

RGC Reference HKU 37600214 <i>please insert ref. above</i>
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**The Research Grants Council of Hong Kong
Prestigious Fellowship Scheme under the Humanities and Social Sciences Panel
Completion Report**

(for completed projects only)

Part A: Project and Award Holder

1. Project Title

Defining Fundamental Concepts: The Legal Personhood of Animals

2. Award Holder and Academic Department/Unit Involved

Name/Post	Unit/Department/Institution	Contact Information
Hutton, C.M.	School of English/ HKU	chutton@hku.hk

Part B: The Report

5. Workplan

5.1 Workplan as per original application

(1) To explain and analyze the nature and role of elemental concepts in legal reasoning; (2) To explain and analyze the nature and role of baseline concepts in legal reasoning; (3) To compare the way law deals with fundamental concepts to approaches in lexicography and linguistics, showing the parallels and differences; (4) To offer an analytical overview of contemporary debates in relation to the legal status of animals; (5) To focus in particular on two contentious analogies: (i) animals as 'slaves' in need of liberation; (ii) animals as compared to corporations as potentially two forms of non-human yet right-bearing legal persons; (6) To analyze the phenomenon of ideological shifts or landmark breaks achieved in judge-made law (anti-racism, women's rights, transgender rights, gay marriage); (7) To apply the results of the background analysis in (1) – (4) to the emerging litigation on animal personhood and produce a single-authored book on fundamental (elemental and baseline) concepts in relation to animal personhood. (8) To produce a single-authored book on fundamental (elemental and baseline) concepts and animal rights.

3.

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5.3 Realisation of the workplan

(maximum 2 pages; please state how and to what extent the work as stated in the workplan has been achieved; give reasons for under-achievements and outline attempts to overcome problems, if any)

The work envisaged in the original proposal has been substantially completed. As summarized below, I delivered several conferences papers on topics related to the project, have two papers published, a further one accepted, and a fourth solicited for the journal *Law and Humanities* which will be submitted in two weeks. In this most recent paper I have also extended the original topic to include 'linkability', i.e. to look at animal personhood from the point of view of 'postmodern' or virtual conception of the citizen-self. I obtained a book contract from Routledge and the first draft is nearing completion. In the book I have carried out a detailed analysis of the relevant case law, and placed that case law in a much wider cross-disciplinary frame than would conventional legal analysis. In the book, I am including a survey of several approaches to 'bedrock' concepts in linguistics (expanding on one of my published articles), and am bringing integrational linguistics on the one hand and law on the other into dialogue. As envisaged, I have made links between my earlier RGC funded research on transgender jurisprudence and debates about animal personhood, notably the category of 'ordinary language' when it is brought to bear on the definition of *person*, *self*, *animal*, etc. within the context of legal theory as an adjudicative practice.

Attempts to use the courts to advocate for animal personhood have, it appears currently, reached a dead-end, in the sense that while the strategy to exploit the rhetorical structures and argumentation modes of litigation an exploratory forum have been in part successful (in that the litigation has generated a set of case law and a recognizable jurisprudence), the underlying theoretical confrontation is deadlocked. Law is both in its historical roots and practice anthropocentric, and even if the boundaries of *personhood* are unclear in some domains (e.g. abortion law, company law, ..), law cannot currently imagine or conceive of a non-human *telos*. In the case of transgender jurisprudence, courts yielded to a growing ideological shift, as well to changes in medical opinion, in redefining definitions of *man* and *woman*. It would require a much more dramatic shift in scientific and social attitudes to trigger a change at the level of adjudication in relation to *animal personhood*; but in any case arguably the underlying anthropocentrism of law cannot be 'reformed' since it is the every foundation of the entire edifice.

The book is due to be submitted on June 20, 2018, but should be completed much earlier. The first draft is now almost complete (currently standing at 70,000 words), though still in a somewhat raw state, and after further revision and the addition of a conclusion, will be submitted soon, at the latest before the end of 2017. The chief issues with this book have been the vast amount of secondary literature that is relevant or potentially relevant, and the plethora of frameworks and approaches that could be discussed. More fundamentally, law in practice is not a unitary entity, case law judgments are a mix of contingent and principled reasoning, and while legal theorists operate at the abstract level, there are profound disagreements about every aspect of law. This makes it difficult to frame a comparative cross-disciplinary discussion. I have also experienced problems in structuring the discussion, in that the issues do not lend themselves easily to a linear explanation.

