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Rights, Rules, and Respect for Nature

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[−] Abstract and Keywords

For years, many people have believed that the only reasonable way to approach a problem of environmental concern is to evaluate the eventuating state of affairs. Since environmental matters are primarily about states of affairs, these 'consequentialist' approaches appear to make sense. More recently, however, others have looked to different branches of philosophy for guidance. These non- or anti-consequentialist theorists typically fall into two camps: act-oriented camps and character-oriented camps. This chapter aims to defend nonconsequentialist act-oriented ethics, and in particular, a deontological justificatory liberalism, as at least one plausible route forward for environmental ethics. It does so by suggesting that more traditional consequentialist approaches to environmental problems are subject to potentially devastating criticisms that can more adequately be handled by some deontological approaches.

Keywords: nonconsequentialism, anticonsequentialism, deontology, trespass, responsibility, rights, rules, respect

Though estimates vary, experts believe that nearly 80,000 acres of rainforest are destroyed daily;¹ a further 150 to 200 species of plants, insects, birds and/or mammals go extinct every day;² and approximately 85% of global fish stocks have already been destroyed or depleted.³ It is tempting to assess these findings and suppose that the salient ethical problem is that nature has been degraded or devalued, that the ensuing state of affairs is less valuable or desirable than it otherwise might have been. According to this way of thinking, what makes an action right is whether it promotes or produces the good. In this respect, a preponderance of views about environmental wrongdoing are expressly consequentialist.

Such a view is quite reasonable. When talking about the environment, are we not first and foremost concerned with states of affairs? Certainly one cannot believe that mountains have rights, or that one has duties to streams. But consequentialist approaches to environmental wrongdoing are subject to many of the classical concerns that have otherwise plagued non-environmental consequentialism. That is, they are subject to concerns about welfarism, aggregationism, responsibility, demandingness, and applicability.

In this chapter I would like to defend a variant view of environmental deontology that strikes me as at least less problematic than other environmental positions. I shall approach the topic first by assessing the most prevalent environmental standpoint: consequentialism. My strategy here will be primarily negative, in that I will offer five complications for environmental consequentialism, suggesting that a nonconsequentialist account may be better equipped to address environmental concerns. I will then touch on three complications for nonconsequentialist accounts with the objective of zeroing in on a plausible deontological view. At the end, I offer a few reasons as to why the account that I favor—roughly a deontological account—may be better suited to deal with environmental issues than a consequentialist account. I have little space in an essay of this length to cover the full breadth of objections to the consequentialist account, but it is important to note that consequentialist arguments of various stripes have been offered across an enormous range of environmental subfields and that very often the chink in

the armor for the environmental position rests with one of the weaknesses I will adumbrate.

1. The Consequences of Environmental Consequentialism

Criticisms of consequentialist ethical theory are legion, but in the environmental realm, these familiar problems become all the more pronounced. Consider just five objections. First, consequentialists face the problem of welfarism: that is, How to establish the environmental good? Typically, environmental welfare positions invoke either a subjective theory or an objective theory of welfare. Subjective theories characteristically locate welfare in the subjective states of affected parties, whereas objective theories identify features of the world that are essential for welfare (Heathwood, 2014). There is huge variation within and across these two categories, so criticisms can get a little clumsy, but the basic idea is that value is either associated with some state of the mind or with some state of the world.

In the realm of environmental ethics, subjective theories tend to manifest in the guise of private or exchange valuation, which often then translate into claims about ecosystem services or the merits of cost benefit analysis. In essence, the idea is that whatever value nature may have, this value is perhaps best isolated by determining net increases in welfare for human users of the environment. These welfare improvements can be assessed through empirical means, whether experimental, hypothetical, or derivative. Take forestry as an example. Techniques like hedonic pricing and contingent valuation studies aim to demonstrate the value of nature by illustrating how consumers and users of the environment already value it. As many others have pointed out, such attempts at valuation quickly get mired in objections about comparability and commensurability (J. O'Neill, 1993), as well as objections that the very idea of "preferences," which is fundamental to many subjective theories, underdetermine the full extent of the ethical problem (Hausman and McPherson, 2009; Kwall, 1999; Sagoff, 2004). Without question, subjective theories have generated and continue to generate enormous controversy in the environmental community.

