The Ascent of Apes — Broadening the Moral Community[*]

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The Emerging Ethic for Animals

Twenty-five years ago, it would have been culturally inconceivable to suggest extending the moral community so as to include animals within the scope of moral concern. For, in the course of the 150 years during which society had paid any formal attention whatsoever to limiting human behaviour with regard to other living beings, such attention was restricted to the prohibition of overt, intentional, wilful, extraordinary, malicious, unnecessary cruelty, and the vapid encouragement of 'kindness'. This minimalistic, lowest common denominator ethic was formally encapsulated in the anti-cruelty laws, which were as much designed to ferret out sadists and psychopaths who might begin with animals and, if left unchecked, graduate to venting their twisted urges upon human beings, as to protect the animals for themselves. The traditional humane or animal welfare movement was also caught up in the categories of kindness and cruelty, and, for this reason, tended (and still tends) to simplistically categorise anyone causing animal suffering as 'cruel'.

For reasons which are not altogether clear, during the past two decades society has patently begun to move beyond the overly simplistic ethic of cruelty and kindness and has begun to reach for a more adequate set of moral categories for guiding, assessing and constraining our treatment of other animals. Perhaps the key insight behind this change is the realisation that the overwhelming majority of animal suffering at human hands is not the result of cruelty, but rather grows out of 'normal' animal use and socially acceptable motives. Scientists may be motivated by benevolence, high ideals and noble goals, yet far more animal suffering is occasioned by people acting in pursuit of these motives than by the actions of overt sadists. Factory farmers may be motivated by the quest for efficiency, profit, productivity, low-cost food and other putatively acceptable goals, yet again, their activities occasion animal suffering in orders of magnitude traditionally unimaginable.

One can venture some speculations as to why the demand for such an ethic regarding the treatment of animals has emerged only today. Primarily, perhaps, it is because society has only lately focused its attention on disenfranchised groups and individuals to a degree unprecedented in human history — women, blacks, homosexuals, native populations, the aged, the Third World, the insane, the handicapped, children, and so on. Not long ago, society had little more than an anti-cruelty ethic for the treatment of such humans. Inevitably, a generalised social concern for justice and fairness, and an emphasis on obligation rather than patronising benevolence towards the powerless and oppressed, must certainly have led to a new social look at the treatment of animals. In order to fully appreciate the answers to that question, we must recall some fundamental Socratic precepts. As a teacher and philosopher of ethics, and one who was attempting to effect meaningful social-ethical change in an intellectually sophisticated democratic society, Socrates was well aware that a moralist could not *teach* ethics, i.e. could not impart ethical truths to others the way one can impart the names of state capitals to students, and expect others to accept these truths as factual. After all, as Wittgenstein once remarked, one can take an inventory of all the facts in the universe, and never find the fact that killing is wrong. Instead, Socrates believed that a moralist can and must *remind* those whom he or she is addressing of what they have within them but of which they are not conscious, and help them, as it were, give birth to their ideas, and bring them to consciousness in a coherent way. In fact, Socrates describes the moralist-teacher's role as that of a midwife.

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[*] In PAOLA CAVALIERI & PETER SINGER (eds.), *The Great Ape Project* (New York: St. Martin's Griffin, 1993), pp. 206-219.

This Socratic notion can be extrapolated well beyond its roots in Platonism. In essence, it embodies the insight that moral progress cannot develop out of nothing, but can only build upon what is already there. In other words, the most rational and efficacious way to develop moral ideas in individuals and societies is to show them that the ideas in question are implicit consequences of ideas they already accept as veridical. In other words, I can get others to accept my ideas by showing them that these are in fact their ideas, or at least are inevitable logical deductions from ideas they themselves take for granted.

In our democratic society, the consensus social ethic effects a balance between individuality and sociality, between what philosophers call deontology and teleology, more specifically between individual rights and social utility. While most social decisions and policies are made according to that which produces the greatest benefit for the greatest number, this is constrained by respect for the individual. Our ethic builds protective fences around the individual to protect the sanctity of his or her human nature, or *telos,* from being submerged by the general or majority welfare. Thus we cannot silence an unpopular speaker, or torture a terrorist to find out where he has planted a bomb, or beat a thief into revealing where he has hidden his ill-gotten gains. These protective fences around the individual are *rights;* they guard fundamental aspects of the individual even from the general good. Specifically, they protect what is plausibly thought to be essential to being a human - believing what you wish, speaking as you wish, holding on to your property and privacy, not wanting to be tortured, etc. And they are fuelled by the full force of law.

