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Sustainability and the Limits of Liberalism
Marcel Wissenburg

Introduction

Whatever liberalism is taken to mean, it has a bad name when it comes to matters of ecology and the environment. Liberalism values individual freedom, particularly freedom of thought and religion, freedom of lifestyle, the freedom to live the life of one's own choosing. Care for the environment is usually seen as interfering in the genesis of individual preferences, which seems taboo for liberalism - their development is a purely private affair. At the level of state and market, a critic might say, liberalism is about satisfying (strictly human) preferences rather than educating people; it thus allows and to a degree even encourages the satisfaction of environmentally harmful preferences. For some Americans, liberalism is a meddlesome ideology, hand in glove with government inefficiency and ineffectiveness. For most Europeans, liberalism is identified with a laissez-faire state and the free market, the latter being held responsible for the exploitation of nature. Philosophical liberalism, in European eyes often including libertarianism, is seen as the conscience of economic and political liberalism and as such guilty by association.

In this chapter I shall argue, against these all too easy judgements, that there are ways in which existing mainstream liberal political philosophy is or can be enriched with the kind of premises that allow it to sensibly discuss environmental issues and translate environmental concerns into political principles. Since liberalism is ultimately about taking one's individual responsibility seriously, this implies that it can also prescribe individual 'ecoduties'. In fact, I shall argue that philosophical liberalism is already an ecology-conscious and environmentally friendly theory, so to speak, 'by nature' - it is just that most of its past interpreters failed to realize liberalism's green potential, or had no reason to do so. What I shall not say is that liberalism's bad name in green circles is undeserved, that it is all an unfortunate misunderstanding or that the environmental dimension of liberalism fits in easily with the rest of the theory. We should, after all, not confuse 'is' and 'ought', or 'is' and 'might have been'.

I shall first discuss in the next section two ways of protecting the environment as an object of liberal concern by improving the democratic element in liberal thought and by revising the so-called Lockean provisos used to justify private property. In the third section, the focus changes to ways in which the liberal concern extends to include new subjects: animals or nature as a whole, and future generations. This is followed by arguments for considering environmental care to be based on duties, or mutual individual obligations, first as an aim of liberal justice and as a side-constraint in the form of a savings principle in the fourth section and then, in the fifth section, my own invention, as an environmental side-constraint on the attribution of rights in society via the restraint principle.

Although these seven green 'amendments' to liberalism represent the most important recent developments in liberal political philosophy, I do not pretend that this list is complete. It is a representative selection of arguments based on obligations and duties, not of other sources of green 'preferences'. Several contributors to this book, for instance, discuss a number of other ways of greening liberalism: Hayward who considers constitutional protection, Attfield who deals with individual preferences, considered and other, and Okseren who considers the effects of privatizing nature. Green consumerism, green production (Anderson and Leal, 1991), eco-taxes and ecological modernization (Weale, 1992) will also be disregarded. Nor will any of the amendments proposed in this chapter ensure that real-world liberalism, liberal-democratic society, becomes green. Greening philosophical liberalism is a necessary but not a sufficient condition for a greener world. The points I want to make are these: there can be such a thing as green liberalism (cf. Wissenburg, 1998); it can be based on moral duties rather than sheer preferences; and the appeal to duty and individual responsibility even seems the most promising way of greening liberalism.

Preferences and liberalism

Liberalism, some critics say, would care less about educating than about satisfying preferences and promoting economic growth (e.g.
Opschoor, 1994; Achterhuis, 1994). It is important to note that we are dealing with a two-headed monster here: a critique of liberal democracy and one of economic liberalism. The two are not Siamese twins. Capitalism is not a necessary condition for the existence of the political structure and liberties associated with liberal democracy (cf. Lauber, 1978); the free market existed before liberal democracy evolved. Nor is political liberalism predestined to take a laissez-faire attitude towards the market (cf. Stephens, 1996), or to hold that life is all about making profits or the satisfaction of material self-interest. It sees trade and commerce as one way of life, one means to the realization of a plan of life, among others (cf. Holmes, 1993, p. 212). The critique of economic liberalism must therefore be judged on its own merits and cannot reflect on political liberalism.

