

9-1-2004

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Recommended Citation

Abney, Keith (2004) "Sustainability, Morality and Future Rights," *Moebius*: Vol. 2: Iss. 2, Article 7.
Available at: <http://digitalcommons.calpoly.edu/moebius/vol2/iss2/7>

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SUSTAINABILITY, MORALITY AND FUTURE RIGHTS

Keith Abney

In moral theory, sustainability is understood as a meeting of environmental and inter-generational ethics—the intersection of responsibilities to the environment, our current selves, and to future persons. There are four primary ethical approaches to sustainability: rights theory, Kantian deontology, utilitarianism, and virtue ethics. Only one—virtue ethics—offers the promise of a coherent and fertile understanding of the complex issues involved. To see why, the nature of rights and the nature of our duties towards the future require explication. Neither nonsensically reified rights of future beings nor utilitarian calculi accurately analyze such moral duties; instead, virtue ethics does so, by specifying the necessary conditions for collectively and indefinitely sustainable human flourishing—with special attention to the ecosystems such flourishing requires.

1. Rights theory: problems of its use for sustainability

The concept of a moral person—one due moral consideration, a being capable of morality—is often confused and conflated with genetic humanity, but a moment's reflection on the status of corpses or possible extraterrestrials (Mr. Spock, say) shows such 'speciesist' understandings cannot be correct. To clarify the concept of a moral person, we first need to understand the nature of moral 'rights'—they are entitlements (being entitled to certain considerations and/or freedoms), which in themselves place me under no obligation. Rather, a right grants me a liberty—I may claim it, if I so choose; but I am under no compunction to make the claim—*it is up to me*. So freedom or liberty is built into the concept of 'a right'. My right to free speech does not require me to speak—it instead sim-

ply means that I may speak, if I so choose—regardless of what others wish. (Of course, that doesn't mean they have to listen!)

But rights claims I make do logically entail responsibilities—not for me, but for other persons. So, the *correlativity thesis*: any ascription of rights to oneself involves correlative obligations for others. If I am free to speak, then, at a minimum, you have an obligation not to shut me up. My 'right' is hence a freedom to avoid being interfered with—it constitutes a restriction on the ability of others to thwart my freedom. Such 'negative rights' require merely autonomy for oneself and non-interference by others. Some rights theorists also assert the existence of 'positive rights', which impose even stronger obligations upon others—they are required to assist me (if I so choose) in the exercise of my right. (Federal 'equal time' laws for campaign advertising are understood as a positive right—they require the assistance of the media to be exercised.) It follows that rights claims logically require autonomy, the ability to be a law unto oneself, which requires the capacity for the rational exercise of free will, or agency; and rights, as seen, also require moral responsibilities, on each other person whenever I claim a right. So without autonomy, one cannot have rights; without rights to be free from some interference in at least some parts of life, autonomy is impossible.

Of course, the correlativity thesis applies to all rights claims—not just my own. So if anyone else has a right, I am under a correlative obligation; the only scenario under which I have rights but no responsibilities is if no one else has rights at all—except me. Likewise, in the absence of culpability—assignments of moral responsibility—claims of rights are a mirage; I have no rights if others do not thereby have obligations to respect those rights. In slogan form, 'No rights without responsibilities'—per the correlativity thesis, universal rights entail universal responsibilities/duties. There is a related slogan form for compensatory justice: 'No right without a remedy'—a social right only exists insofar as social means for compensatory justice exist. If my rights can be violated with impunity, they do not really exist.

With all this in mind, the diagnosis of what ails rights discourse is enabled. In rights theory, *moral persons are all and only those capable of moral responsibility*. Given the correlativity thesis, there are no rights without responsibilities; that is, every ascription of a right to one involves correlative obligations for all other ... persons. Not everything has obligations—lions, giraffes, tables and chairs have no obligations to respect my right to free speech. That's because they are incapable of it—they cannot be morally responsible, hence are simply *not a person*. Now, mind you, the converse of the correlativity thesis does not hold—*obligations can exist for persons without some person thereby being given a right*. You and I arrive simultaneously at a four-way traffic stop; we are both obligated to stop, but neither of us has a 'right' to go first. Or—to address sustainability—we persons

may well have duties to the environment or future generations, *without those things thereby having moral rights*.

