

## Darwin and the Human-Nonhuman Divide

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When Charles Darwin returned to England in 1836 from his voyage aboard the HMS *Beagle*, he brought back with him not only revolutionary ideas of evolution and natural selection, but also the spark for debate about the very definition of a human being. He drew lines between humans and nonhuman animals in order to maintain a comfortable separation between “us” and “them,” citing morality as the main difference between man and animal. However, modern scientific discoveries provide sufficient evidence to support the concept of morality in humans’ closest relative, the chimpanzee (*Pan troglodytes*). Now, due to indications that chimpanzees have morality – a trait that Darwin and modern scientists claimed to be unique to humans – the line between human and animal becomes blurred. Should chimpanzees be granted the same basic rights to life that modern society safeguards for humans?

Through the observational and experimental studies of chimpanzees by scientists such as Dr. Jane Goodall, Darwin’s suggestion that animals might show signs of human-like emotion, sympathy, and morality has been confirmed. Goodall recorded several instances of chimpanzee children mourning their dead mothers and, perhaps even more poignantly, one case of a young chimp tending to her fatally wounded mother during her last hours (Goodall, 1988, pp. 18–20). However, chimps do *not* limit their sympathies to only family members or members of their social group. Multiple times, Goodall and others observed chimpanzees acting to save other, unrelated chimpanzees through heroic rescues or adoptions (Goodall, 1988, p. 22; *Chimpanzee*, 2012). Frans de Waal wrote of one study that looked at chimps consoling other chimps victimized during violent attacks as a landmark case in nonhuman empathy, saying, “The behaviour of young children that falls under sympathetic concern (touching, hugging of distressed family members) is in fact identical to that of apes, and so the comparison is not far-fetched” (“Empathy in Chimpanzees,” 2014). With human-like signs of empathy, chimpanzees come one step closer to morality.

Finally, chimpanzee societies run on a type of moral code, providing further evidence that they are another species capable of morality. As recorded by both de Waal and by Goodall, chimpanzees live in highly structured social groups governed by a hierarchy and a set of social expectations involving care for young chimps, mutual grooming, equitable

food sharing, and more (Goodall, 1988; Dixon, 2008). These expectations can be interpreted, in human terms, as rules. Chimps who do not follow these rules can be subject to aggression from the rule-abiding members of the troop (Dixon, 2008, p. 136). This hints at a form of punishment for those who act, in the context of the chimpanzee group's social expectations, "wrongly." This tendency illustrates the chimpanzee's potential capability to think and act with a sense of morality, thus breaking down Darwin's most prominent distinction between man and animal.

With the line between man and animal thus blurred, chimpanzees should perhaps, in fact, qualify for the same basic legal rights that children and dependent adults have that protect them from violations of life and liberty. Although, unlike human children, chimpanzees may not be able to attain the same level of intellect, society, or morality as human children will achieve later in their lifetimes, chimp cognitive abilities are quite comparable to those of humans who are low-functioning due to age or mental disability. Both children and chimpanzees perform nearly identically in the Ultimatum Test. This test assesses one's sense of fairness by allowing one out of two participants to choose how to divide a reward with the other participant, who has the power to reject the proposed offer if deemed unfair. For both humans and chimpanzees, this test results in no reward being distributed to either participant, showing that the competing ideas of fairness and selfishness play into each species' decisions similarly (Proctor, 2013). Because of these comparable cognitive capacities and conceptions of fairness, certain advocacy groups argue that "since apes cannot voice their interests, human guardians should protect those interests as they do for human children or humans with severe intellectual disabilities" (Sorenson, 2009, p. 184). These groups call on human morality and sympathy to give life and liberty to animals because of those animals' capacities for morality and sympathy. Furthermore, movements such as The Great Ape Project work not only to create a sense of moral obligation toward the protection of chimpanzees and other apes, but also a legal obligation. The group claims, "apes should be considered persons before the law, as other non-human entities (such as corporations) are considered persons in legal terms," (Sorenson, 2009, p. 183). This legal personhood of apes, which would be similar to the personhood granted to young or mentally handicapped humans, should be granted due to the incredible mental, emotional, and moral similarities between human and nonhuman apes.

