The Allocation and Distribution of Resources

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In a course I teach on environmental ethics, I ask students to read the opinion of the Supreme Court in Sierra Club v. Morton. This case involves an environmental challenge to a decision by the US Forest Service to lease the Mineral King Valley, a quasi-wilderness area in the middle of Sequoia National Park, to Walt Disney Enterprises, to develop a ski resort. But let the Court describe the facts:

The final Disney plan, approved by the Forest Service in January 1969, outlines a $35 million complex of motels, restaurants, swimming pools, parking lots, and other structures designed to accommodate 14,000 visitors daily. Other facilities, including ski lifts, ski trails, a cog-assisted railway, and utility installations, are to be constructed on the mountain slopes and in other parts of the valley. To provide access to the resort, the State of California proposes to construct a highway 20 miles in length. A section of this road would traverse Sequoia National Park, as would a proposed high-voltage power line.

I asked how many of the students had visited Mineral King or thought they would visit it as long as it remained undeveloped. There were about six hands. Why so few? Too many mosquitoes, someone said. No movies, said another. Another offered to explain in scrupulous detail the difference between chillblain and trench foot. These young people came from Boston, New York, and Philadelphia. They were not eager to subsist, for any length of time, on pemmican and rye biscuits.

Then I asked how many students would like to visit the Mineral King Valley if it were developed in the way Disney planned. A lot more hands went up. Someone wanted to know if he had to ski if he went. No; I told him if he stayed indoors, he needn't do nothing. He could get snow blindness from the sour cream. He could meet Ms. Right at the après-ski sauna and at encounter sessions. The class got really excited. Two students in back of the room stood on tiptoe, bent their wrists, and leaned forward, as if to ski. I hope I have left no doubt about where the consumer interests of these young people lay.

I brought the students to order by asking if they thought the government was right in giving Disney Enterprises a lease to develop Mineral King. I asked them, in other words, whether they thought that environmental policy, at least in this instance, should be based on the principle of satisfying consumer demand. Was there a connection between what the students as individuals wanted for themselves and what they thought we should do, collectively, as a nation?

The response was nearly unanimous. The students believed that the Disney plan was losethe
and despicable, that the Forest Service had violated a public trust by approving it, and that
the values for which we stand as a nation compel us to preserve the little wilderness we have for
its own sake and as a heritage for future generations. On these ethical and cultural grounds, and
in spite of their consumer preferences, the students opposed the Disney plan to develop Mineral
King.

Consumer and Citizen Preferences

The consumer interests or preferences of my students are typical of those of Americans in
general. Most Americans like a warm bed better than a pile of wet leaves at night. They would rather
have their meals prepared in a kitchen than cook them over a camp stove. Disney's market
analysts knew all this. They found that the resort would attract more than fourteen thousand
tourists a day, in summer and winter alike, which is a lot more people than how hike into
Mineral King. The tourists would pay to use the valley, moreover, while the backpackers just
walk in.

You might suppose that most Americans approved of the Disney proposal; after all, it would
service their consumer demands. You could ride up the mountain and get a martini or watch TV.
You could buy a burger and a beer at the gondola stops. The long Kaweah River might be trans-
formed into a profitable commercial strip. Every red-blooded American with a camper, an off-
road vehicle, a snowmobile, or some snazzy clothes and a taste for a little "action" might visit the
Disney playland.

You might think that the public would have enthusiastically supported the Disney plan. Yet
the public's response to the Disney project was like that of my students—overwhelming opposi-
tion. Public opinion was so unfavorable, indeed, that Congress acted in 1978 to prohibit the pro-
ject, by making the Mineral King Valley a part of Sequoia National Park.

Were the rights of the skiers and scenemakers to act freely within a market thwarted by the
political action of the preservationists? Perhaps. But perhaps some of the swingers and skiers
were themselves preservationists. Like my students, they may themselves condemn the likely
consequences of their own consumer interests on cultural or ethical grounds.

I sympathize with my students. Like them and like members of the public generally, I, too,
have divided preferences or conflicting "preference maps." Last year, I bribed a judge to fix a cou-
ples of traffic tickets, and I was glad to do so because I saved my license. Yet, at election time,
I helped to vote the corrupt judge out of office. I speed on the highway; yet I want the police to
enforce laws against speeding. I used to buy mixers in returnable bottles—but who can bother to
return them? I buy only disposables now, but to soothe my conscience, I urge my state senator to
outlaw one-way containers.