There is no such thing as a society without a free market; even in the direst of times and under the most oppressive political systems, something called ‘the black market’ operates – and operates on the same principles as the free market: demand and supply. If ‘the’ free market is to be blamed for environmental problems, it cannot be blamed because of its being a free market; it is because there are consumers and producers who are looking for a market. The free market is only instrumental in satisfying environmentally harmful preferences; it is in the preferences that the problem originates.

At this point, we encounter the first and weakest of our seven revisionist proposals. In recent years, a number of political theorists have argued for more and better democracy, both in politics and in other social spheres (e.g. the economy). Inspired by classic Republican thinkers, they argue that deliberation, public debate and discussion can change preferences and can change them for the (environmentally) better (cf. several contributions to, for example, Doherty and de Geus, 1996; cf. also Beckman in this volume). The opposite, however, cannot be excluded: democracy as a decision-making process is and remains a process that selects the most favoured, not necessarily the morally or environmentally best, solution. Developing or expanding the democratic aspect of liberalism, both in politics and in other social spheres, including those where consumers’ preferences are conceived, does not therefore make liberalism necessarily green; like economic liberalism, it remains preference-neutral.

A more promising way of defending philosophical liberalism against the charge that its attempted preference-neutrality prevents it from being or becoming green is to focus on interpretations of liberal democracy as a system that seeks to protect typically ‘liberal’ values of which democracy is only one – and one that can be overruled or outweighed by a higher value where they seem to conflict.

One of these values which might be, and on libertarian views usually is, prior to democracy is the institution of private property. It has been argued that private ownership of natural resources can contribute to environmental sustainability (see Dobson, 1998; see also Oksanen’s contribution to this volume). One line of thought on this focuses on John Locke’s classic defence of the legitimacy of property. Building forth on medieval (mainly Thomistic) arguments, Locke argued that one cannot just grab any previously unowned good from nature and use it at will. The act of grabbing (‘original acquisition’) is justified only if ‘enough and as good’ is left for others and if whatever is taken from nature is used for basic needs, subsistence or the greater good of the community, but never when it is taken to stock and rot (Locke, 1965). In a finite world, the ‘enough and as good’ proviso poses severe limits to the exploitation of nature, according to some even too severe. Hence, Robert Nozick (1974), for instance, amended Locke’s proviso: rather than demanding that enough and as good be left, we should allow original acquisition as long as others can be adequately compensated for being excluded from some resource X.

Unfortunately, the Lockean road to environmental sustainability is insecure. One objection to Nozick’s and similar amendments is that it begs the question of what exactly could count as adequate compensation, since some goods may be irreplaceable (Dobson, 1998). Additionally, no amendment to Locke’s conditions can protect natural resources against ‘pure’ waste: waste is only waste if people appreciate a resource and would prefer it not to be wasted. If no one but i is interested in X, i can take as much of X as he or she wants – neither proviso applies here.

Nature as a subject of justice

The idea that private property is an inviolable pre-social right is not widely shared; most modern liberals like Rawls, Barry and Ackerman defend private property as a social convention. Their primary interest lies in establishing how any distribution of goods, opportunities, liberties and rights (including that to private property) can be defended. On this perspective, democracy and social convention can only be overruled by (whatever follows from) the categorical liberal imperative of impartiality with regard to the plans of life of individuals. Among the many possible ways in which authors have tried to adapt these mainstream theories of distributive justice to the green agenda (most
recently Rowlands, 1998), two deserve special mention: the inclusion of parts of nature and of future generations as subjects of justice who have, up to now, been unjustly excluded from the community of justice (for more detailed discussions see Wissenburg, 1998, 1999).

