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ABSTRACT

The natural environment is commonly managed in order to maximize economic returns; a criterion that is seldom consistent with conservation of nature or natural resources. Yet, it is common for people to claim that conservation constitutes a legitimate constraint on economic returns. More specifically, authors commonly apply political theory in support of the claim that it is unjust not to conserve. This thesis evaluates a) the adequacy of particular attempts to justify conservation using applications of John Rawls' *A Theory of Justice* and b) the general ability of Rawls' framework to support conservation. The theory fails to provide a strong justification of conservation policies and practices because of both questionable efforts to extrapolate from the theory, and certain fundamental limitations of the theory itself.
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Economic efficiency, or some conception of utility maximization, are the criteria western governments usually invoke to make decisions affecting the natural environment, especially those decisions that affect public lands. The implied normative assumption is that the natural environment should be used in a manner that maximizes either economic efficiency or some form of utility for the public. These criteria are seldom consistent with the conservation of nature or natural resources. Yet it is a commonly held view that conservation constitutes a legitimate constraint on economic returns; natural resource management should include conservation. This is a normative (versus empirical) claim. It professes that something should be done, and consequently it requires a justification. In short, all normative claims require arguments (i.e. justifications) in support of their prescriptions.

There are various routes one can take in an effort to marshal support for conservation. For example, there are numerous justifications based on extending moral standing to non-humans (Sober 1994; Taylor 1981; VanDeVeer 1979; Goodpaster 1978; Naess 1973). There are also several arguments supported by grim futuristic scenarios of life on earth if we do not conserve (Sober 1994; Ehrlich and Ehrlich 1981). However, this thesis will only explore one type of argument, namely, that which contends conservation is an issue of justice; arguments which conclude that it is unjust not to conserve.
There are two reasons that support for conservation based on the concept of justice may be superior to other alternatives. First, justice, or an idea of "fairness" is widely accepted throughout our democratic society; it is something that (almost all) people take seriously. Consequently, an argument based on justice has the potential to be an effective motivation for underwriting any number of social policies and programs. Second, as David Orr (1994) notes, conservation (or lack of it) is unavoidably connected to what is essentially a political arena. The distribution of wealth, land use, the organization of power, economic growth models, the rules of democracy, and so on, all have a profound influence on conservation (Orr 1994: 70). Hence, due to these political ties, it may simply be more relevant to apply political theory in support of conservation.

Indeed, numerous proponents of environmental protection and conservation claim that their arguments are based on an application of political theory (Cooper and Palmer 1995; de-Shalit 1995; Tacconi and Bennett 1995; Taylor 1993; Laslett and Fishkin 1992; Luper-Foy 1992; IUCN et al. 1991; Penn 1990; Norton 1989; Singer 1988; Wenz 1988; Norgaard 1987; Richards 1983; Manning 1981; Page 1977). Several of the authors apply the ideas contained in John Rawls' book, *A Theory of Justice*. In particular, these advocates attempt to justify some type of conservation effort using a modification and/or "green" interpretation of Rawlsian ideas.

This thesis is an assessment of the strength and validity of these applications. Thus, it is not an attempt to *demonstrate* support for conservation
using a Rawlsian framework. Rather, my main objective is to critique existing arguments, in order to evaluate the success of Rawls' theory as a tool for the defense of conservation. Fundamentally, I will attempt to answer the following question:

Does John Rawls' *A Theory of Justice* provide a justification for conservation?

By conservation, I mean the sensible stewardship of natural entities, including natural resources, which involves some nonuse or preservation (Hunter 1996: 6). I do not mean the sensible stewardship and preservation of biodiversity,1 or "cultural" resources. Admittedly, this definition is somewhat ambiguous. For example, it does not actually define "sensible stewardship." It also fails to specify the natural entities in question. But in this case, I think the ambiguity is appropriate. As already stated, my purpose is to judge the success of a series of arguments that conclude the conservation of natural entities is supported by Rawlsian justice. In all of these arguments, the authors provide their own definitions of conservation and defend them using an application of Rawls.

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1 Thus, the Rawlsian applications by Luca Tacconi and Jeff Bennett (1995) and Bryan Norton (1989) are not explored in this thesis. I have chosen to eliminate these arguments from my thesis for a few reasons. First, the definition and value of biodiversity is both ambiguous and contentious (Reid and Miller 1989; Lamont 1995; Wood 1997). If I were to evaluate claims that biodiversity conservation is required by justice, I would have to pursue these difficulties. Undoubtedly, this is beyond the scope and purpose of this thesis; it would be a thesis of its own. Moreover, it so happens that Rawls actually plays a minor role in both of these articles. In other words, it is not clear that the arguments presented by these authors are actually Rawlsian.
Thus, suffice it to say that my definition is only required in order to restrict the subject matter of this thesis; it is merely a pragmatic means of limiting my topic.

In Chapter 2, I will outline the ideas from *A Theory of Justice* that are relevant to this thesis. I will then review and evaluate a comprehensive list of original arguments in support of the conservation of natural entities which either claim or appear to use a Rawlsian framework (Chapter 3). More specifically, I will extensively explore the justifications for conservation offered by Taylor (1993), Luper-Foy (1992), Singer (1988), Richards (1983), Manning (1981), and Page (1977). This chapter is an attempt to determine whether these applications (a) misinterpret and, hence, misapply Rawls’ theory and/or (b) fail to adequately support the conservation of natural entities.

I will then examine some of the relevant theoretical objections to Rawls’ theory, and assess their significance for the apposite body of conservation literature (Chapter 4). In this chapter, my main goal is to answer the following question:

Are the objections raised in Chapter 3 a direct result of basic inadequacies of the original Rawlsian framework?

Chapter 5 will reiterate my general findings, and state my conclusion about the overall plausibility of using Rawls to justify the conservation of natural entities.

Thus, the chief objectives of this thesis are to evaluate the adequacy of particular...
attempts to justify environmental conservation using a Rawlsian framework, as well as the *general* success of Rawls' theory of justice as a philosophical justification for conservation.
CHAPTER 2: OUTLINE OF A THEORY OF JUSTICE

John Rawls' *A Theory of Justice* (1971) defends a conception of justice which attempts to provide a systematic alternative to classical utilitarianism and intuitionism. It can be described as a theory which combines:

traditional liberal emphasis on the preservation of individual rights to freedom with an egalitarian concern for the individual welfare rights of each member of society. (Black 1992: 244)

It is based on a conception of the social contract as characterized by Locke, Rousseau, and Kant (Rawls 1971: viii). In particular, Rawls' notion of a social contract:

depends on the view that it is fair to require people to submit to procedures and institutions only if, given the opportunity, they could in some sense have agreed in advance on the principles to which they must submit. (Nagel 1989: 4)

This chapter summarizes the elements of the theory that are relevant to the various Rawlsian applications in support of conservation. More specifically, this chapter will explain:

1) Rawls' principles of justice (the content of the theory),
2) Rawls' idea of the basic structure of society (the scope of the theory), and
3) the contract and intuitive arguments (the justification for the theory).

2.1 RAWLS’ PRINCIPLES OF JUSTICE: THE CONTENT OF THE THEORY

Rawls' two principles of justice can be thought of as "his answer to the question of justice" (Kymlicka 1990: 52). That is, they define what Rawls considers to be a just social arrangement. The first principle of justice states that:
each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all (Rawls 1971: 302).

By basic liberties, Rawls means basic political rights,¹ liberty of conscience,² freedom of the person,³ and freedom from arbitrary arrest and seizure (Rawls 1971: 61).

The second principle of justice has two parts. First, social and economic inequalities (income and wealth) must be arranged to maximize the expectations of the least advantaged (the difference principle).⁴ Second, these inequalities must be attached to offices and positions which are open to everyone, under conditions of fair equality of opportunity (the opportunity principle)⁵ (Rawls 1971: 302).

These principles of justice are prioritized, such that "equal liberties take precedence over equal opportunity which takes precedence over equal resources" (Kymlicka 1990: 54). That is, the first principle of justice must be satisfied prior to

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¹ The right to vote and be eligible for political office, as well as freedom of political speech and assembly.

² Freedom of religion and thought.

³ The right to hold personal property, freedom of association, movement and occupation, as well as freedom from psychological oppression and physical assault.

⁴ Rawls assumes that raising the expectations of the worst off position in society also raises the expectations of all those in better situations; inequalities in expectations are chain-connected (Rawls 1971: 80). Thus, the difference principle has the effect of making everyone better off.

⁵ In general, the underlying idea of the opportunity principle is this: it is unjust for people to be hindered or privileged by arbitrary and undeserved differences in their social or economic circumstances (Kymlicka 1990: 56). Rawls thinks the opportunity principle is a safeguard against such unfairness.
the second. And, within the second principle of justice, the opportunity principle must be satisfied prior to the difference principle. Rawls refers to this serial arrangement as "lexical" ordering. The purpose is to ensure that:

the basic structure of society...arrange(s) the inequalities of wealth and authority in ways consistent with the equal liberties. (Rawls 1971: 43)

Thus, lexical ordering eliminates the possibility of tradeoffs in rights and basic liberties being made for social or economic gains. At the same time, it reduces the problems associated with having to balance principles since the prioritization is absolute (Rawls 1971: 43).

2.2 THE BASIC STRUCTURE OF SOCIETY: THE SCOPE OF THE THEORY

While principles of justice can be applied to decisions, judgements, individual attitudes, court verdicts, and so on, Rawls’ principles are limited in scope to one particular class of justice. They are only meant to (a) govern the assignment of rights and duties in the major (or basic) institutions of society and (b) define and regulate a just distribution of social and economic advantages (Rawls 1971: 61):

For us, the primary subject of justice is the basic structure of society, or more exactly, the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation. (Rawls 1971: 7)

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6 This point is somewhat confusing since the difference principle always precedes the opportunity principle in Rawls’ writing.

7 The word is an abbreviation for lexicographical.
By major institutions, Rawls means the political constitution and the primary economic and social arrangements of a constitutional democracy:

Thus the legal protection of freedom of thought and liberty of conscience, competitive markets, private property in the means of production, and the monogamous family are examples of major institutions. (Rawls 1971: 7)

Once "everyone accepts and knows that the others accept" Rawls' two principles of justice, and "the basic social institutions satisfy and are known to satisfy these principles," the result is something Rawls defines as a *well-ordered society* (Rawls 1971: 454).