I love my car; I hate the bus. Yet I vote for candidates who promise to tax gasoline to pay for
public transportation. I send my dues to the Sierra Club to protect areas in Alaska I shall never
visit. And I support the work of the American League to Abolish Capital Punishment although,
personally, I have nothing to gain one way or the other. (If I hang, I will hang myself.) And of
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course, I applaud the Endangered Species Act, although I have no earthly use for the Colorado squawfish or the Indiana bat. The political causes I support seem to have little or no basis in my interests as a consumer, because I take different points of view when I vote and when I shop. I have an "Ecology Now" sticker on my car that drips oil everywhere it's parked.

I am not alone in possessing incompatible "consumer" and "citizen" preference orderings. Economists have long been aware of the existence of these conflicting preference schedules in the average individual. Indeed, the distinction between consumer and citizen preferences has long vexed the theory of public finance. R. A. Musgrave, reporting a conversation he had with another economist, Gerhard Colm, states the problem as follows:

He [Colm] holds that the individual voter dealing with political issues has a frame of reference quite distinct from that which underlies his allocation of income as a consumer. In the latter situation the voter acts as a private individual determined by self-interest and deals with his personal wants; in the former, he acts as a political being guided by his image of a good society. The two, Colm holds, are different things.

Are these two different things? Stephen Marglin suggests that they are. He writes:

The preferences that govern one's unilateral market actions no longer govern his actions when the form of reference is shifted from the market to the political arena. The Economic Man and the Citizen are for all intents and purposes two different individuals. It is not a question, therefore, of rejecting individual . . . preference maps; it is, rather, that market and political preference maps are inconsistent.

Marglin observes that if this is true, social choices optimal under one set of preferences will not be optimal under another. What, then, is the meaning of optimality? An efficient policy, let us say, is one that maximizes the satisfaction of preferences weighted by their intensity. If individuals possess conflicting preference maps, however, how can we say what an efficient policy is?

Marglin jokes that economists, in order to preserve the coherence of the efficiency concept, "might argue on welfare grounds for an authoritarian rejection of individuals' politically-revealed preferences in favor of their market revealed preferences." One might argue just the reverse as well, namely, that we may reject our market-revealed preferences to pursue politically revealed values.

Very few economists, if any, advocate an authoritarian rejection of either political or consumer preferences. Some would seek a way to combine both sorts of preferences on the same preference map. They might agree with Gordon Tullock, who observes that two assumptions about preferences are essential to modern economic theory.

One of these is simply that the individual orders all alternatives, and the schedule produced is his total preference schedule. The second is that he will be able to make choices among pairs of alternatives, unless he is indifferent between them. . . . From this assumption and a further assumption, that such choices are transitive, it is possible to deduce the preference schedule, and most modern economists have taken this route.

If we make these assumptions, which are essential to the theory of welfare economics, it must be possible to infer, for any individual, a "meta-ordering" of his consumer and political
preferences. Markets, to be sure, would not reveal this meta-ordering, for it includes politically expressed values. Yet economists, by using interview techniques and the like, might be able, at least in principle, to derive the individual's combined preference schedule and price environmental benefits on that basis.

Attempts to find a "combined" or inclusive preference ordering, however, are bound to fail. They will fail for logical, not merely practical, reasons. Individuals have a variety of often incompatible preference schedules they reveal in the contexts appropriate to each, for example, in markets, family situations, professional contexts, and political circumstances. To try to combine these preference schedules into one is to search for a single comprehensive role the individual plays, it is to ask for the individual to behave not as a parent, citizen, consumer, or member of the community of all and none of these roles at once. The individual, in effect, must reveal himself or herself as the "rational man" of economic theory simply because economic theory demands it. As one commentator rightly points out, no such social role exists, unless it is the role of a social moron.4

In some roles—particularly that of a citizen or a member of a community—the individual states what he or she thinks the group should do; the individual makes a judgment that he or she would expect any member of the community to make insofar as that person reflects on the values of the community, not just on his or her own interests. In that situation, each member of the group judges, as it were, for all, and if they disagree, they must deliberate together to determine who is right and who is wrong. This way of finding the will of the community may require a vote; the vote settles a logical contradiction between beliefs, however, not necessarily a conflict among personal interests. Thus, analysts who attempt to shuffle citizen judgments and personal preferences into the same ordering commit a logical mistake. They confuse judgment with preference, that is, to say, beliefs about what we should do with expressions of what we want or prefer.

Some economic analysts attack the problem of split preference-orderings in another way. They note that efficiency analysis need not take into account the concerns of social equity or justice. Thus, one might rely on an individual's self-regarding market-revealed preferences to determine efficient social policies, for instance, by cost-benefit analysis. Then one could rely upon altruistic or politically revealed preference orderings to organize the redistribution of opportunities and wealth.

