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Pluralistic Casuistry, Animals, and the Environment

by

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ABSTRACT

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This thesis analyzes, modifies, and defends Baruch A. Brody’s theory of pluralistic casuistry as the best contemporary theory of animal and environmental ethics. In the course of reviewing lots of theories of animal and environmental ethics, two problems emerge: “inclusiveness” and “derivability.” Unlike the other theories, pluralistic casuistry resolves the two problems.

The argument begins by analyzing several cases that give evidence (intuitive case data) that moral theories should include in appropriate ways nonhuman animals, plants, and inorganic things. Next, important recent theories of three types are critically analyzed: (1) utilitarian theories (John Passmore, Peter Singer, and intrinsic-value utilitarianism); (2) deontological theories (Paul Taylor’s theory of respect for life, sentience deontology, Tom Regan’s theory of animal rights, and Holmes Rolston’s theory of duties based on intrinsic-value), and (3) virtue theories (Stephen R. L. Clark, J. Baird Callicott, and
Thomas E. Hill, Jr.). These theories fail in two ways: (a) they include too little or too much, or both (the “inclusiveness” problem); and (b) they fallaciously attempt to derive duties directly from values (the “derivability” problem).

When emended as proposed in the thesis, Brody’s theory of pluralistic casuistry resolves the inclusiveness and derivability problems. First, inclusiveness of nonhuman animals, plants, and inorganic things is achieved by casuistry’s five major moral appeals (consequences, rights, respect, virtues, and justice). As argued by W. D. Ross (1930) and Brody (1979, 1988, 1998), pluralism is necessary because no single principle or monistic standard coherently encompasses all of the legitimate moral cases and principles.

Pluralistic casuistry resolves the derivability problem by making explicit the empirical aspects of the case and by invoking one or more of the five major appeals. Ethics begins and ends with a case: the case’s moral problem, and the moral decision resolving the problem. When more than one appeal applies, a conflict results. Conflicts are resolved by a holistic moral judgment. In contrast to other theories, pluralistic casuistry explains conflicts and gives detailed guidance for resolving conflicts.
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Baruch A. Brody is due special thanks for reading and commenting on numerous tedious drafts of very long chapters. Within a few days of receiving chapters of a hundred or sometimes two hundred pages, he would carefully read them and respond with pointed, insightful, and clarifying suggestions. Of his many suggestions, especially helpful were his expectations that I identify, clarify, analyze, and defend the central argument. The reader should keep in mind that I am responsible for that argument, its defense, the critical analyses, and the emendations that I make to Brody’s theory. Any errors are mine, not Brody’s.

At the University of Chicago (MA 1984), I had the good fortune to study casuistry with Stephen E. Toulmin. For these experiences and conversations, I am grateful. Issues raised then are resolved, I think, in this thesis. As I argue in Chapter 5, Brody’s casuistry is the better theory.

During the summer of 1992, George Sher guided my efforts to understand and write a long paper on virtue ethics. Some of that paper—greatly improved—is in Chapter 4. Sher has the ability, which
often amazes me, to grasp the overall pattern of complex arguments and to ask penetratingly crucial questions. For his assistance, I am thankful.

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INTRODUCTION:

SUMMARY OF THE ARGUMENT

In my thesis, in the course of reviewing lots of theories of animal and environmental ethics, two problems emerge. My names for these two problems are “inclusiveness” and “derivability.” I argue that a normative theory of ethics would be a better theory, other things being equal, if it adequately resolves these two problems. My argument is not that those theories are completely mistaken, but rather that the theories would be better theories if they resolved the two problems in philosophically defensible and morally appropriate ways.

A summary of my argument follows below. First, I explain the two problems and why a proper moral theory should resolve them. Then, second, I argue that, unlike the other theories, pluralistic casuistry resolves the two problems.

Two Problems

In the thesis, I critically analyze lots of utilitarian, deontological, and virtue theories of animals and the environment. I argue that the
theories: (a) include too little or too much, or both; and (b) attempt fallaciously to derive duties directly from values.

Inclusiveness. I begin by giving an argument for inclusiveness, and then show how the other theories fail to be adequately inclusive. In Chapter 1, I present several cases of three types: nonhuman animals, plants, and inorganic things. These cases give evidence that moral considerations go beyond the moral considerations found in human relationships and dependencies. When jointly considered, the cases give evidence that moral theory should be expanded to include an appropriate place for nonhuman animals, plants, and inorganic things.

At issue with each case is the claim that it presents a normative moral intuition. Importantly, I am not claiming that these intuitive judgments are infallible, non-revisable, or indefeasible, but only that they provide some evidence—relevant moral data—for a re-examination of moral theories for their inclusiveness of nonhuman animals, plants, and inorganic things. Just as intuitions can sometimes be poorly formulated or mistaken, so too can moral theories. All other things being equal, a moral theory is a better theory when it includes in appropriate ways nonhuman animals, plants, and inorganic things.
Next, in Chapters 2, 3, and 4, I argue that important recent versions of utilitarianism, deontology, and virtue fail to be adequately inclusive for different reasons, but they all fail in two general ways. First, although they include nonhuman animals, most fail adequately to include plants and inorganic things. Second, the theories fail adequately to include individuals as individuals in two respects. The first respect is that some individual humans and some individual nonhuman animals have such morally significant internal attributes as self-awareness, rationality, and autonomy. My complaint here is against the nonrecognition of the significance of these internal moral traits by such theories as utilitarian animal egalitarianism (Peter Singer), deontological biotic egalitarianism (Paul Taylor), deontological intrinsic-value holism (Holmes Rolston, III), and community-based ecosystemic holism (J. Baird Callicott). Individuals with advanced mental functions, whether human or nonhuman, are of greater moral significance due to their potentials for self-awareness, rational choices, interpersonal relations, emotional appreciations, recognition of beauty, and desire to know the truth.

The second respect is that some particular individuals as individuals merit greater moral significance due to external factors.
Some individuals preserve and instantiate a rare or endangered genetic heritage. Even though genetically based, the traits are no less endemic to the individual. Even according to commonsense morality, the “sole survivor” of a family or clan is exempt from compulsory military duty, since this particular individual’s death would extinguish the labors, plans, and hopes of bygone generations. In addition, special relationships impose special duties and constraints upon the particular individuals in the relationships. Such relationships include, among others, care giving to pets and farm animals, managing private properties, and duties to one’s neighbors, friends, children, spouse, parents, and kin.

**Derivability.** The derivability problem is twofold. First, as H. A. Prichard argues (1912), duties cannot be directly inferred from values but rest on prior actions or commitments. And, second, although facts are value-laden, the claim requires sufficient empirical evidence.

Typically the three types of recent theories that I examine begin their arguments with a value premise and then directly infer a duty. The general pattern is:

| Value Premise: | Some thing “X” is good (instrumentally good, inherently good, intrinsically good, virtuously good, or the *Summum Bonum*). |
Consequent Duty: Therefore, thou shalt not use, or put at risk, or harm, or destroy “X”; or, restated positively, thou shalt conserve “X,” or preserve “X.”

My argument is that the duty cannot be inferred from the value premise in isolation from two logically necessary intermediate premises, a moral premise and an empirical premise:

*Moral Premise:* The good thing “X” is morally considerable; or, restated negatively, without sufficient moral justification, the good thing “X” ought not to be used, put at risk, harmed, or destroyed.

*Empirical Premise:* Sufficient nonmoral empirical justification for the goodness of “X” does in fact exist.

The theories typically presume one or the other premise, and sometimes both. The result is specious, questionable, poorly reasoned, and sometimes seriously mistaken moral judgments.

Why are the two premises omitted? The answer, I believe, is that the Value Premise(s) and the intermediate Moral Premise(s), when jointly considered, imply a plurality of moral appeals. Due to their respective monistic theoretical commitments, the theorists are unwilling to accept a plurality of moral appeals.
Pluralistic Casuistry

In Chapters 5 and 6, I argue that Baruch A. Brody’s (1979, 1988, 1998) theory of pluralistic casuistry answers these two problems. Pluralistic casuistry includes, in appropriate and adequate ways, nonhuman animals, plants, and inorganic things. And pluralistic casuistry does not commit the derivability fallacy.

**Inclusiveness.** Inclusiveness is achieved by means of multiple moral appeals. Casuistry’s five major moral appeals are a pluralism of basic moral principles from the three major types of contemporary moral theories.

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As argued by W. D. Ross (1930) and Brody, pluralism is necessary because no single principle or monistic standard has been proposed that coherently encompasses all of the legitimate moral cases and appeals.

Pluralistic casuistry’s five major moral appeals include the strengths, while avoiding the deficiencies of the other theories. Since
lots of case data support the principles of the other theories, the
theories are not totally wrong. Their major deficiency is that each of
the other theories when considered alone falls short of adequate
inclusiveness, since some important cases fall outside each of the
theories. When the other theories are considered collectively, their
joint scope is greatly increased. Since their joint inclusiveness is
matched by pluralistic casuistry's five major moral appeals, pluralistic
casuistry equals or exceeds their inclusiveness.

The five major moral appeals include in appropriate and adequate
ways plants and inorganic things, and individuals as individuals. Three
of casuistry's appeals—the appeals to consequences, virtues, and
justice—adequately include plants and inorganic things, especially
individual plants in rare or endangered species, exceptional geological
places, rare habitats, and ecosystemic wholes. Casuistry's two other
appeals—the appeals to rights and respect—include appropriate
consideration of individuals as individuals. In certain kinds of special
relationships, individual animals, plants, and inorganic things have
rights, and other individuals have correlative duties. The appeal to
respect is especially important for the appropriate inclusion of
individuals as individuals. As analyzed by Brody, respect is not a right.
Respect comes in degrees, and some individuals merit more respect than others. Consequently, the greater respect owed to persons constrains animal rights egalitarianism (Tom Regan), ecosystemic hegemony (Callicott), and hierarchical intrinsic-value holism (Rolston).

According to Brody’s holistic moral epistemology, casuistry develops inductively in three jointly interdependent steps: (a) case intuitions as data, (b) mid- and higher-level theory construction, and (c) confirmation or disconfirmation of (a) and (b). Intuitions are judgments about the goodness or badness of particular states of being, the rightness or wrongness of certain acts in particular cases, the virtuousness or viciousness of specific character traits, or the actual duty when multiple appeals conflict. Intuitive judgments are not about generalizations, rules, imperatives, and theories. Moreover, no claim is made of certainty at any level, since intuitive judgments are fallible and correctable.

Importantly, the confirmation-disconfirmation step requires obtaining additional case data, and then—as warranted by the additional data—correcting, deleting, or supplementing current generalizations and theory. Consequently, whenever sufficient case data show that current moral appeals are too narrow in scope, then
inclusiveness is assured by pluralistic casuistry’s openness to revision of current appeals and addition of one or more new appeals. But emendation is not a free-for-all. Like the natural sciences, pluralistic casuistry is open to revision only when new, additional, or reinterpreted case data are sufficient to warrant revision.

In contrast, the other theories are deductively top-heavy. When case-level dilemmas and conflicts occur, the others often impose their higher-level theoretical claims upon the cases. For example, Regan’s animal rights, Rolston’s holism, and Callicott’s “conceptual elements” are sometimes Procrustean beds for conscripting cases.

**Derivability.** When applied as Brody proposes, pluralistic casuistry resolves the derivability problem by making the two intermediate premises explicit. An explicit *Empirical Premise* is assured by the centrality of the particular case at issue. By beginning with actual cases, the empirical facts can be investigated and assessed. Pluralistic casuistry is case-driven. Ethics begins and ends with a case: the case’s moral problem, and the moral decision resolving the problem. Were it not for the empirical details of the case, identification of the relevant moral appeals and the adjudication of conflicts among them would be impossible. Unlike more abstract
theories, casuistry’s theoretical and practical aim is to resolve particular problems in actual cases.

The Moral Premise is one or more relevant moral appeals. By invoking one or more of the five major moral appeals, a duty can be explicitly premised to the empirical facts of the case, and then a case-specific nonfallacious judgment made. Due to the empirical complexity of actual cases, more than one appeal may legitimately apply in some cases. Sometimes but not always the different appeals entail conflicting actions (that is, conflicting Consequent Duties).

In cases of conflicting moral appeals, a judgment is required to decide which of the moral appeals is morally actual. Because they are judgments, case intuitions, appeals, and decisions are revisable by oneself, debatable by others, and sometimes arguably mistaken. One of the strengths of pluralistic casuistry is its capacity to explain and adjudicate conflicts.

In sum: case-data give evidence for expanding moral theory to include in appropriate ways nonhuman animals, plants, and inorganic things. From pluralistic casuistry's conceptual foundations, it is possible to incorporate the disparate concerns of animal and
environmental ethicists into casuistry's plurality of moral appeals, which are jointly inclusive and do not commit the derivability fallacy.
CHAPTER ONE

AN ARGUMENT FOR AN INTUITION

1.1 Introduction

The argument in this dissertation begins with the claim, or intuition, that at least some human interactions with the nonhuman natural environment are in some sense moral. If moral, then it follows, I will argue, that these interactions should have at least some place, albeit an appropriate one, in moral theory. Moreover, moral theories having this inclusive feature would be better theories, all things considered, than theories lacking this inclusiveness.

From this beginning intuition, or premise, the argument could be developed as a hypothetical argument; in other words, the premise could be assumed to be true, and then its implications for theory and practice examined. Or, alternatively, an argument could be given for the plausibility of the premise, and then the relationship of the premise to theory critically explored. Because claims and theories are interdependent, I prefer to adopt the second strategy. This strategy has the advantage of allowing both premise and theory to be revised, based on the ensuing analysis and argument.¹
In other words, the intuition is not assumed to be true. An argument is presented for its plausibility. In a sense similar to reasoning in science, the intuition is a premise, claim, hunch, or hypothesis, and the argument is an attempt to provide warrant for its plausibility. Also, as in science, both hypothesis and theory are subject to revision as warranted by subsequent evidence and argument.

In Section 1.2 below, I clarify the scope of the intuition. Then, in Section 1.3, I present the argument for its plausibility. Next, three objections are raised and responses given in Section 1.4. Finally, in Section 1.5, a brief conclusion ends the chapter.

1.2 The Intuition
The initial intuition is, in its simplest sense, the intuition that we cannot do anything we want to the environment—that our interactions with the natural environment are constrained by some kind of moral consideration. What is meant by ‘natural environment’ can be confusing since humans are clearly part of nature in its broadest meaning. Similarly, if the term ‘animals’ is interpreted broadly, it includes humans. At issue is not the claim that human interactions with other humans often involve moral considerations; this claim is not
controversial. Therefore, it is likely that the initial intuition concerns human interactions with the nonhuman natural world, which includes nonhuman animals, plants, and many kinds of inorganic things.

Can the moral sense of the interactions with the natural environment be made more precise? The precise sense, if any, in which these interactions are moral is surely part of what is at issue. To stipulate, at this time, the precise meaning of 'moral' would be to risk begging theoretical questions, perhaps by omitting some theoretical considerations while favoring others. For instance, if 'moral' were restricted to rationality or sentience, then plants and inorganic nature would be excluded. Consequently, at this early stage in the argument, the concept should remain broadly inclusive.

Nevertheless, the relevant sense of 'moral' can be specified at least in one respect. There is general agreement that the scope of morality includes at least some types of human interactions with other humans (for example, lying and murder), and also some types of human interactions with nonhuman things (such as stealing a material object owned by another). At issue for my project is whether the morality of human interactions with nonhuman things (such as the object stolen) is solely and necessarily dependent upon human relationships with those
nonhuman things (such as ownership). Admittedly, killing an animal, burning a forest, or vandalizing a cave owned by someone else would be within the scope of 'moral' as the term has been traditionally understood. Even though the agent responsible for an action may be a human individual, group, or agency, it is my claim that the moral duty is owed by the agent, not directly or indirectly to another human or humans or human agency, but rather is owed directly to the animal, plant, or inorganic entity as such. At issue in the initial intuition, then, is the implicit claim that the scope of morality includes considerations going beyond the moral considerations found in human relationships and dependencies, perhaps even considerations that are not in any sense human-dependent.

The intuition can now be stated as the following proposition (P):

P1.0 At least some human interactions with the nonhuman natural environment, which includes animals, plants, and many diverse inorganic things, present moral considerations that go beyond the moral considerations found in human relationships and dependencies.

In other words, at least some human dealings with the nonhuman natural world present genuine moral issues, moral issues that are not adequately covered by, or contained within, human-centered moral theories. This formulation attempts to articulate a moral intuition
common to many people, especially persons with sensitivity toward the natural world.

As formulated, the proposition is broad in scope and vague. If the formulation can be delimited without loss of content or meaning, then confusion and false starts may perhaps be avoided. Since P1.0 is a combination of three claims, it can be divided into its parts without altering its meaning or logic:

P1.1 At least some human interactions with nonhuman animals present moral considerations that go beyond the moral considerations found in human relationships and dependencies.

P1.2 At least some human interactions with plants present moral considerations that go beyond the moral considerations found in human relationships and dependencies.

P1.3 At least some human interactions with inorganic things present moral considerations that go beyond the moral considerations found in human relationships and dependencies.

Quite broad, these three sub-propositions have the advantages of being more precise but not being self-evident, while also remaining weak and hence relatively easy to render plausible. Moreover, they are explicitly nonanthropocentric in the sense that they are open to the possibility of the direct moral considerability of entities and
relationships, independent of human interests or preferences, proximate or remote.

Is Proposition 1.0 a conjunction or a disjunction of these three sub-claims? If a disjunction, then Proposition 1.0 is especially weak since it would be true if any one of the three disjunctive sub-propositions is true. The disjunctive interpretation of the intuition is mistaken, I think, because more is at issue in environmental ethics than merely animals (P1.1) or plants (P1.2) exclusive of inorganic nature (P1.3). Rather, the intuition is inclusive of animals, plants, and inorganic things—of animals in their environment, of plants in the natural inorganic world, and of inorganic things devoid of life forms. Consequently, Proposition 1.0 is a conjunction of Propositions 1.1, 1.2, and 1.3.

1.3 An Argument for the Intuition

Since Proposition 1.0 is a conjunction of Propositions 1.1, 1.2, and 1.3, its plausibility follows from the joint (collective or inclusive) plausibility of the three conjuncts. The plausibility of P1.0 will follow only if each of the sub-propositions is plausible.
My argument for Propositions 1.1, 1.2, and 1.3 consists, for each proposition, of a case (or cases). Logically, each case supports its respective sub-proposition. Each case involves an intuition that provides support for, or warrant for, the sub-proposition. My contention is that each case’s intuition makes the sub-proposition at least plausible by providing evidence or warrant for the sub-proposition. Having shown the plausibility of the three sub-propositions, it follows, then, that Proposition 1.0 is plausible since it is the conjunction of the three sub-propositions.

Although each case singly provides some warrant for the sub-proposition, I give for each sub-proposition more than one case. Three cases are cited for Proposition 1.1, and two cases each for Propositions 1.2 and 1.3. This is because, empirically in the natural world, a variety of distinct types of cases manifest the same intuition, thereby warranting the sub-proposition. For each distinctive type of case, several more cases of the same type could be cited but are not. The ones given have been selected because I believe that they are sufficient to show the plausibility of the sub-proposition. Later in the dissertation, additional cases are given.
For ease and brevity of language usage, I would like to stipulate the following terminological conventions, unless explicitly indicated otherwise. Admittedly, these stipulations are taxonomically crude, but they will be linguistically efficient. When more precision is needed, it can easily be supplied by less parsimonious terminology. As I will use it, the term ‘human(s)’ means “human animal(s).” And the term ‘animal(s)’ means “nonhuman animal(s).” By ‘nature,’ ‘wilderness,’ ‘environment,’ and related terms, I am not referring, unless explicitly indicated otherwise, to humanly engineered environments and artifacts, such as urban or rural landscaping, farmlands, pastures, tree plantations, gardens, parks, buildings, railroads, bridges, and so on. For example, a cave used as a dwelling would be natural, and a teepee would not. Moreover, as proposed by Holmes Rolston, III, sometimes it will be helpful to use the threefold distinction of ‘natural environment’ (or ‘wild nature,’ Rolston’s preferred term), ‘rural environment,’ and ‘urban environment” (1986, 40-46). Of these three environments, the rural and urban environments would not be natural in the sense I have stipulated, that is, the natural environment has been changed into the rural and urban environments.
A brief explanation of the structure of this section may be helpful to the reader. For each proposition, I present a case (or cases) as evidence for its plausibility. For each case, I present a summary description of the case and then a brief analysis of the morally relevant concerns emerging from the case. In the analysis subsection for each case, I discuss the intuition evident from the case and what makes the case different from the other cases.

Proposition 1.1: Animals

In nature, animals present at least three distinct concerns that are putatively moral: their pleasures and pains (sentience), the death (killing) of individual animals, and the extinction of an entire species. The three cases that follow concern, respectively, each of these distinctions.

Case: Cartesian Vivisection and Animal Pain

**Description:** In order to advance their knowledge of anatomy, Descartes and many physiologists of his day dissected living animals. The following is a seventeenth-century eyewitness account from the Jansenist seminary of Port-Royal:

They administered beatings to dogs with perfect indifference, and made fun of those who pitied the creatures as if they felt pain. They said the animals were clocks; that the cries they emitted when struck were only the noise of a little spring that had been touched, but that the whole body was without feeling.
They nailed the poor animals up on boards by their four paws to vivisect them and see the circulation of the blood which was a great subject of conversation. (Quoted in Singer 1990, 201-2)

**Analysis:** Intuitively, pain is of moral significance, whoever experiences it and independent of whether it is experienced by a human. Pain is a moral concern; it counts morally; it is morally considerable. Pain is a moral consideration that goes beyond human relationships and dependencies.

This intuition, however, does not necessarily imply that animal pain is equal to or as significant as human pain. For many persons, equating animal pain to human pain is strongly counterintuitive. At this point, the relative moral significance of human and animal pain remains an open question.

The intuition that animal pain is morally significant can be supported by an argument from impartiality. Because morality is impartial, it follows that pain counts, regardless of whose pain it is, including the pain of nonhuman animals.

Two objections to this argument from impartiality are possible. First, like Descartes, one could hold that animals do not experience pain at all. This objection is refuted by animal neurology, physiology, and psychology. Moreover, the Cartesian dualistic metaphysic is widely
rejected today; most people no longer believe that nonhuman animals are nonsentient machines.

Second, one might object that pain is morally significant only when it is human pain. This objection directly contradicts the intuition and, unless supported by argument, is merely a question-begging counter-assertion. Reasons against this objection are the impartiality of morality and the overwhelming scientific evidence that animals do in fact experience pain. Remaining an open question is the relative moral significance of human and animal pain.

Some animal rights advocates, notably Peter Singer, have defended the equality of animal and human pain. Singer argues, from a consequentialist point of view, that equal pains should be treated equally, whether had by humans or animals (see Singer 1990, Chap. 1, and my Section 2.32 below).

A full discussion of animal equality will be given in later chapters. At this point, allow me merely to outline some of the issues and argument. A major factor is the moral assessment of the qualitative richness and comparative superiority of human experience, especially human mental experience and culture. A similar contrast exists, for instance, between the experiences of mammals and insects.
Part of the problem is also conceptual. Equality is often confused with impartiality. There is general agreement that morality must be impartial, but the nature and scope of equality are controversial. Many inequalities are due to such relative and real differences between individuals as physical traits, intelligence, available material resources, social status and opportunities, aptitude, good or bad luck, and so on. For example, humans arguably have equal rights to educational opportunities. Such a right for animals would be absurd since they lack the capacity to read, write, do arithmetic, and so on. Nevertheless, the relative and real differences between individuals do not override or negate impartiality. For instance, different animals (including humans) have diverse dietary needs. Humans eat bread; horses eat grass. An impartial agent with adequate resources would give bread to humans and grass to horses, not equal amounts to both.

*Case: Killing a Pet—The High Cost of Kennel Care*

**Description:** Because he has been feeling lonely, Jeff, a single adult in college, goes to the dog pound and selects a puppy, a cute female mixed-breed with features like a golden retriever. He pays the pound fees and has the puppy sterilized. Jeff names the puppy Flo, and she quickly learns to respond to the name. Over the next several months, Jeff plays with Flo and teaches her a variety of tricks, including how to retrieve toys and fetch a newspaper. Impressed with Flo’s intelligence, Jeff goes with her to a canine obedience training school. They are often seen together. When Jeff goes walking,
jogging, or biking, Flo is usually at his side. Then, Jeff decides to spend a year at his university’s center in London. No friends, acquaintances, or family members want to take care of Flo. Jeff runs an advertisement in the campus and local newspapers, but no one responds. He cannot afford to pay a kennel fee ($8.00 per day; $40.00 per week) for the year. He proposes taking Flo back to the dog pound to have her euthanized.

Analysis: The basic intuition here is that killing Flo is of moral significance, even if painless. Not only is animal pain morally significant, but killing an animal, even painlessly, is also morally significant. This does not imply that killing an animal, or even several animals, is as significant as killing a human being. Nor does it imply that killing an animal cannot be justified in some—perhaps many—circumstances. Rather, the intuition is that the life of the animal has moral value—that the killing requires justification. Morally, we cannot kill animals wantonly for no reason at all or for any reason whatsoever.

Admittedly, the intuitive wrong in this case may not be the killing alone, but rather the killing in combination with commitments made by Jeff to Flo, even though these commitments may be tacit or unanticipated by Jeff and incomprehensible to Flo. For instance, if Flo were to become seriously diseased or feral, Jeff’s responsibilities would be significantly different. Yet, even in these different
circumstances, Flo's status as a sentient creature would require that the killing be justified. My point is this: It is not Jeff's commitments alone that make the killing wrong. Rather, the killing is wrong in this particular case *jointly* because of Flo's status *and* Jeff's commitments.

Analogous to Jeff's commitments to Flo are a parent's commitments to an infant. When a first child is born, the parent's moral duties are often not fully consciously understood by the parent. Clearly, the parent's moral duties are incomprehensible to the infant. Nevertheless, the infant has at least some moral status. Moreover, the parent's duties are not solely dependent upon the infant's moral status. The moral duties owed by the parent to the infant are *jointly* a result of the parent's decisions *and* the infant's status. Similarly, because Jeff has voluntarily committed himself to a relationship with Flo and because Flo is the kind of creature that she is, Jeff has responsibilities to Flo, responsibilities that will likely include unforeseen and even unpleasant eventualities.

Importantly, despite the moral significance of Jeff's commitment to Flo, Flo's moral status does not solely depend upon the relationship with Jeff. If the moral status of animals were solely dependent upon
their relationship with humans, then killing any animal would be morally permissible, all other things being equal, whenever the animal’s relationship with humans was discontinued, even if deliberately discontinued by human agency. If the moral status of animals were solely derivative from their relationship with humans, then killing any animal would be morally permissible for such reasons as human boredom, aesthetic dissatisfaction, convenience, annoyance, or even sadistic pleasure. The intuition regarding Flo is that the continuation of her life has at least some moral value, independent of her relationship to Jeff. This valuing is not because, in addition to Jeff, she would make a good pet for some other human. Nor is the intuition produced by the fear that, by killing her, Jeff or other humans will be less compassionate and more likely to kill again. Rather, the intuition is that Flo’s life in itself has at least some moral significance. Killing an animal involves moral considerations that go beyond the moral considerations found in the animal’s relationships and dependencies with humans.

In addition to its intuitive importance, this case also raises several moral questions that cannot be addressed without going beyond intuitions and appealing to broader moral generalizations and
theory. Jeff's human interests are in conflict with Flo's nonhuman, animal interests. He has made reasonable but unsuccessful efforts to find a caregiver for Flo. At issue here is whether animals like Flo have interests at all, and if so, whether their interests count morally. Since Flo lacks language and likely also self-consciousness, she may not have any actual interests—she may be more like a Cartesian machine than a human person. Is Flo sufficiently rational to constrain the kind of treatment that Jeff proposes? If she lacks sufficient mental capacities, then her death may not be morally significant independent of her attachments to humans, even though her pain would still be morally significant. Is death a loss—a harm—to Flo? Are nonhuman animals the kind of beings who can experience such a harm? If not, then euthanasia would be permissible and likely would not need to be justified at all. Jeff would be able to do whatever he wishes without regard for Flo or her interests.

Even though Flo is not capable of entering into explicit contracts, Jeff's relationship with her at least implicitly implies duties of fidelity to her by Jeff. He should provide for basic needs and comfort, including food, shelter, and perhaps medical (veterinary) care. But Jeff is also a student and has a duty to himself to develop his own
talents and to prepare for his future life. Does his duty to himself override his duty of fidelity to Flo? If Flo is the kind of being whose death would be a harm to her, then euthanizing Flo would be a harm prohibited *prima facie* by nonmaleficence.

From a consequentialist point of view, one could argue that Jeff increased the net utility by adopting Flo, an action that was charitable and not required. A painless death for Flo would not negate the positive utility already gained in the past. In addition, when Jeff returns from Europe, he could adopt another pet, thereby again increasing the net utility. Unless Flo is the kind of being who has a nonconsequentialist right not to be killed, then Jeff’s proposal would not be morally prohibited.

Traditional consequentialist and nonconsequentialist moral theory does not seem to prohibit Jeff’s proposal, which nevertheless seems to have some moral constraint against it. Intuitively, or perhaps I should say, according to my moral intuitions, Flo’s life and her interests are morally significant, directly and not merely indirectly as Jeff or other humans are affected by the action.
Case: The Passenger Pigeon—The Extinction of an Animal Species

Description: “This species became extinct through the avarice and thoughtlessness of man.” So reads the inscription on the monument to the passenger pigeon (Ectopistes migratorius) in Wyalusing State Park, Wisconsin. While on the Ohio River in the early 1800s, John James Audubon estimated that over a billion birds were in a flock taking several days to pass. Billions of these birds inhabited North America, and migrating flocks would darken the sky for days. One white egg was laid annually in a flimsy twig nest, and a tree could contain as many as 100 nests. Resembling the mourning dove, the passenger pigeon was bigger (13 inches), with a longer tail, blue-gray head, and pink-like body. Natural predators were hawks, owls, weasels, skunks, and tree-climbing snakes. The pigeon did little damage to crops, occasionally foraging in newly planted grain fields. They were widely consumed for food. In the mid-1800s passenger pigeons were slaughtered by the millions and shipped by rail to eastern markets. Pigeon shooting contests were held, much like today’s fishing tournaments. By 1870, the decline of the species was widely recognized. The last individual died on 1 September 1914 in the Cincinnati Zoo.³

Analysis: In contrast to the previous cases, this case involves the loss of an entire animal species. Although the extinction of a species results from the cumulative deaths of all the individuals within the species, it is not the deaths of the individuals as such that is intuitively wrong in this case; rather, it is the irrecoverable loss of the species as a form of life that is of moral concern. Intuitively, it is the loss of a form of life—of an entire species—that is of moral concern. All other things being equal and in the absence of a sufficient conflict, the world would be a better place—more diverse, intense,
complex—with the species than without it. Although often a species is ecosystemically interconnected with and necessary for the survival and flourishing of other species, it is not merely the impact of the extinction upon other species and the ecosystem that is of moral concern. Rather, it is the species in itself as a form of life that has moral value. Species extinction raises a real moral issue, independent of the relationship of the species to other organisms, including humans.

Why is the loss of an animal species significant? Even if the individuals within a species are not of much ecosystemic or instrumental value, the species as a form of life has irreplaceable metaphysical value. Human artifacts can be reproduced. Even rare masterpieces of art have the possibility of duplication. But the genetic material of a species, once gone, is gone forever. Perhaps someday science will be able to replicate genetic material and thereby re-create species from known or preserved genetic information. Until that time arrives, however, species are irreplaceable and unrecoverable forms of reality.

In contrast to the previous case, which involved the painless killing of a pet, the present case involves the killing of wild animals. In
contrast to domestic animals, wild individuals would continue to live out their natural lives if humans did not kill them. This is not to say that killing a wild animal can never be justified, including sometimes for food and sport. But the moral concern here goes beyond the animal’s instrumental value for food and sport for humans. According to the moral intuitions of some people, the unnecessary killing of any individual animal is wrong; that is, we have a general *prima facie* obligation not to kill. This obligation is surely a very weak one and easily overridden, because just about any conflict or reason would justify killing some types of wild individuals, especially insects and other invertebrates. Nevertheless, the intuition is that we ought not to interfere in the lives of wild animals, unless we have a sufficient reason.

Intuitively, the extinction of an animal species is of greater moral concern than the death of any individual animal within the species and perhaps of any animal whatsoever. This is not to say, at least not without additional and compelling argument, that the death of any individual *human* is morally preferable to the extinction of any species. Nor is this to say that we have a duty to preserve every species, because sometimes species naturally go extinct through no fault of
any human agent and without possibility of human intervention. In addition, this intuition does not imply that the avoidable loss of a species can *never* be justified. Rather, the intuition is that, in the absence of a sufficient conflict, we have a *prima facie* moral obligation to prevent extinctions due to the irreplaceability of a species as a form of life. At least a sufficient reason is needed, and the obligation cannot be explained adequately as a duty owed to humans.

**Proposition 1.2: Plants**

In nature, plants present at least two distinct concerns that are putatively moral: the death or destruction of some types of individual plants, and the extinction of an entire plant species. The following two cases concern these two distinctions.

*Case: Cutting Down a Redwood—The Value of an Individual Plant*

**Description:** Thomas E. Hill, Jr., states that even “apolitical observers” have “some degree of moral discomfort” with the following: “... a recent governor [of California] defended the leveling of ancient redwood groves, reportedly saying, ‘If you have seen one redwood, you have seen them all’” (Hill 1983, 211).

Two species of redwoods are left on the planet, *Sequoia gigantea* (Big Tree) and *Sequoia sempervirens* (Ever-living Tree). Both are in California. The Big Tree is found in isolated groves in the southern Sierra Nevada, and the other in a narrow strip along the coast. Both species have been on the planet since before the age of the dinosaurs. Individuals of the Big Tree species have a maximum lifespan of 4,000
years; whereas, the maximum confirmed age of a coastal redwood is 2,200. The latter are called Ever-living because, even if the trunk is knocked over, the roots continue to live by sending up a new trunk. The tallest giants are 310 feet. The coastals are taller than the giants by an average of 50 feet. The coastal redwoods average 12 to 16 feet in diameter, and none has reached 23 feet. In contrast, hundreds of the Big Trees are over 25 feet across at the base, and the General Grant tree has a base diameter of 40.3 feet. The world’s largest living thing, the General Sherman tree, weighs about 6,200 tons, and one of its limbs is larger than most of the trees in the Rocky Mountains. The coastal redwoods, both as individuals and as a species, are the tallest living things on earth, the tallest individual measuring 367 feet and found along Redwood Creek.5

Analysis: This case concerns cutting down an individual redwood tree. Individual redwood trees are neither conscious nor sentient. Many of the moral concerns raised with animals do not apply to plants. Moreover, neither of the two species of redwoods is endangered. Nevertheless, in the absence of a sufficient reason, cutting down such a tree is intuitively wrong.

In this case, the intuition, I think, concerns only this particular type of individual and not even all redwoods. Because they are ancient or huge, these individuals elicit our respect, when younger or less majestic redwoods would not. Yet, if sufficiently like the old or giant redwoods, other individuals, even if from another species, would produce a similar intuition. For example, similar to these redwoods, another individual tree deserving our respect is the occasional fir or
spruce found at high elevations and latitudes. In appearance like a bonsai, these gnarled, twisted, and wind-scarred individuals have survived for decades, often over a century, against overwhelming odds in an extremely harsh environment. Intuitively, to cut down such a tree would be wrong, unless one has a sufficient reason.

Killing an old or majestic living entity for some frivolous human end, such as building rot-resistant picnic tables or backyard privacy fences, especially when other substitute materials are readily available, seems to me to be morally wrong. It is unjust or unfair—a denial of the dignity and respect rightly due to such an entity. Not any human end whatsoever will justify killing these individuals.

According to my intuition, the world is a better place—more awesome and more diverse—with each of these individual redwoods than without them, and therefore we have a _prima facie_ obligation to preserve each one, independent of human interests. Each tree is worthy of preservation independent of the others, and each one ought to be preserved even if no human ever sees it. Its value does not depend upon human experiences of it, nor upon its value as a resource to used by humans or other animals. This is not to say that the trees have an absolute right to life and cannot be sacrificed for a sufficient
reason. Rather, it is to say that our treatment of these individuals involves a genuine moral concern going beyond human interests alone.

In my judgment, the intuitive normative constraint against cutting down these types of individuals is moral. Other persons, however, may consider the normative nature of the intuition to be aesthetic, emotive, religious, or some combination of these. It is not obvious to me that the normative constraint is not moral, at least in part. At issue here is how conflicts of intuitions are to be resolved. Can reasonable, fully informed, and open-minded people disagree? I do not see how these conflicts of intuitions can be resolved, if they can be, only by appeal to intuitions and without appeal to moral theory.

Case: The Pasqueflower—The Value of a Plant Species

Description: Named for the Passover, the Pasqueflower (Anemone patens) is often the first wildflower to appear in early spring. The solitary blue to purple or white flower, about 2.5 inches in diameter, rises on a silky-hairy stalk, as tall as 16 inches, from a cluster of deeply basal and hairy leaves that are up to 3 inches in length. The flower's habitat is grasslands, and its range is from northwestern Canada to Michigan and then south to Texas.6

Analysis: Similar to the Passenger Pigeon case, the Pasqueflower raises the issue of species extinction. Unlike the Passenger Pigeon, this case involves a plant, an inanimate, nonsentient species. At issue is whether the continued existence of the
Pasqueflower, as a plant species and independent of human experiences, involves moral considerations. Moreover, in contrast to sentient animals and like individual Redwood trees, the individual Pasque plants are nonsentient, although they are alive. According to my intuitions, the world is a better place—richer and more diverse—with the Pasqueflower than without it, and therefore we have a *prima facie* obligation to preserve the species. As a form of life, the species has metaphysical value, a kind of value that may have some type of appropriate moral correlate.

My intuition is that the flower ought to be preserved even if no human ever sees one. The world is a better place with it than without it, independent of human interests. In the Foreword to *A Sand County Almanac*, Aldo Leopold wrote, "... the chance to find a pasque-flower is a right as inalienable as free speech" (1949, vii). This right to which Leopold appeals, if it is a right, would be a human right, the opportunity for people to experience the wonder, beauty, and pleasure of an entity in the natural world. In contrast, my intuition is that the flower's value does not depend upon human experiences, nor upon the value of species as a resource for human or other animals.
Proposition 1.3: Inorganic Things

Natural inorganic things present at least two distinct concerns that are allegedly moral: the value of individual inorganic things, and the value of collective groups of things, especially ecosystems. The following two cases involve these two distinctions.

Case: Cave Vandalism—Harming an Inorganic Entity

Description: On 22 May 1996, three men were convicted in Bowling Green, Kentucky, of vandalizing Crystal Cave, a cave within Mammoth Cave National Park in Kentucky. Two of the men received sentences of 21 months in federal prison, and one received 33 months. In lieu of incarceration, however, all three accepted three years of supervised release and performance of 500 or more hours of community service. They could have received sentences of 35 years in prison. After tunneling under an entrance gate, which is designed to allow access by cave-dwelling bats, the men entered the cave six times and removed 800 pounds of stalactites, gypsum crystals, travertine, and other formations, and then sold the formations for about $1,000. Although the prosecution estimated the damage to be $270,000, the cave is irreparable because each of the formations is unique and takes thousands of years to develop.7

Analysis: Compared to the previous cases, which involve living things, this case involves an inorganic entity, a cave. Similar to the redwood case, the intuition in this case concerns one particular type of entity. Like the giant or old redwoods, it is the special status of the entity that elicits the intuition. In addition, like the redwoods, all similar entities of this type would also produce the intuition.
Consequently, identifying and clarifying the essential moral traits of these types of entities—redwoods and caves—would be necessary for developing an explicit and thorough theory of environmental ethics.

Intuitively, it is wrong to deface or otherwise damage the cave. What traits of the cave provoke this intuition? It is a unique natural wonder—undisturbed and slowly formed over eons, beautiful, geologically isolated, and ecosystemically stable. The harm done to the cave seems to be more than a harm done to its potential value to humans, either as visitors enjoying the cave or as consumers of the minerals and raw materials in the cave. Moreover, the harm seems to be more than the actual or potential harm done to the bats, crickets, and other living beings inhabiting the cave. The harm seems to be a harm done to the cave itself—to its unique formations requiring thousands of undisturbed years to develop.

As with the plant cases, caves and other inorganic things are puzzling due to ambiguity regarding the normative nature of the intuition. The intuition, I believe, has a moral component, a component going beyond such human-dependent goods as utility, pleasurable emotions, and aesthetic appreciation. The cave would be valuable,
independent of humans and human ends, and even if no human ever knew it existed.

*Case: The Red River Gorge and the Mountain Parkway—The Integrity of an Ecosystem*

**Description:** Kentucky Governor Bert Combs set an agenda of developing modern, four-lane super highways into the mountains of eastern Kentucky, one of the most isolated and impoverished regions of the country. One such highway, the Mountain Parkway, was built in the 1960s through the middle of one of the earth’s rarest and most beautiful geological formations, the Red River Gorge. The Gorge is popularly called the Grand Canyon of the East. Erosion by wind and water over thousands of years created the multi-layered and multi-colored rock cliffs and towers, surrounded by the hardwood oak and hickory forests of the Appalachians. Even more rare are the rock arches, popularly called “bridges,” which were formed by wind and water opening holes through soft rock beneath harder overstories of rock. The most magnificent arch is the largest in the world and is called “Natural Bridge.” Today, the Mountain Parkway passes between Natural Bridge and the remainder of the Gorge. At the base of the giant bridge is a state park and state-operated tourist lodge. Although the Mountain Parkway brought economic benefits to southeastern Kentucky and tourism to the Gorge, it is a huge scar across the face of the Gorge.

**Analysis:** This case is similar to the cave case in that both involve inorganic things. Both also involve unique natural geological wonders. In contrast to the cave, the Red River Gorge is a vastly more diverse ecosystem. Wide varieties of species thrive in the varied terrain of the Gorge, from drought-resistant plants on the high rocky ridges to wet and shade-tolerant species in the valleys and hollows. As
an ecosystem, if the Gorge is to be preserved, it will be preserved best in its entirety due to the interconnectedness of the diverse plant and animal species. My intuition is that the system as a whole ought to be preserved. Importantly, this valuing of the whole system goes beyond the concerns of earlier cases for particular living individuals, species, and individual inorganic entities.

Like the earlier cases, the value of the Red River Gorge goes beyond its value merely as a human resource. The Mountain Parkway could have been built a few dozen miles away, admittedly at higher cost, thereby preserving the Gorge's holistic unity and integrity. Economic costs and benefits, including tourism, are relevant moral interests of the people of eastern Kentucky, a chronically impoverished region. Yet, the uniqueness of the ecosystem warrants some type of constraint on development. In addition, the constraint is not obviously owed only to humans, but rather results at least in part from the value of the ecosystem as such. The conflict is legitimate, and the intrusion into the ecosystem needs to be justified.

As with previous cases, at issue in this case is the normative nature of the intuition. According to my intuition, the normativity is moral, at least in part, and not merely emotive, aesthetic, or religious.
This intuition, like intuitions in previous cases, goes beyond the anthropocentrism of traditional moral theory. Consequently, the place of animals and the environment in traditional moral theory needs reexamination.

1.4 Responses to Three Objections

At this point, three objections might be raised. These are the Experiential Objection, the Aesthetic Objection, and the Question-Begging Objection. To each a response is given.

1.41 The Experiential Objection

Someone might object that, regarding a particular case, she does not experience the intuition. She might have no intuition at all; or, worse, she might not only fail to have the correct intuition but might have a much different one, perhaps even a contrary or contradictory one. For instance, upon seeing the Red River Gorge, her intuition might be, “What a great landfill this would make!”

In brief, my response to this objection is as follows. This objection may mean, “My intuition is as good as yours.” Namely, the objection is that the issue reduces to unwarranted or subjective
assertion and counter assertion, with allegedly no way to resolve the disagreement. If this is what is meant, then it is epistemically mistaken, because the disagreement is arguably not irresolvable. For my argument to go forward, only one case for each proposition needs to hold. Cases are data; they warrant the proposition; and, more cases make the claim epistemically (inductively) stronger. Moreover, the proposition may need to be revised in light of the case or additional cases, as with experimental generalizations in science. Nevertheless, only one case, even a weak one, provides some evidence for the proposition. I hope that I have given enough cases that at least one of them provides some evidence for the proposition. I could have given many more cases (and will in the following chapters). Why give several cases? This is because, similar to sense perception, individuals see better or worse in different circumstances. Regarding a particular case, a particular person may not be in a position to make the moral intuition because he may lack training, sensitivity, adequate discrimination, background information, and so on. He may also be theoretically, culturally, or circumstantially biased. Importantly, as I have already stated, I am not claiming infallibility, but only weakly that the case(s) provides some (appropriately qualified) evidence for the
proposition, and therefore the critical examination of moral theory can proceed straightforwardly rather than hypothetically. My claim here, I believe, is a modest one.

1.42 The Aesthetic Objection

The second objection came up earlier in some of the case analyses. Someone might have an intuition, but believe that the intuition is not moral but aesthetic. In particular, this objection could be raised regarding the Pasqueflower, the Vandalized Cave, and the Red River Gorge. Someone might see a Pasqueflower (or the Cave or the Gorge) and have the intuition that it ought to preserved and not damaged or destroyed, but the person believes that the obligation is due to the beauty of the flower (or Cave or Gorge).

This is a significant objection. It results, I believe, primarily from the complexity and diversity of normative obligations and constraints, which can be moral, aesthetic, religious, legal, logical, grammatical, and so on. Whenever a case involves, in addition to moral normativity, another kind (or several other kinds) of normativity, an objection similar to the aesthetic one can be raised for each kind of nonmoral normativity presented by the case. For instance, in contrast to the
aesthetic objection mentioned above, someone might hold that the Pasqueflower's normativity is religious due to the flower's annual appearance at *Passover*. Similarly, the Cave and Gorge might be revered as *holy* places, as natural cathedrals or temples where the divine presence can be experienced.

To answer this objection thoroughly, I would need to present a comprehensive theory of moral casuistry. Included in such a theory would be analyses of normativity, the kinds of normativity, the moral/nonmoral distinction, the relative prioritization of the various kinds of normativity, the relationship of intuitions to normativity, the relationship of intuitions to theory construction, and the relationship of all these to environmental ethics. Also needed would be responses to person-relative criticisms of morality and responses to criticisms of the role of theory in morality.⁸

At this point in my argument, I am not attempting to *prove* that the Pasqueflower, Cave, and Gorge cases are moral, but rather merely to show that the moral aspect of my intuitions about these cases is not implausible. A full argument would require analyzing and assessing moral theory, which is what I do in the following chapters. Admittedly,
the three cases could involve, in addition to aesthetic and moral normativity, other kinds of normativity.

In order to prove that the normativity is at least in part moral, I would need to adopt either or both of two strategies: (1) argue negatively by process of elimination that every relevant nonmoral normativity is inadequate for explaining each case, or (2) argue positively for moral normativity by presenting relevant mid- and higher-level theoretical reasons. For the time being, I adopt the first strategy. For brevity, and because a similar response would apply to the other kinds of normativity, my response now is only to the aesthetic aspect of the objection. Later, in Chapters 2-6, the second strategy for answering the objection—namely, theoretical justifications and responses—is adopted. Especially in Chapters 5 and 6, I respond to a wide variety of objections to casuistry, intuitions, and pluralism. My concern now is primarily that my initial argument be plausible in order that my project can get started in the following chapters.

For my argument to go forward, it is not necessary for me to show that the aesthetic intuition is mistaken. This is because, for some cases, both an aesthetic intuition and a moral intuition will be
correct (or, alternatively stated, the intuition will have both an aesthetic and a moral component). Aesthetic normative intuitions are correctly elicited by many environmental cases, including, I believe, the Pasqueflower, the Cave, and the Red River Gorge. Because I believe that, for these cases, the aesthetic component is at least in part correct, I do not want to dispute it. At issue with these cases is whether, in addition to aesthetic normativity, they also involve moral normativity. For my argument to go forward, I merely need to show that the moral normativity is not implausible. I will do this by arguing that, in these cases, the normativity is not exclusively aesthetic.

The kinds of reasons that can be given for preserving the Pasqueflower, the Cave, and Red River Gorge are not solely aesthetic. One such reason for their preservation is the vast time required for their development. The Pasqueflower, Cave, and Gorge took exceedingly long periods of time, respectively, to evolve, form, and erode. Beauty, in contrast, is not similarly time-dependent; that is, an object can be beautiful even if quickly produced.

Another feature of my cases is their rarity. Although many beautiful objects are rare, some beautiful objects are common and not rare. Rarity may enhance beauty, but rarity is not essential to beauty.
It seems to me, independent of beauty, rarity provides a reason for preservation, albeit a reason that can be overridden. Even if weak and easily overridden, rarity gives a reason for preservation—a reason that is independent of beauty.

Another contrast between my cases and aesthetic objects is found in the relationship of the parts to the whole. When my cases are compared to an aesthetic object, important differences occur in the overall, holistic effect produced by the arrangement of the parts. In a beautiful mosaic or painting, for instance, the effect of various detailed portions and parts may be incomprehensible or even ugly, while the effect of the whole is aesthetically pleasing; that is, the arrangement of the parts produces the holistic, aesthetic effect. A crucial difference occurs in each of my cases.

For the Pasqueflower, the holistic effect of the parts, in addition to beauty, is the production of a living entity. Life is arguably a moral consideration, not an aesthetic one, because life (that is, being alive) is not necessary for beauty and because living things can be aesthetically displeasing. Many nonliving things are beautiful; whereas, in contrast, many living things are not beautiful. Importantly for my argument, a living entity that is not beautiful can nonetheless have moral
significance. For example, an infant with extreme facial deformities but otherwise normal, even though not beautiful, would still be morally valuable. Similarly, thistles and slugs, even though not beautiful, could still be morally valuable.

Next, in regard to the Cave and the Red River Gorge, the holistic effect of their parts is ecosystemic and not exclusively aesthetic. Ecosystems ought to be preserved, I think, even when they are not aesthetically pleasing. Even if the Cave were not beautiful, it ought to be preserved; and, even if the Gorge were not beautiful, it ought to be preserved. Some factor other than or in addition to beauty accounts for the normativity.

Conceivably, in some possible circumstances, the Cave would not be aesthetically pleasing, for instance, if the air were fouled by bat droppings or noxious gases, or if a natural event, such as a flood, altered the formations. Caves are holistic ecosystems, and the ecosystemic value is not dependent upon beauty. Aesthetically displeasing caves provide habitat for plant and animal species, and sometimes for endangered ones like the Virginia Big Eared Bat. Ugly caves can be just as unique and rare as beautiful ones.
The Red River Gorge is often not beautiful. On a cold, dark, and misty-wet day in late autumn when the clouds hang low to the ground and the leaves have fallen, the Gorge is ugly and foreboding. Yet, this ugly time is essential to the ecosystem. Some flora and fauna thrive then, and the cold and wetness contribute to the gradual erosion of the formations. The change in seasons is essential to many organic and inorganic processes. Even traumatic events like fires and floods can be ecosystemically valuable.

An objector might respond that, like the Cave and Gorge, the beauty of a painting is affected by changes in lighting, and the beauty of a sculpture by weathering. Crucial differences, however, remain. The objector’s claim is that changes in lighting and weather enhance the beauty of the object; whereas, in contrast, I am asserting that the changes harm and may even destroy the beauty. For the Cave and the Gorge, the normativity survives the loss of the beauty. A closer analogy would be to tear the painting or to shatter the sculpture.

Again, an objector might respond that ecosystems are like paintings in that the beauty is holistic. The beauty is due, for instance, to the balance and interconnectedness of the diverse parts and processes. My response to this objection is threefold. First, some
ecosystems, such as some caves, are not holistically beautiful. Nevertheless, my intuition is that they ought to be preserved. Second, the objection is question-begging if it means that ecosystems are *ipso facto* beautiful (namely, that all systems, by the fact that they are systems, are beautiful). The question is being begged if it is a denial of the possibility that any ecosystem could be aesthetically displeasing. Finally, my claim in regard to my three cases does not deny their beauty. Rather, my claim is that the normativity is richer or deeper than beauty.

My strategy has been to argue that the normative component in my three cases is not exclusively aesthetic. Along the way, I have also pointed out some cases and circumstances in which the normative component is clearly *not* aesthetic. Aesthetically disgusting entities and places may elicit a normative environmental intuition—despite the ugliness. My examples were: ugly creatures, like slugs and thistles; and foul smelling or noxious places, like some caves. To these examples can be added: buzzards, tarantulas, horned toads, rotting carcasses, stagnant desert pools, noxious geothermal vents, and many, many more. Admittedly, one could dispute these examples; and, more radically, one could argue against the meaningfulness and coherence of
the concept of *natural* beauty. My strategy for now, however, has been the limited one of arguing that, in regard to the Pasqueflower, Cave, and Gorge cases, the normative component is plausibly moral because it is not exclusively aesthetic.

1.4.3 The Question-Begging Objection

I turn now to the third objection. The third objection follows from the first and second objections. It may be objected that I am able to make the allegedly *correct* and allegedly *moral* intuition because I already have a theory in mind, perhaps tacitly and unconsciously. In other words, I am begging the question.

My response to this objection is twofold. First, to exclude from morality these cases and intuitions without argument is to beg the question against me. The best way, I think, to avoid begging theoretical questions is to analyze theories and cases together. Recent philosophy of science has presented convincing arguments that theories and the evidence warranting those theories are interconnected. Data warrant theory; and, theory helps clarify, define, and identify data. These insights from philosophy of science apply to my project. In terms of my project, cases (or moral intuitions about
cases) warrant theory, and theory in turn helps clarify and identify intuitions. Consequently, theory and cases need to be developed together. Theories and cases are warranted holistically, not separately; and throughout the process, both are revisable. Hence, the cases that I have given provide adequate reason for the straightforward critical examination of the place of animals and the environmental in moral theory.

Second, cases are surely not irrelevant to moral theory since morality is a practical matter. Theory should not disagree with our deepest moral intuitions. For example, the permissibility of killing an unwilling innocent person in order to achieve some end is surely a relevant consideration against utilitarianism, just as the impermissibility, even in extreme circumstances, of breaking a promise is a relevant consideration against Kantianism. My concern in this project is primarily normative and not metaethical. This is not to imply that metaethical topics, such as, the meaning, objectivity, and ultimate justifiability of morality, are totally irrelevant to my project. Rather, I have presented a reason to believe that the cases cited above have normative moral implications, namely, that it is morally important to ask whether it is wrong (a) to dissect living, unanaesthetized animals,
(b) to kill a pet to avoid kennel fees, (c) to destroy an entire animal species, and so on. After examining moral theory in the following chapters, implications for metaethics may emerge. If cases are data and warrant theory, then it seems likely to me that metaethical implications will emerge. However, these implications are not at this point my primary concern. My main focus is normative.

1.5 Conclusion

My strategy has been to argue straightforwardly, not hypothetically. My initial claim, or intuition, is that at least some human interactions with nonhuman animals, plants, and inorganic things present moral considerations that go beyond the moral considerations found in human relationships and dependencies. I have defended this claim by citing a number of cases. My conclusion is that these cases provide adequate reason to proceed to the critical examination of the place of animals and the environment in normative moral theory.

At issue with each of the cases is the claim that the case involves, at least in some sense, a normative moral intuition. Importantly, I am not claiming that the intuition is indefeasible or infallible or non-revisable, only that it provides some kind of
consideration relevant to the plausibility of the propositions in question—Propositions 1.1, 1.2, or 1.3. My overall argument is that the cases provide evidence (warrant or data) in support of each sub-proposition, and that the sub-propositions conjointly provide evidence for Proposition 1.0.

If this minimum is acknowledged, then my theoretical analysis and argument in this dissertation can proceed. In other words, if the initial intuition (Proposition 1.0) is not obviously false, that is, if it is at least plausible, then we can proceed to examine the interrelationship of the intuition to contemporary theories of morality.

My project proceeds as follows. In Chapters 2, 3, and 4, I present critical analyses and assessments of the three main theories in contemporary ethics (utilitarianism, deontology, and virtue), both in general as normative theories and in particular as they apply to animals and the environment. When applied to animals and the environment, I argue that the theories err in two significant ways: each of the theories considered singly is inadequate in scope, and each in its own way attempts to derive duties directly from values. Nevertheless, the theories are not completely mistaken. Despite their weaknesses,
the theories emphasize important aspects of morality that in some particular instances (cases) are determinative.

Next, in Chapters 5 and 6, I critically analyze pluralistic casuistry. My conclusion is that Baruch A. Brody’s theory of pluralistic casuistry (1988, 1998) is the best contemporary theory for animal and environmental ethics. In Chapter 5, in addition to Brody, I analyze and evaluate the other leading contemporary theory of casuistry, the paradigm-based theory of Albert R. Jonsen and Stephen A. Toulmin (1988). Brody’s theory is better, I argue, because of its clear case-based inductive theoretical foundations and practical methodology. Also, compared to the three main contemporary theories of ethics critically examined in Chapters 2, 3, and 4, Brody’s theory incorporates their strengths while avoiding their two major errors. Due its pluralism of moral appeals, Brody’s theory is adequately inclusive of nonhuman animals and the environment, and does not attempt to derive duties directly from values.

Based on case-data involving animals and the environment, Chapter 6 explains, modifies, and defends Brody’s five major moral appeals. Unlike the theories in Chapters 2, 3, and 4, the five major moral appeals, when jointly considered according to Brody’s theory and
my modifications, are adequately and appropriately inclusive of nonhuman animals, plants, and inorganic things. Consequently, pluralistic casuistry provides the best contemporary answer to the disparate concerns of animal and environmental ethicists.

Notes

1 Allow me to point out that the argument is not a transcendental argument in the Kantian sense because it does not postulate otherworldly metaphysical entities or beliefs.


4 Morally and scientifically interesting is the attempt to clone the extinct Tasmanian Tiger by the Evolutionary Biology Unit at the Australian Museum in Sydney. See the Australian Museum Website at http://www.amonline.net.au/thylacine/13.html.

5 Thomas E. Hill, Jr., “Ideals of Human Excellence and Preserving Natural Environments,” Environmental Ethics 5, no. 3 (Fall 1983): 211; and the Sierra Club, The Last Redwoods and the Parkland of Redwood Creek (San Francisco: Sierra Club, 1969), 53-54.


CHAPTER TWO

UTILITARIANISM, ANIMALS, AND THE ENVIRONMENT

2.1 Introduction

In this chapter, my aim is to analyze and assess utilitarian approaches to animals, plants, and inorganic things. Often utilitarianism is blamed for the environmental crisis. Among animal ethicists, Peter Singer is a utilitarian. Among prominent environmental ethicists, only John Passmore is unambiguously a utilitarian. A few others, notably Kristin Shrader-Frechette (1981, 21-23) and Tal Scriven (1997), have included at least some aspects of utilitarianism in their theories. Most environmental ethicists reject utilitarianism, alleging that the theory uses the environment instrumentally as a mere resource for human welfare. Utilitarianism is anthropocentric, they claim, when an environmental ethic should be ecocentric.

Despite the theory’s unpopularity among environmental ethicists, I argue that utilitarianism makes important contributions that need to be retained in any adequate moral theory regarding animals and the environment. Since it appeals only to the consequences of actions,
utilitarianism's main weakness is that it is too limited in scope, and as a result needs to be supplemented by additional theoretical appeals.

My organization needs some explanation. The next section (2.2) is a brief and general exposition of utilitarianism. This section contains nothing new and can be skipped by readers familiar with contemporary utilitarian theory. Awareness of this background information is important because it explains what I am looking for, both analytically and critically, in the philosophical approaches to animals and the environment.

Section 2.3 has critical analyses of three types of utilitarian theories of animals and the environment, theories distinguished by their different conceptions of the good: hedonism, preference satisfaction, and intrinsic value (also called intrinsic good, objective good, autonomous value, and, confusingly in my judgment, inherent value). The three theories are: Passmore's hedonistic act utilitarianism, Singer's preference-satisfaction rule utilitarianism, and an implicit theory of intrinsic-value utilitarianism found in some contemporary animal and environmental philosophers. My focus in Section 2.3 is on the extent to which these three theories are adequate moral theories for animals and the environment.
Section 2.4 presents two major objections to the three utilitarian theories. First, in different ways due to their different theories of the good, the three theories *include* too little or too much, or both. And, second, the theories attempt to be inclusive by fallaciously *deriving* duties directly from values. Throughout this thesis, I argue these two objections against traditional moral theories.

Despite these weaknesses, some features of utilitarianism need to be retained. These are briefly reviewed, along with the objections, in the conclusion, Section 2.5.

### 2.2 Some Relevant Background

Utilitarianism is a type of consequential theory. In consequential theories, the rightness or wrongness of an action is based on the consequences produced by the action. An adequate consequential theory needs to include at least two sub-theories: (a) a theory of the right, namely, a theory regarding what actions are right, wrong, or permissible; and (b) a theory of the good, namely, a theory concerning what consequences are good, bad, or indifferent. Utilitarian theories are distinguished from other consequential theories by two general features: individualism and impartiality. In the famous words of
Jeremy Bentham, "Each [is] to count for one and none for more than one" (quoted in Singer 1975, 5). Utilitarians have generally held that the kind of individual that counts is a human person, although many utilitarians, notably Bentham, John Stuart Mill, and Singer, count all sentient animals. By way of contrasting examples, two consequential theories that are not utilitarian are egoism and class-based aristocracy.

Both individualism and impartiality are at issue for my project. In what senses, if any, can the notion of a moral individual include nonhuman animals and environmental entities? Assuming some expanded notion is plausible, then also at issue is whether, or in what senses, impartiality would continue to apply universally to all of these diverse kinds of individuals.

Theories of utilitarianism can differ regarding both their theory of the right and their theory of the good. In this background summary, I am limiting my remarks to those versions relevant to my subsequent analysis. Relevant theories of the right are act and rule utilitarianism, and relevant theories of the good are hedonistic utilitarianism, preference utilitarianism, and intrinsic-value utilitarianism.
Act utilitarianism and rule utilitarianism are distinguished respectively by whether the calculus of consequences is to be applied to specific actions in particular situations, or to a general rule describing an action that is required, permitted, or prohibited in all similar situations. Following G. E. Moore (1912, Chaps. 1-2), the fundamental principle of act utilitarianism can be formulated as follows:

The right act is the act that produces at least as much good as any other action open to the agent.

