

***The Trial***  
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I once asked each of the students in my introductory environmental studies class to assume that they were the attorney representing *Homo sapiens* before a congress of all beings as once described by Joanna Macy and Jonathan Seed.<sup>1</sup> The charge against us would read something like this: “Over many thousands of years humans have proved themselves incapable of living as citizens and members of the community of life and in recent centuries have become so numerous and so hazardous to other members of the community and the biosphere that they should be banished from the Earth for ever”. All the critters, reptiles, fish, birds, mammals, insects, and small things that make everything else work, are represented in the jury box equipped with sentience and voice. The presiding judge is an owl, said to be the wisest of all; the prosecuting attorney is a fox, said to be the most cunning. The question for my students is simply what defense might be made on our behalf? What supporting evidence could be presented? Who among the animals and plants would speak for us?

For the most part students, while finding this an interesting exercise, conclude that no good defense can be made on any terms. But mostly, they stumble through the unreality of the scenario burdened by the assumption that humans are the pinnacle of evolution and that our desire to survive is a sufficient justification. Almost to a person they believe that, given our intelligence and the power of our technology, we will survive. A few believe that we are made more or less in God’s image giving us license to

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<sup>1</sup> An early version of is the tenth century Islamic tale *The Case of the Animals Versus Man before the King of the Jinn*. The story has humans land on an island with a large number of animals. The humans begin to exploit the animals who bring their grievances to the king of the Jinn who also live on the island. The upshot is that the King rules that humans may control the animals but affirms that God is the protector of the animals. See, Said, Abdul, Funk, Nathan, “Peace in Islam: An Ecology of the Spirit,” in Foltz, Richard, Denny, Frederick, and Baharuddin, Azizan eds., 2003. *Islam and Ecology*. Cambridge: Harvard University Press.

do whatever it is possible for us to do, devil take the hindmost. Otherwise articulate and intelligent, my students' confusion is, I think, representative of the larger befuddlement on the subject.

The question is more than just an interesting academic exercise. It goes to the heart of all of the issues of our tenure on Earth. The debate about sustainability mostly begins with an unstated anthropocentric assumption that since we want to survive, we ought to survive, making the question moot. I do not believe, however, that we ought to let ourselves off the hook quite so easily and the reason I offer is entirely practical: if we could know why we ought to be sustained we might better understand how to go about it. To know ourselves worthy of survival, for one thing, would lend energy to our efforts toward sustainability. Believing ourselves unworthy, our efforts will lack the conviction that arises from knowing our cause to be just. For another, knowing what makes us worthy of longevity, will help us set priorities in the years ahead and determine those aspects of personhood, society, economy, and culture that ought to be preserved and those that can be discarded.

The case to be made against us is straightforward: we stand accused of being destructive, capricious, violent, wantonly cruel, derelict stewards, and unworthy of the appellation *Homo sapiens*. We are driving other species into oblivion and the Earth into a period of great and tragic instability. In his opening statement the fox states that: "Humans live beyond the limits and laws of nature and believe this to be their right. For every St. Francis, there are tens of thousands, no hundreds of thousands, who are destroyers and killers believing themselves exempt from the laws of community, decency, and courtesy, and millions more who give no thought to such things whatsoever.

In fact, they are no more than rapacious and clever monkeys, but without the monkey's good judgment." Laughter erupts in the jury box; when it subsides the fox goes on.

"Without the restraints of a small population, an all embracing religion, law informed by nature, an ecologically grounded philosophy, technological incompetence, or even foresight, said to be their chief glory, humans are doomed, as some of their own have said, and deserve the death sentence before they take most of us with them. We must banish them from the Earth forever and the sooner the better. I ask you in the name of your children and your children's children, to sentence humankind to death at dawn."

Members of the jury, excepting the cockroaches, mosquitoes, vermin, and kudzu seem to mumble their assent as if in unison.

The defense has to contend with numerous complexities. Perhaps humans, for all of their protestations to the contrary, are haunted by a collective death wish as Freud once thought. Perhaps we really are not so much a rational species as we are exceedingly clever rationalizers. Again, the evidence cannot be lightly dismissed. The sources of irrationality are many starting with the still small voice of our genes that moves us to do their bidding and extending through our ineptitude at seeing patterns and systems and acting accordingly. Perhaps our evolutionary career has hard wired us to myopic tribal loyalties. Maybe we are just sinful and fallen deserving of death, excepting the redeemed, as fundamentalists would have it. Having multiplied extravagantly and extended our dominion over the air, seas, and lands and into the depths of the atom and gene beyond any rational limit, we are too successful for our own good. We define ourselves as consumers, a word originally designating disease. But what we consume is the planet's primary productivity on which other species depend. We think of ourselves as little more

than rational players in an economic system conceived along with the industrial revolution 250 ago—an infinitesimal slice of the 3.8 billion years of evolving life. The bloody catalog of history shows us to be stone cold vicious against our own, against animals, and natural systems. The challenge for the defense is monumental.