This reply may be helpful insofar as consumer preferences reveal a person's interests with regard to his or her own consumption opportunities, while citizen preferences express his or her altruistic concerns about the distribution of consumption opportunities in society generally. Yet citizens advocate many ideal-regarding convictions and beliefs that are not directed to the ways consumption opportunities are distributed. Environmentalists are sensitive to the distributive effects of the policies they favor politically, but they do not necessarily support these policies for the sake of those effects.

One could speculate, indeed, that the distributive effect of environmental protection is often to make the rich richer and the poor poorer.5 When land is removed from development, housing becomes more expensive; consumer products also cost more when corporations are required to pollute less. The rich can afford to live in environmentally protected areas and, therefore,
arguably benefit more than the poor from environmental preservation. It has been very difficult for state governments to site environmentally necessary hazardous waste treatment and landfill facilities; one often hears, however, that these tend to end up in the neighborhoods of the poor. This would be another example of the way the poor may pay the costs of environmental protection while the rich reap the benefits.

I do not think any systematic relationship exists in fact between the policies environmentalists favor and the relative well-being of the rich and the poor or, for that matter, of present and future generations. The speculations I have offered so far are just that—speculations. I know of no recent empirical study that substantiates them. They suggest, however, that equality or justice is not the only ethical or cultural goal that concerns us as citizens. We may also be concerned as citizens with education, the arts and sciences, safety and health, and the integrity and beauty of the natural environment. These concerns cannot be assimilated to the personal, arbitrary preference-maps of consumers. Nor can they be entirely analyzed in terms of equity or justice.

**Allocation and Distribution**

I want to approach my thesis in this chapter by way of an important distinction: that between the *allocation* and the *distribution* of resources. The allocation of resources has to do with how they are used; the distribution has to do with who uses them or benefits from their use. The Mineral King Valley, as a matter of allocation, could be used as a ski resort kept as a wilderness, or exploited in some other way. Some individuals or groups would be made better off as a result; some would be made worse off; the decision, in other words, would have *distributive* or *redistributive* effects. The resort, for example, would benefit skiers at the expense of hikers; it would be good for property owners in Tulare County but bad for property owners in San Valley. Some might argue in favor of the Disney project because it would produce tax revenues to support social welfare programs for the poor. This would be to argue in favor of an allocation because of a beneficial distributive effect.

Some economic theorists who write about the environment assume that natural resources should be used in the way a perfect market would allocate them: the way that maximizes efficiency, consumer surplus, utility, preference satisfaction, or wealth. For a given allocation, of course, questions of justice, fairness, or equality may arise with respect to the distribution of costs and benefits. Most analysts concede that ethical or political choices may have to be made concerning these distributive effects. They tell us, however, that the best way to produce wealth and the best way to divide it are separate issues best decided separately; they urge us, therefore, not to make an allocative decision on the basis of its distributive consequences. Once the pie is as big as we can make it, we may distribute it in the way we then decide is just or fair.

Analysts who argue along these lines tend to collapse all discussion of regulatory policy into questions concerning efficiency in the allocation of resources and equity or fairness in the distribution of wealth. They argue, for example, that the allocation of fossil fuels should be left to the market, properly regulated for externalities. The inequalities that result may then be remedied, for instance, by a windfall profit tax used to help the poor pay their heating bills.
Not all policy problems allow a neat separation between issues of allocation and issues of distribution; for example, any social transfer of wealth to the poor could increase the cost of labor and thus lead to an inefficient allocation of human resources. Many policy analysts speak, therefore, of a "trade-off" between equality and efficiency. They recommend, however, that policymakers use those two values to justify whatever decisions they make with respect to environmental and regulatory policy. Decisions that cannot be explained as rational attempts to make markets efficient, then, must be explained as attempts to distribute wealth more fairly.

Although some writers like to emphasize a "trade-off" between efficiency and equality, it is useful to recognize that these concepts complement each other and that the conflict between them, insofar as one exists, is largely overstated. Analysts who believe that efficiency is an important social value do so, in general, because they conceive of the social good as the satisfaction of preferences, weighted by their intensity, however arbitrary or contingent these preferences may be. Philosophers who emphasize the claims of justice or equity do not necessarily disagree with this conception of the good, but may in fact rely upon it. When the good is conceived in this way—when it is assimilated to the satisfaction of arbitrary preferences—then it is unsurprising that a conception of the right, that is, a conception of justice, should be prior to it. Some have argued that an adequate philosophy of right has yet to be written; one that shows how we should balance a conception of justice with a more appealing or more persuasive conception of the good than the notions of efficiency and preference-satisfaction imply.11

Many well-known writers (Ronald Dworkin is an example) argue that a conception of equality should be the criterion of public policy.12 Other writers argue that the efficiency criterion should be the principal guideline. Most of the statutes and regulations that govern social policy, particularly for natural resources, public safety, and the environment, however, have fairly specific goals, like improving mine safety or protecting endangered species. These concerns of public policy stand on their own feet, as it were, and do not need to be supported by criteria or guidelines established by a priori philosophical or economic arguments.