What we have so far outlined is not difficult to extract from most people in our society. In fact, calling attention to the moral principles people unconsciously accept has traditionally been a major way of effecting social change. Arguably, something of this sort occurred when (thinking) segregationists accepted integration, or when occupations such as veterinary medicine, which had traditionally barred women, began to admit them. In both of these cases, presumably, no change in moral principles is required. What is demanded is a realisation that a moral commitment to equality of opportunity, justice, fairness, and so on, which the segregationist or person who barred women from veterinary school himself had as a fundamental commitment, entails a change in practice. In other words, to put it simply, such people had readily accepted democratic moral principles as applying to all persons. What they had ignored was the fact that the class of persons was far greater than they had acknowledged, and included blacks and women.

This mind-set, sharpened and deepened from the 1950s to the present by social demands that the ethic be truly applied in practice, not just paid lip service in theory, has informed the emerging ethic for animals.

In essence, people are moving towards applying the ethical machinery we have accepted for dealing with people to the treatment of animals. This is not to suggest that people are self-consciously doing so, any more so than most people can self-consciously articulate the consensus ethic for humans which we articulated above. Rather, they will acquiesce to a description of the ethic as applied to animals when it is articulated - in other words, when one helps them remember.

One major step towards extending the ethic to animals, not difficult for the average person to take, is the realisation that there exists no good reason for withholding it: in other words, that there is no morally relevant difference between humans and animals which can rationally justify not assessing the treatment of animals by the machinery of our consensus ethic for humans.[1] Not only are there no morally relevant differences, there are significant morally relevant similarities. Most important, most people believe that animals are conscious beings, that what we do to them matters to them, that they are capable of a wide range of morally relevant experiences — pain, fear, happiness, boredom, joy, sorrow, grief; in short, the full

[1] B. E. Rollin, *Animal Rights and Human Morality* (Prometheus Books, Buffalo, 1981), Parts I and II.

range of feelings which figure so prominently in our moral concern for humans.[2]

Not only does ordinary common sense accept as axiomatic the existence of consciousness in animals, it also takes for granted that animals have natures *(telos)* - 'fish gotta swim, birds gotta fly', as the song goes. Thus it is again not difficult to get ordinary people to admit that the central interests of animals' natures should be protected from intrusion; even if we use animals, animals should live lives which fit their natures. It is not an accident that major battery chicken producers do not, in their advertising, show the public how they really raise chickens; rather, they run ads showing open barnyard conditions which suggest that they raise 'happy chickens'. Ordinary people - even those who are not animal advocates - are appalled by veal calves in confinement, 'wild' animals in tiny cages, primates in austere, barren, deprived environments.

It is clear that the ethic for animals I have described, albeit in partial, tentative and fragmented form, has begun to receive codification in law, which is the key role, in my view, of the concept of 'rights'.[3] Recent United States federal legislation on animals used in research, in essence, has as its mainstay the moral right of animals not to experience pain, suffering and distress in research unless control of these states vitiates the research. To be sure, this is not codified in rights language, for animals are, legally, still property and property cannot have rights. But conceptually, the law does embody the notion that freedom from pain, distress and suffering is a key component of animal nature, as it is of human nature, and that animals are entitled to have it controlled.[4] Many animal activists see this legal protection as extremely weak, which it surely is; but they forget we are only just emerging from a situation where the only constraint on animal use — which indeed did not even apply to animal research, by legal definition - was the aforementioned prohibition against overt cruelty.

