Activities:
2.5 Human Rights vs. Animal Rights

Disappearing Elephants
Human Rights vs. Animal Rights Activity

Aim: Students will create a declaration of animal rights.

Content/process objectives:
• Summarize the International Bill of Human Rights
• Classify human rights (from the International Bill of Human Rights) into rights people in your country always have, sometimes have, or never have
• Understand the process for trials
• Justify your stance on the Tilikum vs. SeaWorld case
• Propose policy for an International Bill of Animal Rights

Vocabulary:
• Adequate
• Arbitrary
• Assembly
• Asylum
• Bondage
• Complaint
• Compulsory
• Degrade
• Deprive
• Detain
• Discriminate
• Dissolution
• Exile
• Expel
• Exploit
• Justice
• Liberty
• Persecution
• Prohibit
• Sanctuary
• Security
• Servitude
• Slavery
• Social security
• Torture
• Trial
• Welfare
Materials:
• Disappearing Elephants overview, posters, handouts, and online materials
• Copies of articles
• Markers
• Poster paper
• Post-it notes

Hour one: Human Rights Discussion (using jigsaw method for cooperative learning)

1. Introduction to Human Rights: “What human rights do you have?”
   a) Students take five minutes to write down as many human rights that they believe that they have.
   b) Students divide into home groups to share their lists of human rights. The home group decides on a list of human rights.

2. Introduction to the International Bill of Human Rights:
   a) Introduce the United Nations sponsored International Bill of Human Rights. Provide a brief background on the three components of the International Bill of Human Rights. A more complete background and explanation can be found in Fact Sheet No. 2 (Rev. 1), The International Bill of Human Rights.

   i. Universal Declaration of Human Rights (UDHR)
      • Adopted by the General Assembly on 10 December 1948
      • 48 nations voted for the declaration, zero against, and 8 abstentions

   ii. International Covenant on Economic, Social, and Cultural Rights (ICESR)
      • Entered into force on 3 January 1976
      • Ratified or acceded by 132 nations as of September 1995

   iii. International Covenant on Civil and Political Rights (ICCPR)
      • Entered into force 23 March 1976
      • Ratified or acceded by 132 nations as of 30 September 1995 (but not all the same countries as the ICESR)

   b) Students divide from their home groups into three new groups to study one of three summaries from the International Bill of Human Rights

      i. Their objective is to decide as a group on the most important points in the given document. They could agree on a top five, summarize the most important ideas on a poster, or just take notes
about what everyone agrees are the main ideas. There are only three documents, so there will be more than one student from each home group studying a given document.

1. Universal Declaration of Human Rights (UDHR) (least complex)
2. International Covenant on Economic, Social, and Cultural Rights (ICESR)
3. International Covenant on Civil and Political Rights (ICCPR) (most complex)

c) Students return to their home groups and share the main ideas from their work groups. They should use their collective ideas to design one simple document to serve as an International Bill of Rights summary. This can be a top ten list, a written summary, or a poster.

3. Homework: “Are all of these rights given in all countries?”
   a) Students choose one country that they are interested in or familiar with and write a paragraph about the rights that are always, sometimes, or never granted to people in that country.

Hour two: Prepare for mock trial, Tilikum vs. SeaWorld

1. Introduction to Animal Rights: “Should animals be allowed the same rights we talked about in the last class? Why or why not?”
   a) Students take five minutes to write their answers
   b) Students share their ideas with a partner for three minutes
   c) Pairs then share their ideas either in a group or as a class for five to ten minutes.

2. Introduce Tilikum Case: Students will read the articles “PETA lawsuit alleges SeaWorld enslaves killer whales” from CNN and “PETA vs. SeaWorld: Federal Judge Hears Killer Whales Slavery Lawsuit” from International Business Times

   a) Students should then decide which side they agree with in this case
      i. PETA believes killer whales that are forced to perform at SeaWorld are the equivalent of slaves
      ii. SeaWorld believes that killer whales that perform are NOT the equivalent of slaves

   b) Students will then get different readings based on their stance
      i. If students support PETA, then they will get another article, “PETA and Orcas Prepare for Groundbreaking Legal Case” from PETA’s website
ii. If students support SeaWorld, then they will get a different article, “PETA’s bid to free SeaWorld orcas may not get far” from the Los Angeles Times

c) Student can then prepare for the mock trial. They can use arguments from the articles to support their stance, and they can do additional research and design their own arguments.

**Hour three: Mock Trial**

1. The mock trial can be organized in different ways, based upon available resources and student abilities:

   a) There can be one trial in which one student or a small group of students act as the complainant attorneys and defense attorneys. Remaining students can take notes, support the attorneys, serve as witnesses or serve as jurors. The teacher can be the judge, or a student can assume that role.

   b) There can be multiple mock trials taking place at one time. Additional adults or students can serve as judges, there can be one attorney or a small group for each side, and other students can be jurors, witnesses or support the attorneys.

2. At the conclusion of the trial (either through a judges ruling or from a jury’s decision) students will be given some or all of the following documents to read (listed in order from least advanced to most advanced).

   a. “‘SeaWorld’s Whales are NOT Slaves’: Judges throws out PETA lawsuit saying the 13th amendment only applies to humans” from the Daily Mail
   b. “How PETA’s Lawsuit Against SeaWorld Could End Factory Farming” from The Atlantic
   c. The Case Forever Known as Tilikum v. SeaWorld PETA
   d. United States District Court, Southern District of California, Tilikum et al vs. SeaWorld

3. A short discussion can follow the conclusion of the trial to lead into the activity for the next day. The class should address the question, “What rights, if any, should all animals have?” Students should answer this question for homework.

**Hour four: Create a Declaration of Animal Rights**

1. Students should share their opinions on what rights should and should not be afforded to animals in their work groups
2. Main lesson  Review International Bill of Human Rights

   a) Revisit the human rights summaries created in hour one, but remind students to think about these same rights in the context of animals.

   b) Students should think about all of the rights from the International Bill of Human Rights and think about which ones are appropriate for animals and which ones are inappropriate.

   c) Students should then return to their work groups to create a Universal Declaration of Animal Rights (create a poster to present the rights)

3. Conclusion  Share Universal Declaration of Animal Rights

   a) Each group should have a completed poster that can be placed on the walls around the room.

   b) Gallery walk  In work groups, students will rotate from one poster to the next, comparing the list of rights. Students should have post it notes to attach to the posters if they want to make comments (in fact students can be required to attach at least one post it to each poster, either to agree with something, disagree with something, or ask a question).

   c) Finally, students should be given the original Universal Declaration of Animal Rights, submitted to UNESCO by the International League for Animal Rights in 1978 (it was not formally accepted by UNESCO, subsequent attempts have not been accepted yet either) to compare with their own ideas.
Universal Declaration of Human Right, United Nations, Geneva, June 1996
Adopted by the UN General Assembly on 10 December 1948 (Unofficial Summary)