As the trial opens, the attorney representing humankind—for all of its cultural and scientific attainment, for all of its art, poetry, literature, and, yes, for all of its bloody history as well—rises to give her opening statement. Jurors in their various garbs of fur, fin, shell, feathers lean forward to hear the defense.

“Most honorable Judge; my esteemed colleague of the bar, Mr. Fox; members of the jury, I am grateful for the opportunity you have afforded me to speak on behalf of my own kind, now facing charges that carry the gravest of penalties. I do so with fear and trembling for what the charges portend, but with confidence born of the knowledge that our species, for all of its shortcomings, is a worthy and promising part of the community of life. I appreciate the opportunity to speak to you members of the jury as a family with a long history. From the earliest stirrings of life in the seas, ours has been a long intertwining of biological destinies, of sharing genetic material, and of mutual learning. We have even been food for many of you.” Jurors, except the parasites and those with fang and claw, looked baffled unsure whether this was an ill-conceived attempt at humor or something darker. The shark shows no emotion at all.

The attorney for the humans continued. “We have learned much from each of you. Our first inkling of what we are was shaped by communion with you Mr. Bear, and you Mr. Wolf, and you Ms. Salmon; indeed with all of you. We first came to know many of you as our teachers—the mirror by which we might better understand ourselves. For

reasons not our fault, we are the only species troubled by self-consciousness and the knowledge of our mortality . . . a burden that weighs far less on all of you. Our first art attempted not just to portray some of you, but to honor you for what you taught us about ourselves. Many of you graciously fed us when we were hungry. Many of you fed our spirits by your ability to soar in the skies or play in the waters. You taught us faithfulness to place and seasons. You taught us industry, thrift, and the determination necessary to survive. The trickster coyote taught us cunning when we were weak. Our first words were a kind of crude imitation of the sounds some of you make. You taught us the habits of work and even the arts of making nests, dams, and homes. You taught us to fly, to swim, to navigate, and to return home again. You were our first teachers for which we are grateful. Had we been more adept students we would have better learned the arts of managing fertility and sunlight taught by our sisters: the forests, the grasslands, and the deserts. Nonetheless what we are now owes to those early lessons mastered all too imperfectly. But we are quickly learning how to better mimic your ways and those of nature in our own industries.” The jurors stir ominously.

Undaunted, the attorney for humankind proceeds to her next point. “We have evolved together on this small beautiful planet. But neither we nor most of you are what you once were thousands or millions of years ago. Excepting a very few of you such as you, Mr. horseshoe crab, we have all changed. Even so, we show the unmistakable signs of our common origins in the seas. Humans differ only slightly in the makeup of their genes from their kin of only a few tens of thousands of years ago, a mere snap of the fingers in time. Still there is a difference, our mark as it were. Each of you jurors has a specialty shown by fang, appendage, power of sight or speed or disguise. Humans are

generalists endowed with minds capable of language, reason, abstraction, and sufficient foresight to fear our own demise. None of you can do what we can do and none of you carry the fearful knowledge of mortality that we bear. But that knowledge came with an obligation as well for it was left to us to give voice to the journey of life on Earth; to write its poetry, paint its pictures, to fathom its meaning, and to ponder its ascent and final end—to ask why and how. Knowledge, we now understand, is both liberating and damning. Why this was left to us, and to none of you, no one can say. And no one can say what knowledge will do to humankind as the millennia roll forward. All of us in this courtroom are in a slow transition from what we were and what we are to some unknown future. The particular advantage of my kind is the mental capacity to learn and create culture much faster than the evolution that shaped all of you in this courtroom. The transition of which I speak is gathering force and speed.”

The jurors are restless, impatient of what appears to be an irrelevant diversion. The Wolf can be overheard muttering to the elephant that humans, “as they steal more of our secrets the enemy” as he puts it, “will become even more tyrannical and destructive.” The elephant makes no response. Mr. Fox rises to address the judge. “Your honor, this line of argument is immaterial to the charges at hand. I respectfully request that the defending attorney be instructed to get to the point and quickly.” He sits. The jurors, growing impatient, nod in assent. The defense attorney stands and responds: “Your honor, I respectfully submit that this is most relevant and I will shortly explain why and how.” In a flat voice the Judge snaps: “Proceed, but be quick about it.”

“Thank you, your honor. To you members of the jury I will offer no justification for past wrongs, excesses, and cruelties inflicted on you and your ancestors by my own

kind. But I do ask each of you to carefully consider the evidence that I will present of what is happening all around you. All over the Earth a great turning in the evolution of humankind has begun. It is driven by the forces of which I spoke moments ago. Our capacities to learn, reason, and even empathize are growing quickly. We now know ourselves to be a part of a larger story of life in the universe and are beginning to understand what that will require of us. All over the Earth humans are engaged in a momentous conversation about the terms and conditions that must be met in order to sustain life—yours and ours—on this planet.”