Not only does the United States law begin to acknowledge freedom *from* suffering, it has components of freedom *to,* i.e. it recognises the moral requirement to allow at least some animals to actualise at least certain aspects of their natures. The law mandates exercise for dogs, and environments for nonhuman primates which 'enhance their psychological well-being'. It is true that these requirements are aimed at certain favoured animals (a point highly relevant to including great apes in the moral community, as we shall see), and at very limited rights. But again, its revolutionary nature compared with what obtained historically regarding scientists' *carte blanche* over research animals cannot be underestimated. These rights must be respected, even though doing so is costly and burdensome to researchers.[5]

These laws also stipulate the presence of morally relevant mental states in animals, and to some extent require scientists to think in moral terms about animals, thereby undercutting the notion that science is ethics-free. The erosion of scientific ideology is amusingly illustrated by the following anecdote. When the head of APHIS (Animal and Plant Health Inspection Service), the branch of USD A charged with enforcing one of the new laws, sought help from the American Psychological Association in defining 'psychological well-being of primates', he was assured that there is no such thing. There will be by January 1, 1987 [the point where the law takes effect], whether you help me or not', he tellingly replied. In the wake of these laws, more articles have appeared on pain, suffering, distress, and their control in animals during the past few years than in the previous 100 years, and the scientific community has been led to accept anthropomorphising attributions, hitherto anathema, as evidence of animal pain and suffering.[6]

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[2] B. E. Rollin, *The Unheeded Cry: Animal Consciousness, Animal Pain and Science* (Oxford University Press, Oxford, 1989).
[3] Rollin, *Animal Rights and Human Morality,* Parts I and II.
[4] B. E. Rollin, 'Federal laws and policies governing animal research. Their history, nature, and adequacy', in J.M. Humber and R.F. Almeder (eds), *Biomedical Ethics Reviews 1990* (Humana Press, Clifton, NJ, 1991), pp. 195-229.
[5] Ibid.
[6] Rollin, *The Unheeded Cry.*

The second example of the codification of this new rights ethic in law comes from the Swedish agricultural animal rights law passed in 1988.[7] This law is based foursquare in the moral ideas we have outlined, and even uses rights language. In essence, the law stipulates that farm animals have the right to live their lives in accordance with their *telos,* and therefore must be kept under conditions which fit their natures. Cattle were granted in perpetuity 'the right to graze', and confinement systems designed solely for efficiency and productivity at the expense of the animal must be abandoned.

In essence, what has occurred thus far is as follows: society has gone beyond the anti-cruelty ethic, and has expressed concern that animals used by humans not suffer at our hands, and indeed, that they live happy lives. The rights of animals, as determined by their natures, must constrain and check animal treatment - convenience, utility, efficiency, productivity and expense are not sufficient grounds for overriding animals' rights. One can see this tentatively encoded in some legislation. One can also see it affecting animal husbandry without being legislated; the extensive efforts over the past decade to create zoos which respect animal natures give testimony to the spread of the new ethic. Further, it appears that society is actually willing to give up certain animal uses and conveniences for the sake of the animals: the abandonment of the Canadian seal hunt, the massive social rejection of furs, the rejection of cosmetic testing on animals by many companies, all without legislation, attest to the growing hold of the new ethic. Laws are currently in the offing in the USA to abolish confinement veal-raising and cosmetic testing, which provides further evidence of the power of the new ethic. So too does the admission by agencies charged with wildlife management that the nature of their function is changing dramatically from their traditional role of managing 'game' for hunters to serving 'non-consumptive users' of wildlife.

Solidifying and Extending the New Ethic — The Great Apes

For whatever reason, then, society has begun to 'remember' the extension of our consensus ethic for humans to animals. Like virtually all social revolutions in stable democracies, this has occurred by articulating the implicit, in an incremental fashion, rather than by imposition of radically new ideas totally discontinuous with our social-ethical assumptions. The next key question is this: 'How can one ensure that this revolution continues to unfold, rather than becoming stagnant or aborted at its current stage?'