Even if they only aim to include animals, the problem with proposals of this kind – usually presented in the format of a contract theory – is that part of the support for any impartial theory of justice must stem from the real-life reader; he or she must be convinced that impartiality oblige one to see animals as contracting partners. Yet it is highly questionable whether we can identify in this sense with a contract situation where we would have to put ourselves (or our impartial representatives) in the position of, say, the common house fly, and it is probably impossible to imagine an animal in our own position (cf. Wissenburg, 1993). What is even more troubling is that a construction of this sort seems to presuppose the conclusion, namely that animals have an interest in human justice. It may go too far to demand that to apply the term ‘justice’ to a human’s relation with another creature, the latter must stand in a reciprocal relation to others, as Brian Barry (1989b) once argued, or that it can communicate, as Bruce Ackerman (1980) suggested. It does not seem to be a necessary condition; we do not demand it of comatose humans either. Yet as long as humans can argue for the existence of relevant differences between themselves and animals, the status of animals as subjects cannot a priori be taken as part of our considered judgements.

Introducing future generations of humans in a contract setting or in any other way as subjects of justice seems less problematical at first sight. At least humans are humans: we do not have to imagine them or ourselves as basically alien beings. Yet the fact that future individuals by definition do not exist (yet) creates some mind-boggling problems.

For one, future generations do not need to exist; we can choose not to procreate any further. In this respect one could argue that future individuals and the interests they might have are the creation of present generations, hence in fact interests of present generations – making the introduction of future generations in a contract setting redundant.

Even assuming that future generations should be allowed to represent their own interests, and assuming that I am responsible for your offspring, it is not clear what exactly future generations can claim from us, that is what exact obligations we have towards them and which interests they may legitimately voice. It makes a difference for our obligations and for our choice of principles of justice whether we do or do not owe them more, rather than that we do not make their lives unbearable (cf. Narveson, 1973). Again, we cannot presume conclusions that may not be part of our considered judgements.

Further objections to ‘over-inclusion’, which I can only mention in passing here, are that we simply would not know how many of future humans there will or should be, nor to which degree we can be held accountable for the welfare of our most distant descendants, nor where their interests lie. Since their interests and plans are the product of a dialectic between the self and its environment, one might even argue that there is no sense in talking about the plans of life of future individuals. As long as neither they nor their environment exist, there simply are no plans of life.

**Mutual obligations**

If making future humans and non-humans subjects of justice seems a risky route to take, two alternatives are left. One is to argue that we have obligations to our direct descendants and that we can even hazard to guess where these obligations lie. Another is the more direct approach: the claim that impartial decision-makers would opt for an environmentally sustainable society, regardless of whom they represent.

It is the latter alternative in which Brian Barry (Barry, 1995) believes: in his view, the discovery that people actually do have (various and diverging) interests in (various and diverging interpretations of) a clean and healthy environment oblige us to take environmental interests into account. However, this solution lacks a reflective moment. If the current plans of life of currently existing people determine the outcome of the contract, and if the current shape of society influences these plans, then it is the shape of society – culture and structure – that dictates limits to the possible outcome of negotiations. The degree of greenness of such a society thus depends at least on existing preferences, at worst on the existing structure of society, but certainly not on what reasonable individuals freed from the bonds and prejudices of their specific society would presume that a just society should look like.

Hence, we are thrown back at the idea that we have ecological obligations to currently existing younger generations. The perhaps easiest method of greening liberalism follows this line of thought and builds forth on an idea introduced by John Rawls (1971): that we have an obligation to ‘save’ on behalf of future generations. On this new interpretation (Rawls, 1993), which is originally David Gauthier’s (1986), future generations can be introduced without making them subjects or including them in contractual negotiations, thus avoiding many of the
problems discussed above. Rawls now states that contracting parties in the original position (Rawls's version of a state of nature) will 'agree to a savings principle subject to the further condition that they must want all previous generations to have followed it' (Rawls, 1993, p. 274).