### 2.3 THE CONTRACT AND INTUITIVE ARGUMENTS: THE JUSTIFICATION FOR THE THEORY

Rawls formulates two main arguments in support of his principles of justice; the contract argument and the intuitive argument (Kymlicka 1990). According to the contract argument, Rawls' principles are justified *by* the fact that under fair conditions, they would be chosen unanimously. Rawls develops the *original position* - a hypothetical situation which is claimed to be fair, from which participants choose a conception of justice. It consists of rational agents that are mutually disinterested, and ignorant of certain facts. They are behind what Rawls terms the *veil of ignorance*.

The veil of ignorance *limits* its agents from knowing the particulars of their lives:

no one knows his place in society, his class position or social status; nor does he know his fortune in the distribution of natural assets and
abilities, his intelligence, strength... his conception of the good, the particulars of his rational plan of life... or even the special features of his psychology. More than this,... the parties do not know... (their) economic or political situation. The persons in the original position have no information as to which generation they belong... (Rawls 1971: 137)

The general idea here is that if people knew these particulars, they may well select principles of justice that are unfairly biased in favour of their personal situation. For example, if I know that I am rich, I may be tempted to capitalize on a social system which favours the rich and neglects the poor. In turn, I might adopt principles of justice which are advantageous for my own situation, yet unfair to others.

Rawls thinks of the parties behind the veil of ignorance as "deputies for a kind of everlasting moral agent or institution" (Rawls 1971: 128). As such, he assumes that each will have a concern for the well-being of at least one individual in the next generation. In addition, the parties have an understanding of political and economic theory, "the basis of social organization and the laws of human psychology" (Rawls 1971: 137). And, they know that their society is subject to the "circumstances of justice" (Rawls 1971: 137). That is, they know that within their society there is:

1) moderate scarcity of resources,
2) moderate selfishness of individuals, and
3) relative equality between persons (Rawls 1971: 126-127).

These circumstances are thought of as the conditions under which justice is both possible and necessary (Rawls 1971: 126). Rawls thinks that "unless these
circumstances existed, there would be no occasion for the virtue of justice” (Rawls 1971: 128).

Rawls asks us to accept that the conditions specified by the contract argument are fair, and choose amongst several competing principles of justice (Rawls 1971: 124). Why does he think the agents will choose his principles as their conception of justice? One reason is that while we may not know the particulars of our personal lives, there are certain things that every rational agent would want more rather than less of, and Rawls’ principles ensure the best access to these things (Kymlicka 1990).

More specifically, Rawls argues that his principles ensure the best access to social primary goods; goods that are directly distributed by the basic structure of society. These goods are: liberties (including rights) and opportunities, income and wealth, and the bases of self-respect. According to Rawls, these social primary goods are the "necessary means" to "one’s system of ends" (Rawls 1971: 93). As such:

expectations are defined as an index of primary goods that a representative man can reasonably look forward to. A person’s prospects are improved when he can anticipate a preferred collection of these goods.⁸ (Rawls 1971: 95)

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⁸ Rawls also thinks natural primary goods are, to various degrees, necessary means to whatever plan of life we might have. These are goods that we naturally possess: health and vigour, intelligence and imagination, and so on (Rawls 1971: 62). However, the natural primary goods, although influenced by the basic structure of society, are "not so directly under its control" (Rawls 1971: 62).
Rawls' first principle of justice will protect your rights and liberties. His second principle will ensure fair equality of opportunity (the opportunity principle), and maximize your share of income and wealth if you end up in the worst-off position of society after removing the veil of ignorance (the difference principle). Moreover, his two principles in combination will bring about strong support for self-respect, by ensuring that the basic structure of society is organized such that men "treat one another not as means only but as ends in themselves" (Rawls 1971: 179). In short, Rawls thinks that his principles are "those a person would choose for the design of a society in which his enemy is to assign him his place" (Rawls 1971: 152-153).

But surely there are other principles of justice that may result in securing a larger share of these goods. For example, I have some chance of attaining a greater distribution of goods by choosing a principle of average utility. However, Rawls thinks this would be an irrational choice, considering the principles being chosen are binding, and meant to govern life long prospects. They are subject to strains of commitment, which would deter choosers from gambling on risky distributions (Rawls 1971: 176).

In order to help explicate why Rawls thinks that the choice of the principle of average utility would be irrational, consider Will Kymlicka's idea of two possible distributive schemes in a three person world:

a. 10 : 8 : 1
b. 5 : 4 : 4.
Suppose the distributions refer to some index of social primary goods that each participant will receive once the veil of ignorance is lifted. The principle of average utility instructs us to pick (a), because average utility is maximized by this distribution. But, if I turn out to be the person with only one social primary good, my life will more than likely be intolerable. Consequently, I will not want to adhere to my original choice of principles once the veil of ignorance is removed and I discover my predicament.⁹

But the strains of commitment prevent me from simply changing my choice of principles once the veil is removed. This is precisely one of the reasons that Rawls thinks we would pick (b). Here, the distribution of goods that the worst-off person receives has been maximized. And I may turn out to be this individual once the veil of ignorance has been lifted.

Thus, the significance of the contract argument is that it instructs you to choose Rawls' principles. The consequences of his principles will be tolerable, even under the worst possible circumstances. And, since the decision made behind the veil of ignorance is going to govern your life, Rawls thinks "it is better to be safe than sorry."

The intuitive argument is seldom applied in support of conservation. However, it is still worth explaining for the sake of completeness. According to Rawls:

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⁹ The same argument applies to the choice of the principle of total utility.
the best account of a person’s sense of justice is not the one which fits his judgments prior to his examining any conception of justice, but rather the one which matches his judgments in reflective equilibrium. ...[T]his state is one reached after a person has weighed various proposed conceptions and he has either revised his judgments to accord with one of them or held fast to his initial convictions (and the corresponding conception). (Rawls 1971: 48)

In short, this is the reasoning behind the intuitive argument. Rawls thinks that his two principles of justice "give a better match with our considered judgments on reflection" than any other alternative conceptions of justice (Rawls 1971: 50). They "express the result of leaving aside those aspects of the social world that seem arbitrary from a moral point of view," while other prevailing conceptions of social justice do not (Rawls 1971: 15).

For example, consider the prevailing ideal of equality of opportunity. This ideal recognizes that the expectations of those with the same abilities and aspirations should not be influenced by their social circumstances- their initial place in the social system or income class- since these circumstances are both undeserved and morally arbitrary (Rawls 1971: 73). But Rawls thinks that our considered judgments reveal that natural circumstances- natural ability, strength, intelligence, and so on- are also undeserved and morally arbitrary. He writes:

It seems to be one of the fixed points of our considered judgments that no one deserves his place in the distribution of native endowments, any more than one deserves one’s initial starting place in society. (Rawls 1971: 104)

While the effects of natural circumstances are virtually ignored by the ideal of equality of opportunity, Rawls argues that these effects are nullified by his principles of justice (Rawls 1971: 74-75).
Likewise, Rawls thinks that on reflection, our considered judgements reveal that the principle of utility can not be right, for this principle might allow us to "justify differences in income or organizational powers on the ground that the disadvantages of those in one position are outweighed by the greater advantages of those in another" (Rawls 1971: 64-65). Or, the principle of utility might justify infringements of liberty in the same way. Again, Rawls argues that his two principles mitigate these effects. They guard us from the very occurrences that do not match our considered judgments about justice.
CHAPTER 3: THE APPLICATIONS OF RAWLS' THEORY

All of the applications of Rawls' theory to be explored in this thesis (Taylor 1993; Luper-Foy 1992; Singer 1988; Richards 1983; Manning 1981; Page 1977) are concerned with conservation only insofar as it is a means to the end of achieving justice for human beings. That is, all applications use Rawls only to argue that distributive justice for present and/or future human beings requires conservation. In general, the applications can be grouped into three categories:

1) additions to Rawls' list of social primary goods,
2) alternate interpretations of the principles of justice, and
3) modifications made to the generational representation behind the veil of ignorance. ¹

This chapter is a critique of the arguments. More specifically, I outline and consider each of the arguments, and subsequently maintain that they all fail.

3.1 ADDITIONS TO RAWLS' LIST OF SOCIAL PRIMARY GOODS

As we have seen (Chapter 2), Rawls says little directly about the conservation of natural resources. However, this does not necessarily mean that a successful modification of his theory could not provide a strong obligation to conserve. In fact, this is one means of arguing in support of the conservation of natural resources.

Recall that Rawls' difference principle requires the distribution of social and economic inequalities to be such that it benefits the least advantaged; it must

¹ In many cases, more than one category applies to the argument in question.
maximize the index of income and wealth of the worst-off group of individuals. In efforts to support conservation, Russ Manning (1981) and Steven Luper-Foy (1992) modify Rawls' theory by adding social primary goods to those already protected by the *difference principle*. By contrast, Brent Singer (1988) adds social primary goods to *the first principle of justice*; the principle which protects our basic liberties.

**The Health Inclusion Argument**

Manning's first argument is an attempt to categorize health as a social primary good and, in turn, conclude that conservation is required to preserve health. Let us call this *The Health Inclusion Argument*. Manning begins by specifying that the consumption of resources includes air, water, land, energy, other species, and habitat (Manning 1981: 158). He then goes on to claim that:

$society$ is responsible for environmental degradation either directly by consumption of natural resources... or indirectly by doing little to regulate consumption. (Manning 1981: 158)

Subsequently, he asserts that pollution and the *depletion* (presumably by over-consumption) of resources are detrimental to human beings: pollution causes health problems while resource depletion results in health problems and reduced

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2 In addition to The Health Inclusion Argument, Manning develops two other arguments. Both are discussed in the subsequent section.
opportunity through "fewer options for survival, maintenance and quality of life" (Manning 1981: 158).

Next, Manning defends the claim that health should be a primary social good:

medical care is under the direct control of the basic structure of society; the care and rehabilitation of those permanently handicapped... is a social function; institutions produce, store and distribute food; governmental regulations control safety and sanitation; and preventive medicine is the direct distributive product of our educational and medical institutions. (Manning 1981: 159)

The conclusion of The Health Inclusion Argument is:

since environmental pollution and resource consumption are results of institutions within society, and since it has been shown that such pollution affects the health of individuals, and if we now consider health to be a social primary good rather than a natural one, we have the basis for requiring in our society appropriate environmental controls. (Manning 1981: 159)

To improve our understanding of the Health Inclusion Argument, let us outline a hypothetical case. Consider The Clearcut:

Forest practice legislation permits clearcutting on a steep bank. The cut site is beside the main watershed for a nearby town. Shortly after the cutting has been completed, the area experiences a high level of rainfall. As a consequence, the soil on the clearcut bank erodes, causing large amounts of sediment to be deposited into the watershed. The sediment is contaminated with a strain of bacteria which negatively affects the health of those people using the water.