Article 1 All human beings are born free and equal.
Article 2 Everyone is entitled to the same rights without discrimination of any kind.
Article 3 Everyone has the right to life, liberty, and security
Article 4 No one shall be held in slavery or servitude.
Article 5 No one shall be subjected to torture or cruel or degrading treatment or punishment.
Article 6 Everyone has the right to be recognized everywhere as a person before the law.
Article 7 Everyone is equal before the law and has the right to equal protection of the law.
Article 8 Everyone has the right to justice.
Article 9 No one shall be arrested, detained, or exiled arbitrarily.
Article 10 Everyone has the right to a fair trial.
Article 11 Everyone has the right to be presumed innocent until proven guilty.
Article 12 Everyone has the right to privacy.
Article 13 Everyone has the right to freedom of movement and to leave and return to one's country.
Article 14 Everyone has the right to seek asylum from persecution.
Article 15 Everyone has the right to a nationality
Article 16 All adults have the right to marry and found a family. Women and men have equal rights to marry.
Article 17 Everyone has the right to own property.
Article 18 Everyone has the right to freedom of thought, conscience and religion.
Article 19 Everyone has the right to freedom of opinion and expression.
Article 20 Everyone has the right to peaceful assembly and association.
Article 21 Everyone has the right to take part in government of one's country.
Article 22 Everyone has the right to social security and to the realization of the economic, social and cultural rights indispensable for dignity.
Article 23 Everyone has the right to work, to just conditions of work, to protection against unemployment, to equal pay for equal work, to sufficient pay to ensure a dignified existence, and to join a trade union.
Article 24 Everyone has the right to rest and leisure.
Article 25 Everyone has the right to a standard of living adequate for health and well-being, including food, clothing, housing, medical care and necessary social services.
Article 26 Everyone has the right to education.
Article 27 Everyone has the right to participate freely in the cultural life of the community.
Article 28 Everyone is entitled to a social and international order in which these rights can be realized fully.
Article 29 Everyone has duties to the community.
Article 30 No person, group or government has the right to destroy any of these rights.
International Covenant on Civil and Political Rights (ICCPR)
Adopted and opened for signature by UN General Assembly 16 December 1966, entry into force 23 March 1976

Article 1 All peoples have the right of self-determination, including the right to determine their political status and freely pursue their economic, social and cultural development.

Article 2 Each State must respect and ensure to all people within its territory and jurisdiction all rights in this treaty without discrimination of any kind.

Article 3 The States ensures the equal right of men and women to the enjoyment of all rights in this treaty.

Article 4-5 In order to promote the general welfare in a democratic society the exercise of these rights may be subject to certain limitations. These restrictions may only be used to protect national security, public order, or the rights and freedoms of others.

Article 6 Everyone has the right to life.

Article 7 No one shall be subjected to torture or cruel or degrading treatment or punishment.

Article 8 No one shall be held in slavery or servitude.

Article 9 Everyone has the right to liberty and security. No one shall be arrested or detained arbitrarily.

Article 10 Everyone deprived of liberty shall be treated with respect.

Article 11 No one shall be imprisoned merely for failing to pay a debt.

Article 12 Everyone has the right to freedom of movement and to leave and enter his own country.

Article 13 An alien lawfully in the territory of a State Party may be expelled only in accordance with law.

Article 14 Everyone is equal before the law. Everyone has the right to a fair trial. Everyone has the right to be presumed innocent until proven guilty. No one may be compelled to testify against himself.

Article 15 No one shall be held guilty of when the act was not a criminal offense at the time it was committed.

Article 16 Everyone has the right to be recognized everywhere as a person before the law.

Article 17 Everyone has the right to privacy.

Article 18 Everyone has the right to freedom of thought, conscience and religion.

Article 19 Everyone has the right to freedom of opinion and expression.

Article 20 Propaganda for war shall be prohibited. Hate speech that constitutes incitement to discrimination or violence shall be prohibited.

Article 21 Everyone has the right to peaceful assembly.

Article 22 Everyone has the right to freedom of association, including the right to join a trade union.

Article 23 All adults have the right to marry and found a family. Women and men have equal rights to marry.

Article 24 Every child shall have protection as required by his status as a minor, without discrimination of any kind. Every child has the right to a nationality.

Article 25 Every citizen has the right to take part in public affairs and to vote.

Article 26 Everyone is equal before the law and has the right to equal protection, without discrimination

Article 27 Ethnic, religious, or linguistic minorities shall not be denied the right to enjoy their own culture.
Fact Sheet No.2 (Rev.1), The International Bill of Human Rights

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

UNIVERSAL DECLARATION OF HUMAN RIGHTS (art. 1),
adopted by General Assembly resolution 217 A (III) of 10 December 1948.

Contents:

• Background
• Universal Declaration of Human Rights
• International Covenants on Human Rights
• Worldwide influence of the International Bill of Human Rights

• Annex: The International Bill of Human Rights
  - Universal Declaration of Human Rights
  - International Covenant on Economic, Social and Cultural Rights
  - International Covenant on Civil and Political Rights
  - Optional Protocol to the International Covenant on Civil and Political Rights
  - Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty

Background


Human rights had already found expression in the Covenant of the League of Nations, which led, inter alia, to the creation of the International Labour Organisation. At the 1945 San Francisco Conference, held to draft the Charter of the United Nations, a proposal to embody a "Declaration on the Essential Rights of Man" was put forward but was not examined because it required more detailed consideration than was possible at the time. The Charter clearly speaks of "promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion" (Art. 1, para. 3). The idea of promulgating an "international bill of rights" was also considered by many as basically implicit in the Charter.

The Preparatory Commission of the United Nations, which met immediately after the closing session of the San Francisco Conference, recommended that the Economic and Social Council should, at its first session, establish a commission for the promotion of human rights as envisaged in Article 68 of the Charter. Accordingly, the Council established the Commission on Human Rights early in 1946.

At its first session, in 1946, the General Assembly considered a draft Declaration on Fundamental Human Rights and Freedoms and transmitted it to the Economic and Social Council "for reference to the Commission on Human Rights for consideration . . . in its preparation of an international bill of rights" (resolution 43 (I)). The Commission, at its first session early in 1947, authorized its officers to formulate what it termed "a preliminary draft International Bill of Human Rights". Later the work was taken over by a formal drafting committee, consisting of members of the Commission from eight States, selected with due regard for geographical distribution.

Towards the Universal Declaration

In the beginning, different views were expressed about the form the bill of rights should take. The Drafting Committee decided to prepare two documents: one in the form of a declaration, which would set forth general principles or standards of human rights; the other in the form of a convention, which would define
specific rights and their limitations. Accordingly, the Committee transmitted to the Commission on Human Rights draft articles of an international declaration and an international convention on human rights. At its second session, in December 1947, the Commission decided to apply the term "International Bill of Human Rights" to the series of documents in preparation and established three working groups: one on the declaration, one on the convention (which it renamed "covenant") and one on implementation. The Commission revised the draft declaration at its third session, in May/June 1948, taking into consideration comments received from Governments. It did not have time, however, to consider the covenant or the question of implementation. The declaration was therefore submitted through the Economic and Social Council to the General Assembly, meeting in Paris.

By its resolution 217 A (III) of 10 December 1948, the General Assembly adopted the Universal Declaration of Human Rights as the first of these projected instruments.