Similarly, my formulation of the basic principle of rule utilitarianism is:

The right act is the act that conforms to a rule that, if followed by everyone in a similar situation, would produce at least as much good as any other rule open to the agents in these similar situations.

In both of these formulations, the theory of the good is left open. In other words, an act utilitarian could be a hedonistic act utilitarian, a preference act utilitarian, or an intrinsic-value act utilitarian; and a rule utilitarian could be a hedonistic rule utilitarian, a preference rule utilitarian, or an intrinsic-value rule utilitarian. Moore was a pluralistic intrinsic-value act utilitarian (1912, Chap. 7). This approach can be formulated as follows:

The right act is the act that produces at least as much intrinsic value as any other act open to the agent.
Similar formulas could easily be given for the other versions.

Both act and rule utilitarianism have been thoroughly criticized. Historically, rule utilitarianism was developed in response to criticisms of act utilitarianism. Since these criticisms are well known, I will not recite them here but will present them as relevant below.

Utilitarianism is amazingly capable of reformulation, so much so that even such nonconsequential, deontological elements as rights and equality can be added, producing what are often called “mixed” or “bi-level” theories. Exemplars are Stephen Toulmin (1950), Amartya Sen (1979), and R. M. Hare (1976, 1981).

Hare’s theory (1976, 1981) of bi-level preference utilitarianism has greatly influenced Singer. Hare holds that ordinary, day-to-day morality (Level 1) is based on preference rule utilitarianism since seldom is there time to deliberate regarding which action is best. However, the selection of the rules (Level 2) involves careful, unhurried deliberations about formulating the rules and assessing all relevant factors, no matter how bizarre or circumstantial. Consequently, for Hare and Singer, the greater the specificity of the rule, then the more likely it is that the rule applies only to one
particular case (often called a "hard" case), and the more like act utilitarianism Level 2 becomes.

Before turning to Passmore, brief comment is needed regarding the three theories of the good. Since hedonism, or happiness, was the theory of the good defended by Bentham, Mill, and Henry Sidgwick, hedonistic utilitarianism is often called "classical" utilitarianism. Although these utilitarians did not use the "rule" and "act" terminological distinction, they employed both notions in their arguments.

Hedonism has been criticized, correctly I think, for entailing either (a) an oversimplified, reductionistic notion of the good, namely, all goods are allegedly pleasure, when some goods are actually neither pleasure nor reducible to pleasure; or (b) a circular, all-inclusive conception of the good, namely, everything good is allegedly pleasure-producing and everything pleasure-producing is allegedly good, when some bad things are actually pleasurable and some pleasurable things are actually bad. In other words, either pleasure is defined too narrowly, excluding some obvious goods, or it is defined too broadly, including virtually everything. The upshot of these criticisms is that pleasure remains a good, but not the only good.
Moore believed in a plurality of intrinsic goods, including pleasure but also such things as knowledge, justice, beauty, love, and friendship. Issues, especially for environmental ethics, are whether intrinsic goods are known only by intuition and whether in order to be valuable they must be experienced consciously by minds like ours. Is the goodness a mental state, and, if so, subjective? Or, is the goodness outside our minds, and so in this sense objective?

A preference theory of the good avoids some of these problems but presents others. Preferences include desires, interests, sentiments, inclinations, and the like. Since preferences are mental states, the problem of extra-mental objectivity is resolved in favor of subjectivity. Hedonistic reductionism is avoided since pleasure is rarely one’s only preference and since preferences can range from the mundane to the sublime: namely, preferences can include pleasure, knowledge, love, and so on. But issues remain (see Brandt 1979, 1982), such as: How are preferences counted or weighted? Are all actual preferences (those actually in one’s head), including bad and pathological ones, equally considerable? Or, are only fully informed ones (those one would prefer, assuming full knowledge)? Or only objectively good ones (those one should want, because they are real,
true, or ideal)? Can preferences be morally justified, and does this matter? How important are self-consciousness, rationality, and autonomy? Do hardwired, instinctive preferences count? Do beings without self-awareness have interests? Preferences?

As I show below, utilitarian theoretical formulations and their problems reappear in animal and environmental ethics. We now turn to three theories, beginning with Passmore.

2.3 Three Theories

Passmore's theory is examined in Section 2.31. An Australian specializing in the history of philosophy, Passmore wrote *Man's Responsibility for Nature* (1974; 2nd ed. 1980), which is perhaps the earliest book-length treatment of environmental ethics by a philosopher. Passmore's theory and book are infamous among environmental philosophers and activists, unjustifiably so in my judgment. Soon after the book appeared, several articles critical of Passmore followed, and in turn, in several articles, he attempted to clarify and defend himself. Passmore's book and articles are important due to their impact, often in the form of negative reactions, upon subsequent environmental philosophy. Not only are Passmore's
arguments important due to their soundness, but Passmore's identification and formulation of the problems, including his choice of terminology, have been adopted by many in the subsequent debates.

Passmore's theory is a long-term, qualitative hedonistic utilitarianism in which animals and the environment are primarily resources to be used for humankind's net long-term good. The theory is usually referred to in the environmental ethics literature as the "resource" or "anthropocentric" approach, although Passmore's own label is "extended humanism" (1993, 481-83). According to most environmental activists and many environmental philosophers, the global pervasiveness of this Western ethic, which Passmore represents, has caused the current environmental crisis. Unless it is rejected, they warn, there is no hope for averting an environmental apocalypse within the next three or four generations.¹

Like the first theory, the second is also identified with an Australian philosopher and his book: Peter Singer's Animal Liberation (1975, 2nd ed. 1990). Singer's book is widely regarded as the "Bible" of the animal rights movement; for instance, the book has been given out free of charge by the controversial activist organization People for the Ethical Treatment of Animals (PETA), which was founded largely as
a result of the furor caused by Singer's book. Singer's basic position is that all suffering is bad and counts morally, including the suffering of nonhuman animals. Although often misinterpreted as hedonistic, Singer's approach is actually preference utilitarianism similar to that of his mentor at Oxford University, R. M. Hare. Singer and preference utilitarianism are the topics of Section 2.32.

The topic of Section 2.33 is a third utilitarian theory of animals and the environment. The distinctive feature of the third theory is its conception of the good as intrinsic value. What is clear is that this theory is a kind of utilitarianism in which a plurality of intrinsic objective goods is to be maximized. Though I've not been able to find an avowed representative of this approach, some animal and environmental ethicists defend intrinsic value in nature and may belong here, at least in part, as I contend below.

2.31 Passmore and Hedonistic Utilitarianism

My goal in this section is to examine Passmore in particular, but also hedonistic utilitarianism in general, for their merit as moral theories regarding animals and the environment. I do not attempt to be comprehensive in my analysis of either Passmore or hedonism, but
rather I attempt to identify those aspects, both critical and constructive, of relevance to my project.


Because the book’s methodology is complicated, the misinterpretations are understandable, I think. Passmore is a philosopher and historian of ideas. Especially in the book but also in the articles, he presents practical and philosophical solutions to contemporary environmental problems, and, at the same time, analyzes the solutions and problems in the light of history. History is important to contemporary problems, Passmore contends, in order to
understand why people behave as they do and to estimate the likelihood for change. Bad cultural traditions and attitudes—long dormant—have a way of awakening, especially during crises. If our ecological problems are to be solved, Passmore warns, lessons from the past, often learned slowly and painfully, must not be forgotten (1974, x).

In the book and articles, Passmore’s aim is to explain and assess the major and minor Western “traditions” or “attitudes” regarding humankind’s relationship with and responsibility for nature. This he does in the book primarily in the initial two chapters and the final chapter. The book’s other four chapters analyze four major “ecological problems”: pollution, conservation, preservation, and human over-population.

**Passmore’s Main Conclusions.** In the Preface to the Second Edition, in an effort to avoid further misunderstandings of his argument, Passmore emphasizes his four main conclusions by listing them:

(a) the present level of pollution ought to be reduced  
(b) resources ought to be conserved for the use of future generations  
(c) the rate of population growth ought to be reduced  
(d) not only animal species but areas of wilderness ought to be preserved. (1980, viii)
He asserts that his arguments establish the "soundness" of these four conclusions. Nevertheless, he seems to realize that many of his premises and supportive arguments are unacceptable to many environmentalists.

During the years since the publication of the first edition in 1974, many empirical aspects of Passmore's four "ecological problems" have changed, even sometimes becoming less problematic (as have, for example, air and water quality in Western Europe and most of North America). The world in general has acknowledged the environmental crisis and endorsed policies to ameliorate it. Despite the changes and improvements, Passmore's arguments are still relevant and his analyses insightful. Most helpful, I think, are his analyses of the moral components of the problems and of what it would mean to "solve" an ecological problem (1974, 43-44).

**Solving Ecological Problems.** According to Passmore, ecological problems are a subclass of social problems, and a social problem is any problem that society would be better off without. They are problematic, as well as controversial, because they involve a cost, either the cost of tolerating an undesirable state of affairs, such as pollution, or the cost of reducing or eliminating the phenomenon, such
as the extinction of species. Often some members of society will 
dispute or even deny the existence of the problem.

Ecological problems are also scientific problems because 
scientific knowledge is essential to explaining their origin and 
amelioration. Ecological problems will be solved, Passmore argues, by 
more and better science, not less, and by dispelling ignorance, not 
reverting to alarmist rhetoric, primitivism, or mysticism. This is not 
to say that science will not undergo a revolution. In order to solve 
environmental problems, science will need to augment its prevailing 
experimental methodology, which will always be indispensable, by 
becoming more interdisciplinary and less confined to laboratories. 
Many ecosystemic hypotheses can only be confirmed or refuted by 
research conducted in the field. Yet, despite its importance, scientific 
knowledge alone will not usually solve these problems because they are 
seldom purely or solely scientific problems. Often the scientific 
aspects of a social problem are fully known, but the problem still 
remains socially unresolved, as with alcoholism and crime, for instance 
(1974, 177).

Usually not possible is either totally eliminating a social problem 
or, alternatively, simply dismissing its significance. The “Utopian”
response is to reject any cost as unacceptable on the grounds that the problem should be totally eliminated; whereas, in contrast, the “Conservative” response is to dismiss the problem as a mere cost, as, for instance, merely the cost of doing business. Passmore concludes, “To solve an ecological problem, as to solve any sort of social problem, is to describe a satisfactory way of reducing the incidence or the severity of the phenomenon stigmatized as a problem” (1974, 44).

The relevance and importance of analytic moral philosophy to environmental problems can be seen in Passmore’s analysis of the pollution problem (1974, Chap. 3). What’s wrong with pollution is that it is aesthetically displeasing to the senses, harmful to human health, and harmful to wildlife, plants, and domestic animals. More scientific knowledge is needed about the causes, harmful effects, and lethal amounts of pollutants. Technological inventions are also needed to reduce the incidence of pollution and to provide alternative processes, machinery, and systems, such as alternative modes of private and public transportation. Yet, technological solutions are usually short-term since they typically produce pollution of another kind. Solving the problem also will involve a wide variety of economic, political, and administrative factors, such as, cost-benefit analysis, risk
assessment, limitations imposed by local, national, and international boundaries, and adjudicating conflicting interests, customs, and habits. Usually the problem will include such moral and metaphysical factors as: religio-metaphysical beliefs regarding nature and nature's utility for human ends; the morality of imposing risks on innocent others; assessing nonquantifiable or intangible benefits and costs, especially the beauty of the urban, rural, and wilderness landscapes; and endangering the health of domestic animals and wildlife.

Passmore evaluates two moral responses made by environmentalists to the pollution problem, accepting one and rejecting the other (1974, 54-57). The "conservative moral response," which Passmore defends, is that traditional moral principles and theories are adequate for addressing the problem. Alternatively, the "radical moral response" is that Western principles are not adequate and, as a consequence, "a new ethic" is needed (1974, 54-55). Passmore rejects the radical response, arguing that our inability to solve moral problems does not inhibit finding a solution to the pollution problem. According to traditional morality, endangering human health is wrong. Also, according to traditional morality, endangering wildlife and other animals is wrong, because they are resources for human welfare and
because the suffering of the animals, when unnecessary, is wrong. In the absence of a sufficient contrary reason, natural beauty should be protected from damaging pollution. This is because, again according to conventional morality, beauty is enjoyed by people. Except for a brief period during the nineteenth century when smoke stacks and pollution were welcomed as signs of prosperity, people throughout Western history have preferred the beauty of landscapes, of city and countryside harmoniously blended together, rather than the ugliness of urban decay or the stench of polluted air and waterways.

Similarly, regarding the other three problems—conservation, preservation, and over-population—Passmore argues against the need for a radical new ethic. As with pollution, moral theory is not the cause of these problems, nor is it impeding their solution. All four are exceedingly complicated, and morality is only one factor. Other factors include mistaken or inadequate scientific knowledge, and uncompromising or entrenched political interests and processes.

In what sense is morality relevant to solving these environmental problems? How could changes in moral theory possibly help resolve them? Passmore proposes that morality is a factor when moral beliefs or moral ambiguity are impeding the solution to the
environmental problem. As an example, he cites the importance of contraception to solving the over-population problem (1974, 54). Due to religio-metaphysical beliefs about the purpose of sexual intercourse, contraception remains morally controversial, so much so that its implementation as part of a solution would be considered immoral by many people. Passmore’s point is that the issue—whether contraception is moral or immoral—is part of the over-population problem. Consequently, solving the moral component would help solve the environmental problem.

**Passmore’s Extended Humanism.** Passmore’s utilitarian approach, like Mill’s, is a hedonism with higher, enlightened pleasures. In addition to “extended humanism,” Passmore defends what he calls “sensuality” and “sensuousness.” Although he does not acknowledge any debt to Aristotle’s theory of moderation, Passmore warns that sensuousness should be neither “sub-human” nor “super-human,” thereby implying that human sensuality should mediate between these extremes. While applauding humankind’s “sensuous delight” in “sights and smells, in sounds and tastes and touches” (1974, 189), he is concerned that sensuousness not be subhuman and impoverished. Also included in sensuousness are human art, architecture, literature,
countrysides, and townscapes, as well as the many delights of nature. Sensuality is impoverished, Passmore claims, when it is not kindled into “love, love with the responsibility and care it brings in its train” (1974, 189). The other extreme, the attempt to be super-human, is the “puritanical” and “ascetic” denial of sensuality. Passmore contends that “the enjoyment of sensual pleasures for their own sake” can be “right and proper” (1974, 188-89).

Passmore’s hedonism is also evidenced in his concern for animal suffering. A premise in his argument for “expanded humanism” is the moral significance of all suffering, including animal suffering. Although in some passages he says that animal suffering is merely a matter of human sentiment, in other places he says that what counts morally is the suffering itself. Yet, he contends that it is linguistically misleading to say that animals have “rights.” Animals have no rights, including no right not to be killed as long as the killing is humane; they are not members of the moral community. This is because animals are insufficiently rational and incapable of recognizing mutual or reciprocal interests and duties (1974, 111-12, 115-16).

In a difficult passage in “Attitudes to Nature,” an article written to correct misinterpretations of the book and reprinted in the second
edition, Passmore defends utilitarianism as an adequate theory for environmental ethics. He makes a caveat, but then in the next paragraphs removes it, arguing that “extension” is adequate. A long quotation is needed to show this. After denying that animals, plants, the biosphere, and other nonhuman natural entities are part of the moral community of rights, duties, responsibilities, and obligations, Passmore states:

To a not inconsiderable degree, it can be added, very familiar ethical principles are quite strong enough to justify action against ecological despoilers. We do not need the help of a ‘new ethics’ in order to justify our blaming those who make our rivers into sewers and our air unbreathable, who give birth to children in an over-populated world or—this is a little more disputable—who waste resources which posterity will need. Only where specifically human interests are not so obviously involved does the questions of a ‘new ethics’ so much as arise. Even the preservation of wild species and of wildernesses can largely be defended in a familiar utilitarian fashion. (1980, 216; repr. 1995, 140; emphasis added)

In other words, to establish the adequacy of traditional morality (that is, to refute the need for a “new ethics”), what is needed is some explanation of how nonsentient nature can be included within traditional utilitarian theory.

In subsequent paragraphs, Passmore argues that appropriate respect for nature is possible from within traditional utilitarian morality. Mainstream moral theory is inadequate only when it
presupposes a mistaken traditional theological doctrine—the Augustinian-Christian prejudice that all human dealings with nonhuman nature, except where human interests are involved, are not subject to any moral constraint because nature was created by God to be used by humans (but not to be enjoyed by humans, according to Augustine). Passmore points out that, freed of this bias, nature can be seen as independent of humans (and of God). Rather than contrived by God for human ends, the complex processes of nature can now be admired in themselves. Thus, nature becomes worthy of contemplation, sensuous enjoyment, and study. And, like art, property, or anything else likely to be useful, the objects of nature ought not to be destroyed without sufficient reason. Wanton destruction, by vandal or philistine, has long been condemned by conventional morality. Passmore states:

> Once we fully free ourselves from the Augustinian doctrine that nature exists only as something to be used, not enjoyed, the extension of such moral notions as vandalism and philistinism to man’s relationship with trees and landscapes will seem as obvious as the extension of the idea of cruelty of man’s relationships with animals. (1980, 217; repr. 1995, 141)

Effective environmental concern will result, Passmore concludes, when, and only when, humans learn to respect nature in its autonomy and complexity (1980, 216-17; repr. 1995, 140-41).
Not only does Passmore reject the need for a new ethic, but he is skeptical that revising moral theory will have much effect on human behavior. When environmentalists say a new ethic is essential to solving the ecological crisis, they make two questionable assumptions, according to Passmore: (a) that moral theory changes people's behavior, and (b) that there are such things as moral revolutions. Passmore declares that "... new modes of behaviour are much more important than new moral principles" (1974, 188).

On the same topic and in response to criticisms, Passmore attempts in the Preface to the Second Edition to clarify his views on the linkage between principles and actions. He argues that the link is "very tenuous." He states:

To understand why human beings behave as they do, we shall do better in very many cases to appeal by way of explanation to their ignorance, fear, vanity, greed, bigotry, their lust for power—and sometimes, fortunately to their generosity, affection, courage and creativity—than to the moral principles to which they officially subscribe. Not, of course, in every instance. It would be absurd to deny that moral and metaphysical principles ever have any effect on human conduct, if only to justify courses of action which might otherwise arouse qualms. But their effect is a great deal less than is sometimes suggested. (1980, x)

Passmore thinks that character traits—virtues sometimes and vices oftimes—are more indicative of behavior than avowed principles.
A new ethic is not needed, Passmore argues, because extended humanism is an adequately inclusive moral theory for animals and the environment. According to Passmore, the only needed revision to traditional Western morality has already occurred, namely, extending the prohibition against unnecessary suffering to include sentient animals. Traditionally, one ought not to injure the person or property of one’s neighbor. Greed, violence, and shortsightedness have been condemned in the past, and are condemned still, by conventional morality. Although extended humanism only recently has emerged from conventional morality, its “seeds” have a long history within the tradition—in Neoplatonists, Montaigne, Enlightenment skeptics and humanists, and even in some Christians by the end of the eighteenth century. An adequate ecological ethic can be found, Passmore concludes, within conventional Western morality (1974, 187-88).

To sum up: Passmore defends the importance of more science, not less. He rejects the call for a new ethic. By extension, he concludes that “familiar utilitarian” theory and the traditional hedonistic notions of suffering and “sensuousness” are adequately inclusive of animals and the environment. I turn now to Singer.
2.32 Singer and Preference Utilitarianism

Although well known for his animal ethic, Singer has written on a wide variety of other practical ethical issues, including the environment. In interaction with his critics, particularly R. G. Frey and Tom Regan, Singer developed and refined his theory of animal ethics. Recently, he has applied his theory to environmental ethics. Below, Singer’s animal ethic is analyzed first, and his environmental ethic second.

**Singer’s Animal Ethic.** Singer’s ethic has two central features: a preference satisfaction theory of the good and a rule utilitarian theory of the right. Both features are often misunderstood, especially by Singer’s activist followers. Due to the emphasis in *Animal Liberation* (1975) upon sentience and the sufferings of intensively farmed food animals, Singer is often mistaken to be a hedonistic utilitarian. He is a preference utilitarian. Also, because his practical writings seldom debate the theoretical issues separating act and rule utilitarians, and because these same writings often appeal to particular contemporary socio-cultural circumstances that are new or different from the past, he is often misthought to be an act utilitarian. He is a rule utilitarian. Like R. M. Hare (see 1981), Singer’s theory has two levels of ethical thinking: a lower, intuitive level of everyday, normal,
practical ethics, which is the level that is typically time-constrained, unreflective, and, therefore, rule-bound; and a second, higher level of leisurely, unconstrained, all-things-considered reasoning, which is the level where time is not limited by everyday expediencies, where theories and rules can be proposed, assessed, revised, and rejected, where empirical data can be gathered and evaluated, and where the “hard” cases—the atypical, complex, bizarre, hypothetical, or even wildly imaginative cases—can be thoroughly pondered (Singer 1993b, 92-93).

Like most utilitarians, Singer endorses individualism and impartiality. As a preference utilitarian, what counts ethically are the preferences, or conscious mental states, of individuals, including both the mental states of individual humans and the mental states of individual nonhuman animals. Further, these mental states are to be tabulated impartially, without regard to who has them or to what species they belong. In other words, equal preferences are equal, or in Singer’s oft quoted but misleading phrase, “All animals are equal” (1975, 1).

In Animal Liberation (especially Chaps. 1, 3, 4), Singer argues on utilitarian grounds that vegetarianism is obligatory because animals
are sentient and using them for food produces a net imbalance of pain over pleasure. The abuses of animals on factory farms are so great that the pain can never be compensated for by the culinary pleasures and nutritional conveniences derived from eating the animals. Such horrible lives are more a burden than a benefit to the animals.

This argument has been thoroughly criticized, especially by utilitarian R. G. Frey (1986, 355-60, 367-71; cf. Tom Regan 1983, 206-26). When all things are considered, including broad economic consequences, Frey thinks that Singer's empirical estimate of the net balance is dubious. At most, Singer's argument entails only that the methods of meat production be modified to make certain the animals are humanely raised and mercifully slaughtered, not that we ought to stop eating meat. Granted that pleasure and pain are morally valuable and that animals have these experiences, the most utility imposes upon us is to act so as to guarantee that the total balance of pleasure, including the pleasures the animals experience while alive and the pleasures we derive from eating them, equal or exceed the pains the animals endure. No prohibition against killing results, Frey concludes. Paradoxically for Singer, it seems reasonable that if the animals are
humanely raised and painlessly slaughtered, then we ought to eat more meat in order to maximize net pleasure.

**Why Preference Satisfaction?** Those criticisms apply to hedonism, Singer argues, but not to preference satisfaction. At issue between Singer and his critics, who include utilitarians and non-utilitarians, is the extent to which food animals have preferences beyond crude hedonistic pleasure satisfactions and pain dissatisfactions. Clearly, higher preferences presuppose greater subjective mental capacities.

Singer identifies and rejects the hedonistic "replaceability argument." As defended by classical hedonistic utilitarians, the argument attempts to justify killing individuals, even humans, by replacing them. Singer explains:

... classical utilitarianism makes lives replaceable. Killing is wrong if it deprives the world of a happy life, but this wrong can be righted if another equally happy life can be created without any extra cost. Classical utilitarianism has this consequence because it regards sentient beings as valuable only insofar as they make possible the existence of intrinsically valuable experiences like pleasure. (1986, 369)

When pleasure is the only thing that is good, then sentient beings, including humans, are little more than "receptacles" of pleasures and pains. "Receptacle" is an apt metaphor, for receptacles are assessed
by one criterion: net capacity for holding quantities of other things. As long as overall net utility is kept constant, painlessly killing (harvesting) one or more merely sentient receptacles can be justified by replacing each dead individual with a living one of like capacity. Painless killing and then replacing individuals would not upset net utility since the resulting pleasures and pains would be similar in quantity (and quality) (1986, 355-60, 367-71).

Frequently utilitarian and non-utilitarian animal ethicists use an overly simple hedonistic distinction between “moral agents” and “moral patients.” Moral agents are those beings who are morally responsible for their actions because the agents are, in addition to being sentient, sufficiently rational to understand the morality of their actions. In contrast, moral patients are those beings who are sentient but not sufficiently rational to be morally responsible for their actions, and who nevertheless are, when they are the recipients of the pleasurable or painful effects of others’ actions, the experiencers of moral goods and bads. In other words, a moral patient is a merely sentient being, or a merely conscious being, experiencing little more than pleasure and pain.
Classical hedonistic utilitarianism, Singer argues, treats both moral agents and moral patients as "mere receptacles" of pleasure and pain—as having no value independent of each individual's net pleasures and pains. In contrast, preference utilitarianism considers the ends to be achieved to be preferences, which include interests, wishes, and desires. Instead of weighing only pleasures and pains, preferences are weighed. The conscious satisfaction of a preference is good, and its non-satisfaction is bad. Because many nonhuman animals are rich enough in mental life to have preferences, their preferences must be considered in an adequate ethical theory (1986, 355-60, 367-71; 1993b, 90-92).

Instead of "moral agent," Singer prefers the term "person" due to its linguistic and philosophical history. Derived from the Latin persona, the name for the mask worn by ancient actors, the word in English came to mean "one who plays a role in life, one who is an agent." Philosophically, at least since John Locke, "person" has referred to a being with two crucial characteristics: rationality and self-consciousness. This is Singer's usage (1993b, 86-87).
Since persons are rational and self-conscious, a merely sentient, merely conscious being would not be a person. Persons have significantly richer mental lives than mere receptacles. Singer states:

According to preference utilitarianism, an action contrary to the preference of any being is, unless this preference is outweighed by stronger contrary preferences, wrong. Killing a person who prefers to continue living is therefore wrong, other things being equal. Unlike classical utilitarianism, preference utilitarianism makes killing a direct wrong done to the person killed, because it is an act contrary to his or her preferences. (1986, 358)

Because persons have preferences for the future, they cannot be treated as replaceable receptacles.

Singer next points out that many human beings—fetuses, embryos, infants, those with severe mental deficiencies—are not persons. Moreover, some nonhuman animals are persons, especially chimpanzees and likely other primates, as shown by the research of linguists and anthropologists like Jane Goodall. For clarity, Singer recommends two sets of terms: when referring to a biological human being, “member of the species Homo sapiens,” and when referring to a rational and self-conscious human being, “human person” (1993b, 86-87, 110-19).

When Singer says, “All animals are equal” (1975, 1; 1990, 1; cf. 1993b, 85-99), what he means is that equal preferences should be
treated equally, irrespective of the particular individual having the experience and regardless of that individual's membership in any particular species, including *homo sapiens*. To make this point, Singer adopts (and popularizes) the term “speciesism,” which was coined by the psychologist Richard Ryder (Singer 1975, 7, 25 n. 4). Analogous to racism and sexism, “speciesism” is arbitrarily discriminating against other (nonhuman) species and in favor of one's own (human) species. The good and bad experiences of animals count exactly the same as the same type of experiences in humans. A helpful example that Singer discusses is slapping a baby and slapping a horse. Since the horse’s skin is thicker and less sensitive, slapping the baby is worse. But at some point of severity, perhaps when hitting the horse with a stick, the pain to the horse would be “the same amount” and “equally wrong” (1990, 15).

The problem for hedonists is killing. Prohibiting the killing of non-persons, including humans who are non-persons, is difficult for utilitarian theories, but especially for hedonistic utilitarianism. The problem is rooted in the obvious fact that no conscious states occur after death. A food animal would not have existed, and so would not have had any pleasures at all, if it were not to be killed—and killed in its
prime; nor would fur animals and many sport animals. Consequently, in
the hedonistic calculus, the future pleasures and pains of particular
individuals either do not count at all or are easily overridden by others’
pleasures and pains. Killing is easily justified, perhaps even required,
especially when the killing is painless and usage of the animal’s body is
likely to produce pleasure, or when the animal’s future experiences are
likely to be, on balance, more painful than pleasurable, as are those of
an aging pet.

Preference utilitarianism answers the problem of killing, Singer
argues. Like normal human children and adults, but not like fetuses,
young infants, and severely and permanently demented humans, many
animals are intelligent enough to have preferences for the future.
Since the non-fulfillment of preferences is bad, killing is more difficult
to justify in preference utilitarianism than it is in hedonistic
utilitarianism. Hence, Singer holds that killing would not normally be
permissible for beings with preferences for the future (1993b, Chap.
4, especially 94-109).

Why Rule Utilitarianism? Tom Regan has persistently argued
against Singer that killing, including even the killing of human persons,
would still be justified in those cases where the future bad
consequences would exceed the future preference satisfactions. In *The Case for Animal Rights* (1983), Regan contends that Singer's value theory is deficient because individuals in themselves are not morally valuable: they remain mere receptacles of valuable mental states.

Like Singer, Regan permits trading off valuable mental states. But unlike Singer, Regan considers individuals to have what he calls “inherent value,” the kind of value that entails a right to life—a right not to be killed, or, minimally, to be “let alone.” Inherent value, Regan proposes, is a nonconsequential moral concept, and as such is incommensurable with such consequential concepts as hedonistic pleasures, preference satisfactions, and intrinsic goods (1983, 205-26, 235). What is needed, according to Regan, is a moral theory that will prohibit killing individual nonhuman animals (at least higher ones), and neither hedonistic nor preference utilitarianism does this (for more on Regan's theory, see Chap. 3, Section 3.43).

Regan's criticisms are answered, Singer argues, by Hare's bi-level rule utilitarianism (1986; 1993b, 83-109). Singer agrees that some types of killings are not prohibited by a preference theory of the good when it is combined with an act-utilitarian theory of the right. However, these killings are prohibited when preference satisfactions
are combined with a rule-utilitarian theory of the right. In the vast majority of cases, preference-satisfactions will be maximized when killing is prohibited. Therefore, a general rule prohibiting killing is warranted.

Like Hare, Singer holds that the proper place to consider unusual cases is Level 2. Since Regan's cases are unusual atypical cases, they are properly considered at the higher, reflective level, which is the level where the rules are evaluated and refined. Because Regan's cases are rare, they do not defeat the general rule against killing.

For two reasons, I will now argue, Singer's preference rule utilitarianism fails fully to resolve the problem of killing, despite imposing a more adequately rigorous and appropriately complex utility calculus. First, even future preferences can be outweighed and replaced by other preferences, including the preferences of other individuals. Killing is not prohibited: it is more difficult to justify, but certainly not impossible, not even killing rational and self-conscious beings (persons). For Singer, moral value is ultimately in mental states. Consequently, the individual beings possessing these states are treated as receptacles—as mere means to achieve the valuable mental states, including the mental states of others. Moral status for
Singer is not directly an attribute of any individual being; an individual's value is indirectly derived from, and dependent upon, the valued mental states.

In other words, according to Singer's theory, regardless of whether individual beings are persons or non-persons, individual lives in themselves are not valuable. Rather, lives are valuable due to the goods they make possible. Actions remain justifiably right or wrong based on overall consequences, which can be quantitatively weighed, qualitatively compared, and traded-off against one another. Therefore, even though killing is harder to justify, it can still be justified. Strong constraints against killing, as Regan correctly argues, require a nonconsequentialist theory.

Second, rules are problematic in two interrelated ways that are well-known to moral philosophers. On the one side, rules can be formulated very narrowly, with the result in praxis of applying to only a few cases, perhaps only one. A shrewd rule utilitarian could justify almost any action, even killing persons, by greater specificity of the rule. A rule utilitarian might reply that narrow rules are *ad hoc*. This reply begs the question. Another possible reply is that narrow rules are self-defeating because they are likely to be seldom and
inefficiently applied. Although relevant, this reply fails due to the other aspect of the problem.

On the other side, in contrast to narrow formulations, the rules can be broadly formulated, and thus easier to apply. When rules are broad, however, many actual cases are likely, due to particular, mitigating circumstances, to be either exceptions to the rule, or, if not exceptions, not clearly covered by the rule. Rule utilitarians need to provide guidelines (a specificatory theory) for determining what cases are covered or not covered by a rule.

**Singer’s Environmental Ethic.** Although an atheist and harshly critical of the negative status of animals in the Bible (see 1993b, 265-69), Singer recognizes that his environmental ethic is, like Passmore’s, an “extension” of the Judeo-Christian, human-centered morality of the West. In the chapter on the environment in *Practical Ethics* (2nd ed., 1993), Singer begins by presenting a case: a proposal to construct a hydroelectric dam across a deep gorge along the Franklin River in southwestern Tasmania, Australia’s island state.

After describing the case, he states:

> The ethical position developed in this book is an extension of the ethic of the dominant Western tradition. This extended ethic draws the boundary of moral consideration around sentient creatures, but leaves other living things outside that boundary.
The drowning of the ancient forests [in the Franklin River gorge], the possible loss of an entire species, the destruction of several complex ecosystems, the blockage of the wild river itself, and the loss of those rocky gorges are factors to be taken into account only in so far as they adversely affect sentient creatures. Is a more radical break with the traditional position possible? Can some or all of these aspects of the flooding of the valley be shown to have intrinsic value, so that they must be taken into account independently of their effects on human beings or non-human animals?

To extend an ethic in a plausible way beyond sentient beings is a difficult task. (1993b, 276-77)

For Singer, non-conscious environmental things, such as lower animals, plants, rivers, mountains, bodies of water, and air, are not directly morally considerable because morality resides strictly in conscious interests (preferences) and their maximization. A plausible environmental ethic, then, must be an extension of sentience, which is itself an extension of humanism (1993b, 277-84).

Singer's environmental ethic is based on four factors: (1) a very long-term calculation of consequences, (2) counting distant future generations, (3) counting the preferences of all sentient beings (not just humans), and (4) preventing the global extinction of all sentient beings. The first and second factors will result from correcting two errors in the current human-centered ethic, and the third and fourth from extending the dominant ethic to nonhuman sentient beings.
Like Passmore, Singer argues that many past and present environmental abuses could have been prevented, and can be prohibited in the future, by a thorough application of extended humanism. It is not human-centeredness in itself, in either its Judeo-Christian or secular version, that has caused the current environmental mess. Rather, the current crisis has resulted primarily from two interrelated mistakes: (a) not making very long-term calculations of consequences, and (b) not counting the interests of distant future descendants. When these two errors are corrected, even a human-centered ethic will give a strong environmental ethic, Singer concludes.

Passmore doubts our ability to know the values of our descendants beyond four generations (1974, 87-89). Singer argues that even distant descendants of current species, including humans, will likely have preferences similar to those of today (1993b, 271-73). To some extent, Singer points out, it is up to us. By preserving wilderness and habitat, the continuity of values from the present into the future is at least possible; whereas, by destroying wilderness and habitat, the continuity becomes impossible, because the environmental objects and instruments of value will no longer exist, and because the species dependent upon these habitats will no longer exist. If we allow
the destruction of wilderness, our descendants will not even have a choice. Also, for the next two or three generations of our human descendants, we can nurture their valuing of the environment by educational programs and activities, and by creating a culture of such valuing in films, books, music, and so on. Singer compares the environment to aesthetic objects: we must preserve both the object, such as a painting, and our ability to appreciate the object, which may require education and training.

In addition to counting long-term effects and distant future generations, two further factors will produce a much stronger environmental ethic, Singer contends. The third factor is fully including nonhuman sentient animals. The preference satisfactions of all sentient beings, not just humans, should be counted. Even routine, seldom questioned exploitations of the environment, although beneficial to humans, often harm present and future nonhuman sentient beings. The experiences of these beings must be factored into the estimate of consequences. For instance, building the Franklin River dam would result in (a) the painful drowning or stressful migration of huge numbers of animals, (b) the extinction of at least one species, a marsupial mouse, and perhaps other species as well, and (c) the loss of
vast numbers of future animals, animals whose experiences would have been good. Moreover, the benefits to humans would be short-term, since improvements in technology will eventually make hydroelectricity obsolete, and all water impoundments eventually fill up from siltation. In contrast to the modest and brief human gains, the losses to nonhuman sentient animals would be truly incalculable, needing to be calculated forever, since the animals would have flourished, conceivably, forever.

The next and final factor is “close to being a tautology” (1993b, 284): any plausible ethic must guarantee the survival of the society adopting it, since otherwise the society would perish and with it the ethic. Singer likely derives this factor from sociobiology (see Singer 1979). He claims that survival explains many traditional and commonsense ethical standards, as well as some atypical practices of specific communities, such as the Eskimo practice, due to their harsh climate, of killing nonproductive and burdensome elderly parents. The environmental impact of human population growth and the global industrial economy now threaten all societies throughout the world with extinction. Until now, our ethic has not needed a strong, global environmental component.
From these four factors, Singer derives “ethical principles” and practical actions. Although he does not enumerate them, he proposes the following five “fundamental” ethical principles (1993b, 285-86):

1. Every action harmful to the environment is “ethically dubious.

2. Every action “unnecessarily harmful” to the environment is “plainly wrong.”

3. Resources should be saved and recycled, and saving and recycling are “virtues.”

4. Unnecessary consumption and extravagance are wrong, and are “vices.”

5. Aesthetic appreciation of wild places and unspoiled nature should be encouraged.

Then, Singer gives several practical actions that are ethically required (1993b, 286-88):

1. Comparable to bear-baiting, which once was ethically acceptable, such contemporary recreational activities as motorcar racing and water skiing, which require fossil fuel and produce greenhouse pollutants, are wrong; whereas, cycling and windsurfing are permissible.

2. Large families should be discouraged, especially for residents of cities and towns.

3. Success should be judged, not by consumption and materialism, but by developing one’s abilities and achieving “real fulfillment and satisfaction.”

4. Frugality and simple lifestyles should be encouraged.
5. To the greatest extent possible, consumer items should be re-used and recycled. Discarding such items is a form of vandalism or theft of society’s common property.

6. Lumber products from rain forests are extravagant.

7. Disposable paper products are extravagant.

8. “Going for a drive in the country” is extravagant.

9. Eating beef, pork, or poultry is extravagant. There are 1.28 billion cattle in the world, which weigh more than the world’s entire human population and consume 38 percent of the world’s grain. Since 1960, 25 percent of the Central American rain forest has been cleared for cattle.

These principles and actions, Singer concedes, are only “the broad outlines of a truly environmental ethic.” Despite this admission, he seems confident that a truly comprehensive environmental ethic can be derived from his preference-based rule utilitarian theory (1993b, 285-88).

Before proceeding to the next section, a brief comparison of Singer and Passmore should help identify some important, unresolved issues. Both extend traditional ethics beyond anthropocentrism to sentient animals, including future ones. Both also produce an environmental ethic, and both of these are more inclusive than traditional anthropocentrism. Is Singer’s preference theory more
comprehensive than Passmore's hedonistic theory? As an animal ethic, preferences prevent some types of killings, Singer argues, thereby making his theory better than a hedonistic theory.

However, as an environmental ethic, Singer's theory does not improve on Passmore's. Passmore's extended humanism and Singer's preference satisfactions are limited in scope to only those higher beings with consciousness. Non-conscious lower animals, as well as plants, rivers, air, mountains, lands, and so on, are excluded, except to the extent that these are resources for the welfare, pleasures, and preferences of sentient beings.

Both theories consider future generations. Singer emphasizes the importance of counting the interests of distant future generations, human and nonhuman, while Passmore doubts our ability to know the values of our descendants beyond four generations. Assessing consequences for future beings is fraught with difficulties, especially when large numbers are involved, as Parfit has shown (1984). Non-existent future beings have no present preferences, and they and their future preferences will never exist if their present-day ancestors die or are killed before they reproduce. Nevertheless, as Singer argues, if an action possible in the present will result in less
future good, then these losses count against the action. In regard to
Passmore's theory, the same can be said of pleasures, I think.

It seems to me that, as an animal ethic, Singer's preference-
satisfaction utilitarianism may prohibit some present-day killings that
Passmore's hedonism would not prohibit. However, as an
environmental ethic, Singer's theory is no more inclusive than
Passmore's, and will likely produce no better long-term results than
Passmore's.

2.33 Intrinsic-Value Utilitarianism

In this section (and 2.41), I defend the importance of intrinsic-value
consequential appeals for animal and environmental ethics. No animal
or environmental ethicist is a clear representative of intrinsic-value
utilitarianism. Even though some animal and environmental ethicists
make appeals to intrinsic values, they reject utilitarian and other
consequential theories of right action. My analysis shows how these
rejections of consequential appeals result from a presumption against
moral pluralism and a fallacious attempt to derive nonconsequential
duties and rights directly from intrinsic value. Like other goods,
intrinsic goods are properly the objects of the appeal to consequences.
Because they claim to hold nonconsequential theories, some of the animal and environmental ethicists in this chapter are treated in more detail in later chapters. Regan and Rolston are in Chapter 3, and Callicott is in Chapter 4. For now, my concern is their claim that intrinsic value directly imposes nonconsequential duties and rights. I reject this claim. My argument is that, instead of directly imposing unconditional deontological duties and rights, intrinsic value imposes a hypothetical or conditional consequential obligation to promote the good.

The existence and moral significance of intrinsic objective goods are philosophically controversial (see 6.2 below). Tom Nagel has argued, correctly I think, that valuing is a result of objective features in both the object and the subject (1979, 1986). The value-making features of the object are out there in the world independent of us, and all other beings with sensory capacities and minds like ours experience the valuing. The value is not merely a product of one's own subjective imaginings. For these reasons, the value is intrinsically and objectively in the world.

Is it conceivable that animals and their experiences are intrinsically valuable? As evidenced by the popularity of artistic
representations, both lower and higher animals are objects of beauty, which is widely considered to be an intrinsic objective good. Another generally accepted intrinsic objective good is pleasure, and pleasure is experienced by all higher and perhaps many lower animals. In addition to pleasure, it seems plausible that higher nonhuman animals have some other intrinsically valuable experiences, such as, rudimentary knowledge and aesthetic sensitivity. Although the intrinsic objective value of virtues is controversial (see Chap. 4), many individual animals seem to possess to some degree virtues like loyalty, courage, and affection (see also 6.22).

Compared to Passmore's hedonistic utilitarianism and Singer's preference-satisfaction utilitarianism, intrinsic-value utilitarianism would include greater numbers of lower animals. This is because many individual animals, including even lower animals, would possess intrinsic value beyond the value of their mental states of pleasure and preference satisfaction. In addition, conceivably all animal species as forms of life would be intrinsically valuable, as some environmental ethicists have argued.

In an early article (1975, repr. 1982) that is significantly different from his later theory (see 3.43), Tom Regan argues that
intrinsic value is the foundation of human and animal rights.

Attempting to find a kind of value that will impose deontological constraints, he grounds rights deontology in intrinsically valuable mental states. Regan writes:

\[
\ldots \text{I think those philosophers are right who maintain that it is only certain states of consciousness, certain experiences that can be intrinsically good or evil. (1975, repr. 1982, 22)}
\]

In this article, Regan uses the term “intrinsic value,” not “inherent value” (the term he later adopts), to refer to the kind of value that prohibits treatment as a mere means. He argues that individuals do not have intrinsic value, but only their mental states do. Locating intrinsic value in the individual, Regan argues, is incoherent and question-begging because the notion is introduced to prevent killing. Basing the value in intuition also will not do, for three reasons: (a) the ontology of value presupposed by intuition is indefensible; (b) try as he will, Regan cannot make the intuition; and (c) historically intuition has been used to justify horrible prejudices. Regan concludes that the most plausible basis for the nonconsequential moral appeal to rights is the intrinsic value of mental states (1975, repr. 1982, 29-30; cf. 1983, 133-40).
Among environmental ethicists, Holmes Rolston III, Eugene C. Hargrove, and some others defend the "intrinsic value" of a wide variety of nonhuman natural things and conditions (see 3.44). J. Baird Callicott proposes that objects in the world have "inherent value," which he defines as the potential to be experienced as valuable by the valuing subject (see 4.42; cf. 3.44). In contrast, pragmatists Bryan G. Norton, Anthony Weston, and Andrew Light deny the meaningfulness of "intrinsic value" but defend "non-instrumental value" (see 3.44). All of these philosophers agree that many parts of the environment are used and ought to be used instrumentally as means to human ends. But none of them is a utilitarian.

Why do they reject utilitarianism? Hargrove's argument can be taken as representative: combining utilitarianism with an intrinsic-value theory of the good will not stop the destruction of the environment. The ascription of intrinsic value to natural things, groups of things, and states of affairs will not prevent development and the resulting breakdown of the environment. This is because the intrinsic values gained by humans from development will almost always exceed those of undeveloped nature (Hargrove 1992).
To avoid this counterintuitive result, Rolston and Callicott propose that nonconsequential moral obligations are owed directly to the objects or conditions that are valuable. Using their own preferred labels, they claim that natural things, groups of things, and states of affairs are "intrinsic" or "inherent" goods. These goods include a wide variety of nonhuman environmental things, such as, individual animals and their experiences and mental states; taxonomic groupings like animal and plant species; particular individual plants, like a giant Sequoia tree or a tundra flower; and collective wholes and their states, such as ecosystems, mountains, lakes, rivers, landscapes, wetlands, beaches, islands, and so on.

Rolston's term 'intrinsic' and Callicott's term 'inherent' are used in two identical ways. First, both terms are used to refer to a thing, group of things, or state of affairs. For instance, what Rolston calls "intrinsically" valuable, such as a species or an ecosystem, Callicott calls "inherently" valuable. Then, second, the terms attribute to the referenced thing, group, or state of affairs a special kind of value, namely, the kind of value that imposes a moral constraint upon the actions of moral agents and that makes the thing, group, or state of affairs an end in itself independent of its usefulness for some further
end. In other words, intrinsic or inherent value confers "moral status" (or "moral considerability") (see 3.3) upon the thing, group, or state of affairs.

In contrast to Kant's limitation of moral status to rational beings, what these environmental philosophers assert is that 'moral' extends to all beings, things, groups, and states of affairs that have intrinsic or inherent value. It is these beings, things, groups, and states—namely, those that are intrinsically or inherently valuable—that are ends in themselves. Consequently, it is mistaken to believe that only humans are the kind of beings to whom nonconsequential moral duties directly apply.

Rolston argues that duties to the natural environment go beyond merely using it prudentially as an instrument for human ends. Since human life is "still lived in a natural ecology where resources—soil, air, water, photosynthesis, climate—are matters of life and death," Rolston concludes that "ethics needs to be applied to the environment" (1988, 1). But a prudential, resource ethic of the environment, centered as it is in human ends, is a "secondary" ethic. What is needed is an ethic wherein the environment, no longer dependent upon
human resource-valuing, is "primary" and directly accorded appropriate respect and duty.

That there ought [to] be an environmental ethic in this deeper sense will be doubted by many, those entrenched in the anthropocentric, personalistic ethics now prevailing in the Western world. For them, humans can have no duties to rocks, rivers, or ecosystems, and almost none to birds or bears; humans have serious duties only to each other, with nature often instrumental in such duties. The environment is the wrong kind of primary target for an ethic. It is a means, not an end in itself. Nothing there counts morally. Nature has no intrinsic value. (1988, 1)

Rolston contends that nature "carries" values, and that the values carried by nature entail nonconsequential duties to nature in a direct, primary sense (1988, 1-2).

To regard nature as a resource, Rolston explains, is to regard it as the kind of thing that can be rearranged to make artifacts. Since all human lives are dependent upon natural resources, at issue for morality is whether nature is merely a resource. The values of nature, according to the mere-resource view, are invented or assigned by human desires; they are not carried by nature "on its own terms"; they are captured or produced only in relationship to humans and by human labor, creativity, or experience (1988, 30-31).

Rolston argues that nature is more than a mere resource. The mountaineer visits the Tetons on their own terms, not to reform them.
A child values her parents as more than mere resources, and a religious communicant values the bread and wine as more than mere resources. Analogously, Rolston proposes, nature is source, not merely resource. Reflective humans eventually want to know how they fit into nature and not merely to define nature in relation to themselves.

The deepest task of an environmental ethics is this larger appreciation of nature, with appropriate conduct, although a subset of environmental ethics considers resource allocation, value trade-offs in human uses of the environment, pollution issues, rights of future generations, and so on. The deeper ethic is about our sources, beyond our resources, and it is also an ethic of neighboring and alien forms of life. (1988, 31)

According to Rolston, nature has intrinsic value, and the intrinsic value of nature entails nonconsequential duties upon human agents (1988, 30-31).

Often this dispute over the nonconsequential moral status of nature is couched in terms of “anthropocentrism,” “humanism,” “resource humanism,” “speciesism,” “species chauvinism,” and similar words, words that misleadingly imply (or assume) that intrinsic value in nature is incompatible with anthropocentrism and species inegalitarianism (see 2.41, 3.3). Even if human beings are not the only morally considerable beings and things on the planet, it does not follow
that humans are not worthy of greater moral consideration. What is at issue, especially in cases of conflict, is the relative moral importance of rational autonomy, sentience, intrinsic objective goods, and other values. My argument throughout this thesis is that all of these considerations should have an appropriate place in an adequately comprehensive pluralistic moral theory (see Chaps. 1, 5, 6).

Do any duties directly result from intrinsic value? The duties that result, I think, are conditional and hypothetical. My objection and argument are indebted to W. D. Ross’s book, *The Right and the Good* (1930), and H. A. Prichard’s classic paper, “Does Moral Philosophy Rest on a Mistake?” (1912). For more of my argument, see Sections 3.44 and 3.5, where I object to Rolston’s attempt to derive duty from value.

As proposed by Ross, the duties to produce intrinsic goods are prima facie aspects and sub-duties of beneficence and nonmaleficence. Beneficence is the duty to produce good, and nonmaleficence is the duty to do no harm. Intrinsic objective goods can be the object of both duties. Since other values and duties can conflict with the production of intrinsic good, intrinsic good entails only contingent duties but not strict ones. In other words, the appeal to intrinsic objective goods is a
consequential appeal to produce the good, not a direct deontological appeal to duty.

Following a formal structure suggested by Prichard (1912), the argument of the environmental ethicists can be outlined as follows:

1.0 There are intrinsically (or inherently, or non-instrumentally) valuable environmental things, conditions, or states, "P."

2.0 Action A will preserve P.

3.0 What is intrinsically (or inherently, or non-instrumentally) valuable ought to be; or, restated, P ought to exist.

4.0 Therefore, action A ought to be done; or, restated, action A is a duty.

Prichard points out that this type of argument is fallacious in two respects. First, the "intermediate link" (Premise 3.0 above) is false, and its implication (4.0) is also false. As Prichard states, "An 'ought,' if it is to be derived at all, can only be derived from another 'ought'" (529). We are not capable of doing every conceivable action, and our obligations to act rest on previous actions of our own. For example, your duty to repay a monetary debt rests on your prior action of borrowing the money. Even if I have ample means to pay your debt and even though doing so would be good, I am not obligated to pay it.
Second, Prichard points out that the goodness of the action in itself is also not the reason why the action ought to be done, although this seems plausible in some cases. The mistake here is explained by Kant’s theory of the good will. Certain actions can be correctly described as good, and as good in themselves or intrinsically. Yet, the term ‘good’ is used for an action only when the motive for the action is either: (a) the rightness of the action in itself, that is, the agent is motivated by a sense of obligation to do the action; or (b) a desire produced by a good emotion, such as gratitude, love, or community spirit. Actions can be correctly described as ‘right’ (or ‘wrong’) independent of motives. Moreover and crucially, “our apprehension of the goodness” of an action always presupposes that we ought to do the action. Actions sometimes are wrong even when motivated by good inclinations, or sometimes right even when motivated by bad desires.

My objection to the above argument is not against an intrinsic-value theory of the good (Premise 1.0). Nor do I question the empirical relevance and importance of certain actions for preserving certain intrinsic goods in certain cases (Premise 2.0). Rather, like Prichard, my objection is to Premise 3.0 and the inference from 3.0 to 4.0. It is
fallacious to argue that agents have the duty to bring about the good (4.0) because the good ought to exist (3.0). Duty cannot be directly derived from value. Throughout this thesis, I call this criticism the "Derivability Objection" (see 2.42, 3.44, 3.5, 4.52).

A brief example should help clarify my objection. Consider the following analogous argument (cf. Rolston 1996):

1.0* Bengal tigers are intrinsically valuable.

2.0* Feeding human infants to tigers will help the tigers survive extinction.

3.0* The tigers ought to exist.

4.0* Therefore, it is our duty to feed human infants to the tigers.

Premises 1.0* and 2.0* are true, I think. Even if the meaningfulness of Premise 3.0* is assumed, the premise is highly questionable since species naturally go extinct, tiger habitat throughout the world has deteriorated for many reasons, tigers are in conflict with people and other animals for resources, and so on. The inference to 4.0* is shockingly counterintuitive. Under no circumstances should human infants be fed to tigers, not even when humans are as extremely overpopulated as we are today.
My objection is that goodness, even intrinsic goodness, does not directly and properly entail, without additional argument, any particular duties whatsoever. Intrinsically valuable things, groups, and states of affairs are directly and properly objects of consequential theories and appeals, but not of deontological theories and appeals. My objection does not deny the importance of consequences as a moral appeal. Rather, my objection is that the appeal to consequences cannot properly be conflated into a nonconsequential appeal. Both kinds of appeals—consequential and nonconsequential—are needed in an adequately robust moral theory (see Chaps. 5, 6). Retaining both appeals, however, contradicts the widespread contemporary presumption in favor of moral monism and against moral pluralism.

Despite their disavowals, Regan, Rolston, and Callicott—who are the prominent animal and environmental ethicists who make appeals to intrinsic and inherent values—are logically presupposing and implicitly making consequential appeals, not deontological ones. Except for their terminological preferences, each philosopher's theory of right action is indistinguishable from the intrinsic-value act-utilitarian formulation of G. E. Moore (1912): namely, the right action is the action that
produces at least as much intrinsic good as any other action open to the agent (see 2.2)

In conclusion, the appeal to intrinsic objective goods is a consequential appeal and not a nonconsequential appeal to duties and rights. Never is the production, promotion, or preservation of intrinsic value an unconditional duty. The rightness of the action is always conditional because the goodness can be traded-off to produce higher or greater intrinsic goods, and because other consequences, duties, and circumstances can override the rightness.

This conclusion does not deny the importance of consequences for deciding some particular cases. In an adequately comprehensive moral theory, consequences are an essential appeal because in some cases they will be the only moral consideration and in others they will override all other moral considerations. In Chapters 5 and 6, I propose that an adequate theory of animal and environmental ethics needs to be pluralistic and to include consequential and nonconsequential appeals.

2.4 Two Objections

Throughout this thesis, “Inclusiveness” and “Derivability” are my two major complaints against contemporary moral theories. My argument
is as follows. In Chapter 1, from the evidence gathered from moral intuitions regarding a variety of cases, I conclude that moral theories need to include, in appropriate ways, nonhuman animals, plants, and inorganic things. Then, in Chapter 2 (this chapter), Chapter 3, and Chapter 4, respectively, I examine utilitarian, deontological, and virtue theories of animals and the environment. I argue that the three theories: (a) include too little or too much, or both; and (b) attempt fallaciously to derive duties directly from values. Next, in Chapters 5 and 6, I argue that, in the absence of a sufficiently comprehensive monistic theory, it follows that only a pluralistic moral theory will be adequately inclusive of the range and diversity of moral intuitions and cases.

In the two subsections below (2.41 and 2.42), I show how utilitarian theories of animals and the environment err in both ways. Admittedly, utilitarianism and other consequentialisms can be formulated in amazingly variable and complex versions (see 2.2). Nevertheless, it is reasonable to believe that my two objections are applicable in similar ways to other versions of utilitarianism and consequentialism in addition to the three representative versions critically analyzed in this chapter. In Chapter 3, the two objections are
presented against deontological theories (in 3.5), and in Chapter 4, against virtue theories (in 4.5).

2.41 The Inclusiveness Objection

As pointed out earlier, some animal ethicists and most environmental ethicists reject utilitarian and other consequential appeals on the grounds that consequences do not impose sufficient moral constraints against using animals and the environment as mere resources for human ends. These anti-consequentialists mistakenly believe that a single nonconsequential theoretical appeal is adequate for resolving all normative moral matters. The belief in the adequacy of a single normative theoretical appeal is called moral monism, and today most consequentialists and nonconsequentialists are moral monists, despite their inability to agree on a particular theoretical appeal.

My argument has three parts. First, against monistic anti-consequential theories, I argue that utilitarianism is not totally mistaken since an appeal to consequences is essential for adequate inclusiveness of nonhuman animals and the environment. Then, second, against narrowly monistic consequential theories, I argue that other theoretical appeals are needed. The appeal to consequences is not the
only appeal that is required for adequate inclusiveness. Third, I argue that the appeal to consequences requires a theory of the good. Of the three major theories of the good, intrinsic objective goods is the only theory adequately inclusive of nonhuman animals, plants, and inorganic things.

_First, utilitarianism is not totally mistaken. Appeals to consequences are necessary for resolving some cases involving animals and the environment._ Surely, when no other moral consideration is relevant, then consequences are determinative. Moreover, the greater the quality or quantity of the consequences, then the greater is their importance, including their importance whenever they conflict with other moral considerations and appeals.

Animal and environmental ethicists err whenever they try to eliminate the appeal to consequences. For instance, among animal ethicists, Tom Regan attempts to eliminate the need for the appeal by reformulating Kantian-type human rights into a deontological theory of animal rights (see 3.43). Regan rejects utilitarian and consequential appeals because consequences do not prevent the exploitation and killing of animals for human ends. Among environmental ethicists, Rolston, Callicott, and many others reject utilitarianism on the grounds
that appeals to consequences will not sufficiently constrain human
domination and destruction of nature. Rolston proposes a
deontological theory based on intrinsic value and ecosystemic holism
(see 3.44), and Callicott advances a virtue theory based on biotic
sentiments and ecosystemic holism (see 4.42).

Animal and environmental ethicists join together in arguing
against the theoretical and practical centrality of human beings as the
recipients of the good. In the arguments, several terms are used
somewhat interchangeably. Environmental ethicists generally deny
“anthropocentrism” and “resource humanism,” whereas animal
ethicists generally reject “human-centrism” and “speciesism.”
Richard and Val Routley argue against several types of “chauvinism”:
“human chauvinism,” “species chauvinism,” “sentient chauvinism,” and
so on. At issue in this menagerie of terms are two central issues: (a)
what counts morally, namely, the necessary traits or requirements for
a being, thing, group, experience, state of being, or collective whole to
be moral, to have moral status, or to be morally considerable (see
3.3); and (b) what actual things in the world have the moral traits,
particularly whether the traits are found in only humans or also in
other species and things.
"Anthropocentrism" and its variants imply that moral considerability is a continuum, admittedly with humans at the center, but also allowing for more-centeredness or less-centeredness, and for stronger and weaker versions. Singer and Callicott have proposed two other metaphors: morality as an "expanding circle" (Singer 1981), and as analogous to the growth rings of a tree (Callicott 1997). Singer's metaphor portrays morality as evolving to include as moral equals all sentient beings. In contrast, Callicott's "rings" portray a hierarchy of duties. The rings represent layers of relationships—family, colleagues, community, and so on—with more and stricter duties to those within and nearer one's own ring. Regardless of the metaphors, the two primary matters at issue still remain.

Routley and Routley argue against Passmore's "human chauvinism" and in favor of a "non-chauvinistic environmental ethic" (1979, 105). Chauvinism can take several forms, and each form can be stronger or weaker, more or less exclusive. At issue, Routley and Routley explain, are the criteria for getting into the "Moral Club." The strong forms of human chauvinism, according to Routley and Routley:

... see value and morality as ultimately concerned entirely with humans, and non-human items as having value or creating constraints on human action only in so far as
these items serve human interests or purposes. (1979, 104)

Routley and Routley point out that, according to Passmore’s strong form of human chauvinism, nonhumans “cannot have rights, obligations and suchlike.” They object that Passmore does not specify the sense intended by “cannot” (1979, 107). Its senses include logical impossibility, absurdity, nonsignificance, or something else entirely. It would be neither impossible nor absurd to raise moral questions about a race of intelligent and sensitive extraterrestrials. Routley and Routley conclude that the accident of being a zoological human is too narrow a requirement for admission to the Moral Club (1979, 107).

In their criticisms, Routley and Routley oversimplify Passmore’s position. Passmore recognizes that the dominant tradition of the West has been human-centered, but he argues for the “extension” of the tradition to all sentient beings and to the environments upon which they depend. For Passmore, animals are partially within the moral sphere, but only partially. Their pleasures and pains are morally considerable, but they lack sufficient rationality and self-consciousness to be morally responsible for their actions. Consequently, they can be killed, provided the method is humane.
In some passages Passmore is a descriptive historian (namely, he states that sentiments toward animals have in fact changed), and in other passages he is a normative philosopher (namely, he argues that unnecessary suffering is bad, and that any action causing unnecessary suffering is wrong). The former passages imply that animals are not directly morally considerable and only indirectly morally considerable, since what counts are human sentiments. Those passages seem to exclude animals as such from the moral sphere since animal suffering would not matter if humans didn’t care about it.

Even though Passmore’s historical passages reflect an extreme or strong anthropocentrism, they do not fully describe Passmore’s position. The normative passages, which are needed to complete his position, imply that animals are directly morally considerable because animal suffering is morally bad in itself. Animal suffering would matter even if humans didn’t care about it. Passmore states that humans who lack sensibility to animal suffering are morally defective.

Although commonsense morality and traditional moral philosophy have been anthropocentric, they have not been narrowly and naively anthropocentric. Commonsense morality does not narrowly restrict moral status to humans, since God, angels, demons, and
extraterrestrials are popularly regarded as moral beings. Moreover, some humans, such as children and the mentally deficient, are not given the same moral standing as normal adults. Accurately expressing this common morality, Kantian ethics identifies "moral" beings as rational beings: what makes someone a moral being is not membership in the human species, but one's higher mental capacity of rationality, which encompasses not only reason but also self-consciousness and autonomy.