In the case of The Clearcut, Manning would more than likely claim that society is responsible for degradation of the watershed by failing to regulate the location of
the clearcutting.\(^3\) This indirectly results in pollution which, in turn, negatively affects the health of individuals. Since health is a social primary good, and since health has been negatively affected by the cutting, Manning would conclude that restrictions on clearcutting in this area are required by Rawlsian justice.

It is obvious that Manning wants to argue against pollution and unrestricted consumption of resources. However, The Health Inclusion Argument is objectionable on several accounts. To begin with, the conclusion is rather ambiguous and unhelpful. Manning indicates that the "appropriate environmental controls" could be in the form of "laws and rules" (Manning 1981: 159). But, the nature and content of these laws and rules remains unspecified. Manning could be referring to anything from statutory laws, to discretionary policies, all of which could address numerous domains. The fact that it is left up to the reader to merely speculate about what he has in mind is inadequate.

The preceding objection assumes that the Health Inclusion Argument is sound: however, I think the argument fails. I reject Manning's incorporation of health as a primary social good. More specifically, I reject:

a) his \textit{explicit} claim that pollution negatively affects health,

b) his \textit{explicit} claim that resource depletion negatively affects health,\(^4\) and

c) his \textit{implied} claim that health is more important than income and wealth.\(^5\)

\(^3\) Manning could also claim that the steep bank has been degraded, but this is unrelated to the point I am making.

\(^4\) Manning's claim that resource depletion limits opportunity will be discussed in the subsequent section.

\(^5\) Objections (a) and (b) were suggested to me by Doran Smolkin.
Consider (a) first. Undoubtedly, it is intuitively appealing to think of the relation between pollution and health in Manning's straightforward terms. It is true that in many cases pollution is a "bad" thing that has a "bad" effect on health. But in many cases, this relation is an oversimplification of the truth. Recall the hypothetical case of The Clearcut. If the water supply was simply treated before the users had contact, then perhaps the pollution would have no negative effect on health. One can argue along these lines for any number of cases; air pollution in an area could require oxygen masks or protective clothing to prevent effects on health, and so on. Admittedly, one will likely still find pollution objectionable. My point is only that it is not always objectionable because of negative effects on health.

A case involving poverty also contradicts Manning's claim that pollution negatively affects health. Consider the case of The Migrant Worker:

A very poor man from an impoverished country works seasonally at a greenhouse in Canada. His job is to spray carcinogenic pesticides on the plants. His income provides his large family in the impoverished country with enough money to eat well, and pay for health care that his sick daughter requires. Without his income, the family would be hungry, and his daughter would be sick. Despite wearing protective clothing, a malignant growth appears on the man's skin. He has it removed in time to prevent the spread of cancer, and the removal is covered by his employee medical benefits.

In this example, the pollution caused by the carcinogenic pesticides undoubtedly has some negative effect on the man's health. But, albeit indirectly, it also improves the health of his family. Without the income provided as a direct result of the man "polluting for a living," certainly the health of his family would be
lower. Lack of food would undoubtedly lead to illness, and his daughter would not be able to receive health care. In fact, perhaps it could be argued that the man’s *overall* health also would be lower if the case of The Migrant Worker had not occurred; the cancer was treatable and the man has medical benefits, can afford to eat, and so on. Thus, although Manning’s argument may be true for some cases, it is clearly not true for all.

The case of The Migrant Worker does not necessarily indicate that there are good reasons to pollute. It does not imply that it is acceptable for a person to develop an employment-induced cancer, as long as it is treatable and his family is indirectly receiving benefits from the person’s employment. In other words, it is not an attempt to justify pollution by claiming that the positive effects outweigh the negative effects. Surely one could raise many sound objections to this type of consequentialist argument. But, the case of The Migrant Worker *does* demonstrate that the effects of pollution on health are *not only* negative. There may well be indirect positive effects as well, a fact which Manning seems to ignore.

Manning’s account of the relation between resource depletion and health is also unconvincing (objection b). Again, there appear to be conceivable cases where resource depletion clearly does not have a negative effect on health. For example, probably no one became ill from the extinction of the passenger pigeon.

\[^{6}\] Along the same lines, one might argue that the developed countries have actually improved the health of many citizens via industrialization (and the polluting that goes along with it).
Likewise, presumably the depletion of old-growth stands in British Columbia is not actually making anyone "sick." Hence, in many cases, Manning's claim that resource depletion results in health problems is false; a fact which undermines his Health Inclusion Argument for the establishment of environmental controls.

Now consider objection (c); the rejection of Manning's implied claim that health prevails over income and wealth. It seems obvious that in many cases, health will be incompatible with income and wealth. An increase in income and wealth could (indirectly and unintentionally) result in a decrease in health, as is true in The Clearcut and The Migrant Worker. Manning makes no attempt to weigh the relative values of these competing primary social goods. He simply assumes that health is more important.

But, it looks as though health is not always more important. It is not clear that reasonable people would invariably choose to protect health at the expense of income and wealth. Consider the following revised version of the case of The Migrant Worker.

A very poor man from an impoverished country works seasonally at a greenhouse in Canada. His job is to spray pesticides on the plants. His income provides his large family in the impoverished country with enough money to eat well, and pay for health care that his sick daughter requires. Without his income, the family would be hungry, and his daughter would be sick. The pesticides cause the man to have runny tear ducts and mild asthma-like symptoms most of the time.

Perhaps in this case, the man would prefer to make this small sacrifice in his health in order to increase his income and wealth and the health of his daughter. This will likely be true in any situation where the effects of pollution on health are minimal,
amounting to some type of annoyance or irritation. In fact, arguably it may be true in cases where effects on health are more severe, but the benefits of increased income and wealth are significant.

Hence, Manning's assumption that health is more important than income and wealth is not always true. From this fact, we can draw two conclusions about The Health Inclusion Argument. First, the argument fails to demonstrate that regarding health as a primary social good will always aid in the appeal for environmental controls.

Second, and perhaps more importantly, the fact that health is not always preferred to income and wealth indicates that it should not be a primary social good. Recall that according to Rawls, primary goods are things which people would always "prefer more of rather than less" (Rawls 1971: 92). However, my arguments indicate that in some cases, this is simply not true for health. People may prefer less health if it means a significant increase in income and wealth. Thus, health lacks one of the Rawlsian criteria for social primary goods, which undermines Manning's attempt to add it to the list.

The Natural Resource Argument

Luper-Foy (1992) also modifies Rawls' second principle of justice. His argument is an attempt to include natural resources (land, water, air, and minerals)
in the list of primary social goods to be distributed by the basic institutions of society.\(^7\) Let us call his application *The Natural Resource Argument.*

Analogous to Rawls' idea that primary goods are desirable, Luper-Foy asserts that natural resources are desirable for anyone's life plans; either directly, or because they can be converted into desirable items (Luper-Foy 1992: 50, 53). And, each of us would like to have far more natural resources than is possible, "since people's desires are great and resources scarce" (Luper-Foy 1992: 50). Ensuing from these claims, Luper-Foy provides his interpretation of the difference principle:

> \textit{all} of the world's main institutions, including ones that handle natural resources, ought to be arranged so as to maximize the primary goods available to the least-well off (Luper-Foy 1992: 53).

In other words, he thinks natural resources are social primary goods, and consequently, they should be arranged so that they are to the greatest benefit of the least advantaged.

The Natural Resource argument continues, (apparently) in an attempt to illustrate the aforementioned conclusion:

> it is reasonable to suppose that the representatives\(^8\) [behind the veil of ignorance] would opt to give everyone a claim to an equitable share

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\(^7\) Here I assume that Luper-Foy's definition of natural resources includes certain species living on land and in water. Without this assumption, the conservation his argument would mandate would be very weak. For example, conserving "water" permits depletion of marine mammals, fish stocks, and so on.

\(^8\) Rawls states that all representatives behind the veil are from one generation. However, Luper-Foy assumes that they are from multiple generations. This alteration is problematic, and will be discussed in the final section of this chapter, which is devoted to the inclusion of multiple generations behind the veil of ignorance.
of the world’s resources [the resource equity principle]. (Luper-Foy 1992: 51)

More specifically, an equitable share would:

1) ensure that those who have fewer children receive a greater share of resource profits than those with more,
2) limit rates of reproduction, resource consumption and pollution to ones that are sustainable for the future,
3) sell rights to recover resources on the open market, and
4) ensure that no one owns land; all land must be leased.⁹ (Luper-Foy 1992: 53-59)

Thus, the final conclusion to The Natural Resource Argument describes a four part principle, which Luper-Foy calls "the sharpened resource equity principle." This principle is (supposedly) supported by Luper-Foy’s argument for the incorporation of natural resources as primary goods.

To help us understand The Natural Resource Argument, consider the following hypothetical case, entitled The Gardener:

A woman has pollution induced asthma. As a consequence, she lives in a remote area of the mountains where the air is clean. She is a vegetarian, and maintains a garden for sustenance and a small income by choice, as an opposition to materialism.

In the case of The Gardener, Luper-Foy would argue that the woman, who we may view as in the worst-off group, would desire clean air as a primary good. That is, whatever else she wants, she would want clean air so that she can breathe and function. It follows from The Natural Resource Argument that clean air should be distributed by the basic structure of society so that her share is maximized.

⁹ Luper-Foy argues extensively in support of this sharpened formulation of the resource equity principle. However, the arguments are irrelevant to my general objections.
One premise in Luper-Foy's argument that seems especially questionable is that all people would want to maximize their share of natural resources. Here, Luper-Foy seems to be making an empirical psychological claim about people's attitudes towards natural resources.¹⁰ But in this case, his reliance on empirical facts is problematic for several reasons.

First, some conceptions of the good may not be advanced at all by having certain (or many) natural resources. For example, it seems possible to conceive of a rational individual, pursuing his own conception of the good who does not value fish, oil, copper and so on, as part of his life plan. Certainly this is true in the case of The Gardener. She is a vegetarian, and as such she would not value fish at all. This objection is not particularly unique to natural resources. Thomas Nagel advances a similar idea with respect to Rawls' original list of primary goods:

the primary goods are not equally valuable in pursuit of all conceptions of the good... Why should parties in the original position be prepared to commit themselves to principles that may frustrate or contravene their deepest convictions...? (Nagel 1989: 9-10)

Likewise, Adina Schwartz argues along the same lines:¹¹

Human motivational patterns seem so diverse that any use of "facts" about motivation to arrive at a substantive list of human goods would seem to involve a controversial view of human nature. (Schwartz 1973: 301)

¹⁰ This proposal, and the argument which follows, is modelled after one of de-Shalit’s objections to Rawls (see de-Shalit 1995: 102).