So the essential problem occurs because those who confuse morality with legalism or due process often also confuse moral consideration with moral rights. The defenders of animal rights, environmental rights, fetal rights, and so forth are trapped in moral discourse that disguises their true concerns and legitimate claims because their theoretical vocabulary embodies a deep incoherence. Simply put, animals, fetuses, and the environment *have no rights*. They cannot have rights, because they can neither exercise agency, nor undertake obligations—they are not held responsible for what they do. And as seen, rights claims logically require both autonomy (for the bearer of rights) and autonomous responsibility (for all those who recognize a right). Non-human animals (as far as we know) can neither rationally exercise free will nor bear responsibility for infringing on the rights of others—hence they cannot be bearers of or respecters of rights. Non-human animals can neither make rational claims nor be tried for their failures to respect the claims of others. My cat or dog, whatever their other abilities, do not have the capacity for autonomy or taking responsibility—and hence logically cannot have rights. If animals such as dolphins or bonobos eventually do demonstrate such abilities, then they would be considered rights bearers—and correlatively, citizens of the moral community with obligations to us. In short, they would be persons. I have encountered no convincing evidence of such abilities by them, so henceforth I assume they have no rights. Occasionally legal fictions are created that ascribe rights to things without autonomy—a recent suit was filed *on behalf of* cetaceans against the US Navy, claiming that whales and dolphins ‘have a right’ not to have noise pollution from submarines endanger their health. But of course, in reality the cetaceans were not making the claim—a human was, in effect asserting his right to save the whales. (By the way, the case was dismissed.)

Similarly, fetuses—and infants, for that matter—cannot have moral rights. They too can neither exercise agency nor undertake obligations. And likewise for ‘the environment’, or any other mistakenly reified rights holder. But of course, no one likely believes that the fact that infants and pets have no rights means that morally we may do as we like with them. That is, the moral community—the set of things to which moral consideration is due—is certainly larger than the set of rights holders—those who can rationally demand such consideration as a right, and hence as my obligation. And it is the tendency to conflate ‘having a moral right’ with ‘being due moral consideration’ that has poisoned intellectual discourse on these topics and created such ethical confusion. Stem cells, pets, ecosystems, zygotes, fetuses, infants, and research animals all plausibly are due varying degrees of moral consideration—but not because they have any rights.

A Kantian holds that they are due consideration merely instrumentally, because rights holders care about them—as is clear with the treatment of pets versus other animals. Their value, says Kant, is merely instrumental: because some rational agents care about Fluffy, it is wrong to harm Fluffy—but the harm is not directly to Fluffy, but indirectly to the agent, the holder of rights. Kant thought it wrong to torture dogs or cats, not because of the harm to the dog—there is none—but because of the harm to the persons who care about the dog (and the harm to the torturer himself). Some seriously believe that such an analysis can be extended to explain all moral consideration—that is, non-rights holders are due moral consideration only insofar as rights holders care about them—or insofar as they affect the interests of rights holders.

But I think it obvious that such an approach cannot succeed; it requires radical revision and supplementation, as the discussion below will demonstrate. Its remnant plausibility rests on the fundamental confusion about who can and cannot have rights, which both law and Kantian moral theory have continually obfuscated. This is especially clear when discussing ‘potential persons’—things that are not persons now, but (if all goes well) can become persons at some later time. A fetus is obviously such a potential person, but so are the later generations that sustainability theorists worry about—they do not exist now, but could in the future. They have no rights—how could they? Just as current students are not graduates of Cal Poly, but are potential graduates—and so they have no right to represent themselves (e.g., to employers) as graduates *now*. If all goes well, they will have those rights at a later time—but they do not have them now. And so with any other potentiality—future persons have no rights now. But that does not (*pace* Kant) guarantee that we (current) persons have no obligations towards them.