The debate over anthropocentrism is misleading when it diverts attention from more important, central concerns. In Section 2.33 above, I defended the intrinsic value of animals and the environment independent of humans. Yet, even if nonhuman animals, plants, inorganic things, states of affairs, and collective wholes have intrinsic objective value, there is no guarantee, without lots of additional argument, that human interests will not justifiably prevail in most cases involving real-world conflicts. Arguably, in many cases of conflict, human interests ought to prevail, because normal adult humans are rationally autonomous and other beings and things are less so. By overzealously denying human beings appropriate moral status,
animal and environmental ethicists sometimes err by excluding too much.

To summarize: the efforts by some animal and environmental ethicists to eliminate the appeal to consequences are mistaken. Not only are appeals to consequences essential for human ethics, but also for any moral theory adequately inclusive of nonhuman animals and the environment.

Second, nonconsequential appeals are required for resolving some cases. Utilitarians and other consequentialists err whenever they try to reduce all of morality to the appeal to consequences. When consequences stand alone as the sole moral appeal, the appeal does not include common deontological moral experiences and case intuitions.

Some cases involving animals, plants, and inorganic things cannot be satisfactorily resolved without appealing to such nonconsequential moral considerations as rights, duties, respect, justice, equality, and impartiality. For instance, Rolston and Regan correctly criticize the utilitarian theories of Passmore and Singer for being too narrowly consequentialist and for failing to establish adequate nonconsequential constraints against destroying the environment and killing individual
animals. Based on intrinsic value, Rolston contends that duties are owed directly to the environment (see 2.33, 3.44); and based on the complexity of animal minds, Regan argues that higher animals have the right not to be killed (see 2.32, 3.43). Though correct in their rejection of Passmore's and Singer's monistic theories, Rolston and Regan are nevertheless narrowly monistic in their deontological theories.

Other nonconsequential considerations include respect, justice, equality, and impartiality. If the good is distributed strictly based on better outcome, the result may not be equal distributions to every individual since some have greater capacities for pleasure and stronger preferences than others. Those meriting the good may not get it. Unless a nonconsequential element is added, the only constraint on distribution is producing the best consequence. Because equality may upset maximal outcomes, the notion introduces a nonconsequential principle.⁴

Among animal ethicists, Singer’s dictum that “All animals are equal” presupposes impartiality. As explained in 2.32, what Singer means is that equal preferences should be treated equally without regard to the individual animal having the preference satisfaction. In
other words, Singer's calculus imposes two nonconsequential requirements: (a) equality of preferences, namely, equal preferences should be treated equally; and (b) impartiality among the subjects having the preferences.

Among environmental ethicists, Kristin Shrader-Frechette argues that utilitarianism needs to be supplemented by nonconsequential elements. Criticizing Passmore's extended humanism, she argues that unless utilitarianism is supplemented by an appeal to distributive justice, then the theory cannot adequately protect the environment and the interests of future generations of humans. What is missing in utilitarianism, she claims, is equal consideration of individuals, including future individuals. She writes:

What I have shown is that there is a strong rational foundation for using existing utilitarian and egalitarian ethical theories to safeguard the environment. Utilitarian doctrines clearly protect the interests of future generations and egalitarian schemes prohibit any environmental hazards against which persons cannot be assured equal protection. . . . [I]t is not clear that a new ethic is needed to protect purely human interests in the environment. With Passmore, I believe that history contains the ethical seeds of a strong tradition of environmental protection. (1981, 23)

Shrader-Frechette points out that when the US government permits emissions of carcinogens and mutagens in amounts exceeding the thresholds for injury, the government is benefiting the perpetrators
and denying the victims equal protection under the law. She concludes, "... inequitable distributions of environmental costs and benefits are unethical" (1981, 22).

An adequate theory of animal and environmental ethics needs to include such nonconsequential moral considerations as rights, duties, justice, equality, and impartiality. By omitting these considerations, consequential theories fail to be adequately comprehensive.

An adequately comprehensive moral theory needs both consequential and nonconsequential appeals. In Chapter 5, I explain and defend Baruch A. Brody's theory of pluralistic casuistry (1988). In addition to consequences, Brody proposes four other appeals. The five major moral appeals are: consequences, rights (and correlative duties), respect, virtues, and justice. He argues that all five appeals are warranted by case intuitions, and that each appeal is indispensable because it cannot be reduced to any other appeal. Then, in Chapter 6, I expand Brody's theory to encompass animals and the environment, and present case data showing the importance and irreducibility of each of the five appeals for animals, plants, and inorganic things.

Third, the appeal to consequences requires a theory of the good. Cases involving the appeal to consequences can present two kinds of
conflicts: (a) conflicts between two or more consequences, or (b) conflicts between consequences and other moral appeals. Decision-making in both kinds of conflicts requires a theory of the good. In the first kind of conflicts, a theory of the good is needed to decide which consequence is better. In the second kind of conflicts, a theory of the good is needed to help decide whether the appeal to consequences overrides the other appeals. As Brody argues, in some cases consequences can override other appeals (see 5.32, 6.21).

Of the three major theories of the good, the theory of intrinsic objective goods is the only theory adequately inclusive of nonhuman animals, plants, and inorganic things. Hedonism is too narrow in two respects. On the one hand, as mentioned in Section 2.2, some goods are not reducible to pleasure. This criticism is especially relevant to my project, since hedonism is not applicable to most natural things—to lower or nonsentient animals, plants, species as forms of life, ecosystems, rivers, oceans, and so on.

On the other hand, hedonism is too limited as the basis for animal ethics. This is because animal suffering can be justified as a means to higher pleasures experienced by humans. As Singer argues, there is no adequate consequentialist reason to prohibit trading-off lower-level
pleasures and pains as the means to higher-level pleasures. When qualitative factors are added, such as Passmore's notion of sensualism, animal lives are still expendable. Even when individual animals experience on balance utterly miserable lives, the suffering can still be justified, all things considered, by the larger or higher-order good produced.

For these reasons, Singer defends the preference-satisfaction theory of the good. According to this theory, what makes suffering bad is that the sufferer desires not to be in that state—not to be suffering. Since all comparable preferences are equal, animal preferences are given the same status as human ones, including animal preferences to continue to live as well as not to suffer.

A major problem with Singer's theory is that preferences are subjective mental phenomena. As such, preferences can never be truly mistaken, even when abnormal, dysfunctional, or pathological. Unless objective goods exist, one could never be in error about goodness or badness, except in the psychological sense of not knowing one's own actual desires. What's wrong with preference-based theories is that, in actuality, objective goods may not be preferred by individual minds.
Singer attempts to counter this objection by proposing that people can be educated to have environmental and other preferences (1993b, 271-73). But this reply by Singer is arbitrary, since people and many nonhuman animals can also be educated to hate the natural environment. Are any preferences truly better or worse than others? Because “preferences” can mean “present,” “future,” “fully informed,” or “ideal” preferences, philosophers have argued that the notion is ambiguous and incoherent (see Brandt 1979, 1982).

In Section 2.33 above, I defend the importance of intrinsic-value consequential appeals for animal and environmental ethics. Of the three major theories of the good, intrinsic objective goods is the only theory adequately inclusive of nonhuman animals, plants, and inorganic things. Lower animals, all plants, and all inorganic things are incapable of pleasures or preference satisfactions. Nevertheless, these beings and things are valuable and ought not to harmed without sufficient justification (see Chap. 1, Propositions 1.10, 1.20, and 1.30).

In conclusion, the plurality of goods cannot be reduced to hedonism or preference satisfaction. In the absence of a sufficient conflict, intrinsic objective goods ought to be preserved, independent
of whether anyone actually derives pleasure or preference satisfaction from them.

2.42 The Derivability Objection

In Section 2.33 above, I argue against animal and environmental ethicists who conflate the good with the right. Some animal and environmental ethicists make appeals to values, while at the same time rejecting utilitarian and other consequential theories of right action. Their rejection of consequential appeals results from a mistaken presupposition about the relationship of value to right action. Namely, it is mistaken to infer rights and duties (or any other unconditional, nonconsequential appeal) directly from value.

My objection is indebted to Ross and Prichard. The proper logical basis for duty is not the goodness or badness of consequences. For example, the bad consequences resulting from failure to pay one’s debt can be prevented by others paying the debt, but others have no duty to do so. Values do not entail direct, immediate, and nonhypothetical duties; that is, duties cannot be directly inferred from values, because the inference requires an intermediate premise linking the value premise to the duty (see 2.33, 3.52, 4.52).
An adequate normative theory of ethics needs both a theory of the good and a theory of right action. This oversight seems widespread among animal and environmental philosophers, who seem to assume that all that is needed is a theory of value (the good). These philosophers defend an elaborate theory of the good, and then say little or nothing about (a) what makes actions right or wrong, and (b) the relationship of these actions to their theory of the good.

An important and insightful question is: Why do so many animal and environmental ethicists reject the appeal to consequences? The answer, I think, is the usual one given by nonconsequentialists: consideration of consequences sometimes violates stronger moral intuitions. Typical nonconsequential counterexamples include killing an innocent person to save others, using a person without consent as a mere means, and compromising one’s virtue for some end. Animal ethicists have strong intuitions against mistreating and killing animals for unnecessary human ends, and environmental ethicists have strong intuitions against unsustainable use and destruction of nature. Their intuitions are often uncompromisingly nonconsequential: they are unwilling to accept trade-offs of consequences. This type of nonconsequential constraint requires a theory of the right, and only a
deontological one will do the work they want. To devise such a theory, animal ethicists may attempt to derive animal rights (or another deontological appeal) directly from the intrinsic (or inherent, or non-instrumental) goodness of (a) animals themselves or (b) their pleasures or (c) their preference satisfactions. Regan adopts this strategy. Similarly, environmental ethicists may attempt to derive unconditional duties directly from the intrinsic (or inherent, or non-instrumental) value of nature. Rolston and Callicott attempt to do this.

In Chapters 5 and 6, I defend Brody's theory of pluralistic casuistry for animal and environmental ethics. Pluralistic casuistry's answer to the above concerns of animal and environmental ethicists is that the appeal to consequences does not stand monistically on its own. In particular cases, other appeals may override the appeal to consequences: the appeals to rights, respect, virtues, or justice. Nonetheless, in some cases, the other appeals do not override consequences.

Brody argues that consequences should not be hierarchically subordinated to any other appeal, particularly to the nonconsequential appeals to rights and duties, as others contrarily have argued.
Admittedly, there are emphatically clear intuitive cases wherein rights should not be sacrificed in order to avoid terrible consequences, such as lynching an innocent person to appease a racist mob. In response to this objection, Brody makes two points, while also affirming the importance of the other appeals. First, despite these clear cases, consequences have priority in some other cases. No single appeal can be prioritized in all cases over other appeals. Brody’s pluralism has neither a hierarchy nor a scale for weighing appeals. This is because in some specific cases, the consequences—especially when serious and nonameliorable, like death—may override nonconsequential rights and duties. Second, a judgment is required in cases of conflict between the consequences and the nonconsequential appeals. Since no advance prescription fits all cases, no appeal enjoys the prestige of universal and ultimate consideration (Brody 1988, 75-79).

2.5 Conclusion

In this chapter, I argue that the appeal to consequences is part of an adequately inclusive moral theory of animals and the environment. But consequences cannot do all of the moral work. Nonconsequential moral appeals are also necessary.
In their criticisms of utilitarianism, animal and environmental ethicists have misleadingly focused the debate on “speciesism” and “anthropocentrism.” Everyone agrees that inflicting animals with unnecessary pain and death is wrong. At issue is whether individual animals have the same kind and degree of moral considerability as individual humans. Everyone agrees that using the environment as a resource for human ends is necessary, for humans are in nature and dependent upon nature. At issue is whether the environment is more than a resource. Although Passmore does not develop the idea, he proposes that the environment can have deeper value, similar to great works of art. Singer concurs. In an attempt to move beyond resource and anthropocentric value, Rolston and others argue that the environment has intrinsic objective value.

The appeal to consequences requires a theory of the good, and I have defended intrinsic objective goods. The two major alternative theories—hedonism and preference satisfaction—do not adequately account for our moral intuitions regarding animals, plants, and inorganic things. Since lower animals, plants, and inorganic things are incapable of any pleasures of their own, hedonism values them only indirectly as means to the pleasures of higher beings. Even though
higher animals and humans are capable of having pleasures of their own, hedonism does not prohibit inflicting pain and killing animals and humans as means to greater or higher pleasures. Since hedonism counts pleasurable mental states and not the individuals having those states, innocent individuals can be traded off—inflicted with pain and killed—to produce equal or greater pleasures in others.

Preference satisfaction prohibits inflicting pain and killing individuals on the grounds that individuals do not want these experiences. But since lower animals, plants, and inorganic things are incapable of having preferences, they are good only to the extent that they satisfy or nourish the preferences of higher animals and humans. Since preferences can be abnormal, dysfunctional, and pathological, preference satisfaction has the distinction of including too much in the wrong way. Counterintuitively, nothing is bad about destructive personal, social, and ecological preferences.

Intrinsic-value utilitarianism answers some of the deficiencies in hedonistic and preference-satisfaction utilitarianism by expanding the good to include lower animals, plants, and inorganic things. Although some animal and environmental ethicists have advocated intrinsic objective goods, they have done so while holding nonconsequential
theories of right action. For example: in his early writings, Regan argues that the foundation for rights in humans and animals is intrinsically valuable mental states; and, throughout his writings, Rolston argues that we have duties to preserve intrinsic value in nature. Against Regan and Rolston (in this chapter and the next), I argue that they fallaciously attempt directly to derive rights and duties, respectively, from values. Directly from intrinsic value, Regan fallaciously infers nonconsequential rights; and, directly from intrinsic value, Rolston fallaciously infers nonconsequential duties. As Prichard (1912) argues, duties (and rights) cannot be directly derived from value.

Attempts to derive duties directly from value confusingly conflate a theory of the good and a theory of right action. Some strongly counterintuitive moral judgments can result. For instance, Rolston proposes that poachers and trespassers ought to be killed to protect intrinsically valuable endangered species (see 3.44), and Regan claims that dogs and humans have equal rights to life (see 3.43). These misjudgments result from two interconnected theoretical errors: (a) presuming a monistic theory of morality, and (b) deriving duties directly from value. When theoretical monism is presumed, then
the only way unconditionally to protect values is by inferring nonconsequential duties (or another nonconsequential appeal) directly from the values. Logically, as Prichard shows, explicitly identifying the intermediate premises exposes the fallaciousness of the inference.

Throughout this thesis, I argue that pluralistic casuistry is the best contemporary theory of ethics for animals and the environment. Pluralistic casuistry combines the strengths and avoids the weaknesses of utilitarian, deontological, and virtue theories. Unlike the other theories, pluralistic casuistry is adequately and appropriately inclusive of nonhuman animals, plants, and inorganic things, and pluralistic casuistry does not commit the derivability fallacy.

One last point needs brief comment. Though I say little directly in this chapter about the debate between act and rule utilitarianism, my position should be clear from what I say. Pluralistic casuistry is defended fully in Chapters 5 and 6, and can be summarized briefly now. Similar to act utilitarianism, pluralistic casuistry begins and ends with cases—case dilemmas and their resolution. Similar to the epistemic interrelationship of evidence, hypotheses, and theory in science, rules and principles in ethics are mid- and higher-level generalizations that are generated and confirmed by cases. As in science, rules and
principles in ethics guide future analyses of cases and are revisable in light of additional case evidence.

Notes

1 Predictions of worldwide environmental catastrophe are difficult to verify or falsify, because they are usually imprecise and the environmental problems can be ameliorated. Still, one dire prediction made in the 1960s has already been falsified, in my judgment. In 1969, U Thant, the Secretary-General of the United Nations, predicted that we had “perhaps ten years left” to gain control of environmental problems or “they will be beyond our capacity to control” (quoted in Schrader-Frechet, 1981, 3). Less precise in their forecast, in 1974 D. L. Meadows, Paul Ehrlich, Garret Hardin, and other scientists at MIT predicted a planetary crisis within 100 years if then current patterns continued (see D. L. Meadows et al., The Limits of Growth [New York: New American Library, 1974]). Similarly imprecise, Harvard biologist E. O. Wilson projects that an ecological steady state will not be achieved until the end of the twenty-first century, and not until it is motivated by such crises as environmental collapse, human overpopulation, and warfare for scarce resources (1978; 1980, 296-301).

2 Two of Passmore’s harshest and most persistent critics have been Australian philosophers Richard and Val Routley. When their marriage ended, Richard Routley changed his name to Richard Sylvan, and she, to Val Plumwood. Until his death 1996, Richard Sylvan was a professor at the Australian National University, Canberra, where Passmore also was a professor. Sylvan’s paper (under the name Richard Routley) at the Fifteen World Congress of Philosophy, “Is There a Need for a New, an Environmental Ethic?” (1973), has been credited with awakening many philosophers to the importance of environmental ethics. Plumwood has had appointments at several universities, in Australia, including Canberra, and also in the U.S. Sylvan and Plumwood jointly and separately have criticized Passmore in books, articles, reviews, and oral presentations. Their major
publications are listed under their various names in the Bibliography at the end of this thesis.

3 For an analysis of some aspects of commonsense Western morality, see Donagan 1977, Chapters 1, 2.

CHAPTER THREE

DEONTOLOGY, ANIMALS, AND THE ENVIRONMENT

3.1 Introduction

This chapter continues my argument that contemporary moral theories are partly correct but need to be more inclusive of nonhuman animals and the natural environment. This chapter develops the argument in regard to deontological moral theories.

Because this chapter is long and complicated, an initial overview of my argument and the chapter's organization will likely be helpful to most readers. In this chapter, I analyze four theories of animals and the environment, theories whose authors intend for their theories to be deontological and nonconsequential. These four theories are: Biocentrism (or Respect for Life), Sentience, Inherent Value (Regan), and Intrinsic-Value Holism (Rolston).

The four theories are assessed on their own merits and relative to my project. Throughout the chapter, I argue for two critical theses: (a) the theories are not adequately inclusive, because when considered alone each of the theories either encompasses only a portion of nonhuman nature, such as only higher animals or only biotic nature, or
fails appropriately to include humans or higher animals; (b) the theories are not genuine deontologies, because each of them, albeit in different ways, attempts to derive duty from value. Along the way, while presenting these criticisms, I also argue constructively that a genuine deontology inclusive of animals and the environment is possible, and I present the rudiments of such a theory. My constructive proposal is indebted to W. D. Ross's pluralistic deontology, especially his distinction between *prima facie* and actual duties.

As in the previous chapter, this introduction (3.1) is followed by a background analysis of recent theories (3.2). This background section has nothing new and omits much, since my concentration is narrowly on the theories and aspects of theories immediately relevant for my argument in this chapter.

At first glance, in light of my criticism that the four theories are not genuine deontologies, the reader might wonder whether the authors intended for their theories to be deontologies. This concern I answer in Section 3.3. Here I explain, along with other reasons, what is, I believe, the central issue and theoretical problematic that has provided the impetus for the search for a deontological theory of animals and the environment.
Two longer sections follow. These are the heart of the chapter. Section 3.4 analyzes the four theories and evaluates each on its own merits. Section 3.5 consolidates in one place my main objections and constructive proposals. Of the four theories, I give more space to Intrinsic-Value Holism because it is more inclusive and more influential than the others. Intrinsic-Value Holism is my name for Holmes Rolston's theory.

A very brief conclusion (3.6) ends the chapter. Here I restate my findings, critical and constructive.

3.2 Some Relevant Background

Deontological moral theories are theories of "duty" or "obligation," the two words being identical in meaning (Greek, deontos, deon, "duty, obligation"). Duty (obligation) is the necessity to act whenever the action, when considered in itself—or the principle describing the action, when considered in itself—is right. In Kant's words, "Duty is the necessity to act out of reverence for the law" (1786, 14 [68]). Duties and obligations are about actions: they designate actions required or prohibited by morality; and, like laws, duties and obligations are
expressed by principles, rules, maxims, precepts, commandments, ordinances, and the like.

In many instances, the term “rights” is an alternative expression for the same deontological principle as the term “duties.”¹ In general, rights and duties are correlative in the sense that rights can be reformulated as duties, and duties as rights.² Some exceptions occur, however, such as the duty to develop one’s talents, the right to life, and the rights attained by getting a license.

Many animal ethicists also deny the correlativeity of rights and duties regarding animals. Because nonhuman animals are not intelligent enough to understand morality and obey laws, they are not morally responsible agents and have no duties. Nonetheless, they still have some moral rights, such as, the right not to suffer unnecessarily and the right not to be killed wantonly. In this respect, they are similar to infants and very young children.

For deontologists, duties and obligations, and the rules or principles expressing duties and obligations, stand on their own as right or wrong. It is important to distinguish duties and obligations from any dependence upon three other aspects of morality: psychological traits, good or bad luck, and consequences.
First, duties and obligations are *not* dependent on such *psychological factors* as inclinations, emotions, passions, feelings, desires, instincts, personality traits, temperament, virtues, vices, and the like, because duties and obligations hold whether or not one feels like obeying. For instance, one’s obligation to repay a debt does not depend on whether one feels like repaying it. Nevertheless, because one’s mental traits and condition can increase or decrease the difficulty of doing one’s duty, most deontologists recognize, as did Kant (1786, 1-2 [61-62]), that psychological factors are important to morality and can be good or bad. They are relevant for assessing praise and blame, but not duty.

Similarly, *good or bad luck*, fortune or misfortune, can make doing one’s duty easier in some cases and harder in others. Being born to poverty, hunger, ignorance, or abuse makes doing one’s duty more difficult. In contrast, being born to wealth, power, education, or cultural affluence eliminates many temptations, as do good physical and mental health. Yet, sometimes the fortunate are moral failures, and the misfortunate are moral heroes.

Depending on the agent’s resources and abilities, which often depend on luck, in particular cases some duties may be unjustified,
others may be waivable, and still others may be greater or lesser.

Some duties are universal; others are not. The blind, for instance, surely do not have a duty to serve their country as soldiers.

Nonetheless, although the particular duties of different individuals may vary, each person still ought to do his or her duty, whatever it is, whether the individual is rich or poor, lucky or unlucky.

Third, crucial to deontology is the claim that actions are right or wrong independent of producing good or bad consequences. For instance, one's obligation to repay a debt does not depend on whether or not the payment is needed by the creditor, or whether or not it will be wrongly or badly spent by the creditor, or whether or not it could be put to greater use as charitable aid to the poor and hungry.

Deontological theories often are called “nonconsequential.” Although this label emphasizes a crucial distinguishing feature of deontology, the term is misleading because it fails to include other distinctions that are equally crucial and especially relevant today due to the contemporary philosophical and popular interest in libertarian, communitarian, and virtue theories of morality (see Chapter 4). For these reasons, “deontology” and “deontological” are preferable terms.
In contrast to deontological theories, consequential theories, such as utilitarianism, often seem to entail duties and obligations, and even rules, such as the general duty to produce good consequences (beneficence) or the duty to follow the rules of rule-utilitarianism; nevertheless, the two kinds of theories are distinct in a crucial respect. The crucial distinction is this: for consequentialists, actions and rules never stand on their own as right or wrong (as independent duties, or deontically), but stand as right or wrong only when assessed with the good or bad consequences. Restated, according to consequentialists: the morality of any action, when the action is considered on its own, is indeterminate, because the morality of any action is ascertainable only by examining the consequences produced by the action. According to consequentialists, an action, such as killing an innocent person or breaking a promise, can be wrong in one case but right in another, and the wrongness or rightness is determined by whether the effects produced by the action are greater or lesser, better or worse, in the particular cases.

Some consequentialists conceive of actions as goods or bads (or values), or intrinsic goods or bads (or values). As goods or bads, actions are not, strictly speaking, neutral, but they are still
indeterminate until they are added to or subtracted from the consequences. This is because the goodness or badness of the action does not stand on its own as right or wrong. The goodness or badness of the action itself must be added to, or subtracted from, the consequences of the action. Whenever the total—action and consequences—is good, then the action is right and ought to be done; and whenever the total—action and consequences—is bad, then the action is wrong and ought not to be done.

From a deontological point of view, the consequentialist conception of actions is misguided and confused. According to deontologists, actions are right or wrong, not good or bad, and actions stand on their own as right or wrong. Actions are not the kind of thing that can be weighed or ranked or traded-off in the manner typical of consequences. In saying this, deontologists are not denying that there is a duty to produce good things (the duty to do good, or beneficence); however, importantly, deontologists are denying that all of morality—that all duties—can be subsumed under and reduced to the sole duty of beneficence.

Immanuel Kant is widely recognized as the most influential deontological theorist. Contemporary theories that are indebted to
Kant are often called "Kantian" or "Neo-Kantian." Kantian theories include those of H. A. Prichard, Kurt Baier, Alan Donagan, Alan Gewirth, and Kristine Korsgaard. While clearly following Kant in most respects, some other contemporary deontological theories contain some consequential considerations, such as the duty to do good (beneficence) and the duty not to do unnecessary harm (nonmaleficence). These other theories are often called "mixed" deontological theories. Examples are the theories of W. D. Ross, John Rawls, William K. Frankena, Tom Nagel, T. M. Scanlon, and Baruch Brody. For my purposes in this chapter, Donagan, Ross, Prichard, and, of course, Kant, are especially valuable. Kant and Donagan are considered below, Prichard in a later section of this chapter when especially relevant, and Brody in more detail in Chapter Five.

In *The Groundwork of the Metaphysic of Morals*, Kant argues that reason discloses one fundamental principle of morality, which Kant calls "the supreme principle of morality" and "the categorical imperative." From this one principle, all particular duties and obligations can be derived. Insightfully, Donagan shows how the categorical imperative is a philosophical formulation of "the Greatest Commandment" or "Golden Rule" of the Hebrew-Christian,
commonsense tradition of Western culture (1977, Chaps. 1, 2).

Indeed, Kant himself cites the command “to love our neighbour and
even our enemy” (13 [67]).

According to Kant, the categorical imperative can be stated in
more than one way, and he identifies three versions, each also in
various ways. The three are distinguished by the “form,” “matter,” or
“determination” of the formula (435-37 [103-4]):

The Formula of Universal Law, or the Law of Nature: “Act only
on that maxim through which you can at the same time will that
it should become a universal law.” (52 [88]) “Act as if the
maxim of your action were to become through your will a
universal law of nature.” (52 [89]) “Maxims must be chosen as
if they had to hold as universal laws of nature.” (80 [104])

The Formula of the End in Itself, or Dignity (or Respect): “Act in
such a way that you always treat humanity, whether in your own
person or in the person of any other, never simply as a means,
but always at the same time as an end.” (66-67 [96]) “A
rational being, as by his very nature an end and consequently an
end in himself, must serve for every maxim as a condition
limiting all merely relative and arbitrary ends.” (80 [104])

The Formula of Autonomy, or the Kingdom of Ends: “... the will
of every rational being [is] a will which makes universal law.” (70
[98]) “... the will can regard itself as at the same time making
universal law by means of its maxim.” (76 [101]) “All maxims as
proceeding from our own making of law ought to harmonize with
a possible kingdom of ends as a kingdom of nature.” (80 [104])

Autonomy, Kant argues, is the ground of the “dignity” or “intrinsic
value” of human beings, as it is of all rational beings. This is because
all rational beings, and only rational beings, are free—morally free—to obey only those laws that they as individuals believe to be right.

Appropriately, rational beings are called “autonomous” (Gk., auto plus nomos, “self” plus “legislator, lawmaker”), because for them the moral law is not only knowable but self-imposed.

“Dignity” is a technical term used by Kant for “intrinsic value,” for the kind of “incomparable worth” that has “no price” (or, as I will say, that is “nontradeable”). In Kant’s words:

... that which constitutes the sole condition under which anything can be an end in itself has not merely a relative value—that is, a price—but has an intrinsic value—that is, dignity.

Now morality is the only condition under which a rational being can be an end in himself .... Therefore morality, and humanity so far as it is capable of morality, is the only thing which has dignity. (77 [102])

Dignity refers to the intrinsic value of a rational being who has the capacity, as a matter of moral conscience, to obey no laws other than the ones she makes herself (77-79 [102-3]). Such beings are “persons” and ought never to be treated arbitrarily by others (65 [96]). In place of the term “dignity,” many Kantians, including Donagan, prefer the term “respect.”

According to Kant, although respect—his term is “reverence”—is a feeling, it is not a typical feeling, inclination,
sentiment, fear, or the like. Unlike other feelings, respect (reverence) is internal, or self-produced, and not received from an external influence. Respect (reverence) is consciousness of the determination and subordination of the will by the moral law. Kant states:

All reverence for a person is properly only reverence for the law (of honesty and so on) of which that person gives us an example. Because we regard the development of our talents as a duty, we see too in a man of talent a sort of example of the law (the law of becoming like him by practice), and this is what constitutes our reverence for him. All moral interest, so called, consists solely in reverence for the law. (16, n.** [69, n.**])

Respect (reverence) is an effect of the moral law, not its cause. Nor is self-respect the same as self-love (selfishness), for the object of respect is always the moral law alone, whether in one’s own person or in another person (14-16 [68-69]).

Similarly, “moral worth” is always attached to the moral law—to duties. A person’s action, considered subjectively, has moral worth only when the person is motivated by duty—when duty is done because it is one’s duty—when the person’s (good) will moves the person to act out of respect for the moral law. Moreover, any action, considered objectively, has moral worth only when it conforms to a duty (9-16 [65-69]).
Some duties are "perfect" and some "imperfect," Kant explains. Perfect duties Kant also sometimes calls "strict," "narrow," or "rigorous," and imperfect duties he also sometimes calls "wider" or "meritorious" (57 [91]). Perfect duties are those that always hold, without exception. An example of Kant's is the prohibition against making false promises. In contrast, imperfect duties, while continuing to hold their full moral necessity as duties, are nevertheless duties that permit some degree of choice by the agent. Two of Kant's examples are developing one's talents and helping others. Although all of us ought to develop our talents and help others, each of us has some say about which of our talents we develop and which charity or person we aid (53-59 [89-92]).

According to Donagan (1977), deontology originated in the Hebrews and Stoics, who passed it on to Christianity. Three features characterize the tradition: (1) a set of rules or precepts of conduct, (2) binding on all rational beings as such, and (3) ascertainable in principle by human reason (p. 6).

Regarding (1), deontological theories can be monistic (one rule), as are Kant's and Donagan's, or pluralistic (more than one rule) as are Ross's, Nagel's, and Brody's. Monists hold that the rightness or
wrongness of all actions, or the justification of subsidiary rules, follows in some way from the one rule. In contrast, pluralists concede the difficulty of deriving all of morality from one rule. Consequently, pluralists propose more than one rule, although some pluralists, such as Brody, remain hopeful that perhaps someday someone will propose an adequate synthesis of the many rules into one rule.

Regarding (2), a deontological theory does not merely give community or cultural mores, but provides a standard of justification or judgment for guiding people in how they ought to live. The denial of (2) often occurs in class and caste systems (such as, European aristocracies and Hinduism), in racism and sexism (for instance, denying that Asians or women are rational), and in virtue ethics, wherein character traits are determinative over rules (as in, for example, Confucianism, Plato, Aristotle, and some Christian moralities).

Finally, according to the deontological tradition, a moral theory is rational (3) in the sense that it is knowable by humans either (a) by experience in nature and reasoning about experiences in nature (empirically), or (b) by reason independent of experience (a priori). Although empirical and a priori reasoning are independent of revelation,
they are not necessarily in opposition to revelation. The rationality of moral theory (3) is denied by emotivists, subjectivists, and voluntarists (including theological voluntarists, who hold that morality issues from God’s arbitrary will).

In the common moral tradition as Donagan understands it, all moral questions are about either (1) the permissibility or impermissibility of actions or intentions, or (2) the culpability or inculpability of agents. The former he calls “first-order” and the latter “second-order.” Importantly, the order is logical: precepts about the culpability or inculpability of agents make no sense unless their actions were objectively in themselves permissible or impermissible. For instance, one who intends to steal (second-order) is not culpable if no theft actually occurred (first-order). First-order precepts are prescriptive, and second-order precepts are judicative. Acts of praising and blaming are judicative acts and so are objectively permissible or impermissible; whereas the agents themselves are subjectively praiseworthy or blameworthy, culpable or inculpable.

Deontologists sometimes have different moral epistemologies. Some are rationalists, like Kant and Donagan, and others are intuitionists, like Ross and Prichard. Kant’s and Donagan’s rationalism
is summarized above. Because Ross’s and Prichard’s intuitionism is significantly different from earlier versions, which were criticized and rejected by Sidgwick and many others, their version is usually referred as “new” intuitionism. Both the old and new intuitionism meet Donagan’s three criteria for being deontological moral theories.

In Chapter 5, when especially important as background to casuistry, the old and new versions of intuitionism are analyzed and assessed. Chapter 5 is also where Ross’s theory is explained more fully. For the present, my remarks are restricted to those aspects of Prichard and Ross immediately relevant to the four theories of animals and the environment assessed in this chapter.

Prichard gives an objection to consequentialism that I apply against the four theories. This objection is that duty cannot be derived directly from value: an intermediate premise is essential, a premise asserting that the agent has a duty to do some action regarding the value. The intermediate premise is often tacit, and when made explicit, the argument fails or must be significantly revised and weakened. This line of objection is often identified as the is/ought fallacy (from David Hume) or the naturalistic fallacy (from G. E. Moore). The details of the objection are given below in Section 3.42.
Ross is a pluralist, not a monist. He held that, in most genuine situations, agents have more than one duty, and these duties cannot be reduced to or inferred from one supreme duty. All of the duties applicable in a particular situation (or case) Ross calls “prima facie duties.” No duty is unconditional. Prima facie duties are intuitions, and several may truly apply. A judgment (fallible and uncertain) is needed to decide which prima facie duty is “actual.” Because the judgment is fallible, confidence is always qualified; certainty is not possible; getting it right often involves an element of good fortune.

Ross is especially important for my project. In Chapter 5, I revise and expand his theory to make it inclusive of animals and the environment. The result is a theory that is both inclusive and genuinely deontological. These two features—inclusiveness and genuine deontology—are my two main criticisms against the four theories below.

3.3 Deontology and the “Problem of Moral Status”
Before examining the four deontological theories, a preliminary question requires an answer. As I stated in the Introduction (3.1), I will argue that all four theories are not genuine deontologies. The
preliminary question is: why do I think that these theories are deontologies? Perhaps the authors never intended them to be deontologies.

To this question, I have three responses, which are conclusive, I believe, when taken together. First, when explaining and defending their theories, the authors use many of the terms of the deontological tradition, such terms as, "duties," "obligations," "rights," "respect," "dignity," "moral status," "moral considerability," and so on. At issue with these terms, however, is whether they are used merely verbally or with substantive deontological meaning. My analysis below shows that the duties are intended by the authors to be deontological, non-consequential duties.

Second, each theory is arguably substantively indebted to the Western deontological tradition, although in different ways. All appeal to the common-sense, Judeo-Christian moral tradition, which is essentially deontological, according to Donagan (see Section 3.2). All of the theories deny "anthropocentrism," which is understood as the Kantian limitation of morality to rationally autonomous beings. Taylor explicitly attempts to reformulate Kant for the natural environment, and Regan does the same for animals. All of the theories deny
restricting ethics to consequences and utility, no matter how abstract or long-term. Rolston rejects the “resource” or “utilitarian” approach because it treats the environment as “mere resource” for consumption by humans. Those theorists who propose sentience-based deontology (see 3.42) maintain that some duties to sentient beings are nonconsequential, such as the duty to inflict no unnecessary suffering. In contrast, sentience-based utilitarians allow trade-offs.

Third, these four theories are attempts to solve a particular problem, which I call the “Problem of Moral Status.” Many animal and environmental philosophers and activists believe that environmental catastrophe, with huge losses in human and nonhuman life, can be avoided only by radical changes in common-sense and theoretical morality. Their main objection to traditional Western morality is that it is anthropocentric, permitting and even inspiring the exploitation of nonhuman nature. What is needed, they assert, is an ethic that will recognize and respect nonhuman nature as being and having the kind of entities, and as having the kind of processes that ought not to be used as mere means to human ends. Or, restated, what is needed is the widespread adoption of the belief that the entities and processes of nonhuman nature are the moral equals of humans. With this aim, some
have advocated essentially religious approaches, such as, religious pantheisms like Taoism and Hinduism, or the religious traditions of the indigenous peoples of America, Africa, and Australia. For philosophers, the problem is constructing a rationally defensible moral theory regarding nonhuman nature.

To many environmental and animal philosophers, deontology is appealing because, in many of its versions, duties are unconditional. Yet, according to Kant, the only kind of beings who are ends-in-themselves and ought never to be treated arbitrarily, are persons—rationally autonomous beings. It is only persons who are worthy of respect, who ought not to be used by others as a mere means (that is, as a mere resource), who have the capacity to have a good will, and, consequently, who have the kind of moral status that is priceless, incomparable, and nontradeable.

For animal and environmental philosophers, the problem of moral status is the problem of expanding the Kantian criteria for being a person—for having the kind of status that prohibits arbitrary treatment as a mere means, or a mere resource—to include nonhuman nature. They conceive of ‘moral status’ (or ‘moral considerability’) as a value that certain entities have. Alternatively, instead of adding to
the criteria, thereby making them more inclusive, the criteria can be rejected, either selectively or totally, on the grounds that they are arbitrary or too exclusive. Frequently encountered expressions with meanings similar to “moral status” include “moral considerability,” “moral standing,” “moral rights,” “morally enfranchised,” and the like.

As I show in the following sections, the answers to the problem of moral status, as proposed by animal and environmental philosophers, have had a common logical structure: they are arguments from value to duties. The conclusion defended by these arguments is that nonhuman nature has the kind of value that entails duties, duties strong enough to preserve nonhuman nature (or some aspects of it) and to prohibit using it (or some aspects of it) for human ends.

In contrast, Kant’s argument is from duties to value. Kant begins with duties. According to Kant, incomparable value can potentially reside only in those beings with the capacity to do their duty for its own sake—in autonomous beings, beings with free will and rationality.
3.4 Four Theories

Biocentrism (or Respect for Life), Sentience, Inherent Value, and Intrinsic-Value Holism are four theories asserting that moral agents have at least some duties toward nonhuman animals and nature. Allegedly, these duties are owed directly to the nonhuman entities, rather than being owed directly to humans and indirectly to the nonhuman entities. In other words, the authors of these theories consider them to be deontologies.

This section is primarily analytic, and the next critical. Although some criticisms are given in this section when particularly pertinent, my two main objections are developed in detail in the next section (3.5).

3.41 Biocentrism, or Respect for Life

Under various rubrics, several philosophers have claimed that duties are owed to every living entity solely by virtue of the fact that the entity is alive. These rubrics include: “reverence for life” and “will-to-live” (Albert Schweitzer); “conation” (William James, George Santayana, Ralph Barton Perry, and Joel Feinberg); “biocentric egalitarianism” and “respect for life” (Paul Taylor); “being alive”
(Kenneth E. Goodpaster); and "vitalism" and "vitality" (Holmes Rolston, III). For most of these philosophers, the concept is not developed with much detail or clarity, the exceptions being Feinberg, Taylor, and Rolston. Feinberg and Taylor are considered here, and Rolston in 3.44.

Perhaps best-known is "reverence for life," popularly identified with Albert Schweitzer, who stated, "Ethics consist . . . in my experiencing the compulsion to show to all will-to-live the same reverence as I do to my own" (1953, 309). According Schweitzer, the "will-to-live" cannot be scientifically analyzed or reduced, and it is part of everything that exists, not just living things. The will-to-live is neither abstract nor ethical thinking, but mystical, and so is as likely to be felt and experienced by the unlearned as by the learned. The mysterious will-to-live makes the beholder "think and wonder" and thereby leads "ever upwards to the heights of reverence for life" (1953, 309). Reverence for life is a fellow-feeling toward all of life.

Normatively, for Schweitzer, this valuing entails duties as sentimental as tearing no leaf, rescuing earthworms stranded on roadways after rains, and not swatting pesky insects. Schweitzer holds that we have a duty to preserve life whenever possible. He
concedes that necessary injury is permissible, but he provides little guidance for what constitutes a necessity.

Due to its obscurity, Schweitzer’s ethic gives virtually no help in resolving conflicts of duties. Because there are morally relevant differences between humans and nonhuman living beings, equal treatment in all circumstances would be too simplistic and frequently morally wrong. Schweitzer’s ethic is explicitly grounded in some type of religious and/or mystical valuing of the mystery of life. Schweitzer does not explain why the will-to-live ought to be valued; it is essentially unanalyzable. When actually applied, it would produce irresolvable conflicts and incoherence.

A biocentric theory of value similar to Schweitzer’s is “respect for conation.” In “The Rights of Animals and Unborn Generations” and “Human Duties and Animal Rights” (1980), Joel Feinberg derives rights from conation. He argues that conative beings have interests, and that beings with interests have rights. For the notion of conation, he acknowledges indebtedness to William James, George Santayana, and Ralph Barton Perry. Because animals are conative, they have a direct or nonderivative right to life, a right that is weak since it is easily overridden in cases of conflict. All conative urges, Feinberg claims,
are objects of moral respect because the essence of valuation is conation. Conations include conscious or unconscious drives, instincts, aims, goals, urges, wants, tendencies, demands, inherited natures, and biological propensities. Conative beings have interests (or a "good of their own") and so can be represented (at least by proxy) and benefited.

For Feinberg, it is interests that enfranchise an entity, that make it a rights-bearer. Although conation is necessary for "moral" status, it is not sufficient. Without cognitive awareness, conation involves no beliefs, desires, or aims: "mindless creatures have no interests of their own" ("Rights of Animals," in 1980, 169). Therefore, Feinberg concludes, plants, lower animals, and collective groups, such as species, have no interests of their own and so no moral rights.

Moreover, conative demands are not of equal value, and conflicts must be resolved. Feinberg suggests that we have duties to those near and dear to us and duties to our own species that override other duties. Human claims are more valuable than animal claims because of human properties not found in animals—properties such as rationality, morality, aesthetics, and culture.
Both conation and reverence for life assume that natural "urges" are good, which they may not be. These "urges" resulted from natural selection, and not until self-awareness is achieved by a species can we meaningfully talk of any type of conscious valuing or consciously chosen values. In other words, unconscious nonreflective forms of life have the conations that they do, not because they have freely chosen or deliberated about those values, but by genetic instinct or environmental conditioning. Unless mental deliberation occurs, biocentric urges are morally little different from machine "urges." Are plant "urges" moral? Computer "urges"? To be moral, urges must include mental and cognitive elements.

Two other life-based theories of value are Paul Taylor's notion of "respect for nature" (which he also calls "biocentric egalitarianism") and Kenneth E. Goodpaster's concept of "being alive." In Respect for Nature (1986), Taylor locates value in entities that are natural teleological centers of life—entities that have a good of their own that can be furthered or damaged by moral agents. Taylor thinks that necessarily such entities must be living, and so plants are included but not dirt, rocks, and water. Normatively, no species is superior, Taylor argues, because all species are teleological centers of life. A
biocentric outlook follows: all species are part of the earth's community.

Somewhat similarly, in “On Being Morally Considerable” (1978), Goodpaster finds that “being alive” is the only nonarbitrary criterion of moral status. “Being alive” he defines as self-sustaining organization. Goodpaster argues that, although sufficient, sentience is unnecessary and so inadequate as a criterion, because sentience biologically is merely an adaptation that increases capacity for survival and because evolution might someday produce beings devoid of sentience who nevertheless have “capacities to maintain, protect, and advance their lives” (317).

All these life-based approaches encounter the same problem: they produce irresolvable conflicts and incoherence, and thereby reduce to absurdity. If every individual living thing is valuable, then all ought to be preserved, including every individual insect, weed, and bacterium. If this ethic were correct, humans would have to depend for nutrition on such nonliving organic products as fruit and nuts, or on foodstuffs artificially and chemically synthesized from inorganic materials, since unnecessary killing would be prohibited. Moreover, arguably humans ought to police the planet, preventing all other
species, including insects, from killing, consuming, or harming others. If we intervene, for which life forms? If we have a duty of noninterference, why? Surely these implications are absurd. Some criterion (or criteria) other than, or in addition to, biocentrism is needed. Resolution of the conflicts could come only by appeal to some factor other than being alive.

3.42 Sentience

Several animal ethicists locate moral considerability in sentience, which is the capacity to experience pleasure and pain. Allegedly, experiences (or mental states) of pleasure are intrinsically good, while experiences (or mental states) of pain are intrinsically bad. It is argued that beings who can experience these states, namely, sentient beings, are, by virtue of this capacity alone, moral beings to whom duties are owed. At issue for my project is whether, or to what extent, duties can be derived from these goods and bads.

William K. Frankena in “Ethics and the Environment” (1979) and G. J. Warnock in The Object of Morality (1971) hold that all beings capable of pleasure and suffering, just because of this capacity, can be treated rightly and wrongly. Frankena cites with approval the widely-
used distinction introduced by Warnock between moral agents and moral patients, the former term referring to rationally reflective and self-aware moral beings but the latter referring to merely sentient beings, to beings who are conscious but not self-aware.

Although specifically dealing with the abortion issue in "The Criterion of Sentience" (1987; repr. from 1981), L. W. Sumner makes several points often cited by environmental ethicists. He argues that life is too inclusive a criterion, and that rationality is too exclusive a criterion because rationality excludes marginal humans and higher animals. Although life is necessary, it is not sufficient; and, although rationality is sufficient, it is not necessary. Because sentient feelings are "states of mind of which their owner is aware," consciousness is also necessary, but consciousness also is not a sufficient criterion since a being might conceivably be conscious but utterly lacking in emotion or feelings (as with, conceivably, an extraterrestrial or a computer). Empirically and biologically, Sumner contends that sentient consciousness appears phylogenetically with the development of the forebrain in vertebrates. Most animals and all plants are nonsentient. Since rationality enhances sentience, a hierarchy results with various degrees of moral standing. Lower animals (fish, reptiles, amphibians,
and birds) count for little, but higher animals (mammals) and especially higher mammals (primates and cetaceans) merit greater protection. Insects, plants, and microorganisms count for virtually nothing. Sumner notes that this hierarchy roughly accords with the intuitions of most persons.

In *Animals and Why They Matter* (1983), Mary Midgley emphasizes the consciousness, sentience, and social nature of nonhuman animals. Even in humans, she argues, some aspects of mentality are unconscious, nonpropositional, and pre-verbal. Midgley contends that animals could not migrate, find food, care for their young, manage a pack, and so on, without having beliefs and a sense of the future. Expressive and interpretative capacities, such as, anger, emotion, desires, and beliefs, are far older than language and are present in many animals. Moreover, higher animals are neurophysiologically in continuity with humans. Midgley believes that these higher animals have motives, intents, feelings, imaginations, dreams, and emotional states like play and anger. All social animals interact and communicate within their own species—and often interspecifically with other animals and humans. Unless we are prepared to endorse premises logically entailing solipsism and extreme
reductionism, including the denial of mental states in other human beings, we must include animals within the consciously sentient community and recognize that we have duties to them, duties such as not causing unnecessary pain and not thoughtlessly destroying their habitats.

Overall, Midgley's treatment is too biologically and psychologically uncritical. Many of the capacities she gives to animals, such as migration and management of a pack, have been explained as unconscious, or hardwired, the result of genetic endowment (instinct), evolutionarily-based adaptations to ecosystems, environmental conditioning (unconscious learning), and unconscious memory. Unless the animals are both conscious and self-aware, their sentient experiences would not seem to be a moral concern since no identifiable individual, or mind, who endures through time would be having the experiences. Without an enduring self-consciousness, sentient experiences are little more than intermittent isolated "packages" of pleasure and pain belonging to no distinguishable individual. Although these packages may be regarded as valuable, as respectively good or bad, it remains unclear for whom they are good or bad.
Probably the fullest treatment of animals based on the sentience criterion is Singer’s (see 2.32). For my purposes now, it is important to note that, according to Singer’s preference utilitarianism, what it means for a being to be a “moral” being is for that being to be a sentient receptacle of good or bad preference satisfactions. Consequently, humans and many nonhuman animals have moral status. For Singer, it is the mental states that are valuable. Whether human or nonhuman, life itself is not valuable; rather, lives are valuable due to the goods that they make possible.

In contrast to Singer’s utilitarianism, Feinberg derives animal rights from sentience. Based on the capacity of animals to experience pain, Feinberg argues in “Human Duties and Animal Rights” (1980) that sentient animals have the right not to experience unnecessary pain and that moral agents have the correlative duty not cause such pain. Since animals lack the requisite rationality, Feinberg holds that animal rights are easily overridden and that animals may be exploited and killed for food or clothing.

Contrary to Feinberg, H. J. McCloskey in “Moral Rights and Animals” (1979) argues that sentience relates only to duties, not to rights, because where there is no capacity for moral deliberation,
there can be no rights. Rights and duties are not correlative. For McCloskey, moral agents have duties to sentient animals, but the animals have no rights.

Sentience presumes consciousness, but not necessarily self-consciousness. Beings who are self-aware are conscious, but beings who are conscious may not be self-aware. The best evidence is introspection: when conscious, we often are not self-aware. Most animal and environmental ethicists acknowledge that self-consciousness gives its possessor a special kind of value, indeed the highest kind of value, a value Singer reserves for "persons" and that Regan labels "inherent value."

Critical of Singer and his followers, Regan objects to deriving animal rights from intrinsic value. Regan prefers the term "inherent value," which functions in his theory as the crucial determinate of the morality of actions. Most intrinsic values are commensurable and tradeable, as in utilitarianism, whereas Regan's term, which is narrower in meaning, refers only to a subclass of intrinsic goods, to those intrinsic goods that also at the same time have incommensurate or nontradeable value. In Kant's terminology, Regan's term "inherent
value” designates those beings who ought not to be used merely as a means to others’ ends.

In sum, some animal and environmental ethicists hold that the goodness of life itself and the value of sentient experiences directly entail duties, either consequentialist-type duties to produce the good or Kantian-type respect and rights. After explaining Regan’s and Rolston’s theories in the next two subsections (3.43 and 3.44), I argue in Section 3.5 against these and similar attempts to derive duties from values. Although some of the attempts explicitly claim to be indebted to Kant, nonetheless they are contrary to Kantian deontology. For Kant, the only thing that is unconditionally good in itself—the only thing that is intrinsically good—is a good will; and, the only kind of being capable of having a good will—a will that is free and able to move its possessor to obey the moral law—is a being who has the capacity both to know the moral law and to act according to the moral law: namely, a rationally autonomous being.

3.43 Regan and Inherent Value

In The Case for Animal Rights (1983), Tom Regan attempts to modify Kantian deontology to encompass rights for animals. Regan argues
that higher animals have the kind of value that entails a right to life as strong as the human right to life. Although I believe that animals have some substantive rights, I reject Regan's analysis of rights. After explaining the theory, I give five criticisms.

Analysis of Regan's Theory. Regan's theory is based on two interrelated concepts, "inherent value" and "subject-of-a-life." In his early writings, he uses "intrinsic value" with the same logical function as later given to inherent value. He proposes inherent value as a type of value distinct from and beyond respect for life, conation, and mere sentience. Using terminology reminiscent of Kant, Regan states that inherent value is a "theoretical assumption" or "postulate" made necessary in order to avoid inegalitarianism and the counterintuitive implications of utilitarianism (such as, secretly killing an innocent person as a mere means to an end). In Regan's theory, beings with inherent value have "categorical value" and "value in themselves," namely, they have the kind of value that cannot be traded off.

Crucial for Regan is a theory in which individuals have non-tradeable value, or, in Kant's terms, a theory in which individuals cannot be treated as mere means to others' ends. Regan considers Singer's theory to be deficient primarily because living individuals in
themselves are not considered to be morally and ontologically valuable: they are mere receptacles, or containers, of goods and bads—of pleasure and pain, or, alternatively, of preference-satisfactions. Although, like Singer, Regan permits trading off mental states, Regan considers individuals to have *inherent* value, a kind of value that is incommensurable with other kinds of value and that prohibits trade-offs (1983, 205-26, 235).

In an early article (1975, repr. 1982), Regan grounds rights in intrinsically valuable mental states, a view that he later rejects. He uses the term “intrinsic value,” not “inherent value,” to refer to the kind of value that prohibits treatment as a mere means. Locating intrinsic value in the individual, Regan argues, is question-begging because the notion is introduced to prevent killing. Regan concludes that the most plausible basis for rights is the intrinsic value of mental states (1982, 29-30; cf. 1983, 133-40).

In *The Case for Animal Rights* (1983), Regan proposes the term “inherent value” in order to avoid confusion with the term “intrinsic value,” which he now interprets broadly as including commensurable, defeasible, and tradeable values, such as mental states of pleasure and pain. Regan explains:
The inherent value of individual moral agents is to be understood as being conceptually distinct from the intrinsic value that attaches to the experiences they have (e.g., their pleasures or preference satisfactions), as not being reducible to values of this latter kind, and as being incommensurate with these values. (1983, 235)

Moreover, totaling an individual’s intrinsically valuable experiences will not give the being’s inherent value.

Inherent value is thus a *categorical* concept. One either has it, or one does not. There are no in-betweens. Moreover, all those who have it, have it equally. It does not come in degrees. (1983, 240-41)

According to Regan, all moral beings, including both moral agents and patients, have *equal* inherent value.

Although unusual and stipulative, Regan’s use of the term “inherent” seems clear enough. The term was proposed by C. I. Lewis in *The Ground and Nature of the Right* (1955) to refer to an entity’s *capacity* to contribute something of value. An entity has inherent value, in Lewis’s sense, whenever another being’s *experience* or *contemplation* of the entity is intrinsically good or rewarding, but the entity in itself is not necessarily intrinsically valuable. The traits producing the intrinsically valuable experience are objectively in the entity; or, as some would say, the traits are intrinsic to the entity. For example, rocks like diamonds and petrified wood have inherent
value, as well as instrumental and perhaps other value. The value of
nonsentient beings would be either instrumental or inherent. In Lewis’s
sense, inherent value is a value that organic and inorganic things have
in relation to conscious beings—on being experienced or
contemplated—and not a value that the things have in and by
themselves.

The next step in Regan’s theory is an attempt to derive
unconditional, Kantian-type duties from inherent value. Although Kant
did not use the term “inherent value” with the same meaning as Regan,
nevertheless Regan claims that Kant used the concept but restricted
it to rationally autonomous beings. Regan contends that Kant
inconsistently and arbitrarily restricted inherent value to rationally
autonomous beings—or, effectively for our planet, to normal adult
humans. If Kant had been consistent, Regan argues, he would have
treated children and the mentally deficient as mere means, which he
does not. Many nonhuman animals are more rational and more
autonomous than children and the mentally deficient (1983, 174-85,
235-47).

Regan then argues that “subject-of-a-life” is a sufficient
criterion for having inherent value, because, as a criterion, it is
relevant, categorical, nonarbitrary, and intelligible. To define “subject-of-a-life,” Regan employs Wittgenstein’s notion of family resemblances. A being is a “subject-of-a-life” if that being has some subset of the following traits, or family resemblances: beliefs, desires, perception, memory, a sense of the future, an emotional life with feelings of pleasure and pain, preference and welfare interests, the ability to initiate actions to achieve goals, psychophysical identity over time, and a welfare of one’s own, a welfare that is independent both of the interests of others and one’s utility for others (1983, 243). As with family resemblances, having all of the traits is not necessary, and having some subset is sufficient, although precisely what subset is debatable.

Regan speculates that it is perhaps unintelligible and arbitrary to apply inherent value to beings that are merely alive or merely sentient (or merely conscious). Instances of such beings are insects, crustaceans, and likely fish. Merely sentient beings (namely, beings capable of experiencing pleasure and pain but lacking memory, desires, beliefs, the ability to act purposively, and so on) can perhaps “... only properly be viewed as receptacles of what has intrinsic value, lacking value in their own right” (1983, 246).
Inherent value and subject-of-a-life are the two main aspects of Regan’s value theory. From these values, directly and without additional premises, he derives deontological rights. In other words, Regan’s theory of the rightness and wrongness of actions is immediately inferred from his theory of value. All subjects-of-a-life have rights, including especially the right of respect and the right not to be harmed. *All* such beings have an *equal* right to life—or, in negative terms, an equal right not to be killed. Moreover, except in cases of legitimate and unavoidable conflict, all such beings have a right of noninjury, a right not to be harmed.

The final step in Regan’s case for animals is the empirical one of determining which animals fit the subject-of-a-life criterion. Regan thinks that all mammals and perhaps even some lower animals are subjects-of-a-life and so inherently valuable. In the interest of morality, the benefit of the doubt, Regan asserts, should be given to the animals. In other words, all mammals have a right to life, and killing them is morally wrong, except in such legitimate cases as self-defense. All mammals also have a right not to be harmed unless the harm is legitimate and unavoidable. Although inherent value does not entail a strong duty of beneficence, namely, a duty to provide food and
care, the right does require that humans not kill and not harm any mammal. Regan concludes that meat eating, hunting, trapping, and most animal experimentation are wrong because they are unnecessary.

**Criticism of Regan's Theory.** Although animals have some substantive rights, I think Regan's theory is seriously flawed. Here and in 6.3, I argue against Regan's analysis of rights and in favor of Baruch A. Brody's. If rights are what Regan proposes, then animal rights have strongly counterintuitive implications. Because most animals are not rationally autonomous beings, they are not worthy of respect and rights equal to humans. I have five major objections to Regan's theory.

*First, according to Regan's theory, rights are narrowly limited to higher animals.* Lower animals, plants, and all inorganic things are excluded from moral considerability and have no rights, because they are not subjects-of-a-life. All invertebrates and many vertebrates, notably all fish, amphibians, and reptiles, do not fit the subject-of-a-life criterion. As an environmental ethic, Regan's theory is unacceptable.

*Second, Regan's theory restricts rights to individuals.* Regan's theory has no place for species and ecosystems, except indirectly as they provide resources and benefits for individual mammals. Species are benefited only as the individual members of the species are
benefited. Collective groupings like species and ecosystems do not have *as groups* the requisite good-making traits: beliefs, desires, perception, memory, and so on.

In cases of conflict between mammalian and non-mammalian *individuals*, the non-mammalians will never win because the non-mammalians are not subjects-of-a-life with inherent value. Even in cases of conflict between mammalian individuals and non-mammalian *species*, the non-mammalian species will never win because the individuals in the non-mammalian species, not being subjects-of-a-life with inherent value, can be used instrumentally as mere means.

For Regan, biodiversity and ecosystemic preservation count morally for nothing beyond their indirect value for facilitating plentiful and robust resources for mammals. The fact that a non-mammalian individual is in an endangered species gives that individual no added benefit. The rights of every individual mammal are incommensurable, including even individuals in overpopulated mammalian species, because every subject-of-a-life is equally a subject-of-a-life and non-mammalians lack this status.

*Third, Regan's conception of the deeper structure of rights is mistaken.* According to Regan, the deeper structure of consequences
is that they are “tradeable,” but the deeper structure of rights is that they are deontologically “nontradeable.” In other words, rights are not waivable, not unequal in force, and not overrideable. Regan’s conception of the deeper structure of rights results from his opposition to consequentialist reduction of complex living organisms into mere packages of sentience to be traded-off one for another. According to Regan, the answer to the problem of moral status is that all beings who are subjects-of-a-life with inherent value are incommensurably and indefeasibly valuable. In Kantian terms, such beings ought not to be used as mere means to others’ ends. Humans are often thought to have this indefeasible, nontradeable type of value, and Regan urges that many other animals do as well. According to many deontologists, killing innocent human beings is always wrong, except in extraordinary cases of self-defense, such as defending oneself against a life-threatening action by an ignorant or otherwise innocent person. According to Regan, a similar indefeasible prohibition holds for killing any innocent subject-of-a-life.

When the deeper structure of rights is conceived as in Regan’s theory, then animal rights are strongly counterintuitive to commonsense. As analyzed and defended by Baruch A. Brody (see
6.3), abundant case-data show that rights are: (a) waivable, (b)
unequal in moral force (that is, some are more fundamental than
others), and (c) overrideable (nonabsolute), including even the right of
individual humans not to be killed. In Regan’s analysis, rights do not fit
any of these deeper structures. Against Regan, I argue in 6.3 that
rights, including animal rights, can be traded-off based on subjective
waivings, unequal moral force, and other moral appeals. Unless in
principle rights are waivable, unequal in force, and overrideable,
conflicts cannot be resolved. If Regan’s view of rights were correct,
then the result in many cases would be moral indecision and paralysis.

*Fourth, Regan confuses rights with respect.* Regan’s criteria for
being a subject-of-a-life are the requirements for being a person, and
full possession of these traits makes one worthy of respect. He
intends for his notion of subject-of-a-life with inherent-value to do the
same theoretical, deontological work as Kant’s notion of rational
autonomy. Since the traits of personhood can be possessed in part
and to various degrees, it follows that respect is not absolute but
rather comes in degrees.

Regan holds, mistakenly, that rights are equal and nontradeable.
Consequently, an animal’s right not to be killed and a human’s right not
to be killed are equal and nontradeable. These claims are strongly
counterintuitive. Because animals lack full personhood, they are not
worthy of equal respect to humans. According to Brody’s theory of
rights, rights are not equal and can be overridden, but respect cannot
be overridden (see 6.3).

Finally, Regan fallaciously attempts to derive rights directly from
value. He claims that animal rights rest directly on a particular kind of
value—ineherent value—an incommensurable value that imposes
deontological obligations and constraints. In a well-known paper
(1912), H. A. Prichard argues that our obligations to act do not rest on
values but on previous actions of our own. Duties do not rest directly
on the production or preservation of the good. This criticism is my
“Derivability Objection,” and is discussed in more detail in 3.52 (and in
2.42 and 4.52).

Regan’s claim is puzzling. Why does inherent value, or any other
kind of value, directly impose deontological rights and duties? If I were
to have children or pets, then their lives would be inherently valuable;
but surely I have no duty to have either children or pets. Conceivably,
every value can be exceeded by another of greater quantity or quality:
more is always better. Consequently, my duty to produce or preserve
any particular value depends upon such other intermediate factors as the absence of a conflicting higher value, prior actions of my own, and my capacity to act.

In 6.3, based on commonsense experiences and case-data, I argue that animals have three substantive rights: the right not to be killed, the right not to be inflicted with pain, and the right to be aided. But these rights are not incommensurable, for they can be overridden by other rights and moral appeals, and depend upon prior actions and relevant circumstances of moral agents.