¹¹ Also see de-Shalit (1995), Barber (1975), Fisk (1975), and MacPherson (1975).
The point here is that certain natural resources are not at all valuable for certain plans of life; Luper-Foy’s assumption that they are is a questionable move. Thus, conservation that rests upon this assumption is also questionable.

For the sake of argument, let us ignore the previous objection, and grant Luper-Foy the claim that natural resources are desirable for all conceptions of the good (perhaps in some general sense). Still, it is quite a jump to his conclusion that "each of us would like to have far more of the earth’s resources than is possible since people’s desires are great and resources scarce" (Luper-Foy 1992: 50; my emphasis). Here, Luper-Foy’s reasoning takes the following form:

Premise 1: People’s desires for natural resources are great.
Premise 2: Natural resources are scarce.
Conclusion: Each of us would like to have far more of the earth’s resources than is possible; we would want to maximize our share.

I think this line of thinking is mistaken on several grounds.

To begin with, in many cases Premise 1 is false. People’s desires for natural resources will not be great whenever:

a) only some basic level of the resource in question is desirable, or
b) one’s conception of the good does not entail wanting to maximize one’s share of resources.

Consider (a) first. Surely, it is nonsensical to think that the woman in The Gardener would want to maximize her share of air. There will be some basic volume of air she will need, but anything beyond this volume would be useless.

Again, this objection is not unique to natural resources. Schwartz makes the same point about wealth:
Although all rational individuals want a certain amount of wealth, some rational individuals might always prefer a greater to a lesser amount of wealth, while other rational individuals might only want a certain minimal amount of wealth. (Schwartz 1973: 301)

Marcus Singer argues along similar lines:

To want more wealth than one needs is not a sign of rationality, but of greed, and a rational person would recognize that too much of a good thing can bring with it other things that one would not want. (Singer 1976: 298)

Next consider (b), my claim that a life plan does not necessarily include the desire to maximize one’s share of natural resources. Again, The Gardener can be used to demonstrate my point. The woman’s conception of the good clearly involves living life at a subsistence level; she actually chooses to limit her share of goods. Thus, all individual life plans do not include a great desire for natural resources. It follows that not all individuals would choose to maximize their share.

Now let us examine Premise 2, Luper-Foy’s statement that natural resources are scarce. Recall that he lists "land, water, air, and the various minerals contained therein" as examples of natural resources (Luper-Foy 1992: 50). However, it is undoubtedly false to think that all of these resources in short supply; Luper-Foy is mistaken. In fact, arguably air and numerous minerals are actually abundant. Notwithstanding, perhaps we can advance a more charitable interpretation of Premise 2, so that it successfully escapes my claim that it is false. Let us assume that in Premise 2, Luper-Foy is merely trying to infer that his reasoning only applies to some natural resources, namely, those that are scarce.
Suppose further that Luper-Foy does not think land, water, air, and minerals are scarce.

Although this interpretation successfully avoids my former objection, another problem persists. According to Luper-Foy, natural resources are essential for the achievement of one’s life plans either directly, or because they can be converted into other things (Luper-Foy 1992: 50). But, this instrumental desirability seems to threaten conservation, precisely because natural resources can be converted to other things. For example, if logs are considered to be desirable only because I can convert them to income and wealth, then I will undoubtedly convert them; I will not conserve them. Thus, it seems that Luper-Foy needs to provide a reason to delay the immediate conversion of natural resources. As it stands, in some cases their instrumental desirability might frustrate the support for conservation.

For the sake of argument, let us ignore all of the aforementioned objections, and assume that The Natural Resource Argument is sound. Even so, one objection remains that is relevant to this thesis, namely, the final conclusion of The Natural Resource Argument is not actually Rawlsian. Luper-Foy thinks that Rawls’ difference principle provides indirect support for his four part conclusion (the sharpened resource equity principle)¹² (Luper-Foy 1992: 53). His first claim in support of this idea is that Rawls’ list of institutions governed by the difference principle includes those which manage natural resources (Luper-Foy 1992: 53). This is false. Rawls’ institutions include only those which distribute and regulate

¹² See page 25, this chapter.
his social primary goods. Rawls is clearly not referring to those institutions which distribute and regulate natural resources; Luper-Foy has forgotten that he added natural resources to the list of primary goods.

Nonetheless, perhaps Luper-Foy meant to argue that Rawls' difference principle should apply to the distribution of natural resources, since the institutions regulated by the principles of justice are those that have profound effects on people's life plans. Accordingly, let us grant Luper-Foy his claim:

natural resources are governed by the basic institutions of society, and as such are subject to the difference principle.

Still, if this is the case, it is puzzling that Luper-Foy goes on to develop the sharpened resource equity principle. It is not at all clear how the difference principle supports the sharpened resource equity principle. In fact, the two principles seem to be unrelated; they advance completely different ideas. Nowhere does Luper-Foy's sharpened resource equity principle even include the chief notion of the difference principle- a distribution of resources to benefit the least advantaged. Instead, it creates incentives to reduce population numbers through resource profits, limits rates of reproduction and consumption, sells resource rights on an open market, and ensures that no one owns land (Luper-Foy 1992: 53-59). Hence, although Luper-Foy uses a Rawlsian-type apparatus, in his final conclusion he does not actually end up defending Rawlsian principles.
The Extended Liberties Argument

Singer’s (1988) argument is an attempt to add to the list of primary goods protected by Rawls’ *first* principle of justice; the principle which originally protects basic liberties.\(^{13}\) Accordingly, let us call it *The Extended Liberties Argument*. He writes:

> Now, supposing (with Rawls) that whatever else rational human beings desire, they desire, for example, the right to vote, it is also true that whatever else rational human beings desire, they desire, on the whole, regular access to potable water, shelter from freezing temperatures, uncontaminated food supplies, and safe air to breathe. (Singer 1988: 219)

Presumably Singer adds these primary goods to those already protected by Rawls’ *first* principle of justice because he thinks the parties behind the veil of ignorance might recognize that they are vital necessities to their plans of life. That is, Singer thinks that water, shelter, food, and air should *not* be traded for social and economic gains:

> the principles of justice ought to stipulate directly that just as it is wrong to trade the right to vote and liberty of conscience of some for the social and economic privileges of others, so too it is wrong to trade the food and water of some for the social and economic privileges of others. (Singer 1988: 220)

Thus, according to Singer these goods rank just as highly as Rawls’ original list of basic liberties. For Singer, "strong principles of environmental conservation" follow.

\(^{13}\) The basic political rights, liberty of conscience, freedom of the person, and freedom from arbitrary arrest and seizure (Rawls 1971: 61).
from his line of thinking (Singer 1988: 221). In other words, conservation is necessary to protect these additional social primary goods.

By adding to Rawls’ first principle of justice, Singer may successfully avoid some of my objections to Manning and Luper-Foy, who both add to the second principle of justice. For example, Singer’s lexical prioritization eliminates the possibility of his goods conflicting with income or wealth. Thus, perhaps it could be argued that The Extended Liberties Argument is structurally more appealing. Furthermore, if sound, The Extended Liberties Argument would give support to conservation that is stronger than the other two arguments. Again, this appears to strengthen the case for Singer’s choice to add his primary goods to the first principle as opposed to the second. However, despite these advantages, The Extended Liberties Argument faces several difficulties.

To begin with, the argument is dependent on the claim that environmental conservation is necessary to ensure potable water, safe air to breathe, and an uncontaminated food supply. However, this claim is false; there are methods apart from environmental conservation that will also ensure these goods. That is, strong principles of environmental conservation do not necessarily follow from Singer’s belief that justice requires the provision of water, air and food. Let us outline two hypothetical cases to demonstrate this point. First, consider The Protected Area:

14 Like Luper-Foy, Singer thinks of the representatives behind the veil of ignorance as being from several different generations (Singer 1988: 221). Again, this idea is discussed in the final section of this chapter.
One hundred thousand hectares of forested land is designated protected status. No resource extraction is permitted within its boundaries. The protected zone includes the main watershed for a nearby city and several productive salmon runs. Salmon is the main food source for the citizens of the nearby city.

By contrast, consider The Unprotected Area:

One hundred thousand hectares of forested land is designated for resource extraction. Logging, mining, and paper production are permitted within its boundaries. The zone includes the main watershed for a nearby city and several productive salmon runs. Salmon is the main food source for the citizens of the nearby city. Increased sediment from streamside logging render the water undrinkable. Bacteria from an inadequate sewage treatment at the paper mill contaminate the salmon. The level of industrialization also causes air pollution.

Certainly, The Protected Area might be one way to ensure that the citizens maintain access to potable water, safe air to breathe, and an uncontaminated food supply but, it is not the only way. The Unprotected Area includes viable alternatives that would also ensure these goods. For example, the increased sediment in the water supply could be filtered out. Perhaps the contaminated salmon could be treated by extreme heating or freezing processes. Or, an adequate sewage treatment system could be established at the paper mill. And, protective face masks could be worn by the citizens of the city. The Extended Liberties Argument seems to ignore these possibilities. The success of the argument depends on the assumption that environmental conservation is the only way to ensure Singer’s list of primary social goods; an assumption which is false.

Perhaps one could effectively eliminate my "viable" alternatives. One could argue that they are not very appealing, or that they should be avoided for other
reasons. Still, even assuming a successful argument could be developed along these lines, The Extended Liberties Argument remains ineffectual. This is because the provision of potable water, an uncontaminated food supply, and safe air to breathe will not actually support the conservation of anything undrinkable, inedible, or unbreathable. One can imagine the unlimited number of natural entities that would fall under these categories; numerous plants, insects, raptors, amphibians, coral reef fish, mineral deposits, and so on. The Extended Liberties Argument is simply incapable of supporting the conservation of any of these things.

Likewise, The Extended Liberties Argument is also incapable of supporting the provision of shelter from freezing temperatures. More specifically, Singer’s claim that environmental conservation is necessary for the provision of shelter from freezing temperatures is false. In this case, I do not have doubts about whether environmental conservation necessarily follows from an attempt to provide shelter; these doubts only apply to uncontaminated food, potable water, and safe air. Rather, regarding the provision of shelter I highly doubt that environmental conservation follows at all. I simply fail to understand Singer’s conclusion; how would any principle of environmental conservation provide shelter from freezing temperatures? In short, I think it is puzzling that Singer includes shelter in his list of extended liberties.

