



The Environmental Ethics and Policy Book: Chapter 1 –VanDeVeer, Pierce

Section 2. INFLUENTIAL ETHICAL IDEAS AND THEORIES



2.1 FROM ETHICAL EGOISM TO SOCIAL DARWINISM



Two "egoisms" (two theses) are commonly distinguished: (1) Psychological Egoism, that every human act is motivated by a desire to promote one's self-interest, and (2) Ethical Egoism, that each person ought to act in such a manner as to promote (or maximize) her or his self-interest. Note that (1) seems to be an empirical thesis and a most sweeping one, namely about every human action, or rather, the motive behind every action. We will not review the arguments pro and con here except to say that defenders of psychological egoism do not deny that people donate blood anonymously, that soldiers jump on grenades to save their buddies, or that people spend years caring for children or for aging parents without overt compensation; rather, defenders try to find reasons to construe each and every one of these cases as involving a self-interested motive, such as hope of a reward in the next life. A different story, of course, must be told about atheists. To be less than neutral here, as the defender of the thesis tries to spin his or her web of interpretation about each purported counterexample, one begins to suspect that the thesis is not really an empirical one at all. Still, if Psychological Egoism were true, that fact would be subversive of policy proposals that require for their success that people act altruistically; hence, its relevance to normative questions. We should note that one need not believe that people always act altruistically if one rejects Psychological Egoism; one should reject the thesis if one thinks altruistic acts occur, even if not routinely.



This matter, or at least the question of just how extensive our altruistic resources are, arises with regard to whether it is feasible to ask or expect people, or nations, to act altruistically to benefit other species, other nations, or future generations. For example, many nations, such as those that are the habitats of many rare species of plants and animals, ask how they can be expected to function as custodians of those living creatures (and often thereby forgo, as a result, the rewards of other uses of these habitats) without receiving compensation. An alternative sometimes is to try to structure markets (for example, by allowing trading in pollution permits) in such a way that there are adequate incentives of self-interest ("market-based incentives") for nations or individuals to act in an environmentally friendly manner. It is worth observing that we do not always think it appropriate to provide market incentives, or payoffs of some kind, to get people to act in a certain manner; for example, we do not try to provide market-based incentives to get people to refrain from child abuse. Still, we sometimes hear "tough-minded" businesspeople insist that "environmentalists" must provide such incentives (as if that were the only possible and viable motivation).

Ethical Egoism is the thesis that each person ought to promote her or his own interest. It seems noncontroversial to say that we ought to do so-up to a point; after all, should not each person seek to feed herself or himself, alleviate or prevent illness to himself or herself, and so on? Often, promotion of one's own interest will require that one act so as to benefit others; for example, one might take care of one's children to maintain his or her

reputation or to have extra farmhands. No one denies that many acts that benefit others proceed from actions aimed at promoting self-interest. Ethical Egoism, and similar variants such as those found in the (overly popular) writings of Ayn Rand, may have an understandable appeal to those (such as females or those raised in certain religious families) who have been subjected to messages throughout their lives that it is "selfish" to be concerned about one's own welfare or to fail to "stuff" (repress expression of) one's feelings in order to promote the ostensive well-being of some group, such as the family.

Still, the thesis is not merely that one should sometimes act in her or his self-interest. That is thin soup indeed. The main objection to the principle is that it is counterintuitive. It advocates placing noninstrumental value on only the well-being and aims of the agent, and in effect no value on anyone else's well-being or aims except in so far as promoting them is in the agent's interest (the latter is called placing instrumental value on another's well-being, as a slaveholder might value a slave's well-being). What could justify this discrimination between Self and Anyone Else? On the face of things, Ethical Egoism is radically at odds with our deepest convictions and with the view that other people (for starters) are not mere "commodities" or "resources" to be used or abused according to the agent's slightest whim. There is no evident basis for an environmental ethic emerging from Ethical Egoism except one that says that the universe is to be divided into the Agent and Everything Else, the latter being the environment for the agent, and that the Agent should do whatever he or she wishes to the latter in promoting his or her interest.

Ethical Egoism is not unrelated to what is usually called "Social Darwinism." The latter label has typically been used for the view that "the fittest ought to survive," and sometimes for the view that "the fittest will survive." The label has often been used to characterize a political viewpoint especially popular around the turn of this last century in the United States (with a certain revival in the 1980s as well). Generally, Social Darwinists seemed to appeal to the Darwinian notion that, in the struggle to survive only "the fittest" (in some elusive sense, we hasten to add) will survive. That's the empirical part. Further, this point was taken as a reason to draw the normative conclusion that it is desirable that the fittest survive-and often that we have no duties to render aid to those who are less fit, those who have been losing out in the competitive struggle. Just as Calvinists had in earlier centuries taken existing wealth as a sign of virtue ("God helps those who help themselves"), these Social Darwinists believed that poverty was often a sign if not of vice then one of weakness, of being unfit, that is, not deserving of survival. So it was "nature's way," they claimed (and dubiously sought Darwin's authority), and we ought not interfere; better to stand aside. In the long run, rendering aid, feeding the poor, creating welfare programs was "unnatural." There are the strong and weak in the animal world; likewise in the human one. Thus, it was thought that social and economic inequalities are fitting and proper-and egalitarian ideals and programs are misguided. Such views may or may not be associated with further assumptions about one "race," or sex, and so on being naturally superior. The normative parts of Social Darwinism are not ones to which Charles Darwin himself would have subscribed.

In Social Darwinism we do not have the view that one ought to maximize one's own self-interest but something close to it, certainly an endorsement of the view that it is fitting to

be indifferent to the interests of other human beings-and presumably the rest of the biosphere as well-except, of course, in so far as being indifferent does not adversely affect one's own well-being. Oddly, some people appeal to the mere expression "survival of the fittest" as if it was clear and obvious, and as a way of trying to justify indifference to nonhuman welfare-when the full doctrine seems as problematic as Ethical Egoism. Indeed, it seems to "prove too much," for it seems to imply the permissibility of the deeds of serial killers, when combined with suitable empirical assumptions. Why does not the principle that the fittest ought to survive not "justify" the acts of a serial killer like Jeffrey Dahmer? Or perhaps the doing away with one's grandparents after they become infirm? Why should anyone adopt a principle with such implications?

There is competition in nature, often of a lethal sort, but this fact does not obviously entail that we must refuse to help the helpless, babies, toddlers, the infirm, the retarded, the temporarily disabled, and so on. There is also cooperation in nature and, arguably, along with impulses toward pursuing our self-interest, we are also hard-wired to care about others, humans and nonhumans-and sometimes to risk our lives for them.

Briefly, we note the need to clarify the meaning of the term "fitness."²⁹ Clearly it should not be taken to mean "physically strong" in the sense of well-muscled. Many kinds of fitness are context relative. The worldclass English physicist Stephen Hawking is physically disabled in a profound manner-"unfit," in some interpretations. He lives with the help of others. He would not long survive in the jungles of Borneo; nor would the editors of this book. Analogously, Michael Jordan is in some sense "more fit" in professional basketball than in professional baseball. The world would be much the poorer if others were indifferent to Hawking's well-being. Arguably, we should care about him not just for our sake but for his as well. We leave it to the reader to examine further the slippery claim that "the fittest survive." Even if it is true in some sense collectively and in the long run, Hume might observe that nothing whatever follows about how we ought to act-in the individual case-and perhaps in the case of families, nations, and corporations-food for thought for those who advocate a laissez-faire economic system but advocate something else within the family. 

There are indeed deeper questions concerning the moral relevance of Charles Darwin's theory of evolution.³⁰ Arguably, it was only about 140 years ago that Darwin opened the door to our seeing that we humans are products of the same extraordinary, slow, and unpredictable process as are all living creatures-that we are not unique in all the world in terms of our origins. We are still identifying and digesting the implications of this fact.

2.2 THE DIVINE COMMAND THEORY

A character in one of Dostoyevsky's novels proclaims that if there is no God, everything is permitted. The suggestion seems to be that there are no duties, no moral constraints at all if there is no God: One may murder, plunder, and make sandwiches of human babies if one wishes. Many think that morality must be "based on" religion, perhaps in the sense that what is right or wrong is, in fact, dependent on what God commands (that is,

prescribes, not causes). The approach to moral decision making being proposed, then, involves at least the following assumptions:

1. There is a God.
2. God commands and forbids certain acts.
3. An act is right (or permissible) if and only if God commands it.
4. Humans can sometimes ascertain what it is that God commands or forbids.



Unless all these claims are deserving of our belief, this theory must be rejected; it is worth observing that scientific results have not been friendly to (1) and (2). And even if (1), (2), and (3) were acceptable, if (4) were false, then this theory would be entirely useless in the quest to figure out how we ought to live. If (1) through (4) were unproblematic, the next assumption needed to arrive at any specific moral conclusion would be one to the effect that God does command some specific act or omission. Many believe that some do know what God commands either through direct divine revelation or through reliable reports of such ("scriptures" of some sort).

There are problems here. There is disagreement about what the scriptures are. And even when there is agreement about what they are, there is disagreement over interpretation. Thomas Aquinas (1222-1274), the most influential writer in the history of the Roman Catholic church, was once asked whether it was all right to kill since, after all, the second commandment allegedly given to Moses by God was not to kill, but in Deuteronomy 22 it is reported that God commanded the Israelites to wipe out an entire tribe of people, including "women, children, and asses." The Thomistic solution was that it is a misunderstanding of Christian morality to think that a crucial part of it is an unqualified prohibition on killing (popular misconceptions to the contrary, including simplifications by those who describe themselves as "prolife"), even the killing of innocent human beings. In other words, in this version of Christianity, whether an act is right or not depends solely on whether God commands it.

True believers often have great confidence that God would not command anything such as genocide or other acts that we may be sure would be rejected by any right-thinking person-although the ways of God are said to be mysterious and beyond human understanding. Nevertheless, the voice of God has often resembled the norms of the culture or subculture of those reporting it; for example, the "New Testament" urges that women be silent in the churches, slavery is taken for granted, and views are expressed that many today would describe as homophobic. The Hebrew scriptures in places condone war, animal sacrifice, slavery, and brutal punishment ("Whoever curses his father or his mother shall be put to death"; Exod. 21:17), and prohibits the taking of (monetary) interest (Deut. 23:19). A person who acted on many of these beliefs today would stand a good chance of being locked up-so great is the distance between a good deal of biblical prescription and ordinary notions of what is permissible and right. None of this is to deny that certain biblical stories hold out ideals that retain their pull, such as Jesus' pressing the issue of "Who is your neighbor?" the Good Samaritan, and the emphasis on unpretentiousness. Perhaps the "intuitively good parts" make it difficult for many believers to recognize or acknowledge the morally counterintuitive parts, the parts that get ignored, or are claimed to be merely derivative, inessential, superseded, or

misinterpretations.