Rawls makes one important improvement on the orthodox understanding of justice between generations: they exist next to each other, not one after the other: 'society is a system of co-operation between generations over time' (Rawls, 1993, p. 274). It is this fact that makes an intergenerational savings principle mutually beneficial: regardless of whether one has or wants or likes children, the savings principle guarantees that no generation is made worse off relative to any previous generation, that is, relative to the circumstances in which each generation lives. It would be irrational to reject it, and thereby step out of society and lose the advantages of intergenerational cooperation. Moreover, defection destroys the basis of trust on which society is built. Others may act on or before in their cooperative venture, but they will have learned that no one can be trusted - a lesson that cannot be too healthy for the survival of society.

Note that the possible existence of as yet non-existent future generations is irrelevant to the Rawlsian argument. There is no way to protect them directly against ‘theives’ - stealing from them is easier than stealing candy from a baby. Instead, they are protected indirectly at any given moment by a principle that means to protect the interests of existing generations.

The beauty of this new interpretation of the savings principle is its simplicity: it is a simple combination of rationality and mutual advantage. This is not to say that there are no problems. For one (for others see Wissenburg, 1998), every change in the structure of a society, every move towards a more just society, is made by a first generation that will (ideally) judge its own performance in relation to what people in the original position would decide. If the latter cannot represent a situation which the former experience on a regular basis, a choice situation that will influence their well-being - then there may well be something wrong with the design of the original position.

The restraint principle

The last path to a greener liberalism which I want to discuss in this chapter again makes use of the concepts of duties and rights. However, it does not refer to any substantial rights that subjects of justice might have or any obligations we have: it requires a purely formal conception of rights.

At the basis of this greening strategy lies the observation that the effects of principles of justice, or more generally the effects of implementing liberal key values, can always in some way be represented as permissions and negations of permissions. In their most simple form, these permissions apply to one individual only, at one place and one moment in time, for one 'basic act', one distinct action (for more details see Wissenburg, 1998). On the basis of these 'molecules', formal rights can be designed: molecular rights referring to one person (me), one basic act (cutting down a tree to warm my house), one point in time and space alone (here and now), as well as complex rights to series of basic acts, wider areas or longer periods. And of course these rights can be of several types: permissions to do x, permissions to do not-x, liberties to choose to do x or not-x, duties to do x and not do not-x, and so on. Formal rights are composable (cf. Steiner, 1994): no single molecular right can be assigned twice, hence no complex right can ever contradict another. Ideally, moral systems and legal codes meet this condition - though of course nobody is perfect, including the legislator. Apart from more general advantages (Wissenburg, 1998, 1999), formal rights allow us to indicate first that, and secondly where, rights are limited as a matter of principle.

To start with the first bit: rights in the everyday sense of the word can be limited, given certain assumptions. First, rights, even 'natural' or 'divine' rights, do not fall from the skies. They have to be recognized, and recognition is the prerogative of human beings. Only those who can follow a law can give it, only those who can be moral can design criteria of morality. Next, we need to assume that there is always a material aspect to rights, so that rights become rights to goods, to material things. Without stone, we cannot create a sculpture; without a tongue, we cannot speak; without the right to use one's brain, even the right to freedom of thought becomes void.

Now goods can be individuated: they can be the subject of individual (or group or collective) rights. They can be acquired, sold, granted and taken away. There are very few physical objections to the acquisition or transfer of rights: I can take an apple from a tree as easily as I can give it to you, and I can give you the apple almost as easily as my labour, my thoughts or an arm. In short, ownership rights are physically alienable, and that raises the question of the moral justification for each particular right. We have, for instance, no reason to believe that
there can be ownership rights to everything, nor, more importantly, that an ownership right to x implies that one can do everything one likes with x, i.e. that ownership is an unconditional right, one with which no one may interfere: absolute sovereignty.