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15 For example, it could be argued that oxygen masks infringe on individual autonomy.
Thus, although Manning, Luper-Foy, and Singer attempt to support conservation by adding to the original list of social primary goods, the arguments are all problematic and fail to demonstrate that Rawls actually supports conservation.

3.2 ALTERNATE INTERPRETATIONS OF THE PRINCIPLES OF JUSTICE

Alternate interpretations of the principles of justice constitute a more frequent application of Rawlsian theory in support of conservation. Unlike the additions to the list of social primary goods, in these applications Rawls’ original framework is not actually modified.\textsuperscript{16} Rather, his principles of justice are merely interpreted as requiring conservation. Russ Manning (1981), David Richards (1983) and Roger Taylor (1993) argue that Rawls’ second principle of justice\textsuperscript{17} requires conservation. Contrarily, Brent Singer (1988) argues that Rawls’ first principle\textsuperscript{18} requires conservation.

\textsuperscript{16} The inclusion of multiple generations behind the veil of ignorance is an exception to this statement.

\textsuperscript{17} Social and economic inequalities are to be arranged so that they are both: (a) to the greatest benefit of the least advantaged,… and (b) attached to offices and positions open to all under conditions of fair equality of opportunity (Rawls 1971: 302).

\textsuperscript{18} Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all (Rawls 1971: 302).
The Self-Respect Argument

Manning interprets self-respect as a social primary good which requires conservation. He begins his argument (call it The Self-Respect Argument) by outlining Rawls' definition of self-respect:

it includes a person's sense of his own value, his secure conviction that his conception of his good, his plan of life, is worth carrying out. And...self-respect implies a confidence in one's ability...to fulfil one's intentions. (Rawls 1971: 440)

Subsequently, Manning claims that "health is essential to the belief in one's capacity to achieve his life plan" (Manning 1981: 160). In other words, health is essential for the provision of self-respect. Thus, if a person has a health problem which both stands in the way of fulfilling intentions, and could have been prevented by society but was not, then self-respect has been damaged. From these premises, Manning concludes that society must provide for health care in order to avoid this damage. And, by implication, this means that environmental safeguards (preventing pollution and depletion of resources) are necessary (Manning 1981: 160-161).

To aid in our understanding of the Self-Respect Argument, recall the case of The Migrant Worker in which a man acquires a malignant growth on his skin from spraying pesticides. The growth is removed in time to prevent the spread of cancer. Manning would presumably argue that the migrant worker's self-respect has been damaged since the cancer was preventable and impedes the man's ability to fulfil his intentions. It follows that environmental safeguards on this type of pollution are necessary in order to preserve self-respect.
The Self-Respect Argument is objectionable. In particular, Manning’s claim that "health is essential to the belief in one’s capacity to achieve his life plan" is exaggerated (Manning 1981: 160; my emphasis). Surely there are people who would refuse to let ill-health "get in the way" of their life plans. Or, perhaps there are people who do not even consider health to be a crucial component of their life plans. Thus, while it seems reasonable for Manning to argue that good health would benefit one’s belief in the capacity to achieve his life plan, his claim that it is essential is clearly overstated.

But even if we suppose that the premises of the Self-Respect Argument are true, the conclusion is clearly incapable of strongly supporting many limitations on pollution and resource consumption. This is because in many cases:

a) any negative effects of pollution and resource consumption on health can be eliminated (dirty water can be treated),
b) there are indirect positive effects that Manning has neglected to consider (the health of the migrant worker’s daughter is improved), or
c) pollution and resource consumption do not negatively affect health (the extinction of the passenger pigeon did not make anyone sick).

The aforementioned arguments have already been developed in my refutation of Manning’s Health Inclusion Argument.19

Granted, in some cases pollution and resource consumption undoubtedly have a negative affect on health.20 However, it is not clear that all health problems can be considered to impede the ability to fulfil one’s intentions in life.

19 See pages 17-23, this chapter.

20 Although, in many cases empirical support might be very difficult to establish.
Recall the revised version of The Migrant Worker in which the spraying of pesticides resulted in runny tear ducts and mild asthma-like symptoms. It seems far-fetched to claim that these mild symptoms really stand in the way of anything. As in The Health Inclusion Argument, when the negative effects of pollution or resource depletion amount to a nuisance or irritation, The Self-Respect Argument is unlikely to support environmental safeguards.

The Opportunity Arguments

Another line of argument Manning employs to support conservation is to interpret opportunity as a primary good which requires natural resources; "air, water, land, other species, and habitat" (Manning 1981: 158). He asserts that:

(i)f natural resources are expended in a person’s lifetime, then his opportunity for improving or maintaining his life style is severely restricted. (Manning 1981: 159; my emphasis)

Elsewhere he writes:

resource depletion results in reduced opportunity through fewer options for survival, maintenance, and quality of life (Manning 1981: 158; my emphasis).

Manning concludes that controlling resource consumption is necessary in order to maintain opportunities for society’s individuals (Manning 1981: 160).\(^{21}\)

But again, the success of the argument is uncertain. In many cases it seems far-fetched to claim that depletion actually affects the ability to survive or maintain

\(^{21}\) I assume that in this case, lifestyle and quality of life are roughly the same thing.
life. Arguably, no one will die from the simultaneous depletion of numerous resources; British Columbia’s old-growth forests, coho stocks, the passenger pigeon, many non-renewable resources, and so on. Nor is the absence of many natural resources likely to result in an inability to maintain life.

Moreover, often depletion is unlikely to severely decrease people’s opportunities for life style maintenance or improvement. Consider The Birdwatchers:

The habitat of a species of raptor has been converted by farmers to agricultural land. The land is used by the farmers for growing crops and grazing dairy cows. This habitat conversion causes the numbers of raptors to decline, the point where the species is on the brink of local extinction. The birds are commonly viewed by birdwatchers on weekends during the summer.

Although this case may be objectionable, surely it is not because the actions of the farmers severely restrict the opportunities of the birdwatchers to maintain or improve their life style. Presumably this objection would apply to numerous other cases as well—whenever the resource in question plays only a minor part in one’s life style. Thus, the argument appears to allow a significant amount of depletion.

In some cases, the opportunities for life style maintenance and improvement might even be enhanced by resource depletion. This actually seems to be one of the main incentives for exploitation in the first place. For example, in the case of The Birdwatchers, perhaps the loss of income to the farmers due the presence of unworkable land on their property is such that they can not compete in the market. Hence, if they do not convert the land, they will not be able to continue farming.
Here, it seems that opportunities of the farmers are enhanced by depleting the habitat. Manning’s argument simply fails to consider this idea.

Now this objection seems less plausible under some circumstances, for while the opportunities for life style improvement are often increased for the people expending, in some cases these actions may well severely decrease the opportunities of others. In order to help illustrate this point, consider The Resource Dependent Community:

A community is dependent on fish as a source of income. International trawlers overfish the stocks to extinction over a course of fifteen years, resulting in hundreds of displaced workers within the community.

Here, it seems reasonable to claim that the opportunities for life style improvement available to the members of the community have likely been restricted by the actions of the international trawlers. In these kinds of cases, Manning’s argument is well taken.

One might also claim that in some cases, the natural resources depleted now restrict the opportunities of future people. However, Manning is silent in these cases; he only maintains that resources "expended within a person’s lifetime" will decrease the opportunities of those in that lifetime (Manning 1981: 159). By contrast, Richards (1983) argues that resource consumption lowers opportunities for future people.\textsuperscript{22} He writes:

\textsuperscript{22} Richards also assumes that the parties behind the veil of ignorance are from multiple generations (to be discussed in the final section).
we define opportunity in terms of the resource base, presupposing that the earth's natural resources are of continuing significance in providing the materials that humans will use in the operation of their societies... (Richards 1983: 144)

He seems right about the fact that natural resources will be significant for future societies, but the level of significance is far from obvious given our current ecological knowledge and technological progress. To some extent, Richards seems to acknowledge this:

the depletion of even a nonrenewable resource will not be ruled out if, concurrent with that depletion, a technology has been developed that will meet the depletion and make available to later generations...a technology that can secure...as least as much as would have been secured from the original resource. (Richards 1983: 145)

Thus, in some cases, the level of conservation this line of argument mandates is weak.

Richards' argument faces another, more serious problem. We do not know what the size of future populations will be. Hence, ensuring an adequate supply of natural resources that people will need for the operation of their societies is going to be a difficult task. What quantity of natural resources does an unknown number of future people need?

The most likely response to this problem is the claim that we can predict the size of future populations with reasonable accuracy. Most predictions reveal the likelihood of exponential population growth, with an expected doubling time of approximately 40 years (Primack 1993; Ricklefs 1990; Brown and Jacobson 1987). But, this prediction seems to render Richards' argument implausible. If the population is growing exponentially, the amount of (certain) natural resources that
people will need in the future is enormous, assuming that technological progress can only go so far. It follows that a savings rate that constrains the present population to the point of absurdity would likely be required; resource consumption of any type will lower the opportunity for future people because there are simply not enough resources to accommodate the needs of an exponentially growing population.

Moreover, it is likely that justice would not even apply under the conditions described above. According to Rawls, justice is both possible and necessary only under conditions of moderate scarcity (Rawls 1971: 126): 23

Natural and other resources are not so abundant that schemes of cooperation become superfluous, nor are conditions so harsh that fruitful ventures must inevitably break down. (Rawls 1971: 129)

But arguably, if the current population doubled, we may well find ourselves under conditions of extreme scarcity. Thus, Rawlsian justice would be unhelpful because according to Rawls, in the absence of moderate scarcity there is "no occasion for the virtue of justice" (Rawls 1971: 128).

Perhaps one could avoid this objection by assuming that conditions of extreme scarcity are avoidable, despite the population growth predictions. For example, one could argue that a high level of technological progress may enable us to decrease the amount of natural resources that people need, to the point where

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23 As well, Rawls asserts that justice is both possible and necessary under conditions of moderate selfishness and relative equality between persons (Rawls 1971: 126-127). However, these two conditions are irrelevant to the point I am making.
conditions of extreme scarcity are eliminated. But as stated above, the idea that technological progress could decrease our dependency on natural resources actually weakens Richards' argument for conservation. If we assume technological achievement, the need for conservation declines; natural resources will not be of great significance "in providing the materials humans will use." (Richards 1983: 145).