There is another puzzle about the Divine Command Theory, arguably an even deeper one. It is identified in the question, Is an act right just because God commands it, or does God command it because it is (antecedently) right? If the answer is the former, then what is right seems dependent on the arbitrary will of God; if God were to command universal suicide, then it would be right! Is it plausible that such mayhem, or to consider another case, the gassing of Jews by the thousands in the ovens at Auschwitz, could be right if God prescribed it? Alternatively, if God commands acts because they are right, then they must be right independently of God's so commanding them; it must be some other feature that makes right acts right. But if so, perhaps we can figure that out (maybe it's respecting rights, or maximizing the opportunity for all sentient creatures to have a decent life in a manner that is indefinitely sustainable on our planet or ...) independently of any reference to God's will or any commitment to the metaphysics of the Divine Command Theory.

These difficulties aside, it is clear that possibly billions of people are influenced by religious doctrine (we have focused on only theistic types), and in thinking about environmental issues we may ask whether the Divine Command Theory can be a rational basis for our moral beliefs (we editors cast a negative vote here). We may also ask whether its overall influence has been for evil or for good. The matter is controversial, and it is explored in more detail in Part II of this book.

It is evident, in a world with a human population of close to 6 billion, that there is not, and never will be, unanimity on matters of moral principle or even basic science. The intellectual world of many people remains one in which the earth is only a few thousand years old, in which the continents have never moved, in which sinks (places to put what we think of as "waste") and resources are unlimited, in which human life did not evolve from more simple forms, and in which immortal souls have a wonderful life after death. But, fortunately, we need not agree about all those matters in order to agree about many important things. For example, people who hold wildly diverse views about scientific matters, about religious questions, or about basic moral principles may totally agree about the morality of certain specific acts, such as child abuse, rape, and murder; freedom of thought; and the value of knowledge. So, for example, an ethical egoist, a religious believer, a rights theorist, and a utilitarian, respectively, may agree that poisoning the local water supply is wrong, although they infer that conclusion from quite different principles. This convergence has its limits, of course. We should not assume that agreement of different parties is sufficient to conclude the moral justification of the policy to which there is agreement; for example, some historic defenders of rights and some Christians have denied that women have equal moral rights, and we may recall the agreement between Nazi Germany and the (then) Soviet Union to carve up Poland and other East European nations at the beginning of World War II.

2.3 RIGHTS THEORIES

In English-speaking and perhaps Frenchspeaking nations, especially, we are used to thinking about moral questions in terms of who has a right and whether the right is being

respected. We may tend to overlook that not all peoples at all times have thought this way (a defender of a rights theory may think, "Well, too bad for those who do not; there are also a lot of people who fail to realize that the sun does not revolve around the earth, that humans could not long exist without invertebrates, or that smoking tobacco enhances the risk of cancer"). Indeed, it appears that a clear notion of "having a right" did not seem to emerge before the late medieval period; so the ethical views of Socrates (470-399 B.c.E.), Plato (427-347 B.c.E.), and Aristotle (384-322 B.c.E.) did not include the concept as we know it. Today, some ridicule talk of "turkey rights" or "the rights of rats," but the idea of "human rights" might have been ridiculed by the ancients. What is meant by "has a right"? Later we will consider possible grounds for the possession of rights. To say that an act is right and to say that someone has a right is to make two different, but not unrelated, claims. Often, to say that an act is right is merely to assert that someone has a duty to perform the act, but that is not an implication of saying that someone has a right to perform an act; for example, one might have a right to a slice of the "killer chocolate cake" but no duty to take it. We now offer one plausible (slightly fastidious, but not canonical) analysis of 'having a right' and 'having a duty.' To say that



A has a right against B (B may be another moral agent or many or all such agents) to do X (where X is some action, such as to speak), to enjoy some state (such as being in private, living), or to be the recipient of an act of another (such as to receive a wage, punitive damages, or attention; use the apartment; not to be coerced)

is to say that

1. It is permissible for A to so do, enjoy, or have these things.

and 2. It is impermissible for B to prevent, disrupt, or fail to provide these things.

We are trying briefly to offer some clarification of the idea of what it is to possess a right, the moral relation between the right's possessor (or bearer of the right) and others who may be moral agents and who, thus, can deliberately "respect" or "accord" the right. What is "owed" to the holder of the right will depend on the content of the right-what the right is a right to. We may think of some rights as "active rights," that is, rights to do things, such as use the library, drive the rental car, eat the meal, or take the sneakers from Wal-



Mart (one acquired the right if he or she gave the store the right to some of his or her money); some are "passive rights" (such as to be left alone). We shall turn to the concept of a duty in a moment, but there is another important distinction to be made, that between negative and positive rights. A right is said to be negative if the agent respecting the right morally ought to refrain from acting in a certain manner toward the holder of the right, such as a right not to be noncasually touched without one's consent. A right is said to be positive if the respecifier of the right must act in some positive fashion; for example, a child is often said to have a right to care (provision of food and shelter) from her or his parents." The relations between friends, family members, and employees and employers, for example, are often spelled out at least partially in terms of rights (although loving relationships are commonly thought to require "going beyond" respecting rights, it does

not follow that respect for rights is inessential; compare what goes wrong in cases of child abuse)³²

Many rights are often, arguably, packages of rights. In Section V.C, questions about property are explored. What is involved in having property in something, that is, a property right? First, it is often thought that the concept of a property right involves the right to use what is owned, to exclude others from so doing, to transfer the right to another (as a gift, or as part of an exchange-what we call trade, sale, or purchase), and sometimes, controversially, to destroy³³ Do people collectively own the earth? Do parents own "their" children? Do those with legal property rights to a wetland have a moral right to destroy it-even when to do so would be to wreak serious ecological damage to the surrounding ecosystem and virtually permanent losses to the chain of future generations? Who owns the oceans, the old-growth forests, or nonhuman animals?

It is commonplace to distinguish between moral and legal rights; indeed, slaves in the United States in the early nineteenth century had few legal rights and possessed many moral rights, which, in fact, were not embodied in the racist laws that prevailed. It is worth recalling that the revered "founding fathers" counted a black human being as three-fifths of a person for purposes of distributing electoral votes to the states. Until 1920, women in the United States lacked the legal right to vote (as remained the case in Swiss cantons until recent decades), but they surely had the moral right if men did. Given the legal/ moral distinction, we may ask whether biotechnological creators of new lifeforms have special moral rights with respect to such forms and should be allowed to patent (have legal rights to) those forms. One notion is some sort of property rights (the standard kind of right that companies seek), but another might be the sort of rights possessed by guardians. On this issue the reader might consult Christopher Stone's essay "Should Trees Have Standing?" in Section IV.A. In brief, many environmental issues, including absolutely fundamental ones, can be couched in terms of the existence of moral rights.

The distinctions we have noted can help us investigate many questions. For example, before deciding whether some entity (say, a human fetus, a comatose adult human, a Maine coon cat, a Norwegian elkhound, an iguana, a giant Sequoia, a coral reef, a logger in the state of Washington, or a philosopher in Vancouver) has a right to life, we need to know exactly what the 'right to life' is a right to. Perhaps 'right to life' should be construed negatively, as a right not to be killed. If so, it may not be difficult for one to respect another's right to life; one only has to refrain from killing the other person. This may not be too demanding. Alternatively, if the 'right to life' is to be construed positively, as a right to be supplied with whatever one needs to live, then it will be most burdensome for one to respect another's right to life, assuming that the latter is a creature in possession of such. Indeed, one may need a heart transplant; surely, another person does not owe his or hers, albeit the case that it would be quite hospitable of the person to give his or hers. So, it is counterintuitive to think that all people have a positive right to life (along the line of interpretation noted here). Whether we believe something has a right to life depends in part on what we mean by 'right to life' (thus, the importance of conceptual analysis with complex matters-in moral philosophy, science, or some other area).

We also need some defensible conception of the *grounds for possession* of any particular kind of right. Some rights are thought to be possessed because of a prior act, such as a contract or a gift; for example, a person has a right to kiss another person because that person has agreed to it; otherwise, not. Some rights are thought to be possessed by certain entities just because the entities are of a certain kind, such as human, alive, sentient, or subjects of a life. Any adequate rights theory must address these matters and defend some set of grounds as necessary and/or sufficient for the possession of rights. There is, in fact, an extensive literature that does just this.

In this space it is impossible to convey much of the substance of any particular theory of rights. Historically, the works of Thomas Hobbes (1588-1679), John Locke (1632-1704), Jean-Jacques Rousseau (1712-1778), and Immanuel Kant (1724-1804) are important. Both Hobbes and Locke asserted that humans have certain basic rights in a "state of nature," that is, in a hypothetical state in which government and law are absent. Locke claimed that people have a right to life, liberty, and property. A central thrust of all rights theories is that bearers of rights have a certain moral standing and that they are owed at least certain forms of treatment. Thus, they are not to be viewed as "mere resources" or as entities whose use is entirely unconstrained by duty. Generally, such theories have a certain egalitarian thrust in that they maintain that all beings within a certain more or less "natural" kind have the same rights (for example, all persons, all men, all male property owners, all adult male property owners, or all sentient creatures). There is, however, one rub, so to speak. The rights theorists that we just mentioned all seemed to deny rights to any nonhuman; thus, the recent critique of anthropocentrism is a radical one, for it calls in question a fundamental assumption of all such theories. These matters receive attention in Parts II, III, and IV especially.

There is little reason to think that all humans, say, have all the same rights. First, if a ground for possessing a right to drive is that one can see, then not everybody can have that right. Second, a distinction is often made between certain natural rights (rights one has because one is of a certain natural kind: human, sentient, rational, or simply alive), such as a right to life or a right not to be tortured, and rights one may have because of some past action, such as a right to one's shirt because of a purchase or a gift (often labeled "acquired" or "artificial" rights). Likewise, even if some rights are possessed only by humans (say, a right to vote), it does not follow that all animals are entirely lacking in rights. Popular discussion to the contrary, acknowledgment that certain nonhumans, such as animals, ecosystems, or forests, have rights would not necessarily settle moral disputes. Consider a common distinction, namely the distinction between absolute and presumptive rights. If by "absolute right" one means a right on which it is always wrong to infringe, then it is doubtful that any rights (attributed to individuals) are "absolute." For example, we might not unreasonably conclude that it would be right to torture an innocent grandmother (or perhaps any editors) who possesses a right to life-if that were the only way to prevent nuclear war. If fairly serious rights can be justifiably overridden under certain circumstances, then the seeming great gap between rights theories and utilitarian modes of thinking fades seriously; the reader might "file" this basic point and consider it after the upcoming discussion of Utilitarianism.

