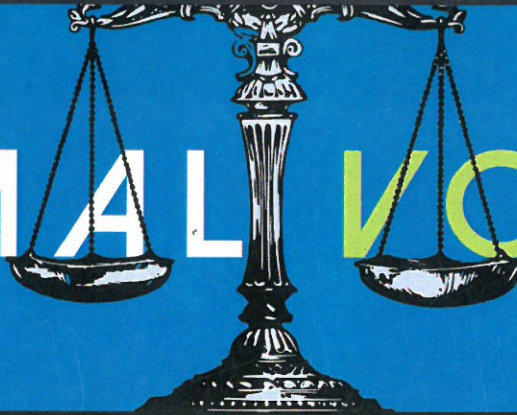


# ANIMAL VOICE



S O U T H   A F R I C A



*Lawyers muscle up  
to fight for  
animals*



**Inside: A legal first!**  
*Personhood achieved  
for Cecilia and Chucho*



Today, animal cognition is a science that has broken all pre-conceptions and leads us to the fact that...



the inner world of animals  
is a continuum **of our own  
inner worlds.**



“

*For the animal shall not be measured by man.**They are not brethren, they are not underlings;**they are other nations, caught with ourselves in the  
net of life and time.*”*—Henry Beston*

## *Letter from the editor*

Dear Readers,

Today, Animal Sentience features in headlines across the world. **The London Times** tells us in December 2017 that our modern scientific understanding of the ability of animals to feel and think will impact on legislation going forward. [<https://tinyurl.com/yc4w82xd>]

A massive leap in human consciousness is underway as it tackles what has been dubbed as the last great frontier in the battle for human integrity - our treatment of those who are at our mercy - the animals.

We should not underestimate the speed of change. Thirty-odd years ago Nelson Mandela was still in prison; gay rights was ridiculed; animals were thought to be ruled by extinct. Start up NGO's like Humanity for Hens (predecessor to AnimalVoice) were regarded as the lunatic fringe.

Over the decades, animal groups across the globe turned to the law in an attempt to achieve some sort of justice for nonhuman lives – only to find that the law had turned its back on the billions of animals we use to feed us, entertain us and the animals we grotesquely harm in medical and product research.

Now a new generation of lawyer is fast coming to the fore, ready for the challenge to bring about legislation that will force a change in our perspective, in our mindset, and provide protection at last for those who are at our mercy.

Fast forward a decade or so and it is not unreasonable to anticipate the ratification by the UN of a Declaration for Nonhuman Rights and Freedoms.

It can't come too soon.

Kind Regards,  
Louise van der Merwe





*The ability of animals to feel and think will impact on legislation going forward –  
The Times of London, 12 December 2017 <https://tinyurl.com/yc4w82xd>*

## Lawyers muscle up to fight for Africa's animals

A mere 30 years ago, animals were still believed to be mostly mindless, driven by instinct and responsive to stimuli. Today, science acknowledges they are sentient with cognitive abilities that can rival and, in some cases,

surpass our own.

<https://tinyurl.com/y9gvqw8d>

The law is compelled to reflect this evolution in human awareness.

A leader in the field is the prestigious **Lewis & Clark Law School, USA**, which offers a LLM in Animal Law at its **Center for Animal Law Studies (CALS)**. Its students and graduates from Africa feature below.



### Specializing in Animal Law

Johannesburg attorney **Amy Wilson** is currently studying for her Animal Law LLM at CALS. On her return, she will be the first person in South Africa to have attained this specific highly specialised degree.

Says Amy: "Animals are sentient beings and need to receive recognition as such in the law. The current legal status and provisions applicable to them are insufficient at giving them the protection that they deserve and the law needs to adapt to do this."

- Amy is co-founder of a non-profit company Animal Law Reform, South Africa (<https://www.facebook.com/AnimalLawReform/>)
- As part of her LLM, Amy is developing a model Animal Law Curriculum which she hopes to introduce into South African universities.

LLM scholarships are available to South African law graduates!