Hence, the most likely conclusion is that Richards' argument is implausibly demanding and irrelevant; it supports no use of resources, and will not apply under conditions of extreme scarcity. On the other hand, if we assume a high level of technological progress, the argument ends up supporting the view that there is little need for conservation.

The Standard of Life Arguments

There are two remaining interpretations of Rawls' second principle which may be more successful in providing a foundation for conservation, both developed by Taylor (1993). According to Taylor, a Rawlsian characterization of the worst-off position in society includes consideration of environmental conditions. He thinks the difference principle constrains the level of environmental deterioration that is possible:

Properly applying the difference principle would require incorporating changes in environmental quality into assessments of whether the least advantaged would be made better off by increases in wealth or income for other members of society. If gains in wealth are offset by environmental deterioration to such a degree that people are less able to pursue their ends, then the instrumental purpose of treating wealth as a primary good would be defeated. (Taylor 1993: 269)
Let us illustrate Taylor’s argument with a revised version of The Gardener.

Consider *The Gardener with Neighbours*:

A woman, who we may view as in the worst-off group, has pollution induced asthma. As a consequence, she lives in a remote area of the mountains where the air is clean. She is a vegetarian, and by choice maintains a garden for sustenance and a small income. A pulp mill opens near her property. Previous to their employment at the mill, all of the workers were also in the worst-off group. The mill pollutes the air the woman breathes, causing her to have chronic asthma.

Taylor would likely maintain that the presence of the pulp mill does not make the woman better off. The gains in wealth cause environmental degradation to the degree that the woman can not pursue her ends. This undermines the purpose of considering wealth a primary social good. It follows that environmental controls on the pulp mill’s emissions are required by Rawlsian justice.

One difficulty with this argument is that it requires tradeoffs between wealth and environmental deterioration. For example, in The Gardener with Neighbours, several individuals are no longer in the worst-off category as a result of their employment at the mill. Yet their actions have a negative effect on the woman, who is already worst-off at the time when these actions take place. Resolving these types of competing interests is no easy task. Clearly, Taylor recognizes this difficulty:

> Ascertaining when such tradeoffs would occur might be difficult *if not impossible*, but that is a problem of implementation and does not alter the principle. (Taylor 1993: 270; my emphasis)

To Taylor’s credit, if making such tradeoffs is merely *difficult*, yet achievable, then my criticism is weak. On the other hand, if making such tradeoffs is *impossible*, as
Taylor suggests, then his argument appears to be objectionable. A principle that is impossible to implement is, at best, a useless principle. At worst, it is no principle at all. Thus, the onus is on Taylor to somehow deny the impossibility of implementing his principle.

But even if it is possible to implement Taylor’s principle, it is not clear that it would provide much of a defense for conservation. Perhaps a significant level of deterioration would be possible before it could be said to cause an inability of others to pursue their ends. For example, in the case of The Gardener with Neighbours, maybe a high level of pollution emissions is required before the woman’s asthma is affected to the extent that she can not pursue her ends. Likewise, the revised case of The Migrant Worker supports this view; it is far-fetched to argue that the pursuit of his ends have been impeded by runny tear ducts and mild asthma like symptoms. Thus, sometimes Taylor’s argument is likely to be insignificant with respect to its support of conservation.

Taylor’s second argument begins by stating that a base level of environmental quality is required in order to maintain Rawls’ idea of the social minimum, which Taylor defines as “a minimum material standard of living” (Taylor 1993: 270). He writes:

social institutions must be arranged to sustain the level of environmental quality required to provide the social minimum into the indefinite future. (Taylor 1993: 270)

This seems to be indisputable. But, it is not likely to lead to strong conservation. Merely guaranteeing conditions required to ensure the social minimum may well
permit the destruction of many natural systems; we simply lack good reasons for thinking that all these systems must remain intact.

Taylor seems to recognize this fact. Consequently, he attempts to strengthen his principle by incorporating an empirical biological claim. He writes:

There are ecological considerations which may dictate a still higher level of environmental quality than that required to meet the social minimum. The earth's natural systems have limits to the amount of damage they can take and still reproduce themselves over the long run. And though we may not know what those limits are, it is possible that they are much more strict than the environmental quality needed simply to maintain the social minimum for society. (Taylor 1993: 270; my emphasis)

But again, Taylor's claim is weak. His statement is inconclusive and amounts to nothing more than a speculative suggestion. It is dependent upon empirical facts about the limits of ecological systems which Taylor fails to present, presumably because at this time, these facts are largely unknown.

In conclusion, the alternate interpretations of Rawls' second principle of justice suggested by Manning (1981), Richards (1983), and Taylor (1993) do not constitute successful applications of Rawls' theory in support of conservation. This is not to say that the arguments could not be altered so that they are more convincing. Rather, I only conclude that the interpretations considered here fail to provide a strong, theoretical justification for conservation.

The Liberty of Conscience Argument

Singer (1988) provides an alternate interpretation of Rawls' first principle of justice in an attempt to support environmental preservation. He argues that a
Rawlsian notion of liberty of conscience supports the idea of laws that protect "stretches of wilderness, or places of great natural beauty" (Singer 1988: 227). Accordingly, let us call it The Liberty of Conscience Argument. It can be stated in the following form:

Premise 1: A Rawlsian notion of liberty of conscience means that it is unjust to sacrifice religious or moral freedom for a gain in other social primary goods.

Premise 2: Representatives behind the veil of ignorance could turn out to be any religion.

Premise 3: Many religions require material bases in the form of land, forests, lakes, mountains, streams and caves; without these bases, practice of that religion is either very difficult or impossible.

Conclusion: Therefore, a Rawlsian notion of liberty of conscience implies the need to safeguard (by law) vast tracts of land from industrial and commercial development.24 (Singer 1988: 227)

To illustrate The Liberty of Conscience Argument, Singer provides a real life example from the United States. It is a case where the Hopi Indian Tribal Council testified that the expansion of a ski resort in Arizona would destroy the sacred Home of the Kachinas. The Kachinas are said to be "spirits who are intermediaries between people and the creator" (Singer 1988: 228).

As in The Extended Liberties Argument, Singer’s choice to apply the first principle rather than the second is structurally appealing. Again, it allows him to avoid some of the incompatibility problems between primary social goods faced by the applications of the difference principle. And because of the serial ordering,

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24 Again, in this argument Singer assumes that representatives behind the veil of ignorance are from multiple generations. This idea is discussed in the final section of this chapter.
Singer's argument provides a stronger support for conservation than an application based on the second principle of justice.

However, The Liberty of Conscience Argument faces some difficulties. To begin with, the accuracy of Singer's interpretation of Rawls is questionable. Although I recognize that Rawls' explanation of liberty of conscience is somewhat unclear, I think that probably it does not imply employing the law to safeguard vast tracts of land from development. According to Rawls, the intuitive idea of liberty of conscience is "to generalize the principle of religious toleration to a social form, thereby arriving at equal liberty in public institutions" (Rawls 1971: 206). He wants to guarantee "moral liberty and freedom of thought and belief, and of religious practice" (Rawls 1971: 212). Thus based on the wording, Rawls appears to support the idea that people's freedom to practice whatever religion they choose should be protected, so long as it does not conflict with the liberties of others. And society should tolerate these different religious beliefs. In short, Rawls seems to be saying that underwriting religious liberty means allowing the freedom to practice a religion of one's choice. But this hardly seems to warrant Singer's interpretation which states that basic institutions have a legal obligation to protect, and by implication, in the case of the Kachinas, to provide the material bases for various religions.
The Liberty of Conscience argument may also have absurd consequences.\textsuperscript{25} Let us demonstrate this point using a hypothetical example.

Consider The Mother Worshippers:

A group of people religiously believe that the earth is a self-sustaining giant organism, known as the Mother. Timber extraction in British Columbia is considered to be harmful to the Mother. When she is wounded, practice of this religion is very difficult, if not impossible. Therefore, The Mother Worshippers call for termination of timber extraction.\textsuperscript{26}

It appears that The Liberty of Conscience Argument supports the claim of The Mother Worshippers; there seems to be nothing in the argument to prevent the scenario from being achieved. Liberty of conscience is to be protected, despite the fact that the natural areas to which the claim applies do not actually belong to The Mother Worshippers. In short, the argument would mean that there is a legal obligation to stop timber extraction. Conceivably, numerous other "earth assaulting" actions could also be terminated on the grounds of this argument.

In response, one could argue that the demands of The Mother Worshippers violate the basic liberties of others and therefore, banning timber extraction would be unjust. But the truth of this claim is questionable. It is not clear to me that a ban \textit{would} actually infringe on the liberties of others. Certainly the political liberties would be unaffected, as would freedom of association, freedom from psychological oppression and so on.\textsuperscript{27} And while the right to hold personal

\textsuperscript{25} This point was suggested to me by Doran Smolkin.

\textsuperscript{26} This scenario is a slight variation of The Gaia Hypothesis (Pojman 1998: 189).

\textsuperscript{27} Freedom of the person, and freedom of occupation would also be unaffected.
property would be affected, a restriction of permissable land uses does not actually seem to constitute an *infringement* on the right to hold personal property. Thus, the beliefs of The Mother Worshippers seem to conflict with economic development, not the basic liberties. Such conflicts will be resolved in favour of liberty of conscience since the first principle of justice must be satisfied prior to the second.

On the other hand, there is one kind of situation where the demands of The Mother Worshippers *would* probably conflict with the basic liberties of others. Suppose another religious group were to claim that *timber extraction* is necessary for the practice of their religion. Perhaps one of their rituals involves felling trees and building a church out of them. This situation involves two conflicting claims to liberty of conscience; the conditions required for the practice of one religion conflicts with the conditions required for another. But the problem is that The Liberty of Conscience Argument is incapable of resolving such cases. As Singer observes, this kind of scenario results in "a stalemate between claims to spiritual freedom" (Singer 1988: 230). Granted, as long as these types of conflicts are very rare, then my objection is somewhat insignificant. However as Singer recognizes, "(i)f such cases were to multiply rapidly, the viability of such a principle in its legal context would wither away" (Singer 1988: 230).

Still another weakness of The Liberty of Conscience Argument is that it may well result in a preservation strategy that is ecologically insignificant, since the designation of protected areas is to be based on purely religious considerations. At
best, the argument will give us some preservation of certain "land formations, forests, lakes, mountains, streams, and caves" for religious purposes. This might mean the preservation of vast stretches of rock and ice because that is where religious spirits reside. But the areas outside of these sacred stretches, which could be both sizable and ecologically significant, will have no protection whatsoever.