Let's consider a brief comment on the concept of a duty. To say that

A has a duty to B to do X (whether X is an act or an omission),

is to say (roughly) that

 it is impermissible for A not to do X on account of B (whether X is an act or an omission).

In our analysis of rights and duties in terms of permissibility, for each right there is one or more correlative duties. But some duties may exist without any particular individual possessing any corresponding rights. Perhaps we have, for example, a duty to be charitable even if no particular individual has a right to our charity. Something similar might be said about a duty of an existing person to help pass on a stock of environmental resources no smaller than that which was passed on to her or him. It was, in fact, the view of Jeremy Bentham, the famous British philosopher and exponent of Utilitarianism (1748-1832),

 that we have only certain duties and that talk about rights (moral, not legal) is "nonsense on stilts." We leave it an open question whether talk of rights is not more than rhetorically useful, and whether all that which we wish to say, morally, can be said in the language of duty.

 Most rights theories are "individualistic" in their attribution of rights only to individuals, say humans or animals, but it is not obvious that the bearers of rights must be individuals; so those who value collectivities or communities may hope to revise the traditional rights framework. Legal rights are attributed to corporations, states, cities, and so forth. Nevertheless, some philosophers believe that the notion of species' rights is nonsense ³⁴ Further, rights theories are often criticized as being focused on a selfish stance, on what is mine as a matter of right, on violations of "my rights," and it is claimed that all this contributes to a complaining attitude and a litigious society. Many complaints are misguided; those who insist on respect of rights need not defend their own rights, but the rights of, say, sexually abused children, raped women, gay persons who have been discriminated against, blacks, or innocent whites who may have been unfairly treated (say, those poisoned to death in recent years by a North Carolina woman, Blanche Moore). These objections hardly exhaust the list of complaints made against rights theories.

A theory of rights should address the preceding and other objections. If it allows rights to be overridden under certain circumstances, its defense needs to show why it does not collapse into Utilitarianism or some other consequentialist theory. A rights theory should say what is to be done in the event that rights conflict with one another. It should, as noted, specify the grounds for the possession of rights. The theory should be reasonably clear in terms of its policy implications, and reasons should be given as to why the theory should be preferred over competing theories.

 Probably the two most influential ethical outlooks among contemporary moral philosophers are rights theories on the one hand and versions of Utilitarianism on the other. We

now turn to the latter. Since Utilitarianism has special importance in current environmental controversies and because, arguably, in its anthropocentric incarnation

 Utilitarianism underlies mainstream economic theory, we will spend some time examining it.

2.4 UTILITARIANISM

Although the writings of David Hume (1711-1776) and others were suggestive, it was the work of Jeremy Bentham, especially his *Introduction to the Principles of Morals and Legislation* (1789), that articulated the theory of Utilitarianism. His work and that of one of his disciples, John Stuart Mill (1806-1873), constitute the classic sources of this view. Bentham was a critic of British law and policy and believed that it was a hodgepodge, inconsistent and unprincipled. He sought to identify some rational, principled basis for deciding what should be a matter of law and policy. He reasoned that while many things

 are good as means to some ends, only one state of affairs can be said to be good for its own sake or intrinsically good, and that is the experience of pleasure or happiness. The opposite state is pain, which is intrinsically bad. Having formulated this "theory of the (nonmoral) good," the question "What should we do?" remains. The short answer is, Do whatever results in good or has good consequences. Since many acts bring pleasure for some and pain for others, we ought, Bentham thought, do that which will bring about the greatest balance of pleasure over pain, or utility over disutility; indeed, this constitutes the fundamental duty of all individuals and governments as well. Thus, we arrive at the famous principle of utility; our formulation here will be, What is right (or a duty) is whatever maximizes the total amount of net utility. The principle is sometimes referred to as the "greatest happiness principle."

Arguably, this view has revolutionary implications. First, normative theories that suppose that the rightness or wrongness of an act is entirely dependent on the kinds of consequences that an act has are called consequentialist theories, and Utilitarianism is a clear example (so is Ethical Egoism). Unlike the thesis of Ethical Egoism, Utilitarianism  demands that the good and bad consequences for everyone affected by an action be taken into account and given due weight in determining whether the action, among all the alternatives available, will maximize total net utility (or, at least, result in as much net utility as any other available alternative) and, hence, be the right thing to do. So it is not merely the agent's well-being that is significant.

The emphasis on consequences is striking in that consideration of motives seems neglected, and the latter are often thought important. Jesus is alleged to have said that any man who has looked on a woman with lust in his heart has already sinned. A rather high standard, and one that former U.S. President Jimmy Carter confessed to not meeting. A utilitarian might insist that motives may be relevant to judgments of moral character but that they play no direct role in the assessment of actions.

It is tempting to translate talk of 'benefit' as 'utility' and 'harm' or 'cost' as 'disutility.'³⁵ So it looks as if the principle of utility approximates the principle that we should maximize benefits minus costs, though employers of cost-benefit analysis usually operate with "dol-

lar" or monetary measures of cost and benefit.

Since this procedure is widely used and recommended in deciding questions of public policy, indeed, environmental policy, assessing the adequacy of Utilitarianism is closely related to the task of assessing the cost-benefit approach. Both are consequentialist in outlook, and both are maximizing principles. These matters receive attention in Part V.

Although we have lived, in the last two decades, in an era in which appeals to rights are very popular (compare the movement for civil rights, women's rights, and so on), the Utilitarians can claim to have a method for deciding between competing policies, a method that is responsive to considerations of welfare and illfare. When it comes to formulating public policy, cost-benefit analysis is the prevalent approach. When it comes to deciding an array of legal questions, we tend to think often in terms of rights. Why this disparity exists is a question deserving consideration.

Utilitarianism is untraditional in that it promises to discard traditional moral rules that we learn, or are supposed to learn, as children, such as Tell the truth, Keep promises, Don't steal, Don't kill. This is so because there are cases in which violating these admonitions will maximize utility. For example, it might maximize utility to lie to an Uzi-toting maniac about the whereabouts of schoolchildren he or she wishes to harm. Indeed, utilitarians may say that this example illustrates the intuitive superiority of their theory because rigid adherence to traditional, specific rules leads to radically counterintuitive results. If their defender says, "Well, one must apply them judiciously," the utilitarian can insist that that suggestion is either urging arbitrariness or is sneaking utilitarian considerations in the back door after kicking them out the front door. Further, specific principles, such as "Keep promises" and "Help those in distress," can conflict; in contrast, the utilitarian theory avoids this problem of rule conflict because the theory contains only one rule: Maximize total net utility.

Whose utility or disutility, whose welfare or illfare must be taken into account?

Surprisingly perhaps, given the virtual omnipresence of anthropocentrism, Bentham and

Mill thought that pain and pleasure were an evil and a good, respectively, to whomever they occur. Because many animals evidently have both these capacities, it would be arbitrary for a moral agent not to take that into account in deciding which act will maximize utility. So the class of creatures to whom duties are owed is the class of all sentient creatures. The term 'sentient' is used in philosophy to refer to any creature capable of experiencing suffering or satisfaction, in whatever forms they may take. Evidence of such capacities tends to be linguistic ("Stop, you're hurting me!"), nonlinguistic behavior (screams of pain, moaning, writhing), and the presence of physiological traits such as a central nervous system.³⁶ Which animals or humans are sentient is, thus, an empirical question and subject to scientific investigation. The implications of this theory for our treatment of animals are explored in Part III, especially by Peter Singer (Essay 10). What duties we have with respect to nonsentient life on earth is the focus of much of this book, but Part IV is especially relevant.

We need to consider a familiar misunderstanding of Utilitarianism and then turn to a leading objection to the theory. The Principle of Utility is normally understood as not

being equivalent to a certain bastardized variant of it, namely, the view that what's right is what most people want (what some call "the principle of majority rule").³⁷ For the moment let us finesse a serious question, namely, whether utility and disutility can be adequately measured so as to have units that can be added or subtracted. Recall that when economists estimate the costs of a particular instance of pollution in terms of dollars, they are attempting to establish some measure of the magnitude of harm or disutility to humans. An agent, in applying the principle of utility, attempts to identify alternative actions, say, A, B, and C; next she or he will identify the likely relevant consequences (those involving utility or disutility) to all who will be affected by her or his choice of alternative. To simplify enormously and to speak most abstractly, suppose that doing A will involve five bad results (sooner or later; later might be in 50 or 500 years) and three good ones (benefits or utilities of some sort to a sentient creature). Suppose that these numbers represent the magnitude of the bad results: -40, -80, -90, -25, and -70 (so, the sum of the disutilities is: -305). Suppose, too, that these numbers represent the magnitudes of the benefits of utilities: +83, +77, and +36 (so, the sum of the utilities is +196).³⁸ The projected total net utility (TNU), then, of the agent's performing alternative A is -109 (subtracting the smaller from the larger). Abstractly, that is how the calculation is to be done for each alternative. Suppose that the TNU of option B is +99 and that the TNU of C is +550.³⁹ Given these results, act C maximizes TNU, and the utilitarian argument for doing C takes this form:

- a. What is right is whatever maximizes TNU.
- b. C maximizes TNU.
- c. C is right.

Since the argument is valid, one who is skeptical of the conclusion can only question the calculation leading to (b) or find reason to reject the principle, (a).

Note that one of the bad consequences of doing C may be to cause serious harm to one person, say, giving over a known innocent person to terrorists who are certain to torture the individual. Because the utilitarian calculation allows summing the harms and benefits, the act that maximizes TNU may include what many of us may be sure is a terrible wrong. It is partly because of actual or hypothetical cases like this that many people find utilitarian, and other maximizing, consequentialist theories, radically counterintuitive.

Utilitarianism involves other worries, too. Suppose that a rapist got so much pleasure from raping that his or her pleasure exceeded the sum of the disutilities resulting from the act (is this not possible?). If so, the raping might maximize utility. In brief, the very idea that we should count this pleasure as a good and/or assign it positive weight in a calculation of utility is preposterous to many. Perhaps what is morally right should not be thought of as identical with whatever maximizes utility.

Concerns about justice or fairness have to do with the acceptability of the distribution of benefits or burdens among a number of individuals ⁴⁰ In certain cases, such as a judge's choosing to mete out radically unequal punishments to two people equally responsible for

the same kind of crime, there is, other things being equal, a clear case of injustice. One standard accusation is that the utilitarian theory ignores morally significant considerations having to do with the distribution of "goods" and "bads." In passing, we note that many environmental disputes concern the distribution of environmental benefits (say, from burning coal) and the distribution of environmental harms (say, pollution in the form of acid rain); one dispute concerns distribution between nations (for example, U.S. coal-burning plants versus forest damage in Canada); another concerns benefits to the current generation versus losses to later generations (or the reverse). This last matter is labeled a matter of "intergenerational equity." It receives attention in Parts V.E and VI.C.