Towards the International Covenants

On the same day that it adopted the Universal Declaration, the General Assembly requested the Commission on Human Rights to prepare, as a matter of priority, a draft covenant on human rights and draft measures of implementation. The Commission examined the text of the draft covenant in 1949 and the following year it revised the first 18 articles, on the basis of comments received from Governments. In 1950, the General Assembly declared that "the enjoyment of civic and political freedoms and of economic, social and cultural rights are interconnected and interdependent" (resolution 421 (V), sect. E). The Assembly thus decided to include in the covenant on human rights economic, social and cultural rights and an explicit recognition of the equality of men and women in related rights, as set forth in the Charter. In 1951, the Commission drafted 14 articles on economic, social and cultural rights on the basis of proposals made by Governments and suggestions by specialized agencies. It also formulated 10 articles on measures for implementation of those rights under which States parties to the covenant would submit periodic reports. After a long debate at its sixth session, in 1951/1952, the General Assembly requested the Commission "to draft two Covenants on Human Rights, . . . one to contain civil and political rights and the other to contain economic, social and cultural rights" (resolution 543 (VI), para. 1). The Assembly specified that the two covenants should contain as many similar provisions as possible. It also decided to include an article providing that "all peoples shall have the right of self-determination" (resolution 545 (VI)).

The Commission completed preparation of the two drafts at its ninth and tenth sessions, in 1953 and 1954. The General Assembly reviewed those texts at its ninth session, in 1954, and decided to give the drafts the widest possible publicity in order that Governments might study them thoroughly and that public opinion might express itself freely. It recommended that its Third Committee start an article-by-article discussion of the texts at its tenth session, in 1955. Although the article-by-article discussion began as scheduled, it was not until 1966 that the preparation of the two covenants was completed.

The International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights were adopted by the General Assembly by its resolution 2200 A (XXI) of 16 December 1966. The first Optional Protocol to the International Covenant on Civil and Political Rights, adopted by the same resolution, provided international machinery for dealing with communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant.

Universal Declaration of Human Rights

The Universal Declaration of Human Rights was adopted and proclaimed by the General Assembly

as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among, the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Forty-eight States voted in favour of the Declaration, none against, with eight abstentions. In a statement following the voting, the President of the General Assembly pointed out that adoption of the Declaration was "a remarkable achievement, a step forward in the great evolutionary process. It was the first occasion on
which the organized community of nations had made a Declaration of human rights and fundamental freedoms. The instrument was backed by the authority of the body of opinion of the United Nations as a whole, and millions of people -men, women and children all over the world- would turn to it for help, guidance and inspiration.

The Declaration consists of a preamble and 30 articles, setting forth the human rights and fundamental freedoms to which all men and women, everywhere in the world, are entitled, without any discrimination.

Article 1, which lays down the philosophy on which the Declaration is based, reads:

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

The article thus defines the basic assumptions of the Declaration: that the right to liberty and equality is man's birthright and cannot be alienated: and that, because man is a rational and moral being, he is different from other creatures on earth and therefore entitled to certain rights and freedoms which other creatures do not enjoy.

Article 2, which sets out the basic principle of equality and non discrimination as regards the enjoyment of human rights and fundamental freedoms, forbids "distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".

Article 3, the first cornerstone of the Declaration, proclaims the right to life, liberty and security of person -a right essential to the enjoyment of all other rights. This article introduces articles 4 to 21, in which other civil and political rights are set out, including: freedom from slavery and servitude; freedom from torture and cruel, inhuman or degrading treatment or punishment; the right to recognition everywhere as a person before the law; the right to an effective judicial remedy; freedom from arbitrary arrest, detention or exile; the right to a fair trial and public hearing by an independent and impartial tribunal; the right to be presumed innocent until proved guilty; freedom from arbitrary interference with privacy, family, home or correspondence; freedom of movement and residence; the right of asylum; the right to a nationality; the right to marry and to found a family; the right to own property; freedom of thought, conscience and religion; freedom of opinion and expression; the right to peaceful assembly and association; and the right to take part in the government of one's country and to equal access to public service in one's country.

Article 22, the second cornerstone of the Declaration, introduces articles 23 to 27, in which economic, social and cultural rights -the rights to which everyone is entitled "as a member of society" -are set out. The article characterizes these rights as indispensable for human dignity and the free development of personality, and indicates that they are to be realized "through national effort and international cooperation". At the same time, it points out the limitations of realization, the extent of which depends on the resources of each State.

The economic, social and cultural rights recognized in articles 22 to 27 include the right to social security; the right to work; the right to equal pay for equal work; the right to rest and leisure; the right to a standard of living adequate for health and well-being; the right to education; and the right to participate in the cultural life of the community.

The concluding articles, articles 28 to 30, recognize that everyone is entitled to a social and international order in which the human rights and fundamental freedoms set forth in the Declaration may be fully realized, and stress the duties and responsibilities which each individual owes to his community. Article 29 states that "in the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society". It adds that in no case may human rights and fundamental freedoms be exercised contrary to the purposes and principles of the United Nations. Article 30 emphasizes that no State, group or person may claim any right, under the Declaration, "to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth" in the Declaration.

**Importance and influence of the Declaration**
Conceived as "a common standard of achievement for all peoples and all nations", the Universal Declaration of Human Rights has become just that: a yardstick by which to measure the degree of respect for, and compliance with, international human rights standards.

Since 1948 it has been and rightly continues to be the most important and far-reaching of all United Nations declarations, and a fundamental source of inspiration for national and international efforts to promote and protect human rights and fundamental freedoms. It has set the direction for all subsequent work in the field of human rights and has provided the basic philosophy for many legally binding international instruments designed to protect the rights and freedoms which it proclaims.

In the Proclamation of Teheran, adopted by the International Conference on Human Rights held in Iran in 1968, the Conference agreed that "the Universal Declaration of Human Rights states a common understanding of the peoples of the world concerning the inalienable and inviolable rights of all members of the human family and constitutes an obligation for the members of the international community". The Conference affirmed its faith in the principles set forth in the Declaration, and urged all peoples and Governments "to dedicate themselves to [those] principles . . . and to redouble their efforts to provide for all human beings a life consonant with freedom and dignity and conducive to physical, mental, social and spiritual welfare".

In recent years, there has been a growing tendency for United Nations organs, in preparing international instruments in the field of human rights, to refer not only to the Universal Declaration, but also to other parts of the International Bill of Human Rights.

**International Covenants on Human Rights**

The preambles and articles 1, 3 and 5 of the two International Covenants are almost identical. The preambles recall the obligation of States under the Charter of the United Nations to promote human rights; remind the individual of his responsibility to strive for the promotion and observance of those rights; and recognize that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can be achieved only if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights.

Article 1of each Covenant states that the right to self-determination is universal and calls upon States to promote the realization of that right and to respect it.

The article provides that "All peoples have the right of self-determination" and adds that "By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development". Article 3, in both cases, reaffirms the equal right of men and women to the enjoyment of all human rights, and enjoins States to make that principle a reality. Article 5, in both cases, provides safeguards against the destruction or undue limitation of any human right or fundamental freedom, and against misinterpretation of any provision of the Covenants as a means of justifying infringement of a right or freedom or its restriction to a greater extent than provided for in the Covenants. It also prevents States from limiting rights already enjoyed within their territories on the ground that such rights are not recognized, or recognized to a lesser extent, in the Covenants.

