zoo is "nice" but zoo animals are not the animals he focuses on.

In between working on the chimpanzee test case, he is writing a book about the horror of the lives of farm animals and the cognitive abilities of pigs.

He was in Auckland to give a lecture on animal rights law at the invitation of Auckland University's Law Faculty.

Wise, an American, is a pioneer in this field and has practised solely in animal rights law for decades. In 2000 he was the first person to teach the



**CRUEL AND DEGRADING:** Chimpanzee tea parties at Auckland Zoo, which were once a big crowd-puller, are now a thing of the past.

## A TIGER IN THE COURT

subject at elite Harvard Law School in Massachusetts, an achievement credited with being instrumental in convincing faculties around the world that animal rights law is a field worthy of study.

In the Auckland lecture, to a standing-room-only audience mainly of law students, he stressed his opinions were based not on emotion but on science and the legal system. Judges wanted evidence, not emotion. He also talked about the test case, which he expects to win and hopes will open doors for other species.

Chimpanzees are capable of what Wise calls "practical autonomy", meaning they think, feel and are self-aware.

They should, therefore, be entitled to key rights of bodily integrity and liberty. Winning these rights through the courts would set the animals free from experimentation in a laboratory or imprisonment in a zoo.

For one of his books Wise worked

out categories of animals with practical autonomy and says his then 5-year-old son made the top category alongside the great apes and bottlenose dolphins. A couple of years younger, though, and his son would not have made it.

His point is that there is not much

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**STEVEN WISE**  
ANIMAL RIGHTS LAWYER

difference between the cognitive abilities of a child and an ape. But you wouldn't lock a child in a cage and you wouldn't eat one.

I put it to him some might think he is nuts. He fixes an unwavering look

and says mildly he is quite sane. In fact, anyone who thought him nuts was "grossly ignorant" of history. What he practises is animal slave law — and the case he is preparing on behalf of a chimp has a legal precedent from the slave days. There was a time, he says, when there were many, many

human "things" without rights. "Black slaves were things. Children were almost things."

One of these "things" was a black slave called James Somerset, about whom Wise wrote his book *Though the*



**ANIMALS' BEST FRIEND:** Steven Wise has represented dogs sentenced to death and disputed the ownership of dolphins by the American Navy.

PICTURE / DEAN PURCELL

animals, Wise says it is more about "chimpanzee rights for chimpanzees and orang rights for oranges". He is not talking about chimpanzees riding buses or packing groceries at the supermarket. The key is that under the law people would have to act in the animal's benefit, not the human's benefit. "You would look to the 'what's in the best interests of the chimpanzee test', as you would look to, say, the 'best interests of the child test'."

Over the years Wise has represented dogs sentenced to death and disputed the ownership of dolphins by the American Navy. He has fought for cats, parrots, eagles, monkeys, and horses. This man, who tries to stick to a vegan diet and who wears plastic shoes, admits he doesn't love all animals. His friend Jane Goodall, the primatologist, says he is a "sissy" for being scared of snakes but if a snake was being abused he would not hesitate to represent its interests in court. Or a spider, which he also shudders at, or a great white shark, or any other animal.

"Because they have interests, they have a life, they might have families, they might have cultures, they might be sentient," Wise has become what he calls a "minor" celebrity in America. While yet to make Oprah, he has represented a St Bernard dog on death row on court TV.

He says his interest in animal rights was a natural progression from a passion for social justice and when he began practising law he took on many "doggie death" cases. In almost every case he won.

He also read Peter Singer's *Animal Liberation*, published in 1975, and the idea of social justice for animals as an area of law opened up before Wise's eyes.

Back at the zoo, Wise does not pretend he knows about the best interests of many of the species sunning themselves. He would have to ask someone who has studied masked love birds, for example, to see whether the cage the pretty yellow birds live in suits their best interests.

Neither does he get too exercised about seeing the giant Galapagos turtle immobile on the dirt. "Now, does the turtle care if he's here or in the Galapagos? I don't know."

As we leave, Janie the tea party chimp comes out. She sits in the sun and yawns. Although still bothered that she is in solitary, Wise rules her out for his test case because she's in pretty good shape. He will likely find a chimp in a biomedical research laboratory.

He thinks Janie must find life quite depressing but "she's like the end product of tea party chimps and what do you do? Even when you adopt the theories I'm arguing there's going to have to be some kind of transition time where you don't know what to do with what you have."

But after that everyone will know the rules.

*Heavens May Fall*. It had an agenda and was part of his master plan to try to attain legal human rights for chimpanzees.

"I wrote the book in order to show how it can be done. I've been thinking about this for 20 years."

James Somerset was captured in Africa when he was about 5 years old. He was taken to America and as an adult in the early 1770s was taken to England. He escaped from his master but was recaptured. He was put in chains and thrown on a boat bound for Jamaica, destined to work and die in the sugar cane fields.

A common law writ of habeas corpus [where a judge decides if a person's detention is lawful] was filed on Somerset's behalf to a British judge, Lord Mansfield.

The case went back and forth for months. Lord Mansfield was critically aware of the economic and other repercussions of ruling in Somerset's favour. There were 15,000 slaves in

England, but in the end he ruled that slavery was so odious the common law would not support it.

Says Wise: "Finally he threw up his hands and said 'well, then let justice be done though the heavens may fall.'"

Somerset moved from being a thing to a legal person.

Wise says just as Somerset was regarded as a "thing" so animals are regarded as "things" today without legal rights. So, once Wise has nailed down his case, he will file a common law writ of habeas corpus on behalf of a chimpanzee.

**A**T the moment a legal wall exists with humans on one side and everything else on the other. If Wise wins, instead of asking "are you human?" judges will have to ask "what kind of creature are you and what kind of rights may you be entitled to and why?"

Questioned about human rights for

Masters, Catherine.  
*A Tiger in the Court*.  
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