Three further points regarding distributional issues. First, although Utilitarianism includes no principle of distribution as such, it may be that more or less egalitarian social arrangements (say, some limit on inequality of wealth but equality of basic legal rights) are more productive of happiness (at least human happiness) than the alternatives. In short, Utilitarianism conjoined with relevant empirical assumptions will have interesting and perhaps intuitively plausible distributional implications. This type of concern motivated much of the political efforts of the "nineteenth-century radicals." (Bentham, J. S. Mill, and others; in particular, Mill fought the milieu of his day in opposing the unequal treatment of women. On this topic, see his extraordinary little book *On the Subjection of Women*.)

Second, the "principle" of declining marginal utility seems to be a rough but plausible generalization; it says that "consumption" of further successive homogeneous units of certain goods (such as gin or ice cream) yields declining amounts of satisfaction or utility. More intelligibly, one's first ice cream serving is very satisfying, the second almost as satisfying, the third not bad, the fourth an effort, the fifth hard work, and the sixth nausea inducing. Perhaps something similar is true of one's first million dollars, and so on. Although it would involve making a much disputed judgment involving "interpersonal comparison of utility levels," it is credible that the disutility we might cause to Sam Walton (a billionaire) if we took a million dollars from him and gave it to a poor person would be much less than the increase in utility to that poor individual. If so, the transfer, the reduction in financial inequality, yields a net increase in total utility. Thus, taking into account the principle of declining marginal utility, a utilitarian argument exists in favor of limiting inequalities, even if we agree that the principle of utility is not itself a distributional principle 41

A third point regarding equality is that at the stage in which judgments of the amount of utility or disutility are involved in different consequences. Bentham insisted that "each is to count as one" and no one more than one. That is, like amounts of utility are to be counted equally whether the subjects of it are friends or foes, relatives or not, compatriots or not, indeed, fellow humans or not. This egalitarian streak is, nevertheless, compatible with the theory's condoning severe inequalities of treatment in the effort to maximize utility.

In view of the serious objections that have been made to the utilitarian theory, many are surprised that it is the preferred view of many professional moral philosophers (who

would not be surprised by any objection noted here). In this short space, we can only observe that some difficulties confront all theories (no, we do not think that they are all equally serious). The main attraction of rights theories is that they tend to insist that there are moral limits of a rather urgent kind on what one can permissibly do to people (and perhaps other creatures as well); that is, they insist that an act that may, as a contingent matter of fact, maximize the sum of happiness in the world does not serve as a justification for doing some very nasty things to innocent, nonconsenting individuals in the process. But the idea that any means leading to the greatest sum total of happiness is all right, much less a duty, seems to countenance many counterintuitive and radical inequalities. Still, rights theories may allow the overriding of rights in extreme cases, and when they do, then they may also condone, counterintuitively, some rather nasty acts. The utilitarian view avoids the rather generous metaphysical assumptions of the Divine Command Theory and its stringent requirement of knowing what God wills. Utilitarians also avoid the extraordinary understanding of moral relevance embodied in Ethical Egoism, namely, that the well-being of those other than the agent is important only in so far as it bears on the well-being of the agent.

 We need to investigate theories that might suggest maximizing, or perhaps only optimizing, a good such as happiness or desire fulfillment under constraints, constraints that when respected ensure that the relevant individuals have decent lives, or at least the opportunity for such, given certain unalterable results of the natural lottery.

2.5 UTILITARIANISM AND ECONOMIC THEORY

For about 125 years, from the publication of *An Inquiry into the Causes of the Wealth of Nations* in 1776 to the turn of the century, there was a perceived closer connection between economics and moral philosophy. Adam Smith was a friend of David Hume, and taught moral philosophy at the University of Edinburgh in Scotland. To be concerned about how to increase the wealth of individuals or nations is normally to be concerned about how to promote the opportunities and welfare of human beings, their utility. One mark of the work done by economists is their focus on specific empirical questions relevant to choice (exactly what are the effects of rent control, the effects of allowing a free market in drugs, or a 10 percent increase in the minimum wage?), while moral philosophers have had more general concerns and have not shied away from the exploration of explicitly normative questions (Mill in his *On the Subjection of Women*, 1869, argued that it was the unjust treatment of women that is the proper explanation of their less significant, known, intellectual and artistic contributions historically). It seems fair to say that late-nineteenth-century Western economic theory took a consequentialist, indeed utilitarian, view that what ought to be done is whatever maximizes, or at least increases, human satisfaction or utility. Hence, the importance of choosing the most efficient policies and social/ economic arrangements or institutions. This moral assumption, the principle of utility, has become largely covert as economists aspired to be scientists, something they assumed to be a "valuefree" discipline; hence, a certain embarrassment about saying in public that they thought efficiency valuable, or valuable because it is a means to promote total net utility and that that is what ought to be done

(the recent posture has been that if you want to know which is the most efficient policy, we can tell you what it is). This adoption of a posture of moral neutrality, if not indifference, was due in part to their being somewhat intimidated (so it appears) by the challenge of the Logical Positivists, who implied that anyone making normative judgments was thinking or talking nonsense⁴⁴ A similar effect of the positivists seemed to drive philosophers away from any serious examination of specific normative issues for about three decades (from the 1920s to the late 1950s). Since then both groups have been less reluctant to regard such matters as fit subjects of intellectual inquiry.

Economic theorizing has been relentlessly anthropocentric, and the deepest cleavage between it and some moral theories and some environmental critics derives from that source. In cost-benefit analysis, 'cost' and 'benefit' refer, ultimately, in studies by standard economists, to what harms or helps humans alone. As we noted earlier, there are two fundamentally different ways in which the term "utility" has been understood historically: as simple preference, or *want fulfillment* (whether or not accompanied by some pleasant mental or psychological state), or, alternatively, as a pleasing psychological state, that is, pleasure. Because pleasure (and pain) seem to come in amounts, one view is that we can ascertain when individuals experience such, and how much, and we can sum the utilities or disutilities to determine which act maximizes total net utility. Aside from one's own case, many economists and some philosophers became convinced that it is either logically impossible (but why?), or at least practically impossible, to ascertain how much pleasure or pain others experience or to make sensible judgments that compare the pains or pleasures of others to one another; if so, there can be no summing and rational selection of the option that maximizes utility. That path, it is claimed, is a dead end.

The other path that modern economists take is roughly the following one. Construe "utility" as (human) want fulfillment. Ignore questions about how wants arise and whether they have important cognitive components (consider: Why did Sirhan Sirhan want to shoot Robert F. Kennedy?). Make an extreme antipaternalistic assumption that each person (focus on competent adults, thus ignoring one or two billion people) knows better than anyone else what makes him or her better or worse off and chooses accordingly if apprised of relevant information.⁴⁵ Avoid as much as possible making choices for others (because it is not, as it is said, possible rationally to make interpersonal utility comparisons and, say, distribute things in a fashion that would maximize utility); let each person decide for himself or herself (by having a market) whether to keep what she or he has (time, money, leisure, and so on) or to make an exchange (purchase, sale).⁴⁶ Assume that no one will do so unless he or she will be better off (perhaps acknowledging that there will be rare, masochistic exceptions, and of course, occasional difficulties in gathering information) ⁴⁷ Without our trying to state all the assumptions mainstream economists make, under these conditions with each exchange at least someone will be better off and no one will be worse off (at least if there are no "negative externalities," that is, cases in which there are harms caused to individuals not party to [consenting to] the exchange). Now if someone is better off and no one is worse off, we have an increase in total net utility; what has come to be called a "Pareto improvement" has occurred (after the Italian economist and sociologist Vilfredo Pareto [1848-1923]). The postexchange state of affairs is more efficient than the

preexchange state (since at least one person is better off and no one is worse off than in the preexchange situation).

Several important points are worth observing at this point in our discussion. First, econo-

mists have adopted a definition of "efficiency" (or its cognates) that may only loosely connect with ordinary usage of the term 'efficient'; compare "more efficient engine."

Some situation, A, then, is said to be more efficient than another, B, if in A there is at least one person better off in his or her own estimation than in B, and no one is worse off in her or his own estimation. Why, then, is efficiency a good thing? The natural answer would seem to be because it increases utility. Note that there may be acts that increase utility but that fail to make Pareto improvements. For example, we might experiment on

 some unwilling people to find a cure for AIDS; perhaps the result would maximize total utility. Still, some people would be worse off (they may suffer and die prematurely). One serious objection to the utilitarian view (as we noted earlier) is that it seems to condone doing nasty things to innocent, unconsenting individuals (keep in mind that a rights theory may also do so if it allows for cases of justified infringement of certain rights⁴⁵). In contrast, if we only act according to what we shall dub the Normative Pareto Principle (make only Pareto improvements), then that possibly counterintuitive implication is avoided. So the Normative Pareto Principle has its attractions. Two difficulties of utilitarianism are avoided. First, no interpersonal comparisons of utility are made. Second, the principle does not sanction intuitively immoral actions. However, there is a severe difficulty with the notion that much of life could be organized along lines dictated by the Normative Pareto Principle, because almost any nontrivial proposal will make some parties worse off. The principle will support virtually no changes; it is a recipe for paralysis outside of certain highly limited contexts⁴⁹ In the larger world, we morally must coerce from time to time, and we cannot do only those things that avoid making some worse off in their own estimation. It seems as if efficiency is a good thing if there are no countervailing considerations and if we have an appropriate conception of what counts as someone's being better off (surely identifying this with on-balance want fulfillment will not do) and a justifiable conception of whose well-being matters (surely the answer that it is only the well-being of humans is dubious). So in spite of support for the value of efficiency derivable from the utilitarian theory and partly because of some suspect aspects that the assumption of such value shares with that theory, it is morally problematic to assume that we ought to choose whichever policy is the most efficient one, or that we ought to maximize benefits minus costs, or that these principles should guide us as we try to formulate a sound basis for environmental decision making.

 Efficiency, like sex, is not nothing, but it is not everything either. These matters are very important, given the undue influence that such principles have had, overtly or covertly, and they will receive further exploration in this volume, especially in Sections V.A, V.B, and V.E. Our main aim here has been to lay out some of the bones of economic thinking, some connections to one influential ethical theory, to open the door to exploring relations to other moral points of view and, ultimately, to questions of environmental policy.

2.6 NATURAL LAW THEORY



"Natural law" theory is not as well defined a position as Utilitarianism. It is tempting to

speak of this position as a tradition; those who are thought to be representative figure-the Stoics, Aristotle, Aquinas, Grotius (1583-1645), Suarez (1548-1617), and sometimes Kant-share some common features perhaps, but often they simply exhibit resemblances, in the way that members of a family might exhibit physical similarities. Hence, it is not surprising that one contemporary defender of this approach, Alan Donagan, responded to a critique of his view by saying, "What she says is natural law is not what natural law theorists say it is." His general characterization of the theory is that it is "a set of rules or precepts of conduct, constituting a divine law which is binding upon all rational creatures as such, and which in principle can be ascertained by human reason."⁵⁰ Except for the reference to divine law, this characterization fits almost any normative ethical theory (for example, Utilitarianism and Ethical Egoism) in that it only insists that there are normative principles that determine what we ought to do and that these are ascertainable by reason. This abstraction needs fleshing out by stating the specific "precepts of conduct."