3.44 Rolston and Intrinsic-Value Holism

"Intrinsic-Value Holism" is my label for the theory of Holmes Rolston, III, who is regarded by many as the foremost environmental ethicist in the world. Intrinsic value and ecological holism are central concepts in Rolston's theory. As a foundation for ethics, ecological holism was inspired by Aldo Leopold's notions of "community" and "land ethic." Although ecological holism is a component in virtually every theory of environmental ethics, intrinsic value is not. For instance, J. Baird Callicott's theory, which is examined in Chapter 4, shares with
Rolston's the centrality of ecological holism, but rejects intrinsic value for inherent value.

This subsection on Rolston has two parts: analysis and criticism. In the first part, I explain the theory, including why the theory as proposed by Rolston is intended to be a deontology. In the second part, I evaluate the theory on its own merits, arguing that it does not succeed as a genuine deontology.

**Analysis of Rolston's Theory.** Five concepts frequently recur throughout Rolston's writings. These are: (1) the intrinsic value of nature, which value is non-anthropocentric or even anti-anthropocentric because it is independent of and apart from humankind; (2) ecological-systemic holism; (3) the derivation of duties to nature from the intrinsic value of nature, which logically entails the denial of the naturalistic/is-ought fallacy; (4) the intrinsic value of species as forms, or groupings, of life; and (5) biocentrism, that is, the intrinsic value of—and derivative duty to respect—every individual living organism.

Rules are also a part of Rolston's theory. He explicitly names two "rules" or "principles," the Homologous Principle (1988, 61, *passim*) and the Principle of Value Capture (1988, 79, *passim*).
Although less clearly identified by Rolston, I have found four other principles, for a total of six. He may use more than these. The six principles are:

1. The Homologous Principle: Follow Nature
2. The Value-Capture Principle
3. The Organic Principle: Respect for Life
4. The Species Principle: Preserve "Forms" of Life
5. The Ecosystemic Principle
6. The Three "Environments" Principle: Urban, Rural, and Wilderness (or, the Nature-Culture Principle)

By ‘nature,’ Rolston generally means nonhuman nature. He carefully distinguishes ‘nature’ and ‘culture.’ Culture is an artifact made possible by human self-awareness and thoughtfulness, which to such an advanced degree are found in no other species and which make possible the acquisition and transfer of knowledge, information, science, technology, art, and a host of other human achievements. In contrast to culture, nature is non-reflective and follows “laws” that cannot be broken, that operate “willy-nilly no matter what we do” (1994, 4). Rolston emphasizes that nature is “spontaneous,” whereas culture is “deliberative” (1994, 4).

Rolston acknowledges that humans are in nature and part of nature in many important respects. The biology of our bodies, for instance, is fully natural. He often says that humans (and human
culture) "emerged" out of nature. For Rolston, 'wilderness' is a synonym for the environment of nature wherever it is free of human interventions. Wilderness, rural culture, and urban culture make up our world's three "environments," each having its own particular intrinsic goods (1986, 40-46).

Understanding Rolston's metaphysical commitments is essential to understanding his ethic. His explicit commitments are deeply biological and evolutionary. Yet, he parts company with contemporary theoretical evolution when he denies that nature operates by "nothing but chance" (1988, 207):

A person may value what he has—or has become—by chance, but it is hard to see how one can value systemically a nature whose output is nothing but chance.

It is certainly true that there is randomness in evolutionary nature, but it is not random that there is diversity. . . .

How do we humans come to be charged up with values if there was and is nothing in nature charging us up so? We prefer not to believe in the special creation of values, or in their dumbfounding epigenesis. We let them evolve. Nor is our account merely a selection from the chaotic data of nature. Rather our interpretation notices how there is a world selection of events over evolutionary time (without denying other neutral or disvalued events), which builds toward the ecological valuing in which we now participate. Perhaps we will not want to say that this had to happen. But it did happen. (1988, 207-8)

Later I will argue that, due to the denial of chance, Rolston's philosophy, in addition to being deeply biological, is also deeply theistic.
Rolston's denial of chance is consistent with his Organic Principle, which is the assertion that every individual organism, from the simplest cell to the most complex multicellular organism, is intrinsically valuable and, therefore, worthy of appropriate respect. Unlike inorganic things, living organisms have vitality; they (i) have an identity, (ii) defend themselves, (iii) function for an end (telos), and (iv) have within them, in their DNA, information that is passed on, or communicated, to others via reproduction. By virtue of these traits, organisms are centers of valuing; even when unconscious, what happens to them matters. In addition, natural organic evolution is projective in value in the sense that the values are captured and carried forward in time, producing increases in both quantity and complexity (quality) of life (1988, Chapter 6).

Denying the is-ought fallacy, Rolston argues for a naturalistic ethic in which morality—including both values and duties—is derivative from the holistic character of the ecosystem. "Substantive values," Rolston contends, "emerge only as something empirical is specified as the locus of value" (1986, 19). Like it or not, all values are objectively grounded and supported by the possibilities and limitations within the earth's ecosystem.
Rolston concedes that the *concepts* of value essential to holism, namely, the Leopoldian concepts of beauty, stability, and integrity, are human and perhaps non-natural. Nevertheless, the *values* are a product of the interrelationship and interaction of human persons with an objective environment. What counts as beauty, stability, and integrity emerges from the interaction of world and concept. Rather than being located solely in human persons, values are collectively relocated in human persons in the environment. The value of the ecosystem is not imposed on it but is discovered already to be there: “we find that the character, the empirical content, of order, harmony, stability is drawn from, no less than brought to, nature” (1986, 19-20). Because the substantive, empirical content is in nature, and in nature independent of human and other valuing beings, the value is appropriately and most clearly called “intrinsic value.” Rolston asserts that “. . . here an ‘ought’ is not so much *derived* from an ‘is’ as discovered simultaneously with it” (1986, 20).

As a theory of value, ecological holism claims that everything, whether an individual thing or a collective ecosystem, is in some sense morally relevant and valuable. Rolston argues that value is both in the thing and in the system directly and intrinsically, not just indirectly—or
instrumentally—as the thing or system is related to humans or other beings that are rational, sentient, conative, or alive.

To use a term favored by Rolston, the value that emerges at the holistic level is "systemic" (1988, 186-89; 1994, 68-100). Rolston asserts that systemic value is intrinsic. In addition, he seems to hold that systemic intrinsic value is qualitatively richer than—greater than—the intrinsic value of the component parts and sub-systems, whether these components are considered as discrete things or sub-systems, or whether their discrete intrinsic values are totaled. In other words, the value of the whole is greater than the sum of the parts; the systemic intrinsic value of the whole exceeds the net sum of the intrinsic values of the individuals, things, and sub-systems making up the whole system. Moreover, when the system is compared to any component part or sub-system, the qualitatively richer intrinsic value of the whole system seems to entail that, whenever the health or integrity of the system is threatened, the parts are expendable. The system as a whole captures lower intrinsic values and qualitatively enhances them, thereby exceeding the net sum of their individual intrinsic values.
In support of his notion of natural systemic intrinsic value, Rolston cites research in evolutionary history. He argues that the explanation for the accumulated diversity of species in nature is systemic: nature is organized in such a manner as to produce greater diversity and complexity of life forms. In a study of the marine fossil record, D. W. Raup and J. J. Sepkoski (1982) found that there were about 100 marine families in Cambrian times, 400 in Pennsylvanian times, and 700 in Triassic. Over evolutionary time, the normal extinction rate declined, from 4.6 families per million years in the Early Cambrian to 2.0 families in recent times, even though the number of families and species enormously increased. The fossil record supports the following startling generalization: as life on Earth increases in diversity and complexity, the rate of extinctions decreases (Rolston 1988, 155-56).

This generalization seems to be true, despite the four or five catastrophic extinctions in the fossil record. Two patterns are evident from the record: (a) within each era, diversity of species increases over time, ending with a sudden and quick catastrophic extinction; and (b) after each extinction, speciation mushrooms, quickly recovering and exceeding the diversity of the previous era. According to many
paleontologists, the catastrophes were caused by extraterrestrial events, such as collisions with asteroids. If so, then the cause was external, or accidental, to the normal evolutionary progression on Earth. Other paleontologists look for terrestrial causes, such as climate change or continental drift. Regardless of whether the causes were extraterrestrial or terrestrial, or both, the Earth’s ecosystem accumulates diversity. Rolston states:

... the biological processes that characterize Earth are still to be admired for their powers of recovery. Uninterrupted by accident, or even interrupted so, they steadily increase the numbers of species. (1988, 156)

The natural tendency of the Earth’s ecosystem is to increase species diversity—and to do so without any evident limit (1988, 157). It is this natural value that Rolston calls “systemic.”

Natural systemic values are also intrinsic values, and they entail duties and obligations, Rolston argues.

Nature seems to produce as many species as it can, certainly not just enough to stabilize an ecosystem, much less only species that can directly or indirectly serve human needs. Humans ought not to inhibit this exuberant lust for kinds. That process, with its products, is about as near to ultimacy as humans come in their relationship with the natural world. The human limiting of this limitless process seems wrong intuitively, although we are straining to develop an ethic that clearly specifies why. (1988, 157)
Rolston does not think that life arose in a valueless context, anomalously and mysteriously out of nonliving materials.

But in an ecosystem, what a thing is differentiates poorly from the generating and sustaining matrix. In a historical story that sweeps over time, the individual and the species have what value they have to some extent inevitably in the context of the forces that beget them. (1988, 157)

The valuing is in the system—in nature. For this reason, Rolston claims, his argument does not commit the genetic fallacy. Value depends on origins. The natural system is life-generating and life-enriching (1988, 154-58).

Systemic value does not prohibit instrumental use of the component parts, provided the health and integrity of the system are not threatened. In addition, according to Rolston's principle of value capture, any human action should not destroy anything of intrinsic value unless the action produces something else of equal or greater intrinsic value.

Conflicts of intrinsic value occur only rarely in nature. Rolston contends that conflict between individual and ecosystem is a problem for culture, not nature:

Duties arise to the individual animals and plants that are produced as loci of intrinsic value within the system . . . . Duties also arise to the species that overlap individual lives . . . . But that is not all. Now we place the preceding duties in their
environment. Duties arise in encounter with the system that projects and protects, regenerates and reforms all these member components in biotic community. These duties to individuals and species, so far from being in conflict with duties to ecosystems, are duties toward its products and headings. The levels differ, but, seen at depth, they integrate. Perhaps on some occasions duties to the products will override duties to the system that produced them, but—apart from humans who live in culture as well as in nature—this will seldom be true. (1988, 189)

In other words, Rolston claims that a feature of evolution is the generation of increasingly greater kinds and amounts of intrinsic value. When bacteria infect and kill a mammal, for instance, they contribute to greater emergent value. Evolution is producing greater diversity of life forms, greater complexity of life forms, and greater populations of individuals. Except for human intrusions that shut down evolutionary progress, values are enhanced and increased in nature.

Rolston argues that because humans are only members—one of many members—of the biotic community, holism is non-anthropocentric, if not anti-anthropocentric. Moral value is attributed to the natural environment considered as an ecological-systemic whole, independent of humans and human interests, except in so far as humans are naturally part of the whole. In contrast, anthropocentric-humanistic approaches treat ecosystems as resource values to be
exploited for human ends. A scientifically enlightened humanist would have no reason not to use the planet as a mere resource according to long-term ecological science and the highest humanistic values.

Rolston rejects the anthropocentric view that ecology is merely enlightened and expanded human self-interest. We preserve the environment, not because it is in our best long-term economic, aesthetic, and spiritual self-interest, but because there is no firm boundary between what is essentially human and what is essentially ecosystem. Human and environmental interest merge; egoism becomes "ecoism." Since the boundary between the individual and the ecosystem is diffuse, "we cannot say whether value in the system or in the individual is logically prior" (1986, 25). The individual is not suppressed but enriched.

A scientific ecological fact is that complex life forms evolve and survive only in complex and diversified ecosystems. If "human" as we know it is to survive, we must maintain the oceans, forests, and grasslands. To convert the planet into cultivated fields and cities would destroy human life. We also ought to preserve the ecosystem to enable the further evolution of the planet, including that of human mental and cultural life (1986, 22-24).
Echoing Leopold, Rolston maintains that normatively right actions—our duties—are those actions that preserve ecosystemic beauty, stability, and integrity. Preserving the ecosystemic status quo, however, may not be entailed because humans can improve and transform the environment.

But this should complement the beauty, integrity, and stability of the planetary biosystem, not do violence to it. There ought to be some rational showing that the alteration is enriching; that values are sacrificed for greater ones. (1986, 25)

Borrowing a metaphor from contemporary physics, Rolston holds that integrity is a function of a “field” interlocking species and individuals, predation and symbiosis, construction and destruction, aggradation and degradation. Since human life support is part of the ecosystem, domestication is enjoined in order maximally to utilize the ecosystem. Biosystemic welfare allows alteration, management, and use. “What ought to be does not invariably coincide with what is” (1986, 25).

Regarding species, Rolston contends that our duties are to the species as forms of life rather than to the individual members of the species. The species is the form; whereas, the individual member represents the form. “The dignity resides in the dynamic form; the individual inherits this, instantiates it, and passes it on” (1986, 212). Biologically and ecologically, the individual is subordinate to the species.
Although extinctions do occur in nature, natural ones are open-ended, usually producing diversification, new ecological niches and opportunities, new species, and ecological trade-offs. In contrast, extinctions caused by humans are dead ends destroying diversity, producing monocultures, and shutting down evolution. Species diversity is essential to continuing evolution. Consequently, duties toward species begin whenever human conduct endangers any species. Our duties include not only preserving species but entire ecosystems. This is because, unless preserved in situ in their ecosystems, species will not be preserved and evolution will halt.

Criticism of Rolston's Theory. For my purposes, four aspects of Rolston's theory need comment. The theory has many features that are essential to any adequate ethical theory of nonhuman nature. Nevertheless, I argue that the theory does not succeed as a genuine deontology because strict duties cannot be inferred from intrinsic value.

(1) The Nature-Culture Distinction. Rolston's nature-culture distinction is important because it avoids the horns of a dilemma. To deny the distinction is to assert that humans are fully within nature. The assertion that humans are fully within nature implies two
alternatives that are both morally unacceptable. The first is that modern scientific technology is unnatural, and, therefore, a bad thing that ought to be destroyed, thereby effectively returning humans to nature, which is where humans ought to be. This ethic we usually call "primitivism." The second alternative holds that humans are fully a product of evolution, and, therefore, whatever humans do is natural, including all human exploitations of nature, no matter how radical or intrusive. The former is found in some of J. Baird Callicott’s writings (1992), and the latter in Daniel C. Dennett (1995).

(2) Holism. As an empirical and scientific theory, environmental biology is holistic and systemic. According to environmental scientists, the evidence is overwhelming that the ecology of our world—the empirical processes of life on the planet Earth—are holistic and systemic. Consequently, for any theory of ethics to be relevantly environmental, it must give some accounting of ecological holism. As with holism in other areas, the logical and empirical relationships between parts and wholes can be exceedingly complex, making ecological holism difficult to analyze and assess, whether considered as a scientific or an ethical theory. Too often ethicists, policy makers, and even biologists oversimplify these relationships.
Contemporary logicians, philosophers of language, and philosophers of science, led notably by W. V. O. Quine, have analyzed the logic of holism. Concepts and propositions are embedded in holistic systems of beliefs ("networks" or "frameworks," to use Quine's terms). Particular propositions (hypotheses or claims) are neither confirmed nor disconfirmed in isolation, but as parts of some larger system or network. Restated, all concepts and claims are theory-laden and presuppose some set of background beliefs. Often these beliefs are tacit or implicit, and sometimes inconsistent. Making beliefs explicit, clear, and precise is one of the tasks of philosophy. Assessing the evidence and likelihood of their truthfulness is often more a task for empirical science than for philosophy.

Two logical features of holism are especially important. First, some beliefs are central, and others peripheral. A central belief—part of the "framework"—is a belief upon which many other beliefs depend. Consequently, questioning a central belief has the potential to bring down the whole system; whereas, in contrast, anomalies among minor, peripheral claims are more easily accommodated. Why this is so is explained by the second feature, usually referred as the Quine-Duhem thesis.
According to the Quine-Duhem thesis, it is possible to retain (or to "save") any belief (or phenomenon) whatsoever by sufficiently revising or rejecting other beliefs. Because central beliefs are part of the framework upon which many other beliefs depend, retaining a questionable central belief requires far more revision than retaining a questionable peripheral belief. Peripheral beliefs usually can be retained with modest tinkering, or sometimes even dropped, with little effect on the whole.

As an ethic, ecological holism is the view that value is not only in individual entities but also in the whole. If value were only in individual entities, then the total value would be equal to the sum total of the individual values. In contrast, holism claims that the value of the whole is in some sense greater than the sum of the parts, and that the value of the parts is enhanced or enriched by the whole.

Perhaps the clearest examples of holism are aesthetic, as with music and painting. Many kinds of musical instruments are mediocre in solo but beautiful in symphony. Many of Paul Cézanne's masterpieces have small patches of bare canvas visible in places. When considered as a whole, each painting is beautiful. When various parts of the painting are considered in isolation, however, some are beautiful, while
others are plain or even ugly. According to holism, the beauty of the whole is greater than the sum of the parts, since some of the parts are plain or ugly. The beauty of the whole enhances the value of the parts, even the plain and ugly parts.

In ecology, the concept of the "whole" is vague, but arguably necessarily vague. The term not only can designate the inclusive totality of all natural things and individuals in an ecological system, but it also can refer to any or all of the interdependent and multi-layered systems, the ones in a particular bioregion or the comprehensive system of all systems, the ecological system of the planetary biosphere. Although all of the systems, and all of the entities in the systems, are mutually interdependent, they are so to varying degrees.

Some versions of ecological holism, such as primitivism, deep ecology, agrarian populism, and some types of ecofeminism, acknowledge an appropriate place for humans in the environment, but only as subordinate and dependent members of the whole. Typically condemned are environmentally harmful industrial technologies, such as steel production, petroleum refinement, and electrical power generation, despite the importance of these technologies for improving the quality of life of working-class people. Primitive holists, such as
Paul Shepard and Max Oelschlaeger, romanticize tribal hunter-gatherer communities; deep ecologists, such as Arné Naess and George Sessions, advocate sacrificing human interests, wealth, and economic productivity for sustainable "clean" technologies that are appropriately adapted to local bioregional ecosystems; agrarian populists, like Wendell Berry, Wes Jackson, and Bart Gruzalski, hope to revitalize the self-sustaining rural villages and small farms of early twentieth-century America; and holistic ecofeminists, such as Val Plumwood and Ronnie Zoe Hawkins, reject hierarchical structures of domination, replacing them with nurturing communities sustainably balanced and integrated within the ecological whole.

(3) *Intrinsic Value in Nature.* In Chapter 2, I defend intrinsic objective goods (see 2.2, 2.33), and briefly explain the controversy among environmental philosophers. The intrinsic value of nature is debated in entire books and a special issue of the scholarly journal *The Monist* (Vol. 75, no. 2 [April 1992]). The debate concerns three alternatives: intrinsic value, inherent value, and noninstrumental value. Rolston defends the intrinsic value of nature independent of humans or any other rational valuers. Rolston regards his view to be a minority
position, at least among leading contemporary environmental philosophers (cf. Callicott 1997, 32).

The view that nature is inherently valuable has several adherents among philosophers, especially environmental philosopher J. Baird Callicott. The argument relies on two claims: (1) the subjective claim that there is no value without a valuer, and (2) the objective claim—analogous to sensory experience—that real features of the world produce the experience that is valued by the valuer. Since the features producing the experience are actually out there in the objects of world, they are “inherent” to the world. For instance, in aesthetic experience, the features producing the observer’s experience of beauty are inherent to the art object, waiting to be experienced by the observer.

The noninstrumental value of nature is defended by environmental pragmatists, notably Bryan G. Norton (1991, 1992). Norton argues as follows. The concept of “intrinsic value” is ambiguous, incoherent, mystical, or religious. In contrast, what is meant by “instrumental value” is clear, and nature certainly has instrumental value. But it is also true that many people value nature in ways other than for its instrumental value—that is, they value it
noninstrumentally—as, for instance, they value aesthetic enjoyment or spiritual contemplation. When trying to resolve actual, real-world problems, appealing to the notion of intrinsic value does no additional work beyond that done by the notion of noninstrumental value. Moreover, appealing to intrinsic value can be positively harmful, particularly whenever the notion seems to involve non-public mystical or religious experiences. Therefore, from a practical and pragmatic point of view, it is better not to use the notion.

My assessment of this debate is twofold: (a) Rolston’s is the better position, but nevertheless (b) intrinsic value does not entail the duties that Rolston wants. I will take up the second point later.

Not mentioned by Rolston are two lines of argument giving additional support to his defense of intrinsic value. The first is the infinite regress argument of Aristotle. Nicholas Rescher, himself a pragmatist, uses Aristotle’s argument against John Dewey and his followers:

Dewey and his followers have attacked the validity of the distinction between means values and end values. They did so on grounds which can be rejected as insufficient because they failed to meet head-on the full weight of the impressive infinite-regress argument. But even if the distinctions abandoned, that between the subordinate that-valued-for-the-sake-of and the superordinate that-for-the-sake-of-which-valued will remain. And correspondingly, the relation of subordination being
transitive, there remains the question—not really so far removed from that regarding end values—of those very high level values for the sake of which most other valuings take place. (1969, 53-54)

The second line of argument comes from Tom Nagel’s *View from Nowhere*. A point emphasized by Nagel is overlooked by Callicott and his followers. “Objectivity” is a continuum ranging from pure subjectivity to pure objectivity. Pure objectivity is looking at an object from all possible points of view at the same time; in other words, it’s a God’s-eye kind of seeing, a view from everywhere, which is a view from no particular place—from nowhere. Even though each of us has a particular seeing, which is a view from somewhere, nevertheless any being sufficiently like us would see the world as we see it. In other words, the values—the good-making features or properties—are real, and they are in the objects independent of us, waiting to be experienced.

(4) *Deriving Duties from Values*. As mentioned earlier, Rolston denies the is-ought fallacy. He states: “... ‘ought’ is not so much derived from an ‘is’ as discovered simultaneously with it” (1986, 20). I am uncertain what this puzzling statement means. Rolston seems to hold that duties are directly inferred from intrinsic values. Perhaps he means that the duties are intuitions. My criticisms here are indebted

Following a formal structure suggested by Prichard, Rolston's argument can be outlined as follows:

R1.0 There are intrinsically valuable things, "P" (or intrinsically good things); or, restated, there is a P such that P is intrinsically valuable (or intrinsically good).

R1.1 Intrinsically valuable things (P) are: individual organisms, every species as a form of life, wilderness areas, ecosystems, mountains, wetlands, farms, cities, and so on.

R2.0 Action A will preserve P.

R3.0 What is intrinsically valuable ought to be; or, restated, P ought to exist.

R4.0 Therefore, action A ought to be done; or, restated, action A is a duty.

It seems to me that Rolston's six principles are refinements of R3.0, of what ought to be:

R3.0 What is intrinsically valuable ought to be; or, restated: P ought to exist.

R3.1 The Homologous Principle

R3.2 The Value-Capture Principle

R3.3 The Organic Principle: Respect for Life
R3.4 The Species Principle: Preserve "Forms" of Life

R3.5 The Ecosystemic Principle

R3.6 The Three "Environments" Principle: Urban, Rural, and Wilderness (or, the Nature-Culture Principle)

When one and only one of Rolston's principles applies, then it is clear what action ought to be done; for instance, the Organic Principle prohibits killing a Kentucky Warbler for no reason at all. When more than one principle applies and, at the same time, the principles are consistent, then it is clear what action ought to be done; for instance, both the Organic Principle and the Species Principle prohibit killing a Kentucky Warbler, which is an endangered species. The problematic cases are those involving conflicts among the principles; for instance, draining a wetland to make a cornfield, developing a Kentucky horse farm into a shopping mall, growing tobacco, or having a milk cow in a Manhattan apartment.

What I'd like to propose, charitably and constructively I believe, is that Rolston's six principles are prima facie, much like the prima facie duties in W. D. Ross's theory of ethics. According to Ross, the prima facie duties are self-evident or intuitive, and resolving conflicts among
them requires a judgment, which is fallible and revisable. When Rolston says duties are “discovered simultaneously” with intrinsic value (1986, 20), perhaps he means something like what Ross means by “self-evident” or “intuitive.”

Do any of Rolston’s principles stand on their own as self-evident? It is unclear to me whether Rolston thinks his duties are self-evident or inferred from intrinsic values. Rolston’s theory may be a consequentialist-utilitarian theory like G. E. Moore’s intrinsic-value act utilitarianism (see 2.33), and not a deontological theory like Ross’s.

The questionable premise in the above argument is R3.0, which includes as sub-premises Rolston’s six principles. Obvious counterexamples are numerous: studying advanced mathematics, mastering the game of chess, sky diving, the pleasure of Tom and Jerry’s ice cream, learning to play the piano, skipping class to visit an art museum or fly a kite, committing oneself to marital and parental love, climbing Long’s Peak, and lots, lots more. All of these counterexamples, I believe, are intrinsic goods, but arguably I do not have a strict duty to do any of them. Seldom can one individual pursue all of these intrinsic goods, for humans are finite and cannot, for example, be in two places at the same time, or do two incompatible
activities at the same time, or master all genres of art within one lifetime. These types of conflicts and the choices they necessitate are genuine, inevitable, and unavoidable. At issue are conflicts of intrinsic goods and adjudicating these conflicts.

Rolston argues that intrinsic values ought to be preserved (R3.0). But, since we are severely limited in our individual resources, surely it is relevant and morally essential to ask: Which intrinsic goods? All of them? Only the higher ones? And, whose duty is it? Even the action of preserving a great intrinsic good is not necessarily any particular individual’s duty.

To make my point clear, I would like to present some cases as counterexamples, thereby making a Prichard-type criticism. Smith could’ve been a teacher but chose to be a construction laborer because she liked to build things and would make more money. Or, Jones felt called to be a Catholic priest, went to seminary, and was ordained, but subsequently he found celibacy difficult and quit the priesthood, getting married and having a family. Or, another instance is the artist Paul Gauguin, a case made famous among philosophers by Bernard Williams and Tom Nagel. Many would say that Gauguin chose the higher intrinsic good by going to Tahiti and painting his
masterpieces; but it is clear that he did not do his duty to his family since he abandoned them to poverty and loneliness. My point here is that duties cannot be easily or directly inferred from values. And it's not always wrong to choose the lesser intrinsic good; and, significantly for moral theory, one may even have a duty to choose the lesser intrinsic good.

Some of Rolston's moral judgments are strongly counterintuitive. In order to preserve endangered species of Rhinos and grasses, Rolston defends killing trespassers and poachers (1989). In a recent article (1996), Rolston argues that tigers in India should be saved instead of using the resources to feed starving people. Should an endangered flower or grass be saved, even at the cost is allowing children to starve? What's unclear is whose duty it is to do these. If my child were starving, I have no doubt that I would have a strict duty to feed and care for my child. In my judgment, and here I have in mind a Ross-type judgment, whenever the conflict is between saving my child or saving tigers (or flowers or grasses), then saving my child would not be the lesser duty.

According to Ross, the duty not to harm (or nonmaleficence) is a prima facie duty. Destroying intrinsic goods, including intrinsic goods
in nature, is a type of harm-doing. Wanton destruction and vandalism are wrong. We ought not to do any avoidable harm; this is the principle of nonmaleficence. According to Kant and Ross, the principle of beneficence (the duty to do good) is not as strict as the principle of nonmaleficence (the duty to do no harm).

According to Rolston's theory, how are conflicts of duties and conflicts of intrinsic goods to be resolved? Rolston's principles are consistent with the intuition that, given a choice between two goods, a benevolent person should chose to bring about the better of two goods. What's not clear to me, in Rolston's theory, is the relationship between beneficence and nonmaleficence; that is, is it wrong to do evil in order to bring about good? Is it wrong to destroy one intrinsic good as a means to achieve a higher intrinsic good? Rolston's Principle of Value Capture seems to permit, if not require, these kinds of trade-offs. If intrinsic goods are tradeable, we need to know which intrinsic goods are of higher value and which of lower value. Rolston has such a theory of value: ecosystems are more valuable than species, species are more valuable than individuals, and more complex individuals are more valuable than simpler ones. What Rolston lacks is an adequate theory of right actions.
In sum: Rolston fallaciously attempts to derive duties from intrinsic values. His moral judgments in some cases are strongly counterintuitive, and his theory gives little guidance in resolving conflicts of duties.

3.5 Two Objections and Some Suggestions

My purpose in this section is to consolidate and generalize the insights, criticisms, and proposals discovered in the analysis of the four theories in the previous section. Of the several criticisms, two are especially important, not only as negative criticisms of the theories, but also as criteria for constructing an adequate theory.

3.51 The Inclusiveness Objection

When considered together, the four theories either (a) do not include enough, as in Biocentrism, Sentience, and Inherent Value; or (b) include too much, as in Intrinsic-Value Holism. Biocentrism includes non-living nature only indirectly as a resource for living entities, and Sentience and Inherent Value are even more restricted in scope. Of the four theories, Intrinsic-Value Holism is the only one that directly includes inorganic nature.
Yet, Intrinsic-Value Holism seems to include too much. For instance, Rolston proposes that endangered tigers and rare tundra grasses should be preserved, even if preservation would entail allowing humans to starve, incarcerating trespassers, or even killing poachers. At issue here is the criterion for including tigers and grasses within the moral sphere. What prohibits using particular entities as mere means? Rolston’s intrinsic-value criterion is surely too inclusive if it is interpreted to mean that all intrinsically valuable entities should be treated equally and impartially. Admittedly, Rolston denies this broad interpretation; for instance, his Value Capture Principle proposes that lesser intrinsic goods can be used to produce better ones. Yet, as I’ve argued above, Rolston provides little help for resolving conflicts. In the absence of greater clarity and specificity, the application of intrinsic value seems arbitrary and prejudicial. What is needed is a theory capable of resolving conflicts. Such a theory must include a robust account of values, an explanation for why conflicts occur, and a way for adjudicating conflicts. It must include more than a theory of value: it must provide guidance for action.
3.52 The Derivability Objection

My Prichard-type criticism of Regan and Rolston can be generalized and made applicable to all theories with a similar logical structure, including the other two theories analyzed in Section 3.4, Biocentrism and Sentience. All four theories assume the soundness of a fallacious argument.

In his famous article (1912), Prichard outlines and criticizes a particular version of the argument, a version in which the good identified in the first premise is “happiness in itself.” In the following argument, I have retained Prichard’s formal structure but replaced “happiness in itself” with the more inclusive term “good (or, a good thing).”

1.0 “P” is good (or, a good thing).
2.0 Action A will produce P.
3.0 What is good ought to be; or, restated, P ought to exist.
4.0 Therefore, action A ought to be done; or, restated, action A is a duty.

The four theories analyzed in Section 3.4 are refinements of the value premise 1.0. When listed as four sub-premises, the four values are:
1.0 "P" is good (or, a good thing).

1.1 "Life" is a good thing. (The Theory of Biocentrism, or Respect for Life, Section 3.41 above)

1.2 "Sentience" (that is, "pleasure") is a good thing (and "pain" is a bad thing.) (The Theory of Sentience, Section 3.42 above)

1.3 "Inherent Value" is a good thing (or, more precisely, a "subject-of-a-life" is a good thing, and all subjects-of-a-life have inherent value). [Regan's theory, Section 3.43 above]

1.4 An ecosystem (ecological whole) is a good thing (an intrinsically good thing). (Rolston's theory, Section 3.44 above)

Next, as suggested by Prichard's formal structure, each of the four values (1.1, 1.2, 1.3, and 1.4) presupposes two intermediate sub-premises. Namely, each value presupposes an empirical premise asserting that an action will produce the value (as in 2.0), and each value presupposes a moral premise asserting that the value ought to exist (as in 3.0). For my purposes in this thesis, the following logical point is significant: even when the value premise is true, either or both intermediate premises can be false. Namely, empirically, the action may not produce the value (2.0); or, morally, the value may not be obligatory (3.0). The explicit identification of the two intermediate
premises establishes that the inference is actually a conditional consequential appeal, not an unconditional deontological appeal.

Prichard points out the fallaciousness of this argument in two respects. First, the presupposed “intermediate link” (Premise 3.0 above) is false, as is also its implication (4.0). As Prichard states, “An ‘ought,’ if it is to be derived at all, can only be derived from another ‘ought’” (529). Only some actions are within our power as humans, and our obligations to act rest on previous actions of our own. Prichard’s examples are my duty to pay my debts or to tell the truth. These duties do not rest on my recognition that doing so will produce some good thing, but rather on my previous actions with other parties, namely, promising to repay and trusting one’s word.

Second, Prichard points out that the goodness of the action in itself is also not the reason why the action ought to be done, although this seems plausible. The mistake here is explained by Kant’s theory of the good will. Prichard notes that certain actions can be correctly described as good, and as good in themselves or intrinsically. Yet, the term ‘good’ is used for an action only when the motive for the action is either (a) the rightness of the action in itself, that is, the agent is motivated by a sense of obligation to do the action; or (b) a desire
produced by a good emotion, such as gratitude, love, or community spirit. Actions can be correctly described as ‘right’ (or ‘wrong’) independent of motives. Moreover, “our apprehension of the goodness” of an action always presupposes that we ought to do the action. Consequently, actions sometimes are wrong even when motivated by good inclinations, or sometimes right even when motivated by bad desires.

All four of these deontological theories make the mistakes pointed out by Prichard. They often confuse good inclinations (feelings, emotions, desires, and motivations) and right actions. And they infer that agents have the duty to bring about the good (4.0 above) because the good ought to exist (3.0 above). All four theories fail because they presuppose that duty can be derived from value.

3.53 Some Suggestions for a Genuine Deontology

Despite these errors, the four theories are not without significance for developing an adequate theory of animals and the environment. Nor is the goodness of things, and the recognition of the goodness of things, anathema to a genuine deontological theory. How such a theory might be developed is hinted at by Prichard and Ross.
The recognition of the goodness of some things and of certain emotions is in Prichard's and Ross's deontologies. Also acknowledged are the badness of some things and of some emotions. The apprehension and recognition of goodness and badness are essential to fulfilling, respectively, the duties of beneficence and nonmaleficence. Yet, the duties do not rest upon the goodness or badness, but rather depend upon prior actions (including relationships) of the agents, which actions (and relationships) are obligatory and right, or prohibited and wrong, independent of the goodness or badness of the things and emotions. Because the obligation to act does not depend upon the goodness produced by the action, the relative rightness or wrongness of various duties cannot be hierarchically determined by the relative goodness produced, regardless of whether the goodness is qualitatively or quantitatively assessed. Conflicts of duties cannot be resolved by weighing or assessing consequences; the right is independent of the good.

How, then, are conflicts of duties to be resolved? According to Prichard, obligations come in degrees, with some being more obligatory than others. Where obligations conflict, "what we ought to do turns not on the question 'Which of the alternative courses of action will
originate the greater good?" but on the question "Which is the greater obligation?" (533, n. 8). Moral disagreement and failure to resolve conflicts of duties can result from inadequate moral education or lack of thoughtfulness, or both (532-33, n. 8).

In contrast to Prichard, Ross is less confident of our ability to resolve conflicts of duties by appeals to thoughtfulness. All duties are *prima facie* and most actual cases involve conflicts of *prima facie* duties. Resolving the conflict requires a judgment, which is fallible. The fallibility of the judgment allows for moral error, changing one's mind, and genuine disagreement among fully informed and equally good moral agents. At issue is whether the moral world is such that all conflicts of duties have a real and true correct resolution. Like Kant and Donagan, Prichard presupposes that they do, but Ross does not. The world may be such that moral certainty is not always possible, for humans and perhaps even God. Although conceivably an omniscient being might infallibly know the correct resolution of all conflicts of duties, as in Kant's theory, neither the existence of such a being nor the reality of such a world is required by Ross's theory. Because Ross's theory does not require the presuppositions of epistemic
realism and theism, I believe that his theory is preferable to Prichard’s.

A Ross-type deontology for animals and the environment would have the following basic features. Of the many *prima facie* duties, two would be nonmaleficence and beneficence. The duty to do no harm (nonmaleficence) would apply to all sentient beings, but more so to those animals that we take into our homes as pets and to those wild animals who live in our gardens and trees. In meaningful sense, these animals would be our guests and neighbors, and our duties to them would be greater and more compelling than our duties to those animals farther away. Similar duties would apply to the inanimate natural things around us, such as endangering rare flora or causing erosion when we live in a particular habitat. In its broadest formulation, the principle of nonmaleficence would prohibit the pointless destruction of anything; or, restated, without a sufficient reason for intruding, entities ought to be let alone.

Also we would have duties of beneficence. We ought to promote the good, including the good of humans, animals, and the natural environment. But, as Ross argues and I agree, beneficence is more easily overridden than nonmaleficence. Similar to promoting the
welfare of one’s children, we ought to do good for our pet’s sake. We also ought to help our neighbors and community, which include the animals and natural environment. But these obligations of beneficence are less stringent, often overridden by higher obligations to humans and by limitations of one’s powers and resources.

Although I’ve given only the rudiments of a Ross-type deontology inclusive of animals and the environment, my theory is arguably a genuine deontology. This is because the obligations to animals and the environment rest upon our relationship with the animals and the environment, both indirectly to the extent that these are valued by other moral agents (especially humans, but also surely some higher nonhuman animals) and also directly to the extent that these are themselves moral beings ("agents" or "patients") or intrinsic goods (or, noninstrumental goods), the kinds of beings and things that are appropriately subjects of the duties of beneficence and nonmaleficence.

3.6 Conclusion

In this chapter, I critically analyze four theories of animals and the environment: Biocentrism (or Respect for Life), Sentience, Inherent
Value (Regan), and Intrinsic-Value Holism (Rolston). The authors intend for the theories to be deontologies. I argue that the four theories fail in two crucial ways. First, they are not adequately and appropriately *inclusive*. Biocentrism, Sentience, and Inherent Value do not include the inorganic world. Although Rolston’s theory of Intrinsic-Value Holism includes nonhuman animals, plants, and inorganic things, it does so by oversimplifying and lowering the moral significance of self-consciousness, rationality, and autonomy. Rolston’s theory includes too much since it does not prohibit such clearly counterintuitive actions as killing human trespassers to preserve rare grasses.

Second, each theory fallaciously attempts to derive nonconsequential moral obligations directly from a value. Based on a well-known argument by Prichard (1912), I argue that each of the four theories presupposes two intermediate premises: an empirical premise asserting that an action will produce the theory’s value, and a moral premise asserting that the value ought to exist. The two intermediate premises clearly establish that the four theoretical appeals to value are actually conditional consequential appeals, not unconditional deontological appeals.
The four theories are not totally mistaken, however. They share the following three central claims: (a) the appeal to consequences does not produce adequate constraints against abuses of animals and the environment, (b) an adequate animal and environmental ethic requires deontological appeals, and (c) a moral theory must be systematically unified and non-pluralistic. Of these three claims, I reject only the third claim—the denial of moral pluralism. Moral pluralism has the advantage of including both consequential and nonconsequential moral appeals, and thereby avoiding the inclusiveness and derivability objections. As suggested by Ross, full and appropriate moral inclusiveness can be achieved by a pluralism of consequential and nonconsequential moral appeals. In addition, moral pluralism resolves the Prichard-type objection—the derivability fallacy—by explicitly including nonconsequential appeals.

My full defense of moral pluralism is in Chapters 5 and 6, where I defend Baruch A. Brody’s theory of pluralistic casuistry (1988). Throughout this thesis, my argument shows how pluralistic casuistry includes the strengths, while avoiding the weaknesses, in utilitarian, deontological, and virtue theories. For a moral theory adequately and appropriately to include nonhuman animals, plants, and inorganic things,
the theory requires both consequential and nonconsequential appeals.

For a moral theory to avoid the derivability fallacy, the theory requires nonconsequential appeals. When Brody's five major moral appeals—which include consequential and nonconsequential appeals—are modified as I propose, pluralistic casuistry is the best contemporary theory for animal and environmental ethics.

Notes

1 On the relationship of duties and rights, see Feinberg 1980, 130-58; Dworkin 1977, 90-94, 171-77; and Thomson 1990, 37-78.

2 On the correlativity of duties and rights, see Feinberg 1980, 130-39; and Thomson 1990, 39-43.

3 Schweitzer's mystical ethic is indebted to Hinduism. See his Indian Thought and Its Development, trans. Charles E. B. Russell (Boston: Beacon Press, 1936), especially chaps. 1, 16.

4 In addition to the animal ethicists considered in this section, sentience is a necessary criterion in the moral theories of Bernard E. Rollin (1981, 1989, 1992, 1995) and Stephen R. L. Clark (1977, 1982). I have omitted Rollin and Clark because their theories are primarily and explicitly Aristotelian. Following Aristotle, Rollin and Clark hold that every being has a formal essence, or nature, and a purposive end, or telos. Morally, all beings ought to be treated according to their telos, or, restated, they should be given a life according to their kind. For both Rollin and Clark, confinement agriculture, for example, is immoral, although Rollin is a meat-eater but Clark a vegetarian.

5 Rolston's importance in environmental ethics is evident from his scholarship and his leadership in establishing the scholarly status of the new discipline within philosophy and also the university in general.
Most scholars in the field today were attracted, inspired, and then educated by Rolston's publications, especially his early, groundbreaking article in the journal *Ethics* and his mature, comprehensive formulation of his theory in the book *Environmental Ethics* (1988). In addition to his scholarship, Rolston initiated, as founder or co-founder, numerous projects that produced what are now established institutions in environmental ethics. These include: co-founding with Eugene C. Hargrove the premier journal in the field, *Environmental Ethics*; co-founding with Laura Westra the major professional organization in the discipline, the International Society for Environmental Ethics (ISEE); serving for two terms as ISEE's first President; starting, and for many years single-handedly compiling and editing, ISEE's quarterly *Newsletter*; compiling and annotating the *Master Bibliography of Environmental Ethics*, the most comprehensive listing anywhere in the world of books and articles in the field; starting the graduate program in environmental ethics at Colorado State University, perhaps the first graduate program in the world devoted to environmental ethics; editing series of books for major university presses; and much, much more. During the past decade, he has traveled and lectured extensively throughout the world—Europe, Africa, India, Australia, South America, and Russia—functioning as both good-will ambassador and missionary for environmental ethics. Recently, in October and November 1997, Rolston gave the prestigious Gifford Lectures at the University of Edinburgh in Scotland, soon to be available as a book published by Cambridge University Press.

Aldo Leopold is widely regarded as the founder of environmental ethics and of ecological holism. In his early career, Leopold was employed by the US Forest Service in the Southwest, and in his middle and later years as a professor at the University of Wisconsin. Biologists and environmental ethicists praise Leopold for originating and proposing an ethic of ecological holism, which he called “the land ethic” in his popular book, *A Sand County Almanac*, published in 1949 shortly after his death. Many environmentalists, with the kind of devoted zeal usually given to a saint or prophet, regard Leopold and his writings as authoritative, even sacred, scrutinizing his every word for insight and inspiration. To use Leopold's term, “the land” is of ultimate value, and the land is the collective total composed of soil, water, rocks, plants, animals, micro-organisms, and air—to name only some of the many components of an ecological “community.” Although
humans are part of the "land," they are not the only morally important part. Normatively, according to Leopold, acts are right if they tend to promote the "integrity, stability, and beauty of the biotic community"; otherwise they are wrong (A Sand County Almanac [1949], 204-5, 224-25).
CHAPTER FOUR

VIRTUE, ANIMALS, AND THE ENVIRONMENT

4.1 Introduction

This chapter continues my argument that contemporary moral theory needs to be expanded to include an appropriate place for human interactions with nonhuman animals, plants, and inorganic things. In Chapter 1, a series of cases provides evidence for my inclusiveness claim. In Chapters 2 and 3, respectively, the two predominant contemporary moral theories, utilitarianism and deontology, are analyzed to determine the extent of their inclusiveness. Now I turn to a third type of contemporary theory, virtue.

Rejecting utilitarianism and deontology, some important recent philosophers have defended the centrality of the virtues for constructing a comprehensive moral theory. An increasing number of ethicists are making proposals for including animals and the environment within the scope of the virtues, and the proposals rely upon three theoretical strategies: (a) virtues are posited as traits that enable outstanding fulfillment of natural ends, purposes, and functions (Gk., telos, end, purpose, function); (b) virtues are posited
as traits that enable superior attainment of *community* values, goals, processes, and practices (Gk., *koinonia*, community, association, fellowship); and (c) one or a few virtues are posited as beneficial traits that characteristically dispose an agent to do actions that are morally defensible on other theoretical grounds. Importantly, the three strategies are not mutually exclusive but can be mixed together in a variety of ways.

In an attempt to be brief but adequately thorough, my procedure in this chapter is to assess each strategy by critically analyzing a single important representative author of each. Representing the *telos*-based strategy is Stephen R. L. Clark’s theory of natural kinds, and representing the *community*-based strategy is J. Baird Callicott’s “land ethic.” Representing the third strategy is Thomas E. Hill, Jr. By appealing to a series of uncomplicated cases, Hill defends, on Kantian grounds, the significance of a single virtue, loving nature for its own sake, for making some decisions affecting the nonhuman natural environment. The success of Hill’s argument and the failures of the other two make Hill’s strategy especially important for my conclusions in this chapter and for my defense of pluralistic casuistry in the next chapter.
My argument in this chapter is similar to that in the two preceding chapters. Constructively, I argue that virtue ethics makes important contributions to animal, plant, and environmental ethics, and that the virtues should be a component in an adequately inclusive moral theory. Critically, I conclude that virtue ethics needs to be supplemented by moral considerations from outside the theory.

Also similar to the preceding chapters is my organization. After presenting some relevant background (4.2), my reasons for selecting the three representative authors are given (4.3). Then the theories of the three authors are critically analyzed (4.4). Next, I discuss the extent to which my two major objections against utilitarianism and deontology, the inclusiveness and derivability objections, are also objections against the three authors in this chapter (4.5). Ending the chapter is a summary of my main conclusions (4.6).

4.2 Some Relevant Background

Until the modern era, virtue ethics was the predominant moral theory in Western philosophy and culture. Ancient and medieval versions of virtue ethics were based on the metaphysical teleologies (Gk., telos, end, purpose, function) of Plato and Aristotle, whose virtue theories
were revised and made compatible with Christianity by Augustine and Thomas Aquinas, respectively, as well as by others. When modern philosophy and science rejected the real presence of metaphysical essences and purposive ends in nature, most moral philosophers abandoned virtue ethics.

Most but not all contemporary virtue theorists eschew metaphysical teleologies. In place of the Platonic and Aristotelian metaphysical foundations, the majority identify the virtues based on one or the other, or both, of two strategies: traits enabling the possessor to flourish in the possessor’s natural world, or traits enabling the possessor to excel in the possessor’s social community. To some extent, Plato and Aristotle anticipated these two strategies in their psychological, political, social, and moral philosophies. Through the influence of David Hume, the two strategies have a prominent place in contemporary virtue ethics.

Although some of the claims are not found in some of the authors, contemporary attempts to reintroduce virtue ethics, when considered together, contain four theses. The following list is my reformulation of these claims. VE abbreviates “Virtue Ethics.”

VE 1.0 The Necessity Thesis: The virtues are an essential and necessary part of morality.
VE 2.0  *The Irreducibility Thesis:* The virtues cannot be explained by or reduced to any other moral appeal or theory.

VE 3.0  *The Hegemony Thesis:* In cases of conflicting appeals, the appeal to the virtues has hegemony (priority or dominance) over all other moral appeals.

VE 4.0  *The Monistic Thesis:* An appeal is "moral" only if it is an appeal to the virtues; or, restated, an action is morally right if and only if it is what a virtuous agent would characteristically do.¹

My argument below defends the Necessity (VE 1.0) and Irreducibility (VE 2.0) theses, but rejects the Hegemony (VE 3.0) and Monistic (VE 4.0) theses.

The Necessity (VE 1.0) and Irreducibility (VE 2.0) theses are held by all recent virtue theorists and by many others, including deontological monists following Kant and pluralists like Baruch A. Brody (1988). In contrast, the Hegemony (VE 3.0) and Monistic (VE 4.0) theses are denied by some virtue theorists and by all others.

According to Kant, a single moral virtue—possessing a good will—motivates virtuous agents to do actions thought to be right based on reason alone. In pluralistic theories like Brody’s, moral decision-making requires several disparate theoretical appeals, and one of these is the virtues.
Among virtue theorists, all four theses are central in the theory of Richard Taylor (1970, 1985, 2002). Since Alasdair MacIntyre’s theory allows other moral considerations, such as caring for children and truth-telling, he appears to reject the Monistic Thesis (VE 4.0) even though he makes the other three claims (1981, 1984, 1988). While often making the other three claims, Edmund Pincoffs presumes the Monistic Thesis (VE 4.0) in his argument that all other moral theories erroneously attempt to reduce morality to “quandaries” (1986). Consistent with the Monistic Thesis (VE 4.0), Friedrich Nietzsche proposes that persons with superior character traits dictate what is “moral” and then rule like “Masters” over persons with inferior character traits. According to Nietzsche, moral theories have no objective reality and can be reduced to the subjective will of the powerful (Beyond Good and Evil §§ 257-60).

Logically, the Necessity (VE 1.0) and Irreducibility (VE 2.0) theses are correlates. The virtues would not necessary if they can be reduced to some other appeal. If the virtues are necessary for any aspects of morality (VE 1.0), then it follows that, in these instances, the virtues cannot be eliminated by reducing them to some other theoretical appeal (VE 2.0).
Supporting Necessity (VE 1.0) and Irreducibility (VE 2.0) are three arguments. First is Kant's argument for the unqualified goodness of a single virtue—a good will. Persons have a good will if they desire to do what is right because it is right. Of all the virtues, a good will alone is good in all circumstances, and in that sense is absolutely good and the only thing good in itself, or intrinsically, independent of its relationship with other things. Other virtues, such as courage, wit, tenacity, moderation in passions, sober reflection, and so on, are good in many respects. "Yet," Kant argues, "they are far from being properly described as good without qualification (however unconditionally they have been commended by the ancients)" (1786, 2). For without a good will, other virtues can be exceedingly bad and more dangerous, such as the courage and coolness of a scoundrel. Other virtues must be under the authority of a good will guided by reason. Worthiness of character—moral worth and the highest good—is to do what is right, not from inclination, but from duty (1786, 1-12).

Second is a widely accepted argument based on the notions of praise and blame. Neither praiseworthy nor blameworthy can be explained by any other appeal. Praise for doing the right action
ought to be given only to individuals motivated by moral virtue. In contrast, blame ought to be given to any wrongdoer motivated by an evil intention or other vice. Moreover, doing the right action for the wrong motive is not praiseworthy, despite the action’s rightness. And when motivated by a virtue, a wrongdoer would be blameless unless culpable due to negligence, inattention, self-imposed ignorance, or the like.

A third argument supporting Necessity (VE 1.0) and Irreducibility (VE 2.0) is the capacity of the virtues to resolve otherwise intractable dilemmas. When no other moral appeal is determinative, the virtues can sometimes be a decisive consideration for some agents. Asking oneself the question, Am I the kind of person who would do a particular action? may result in a clear decision in some cases for some agents (see Hill 1983; Jensen 2001).

My objections to the Hegemony (VE 3.0) and Monistic (VE 4.0) theses are criticisms of their defense by Richard Taylor (1970, 1985, 2002). Taylor argues that the only non-illusory “moral” appeal is to the virtues. According to Taylor, virtues are traits enabling their possessors to flourish in a particular community and time. For instance, a wrestler who is virtuous (Gk., arete, excellence) will have
the traits needed for excellence in the sport, such as great strength and stamina, and will win against any competitor lacking the great-making traits.

Virtues are matters of fact about humans in particular cultures, not matters of unconditional obligation. Taylor explains that the ancient Greek notion of "ethics" (ethike, habit, custom) included a broad range of customs, habits, and rules, but lacked the contemporary deontological conception of "moral." Deontology originated in the Judeo-Christian tradition's understanding of morality as unconditional commandments (duties) from God. Although Greek culture had weak notions of obligation (required actions), right (permissible actions), and wrong (forbidden actions), these concepts were restricted to rules, laws, and customs imposed by such authorities as parents, rulers, cities, clans, and society in general. After contact with the Judeo-Christian tradition, the Stoics and other philosophers transformed Greek ethics by adding the notion of the hegemony of the "moral" and by removing "moral" authority from God and placing it in the world (Gk., cosmos), in nature (Gk., phusis), and in the natural rationality of moral law (Gk., logos).
Continuing his argument against intrusive deontological conceptualizations of virtue, Taylor proposes a contrary analysis of “moral.” Greek ethics became “moral” philosophy when Socrates and subsequent philosophers asked whether humans have a particular virtue or excellence (Gk., arete) that is distinctive of humanity as such and that marks some individual human beings as better or superior to other humans. For Plato, the distinctive human virtue was justice; for Aristotle, it was conduct according to reason.

In sum, Taylor defends the Hegemony (VE 3.0) and Monistic (VE 4.0) theses. He argues that the only remaining “moral” appeal is to the virtues because “moral” has no deontological meaning. The deontological meaning of “moral” is a mistaken religious hypostatization. In virtue ethics, attributions of virtue are true or false factual claims about the abilities of particular individuals in particular societies.

Even if historically accurate, Taylor’s account is philosophically problematic. Even if the concept of “moral” evolved as he says, he does not give reasons why the classic Greek usage should remain authoritative. Why should the concept not be revised if there are
sufficient reasons to do so? Whether the impetus for conceptual reform originated in the Judaic-Christian-Stoic tradition is irrelevant.

Taylor’s analysis of the meaning of “moral” is either question-begging or self-defeating. According to Taylor, virtues are factual traits enabling one to flourish in some culture or practice. If Taylor is correct, then the traits needed to flourish in Nazi Germany would be virtues, and Adolf Hitler, Josef Mengele, Adolf Eichmann, and the like, would be virtuous. But this is strongly counterintuitive. If “moral” virtues are merely factual traits enabling success in any society, then the concept is arbitrarily open-ended and devoid of substantive content. And if Taylor’s account is not question-begging in this way, then it is self-defeating, since Nazi virtues are surely not “moral” according to any ordinary or plausible meaning of the term.

Also against Taylor and the Monistic Thesis (VE 4.0) is the following Kantian argument. Unless the virtues are controlled by a good will guided by reason, then they can be evil, as when the “virtues” of a rapist are cunningness and courageousness. With the sole exception of a good will, for any other virtue to be known to be good, it must be subjected to “moral” reasoning. Despite its absolute goodness, even a good will is no guarantee of right action, since
persons of good will can make mistakes due to faulty reasoning, inaccurate or inadequate information, moral lapses when overwhelmed by temptation, and so on. Nevertheless, for the reasons Kant gives, a good will is the highest virtue and the only unqualified intrinsically good virtue.

Remaining at issue is the Hegemony Thesis (VE 3.0). It is not conceivable that Hegemony (VE 3.0) can be true if the Monistic Thesis (VE 4.0) is false. That is, if the Monistic Thesis (VE 4.0) is rejected, then so too is the Hegemony Thesis (VE 3.0). The Hegemony Thesis (VE 3.0) concerns cases of conflicting multiple appeals. In such cases, there are two possibilities: (a) the conflicting appeals do not include the virtues, and (b) the conflicting appeals do include the virtues. Regarding (a) cases where the conflicting appeals do not include the virtues: at issue is whether such cases exist, and if so, whether the cases present genuine "moral" conflicts. Unless the theoretical conception of "moral" is limited exclusively to the virtues, that is, unless the mistaken Monistic Thesis (VE 4.0) is presumed to be true and the question begged, then surely some cases will involve utilitarian, deontological, or other considerations without involving any virtue except a good will. In these types of cases, motivated by a good will
and based on their judgments of the relevant (moral) considerations, surely reflective agents can make (morally) responsible decisions.

Next, regarding (b) cases where the conflicting appeals include the virtues: the Hegemony Thesis (VE 3.0) asserts that virtue always overrides all other moral appeals. Any clear counterexample refutes this thesis. A counterexample from Kant is the heightened danger resulting from “the very coolness of a scoundrel” (Kant 1787, 3). Another is a modest variation of the well-known case “Transplant.” A sufficiently courageous and beneficent healthy patient might willingly give her organs to save five others, especially if the recipients and physicians were sufficiently humble, grateful, contrite, and repentant of any wrongdoing. In this a case, surely virtues do not have hegemony over deontological rights, since the patient has no duty to die for the five others and since neither they nor the physician have any relevant rights. Unless deontological appeals sometimes override the virtues, then some decision-makers would likely make this sacrifice, which would be strongly counterintuitive. Consequently, it is false that in all cases of conflict for all decision-makers, virtues will always predominate over all other moral considerations.
In sum, I have argued against the Hegemony (VE 3.0) and Monistic (VE 4.0) theses, but I have defended the Necessity (VE 1.0) and Irreducibility (VE 2.0) theses. In the remainder of this chapter and in Chapters 5 and 6, I use these arguments as components of a theory adequately inclusive of animals, plants, and inorganic things.

4.3 Why These Authors?

As pointed out in Section 4.1, in order to be brief I’ve selected three authors, each representing a different contemporary strategy for including animals and the environment within the scope of the virtues. My reasons for selecting the three authors are as follows.

Representing the *telos*-based strategy is Stephen R. L. Clark’s theory of natural kinds. Two others using this strategy are Mary Midgley and Bernard Rollin. Although Rollin’s writings are broader in scope, they focus primarily on animals and contain few direct references to the virtues. Midgley’s publications are adequate in scope, but her theoretical commitments are less clear. Like Iris Murdoch, Midgley’s theory is more Platonic than Aristotelian. Of the three, Clark’s theory is more directly and explicitly an Aristotelian *telos*-based virtue theory, and more strongly inclusive of all of nature.
All three believe that contemporary biology and sociobiology provide an adequate conception of *telos*, a claim that I reject below. All things considered, Clark’s theory is more representative of the *telos*-based strategy, although it is not necessarily philosophically better due to his questionable assumption of Neoplatonic teleological metaphysics.

Representing the *community*-based strategy is J. Baird Callicott’s “land ethic.” Callicott has written voluminously on a wide variety of animal and environmental topics, and has had greater influence than any other environmental ethicist except Rolston.

My placement of Callicott’s theory in this chapter on virtue ethics can be challenged since he nowhere explicitly states that his theory is a type of virtue theory. Nevertheless, he belongs here because his key concepts and arguments come from the virtue tradition. Similar to MacIntyre and other communitarian virtue theorists, Callicott justifies “moral” traits and actions by the ends and practices of a community, the “biotic-community” (or “biocenosis,” a term Callicott coins from Gk., *bios*, life, and *koinonia*, community). In addition, Callicott cites Humean sentiments as one of his “conceptual foundations.” Sentiments are virtues, or, more accurately, the feelings and dispositions conducive to virtues or vices. MacIntyre and
other virtue theorists also cite Hume. Callicott’s understanding of Hume seems to be one-sided, however, since he considers sentiments to be subjective, when Hume’s position is more complex, allowing for some to be objective and others subjective. Like MacIntyre, Callicott rejects the rationality of the Enlightenment, and identifies himself as a “Post-modernist.” Even though Callicott eschews the term telos, nevertheless he believes, like MacIntyre, that the purposes, functions, and ends of individuals can be identified in light of the values of the community (the biotic community). For these reasons, it is not unreasonable, I conclude, to interpret Callicott’s theory as a virtue theory.

Representing the third strategy is Thomas E. Hill, Jr. Rather than attempting a comprehensive theory of the virtues, the third strategy defends only one or a few particular traits. Several animal and environmental ethicists adopt this strategy. Below is a brief survey, organized according to the virtues being defended:

**Human Love, Care, and Nurture.** Karen J. Warren (1990), Val Plumwood (1993), Marti Kheel (1993), Greta Gaard (1993), and most other ecofeminists endorse “love, care, and nurture” as the premier human virtues for environmental and animal ethics, as well as for all other aspects of ethics. In contrast, the worst vice is “hierarchical domination.”
Margarita Garcia Levin and Michael Levin (1994, 2001) identify three major theses of ecofeminism: the logic of domination, its connection to oppressing women and nature, and ecofeminism as the solution. Levin and Levin argue that none of these theses is supported with any good arguments.

Animal Responsibility, Courage, Compassion, and Maternalism. That animals can be, and that some are, virtuous is defended by Stephen R. L. Clark and S. F. Sapountzis. Clark's argument is in 4.41 below.

Sapountzis's argument is structurally an "argument from parity" (or "marginal cases"). Structurally, the argument begins with some widely accepted common feature of human morality, identifies this feature in animals, and then concludes that animals are moral at least in this respect.

Since human actions are routinely understood as proceeding from moral character traits, or virtues, Sapountzis argues that similar actions by animals also result from the moral virtues of the animals. Sapountzis states: "... many of the flexible, responsive, purposive, intelligent actions of animals seem to express such character traits as responsibility, courage, and compassion" (1987, 32). Moreover, we typically attribute moral agency to humans even when the actions are instinctive or conditioned. In fact, we consider moral education successful when our children's moral responses become habitual. One of numerous examples that Sapountzis gives is the maternal instinct. In humans, the maternal instinct is thoughtfully applied and nurtured by such experiences as observing other mothers. A similar claim can be made for many animal mothers, who learn by observing others and who thoughtfully respond to the needs of their young.

In response to Sapountzis, David DeGrazia proposes that moral agency is a continuum ranging from lesser to greater. For instance, a small child should be held accountable for hitting a sibling but not for loudly indicating a handicapped person (1996, 203, n. 107). DeGrazia
proposes that clear cases of moral agency are those in which the agent overrides instincts or conditioning, presumably for moral reasons. But DeGrazia thinks that, even with this higher threshold, some of the animal cases, especially the primates and cetaceans, qualify (1996, 199-204).

Environmental Integrity, Stability, and Beauty. In A Sand County Almanac, Aldo Leopold identifies three ecosystemic traits—integrity, stability, and beauty—as ethically normative. Right actions preserve these traits; wrong actions diminish them. According to Leopold, people’s behaviors toward the environment will change only when their philosophies change (1949, 209-10).