**Natasha Dolezal, Director of the LLM Program and Deputy Director at the Center for Animal Law Studies**, explains: "We are able to offer three full scholarships including housing, tuition and airfare, to qualified attorneys with a demonstrable commitment to legal issues involving animals (whether wildlife, domestic, or companion animals) and the development of the field of animal law and education."

- To apply, contact Natasha at [ndolezal@lclark.edu](mailto:ndolezal@lclark.edu)



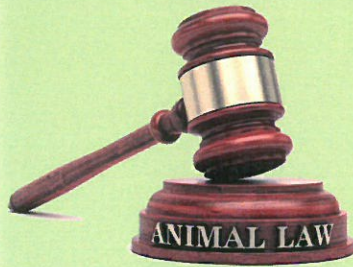
Zimbabwean lawyer **Ever Chinoda (top)** graduated from CALS with her Animal Law LLM in 2017.

"Coming from Africa where dogs are viewed as a source of security and wildlife as a source of livelihood, the LLM programme made me realize the intrinsic and extrinsic value of all animals. I now consider animals as beings with feelings and interests that deserve our love and compassion. The Animal Law LLM programme is the best thing that has happened to me. It helped me start a non-profit that focuses on educating and advocating for sound policies and legislation, as well as working to break cultural barriers in order to provide better protection for animals."

- Ever is founder of the NGO **SPEAK OUT FOR ANIMALS** in Zimbabwe.

Delegates at the 2017 Animal Law Conference held at the Lewis & Clark Law School, USA, included (from left) Ever Vimbai Chinoda (LLM 2017, Zimbabwe), Magistrate Allan Temba Sitati (Kenya), Rodah Ogoma (Kenya), Jim Karani of WildlifeDirect (LLM 2016, Kenya) and Winnie Onkoba (Kenya).





## Landmarks in Animal Law: *legal personhood for Cecilia*

***In a landmark judgment in November 2016, Cecilia, a 20-year-old captive chimpanzee at the Mendoza Zoo in Argentina, was declared a 'non-human legal person' with 'inherent rights' who should be transferred to a sanctuary in Brazil with immediate effect.***



### ***Understanding habeas corpus***

***A writ of habeas corpus is used to bring a prisoner or other detainee before court to determine if the imprisonment or detention is lawful.***

*Photo Courtesy: The Great Ape Project*

Cecilia's case was brought before court by the Association of Professional Lawyers for Animal Rights (AFADA) which petitioned for a writ of habeas corpus on the grounds that Cecilia's incarceration at the zoo was unlawful and had a detrimental impact on her health. *Habeas corpus* is commonly used to challenge the imprisonment or detention of a human person. This time, for the first time in history, it was successfully used to free an animal.

The historic judgment, delivered by **Judge Maria Alejandra Mauricio**, is a first in world judicial history to recognize that a non-human animal can be a legal person.

Judge Mauricio explained: "It is not a question of granting them (non-human primates) the rights that human beings possess, but to accept and understand once and for all that these beings are living sentient beings who are subjects of rights and who (possess), among others, the fundamental right to be born, to live, to grow and to die according to their species."

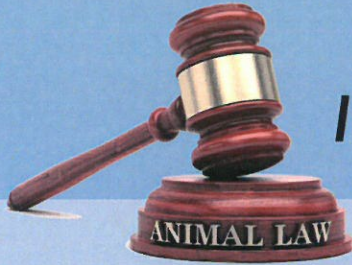
Judge Mauricio concluded: "If we serve Cecilia's well-being it will not be Cecilia who will owe a debt to us, but it is for us to thank her for the opportunity to grow collectively and to feel a little more humane."

On 5 April 2017, pursuant to the ruling, Cecilia arrived at Sanctuario de Sorocaba, run by the Great Ape Project, Brazil.