Others have therefore sought to argue the second horn of the welfare dilemma: for objective values. These objective theories of welfare present still different complications. That is, environmental positions that prioritize natural goods over other human concerns come off as, at best, unappealingly elitist and, at worst, crass and inhumane. An objective theory that places great value on recreation or aesthetics might be viewed as elitist, whereas one that places value on predation and trophic cascades might be viewed as inhumane. Moreover, it is nearly impossible to process the variety of value in nature given the multiple levels at which an objective approach might be targeted. Some things that may be very good for members of one species can be quite bad for the ecosystem as a whole, and translated across these various groups is no simple endeavor. What is good for a lobster may well not be good for a coral reef, which in turn may not be good for a crop of potatoes. So the problem of welfarism is particularly pronounced in the environmental arena, where establishing what is good is complicated by the diversity of nature. Put simply, the right set of objective values remains elusive.

Of course, welfarism is not the only problem consequentialists face. Consequentialism is also characterized by aggregationism, which is the idea that we can compare and aggregate values across value-holders. In economics, aggregating values works nicely to tabulate total benefits, as when one calculates up the value of three bushels of apples and eight wheels of cheese. It works impressively well in market contexts, when a narrowly circumscribed community of actors and a fair system for comparing like-goods determines, as if by magic, the exchange price for those goods. In the environmental arena, however, these distributional questions take on a slightly different contour. As goods begin to spill out of the commodity bin and into different categories of moral value—that is, when goods cease to be mere "goods"—aggregating values becomes a much stickier proposition. It is true that the problem of aggregationism is not limited to the environment, but again due to nature's diversity and the common view that entities within the environment are best understood as resources, the full extent of the problems with aggregationism truly kick in.

When set in a market context, the problem of aggregation is therefore intimately tied to problem of welfarism mentioned above. That is, aggregation also presents the problem that it cannot easily be presumed that value commitments are held equally across all individuals. In the human arena, this sometimes manifests as claims about the separateness of persons, which on one hand regards the matter of how persons themselves should be valued, but on the other hand regards the matter of whether subjective utility schedules can be aggregated without regard

for the subject holding those schedules. Rawls, most famously, defends the separateness of persons against utilitarianism by invoking the Kantian idea that each person be treated as an end in himself, but many other notable theorists have made similar points (Kant, 1785; Nagel, 1970; Nozick, 1977; Rawls, 1971; Williams, 1973). Consequentialists tend to deny the separateness of persons, by contrast, and instead suggest that one can and ought to aggregate goods and bads across all persons, and that we ought to do so in a way that disregards distribution (Norcross, 2008).

This manifests as an environmental complication when classical welfare economics is extended into environmental valuation, which is a widely utilized approach for arguing on behalf of the environment (Gowdy, 2004). In such instances, the environmental concern is not so much about the mere moral inseparability of welfare and experience for persons, or even non-human persons, but rather with concerns about the general good. It is challenging to defend the view, for instance, that killing some number of animals of differing species is equivalent to killing the same number of different animals of the same species, particularly if killing those animals of the same species would result in a marked problem for the species. If some ecological management approach suggests that culling 500 elk from an ecosystem will benefit the system, but that none of the creatures in the system will be individually benefitted, one who holds such a position may well also be committed to the view that culling 500 wolves from the same ecosystem carries roughly the same moral valence. Moreover, without a fixed source of value—say, for instance, human welfare or animal welfare—it is all the more challenging to aggregate values. Where aggregationism requires that goods are transitive across entities, any ecologist must acknowledge that even the most basic predatory relationships cast doubt on whether goods can be aggregated across predator and prey. As Jeff McMahan provocatively asks, “If we could bring about the end of predation ... ought we to do it?” (McMahan, 2010).