3.3 MODIFICATIONS OF RAWLS' GENERATIONAL REPRESENTATION

The Multiple Generation Assembly

Recall that according to Rawls, the parties behind the veil of ignorance are all from one, unknown generation (Rawls 1971: 137). And ties of sentiment are felt towards progeny of the next two generations. This motivates the parties to follow the just savings principle; a principle which ensures a "suitable amount of real capital accumulation" (Rawls 1971: 285). Richards (1993), Luper-Foy (1992), Singer (1988), and Talbot Page (1977) alter the conditions of the original position so that those behind the veil are an assembly of representatives from a series of unknown generations. By including multiple generations, each author attempts to support a principle of environmental conservation which is superior to Rawls' just savings principle.

In order to both explicate this application of Rawls' theory, and reiterate some of the ideas from Chapter 2, consider The Multiple Generation Assembly:

An assembly of representatives all meet in order to decide upon a group of principles that "provide a way of assigning rights and duties
in the basic institutions of society and... define the appropriate
distribution of the benefits and burdens of social cooperation” (Rawls
1971: 4). In short, they are trying to choose principles of justice.
They are behind an almost Rawlsian veil of ignorance. They have
been stripped of the particulars of their lives (which is Rawlsian). But,
each representative is from a different generation (which is not
Rawlsian). They do not know to which generation they belong; they
only know that each representative is from a different generation. All
possible generations are represented.

The thought is that if you are part of the choosing process behind the veil of
ignorance, and know that you may be someone from a future generation, then you
will likely be inclined to choose strong principles of environmental conservation.

The idea of a hypothetical contract which includes multiple future
generations is problematic. First, as Rawls recognizes, these circumstances are
hard to imagine:

the original position is not to be thought of as a general assembly
which includes at one moment everyone who will live at some time;
or, much less, as an assembly of everyone who could live at some
time. It is not a gathering of all actual or possible persons. To
conceive of the original position in either of these ways is to stretch
the fantasy too far. (Rawls 1971: 139)

Barry (1977) makes a similar point. He comments on the absurdity of "imagining
that unborn people are hanging about somewhere, with all the usual human
attributes of consciousness and desire, waiting to be born" (Barry 1977: 282).

The Multiple Generation Assembly faces a more serious complication, often
referred to as The Non-Identity Problem (Parfit 1984). The argument in support
of The Non-Identity Problem proceeds as follows. First, there is an assumption

28 Also known as The Identity Problem, The Repopulation Paradox, and The
Paradox of Future Individuals (Partridge 1990; Parfit 1983; Kavka 1982).
that genetic structure is, in fact, a necessary element of personal identity (Parfit 1983; Kavka 1982). From here, it is argued that any event which affects conditions of conception will, in fact, influence who exists given the way that our reproductive system works. At time (t), a particular egg and sperm result in the conception of a particular individual. At time (t+1), a different combination will occur, resulting in the conception of a different individual. Likewise, any policy which would affect conditions for conception will result in a different population of individuals coming into existence.

Granting these assumptions, consider Derek Parfit’s example entitled Depletion:

Suppose that, as a community, we must choose whether to deplete or conserve certain kinds of resources. If we choose Depletion, the quality of life over the next two centuries would be slightly higher than it would have been had we chosen Conservation, but it may later be much lower. Life at this much lower level would, however, still be worth living. (Parfit 1983: 170)

If we deplete rather than conserve, the quality of life for those future people will be lower. But, these are different people than those who would exist had we chosen a policy of conservation; either policy will alter all subsequent conditions of conception. Thus, depletion is not actually making particular people worse off. That is, by depleting we do not make anyone worse off than they otherwise would have been because they would not have been born under the other policy (Parfit 1983: 170).

In general, the Non-Identity problem raises several interesting questions about the nature of our obligations to future people. It is also a significant problem
for The Multiple Generation Assembly. Clearly the principles of justice picked by the representative of an early generation are going to affect who exists in all subsequent generations. Thus, the idea of an assembly of all of these people at once is incoherent, as the existence of those who will be in the future is indeterminate.
CHAPTER 4: THE PLAUSIBILITY OF A RAWLSIAN SUPPORT FOR CONSERVATION

In general, the authors of the applications explored in Chapter 3 assume Rawls' theory is sound, and subsequently apply it in order to support conservation. The authors do not attempt to explore the relevant theoretical objections to the original Rawlsian framework. For example, Manning (1981) writes:

I make no attempt to evaluate the adequacy of this ethic [Rawls] as a basis for environmental preservation; that may be a separate concern. What is intended is simply an investigation into the kind of environmental ethic that can be developed on the foundation of Rawls' theory of justice. (Manning 1981: 156)

Taylor's (1993) strategy is similar. He explores several theories of justice in his article:

Since I am concerned only to show the degree to which each theory of justice contains commitments to protecting the natural environment, no purpose would be served by evaluating the overall merits of the different positions; instead, each view is approached sympathetically. (Taylor 1993: 266)

But, this strategy is troublesome. The application of any theory is only as successful as its theoretical basis. Therefore, it is unwise to assume "sympathetically" that the theory on which an argument depends is adequate.

Recall that the purpose of this chapter is to answer the following question:

Are the failures of the applications explored in Chapter 3 a result of basic inadequacies of the original Rawlsian framework?

Now certainly this question need not come up with respect to some of the arguments that I developed. For example, I claimed that Taylor’s Standard of Life
Argument amounted to nothing more than a speculative hypothesis.\footnote{See page 44-45, Chapter 3.} Obviously in this case, the strength of Rawls' theory is irrelevant; it is beside the point. Likewise, I argued that Manning's claim that expending natural resources decreases opportunities for present people is \textit{often} false.\footnote{See pages 38-40, Chapter 3.} Again, the strength of Rawls' theory does not really matter here.

However, from the exploration of the remaining arguments I think we have learned a general lesson about using Rawls' theory in support of conservation. Adding to the list of primary goods, "green" interpretations of the theory, and including multiple generations behind the veil of ignorance all appear to be implausible within a Rawlsian framework, and yet at least one of these moves is necessary in order to argue that the theory can provide a strong support for conservation. Thus, it may well be the case that Rawlsian theory is inadequate for this purpose. This is an important point, for it questions the overall plausibility of using this framework in support of conservation.

In this chapter, I will argue that certain general limitations of Rawls' framework make it difficult to apply the theory in support of conservation. In particular, I will argue that:

\begin{itemize}
\item[a)] an inability to accurately compare measures of primary good satisfaction within a Rawlsian framework is a problem for the \textit{additions} to Rawls' original list of primary goods,
\item[b)] an inability to accurately index the worst-off representative in terms of more than one factor within a Rawlsian framework is a problem for
\end{itemize}
the alternate interpretations of Rawls’ theory, and
c) the account of our obligations to future people that is generated by
the Rawlsian framework is a problem for the inclusion of multiple
generations behind the veil of ignorance.

Of course, there are several other general objections to Rawls’ theory that could be
raised. Thus, one might wonder why I have chosen to explore (a), (b), and (c) in
particular. My reason is that they appear to be the most relevant theoretical
limitations for the conservation applications. Each of them have clear,
demonstrable implications for the arguments explored in Chapter 3, whereas for
many other general criticisms of Rawls, the relevance of the implications is not as
obvious.

4.1 ADDITIONS TO THE LIST OF PRIMARY GOODS AND THE PROBLEM OF
COMPARISON

Recall that Rawls’ two principles of justice are meant to define a fair, or just
distribution of social primary goods. The first principle of justice satisfies basic
liberties and rights, the opportunity principle assures fair equality of opportunity,
and the difference principle assures that income and wealth are distributed so that
they are to the advantage of the worst-off representative of society. These
principles of justice in combination protect the bases of self-respect.

Rawls avoids any problems associated with having to balance or compare
these primary social goods; his lexical ordering eliminates the need to do so. In
fact, arguably Rawls keeps his list of primary social goods serial in order to avoid
having to compare measures of the satisfaction of these goods (Barber 1975:
By contrast, both Manning and Luper-Foy—who add to the list of primary goods protected by the difference principle—are required to make comparisons amongst primary social goods. More specifically, the authors must first establish an index which reveals the level of satisfaction of the primary social good being added to Rawls' list. In turn, this index must be comparable with the index of income and wealth; the primary goods originally protected by the difference principle. I think that this is the major theoretical obstacle for this type of application. Let us call it The Problem of Comparison.

In order to help us explain The Problem of Comparison, recall Manning's Health Inclusion Argument. In general, Manning argues that health should be a primary good, and that protecting health necessitates "appropriate environmental controls" (Manning 1981: 159). Amongst other things, to accomplish his conclusion Manning must advance an index for the satisfaction of health. I think it is reasonable to presume that this would be achievable. For example, the index might include an assessment of a person's blood, diet, exercise routine, family history, and so on. In turn, Manning must be able to correlate the index for the "satisfaction" of health with that of income and wealth. But it is difficult to imagine how the indices of (often competing) primary social goods could be accurately reconciled. And without this reconciliation, Manning can not really secure an overall measure of the well-being of individuals in society. Moreover, he
can not determine what distribution of these goods is to the benefit of the least advantaged person.³

In an attempt to avoid the Problem of Comparison, perhaps the lexical prioritization of primary social goods could be extended to accommodate the goods being added. Here I am simply proposing more layers of lexical ordering. For example, with respect to the Health Inclusion Argument, the satisfaction of health might always precede satisfaction of the difference principle, yet always come after satisfaction of the opportunity principle; health would have its own level of lexical prioritization and become a constraint on the satisfaction of the difference principle. However, this manoeuvre is unsuccessful. We simply lack good reasons for thinking that Manning’s inclusion of health should always prevail over income and wealth.⁴ Arguably most, or perhaps even all additions will face the same objection. Thus, the Rawlsian framework not only requires that the list of primary social goods be serial; it appears to be the case that the list must be short as well. Additions are simply an unmanageable undertaking.

³ Likewise, the Problem of Comparison affects the Self-Respect Argument. Manning’s attempt to interpret self-respect so that it requires conservation—since the argument is dependent on the addition of health to Rawls’ framework. We will only interpret self-respect as requiring conservation once we add health to the list of primary goods and thus, the Self-Respect Argument does not actually escape the Problem of Comparison.