 Without further defense, we will suggest that there are a small number of features that have been characteristic of, and some arguably definitive of, what has been labeled the natural law tradition from the Stoics to Hugo Grotius and others. We have noted (1) the belief in objective, given norms or principles by which rational beings should guide their conduct. Thus, (2) a contrast is marked between what is merely a matter of convention (e.g., to queue up for a purchase in some cultures) and what is a matter of human law (often called "positive" law historically). There is, further, a "natural order of things." This last claim seems to be construed both as (3) an empirical claim about the regularity we find in the nexus of causal processes around us, and also as (4) a claim that what is good and right is a direct function of the way things are, in particular the way human beings are (focus on their natural capacities, tendencies, and desires). Given the latter, certain norms are to be found in nature. Indeed, we usually find the assumption that (5) the good of humans (perhaps other creatures as well) is constituted by the realization of these natural strivings or natural tendencies; the "perfection" of such capacities in humans constitutes human flourishing. The (6) discovery of the natural law is ascertainable by the use of reason. As noted, (7) the natural law is often claimed to be an expression of the divine will. A specific instance of this theory will include (8) a list of the natural tendencies, the fulfillment of which constitutes flourishing. Claims (1) through (3) do not much individuate this theory. Developed in one way, feature (7) may render this view a variant of the already discussed Divine Command Theory. If, however, the divine will prescribes conduct because human nature is as it is, then we have a view more deserving of the label "naturalistic ethic" or "ethic based on nature." But it is not obvious that any ethical theory allows no role for facts about human nature.

 It is assumptions (4) and (5) that make this view distinctive. A central thrust of this theory, then, is that the world ought to be organized in such a fashion as to foster human flourishing; this feature is supportive, or reflective, of an anthropocentric view, although to the extent that value may be assigned to the fulfillment of any natural tendencies (not just human ones), one may find some basis for a biocentric outlook (here understood simply as the view that it is desirable that all living things flourish). Natural law theorists, however, do not seem to take this path. For an example of the biocentric outlook, see Essay 19, by Paul Taylor, in Section W.A.



A serious problem with this view concerns whether we can ascertain natural tendencies. Of whom? The majority? Adult members of our species? Normal (statistically average?) adult members of our species? The need to sift out what is a result of cultural influence is a familiar, persistent difficulty. Suppose we can identify natural tendencies (perhaps by identifying what is statistically typical for adult members of the species, or appropriate subsets); must their fulfillment be assumed to constitute a good?⁵¹ However, the tendency to act self-destructively seems rather natural, as does the tendency to act violently toward others. A defender of natural law might cry "foul" here. There is certainly a good deal of evidence that tendencies toward self- and other destructiveness, although very widespread, are a result of physical and/ or emotional deprivation. Further, many evidently important sources of intense satisfaction are found in sexual relations, in challenging work, in intimate give-and-take with friends and family, and in the exercise of one's talents in various ways; all these activities seem in many ways natural, and one's capacities as a human play a central role in what results in what is, arguably, our good. Still, what follows by way of giving moral guidance to us is either not so obvious, or when implications have been drawn by natural law theorists, are problematic.

In its historical development of the natural law doctrine, going back to Aquinas, the Roman Catholic church has classified sexual relations not between male and female as unnatural and to be condemned. A partial byproduct of this view is the legal prohibition on homosexual acts by consenting adults. Indeed, the view of the Roman Catholic church is even narrower; what is claimed to be natural is procreation and the desire to procreate. Thus, heterosexual relations not involving the possibility of procreation are condemned, for example, sexual acts not leading to the possibility of conception such as those employing artificial contraceptives, masturbation, or, for that matter, anal intercourse among heterosexuals. In view of the fact that some 10 to 20 million people are projected to die from AIDS in the next decade or two, one would think that the consequence in part of not using condoms would weigh heavily in the thinking of those who appeal to an ethic that waves the banner of human flourishing. Something similar might be said about the harmful effects of burgeoning human population-also a partial by-product of the unavailability of contraceptives and the opposition of powerful groups to their becoming more available, such as the Roman Catholic church. Indeed the tendency to ignore weighty, cosmic consequences constitutes an objection to certain familiar developments of natural law theory. A broader conception of the nature of human flourishing within the natural law framework would lead to a radically different set of moral precepts.⁵²



One may object that, after all, natural law theory is not a consequentialist view, and one may insist that what one ought to do is what it is natural to do regardless of the consequences. Further, Aristotle and Aquinas tend to define 'natural' in terms of the function of an object. When one has identified the function of an object somehow, then one may assume that it is appropriate to assess the behavior of the entity in question according to whether or not it fulfills that function. Thus, if the function of an object is to hammer nails, we may label it "a hammer" and then evaluate it according to whether or not it performs that function or does so well. For it to be a "good hammer" is for it to so function. It is tempting to equate two different things: whether an entity is effective



in fulfilling a certain function, and whether its so doing is morally good (or failing to do so is morally bad). One may be good at the function of assassinating and therefore be a good assassin, but not, as a result, be morally good. It is worth noting that it is not wrong to use a hammer as a doorstop, to not use an Uzi to kill, or to use one's mouth to kiss (though its "natural" function is, arguably, to eat with). Sexual activity in which procreation is possible may fulfill one function of sexual activity, but it does not follow that we ought to judge to be wrong or unnatural any activity that does not. From the fact that something can fulfill a certain function, it does not follow that it ought to do so. Even though a person might make a mighty fine slave, it does not follow that the individual is wrong not to fulfill that function or that his or her "deviating" from so doing is "unnatural" if the latter is construed to mean "wrongful."⁵³

We do not wish to suggest that natural law theorists should be saddled with Aristotle's view that some people are "slaves by nature," but there is a question on this view of whether kinds of beings have certain identifiable natural ends. For example, in a famous passage, Aristotle said that



Plants exist for the sake of animals.... All other animals exist for the sake of man, tame animals for the use he can make of them as well as for the food they provide; and as for the wild animals most though not all of these can be used for food or are useful in other ways; clothing and instruments can be made out of them. If we are right in believing that nature makes nothing without some end in view, nothing to no purpose, it must be that nature has made all things specifically for the sake of man.⁵⁴



It is not obvious that the inference in the last sentence would be less invalid, in spite of Aristotle's extraordinary intellectual feats, if 'man' were replaced by 'the HIV.' That aside, can we defend a particular hierarchy of beings on the ground that one group is useful to another? Aren't humans quite useful to the human immunodeficiency virus? In effect, the virus makes homes out of us. Can we say, then, that the natural end of some species is to serve others? A similar problem arises with Aristotle's broader hierarchy; he said, "animals are to serve human ends, women are to serve the ends of men, and men are to serve the ends of God." This view has had enormous influence historically. It need not be part of a natural law theory, but it has been. The deeper question is whether living things should achieve their natural ends (a difficult concept to understand clearly, but one may consider: Those outcomes that a being has a natural tendency to achieve), if they have such (perhaps all living things do), or all of them, and whether any of this provides the basis for a moral ideal attractive to rational persons. Behavior is often thought to be good or right because it is natural; but then devotees of this view ought to say what we should make of natural tendencies, for example, toward infanticide, which has been observed among various birds, rodents, lions, African wild dogs, and langurs (and not just among defective offspring). See the Sidelight in Section IV.B called "Do What's Natural, You Say?"

We have called attention to some worries about whether one can nonarbitrarily determine from nature just what are natural tendencies ("find" them and elaborate good reasons for

so doing) and, if so, whether one should assume that the good for humans (or others) is constituted by the fulfillment of these tendencies, and whether fulfillment of "unnatural" tendencies must be counted as an evil-something to be either voluntarily avoided, prevented, or punished by the coercive power of the law. Recall Hume's claim that one cannot validly infer normative conclusions from purely empirical premises. Further, one might accuse natural law theory of focusing too little on nature, and instead on some desires of some humans and weaving an ethic around the view that the world should be organized to promote fulfillment of those desires. No doubt we are too skeptical, and the curious should read those who are believers and who set out sophisticated versions of this view. After all, some worries stated here are only about certain ways of identifying just what are natural human tendencies, and some natural law theorists may draw quite different moral conclusions if they identify natural tendencies differently, or assign positive weight to the fulfillment of nonhuman natural tendencies. No one disputes that the realization of certain human tendencies is sometimes a good and sometimes ought to be fostered; the arguments begin there, not terminate.

2.7 THE INFLUENCE OF KANT

Our glimpse of influential theories is much like our view of icebergs; we look quickly and see only a small part.⁵⁶ A major implication of the moral view of Immanuel Kant (1724-1804) is that one cannot determine the moral value of an act solely by some sort of assessment of its consequences; that is, his view is anticonsequentialist. Kant labeled what he believed is the supreme principle of morality "the Categorical Imperative." It had two "versions," which Kant deemed equivalent. It is not obvious, however, that they are. The first version, in our terms, says that one should act only on those maxims of one's actions that one can, as a rational being, will to be (or endorse as) a universal law, that is, obeyed by all moral agents. Kant seems to give heavy weight to the idea of reciprocity and to the related notion that what is right or a duty for one is a duty for any other relevantly similar moral agent, and that moral principles are not custom designed for only certain agents. He reasoned that the maxim of one person's deciding not to help another who is in distress is "help others only if it is convenient," but that no rational agent could endorse everyone's acting on that principle because the agent herself or himself might be in need of help on some occasion, thus involving himself or herself in a sort of "contradiction" of the will. We will not explore whether passing Kant's "test" for maxims is necessary, sufficient, or merely relevant to a maxim's being defensible. But suppose that a maxim is "Let generation X use up environmental resource and let generation Y bear the burden." With one further supposition, that the agent is not allowed to know into which generation he or she is born, an argument may be developed for a duty to use up resources only in sustainable ways or ways that make other generations no worse off.⁵⁷

We have suggested a connection between Kant's theory and environmental questions about whether we have duties to future generations, if so, why, and just what they are. If Kant is right, then "Drive a car if it is convenient" might be indefensible since if all obeyed such a maxim (say, about 4 billion adults), the result would be environmental catastrophe (a scenario not "willable" by a rational person). Of course, one person's driving may have no noticeable effect; so from a consequentialist's point of view, there

may be no objection to the maxim. It is of interest, however, that since no rational being could approve of everyone's acting on the rule in question, no one should act according to that rule. Hence, we seem to observe a difference between Kant's view and the approach of a consequentialist. This is food for thought about the environment.