Third, it would appear that one great benefit of taking the consequentialist approach to environmental problems is that it evaluates actions assessment of intentions or reasons for those actions. Indeed, this has been a core objective of consequentialism for centuries: to observe that failing to act may be just as morally problematic as acting. But so many of our environmental problems are presumably problems *precisely because* they are anthropogenic. When an oil bed opens up on the ocean floor, this is generally not considered an environmental disaster. It's just the way that nature is. If a company blows open an oil bed on the ocean floor, on the other hand, this is an event of far more serious moral import. So too for most environmental problems. Winter comes and goes every year, killing billions of plants, starving countless animals and insects, and forcing millions of children to endure the humiliating indignity of wearing mittens. This, again, is just the way that nature is. If, on the other hand, human intervention were to cause an extremely harsh winter, perhaps by geoengineering, many would consider this to be a far more morally troubling matter. It's not that the ensuing states of affairs in nature are the best or the worst that could possibly be, but rather that they are good or bad by accident. There are limits to this point, of course. As states of affairs grow increasingly worse, we may come to evaluate them differently. But such concerns can be addressed by clearly understanding how we come to value things.

Fourth, environmental consequentialist theories suffer from strident demandingness objections. On one hand, consequentialism is said to demand too much of individual actors. In order to maximize or promote value, one may be required to give of oneself until little of value remains. Utilitarianism, for instance, may require that one give almost all of one's money to assist the poor. On the other hand, consequentialism may not demand enough. So long as the good is promoted, consequentialism may permit rights violations or other morally problematic practices—like, for instance, sacrificing some to save many.

In a narrowly defined universe of humans, the demandingness objection is enough of a problem, but in a universe in which one must grapple with the consumption of environmental resources and their eventual emission, the demandingness objection takes on renewed potency. First, moral extensionism in environmental ethics complicates demandingness objections considerably. If faced with a decision about whether to apply pesticides to bodies of still water in order to prevent malaria and thus save human lives, some consequentialist positions, such as biocentric individualism, might hold that such spraying ought not to occur. The lives saved are fewer than the lives destroyed; thus environmental consequentialism may demand that humans live with more disease and misery. Conversely, if faced with a decision about whether to take a drive on a Saturday afternoon or contribute a miniscule amount of carbon to the atmosphere, thus contributing imperceptibly to climate change (cf. Sinnott-Armstrong), it may not be the case that consequentialism has the resources to require a shift in action. Much of how the demandingness objection cuts, of course, will depend on what theory of the good informs the view, as well

as the scope of the theory.

This raises related problems. Since consequentialist theories almost all insist upon either promotion of the good or prevention of the bad, if we consider that every beneficial action generates a harmful outcome somewhere in the world, then we are in fact in quite a predicament. All actions must be considered strictly in terms of whether they do what consequentialism demands. But every single action both promotes the good and causes damage; or prevents damage and causes good. Principles like maximizing goods or minimizing harms can be quite limiting indeed when incorporating the full scope of environmental activities—as opposed to narrower-scope consequentialist theories that focus on the pleasure or suffering of sentient creatures.

Finally, one other point merits note. That is, one of the reasons that consequentialist approaches to environmental ethics are thought so attractive is that they make intuitive appeals to principles and values that are already prevalent in the policy process. Environmental advocates often enough suggest we cannot address environmental problems without “using the same language” as those who set our public policies. Thus, many are driven to answer such concerns out of a desire to see deeper philosophical commitments addressed in the policy discourse. One approach to salvaging environmentalism from the wreckage of consequentialism is obviously to seek sound responses to the objections raised earlier. Environmentalists have spilled a fair bit of ink to account for deficiencies in these views. A good portion of the work in environmental economics, conservation biology, restoration ecology, and other fields centers on describing better and worse states of affairs. But in my view this is unpromising. For every consequentialist argument in favor of the environment, there’s an equally compelling argument in favor of sacrificing the environment. It is more promising to abandon the consequentialist approach entirely.

Fortunately, ethics offers other, nonconsequentialist, options, like deontology and virtue ethics. For reasons that I will briefly cover in the next section, I favor the deontological view over the virtue view, but a first critical step involves moving away from an emphasis on states of affairs. The nonconsequentialist view that I advocate—roughly, democratic justificatory liberalism—also has parallels in the policy arena. Indeed, many policies are not forged on the anvil of cost-benefit analysis, or on rational self-interest, but rather through reasoned—or, at least, ostensibly reasoned—public debate. The above complications, while perhaps not alone devastating for environmental consequentialism, do at least raise significant questions about the viability of a consequentialist view.