Since rights need to be recognized, claims to rights have to be defended. Many rights thus become conditional: no matter how scarce or abundant they may be, as long as they are alienable, claims to them can be compared, evaluated and ordered. Even in the absence of competing claims a claim need not become a right: that only one person applies for, say, a subsidy is not enough reason to give it; we also need a positive reason to recognize her claim as valid. Hence, arguments determine whether a particular attribution of rights is justified.

Principles for the attribution of rights can be of two kinds: one determines what is to be distributed, the other how. The first puts side-constraints on distribution, the second defines allocation aims. The latter are the kind of principles to which liberal theorists refer as 'principles of justice' in a strict sense. Both can offer ways towards an environmentally sane society. On the one hand, green interests can perhaps be satisfied more by one scheme for the allocation of resources than another, and liberalism may support such a scheme, but there is no reason to assume beforehand that either thesis is true. On the other hand, there can be side-constraints to the distribution of rights to natural resources that ensure, say, sustainability regardless of the way in which resources will be allocated, so that we can worry a little less about the environmental effects of liberal principles of justice.

It is the latter type of principle that generates what I have called the restraint principle, a principle that demands that conditional rights to (in a physical sense) scarce goods be distributed in such a way that they remain, within the limits of necessity, available for redistribution. This is done by excluding from any (individual's or collective's) set of rights to a good x, at least in principle, the right to destroy x:

No goods shall be destroyed unless unavoidable and unless they are replaced by perfectly identical goods; if that is physically impossible, they should be replaced by equivalent goods resembling the original as closely as possible; and if that is also impossible, a proper compensation should be provided.

Where does this principle come from? The attribution of rights is a matter of arguments. Because liberals have no yardstick for the ultimate truth or validity of principles, they have to accept, firstly, that any conditional right (any good) that can physically be withdrawn (alienated) can also be withdrawn morally should a stronger argument come along, and secondly, that a right to x is not a right to x-plus - a right to pluck apples is not a right to cut down trees.

The recognition of (formal) rights to each separate basic act (see above) requires, in principle, a separate argument. It is simply not true that an argument p that would convince us that I should have the freedom to type or not type 'e' next will convince us that I therefore also deserve the right to vote. An argument p may support rights to more than one basic act, but p does not support my right to do x₂ merely because it supports my right to do x₁. By the same token, and other things being equal, a valid argument for picking fruit from trees here and now justifies only those acts that are necessary to that purpose. It is not necessary to cut down the tree to get hold of the fruit, therefore a right to possess or take possession of the fruit does not entitle one to cut down the tree. Arguments in favour of a specific set of complex rights can only bring one so far and no further.

If an ownership right to x does not imply that one can do everything one likes with x, it becomes possible to say that there are specific molecular rights to x that simply cannot be granted. As a matter of fact, a case can be made for the thesis that there is at least one such right that can never be granted: the right to destroy the object of x, thus turning ownership rights into rights to use rather than (absolutely) possess x.

Conditional ownership depends on reasons, but reasons are as fallible as those who articulate them. The soundness of reasons may change over time or depending on the information we have. Others may turn out to have better claims to goods than I have - they merely have not yet made those claims, have not been able to do so or have not been heard. They may even be unaware of their own good reasons, as it takes time to grow up and develop or discover one's plan of life. A first-come or finders-keepers principle is not a warrant for justice - my claim may be prior in time without being prior in terms of urgency or need. In sum: whenever there is a choice between on the one hand destroying a good, depriving others of options, limiting their freedom and thus harming them, or on the other merely using it without limiting other people's options, we have a duty to choose the latter.

In theory then, no argument can justify that we destroy anything that could be used by anyone else for a better reason. Theory is often an impractical thing. Following a general duty not to destroy anything means starving or thirsting or freezing to death - whichever comes first. No environmentalist who values the lives of subjects (humans or
make a distinction between the more and less 'needed' (preferred) and an implicit distinction between need (preference) and the insignificant, defining a border between need and want is, or must be, essential for all liberal theories.

Conclusion

In the previous sections, I have tried to describe ways in which liberal philosophy can and actually does try to make room for the environment. None of these solutions was perfect, all typically require 'further research', yet two interesting conclusions can be drawn.