⁴ This argument was already developed in Chapter 3, pages 22-23.
4.2 ALTERNATE INTERPRETATIONS AND THE PROBLEM OF COMPARISON

As we have seen in Chapter 3, some authors do not actually *add* to Rawls’ list of primary social goods. Instead, they argue that we can interpret Rawls’ theory in such a way that it requires conservation. But, this line of argument also encounters a version of The Problem of Comparison.

In order to demonstrate this point, recall Taylor’s attempt to include an assessment of environmental conditions into the measure of the worst-off representative of society. Taylor argues that according to his interpretation, the difference principle constrains the level of environmental deterioration that is possible (Taylor 1993: 269). But in order to determine who is the least-advantaged, Taylor’s "environmental factors" will have to be comparable with Rawls’ index based on income. Thus, the argument faces another version of The Problem of Comparison; Taylor must reconcile two incompatible indices of being the worst-off. Again, how this might be achieved is difficult to imagine.

Now it appears that Rawls attempts to avoid this problem by simply defining the worst-off representative as the person with "the least authority and the lowest income" (Rawls 1971: 94). And he assumes that these two factors are positively correlated; an increase in one means a corresponding increase in the other. This allows Rawls to circumvent having to compare incompatible indices of "being the worst off" because income becomes the only real indicator of this position (Rawls 1971: 98). He writes:

One possibility is to choose a particular social position, say that of the unskilled worker, and then to count as the least advantaged all those
with the average income and wealth of this group, or less... Another alternative is a definition solely in terms of relative income and wealth with no reference to social position... I suppose that either of these definitions, or some combination of them, will serve well enough. (Rawls 1971: 98)

But specifying the least-advantaged in terms of income only appears to be an inaccurate response to The Problem of Comparison. As Benjamin Barber notes:

Income suggests only one dimension, and not necessarily the most salient dimension, of the issue. Who then is to be regarded as least-advantaged: the prosperous black or the poor white? The unemployable, self-deprecating wealthy suburban housewife or the self-respecting, overburdened welfare mother? The overtaxed, undervalued assembly line worker or the alienated, anomic college drop-out? (Barber 1975: 667)

Kymlicka makes a similar point:

why should the benchmark for assessing the justice of social institutions be the prospects of the least well off in terms of social goods? ...Every person recognizes that she would be less well off if she suddenly became disabled, even if her bundle of social goods remained the same. Why would she not want society also to recognize her disadvantage? (Kymlicka 1990: 71)

It is simply not clear that Rawls’ own solution to The Problem of Comparison is satisfactory because it fails to accurately define the worst-off representative of society. There are likely to be many hard cases, for which Rawls’ rudimentary index may well lead us in the wrong direction. In Barber’s words, "manageability seems to have been purchased at the price of meaning" (Barber 1975: 667).

Thus, overall The Problem of Comparison seems to leave us "stuck between a rock and a hard place." Adding social primary goods to those already protected by the difference principle, and including other factors in the index of the worst-off
representative are both infeasible. Yet Rawls' oversimplified solution to this problem appears to be too inaccurate.

4.3 THE MOTIVATIONAL ASSUMPTION AND THE JUST SAVINGS PRINCIPLE

In *A Theory of Justice*, Rawls attempts to formulate a principle which specifies our obligations to future generations since he undoubtedly thinks that questions of social justice arise both within and between generations. Of particular relevance to this thesis is Rawls' principle regarding "the appropriate rate of capital saving [intergenerationally] and of the conservation of natural resources and the environment of nature" (Rawls 1971: 137).

Recall that according to Rawls, the parties behind the veil of ignorance do not know to which generation they belong (Rawls 1971: 137). But, they *do* know that they are contemporaries. That is, those behind the veil of ignorance are from one, unknown generation. Rawls assumes that these moral agents are motivated by ties of sentiment which extend for at least two successive generations, perhaps (but not necessarily) because of related descendants (Rawls 1971: 292). Let us call this *The Motivational Assumption*. It is supposed to demonstrate that the original position yields a principle which specifies duties of justice towards future generations.
More specifically, Rawls wants to deduce the "just savings principle" from The Motivational Assumption. He writes:

Each [generation] passes on to the next a fair equivalent in real capital as defined by a just savings principle. (It should be kept in mind here that capital is not only factories and machines, and so on, but also the knowledge and culture, as well as the techniques and skills that make possible just institutions and the fair value of liberty)... Saving is demanded as a condition of bringing about the full realization of just institutions and the fair value of liberty. (Rawls 1971: 288-290)

Thus, the just savings principle is a limitation on the application of the difference principle. It requires us to accumulate human-made (versus natural) capital for the next generation.

There are several difficulties with Rawls' thoughtful attempt to represent the concerns of future generations. First, his argument appears to be incompatible with one of the circumstances of justice, namely, approximate equality of power amongst people (Rawls 1971: 128). Rawls states that the circumstances of justice obtain for all those behind the veil of ignorance: "unless these circumstances existed, there would be no occasion for the virtue of justice" (Rawls 1971: 128). If we interpret this to mean that Rawls thinks the circumstances of justice are necessary to yield his principles of justice, then his attempt to formulate obligations to future people in terms of justice looks troublesome (Barry 1989; Barry 1978). This is because approximate equality of power is absent between

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5 The other two circumstances of justice are relative scarcity of goods and moderate selfishness of individuals (Rawls 1971: 128).
generations; we may significantly affect our successors, however they can have virtually no effect on us (Barry 1989; Barry 1978; Barry 1977; Hubin 1976).

Perhaps we can avoid this difficulty by interpreting Rawls' claim differently. Maybe he means that the circumstances of justice are sufficient, but not necessary, to yield his principles and thus, the inequality of power between generations is of no concern. This is a very charitable interpretation of Rawls' view; I do not think it is the one that he actually advances. However, let us allow it for the sake of argument. Still, it is doubtful that Rawls' theory produces an adequate account of intergenerational justice.

To begin with, in some cases the Motivational Assumption appears to be false (de-Shalit 1995; Manning 1981; Hubin 1976). Rawls asserts:

we may think of the parties as heads of families and therefore as having a desire to further the welfare of their immediate descendants. (Rawls 1971: 128)

Elsewhere, he writes "it is assumed that a generation cares for its immediate descendants, as fathers say care for their sons..." (Rawls 1971: 288). Thus, he appears to be claiming that heads of families do (versus should) care for their successors. However, it is not clear that this is always true. There are many counter-examples which indicate that this assumption is questionable. The most obvious examples are parents who abuse, neglect, or murder their children (de-Shalit 1995; Manning 1981). Furthermore, consider those individuals without children or family; individuals who can not be thought of as "heads of families." Why should we assume that they have ties of sentiment felt towards members of
the subsequent generation? In fairness to Rawls, I do think that in most cases his assumption is reasonable. But, his claim that it is true for all people is clearly overstated.⁶

For the sake of argument, let us ignore the previous objection, and assume that The Motivational Assumption is reasonable. Still, the just savings principle does not seem to adequately serve its own purpose. That is, even if The Motivational Assumption is sound, the conclusion derived from its use is unsatisfactory. The first problem arises from the fact that the just savings principle concentrates on how much we are required to accumulate, or to leave for future generations. Barry (1977) notes that:

> if we concentrate on the question how much we are obliged to make our successors better off, we miss the whole question whether there may not be an obligation to avoid harm that is stronger than any obligation to make better off. (Barry 1977: 276)

The fact that the just savings principle is primarily concerned with accumulating capital also appears to be insufficient, for it is not obvious that the accumulation of "factories and machines,... knowledge and culture,... as well as techniques and skills" are enough to "make possible... the fair value of liberty" (Rawls 1971: 288).

At risk of stating the obvious, without saving the resources that yield this

⁶ There are many more objections to the Motivational Assumption that could be raised. For example, it has been argued that it both defies Rawls’ original idea of mutual disinterestedness, and introduces an idea of the good life- one that emphasizes family values (de-Shalit 1995; Hubin 1976). However, for the sake of brevity, I am not going to explore these arguments. I think the objections I have chosen to explore are sufficient to demonstrate my point.
"capital," the just savings principle seems a bit nonsensical. What good is the feller-buncher\(^7\) without the trees?\(^8\)

The just savings principle also does little to prevent forms of pollution or environmental degradation, the effects of which will not be felt until the distant future. Here I have in mind such things as the alleged global warming, burial of nuclear wastes, or severe ozone depletion. Barry concurs:

The really nasty problems (to some extent actual but even more potential) involve obligations to remote descendants rather than immediate descendants and on these Rawls has nothing to say. (Barry 1977: 279)

Due to the preceding objections to The Motivational Assumption, and the inadequate implications of the just savings principle, it is no wonder that so many authors attempt to modify this part of Rawls' theory. They are likely compelled to develop an alternative account of intergenerational justice because Rawls' own account is weak and ineffectual. Unfortunately, as we have seen, the proposed alternative- the inclusion of multiple generations behind the veil of ignorance- is incoherent.

In conclusion, to demonstrate that Rawls adequately supports conservation it appears that one needs to add to the list of primary goods, provide a "green" interpretation of the theory, and/or include multiple generations behind the veil of ignorance.

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\(^7\) The machine used to harvest trees.

\(^8\) The idea that biological resources should be treated as a unique form of productive capital is one of the central claims of the new hybrid field of "ecological economics." (Rees 1991: 1325)
ignorance. However, each of these moves appears to be implausible. The Rawlsian framework has limitations which seem to prevent all three of these applications from being successful. Hence, I suspect that Rawls does not have much to say about conservation because the contract argument presented in *A Theory of Justice* cannot adequately support it.
CHAPTER 5: THE CONCLUSION

Although John Rawls' *A Theory of Justice* enjoys enormous prestige and has been invoked to underwrite and justify any number of liberal policies and programs, upon close examination it fails to provide a cogent justification for conservation policies and practices. Generally, this is because of both questionable efforts to extrapolate from the theory, and certain fundamental limitations of the theory itself.

However, in terms of providing support for conservation, these findings obviously do *not* undermine the usefulness of political theory *in general*. Perhaps another theory could adequately serve this purpose; Rawls is only one theorist among many. Nor do I even think my findings necessarily undermine the *usefulness of Rawlsian* political theory. In the future someone might still propose a unique Rawlsian argument in support of conservation which is both sound and adequately avoids the relevant theoretical limitations explored in Chapter 4. Thus, Rawls could still be useful for informing this area of public policy, despite the fact that the *existing* applications of his theory in support of conservation are not actually sound.

Notwithstanding these speculations, perhaps my work might influence authors to explore more fruitful directions in support of conservation. At the very least, it might be of interest to other writers in this field.
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