Articles 6 to 15 of the International Covenant on Economic, Social and Cultural Rights recognize the rights to work (art. 6); to the enjoyment of just and favourable conditions of work (art. 7); to form and join trade unions (art. 8); to social security, including social insurance (art. 9); to the widest possible protection and assistance for the family, especially mothers, children and young persons (art. 10); to an adequate standard of living (art. 11); to the enjoyment of the highest attainable standard of physical and mental health (art. 12); to education (arts. 13 and 14); and to take part in cultural life (art. 15).

In its articles 6 to 27, the International Covenant on Civil and Political Rights protects the right to life (art. 6) and lays down that no one is to be subjected to torture or to cruel, inhuman or degrading treatment or punishment (art. 7); that no one is to be held in slavery; that slavery and the slave-trade are to be prohibited; and that no one is to be held in servitude or required to perform forced or compulsory labour (art. 8); that no one is to be subjected to arbitrary arrest or detention (art. 9); that all persons deprived of
their liberty are to be treated with humanity (art. 10); and that no one is to be imprisoned merely on the ground of inability to fulfil a contractual obligation (art. 11).

The Covenant provides for freedom of movement and freedom to choose a residence (art. 12) and for limitations to be placed on the expulsion of aliens lawfully in the territory of a State party (art. 13). It makes provision for the equality of all persons before the courts and tribunals and for guarantees in criminal and civil proceedings (art. 14). It prohibits retroactive criminal legislation (art. 15); lays down the right of everyone to recognition everywhere as a person before the law (art. 16); and calls for the prohibition of arbitrary or unlawful interference with an individual’s privacy, family, home or correspondence, and of unlawful attacks on his honour and reputation (art. 17).

The Covenant provides for protection of the rights to freedom of thought, conscience and religion (art. 18) and to freedom of opinion and expression (art. 19). It calls for the prohibition by law of any propaganda for war and of any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (art. 20). It recognizes the right of peaceful assembly (art. 21) and the right to freedom of association (art. 22). It also recognizes the right of men and women of marriageable age to marry and to found a family, and the principle of equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution (art. 23). It lays down measures to protect the rights of children (art. 24), and recognizes the right of every citizen to take part in the conduct of public affairs, to vote and to be elected, and to have access, on general terms of equality, to public service in his country (art. 25). It provides that all persons are equal before the law and are entitled to equal protection of the law (art. 26). It also calls for protection of the rights of ethnic, religious and linguistic minorities in the territories of States parties (art. 27).

Finally, article 28 provides for the establishment of a Human Rights Committee responsible for supervising implementation of the rights set out in the Covenant.

**Conditions**

The Universal Declaration of Human Rights affirms that the exercise of a person’s rights and freedoms may be subject to certain limitations, which must be determined by law, solely for the purpose of securing due recognition of the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society. Rights may not be exercised contrary to the purposes and principles of the United Nations, or if they are aimed at destroying any of the rights set forth in the Declaration (arts. 29 and 30).

The International Covenant on Economic, Social and Cultural Rights states that the rights provided for therein may be limited by law, but only in so far as it is compatible with the nature of the rights and solely to promote the general welfare in a democratic society (art. 4).

Unlike the Universal Declaration and the Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights contains no general provision applicable to all the rights provided for in the Covenant authorizing restrictions on their exercise. However, several articles in the Covenant provide that the rights being dealt with shall not be subject to any restrictions except those which are prescribed by law and are necessary to protect national security, public order, or the rights and freedoms of others.

Certain rights, therefore, may never be suspended or limited, even in emergency situations. These are the rights to life, to freedom from torture, to freedom from enslavement or servitude, to protection from imprisonment for debt, to freedom from retroactive penal laws, to recognition as a person before the law, and to freedom of thought, conscience and religion.

The Covenant on Civil and Political Rights allows a State to limit or suspend the enjoyment of certain rights in cases of officially proclaimed public emergencies which threaten the life of the nation. Such limitations or suspensions are permitted only "to the extent strictly required by the exigencies of the situation" and may never involve discrimination solely on the ground of race, colour, sex, language, religion or social origin (art. 4). The limitations or suspensions must also be reported to the United Nations.

**First Optional Protocol**
The first Optional Protocol to the International Covenant on Civil and Political Rights enables the Human Rights Committee, set up under that Covenant, to receive and consider communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant.

Under article I of the Optional Protocol, a State party to the Covenant that becomes a party to the Protocol recognizes the competence of the Human Rights Committee to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by that State of any of the rights set forth in the Covenant. Individuals who make such a claim, and who have exhausted all available domestic remedies, are entitled to submit a written communication to the Committee (art. 2).

Such communications as are determined to be admissible by the Committee (in addition to article 2, articles 3 and 5 (2) lay down conditions for admissibility) are brought to the attention of the State party alleged to be violating a provision of the Covenant. Within six months, that State must submit to the Committee written explanations or statements clarifying the matter and indicating the remedy, if any, that it may have applied (art. 4).

The Human Rights Committee considers the admissible communications, at closed meetings, in the light of all written information made available to it by the individual and the State party concerned. It then forwards its views to the State party and to the individual (art. 5).

A summary of the Committee’s activities under the Optional Protocol is included in the report which it submits annually to the General Assembly through the Economic and Social Council (art. 6).

Second Optional Protocol

The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, was adopted by the General Assembly by its resolution 44/128 of 15 December 1989. Under its article 1, no one within the jurisdiction of a State party to the Protocol may be executed.

Under article 3 of the Protocol, States parties must include in the reports which they submit to the Human Rights Committee information on measures taken to give effect to the Protocol.

Article 5 of the Second Optional Protocol provides that, with respect to any State party to the first Optional Protocol, the competence of the Human Rights Committee to receive and consider communications from individuals subject to that State’s jurisdiction shall extend to the provisions of the Second Optional Protocol, unless the State party concerned has made a statement to the contrary at the moment of ratification or accession.

Under article 6, the provisions of the Second Optional Protocol apply as additional provisions to the Covenant.

Entry into force of the Covenants and the Optional Protocols

The International Covenant on Economic, Social and Cultural Rights entered into force on 3 January 1976, three months after the date of deposit with the Secretary-General of the thirty-fifth instrument of ratification or accession, as provided in article 27. As at 30 September 1995, the Covenant had been ratified or acceded to by 132 States:

Afghanistan, Albania, Algeria, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Barbados, Belarus, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, Colombia, Congo, Costa Rica, Côte d’Ivoire, Croatia, Cyprus, Czech Republic, Democratic People’s Republic of Korea, Denmark, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Estonia, Ethiopia, Finland, France, Gabon, Gambia, Georgia, Germany, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Hungary, Iceland, India, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kenya, Kyrgyzstan, Latvia, Lebanon, Lesotho, Libyan Arab Jamahiriya, Lithuania, Luxembourg, Madagascar, Malawi, Mali, Malta, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua,
The International Covenant on Civil and Political Rights entered into force on 23 March 1976, three months after the date of deposit with the Secretary-General of the thirty-fifth instrument of ratification or accession, as provided in article 49. As at 30 September 1995, the Covenant had been ratified or acceded to by 132 States:

Afghanistan, Albania, Algeria, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Barbados, Belarus, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Estonia, Ethiopia, Finland, France, Gabon, Gambia, Georgia, Germany, Grenada, Guatemala, Guinea, Guyana, Haiti, Hungary, Iceland, India, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kenya, Kyrgyzstan, Latvia, Lebanon, Lesotho, Libyan Arab Jamahiriya, Lithuania, Luxembourg, Madagascar, Malawi, Mali, Malta, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Vincent and Grenadines, San Marino, Senegal, Seychelles, Slovakia, Slovenia, Somalia, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Syrian Arab Republic, The former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Tunisia, Ukraine, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia and Zimbabwe.