2. A Nonconsequentialist Turn toward Deontology

Given the concerns, there is reason to favor nonconsequentialist—and particularly deontological—views over consequentialist views. Nonconsequentialist theories offer wider latitude for determining what the good is, adjudicating between various conceptions of the good, assigning responsibility, and avoiding the dual horns of the demandingness objection. Where consequentialists may insist that morality demands that some good state of affairs be promoted, nonconsequentialists can speak much more broadly about obligations and permissions and rights. Consider, for instance, Paul Taylor’s deontological approach to environmental respect. Taylor’s biocentric egalitarianism establishes the attitude of respect for nature as morally prior to other considerations like the promotion of value (Taylor, 1986). Or consider Mark Sagoff’s scathing deontological screeds against cost-benefit analysis and ecosystem services, in which he argues for democratically ratified moral permissions and constraints over appeals to utility (Sagoff, 2004, 2008). Alternatively, from the animal ethics literature, consider Tom Regan’s view that all subjects of a life deserve rights (Regan, 1983). Two features of nonconsequentialism ought to make a more deontological approach attractive for the environmental theorist.

For one thing, deontologists are concerned first and foremost with right actions, not with producing a better state of affairs. Where the consequentialist proposes that the rightness of an action hangs on the eventuating state of affairs, deontologists must invoke some other criteria entirely. So, for instance, they may suggest that one should defend an endangered species because it is the right thing to do, not necessarily because it will make the world a better place or be cost efficient. They can situate responsibilities and obligations in basic rights or humanity or in some other such principle. So the task for environmental deontology isn’t necessarily to identify best state of affairs in nature, but rather to identify a sufficiently comprehensive source of normativity.

Moreover, as mentioned before, though it may seem strange to suggest that promoting better states of affairs ought not to be the guiding moral objective for environmentalists—how else to describe a tailings pond or a clear-cut

forest but by appeal to states of affairs?—to emphasize right actions over states of affairs ought not to imply that states of affairs do not matter. Indeed, states of affairs are constituent components of actions—all of our actions are responses to states of affairs and/or behaviors that bring about new or different states of affairs. It's just that the deontologist looks more expansively on actions than simply the eventuating state of affairs. In other words, the deontologist argues rather that states of affairs are not all that matter in the determination of what qualifies an action as right. To put this colloquially: where consequentialist views place priority on the good over the right, deontological views place priority on the right over the good.

Taking a deontological approach isn't without its pitfalls. To be sure, there are many reasons that deontology hasn't been particularly attractive to environmental theorists. But there is wide disagreement among deontologists about the best theory, and a smart way to approach this question is to take a somewhat finer look at the variety of deontological positions on offer. Complicating matters, there clearly are good reasons to be skeptical of some deontological views.

To begin with a very blunt preliminary distinction, deontologists fall into either patient-centered or agent-centered camps. The first camp—patient-centered deontology—is perhaps most obvious for those seeking an inroad to environmental ethics. Those who are patient-centered focus on what sorts of obligations or permissions an agent has with regard to other entities or patients. These theories tend to isolate qualities or attributes of the moral patient, inasmuch as they aim to circumscribe the set of actions that are permissible with regard to the patients of moral concern. Historically patient-centered theories have been wedded intimately to rights and agency, which may be partly what trips up environmentalists. But this presumption is far too hasty. Much traction can be gained by turning the focus of environmental ethics back on the obligations of acting parties. Agent-centered theories, in this vein, may suggest instead that it is the agent, not the patient, who has strong positive obligations to abide by principles or duties to respect others. So, for instance, they may say that the burden falls on the agent to discover, endorse, and abide by the principles of right and moral action; it does not fall on the patient to set itself apart as a subject of moral concern. Less abstractly: if we aim to better understand constraints on actions, we ought not to look to the attributes of animals, say, in order to determine whether we can completely exclude them from our moral deliberations. Rather, we rational humans must ask ourselves what obligations we must uphold; and it is out of this understanding about our obligations that we can determine how to relate to others. Since one of the key distinguishing features of environmental ethics is its emphasis on non-human nature, which is manifestly non-rational, and since agent-centered deontology ostensibly places a heavy burden on rational agency, ethicists with an environmental leaning have tended to discount agent-centered deontology rather rapidly. In my view, this is too hasty.