We have already learned from Socrates something significant about ethical change. Let us now develop a number of insights from Hume. Hume pointed out that morality involves a collaborative effort of reason and passion, i.e. emotion.[8] Reason may allow us to deduce logical consequences from our moral ideas, but reason does not motivate us to act. We are motivated by emotional predilections and disinclinations, by things that make us happy, or indignant, or excite in us pity, and so on. Second, Hume pointed out that what fuels moral life is sympathy, i.e. the fellow feeling with other beings, which allows us to respond to positive and negative feelings in them as motivations for our actions.[9]

These insights of Hume seem to be borne out well with regard to our emerging ethic on animals. Obviously, the first stirrings of concern for animals were for those animals with whom we enjoy a relationship of sympathy or fellow feeling - companion animals. They respond to our moods and feelings, we respond to theirs. This, of course, helps explain the overwhelming primacy of concern of the traditional humane movement for pets, especially dogs. The further removed from us an animal is, the less likely we are to share sympathy with it. Thus many leaders of the traditional humane movement are unabashed anglers, and otherwise sensitive

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[7] 'Swedish farm animals get a Bill of Rights', *New York Times, 25* October 1988.
[8] David Hume, *A Treatise of Human Nature* (edited by L.A. Selby-Bigge), (Oxford University Press, Oxford, 1888), Book II.
[9] Ibid.

people feel no compunctions about dispatching snakes in any number of ways.

Furthermore, our emotions with respect to an animal, or to its treatment, will inexorably shape our tendency to apply the emerging ethic to that animal. Few of us will readily and naturally extend our ethic to sharks or rats, though patently both of these animals meet all of the criteria for moral concern: they are conscious and have natures. But we are acculturated to see these animals as noxious, as threats, as vermin, and thus we are not exercised about their wanton destruction, even when it is done simply for fun, as in the case of sharks, or in painful ways, as in the case of rodents. It is extremely significant that the general public in California opposed the hunting of mountain lions until a film of lions taking prey was disseminated, at which point concern for the lions dropped dramatically.

Emotion and empathy plainly entered into the practical extension of our ethic described above. The singling out of dogs and primates as regards to keeping them happy, not just pain-free, which occurs in the US laboratory animal law discussed above, plainly bespeaks our empathic identification with these animals, and also evidences our largely favourable emotional responses towards them. The demise of the Canadian harp seal hunt and the inevitable demise of the confined veal industry are almost certainly a function of the remarkable empathic response elicited by these paradigmatically infantile animals contrasted with the loathing that clubbing and crating elicit. It is also evident that one of the most powerful vectors resulting in the passage of the 1985 US laboratory animal laws was the release of the horrific University of Pennsylvania baboon head-injury tapes, which elicited strong emotions both on behalf of the animals and against the remote, unaffected, Nazi-like scientists, who seemed impervious to the natural revulsion occasioned in normal people by what they were doing. (The cultural stereotype of the scientist as cold and distant figure, removed from normal human feeling, which has always struggled uneasily in the public mind with the opposite stereotype of scientist as heroic fighter against disease and suffering, was doubtless also relevant here, as public disenchantment with science and technology increased during the last thirty or so years.)

This is not, of course, to suggest that the public (who is, after all, *us), 's* incapable of going beyond such knee-jerk primitive emotions, but the noint is that we must work to get beyond our conditioned responses; we must become educated, and be made to think. People who work with rats for example, or virtually any animal, can develop significant respect and even affection for the animals - unfortunately, scientific ideology does its best to forestall such disruptive attachments.

In the face of these Humean considerations, it is manifest that the great apes, chimpanzees, gorillas and orang-utans, are probably the most plausible animals through which to nurture, articulate, express and solidify the emerging ethic we have described. This is true for a variety of significant reasons.

One feature of the great apes which makes them a natural locus for the emerging ethic is the extraordinary degree of fascination and, far more important, empathy, which they inspire in humans - the public response to the work of Goodall and Fossey alone attests to this. This empathy can be found in unlikely places. Some years ago, a small group seminar was held at a meeting of the American Association for the Advancement of Laboratory Animal Science, a group of researchers, animal technicians and laboratory animal veterinarians. All of these people make their living out of animal research. This particular seminar was devoted to stress experienced by people in the field. In the seminar, people told stories from their own experience illustrating points they wanted to express. The most extraordinary story was told by the chief technician at a major government research facility. Apparently, he had been closely involved in raising a baby chimpanzee who was to be used for research. Eventually, the animal was moved to a different laboratory, to be used for invasive studies. Having developed a rapport with the chimpanzee, the technician deliberately avoided following the animal's fate. One day, he was in a different portion of the institution, walking down a corridor with another

technician, when the other technician called his attention to a cage, where a chimpanzee appeared to be gesticulating to them. He approached the cage, read the card affixed to it, and realised that this was the animal he had raised. It had now been used for a terminally invasive experiment. As he stood there, the animal reached through the cage, met his eyes, grasped his hands tightly, and holding on to him, died. As extraordinary as the story was, the reaction of these laboratory animal people was equally surprising, for every single member of the seminar was crying.