***"The chimpanzee is not a thing, not an object."***

***— Judge Maria Alejandra Mauricio***





## Landmarks in Animal Law: *legal personhood for Chucho*



### July 2017 : Legal personhood for Chucho

**Chucho**, an Andean bear who had lived in a zoo for 18 years, was granted his freedom by means of a writ of habeas corpus in Bogota, Colombia in July last year by Supreme Court **Judge Luis Armando Tolosa Villabona**.

Chucho's case was brought before court by **Luis Domingo Maldonado**, a law professor at **Manuela Beltran University in Bogota**, who claimed Chucho should have personhood rights and be released from captivity.

In granting the writ, Judge Villabona ordered Chucho's transfer from the zoo to a place where he could live in "dignified conditions" in semi-captivity.

Commenting on the case in the Colombian newspaper **El Espectador**, Andrea Padilla Villarraga, a spokesperson for the animal rights organisation AnimaNaturalis, said: "The main novelty of this verdict lies in the inclusion of habeas corpus as a valid legal

mechanism to safeguard the rights of a non-human animal unlawfully held captive in Colombia."

She described this development in the law as "enthalling and promising" in that it reveals "the beginnings of a process of legal change and doctrinal innovation in Latin America in favour of non-human animals."

Asked for comment, lawyer **Steven Wise** who has led the **Nonhuman Rights Project** since 2007, said: "We at the Nonhuman Rights Project congratulate Professor Maldonado on this well-deserved victory and commend Judge Luis Armando Tolosa Villabona for his decision which will be life-changing for Chucho. Chucho will join Cecilia as one of the first two non-human animals to be freed from captivity using writs of habeas corpus. They will not be the last."

Story courtesy Annette Gartland:  
<https://tinyurl.com/yak6xztg>



# Landmarks in Animal Law:



**November 2017: Lawyers file world's first habeas corpus petition on behalf of elephants.**

The United States based **Non-human Rights Project** (NhRP) has filed the world's first petition for a writ of habeas corpus on behalf of elephants.

The petition was filed in the Connecticut Superior Court on behalf of three elephants at the Commerford Zoo in Goshen, Connecticut.

"Instead of forming deep bonds with members of their herd, roaming their natural habitats, and making decisions about how to spend their days and live their lives, they became the property of humans," said NhRP president, Steven Wise.

He said the case was not about animal welfare. "We do not claim the Commerford Zoo is violating any animal welfare statutes. What they are doing is depriving Beulah, Karen and Minnie of their freedom which we see as an inherently cruel violation of their most fundamental right as elephants."

World-renowned elephant experts from Elephant Voices and the Amboseli Trust for Elephants, have submitted affidavits in support of the NhRP's lawsuit.

**Beulah** is an Asian elephant born in the wild in Myanmar in 1967 and imported to the US between 1969 and 1973

**Karen** is an African elephant born in the wild in 1981 at an unknown location and imported to the US in about 1984

**Minnie** is an Asian elephant born in the wild in Thailand and imported to the US in 1972 when she was two months old

NhRP lawyer, David Zabel said: "What's at stake here is the freedom of beings who are no less self-aware and autonomous than we humans are."

Story courtesy Annette Gartland  
<https://tinyurl.com/yaljfmvg>



# ***MP Cheryllyn Dudley's Bill heralds new thinking in South Africa about the rights of animals***

***Notice of an intention to introduce draft legislation to outlaw the testing of cosmetics on animals in South Africa was published by ACDP MP Cheryllyn Dudley in Parliament on 30 November 2017.***



Dudley's Bill also outlaws the holding of animals used in medical research in spaces that do not allow for their physiological and behavioural needs.

The Animals Protection Amendment Bill, 2017, seeks to amend existing legislation (The Animals Protection Act, 1962 (Act No. 71 of 1962) and The Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972)) so as to criminalise the manufacture and sale of cosmetics, including cosmetic ingredients, that have been tested on animals in the RSA.