Kant's other version of the Categorical Imperative is that we would never treat a person as a mere means; by "person" he seems to mean "rational creature." Indeed, there is great stress in Kant's writing on the value of rational beings, beings capable of reflecting on options, on principles, and autonomously deciding for themselves what duty demands. That is, this value is due, in his view, to the fact that people have the capacity to formulate goals, reflect on values, and so on. Thus, we as such agents owe them a certain respect; generally, for example, we must refrain from causing them harm by acting contrary to their wills. Having a servant need not involve treating the person as a mere means if, for example, the person consents and is compensated for his or her efforts. If we should never treat a person as a mere means (a most suggestive notion; but what is precluded here—such as bad argument, bribery, guilttripping, browbeating, insulting, ridiculing, shaming—along with the usual "force and fraud"?), then we may not do so even if the result would be maximization of total net utility. On occasion Kant expresses his view in terms of respects for rights. Thus we note a major source of tension between the Kantian approach and the utilitarian approach to deciding moral questions.

Kant's strikingly different attitude toward treatment of those he took to be (all?) nonrational beings ("animals") is found in this passage:

... so far as animals are concerned we have no direct duties. Animals are not self-conscious and are there merely as a means to an end. That end is man.... Our duties toward animals are merely indirect duties towards humanity.... If he is not to stifle his human feelings, he must practice kindness towards animals, for he who is cruel to animals becomes hard also in his dealings with men....
Vivisectionists ... certainly act cruelly ... and they can justify their cruelty, since animals must be regarded as man's instruments. 58

In the same lecture, he claimed that a man who shoots his dog when the dog is no longer useful "does not fail in his duty to the dog," in brief, because there is no duty to the dog. One cannot wrong it even if one can harm it in Kant's view—for "it cannot judge."⁵⁹ Note the importance of cognitive capacities in Kant's view. The question arises as to whether it would then be all right to vivisect profoundly retarded humans—if, in fact, the presence of the capacity to judge is a necessary condition for being owed any duties. Is there a justification for differential treatment of animals and humans when they are on a par with respect to mental capacities and sentience? It may be evident that Kant's thesis about the source of noninstrumental value implies that virtually nothing nonhuman has such value; perhaps strictly speaking Kant would, or should, deny that profoundly retarded humans or the severely senile are owed any direct duties either. If so, then he does not mark the boundary of those possessing moral standing (see the Preview to Part III) in a way coextensive with the bounds around our species. A powerful moral intuition is that there are relevant differences among rocks, cabbages, and giant pandas. With respect to their

being owed direct duties, Kant says not. Many today insist that we should not treat sentient nonhumans, for example, as mere means—thus deploying Kant's conception in a way that he did not. Frequently, the term "animal liberationists" or "defender of animal rights" is used for those who take, roughly, this view (for example, Peter Singer and Tom Regan, Essays 10 and 11, respectively). Some philosophers and others hold that we have duties to all living things ("biocentrists," such as Paul Taylor, Essay 19) or to the earth itself (which some tend to view as itself alive, such as James Lovelock). The various viewpoints emerge with accompanying arguments, especially in Part III and Part IV.

2.8 ENVIRONMENTAL JUSTICE

Utilitarians are often criticized for urging that we simply maximize the total amount of utility or happiness on the planet and ignoring the important question of how happiness or unhappiness is distributed among the population of humans or even sentient beings. This matter of the distribution of benefits (and burdens) is important. Suppose that you and your classmate independently answer questions on a quiz in the same manner, but she gets an A and you receive a C. You may "feel" (= believe!) that this is unfair or unjust—a wrongful distribution among the two of you—in the absence of any relevant difference between your responses. It is tempting to think, as did Aristotle back in the fourth century B.C.E., that "equals should be treated equally." Thus, we might think that there is some important connection between justice and some kind of equality. Important questions arise: (1) What counts as being equal (or when are the individuals in question relevantly similar)? and (2) What counts as equal treatment? A "theory of justice" should give us reasoned answers to those questions. Aristotle broke ground by suggestively urging that justice required that we treat equals equally and unequals unequally (but he even thought some humans were unequal and were "slaves by nature").

One key question concerns this: Across what population of beings is it that considerations of justice arise? To whom could we be said to be unjust under certain circumstances? One's friend? One's mother? One's dog? A wolf? A coral reef? A mountain? The traditional view has been the anthropocentric one; we have simply tended to think in terms of members of *Homo sapiens*. The challenges to this view have been noted and receive considerable discussion in the readings. Is it unfair to dump a nonhuman family companion ("pet") just because one would find him or her inconvenient to take on a vacation, to kill greyhounds when they are no longer capable of competitive racing? Clearly one can harm a living thing such as a rat, but could one be said to be unfair to it? We need not generalize quickly here in our search for a principled answer.

So we have often thought in terms of what constitutes a just society (of human beings) and ignored other living things in so far as our understanding of justice goes. Clearly "environmental burdens" of various sorts do affect humans, and it is important to consider the way in which environmental burdens get distributed by policies that we consciously adopt (for example, to cooperate or not in collective efforts to reduce destruction of the ozone layer or efforts to reduce the risk of serious global warming) or processes to which we individually contribute, (such as air pollution—especially by vehicles we use or rely on to haul our Ethiopian coffee, Canadian beer, New Zealand

sweaters, or ...) in affluent nations. Without begging the question of whether the evidence for heightened global warming is decisive, it is clear that if it does occur-be it in 2050, 2100, or 2250-the burdens and benefits will be uneven. Global warming might result in an increased capacity to grow certain crops in parts of Canada or Siberia; however, it would likely result in the destruction of the nation of Maldives, inundation of much of Florida, New Orleans, Venice, and the Netherlands, to start a long list. Consider something over which we have more control, and certainly do at a national level, namely the dispersal of toxic wastes. Suppose we decided to ship and bury all toxic wastes, including nuclear, west of the Mississippi to an already somewhat polluted area such as Nevada-and all the wastes east of the Mississippi to South Carolina, a state receiving nuclear materials from the Southeast for a number of years. The state in which we editors reside, North Carolina, has unofficially adopted the usual NIMBY viewpoint (Not In My Backyard), even though some years ago agreeing with other states to take its turn ("it's only fair") at being a recipient of such wastes. What does justice require in such cases? We do not suggest that there is any simple answer, but it will depend in part on what principle of just distribution we accept-and this is a matter of reasoned investigation. Often distributions, especially of harmful things such as toxic wastes, are determined by who can buy out whom (some African nations have agreed to be recipients of the wastes of affluent nations-for a price) or which group has the least economic and political clout. Wastes dumps are usually placed by legislatures or the executive branch in poor, often minority, neighborhoods (see Essay 77 by Karl Grossman in VI.C). One can raise the question of whether this a matter of "simple economics" (where the land is cheapest) or whether some form of racism is at work. It is not news that who gets the dirty work or the "dirt" has often been a matter of which groups are least favored in a particular society.

What can be said then about which principle or principles of justice should guide us-initially at the level of thinking about the distribution of basic goods, say, jobs, political and legal rights, access to health care, shelter, or opportunities to obtain such? Here we will only mention the important contribution philosopher John Rawls has made to formulating a reasoned answer to this monumental question, which any society must address. Rawls's view, and a conception of justice in general, no doubt has important implications to thinking through questions of environmental policy and in shaping the elusive notion of what a good planet, maybe even an ideal planet, would look like. We humans have only begun to address the question of environmental justice in the last fraction of a geological instant. The next generation, if anyone, will carry it further.

Some thinkers (John Locke and Thomas Hobbes in the seventeenth century) thought that what was just depended on what kind of contractual agreement members of society reached (whatever distribution was agreed to was just). A tempting notion-since whether an arrangement is fair often seems to be simply a matter of agreement between the parties. However, some parties cannot participate at all or in a reasonable way in such agreements, for example, young children and the profoundly retarded (not to mention nonhumans). In practice, in the time of Locke and Hobbes, the actual participants in many contracts were a restricted group, namely, white, male property owners. Thus many individuals significantly affected by a contract did not agree to it. This latter point is a source of serious criticism of actual contract theories of justice. Rawls, in his influential

1971 study *A Theory of Justice*, suggested that justice may be usefully thought of in terms of the principles of distribution that would be agreed to by rational, self-interested people designing the kind of society they wished to live in. This exercise is a kind of grand thought experiment concerning what hypothetical contractors would agree to under imaginary circumstances. A key part of the experiment is that each participant (we imaginatively become the participants) must figuratively enter behind a "veil of ignorance"; that is, each is disallowed use of a certain knowledge we normally have in bargaining situations, namely, the economic class of which one may be a member, what so-called race we are, our nationality, to what generation we belong, and so on. Lacking this information we are not able to seek special advantage for our actual selves as we often do in "hard-nosed" bargaining. The basic principles of social design are agreed to in this manner; whatever is agreed to is what is just, Rawls claims. Notably, if we did not have knowledge about to which generation we belonged, as participants we would likely adopt policies that would distribute benefits more evenly over generations; thus, any given generation would have some duties, as a matter of justice, to future generations-of humans (to other beings also?). The nature and extent of our obligations to future generations, if any, is a fundamental question for any ethic seeking to provide guidance for environmental policy.

There is little direct reference to Rawls's theory in what follows, but the questions of environmental justice arises at numerous points, as suggested earlier. Rawls's theory may strike one as anthropocentric. He allows that it is designed such that only humans, or "persons with a sense of justice," can be participants in the thought experiment. But what if one were designing social and political structures for all sentient creatures, not just humans? What if the participants were also disallowed knowledge of the species to which they belonged? This interesting question aside, Rawls's theory, and consideration of questions about the distribution of benefits and burdens across and over generations, helps us break out of the microbubble of focusing on how we compare with our peers, such as who has the coolest shoes, jacket, CDs, or "do." In any case, distributive questions are unavoidable in discussions of environmental policy, and at a variety of levels-across existing persons, across generations, across nations, and across species or habitats.

2.9 THE IDEA OF A UNIQUE ENVIRONMENTAL ETHIC

Can there be a distinctive "environmental ethic"? The question itself is not clear. If it concerns the possibility of there being an ethic with implications about how we treat the environment, then the answer is that all ethical theories have such implications. We may think the implications of some are intolerable, but that is another matter. Indeed, many have thought that the implications of most or all traditional ethical theories with regard to our dealings with the environment are unacceptable and have therefore called for a new, distinct environmental ethic. Whether the new theory will be a revision of some traditional theoretical framework (Australian philosopher John Passmore, in a pioneering work, has defended this possibility⁶⁰) or one that involves a radical jettisoning of all traditional frameworks is an open question. It is difficult to imagine a theory that would not incorporate key features of traditional views; arguably, however, none has appeared.