What characterizes the debate between the "efficiency" and "equality" positions is not the tautological conflict between them but the extent to which each is plausible only in comparison to the other. Both adopt the same vocabulary and conceptual framework; each assimilates all values either to essential human rights or to arbitrary personal preferences. They agree that any claim that is not based on a right must, then, simply state a preference or reveal a want.

Those who advocate the priority of equality find worthy opponents in those who defend the priority of efficiency.13 They debate at length and without any apparent sense of tedium the extent to which rights "trump" interests because (1) rights go to the essence of free agency and personhood or (2) rights are justified, at a higher level of analysis, in relation to interests.14 Once discussion takes off on this theoretical path, pitting "deontologists" against "rule utilitarians," it becomes irrelevant to officials and others who need a vocabulary adequate to the moral, aesthetic, historical, scientific, and legal considerations that matter in health, safety, and environmental policy.15

Congress, by rescinding the Disney lease, for example, made a decision based on aesthetic and historical considerations such as the argument that a majestic million-year-old wilderness is...
objectively better than a commercial honky-tonk. In this way, Congress responded to the opinions citizens backed up with arguments in public hearings and not to the wants individuals might back up with money in a market or the rights they might assert in court.

To speak bluntly, the problem with efficiency and equality as principles of social policy is that they have the smell of the lump about them. Each approach assumes that academic economists and philosophers, by practicing deep thinking, discover the fundamental truths about Man, Civil Society, and the State from which the goals of social regulation may be derived. This assumption is false. The goals of social regulation are based in public values and are found in legislation.

Insofar as options are available under the law, policy decisions, often expressed in parts per billion, must be justified, as it were, from the bottom up, not from the top down. To make hard choices, public officials must organize the minute particulars involved in assessing risks, monitoring compliance, and litigating penalties. Discussions of the "trade-off" between efficiency and equality have become a useless academic pastime to which this book seeks to write an epitaph. These discussions have little to contribute to the practical and political concerns of social regulation.

The Rights of Future Generations

Some writers have suggested that the way we use the environment could change if we balanced our consumer interests with those of future generations. Some of these writers have worked hard to define a "social rate of discount" to determine how we should take the interests of future consumers into account.

The rate at which we discount future preferences may make little difference, however, in the way natural resources are used. We can build resorts, highways, shopping centers, tract housing, and power lines to satisfy future as well as present demand. There are few decisions favorable to our wishes that cannot be justified by a likely story about future preferences. Even a nasty strip mine or a hazardous-waste dump produces energy that will strengthen the industrial base left to future generations.

What are future generations likely to want? Will vacationers a hundred years from now want to backpack into Sequoia National Park, or will they prefer to drive their recreational vehicles in? I think the interests of future generations will depend largely on two things. The first is education, or advertising. I suspect that the Disney resort would always be jammed with visitors because Disney knows how to run an effective advertising campaign. Through the use of advertising, corporations typically ensure demand for the goods and services they create so that the product and the market for it are developed at the same time. Since what corporations want to sell is usually a good indicator of what consumers will be trained to buy, perhaps we should let the marketing departments of the top five hundred businesses tell us how to prepare the earth for future generations. The best way to create the bars and pizza palaces and motels and strips tomorrow's consumers will want may be to bring in the bulldozers today.

Second, the tastes of future individuals will depend not only on what is advertised but on what is available. People may come to think that a gondola cruise along an artificial river is a
wilderness experience if there is simply nothing to compare it with. When I moved from a rural area to an urban one, I was appalled at the changes: noise, pollution, ugliness, congestion. People said I would get used to it—that I would come to like the convenience stores and the fast-food stands. They were right. This is what happens. If individuals in the future have no exposure to anything that we would consider natural or unspoiled, they will not acquire a taste for such things. What they will want will be determined more or less by what we leave to them, however dreary it may be.

Derek Parfit has constructed an argument that supports the point I wish to make. He argues that any policy we adopt today will make people born in the future better off than they would have been had we made some other decision. The reason is that these people would not even exist, and therefore could not be better off, had we made the other choice.