Several environmental ethicists incorporate the three Leopoldian traits into their theories. More comprehensive are Rolston’s (see 3.44) and Callicott’s (see 4.42). Laura Westra defends environmental integrity (1994), and Eugene Hargrove defends environmental beauty (1989). The other Leopoldian trait, stability, is controversial. Even though stability has been defended by Rolston and Callicott, it has been denied by several prominent ecologists. Stability is analyzed as an aspect of Callicott’s theory in 4.42 and criticized in 4.52.

Human Respect, Prudence, and Practical Judgment. Bill Shaw (1997) proposes respect, prudence, and practical judgment as the human virtues needed to achieve Leopold’s “Land Ethic.” According to Shaw’s obtuse interpretation of Aristotle, the Leopoldian values of integrity, beauty, and stability are “goods” (ends or teλοί) that will be produced as a consequence of the human virtues.

Human Excellence and Flourishing. Philip Cafaro (2001) proposes that Leopold, Henry David Thoreau, and Rachel Carson exemplify human virtues—human excellence and flourishing—in relationship with nature. These “saints” (my term) “. . . share certain ethical positions that any environmental virtue ethics worthy of the name must embrace” (2001, 3). These ethical positions are:
subordinating economics to human life as a whole, cultivating science within proper limits, extending moral consideration to the nonhuman world, and protecting wilderness.

Compared to those in the list above, my reasons for selecting Hill are as follows.

Despite its narrow focus—or, rather, because of it—Hill’s argument is especially clear and successful. Unlike the others, Hill does not assume without argument that nonmoral beings and things are “moral.” In other words, he assumes only that sentient and rational beings are “moral,” and then gives reasons for extending the scope of moral considerability. On Kantian grounds, Hill argues that some virtues are justifiable based on the their connections to actions not in question. Supporting his argument with common judgments about unambiguous cases, Hill defends the significance of the environmental virtue of “loving nature for its own sake” for making some decisions affecting the nonhuman natural environment.

Hill’s methodology and argument are significant for my conclusions in this chapter. In Sections 4.4 and 4.5, I argue against the telos-based and community-based strategies, and in favor of the limited strategy. In addition, my argument in Chapter 5 uses the
limited strategy to defend the virtues as a component appeal in pluralistic casuistry.

4.4 Three Theories

The order of treatment below is: Clark’s telos-based theory, Callicott’s community-based theory, and Hill’s defense of a particular virtue. Clark’s theory is Aristotelian and Neoplatonic, Callicott’s is Humean and Darwinian, and Hill’s is Kantian.

4.41 Telos-Based Virtues: Clark’s Theory

Analyzing Clark’s theory is difficult because his writings are unsystematic, wide-ranging, and polemical. The following outline is my attempt to understand Clark.

A preliminary orientation to the outline and Clark’s thought is needed. In the outline, the letter “C” refers to Clark, and is intended to keep his claims distinct from others. As with many arguments, the numerical order of the premises is somewhat arbitrary. The Greek terms polis and “teleology” (from telos) are the only ones that Clark explicitly uses in the materials that I examined; the others are from Aristotle and are surely presumed by Clark.
The main contributors to Clark’s thought are three philosophical and one religious tradition. According to Clark’s own account, his moral philosophy has “three disparate but interrelated strands”: Pyrrhonian Skepticism,⁴ Neoplatonism, and Aristotelianism (1977, 195). Skepticism is Clark’s starting point—both meta-ethical skepticism and normative skepticism. To answer metaethical skepticism, he invokes Neoplatonism, and to answer normative skepticism, he appeals to Aristotelianism. Next, without making any “apologies,” he affirms that the three strands “are united for me in the tradition of the Christian Church” (1977, 195). Thus, Christianity comprises a fourth strand in Clark.⁵

Clark’s strands are preserved in my reconstruction below. His theory as I analyze it below is an argument with four general features. First, C1.0 and subpoints are Clark’s Neoplatonic-Christian metaethics. According to Clark, moral skepticism and subjectivism cannot be answered (C1.4) unless all creatures are metaphysically like God or the Good (C1.1). Second, C2.1-C5.0 are essentially Aristotelian normative ethics, with modest revisions. Using contemporary biology, Clark updates telos (C2.21); and rejecting aristocracy, patriarchy, and slavery, he makes polis more egalitarian. Third, C6.0 is original with
Clark. The value that he places on ecological-environmental diversity is, in my judgment, more Neoplatonic and Christian than Aristotelian.⁶

*Fourth, C7.0 and subpoints are Clark’s conclusions, which result from his Christian synthesis of Aristotelianism, Skepticism, and Neoplatonism.*

C1.0 God (or the Good) created, by evolutionary processes, the natural world and its creatures according to their kinds (*eidos*) and with their natures and ends (*telos*).

C1.1 Individual creatures, in their essential being (*ontos*), are like God (or the Good), but less than God (or the Good).

C1.2 Every individual creature is intrinsically valuable.

C1.3 Individuals and kinds (species) (*eidos*) make up a hierarchy of greater to lesser beings, with greater to lesser relative value, and with each individual, when considered in itself, having intrinsic value greater than creatures below it, but less than creatures above it.

C1.4 God (or the Good) is the necessary and sufficient condition for moral objectivism and knowledge; or, restated, if God (or the Good) does not exist, then moral skepticism cannot be answered.

C2.0 Every individual (humans, animals, plants, etc.) has a “nature” or “kind” (*telos*).
C2.1 The individual's nature or kind (telos) is its "function" or "work" (ergon), or activity (energeia).

C2.2 The individual's nature or kind (telos) is internal to the individual within the natural world, not external.

C2.21 The individual's nature or kind (telos) is identifiable by the biological, behavioral, and social traits of the individual and its species population, although particular individuals often vary somewhat from the norm of the species. (Established by biology—genetics, sociobiology, and ethology.)

C2.22 The natures or kinds (teloi) of different individuals and species have relative and different intrinsic values. (Empirical version of C1.2)

C2.23 Based on the relative and different intrinsic values of their natures or kinds (teloi) (C2.22), different individuals and species can be hierarchically structured and prioritized. (Empirical version of C1.3)

C3.0 An individual is "happy" (Gk., eudaimonia) or fulfilled when it lives and functions according to its nature or kind (telos).

C4.0 An individual is "good" (Gk., arete, excellent, virtuous) when it does its function well—when it lives well, according to its nature or kind (telos).
C5.0 The best political structure or state (Gk., polis) is the one wherein all individuals (or, the greatest possible number) are "happy" (Gk., eudaimonia) or fulfilled; that is, the one wherein all individuals (or, the greatest possible number) live and function according to their natures or kinds (teloi).

C6.0 The best ecology (environment) is the one that preserves diversity of natural (and domestic) forms (species) (eidos) and kinds (teloi).

C7.0 Therefore, the morally good (or wise) person will make decisions and act in ways that "garden," "guard," and "care for" the world, promoting the city (polis) and conserving the environment, by permitting and facilitating that all individuals (or, the greatest possible number) of humans, animals, plants, etc., will have lives and be able to function according to their natures or kinds (teloi).

C7.1 Therefore, the morally good (or wise) person will not "unnecessarily" kill, harm, or otherwise exploit humans.

C7.2 Therefore, the morally good (or wise) person will not "unnecessarily" kill, harm, or otherwise exploit animals.

C7.3 Therefore, the morally good (or wise) person will not "unnecessarily" kill, harm, or otherwise exploit plants.

C7.4 Therefore, the morally good (or wise) person will not facilitate or exploit science and technology merely for such purposes as professional stature and wealth.

Several of Clark's historical and philosophical claims cry for critical attention. However, for my purposes in this thesis, three arguments
central to his moral theory need scrutiny: (a) the argument for a
transcendental metaphysical foundation for morality, intrinsic value,
and telos; (b) the argument connecting telos, virtue, and the moral
rightness of actions; and (c) the critique of non-pluralistic moral
theories.

Transcendental Metaphysics. Without an objective
transcendental metaphysical foundation, Clark believes that morality is
merely convention—the relativisms of customs and the subjectivisms
of preferences. He states that his skepticism is “amoralism” and
“Pyrrhonian.” Like Pyrrho in ancient times, the contemporary
amoralist can give reasons, equal in number and as weighty, for and
against any normative moral policy or action. Moreover, according to
Clark, moral theories make matters worse because they give
rationalizations for decisions reached by other means and influences.

According to Clark, this requirement of objectivism can be met
by any one of the following: (a) a transcendent God, such as the deity
of Aristotle or the Judeo-Christian tradition; or (b) a transcendent
Good, such as that of Plato, the Gnostics, or the Neoplatonists; or (c)
some combination of these (1977, 192-93; 1982, 100-105, 117).
Clark explains that in Aristotle, as well as in Neoplatonism, the ultimate basis is God:

But for Aristotle the supreme value, the one thing that we must get right if anything is to go right, is the worship and service of God. The good city exists to provide not merely chances for decision-making, but chances for the contemplation of the divine. The truly virtuous man [sic] acts for the sake of the noble, to reflect a little of that ordered beauty that the world desires. It is because God exists as the supreme objective value that Aristotelian ethics are not only the subjective (and inevitably variable) working-through of natural preferences. It is the will of the virtuous and wise to see as God sees, and to see God reflected in the beautiful and good. (1982, 116-17)

To complete his moral foundation, Clark combines Neoplatonism and Aristotelianism into a Christian (Protestant-Episcopal) synthesis (C1.4). He asserts that this theistic moral vision is “common sense” in our culture (1977, 192; 1982, 13-14).

According to Clark’s theory, the transcendent reality—God—indwells all of nature, including all levels of creatures and things (C1.1-1.3). The real presence of the divine in them is what makes them intrinsically valuable (C1.2). Consequently, to harm any creature or thing is to harm ultimate goodness, and any action negatively affecting another being or thing must be morally justified. Causing unnecessary pain is wrong; unjustified killing is wrong; and
avoidable destruction of a species is wrong (C7.0-7.4) (see 1977, Preface, Chap. 8).

Because of his belief in God, Clark is confident in the unity of facts and values: God created the universe that way. The world is so constituted that creatures like us were likely to evolve; or, restated, because objective values are what they are, we have evolved the way we have. In Clark’s words:

We have the beliefs we do because we have evolved to have them; we have evolved to have them because the values we admire were themselves operative in establishing the whole evolutionary process. We are justified in our beliefs because the truth of those beliefs plays a part in establishing the system that brings about those beliefs. Value in short is creative. The name tradition gives to this creative value is God: the supernormal stimulus we fantasize has real existence and brought all our world to be. (1982, 103-4)

Accordingly, scientists investigating natural law are discovering, at the same time, God’s nature, Clark believes (1982, 104).

In this vein, Clark objects to the fact-value distinction and naturalistic fallacy. He argues that two kinds of beliefs—beliefs about facts and beliefs about values—are jointly constrained by nature. Both facts and values are objective aspects of nature, intertwined and emerging together, according to evolutionary theory. The fact is, species with the wrong values go extinct: “... creatures who fail to
reckon that fire burns, that poisonous frogs are poisonous, that hawks can kill, do not as a rule leave progeny” (1982, 102). But equating “evolutionary success” with “objective value” is too simplistic, Clark argues. Traits are only contingently ethical, since survival of offspring shows merely “some advantage” of a trait to one’s ancestors (1982, 102-3).

On the one hand, Clark goes to great lengths to show that humans are animals, and share, especially with other mammals, many of the same instincts, needs, wants, and motivations (1977, Chap. 8; 1982, passim). Such sciences as sociobiology, ethology, anthropology, and psychology are “morally important” because they tell us how to live if we want to be happy (C3.0).

On the other hand, however, Clark argues that the facts established by the biological sciences are morally moot.

But even if such enquiries did offer a detailed prospectus of a happy human society, we might still reasonably ask ‘But ought we to strive to be happy?’ . . . A moralist for whom morality is an objective system must still have doubts: only the Good, or else the Will of God, could truly oblige us, and human happiness on its own is no more a moral end than the happiness of psychopaths (if they are happy), or of cockroaches. (1982, 113)

Clark’s point here is that neither facts nor science, but philosophy alone can answer this question and these doubts. He continues:
... the ethologist and anthropologist can contribute to the study of how best to organize our lives so as to satisfy the wants and desires that have been programmed into us, which we can ignore or subvert only at our grave peril. Such study gives us reason to believe that decency is not wholly artificial, that it needs no whips to secure its growth.

I have urged the advantages of an Aristotelian philosophy of science, and also of an Aristotelian meta-ethics. Aristotelian ethics are not proved by ethological data, but neither are they disproved: they remain very plausible. (1982, 113)

In other words, the biological and human sciences, as sciences, cannot tell us what is morally good or required. Morality requires philosophy: metaethics, normative ethics, and moral epistemology; and, for Clark, these philosophical requirements are met by Neoplatonism, Aristotle, and Protestant-Episcopalian Christianity (1982, 102-4, 108, 113, 117).

What are we to make of this argument? And how is it relevant to my project? Regarding the first question, many will find Clark’s argument unconvincing, for philosophical or religious reasons, or both. For instance, MacIntyre (1981, 1984, 1988) argues that the Aristotelian-Scholastic metaphysical teleology was rejected by Renaissance science and the Enlightenment, producing the Modern Era, which is characterized by the absence of a foundation for telos. In his “critique of the Enlightenment Project,” MacIntyre argues that science and reason can provide no teloi—no ultimate purposes or ends. Rather, in MacIntyre’s Post-Modern virtue theory, telos is provided by
one’s community and its beliefs. As with Clark, virtue is inferred from telos; namely, virtues are those traits that enable one to achieve one’s telos. For MacIntyre himself, his community is the Roman Catholic Church and its metaphysical theistic teleology. In contrast to Clark, MacIntyre’s theory lacks Clark’s appeal to the “objective strand” found in Aristotle. In Clark’s terms, MacIntyre’s theory is within Aristotle’s “subjective strand.” These two strands are explained below as part of my discussion of Clark’s second distinctive aspect.

Clark’s and MacIntyre’s arguments appear to defeat each other. If MacIntyre is right, then Clark’s metaphysical telos has been refuted by modern science. If Clark is right, then MacIntyre’s communitarian telos is too subjective to withstand the Pyrrhonian Skeptic’s questions. At issue for Clark and MacIntyre, as well as for my project, is whether telos can be given a reasonable, natural, and objective meaning, independent of metaphysical or communitarian appeals. This issue I take up below as part of Clark’s second distinctive aspect.

How relevant is the metaphysical question to my project? Not much, I think, since the normative goals of my project still remain. Even if we assume Clark is correct, the main normative problem remains: namely, resolving cases of conflict. Clark gives little if any
guidance. According to Clark’s theory, the virtuous agent facing a conflict will do the less evil action (C7.0). But, since God indwells all of nature hierarchically (C1.1, C1.4), most actions—all killings of any kind, all inflictions of pain, all damagings or destructions of anything—would be causing harm to God. We must eat. Are we to eat only dead grasses and leaves? But even these are manifestations of God. To resolve cases of conflict and avoid normative paralysis and indecision, Clark needs some kind of normative guidelines or rules, as specific as possible, such as Rolston’s Homologous and Value-Added Principles (see 3.44).

In Clark’s theory, transcendental reality—God—functions logically like intrinsic value in Rolston’s theory (see 3.44). In Clark’s theory, it is the divine presence in beings and things that makes them intrinsic objective goods (C1.2). In 3.44, I argued in defense of Rolston for the meaningfulness of the notion of natural objective intrinsic value. Although the topic is beyond the normative scope of this thesis, I believe that Clark’s transcendental theism can be demythologized into a naturalistic moral realism.

Although it provides little normative guidance, Clark’s Neoplatonism provides a theory of moral motivation, I think. For those
who believe as he does, God's presence in things provides a strong
motive to act rightly toward those things. For those who reject
Neoplatonism, other equally strong theories of motivation are available,
such as, Kant's notion of a good will and the Taoist's desire to live in
harmony with nature. But all these still need a normative theory
regarding the rightness and wrongness of actions.

Telos, Virtue, and Right Action. Clark summarizes his
position in the following passage:

Briefly, my position in moral epistemology—which should have
been no mystery to anyone acquainted with Aristotelian
thought—is that what it is right to do is found by considering
what someone of sound moral character, equipped with the usual
capacities for affection, loyalty and self-forgetfulness, would do.
Such a person, as described by Aristotle (and myself), has the
habit of being aware of, and delighting in, the beauty and
goodness of the world and its members. (1984b, viii)

The good, virtuous individual is the one who does its telos, who acts,
works, and functions according to its kind (the telos shared by others),
thereby achieving its end or purpose (its telos) (C2.0-4.0). Only these
virtuous, good individuals have complete and fulfilling happiness (C3.0,
C4.0).

According to Clark, the decisions and actions of the virtuous
person (C7.0) can be evaluated both objectively and subjectively, and
both "strands" are in Aristotle (1982, 117). The subjective strand in
Aristotle, according to Clark, is naturalistic (or non-transcendentalistic) and relative to the individual and the community. When interpreted subjectively, as Aristotle often is, then ethics helps persons to examine their preferences and priorities and to decide among them in order to achieve a life of optimal human happiness within a community (1982, 100-104, 116-17).

Apparently to make the same point, Clark also uses the terms, “internal” and “external.” He argues that teleology can be understood internally and functionally, as well as merely externally, as in Thomistic teleology, which he rejects as too narrow (1977, 57-59). By “internal,” Clark means non-transcendental—without appeal to otherworldly realities, essences, properties, ends, principles, and so on. Although he does not explicitly identify them, Clark’s internal-external distinction seems to be synonymous with his subjective-objective distinction.

According to Clark, the telos of individuals and species can be known within the natural world (that is, internally and subjectively) by the empirical methods of science. The individual’s nature or kind (telos) is identifiable by biological, behavioral, and social traits found in the individual and its species population, although particular individuals
often vary somewhat from the norm of their species (C2.21). In addition, different individuals and species have relative and different intrinsic values, and can be hierarchically structured and prioritized (C2.22, C2.23) (1977, Chap. 8; 1982, 102-4, 113, 117; 1985).

In Aristotle’s objective strand, as explained and adopted by Clark, morality is independent of the person and the community, and ultimately is grounded in the non-natural, transcendental goodness of God. Accordingly, an objective moral standard can be used to judge the rightness of actions and the goodness of persons and communities. The virtuous (good, decent, or sound) person strives to achieve an ideal, but sometimes fails. In Clark’s words:

> The most that we do is try, remembering some of the time to wonder what a decent man would do. . . . But the decent man, the sound man, the reasonable man does what he knows he must.

This ideal was Aristotle’s. The good man is he that acts well, from a stable state of character which brings to an integrated whole such emotional and intellectual capacities as are open to creatures of humankind. He relates realistically to things in the world, living and unliving, and finds the meaning of his life in natural friendships and the shared worship of natural beauty. He does well in doing, as we say, what he ought: in Aristotle’s terms he does rather what he must, what he is bound to do. So do we not all? No: for it is the mark of wickedness that we tell lies about our motives, about the springs of our actions (Nicomachean Ethics 6.1144a34f.). (Clark 1977, 183)

Although virtuous persons do the morally right action (or usually do so), their actions can be objectively assessed by ideal standards of
what is good and right. Consequently, attempting to define the morally right action purely subjectively, as whatever action is done by the virtuous person, is overly simplistic, since sometimes even good persons fail to do what is morally right (1982, 116-18). The virtuous individual is the one who functions well according to the individual’s telos.

In Aristotle and Clark, “the argument from function” infers telos. Aristotle gave the function argument in order to infer the telos of humans. Clark explains Aristotle in the following note:

Nicomachean Ethics I. 1097b28f.: man, like organic parts and like professions, has a ‘function’, i.e. to say what a man is is to say what men characteristically do, and must do well if they are to be good men. Aristotle concludes that the characterizing feature is simply that man’s life is the life of action upon decision: ‘man is condemned to be free’. (1977, 57, n. 2)

An individual’s telos is the individual’s function, and an individual’s function is the individual’s telos (C2.0, C2.1).

Clark then expands this argument to animals. Just as the telos of humans is their function, so also the telos of animals is their function. To paraphrase Aristotle, to say what an animal is, is to say what the species characteristically does. Clark concludes that, regarding animals:
. . . perhaps they have no 'wills', never act on principle or with any universal rule in mind, but they are so constituted as not to need such wills—they have wishes, and act willingly or unwillingly (as Aristotle said (N.E. 3.1111b8f.)), and they too have the possibility of achieving a decent life within their kind. (1977, 58)

The good, virtuous individual, whether human or animal, is the individual who does, reliably and with excellence, what the species characteristically does.

Just as it is wrong to prevent humans from fulfilling their nature, so also it is wrong to deprive animals "of the proper fulfilment of their genetically programmed potentialities" (1977, 58). The work of humans is to make decisions and act based on reason. All creatures do well and are "happy," Clark continues, when they fulfill their natures: “Correspondingly, the well-being of ourselves and of other creatures consists in our performing well what is the 'work' of our kind . . .” (1984b, viii). This is true for humans as well as deer, fowl, and all others (C3.0) (1984b, viii).

In an article (1985) analyzing the expression "good dog," Clark argues that humans and animals have natural virtues. He begins by examining two expressions: "good man," and the pejorative, to live or behave "like an animal." The former has both an instrumental meaning, as in "good worker," and a moral meaning, as when it refers
to persons who do what they ought to do for the right reasons. Clark explains:

They ['morally' good men and women] are courageous and kindly, loyal, honest, temperate and just. They have good characters and do what they ought to do because they see they ought. (1985, 41)

But for a human to live or behave “like an animal” is to act on one’s impulses and desires, without constraints from morals, manners, or customs. Because nonhuman animals are far more rational and goal-oriented than popularly thought, Clark argues that a “good” animal does not behave “like an animal”—that is, impulsively and thoughtlessly. Many animals—at least all animals who live in social groups—are able to perform such complicated mental functions as re-identifying each other, attempting to regulate each other’s behavior, and remembering and grasping their shared past history (1985, 50).

Clark concludes:

... to be a ‘good dog’ is to have those virtues of character that must be fairly widespread in a natural population if creatures of the kind are to survive and reproduce. A good dog is discriminating in her choice of mate, faithful to her cubs, prepared to spare her rivals and to accept her place in the social hierarchy of her group with good grace. (1985, 50)

To be “good” is to behave in a manner typical of one’s species (C4.0).
Animals and plants of all kinds can be described appropriately as good or virtuous. From humans to micro-organisms, any kind of creature can be meaningfully called “virtuous,” according to Clark (C4.0). Regardless of the complexity or simplicity of their natures—whether primate, crustacean, tree, fungus, bacterium, or whatever—any individual creature is “virtuous” whenever it does its function well (1977, Chap. 8).

But does this line of argument apply equally well both to wild (natural) animals and to domestic, farm, and research animals? The functions and natures of the latter have been altered by breeding for human ends. One breed of cat has no hair; another, no whiskers. Is a sheep virtuous when it grows long wool? A cow, when it produces lots of milk? A fattened steer, when it placidly dies? Clark argues that it is wrong for humans to eat meat, except when it is essential for survival, which it seldom is today, because to confine and to slaughter the animals is to deprive them of their natural, instinctive ends and to treat them in ways contrary to their natures (1977, 176-77). He thinks that a modest harvest of nonharmful produce, such as wool, some milk, and some eggs, is permissible as long as the animals are allowed to fulfill their natural life spans and instincts for eating,
herding, playing, mating, raising offspring, and so on. Although he is bothered by his pet cat’s killing of mice and birds, he accepts the behavior as natural predation, even though the cat does not eat the prey. Consistent with his Neoplatonic metaphysics, Clark believes that all creatures, wild and domestic, are indwelt by God and deserve to be allowed to fulfill their natures (1977, Chap. 8).

Clark’s distinction between objective and subjective morality is similar to Aristotle’s distinction between natural and artificial virtues, and to Hume’s distinction between natural and social virtues. Human functions and virtues are objective or subjective (Clark), natural or artificial (Aristotle), and natural or social (Hume). Similarly, plants and animals in wild, uncivilized nature would have natural, objective virtues (and vices, conceivably), and domesticated, civilized plants and animals would have somewhat subjective, artificial, and social virtues (and vices), as imposed by humans.

Clark proposes that nonnatural individuals, such as food animals, should be allowed to live out their normal lifespans according to their telos, and that nonnatural species (kinds) should be preserved, although neither in their present large populations nor for current immoral ends. His reasoning is Neoplatonic. Since God indwells all
individuals, the diversity of species manifests in the world the diverse nature of God. Even those bred by humans display God's presence and indirect agency, as do the many other interventions and achievements of humans. Except for population sizes, the reasons for preserving nonnatural plants and animals are essentially the same as for preserving natural, wild ones (1977, Chap. 8).

For my purposes, Clark's argument regarding telos, virtue, and the morality of actions is problematic in two main respects. The details of my objections are in Section 4.5 below. First, the argument by Clark (and by Callicott in Section 4.42) that the natural sciences adequately establish the nontranscendental meaningfulness of the notions of telos and virtue is mistaken. Like Hume, MacIntyre, and others, I think that telos and telos-based virtues presuppose a conscious designer who is either transcendent (God or the Good) or nontranscendent (human individuals or communities). In either case, telos is not knowable by the empirical methodology of the biological and natural sciences. But even if, for the sake of the argument, the meaningfulness of natural telos and virtue is assumed, it does not follow without additional argument that they are moral. This is the second problem.
The second problem for Clark is the Derivability Fallacy, the
Prichard-type objection made familiar in Chapters 2 and 3. Namely, the
inference of a duty to act from a value, whether intrinsic values like
Rolston’s, or virtues and te/os values like Clark’s, does not follow
without an intermediate moral premise connecting the valuable thing
(virtue, te/os, or whatever) with the obligatory action.

In addition and briefly, an animal rights advocate could object
that Clark inconsistently favors wild animals and species over domestic
individuals and populations. An environmentalist could object that Clark
is too sentimental toward domestic animals, especially his own cat.
And a common-sense moralist could object that something is gravely
wrong with a moral theory wherein every conceivable creature is good.

To these problems, Clark’s likely response is his critique of
logically rigorous moral theory. Namely, ethics in practice is not a
complete and rigorously consistent system. This is my next topic.

Critique of Non-pluralistic Moral Theories. Like Aristotle,
Clark argues against imposing “systems” on ethics. By “system”
Clark has in mind any finite set of rules encompassing all of ethics;
rigorously deductive theories, such as Kant’s; efforts to reduce
morality to an empiricism, like Hume’s, or a scientific calculus, like
utilitarianism; and any comprehensive, universal system, like Hegel's architectonic (1982, 104-7). Clark is not anti-theoretical, however, since he explicitly endorses Aristotelian, Neoplatonic, and other theories. Clark states:

I doubt if there is any set of rules, any clear and compendious system that does full justice to the vagaries and unformalizable sensitivities of our moral experience (see *Nicomachean Ethics* I.1094b11f.), any more than there is such a system in the realm of science. It may be, as Aristotle believed, that there is a reconciliation of all value in the knowledge of God—a true being which makes sense of all physical phenomena, a true good which comprehends all lesser goods. . . . Morality, as I have remarked after Aristotle, cannot be wholly systematized. We should be very wary of any pretended system. (1977, 186-87)

Like Aristotle, Clark holds that ethics is not an exact deductive science (*episteme*) like mathematics, but a logically non-rigorous subject-matter wherein disagreement is likely and certainty seldom achieved.

In ethics, many kinds of appeals are appropriate, Clark thinks. A pluralistic strategy is part of the Aristotelian tradition. For Aristotle, ethics is concerned with action (*praxis*) and practical wisdom (*phronesis*). Reason and philosophical argument persuade some but not most people. Consequently "achieving a practical issue"—social reform of morals—requires appeals to other kinds of motivations, and Clark admits that he is "willing to argue on almost any basis to achieve that end" (1977, 186).
Throughout this thesis, and especially in Chapters 5 and 6, I defend Baruch A. Brody's theory of pluralistic casuistry, and argue that an adequate moral theory needs to be pluralistic. This is not to say that consistency is a bad thing, but rather that some inconsistency is likely, even though it is to be avoided. Clark needs to give lots of further details on what specific rules and appeals are appropriate for resolving most cases. In Chapter 6, I develop Brody's five moral appeals for animal and environmental ethics.

4.42 Community-Based Virtues: Callicott's Theory

Callicott is universally regarded as one of a triad of founders of environmental ethics, along with Holmes Rolston, III, and Eugene C. Hargrove. A foremost authority on Leopold, Callicott calls his theory "the Land Ethic," the name Leopold gave to his proposal for an ecological ethic in A Sand County Almanac (1949, Part IV).

In contrast to Clark, Callicott makes no transcendental theistic claims about telos. Rather, he claims that moral virtues, habits, sentiments, and other traits are based upon one's membership in a community, the holistic biotic ecosystem, which he calls "biocenoses," a word he coins from the Greek terms bios, "life," and koinonia,
“community” (1980, 321; 1987, 195; also spelled “biocoenoses” in 1980, 321 n. 25). Like Clark, Callicott has professional interest and expertise in ancient Greek philosophy (1980, 311 n.). Whereas Clark explicitly acknowledges indebtedness to Aristotle’s notion of telos, Callicott states that his theory reflects Plato’s communitarian and organic holism in which the individual is subordinated to the good of whole (1980, 327-29). After he compares the land ethic to Plato’s ethic (1980, 327-29), Callicott concludes, “If, therefore, Plato’s system of public and private justice is properly an ‘ethical’ system, then so is the land ethic in relation to environmental virtue and justice” (1980, 329). Callicott also favorably appeals to Darwin and the sociobiology of E. O. Wilson (1987, 189-90), and to the notion of “sentiments” found in Adam Smith and David Hume (Callicott 1987, 190).

As with previous analyses, I begin with an outline in which I analyze and reconstruct Callicott’s theory. CLE abbreviates “Callicott’s Land Ethic” and reflects Callicott’s appropriation of Leopold’s metaphor. Quotation marks contain Callicott’s terms and phrases (with sources in parentheses), and square brackets indicate my clarifications of the logic.
CLE 1.0 Critique of Traditional Western Moral Theory

CLE 1.1 [Adequacy Premise:] An adequate moral theory would have prevented the "the environmental crisis" (1986, 381-84).

CLE 1.2 [Crisis Premise:] Traditional Western moral theory has not prevented the environmental crisis.

CLE 1.3 [Inadequacy Conclusion:] Therefore, traditional Western moral theory is inadequate. [From CLE 1.1, 1.2]

CLE 1.4 [First Necessity Conclusion:] Therefore, a new nontraditional moral theory is needed. [From CLE 1.3; cf. 3.5]


CLE 1.6 [Nonanthropocentric Individualism Conclusion:] Therefore, the new moral theory must be neither anthropocentric nor individualistic (1980, *passim*; 1986, *passim*; 1997, 39-48). [From CLE 1.4, 1.5]

CLE 1.7 [Holism Conclusion:] Therefore the new moral theory must be a Land Ethic, that is, biocentric and ecocentric holism (1980, *passim*;
CLE 1.8  

[Nontraditional Premise:] The beliefs and practices of ancient Greek ethics (Plato), Postmodernism, non-Western religions and philosophies, and indigenous peoples, like pre-colonial North Americans, South Americans, Africans, Australians, and Polynesians, are nontraditional (1994, passim).

CLE 1.9  

[Conceptual Elements Conclusion:] Therefore, conceptual elements for the new ethic (a Land Ethic) are likely to be found in the beliefs and practices of ancient Greek ethics (Plato), Postmodernism, non-Western religions and philosophies, and indigenous peoples, like pre-colonial North Americans, South Americans, Africans, Australians, and Polynesians (1980, 311-18; 1994, passim; 1997, 39-48).

CLE 2.0  


CLE 2.1  

Copernican cosmology

CLE 2.2  

Darwinian protosociobiological natural history of ethics

CLE 2.3  

Darwinian ties of kinship among all forms of life on Earth
CLE 2.4  Eltonian model of the structure of biocenoses (biotic eco-communitarian holism)

CLE 2.5  Humean-Smithian moral psychology (sentiments)

CLE 3.0  "Logic" of the Land Ethic (1987, 187-95)

CLE 3.1  [*Biopsychological-affective Premise:*] "Natural selection has endowed human beings with an affective moral response to perceived bonds of kinship and community membership and identity" (1987, 195).

CLE 3.2  [*Biological-cognitive Premise:*] The natural environment (the holistic ecosystem, or the Land) is a community, the biotic community ("biocenoses" [1980, 321 n. 25]) (1980, 321; 1987, 195; 1997, 48-52).

CLE 3.3  [*Possibility Conclusion:*] "... therefore, an environmental or land ethic is... possible—the biopsychological and cognitive conditions are in place" (1987, 195). [From CLE 3.1, 3.2]

CLE 3.4  [*Destructibility Premise:*] "Human beings collectively have acquired the power to destroy the integrity, diversity, and stability of the environing and supporting economy of nature" (1987, 195).
CLE 3.5  
*Second Necessity Conclusion:* Therefore, “an environmental or land ethic [ecosystemic holism] is . . . necessary” (1987, 195).  
[From CLE 3.3, 3.4; cf. 1.4]

CLE 4.0  
The *Summum Bonum*: Ecosystemic Holism, or the Land Pyramid (1987, 196-204)

CLE 4.1  
*Definition:* “The Land Pyramid” is the complex holistic structure of the ecosystem (“the Land”): beginning with energy from the sun, flowing into plants, coursing through plant-eating animals, climaxing in omnivores and carnivores; and then recycling in the decomposers of dead organic material—worms, fungi, and bacteria (1987, 202-3).

CLE 4.2  
*Evolution Premise:* The Land Pyramid is the product of evolution, which elaborates the “flow mechanism” and “lengthens the circuit” of the Land Pyramid (1987, 204).

CLE 4.3  
*Instrumental Good Premise:* Biodiversity is instrumentally good (1997, 29-32).

CLE 4.4  

CLE 4.5  
*Biodiversity Conclusion:* Therefore, biodiversity is good (1997, 29-39).  
[From CLE 4.3, 4.4]
CLE 4.6  [Evolution Conclusion:] Therefore, evolution is good (1987, 203-4; 1997, 52-53). [From CLE 4.1-4.5]

CLE 4.7  [Summum Bonum Conclusion:] Therefore, “the Land Pyramid” (ecosystemic holism) is the “summum bonum” (1987, 204). [From CLE 4.1-4.6; cf. 1.7]

CLE 5.0  Duties of the Land Ethic (1987, 204-5; 1997, 49-50)

The following “First Principle,” “Summary Moral Maxim,” “Categorical Imperative,” and “Golden Rule” of the Land Ethic is “derived” from “the summum bonum” (CLE 4.7) (1980, 318-20; 1987, 196, 204-5; 1997, 49-50):

CLE 5.1  [Therefore:] “A thing is right when it tends to preserve the integrity, stability, and beauty or the biotic community. It is wrong when it tends otherwise” (1987, 196; 1997, 49-50). [From CLE 4.7]

The following “cardinal duties” are “derived” from “the summum bonum” [CLE 4.7] (1987, 204-5):

CLE 5.2  [Therefore:] “Thou shalt not extirpate or render species extinct” (1987, 205). [From CLE 4.7]

CLE 5.3  [Therefore:] “[T]hou shalt exercise great caution in introducing exotic and domestic species into local ecosystems, in extracting energy from the soil and
releasing it into the biota, and in
damming or polluting water
courses” (1987, 205). (From CLE
4.7)

CLE 5.4  
[Therefore:] “[T]hou shalt be
especially solicitous of predatory
birds and mammals” (1987, 205).
(From CLE 4.7)

Less dramatically, the following hypothetical
imperative is derived from the value of the
environment:

CLE 5.5  
[Therefore:] “[S]ufficient
justification would have to be
offered for putting it [biodiversity]
at risk” (1997, 32-34). [From CLE
4.4, 4.7]

For my purposes, seven arguments in this outline need critical analysis.

The names for them are mine, not Callicott’s.

(a) The Inadequacy Argument (CLE 1.1-1.3). This and
other of Callicott’s arguments depend upon empirical claims from
science or history, and nonempirical claims of a philosophical sort. In
this argument, the empirical claim is that traditional moral theories
have not prevented the environmental crisis (CLE 1.2), which is true
but trivial. The nonempirical claim that an adequate moral theory
would have prevented the environmental crisis (CLE 1.1). Empirically,
no conceivable test could establish this claim. Is it plausible?
Consider the following analogous argument, which I call the "Preventing Crime Argument":

0.1 An adequate moral theory would prevent crime.

0.2 Traditional moral theory has not prevented crime.

0.3 Therefore, traditional moral theory is not adequate. (From 0.1, 0.2)

The Preventing Crime Argument is clearly fallacious. Crime is caused by such multiple factors as poverty, urban overcrowding, innate human aggression, religious bigotry, ignorance, poor education, poor parenting, mental illness, addictions, racial discrimination, ethnic prejudice, capitalistic competitive economies, unemployment, police brutality, judicial errors, and various vices like fear, lust, greed, envy, hatred, jealousy, revenge, and so on. To my knowledge, no criminologist or sociologist has ever argued either that crime is caused by inadequate moral theory or that an adequate moral theory would prevent crime.

Admittedly, moral philosophers often debate cases in which a conscientious rational utilitarian (or other consequentialist) commits an act that is wrong (or criminal) according to some deontological theory (or vice versa). But in these latter cases, the point at issue is whether the actions are _actually_ morally right or wrong, as well as
whether the agent might be *mistaken* about either the factual circumstances of the case or the correct application of a moral theory. Admittedly, it is possible that some particular crimes may be committed by someone in the grip of a lousy moral theory (or other ideology), but surely seldom is this actually the case; most crimes, I believe, are committed by individuals who disregard their moral (and religious) convictions.

Similarly, it is questionable whether an adequate moral theory would have prevented the environmental crisis (CLE 1.1). This is because a correct moral theory in itself does not prevent errors in factual data, faulty application of the theory, or hasty judgments. Nor does theory guarantee a conscientious good will and the psychic power to overcome temptations, passions, and vices. Even though some environmental abuses may result from persons under the grip of a lousy theory, it does not follow that all environmental abuses do, nor that even most of them do. Just as moral beliefs often are disregarded when crimes are committed, so also moral beliefs are not likely either to have prevented or to remedy the environmental crisis. As a moment of self-reflection proves, we humans often act without thinking and for less than morally virtuous motives. To fault moral
theory for crime or the environmental crisis requires lots of additional argument—argument that eliminates all the other possible factors.

The conclusion of the Inadequacy Argument is a hasty generalization (CLE 1.3). Because there is in fact an environmental crisis, one could argue analogously, that nothing in contemporary Western culture has prevented it: democracy hasn’t prevented it, nor have reliable contraceptives, nor has Scotch whisky, nor my grandmother’s apple pie, nor anything else for that matter. The Inadequacy Argument would succeed only if all the possibilities are eliminated and only if there is sufficient reason to believe that a correct moral theory would be widely practiced.

(b) The Necessity Argument (CLE 1.3-1.4, 3.3-3.5). Two empirical grounds are given for the conclusion that a new moral theory—ecosystemic holism or the Land Ethic—is needed: (a) the current environmental crisis (CLE 1.2), and (b) the threat of environmental destruction (CLE 3.4). Optimistically, Callicott believes that if Western culture in the future possesses such a theory, the theory will prevent environmental apocalypse; or, more weakly expressed, the theory is our only hope for avoiding apocalypse. He also seems to believe that, if Western culture in the past had possessed an
adequate moral theory, the theory would have prevented the current
environmental crisis. Apparently Callicott thinks moral theory
functions like a Gospel, saving the world by converting evildoers to
righteousness. These beliefs are not plausible, I will argue in a
moment, after briefly looking at an immediately relevant question.

Where are we to get such a theory? Looking for it, Callicott has
traveled and studied the religions and cultures of the world, past and
present (1994; Callicott and Rocha, eds., 1996; Callicott and Ames,
eds., 2001). Callicott believes the conceptual elements for the theory
are likely to be found in anything non-Western or nontraditionally
Western. He proposes that the elements for the new theory are to be
found in nonanthropocentric, nonindividualistic, and Postmodern
traditions, merely for the reason that they are nontraditional or non-
Western (CLE 1.5-1.6, 1.8-1.9). This conclusion is questionable since
many nontraditional or non-Western cultures, particularly India and
China, have worse environmental records than the West. Even pre-
Columbian Native Americans set fires to grasslands to prevent
reforestation and maintain grazing for buffalo, deer, and other hunted
animals. The Anastasi Indians of the American Southwest, the
"ancient ones" who lived in cliff houses, perished, according to one
anthropological hypothesis, because they overpopulated the land and exhausted its resources. Native Americans also hunted some species to extinction (notably, woolly mammoths).

Even if some elements from these alternative traditions might be useful for constructing an adequately comprehensive moral theory, one can still doubt, for these reasons and others to be given next, whether such a theory would produce the results for which Callicott hopes. Moreover, such a composite theory would be significantly different from these traditions and likely unrecognizable to their aboriginal adherents.

As mentioned, Callicott seems to believe that a new and adequate moral theory (or environmental philosophy) will solve the environmental crisis and prevent a future destruction of the environment. In my judgment, it is implausible, naive, and potentially self-defeating to believe that: (a) any conceivable moral theory in itself could have prevented the environmental crisis, or (b) any conceivable moral theory in itself would prevent some future environmental collapse. As proposed and defended by Kant, moral theory guides only those who have two jointly necessary traits: (a) a good will, that is, the desire to do what is right; and (b) rationality, that is, the capacity to
reason and think about what action is morally right. But even
possessing these two virtues does not guarantee moral righteousness,
for even true believers may not practice what they preach, for a
myriad of reasons, of which some are above and others below.

For the same reasons as I argued above against the Inadequacy
Argument (CLE 1.1-1.3), additional argument is needed for the hasty
conclusion that a new moral theory (CLE 1.4, 3.5) is needed to save
the world from environmental crisis (CLE 1.2) and apocalypse (CLE
3.4). Does Callicott give additional argument? Clearly supportive is
the "Nonanthropocentric Individualism Argument" (CLE 1.5-1.6), and
implicitly supportive is the "Possibility Argument" (3.1-3.3), which is
based on Callicott's claims of biotic kinship and sentiments (CLE 3.1-
3.2).

(c) The Nonanthropocentric Individualism Argument (CLE
1.4-1.6). To the conclusion that a new moral theory is needed (CLE
1.4), Callicott adds the historical premise that traditional Western
moral theory has been both individualistic and anthropocentric (CLE
1.5). He then concludes that the new moral theory must be neither
individualistic nor anthropocentric (CLE 1.6). Below I examine the two
conjuncts in the historical premise (CLE 1.5) and then the attempted
derivation of a normative theoretical conclusion (CLE 1.6).

The individualism conjunct in CLE 1.5 is clearly false. Except for
a very few recent modern and contemporary moral theories, Western
thought has been overwhelmingly holistic, not individualistic. In fact,
Callicott enthusiastically cites Plato’s holistic and nonindividualistic
moral philosophy as a “classical [Western] antecedent of some of the
formal characteristics of the land ethic” (1980, 311). Without
criticism, Callicott approvingly points out that, in the Republic, Plato
requires infanticide, eugenics, destruction of the nuclear family, denial
of medical care to the frail, and abandoning cowardly soldiers to the
enemy: “... he shrinks from nothing so long as it seems to him to be
in the interest of the community” (Callicott 1980, 328). Assuredly,
Plato’s ethics is holistic (and communitarian). However, Callicott fails
to mention that it is also viciously anthropocentric, for Plato is
aristocratic, hierarchical, patriarchal, sexist, ethnocentric
(chauvinistically Hellenistic), and polis-centered (nationalistic, urban or
city-centered, anti-wilderness, anti-barbarian, and anti-primitive).
Callicott makes no mention of Plato’s doctrines that are blatantly
contrary to the Land Ethic.
Not only were Plato and many other ancient Greek and Roman elite socially and morally holistic, but so were most philosophers and theologians until the Enlightenment (and even thereafter). In ancient and medieval times, individuals were subordinated to the Empire, the Church, and the feudal state, and dissenters were crushed by the sword, stake, or gallows. The army of Julius Caesar slaughtered five million Gauls and Celts, and the armies of the Church annihilated the Albigensians. Not until after the Reformation, the European religious and civil wars, the Enlightenment, and the emergence of capitalism were many theologians or philosophers willing to argue that appropriate respect for individuals is the antidote for abusive holism. Even thereafter and continuing to the present, many philosophers, notably Hegelians, Marxists, and communitarians, have continued to defy individualism and defend holism. In fact, never has holism been a minor player on the Western stage. Even Enlightenment and post-Enlightenment theories have not been uniformly individualistic, but only modern and contemporary deontology and only one version of consequentialism, egalitarian utilitarianism. Only deontology and egalitarian utilitarianism are appropriate targets for Callicott's Critique.
Deontologists and egalitarian utilitarians agree that what counts morally are *individuals*. Even Kantians agree with utilitarian Jeremy Bentham’s famous phrase, “Each counts for one and none for more than one.” Where they differ is over *what kind of individual* counts, sentient or rational. Unlike Kantian deontologists, consequentialists also debate *how individuals count*, for instance: Each individual’s utility considered as equally important (egalitarian utilitarianism)? Or the net sum total utility, with unequal individual utilities added together holistically (collective or communitarian utilitarianism)? Or the mean individual utility, with the inequities between individuals averaged (average utilitarianism)? Thus, with the exception of egalitarians, even contemporary utilitarians (and other consequentialists) are holistic, because they do not count individuals equally. Therefore, historically only egalitarian utilitarianism and deontology are individualistic, not the whole of Western tradition.

Next, how historically accurate is anthropocentrism, the other conjunct in CLE 1.5? Faulting anthropocentrism is historically overly simplistic. Although anthropocentrism may be a factor, it is at most only one of many causal factors jointly to blame for the environmental
crisis. Anthropocentrism is likely neither a necessary nor a sufficient cause.

As just noted, ancient Greeks and Romans were ethnocentric and elitist. They had little regard for human beings as such. For the elite, excellent horses and oxen were often more prized than wives, daughters, slaves, and especially barbarians. Admittedly, as Callicott emphasizes, the pre-Christian polytheists and animists apotheosized nature. But their religious beliefs did not prevent environmental abuses, since they also destroyed the original vegetation and forests growing along the coasts throughout the Mediterranean, reducing the region to the barren rocky coastlands and islands still visible today. They also decimated the native animal species, especially the large carnivores—the very animals Callicott considers indicative of healthy ecosystems (CLE 5.4). Neither humans nor large animals had more than entertainment value, as evidenced by the Roman gladiatorial slaughter. Amazingly, Callicott applauds the nature-ism of the pre-Christian era.

Perhaps Callicott's praise of paganism has been clouded by misinterpretation of the Judeo-Christian tradition. Following historian Lynn White (1967) and landscape architect Ian McHarg (1969),
Callicott identifies the "Judeo-Christian tradition" as the "cause" of our "environmental problems" (1986, 384). Primarily to blame is Christianity, because as it became the dominant religion, it imposed anthropocentrism on the West (1986, 384-88). Callicott seems to believe that a pagan West would have spared the environment.

Two lines of argument show that Christian anthropocentrism is likely neither a necessary nor sufficient cause. First, Lewis W. Moncrief argues that blaming Christianity is too simplistic: "... at best, Judeo-Christian teaching has had only an indirect effect on the treatment of our environment" (1970, in Pojman, ed., 2001, 23).

Admittedly, according to Moncrief, there is some empirical evidence to support the claim. Nevertheless, there are several other causal factors: capitalism, democratization, urbanization, increased wealth, increased population, and individual resource ownership. Importantly, these other factors are common to many environmentally degraded parts of the world where the Judeo-Christian tradition is not a factor.

From Moncrief's analysis and Mill's methods of induction, three conclusions follow, I think. First, because Christian anthropocentrism was not a factor in the environmental degradation of other parts of the world, it is not a necessary factor, despite the evidence in our
culture. Second, since Christianity was the dominant Western religion for centuries prior to our environmental problems, and since widespread environmental degradation in the West did not occur until after these other factors emerged, Christian anthropocentrism in itself is not a sufficient cause. And, third, since environmental degradation also has occurred in non-Christian places, the other factors alone are jointly sufficient to account for our environmental crisis. Had our Greek, Roman, Jewish, Christian, and other Western ancestors possessed our contemporary knowledge of biology and ecology, likely most of our contemporary environmental problems would be non-existent or ameliorated.

Another line of argument against Callicott is that he has underestimated the richness of the Judeo-Christian tradition. Like White and McHarg, Callicott's claim is an oversimplification of the doctrinal depth and complexity of the tradition. Neither Judaism nor Christianity is viciously anthropocentric. Throughout history, Jews and Christians have consistently condemned abuse of animals and irresponsible land management (see Dobel 1977). The three religions historically rooted in the West—Judaism, Christianity, and Islam—are primarily theocentric, not anthropocentric. Attempting to emulate
Augustine’s *City of God*, Roman Christianity professes being church-centered (the temporal city of God in this world) and heaven-centered (the eternal city of God in the hereafter), not human-centered.

As a matter of historical fact, even recent moral theories have *not* been viciously anthropocentric. As explained in Chapters 2 and 3, utilitarians and deontologists debate *what kinds of individuals count*. Neither theory assumes that all and only humans as such count (speciesism). Bentham’s famous phrase, “Each counts for one and none for more than one,” is applied by utilitarians to animals as well as humans. Even for Kantian deontologists, the issue is not humans as such, but rather *rational beings* of whatever species or kind—God, angels, extraterrestials, and, if Regan is correct, higher animals.

Not only does the Anthropocentric Individualism Argument fail because the historical premise is mistaken, but it also fails because the logic of the argument is fallacious. Logically, a normative moral conclusion cannot be derived from one or many historical facts—even when true—without a sufficient intermediate moral premise (or premises) linking the facts and the conclusion. Assuming for the sake of the argument that a new moral theory is needed (CLE 1.4), it does not follow that every feature of the old theory is mistaken. Nor does
it follow, without sufficient relevant reason, that any particular feature is mistaken. This kind of logical error is the Derivability Objection (see Section 4.52).

For normative theoretical reasons supplementing the one's I've given above, many others argue against Callicott's anti-individualism and nonanthropocentrism. Philosophers Tom Regan (1983) and William Aiken (1984) argue that denial of moral considerability to individuals, including nonhuman individuals, is *environmental fascism*, because the rights of individuals are sacrificed for the welfare of a community—the holistic ecosystem (cf. Callicott 1997, 50).

Pragmatist philosopher Bryan Norton (1991) and conservation biologist Norman Myers (1983) argue that nonanthropocentrism is environmentally self-defeating since only a few humans are likely to accept it (cf. Callicott 1997, 29, 33, 40). Similarly, philosopher Kristin Shrader-Frechette (1981, 17) proposes that a sufficiently long-term, egalitarian, and anthropocentric utilitarianism is theoretically sufficient for resolving the crisis (cf. Callicott 1986, 393-94).

Philosopher Richard Watson (1983) and biologist Stephen Jay Gould (1990) conclude that the environmental crisis is a moot issue if it is *not* anthropocentric.
Radically holistic and anti-individualistic, Callicott’s early articles (especially 1980) warrant these, as well as my own, harsh criticisms. As mentioned earlier, Callicott applauds Plato’s willingness to sacrifice individual humans in order to promote the welfare of the whole community (1980, 327-29). Ever Leopold’s disciple, Callicott shares his master’s indifference to “hunting, cruelly killing, and eating animals” who are merely “game” or “stock” (1980, 314-15). Even worse, Callicott cites, and does not shrink by any qualifications, the radical environmentalist and novelist Edward Abbey’s ridiculous misanthropic adage that he would “sooner shoot a man than a snake” (Abbey 1968, 20; Callicott 1980, 326). According to Callicott, anti-individualistic and nonanthropocentric ecosystemic holism is the “first principle,” “categorical imperative,” and “Summum Bonum” of the Land Ethic (1980, 318-21; 1987, 202-4).

In Callicott’s later writings (especially 1997), anti-individualism and nonanthropocentrism are less radical. He envisions a series of concentric circles, beginning with the extended family and proceeding successively to tribe, nation, humanity, and the biotic community. To the fascism objection, Callicott appears to make three responses: (a) except for human individuals, other nonhuman individuals ought to be
sacrificed for ecosystems; (b) lower-level communities have priority over higher-level ones; and (c) most conflicts between humans and the environment are not matters of life-and-death for humans. These responses, I think, are inadequate. Unless individual humans are in fact morally superior to individual and collective nonhuman animals, plants, and inorganic things, then the first response is *ad hoc*. Callicott needs to state explicitly why humans are exempt. The second response clearly contradicts the hegemony of holism as stated in Callicott’s *Summum Bonum* Argument (CLE 4.0-4.7) and Derivability Argument (CLE 5.1-5.5). And the third response is evasive and wishful thinking since in the future hard cases are likely to become increasingly prevalent.

Interpreted literally, Callicott’s concentric metaphor (1997) is a contradiction of the holism of the Land Ethic; interpreted charitably, the metaphor is an ambiguous hierarchy. As I understand the concentric ethic, Callicott is saying that *intra*-community conflicts are to be settled by the morality of the particular community. Namely, family squabbles are to be settled by the family’s mores, tribal disagreements by tribal customs, national internal disputes by the nation’s laws, and so on. Thus, Callicott’s *intra*-community ethic is a
though-going relativism. In contrast, he holds that *inter*-community
conflicts are to be settled by the moral standards of the *lower*
community, not the higher one (or ones). The concentric ethic seems
to prioritize lower (including anthropocentric) community identities and
allegiances, and not to prioritize higher biocentric and ecocentric ones.
This issue—the hegemony of ecosystemic holism—returns below in my
analysis of Callicott’s *Summum Bonum* Argument (CLE 4.0-4.7) and
Derivability Argument (CLE 5.0-5.5).

(d) The Ecosystemic Holism Argument (CLE 1.6-1.7; cf.
4.1-4.7). From his rejection of anthropocentric individualism (CLE
1.6), Callicott directly infers that the new moral theory must be
ecosystemically holistic (CLE 1.7). His inference presupposes that
anthropocentric individualism and ecosystemic holism are
contradictory.

This presupposition is mistaken for the following reasons. As I
argued above regarding CLE 1.5-1.6, Callicott’s arguments against
anthropocentrism and against individualism are too sweepingly broad.
Consequently, it is logically possible that anthropocentric individualism
and ecosystemic holism can be components of an adequately complex
and inclusive moral theory. Just like many other moral conceptions and
principles, it is not required that anthropocentric individualism and ecocentric holism never conflict in practice; in fact, it is likely that sometimes they will conflict in actual cases.

In Chapter 6, I propose in detail a theory of pluralistic casuistry that is inclusive of anthropocentric individualism and ecosystemic holism. Following W. D. Ross (1930) and Baruch A. Brody (1988) (see Chap. 5), I believe that moral theory needs to be pluralistic, at least for the time being, for no one has yet come up with an adequately comprehensive monistic theory that consistently and deductively unifies the variety of moral phenomena and resolves all genuine conflicts of moral duties. Even though currently we may disagree regarding whether this or that particular duty is a moral duty, nevertheless we agree that there are many moral duties. So far, no one has explained or reduced the many duties to one single duty.

For these and other theoretical reasons defended in Chapters 5 and 6, I propose that preserving ecosystemic holism is a genuine moral duty, but a prima facie moral duty. Similarly, respect for individual persons (anthropocentric individualism, or Kantian respect for rational autonomy) is a genuine moral duty, but a prima facie moral duty. Neither duty always takes priority over the other. That these two
duties sometimes conflict in particular cases does not entail that one or the other is not justified by moral theory. Rather, the conflict in particular cases requires that we make a moral judgment between the two duties, a judgment that is case-specific and fallible. Because the decision is a fallible and case-specific judgment, it is open to revision by oneself and to debate by others making contrary judgments.

In sum, it is logically possible and theoretically conceivable that both anthropocentric individualism and ecosystemic holism are true. Callicott’s presupposition is mistaken.

(e) The “Logic” Argument (CLE 2.1-2.5, 3.1-3.5). The “Logic” Argument is seriously flawed. My main criticisms are three:

The “Kinship” Metaphor. Callicott's biopsychological premise (CLE 3.1) trades on the vagueness and imprecision of the “kinship” metaphor (CLE 2.3). Masked by the metaphor are three claims: (a) an empirical biological claim, (b) an empirical psychological claim, and (c) a normative moral claim. Biologically, all living things share some limited formal structural patterns in particular fragments of DNA, and may share a very remote common ancient evolutionary ancestor. Nevertheless, differences at the genetic, phenotypic, and species levels are immensely significant biologically (as well as morally). As an
empirical biological hypothesis, feelings of kinship are not likely to lead to human reproductive success (passing on one's own genes to one's progeny) when the feelings are directed toward viruses, bacteria, fungi, insects, rattlesnakes, toxic plants, carnivorous predators, and a host of other organic things. If all humans are kin to all forms of life, then we are kin to killers like streptococcal bacilli, the bubonic plague, Genghis Khan, and Adolph Hitler.

Even understood narrowly, the psychological claim is questionable: many humans in fact do not care about their next-of and near-of kin. But understood broadly, the affective claim is unquestionably false. Biological knowledge of shared ancient evolution is not likely to alter feelings of disaffection. Most humans do not have kind sentiments for killer bacteria, poisonous snakes, and genocidal maniacs.

The normative moral question is whether it is morally good for humans to have such affections. Surely we should not act kindly toward our biological kin who are indiscriminate killers, even if we have strong sentiments to do so. Can feelings of affection be morally justified for no more reason than similar molecular structures and shared natural history? The apple tree in my backyard has contributed
more individual molecules directly and materially to my body than distant peoples or remote biological kin. Morally, ought I to feel more affection for my apple tree?

Morally right actions cannot be derived, without additional moral argument, from scientific or psychological facts or values. Logically, to the facts or values must be added a distinctively moral reason (or argument) stating in what manner and circumstances the facts or values are morally obligatory. Even when facts are value-laden, regardless of whether they are objective scientific facts or subjective psychological facts, morally right actions cannot be directly inferred from a valuable fact without additional moral reason or argument. This fallacy is the Derivability Objection that is discussed in detail in Section 4.52.

*The Necessity Conclusion (CLE 3.5).* Like Kant (1786), Callicott seems to believe that morality presupposes the possibility of its achievement. But unlike Kant, who based his moral postulates on the logic of morality as such, Callicott bases his claims on empirical hypotheses from biology and psychology, hypotheses that can be challenged and refuted by empirical considerations like those above.
Possibility does not entail necessity—in logic, physics, social science, psychology, morality, or anything else. Even if, for the sake of the argument, we grant the Possibility Conclusion (CLE 3.3), the Necessity Conclusion (CLE 3.5) does not follow simply by adding the Destructibility Premise (CLE 3.4). Consider the following analogous moral argument: It is possible for me to go to Africa and save starving people (I have the money to do so). And, moreover, some particular persons in Africa will surely die if I do not. But it does not follow necessarily that I must go, because I may have other conflicting duties that take priority, such as, paying my bills and taking care of my invalid father and handicapped sister.

Unexamined Sentiments (CLE 2.5). As a moment’s self-examination should disclose, unexamined sentiments can motivate us to do wrong as well as right actions. Only when sentiments, affections, and other feelings positively contribute to morally right actions are they virtuous; otherwise, they are vices. Broadly understood, sentiments include both virtues and vices. If we have learned anything from history and social psychology, it is that, in addition to virtuous sentiments, humans have strongly immoral sentiments. If we are to act rightly, then we must necessarily examine our sentiments by
normative moral considerations and never act merely on the basis of inclinations, as Kant argued.

Kant’s argument (1786) against unexamined sentiments and inclinations—in its historical context against Smith and Hume—is correct, I believe. The only virtue that is good without qualification is a good will. Sometimes a particular sentiment will make it easier to do a right action, but at other times the same sentiment will motivate toward a wrong action. For instance, motivated by love, parents often spoil their children. Regrettably, right actions are often difficult for us to do because sentimentally we do not want to do the right action. Because sentiments are unreliable, rational justification is needed in order to decide what is truly the right or wrong action.

(f) The *Summum Bonum* Argument (CLE 4.0-4.7). Using such metaphors as “the land,” “the Land Pyramid,” “the biotic community,” and “biocenoses,” Callicott argues that the holistic ecosystem is the “*Summum Bonum*” (CLE 4.7). He gives two reasons: (a) the ecosystem is the product of evolution (CLE 4.2), and (b) the ecosystem is characterized by biodiversity (CLE 4.5), which is instrumentally (CLE 4.3) and inherently good (CLE 4.4). According to Callicott, the good of the whole justifies:
. . . assignment of differential values to the several parts of the environment irrespective of their intelligence, sensibility, degree of complexity, or any other characteristic discernible in the parts considered separately . . . . (1980, 329)

This is because the ecosystem considered holistically is a greater good than the sum total of the parts considered separately. "In relation to environmental virtue and excellence" (1980, 329), the features of the ecosystem are such traits as diversity, complexity, holism, systemic structures, energy and other flow mechanisms, recycling patterns, and progressively lengthening circuits (CLE 4.1-4.4) (1980, 324-29; 1987, 196-204).

Regarding this argument, I'll not revisit here topics that I discuss in other places. In Section 3.44, I analyze and defend Rolston's theory of intrinsic value against Callicott's doctrine of inherent value. I also give a modest defense of the greater value of some types of wholes, when compared to the sum of the parts. From the greater holistic value of the ecosystem, both Rolston and Callicott attempt directly to infer constraints upon actions. These attempts commit the logical error that I call the Derivability Objection. I argue this objection against Rolston in 3.44 and 3.52. Callicott's Derivability Argument (CLE 5.1-5.5) is analyzed next below, and I argue my objection there as well as in Section 4.52.
My argument here is that the *Summum Bonum* Argument fails. The conceptualization of the ecosystem as the *Summum Bonum* is arbitrarily relative unless metaphysical teleology is presupposed. For reasons already given against Clark in Section 4.41, metaphysical teleology is implausible. Therefore, the conceptualization of the ecosystem as the *Summum Bonum* is arbitrarily relative.

Similar to MacIntyre’s virtue ethics (1981, 1984, 1988), Callicott’s theory is based upon the values and goals of a community. Whereas MacIntyre constructs an Aristotelian-type theory, Callicott’s is Platonic (1980, 327-29). In both theories, the community-based strategy is an attempt to relocate *telos* from an implausible metaphysical assumption to an empirical community’s actual processes, interdependencies, goals, and values. According to both theories, the purposes, functions, and ends (*teloi*) of individual beings and things, and their virtues and excellences (*arete*) are identifiable in terms of relationships within a holistic community.