Some incorporate significantly new assumptions; see especially the views of Leopold, Callicott, and Taylor in Part IV.A, and Rolston in Part VI.

Serious questions have been raised in recent years about traditional views. The major issue is the attack on anthropocentrism: the assumption that it is the well-being of all and only human beings that counts (for its own sake and not merely instrumentally). This matter is explored in Part III and Part IV. Competing views extend moral standing, in various manners, to all sentient beings, to all "subjects of a life," or to all living individuals. A second challenging thesis of recent work is that not only individuals count, but entire ecosystems or biological processes or sets of such. Once one grants moral standing to entities other than humans, a third crucial, seemingly inscrutable, recalcitrant difficulty arises about how to articulate a reasonable, principled way to resolve conflicts between competing interests of very diverse beings or webs of life. Some essays in Parts IV.A, IV.B, and VI address this issue. Recent moral positions that urge an extension of moral standing to nonhumans, and especially to collectivities ("environmental holist" views as opposed to "individualist" views) of some sort, sometimes seem to offer little guidance about this issue; for example, they offer rather romantic nostrums about how we humans are one with nature or are mere nodes of consciousness in the sea of life. Analogous intrahuman conflict situations are extremely difficult to think through; to add nonhuman interests muddies the ethical waters; but something similar must have occurred to those who, in earlier times, came to the view that women counted, or that blacks counted. Sometimes simplicity is purchased at the price of reasonableness.

One might regard one's own skin as the line of division between oneself and "the environment," and this is just what the ethical egoist recommends. To call attention to this point is to remind oneself, or perhaps notice more vividly, that many of the environmental questions we face are largely (if not solely) questions of a more or less familiar type about how we may, and how we ought to, treat human beings. To suggest a crude taxonomy, many of the important questions concern the justification of restrictions on the liberty of persons (or governments, corporations, and the like), questions about justice, and questions about the defensibility of imposing risks on other persons. That is, they are the central questions of recent work in moral and political philosophy. Hence one point we urge is increased integration of environmental ethics and modern moral and political philosophy. For this to occur, people who work in these areas must pay attention to the explorations of others who have often worked in comparative isolation.

Consider some examples. Questions about the defensibility of pollution, or the desirability of auctioning off pollution rights, at once involve issues about the acceptability of imposing risks on others, typically those who have not given informed consent to the risk. Such actions evidently restrict the liberty of others. And the distribution of burdens may occur in such a manner that questions of fairness arise. Frequently spokespeople for the third world complain that countries such as Japan, the United States, and Germany generate extremely high rates of pollution per capita in comparison to third-world countries. Imagine the pollution we would see if a billion people in China owned one or more cars that ran on fossil fuels. Yet developed countries insist that nations such as Brazil abstain from cutting tropical forests in order to have

more trees to recycle the great carbon output of heavily industrialized nations. Apologists for high-tech nations have claimed in reply that many of their high-tech products benefit the world, including the less developed nations, thereby compensating them for being subjected to higher pollution rates. These matters raise familiar questions about the extent to which nations ought to respect the sovereignty of other nations. The United States invaded Panama to depose President Noriega; is it permissible for other nations to depose a U.S. President on the ground that he leads a country that is the major contributor to the production of plutonium, nerve gas, and carbon pollution? The question of how, and at what rate, any nation should be using up resources raises the question of what duties current generations have to future ones (see Section V.E). This, too, can be thought of as a question of fairness, in part, as well as a question about subjecting others to serious risks.

Complicating matters is an issue that thus far has received no comment herein. It is widely held that each nation should do only what will promote or maximize its own interests. Sometimes, instead of this broad doctrine, the view one finds in, say, the United States is that the United States ought to do whatever will promote its own interest. This view looks like Ethical Egoism on a national scale (we could call it National Ethical Egoism). This view is no obscure doctrine; it is the basis for much foreign policy-in many nations. It is often associated with the assumption that there are no moral relations between nations, no duties, no rights, and that rather the situation is one Hobbes described as a state of nature (the doctrine of so-called political realism). Addressing many of the planetary environmental issues is indeed difficult if this (we think absurd) doctrine is accepted. With respect to certain ecological advantages, it might well be better if the world were not organized into numerous nationstates in which national boundaries bear little or no relation to ecotones, the boundaries between roughly identifiable sets of ecosystems (or bioregions). Perhaps it would be easier under such circumstances to avoid habitat deterioration, the massive kill-off of species, the diminishment of biodiversity, population crashes, and decline in the quality of life for humans and others.

But we do not start with an undesigned planet, one consisting of raw material to be distributed, or one in which more than 5 billion people are to be assigned to spaces as on the first day of school. We are, for better or worse, up to our sometimes myopic, nationalistic eyeballs in existing political, religious, racial, and ethnic loyalties, with systems of property rights, traditions of sovereignty, and so on. These practices, norms, and institutions often deserve to be radically criticized and altered, but doing so could also be unjust in certain ways, and this fact must also be given weight in proposed solutions. For some otherwise desirable goals, we may not be able morally "to get there from here." But we do not wish to urge any presumption in favor of the status quo. We are suggesting that many traditional questions of intranational and international justice have important bearings on attempts to identify morally acceptable solutions to the problems we confront. Indeed, they also affect just how we define or identify those problems.

NOTES

1. Carl Sagan and Ann Druyan, *Shadows of Forgotten Ancestors* (New York: Random

House, 1992), p. 3.

2. As quoted in William Irvine, *Apes, Angels, and Victorians* (London: Reader's Union, 1956), p. 49.

3. This is a loose and somewhat formal characterization that in the end will not do; intuitively, "You ought to wear your purple tie" is not a moral claim. Likewise, neither is "If you are going to Montreal, you ought to brush up on your French."

4. A plausible, broader taxonomy might regard moral or normative claims as a subset of evaluative ones. Evaluative claims would be understood to include both moral claims but also nonmoral evaluative claims. The latter category would include evaluative claims about objects or states of affairs; for example, Mrs. Brown has got a lovely daughter, the Musee D'Orsay is exhilarating, Beethoven's Fifth Symphony is sublime, pleasure is good, Koko is one fine animal, or Lake Louise in British Columbia is a joy to the eyes. We will often use 'normative' interchangeably with 'moral' or 'ethical' but it is frequently used by others as a more generic term such as 'evaluative.'

5. A remark of Dorothy Parker in a book review.

6. This movement consisted largely of a group of philosophers and scientists who wished to rid the world of what they considered nonsense; it is associated with the Vienna Circle and the names of A. J. Ayer, Moritz Schlick, and Rudolph Carnap, among others.

7. As reported by Plato in the *Republic*.

8. Tautologies and logical truths are statements that are true because of their form or simply in virtue of the meaning of the words used, such as bachelors are unmarried, everything that has shape has size, all purple things are colored, eye color is a heritable trait or it is not.

9. However, we note that there may be moral agents who are not humans and that not all humans are moral agents. One should compare, regardless of whether they exist, human infants, profoundly retarded humans, God, angels, E.T., or Koko the gorilla (who signed in American Sign Language "Me bite, bad" after biting her trainer one day).

10. If one is unfamiliar with certain basic standards used in assessing arguments, a logic course can be very helpful.

11. David Hume, from Book III, Part I, Section I of *A Treatise of Human Nature*, edited by L. A. Selby Bigge (Oxford: Clarendon Press, 1965), p. 469.

12. We can validly infer "Hilary's car is colored" from the premise "Hilary's car is blue." However, it is invalid to infer that "Hilary's car is blue" from the premise "Hilary's car is colored"-even if it happens to be true that her car is blue. Valid arguments are "truth preserving" but may not start with true premises. The terms 'valid' and 'invalid' are technical terms as used here.

13. The fact that one cannot validly infer normative conclusions from purely empirical premises in the examples noted would not, of course, show that one can never do so. Many philosophers, "ethical naturalists," think otherwise. On this point one might consult the writings of Philippa Foot.

14. By design this test for toxicity of substances is not complete until at least half of the test animals die.

15. If 'murder' is used to mean "unlawful killing," the sentence looks empirical, but if what is meant is "wrongful killing," the sentence is being used to make a moral claim.

16. As the term is used technically by mathematicians, philosophers, and logicians, 'invalid' does not mean 'bad,' and an invalid argument need not, but may, have a false

conclusion. However, invalid arguments are commonly appraised as bad in one respect: Their premises fail to support their conclusions in the strongest possible manner. An argument that has this fault may nevertheless happen to have a true conclusion.

17. Compare the remark of Albert Einstein, no artsy antiscientific sort, "We should be on our guard not to overestimate science and scientific methods when it is a question of human problems; and we should not assume that experts are the only ones who have a right to express themselves on questions affecting the organization of society." *From Ideas and Opinions* by Albert Einstein (New York: Crown, 1954), p. 152.

18. On the moral/ legal distinction, recall the view that black persons had moral rights even when in the antebellum period in the United States few such rights were also legally institutionalized.

19. Paul and Anne Ehrlich, *Healing the Planet* (Reading, MA: Addison-Wesley, 1991), p. 85.

20. The best philosophy and the best science get the facts straight; even if that is done, reasoning about the facts is another matter. We leave it to a wellknown scientist to express an opinion about the receptiveness of scientists to philosophical untangling of arguments. To quote Stephen Jay Gould, "I deplore the unwillingness of scientists to explore seriously the logical structure of arguments." And further, "Scientists tend to ignore academic philosophy as an empty pursuit. Surely, any intelligent person can think straight by intuition." Evidently, Gould is speaking ironically in the last sentence. See Stephen Jay Gould, *Ever Since Darwin* (New York: Norton, 1977), p. 40.

21. Paul and Anne Ehrlich, *Healing the Planet*, p. 116.

22. For the Galileo example, see Jonathan Weiner, *Planet Earth* (Toronto: Bantam Books, 1986), p. 153. Concerning Agassiz, seep. 116.

23. The term 'a priori' means "before or apart from" experience or empirical evidence. An a priori assumption may be true; whether it is belief-worthy is another matter.

24. By "anthropocentric grounds" or "anthropocentric values," "some may mean simply "human ideals," but among them may be the view, for example, that we ought not inflict pain or premature death on animals gratuitously, or even the view that species boundaries are morally without weight. But such a usage of "anthropocentrism" threatens to muddy the conceptual waters. Compare Bryan Norton's characterization and use of "weak anthropocentrism": Bryan Norton, *Why Preserve Natural Variety?* (Princeton, NJ: Princeton University Press, 1987), pp. 7,12.

25. Strictly, philosophers normally divide "ethics" as a discipline into normative ethics and metaethics, and the attempt to figure out the most defensible moral principles, or specifically what we ought to do, is the focus of normative ethics. The focus of metaethics is more abstract; the questions are those about ethical claims, e.g., are they rationally decidable, does 'right' refer to some natural property, and so on.