Return for a moment to patient-centered deontology and consider how it might serve to illuminate obligations. If we identify dolphins and great apes as the cutoff class of entities deserving moral consideration, then we have a clear demarcation of permissions and constraints (provided that we can correctly identify the set of attributes that sets this class of entities apart). We are permitted to act upon entities falling outside the class of dolphins and great apes, but restricted from acting upon entities falling within this class (without further consideration or permission-seeking). In its narrowest contour, patient-centered deontology grounds down to a question about the scope of moral theory: what sorts of things deserve consideration; what sorts of things count as moral patients? This is a vexing question.

Humans are easy. Without them, ethics doesn't get off the ground. Matters grow far more complicated, however, once one tries to expand the circle of moral status. Widening the scope of moral theory to include first non-human animals, but then even non-animal organisms, communities of organisms, or even abiotic entities, such as rock formations, raises serious problems about criteria for moral considerability. Almost all criteria that have been suggested as necessary or sufficient for moral considerability—reason, agency, autonomy, interests, and so forth—leave a woeful cluster of entities out of the configuration. This is I think a devastating problem for the patient-centered deontological literature, where patient-centeredness is critical.

Naturally, many continue to pursue remedies to this problem, but the discussion remains saddled with terminological and conceptual complications. As Kenneth Goodpaster points out in his seminal article, moral considerability questions intercalate and overlap with other questions about rights, scope, and status (Goodpaster, 1978). Though some have sought to approach the problem in a finer-grained fashion (Warren, 2000), in my view such approaches will always be hamstrung by their inclusive/exclusive nature.

No doubt, these approaches are unacceptably narrow and rife with complications. Theorists have had little place to turn. It would appear that one either must accept that identifying deontological constraints involves only identifying the universe of moral patients, after which point one has no obligations or duties to entities that fall outside of this universe; or one can seek a wider, more comprehensive, more “environmental” view and abandon considerability questions to turn to some other agent-centered position—typically virtue ethics.

Indeed, this has roughly been the story of environmental ethics. To elide the question of moral considerability altogether, important early authors such as Aldo Leopold, who writes of a “biotic right” in the *Land Ethic*, sought instead to emphasize ecosystems and species (Callicott, 2001; Leopold, 1966); whereas other holists such as Arne Naess, widely viewed to be the father of deep ecology, sought to point out the basic interconnectedness of all individuals. This turn away from individualism and toward holism within environmental ethics, while much disputed among even the holists, nevertheless underscores the deep discomfort that environmental theorists have had with moral considerability and patient-centering. One could certainly characterize the holist’s position as one of expansionism—that is, as one of expanding moral scope to include everything as a moral patient—but this doesn’t resonate, at least to me, with the writings of these holist authors. On my read, the need to eschew the complications of patient-centering and instead turn to agent-centering has not yet been fully explored. I have argued elsewhere that the question of moral considerability gets tangled up in presumptions about moral status (Hale, 2011a).

3. Agent-centering in a Universe of Nonagents

This leaves theorists with the option of turning to agent-centering instead, which then raises somewhat separate complications. As I’ve mentioned, it is natural when taking an agent-centered approach to assume that emphasis must turn to the motivations or the character of the agent. Indeed, frustrations with deontological patient-centering and dissatisfaction with the reductivism of consequentialist accounts may help explain why so many environmental theorists turn to virtue ethics as the only remaining alternative. But for all of its promise, virtue ethics turns too sharply to agent-centering and tends to short circuit many, if not all, of the difficult ethical and policy questions that perplex environmentalists. As one very brief objection to turning to virtue: many environmental problems are the outcome of collective behaviors, not individual actions, and as such demand responses at the institutional level. Focusing on the character of all relevant actors seems woefully insufficient to account for or address wrongdoing. Without a robust theory of institutional character, virtue ethics is practically impotent to solve some of the most vexing environmental challenges. Fortunately, the deontologist has an alternative.