To show this, Parfit describes two policies, which he calls "High Consumption" and "Low Consumption." He then writes:

If we choose High rather than Low Consumption, the standard of living will be higher over the next century. . . . Given the effects of . . . such policies on the details of our lives, different marriages would increasingly be made. More simply, even in the same marriages, the children would increasingly be conceived at different times. . . . this would in fact be enough to make them different children.

Return next to the moral question. If we choose High Consumption, the quality of life will be lower more than a century from now. But the particular people who will then live would never have existed if instead we had chosen Low Consumption. Is our choice of High Consumption worse for these people? Only if it is against their interests to have been born. Even if this makes sense, we can suppose that it would not go as far as this. We can conclude that, if we choose High Consumption, our choice will be worse for no one.

The idea is that whichever policy we choose, future generations will have nothing to complain about, because but for that choice, different marriages would have been made and different children conceived. Whatever policy decision we make, therefore, determines who shall exist, and thus the policy we choose is better for those who will be born than any other policy would have been. Because these people will be all who exist, our choice will make no one worse off. Most people would agree that a policy that is the very best for all those it affects, and that makes no one worse off, is satisfactory from the point of view of distributive justice and efficiency. Thus, whichever policy we choose will be just and efficient with respect to the generations that come after us.

Parfit's argument does not clear us of moral responsibility with respect to future generations; rather, it helps us to understand what our responsibility is. It is not— if I may put it this way—a responsibility to the future as much as it is a responsibility for the future. If Parfit is correct, the major decisions we make determine the identity of the people who follow us; this, however, is not the only, or the most morally significant, consequence. Our decisions concerning the environment will also determine, to a large extent, what future people are like and what their preferences and tastes will be.

If we leave them an environment that is fit for pigs, they will be like pigs; their tastes will adapt to their conditions as ours might when we move from the country into town. Suppose we destroy only part of our natural heritage, a strip of land that allows us to explore nature, although not perhaps to enjoy it as much as it would be enjoyed if it were not lost.

Futurists say it is impossible to predict the future. This is true. The point is not that we should know the specific details of the future, but that we should use the best information we have to make decisions, and not allow ourselves to be led into a policy decision that will result in a deterioration of the quality of life of future generations.

The idea is that we should consider the effects of our decisions on future generations. This requires us to look beyond the present and consider the long-term consequences of our actions. It is not enough to focus solely on the present and the short-term effects of our decisions. We must consider the impact of our actions on future generations and make decisions that are just and efficient with respect to the generations that come after us.
destroyed all of our literary, artistic, and musical heritage; suppose we left to future generations only potboiler romances, fluorescent velvet paintings, and disco songs. We would then ensure a race of uncultured near illiterates. Now, suppose we leave an environment dominated by dumps, strip mines, and highways. Again, we will ensure that future individuals will be illiterate, although in another way. Surely, we should strive to make the human race better, not even worse than it already is. Surely, it is morally bad for us to deteriorate into a pack of yahoos who have lost both knowledge and taste for the things that give value and meaning to life.

Future generations might not complain: A pack of yahoos will like a junkyard environment. This is the problem. That kind of future is efficient. It may well be equitable. But it is tragic all the same.

Our obligation to provide future individuals with an environment consistent with ideals we know to be good is an obligation not necessarily to those individuals but to the ideals themselves. It is an obligation to civilization to continue civilization: to pass on to future generations a heritage, natural and cultural, that can be valued and enjoyed without absurdity. These ideals are aesthetic; they have to do not with the utility but with the meaning of things, not with what things are used for but what they express. The programs that preserve them, however, are morally good. The moral good involved is not distributional; for it is not the good of individuals we are speaking of, but good individuals who appreciate things that are good in themselves. The allocation of resources in environmental law need not always—it sometimes should not—be based on norms of distribution. The way we use resources may also be justified in the context of a reverence we owe to what is wonderful in nature; for in this kind of appreciation, aesthetic and moral theory find a common root.

That political authority should avoid acts of paternalism has been a traditional theme of liberalism. Liberals since John Stuart Mill have argued that the state should restrict the freedom of one individual only to protect the welfare of another—not merely to prevent the individual from harming himself. Although this reluctance to interfere with a person "for his own good" is not absolute in liberalism (or even in Mill himself), it is a consequence of the principle that the state should leave it to individuals to answer the moral questions and thus should not make their mistakes for them.

Yet, to protect a wilderness we may have to prohibit a resort; to provide a resort we may have to destroy a wilderness. So we must make decisions that affect the preferences or values future generations will have, not just the degree to which they can act on their own values or satisfy their preferences. To what extent should the possibility of one lifestyle be restricted to protect the possibility of another? What moral opportunities are worth providing? As we debate public policy for the environment, we must answer questions such as these. We cannot avoid paternalism with respect to future generations.