The problematic nature of rights theory and Kantian ethics for sustainability revolves around clarifying just such issues. Take Jane Doe, a hypothetical 25 year old, normally functioning citizen of the year 2100. As a merely potential (future) person here in 2004, she has no rights now—how could she? She does not even have the right to exist, we assume; her hypothetical great-grandparents here and now do no wrong in choosing not to have a child, in which case she never will exist. But in the year 2100, as an actual person, she certainly will have rights—so she *potentially*, but not actually, has rights now. What are my obligations, here in 2004, towards her—and her environment? Do I have a responsibility to avoid global warming or asteroid strikes or nuclear fallout polluting her environment or even making it unliveable? If so, we cannot say it is because *she has a right now* that specifies my duty. Yet we do believe that causing e.g. massive pollution or crop failure or intense radioactive fallout of future habitations or enormously adversely affecting other aspects of sustainability is deeply wrong. We cannot specify that wrongness in terms of current rights, or even in the interests or cares of current

rights holders. A Kantian or rights approach simply will not work. How then do we specify adequate and coherent moral thought about sustainability?

2. Sustainability, utilitarianism and intergenerational ethics

Given the failures of rights talk, a popular attempt to resolve our duties to the future is to embrace some form of utilitarianism—the initially plausible idea that morality is about producing the best possible consequences, understood as maximizing utility—the net result of summing the good consequences of our actions and subtracting the bad. Put baldly, ethics utilitarian-style is about the ends justifying the means; it simply claims that what defines the moral is whatever produces the best possible future—an approach superficially amenable to discussion of sustainability. Indeed, the issues of sustainability are often characterized in utilitarian terms; for instance, the concept of a ‘Triple Bottom Line’: in cost-benefit terms, the economic, environmental and social value our activities add—and destroy.

In economics, ‘sustainable growth’ is standardly defined as the growth of real (inflation-adjusted) income that could be sustained indefinitely. On the other hand, environmental or ecological sustainability is oft opposed to economic: it is usually driven by a perception that the quality of the environment is negatively correlated with economic development, and this cannot continue indefinitely, lest we all perish in the wastes of our own affluence. Using some utilitarian calculus to attempt to escape this apparent dilemma drives the analysis of sustainability in terms of the ‘triple bottom line’. Broadly, this approach is supposed to capture the whole set of values, issues and processes that society, especially business, must address in order to minimize any harm resulting from their activities and to create and maximize the net result (or “profit”) of the three ‘bottom lines’ of economic, social and environmental value. For business, this involves the notion of responsibility being to the company’s stakeholders—all those affected by its activities—including the shareholders, but also customers, employees, business partners, governments, local communities and the public. Society depends on the economy—and the economy depends on the global ecosystem, whose health is the acknowledged prerequisite for the other two. This utilitarian version of the triple bottom line then simply asks: how can we play off competing costs of sustaining one versus the others, so as to maximize ‘*net human preferences*’? The pious hope has been that perhaps this cost-benefit utilitarianism, beloved of government, business, and social planners, can solve the problem of our responsibilities towards Jane Doe and her environment.

Or perhaps not. A contemporary utilitarian with great influence on these issues is Peter Singer, now of Princeton University. He rejects the economic form of utilitarianism advocated by some libertarians and other free marketers. That idea views utility as equivalent to consumer net preferences, so the way to maximize utility is to maximize

consumer preferences; an untrammelled free market in which everyone has the liberty to buy or sell anything they own for any price mutually agreed upon hence maximizes the economic preferences of the greatest number. This 'economic utilitarianism' hews to a libertarian line that recognizes property and the right to sell or buy it as the only positive rights. The problems with this begin (but hardly end) with those who are devoid of property but still need food, shelter, etc.—the poor.

To avoid this problem, Singer follows a 'radical economist' line of stating that there are certain preferences which must be important for everyone, even if the individuals involved might not think so—food and shelter highest among them. So we must find food and shelter for the greatest number of people possible, and after that, other preferences in similar utilitarian fashion. Singer's view further claims that sentience (the ability to experience pleasure/pain) is the key moral attribute, and all sentient creatures should be treated in utilitarian fashion—more or less, we ought to maximize pleasure and minimize pain for all sentient creatures. To a first approximation, morality thus involves minimizing sentient suffering—suffering is only permissible when it produces greater net pleasure in the long run. This view, alas for Singer, leads to *reductio ad absurdum*.