First things first, environmental ethics has tended to avoid deontological agent-centering fairly aggressively, in part because it appears to place a good deal of emphasis on agency. Since, environmentally speaking, most of the objects of concern aren’t agents in the proper sense of the term, this would appear to be a dead-end. Certainly some brave advocates have sought to argue for the agency and autonomy of nature (Heyd, 2005; Ridder, 2007), where others have even gone so far as to suggest that nature “speaks” to man. But this path, while tested, has yielded few compelling openings. Steven Vogel has written superb and in-depth essays dismantling such positions (Vogel, 2006).

A further complication for agent-centering rests in the belief that it leaves little room to distinguish between doing the right thing and doing the right thing for the right reasons. It is important to note here that there are at least two different directions that agent-centered deontological views may take—either they may focus on the intentions and motivations of agents, or they may emphasize and defend the duties and responsibilities of the agent absent any concern about intentions. They may, for instance, place a good deal of emphasis on what reasons motivate an agent to act in a particular way, in which case an ethical evaluation will turn primarily on “motivating reasons.” Or, they may instead emphasize justifications for the actions themselves, in which case intentions and motivations are far less of an issue. Instead what is at issue is whether there are any existing reasons that speak in favor of or against a given action.

The Kantian position that I favor, and one that many neo-Kantians favor, doesn’t rely on having the right intentions so much as having the right reasons. Once one cleaves off reasons from intentions, having the right reasons doesn’t entail being motivated (psychologically) by those reasons or having those reasons as intentions. It just means that the reasons in principle have to best explain the cause of the action. In these instances, deontologists

will hope to distinguish between different act-descriptions, cutting a finer line between justificatory and motivational reasons. In my view, the latter approach is more fruitful for precisely the reason that it leaves enough space to distinguish between doing the right thing and doing the right thing for the right reasons. One can speak of the justification for an action and also ask whether it was that justification that motivated the agent.

Where consequentialism has the advantage of offering up agent-neutral conceptions of the good, locating value in a state of affairs that all agents have a reason to promote regardless of their circumstances, the agent-centered deontologist must give an account of why some actions are right only with regard to particular agents. Many of these approaches have come by way of Kantians and neo-Kantians who have sought, through varying strategies, to make space for animals. While Kant's famous Formula of Humanity—that one should always treat others as ends in themselves, and never as a means only—appears to restrict moral consideration to humans, several prominent Kantians have made inroads into the animals debate by arguing that it is not so limiting (Hayward, 1994; Korsgaard, 2004; Wood, 1998). Contrary to the orthodox interpretation of Kant, these theorists have argued that the Formula of Humanity places greater emphasis on the agent than on the patient. The same idea can be brought to bear on environmental questions more broadly, as Onora O'Neill has suggested (O. O'Neill, 1997).

One follow-on concern for deontologists is that even in the realm of more anthropocentric questions, deontologists must yield in part to conflicting permissions, obligations, and restrictions. Obligations to assist, for instance, may supersede prohibitions on lying. So, for instance, Jones may face a situation in which he is forced to lie in order to save a life; or Smith may face a situation in which she feels forced to embellish the dangers of a pollutant in order to facilitate the regulation of that pollutant. On one hand, such a conflict relates to the defeasibility of obligations—in other words, whether one is permitted to violate some restrictions in order to achieve more praiseworthy ends. On the other hand, it also relates again to the demandingness objection: that is, How much can morality demand of us? A rigid deontologist may argue that no violation of obligation or principle is permissible, where some others may argue that there are circumstances in which rules can be bent to achieve more intuitively good ends. Generally, such concerns can be addressed by softening the absolutism of more traditional Kantian deontological views and advancing Rossian or Pragmatist positions that admit of defeasible or *prima facie* rights or duties, but obviously once rights or duties become violable, the strength of the deontological position can more easily be called into doubt.