Yet this paternalism, if that is what it is, is of a peculiar kind. It is not a paternalism about the welfare of future generations; for, as I have argued, whatever policy we choose is likely to be optimal for the individuals and the interests it helps to create. Rather, it is a paternalism about the character of future individuals, their environment, and their values. In short, it is a concern about the character of the future itself. We want individuals to be happier, but we also want them to have surroundings to be happier about. We want them to have what is worthy of happiness. We
want to be able to respect them and to merit their good opinion. How may we do this except by identifying what is best in our world and trying to preserve it? How may we do this except by determining, as well as we can, what is worth saving, and then by assuming that this is what they will want?

What is worth saving is not merely what can be consumed later; it is what we can take pride in and, indeed, love. To protect wilderness and to restore the environment to meet shared ideals is not merely to show respect and concern for future generations but to show respect for ourselves as well.

To think about our moral responsibilities to future generations is to consider how resources should be used and not merely to consider who should use them. Ethics in allocation, in other words, is not a consequence of ethics in distribution. An environmental ethic cannot be derived entirely from a theory of justice.

The Conflict within Us

If an environmentalist wants to preserve parts of the natural environment for their own sake, he might do well to concede that this is his intention. The environmentalist must then argue that the principles of justice, fairness, and efficiency that may apply to the distribution of income in our society need not apply to the protection or preservation of the natural environment. The reason is that the conflict involved, for example, over Mineral King is not primarily a distributional one. It does not simply pit the skiers against the hikers. The skiers themselves may believe, on aesthetic grounds, that the wilderness should be preserved, even if that belief conflicts with their own consumer preferences. Thus, this conflict pits the consumer against himself as a citizen or as a member of a moral community.

The conflict, in other words, arises not only among us but also within us. It confronts what I want as an individual with what I believe as a citizen. This is a well-known problem. It is the conflict Fogo describes: “We have met the enemy and he is us.”

The conflict is an ethical one. It is not ethical only because it raises a question about the distribution of goods to the rich or the poor, to the present or the future. The ethical question is not simply the distributional question. It concerns, rather, how we satisfy our interests and how we live by our beliefs. This sort of question could never arise in a society that made efficiency and equity in the satisfaction of consumer demand its only goals. That sort of society could deal only with the opposition between the hikers and the skiers. It could never respond to, act upon, or resolve the opposition between the skiers and themselves.

I do not want to comment on the ethical position my students, like many Americans, hold with respect to preserving the natural environment. I merely want to point out that it is an ethical position. It is also an opinion that is widely shared, deeply held, and embodied in legislation. I imagine that if the law were changed and the Disney resort were built, more than half the skiers in the lift line would agree, in principle, with my students. They might condemn the resort on ethical grounds. But money is money, and only money talks. The skiers would have paid a lot of money and gone to a lot of trouble to use the facilities. There could be no question—could there?—about what they want.
The problem is a general one. It arises not just because of our high regard for wilderness areas, such as Mineral King, but because of broad values we share about nature, the environment, health, safety, and the quality and meaning of life. Many of us are concerned, for example, that the workplace be safe and free of carcinogens; we may share this conviction even if we are not workers. And so we might favor laws that require very high air-quality standards in petrochemical plants. But as consumers, we may find no way to support the cause of workplace safety. Indeed, if we buy the cheapest products, we may defeat it.

We may be concerned as citizens, or as members of a moral and political community, with all sorts of values—sentimental, historical, ideological, cultural, aesthetic, and ethical—that conflict with the interests we reveal as consumers, buying shoes or choosing tomatoes. The conflict within individuals, rather than between them, may be a very common conflict. The individual as a self-interested consumer opposes himself as a moral agent and concerned citizen.

What kind of society are we? Do we admit into public consideration values of only two kinds: personal interests and distributive norms? Do we insist that the only political decisions we can make are those intended to distribute wealth or welfare, for example, by making markets more equitable and efficient, while every other choice—every allocative decision about the environment—should be left, if possible, for those markets to decide? Should we leave allocative choices to the tourist listening to his John Denver cassette as he pulls his recreational vehicle into the Automobile Reception Center at the Disney resort? Is this fellow the appropriate legislator of our common will?

Suppose he opens his mouth to express an ethical opinion—horribile dictu—about the use of the environment. Suppose he tells us that we should have kept Mickey Mouse out of the mountains. Must we shut our ears to him? Is that the kind of society we are? Is a perfectly competitive market all we wish to have?