As at the same date, 44 States parties to the International Covenant on Civil and Political Rights had made the declaration under its article 41, recognizing the competence of the Human Rights Committee "to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations" under the Covenant. The provisions of article 41 entered into force on 28 March 1979 in accordance with paragraph 2 of that article.

The first Optional Protocol to the International Covenant on Civil and Political Rights entered into force simultaneously with the Covenant, having received the minimum 10 ratifications or accessions required. As at 30 September 1995, 85 States parties to the Covenant had also become parties to the first Optional Protocol:

Algeria, Angola, Argentina, Armenia, Australia, Austria, Barbados, Belarus, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Bulgaria, Cameroon, Canada, Central African Republic, Chad, Chile, Colombia, Congo, Costa Rica, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Equatorial Guinea, Estonia, Finland, France, Gambia, Georgia, Germany, Guinea, Guyana, Hungary, Iceland, Ireland, Italy, Jamaica, Kyrgyzstan, Latvia, Libyan Arab Jamahiriya, Lithuania, Luxembourg, Madagascar, Malawi, Mali, Malta, Mauritius, Mongolia, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Saint Vincent and the Grenadines, San Marino, Senegal, Seychelles, Slovakia, Slovenia, Somalia, Spain, Suriname, Sweden, The former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Ukraine, Uruguay, Uzbekistan, Venezuela, Zaire and Zambia.

The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, entered into force on 11 July 1991, having received the minimum 10 ratifications or accessions required. As at 30 September 1995, the Protocol had been ratified or acceded to by 28 States:

Australia, Austria, Denmark, Ecuador, Finland, Germany, Hungary, Iceland, Ireland, Italy, Luxembourg, Malta, Mozambique, Namibia, Netherlands, New Zealand, Norway, Panama, Portugal, Romania, Seychelles, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Uruguay and Venezuela.
Worldwide influence of the International Bill of Human Rights

From 1948, when the Universal Declaration of Human Rights was adopted and proclaimed, until 1976, when the International Covenants on Human Rights entered into force, the Declaration was the only completed portion of the International Bill of Human Rights. The Declaration, and at a later stage the Covenants, exerted a profound influence on the thoughts and actions of individuals and their Governments in all parts of the world.

The International Conference on Human Rights, which met at Teheran from 22 April to 13 May 1968 to review the progress made in the 20 years since the adoption of the Universal Declaration and to formulate a programme for the future, solemnly declared in the Proclamation of Teheran:

1. It is imperative that the members of the international community fulfil their solemn obligations to promote and encourage respect for human rights and fundamental freedoms for all without distinctions of any kind such as race, colour, sex, language, religion, political or other opinions;

2. The Universal Declaration of Human Rights states a common understanding, of the peoples of the world concerning the inalienable and inviolable rights of all members of the human family and constitutes an obligation for the members of the international community;

3. The International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Declaration on the Granting of Independence to Colonial Countries and Peoples, the International Convention on the Elimination of All Forms of Racial Discrimination as well as other conventions and declarations in the field of human rights adopted under the auspices of the United Nations, the specialized agencies and the regional intergovernmental organizations, have created new standards and obligations to which States should conform;

Thus, for more than 25 years, the Universal Declaration on Human Rights stood alone as an international "standard of achievement for all peoples and all nations". It became known and was accepted as authoritative both in States which became parties to one or both of the Covenants and in those which did not ratify or accede to either. Its provisions were cited as the basis and justification for many important decisions taken by United Nations bodies; they inspired the preparation of a number of international human rights instruments, both within and outside the United Nations system; they exercised a significant influence on a number of multilateral and bilateral treaties; and they had a strong impact as the basis for the preparation of many new national constitutions and national laws.

The Universal Declaration came to be recognized as a historic document articulating a common definition of human dignity and values. The Declaration is a yardstick by which to measure the degree of respect for, and compliance with, international human rights standards everywhere on earth.

The coming into force of the Covenants, by which States parties accepted a legal as well as a moral obligation to promote and protect human rights and fundamental freedoms, did not in any way diminish the widespread influence of the Universal Declaration. On the contrary, the very existence of the Covenants, and the fact that they contain the measures of implementation required to ensure the realization of the rights and freedoms set out in the Declaration, gives greater strength to the Declaration.

Moreover, the Universal Declaration is truly universal in scope, as it preserves its validity for every member of the human family, everywhere, regardless of whether or not Governments have formally accepted its principles or ratified the Covenants. On the other hand, the Covenants, by their nature as multilateral conventions, are legally binding only on those States which have accepted them by ratification or accession.

In many important resolutions and decisions adopted by United Nations bodies, including the General Assembly and the Security Council, the Universal Declaration of Human Rights and one or both Covenants have been cited as the basis for action.
Nearly all the international human rights instruments adopted by United Nations bodies since 1948 elaborate principles set out in the Universal Declaration of Human Rights. The International Covenant on Economic, Social and Cultural Rights states in its preamble that it developed out of recognition of the fact that

*in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights.*

A similar statement is made in the preamble to the International Covenant on Civil and Political Rights.

The Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in 1975 (resolution 3452 (XXX)), spells out the meaning of article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one may be subjected to torture or to cruel, inhuman or degrading treatment or punishment. This prohibition was further reinforced by the adoption in 1984 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 39/46). Similarly, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, proclaimed by the General Assembly in 1981 (resolution 36/55); clearly defines the nature and scope of the principles of non-discrimination and equality before the law and the right to freedom of thought, conscience, religion and belief contained in the Universal Declaration and the International Covenants.

A similar situation prevails as regards international human rights instruments adopted outside the United Nations system. For example, the preamble to the Convention for the Protection of Human Rights and Fundamental Freedoms, adopted by the Council of Europe at Rome in 1950, concludes with the following words:

*Being resolved, as the Governments of European countries which are like-minded and have a common heritage of political traditions, ideals, freedom and the rule of law, to take the first steps for the collective enforcement of certain of the rights stated in the Universal Declaration;*

Article II of the Charter of the Organization of African Unity, adopted at Addis Ababa in 1963, provides that one of the purposes of the Organization is "to promote international cooperation, having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights". The American Convention on Human Rights, signed at San José, Costa Rica, in 1969, states in its preamble that the principles to which it gives effect are those set forth in the Charter of the Organization of American States, in the American Declaration of the Rights and Duties of Man, and in the Universal Declaration of Human Rights.