The Bill notes that animals used in product testing are often kept in insufficient space and subjected to processes such as:

- Forced inhalation of chemicals
- Exposure to chemicals at levels

that cause illness or death

- Electric shock
- Forced swimming

It notes further that the European Union (28 states), India, Israel, Guatemala and Norway have already formally banned the testing of cosmetics on animals as well as the sale of cosmetics that have been tested on animals outside of their borders. In addition, New Zealand, Canada, Argentina, Brazil, Korea, USA and Taiwan are in the process of passing laws to ban the testing of cosmetics on animals.

"This means that one of the BRICS partners (India) already has legislation in place to ban the testing of cosmetics on animals and one (Brazil) is following suit. South Africa should lead Africa in this area," says Dudley.

In terms of the Bill, a conviction for the testing of any compound, chemical, foodstuff, disinfectant or other matter on an animal will carry a fine of up to R40 000 and/or imprisonment of up to 10 years. Provision for accountability at company level is included.

## **OBJECTION RAISED**

The Cape Animal Welfare Forum (CAWF) has raised an objection to the Amendment Bill on the grounds, inter alia, that the consultative process was conducted exclusively with the NSPCA without representation from the broader Animal Welfare sector. CAWF proposes the formation and recognition of an Animal Welfare Unit with fair representation from the Animal Welfare Sector which would be consulted on any matter relating to Animal Welfare legislation.

## **Fireworks ban**

***On 8 November 2017, Jan Esterhuizen of the IFP tabled a motion in parliament to ban fireworks.***



# What a fish knows

The latest book by renowned animal behaviourist, Jonathan Balcombe, is called **What a Fish Knows**. We gave a copy to Tinus Beukes, Operations Manager at the Two Oceans Aquarium in Cape Town.

**“What I can tell you,” laughed Tinus, “is that fish know a lot more than I do!”**



Tinus Beukes has a passion for fish. Back in the day, he studied law – but after five years he found that law wasn't for him. Then he studied journalism - but that wasn't for him either. Then, in 1998, during a short period in between studies, he volunteered part-time at the new Cape Town Aquarium - and that's where he found he 'belonged'.

Now, twenty years later, he is Operations Manager at the Two Oceans Aquarium.

“When I think back, my passion for fish started when I was really young,” says Tinus. “When I was a kid, my father and I used to go fishing at Puntjie, at the Duiwenhoks River. Then one day my Dad noticed that I was busy releasing the fish that we'd caught. He was totally baffled. ‘What are you doing that for?’ he asked me. I didn't really know myself. But looking back, that's where it began for me.”

What is it that drives his passion for marine life?

“Respect,” Tinus replies. “It is sad to say that by the time we eventually figure out just how sentient some of these creatures are, there will either be very few or none left in the world. We are busy trashing the sea like there is no tomorrow. Marine life is disappearing

from the planet – uncared for, unappreciated, unseen. The world's oceans have never been in as deep a crisis as they are now.”

The root of the problem, says Tinus, is ignorance. “Youngsters of 14-years-old come here to the aquarium and they have never seen the sea. How can they begin to understand the devastation of plastic pollution or over-fishing when they have never seen the sea or a single marine animal?

I agree with the Senegalese conservationist Baba Dioum when he said: ‘**In the end we will conserve only what we love; we will love only what we understand; and we will understand only what we are taught.**’ So that is why teaching our young people here at the aquarium is my passion.”

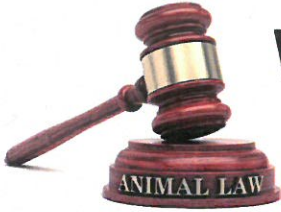
Tinus regards himself as an ambassador for marine life. “I cannot justify depriving the citizens of the sea their freedom unless what we are doing has educational value. To deprive a being of its freedom is a burden that is only soothed when I see awe and glimpses of understanding in the eyes of our visitors.”