Our discussion offers a pathway into novel, potentially compelling deontological positions. For instance, many theorists around the turn of the twenty-first century sought to locate duties and responsibilities in contractualist agreements or interpersonal endorsements. Authors such as Jürgen Habermas (1991) with his discourse ethics, Tim Scanlon (1999) with his contractualist account of what we owe to each other, Christine Korsgaard (1996) with her practical identities, Stephen Darwall (2006) with his second-personal stance, and Rainer Forst (2012) with his right to justification, each in slightly different ways, all seek to locate morality in the arrangements between parties. These hybrid deontological approaches—some more contractualist, some more Aristotelian—hold promise over more classical deontological theories in that the root of normativity can be located in actual or hypothetical agreement or endorsements. Far from what one might anticipate, this view does not necessarily commit morality to elitist or problematic anthropocentrism. Indeed, variant hybrid approaches have been picked up by a number of recent environmental theorists (Cohen, 2007; Hale, 2011b, 2013a, 2013b; Hale and Grundy, 2009; Rowlands, 1997; Sagoff, 2004).

For one thing, these “justificatory” approaches can offer guidance on forward-looking questions about how to act. For instance, they may require that principles for action be *reasonable*, where this means that reasons for action must be subjected to the scrutiny of reasonable and rational affected parties. If reasons for action pass such a test, then this ostensibly authorizes the action. The permission for the action, in other words, emerges out of the justificatory process. Justification in this sense rests in the justify-*ing*, not in some feature of the patient or some status of the act.

For instance, if we wish to cut an acre of forest in order to build a school, a robust justificatory approach might require that we obtain permission for such an act by justifying the act to affected parties. We needn't in this instance appeal primarily to the moral status or value of the resident species in order to determine our permissions or constraints, but instead can draw from locally relevant standards and norms. Certainly, such public scrutiny is always subject to the perversions of self-interest, politics, information asymmetries, and so on, but justificatory approaches can appeal to ideals of justification and leave the conclusions of the justificatory process always open

to revision. In this respect, the guidance may be both nonabsolute and fallible, meaning that as we seek clarity on how to handle non-human nature, we can always be called upon to clarify our reasons for acting. So, perhaps we discover that this forest is habitat to a unique species. Upon such a discovery, we may need to reevaluate the reasonableness of building the school on that site.

Such approaches may also offer clarity on backward-looking assignments of responsibility for environmental wrongdoing. If looking back on an action it can be determined that actors acted without good reason, or without reason that would have passed the scrutiny of reasonable and rational affected parties, such actors might be accused of environmental wrongdoing. Through this mechanism, then, one can identify incidents of wrongdoing, and conceivably also perpetrators of wrongdoing, without first establishing that some critical environmental value has been lost or damaged.

Finally, such approaches can offer an explanatory backdrop against which to make sense of a suite of environmental conflicts. Where it might first seem that the primary problem with rampant logging, overfishing, and species depletion is that the environment is being degraded, if we look at a few basic criticisms of consequentialist theory we can see how quickly such a view falls to tatters. On the hybrid deontological view that I have been advocating, degradation of the environment only really matters if it can't be justified against other conflicting or competing moral norms and values. As I see it, the contemporary environmental predicament is at least as much about actions or practices that are taken for "no good reason" (that is, without justification, without having gone through the justificatory process) as it is about the degradation of nature. And, as it happens, if one takes a wide view of justification (as I and other theorists do), the degradation of nature fits neatly into the set of reasons that one might offer for advancing or avoiding some actions in the environment. When one construes value not as a so-called "fact about the world," but rather as a determination emergent out of shared normative commitments, as has been suggested by many of the aforementioned turn-of-the-century deontologists, then there is more space to adjudicate between conflicts of welfarism, aggregationism, responsibility, and demandingness. Moreover, this justificatory approach has parallels in political and policy life as well, since such theories dovetail neatly with justifications for democracy.

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Notes:

(¹) <http://www.scientificamerican.com/article.cfm?id=earth-talks-daily-destruction>

(²) <http://www.guardian.co.uk/environment/2010/aug/16/nature-economic-security>

(³) <http://www.bbc.com/future/story/20120920-are-we-running-out-of-fish>

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