Judges of the International Court of Justice have occasionally invoked principles contained in the International Bill of Human Rights as a basis for their decisions.

National and local tribunals have frequently cited principles set out in the International Bill of Human Rights in their decisions. Moreover, in recent years, national constitutional and legislative texts have increasingly provided measures of legal protection for those principles; indeed, many recent national and local laws are clearly modelled on provisions set forth in the Universal Declaration of Human Rights and the International Covenants, which remain a beacon for all present and future efforts in the field of human rights, both nationally and internationally.

Finally, the World Conference on Human Rights, held at Vienna in June 1993, adopted by acclamation the Vienna Declaration and Programme of Action, in which it welcomed the progress made in the codification of human rights instruments and urged the universal ratification of human rights treaties. In addition, all States were encouraged to avoid, as far as possible, the resort to reservations (part 1, para. 26).

Thus the International Bill of Human Rights represents a milestone in the history of human rights, a veritable Magna Carta marking mankind’s arrival at a vitally important phase: the conscious acquisition of human dignity and worth.

*Printed at United Nations, Geneva
June 1996*
International Covenant on Economic, Social and Cultural Rights (ICESR)

Adopted and opened for signature by UN General Assembly 16 December 1966, entry into force 3 January 1976 (Unofficial Summary)

Article 1: All peoples have the right of self-determination, including the right to determine their political status and freely pursue their economic, social and cultural development.

Article 2: Each State Party undertakes to take steps to the maximum of its available resources to achieve progressively the full realization of the rights in this treaty. Everyone is entitled to the same rights without discrimination of any kind.

Article 3: The States undertake to ensure the equal right of men and women to the enjoyment of all rights in this treaty.

Article 4: Limitations may be placed on these rights only if compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

Article 5 – 6: No person, group or government has the right to destroy any of these rights.

Article 7: Everyone has the right to just conditions of work; fair wages ensuring a decent living for himself and his family; equal pay for equal work; safe and healthy working conditions; equal opportunity for everyone to be promoted; rest and leisure.

Article 8: Everyone has the right to form and join trade unions, the right to strike.

Article 9: Everyone has the right to social security, including social insurance.

Article 10: Protection and assistance should be accorded to the family. Marriage must be entered into with the free consent of both spouses. Special protection should be provided to mothers. Special measures should be taken on behalf of children, without discrimination. Children and youth should be protected from economic exploitation. Their employment in dangerous or harmful work should be prohibited. There should be age limits below which child labor should be prohibited.

Article 11: Everyone has the right to an adequate standard of living for himself and his family, including adequate food, clothing and housing. Everyone has the right to be free from hunger.

Article 12: Everyone has the right to the enjoyment of the highest attainable standard of physical and mental health.

Article 13: Everyone has the right to education. Primary education should be compulsory and free to all.

Article 14: Those States where compulsory, free primary education is not available to all should work out a plan to provide such education.

Article 15: Everyone has the right to take part in cultural life; enjoy the benefits of scientific progress.
PETA lawsuit alleges SeaWorld enslaves killer whales

By Bill Mears and Tom Cohen, CNN
October 26, 2011 -- Updated 2145 GMT (0545 HKT)

A killer whale performs at Sea World in Orlando on March 30. The whale, Tilikum, killed trainer Dawn Brancheau in February.

STORY HIGHLIGHTS

- PETA: This is the first lawsuit seeking constitutional protection against slavery for non-humans
- The complaint alleges that five killer whales are SeaWorld slaves
- SeaWorld calls the lawsuit a baseless publicity stunt

(CNN) -- Can killer whales sue SeaWorld for enslavement?

A lawsuit filed Wednesday by People for the Ethical Treatment of Animals and other "next friends" of five SeaWorld killer whales takes that novel legal approach.

The 20-page complaint asks the U.S. District Court in Southern California to declare that the five whales -- Tilikum, Katina, Corky, Kasatka, and Ulises -- are being held in slavery or involuntary servitude in violation of the 13th Amendment.
A PETA statement said the lawsuit is the first of its kind in contending that constitutional protections against slavery are not limited to humans.

"Plaintiffs were forcibly taken from their families and natural habitats, are held captive at SeaWorld San Diego and SeaWorld Orlando, denied everything that is natural to them, subjected to artificial insemination or sperm collection to breed performers for defendants' shows, and forced to perform, all for defendants' profit," the lawsuit says, arguing that those conditions amount to enslavement and/or forced servitude.

A SeaWorld statement called the lawsuit a baseless publicity stunt by PETA, which is known for provocative advertisements and public demonstrations on behalf of animal rights.

At the heart of the lawsuit is the question of whether a non-human entity can sue for a violation of constitutional rights.

The 13th Amendment outlaws slavery and "involuntary servitude" in the United States without any specific mention that it applies only to people.

"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction," says the amendment's first section.

In its statement, PETA called the lawsuit "the first ever seeking to apply the Thirteenth Amendment to non-human animals."

The lawsuit seeks an order for the release of the whales "from bondage" and a permanent order against holding them in slavery, as well as appointment of a legal guardian to carry out the transfer of the whales to a suitable habitat.

In addition, it seeks attorneys’ fees and costs.

The "next friends" joining PETA in representing the killer whales are three marine mammal experts, including Ric O'Barry, who was featured in the Academy Award-winning documentary "The Cove" about dolphin-hunting in Japan, and two former Sea World trainers.

Their lawsuit contends killer whales -- Orcinus orca, the largest species of the dolphin family -- "possess sophisticated learning, problem solving, and communicative abilities," as well as "distinctive cultural traits."

In a statement responding to the lawsuit, SeaWorld Parks and Entertainment said the court case challenges "the public's right to enjoy and learn more about marine mammals."

"This effort to extend the Thirteenth Amendment's solemn protections beyond human beings is baseless and in many ways offensive," the statement says.

SeaWorld is "among the world's most respected zoological institutions," it continues, adding that SeaWorld parks "are fully accredited by the Association of Zoos and Aquariums and the
Alliance of Marine Mammal Parks and Aquariums" with legal permission to display marine mammals.

"PETA has once again showed that it prefers publicity stunts to the hard work of caring for, rescuing and helping animals," the SeaWorld statement said.

State and federal courts have traditionally understood laws dealing with animal ownership and cruelty as applying only to human actions, meaning the animals themselves could neither be prosecuted nor act as plaintiffs or defendants.

That would include litigation and legislation involving hunting and breeding of animals and plants, as well as zoo and circus displays.
PETA vs SeaWorld: Federal Judge Hears Killer Whales Slavery Lawsuit

By Monami Thakur
on February 07 2012 2:01 AM

For the first time in the history of the U.S., a federal judge has heard a case against the enslavement and involuntary servitude of five orcas or killer whales.

The suit is based on the text of the 13th Amendment which prohibits any form of slavery without the reference to person or any particular class of victim.

The hearing of the case is regarded as a vital step in determining whether animals have the same constitutional rights as humans against slavery of any form.
It was on Oct. 2011 that PETA filed a lawsuit against the SeaWorld on behalf of five wild-captured orcas in a move to free them from any form of involuntary servitude.