Callicott’s theory, however, is significantly different from MacIntyre’s. Whereas MacIntyre’s community is the product of conscious and intentional rational beings (humans) and their cultural development, Callicott’s is the by-product of stochastic and chaotic
natural evolution. Human communities are coherently described as
designed and purposive, but an ecosystem has no more design and
purpose than a naturally occurring rockslide. The consensus today
among biologists is that ecological communities do not currently exist
and have never existed as balanced static equilibriums. At best,
preserving current ecosystemic stability will be instrumentally valuable
to current individuals, enabling them and their closely similar offspring
to continue to survive and reproduce. At worst, ecosystemic stability
will shut down evolution and produce extinctions (see Section 4.51).

Another significant difference is conflict resolution. In
MacIntyre's theory, intra-community (within a community) conflicts
are likely to be resolvable by appeal to reason because the
community's members are conscious, rational, and share common
values and goals, but inter-community conflicts are not likely to be
resolvable by appeal to reason because the conflicting values and goals
are arbitrarily relative. In contrast, in Callicott's theory: the holistic
ecosystem is not the product of a community of conscious and rational
beings, but the by-product of evolution; and, consequently,
ecosystemic "communities" are far more arbitrarily relative than
MacIntyre's.
What is true of collective wholes is not necessarily true of the distributive parts; or, restated, wholes can have collective traits not found in any part. In some cases, wholes have greater value than the sum of the parts; but in other instances, wholes are not worth saving, even though some of the parts are. Within ecosystems, individuals and species compete for resources. On their borders, ecosystems overlap and conflict.

To avoid arbitrary relativism, Callicott could endorse a metaphysical teleology, such as Plato’s, Aristotle’s, or Clark’s. Unless a personal cosmic designer (like the God of Western theism) or an impersonal rational cosmic principle (such as the Logos of Stoicism) causes all of nature to have coherent interconnected purposes and ends, then it is not plausible to believe in natural teloi or a grand-scale Summum Bonum.

(g) The Derivability Argument (CLE 5.1-5.5). From ecosystemic holism Callicott directly infers five duties: the “Categorical Imperative” of the Land Ethic (CLE 5.1), three “cardinal duties” (CLE 5.2, 5.3, 5.4), and one hypothetical imperative (5.5). Except for the last, Callicott intends for these commandments to be categorical, or unconditional, as the rhetoric attests. Two interrelated
logical errors need attention: (a) all of the imperatives are hypothetical (that is, none is unconditional), and (b) no imperative of any kind can be derived directly from the goodness of the ecosystem.

First, the imperatives are hypothetical since every one logically allows for exceptions. For morally adequate reasons in various kinds of particular circumstances, each commandment ought to be broken, even the so-called “Categorical Imperative” of the Land Ethic.

Although less obvious in some, every one of the imperatives presupposes the same hypothetical proviso—namely, sufficient justification for breaking it. Obviously hypothetical are the “Caution Commandment” (CLE 5.3) and the “Risk Commandment” (CLE 5.5) (my labels). By Callicott’s own account, the former can be broken whenever one exercises “great caution,” and the latter whenever one has “sufficient justification.” Callicott would have been much more helpful if he had spelled out in detail the precise meanings and conditions of “great caution” and “sufficient justification.”

Second, no imperative can be derived directly from the goodness of the ecosystem. Logically, duties cannot be derived from values without one or more intermediate premises (see 2.42, 3.52, 4.52). In outline, here is Callicott’s argument:
Value Premise: Some thing “X” is good (whether instrumentally good, noninstrumentally good, intrinsically good, inherently good, or the Summum Bonum).

Consequent Duty: Therefore, thou shalt not use, or put at risk, or destroy “X” (or, restated positively, thou shalt conserve “X,” or preserve “X”).

What is needed are two intermediate premises that state explicitly (a) the moral connection of the particular value to the duty, and (b) the empirical assertion that the justificatory circumstances either exist or do not exist.

Adding the intermediate premises, the argument becomes:

Value Premise: Some thing “X” is good (whether instrumentally good, inherently good, intrinsically good, or the Summum Bonum).

Moral Premise: Without sufficient moral justification, a good thing “X” ought not to be used (or put at risk, or destroyed).

Empirical Premise: Sufficient justification does not exist.

Consequent Duty: Therefore, thou shalt not use, or put at risk, or destroy “X” (or, restated positively, thou shalt conserve “X,” or preserve “X”).

Regardless of the kind or amount of value at issue, sufficient justification is required.
Obviously, in cases where sufficient justification does exist, then using, risking, or even destroying “X” would be permitted and justified. Moreover, given sufficient moral grounds (the Moral Premise) and sufficient empirical collaboration (the Empirical Premise), then *any* value (the Value Premise), whether instrumental, noninstrumental, intrinsic, or inherent, imposes constraints. Even instrumental goods should not be expended for a lesser good or goods (cf. Rolston's Value-Capture Principle in 3.44).

Perhaps, as pragmatists like Norton (1991) argue, the philosophical debate among environmentalists over value theory is a red herring. For it is always irrational to spend a higher good on a lesser good. In the zeal for unity, the pragmatists, I think, overlook significant moral issues that are not so easily resolved. Expenditures can sometimes be immoral, not merely stupid. For instance, when you could save starving people from serious malnutrition or death by sending your extra money to a United Nations relief fund, you ought not to spend your hard-earned money on frivolous pleasures or luxuries (see Singer 1977, Unger 1996). Until relatively recent centuries, wasting resources was arguably not immoral, even though doing so was still likely against the long-term pragmatic interests of oneself and
others, because resources were widespread and abundant, populations were lower, and poor communication inhibited culpable awareness.

But these caveats no longer hold. Today, three premises warrant the *moral conclusion* that we ought not to waste resources: (1) the *value premise* that ecosystems, animals, and humans are good (whether instrumental, noninstrumental, intrinsic, or inherent); (2) the *empirical premise* that one (or several) of these goods is currently at risk and in threat of destruction; and (3) the *moral premise* that wasting it (or them) is wrong. In some conceivable circumstances, wasting any kind of good could be immoral, but for the conclusion to be justified, the circumstances need to be spelled out empirically and morally.

Nevertheless, such constraints are merely *prima facie*, since they can be overridden by other higher duties and by different empirical circumstances. As I argue more fully in Chapters 5 and 6, we have many duties, among which are nonmaleficence and beneficence: we ought not to do evil, and we ought to do good. Categorically, never should any evil, like injury, be inflicted for its own sake, nor should it be done merely to bring about a non-conflicting positive greater good. In
other words, *prima facie*, an evil action ought not to be done; and, *prima facie*, goods of any kind ought not to be wasted.

4.43 Defending Environmental Virtues: Hill’s Strategy

Thomas E. Hill, Jr. (1983), defends an environmental virtue (loving nature for its own sake) by showing its connection to moral virtues (humility, gratitude, and appreciation of others). He begins by examining some uncomplicated cases: replacing a lovely garden of trees, flowers, and grass about one’s house with asphalt; strip mining a wooded mountain in Appalachia; leveling an ancient redwood grove; spitting on the grave of one’s grandmother; laughing at a news report of a plane crash killing hundreds; and a Nazi making lampshades out of human skin (211, 215). Although consequences, property rights, and other kinds of justifications could be given for the rightness or wrongness of the actions, these responses miss a fundamental moral aspect of the cases—the question: “What sort of person would do this?” In some of the cases, namely, the spitting, laughing, and lampshades cases, the action is arguably *not* immoral, but the character of the agent may be (215). Hill’s conclusion is that “ideals
of human excellence" (or virtues) need to have an appropriate place in moral considerations.

Having shown the moral relevance of ideals of character, Hill turns to his main concern, the environmental cases. What kind of a person would cover a garden with asphalt? Strip mine a wooded mountain? Clear-cut an irrereplaceable redwood grove? Hill looks for a strategy for defending particular ideals of human excellence (or virtues) as environmental ideals. Although promising, he discounts appeals to intuitions and intrinsic value, like G. E. Moore’s, as too controversial (213-14). He also dismisses two other relevant but uninteresting answers: shortsightedness and unconcern for effects on other people. The interesting case is the person who values nature only for its utility. Why, Hill asks, do we “feel moral discomfort at the activities” of such a person? The ideal at issue is “to love nature” for its own sake, not merely for its benefits for humans and sentient animals.

Hill then proposes an indirect strategy for defending an environmental virtue: its connection with other virtues not in question (216). The strategy is to argue that since the environmental virtue at issue is usually (but not always) connected to the moral virtue, it
follows that the environmental virtue should be cultivated. In such arguments, Hill thinks that the environmental virtue in itself is nonmoral, even though it typically nourishes the moral virtue. For instance, the attitude of aesthetic sensitivity to nature, which is nonmoral, fosters the moral virtue of appreciating others (222-23).

To defend the environmental virtue of loving nature for its own sake, Hill’s next step is to apply the indirect strategy. He proposes that the environmental virtue is connected to three moral virtues: humility, gratitude, and appreciation of others. Then he argues for humility in detail and others only briefly.

Roughly put in my words and not Hill’s, the argument for humility is as follows. Indifference to nonsentient nature indicates deficiency in the moral virtue of humility. Deficiency in the moral virtue of humility is bad. Therefore, indifference to nature is bad. Since the pattern of this argument is a modus tollens, it is valid. The crucial claim is the “indifference” premise. How might the premise be supported?

The following is my attempt both to preserve Hill’s qualifications and to reconstruct the general pattern of the argument. For ease of reference, I’ve labeled the propositions as “H” for Hill.

\[
\text{H 1.0} \quad \text{In most cases, certain traits are “a natural basis for the development” of particular moral virtues in}
\]
humans. Or, restated negatively, when these traits are absent, then the moral virtue is also likely to be absent, though not always since exceptions can occur (p. 216).

H 2.0 The presence of moral virtues in humans is good. Or, restated negatively, deficiency of moral virtues in humans is bad.

H 3.0 Therefore, these traits should be “encouraged” and their absence discouraged (p. 224).

Here is a statement of the conclusion (H 3.0) in Hill’s own words:

But when we set aside questions of blame and inquire what sorts of human traits we want to encourage, our reflections become relevant in a more positive way. The point is not to insinuate that all anti-environmentalists are defective, but to see that those who value such traits as humility, gratitude and sensitivity to others have reason to promote the love of nature. (224)

Hill defines the *moral virtue* of humility as an appropriate regard for one’s place in the universe. Humility is not downplaying oneself. Nor is it arrogance. For most people, adequate knowledge and a broad perspective are two of the psychological traits or conditions that produce the moral virtue of humility. The connection of these traits to humility is an instance of, and provides evidence in support of, proposition H 1.0.

Hill points out that those who would destroy the natural environment might have a variety of traits indicating deficiency in the moral virtue of humility. The destruction could result from a lack of
knowledge or an inability to move beyond a narrow point of view to grasp the whole. Yet, someone with both enough knowledge and an adequate perspective might still destroy the natural environment if the person were “indifferent to nonsentient nature.” Indifference to nonsentient nature might result from two other traits: an inflated sense of self-importance or an avoidance of self-acceptance. Inflated self-importance is typically an attitude that nothing matters unless it affects oneself or others with whom one identifies. Avoiding self-acceptance is usually an attempt to deny one’s status or place in the world, such as, one’s age, physical features, imminent death, misdeeds, and so on. Either of these traits can indicate a lack of humility.

An important question is the relationship of virtues and actions. Hill argues that certain behaviors are likely to result from particular character traits and virtues, and consequently the behaviors are indicators of the traits and virtues. Hill explains:

Particular behaviors, like dying one’s gray hair and dressing like those twenty years younger, do not necessarily imply lack of self-acceptance, for there could be reasons for acting in these ways other than the wish to hide from oneself what one really is. One fails to accept oneself when the patterns of behavior and emotion are rooted in a desire to disown and deny features of oneself, to pretend to oneself that they are not there. (221)
Certain behaviors are indicators of particular virtues, although not always so, and particular virtues are indicators of likely actions, although not always so.

Three aspects of Hill's defense are especially significant for my project. First, Hill's strategy is successful. Beginning from the moral point of view, certain human attitudes and traits can be identified and justified as virtues based on their connections to actions or other virtues justified on other grounds. In other words, from certain uncontroversial moral premises, it is logically possible to derive one or more virtues toward nonsentient animals, plants, and inorganic things.

Second, regarding the four theses of virtue ethics (see Section 4.2), Hill is a Kantian. Hill's argument is consistent with the Necessity (VE 1.0) and Irreducibility (VE 2.0) theses, but not the Hegemony (VE 3.0) and Monistic (VE 4.0) theses. That is, the only unqualified moral virtue is a good will, and other virtues are justified when they foster but do not inhibit actions or other virtues that are deontologically justified.

Hill's argument is similar to Kant's indirect argument against cruelty to nonhuman animals. According to Kant's argument, cruelty to animals is wrong because it tends to lead to similar mistreatment of
humans. In Hill’s and Kant’s arguments, what is morally at issue is resolved by its connection to human traits and actions not in question.

Finally, mentioned as promising but not developed by Hill are appeals to intuitions and intrinsic values. In Hill’s argument, nonsentient animals and nature are nonmoral, and human attitudes toward nonsentient animals and nature remain in themselves nonmoral, becoming moral only indirectly as they have a relevant bearing on attitudes and actions toward humans. Had Hill developed the appeals to intuitions and intrinsic values, the appeals would have increased the scope of moral considerability (see 4.51 below) and given a clearer and more precise content to Hill’s vague “connection” between actions, environmental attitudes, and human virtues.

4.5 Two Objections

As in Chapters 2 and 3, my two objections are inclusiveness and derivability. Inclusiveness is problematic in different ways for Clark, Callicott, and Hill. Derivability is an objection for Clark and Callicott, who attempt to infer duties directly from values, but not for Hill, who does not.
4.51 The Inclusiveness Objection

Based on intuitions from several cases, I argue in Chapter 1 that a moral theory is better, other things being equal, if it includes, in appropriate ways, adequate moral consideration of nonhuman animals, plants, and inorganic things. Moral consideration imposes a constraint against certain actions, but a constraint that is *prima facie* only since it can be overridden for sufficient reasons.

Inclusiveness poses three questions for Clark, Callicott, and Hill: (a) Are the theories *adequately* inclusive of nonhuman animals, plants, and inorganic things? (b) Are the theories *plausibly* inclusive on theoretical grounds? And (c) are the theories *appropriately* inclusive of higher and lower beings and things? My argument is: Clark’s theory is inclusive, but implausibly so; Callicott’s is inclusive, but inappropriately so; and, Hill’s is not inclusive, but open to revision.

*Aren the theories adequately inclusive?* In Clark’s theory, moral considerability extends to all beings and things because every particular being and thing is ontologically dependent for its existence upon a purposive transcendental reality that is present in the being or thing. Because the transcendent reality is present in different ways
and degrees, a hierarchy of beings results in which every being and thing has intrinsic value and telos.

In Callicott’s theory, moral considerability extends to all beings and things because they are instrumentally and inherently valuable component parts of the holistic ecosystem, which is the Summum Bonum. Even though Callicott does not use the term telos, the concept is an essential component of his theory. The nature, purpose, function, and end (or telos) of every particular being and thing is determined by its place and role in the holistic ecosystem.

Clark’s and Callicott’s theories are teleologies. Clark’s is a transcendental metaphysical teleology, whereas Callicott’s is a natural communitarian teleology. According to both Clark and Callicott, the natures, purposes, functions, and ends (teloi) of individuals and species can be identified by science (C2.0-2.23; CLE 2.2, 4.4, 4.1, 5.5). Clark thinks biodiversity is intrinsically good; whereas Callicott believes it is inherently good. In both theories, for a being or thing to be “good” (virtuous) is for it to fulfill its nature, purpose, function, and end (telos). In both theories, to be a “good” person, “good” dog, “good” tree, “good” mountain, and so on, is to fulfill one’s purpose by
functioning in ways typical of one's kind. Neither theory makes a clear
moral distinction between being good and doing right.

In contrast, in Hill's Kantian-type deontological theory, morally
right actions can be justified independent of the good. In Hill's theory,
moral considerability is limited to sentient and rational beings.
Nonmoral beings and things become morally important when they are
valued by sentient or rational beings, and when they have relevant
bearing upon the actions, values, and virtues of sentient or rational
beings. Because intrinsic values and moral intuitions are controversial,
Hill mentions them only in passing as possible lines of additional
argument.

Can Hill's strategy be revised to make it more inclusive? I believe
it can. In Chapter 6, I propose a pluralistic casuistry in which an appeal
to the virtues is one of five moral appeals. Like Hill, I think the virtues
can be justified by their connections to actions and other virtues not in
question. In addition, I think intrinsic values and intuitions provide
additional grounds for expanding moral considerability to include
nonhuman animals, plants, and inorganic things.

Are the theories plausibly inclusive? Neither Clark's explicit nor
Callicott's implicit doctrine of telos is justified. This is because the
real presence of teleological purposes, functions, and ends in nonsentient and nonrational beings and things, including ecosystems, cannot be scientifically or empirically confirmed. As Hume and others argue, telos is tacitly a psychological notion that presupposes a conscious agent or agency imposing the purposes, functions, and ends. Things made by humans typically have clear purposes, functions, and ends, but things occurring in nature do not.

Aware of this objection, Clark appeals to Neoplatonic transcendental theism on the grounds that, without it, moral skepticism reigns. But to anyone not worried by moral nihilism, Clark’s appeal is uninteresting; and to anyone who is not a Neoplatonist, it is implausibly mystical and ad hoc.

In place of a transcendent reality, Callicott decrees the natural holistic ecosystem to be the Summum Bonum. Evolution is good, he argues, because it produced the ecosystem and its biodiversity, which are instrumentally and inherently good. Fortuitously, in humans evolution also produced sentiments of affection for other living things and the capacity to experience them as inherently valuable. Callicott believes that the biological sciences are capable of identifying the nature, purpose, function, and end (telos) of every particular being and
thing based on each one’s role in maintaining the natural integrity, balance, and stability of the holistic ecosystem.

Callicott’s teleology has two major problems, one empirical and the other philosophical. First, the empirical problem is that the identification of evolutionary and ecosystemic purposes and ends is arbitrarily relative, as I argue above in 4.43. The environmental events determining natural selection are stochastic and chaotic. Michael Soulé, one of the founders of conservation biology, writes:

Certainly the idea that species live in integrated communities is a myth. So-called biotic communities, a misleading term, are constantly changing in membership. . . . Current ecological thinking argues that nature at the level of local biotic assemblages has never been homeostatic. The principle of balance has been replaced with the principle of gradation—a continuum of degrees of . . . disturbance. (1995, 143)

Local systems are characterized by competition, predation, parasitism, and diseases. Even within most species (intra-specifically), individuals are selfish, not symbiotic. Frequently ecosystems are changed by such local and landscape-scale disturbances as wildfires, floods, droughts, tornadoes, hurricanes, volcanoes, and earthquakes. Less frequently, they are altered by such global-scale catastrophes as large meteors, huge volcanic eruptions, ice ages, and massive extinctions.
In an attempt to save his theory, Callicott proposes that nature has a "norm of appropriate scale." He calls human disturbances "anthropogenic" and natural ones "nonanthropogenic." Their difference, he proposes, is one of spatial and temporal scale. Consequently, following nature's norm, we ought drastically to reduce the temporal and spatial scale of our interventions in nature. Callicott then reformulates the "Categorical Imperative" of the Land Ethic (CLE 5.1), and describes the revision as the "contemporary summary moral maxim for the land ethic":

A thing is right when it tends to disturb the biotic community only at normal spatial and temporal scales. It is wrong when it tends otherwise. (1996, 372; 1997, 52) (Cf. CLE 5.1 above)

Rolston and others doubt the adequacy of this formula, both as a reformulation of Leopold's historic dictum and as a summation of the empirical claims of contemporary ecologists (see Soulé 1995; Shrader-Frechette and McCoy, 1993; Rolston 2000; Callicott 1996, 372 n. 74).

Second, Callicott's philosophical problem is that "natural" does not directly infer "moral." His theory conceptually begs the question by presupposing that a natural biotic community, no matter how arbitrary its features, is "good" and therefore "moral." In contrast, for example, MacIntyre's communitarian moral theory is relevantly
different: the teleological values of the community and the virtues needed to achieve them are already "moral" in the sense that the community is a rational and conscious (human) one, not a natural one. In Callicott's theory, the ends are nonmoral because they are the product of natural selection, which is neither rational nor conscious, unless a creative theism similar to Clark's is assumed (see Sections 4.43 and 4.52).

*Are the theories appropriately inclusive?* In Callicott's holism, inclusiveness is achieved at too great a cost. By over-emphasizing wholes (see Section 4.43), Callicott fails to give individuals appropriate moral consideration. Individuals, including sentient animals and humans, are subordinated to the whole. Whereas ecosystems as wholes do not suffer pain, the pain suffered by individual sentient beings is clearly a moral matter. According to Kant's principle of respect, individual rational beings ought not to be used as mere means to ends. Because Callicott's theory fails to give appropriate moral consideration to sentient and rational beings, it is strongly counterintuitive.
4.52 The Derivability Objection

My second objection is to Clark and Callicott, but not Hill. This is because Hill does not attempt to infer duties directly from values.

Duties cannot be derived directly from any value, regardless of how good in quality or quantity. The inference of a duty to act from a value, whether telos and intrinsic values like Clark’s, or ecosystemic holism and inherent values like Callicott’s, does not follow without intermediate premises connecting the valuable thing with the obligatory action. This is because there may be other moral or empirical considerations—other duties and contrary facts—conflicting with and overriding the value.

Clark’s and Callicott’s arguments sometimes infer a negative duty, and sometimes a positive duty. The pattern inferring a negative duty is:

Value Premise: Some thing “X” is good (whether instrumentally good, inherently good, intrinsically good, or the Summum Bonum).

Consequent Duty: Therefore, thou shalt not use, or put at risk, or harm, or destroy “X.”

The pattern inferring a positive duty is:

Value Premise: Some thing “X” is good (whether instrumentally good, inherently good,
intrinsically good, or the *Summum Bonum*).

**Consequent Duty:** Therefore, thou shalt take care of, or protect, or preserve “X.”

In these two patterns of argument, two duties are at issue: nonmaleficence (the negative duty) and beneficence (the positive duty). That these are strongly intuitive duties may explain the popular appeal of Callicott’s theory. Importantly, however, nonmaleficence and beneficence are *prima facie* only; never are they categorically unconditional duties. This is because harm ought not always to be avoided, and good ought not always to be done.

Logically, the two patterns of argument need two intermediate premises, a moral premise and an empirical premise. Formally, the structure of the negative (nonmaleficence) argument is:

**Value Premise:** Some thing “X” is good (whether instrumentally good, inherently good, intrinsically good, or the *Summum Bonum*).

**Moral Premise:** Without sufficient moral justification, a good thing “X” ought *not* to be used, or put at risk, or harmed, or destroyed.

**Empirical Premise:** Sufficient justification does *not* exist.

**Consequent Duty:** Therefore, thou shalt *not* use, or put at risk, or harm, or destroy “X.”
The structure of the positive (beneficence) argument is:

**Value Premise:** Some thing "X" is good (whether instrumentally good, inherently good, intrinsically good, or the *Summum Bonum*).

**Moral Premise:** Absent sufficient contrary moral justification, "X" ought to be taken care of, or protected, or preserved.

**Empirical Premise:** Sufficient contrary justification is absent.

**Consequent Duty:** Therefore, thou shalt take care of "X," or protect "X," or preserve "X."

Both the Moral Premise and the Empirical Premise are contingent. The Moral Premise can be overridden by a higher moral obligation, and the Empirical Premise can be revised based on better factual information, scientific data, and so on. Logically, the Consequent Duty cannot be derived directly from the Value Premise. That is, the Consequent Duty is hypothetical, contingent, and subject to revision whenever the premises change, as, for instance, in another particular case. But even when all of the logical requirements are met, the conclusion is never certain. This is because moral argumentation is not deductively certain, like mathematics, but requires a judgment permitting the disagreement of others and even the changing of one's own mind.
By his action of revising his Leopoldian "Categorical Imperative" (CLE 5.1) (see Section 4.51 above), Callicott implicitly has affirmed my objection and formal argumentative structure above. Leopold's imperative is actually hypothetical, not categorical, since its formulation is contingent upon and revisable in light of empirical evidence from contemporary biology. In other words, following my analysis above, Callicott logically needs an Empirical Premise as well as a Moral Premise. Moreover and importantly, the Consequent Duty will be merely hypothetical, and can be overridden by either contrary empirical evidence (the Empirical Premise) or weightier moral considerations and duties (the Moral Premise).

The Derivability Objection explains why the Hegemony (VE 3.0) and Monistic (VE 4.0) theses are mistaken. As Kant argued, the only virtue that is unqualifiedly good is a good will. All other virtues are contingent. As Hill proposes, virtues are justified based upon their connections to actions or other virtues that are justified on other grounds.

Without intermediate moral and empirical premises, an inference is fallacious whenever a moral virtue is derived directly from a natural or social trait. As Hume and Kant recognized, many natural and social
inclinations, passions, talents, and the like, are not moral. Obviously nonmoral are such traits as eye color, height, place of birth, and ethnicity. In contrast, arguably immoral are such traits as unrestrained greed jealousy, predatory lust, and uncontrollable revenge. Consequently, additional reason is needed for identifying natural or social virtues as moral virtues.

Clark, Callicott, and others (see 4.3) claim that particular beings and things are “good” (virtuous) when they are typical of their kind. For instance, Clark speaks of “good” dogs, and Callicott praises such “good” ecosystemic traits as diversity, complexity, holism, systemic structures, energy and other flow mechanisms, recycling patterns, and progressive lengthening circuits (CLE 4.1-4.4). Kant objected that coolness in a scoundrel makes him more villainous, more abominable, and exceedingly bad (1786, 2-3). Similarly, I object that cunning and bravery in dogs are not virtuous when the dogs maim an eight-year old girl riding her bicycle, and that energy circuits in tornadoes and hurricanes are not virtuous when they destroy the labors and hopes of a lifetime. In the security of our insulated and heated homes, we admire the natural beauty and ferocity of blizzards—the very same traits that, for good reasons, our grandfathers despised.
In sum, neither duties nor virtues can be directly inferred from values. Logically, two intermediate premises are required: a moral premise and an empirical premise.

4.6 Conclusion

In this chapter, I have analyzed three strategies for constructing a virtue ethic inclusive of nonhuman animals, plants, and inorganic things. I have argued that the telos-based strategy of Clark is unacceptable because, even if the implausible metaphysical assumption is granted, moral virtues and duties cannot be directly inferred from telos. Moreover, the community-based strategy of Callicott is equally faulty because, even if the empirical biological arguments against natural telos and ecosystemic stability are overlooked, moral imperatives cannot be directly inferred from ecosystemic holism and biodiversity. Although adequately inclusive in scope, both theories fallaciously attempt to derive duties directly from values. Logically, both theories need intermediate empirical and moral premises linking the values to moral virtues and duties.

Hill’s modest strategy defends a single environmental virtue (loving nature for its own sake) by linking it to other virtues and
actions already morally well-established on other grounds. Compared to the telos-based and community-based strategies, Hill’s strategy is successful because it does not directly infer moral virtues and duties from nonmoral values and traits. My main complaint is that Hill’s argument does not go far enough toward including nonsentient animals, plants, and inorganic things within the moral sphere. In order to be more inclusive, Hill mentions using controversial arguments based on intrinsic values and moral intuitions.

In Chapters 5 and 6, I analyze and defend Baruch A. Brody’s theory of pluralistic casuistry. Brody’s theory has five major moral appeals, and one of the appeals is the appeal to the virtues. My strategy for defending the virtues is similar to Hill’s. By adding arguments from intrinsic values and moral intuitions, I expand the virtues to include nonhuman animals, plants, and inorganic things.

Notes

1 In my formulation of VE 4.0, the formula for morally right action is adapted from Rosalind Hursthouse: “An act is right iff. it is what a virtuous agent would characteristically do (i.e. acting in character) in the circumstances” (1999, 28).

2 Assessing Clark’s writings is challenging. The theoretical elements of his ethics are scattered throughout his writings, and he routinely invokes apparently contrary traditions and concepts, often
without adequate correlation and clarification until many pages later or a subsequently published appendix, introduction, or article. Typically his tone is polemical. Especially in *The Moral Status of Animals* (1977), but also in his other writings, Clark attempts to persuade the general public to stop widespread, allegedly immoral practices against animals, particularly flesh foods, commercial products testing, and unnecessary scientific research. In a preface to a later edition, Clark excuses his “supposed lack of system” by the rhetorical “necessities of debate” and a desire to change the way people live (1984b, ix), and he admits that some of his philosopher-critics have misunderstood and mislabeled him as an amoralist and anti-science (1977, 138-43, 182-98; 1984b, vii-xii).

In addition to Aristotle, Clark routinely uses supportive ideas from ancient and contemporary skepticism, Neoplatonism, Protestant Christianity, anthropology, human psychology, and biology (especially sociobiology, ethology, evolution, and genetics). He jokes that, on successive days of the week, he is an Aristotelian, a Pyrrhonian Skeptic, a Neoplatonist, and an Episcopalian strongly influenced by Mahayana Buddhism (1977, 4-5). He confesses being “prejudiced” against and “most out of sympathy” with narrow versions of the Aristotelian moral tradition, particularly the Thomist-Roman Catholic one; with groups promoting indiscriminate research using animals, such as the Research Defence Society in England; and with “transcendental humanists,” like Julian Huxley and John Passmore, who exaggerate the separation between humans and animals, claiming that humans have a kind of being beyond that of animals, instead of the same kind of being but to a higher or greater degree (Clark 1977, 5-8; 1982, 98) (for Passmore, see my Chap. 2).


The allusion is to Pyrrho of Elis (c. 365-275 BCE), the founder of Greek skepticism. The term “Pyrrhonian Skepticism” usually refers
to the refusal to affirm any positive belief. Regarding any claim or issue, skepticism is necessary since reasons of equal number and weight can be presented both for and against the claim. Speculation and theorizing do not help resolve the dilemma. Judgment should be suspended.

According to Diogenes Laertius (3rd century CE), Pyrrho was skeptical even about ordinary sensations, and would have experienced disastrous falls if friends had not intervened. He reportedly envied pigs and other animals since they lived undisturbed lives. Pyrrho taught that tranquility is achieved by balancing a thesis with its opposite, and following “custom, impulse, and craft-discipline without affirming any thesis to be true” (Stephen R. L. Clark, “Pyrrho,” in The Oxford Companion to Philosophy, ed. Ted Honderich [New York: Oxford University Press, 1995], 733).

Two divergent traditions claim Pyrrho. No writings by Pyrrho survive, and both traditions are found in texts dating five centuries later (ca. 200 CE). The two are presented, respectively, by Diogenes Laertius and Sextus Empiricus. Considered more authentic is the version by Sextus Empiricus in Outlines of Pyrrhonism and Adversos Mathematicos (Against Dogmatists [or Professors]), generally esteemed the best extant ancient skeptical texts. The two traditions are: (1) empirical skepticism, particularly regarding sense perception, which is found in Diogenes Laertius’s account of Pyrrho and in Hume (1711-76), who was influenced by Diogenes; and (2) speculative, theoretical, and metaphysical skepticism, producing acceptance of phenomena as they appear, especially the morals and manners of one’s society, which is found in Sextus Empiricus, other Greek skeptics, and Michel de Montaigne (1533-92), who is considered the founder of modern European skepticism. The latter part of the tradition advocates following local customs as a matter of practical utility and prudence. (Simon Blackburn, The Oxford Dictionary of Philosophy [New York: Oxford University Press, 1994], s.vv. “Pyrrho of Elis,” “Sextus Empiricus,” “Diogenes Laertius,” “Montaigne”; and C. J. Hookway, “Scepticism, History of,” in The Oxford Companion to Philosophy, ed. Ted Honderich [New York: Oxford University Press, 1995], 797-99.)

5 For a succinct statement of his debt to Aristotle, Neoplatonism, and Christianity, see Clark 1977, 182-98. Clark rejects the Gnostic doctrine that matter is evil, although he is favorably
disposed to the Gnostic (and Manichean) features within Neoplatonism and Christianity (see 1982, 104-5, 117; 1984b, vii-viii).

In my judgment, Clark’s normative ethics is thoroughly Aristotelian, though he departs from Aristotle in several important respects: (a) Clark’s metaethics is more Neoplatonic (and Christian) than Aristotelian; (b) he holds that the Aristotelian tradition’s treatment of animals is mistaken; (c) while retaining Aristotle’s notion of the morally good city (polis), Clark reforms it, making it more egalitarian; and (d) Clark’s esteem for nature outside the city is far greater than Aristotle’s. These departures from Aristotle, I think, result largely from the influence of Neoplatonism on Clark.

Clark’s doctrines of God and nature are more Neoplatonic than Aristotelian, and more Christian than Neoplatonic. In Enneads (i. 8, 3-9), Plotinus describes the ultimate “One” as “the Nature of Beings and of That which transcends all the realm of being,” as the “Beyond Being.” In one of its aspects, the One is Good. The One is being-itself, and metaphorically is light. Darkness is Evil, the Last, that which has no Being: it is Matter (hule). For Plotinus, matter (hule) is not the solid, extended, enduring stuff of modern scientific thought, but rather, as for Plato, it is in itself formless and measureless, and cannot even be said to exist: it is that to which the eternal Forms give form and so produce the sensible world.

For Plotinus, God (or the Good, or the One) is a light shining in darkness: the farther away from the source, the less intense the brightness, until eventually the light fades entirely into darkness. The light is being itself—God, the Good. As the light penetrates the darkness, it creates nature, the world, the cosmos. Light is a metaphor for what is real, the ultimate nature, substance, or metaphysical first principle of everything that exists. Light is what makes up the being of the natural world and its creatures: they are pieces of light, particles or rays of light. All that exists is light; the only things that exist are light; all universals and Forms are light. Any place not reached by light, where light does not shine, is nothing, non-being, emptiness, darkness; and such places do not really exist. And the closer the particle is to the divine source, the more being it has, and the brighter and better it is; the farther away it is, the less being it has, and the dimmer and less good it is. Consequently, nature is an axiological and ontological hierarchy of beings, with God or the Good at the center (or top) and with creatures and things emanating outward
(or downward), each at its appropriate place due to its likeness to God or the Good. Because creatures are pieces of light, each particular individual is in itself good. But the light in different individual creatures is not the same, and the light is mixed up with shadows. The One is not a person with a will who makes decisions. The One can no more stop projecting Being than the sun can stop shining. For a summary and comparison of Neoplatonism and Christianity, see John Hick, *Evil and the God of Love*, rev. ed. (New York: Harper & Row, 1978), Chaps. 3-4 passim.

Aristotle analyzes the divine nature in *Metaphysics* xii 7-10, for example, but not in the *Nicomachean Ethics*. For a summary of the role of the divine in the *Nicomachean Ethics*, see Irwin 1985, 405-7. According to Aristotle, God is the passive Unmoved Mover, the outermost sphere of the cosmos beyond the fixed stars, the sphere within which all of nature exists hierarchically as lesser spheres; God is pure actuality with no unrealized potentiality; God is pure Form (*eidos*) with no matter (*hule*); and God is not an efficient cause or active agent, but the Final Cause or End (*telos*) of the cosmos, moving the world in the same way that beauty moves the beholder to experience it, emulate it, or, with art works, to purchase it. In contrast to Aristotle’s notion of deity, the Creator-God of the Bible is the efficient cause of the cosmos, the agent who created the natural universe as an orderly reality, morally neutral and ontologically distinct and separate. The Creator-God is an active moral and rational being, sometimes intervening directly in nature and human affairs.

Clark rejects some aspects of Neoplatonism, usually its more Gnostic elements. He rejects the Neoplatonic-Gnostic “intuitive” and “holistic” methods, and their doctrines of “animism,” “spiritualism,” “occult entities,” and “natural forces.” He opposes the overly simple Gnostic and Manichean dualism of nature as evil and spirit as transcendent and immanent good, which are doctrines also found in some Christian theologies. Although these methods and doctrines have been mistakenly attributed to Aristotle, especially by such early modern scientists as Bacon and Galileo, Aristotelian teleology does not require any of these mystical notions, Clark argues. Aristotelians believe that final causes are essential for understanding not only biology but also physics. According to Clark, Aristotelians and modern, Baconian scientists differ principally over methodology: uncontrolled observation in natural settings versus controlled atomistic experimentation with ideal models, respectively (Clark 1982, 8-18).
7 Although Clark often cites passages in Aristotle, he does not in this instance. The following are some that I would suggest: The good person must do what is necessary to achieve happiness, and this is correct, fine, and expedient (Nicomachean Ethics 1122b29, Topics 110b10, Rhetoric 1360b12). What is rightly and justly required is justly praised for being done, and blamed for not being done (Nicomachean Ethics 1111a29, 1113b34). Individuals must have what is needed for survival and other ends (Nicomachean Ethics 1125a10, 1133a27, 1162b17).

8 Despite his disavowal, Callicott implicitly and ipso facto sets humans apart from nature by distinguishing between anthropogenic and nonanthropogenic changes. The distinction is value-laden and antianthropocentrically biased. See Gould (1990), Watson (1983), and my earlier remarks on Callicott's Nonanthropocentric Individualism Argument (CLE 1.5-1.6).
CHAPTER FIVE
PLURALISTIC CASUISTRY,
ANIMALS, AND THE ENVIRONMENT

5.1 Introduction

In this chapter and the next, I argue that Baruch A. Brody's theory of pluralistic casuistry is the best contemporary moral theory and practical methodology for animal and environmental ethics. In this chapter, in addition to critically analyzing and defending Brody's theory, I argue that pluralistic casuistry answers my two major objections to the moral theories considered in Chapters 2, 3, and 4. Then, in the next chapter, I continue my argument by analyzing, defending, and expanding Brody's five major moral appeals as appeals for decision-making in cases involving animals, plants, and inorganic things.

In outline, my overall argument in this thesis is as follows. When the theories analyzed in my earlier chapters are jointly considered, they have one major strength: inclusiveness. However, their joint inclusiveness is problematic because it is achieved in disparate ways—according to a plurality of moral theories and theoretical
appeals. What I argue is that Brody’s pluralistic casuistry, when modified as I propose and applied according to Brody’s theory and practical methodology, provides the best contemporary answer to the disparate concerns of the earlier theorists: namely, that nonhuman animals, plants, and inorganic things have appropriate moral consideration. Such an inclusive pluralism, I argue, is theoretically sound because, following Brody, it begins with cases, from the bottom up, so to speak, rather than with such theoretical abstractions as values, rules, generalities or paradigms, from the top down, as in the other theories. Since the appeals include both consequential and nonconsequential appeals, pluralistic casuistry is able to appeal directly to duties and values, thereby avoiding the derivability fallacy.

Similar to earlier chapters, after this introduction I briefly review some relevant background. Section 5.2 critically examines older casuistries. There I begin a line of argument, continued in the next section, that Brody’s casuistry avoids the pitfalls of other casuistries. Section 5.3 critically examines the two leading contemporary theories of moral casuistry: the paradigm-based casuistry of Albert R. Jonsen and Stephen Toulmin (1988), and the pluralistic casuistry of Brody (1979, 1988, 1998). Brody’s is the better theory, I argue, because it
provides philosophically well-conceived foundations and friendly explicit guidelines for expanding casuistry to include new ethical issues, cases, and appeals.

In the next section (5.4), I explain how Brody’s pluralistic casuistry provides the conceptual foundations and theoretical methodology for animal and environmental ethics. I argue that pluralistic casuistry answers my two major criticisms of the theories assessed in the earlier chapters: namely, the inclusiveness objection and the derivability objection. Pluralistic casuistry adequately explains and resolves both complaints.

The last section (5.5) is a brief summary of my conclusions in this chapter. In the next chapter, my argument for pluralistic casuistry continues. There I analyze, modify, and defend Brody’s five major moral appeals as appeals for animals, plants, and inorganic things.

5.2 Some Relevant Background

What is casuistry? The term comes from Latin, *casus*, a case.

Broadly defined, casuistry is “... a reasonable and effective set of practical procedures for resolving the moral problems that arise in
particular real-life situations” (Jonsen and Toulmin, 10; hereafter abbreviated “J&T”). The “ultimate concern” of normative moral theory is “to guide us in the making of decisions and judgments about actions in particular situations” (Frankena 1973, 12; cf. Donagan 1977, 10-11). So understood, casuistry always has been and forever will be a component of morality, including philosophical theorization.

Moral casuistry has a rich and controversial history (see J&T, Chaps. 1-15). This history can be encapsulated, I propose, as the “Old Casuistry” and the “New Casuistry.” The latter refers to the ascendancy in the twentieth century of case studies in professional ethics, especially bioethics. By “Old Casuistry,” I mean the type of casuistry occurring in the ancient and medieval ages and also continuing into the modern era, at least until the late 1600s and likely beyond. Representative of most scholarly opinions is Simon Blackburn’s historical assessment: “Casuistry as a discipline declined in the 17th century with the rise of Protestant and pietistic approaches to religion and morality” (1994, 56). Although Old Casuistry declined, below I argue that it continued until the end of the nineteenth century and evolved to become New Casuistry.
5.21 Old Casuistry

Old Casuistry was a mix of cases and issues from moral theology, moral philosophy, ecclesiastical law, and civil law. A classic compendium of twenty thousand cases is *Resolutiones morales* (1659) by Antonio Diana (1585-1683), the Spanish “prince of casuists” (Blackburn 1994, 56). Throughout its history, Old Casuistry relied upon appeals to moral intuitions, a method misrepresented and maligned by Henry Sidgwick (1838-1900) and subsequently called “ordinary Intuitionism” by G. E. Moore (1903, p. x) and “Old Intuitionism” by Alan Donagan (1977, §1.3). As I show below, Old Casuistry continued among Old Intuitionists until the late 1800s.

Old Casuistry is often caricatured as “bad,” “abusive,” and “laxist” (J&T, 15). The maligned form of casuistry was widespread relatively briefly, mainly during the 1600s in Europe. Corrupt and biased priests, politicians, jurists, and moralists made judgments based on irrelevant minutiae, particular circumstances, matters of conscience (likely corrupt consciences), illegitimate or insignificant conflicts between values and duties, and incoherent Scholastic and Jesuistic moral distinctions (see J&T, Chaps. 1-13).
Even though "bad" casuistry was a limited historical phenomenon, it continues to be the form attacked and remembered by most philosophers. If the *coup de grâce* for the Old Casuistry came from Blaise Pascal (1623-62), then Sidgwick gave its obituary. Beginning in 1656 in a series of tracts later published as *Les Lettres Provinciales*, Pascal satirized the wicked practices of the "bad" casuists. Likely Pascal's critique was against only the "lax" version of Old Casuistry, not casuistry as such (J&T, Chap. 12). Unfortunately, some philosophers (such as Pincoffs 1986) still scorn all forms of casuistry as the art of quibbling.

For contemporary casuistry, Sidgwick is pivotal in two respects. First, Sidgwick's *The Methods of Ethics* (1874) rejected casuistry and replaced it with metaethics. Most moral philosophers came to see "theory" and "practice" as two separate matters, and to regard their philosophical subject-matter to be "theory." For the next century, instead of addressing human agents in their particular circumstances, academic philosophers analyzed abstract concepts, generalities, rules, and theories, all of which presumably were applicable universally and neutrally to all kinds of particular issues and cases. But by the 1960s, it became clear that this presumption was mistaken (J&T, 12).
Second, Sidgwick’s *Methods* criticized “intuitionism” (Bk. I, viii; Bk. III, i-xiv), as had William Paley (1743-1805), Jeremy Bentham (1748-1832), and most other utilitarians before (and after). It is Sidgwick’s misrepresented version of intuitionism that Moore, who was Sidgwick’s student, eschews and calls “ordinary” (1903, x), and that Donagan calls “Old” (§1.3). Identified as Old Intuitionists by Donagan are Ralph Cudworth (1617-88), Henry More (1614-87), John Locke (1632-1704), Samuel Clarke (1675-1729), Joseph Butler (1692-1752), and William Whewell (1794-1866).

According to Old Intuitionism, all normal humans have a moral faculty, comparable to sensory faculties like eyesight, enabling direct intuitive perception of self-evident moral truths. Following René Descartes (1596-1650), the Old Intuitionists held that every intuition has two traits: (a) it cannot be doubted while one has it, and (b) it cannot be false. In addition, the Old Intuitionists claimed that the morality of all civilized societies is analyzable to specific precepts that are intuitive. Then, from these intuitions, each civilized society has derived its moral system by deductive logic, accumulating over time progressively greater moral insight and knowledge. Because morality is based on deductive reasoning from incorrigible intuitions, the Old
Intuitionists argued that morality is binding on all rational creatures (Donagan 1977, §1.3).

Sidgwick’s argument against intuitionism was two-pronged. On one side, he proposed four epistemological criteria that allegedly are logically necessary conditions for any intuitive precept to be known (Bk. III, xi, §2; pp. 338-43). Then, on the other side, he argued that intuitive precepts fail to meet one or more of these conditions (Bk. III, xi, §3ff.). Sidgwick’s four requirements are, in his own words:

I. The terms of the proposition must be clear and precise. . . .
II. The self-evidence of the proposition must be ascertained by careful reflection. . . .
III. The propositions accepted as self-evident must be mutually consistent. . . .
IV. Since it is implied in the very notion of Truth that it is essentially the same for all minds, the denial by another of a proposition that I have affirmed has a tendency to impair my confidence in its validity. (Sidgwick 1874, 338-41)

As Donagan points out, sufficiently vague generalities satisfy Sidgwick’s fourth criterion, but then these generalities, due to their own intrinsic vagueness, cannot meet the first three criteria (Donagan 1977, 21). The effect of Sidgwick’s critique was the demise of Old Intuitionism and its ally Old Casuistry.

That Old Intuitionism and Old Casuistry were allies is supported by the following. Donagan describes William Whewell’s *The Elements of
Morality (1846) as intuitionism’s last and transitional work (§1.3, 18-19). What Donagan does not mention, however, is that not only was The Elements an intuitionist text, but it was also even more so Old Casuistry’s last and transitional work. Toulmin (1986) points out that in the 1860s Whewell’s Elements was the standard ethics text at Cambridge University, where Whewell was “Knightbridge Professor of Casuistical Divinity.” In style, the book is a traditional casuistical textbook in moral theology—but secular—presenting a variety of specific cases and their relationships to rules, such as, Cicero’s well-known case of the grain merchant who sought to profit from a starving city by raising prices and withholding news of an imminent rescue. In content, The Elements defends no single overarching rule or value, and considers separately, without any attempt to systematize, the duties presented by such special cases as family relationships and promises. Clearly, the book is within both the intuitionist and casuistry traditions. Perhaps proleptically, during Whewell’s tenure, the title of his chair was changed to “Knightbridge Professorship in Moral Philosophy.” Whewell’s successor to the chair was Sidgwick (Toulmin 1986, viii-ix). Even if Old Casuistry died with Pascal’s satire, its specter lived on, at least until Sidgwick.
Donagan argues that, even by Sidgwick's own analysis, his argument is against a misrepresented straw version of Old Intuitionism. Donagan points out:

It is perplexing that Sidgwick should have forgotten that, according to his own exposition, intuitionists must reject his fourth condition. Their doctrine that the fundamental principles of the system implicit in ordinary moral thinking, once accurately formulated, will be indubitable to any pure and attentive mind that considers them, does not entail that they will be self-evident at once to any theorist to whom they are presented. Moral theorists going about their difficult work, even intuitionist theorists, can seldom bring a pure and attentive mind to bear upon results that traverse their own. And although individual intuitionists hoped that their own results were final, the intuitionist school made no such claim. (Donagan 1977, 20)

In spite of its fallaciousness, Sidgwick's argument became philosophical orthodoxy for the next half century.

Philosophically, Old Intuitionism failed because two of its central doctrines have demonstrably false implications. First, when intuitions are presumed to be incorrigible (the Cartesian doctrine), then it follows that the intuitions should be logically consistent and never conflict among themselves. Second, if all humans have the same innate moral faculty (or moral sense) and if morality is universally objective, then it follows that all peoples throughout the world should have the same moral intuitions. Numerous comparative studies in social psychology give overwhelming evidence against both doctrines. Consequently,
most philosophers came to believe, and many still believe, that moral intuitions and casuistry are culturally or individually subjective, and are neither incorrigible nor objective. What is needed, if casuistry is to be revived among philosophers, is either (a) an alternative account of the moral faculty, including some explanation for why disagreement occurs among morally attentive minds who possess this faculty; or (b) outright rejection of such a faculty.

5.22 New Casuistry

In a sequence of four steps, a "New Casuistry" and a "New Intuitionism" emerged in the twentieth century. Progressively, G. E. Moore, H. A. Prichard and W. D. Ross took three important steps, but did not in the end adequately explain moral judgment. The fourth step—moral judgment—was not adequately incorporated into ethics until Brody's theory of pluralistic casuistry.

The difficulties in Old Intuitionism, according to Donagan, were overcome independently by two New Intuitionists: C. D. Broad (1887-1971) and W. D. Ross (1877-1967) (Donagan 1977, §1.3). Puzzling to me is why Donagan does not list as New Intuitionists two philosophers who were foundational to its conception: utilitarian G. E. Moore (1873-

The First Step. Following Sidgwick's usage of the term, his student G. E. Moore in Principia Ethica (1903) employs "intuition" to designate self-evident ethical propositions incapable of proof or disproof. But Moore "begs" not to be understood as "... an 'Intuitionist,' in the ordinary sense of the term" (1903, Preface, p. x; my emphasis). While in the midst of the fray, what Moore thought "ordinary" was later called, after another half-century of debate, "Old Intuitionism" by Donagan. Moore distinguishes two questions:

These two questions may be expressed, the first in the form: What kind of things ought to exist for their own sakes? the second in the form: What kind of actions ought we to perform? (1903, Preface, p, ix)

Moore argues that "ordinary" intuitionism correctly fits only the first type of ethical issue: What is the good? Not the second type of issue: What is the right action? Moore points out that Sidgwick never recognized this distinction. In addition, Moore claims that Sidgwick's critique of intuitionism applies only to the second class of ethical propositions, not the first. For, according to Moore, incongruity
plagues only the plurality of propositions of the second class, not the first (1903, Preface, pp. viii-xi).

Moore argues as follows. "Good" is "simple," namely, it is an indefinable, self-evident, and noninferential quality known directly by intuition. Moore explains:

There is, therefore, no intrinsic difficulty in the contention that 'good' denotes a simple and indefinable quality. There are many other instances of such qualities.

Consider yellow, for example. We may try to define it, by describing its physical equivalent; we may state what kind of light-vibrations must stimulate the normal eye, in order that we may perceive it. But a moment's reflection is sufficient to shew that those light-vibrations are not themselves what we mean by yellow. They are not what we perceive. . . .

Yet a mistake of this simple kind has commonly been made about 'good.' It may be true that all things which are good are also something else, just as it is true that all things which are yellow produce a certain kind of vibration in the light. . . . But far too many philosophers have thought that when they named those other properties they were actually defining good; that these properties, in fact, were simply not 'other,' but absolutely and entirely the same with goodness. This view I propose to call the 'naturalistic fallacy' . . . . (1903, 10)

Next Moore argues that, unlike the simplicity of the good, the "right" is a derivative inference from the good. Moore proposes that the "right" is derivative, and so neither simple nor intuitive, because right actions are those that produce the most possible good. Consequently, the determination of rightness is not a philosophical issue, but an empirical or scientific matter of assessing the consequences of the various
actions open to the agent; whereas, in contrast, knowledge of the good is a nonderivative intuition and can be grasped noninferentially by a sufficiently attentive mind (Moore 1903; Warnock 1967, 4-9).

**The Second Step.** Prichard takes the second step by extending intuitive self-evidence to the rightness of actions in themselves independent of the good (1912; 1949, 1-17). Where Prichard disagrees with Moore is regarding the derivability of rightness from the good. Prichard argues that the rightness of actions—namely, duty or obligatoriness—is non-inferential, but is directly and immediately known to the sufficiently attentive agent. The character of ‘obligatoriness’ is *sui generis*: the rightness of a particular action cannot be reduced to the goodness or even obligatoriness of anything other than the action itself. Importantly, however, Prichard argues that rightness is not a property of the action *simpliciter*, for the obligation exists even if the action is never fulfilled. Consequently, obligation is a duty of the prospective *agent*, even though the obligation remains, for Prichard, *sui generis* and noninferential (or intuitive) (Prichard 1912, 1949, 1-17; Warnock 1967, 9-11).
What Prichard failed to see, I propose, is that obligations are noninferential intuitive judgments. This is because, as I argue below, intuitive judgments are noninferential but nevertheless require assessing a plurality of factors. By virtue of these many factors, intuitive judgments are not appropriately described as "direct" or "immediate" even though they do not involve any inferential argument in the traditional propositional form. The nature of judgment is analyzed by Ross (1930, 1939) and then more fully by Brody (1979, 1988).

The Third Step. As suggested by Warnock, the third step is taken by Ross (1930, 1939), who focuses on the particular circumstances of cases. With Prichard, Ross concurs that duties, when considered as abstract principles or rules, are noninferential, self-evident, and intuitive. But perplexing to Ross is the problem of conflicting duties. Since often cases present two or more duties—duties that conflict since they cannot all be done—how can all be unconditional actual duties? And, moreover, how is the conflict to be resolved? Ross's answer is twofold: (a) all of the duties are intuitive and genuine, but prima facie only and not unconditional; and (b) the resolution of the conflict, in the particular case at issue, is a
matter of *judgment* by the agent among the conflicting *prima facie* duties, of which one is the higher or *actual* duty (Ross 1930, Chap. 2; Warnock 1967, 11-12). Where Ross errs, Brody insightfully argues, is in assuming judgments are limited to deliberations between *propositional* formulations of duties, whether *prima facie* or actual.

**The Fourth Step.** The fourth step, I propose, is taken by Brody (1979, 1988). In contrast to the three earlier versions of intuitionism, Brody argues that "judgment" occurs at all three steps: Moore's step of discerning the good, Prichard's step of seeing the right (obligations or duties), and Ross's step of deciding among conflicting *prima facie* duties. According to Brody, intuitions are *not* naked, even though they are *non*-inferential: namely, intuitions are *non*-inferential *judgments* regarding a multiplicity of objective nonmoral properties, nonmoral properties that are natural and, *as such*, potentially explainable inductively by many various empirical sciences, ranging from biological disciplines like paleontology and genetics, to human sciences like sociology, psychology, and neurophysiology.

Crucially, however, like Moore regarding the good, Brody argues that all three moral facts—the good, the right, and the actual—are not reducible to the nonmoral natural and scientific facts *simpliciter*. Also
for Brody, the discernment of the good, the right, and the actual is not personally or communally subjective. Both naturalism and subjectivism are mistaken because "moral" is an objective supervenient property knowable, at least in part, by the cognitive capacity of a sufficiently trained, informed, and attentive mind, from the holistic interrelationship of multiple nonmoral properties. Importantly as well, the intuitive judgments of these very minds, according to Brody, can sometimes be mistaken for a variety reasons: namely, persons may be inadequately trained, lacking full information, or inattentive and unaware of some of the nonmoral details of particular cases (Brody 1979, 1988).

Whereas the problem defeating Old Intuitionism was the conflict of incorrigible unconditional duties, a new and different problem results for Brody: the problem of judgment. No longer problematic, because they are fallible and prima facie, is the intuition of conflicting disparate particular prima facie duties. Nevertheless, now problematic is conflicting disparate judgments between a plurality of particular prima facie duties: namely, why do judgments conflict? Although conflicting intuitions are no longer the problem, conflicting judgments—and their resolution—are now problematic.
Whenever a judgment is made, Donagan argues that a scale is required by which to “weigh” conflicting intuitions. Despite his astute refutation of Sidgwick’s criteria, Donagan rejects both Old and New Intuitionism. Like most Kantians, Donagan believes that moral decisions in particular cases are ultimately derivable deductively from one supreme categorical imperative. In his rejection, Donagan presupposes that moral intuitionism is monistic, not pluralistic (1977, 23).

When faced with conflicting duties in particular cases, monistic deontologists have a problem of logical consistency among particular duties, not the problem of judgment. The problem for monistic deontologists is logically bridging the gap between the absolute categorical imperative and particular case applications. Donagan calls this the problem of finding a “specificatory premise” (1977, 71-72).

Brody’s answer to the problem of conflicting judgments is moral pluralism. Pluralistic deontological theories like Brody’s deny monistic rankings, scales, and weighings, such as those demanded by Donagan and Peter Geach, whom Donagan cites (1977, 23). Such procedures presuppose some singular factor or first principle of assessing the relative values of the disparate duties (see Brody 1988, 9-11).
A practical argument for pluralism is the following. Even though a deontological monistic theory may exist, currently theoretical consensus is lacking due to significant criticisms of every contender. Also, unfortunately, grasping such a monistic theory may be beyond our human intellectual capacity for knowledge (cf. Brody 1988, 9-11). Consequently, in actual practice, morality must be pluralistic, at least during the interim until someone convincingly proposes and defends a monistic theory with adequate specificatory intermediate links to practice. Like Thomas Nagel, I hope for moral progress. Perhaps in the future some philosophical genius, or many insightful individuals taking smaller steps successively, will solve some of the intractable perennial conceptual and theoretical moral puzzles. Until then, we must do the best we can, resolving particular cases as we can, advancing knowledge where we can, and clarifying the questions emerging from our moral confusion (see Nagel 1970, 1979, 1986, 1987, 1991, 1995; especially 1986, 51-53).

To recapitulate, this section outlines the history of moral casuistry. Along the way, I have argued for two critical theses: (a) Old Casuistry and Old Intuitionism were philosophical friends; and (b) contrary to the popular view, Old Casuistry survived along with Old
Intuitionism until the end of the 1800s. In addition, I have argued that, culminating in Brody's pluralistic casuistry, three new traits distinguish New Casuistry and New Intuitionism from their parents: (a) a pluralism of prima facie duties; (b) an epistemology of noninferential intuitive judgments of the good, the right, and the actual; and (c) a pluralistic explanation of disagreement among attentive minds.

5.3 Two Theories

The two leading contemporary casuistries are Jonsen and Toulmin (1988), and Brody (1988). Both theories are pluralistic, but in distinctively and critically different ways, ways that are ultimately defeating for Jonsen and Toulmin's theory, I argue below. Jonsen and Toulmin's pluralism is at the level of paradigmatic cases. In contrast, Brody's pluralism is multi-leveled, involving pluralistic intra- and inter-level relationships of base-level cases, mid-level generalizations, and higher-level theoretical appeals.

Below I critically explain both theories and evaluate their respective strengths and weaknesses, especially regarding the roles of cases, intuitions, generalizations, rules, judgment, and theory construction. Brody's theory is better, I argue, due to its explicit
reliance upon multiple appeals (pluralistic duties), employment and
expansion of Ross's notion of judgment, and ability to explain
disagreement and intractability. For my purposes, what ends up as
especially important in Jonsen and Toulmin is the Aristotelian
distinction between *epistemē* (Gk., referring to deductive logical
systems like mathematics and science) and *phronesis* (Gk., meaning
“practical prudence,” “practical wisdom,” and the ability to make

5.31 Jonsen and Toulmin

Jonsen and Toulmin's casuistry is Aristotelian in its moral epistemology
and jurisprudential in its applied methodology. They explain that,
according to Aristotle, practical subject-matters like ethics and
politics are modeled on practice (Gk., *praxis*); whereas, in contrast,
theoretical disciplines (Gk., *theoria*) like mathematics and physics are
modeled on Euclidean geometry. Practice includes technical reasoning
(Gk., *technē*) and practical wisdom (Gk., *phronesis*). Practice is
characterized by ambiguity, inexactitude, and uncertainty, resulting in
conclusions that are only more or less likely, but never certain. On the
other hand, theory is characterized by principles, rules, axioms, and
definitions (Gk., arché, first principle) that are rigorously and
deductively applied, resulting in conclusions that are logically certain
and demonstrative.

Jonsen and Toulmin point out that the theoretical, demonstrative
kind of reasoning Aristotle called epistémé, which is the Greek word
translated into Latin as scientia and into English as science. Aristotle
put ethics in the epistemology of practical wisdom (phronesis), since
moral conclusions are not certain but open to dispute. The patterns
are roughly opposite:

_Theory:_ From principle (rule) to necessary case
application

_Casuistry:_ From cases to provisional principles
(conclusions)

The essential difference between the two epistemologies (epistémé
and phronesis) is a reversal in the relationship of principles and cases
(J&T, Chaps. 1-2).

Jonsen and Toulmin give two main arguments against the
theoretical approach in ethics: (a) it is unclear how to argue from the
universal first principle to a particular case application, and (b) nobody
agrees on theory. When theory is applied to moral practice, theory
oversimplifies complicated practical relationships, for each case
situation is unique and deductive links can never be strict. In most real-world situations, ethical cases are open to rebuttal and differences of opinion. Often moral agents are sure of the right action, but unable to explain why it is right or what makes it right. What is normally the case may have exceptions, and therefore principles cannot always be rigorously or deductively applied. Nor can moral principles be logically systematized according to any monistic standard or principle. In theoretical deliberation, one overarching first principle (Gk., arché) logically organizes the component parts into a coherent system. Due to the practical impossibility of establishing a monistic first principle, ethics must be pluralistic (J&T, Chap. 1).

In sum, Jonsen and Toulmin's moral epistemology is Aristotelian. Ethics is practical wisdom (phronesis) and pluralistic, not deductive (theoria) and monistic (arché).

According to Jonsen and Toulmin's applied methodology, moral reasoning in casuistry is analogical. Beginning with a paradigmatic case, one looks at similar cases. The particular case at issue is determinative of the type of argument needed to resolve it. The nature of the subject, the persons involved, the circumstances, and relevant experiences are to be considered. Some considerations,
however, carry more weight in some cases than in others; and in the absence of a convincing argument, more cases can be cited as evidence. The more cases cited and the closer the analogies, then the stronger is the decision resolving the case at issue. Considerations are offered, not hard deductive reasons.