***What a Fish Knows* was selected as a book of the year by The Observer for 2017.**

*Commented author, Cormelia Funke:*

***“Numerous books have shown me how utterly ignorant I am about most creatures I share this planet with, but none humbled me more than **What a Fish Knows.**”***





# What SA's legal eagles say about law reform for animals



**Constitutional Court Judge Edwin Cameron:** "Though animals are capable of experiencing immense suffering, and though humans are capable of inflicting immense cruelty on them, the animals have no voice of their own. Like slaves under Roman law, they are the objects of the law, without being its subjects." [http://www.supremecourtofappeal.gov.za/judgments/sca\\_2008/sca08-078.pdf](http://www.supremecourtofappeal.gov.za/judgments/sca_2008/sca08-078.pdf)



**Professor of Law David Bilchitz:** "Our current classification of animals as objects or things is a nonsense that is not only outdated but which has never been true. We need to bring about a change in the legal status of those who are not human, to recognise them as subjects in their own rights in law and that humans have binding obligations towards them to treat them with dignity and respect." - Bilchitz is Professor of Law at the University of Johannesburg and Director of the South African Institute for Advanced Constitutional, Public, Human Rights and International Law.



**Leading environmental attorney Cormac Cullinan:** "Slaves were once regarded by the law as objects – not subjects – and were exploited as a result. Today, Nature is in the same position. In terms of our law, Nature is a collection of objects to be treated as a vast larder of resources that exists specifically for the use of humans. We talk about genocide, homicide and so on. We need to understand that we are committing Ecocide on a grand scale."



**Johannesburg attorney, Candice Pillay:** "When a child is parentless we look to guardianship. When it comes to animals, we are not owners, we are custodians, and new laws can perhaps extend our concept of guardianship to animals too."



**Constitutional Court Judge Sisi Khampepe,** speaking on behalf of a full bench: "The rationale behind protecting animal welfare has shifted from merely safeguarding the moral status of humans, to placing intrinsic value on animals as individuals."





**Jan-Harm de Villiers**  
Senior Lecturer - Department of  
Jurisprudence, UNISA:

"The question of animal subjugation is complex and requires critical engagement with law at a conceptual level. The suggestion of simply adding animals into existing legal constructs that are fundamentally anthropocentric and antithetical to the interests of animals is not a genuine solution to the problem at hand. Any shift towards meaningful legal protection for animals would require major changes in forms of subjectivity and conceptions of ethical agency."



**Aadila Agjee, activist attorney:**

"All animals, not just the homo sapiens species, are born with inherent, inalienable rights. It is well overdue that we acknowledge and enforce the rights of all animals as vehemently, consistently and unapologetically as we do human rights – it is a moral imperative distinct from emotion or altruism or greed, and exists whether we choose to accept it or not."



**Advocate Paul Hoffman SC:**

"Any policy on animals must be cognisant of, and incorporate our constitutionally guaranteed right to:

**Human dignity** (cruelty to animals is in conflict with a sense of human dignity)

**Psychological integrity** (cruelty to animals is psychologically damaging to humans)

**Freedom from violence** (cruelty to animals is a form of violence)

**The right to an environment which is not harmful to health and well-being** (animal neglect and misery is harmful to human health and well-being)

Our current treatment of animals conflicts with and offends every one of these rights." – *Paul Hoffman is a director of the Institute for Accountability in Southern Africa.*



**Arthur van Coller, Senior Lecturer at the University of Fort Hare's Nelson Mandela School of Law:**

"Animals are classified as 'things' or legal objects that exist as the absolute property of humans. Thus, in law, animals do not have, nor are they capable of having legal rights and duties. They possess no interests that merit protection and animals are only a means to an end as determined by the property owner, while humans have the right to control, manage, or consume things under the legal concept of title to property."





**To see our commodification of intelligent,  
highly sentient lives...**

**To witness our extraordinary sense of  
entitlement to harm those who do not look  
like ourselves...**

**To realise we are part of a complete  
disregard for the incalculable suffering of  
those at our mercy...**



**Go to our website [www.animalvoice.org](http://www.animalvoice.org),  
click on the video button and scroll down to  
clips titled “Discarded Boy Calves”,  
“Mantsadi – Becoming Proudly Human”,  
“Born into our Care” and several others.**



# ANIMALS AND THE LAW – A GLOBAL PLATFORM

The **Global Animal Law Project** is an online platform that invites international participation from legal and para-legal professionals in the sharing of ideas and ideals towards the common goal of better lives for animals.