Singer's utilitarianism implies that animal experimentation or consumption is wrong except in a case in which we would be willing to experiment on or consume a human with similar capabilities (sentience) to the animal. But, taken seriously, this view undermines environmentalism (and indeed all ethics!) as usually understood. Our human obligation then is to minimize total suffering, which means that 'wild animals' are most certainly NOT to be left to their own devices, with nature red in tooth and claw. No one disputes wild cats and dogs/wolves endure far more suffering than domesticated ones, and so the human obligation to avoid suffering implies immediately that we should domesticate as many species as possible. Further, a great deal of suffering occurs in the context of hunting and killing associated with meat eating, so it makes sense that we should not merely become vegetarians, but indeed should (as painlessly as possible!) sterilize and even euthanize all predators and carnivores, so that we drive them to extinction. Animal suffering would surely be alleviated in a world in which only peaceful herbivores exist.

But in truth, for Singer we ought not stop there. The insects certainly behave as if they register pain, and self-conscious mental states are unnecessary for suffering on Singer's view...so it appears crystal clear that the untold billions or even trillions of numbers of insects, including termites and roaches, are far more morally considerable than the entirety of the animal kingdom. A million roaches would certainly be more valuable, in terms of sentience, than a human life. Indeed, a moral view would logically bid all ecological niches occupied by animals be vacated as well, so that the far more

numerous insects could occupy them without suffering. Even the predatory insects should be extinguished, leaving only bees and their ilk. Hence, a world with only insect and plant life would have far less suffering, and all animals hence should be (again, as painlessly as possible!) driven to extinction. The culmination of ethical obligation is to remove all creatures capable of it!

3. So utilitarianism is wrong - what then for sustainability?

For the treatment of humans Singer pretty well believes we have a duty to minimize the suffering of others around the world, even at potential considerable cost to ourselves. In particular, we have a responsibility to feed every starving person, as long as we have more than enough food ourselves, etc. So for Singer, famine relief goes not nearly far enough. Expropriation of wealth on a large scale from First to Third World is morally mandated. In my view, Singer does not go nearly far enough in understanding that people's preferences need to be re-educated, nor does he fully acknowledge the horrible corruption of advertising in this regard. In general, the role of education in changing both preferences and the social and cultural as well as material basis for developing preferences is obscured by such analyses, which reduce our responsibilities to a utilitarian calculation of how many starving people we can feed while still getting our jollies elsewhere.

For an instructive contrast, in the late 1960s a philosopher named Garrett Hardin publicized the so-called 'tragedy of the commons' as an illustration of a general problem called the prisoner's dilemma, in which the action that is collectively rational for a group does not map onto what is individually rational for each person involved. Hardin's example was medieval English common land, which, with no private ownership, suffered from overgrazing, to the eventual ruin of all involved. This ruin occurred because the benefits that each extra cow brings were reaped solely by its owner, but the costs of the extra strain it put on the grass (and water, etc.) were shared among all the users of what is held in common. In economic jargon, the costs were externalized—not borne by the producers of the product, but by others. There is never an economic incentive to internalize external costs. So everyone selfishly had an incentive to raise as many cattle as possible, although they knew if everyone did as they did, it would ruin everyone. But voluntarily refraining from use simply puts you at a competitive disadvantage with someone who selfishly grazes more. So individually rational behavior deteriorates into collective ruin. Solutions, claim Hardin, are privatization or more likely mutual coercion, mutually agreed upon—as air, e.g., can't be privatized. So, Hardin believes that the government must simply pass and enforce laws to coerce people to act in their own long-term interest, even when some suffer as a result. In a sense, this amounts to a kind

of longer-term utilitarianism, in which numerous humans are sacrificed at present to save more later on—or to prevent many would-be miserable ones from ever being born.

Hardin generalized this approach for the sustainability of the whole biosphere, especially as regards human overpopulation, in his “Lifeboat Ethics.” He asserts that feeding the starving when such practices are unsustainable is unjustified. In particular, if we feed people and they reproduce and their children starve and we feed them... We cannot do so forever, and sooner or later everyone will be starving—i.e., Malthus was right. As one commentator put it,

It is moral to haul shipwrecked swimmers out of the water until one more swimmer sinks the whole boat. The answer to how many swimmers we can save is a scientific question. Thus, scientific morals.

Of course, it’s not that simple. A better commentary follows rules drawn from Hardin’s work:

(1) An acceptable system of ethics is contingent on its ability to preserve the ecosystems which sustain it.

(2) Biological necessity has a veto over the behavior which any set of moral beliefs can allow or require.

(3) Biological success is a necessary (though not a sufficient) condition for any acceptable ethical theory. In summary, no ethics can be grounded in biological impossibility; no ethics can be incoherent in that it requires ethical behavior that ends all further ethical behavior. Clearly any ethics which tries to do so is mistaken; it is wrong.