Jonsen and Toulmin outline and briefly discuss a seven-step procedure for resolving cases. Below I summarize their procedure:

J&T 1.0 Identify the paradigm cases that will serve as final objects of reference and the "presumptions" that they provide for resolving the case at issue.

J&T 2.0 Decide which paradigms are directly relevant to the particular issues that the case at issue presents.

J&T 3.0 Determine if the paradigms fit only ambiguously, thereby creating substantive difficulties.

J&T 4.0 Determine if two or more paradigms apply in conflicting ways, which must be mediated.

J&T 5.0 From social and cultural history, identify and clarify the "exceptions" admitted as rebutting the initial presumptions for resolving the case.

J&T 6.0 From the social and cultural history, identify the progressive elucidation (the progressive moral advance) regarding the type of case at issue.
J&T 7.0 Determine if the factual basis of the paradigm is radically changed by the case at issue. (J&T, 306-7)

Jonsen and Toulmin contend that paradigmatic cases are type-cases and "final objects of appeal or comparison" (J&T 1.0). Paradigmatic cases help identify when another case is "problematic" (J&T 3.0, 4.0). Namely, cases clearly covered by a paradigm are "non-problematic," and in these, no argument is needed. "Truly problematic cases" are of three kinds: (a) ambiguous, (b) marginal, and (c) perplexing or novel (J&T, 323). For resolving a case at issue, paradigmatic cases create a "presumption," and the presumption carries conclusive weight, except in special circumstances (J&T, 307).

Jonsen and Toulmin's methodology is modeled on jurisprudence. Paradigmatic cases function essentially the same as "case-law" and "common-law" in the United Kingdom and the United States (especially J&T 2.0, 3.0, 4.0). In "case-law" and "common law," prior cases and customs function as legal precedents for judging subsequent cases. Case-law, common law, and statutes are applied to specific cases by police and other governmental authorities, and then interpreted in courts of law by juries, attorneys, and judges. Oftentimes the case-specific interpretations of jurists and judges, especially appellate
decisions, function as new "case-law" and are used to resolve other cases.

Jonsen and Toulmin's seven-step procedure has three major weaknesses. First, the normative function of paradigmatic cases (J&T 1.0) needs to be justified. Whence come the paradigmatic cases? They arise from within a moral tradition, Jonsen and Toulmin hold. For example, they discuss collections of paradigm cases by the Stoics and Jesuits (J&T, Chaps. 2-3, 6-7, 12-13, especially pp. 321-25, 351-59). Problematic is whether the normative function of the paradigms can be morally justified. Normative appeals to paradigms can involve genetic fallacies. Nothing is true solely because it is endorsed by some authoritative person or tradition; otherwise, today Europe would have hereditary monarchies, and China regional warlords. Since tradition is not an infallible guarantor of truth, additional argument is needed to justify the designation of any case as a paradigmatic moral norm to be emulated and followed in practice. Justification is unlikely, I think, without explicit theory construction, a deficiency of Jonsen and Toulmin but a strength of Brody.

Different moral traditions provide different paradigmatic cases. Both within a particular tradition (intra-traditionally) and between
diverse traditions (inter-traditionally), moral problems often emerge because current cases present novel quandaries. Moreover, even within oneself (intra-personally) and between different persons (inter-personally), moral dilemmas arise. Both for traditions and individuals, the resulting problem becomes conflict resolution, in politics, in institutional policies, in one's own mind, in personal relationships, and in moral theory and practice (see Brody, 1988, 77-79; Englehardt 1996, Chaps. 1-2).

The seven-steps are too culturally and communally introverted. When relevant empirical and scientific data are outside the tradition's experience and knowledge, then the data must be adequately understood, correctly interpreted, and coherently integrated into the tradition. Due to dogmatism, biases, prejudices, censorship, indoctrination, and restricted educational curricula and opportunities, some traditions cannot be trusted, in good faith, to be self-critical and objectively circumspect. Obvious examples are the Nazis during World War II and the Al Qaida terrorists today.

Please do not misunderstand my objection. I do not advocate the extinction of indigenous, ethnic, or religious traditions, practices, communities, and languages. Nor am I endorsing cultural
homogenization. Nor do I want global Westernization, which, in its popular mass-marketed form, in my opinion, is frivolous at best and decadent at worst. Open pluralism and inter-communitarian dialogue are important avenues for innovation and progress in culture, democracy, and philosophy (see Karl R. Popper 1943). What I am urging is that traditions be openly self-critical, scientifically up-to-date, and morally and politically tolerant of nonviolent dissent from within and without.

Second, Jonsen and Toulmin’s applied methodology is inappropriately modeled on jurisprudence. Jonsen and Toulmin get the cart before the horse. Rather than morality being modeled on jurisprudence, jurisprudence ought to be modeled on morality. Admittedly, the relationship between law and morality is controversial (see Feinberg 1980, Chaps. 1, 6, 7; Rawls 1971, 235-43; Nagel 1986, especially 206-7). Nevertheless, most moral philosophers agree that laws should be “drawn from morality”—in other words, morality “trumps” law and politics (Dworkin 1977, xi, 248).

According to Jonsen and Toulmin, jurisprudence is similar to morality because both in practice are pluralistic. In actuality, law-abiding citizens in their daily lives, executive officials in their policing
duties, attorneys in their counsel to clients, judges and juries in their
decisions about particular cases, and legislative bodies in their
formulations of new statutes, do not strive overtly for systematic
monistic consistency. All are unperplexed in practice by the lack of
logical uniformity (J&T, 307).

In a publication not coauthored with Jonsen, Toulmin takes an
extreme and presumptuous stance. He rejects even the possibility of
a comprehensive moral or legal theory. Consequently, even modest
levels of theory construction are anathema. In its pluralism, according
to Toulmin, morality is like common law, and unlike mathematics or
physics (Toulmin 1986, Preface). It is true that in England and
Germany in the 1700s and 1800s, attempts to formulate a monistic
legal system failed, and thereafter were abandoned by legal scholars.
Utilizing notions from his teacher Ludwig Wittgenstein, Toulmin
proposes that law and morality are "forms of life" and "language
games" involving pluralistic incommensurabilities. Toulmin writes:

In either law or morality, the philosopher’s task is not to
find an underlying principle that binds all obligations and
claims together: rather, it is to develop a sufficiently
varied taxonomy of cases, circumstances, and
considerations, allowing for (and doing justice to) the
differences between them. (Toulmin 1986, p. xv)
Attempts at jurisprudential monism have failed, I think, because attempts at moral monism have failed, not vice versa. At issue is why the monistic efforts have failed. Logically, failure does not entail impossibility. As I argued in Section 5.2, moral monism remains a logical possibility, despite our past failures and even if a comprehensive theory is beyond our human intellectual capabilities. Certainly, caution is needed, since theoretical claims need to be justified by adequate argument and evidence. Despite Toulmin’s extreme anti-theoretical stance, moral philosophy needs to be open, at least in principle, to theory construction.

Typically, jurisprudential casuistry enables rational deliberation regarding the principles and issues presented by cases. Subsequent appeals to the cases are usually appeals to the principles elicited by the cases. For instance, US vs. Topeka School Board mandated the integration of public schools (an action) based on equal opportunity (a principle).

On the one hand, Jonsen and Toulmin do not strictly and expressly forbid the usage of principles and theories (although Toulmin rejects theory construction, as pointed out above). As in jurisprudence, theories can be used for insight, affirmative support,
and rebuttals. But, on the other hand, no theory can be deductively applied and given hegemony over paradigmatic cases. At most, theories are complements to cases, and several incompatible theories can be used regarding the same case, depending on the nature of the case and the circumstances (J&T, Chap. 1, especially pp. 34-36). In this respect, Jonsen and Toulmin's procedural methodology is a rhetoric of persuasive relativism, not a logic of normative moral justification.

Third, justification requires explicit theory construction. Jonsen and Toulmin's paradigmatic cases presuppose moral concepts, principles, and other theoretical elements that need to be clearly stated and adequately evaluated. Otherwise, paradigmatic cases are free-floating, self-verifying, and rawly intuitive. Arguably, no precept is "raw" or pure since all claims and values are theory-laden. Epistemically, what is needed for justification is a coherent interrelationship among case intuitions, generalizations, and theories, which are jointly and holistically warranted, and all of which need to be as explicit and precise as possible according to the subject-matter.

At issue is the nature and function of theoretical appeals within the larger context of moral epistemology. As Aristotle argued, ethics
is *phronesis*, not *epistemé*. But the epistemology of *phronesis* does not strictly prohibit the construction and application of moral principles and appeals as such, but rather prohibits the rigid deductive application of a monistic theoretical appeal. In ethics as well as in such other practical subject-matters (*praxis*) as politics and economics, theoretical appeals and principles can be helpful. To the extent that theoretical appeals give practical insight and guidance in deciding cases, appeals to theory are consistent with *phronesis*.

Although Jonsen and Toulmin endorse *phronesis*, their casuistry is still in some respects too close to the geometrical deductive method of *epistemé*. For in their procedure (see J&T 1.0, 2.0, 3.0), paradigm cases function like first principles or fundamental moral rules. Much like a moral rule, the "presumption" created by the paradigm (J&T 1.0) is applied to other cases. Implicitly, the "presumption" is some type of foundational principle. For example, in their discussion of the sex-change case, "John" (J&T, 318-22), they make no appeals to other cases, and their argument and analysis rely on principles and concepts, not cases. Hence, Jonsen and Toulmin are not consistently and thoroughly a casuistry. Rather than being case-based and case-driven, their procedure is too reliant on presumptive propositions. To be a full
casuistry, appeals should be to cases instead of presumptive principles and concepts.

My objection is that Jonsen and Toulmin's seven-step procedure unclearly and implicitly generalizes and theorizes. From paradigms, Jonsen and Toulmin tacitly generalize, systematize, and apply presumptive concepts and principles. If these were explicit, then identification of theoretical inconsistencies and errors in reasoning, especially question-begging, would be easier to spot. Moreover, in the absence of explicit principles, it is impossible to resolve conflicts between cases by appeals to reason. Unless cases are subjected to scrutiny by principles, casuistry is largely a nonrational enterprise.

Despite these weaknesses, Jonsen and Toulmin correctly recognize that epistemic certitude is relative to subject matter. Commendably, they accept Aristotle's position that the type of reasoning and degree of certitude are interconnected with, and dependent upon, the type of subject matter.

5.32 Brody

According to Brody's theory (1979, 1988), ethics begins in cases. Similar to theory construction in science, ethics develops in three
steps: (a) data from case intuitions; (b) formulation of data into
generalizations and theory; and (c) confirmation—or disconfirmation
and reconciliation—of theory by subsequent cases. As in laboratory
experiments, field studies, and statistical surveys, data from cases
drive subsequent generalization and theorization. Clearly, since ethics
begins in cases, Brody's theory is a casuistry.

In Brody's theory, morality begins with intuitions regarding
particular cases. The intuitions are "data," which are facts about
particular cases, not about propositions, generalizations, explanatory
accounts, or theories. Put another way, case intuitions are not
generalizations and theory, but provide evidence and warrant for
generalizations and theory. From the base-level case intuitions (the
data), mid-level generalizations are formulated; and then by logically
structuring together mid-level generalizations, higher-level theory is
constructed. Brody's mid-level generalizations are a pluralism of five
major moral appeals, and his higher-level theory is his account and
defense of pluralistic casuistry. Finally, in the confirmation step,
theory loops back around and informs intuition of subsequent
particular cases, which in turn may lead to confirmation,
disconfirmation, or revision of mid-level appeals and higher-level theory.

In their methodologies, other moral philosophers have confirmed Brody’s three-level inductive model (data-theory-confirmation). One is J. J. Thomson, whose case-centered scrutinies of abortion (1971) and the Trolley Problem (1985) emphasize her attempts to articulate the “feel” or intuition of what’s right (1985). Others are Frances Kamm’s litany of increasingly complex cases and intuitions (1989, 1992, 1993, 1996), and Peter Unger’s case-based analysis of moral complacency among affluent persons (1996). In trying to find an explanation for moral intuitions, Thomson, Kamm, and Unger provide cases (data) confirming Brody’s practical methodology.

It is important to state what moral intuitions are not. According to Brody’s theory, they are neither innate nor self-evident, as Descartes proposed. Nor are they general propositional moral truths, as Prichard and Ross held. Rather, they are data. They can be wrong; others can disagree or reject them; and even later we, as individual moral agents, may change our minds, disagreeing and rejecting our own earlier intuitions. Moral intuitions are like sensory perceptions in that
they are both susceptible to error, confirmation, disconfirmation, 
rejection, and revision by oneself and others.

What leads us to think an earlier intuition is wrong? According to 
Brody, three factors: (a) we experience sufficient contrary case 
perceptions, or data; (b) others have moral perceptions disagreeing 
with ours, as when someone realizes she is colorblind; and (c) we 
conclude our intuition is anomalous, perhaps due to (a) or (b), or to 
conflict with moral theory (even in the hard sciences, some data is 
discarded as anomalous). Moral intuitions are judgments put forward 
as knowledge. The intuitions are causally related to what is actually 
out there in the world (the supervenience). Sometimes we may get the 
intuition wrong or the underlying nonmoral details wrong. Children are 
more often wrong than adults, for the cognitive capacities of children 
are not yet as well developed.

As in science, when new cases disconfirm previous cases and 
generalizations, additional studies or reconciliation become necessary. 
Reconciliation can occur at both of the lower levels. As with data in 
science, when theory cannot confirm an intuition, then the intuition can 
be (a) reassigned, (b) left anomalous, (c) redescribed, or (d) rejected. 
Importantly, theories need not account for all data. Intuitions both
warrant and confirm theories. Paradigm cases provide clear data. Hard cases—when appropriately resolved—confirm theory. Because theories are multi-leveled, data and confirmation can occur at various levels, as can mistakes and disagreement. As in science, particular case disconfirmations can be cast aside as experimental anomalies, perhaps caused by "dirty test tubes," faulty experimental techniques, or insufficiently trained or attentive minds. However, when discarding anomalies, caution is necessary, since retesting is warranted and at some point, when enough anomalies continue to emerge, revising the theory is required (Brody 1988, Chaps. 1-2).

Like Ross (1930, Chap. 2), Brody's argument for pluralism is the failure of monism (1988, Chaps. 1, 2). Several mid-level moral appeals are warranted by the data-intuitions coming from cases. Given the failure logically to systematize these appeals according to one theory or one higher-level fundamental moral principle, pluralism remains morally necessary. Brody's major theoretical appeals are: (1) consequences, (2) rights, (3) respect, (4) virtues, and (5) distributive justice.

Since the major moral appeals lack a common element, they cannot be formulated or systematized into a monistic system, nor can
they be weighed against each other. Rather, the interrelationship among them remains pluralistic, and a judgment is required to resolve disagreements and conflicts among them. Conflicts result when a particular case presents two or moral theoretical appeals.

Similar to Ross, Brody’s answer to the problem of conflicting appeals is “judgment.” As argued in Section 5.22, judgment is a strength of Brody’s casuistry. For Ross, the judgment concerned pluralistic propositional *prima facie* duties. For Brody, judgment occurs at all levels, not just propositional appeals. According to Brody, one should identify all of the relevant moral appeals and circumstances. Cases and theoretical appeals should be compared, all things considered, and then a judgment made. But we should not expect theory or propositional appeals deductively to answer cases, because a judgment is required, especially to resolve ambiguous, problematic, and conflicting cases.

Pluralism’s account of conflict, disagreement, and error is what we would expect if we look, comparatively, at data and theories in the sciences, which have the same problems. For example, many scientists and philosophers of science continue to believe in a monistic unified field theory or Theory of Everything (TOE), even though no one
currently knows what it is. Similarly, in ethics, we start with a pluralism, and maybe we will discover a unification in the data, but maybe not; it depends on how the world is and upon whether our cognitive moral perceptions and capacities for theory construction are adequate to the task. Given all the criticisms of monism (no one theory is fully acceptable; no theory put forward to date has proved adequate), we are left with pluralism.

Only when generalizations and theories are inferred from case-data is casuistry truly case-based and case-driven. Nevertheless, generalizations and theories holistically guide subsequent intuitions, and even correct faulty intuitions. At some point, sufficient case disconfirmations require revision of theory, but when this point occurs is open to dispute. In a true moral casuistry, the epistemic interrelationships of cases, generalizations, and theory are not accurately described by John Rawls's notion of an equilibrium,² for case-intuitions are primary, nonpropositional, and nonhypothetical. Nevertheless, casuistry is holistic, since all three levels are interdependent.

Critics may complain that Brody's casuistry is not rigorous enough, even though, when compared to Jonsen and Toulmin's
casuistry, Brody's is significantly more rigorous. The issue concerns moral epistemology and moral ontology. Epistemologically at issue is the Aristotelian contention that ethics is not an exact and logically demonstrative science: does ethics as ethics—a subject matter experienced by real people in the world—permit any greater precision than Brody's? Moreover, if one also accepts Brody's theory of objective moral ontology (supervenience), then arguably his theory is as rigorous as possible for the kind of subject matter and the actual world in which we live (see Brody 1979).

Epistemologically, Brody's theory is a case-based pluralistic moral intuitionism of three steps: case intuitions, generalizations, and theory. Regarding his epistemology, Brody writes:

How do we ascertain which individuals, actions, and social arrangements have positive moral properties? The view I presuppose is that the intuitionist account is correct and that we have a fundamental cognitive faculty which enables us to recognize the moral value of individuals, actions, and social arrangements. (Brody 1988, 12)

As explained in Section 5.2, Brody's epistemology is significantly different from both Old and New Intuitionism in two crucial ways, respectively: (a) in contrast to Old Intuitionism, Brody's intuitions are not incorrigible; and (b) in contrast to New Intuitionism, Brody's intuitions are not intuitions of propositions, whether formulated
linguistically as assertions of values, rules, or duties (such as Ross’s *prima facie* duties) (Brody 1988, 12-13). Brody states:

... the fundamental moral intuitions are judgments about the rightness or wrongness of particular actions, the justice or injustice of particular social arrangements, the praiseworthiness of particular individuals, and so on. On this account, we begin by examining the nonmoral properties of these individuals, actions, and social arrangements. Having examined them, we often form intuitive moral judgments. These initial judgments must be tentative, in part because we may not have noticed some of the nonmoral properties that are relevant or we may have disregarded them. These tentative judgments are the moral intuitions that give us the basis for learning what is right and wrong, just or unjust, good or bad.

The formation of these basic tentative intuitions is not, of course, the whole of the intuitionism I am advocating; it is only the first stage in the process of coming to have moral knowledge. The next stage is that of theory formation. The goal of this stage is to form a theory concerning when actions are right or wrong, agents blameworthy or innocent, and institutions just or unjust. The data about which we theorize are those initial intuitions. The goal is to find a theory that systematizes these intuitions, explains them, and provides help in dealing with cases about which we have no intuitions. (Brody 1988, 12-13)

For Brody, moral intuitions are non-inferential judgments about objective nonmoral properties of cases.

Ontologically Brody’s theory is grounded in supervenient moral realism. Regarding his ontology, Brody states:

I believe that the traditional metaethical discussions have established that moral properties are supervenient properties, properties whose possession is dependent on the nonmoral properties of individual actions and social arrangements. A moral judgment about a particular action being right is true if the
action in question has the supervenient property of rightness, a property that depends on the nonmoral properties of the action. . . . Moreover, I believe that these same discussions have established that the property of rightness is not supervenient on sociological properties of how the action is viewed by individuals or by society. . . . [M]oral properties supervene on objective properties of individuals, actions, and social arrangements. (Brody 1988, 11-12; for more detail, see Brody 1979)

Similar to Prichard (1912; 1949, 1-17) and Ross (1930, Chaps. 2, 4), Brody claims that rightness is a real and objective fact (Brody 1979).

The major objections to Brody's theory come from "error theories." As proposed by John L. Mackie, the term designates any theory viewing commonsense moral thought and ordinary everyday moral language as erroneous due to contamination by philosophical mistakes (1977, 35, 48-49). Error theories deny the commonsense belief in objective moral knowledge, as well as philosophical theories defending this belief like Brody's. Error theories give two alternative explanations: (a) conditioning from environment, folklore, culture, sociology, psychology, and so on, as in Mackie (1977) and Simon Blackburn (1985a); or (b) genetic determinism, as implied by the sociobiology of E. O. Wilson (1975, 1978) and his followers, such as environmental philosopher J. Baird Callicott (see Chap. 4 above).

The ancestor of error theories is David Hume's theory of moral sentiments and virtues. According to Hume, the features of morality
are not out there in the world, even though ordinary people talk about them as though they were. Ethics is a psychological projection onto the world of either socially conditioned or naturally determined feelings (*Treatise*, 1739, 1740, III, ii-iii; cf. Mackie 1980, Chap. 6-7). According to Hume and other objectors, morality is a hodgepodge of noncognitive attitudes and emotions—or noncognitive judgments about attitudes and emotions—culturally conditioned (Mackie and Blackburn) or genetically innate (Wilson and Callicott). In contrast, for Moore, Prichard, Ross, Brody, and others, ethics is a real objective property of the world.

Counter objections to error theories are given by Jonathan Dancy (1991a, b), Thomas Nagel (1970, 1986), John McDowell (1985), Brody (1979, 1988), and others. Even though currently lacking a robust story to explain moral realism, it does not follow that commonsense moral realism is in error. After all, for millennia until recently, humankind lacked a robust story of color. Were former perceptions of color less real than recent ones? And even today many people cannot grasp either the physics of light or higher mathematics. Are these individuals of today living in an alien, surrealistic world? Although color
now has a comparatively weightier story, it does not follow that
morality’s lighter story is false or nonobjective.

An important point made by G. E. Moore (1903, 10) and Wilfrid
Sellars (1956, 1963) is the distinction between causal and
epistemological order. Moore’s example is the color “yellow.” We see
the color “yellow” without seeing the waves imposing on our retinas;
we see “yellow” even though we do not see the cause. Scientific
analyses of molecular structures by chemists, or of light amplitude
and frequency by physicists, do not entail that we do not see a real
property of the world—yellow. Our seeing cannot be reduced to the
scientific facts alone. Even though our seeing is a joint product of
mind as it is and of the world as it is, nevertheless the seeing is
arguably objective and not merely subjective (Moore 1903, 10).

As Thomas Nagel puts the point, any other being with a mind
sufficiently like ours and with perceptors sufficiently like ours, would
see what we see (Nagel 1979, Chap. 14; 1986, Chaps. 2, 4, 8, 9) (cf.
Rollin 1981, 39). Admittedly, some other beings, such as, nonhuman
animals and plants, and even humans who are colorblind, may not have
the cognitive capacity to see what we see. But also often others lack
the cognitive capacity to understand higher mathematics. The
cognitive limitations of others do not entail that our seeing, as well as similar seeings by those sufficiently like us, are merely subjective. Deficiencies, incompetencies, and limitations in some do not entail error in all others.

Brody gives another argument against error theories. An adequate theory of ethics needs to explain how it is that we can be mistaken about moral judgments (Brody 1979; 1988, Chaps. 1, 2). If ordinary people are in fact in moral error, then an account is needed of how this is possible. Unless there is some matter of the fact, what can one be wrong about? As long as one is reporting either the attitude of society or one’s own feelings, then one ought to be able to do so without moral error—namely, merely with misunderstanding of community norms or psychological self-deception. Consequently, the easiest refutation of error theory (and moral skepticism) is any instance of an abhorrent action that, despite community standards and personal feelings, no sane person can reasonably claim is morally right or permissible.

For instance, have we made any moral progress since Caesar’s slaughter of the Celts, the crusades of the Middle Ages, or the religious wars of the Reformation? Were the Nazis morally wrong when
they murdered millions in concentration camps? As James Rachels argues (1986, Chaps. 2, 3), unless morality is objective, then we cannot condemn those evils on moral grounds; the most anyone can say is that the Protestants prevailed in the religious wars and the Allies defeated the Fascists, or that those events produced bad (or good) feelings in some individuals. Had the Nazis won World War II and exterminated all dissenters, would Hitler now—objectively and truly—be a moral saint?

Strengths of Brody’s theory are its explanations of how we can disagree, the role of theories in those disagreements, and why some cases and moral issues are intractable. Actual hard cases and the interpersonal (and even intra-personal) disagreements among fully informed, morally good, and conscientious persons tend to give evidence for and confirm pluralism. We can fully agree on the relevant facts: no amount of research or data collection can resolve the impasse. There is no monistic scale. Moral judgments cannot be reduced to one principle. And we can be mistaken. Sometimes we even disagree with ourselves, change our minds, and feel morally paralyzed. Our intuitions and theoretical appeals can change. Brody’s theory of moral intuitions and pluralism has an explanation for these
experiences. Or, stated in a stronger way, these experiences provide evidence for moral intuitionism and pluralism. Scale theories and monistic theories cannot answer these issues. If morality is real, then there is an explanation: we can be mistaken, and we can disagree about what is actually there.

In contrast to Jonsen and Toulmin, strengths of Brody’s theory are its clarity and analytic rigor. Brody’s theory explains moral disagreement about issues and hard cases, and accounts for the relevancy of the nonmoral, factual circumstances surrounding cases. Brody explains the origin and rationale for why particular cases are foundational and paradigmatic, points that are vague in Jonsen and Toulmin, who provide no objective, nonrelative explanation for the identification within a tradition of certain cases as morally normative. Nor do Jonsen and Toulmin provide any grounds, as does Brody, for conflict resolution and tolerance, either intra-traditionally or inter-traditionally. Finally, Jonsen and Toulmin’s anti-theoretical stance makes rational deliberation and moral justification difficult, since paradigmatic cases stand alone without mid-level appeals and higher-level theory. Brody’s theory explains why moral disagreement is
possible and how in practice conflict can be resolved (and why, regrettably, it sometimes cannot).

Brody's casuistry is a pluralism. The starting place of ethics is something knowable to ordinary human beings—an intuition about a particular case. Normal adult human beings have an innate cognitive capacity to make judgments about moral rightness (or wrongness), moral goodness (or badness), and actual duty (in cases of conflict). As we live in the world, we have many moral intuitions about particular cases. These intuitions are noninferential supervenient moral judgments about nonmoral properties actually present in the world. This does not mean, however, that moral intuitions are incorrigible; but neither are senses like eyesight, touch, or temperature. Brody's theory is a moral realism, a naturalized moral epistemology. Arguably, it is the best explanation for moral knowledge—if there is moral knowledge.

5.4 Pluralistic Casuistry, Animals, and the Environment

In this section, I continue my argument that Brody's pluralistic casuistry is the best contemporary moral theory for animal and environmental ethics. My argument defends two theses: (a) pluralistic
casuistry includes, in appropriate and adequate ways, nonhuman animals, plants, and inorganic things; and (b) pluralistic casuistry does not commit the derivability fallacy. In other words, I argue that pluralistic casuistry answers the two major criticisms of the theories analyzed in my earlier chapters.

My argument in this section is derived primarily from higher-level theoretical considerations, and my discussion of Brody’s five major moral appeals is limited to what is needed for the present argument. The five appeals are mid-level theoretical generalizations and are analyzed in detail in Chapter 6.

In Chapters 2, 3, and 4, the three prevailing types of contemporary theories of ethics—utilitarianism, deontology, and virtue—were analyzed and evaluated, including both their philosophical backgrounds and several recent efforts to apply them to animals, plants, and inorganic things. My critical analyses disclosed, in addition to specific problems for particular theories, two general problems: inclusiveness and derivability. My argument below is that pluralistic casuistry succeeds where the other theories have failed.
5.41 Inclusiveness and Pluralistic Casuistry

My inclusiveness argument has two parts: an argument against the others, and an argument for pluralistic casuistry. In the first part, I briefly review my argument in Chapters 1-4 against the other theories. Then, in the second part, I give an argument for the inclusiveness of pluralistic casuistry.

In my argument in Chapters 1-4 against the other theories, I begin by giving an argument for inclusiveness, and then show how the other theories fail to be adequately inclusive. Chapter 1 presents several cases of three types: nonhuman animals, plants, and inorganic things. These cases and types of cases, as I argue in Chapter 1, give evidence that moral considerations go beyond the moral considerations found in human relationships and dependencies. When jointly considered (1.00), these cases give evidence that moral theory should be expanded to include an appropriate place for nonhuman animals (1.10), plants (1.20), and inorganic things (1.30).

At issue with each of these cases is the claim that it presents a normative moral intuition. Importantly, I am not claiming that these intuitive judgments are infallible, non-revisable, or indefeasible, but only that they provide some evidence—relevant moral data—for a re-
examination of moral theories for their inclusiveness of nonhuman animals, plants, and inorganic things. Just as intuitions can sometimes be poorly formulated or mistaken, so too can moral theories. All other things being equal, a moral theory is a better theory when it includes in appropriate ways nonhuman animals, plants, and inorganic things.

Next, in Chapters 2, 3, and 4, I argue that important recent versions of utilitarianism, deontology, and virtue fail to be adequately inclusive for different reasons, but they all fail in two general ways. First, they fail adequately to include plants and inorganic things. Nonhuman animals are included in most theories, as seen especially in the utilitarian theory of extended humanism (Passmore), utilitarian animal egalitarianism (Singer’s animal liberation theory), deontological animal rights (Regan), and telos-based animal virtue (Clark’s theory of natural kinds).

Second, the theories fail adequately to include individuals as individuals in two respects. On the one hand, as a matter of moral justice, particular individuals ought to be considered on their own particular individual internal merits, including individual humans, individual higher animals, and even some individual plants and inorganic things (like a redwood tree and the Red River Gorge). On the other
hand, due to the external merit of their rareness, possible extinction, or special relationships to others (such as, endangered species, children, pets, and domestic animals), some individuals take on special moral considerability. The first type of merits is internal and intrinsic to the individual; whereas, the second is external, extrinsic to the individual or thing, and dependent on special factors or relationships that are often nonmoral in themselves. In both types of meritoriousness, particular individuals or things deserve special moral consideration.

Regarding the first or internal concern, some individual humans and nonhuman animals have such morally significant attributes as self-awareness, rationality, and autonomy. My complaint here is against the nonrecognition of these internal moral traits by such theories as utilitarian animal egalitarianism (Singer’s misleading claim that “all animals are equal”), deontological biotic egalitarianism (Paul Taylor), deontological intrinsic-value holism (Rolston), and community-based ecosystemic holism (Callicott). In many cases involving humans or higher animals, particular individuals as individuals ought to be considered on their own individual intrinsic merits. Individuals with advanced mental functions, whether human or nonhuman, are of
greater moral significance due to their potentials for self-awareness, rational choices, interpersonal relations, emotional appreciations, recognition of beauty, and desire to know the truth.

Distinct from my first internal concern is my external concern—namely, those individuals of species that are rare or endangered, and those individuals in special relationships with others. In contrast to my first concern, at issue now is whether these particular individuals as individuals merit greater moral significance due to external factors. My argument is that they do, for two reasons. On the one hand, some individuals preserve and instantiate a rare or endangered genetic heritage. Even though genetically based, the traits are no less endemic to the individual. Even according to commonsense morality, the "sole survivor" of a family or clan is exempt from compulsory military duty, since this particular individual's death would extinguish the labors, plans, and hopes of bygone generations. And, on the other hand, special relationships impose special duties and constraints upon the particular individuals in the relationships. Such relationships include, among others, care giving to pets and farm animals, managing private properties, and duties to one's neighbors, friends, children, spouse, parents, and kin.
As just reviewed above, the first part of my inclusiveness argument is my argument against the other theories. Next, the second part of my inclusiveness argument is an argument for the inclusiveness of pluralistic casuistry. Where the other theories have failed, pluralistic casuistry succeeds: namely, pluralistic casuistry includes, in appropriate and adequate ways, *plants and inorganic things*, and *individuals as individuals*. The second part of my argument is based on two central higher-level theoretical principles of pluralistic casuistry: the necessity of multiple moral appeals, and casuistry’s openness to emendation as justified by case data.

The first central higher-level theoretical principle is the necessity of multiple appeals. In pluralistic casuistry, inclusiveness is achieved by means of multiple moral appeals. The five major moral appeals are a pluralism of basic moral principles from the three major types of contemporary moral theories.

<table>
<thead>
<tr>
<th>Major Moral Appeal:</th>
<th>Moral Theory:</th>
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<tbody>
<tr>
<td>Consequences</td>
<td>Utilitarianism</td>
</tr>
<tr>
<td>Rights (and Correlative Duties)</td>
<td>Deontology</td>
</tr>
<tr>
<td>Respect</td>
<td>Kantian Deontology</td>
</tr>
<tr>
<td>Virtues</td>
<td>Virtue Theory</td>
</tr>
<tr>
<td>Justice</td>
<td>Deontology</td>
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As argued by Ross (1930) and Brody (1988), pluralism is necessary because no single principle or monistic standard has been proposed that coherently encompasses all of the legitimate moral cases and appeals.

Pluralistic casuistry's five major moral appeals include the strengths, while avoiding the deficiencies of other theories. Since lots of case data fit other theories, they are not totally wrong. Their major deficiency is that each of the other theories when considered alone falls short of adequate inclusiveness, since some important cases fall outside each of the theories. When the other theories are considered collectively, however, their joint scope is greatly increased. Since their joint inclusiveness is matched by pluralistic casuistry's five major moral appeals, pluralistic casuistry equals or exceeds their inclusiveness.

Unlike the theories in Chapters 2, 3, and 4, the five major moral appeals include in appropriate and adequate ways *plants and inorganic things*, and *individuals as individuals*. The appeals to consequences, virtues, and justice adequately include plants and inorganic things, especially individual plants in rare or endangered species, exceptional geological places, rare habitats, and ecosystemic wholes. The appeals
to rights and respect include the appropriate consideration of individuals as individuals. In certain kinds of special relationships, individual animals, plants, and inorganic things have rights, and other individuals have correlative duties. For more details on these points, see my discussion of each appeal in Chapter 6.

The appeal to respect is especially important for the appropriate inclusion of individuals as individuals (see 6.3). As analyzed by Brody, respect is not a right. Respect comes in degrees, and some individuals merit more respect than others. Consequently, the greater respect owed to persons constrains the animal rights egalitarianism of Regan (3.43), the ecosystemic hegemony of Callicott (4.43), and hierarchical intrinsic-value holism of Rolston (3.44).

The second central higher-level theoretical principle is casuistry's openness to emendation. According to Brody's moral epistemology, casuistry develops inductively in three jointly interdependent steps: (a) case intuitions as data, (b) mid- and higher-level theory construction, and (c) confirmation or disconfirmation of (a) and (b). Importantly, the confirmation-disconfirmation step requires obtaining additional case data, and then—as warranted by the additional data—correcting, deleting, or supplementing current
generalizations and theory. Consequently, if sufficient case data show that Brody's five major moral appeals are not adequately inclusive, then pluralistic casuistry coherently requires reformulating the current appeals or adding new appeals. Whenever sufficient case data show that current moral appeals are too narrow in scope, then inclusiveness is assured by pluralistic casuistry's openness to the addition of one or more new appeals.

At first glance, pluralism may seem too easy—namely, just add more moral appeals, in an *ad hoc* fashion, like a polytheism that simply adds another deity to the pantheon. Brody writes:

The model, as we shall see, lends itself to a wide variety of modifications. Readers unconvinced by the treatment of some cases may therefore consider how those aspects can be modified to fit more closely with their intuitions about hard cases. (Brody 1988, 14)

However, like the natural sciences, pluralistic casuistry is open to emendation only when new, additional, or reinterpreted case data are sufficient to warrant revision. Consequently, revision of existing appeals and theory depends upon sufficient justificatory case data. Because morality lacks the deductive certitude of mathematics, and because scientific, technological, and cultural changes are ubiquitous, warranted revisability is clearly a strength of a moral theory.
Because moral appeals are mid-level generalizations, occasional case-specific exceptions are to be expected. Brody’s casuistry begins with fallible intuitive judgments about cases, not propositions or *prima facie* duties formulated as propositions, as in Prichard, Ross, and many others. In some experiences of particular cases, we are certain what act is right, intuitively and directly without any argument, but we are unable or uncertain how to formulate the case-specific act into a proposition, principle, imperative, or rule. This is because, like basic sensory perceptions, the moral intuition is epistemically primary or first-level. Because every case is particular, each one is *ipso facto* uniquely different from every other case, at least in location or time, and usually in many more ways. Consequently, some case-specific exceptions to generalizations and moral appeals are to be expected. Although sometimes discardable as anomalies, sufficiently numerous and important exceptions require revision or supplementation of existing appeals.

Although case-driven, subject to revision, and susceptible to exceptions, moral generalizations and theories are not insignificant and useless abstractions. Moral generalizations and theories guide subsequent decision-making. Subsequent case intuitions are guided by
prior case intuitions, second-level appeals, and third-level theory. As in science, the relationship between the three levels is one of interdependence; namely, each level can be confirmed, revised, rejected, or supplemented by other levels. Put another way, this epistemology is holistic. Schematically, it is a triangular “equilibrium” of case intuitions, generalizations, and theorizations. But the equilibrium is not initially propositional, as Rawls\(^3\) and many others hold.

Brody’s case-based epistemology supports my earlier criticisms of Rolston and Callicott. Neither Rolston’s hierarchical intrinsic-value holism (3.4) nor Callicott’s hegemonic ecosystemic holism (4.3) adequately emphasizes the epistemic importance of cases, judgment at all levels, and the holistic interrelationship of cases and theory. When case-level dilemmas and conflicts occur, Rolston and Callicott impose their higher-level theoretical claims upon the cases. Rolston’s holism and Callicott’s so-called “conceptual elements,” “first principles,” “Summum Bonum,” and “Categorical Imperative of the Land Ethic” are Procrustean beds for conscripting cases. Rolston recognizes but attempts to avoid the problem:

In operational detail this [Rolston’s theory of environmental ethics] will require a new casuistry. Mutually supportive though the human and the ecosystemic interests may be, conflicts between individuals and parties, the rights of the component
members of the ecosystem, the gap between the real and the ideal, will provide abundant quandaries. (Rolston 1975, 106; reprinted 1986, 24)

In contrast to Brody’s case-driven epistemology, Rolston’s and Callicott’s methodology is deductively top-heavy. Beginning with particular cases is radically different.

Presupposed here is that morality is objectively uniform throughout the world and that normal adult humans have a capacity to make these judgments. But not presupposed here is that current generalizations and theories are fully adequate, nor that future theories will be. Also not presupposed is that all moral agents are sufficiently mature or adequately trained to have accurate moral intuitions (see Ross 1930, 12). Generalizations and theories are based on more or less amounts of intuitive judgments—but not on infinite, comprehensive, or universal amounts of intuitions (data). Moreover, humans may lack the intellectual capacity to formulate a fully comprehensive moral theory (a moral TOE, or “Theory of Everything,” as in philosophy of science). Consequently, moral theory should begin where we are more certain, at the bottom, with case-based intuitive judgments as data. Importantly, both second-level appeals and third-
level theory are case-based and do not stand on their own independent of case intuitions.

In sum, intuitions are judgments about the goodness or badness of particular states of being, the rightness or wrongness of certain acts in particular cases, the virtuousness or viciousness of specific character traits, or the actual duty when multiple appeals conflict. Intuitive judgments are not about generalizations, rules, imperatives, and theories. Moreover, no claim is made of certainty at any level, since intuitive judgments are fallible and correctable.

Whereas the other theories have failed to adequately inclusive, pluralistic casuistry succeeds. In pluralistic casuistry, inclusiveness is achieved by the necessity of multiple moral appeals and casuistry's openness to emendation as justified by case data.

5.42 Derivability and Pluralistic Casuistry

Similar to the inclusiveness argument above, my derivability argument is an argument against the other theories and an argument for pluralistic casuistry. Pluralistic casuistry does not commit the derivability fallacy. Given its plurality of moral appeals, casuistry is
not limited to inferring duties directly from values, as the three other
types of contemporary theories attempt to do.

Two Aspects of the Objection. In Chapters 2, 3, and 4, two
aspects of the derivability objection are identified. The objection is
that one or the other aspect is a source of error in the theories in the
chapters. The two aspects are: (a) a Moral Premise inferring duties
from values (the is-ought fallacy), and (b) an Empirical Premise
asserting the value of certain facts (the fact-value claim).

Both aspects of the objection are possible sources of error,
although in different ways. As Prichard argues (1912), the value-to-
duty (is-ought) inference is always fallacious because duties rest on
prior actions and commitments of agents, not directly on values. In
contrast, what is at issue in the fact-to-value claim is whether
sufficient empirical evidence exists to warrant the claim. That facts
are value-laden is not disputed herein (see 3.44). When sufficient
empirical evidence exists, the fact-value claim is true; but when
evidence is lacking, the claim is questionable and perhaps false.

As argued in Chapters 2, 3, and 4, the three types of theories
begin their arguments with a value premise and then directly infer a
duty. The general pattern is:
Value Premise: Some thing “X” is good (instrumentally
good, inherently good, intrinsically
good, virtuously good, or the *Summum
Bonum*).

Consequent Duty: Therefore, thou shalt not use, or put
at risk, or harm, or destroy “X”; or,
restated positively, thou shalt
conserve “X,” or preserve “X.”

My argument is that the duty cannot be inferred from the value
premise in isolation from other premises, for two logically necessary
intermediate premises are presumed. These two presumptions are a
*moral* premise and an *empirical* premise:

*Moral Premise:* The good thing “X” is *morally*
considerable; or, restated negatively,
without sufficient *moral* justification,
the good thing “X” ought *not* to be
used, put at risk, harmed, or
destroyed.

*Empirical Premise:* Sufficient nonmoral *empirical*
justification for the goodness of “X”
does in fact exist.

My objection to all three types of theories in Chapters 2, 3, and 4 is
that often they do not explicitly incorporate these two intermediate
premises into their arguments, and consequently those arguments are
fallacious. I am not arguing that they cannot—with revision—add both
premises, only that often they do not explicitly do so as currently
formulated.
When I label these two premises as "presumptions," admittedly I sometimes err in particular instances. Although infrequent, sometimes in a particular argument, one or the other premise is explicitly stated and defended. However, the three types of theories in Chapters 2, 3, and 4 typically presume one or the other premise, and sometimes both. More precisely stated, my objection is that the logical structure of the arguments is not explicit, and consequently contributes to specious, questionable, poorly reasoned, and sometimes seriously mistaken moral judgments.

Regarding the *Moral Premise*, the three types of contemporary moral theories presuppose, respectively: one or many *moral goods*, as in utilitarianism (Passmore, Singer); one or many *moral duties*, as in deontology (Regan, Paul Taylor, Rolston); or one or many *moral virtues*, as in virtue ethics (Clark, Callicott). Regarding the *Empirical Premise*, the three types of theories presuppose that the nonmoral *empirical* facts instantiate their claims of moral considerability: namely, the nonmoral good-making properties are in fact morally present in the specific case at issue, as in utilitarianism (Passmore, Singer); the moral duty does in fact apply in the nonmoral circumstances of some particular case, as in deontological theories (Regan, Paul Taylor,
Rolston); or the morally virtuous trait is in fact relevant and necessary in the particular nonmoral circumstances of the case at issue, as in virtue ethics (Clark, Callicott).

An interesting and relevant question is: Why do these theorists not incorporate the Moral Premise as an explicit premise into their theoretical constructions? After all, Prichard’s article (1912), which is the inspiration of my objection, is well known. Allow me to propose a threefold explanation. First, some authors (such as Rolston and Callicott) correctly argue against the so-called fact-value dichotomy, which is the Empirical aspect of my Derivability Objection, but then overlook or conflate with it the Moral aspect of my objection, which is the value-to-duty (is-ought) fallacy and the main point of Prichard’s article. Second, the Value Premise(s) and the intermediate Moral Premise(s), when jointly considered, imply a plurality of moral appeals, as in Brody’s theory. Third, due to their respective theoretical commitments—which are, as argued earlier, monistic, albeit in different ways—each theorist is unwilling to accept a plurality of moral appeals. Restated, these theorists are in the grip of their own theoretically narrow conception of “moral.”
Pluralistic Casuistry’s Solution. When applied as Brody proposes, pluralistic casuistry resolves the derivability objection by making the two intermediate premises explicit. First, by beginning with actual cases, the empirical facts can be investigated and assessed, at least to the extent allowed by current scientific knowledge and circumstantial exigencies. And, second, by invoking one of the five major moral appeals, a duty can be explicitly premised to the empirical facts of the case, and then a case-specific nonfallacious judgment made.

Broadening one’s conception of “moral” logically implies pluralism. Similar to G. E. Moore’s limitation of “moral” to intuition of the good, other nonpluralistic theorists limit “moral” to their own narrow theoretical conception. Most theorists today accept pluralism of the good (namely, a plurality of different goods as the Value Premise). But most theorists today do not accept pluralism of the right (namely, a plurality of different Moral Premises justifying different and often conflicting actions as morally right). Following in the steps taken successively by Moore, Prichard, Ross, and Brody (see 5.22, 5.32), broadening the conception of “moral” logically implies a
plurality of moral appeals: the morally good, the morally obligatory (which includes rights, respect, and justice), and the morally virtuous.

An explicit *Empirical Premise* is assured by the centrality of the particular case at issue. Pluralistic casuistry is case-driven. Ethics begins and ends with a case: the case's moral problem, and the moral decision resolving the problem. Were it not for the empirical details of the case, identification of the relevant moral appeals and the adjudication of conflicts among them would be impossible. Unlike more abstract theories, casuistry's theoretical and practical aim is to resolve particular problems in actual cases.

The *Moral Premise* is one or more relevant moral appeals. Due to the empirical complexity of actual cases, more than one appeal may legitimately apply in some cases. Sometimes but not always the different appeals entail conflicting actions (that is, conflicting *Consequent Duties*). As explained in 5.32, one of the strengths of pluralistic casuistry is its capacity to explain and adjudicate conflicts.

To make a moral decision, especially in cases of conflicting appeals, a multifaceted moral judgment is required. As emphasized by Ross and Brody, to the extent allowed by such circumstantial factors as limitations on resources, time, and information, responsible moral
judgments require adequate consideration of the relevant facts of the case (the *Empirical Premise* above) and their bearing on the relevant *prima facie* moral appeals (the *Moral Premise* above). In cases of conflicting moral appeals, a judgment is required to decide which of the moral appeals is morally actual. Because they are judgments, case intuitions, appeals, and decisions are revisable by oneself, debatable by others, and sometimes arguably mistaken.

In sum, unlike the theories in Chapters 2, 3, and 4, pluralistic casuistry does not attempt to derive duties directly from values. This is because decisions are case-specific judgments based on clear Empirical Premises and explicit Moral Premises. The facts of the case make up the Empirical Premise, and one of the five major moral appeals provides the actual appeal, or Moral Premise, for the case. By beginning and ending with a specific case, relevant empirical facts provide explicit considerations for judging which moral appeal is actual, and then which action is right for the case at issue.

Pluralistic casuistry succeeds because of a plurality of moral appeals and the importance of judgment at all levels of morality. The five major moral appeals include as "moral" the judgments involved in the morally good, the morally right, and the morally virtuous.
Importantly, pluralistic casuistry explains why errors and conflicts of moral judgments occur, and it provides an explicit decision-making procedure to resolve conflicts when they occur in practice.

5.5 Conclusion

This chapter analyzes and defends Brody’s theory of pluralistic casuistry. Compared to Jonsen and Toulmin’s paradigmatic casuistry, Brody’s theory is analytically rigorous and theoretically well-founded. Brody explains moral disagreement, the importance of the empirical circumstances surrounding cases, and the relevance of multi-level and multi-faceted judgments. Whereas Jonsen and Toulmin ultimately base moral argument and decision-making upon the relativism of tradition, Brody’s tripartite epistemology (data-theory-confirmation) provides coherent grounds for rational deliberation and moral justification.

Significantly, Brody’s theory is open to the inclusion of animal and environmental ethics. When the theories analyzed in my earlier chapters are jointly considered, they have one major strength: inclusiveness. However, their joint inclusiveness is problematic because it is achieved in disparate ways—according to a plurality of moral theories, or theoretical appeals. Brody’s theory and practical
methodology provide the best contemporary answer to the disparate concerns of animal and environmental ethicists: namely, that nonhuman animals, plants, and inorganic things have appropriate moral consideration. Brody's inclusive pluralism is theoretically sound because it begins with cases and avoids the errors of the other theories.

According to pluralistic casuistry's conception of case-based intuitive judgments as data, animal and environmental cases give evidence for expanding moral generalizations, *prima facie* duties, and theory to include in appropriate ways nonhuman animals, plants, and inorganic things. In contrast to other theories, pluralistic casuistry has the advantage of not requiring a comprehensive monistic standard. From pluralistic casuistry's conceptual foundations, it is possible to incorporate the disparate concerns of the other theories into a plurality of moral appeals that are jointly inclusive and do not commit the derivability fallacy. The details of these appeals are the topic of my next chapter.

Notes

1 In publications not co-authored by Jonsen, Toulmin explicitly identifies the logic of his model as "jurisprudence" (see Toulmin 1958,

2 The theory of “reflective equilibrium” of John Rawls (The Theory of Justice [Cambridge: Harvard University Press, 1971], p. 48) is different from Brody’s theory in crucial ways. Like Ross (1930) and many others, Rawls assumes that intuitions are intuitions of general moral rules or propositions. In contrast, Brody proposes that intuitions are case-specific noninferential judgments of (a) the rightness or wrongness of particular actions, (b) the virtue or vice (praiseworthiness or blameworthiness) of particular persons, or (c) the goodness or badness of particular institutions (Brody 1979, 450-51). More on this difference is discussed later in the text.

3 See n. 2.
CHAPTER SIX

MAJOR MORAL APPEALS

6.1 Introduction

In this chapter, I propose ways to modify the five major moral appeals to make them inclusive of animals, plants, and inorganic things. Brody formulated the appeals in response to case-data from healthcare, and occasionally mentions animals and the environment when the issues touch upon healthcare. My procedure has two steps: (a) each of Brody's five appeals is critically explained as he presents it for healthcare, and then (b) my proposals are given for modifying the appeal to make it adequately and appropriately inclusive of case-data from nonhuman animals, plants, and inorganic things.

My central thesis is that, when jointly considered according to Brody's pluralistic theory and my modifications, the five major moral appeals are (a) adequately inclusive and (b) appropriately inclusive of nonhuman animals, plants, and inorganic things. By "adequately inclusive," my claim is that the modified appeals are broadly inclusive of the case-data and moral concerns of the animal and environmental ethicists discussed in Chapters 2, 3, and 4. By "appropriately
inclusive,” however, my claim is that the modified appeals do not include such unwarranted claims as unconditional animal rights, biotic egalitarianism, and ecosystemic hegemony.

In general, I agree with most of the case intuitions of the theorists in Chapters 2, 3, and 4. But, as I argued in those chapters and in Chapter 5, I disagree with many of their mid- and higher-level theoretical generalizations, especially (a) their failures to be adequately inclusive, and (b) their attempts to derive duty from value. When Brody’s five pluralistic appeals are supplemented as I recommend, they satisfy the major concerns in the earlier theorists: namely, nonhuman animals, plants, and inorganic things have appropriate moral consideration. Such a pluralism, I argue, is theoretically sound because it begins inductively with cases, from the bottom up, so to speak, rather than deductively with rules or generalities, from the top down, as in the other theories.

Nevertheless, my pluralism is not a simple eclecticism of the theories in Chapters 2, 3, and 4, since these theories are critically assessed and parts rejected. Guided by Brody’s theory and practical methodology, my proposals below incorporate the strengths of these other theories while avoiding their weaknesses.
It is important to keep in mind that no one appeal can do all the work. According to pluralistic casuistry, problematic cases and counterexamples to any one single appeal are likely, for no one appeal is monistically comprehensive. Because intuitive judgments in cases are multifaceted and fallible, there is no expectation that one appeal will fit everyone’s intuitions about every case. But when one appeal does not fit a particular case, then usually another appeal picks up the slack. For instance, in a case wherein the appeal to rights does not confirm one’s strong intuition that a certain action is morally wrong, then the appeal to respect (or another appeal) usually confirms the wrongness. Although I am claiming that the appeals are adequately inclusive, I am not claiming that they are exhaustively inclusive. They likely need more revision or refinement, and they may need to be expanded by adding a sixth appeal. As with other inductive methodologies, my claims are hypotheses that are limited modestly to the case-data that I’ve reviewed. Consequently, there is an expectation that additional case-data may warrant additional revision. For each appeal, as Brody points out, “the validation” of the account “will only be found in the way it works in resolving specific cases” (1988, 17).
Because the validation of our account depends upon case-data, the following pages present numerous cases. To save space, cases described in earlier chapters are analyzed without repeating their descriptions, since readers can locate the case descriptions in earlier chapters from the parenthetical references given below. Regrettably, space does not allow full analysis of all of the cases, and sometimes only a single representative case is discussed. As in medical ethics, lengthy casebooks may eventually be written analyzing the moral aspects of cases involving animals and the environment. Each of the five major moral appeals merits a book or several books. Due to the complexity of current public and private entitlements, the appeal to cost-effectiveness and justice especially deserves more treatment than what is permitted in this already overly long chapter.

6.2 Consequences

6.21 Brody’s Appeal

The appeal to consequences holds a legitimate, essential, and sometimes determinative place in evaluating cases. In some cases, this is the only relevant appeal. In some problematic cases, especially when conflicts among other appeals seem irresolvable, the appeal to
consequences can be the decisive factor in making a judgment. Where utilitarians and other consequentialists err is attempting to reduce all of morality to this one consideration. In contrast, where monistic nonconsequentialists err is in attempting to eliminate this appeal. Brody states that “all other things being equal,” consequences provide good reason for doing (or not doing) an action in a specific case (Brody 1988, 17).

In assessing particular cases, three factors indicate when consequences have greater or lesser significance: (a) likelihood they will occur, (b) value for particular persons, and (c) scope of impact. Contrary to Ross, Brody argues that the appeal to nonmaleficence (bad consequences) does not require distinctive prioritization over beneficence (good consequences), for in these cases other appeals, especially rights, enter in and can be judged to be actual (Brody 1988, 18).

The most serious objection to the consideration of consequences is that sometimes they violate stronger moral intuitions. This is the usual objection of nonconsequentialists, whose counterexamples typically include killing an innocent person to save two (or more) others who are equally innocent, using one or more persons without consent
as the means to achieve some greater good, or compromising one's own virtue for some good end. Brody's answer to these kinds of objections is that the appeal to consequences does not stand monistically on its own in pluralistic casuistry. In particular cases, other appeals may override the appeal to consequences: the appeals to rights, respect, virtues, or justice. Nonetheless, in some cases, the other appeals do not override consequences.

Also, Brody argues that consequences should not be hierarchically subordinated to any other appeal, particularly to the nonconsequential appeals to rights and respect, as others contrarily have argued. Such important recent philosophers as John Rawls (1971), Charles Fried (1978), and Robert Veatch (1981) have argued that nonconsequential principles and rights take priority over the good (the appeal to consequences). Admittedly, there are emphatically clear intuitive cases wherein rights should not be sacrificed in order to avoid terrible consequences, such as, lynching an innocent person to appease a racist mob. In response to this objection, Brody makes two points, while also affirming the importance of the other appeals. First, despite these clear cases, consequences have priority in some other cases. No single appeal can be prioritized in all cases over other
appeals. Brody's pluralism has neither a hierarchy nor a scale for weighing appeals. This is because in some specific cases, the consequences—especially when serious and nonameliorable, like death—may override nonconsequential rights and duties. Second, and crucially, a judgment is required in cases of conflict between the consequences and the nonconsequential appeals. A judgment is necessary because no advance prescription fits all cases. No appeal enjoys the prestige of universal and ultimate consideration (Brody 1988, 75-79).

Assessing consequences requires a theory of the good, and Brody endorses preference satisfaction. As explained in Chapter 2, the two main alternatives are hedonism and intrinsic (objective) goods. Brody argues that hedonism is too narrow and arbitrary, for humans actually have many nonhedonistic preferences and values. Against intrinsic (objective) goods, Brody argues that people “really do desire” many disparate things that cannot be contained within a set of commensurate objective goods, and an objective meaning for “really good” independent of what people actually desire has never been adequately defended (1988, 20).¹
Clearly problematic for a preference-satisfaction theory of the good are immoral and pathological preferences. As he frequently does, Brody answers both problems by appealing to the holistic logic of moral pluralism: namely, other nonconsequential moral appeals clearly disclose these to be immoralities and pathologies.

6.22 Animals, Plants, and Inorganic Things

For resolving specific cases, the appeal to consequences fully carries over into animal and environmental ethics, for consequences are a legitimate, essential, and sometimes determinative appeal. The one point in Brody’s account likely to be contentious is his adoption of preference satisfaction, since theories of the good are as hotly disputed among animal and environmental ethicists as among other philosophers. Yet, when consistently applied according to Brody’s overall theory of pluralistic casuistry, the appeal to the consequences has the potential to resolve this dispute, as well as other heretofore implacable disputes over the relevance and significance of consequences.

Even though mid- and higher-level theoretical debates remain, my argument is that pluralistic casuistry at the level of practice provides
ways to resolve disputes over consequences and the good. Three central theses of pluralistic casuistry make this possible: (a) *case intuitions* are the data warranting mid-level appeals and higher-level theory, (b) *judgment* occurs at all levels and is required to resolve conflict, and (c) *other appeals* usually redress the deficiencies of any single appeal.

First, according to pluralistic casuistry, ethics begins with cases and case intuitions, and case intuitions provide epistemic warrant for the moral appeals. Intuitions are fallible and can be corrected either by a subsequent contrary intuition of the same case or by mid- or higher-level considerations.

Regarding the disputes over consequences and the good, the case intuitions are noninferential judgments that a thing or experience is good (or bad). Unless preferences are identical to intuitions, which is implausible since goods can be known without being preferred, then preferences are mid-level judgments. Importantly, *inconsistency and conflict* are apparent only at the mid- or higher-level when two or more intuitions are compared and recognized to be different or conflicting.

Consequently, in the absence of a mid-level conflict between disparate intuitions of the good or between the appeal to consequences
and another moral appeal, it follows that the good, regardless of its kind, ought to be brought about. Moreover, unless mid-level considerations refute all lower-level intuitions of a particular kind, pluralistic casuistry should refrain from rejecting any specific theory of the good and should incorporate all plausible case-based intuitions of the good into its matrix of consequences.

In sum, case-data and theoretical considerations support a pluralism of the good. Whenever possible all of the goods should be achieved. Regrettably, often in actual cases the many goods cannot be achieved jointly, which necessitates a judgment among them.

Second, *judgment* occurs at all levels and is required to resolve conflicts. To the extent that a theory of the good is warranted by case-data, then the case intuitions cannot be dismissed by contrary mid- or higher-level claims without sufficient contrary case-data and explicit argument. In cases of conflict between the disparate goods, or the good and other appeals, a judgment is required to decide which one of the disparate goods or appeals is actual.

In case dilemmas limited to consequences and the good, usually a problem occurs only when circumstances are such that two or more goods cannot all be produced. It is only in the latter circumstances
that the kind of good (and often its amount) becomes contentious. Usually what is at issue is not whether one or the other thing is good, but rather whether it is a particular kind of good. Usually the disputants agree on two points: (a) each thing is good; and (b) in the absence of a conflict, each thing ought to be produced. The kind of good is at issue because the disputants presuppose that a certain kind of good justifies prioritizing it and the action producing it. For example, in a conflict between a preference-satisfaction theorist such as Singer and an intrinsic-value theorist such as Rolston, typically the controversy would center on whether intrinsic value trumps preference satisfaction (see Rolston 1989b).

But this is not all of the story, for according to pluralistic casuistry, intuitions are fallible and are guided by mid- and higher-level generalizations. As a result, if one is convinced by mid- or higher-level considerations that some putative value or type of values is questionable or nonexistent, then one is likely not to experience those types of goods and also to dismiss as error the supportive case-data. Are such dismissals question-begging? Arguably, they are. At issue is the interplay of basic data and mid-level generalizations. As Brody points out, deciding when the data is sufficient to confirm or
disconfirm a generalization requires a judgment, a judgment that is fallible, subject to disagreement by others, and subsequent revision or rejection by oneself.

The third central thesis is that, in pluralistic casuistry, other appeals usually redress the deficiencies of any single appeal. After limiting his case-data to healthcare ethics, Brody argues that preference satisfaction is an adequate theory of the good because all of the cases presented in healthcare ethics are either (a) within a preference satisfaction theory of the good, or (b) covered by another moral appeal. Pluralistic casuistry expects each and every appeal to fall short in some particular cases, for otherwise the other appeals would not be necessary. Often a dilemma appears to be about consequences and the good, when the dilemma actually is a conflict between consequences and one or more other appeal.

Other appeals presuppose objective goods. Though Brody endorses preference satisfaction as an adequate theory of the good for healthcare ethics, he also occasionally appeals to objective goods in defense of other appeals. In his analysis of the appeal to respect for persons, Brody writes:

We think of persons as having the potential to perform a wide variety of actions whose performance we value greatly. These
include the potential to make rational (and especially principled) choices, the potential to engage in a variety of interpersonal relations, the potential to appreciate beauty, and the potential to desire to know the truth. We therefore value the person who has those potentials. . . .

I would like to suggest the following: to respect people is to value certain actions and to value the people who have the capacity to perform those actions. We show that respect by not lessening the potential of those persons to perform those actions and by aiding them in developing that potential. We have an obligation to show this respect, *an obligation which rests on the objective value of the persons in question.* (1988, 33-34; my emphasis)

In this quotation, Brody argues that respect rests upon the “objective value,” not merely upon preferences.

Like respect, I believe that the appeal to the virtues, as an appeal distinct from other appeals, presupposes objective values, not merely preference-satisfaction. Unless there is objective moral good, then (allegedly good) virtues depend ultimately upon the power of oneself or one’s community to defend and enforce the preferences. In other places, Brody defends moral objectivism against error theories (see Brody 1979, and my remarks in 5.3). His argument suggests that, unless virtues, respect, and other moral goods are ultimately objective, then there is nothing to be in error about.

In sum, my argument above is the following. In animal and environmental ethics, case dilemmas over consequences and the good
can be resolved by adequate consideration of three central theses of pluralistic casuistry: (a) case intuitions, (b) the role of judgments, and (c) other moral appeals. To be convincing, my argument needs to be supported by sufficient case-data.