The lawsuit asserts that the conditions under which these orcas live constitute the very definition of slavery. They were joined by three orca experts and two former SeaWorld trainers who supported the lawsuit.

The five wild-captured orca plaintiffs involved in the case are Tilikum and Katina, Kasatka, Corky, and Ulises.

All five of these orcas were violently seized from the ocean and taken from their families as babies. They are denied freedom and everything else that is natural and important to them while kept in small concrete tanks and reduced to performing stupid tricks. The 13th Amendment prohibits slavery, and these orcas are, by definition, slaves, said PETA President Ingrid E. Newkirk.

However, the SeaWorld legal team maintains that the case is a waste of time and resource.

The BBC reported that according to the park's lawyer Theodore Shaw neither orcas nor any other animal were included in the We the people... when the Constitution was adopted.

He also said that if the case were successful, it could have implications not just on how other marine parks or zoos operate, but even on the police use of sniffer dogs to detect bombs and drugs.

Although the SeaWorld attempted to dismiss the case earlier, PETA's legal team filed a brief opposing SeaWorld's motion on Jan.13; 2012. The case not only attempts to free the orcas from enslavement but also seeks to release all five orcas to a more appropriate environment, such as a coastal sanctuary.
PETA and Orcas Prepare for Groundbreaking Legal Case

When an individual is removed from his or her home by force, imprisoned, made to work, and forever denied their freedom, it’s called “slavery.” In October 2011, PETA filed a lawsuit against SeaWorld in behalf of five wild-captured orcas seeking a declaration that these five orcas are slaves and subjected to involuntary servitude in violation of the 13th Amendment to the U.S. Constitution. Joined by three orca experts and two former SeaWorld trainers, PETA’s lawsuit asserts that the conditions under which these orcas live constitute the very definition of slavery.

The plaintiffs in the case, Tilikum, Katina, Kasatka, Ulises, and Corky, were captured and taken from their ocean homes and families and are confined to the equivalent of concrete bathtubs, where they are forced to earn money for SeaWorld by performing for customers’ entertainment. They have also been turned into virtual breeding machines in order to provide more performers for SeaWorld’s cruel shows.

The case seeks the release of all five orcas to a more appropriate environment, such as a coastal sanctuary. Protected sea pens would allow orcas greater freedom of movement as well as the opportunity to see, sense, and communicate with their wild cousins and other ocean animals; to feel the tides and waves; and to engage in the behaviors that they’ve long been denied. Eventually, they could be released into the ocean to be reunited with their pods.

Of course, SeaWorld wants the case to be dismissed, but on January 13, our legal team filed a brief opposing SeaWorld’s motion, and the case will be argued on February 6, 2012. So mark your calendars: That day that will go down in history as the first time that a U.S. court considers constitutional rights for animals.
Keen legal minds behind the revolutionary lawsuit include that of Jeffrey Kerr, general counsel to PETA. Kerr has defended animals for 16 years and also established and serves as general counsel to PETA’s international affiliates around the world.

Renowned civil rights attorney Phil Hirschkop—who argued and won the landmark Loving v. Virginia case, which declared unconstitutional the laws banning interracial marriage—has also joined the legal team.

“Forty years ago I fought for the fundamental right of people to marry the person of their choosing, regardless of race,” says Hirschkop. “Now I’m fighting for these orcas’ fundamental rights to be free from enslavement regardless of their species.”

PETA’s brief cites more than 200 years of U.S. Supreme Court precedent, including such landmark cases as Dred Scott, Brown v. Board of Education, and Loving, to establish that the orcas’ species does not deny them the right to be free under the 13th Amendment and that long-established prejudice does not determine constitutional rights.

Legal circles are abuzz with the news, and scholars have expressed support for the case. Harvard law professor and constitutional scholar Laurence H. Tribe said, “People may well look back on this lawsuit and see in it a perceptive glimpse into a future of greater compassion for species other than our own.”

Please join us in watching PETA make history in behalf of orcas, and in the meantime, never buy a ticket to SeaWorld or any facility that enslaves animals for profit and pleasure.
PETA's bid to free SeaWorld orcas may not get far

A federal judge is dubious about a PETA lawsuit that seeks the release of orcas on anti-slavery grounds. He plans to issue a ruling soon.

February 07, 2012 | By Tony Perry, Los Angeles Times

A federal judge appeared dubious Monday about a lawsuit filed by People for the Ethical Treatment of Animals that seeks the release of orcas from SeaWorld on anti-slavery grounds. PETA attorney Jeffrey Kerr told U.S. District Judge Jeffrey Miller that invoking the anti-slavery 13th Amendment to the U.S. Constitution in hopes of freeing the orcas is "the next frontier of civil rights."

But Miller told Kerr that he cannot find a legal precedent for allowing a lawsuit to be filed on behalf of the orcas under the 13th Amendment. The orcas, he noted, are animals, not people.

The judge also seemed to reject PETA's argument that SeaWorld is being "hysterical" in suggesting that allowing PETA's lawsuit to continue would lead to more lawsuits on behalf of other animals, including dogs used by the military and police departments.

"Call me hysterical, but that's one of the first places I went in my thinking about this case," Miller said.

After the hourlong hearing, Miller said he would study SeaWorld's request to have the PETA lawsuit dismissed. He said he would issue his ruling soon but did not give a deadline.

"Tilikum, Katina, Kasatka, Ulises and Corky have been captive and subjected to treatment that we feel is slavery," Kerr said.

Three of the five orcas mentioned by Kerr are at SeaWorld San Diego, the other two are at SeaWorld in Orlando, Fla.
SeaWorld attorney Theodore Shaw said PETA's attempted use of the 13th Amendment in its lawsuit was "ignoring 125 years of case law applying the 13th amendment … and ignoring common sense."

PETA is trying to "rewrite the 13th Amendment," Shaw said. But Kerr countered that the amendment prohibits the kind of human behavior that SeaWorld has used to capture orcas and keep them in confinement.

After the hearing, PETA officials issued a statement suggesting that having the issue heard in federal court is a victory in itself.

"This is a truly historic day for the law and for the animals," said PETA spokesman David Perle.

SeaWorld called the PETA lawsuit "completely without merit" and a misuse of the federal court.

"While PETA continued to engage in this publicity stunt, SeaWorld San Diego was returning four rescued and rehabilitated sea lions to the wild," the statement said.

Tony.perry@latimes.com
'SeaWorld's whales are NOT slaves': Judge throws out PETA lawsuit saying the 13th amendment only applies to humans

By EMILY ALLEN
UPDATED: 11:57 GMT, 9 February 2012

A court has thrown out a legal bid to free whales from SeaWorld by campaigners claiming they are enslaved.

People for the Ethical Treatment of Animals (PETA) claimed that five killer whales at the San Diego SeaWorld are treated like slaves because they are forced to live in tanks and perform daily.

But a federal judge yesterday dismissed the lawsuit saying the 13th amendment - which outlaws slavery and involuntary servitude - applies only to humans.

U.S. District Judge Jeffrey Miller had become the first judge in history to listen to the arguments in court over the possibility of granting constitutional rights to the group of orcas, Fox News said.