Led by Swiss attorney and International Animal Law and Ethics Consultant, **Dr Antoine Goetschel**, the GAL Project is dedicated to achieving laws in which the dignity and intrinsic value of animals is legally recognised and acknowledged by countries worldwide.

Says Dr Goetschel: "The key to a better life for animals lies in the law. Animals need a voice in court. What might seem 'utopian' for the moment, may soon turn into 'visionary' or even 'modern'".

Manager of the GAL Project, French jurist **Dr Sabine Brels** is a specialist in international animal law. She dedicated her PhD

research to the compilation of a database on existing animal legislation worldwide. For more information, see <https://www.globalanimallaw.org/>

**Dr Birgitta Wahlberg** is a member of the Steering Committee of GAL and founder of the Global Journal of Animal Law (GJAL) [www.gjal.abo.fi](http://www.gjal.abo.fi). She is also a member of the Education Group of Animal Law Studies (EGALS). "History," she says, "shows us that every fundamental change for the benefit of those who are more vulnerable, has its base in legislation either through recognition (of rights) or through prohibition (of certain behaviour). This has not put an end to injustice and cruel or inequitable behaviour, but it has brought about a new perspective with recourse to the courts."

Dr Wahlberg explains one of the fundamental principles involved in the drawing up of a **Charter for**

**Animal Rights and Freedoms:**  
There are two fundamental principles involved:

**The Principle of Necessity**  
**The Principle of Precaution**  
**The Principle of Necessity means that before the use of animals for human purposes can be justified, the following cumulative criteria must be satisfied:**

- a) **The use is necessary for the survival of humans, nonhumans or the environment;**
- b) **The use does not harm or restrict the animals' natural physiological, mental and/or behavioural needs in a negative sense for the animals;**
- c) **The use does not harm the welfare or health of an animal.**

**The Principle of Precaution is based on the immediate restoration to the Principle of Necessity in the event of this principle having been violated in any way.**



*Antoine Goetschel*



*Sabine Brels*



*Birgitta Wahlberg*



**London: October 2017**

More than 500 experts, campaigners, policy-makers and business leaders from around the world attend the landmark two-day **Extinction & Livestock Conference**. The conference is organised by **Compassion in World Farming** and WWF-UK.

See videos of all the presentations:

<https://tinyurl.com/y9jhgm7>



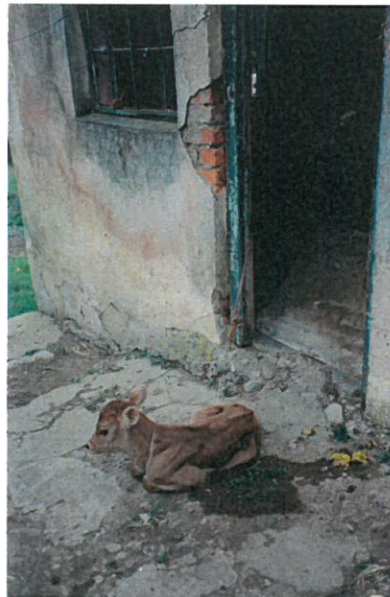
Philip Lymbery, CEO: Compassion in World Farming

*Yuval Noah Harari, was one of the presenters at the conference. Read on:*

## **Harari urges scientists to speak out about animal sentience and its implications**



Scientists who keep silent about animal sentience are making "an extreme and very unfortunate ethical choice", suggests Yuval Noah Harari, Israeli historian and best-selling author.



*Alone. Wrenched from his mother. Destined to die hours after birth because he is "surplus" to the dairy industry. Photo courtesy: Karoo Animal Protection Society.*

"Scientific understanding in 2017", he says, "is that all mammals and all birds and probably some reptiles and fish are conscious sentient beings. Emotions are not something that God gave only to homo sapiens in order to write poetry or appreciate music. Emotions are something that natural selection evolved in all mammals and other animals."