First, some of the proposals discussed can be combined to generate theoretically broader versions of green liberalism. This appears to be true, in particular, for the restraint principle. Note, for example, that the restraint principle protects more than humans only: it also incorporates non-human nature. Let us assume for a moment that animals are not subjects but mere objects, livestock. Now even a merely instrumentally valuable object can be irreplaceable. The restraint principle demands that, unless there is no way to avoid it, no rock, animal or plant should be destroyed, no species made extinct. There can hardly be more protection for 'natural objects' like animals. It also demands that if this is impossible, the most similar possible alternative should be made available: nature should be replaced by nature, not by concrete. Like the precautionary principle, it puts the onus of proof for the legitimacy of environmentally harmful acts on the bad guys. At this point, it can link up with green debates on animal rights, on the intrinsic value of nature and on the substitutability of natural capital, as well as strengthen attempts to introduce animals and other parts of nature in liberal theories as morally relevant entities.

The restraint principle can, furthermore, be incorporated in, or incorporate, an amended Lockean view on the legitimacy of property - and it can be combined with contractarian theories of justice. Being a logical implication of a formal understanding of rights, it would be rational for impartial contracting parties to accept it. It also offers a second elegant solution to a problem discussed in both liberal and green theory: that of justice between generations, particularly between existing and therefore morally relevant generations and non-existing and not necessarily relevant generations. It protects the interests of future generations implicitly by protecting those of present generations.

In short: a combination of the arguments discussed here can mend some of the shortcomings of each of the arguments separately: the
need to refer to absurd premises in order to reach desirable conclusions with regard to the protection of animals and the environment; the need to rely on the preferences of current individuals only; the dangers involved in a conservative attitude towards present institutions.

The second conclusion to be drawn is that, regardless of current political practices, liberalism as a political theory is not incompatible with green intentions and theories. At the very least, it is not a necessary or sufficient precondition of an unsustainable society - perhaps (see the Conclusion of this book) it is even more. Although it can never support one and only one theory of the good as the exclusive way to ecological salvation, its core values offer enough room for green rules and duties to take liberalism seriously as an environment in which notions of sustainability are likely to flourish. Whether they do depends not in the first instance on institutions but on individuals and their appreciation of the environment. Perhaps, then, critics of the past have misconstrued the problem: perhaps it is not so much a question of squaring liberalism with sustainability, but of discovering where liberals can find the moral courage to become greener liberals.

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Conclusion

John Barry, Marcel Wissenburg and Marius de Geus

The perspective

In the introduction to this volume, the editors argued that mainstream political theorists and philosophers had only just begun to recognize sustainability as a subject of debate. Up to now, most contributions to the debate originated in the circles of environmentalists or from the dialogue between environmentalists and green progressive thinkers. They generally assume consensus on the normative aspects of sustainability as well as the desirability of consensus. Contributions to the debate on sustainability from more traditional philosophical points of view are to a great extent lacking, though there is some evidence of this changing (O'Neill, 1996; Giddens, 1994; Taylor, 1989; Wissenburg, 1998).

In this volume, the assumption of a fundamental consensus on the normative implications of the concept of sustainability was challenged right from the start. The general focus was on the question whether liberal democracy, in particular in its liberal aspects, can tackle ecological problems. Starting from this angle, the pioneering question brought before the contributors was not to ask how society should be adapted to sustainability, but how the concept of sustainability could be interpreted in ways that respect liberal democratic values and institutions. Note that this approach does not rule out ways in which the greening of liberalism may require changes within liberal democratic theory and practice.

In this concluding chapter the results of the investigation will be surveyed: is liberal theory flexible enough to support sustainability? To what extent can liberal democratic institutions constitute a basis for solving environmental issues? In what ways, if any, is the liberal appreciation of nature compatible with a viable environment? And finally, which problems remained unsolved, and which new ones emerged?