I do not know the answers to these questions. I suspect, however, that most people are resigned, by now, to an affirmative answer to them. How else can one explain the reluctance of environmentalists to argue on openly ethical or political grounds? Why do they prefer to tell stories about the possible economic benefits of the furish law rather than offer moral reasons for supporting the Endangered Species Act? That law is plainly ethical; it is hardly to be excused on economic grounds. Why do environmentalists look for interests to defend, costs to price, benefits to enter—even if they have to go to the ludicrous extreme of counting the interests of the trees?

Americans, no matter how they shop, generally share the ideology of the environmentalists. Indeed, most Americans might claim that they are environmentalists. Why, then, are they reluctant to confess to themselves that they make environmental law on the basis of shared ideals rather than on the basis of individual utilities? Why do they find it hard to concede that their society is more than a competitive market and that allocative efficiency and distributional equity do not exhaust their repertoire of public values? Why is it so difficult for them to say that one may allocate resources not always as a perfect market would but on substantive, normative, and frankly ethical grounds?

I think the answers have something to do with the insecurity many of us feel when we find
ourselves without "neutral" theories and criteria against which to evaluate political, ethical, and aesthetic positions. It's scary to think about problems on their own terms; it's easier to apply a methodology; it's even more tempting to think about the problems raised by the methodology or to investigate the theory itself. Besides, if one side has numbers, the other may need numbers as well. Because developers tell stories about willingness to pay for recreational opportunities at Mineral King, environmentalists tell stories about option values and amenity costs.

As a result, public officials discuss the meaning of magnificent environments using a vocabulary that is appropriate to measure the degree to which consumers may exploit them. A principal purpose of an environmental ethic may be to help policymakers find more appropriate concepts they can use to think about the goals of public policy and to address the obstacles that stand in the way of those goals. The concepts associated with the principles of allocatory efficiency and distributive equity are not especially suitable for this purpose.

Money and Meaning

The things we cherish, admire, or respect are not always the things we are willing to pay for. Indeed, they may be cheapened by being associated with money. It is fair to say that the worth of the things we love is better measured by our unwillingness to pay for them. Consider, for example, love itself. A civilized person might climb the highest mountain, swim the deepest river, or cross the hottest desert for love, sweet love. He might do anything, indeed, except be willing to pay for it.

The Church once auctioned off indulgences. It sold future shares in heaven at the margin with a very favorable discount rate. Was it a good idea to establish a market in salvation? Of course it was. How else can you determine how much an infinity of bliss, discounted by the probability that God does not exist, is worth? The Church membership, however, grew a little disillusioned when it saw that the favors of the Lord were auctioned for silver and gold. This disillusionment was one cause of the Reformation.

The things we are unwilling to pay for are not worthless to us. We simply think we ought not to pay for them. Love is not worthless. We would make all kinds of sacrifices for it. Yet a market in love—or in anything we consider "sacred"—is totally inappropriate. These things have a dignity rather than a price.

The things that have a dignity, I believe, are in general the things that help us to define our relations with one another. The environment we share has such a dignity. The way we use and the way we preserve our common natural heritage help to define our relations or association with one another and with generations in the future and in the past.

Let me return, now, to the example with which I began. My students, as I said, are pulled one way when they are asked to make a consumer choice whether or not to patronize the Disney resort. That question goes to their wants and desires simply as individuals. They are pulled another way when asked to make a political decision whether the United States should turn wilderness areas into ski resorts. That decision calls upon their conception of the values we share or the principles we respect as a nation.

Should we base environmental policy on the interests individuals may act upon as consumers
or on the values that they may agree upon as citizens? Our policy may be "rational" either way. We may have a "rational" policy in an economic sense if we limit the role of law to that of protecting rights and correcting market failures. We should then assume that the ends of policy-making are simply "given" in the preferences consumers reveal or would reveal in a market. Alternatively, we might suppose that a "rational" policy advances a certain conception of equality—or meets some other condition or criterion laid down in advance.

We may have a policy that is rational in what we may call a deliberative sense, however, if we strive to base law on principles and ideals that reflect our best conception of what we stand for and respect as a nation. This kind of rationality depends on the virtues of collective problem solving; it considers the reasonableness of ends in relation to the values they embody and the sacrifices we must make to achieve them. This deliberative approach respects the constitutional rights that make it possible for people to contribute as equals to the political process, but it asserts no a priori political theory about the purposes of public policy.

This approach assumes, on the contrary, that the values on which we base social policy are objects of public inquiry. They are not to be derived (as they would be in a market) by aggregating exogenous preferences, or (as they might be in a political philosophy) from metaphysical truths about the nature of persons. Thus, the general goals of public policy are to be determined through a political process in which citizens participate constrained only by rights of the kind protected by the Constitution. These goals are not known beforehand by a vanguard party of political economists or by an elite corps of philosopher-kings.