By the same token, most researchers who have worked with these apes develop a similar rapport. 'I won't work with them any more', one researcher told me. 'It's too painful. I can deal with monkeys OK, but these apes are too much like us - I keep seeing them as people in ape clothing.' Such a statement of course falls far short of recognising these animals as moral entities in themselves, but also clearly illustrates the unique effect that they have on triggering empathy.

I have myself experienced this response in a small way, but one which I shall never forget. One of my friends is a veterinarian at a zoo, and he invited me to tour the facility. He especially wanted me to meet the female orang-utan. It was very hot that day, and I had removed my jacket and rolled up my sleeves. As I entered the orang-utan's cage, she seized my hand in a powerful grip. Holding my left wrist, she traced her finger along a deep and dramatic scar which dominates my left forearm, while looking directly into my eyes. She then transferred her grip to my right wrist and traced the same finger along my unmarred forearm, looking at me quizzically. Then she repeated the same action along the scar. The sense that she was asking me about the scar, as a child might, was irresistible; so irresistible, in fact, that I found myself talking to her as I would to a foreigner with a limited grasp of English: 'Old scar,' I said. 'Surgery. The doctors did it.' Then I felt a wave of frustration at being unable to answer her. I confess to spending the next few hours in something of a stupor, so overwhelmed by the fact that I had, albeit momentarily, leapt the species barrier. I still cannot think or talk about that moment without feeling a chill of awe and sublimity.

Though splendidly different, these animals are like us — enough like us to trigger the essential and deep empathy so important to including them in the moral community. This natural effect has been enhanced and deepened by the work which has been done on communication with the great apes by the Rumbaughs, Premack, Patterson, Fouts and others. Leaving aside the objections of those scientists who seem hell-bent on proving that no animal can really have language, the sort of communication that does go on certainly counts as language in the minds of ordinary people. It is clear that apes can insult, joke, lie, ask, entreat, express affection and numerous emotions, grieve, teach one another, care about pets, rhyme, and so on. Such a level of communicative ability, be it language in the Chomskyan sense or not, so dramatically gives a 'window into the minds' of other animals, that it cannot fail to further augment our fundamental empathy. When this is coupled with the exhaustive fieldwork done by people such as Jane Goodall, it illustrates countless cases that can only be understood in terms of mental states like ours. As Goodall puts it:

> All those who have worked long and closely with chimpanzees have no hesitation in asserting that chimpanzees have emotions similar to those which in ourselves we label pleasure, joy, sorrow, boredom and so on ... Some of the emotional states of the chimpanzee are so obviously similar to ours that even an inexperienced observer can interpret the behavior.[10]

Closely related to this latter point is the individuality manifested by the great apes. (As I have pointed out elsewhere, one can find significant evidence of individuality among all animals; but in the case of great apes as in the case of humans, it cannot be missed.[11]) Whereas scientists,

[10] J. Goodall, *The Chimpanzees of Gomhe* (Harvard University Press, Cambridge, MA, 1986), p. 118.
[11] Rollin, *The Unheeded Cry.*

for example, can treat all laboratory mice as indistinguishable and interchangeable, one simply cannot do so with apes. They dramatically manifest differences in personality, temperament, preferences, and behaviour which are inescapable. Thus they tend to manifest themselves as persons, worthy of designation by proper names. Recognition of a being's individuality is a powerful spur to according that being moral concern; conversely, depersonalisation is a major step towards disenfranchisement. It is no accident that the Nazis worked very diligently to make all concentration camp inmates look alike, so that there seemed to be an endless supply of them, and individuals didn't matter.