I believe that these last three laws are basically correct, with some caveats as to wording. But they don’t validly generate the conclusion that we must allow millions of people to starve because at present we don’t know how to create a sustainable economy for their area. But of course, Singer’s utilitarianism is misguided too—as seen, it flagrantly violates the third law. Both Hardin and Singer fail sufficiently to appreciate how technology and human cooperation can change the nature of the game. The ‘demographic transition’ that occurs as literacy levels and other indicators move from a Third to First World has always included a drop in birthrate, largely coincident with but lagging behind (by 30-50 years) a drop in death rate. So populations boom for a while as health care and food production get better and people live longer, then stabilize as birth rates fall. I believe that the necessary conditions for such a transition are predicated on high literacy and other education, the emancipation of women from solely traditional child-bearing roles into active social/work life, and expectations of reasonable health and longevity for oneself and one’s children. So I think the first focus of responsibility around the world is to create such conditions everywhere. They are prerequisites for

long-term sustainability and quality of life, and thus inculcating such virtues trumps trying to save every single starving person.

We need a rich tapestry of the virtues that constitute the highest form of human life, and to educate people into seeing their value, instead of simply allowing market forces and advertising to pervert the values and preferences of the masses into short-term prisoner's dilemmas. Virtue ethics, rather than utilitarianism, hence guides inquiry into future obligations. It helps us realize that such values as conduce to human flourishing are *virtues*, which will be *self-authenticating*—they will be the preferences people have *under conditions of free and informed inquiry*, the values of a self-sustaining and self-correcting society. They will always have the truth as their overarching goal, not the maximization of profit or any other lesser end.

Effecting this transition to an entire society which values the truth about everything, from how much to consume to how much to read to how much to give to famine relief, crucially depends on our ability to apply our education; that is, it depends on technology, and new technology changes what is 'sustainable'. And so it makes perfect sense, e.g., to save as many lives as possible in a truly transitioning economy, because even if their lives are unsustainable under conditions *at present*, *if* the transition continues, their lives will become sustainable in the future. So it becomes a matter of priorities: to a first approximation, we should save as many starving people as possible, *as long as* they could also be given health care and educated to an awareness of the basics of free inquiry, self-government and democratic rule with resources available.

And so I hold that our primary duty to any future Jane Doe is to assure that she will be born into a society with those values. Because, in short, one can defeat prisoner's dilemmas with education—one can get people to see what is selfishly rational is collectively irrational, and in the end, will bring them down too. Prisoner's dilemmas only work when people don't understand the difference between collective and individual (selfish) rationality—when they do not know how to reach a sustainable consensus, to inculcate the virtues that lead to flourishing in lived society. Inculcating those values, rather than any narrow short-term calculus of economic profit versus ecological costs, or a misguided emphasis on the impossible ascription of "rights" to the environment, will lead to the eventual solution to the problem of specifying our duties for sustainability. That is the real 'triple bottom line'. 

Notes

All of the following are useful and/or used for the topics discussed:

1. Derek Parfit, *Reasons and Persons*.
2. Peter Singer, "Famine, affluence, and morality" and "A utilitarian defense of animal liberation", both found in Pojman (ed.), *Environmental Ethics: Readings in Theory and Application*.

3. <http://members.shaw.ca/docnixon/conf.persons.html>.
4. <http://plato.stanford.edu/entries/rights-children/>.
5. <http://brindedcow.umd.edu/140/warren.html>.
6. <http://www.cofc.edu/~portmord/170-L10.htm>.
7. <http://plato.stanford.edu/entries/moral-animal/>.
8. <http://web.ics.purdue.edu/~curd/110WK15.html>.
9. <http://plato.stanford.edu/entries/identity-personal/>.
10. <http://www.sustainability.com/philosophy/triple-bottom/tbl-intro.asp>.
11. <http://www.campusprogram.com/reference/en/wikipedia/s/su/sustainability.html>.
12. <http://plato.stanford.edu/entries/justice-intergenerational/>.
13. <http://plato.stanford.edu/entries/ethics-environmental/>.
14. http://www.garretthardinsociety.org/articles/art_lifeboat_ethics_case_against_helping_poor.html.