“A word about our own history is in order. Cruelty toward our kind was, too, part of that history. After many years, however, and with much trouble, we have learned the value of law, restraint, fairness, decency, democracy, and even peace. Not long ago one of my gender could not have been selected for the heavy responsibility that I now bear. Have we learned these lessons well enough? By no means! But they now represent a growing force in human affairs spread by our global communications technology. We now know instantly of problems and crises that occur all over the planet including news of our own folly. Do we always respond adequately? By no means! But we are learning and most importantly millions of people now consider their allegiance to Earth, to the future, and even to all of you as members of the community of life to be more important than those to nation and religion. Is the battle for decency won? No, but in time, I submit that it will be.”

Members of the jury, if not mollified, appear to be less hostile. But the wolf, leaning on the rail of the jury box, shows utter contempt.

The attorney for humankind continues. “As I will show, humans are the first species to show kindness to another species. We, not you, ponder and often worry about such things as justice, fairness, and decency, not simply the laws of eat and be eaten. Nothing in nature dictates such things, but we believe this, too, a part of our obligation to the community of life. We have laws, imperfect to be sure, protecting each of you in some fashion.” The rats, mice, chimpanzees and a few other subjects of laboratory experiments exchange angry glances. “We are the first to see Earth from space, measure its temperature, count the number of species, and to understand its laws. We are the first among all of Earth’s diverse life forms to understand our world enough to take steps to protect it.” A member of the salmon nation shouts in response that “it would not need protecting were it not for your kind!” Shouts erupt throughout the court. The Judge calls for order.

The attorney for the defense resumes. “The angels of our better nature are growing more powerful in human affairs. There is now a global movement to protect species, stabilize the climate, preserve habitats for each of you, to reign in our excesses, and reduce consumption. Efforts have begun to restore lands and waters that we have through carelessness and ignorance degraded. We are learning the arts of designing with natural systems in ways that give back as much as they take. We are beginning the great transition from coal and oil to efficiency and sunlight. If granted the right to survive, the difficulties and challenges we face in the years ahead are many, but the great turning in human attitudes and behavior has begun. We, a young species compared to many of you, are beginning to fulfill our promise for wisdom, compassion, and foresight. We are

acquiring the scientific and technological know-how necessary to radically reduce our impacts on the Earth.”

“For all of our shortcomings and liabilities, I ask you to ponder not just a world without humans . . . .” She is cut off by shouts of “we’d like to!” and laughter. She resumes, slowly measuring each word: “. . . but a world not that far into the future of a partnership of life on Earth, of mutual celebration between evolution and intelligence—a better world for all. I ask each member of the jury to see this as dawn, not sunset; a beginning, not an end.” Her opening statement finished, she sits. The Judge asks the attorney for the prosecution to call his first witness. The trial begins.

I asked my students to say how it might turn out and why. Is there something special about *Homo sapiens* that trumps other considerations. Is there a better defense than one based on a promise to improve? Is there any evidence that we are doing better or that we will do better? Is there a kind of middle sentence between life and death? Under what terms could humankind receive a contingent life sentence or probation?

The trial, like philosopher John Rawls’ “veil of ignorance” is a heuristic device to help us see what we might otherwise miss. But it is more than that. It is an invitation to ask those age-old questions, now more important than ever, about who we are and where we are going.

There will, of course, be no trial, no parole, no contingent life sentence, only an eerie and deepening silence as players in the symphony of life disappear one by one unless and until we shift course. As my students know as well there are profoundly important efforts underway to change our course along with formidable sources of resistance and the brute momentum of industrial civilization. At the dawn of the 20<sup>th</sup>

century optimism about the human condition abounded. Science and technology seemed to promise an unlimited future. Those hopes seemed to vanish in the wars, gulags, ethnic cleansings, and insensate violence of the years that followed.

Is it possible to recover a nobler vision of humanity, but one grounded in both in science and in possibilities for something akin to species learning? Is there in us a promise of something more? Perhaps we have as Joel Primack and Nancy Abrams suggest a “sacred opportunity . . . a chance to be heroes . . . but we will need, collectively, to become the kind of people capable of using science to uphold a globally inclusive, long-lived civilization” (2006: pp. 295-297). Maybe there is a different story to be told, one that fuses science with a renewed sense of the sacred (Swimme and Berry; 1992). Maybe it begins in overcoming the autism to the Earth that has taken hold of us but is not determined by anything in our makeup. Perhaps, as Thomas Berry puts it “we are not left simply to our own rational contrivances. We are supported by the ultimate powers of the universe as they make themselves present to us through the spontaneities within our own beings” (1988, p.211).

### *Sources*

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