Such legal protection would include the right to life, security of individual liberty, and defense from torture. All of these rights would require a huge change in modern society's treatment of chimpanzees and in the common societal perspective towards animals. One who insists upon protecting a chimp's right to life inherently suggests a total end to chimpanzee hunting globally, either for food or for trophy, as either would then be considered murder. One who insists on protecting the rights of chimpanzees also, in consequence, likely promotes enforced preservation

of habitat on which chimpanzees can live, as deforestation of chimpanzee habitat would be seen as destruction of property. Furthermore, enforcing chimpanzee liberty would mean an end to their usage in the entertainment industry and in zoos. Protection from torture would mean an end to their role in biomedical research.

In addition to these legal protections, ape personhood would call for a sharp change in mindset similar to the shift that Darwin sparked when he first introduced his theory of evolution by natural selection. The ape personhood movement now requires societies to formally acknowledge the likeness between humans and chimpanzees that Darwin noted and to further legally recognize that nonhuman apes require the same protection as children and dependent adults. In the words of Ian Redmond, chief consultant for the UN Great Apes Survival Project, “it’s the next step in the Darwinian debate – it requires a paradigm shift in people’s ideas about themselves,” (Douglas, 2007). Ape personhood can and should be legally implemented because of apes’ extreme similarity to humans.

However, several instances of attempting to legally obtain ape personhood have failed due to lack of precedent in dealing with nonhuman rights in the United States, as well as arguments against ape rights, including the point that certain responsibilities must be given to apes if they are to have rights. In three nearly identical cases in New York, the Nonhuman Rights Project (NRP) filed for the freedom of four different captive chimpanzees using the writ of *habeas corpus*, which states that one cannot be unlawfully detained without a fair trial. Despite the NRP’s evidence that apes, like chimpanzees, possess characteristics that should give them rights and freedoms similar to those of young or dependent humans, the courts denied the petitions. This rejection, due to the lower courts of New York having no precedent to follow regarding ape personhood in the United States, caused the claim to move up to the appellate courts (Mountain, 2013). Yet a lack of precedent has not prevented other locations from passing legislation that grants personhood to the great apes. In February of 2007, the Balearic Islands of Spain became the first location to put the idea of ape personhood into law, providing chimpanzees, gorillas, orangutans, and bonobos with the protections that the Great Ape Project suggested and putting them on a similar level as dependents, including children and compromised adults (Douglas, 2007). The program has been in place for several years without major problems: thus, such a law seems feasible.

Additionally, the Balearic Island’s choice to name apes as dependents under the law answers another argument that the opposition presents: what responsibilities must accompany these rights? Opponents claim that, if apes are given rights, they must also have the same responsibilities as other persons to obey the law, follow basic civil codes, pay taxes, and more. However, with apes falling under the same legal protection category as children and dependent adults, chimpanzees can, without the expectation of major responsibilities, possess basic rights in the exact

same manner as dependent humans (Keim, 2008). Finally, modern legislators and scientists often make the “slippery slope” argument when discouraging granting rights to nonhuman animals, arguing that if societies are to give apes rights, they will fall into a confusing debate of which other animals might be “human enough” to deserve legal protection, potentially ending in rights being granted to a high number of species which are much less similar to us than are the great apes. This argument, though, has no bearing on whether chimpanzees and other apes should possess rights. If science determines that chimpanzees are essentially equal to humans, legal protection must reflect that equality despite the fact that it may cause future confusion. Therefore, in spite of opponents’ counterarguments, chimpanzees’ similarity to humans should give them legal protections similar to those given to dependent humans.

Due to their similar moral capacities, chimpanzees and humans have virtually no concrete characteristics that divide them; rather, differences are a matter of magnitude. In the words of Frans de Waal:

We start out postulating sharp boundaries, such as between humans and apes, or between apes and monkeys, but are in fact dealing with sand castles that lose much of their structure when the sea of knowledge washes over them. They turn into hills, leveled ever more, until we are back to where evolutionary theory always leads us: a gently sloping beach. (de Waal, 2009)

This gently sloping evolutionary beach, with its lack of sharp distinctions, helps confirm and expand upon one of Darwin’s initial claims of an essential similarity between chimp and man. Indeed, “there is no fundamental difference between man and the higher mammals in their mental faculties,” but there is also no sharp distinction at all between man and the higher mammals such as chimpanzees. Due to the apparent overlap between man and chimp, chimpanzees now meet the definition of what it means to be human. Regardless, because of the chimpanzee, no longer can humans be defined based on a set of unique characteristics. We must either discover a new human-specific trait to redefine what it is to be a human, or accept ourselves as ultimately similar to nonhumans. The extent to which other nonhumans deserve rights, though, must be further researched in order to determine how far this blurred line extends.

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