U.S. District Judge Jeffrey Miller had become the first judge in history to listen to the arguments in court over the possibility of granting constitutional rights to the group of orcas, Fox News said.
Cruelty: The lawsuit claimed that the whales are forced to perform against their will and are treated like slaves.

The five whales – Tilikum, Katina, Corky, Kasatka, and Ulises – had been named as the plaintiffs in the case. Attorney Jeffery Kerr represented them and argued that SeaWorld was violating their 13th amendment.

SeaWorld’s attorney Theodore Shaw called the lawsuit a waste of the court’s time and resources.

He said it defied common sense and went against 125 years of case law applied to the Constitution’s 13th amendment that prohibits slavery between humans.

‘With all due respect, the court does not have the authority to even consider this question,’ Mr Shaw said, adding later: ‘neither orcas nor any other animal were included in the ‘We the people’ ... when the Constitution was adopted.’

Giving a voice: Jeffrey Kerr, general counsel for PETA, represented the five orcas in the case.
The company denied any mistreatment of the animals and said it rescues orcas injured in the wild. Legal experts said the case opened the debate on the possibilities of increasing the rights of animals.

Mr Kerr said the organisation did not intend to give up its fight to protect the whales.

He said in a statement yesterday: 'Today's decision does not change the fact that the orcas who once lived naturally wild and free, are today kept as slaves by SeaWorld.'

Fish tale: SeaWorld's lawyer said the case was a waste of time, as they said the 13th amendment applied to people only

'PETA will regroup and determine how to continue to work for the legal protection they deserve.'

Earlier this week Mr Kerr said: 'This case is on the next frontier of civil rights'.

'For the first time in our nation's history, a federal court heard arguments as to whether living, breathing, feeling beings have rights and can be enslaved simply because they happen to not have been born human. By any definition these orcas have been enslaved here.'

Brushing animals off as property is the same argument that was used against African-Americans and women before their constitutional rights were protected, PETA said.

Mr Shaw pointed out that argument did not translate because both women and African-Americans are people for which the Constitution was written to protect.

If the court had granted orcas constitutional rights, Mr Shaw warned the ruling would have profound implications that could have impacted everything from the way the U.S. government uses dogs to sniff out bombs and drugs to how zoos and aquariums operate.
How PETA’s Lawsuit Against Sea World Could End Factory Farming

JAMES MCWILLIAMS

NOV 11 2011, 11:02 AM ET

Expanding the Constitution to include animals that are non-human could lead us to reconsider how we treat the sentient mammals we farm

Anyone who has taken a basic American history class knows something about the Thirteenth Amendment. Adopted December 6, 1865, the amendment outlawed slavery and involuntary servitude (with the exception of punishment for a crime) throughout the United States. The act effectively ended the fight to abolish slavery and became a cornerstone in the fight for civil rights at home and abroad. It seems no exaggeration to say that the Thirteenth Amendment changed the course of human history.

Now it's in a position to change the course of non-human history. And the reason, oddly enough, has to do with orca whales. At the Sea World quarters in California and Florida there are five orcas that People for the Ethical Treatment of Animals (PETA) has, in a lawsuit recently filed in a U. S. District Court, described as living in involuntary servitude. The mammals were captured in the wild, confined, and forced to perform cheap tricks for human spectators. In the ocean, these animals swim 75 miles a day. At Sea World, they
live in a tank. This, PETA claims, qualifies as involuntary servitude, and is thus a violation of the Thirteenth Amendment.

**Orcas form complex societies, teach their young, and communicate through a beautifully intricate series of clicks, whistles, and pulsed calls.**

Perhaps this suit sounds like prime fodder for the Colbert Report (and, alas, it has been). But in fact it raises a profoundly important question, one that several decades of animal rights activism and scholarship have prepared us to explore: Does a non-human animal with obvious intelligence, emotional capacity, social skills, and personal interests warrant protection under the U.S. Constitution?

Critics will instinctively dismiss such a possibility as frivolous, if not a crass publicity stunt. And it's true that PETA has done itself no favors in the past by resorting to sensational tactics to achieve noble goals. But to reject this case because you happen to find PETA offensive would be to ignore the compelling factors surrounding it.

The first is that some exceptionally learned legal minds have spoken in support of animal rights. Consider the opinion of Lawrence Tribe, Harvard Law Professor and renowned constitutional scholar. Speaking directly about the PETA suit, he explained to Bruce Friedrich, for a story in the Georgetown Law Weekly: "It seems to me no abuse of the Constitution to invoke [the Thirteenth Amendment] on behalf of non-human animals cruelly confined for purposes of involuntary servitude." He added, "people may well look back on this lawsuit and see in it a perceptive glimpse into a future of greater compassion for species other than our own."

Next, there are the scientists. Experts claim that orcas are among the most intelligent species on Earth. Naomi Rose, a marine mammal biologist with the Humane Society of the United States, cites research suggesting that whales, dolphins, and porpoises have the cognitive sophistication of 3- to 4-year-old humans. A neuroscientist who measures encephalization quotients -- brain to body size ratio -- of mammals, ranks orcas between great apes and humans. The cortex of an orca has been shown to be more complex than the human cortex. Orcas form complex societies, teach their young, and communicate through a beautifully intricate series of clicks, whistles, and pulsed calls. They undoubtedly experience emotions, including suffering.

But still, many will object, they are not human. Unless you are a Biblical fundamentalist or radical Aristotelean, this is an illogical way to end the argument. The field of evolutionary biology directly undermines the assumption that there's something fundamentally different -- at least in terms of consciousness -- between human and non-human animals.

Darwin himself recognized that the differences between humans and non-humans were "of degree, not kind." Jane Goodall claims that "there is no sharp line between the human
animal and the rest of the animal kingdom -- it is a blurred line." Richard Dawkins, the most famous living evolutionary biologist, denounces the failure to appreciate this biological continuum as "human speciesist vanity." We simply cannot rest our case against animals on an idea that completely ignores one of the most basic findings of evolution.

A final point to consider before dismissing the PETA lawsuit altogether is the fact that it might not be just Sea World that stands to lose. The issue of animal rights sends shivers down the spine of industrial agriculture. And it should. Expanding the Constitution to include non-human animals could very well be the most potent threat ever delivered to factory farming, a behemoth of an industry responsible for more greenhouse gas emissions, land degradation, antibiotic use, fertilizer run-off, and pesticide application that any other industry on Earth. Legal aftershocks are always hard to predict, but should orcas be deemed protected under the Thirteenth Amendment, the sentient mammals at the core of factory farming could very well be next. The ecological, health, and ethical gains to be achieved by such an development would be immeasurable.

I'm well aware that the likelihood of PETA winning this case is slim. But that's really not the point. We owe it to ourselves as a civilization bent on reducing unnecessary suffering to think seriously about the place of animals in our lives. So rarely do we have an opportunity to do this. Not only does this suit help provide such an opportunity, but it lays the foundation, however gently, for a brighter future for animals. In this sense, as Lawrence Tribe explains, "we all benefit from the national reflection and deliberation that the filing of this suit could initiate."