Compromise and Community

The students in the class I taught had no trouble understanding the difference between the judgments they make as citizens and the preferences they entertain as individuals. They also understood the importance of their "positive" freedom to lobby for their views politically and their "negative" freedom to pursue their personal interests without undue interference from the state. Plainly, these freedoms, like these values and preferences, are bound to come into tension or conflict. If the nation preserves every mountain as a wilderness heritage, there will be no place for these young people to ski.

This tension has been a central problem for political theories of liberalism. As one historian writes: "Liberalism of all sorts [in America] is troubled by the seemingly contrary pulls of responsibility to individual and community, by the divergent demands of absolute adherence to the doctrine of individual integrity and the needs and potentials of the common life." The students in my class found it fairly easy to resolve the tension between their consumer interests and their public values with respect to the example of Mineral King. They recognized that private ownership, individual freedom of choice, and the profit motive would undoubtedly lead to the construction of the Disney paradise. They reasoned, nevertheless, that we should act on principle to preserve this wilderness, which has an enormous cultural meaning for us, since the resort, though profitable, would not serve important social ends. The students argued that because there are a lot of places for people to party, we do not need to make a ski resort of Sequoia National Park.
But what if the stakes were reversed? What if we should have to make enormous financial sacrifices to protect an environmentally insignificant landscape? Suppose industry would have to pay hundreds of millions of dollars to reduce air pollution by a small, perhaps an insignificant, amount? The students in my class, by and large, answered these questions the way they answered questions about Mineral King. Just as they rejected the dogma of the perfect market, they also rejected the dogma of the perfect environment.

The students recognized that compromise is essential if we are to act as a community to accomplish any goal, however pure or idealistic it may be. To improve air quality, for example, one needs not only a will but a way; one needs to express one's goals in parts per billion or, more generally, to deal with scientific uncertainties and technical constraints. The goal of environmental purity, like the goal of economic efficiency, can become a Holy Grail. In other words, suitable only as the object of an abstract religious quest. To make progress, we need to recognize that God dwells in the details—in parts per billion and in the minute particulars of testing, monitoring, and enforcement.

Although the students thought that social policy usually involves compromise, they kept faith with the ideals they held as citizens. They understood, moreover, that if we are to take these ideals seriously, we must evaluate them in the context of the means available to achieve them. To will the end, in other words, one must also will the means: One must set goals in relation to the obstacles—economic, political, legal, bureaucratic, scientific, technical, and institutional—that stand in the way of carrying them out. We do not become a functioning political community simply by sharing public goals and by celebrating a vision of harmony between nature and society, although ceremonies of this sort are a part of citizenship. To function as a community we must also reach the compromises necessary to move beyond incantation to political and economic achievement.

This is the reason that the Mineral King example—and the difference between citizen and consumer preferences it illustrates—may serve to introduce a course in environmental ethics, but it does not take us very far into the problems of environmental policy. The interesting problems arise when we move, in Winston Churchill's phrase, "from the wonderful cloudland of aspiration to the ugly scaffolding of attempt and achievement." Then we must chasten our goals by adjusting them to economic, legal, scientific, and political realities. How can we do this and still retain the ethical and aspirational nature of our objectives? How do we keep faith with the values of the citizen while recognizing the power of the consumer?

Notes
1. 405 US 727 (1972).
2. Ibid. 729.

18 There are some court cases, for example, those involving affirmative action, to which debates of this sort are quite relevant. See e.g. Ronald Dworkin, “Reverse Discrimination,” in *Taking Rights Seriously*, 223-39.


23 Mill argues in several passages that one may be legitimately compelled under certain circumstances to be a “good Samaritan.” See “On Liberty,” in *Collected Works*, xxiii (Toronto: University of Toronto Press, 1977), 224.


27 Pascal’s wager seems to follow along these lines: “Let us weigh the gain and the loss in wagering that God is. Let us estimate the two chances. If you gain, you gain all; if you lose, you lose nothing. Wager, then, without hesitation that He is.” B. Pascal, *Pensées*, trans. W. Pfeiffer (1952), sect. 233.


29 “That which is related to general human inclinations and needs has a market price.... But that which constitutes the condition under which alone something can be an end in itself does not have a mere relative worth, i.e., a price, but an intrinsic worth, i.e., dignity.” Immanuel Kant, *Foundations of the Metaphysics of Morals*, ed. R. Wolff, trans. L. Beck (Indianapolis: Bobbs-Merrill, 1969), 53 (emphasis in original).