26. On this point one might consult Mary Midgley, "Duties Concerning Islands," reprinted in *People, Penguins, and Plastic Trees*, edited by Donald VanDeVeer and Christine Pierce (Belmont, CA: Wadsworth, 1986), pp. 156-164.

27. Richard Brandt suggests that it is those convictions surviving cognitive psychotherapy that deserve weight. See his *Theory of the Good and the Right* (New York: Oxford University Press, 1979). One critic has observed that we would regard as suspect any theory of psychotherapy unless it accorded with our deepest pretheoretical moral convictions; the reference has evaporated.

28. Rather what is said in defense of the claim seems to support only theses like all acts have motives, people always want to achieve whatever they desire to achieve, or all acts are acts of a self.

29. Saying that "fitness" means "reproductive fitness" does not do away with all the questions.

30. It was not Darwin but rather English social scientist/philosopher Herbert Spencer who introduced the expression "survival of the fittest." Spencer is not well-known today but was widely read in the United States in the nineteenth century.

31. How to characterize the negative-positive distinction is not straightforward.

Refraining from acting may be a kind of effortful action, such as braking a car to refrain from hitting another one.

32. See Susan Miller Okin, *Justice, Gender, and the Family* (New York: Basic Books, 1989).

33. We employ suggestions from Frank Stare, "The Concept of Property," *American Philosophical Quarterly* 9, 1972, 200-207.

34. See J. Baird Callicott, "On the Intrinsic Value of Non-Human Species," in *The Preservation of Species*, edited by Bryan Norton (Princeton, NJ: Princeton University Press, 1986), p. 144. Note also Norton's view that appeals to rights "provide no theoretically defensible basis for species preservation." *Ibid.*, p. 275.

35. However, dying prematurely seems to count as a harm or a cost, and it may be painless. So one cannot classify painless dying as a form of disutility (understood as pain of some sort).

36. See Charles Darwin's *The Expression of Emotion in Man and Animals* (Chicago: University of Chicago Press, 1965) for Darwin's focus on bodily and facial expressions as compelling evidence of emotional states in humans and animals.

37. If the sum of the utilities of a majority's getting its wants fulfilled is more than offset by the sum of the disutilities of a minority's losing out, then what maximizes total net utility and what most people want may be contrary paths.

38. We note in passing that in his Introduction to the *Principles of Morals and Legislation* (1789), Bentham addressed the difficulty of measuring pleasure or pain and proposed that intensity, duration, fecundity (the tendency of the feeling to give rise to more of the same kind), and so on should be taken into account.

39. Predicting consequences may be very difficult (compare current worries over whether someone released from jail will steal again or whether global warming by the year 2050 will increase at least 4 degrees centigrade). Probabilities may need to be taken into account; so strictly the calculation is to determine total net expected utility.⁴⁰ In 1992 it was decided that the captain of the oil tanker Exxon Valdez was immune to prosecution for having allowed his ship to run aground. The law is that a captain is immune to prosecution once he reports the event. The rationale for the law is thus utilitarian or consequentialist in nature; it is to encourage captains to report such events, presumably thereby promoting the overall best results. Some utilitarians might draw a different conclusion. Defenders of a retributivist theory of justice may insist that the captain deserved a serious punishment and that it is wrongheaded to look forward to the consequences as a way of determining the correct policy. There are serious worries about fairness here; compare the severe penalties imposed on certain consenting adult homosexual behavior (up to 20 years in jail in North Carolina). In the days of David

Hume (eighteenth century), in Great Britain one could be hung for simply disbelieving in the existence of God. This fact tended to discourage publication on certain issues.

41. Economists and philosophers agree, to our knowledge, that there are many Pareto-optimal states of affairs at which one might arrive depending on the initial situation of goods. A Pareto-optimal situation is one in which it is impossible to rearrange things and make someone better off without also making someone worse off; in that respect it is one that is totally 'efficient' as economists use that term. The initial or final distribution of goods may or may not be thought of as fair or just. Discerning whether a situation is Pareto-optimal or not, that is, efficient, does not then address the distributional problem. In an imaginary two-person community consisting of a slave and his "master," it might be impossible to make one better off without making the other worse off and, thus, the situation would be efficient; all this suggests, of course, that efficiency is not everything.

 We believe that a theory of justice is required and that only within the constraints required by principles of justice (whatever those constraints might be) is it permissible to pursue efficiency. The principles of justice may, of course, allow an important role for moral rights. Such a theory of efficiency within justice may allow for cost benefit analysis within the framework of a rights theory. These most succinct, if not obtuse, remarks are meant to be suggestive for further inquiry. The burden would seem to be on philosophers to try to supply the right theory of justice.

42. Maybe we should not go so far as Albert Schweitzer, who purportedly said "happiness is for pigs." No doubt this was Schweitzer's way of discounting the importance of human happiness, but Benthamite utilitarians might give it a different twist (we should care about the happiness of animals as well).

43. Although we would strongly discourage anyone from thinking that ethical issues have any necessary connection with religious ones, Malcolm Gillis cites an essay by E. Mason, who points out that the economics department at Harvard University was dominated by preachers until the 1880s. See Malcolm Gillis, "Economics, Ecology, and Ethics: Mending the Broken Circle of the Tropical Forests" in the excellent volume *The Broken Circle*, edited by F. H. Bormann and Stephen Kellert (New Haven, CT: Yale University Press, 1991), p. 155.

44. We rely here on one of many helpful comments by Talbot Page.

45. The term 'paternalism' or 'paternalistic interference' refers to interference with others in an effort to promote their own good, such as taking away car keys from a drunk. One question that arises is whether we can ever know better than the other what is for his or her own good and if so under what circumstances. On this topic see Joel Feinberg, *Harm to Self* (New York: Oxford University Press, 1986) or Donald VanDeVeer, *Paternalistic Intervention* (Princeton, NJ: Princeton University Press, 1986).

46. It is worth reminding ourselves of all the choices that routinely get made for others, such as children, the severely retarded, the senile, many medical patients, and animals. And those without funds cannot cast a "dollar vote" in the marketplace.

47. Something like the thesis of psychological egoism (each person always acts out of a desire to promote his or her own interest) usually seems to get assumed about here. Yet if being "better off" simply means getting one's desires satisfied on balance, then one might be "better off" if one commits suicide or is subjected to torture-if that is what one wanted, on balance.

48. Still, the rights theory may allow that infringements are justified only under certain

rather limited conditions. The utilitarian theory is committed to condoning any and all nasty acts if doing so would indeed maximize utility. A question for any rights theory allowing infringements is whether its grounds for doing so are nonarbitrary.

49. If potential gainers from a transaction compensated those who would otherwise be losers (and remained gainers), then interesting alternatives would arise. Generally, economists insist that moving to a situation in which such compensation could be made is an improvement (why? because there would be an increase in total net utility?) even if compensation is not actually paid. This "potential compensation" variant on the Pareto principle seems nontrivial partly because it seems to condone unjust redistributions (on balance the losers just appear to be wrongfully harmed), as does the principle of utility. So it seems to gain nontriviality at the cost of serious conflict with our pretheoretical convictions.

50. These comments were made at a meeting of the American Philosophical Association in Columbus, Ohio, April 29-May 1, 1982. The paper was entitled "Natural Law and Moral Rights: Comments on a Paper by Christine Pierce."

51. On this matter one might consult the essay by Christopher Boorse, "Concepts of Health," in *Health Care Ethics*, edited by Donald VanDeVeer and Tom Regan (Philadelphia: Temple University Press, 1987).

52. On this point one might examine the work of Joseph Raz or Germain Grisez.

53. It is crucial to notice the frequent slide from purely descriptive uses of 'abnormal' and 'unnatural' (for example, statistically unusual) to evaluative uses of the same terms.

54. There is no doubt that there are certain natural tendencies. Some hold that these are divinely implanted. Some hold that they are just there and offer no explanation. The prevailing scientific view is, of course, that there is an explanation and that it has to do with which behaviors were advantageous in the competitive process of natural selection. Male robber flies, for example, court female robber flies; this behavior, to which there is a natural tendency, seems to have the advantage of helping the female to recognize the male as something not to be eaten (at least not at that moment).

55. Arthur Fisher, "A New Synthesis Comes of Age," *Mosaic* 22(1) (Spring 1991), 13.

56. We speak of "influential theories." Perhaps no one has gone to war thinking that she or he is out to defend "a theory," but as we have used the term, the evaluative beliefs of the Nazis led them to war; the Crusades sought to spread a certain doctrine, and Columbus both wanted to find lots of gold for Spain and to Christianize "the natives" in the process. The gospel of free trade, of the classless society, of ethnic purity, and certain Islamic ideals have led to enslavement and to wholesale destruction of species and ecosystems. Somewhere, John Stuart Mill noted that the logic of tyrants is, Since we are right, it is all right to persecute those who disagree. Prescriptions such as that of one of the church fathers, Tertullian, "Love God and do as you please," are recipes for God knows what, so to speak. Some theories explicitly prohibit the forcible spread of any doctrine, including their own. One might compare Kant's views and Utilitarianism in this respect. If it would maximize utility to forcibly spread the doctrine of Utilitarianism, why not do it-if one accepts the principle of utility? In contrast, the Kantian notion to never treat a person as a mere means would seem to prohibit the forcible spread of that very notion

57. In passing, we note that a work of great importance and one with acknowledgment of Kant's influence, John Rawls's *A Theory of Justice*, makes important and inventive use of

the idea that principles of justice plausibly may be thought of, in an elaborate thought experiment, as those principles that would be accepted by rational, "self-interested" persons seeking to determine those principles that would guide their own future interaction, including the design of basic institutions, the distribution of basic goods and opportunities-such deciders being subject to important informational constraints, namely, that they are not allowed to know or to use information by which everyday bargainers seek special advantage; that is, they are supposed to be ignorant of the generation into which they are born (see Chapter 3), their race, their nationality, and so on. In effect Kant says, pay attention only to what you can rationally endorse or will, not your actual wants. Similarly, Rawls constructs a decision scenario to give weight to people's impartial wants, not their actual, biased ones. See John Rawls, *A Theory of Justice* (Cambridge, MA: Belknap Press of Harvard University, 1971). It may be useful to take a course in moral philosophy first, or to take along one's personal philosopher for the trip.

58. Immanuel Kant, "Duties to Animals and Spirits," in *Lectures on Ethics*, translated by Louis Infield (New York: Harper & Row, 1963), pp. 239-241.

59. Most wrongings involve harming, but arguably many do not. On this, see Joel Feinberg *Harmless Wrongdoing* (Oxford: Oxford University Press, 1988).

60. John Passmore, *Man's Responsibility for Nature* (New York: Scribner's 1974).