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One potential solution to the overall argument is to use the tension between matters of law and matter of fact within legal theory and practice as a hook to engage with non-legal discussions. In this way the book will demonstrate how law and legal theory operates with a set of latent or implicit binaries: nature vs culture (the natural vs the artificial); science vs politics & ideology; fact vs fiction; (questions of fact vs questions of law), which both engage with, but also can be used to exclude, non-legal frameworks. *Personhood* operates at the intersection of these binaries, as does *ordinary language*. The promotion of animal personhood relies simultaneously on a 'natural' argument (chimpanzees are analogous to people) and an 'artificial' argument (corporations are legal persons so animals can be too). The conclusion of the book will seek to make these points in a clear and non-technical way.

6. Dissemination plan

6.3 Realisation of the dissemination plan

(maximum 2 pages; please state how and to what extent the output as stated in the dissemination plan has been achieved; give reasons for under-achievements and outline attempts to overcome problems, if any)

(1) In relation to the research supported by this grant, I delivered the following conference papers:

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2017 Hiding in plain sight: the category of ordinary language and the case law domain of transgender marriage, lecture delivered to members of the Law Faculty and the Department of Language and Linguistic Science, University of York, UK, June 13. [This presentation included discussion of animal personhood]

2017 “Linkability”, personhood and the modern state: the need for comparative study. Law and Humanities: International Dialogues, A workshop co-organized by the Yale Center Beijing and the e-SRT of the University of Hong Kong, 8th May, 2017, Yale Center Beijing, China

2016 Facebook and the (legal) personality of animals, delivered at West of Everything: New Media, Visual Culture, held in New York, organized by the eSRT in Law, Literature, Language, together with Cardozo Law School and the IHTP, Paris

2016 Law, the classification of mundane entities and ordinary meaning, Keynote speaker, Annual Conference of the China Association of Forensic Linguistics, Guangdong University of Foreign Studies, November 26-27

2016 The self and the ‘monkey selfie’: law, integrationism and the nature of the first order/second order distinction; invited paper delivered at The University of Southern Denmark, Odense, at a conference in honour of Nigel Love: Orders of Language and the Epistemology of the Language Sciences, 4-5 February 2016.

2015 On the Act of Communicating, Integrational Approaches to Teaching and Education, Held at the Emirates Academy of Hospitality Management, Dubai, Oct. 22-25, 2015, organized by the International Association for the Integrational Study of Language and Communication (IAISLC) [This topic relates to the theoretical background of the book project-- see book proposal]

(2) The following papers have been published:

2017 The self and the ‘monkey selfie’: law, integrationism and the nature of the first-order/second-order distinction. *Language Sciences* 61: 93-103. [Mock RAE 4*]

2017 Bedrock concepts and integrational theory: selves, animals and legal persons. In *Critical Humanist Perspectives: The Integrational Turn in Philosophy of Language and Communication*, ed. Adrian Pablé. London: Routledge, pp. 28-44.

The following paper is accepted for publication, subject to editorial revisions (i.e. no further academic review required):

“Facebook and the (legal) personality of animals”, to appear in a volume entitled: *West of Everything*, Edinburgh University Press, eds. Peter Goodrich and Marco Wan.

(3) The following paper is invited for submission to the journal *Law and Literature* (i.e. it is still subject to peer review):

“Linkability”, personhood and the modern state: the need for comparative study

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(4) On May 8, 2017, the Routledge series Advances in Communication and Linguistic Theory approved a book proposal entitled: *Integrational Perspectives on the Self: Law and Animal Personhood*. [A first draft of approximately 70,000 words has been completed – this draft is attached]

(5) My undergraduate cross-disciplinary course Law, Meaning and Interpretation, taught to LLB, LALS and BA students, now contains a substantial section on personhood, including debates about animal personhood, using materials and cases analyzed for this project.

7. **Other impact** (e.g. award of patents or prizes, collaboration with other research institutions, knowledge transfer, etc.)