Not only do the apes manifest emotion, personality and individuality, they manifest *reason* and *intelligence* in a manner powerfully conducive to our according them moral concern. It may we!! be, as philosophers such as Bentham, Singer and myself have argued, that strictly speaking rationality and intelligence are irrelevant to inclusion within the scope of moral concern as a moral object, though they are of course relevant to whether a being is viewed as a moral agent. None the less, the historical equation of intellect with worthiness of moral attention has a profound influence on our cultural mind, and every demonstration that an animal acts without thought or 'instinctively', as when a cat mindlessly scratches a tile floor after defecating, feeds the Cartesian bogeyman waiting to leap out and yell, 'See, they are just machines after all!' In the case of apes, however, as Kohler so powerfully showed more than fifty years ago in his classic, *The Mentality of Apes,* well before the advent of language studies, we have undeniable evidence of intelligence.[12] For those who erroneously equate all mentation with intelligence, the data amassed by Kohler and countless others after him in the twentieth century definitively show that at least these animals possess and demonstrate intellectual power in ways we can readily understand, and at least show them to be the intellectual equals of young, normal children. (Savage-Rumbaugh has recently demonstrated, in an article scheduled to appear in *Child Development,* that a ten-year-old chimpanzee scored significantly higher than a two-year-old child on a test of comprehension of English.[13])

These, then, are some of the basic reasons why the great apes are plausible candidates for actualising as fully as possible the emerging ethic. There are few animals so suited, both in rational and emotional terms, for fostering the widespread agreement essential to granting them 'human' rights in the context of our ethico-legal system. The question which remains, then, is how this can most expeditiously be accomplished.

One of the most significant steps must be the education of the general public regarding the extraordinary *telos* of the great apes - not so much in terms of their ability to, as it were, do humanly inspired 'tricks', such as learning sign language, as marvellous and seductive as this may be. What must be of interest is not their life in relation to us, but in itself, as something to be studied - and recounted - in its own setting, with us as restrained guests who are minimally intrusive. In this, Jane Goodall is an inspiration, displaying extraordinary courage in a world where courage is a vanishing virtue. GoodalPs physical courage, in living for thirty years with chimpanzees; her scientific courage, in recounting anecdotes about chimpanzee life which, to the scientific community, are methodologically anathema, yet speak volumes; and, finally, her moral courage in defying the common sense of science's edict that science must be value-free, have already focused public attention on chimpanzees. And not only have she and others, such as Dian Fossey, who was martyred for selfless concern for the mountain gorillas, eloquently told the story of the great apes, they have also reminded us that all of these animals are members of endangered species. In this way, one can galvanise not only members of society whose primary concern with animals is as individual objects or moral concern, but also those who worry not about individuals but about the extinction of species. These disparate concerns are often at loggerheads; in this case they can effectively converge.

Those concerned about the extension of the moral community, then, must become educators,

[12] W. Kohler, *The Mentality of Apes* (1925; reprinted: Vintage, New York, 1959).
[13] Forthcoming in *Child Development Monographs.*

or at least patrons of education. Such education must begin in the elementary schools — what child can resist being spellbound by stories of ape life and society? It must exploit the educational potential of television and film, as Goodall has done. And it must integrate the facts with the moral message, articulating and applying the new ethic for animals.

Perhaps the best practical step one can take is to press for legislation to leave apes alone. We should not import them for zoos or for entertainment or for research, invasive or not. As Linden has pointed out,[14] we are simply incapable of respecting their natures and their attendant rights in captivity. We should let them be, and let words and cameras in the hands of the Jane Goodalls and other morally directed naturalist-scientists and artists tell of their inexhaustible wonders and grandeur. And let the dictum be proclaimed — know without hurting, see without manipulating, cherish in itself, not for myself.

Elswhere,[15] I stressed the close connection between law and morality. As long as animals were legally property, whose treatment was qualified only by vacuous prohibitions against deliberate 'cruelty', virtually all animal suffering at human hands could be countenanced by the social ethic. For this reason, talk of rights is of paramount importance, for rights, as we have seen, serve a legal as well as a moral function. Ultimately, the rights of animals, protecting fundamental aspects of their *telos,* must be 'writ large' in the legal system, if their systematic violation is to end. As we have indicated, this notion informs the emerging ethic for animals.