An example of the deep emotional bond between mother and child, he says, is in the dairy industry where the argument that cows do not experience emotional pain when separated from their calves

"is no longer a legitimate part of any discussion".

"Even though science tells us very clearly that [this] emotional bond is common to all mammals, we ignore it... The entire dairy industry is built on breaking this most basic bond of the mammal kingdom – the bond between mother and offspring."

Harari says that even though science has accepted as fact the emotional pain of separation for both cow and calf, separation remains the fate of millions of cows and their calves every day across the world.

"When we examine the conditions of farmed animals, we should take into account not only their basic material needs like the need for food or the need for water, but we should also take into account their emotional and social needs... needs that are systematically ignored and frustrated in industrial farms.

"I hope scientists will take a far more active part in the ethical and political discussion about the welfare of animals. They should lay to rest ignorant claims such as 'cows cannot feel pain' or 'animals don't have emotions'.

"Scientists who know the facts but choose to remain silent should know that they are not being neutral. Silence in the face of such misery is an extreme and very unfortunate ethical choice."





Artist: Hein Botha



Dear Friends,  
Your financial and moral support has got us this far! THANK YOU!  
And, as you will see from this issue, there's huge progress!  
The world is changing and we want no-one left behind!

So here's what you can do:

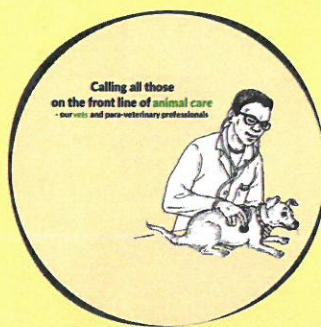
- Become a member of Animal Voice: R250.00 buys you a year's subscription to this quarterly magazine. Go to our website [www.animalvoice.org](http://www.animalvoice.org) and click the  button.

- If you're a Life Skills or Life Orientation teacher, become a member of our Member Platform for Teachers and take advantage of our free downloads of curriculum-aligned resources, Grades R – 12, term by term - [www.animalvoiceacademy.org](http://www.animalvoiceacademy.org)

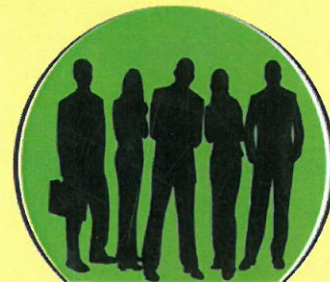


**TEACHERS MEMBER AREA**  
ACCESS MULTIPLE RESOURCES

- If you're a vet or if you work in a para-veterinary capacity, earn 10 structured CPD points issued by the **South African Veterinary Council** by taking our online Human Ethics and Animal Rights course – [www.animalvoiceacademy.org](http://www.animalvoiceacademy.org)

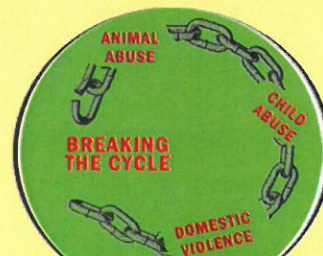


- If you're an HR professional, invite your staff to earn 15 CPD points issued by the **South African Board for People Practices** by taking our online course Ethics, Emotion, Empathy – The Essential E's of Success – [www.animalvoiceacademy.org](http://www.animalvoiceacademy.org)



**ETHICS, EMOTION, EMPATHY**  
THE ESSENTIAL E's OF SUCCESS

- If you're a professional in the Social Services, take our on-line course The Link between Animal Abuse and Domestic Violence – and submit for CPD points with the **SA Council for Social Service Professionals** – [www.animalvoiceacademy.org](http://www.animalvoiceacademy.org)



**THE LINK BETWEEN**  
ANIMAL ABUSE AND  
DOMESTIC VIOLENCE

Join us in whatever capacity you choose and help make our world a better place for one and all.

Should you have any queries, please contact:

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