But it is well known that fundamental legislative change is excruciatingly slow, with that sluggishness being directly proportional to the revolutionary nature of the moral change underlying the law. Thus legislative conferral of rights for animals is a sisyphean challenge. So long as powerful vested interests oppose the change, it can become enmired indefinitely, unless public opinion can be galvanised on its behalf. This can, in my view, best be accomplished by directing current law towards the enfranchisement of animals. Such a task is of course a formidable one, since extant law basically reflects the traditional social ethic for animals. None the less, I believe it can be accomplished, specifically in the case of the great apes.

Most of the public is sufficiently familiar with recent work done on teaching language, or what is seen by most people as language, to the great apes. Though various scientists may insist that these animals do not possess genuine language, ordinary intuitions fall strongly in the other direction. After all, people can watch these animals on television, and see them putting signs together in new ways, expressing joy and sorrow, insulting and misleading researchers, and even coining new expressions. Since language is, philosophically speaking, morally irrelevant to being a rights-bearer anyway, what matters is not whether what the apes display is or is not language by some fairly abstruse scientific (or scientistic) criteria, but rather that most people who *think* that the possession of language *is* somehow morally relevant to being accorded rights *see* these animals as having language.

Consider, then, a chimpanzee or an orang-utan or a gorilla who has learned to communicate with humans using a system perceived by most people as indeed linguistic. The experiment is terminated, and the animal is no longer of use and is turned over to a zoo, or to a laboratory. When I first discussed this sort of case, in the late 1970s, this scenario was hypothetical.[16] By the late 1980s, however, it was all too real. Unfortunately, as Eugene Linden has so deftly documented,[17] this sort of case has occurred with heart-rending frequency. Linden has told of how these animals have communicated their sorrow and perplexity and anxiety and anger and fear and grief when they are wrenched out of a rich environment where they were being treated as 'honorary humans' -sometimes living as a child in the researchers' homes - and

[14] E. Linden, *Silent Partners: The Legacy of the Ape Language Experiments* (Times Books, New York, 1986).
[15] Rollin, *Animal Rights and Human Morality,* pp. 82-3.
[16] Ibid., pp. 82-3.
[17] Linden, *Silent Partners.*

suddenly incarcerated in a place where they are used for invasive research, and have no one, human or ape, to communicate with, and live wretched, isolated, deprived, lives. Most tragic, perhaps, is that they cannot understand what they have done to merit what they, in their sublime innocence, must surely see as punishment.

Here, I have suggested, we can accelerate the moral and legal enfranchisement of animals, at least of these animals, by using the extant legal machinery, and letting them tell their story in the context of the judicial system. I am envisioning a plausible legal case based on the notions of denial of due process and cruel and unusual punishment. Surely one can make the reasonable case that these animals are, by all rational standards, *persons* who have been denied the fundamental civil rights and procedures due to persons. These animals possess measurable intelligence, sometimes in excess of that possessed by certain humans, they can reason and, most important, they can eloquently speak for themselves, and tell of their anguish and sorrow.

I am thus envisioning a new 'monkey trial', at least as spectacular in its appeal and implications as the Scopes trial, which tested the Tennessee law against the teaching of evolution. Such a trial would be extraordinarily salubrious in just the same sense. The Scopes trial forced a public airing of our scientific, conceptual and educational commitments, as well as a dialectical examination of the roles of science and religion in a democratic society. This trial would force an examination of our moral and attendant legal commitments, and illuminate areas too long left in the dark.

Whatever the outcome of such a trial, the animals would of necessity win. If the trial were lost, the issues would still have been powerfully and unforgettably aired, and the failure of our current law and morality to protect these innocent creatures forcefully and indelibly imprinted in the public mind. Indeed, even if the case never came to trial, the same result would be accomplished by the vast - and doubtless sympathetic -publicity which a skilful attempt orchestrated by first-rate legal, philosophical and scientific minds would undoubtedly generate. And, in the end, the new ethic we discussed earlier would be articulated and enlivened, to the benefit of all animals, and most assuredly to the benefit of the great apes, whose shameful treatment at human hands occasioned the need for the trial.