Space does not allow ample presentation and discussion of case-data. Among animal and environmental ethicists, several case dilemmas clearly are centered on mid-level disputes over consequences and the good. These disputes include:

Hedonistic Resource Value (Passmore) vs. Preference Satisfaction (Singer) vs. Intrinsic (Objective) Value (Rolston) vs. Inherent Value (Regan, Callicott) vs. Noninstrumental Value (Norton and other pragmatists)

Resource Conservation Utilitarianism (Passmore, Shrader-Frechette, Gould, and others) vs. Preservationism and Restorationism (Rolston, Leopold, Callicott, and others)

Animal Liberation (Singer’s Preference Rule-Utilitarianism) vs. Animal Rights (Regan)

Anthropocentrism (Humanism) (Passmore, Norton, Gould, and others) vs. Biocentrism (Paul Taylor) vs. Ecocentrism (Leopold, Rolston, Callicott, and others)

Animals vs. Humans vs. Environment (the so-called “Triangular Affair” in Callicott 1980)

Urban Values vs. Rural Values vs. Wilderness Values (Rolston)
Species and Eco-centric “Fascism” (Rolston, Callicott, and others) vs. Equality of Like Preferences (Singer) vs. Individuals (Rights) (Regan)

For descriptions of these conflicts, see Chap. 2 (Passmore, Singer, Frey, Schrader-Frechette), Chap. 3 (Paul Taylor, Regan, Leopold, Rolston, Norton, Gould), and Chap. 4 (Callicott). As posed by these issues, the foremost question regarding the appeal to consequences is:

To what extent at the level of practice does pluralistic casuistry provide ways to resolve these and other persistent issues among animal and environmental ethicists?

As evidence of casuistry’s potential to resolve case dilemmas about consequences, four representative cases are described and analyzed below. As proposed above, three central theses of pluralistic casuistry (namely, intuitions, judgment, and other appeals) are essential in resolving the cases.

Case: Gem Lake

**Description:** In a parcel of Rocky Mountain National Park isolated from the main park by private property, Gem Lake is a remote alpine ecosystem untouched by humans except for an occasional sightseer and hiker. From the trailhead at the parking area, the hike to Gem Lake is 2 miles and the elevation gain is 1,090 feet. At an elevation of 9,500 feet and produced by melting snow, the lake has existed since the ice age. The site is pristine, with trees and grasses descending the steep mountain sides to the waters edge. The surface is typically tranquil and reflects the surrounding snowcapped
mountainous landscape. The air is crisp with scents of spruce and juniper. Brilliant flowers bloom throughout the brief spring, summer, and fall. Seldom does anything except birdsong break the silent stillness.

**Analysis:** According to Rolston’s intuition, Gem Lake is an intrinsically valuable ecosystem. It is one of a few remaining pristine alpine lakes. Because of its value, Rolston argues that the lake ought to be preserved for its own sake, even if no one ever visits it or appreciates its beauty.

In the absence of conflict, then surely the lake should be preserved. Except for the initial cost of purchasing the property and minor repairs to the trail, there are no maintenance costs. What conflicts are possible? The surrounding mountains might contain a valuable mineral resource. Less direct conflicts are the cultural and industrial sources of airborne pollution like acid rain, climatic change from global warming, and invasion of exotic flora or fauna.

*Case: Feral Goats on San Clemente Island*

**Description:** Off the coast of California in the Pacific Ocean is San Clemente Island National Park. Descended from animals owned by pioneer settlers, feral goats have eaten rare endemic grasses to the point of extinction. To prevent the extinction of the grass species, the Park Service hired hunters to kill the goats.

Holmes Rolston argues that shooting the goats is justified because: (a) the grasses are endemic and endangered species, and (b) the goats are exotic and feral intruders into the island ecosystem.
According to Rolston’s theory, grass species are forms of life with intrinsic value. Even though individual living organisms (the goats) also have intrinsic value, the intrinsic value of a species is greater than that of individuals (Rolston 1989a).

Contrary to Rolston, Bernard Rollin’s intuition is that shooting goats to save grasses is wrong. Against shooting the goats, he gives two reasons: (a) goats are conscious beings and have interests, whereas grass plants are not conscious and have no interests; and (b) the goats could have been trapped and relocated, which would have shown respect for their rights and saved the grasses (Rollin 1989a).

Analysis: This case presents a conflict of intuitions and values. Whether one agrees with Rolston’s intuition of intrinsic value, preserving the grass species would be valuable for genetic richness and diversity of grasses, and as a resource for unknown future use. The pain from being shot is bad according to the three major theories of the good (hedonism, preference satisfaction, and intrinsic goods). Many of us share Rollin’s intuition that the unnecessary deaths of the goats is bad. Supporting these intuitions are the rights of the goats not to be inflicted with unnecessary pain and not to be killed unnecessarily. At first glance, Rollin’s intuition and proposal that the feral goats be captured and relocated appears to resolve this case. However, the appeal to justice raises questions about allocation of public funding. Will funding for other programs be lost or nonappropriated, programs of equal or greater value and worse
outcomes? If so, the goats ought to be shot. In addition, the places
where they are relocated should not be negatively impacted.

Case: Sea Captain's Dog

Description: Four passengers board a sightseeing cabin boat in
Provincetown, Cape Cod, Massachusetts. Also aboard are the Captain
and his large, old dog, who has been the Captain's constant companion
and best friend for almost ten years. A sudden and unexpected storm
swamps the boat. The lifeboat will hold all of the passengers only if
the dog is left out. The Captain is certain the old dog will drown, and so
he orders one of the passengers, a young man who is an expert
swimmer, to swim alongside the lifeboat. They become separated in
the rough sea, and the passenger drowns. (Cf. Regan 1983, 285-86,
324-25, 351-53, 385.)

Case: Regan's Lifeboat

Description: Regan writes: "Imagine five survivors are on a
lifeboat. Because of limits of size, the boat can only support four. All
weigh approximately the same and would take approximately the same
amount of space. Four of the five are normal adult human beings. The
fifth is a dog. One must be thrown overboard or else all will perish.
Whom should it be?" (Regan 1983, 285)

Analysis: Regan's intuition is that the consequence—death by
drowning—would be the same no matter who was thrown overboard.
Regan's intuition, I propose, is overly influenced by his mid- and higher-
level theory of rights (see 3.43). The dog is also a person, Regan
claims, with an equal right to life. Mistakenly, Regan confuses rights
and respect, and does not recognize that rights can be overridden.
According to my intuition, to throw a human overboard would be criminal. My intuition is confirmed by Brody’s analysis of the appeal to respect (see 6.31). Humans have a greater worthiness and potential for respect than the dog could ever achieve. The dog has a right not to be killed unnecessarily and a right not to be inflict ed with unnecessary pain. The dog’s owner has correlative duties to the dog that support humane euthanasia of the dog if there is no hope for survival by swimming. Humans also have rights and persons who love them, but far greater potential for achieving the values of personhood (respect). In the circumstances of this case, the appeal to respect takes priority over the appeals to consequences and rights.

Case: Tigers vs. People

Description: In a controversial passage, Rolston proposes that people should be sacrificed to save tigers:
Tigers are sliding toward extinction. . . . Ranthambhore National Park in Rajasthan, India, is a tiger sanctuary: there were 40 tigers during the 1980s, reduced in a few years by human pressures—illicit cattle grazing and poaching—to 20 to 25 tigers today. There are 200,000 Indians within three miles of the core of the park—more than double the population when the park was launched 21 years ago. Most depend on wood from the 150 square miles of park to cook their food. They graze in and around the park some 150,000 head of cattle, buffalo, goats, and camels. The cattle impoverish habitat and carry diseases to the ungulates that are the tiger’s prey base. In May 1993, a young tigress gave birth to four cubs; that month 316 babies were born in the villages surrounding the park.
The tigers may be doomed, but ought they to be? Consider, for instance, that there are minimal reforestation efforts, or that cattle dung can be used for fuel with much greater efficiency than is being done, or that, in an experimental herd of jersey and holstein cattle there, the yield of milk increased ten times that the gaunt, free-ranging local cattle, and that a small group of dairy producers has increased milk production 1,000 percent in just 3 years. . . . these majestic animals [tigers] seem the casualties of human inabilities to manage themselves and their resources intelligently, a tragic story that leaves us wondering whether the tigers should always lose and the people win. (Rolston 1996, 261)

**Analysis:** In my judgment, the *rights* of the individual persons and their correlative *duties* to feed their dependents override the consequences for the tigers. Ideally, wealthy individuals like Bill Gates and wealthy nations like the US should feed the people and save the tigers. But what parent could watch a child starve while a tiger eats? In my judgment, duties to one’s dependents and *respect* for persons (and potential persons) require the famished individuals to hunt and gather within the tiger habitat.

For resolving cases, the importance of the three central theses is not limited to the appeal to consequences. The theses are equally important for case deliberations involving the other appeals.
6.3 Rights

6.31 Brody's Appeal

Brody adopts the view that rights are possessed by all living members of the human species, regardless of their ages, physical limitations, or mental deficiencies. He outlines three philosophically controversial views regarding the fundamental right not to be killed:

(a) Living members of many nonhuman animal species have a right not to be killed.

(b) All living members of the human species have a right not to be killed.

(c) Only individuals who are persons have a right not to be killed. (My summary of Brody 1988, 26)

Each view presumes that killing individuals with no rights can be prohibited by various other reasons, but the right not to be killed cannot be one of those reasons. Obviously, the different views "... have profound implications for such diverse issues as animal experimentation, abortion, and treatment of the terminally ill" (Brody 1988, 26, 50 n. 30).

Brody gives three considerations in defense of the second view (b). Consistent with the epistemology of casuistry, the primary evidence comes from the importance of the view for resolving cases. Anticipating an obvious objection, Brody explains, second, that
"personhood" is not a matter of rights but of respect (which is the
next appeal considered below). Nevertheless, there is a constraint
against some actions, as long as the patient is alive and regardless of
all other factors:

... most will agree that as long as a patient is still alive there
are some constraints on what we can do to that patient (we
cannot, without the patient's permission, inject the patient with
potassium chloride), no matter how bad the patient's conditions.
These constraints are, moreover, serious ones. (Brody 1988,
26)

And, third, the objector's contrary moral intuitions and putative
counterexamples can be explained more accurately by other appeals in
pluralistic casuistry. Brody gives abundant cases supporting these
three lines of defense (Brody 1988, 28, and Chaps. 5-7).

Central for understanding Brody's theory of rights are three
claims regarding their deeper structure. These considerations are
significant for assessing and deciding conflicts, whether between one
right and another right or between rights and other appeals. Each and
every right is: (a) waivable by the rights-holder, that is, no right is
inalienable or beyond the holder's freedom to give it up or deny it; (b)
nonabsolute or overrideable, that is, any right can be overridden in
sufficient case circumstances by another right or moral appeal; and
(c) unequal in moral force, that is, some rights are more fundamental
than others. For instance, assuming no other culpitory factors, the
right of a debtor’s family to necessary food (and the debtor’s
correlative duty to provide the food) is more fundamental than, and
therefore overrides, a creditor’s right to be paid by the debtor
according to the conditions of their agreement (Brody 1988, 22-24).

Among rights, the right not to be killed is fundamental (even
though it is waivable, as are all rights). Brody states:

The right not to be killed is an extremely strong right. There are few, if any, moral appeals that take precedence over it. The rights to self-defense or to punish are often suggested, even though they rarely arise in the medical context, but self-defense and punishment involve a loss of rights and not the precedence of other appeals. . . . In the context of medical decision-making, it is hard to imagine circumstances in which anything takes precedence over this very fundamental right. (Brody 1988, 25-26)

Even though Brody holds that the right to life is more fundamental
than other rights, he is not saying that rights are hierarchical or
scalar, for the latter structures presuppose some kind of monistic
standard. Sometimes two cases presenting the same rights are
resolved differently because the cases present greater or lesser
disparate factors and perhaps other appeals. In one case, due to
different factors or other appeals, one right or appeal may be judged
to be actual; whereas, in another case, some other right (or appeal)
may be judged to be actual. In cases of conflict with other rights or moral appeals, a judgment is required by the decision-maker. Presumptively, the right to life takes precedence. Nonetheless, conceivably at least sometimes and despite the rarity of clear cases, other rights or appeals may override the right to life.

Brody holds that rights are correlative to obligations (duties); or, restated, every right has a correlative duty, and every duty has a correlative right. Brody proposes the following matrix for understanding rights:

\[ X \text{ has a right to } Y \text{ against } Z \text{ if and only if (just in case)} \ Z \text{ has an obligation (not necessarily an overriding obligation) to } X \text{ not to deprive } X \text{ of } Y \text{ or not to withhold } Y \text{ from } X. \]  

(1988, 22)

According to a strict reading of Brody’s matrix, a right and its correlative duty have different subjects: namely, where \( X \) has a right \( Y \), some other \( Z \) has a correlative duty; and vice versa. But nowhere does Brody say that the rights holder \( X \) can never be at the same time the duty bearer \( Y \).

The correlativity thesis is also philosophically controversial. Even though Brody has answers to the objections and putative counterexamples, the details of the debate are beside the point for his subject-matter, which is healthcare ethics. In medical ethics, the
cases are clearly correlative, usually involving the rights of a patient
(or the patient’s family or surrogate), and the correlative duties of the
care givers (1988, 22, 49 n. 16).

The importance of the other moral appeals needs emphasis. The
disparate factors of cases may support a judgment that another
appeal (or another right) overrides a particular right (or all rights). In
Brody’s pluralism, neither one particular right nor any other appeal has
hegemony over the others. In other words, whenever rights conflict
with other appeals (or among themselves), then a judgment is required
to resolve the conflict (Brody 1988, 22-24).

To help in deciding cases presenting conflicts, Brody identifies
two kinds of rights and several factors indicating greater or lesser
significance for the rights (1988, 24-32, 82-87). For brevity’s sake,
below I list these rights and factors:

Substantive Rights:
(1) Right not to be killed
(2) Right not to have bodily pain or injury inflicted
(3) Right to be aided, which has four subfactors:
   (a) Probability and gravity of the threat
   (b) Burden of providing the aid
   (c) Special relationships
   (d) Fault of the patient in the occurrence at
       issue (but previous occurrences are
       irrelevant when one is in need)
Procedural Rights:

(1) Right of the patient to refuse treatment, which is based on:
    (a) Competency
    (b) Nature of the refusal
    (c) Reason (basis) for the refusal

(2) Right of the family to participate in decision-making, which is based on:
    (a) Competency of the patient
    (b) Closeness of the family
    (c) Who has authority, especially a surrogate

(3) Right of the surrogate decision-maker, which is based on:
    (a) Competency of the patient
    (b) Closeness to the patient
    (c) Who has authority
    (d) The best interests of the patient

Substantive rights concern outcomes affecting the client’s body and identification as a member of the human species: what should or should not be done to this human patient? Procedural rights are about decision-making procedures affecting these individuals, their significant others, and their surrogates. The provider also has a procedural right to refuse to provide any treatment conscientiously believed to be immoral (1988, 29).

Closely related to the substantive right not to have pain or bodily injury inflicted upon oneself is the procedural right to refuse treatment. Distinguishing these two rights is crucial, because some
treatments do not result in pain or bodily injury. Even in instances of noninjury, one still has the right to refuse treatment (Brody 1988, 28).

One's right to make decisions about services affecting oneself is Brody's first-listed procedural right (and the most important, I'd argue). This is the right to refuse (not to consent to) treatment. Using his matrix, Brody defines this right negatively:

X has a right against everyone to refuse recommended medical treatment, since everyone is under an obligation to X not to take this decisional authority away from X. (Brody 1988, 28)

Sometimes clearly and expressly by statements or in documentation, clients want their family, surrogate, or service provider to make decisions. In these cases, the client waives the right to decision-making. These are easy cases, relatively speaking.

Regrettably, too often patients make no explicit expressions of their wishes, and often not due to emergencies or incompetency. In these cases, many ethicists have argued that hypothetical decision-making is justified. Namely, the person in authority plays the role of the client, asking and answering the question, "If I were she, with her values, what would I want and do?" Brody argues that such hypothetical decisions are not necessary within his pluralistic theory
because other moral appeals (one or several) are more directly relevant in these cases (1988, 27, 28-32).

6.32 Animals, Plants, and Inorganic Things

Below I argue that Brody's analysis of rights is fully compatible with animal rights, and results in a theory far superior to the leading current theory, Tom Regan's theory of animal rights (see 3.43). When modified as I propose, pluralistic casuistry is a superior theory because: (a) it is based on commonsense intuitive case-data; (b) it is consistent with the deeper structures and relationships of rights, including human rights; and (c) it is capable of mediating conflicts among rights, including human rights vs. animal rights, as well as conflicts between rights and other moral appeals.

In a nutshell, my argument is a defense of Brody's analysis of rights against contrary views in Regan's theory. Why have I limited my argument to Regan? The other major theory of animal rights is Bernard Rollin's telos-based theory, which is actually a virtue theory similar to Stephen R. L. Clark's (see 4.3, 4.41, 6.5). Although many other writers support animal rights, their arguments rely on points made by Regan, with the exception of Christopher Stone (1974), whose
theory of plant and environmental rights is a legal theory, not a moral theory.\(^2\)

Of the three views of rights considered by Brody (see above), he cites Regan as holding the first view, the view that rights extend to members of nonhuman species (Brody 1988, 50 n. 30). Between Brody and Regan, four questions are central. First and foremost, can members of nonhuman animal species have rights? Since Brody does not "adopt" this view, a clear explanation is required for my argument to be plausible. Assuming the success of my strongly affirmative argument in answer to the first question, second, does correlativity extend to animals? Brody strongly defends correlativity, but Regan seems to deny it. Third, do nonhuman animals have the substantive rights not to be killed, not to be pained, and to be aided? Based on Brody's analysis of the deeper structure of rights, I argue that animals have all three rights, but that the rights are not absolute (nontradeable) rights, as Regan claims. And, finally, do animals have procedural rights? Here Brody's theory is especially helpful, but Regan's of little use since he considers rights to be nontradeable.

**Do animals have rights?** Three central theses of pluralistic casuistry support the claim that nonhuman animals have rights: (a) the
overwhelming amount of intuitive case-data warranting their rights; (b) the ability—or, rather, inability in this instance—to explain these case intuitions by other appeals; and (c) the openness of casuistry to modification as warranted by the additional case-data. For these three epistemic reasons, pluralistic casuistry ought to recognize animal rights.

Of these three reasons, only the second is likely to be challenged. Utilitarians like Singer (see 2.32) hold that the appeal to consequences obviates the need for rights (unless rights are reformulated as kinds of consequences). On this issue, Regan’s theory is better, since the right not to be pained remains a legitimate moral constraint independent of the consequences. But pluralistic casuistry is the best theory, since both consequences and rights are accepted as legitimate moral appeals: namely, consequences ought to be considered, and the constraint imposed by rights is independent of consequences. Moreover, when the two appeals conflict, as they often do in actual cases, a judgment is required to resolve the matter. As I argue below, Regan’s error is considering rights to be nontradeable, since in some cases consequences can override the constraint imposed by rights.
Given this argument, another question immediately surfaces: Why, then, does Brody adopt the human rights view but not the animal rights view? Despite his adoption of the human rights view, for four reasons I believe that Brody’s account is fully compatible with animal rights. First, Brody explicitly limits his case-data to healthcare ethics, and his claim regarding rights is accordingly circumspect. His claim is the narrowly limited claim that, in healthcare ethics, the human rights view adequately explains the case intuitions, and whenever the view does not, some other appeal does.

Second, Brody acknowledges the significance of the other two views of rights for animal experimentation, abortion, and treatment of the terminally ill. Especially significant, I propose, is the fact that he does not argue against animal rights, but he does argue against the third view. Because of the third view’s profound importance for cases in healthcare ethics, he argues against its limitation of rights to persons.

Moreover, third, in his argument against the personhood view of rights, Brody gives a very strong reason, a reason implicitly as strongly supportive of animal rights as of human rights. This reason is our inability otherwise to explain the constraint against treating in any
way we wish individuals—individual humans explicitly, but arguably individual animals implicitly. For, in healthcare, clear constraints and protocols regarding animals exist against such treatments as sadistic torture, cruel unanaesthetized experimentation, and even unnecessary experimentation whenever alternative scientifically sound methods are available. In fact, in recent years some medical researchers and institutions have accepted as their mission the moral obligation to discover alternative procedures.

Fourth, Brody declares the openness of his theory to modification. I find no reason for thinking that Brody would not welcome the inclusion of animal rights in an expanded, more comprehensive pluralistic casuistry.

Does correlativity extend to animals? Brody defends a notion of correlativity that is fully compatible with animal rights, and his matrix fully fits animal rights. But Regan’s position is confusing. On the first hand, Regan argues that humans have duties commensurate to the rights of animals; but, then, on the last hand, he seems to deny correlativity. Below I argue that Regan’s confusion results from his mistaken presumption that correlativity is limited to persons alone. Brody’s argument, given above, clearly shows this
presumption to be mistaken. Below, I argue that non-persons can have both rights and duties, even though, depending upon other factors, the correlative duties and rights often apply to different individuals.

Based on the three views of rights identified by Brody, I propose that three views of correlativeity can be identified:

(a) *Interspecies Correlativeity*: Rights and correlative duties extend to living members of many species, and not just to members of the human species.

(b) *Human Correlativeity*: Rights and correlative duties extend to all living members of the human species.

(c) *Person Correlativeity*: Rights and correlative duties extend only to those humans who also fulfill the requirements for being a person.

Based on my argument above, I believe that Brody would defend the second view (b), argue against the third view (c), but *not* argue against the first view (a). In other words, Brody’s appeal to rights is fully compatible with the first view (a). The first view (a) is implicit in any position giving rights to nonhuman animals, including Regan’s. My argument below shows that Regan’s confusion about correlativeity results from presupposing the third view (c).

As I explain in 3.43, Regan and many other animal ethicists make a distinction between *moral subjects* (agents) and *moral patients* (recipients). Moral subjects (agents) have both rights and duties, but
moral patients have only rights. Because they can suffer, animals are moral patients; and because they cannot reason about moral principles, they have no duties. Regan states, "Moral patients, in a word, cannot do what is right nor can they do what is wrong" (Regan 1983, 152).

Regan and many others argue that, in those respects, animals are like young children and severely demented humans, whom they call "marginal humans." Consequently, if animals do not have moral rights, then neither do marginal humans. Otherwise, morality is arbitrarily humanist and speciesist. This is a strong argument.

Brody’s matrix of rights fully allows for the distinction between moral subject and moral patient. Consider his matrix, with my emendations in brackets:

X [some nonhuman animal] has a right to Y against Z [some human] if and only if (just in case) Z [the human] has an obligation (not necessarily an overriding obligation) to X [the animal] not to deprive X [the animal] of Y or not to withhold Y from X [the animal]. (Cf. Brody 1988, 22, quoted above)

According to Brody’s matrix, typically a right Y is held by one or more individuals X and the duty by one or more others Z. This distinction is the crucial point that Brody stresses in numerous healthcare cases concerning the rights of patients and the correlative duties of providers. Brody considers several cases of severely demented
humans who still retain their rights and to whom duties are owed by others. Clearly, the matrix allows for the formal claim that animals (as well as children and demented humans) have rights and others—other humans—have the correlative duties.

Then, why does Regan (and most other animal ethicists) vehemently defend the agent-patient distinction as essential for animal rights? The only plausible answer is that Regan presupposes the third view of correlativity, that correlativity is limited to persons. For if one adopts either view (a) or view (b), then the agent-patient distinction is already in place as a central claim of the view.

There are three additional reasons why I think Regan presupposes the mistaken personhood view of correlativity. First, his criteria for being a moral patient with rights—namely, being a subject-of-a-life (see 3.43)—are a subset of the requirements for being a person. In other words, Regan argues that animals are quasi-persons, and consequently they have enough traits to have rights but not enough to have duties.

Second, Regan bends over backwards to deny that animals have any duties whatsoever. In these arguments, he presumes that duties depend upon full personhood, while rights only require quasi-
personhood. Numerous cases support the commonsense intuition that animals have at least some duties (see below). The only plausible explanation for denying these intuitions is a preemptive belief in some mid- or higher-level theory of personhood. In contrast, as Brody argues, personhood is a matter of respect, not rights.

Finally, third, Regan claims that rights are equal and nontradeable. In other words, rights cannot be overridden. For instance, an animal’s right not to be killed and a human’s right not to be killed are equal and nontradeable. These claims are strongly counterintuitive. The explanation, again, is that Regan confuses the appeal to rights with personhood and respect. According to Brody’s theory, rights are not equal and can be overridden, but respect cannot be overridden. This confusion explains, for example, Regan’s counterintuitive positions on such cases as Sea Captain’s Dog (see 6.22 above, and 3.43). According to commonsense, the dog had rights, but the young man, who was forced to swim and subsequently drowned, was worthy of far greater respect than the dog.

Briefly, I would like to cite case-data supporting my claim that Regan’s dichotomous agent-patient distinction is contrary to
commonsense intuitions. The following two cases are representative of many similar cases of correlative rights and duties:

**Case: Blue Bell With Puppies**

**Description:** The Nobrega family's female beagle, Blue Bell, has had a litter of puppies. She has the duty to nurse her offspring, and the puppies a right to suck. Also, the Nobregas have duties to provide adequate food and water for Blue Bell, and to let her nurse and care for the puppies. Blue Bell has a right to the food and water.

**Case: Cow With Calf**

**Description:** Only occasionally today in the USA, but typically always in past centuries, rural families kept a cow with calf in order to have milk, cream, and butter for the family. (For urbanites who don’t understand these things, cows don’t have milk without calves, just like moms without nursing babies.) For the family to have any milk, the calf has to be kept apart from the cow during part of the day, otherwise the calf would drink it all, even though usually there is more than enough for the calf’s well-being. When separated, however, the calf usually bawls, while the cow rarely shows concern as long as the calf is nearby, plainly visible, and out of harm. Farm families consider it their duty to provide pasture, water, supplementary feed as needed, and veterinary care for the cow and calf.

**Analysis:** In both cases, commonsense immediately and intuitively sees the interplay of correlative rights and duties. The puppies and calf have rights to suck, and Blue Bell and the cow have duties to allow them to nurse. Perhaps the behaviors are instinctive, but so too is every human mother’s. Farmers with milk cows believe their families have a right to the extra milk, as long as the calf is healthy and growing normally. But if the cow goes dry, then the
farmer has a duty to provide milk to the calf, from a bucket with a
nipple and even if the family goes without milk. Humans aside, every
cow with calf and female dog with puppies have a duty to feed their
offspring; if any duty is a moral duty, then the duty to feed one’s
offspring is. In these and other cases, there are rights as well as
correlative duties, and it confuses matters to say the animals have
rights but no duties.

Many additional cases could be presented involving both wild and
domestic animals. Because today many tasks formerly done by
animals are performed by machines, most urbanites have little contact
with any animals except pets. In times past and in some rural places
still, people have numerous kinds of relationships with animals,
including some in which human livelihoods, welfares, and even survival
depend upon the animals doing their duties. Today as in the past, pet
owners, animal trainers, zoologists, ranchers, and others with lots of
involvement with animals typically speak of the animals as having
obligations. Biologists often speak of animals as having duties to
guard, protect, care, nurture, and defend others in their group. Many
animal herds, packs, and colonies have a sentinel whose duty it is to
alert the group of predators. Among domestic animals, some duties,
such as caring for offspring and signaling intruders, are natural and
instinctive, but others, such as guiding the blind and finding drugs, are
learned only after careful training. Seeing-eye dogs, guard dogs, police
dogs, hunting dogs, draft animals, riding horses, movie animals, and
many others are highly trained to do certain tasks, tasks that are
commonly described by their handlers as duties.

On what grounds might Regan or others reject the intuitive data
from these and similar cases? The only plausible ground is that the
behaviors are instinctive or conditioned, and not fully rational, or not
fully conscious, or not fully autonomous. Thus, animals can have
rights, even though they have no duties. Again, this response
presupposes the personhood view of rights, a mistaken interpretation
of Kantian deontology against which Brody argues. According to
pluralistic casuistry, an individual’s possession of rights does not
require personhood, and respect is a distinct moral appeal.

My argument can be stated another way. Regan presupposes
that duties are dependent upon personhood. Consequently, he denies
the correlativity of rights and duties, since otherwise animals, who are
clearly not full-persons, would not have rights. In addition, he begs the
question against the case-data supporting the claim that animals have
duties, since commonsense cases show that they do. On this issue, Brody’s theory is coherent. According to pluralistic casuistry, non-persons can have both rights and duties, even though, depending upon other factors, the correlative duties and rights often apply to different individuals.

If space allowed, more could be said about the correlativity of animal rights and duties. Clearly, in many instances of correlativity, animals have the right and humans have the correlative duty, as when, for example, a pet has a right to food and the owner the duty to provide it. Nevertheless, commonsense case-data support my claim that animals have duties as well as rights, even though the claim is likely to questioned due to widespread inexperience with animals and the popularity of the other view. Admittedly, it would be absurd to hold that animals are responsible to the same degree as adult humans, to put animals on trial, and to imprison them. But it is no more absurd to hold animals appropriately responsible than it is to hold children, adolescents, and weak-minded adults appropriately responsible, to the degrees warranted by their intelligence, training, experience, and demonstrated competencies.
Do animals have the substantive rights not to be killed, not to be inflicted with pain, and to be aided? Three lines of argument support my claim that animals have substantive rights: (a) the deeper structure of rights, (b) ample commonsense case-data, and (c) the distinction between the appeal to rights and other appeals, especially the appeal to respect. The deeper structure of rights is my first line of argument because only if rights are correctly understood is it plausible that animals have rights. Not just for animal rights, but also for human rights, the plausibility and nonreducibility of rights to other appeals require correct analysis of the deeper structure of rights. When the deeper structure of rights is conceived as in Regan’s theory, then animal rights are strongly counterintuitive to commonsense cases. Brody’s analysis, argument, and abundant case-data show that rights are: (a) waivable, (b) unequal in moral force (that is, some rights are more fundamental than others), and (c) overrideable (nonabsolute), including even the right of individual humans not to be killed. Below I argue that granting rights to animals confirms Brody’s analysis but refutes Regan’s.

In Regan’s theory, rights do not fit any of Brody’s deeper structures. According to Regan’s analysis, the deeper structure of
consequences is that consequences are “tradeable,” whereas the
deep structure of rights is that rights are deontologically
“nontradeable.” In other words, according to Regan’s doctrine of
nontradeability: rights are not waivable, not unequal in force, and not
overrideable, because otherwise rights could be traded-off based on
subjective waivings, moral force, and other moral appeals. Since
animals, according to Regan, are not capable of reasoning about right
and wrong, it follows that they cannot be moral agents capable of
waiving their rights.

Against Regan, based on case-data, I propose that it is plausible
that some nonhuman animals can waive their rights. On the one hand,
Regan defends the rationality and self-awareness of “subjects-of-a-
life,” who he claims are mammals and higher animals. But on the next
hand, Regan analyzes cases as though these animals were little more
than machines. For example, numerous commonsense cases can be
cited wherein animals choose to suffer and even to die defending their
offspring, pack, or human companion. In these cases, the animals
appear implicitly and voluntarily to waive their rights. If the animals
have rationality and self-awareness, as Regan argues, then surely they
know they risk life and limb, since their overt behaviors show fear. Of
all emotions and cognitions, fear is most primal. To reply that
nonhuman animals are not aware of moral rights and react from
adrenaline, instinct, or conditioning, is to make the animals too much
like machines. My point is that commonsense supports Brody's deeper
analysis: namely, all rights are waivable by any human or nonhuman
animal who is truly a subject-of-a-life.

Unless in principle rights are waivable, unequal in force, and
overrideable, conflicts cannot be resolved. According to Regan's
analysis of rights, the constraint imposed by any right cannot be
overridden by another right of greater moral force or by another moral
appeal. Consequently, rights prohibit animal euthanization,
experimentation, and hunting (1983, Chap. 9). In Regan's theory, given
their (putative) equal rights to life, one can no more euthanize feral
animals and hunt overpopulated deer than one can euthanize illegal
aliens and hunt overpopulated ghetto residents.³

According to commonsense, as seen in legal protocols for
euthanizing feral and stray cats and dogs, and in hunting regulations
for overpopulated deer, the animals have rights, but human rights
sometimes override the rights of the animals. But in other
circumstances, such as, property-owners poisoning trespassing cats
or dogs, or residents hunting at night or out of season, the rights of
the animals take priority over human rights. Because human rights
and interests do not always override animal rights in all cases,
commonsense is not viciously humanist and speciesist, as Regan and
his followers claim. Nevertheless, in sufficient circumstances, human
rights and interests, as well as other moral appeals, may override
animal rights. What is lacking in Regan's theory is any coherent way to
resolve conflict. In cases of conflict, the result of Regan's theory is
moral stagnation, for all one can do is passively watch and then choke
down the consequences.

If animal rights are what Regan says, then animal rights are
absurd. When the deeper structure of animal rights is conceived
according to Regan's theory, then animal rights are vehemently denied
by common country folk and others whose livelihoods directly or
indirectly depend upon animals, such as, small town and rural
merchants, small town residents, farmers, ranchers, and wildlife
biologists. Despite their ridicule of Regan's theory, implicit in country
attitudes and practices is another conception of animal rights.
Commonsense confirms Brody's deeper structures, and the deeper
structures of Brody's theory confirm the intuitions of ordinary
country folk: animals have rights, but the rights are waivable, different in force, and overrideable.

My second line of argument is case-data. According to Brody's epistemology, case-data are basic. Even though case-data are basic, I began with the first line of argument because the case-data otherwise may have been discounted prejudicially by those in the grip of a theory like Regan's. According to pluralistic casuistry, generalizations and case-data are interrelated, since generalizations guide intuitions of case-data. In the end, all things considered, a judgment is required regarding whether the holistic interrelationship of the deeper structures, case-data, mid-level generalizations, and higher-level theory is warranted.

Restated, my second line of argument is that commonsense case intuitions confirm pluralistic casuistry, while strongly denying Regan's theory. Case intuitions confirm that animals have substantive rights: the right to life, the right not be inflicted with pain, and the right to be aided. But like human rights and all rights, these rights are waivable, unequal in force, and overrideable.

Clear cases are the following: Can animals be killed for any frivolous or wanton reason? Tortured for sadistic pleasure? Denied
aid when assistance poses no measurable cost to the provider? In these cases, when all other things are equal (that is, in the absence of a sufficient conflict), animals have, respectively, a right not to be killed, a right not to be inflicted with pain, and a right to be aided. Importantly, however, according to commonsense intuitions in cases when all things are not equal (that is, in the presence of a sufficient conflict), then these rights are overridable by other rights and appeals. For example, one ought not to feed a cow instead of a child, or provide medical care for a cow but not an expectant mother.

Rights and correlative duties are the only plausible explanation for centuries-old beliefs and practices by animal owners and farmers. For example: Farm animals are cared for, often late at night and before humans. Dogs, cats, and horses are expected to earn their keep; they are not eaten for food; and when old, they are “put out to pasture,” fed, and cared for. Some pets travel with their owners, or else the owners refuse to travel. Until sold for the farmer’s livelihood or slaughtered for food, livestock are fed, cared for, doctored, and protected from predators. In exchange for crop consumption by wildlife, farmers feel they have a right to bag their limit of game. Hungry and injured wildlife are often fed and aided. Abandoned pets
are often adopted, but unwanted and feral pets are usually shot. When
mean to animals, children are rebuked and punished. Travel overnight
is not possible unless someone else does chores (feeds, waters, and
cares for the animals).

To explain these traditional practices, the appeal to rights and
correlative duties is essential. If consequences were the only
consideration, then useless and old dogs, cats, and horses would be
killed. And if rights were not overrideable, then no animal would be
taken to auction or killed for food. Are these traditional practices
merely sentimentalism? I don’t think so, for even mean bulls and nasty
boars are fed and cared for, even though they are usually the first
taken to the auction barn.

Pluralistic casuistry clearly grants animals the fundamental right
not to be killed. According to Brody’s theory, all other things being
equal (namely, in the absence of a sufficient conflict), it follows that,
if individuals have any rights, then they have the fundamental right not
to be killed. But this right is not an absolute nontradeable right, as
Regan holds. According to commonsense, sometimes animals need to
be killed to feed the family, protect the livestock, or pay the mortgage
and taxes.
Regarding the other two rights, Brody's theory agrees with commonsense. Pain is a bad thing, whether in humans, animals, or any other sentient being. Without a sufficient reason, pain ought not to inflicted, whether on humans or others. In the absence of an overriding conflict and given the means to do so, pain ought to be prevented and ameliorated, especially by those with the responsibility and ability to do so, such as pet owner, farmers, and veterinary technicians and doctors. Animal owners and care givers have duties analogous to parents and healthcare providers, and the animals have correlative rights to care.

Commonsense confirms that nonhuman animals have the rights not to have bodily pain inflicted upon them and to be aided. Animals ought neither to be neglected nor mistreated by humans, similar to neglect or mistreatment of human dependents like children and old folks. If one chooses to be a livestock farmer or pet owner, and if one has dependent family members, then one has a duty to take care of all of them—animals and people—including providing medical care. And the animals and humans also have correlative rights to care. But these rights are not equal and can be overridden.
Compared to pets and agricultural animals, wild animals present significantly different factors. Every farmer whom I've ever known stops the tractor while shredding or plowing to allow a quail or pheasant hen with chicks to escape. But never for a moment have they considered paying a vet to help a fox or deer, although I've seen them help injured wildlife caught in a fence. They believe that no animal, domestic or wild, should suffer unnecessarily, and that helping ease pain is a good thing. It's best to shoot an animal than let it hopelessly suffer. Some farmers even construct blue bird boxes and put out extra feed in winter. Implicitly and behaviorally, country folk believe in animal rights, but their rights are as Brody conceives them, because the rights are unequal in force and overrideable.

My third line of argument concerns the relationship of animal rights to the other moral appeals. According to pluralistic casuistry, in certain cases of conflict the appeal to rights can be overridden by one or more other appeals, just as in certain other cases the other appeals can be overridden by rights. Among the appeals, neither hegemony nor hierarchy is possible, since such structures presuppose monism.

Often above, in the first and second lines of my argument, the following thesis surfaced: unless in some cases animal rights are
overrideable by another moral appeal, then granting rights to animals is implausible. Also, I argued that animal rights are overrideable, since all rights are overrideable, including human rights. Put another way, in some cases, another appeal may be judged to be actual—to take priority over rights.

Regan argues that many nonhuman animals, specifically, all mammals and others who are "subjects-of-a-life," have the right not to be killed. Regan infers this right from a list of traits, designated as family resemblances, some subset of which makes one a subject-of-a-life. As argued above, full possession of these traits makes one a person. Consequently, due to their deficiencies, any animal with a subset of these traits is a quasi-person, regardless of whether the individual is genetically human or nonhuman. Since traits comparable to Regan's list make one worthy of respect, I concluded above that Regan's theory confuses rights with respect.

In the next section (6.4), I analyze the appeal to respect. There I argue that animals are worthy of appropriate respect, for respect comes in degrees, even though rights do not. Even though rights can be overridden, they do not come in degrees, since the deontological constraint imposed by rights remains in place and must be
 overridden—not prejudicially cast aside or disregarded. Whether regarding humans or animals, it is confused and misconceived to consider the moral constraint against killing to be an absolute or nontradeable right, for such a right neither fits the deeper structure of rights nor abundant worldwide commonsense case-data.

A similar argument fits other rights. Namely, in certain cases, pain may be inflicted and aid denied, due to the importance of other conflicting rights or appeals. In these cases, a judgment is required to resolve the conflicts, and the judgments are open to disagreement by others and revision by oneself.

In brief, my third line of argument is that, in certain cases, any right can be overridden by another right or moral appeal. Even the right to life, which is more fundamental than the others, can be overridden in extreme or unusual circumstances. Importantly, this line of argument holds for all animals—both humans and nonhumans.

Do animals have procedural rights? Here Brody’s theory is insightful. Procedural rights provide guidelines for resolving conflicts. Consequently, clarifying procedural rights is especially helpful for decision-making in cases of conflict.
Broadly, I propose that the procedural rights of animals are of three types. Below are partial lists of factors under each type:

**Right of an animal in conflict with humans:**
- Competencies—animal and human
- Closeness of the animal and humans
- Who has decision-making authority?
- The best interests of all parties
- Is the animal agricultural, wild, feral, experimental, or a pet?
- The purpose of the relationship and the training/education of the animal: assistance for the handicapped (e.g., seeing-eye dogs), companionship, food, research, recreation, monetary gain (e.g., breeding dogs and race horses), and so on
- Overpopulation and rarity (animals as well as humans)
- Laws regarding cruelty, hunting, fishing, endangered, and exotic species

**Right of an animal in conflict with nonhuman animals:**
- Pet vs. wild predator
- Agricultural animal vs. wild predator
- Pet, agricultural, wild, endemic, migratory, rare, or endangered animals
- Wild vs. wild animals
- Individuals of a rare or endangered species
- Healthy vs. diseased or inferior individuals
- Endemic vs. exotic individuals
- Taxonomy and the food pyramid: Which animal is the “higher” species? A subspecies?

**Right of an animal in conflict with the environment:**
- Overpopulation of the animal’s own species and other species, including humans
- Habitat sustainability and destruction
- Rare or endangered flora or fauna
- Endemic, migratory, or exotic species
- Public, private, or posted properties
- Urban, rural, or wild environment
(g) Taxonomy and the food pyramid: Is the animal in an “indicator” species?
(h) Impact on global, bio-regional, ecosystemic, local, and private animals and lands

Additional sub-factors could be listed. In the multiplex circumstances of cases in conflict, these factors provide no more than guidelines, since judgments by moral agents may vary regarding which rights and factors are actually decisive. Sometimes certain rights override other rights and appeals, and sometimes not.

Above I argue that animal rights, both substantive and procedural, are consistent with Brody’s theory of pluralistic casuistry. Comparatively superior to Regan, pluralistic casuistry’s theory of animal rights is supported by abundant commonsense case-data, the deeper structures of rights, and its capacity to resolve conflicts.

6.4 Respect

6.41 Brody’s Appeal

Respect for persons needs to be clearly distinguished from rights. Brody argues that the notion of respect for persons, which Kant gave a central place in moral philosophy, has been misunderstood by many moral philosophers, including Kantians. The mistake is to see respect as a kind of right. Respect is not a right in two crucial ways: respect
cannot be waived, but every right can be waived; and respect comes in degrees, but rights do not (although some rights are more fundamental than others) (Brody 1988, 32, 35-36).

Brody contrasts respect with rights. Respect is concerning the person, but is not owed to the person. In contrast, rights (and their correlative duties) are owed to the rights-holder, who may or may not be worthy of respect (namely, an individual actually or potentially a person). According to Brody’s proposal for healthcare ethics, the only requirement concerning individual rights-holders is that they be members of the human species (see 6.31 above); whereas, worthiness for respect depends upon potential or actual personhood, not simply membership in the human species. Moreover, rights are waivable, but respect cannot be waived. Unlike rights, respect continues even when a person tries to waive it or deny it. Although some rights are more fundamental than others, respect concerns all persons equally (all individuals potentially or actually embodying the values of personhood).

Finally, respect is overrideable, as are all moral appeals, including rights (Brody 1988, 32-35).

Respect has two jointly essential components: (a) valuing certain potentials and capacities, and each and every individual embodying
those values; and (b) acting in ways consistent with those valuings.

The first component of respect is valuing. Brody explains the “content of respect for persons” as valuing the potential and actual capacity of others, as well as oneself, to do a wide variety of valued actions.

These valued potentials and actual capacities include five and perhaps more types: (a) rational (especially principled) choices, (b) interpersonal relations, (c) emotional appreciations, (d) appreciation of beauty, and (e) desire to know truth. Brody explains:

The content of respect for persons seems to be as follows. We think of persons as having the potential to perform a wide variety of actions whose performance we value greatly. These include the potential to make rational (and especially principled) choices, the potential to engage in a variety of interpersonal relations, the potential [“emotional capacities” (p. 88)] to appreciate beauty, and the potential to desire to know the truth. We therefore value the person who has those potentials. (Brody 1988, 33; cf. p. 88)

Because these potentials and capacities are valued by us (that is, by oneself and others sufficiently like oneself, and presumptively not by others sufficiently unlike us), and because these potentials are potentials of persons alone (and not nonpersons), therefore we value persons as distinct from nonpersons. In other words, individual persons are valued because they embody these values, either actually or potentially. It is important here to point out that Brody’s position is
neither an individual nor a communal subjectivism, but an objective claim that others like us would see and value the same (or very similar) things.

The second essential component is action. Brody links one’s valuing of persons to actions that are consistent with and required by the valuing. These actions show respect for persons. Brody argues as follows: since certain conditions are necessary for the values to obtain, respect is doing those actions that permit and enable these conditions, and not doing those actions that undermine them. Brody states:

However, there are conditions that are necessary for (or at least facilitate) a person’s ability to fulfill these potentials: the person must be alive, must maintain his or her bodily integrity, must be free to make choices and act upon them, and so on. To show respect for persons is to value them by refraining from eliminating these conditions and by acting to promote their presence. (1988, 33)

In sum, in its action component, respect is doing the actions required for the values to occur, and not doing the actions preventing their realization.

Some important implications need emphasis. When respect is the issue, a person’s consent or refusal changes nothing. Brody’s two examples are voluntary slavery and suicide. Respect prohibits both,
but the appeal to rights does not, since rights are waivable by the
rights-holder. Respect is an obligation concerning and about the
person, not an obligation owed to the person. For instance, if you
forgive my debt to you, then I am no longer obligated to you to pay the
debt. But as long as you have the potential to function as a
person—potentially to realize the values of being a person—then all
moral agents are obligated to respect you, regardless of your humble
or pathological self-deprecations. However, as with all of the other
appeals, respect can be overridden by circumstances and other
appeals, but respect is not a right (Brody 1988, 33-34).

Likewise, respect is not describable without confusion as a duty,
for duties are correlatives of rights. Even though the actions required
by respect are obligations, respect is not an obligation in the narrow
sense of a duty owed to the object of the duty (the right-holder).
Respect is not owed to the person, for respect is concerning and about
the person. Respect is an obligation in the same broader sense that all
of the other moral appeals are obligations: namely, they are all moral
considerations, and all other things being equal, we have like obligations
to promote good consequences, or rights, or respect, or virtues, or
just distribution of costs and benefits. But the multiple appeals cannot
be structured into a hierarchy of stronger or weaker obligations, for such structures presuppose monism. Restated, Brody holds that rights and duties are a subclass of obligations, but all obligations are not rights and duties.

Another implication is important for assessing respect and for judging conflicts between rights and respect. Respect comes in degrees, but particular rights do not. Brody states:

Moreover, it [respect] can be owed to a greater or lesser degree depending on the condition of the persons involved. . . . [T]he quality of the future life of the patient and the extent of his or her personhood is extremely relevant in determining what constitutes appropriate or inappropriate action. . . . [W]e still perceive them to be human beings with their rights intact. (1988, 34)

Respect depends upon the other’s actual or potential capacity to realize the values of personhood. All genetic human beings have rights, including fetuses, those in irreversible vegetative states, and the severely demented. In contrast, fetuses have the potential for personhood, but the irreversibly vegetative and the severely demented do not. In other words, some genetic humans are not worthy of respect because they have no potential for realizing the values of personhood. Nonetheless, these types of conflicts require a judgment,
for they cannot be resolved easily or neatly by some hierarchically
exact or mathematically precise formula.

One other important aspect of the appeal to respect is
important for my proposals below. Brody notes that his is not a strict
Kantianism, for he denies the orthodox narrow interpretation of
respect as "respect of rationality." According to Brody, even a
severely demented person can make a few limited rational choices and
enjoy the visit of a loved one on a beautiful spring day (1988, 33, 54 n.
57). Brody goes beyond full rationality, holding that respect is owed
even to those possessing some diminished subset of the many values
embodied in personhood. Limited rationality is a factor in assessing
the degree of respect warranted in particular cases.

6.42 Animals, Plants, and Inorganic Things

Below I argue that nonhuman animals, plants, and inorganic things are
worthy of "appropriate" respect. My argument has three parts. First,
based on Brody's notion of degrees of respect, I propose that respect
has narrower and broader senses. Then, second, I argue that,
according to the broader sense of respect, higher animals are worthy
of an "appropriate" degree of respect. Third, by constructing an
argument that is logically analogous to Brody’s argument, I propose that respect should be extended to include an “appropriate” degree of respect for those beings and things that instantiate or potentially instantiate objective (intrinsic) goods. Since several of their capacities and traits are objectively good, it follows that many lower animals, plants, and inorganic things are worthy of respect, albeit an appropriate degree of respect.

First, respect has both narrower and broader senses. In its narrower sense, respect is valuing and acting based upon what is actual: namely, valuing individuals who actually are persons and who currently embody the values of personhood, and then acting in ways consistent with those valuings. In its broader sense, respect is valuing and acting based upon what is potential: namely, valuing individuals who potentially are persons but who currently embody only some (or even none) of the values of personhood, and then acting in ways consistent with those valuings. Also, in its broader sense, respect comes in degrees based on the extent to which the potentials are likely to be realized in actuality. The broader sense includes far more than the narrower sense, including, for example, fetuses, infants, the severely injured, and the demented. In some extreme cases, the humans have
no realistic potential ever to be full persons, but they still retain an "appropriate" degree of respect. By "appropriate" respect, I mean the degree of respect to which one is entitled.

Second, the broader sense of respect has implications for nonhuman animals, especially higher animals. Admittedly, few if any nonhuman animals have the potential to achieve full personhood in the narrower sense of respect. Nevertheless, because respect comes in degrees and because nonhuman animals instantiate to lesser degrees the values of personhood, they are worthy of appropriate respect—and sometimes greater respect than comparatively inferior humans.

Well-known recent research by zoologists and ethologists, as well as abundant commonsense case-data from pet owners, animal trainers, and farmers, give adequate evidence that higher nonhuman animals, to greater or lesser degrees, instantiate the five types of values of personhood. Below are several cases of each type:

(a) Rational choices:
Escaping predators; catching prey; outwitting hunters; solving laboratory mazes and other puzzles; seeing-eye dogs; canine police dogs; sheep dogs; play behaviors, with other animals as well as humans; female mating behaviors, such as hiding from the dominant male while copulating with another male;
behaviors of draft animals, especially teams of horses; tool use by primates and crows.

(b) Interpersonal relations:
Devotion of pets; affection of some dogs and cats in same households; play; territorial rivalries; overlapping and shared territories; separation anxiety; fondness for some but not others; communication behaviors, both orally and bodily; recognition of strangers; selective mating.

(c) Emotional appreciations:
Motherly devotion; play; jealousy; fear; defense of pack or companions; loyalty; grief-like behaviors; shame after urinating or defecating in the house; capacities for conditioning; selective grooming; selective mating.

(d) Appreciation of beauty:
A hound dog lounging in the sun; gourmet food preferences, such as peanut butter, chocolate, and beer (horses are especially fond of beer); attraction and disgust at smells and sounds, including music; quality of birdsong and selective mating; importance of color and symmetry.

(e) Desiring to know truth:
Exploring their world; curiosity; search and find play behaviors; investigative responses to stimuli, including laboratory tests; capacity to learn the meaning of human words, and in primates, to construct grammatically correct novel utterances and to use acquired language among themselves in the absence of a human prompter; examining dead carcasses of mates, followed by grief-like behaviors; aiding injured members of one’s troop or species, as seen especially in primates, elephants, whales, and dolphins, and sometimes aiding individuals of another species; herding animals, like cattle, inspecting and smelling a newborn calf, and mother cows rejecting all calves except their own.
Many more cases of each type could be listed. Many of the above examples are discussed in professional publications by zoologists, ethologists, and others.\(^5\)

Also well-know are denials of the evidence presented in these or similar cases.\(^6\) The denials, I believe, are the result of questionable psychological theories, usually behaviorism.\(^7\) In addition to animal behavior, these theories reduce human behavior to genetic and environmental conditioning. Answering many of the philosophical issues posed by animals, such as freedom, rationality, intentionality, and responsibility, are just as difficult for humans as for animals. In my judgment, case-data give sufficient warrant for granting animals an appropriate degree of lesser respect, even though they do not merit full respect.

My third argument defends expanding appropriate respect to include lower animals, plants, and inorganic things. The key to my argument is the claim that respect for persons presupposes certain objective (intrinsic) goods. My argument begins with my reconstruction of Brody’s argument. Then I construct and defend an analogous argument that is broader in scope. The analogous argument contains a premise that presupposes certain objective goods—as does
Brody's argument. Finally, because objective values of a certain kind are the basis for respect for persons and its narrower inclusiveness, I argue analogously that objective values of other kinds are the basis for weaker kinds of "appropriate" respect and its broader inclusiveness.

Below is my reconstruction of Brody's argument (see the quotations above from 1988, 33). In the outline, "B" abbreviates Brody:

B1.0 Some human beings have the potential to perform a wide variety of actions.

B2.0 Those actions include: making rational choices, engaging in interpersonal relations, emotional appreciations, appreciating beauty, and desiring to know truth.

B3.0 We value greatly the performance of those actions.

B4.0 Therefore, we value all human beings who have those potentials.

B4.1 Any human being who has those potentials is a "person." (Definition)

B4.2 Therefore, we value as "persons" all human beings who have those potentials.

B5.0 Certain conditions are necessary for those potentials to be fulfilled: the human being must be alive, be free, have bodily integrity, and so on.
Therefore, showing respect is refraining from eliminating these conditions, and promoting the presence of these conditions. The valuing component is B1.0-4.2, and the acting component is B5.0-6.0.

The scope of B1.0 is "some human beings." In contrast to my formulation of B1.0 above, Brody regularly speaks ambiguously and imprecisely of "persons" as having the potential. Nevertheless, Brody's intended scope and subject are clear. Unlike rights, respect does not extend to all genetic human beings, but extends only to those who have the potential to realize some of the values of personhood in B2.0. Since the potential to realize the values of personhood is what is at issue in the argument, identifying the subject in B1.0 as "persons" is premature.

In my analogous argument below, I change "human beings" to "beings and things." Are potentials for realizing the values of personhood limited in principle to human beings? For the following reasons, I believe Brody's theory of pluralistic casuistry is coherently open to my revision. Whether human beings are currently the only actually existing beings and things capable of realizing the values of personhood is an empirical question, not a conceptual and theoretical
one. Whether they are true or not, children’s stories, cartoons, mythologies, and popular beliefs in God, angels, and extraterrestrials are commonsense denials of conceptually or theoretically limiting the possibility of personhood to humans. To deny the possibility of personhood to all nonhuman beings and things is conceptually and theoretically question-begging. What is relevant is the potential to realize the objective values in question (the values of personhood), not one’s species or macromolecular structures.

Below is my analogous argument. To distinguish the propositions from Brody’s, an asterisk "**" is used:

1.0* Some beings and things have the potential to instantiate a wide variety of values.

2.0* Those values include: $V_1, V_2, V_3$, etc.

3.0* We value greatly the instantiation of those values.

4.0* Therefore, we value every being and thing that has those potentials.

4.1* Any being or thing that has those potentials is a "person." (Definition)

4.2* Therefore, we value as "persons" all beings and things that have those potentials.

5.0* Certain conditions are necessary for those potentials to be fulfilled: $C_1, C_2, C_3$, etc.
6.0* Therefore, showing respect is refraining from eliminating these conditions, and promoting the presence of these conditions.

Clearly at issue is the value premise 2.0*. Often people value (3.0*) things that are not worthy of being valued (2.0*), and show respect for things that are not worthy of respect (6.0*). Comparably at issue in Brody’s argument is the value premise B2.0 and whether the valuings are misplaced, B3.0.

Does Brody give an argument for the values of personhood in B2.0? When Brody analyzes the appeal to consequences, he defends preference satisfaction as an adequate theory of the good for resolving cases in healthcare ethics (see 6.21 and 6.22 above). But when he analyzes the appeal to respect for persons, he affirms objective value as its foundation:

I would like to suggest the following: to respect people is to value certain actions and to value the people who have the capacity to perform those actions. We show that respect by not lessening the potential of those persons to perform those actions and by aiding them in developing that potential. We have an obligation to show this respect, an obligation which rests on the objective value of the persons in question. (1988, 33-34; my emphasis)

In other places, Brody defends moral objectivism against error theories by arguing that otherwise there is nothing to be in error about (Brody 1979; see 5.3 above).
Lower animals, plants, and inorganic things often instantiate an impressive array of values: rarity; uniqueness and metaphysical irrereplaceability; antiquity; size and grandeur; beauty; capacities for speed, travel, and endurance; systemic and communitarian interconnectedness; and so on. Paul Taylor (3.41) and Rolston (3.44) argue that life itself has intrinsic value, and consequently killing anything requires sufficient justification. In Chapter 1, among my analyses of case intuitions are the following: an ancient redwood should not be toppled merely to see it fall, the Red River Gorge should not be used for a multi-lane roadway when other nearby routes are readily available, and the Passenger Pigeon should not have been hunted to extinction. Put simply: anyone sharing these values ought to promote their realization and not destroy their instantiations, except in cases of legitimate conflict.

Unlike healthcare, a preference satisfaction theory of the good is not adequate for explaining intuitions and resolving cases in environmental ethics. Throughout this thesis, I have defended objective (intrinsic) goods theories (such as Rolston's in 3.44) against the preference satisfaction theories of Singer (2.32), Callicott (4.43), and others. Unless there is something objectively valuable about
gigantic ancient redwood trees, the integrity of the Red River Gorge, and the metaphysical irreplaceability of the Passenger Pigeon species, there is ultimately nothing in these cases to be in error about. Like respect for persons, lesser kinds of respect are based upon potentials for objective (intrinsic) values; and like respect for persons, showing respect is acting in ways that create, sustain, nurture, conserve, preserve, and otherwise maintain the objective values.

The most likely objections to my argument will come from misconceptions of respect and rights by narrow Kantians, animal ethicists, and environmental ethicists. Because respect comes in degrees, it follows that instantiations of its values can be greater or lesser. Therefore, beings or things of lower value do not merit equal respect and equal treatment with beings or things of higher value. For instance, in Sea Captain's Dog (in 6.22 above), the Captain's old dog merited appropriate respect, but the dog did not merit equal respect to the young man who drowned after being compelled to swim. Both had rights to life, but the young man deserved greater respect. Rights do not come in degrees and must be overridden in cases of conflict. According to my judgment in Sea Captain's Dog, the greater respect of the young man overrode the dog's right to life. If the conflict had
been between the dog and a human with extreme and irreversible
dementia, then the Captain’s intuition would not be so strongly
counterintuitive. It is important to keep in mind that every
appeal—including both respect and rights—can be overridden in
sufficient circumstances by other appeals, and that resolving cases
requires a judgment that is fallible, open to disagreement, and
revisable by the decision-maker.

In summary, I have argued that objective values of a certain kind
are the basis for respect for persons and its narrow scope.
Analogously, I have argued that objective values of other kinds are the
basis for weaker kinds of "appropriate" respect and their broader
inclusiveness.

6.5 Virtues

6.51 Brody's Appeal

For the moral evaluation of actions, the virtues are important because
of their relation to the agent's character (1988, 35). An agent with
certain moral traits characteristically will do actions of a certain sort
and not do actions of other sorts. Consequently, the inclusion of the
virtues as a moral appeal is necessary for two reasons: (a) in some
cases for some agents, it is the only applicable moral appeal for
deciding what action to do; and (b) in other cases where it is in conflict
with other appeals, it is sometimes the appeal judged by the agent to
be actual for deciding what action to do.

According to casuistry, theoretical issues can be set aside when
they have no relevance to the resolution of cases. Regarding some
important recent attempts to reintroduce virtue ethics (see 4.2),
Brody writes, "I do not see the need for a real conflict here" (1988,
35). At issue is a possible conflict between some theories of the
virtues and the importance of Brody’s other moral appeals. Brody is
not saying that the relevant philosophical issues are uninteresting or
unimportant. Rather, he is saying that those particular philosophical
issues do not need to be resolved for decision-making in healthcare
ethics because their resolution does not affect these cases. Brody
states that his interest is not "with a full development of a theory of
the virtues," but rather with the importance of the virtues for
evaluating "certain health-care decisions and the actions which carry
them out" (Brody 1988, 35).

The virtues also raise important theoretical questions regarding
the praiseworthiness or blameworthiness of individuals, and whether
actions are virtuous independent of the agent’s motive and state of mind. In healthcare ethics, answering these questions does not appear to be necessary to resolve cases. When these questions occur in cases, other appeals usually resolve the cases (Brody 1988, 35; 54, nn. 59, 60).

For resolving cases in healthcare ethics, four virtues are important: integrity, compassion, courage, and honesty. Since Brody nowhere suggests that these are the only important virtues, presumably others may be needed (1988, 35, cf. 14).

**Integrity.** Similar to Bernard Williams (1973), Brody explains integrity as the unity or integration of one’s person—one’s own values, goals, and life-as-a-whole. Integrity imposes a two-faceted constraint: (a) a constraint upon oneself, and (b) a correlative constraint upon others.

The first factor concerns deliberations by oneself about actions affecting one’s own self. Here the virtue of integrity constrains against doing or consenting to any action inconsistent with one’s own self—one’s fundamental values, goals, and life-plan. In this facet, integrity is often correlative to respect for one’s own self. Williams
suggests that denying the long-term and deepest values of one's own competent self is tantamount to suicide (Williams 1973, 93-118).

Second, as a constraint upon others, the client's integrity imposes a limit upon others against violating the client's values. Restated, integrity imposes on the agent a constraint against violating the values of the object of the agent's action. In healthcare, the client is the patient, the recipient and object of the provider's actions; and the provider is the agent doing the action. Especially in crisis-laden circumstances and life-threatening emergencies, many patients, especially those lacking the virtue of courage, momentarily deny their long-term and deepest values. For example: sometimes in medical practice, a therapeutic protocol dictates a standard procedure that contradicts the patient's own deep and lifelong values, values affirmed in the past when the patient was fully competent. In such cases, the client's integrity constrains such therapies. Again, similar to the constraint upon oneself, the virtue's constraint on others is often confirmed by the appeal to respect, since integrity implies that to reject the client's long-term competent values is tantamount to disrespecting the client's autonomy and even, in extreme cases, killing the client (cf. Williams 1973, 98-118).
Brody recommends that cases of integrity be assessed by two interconnected factors, two questions making the virtue of integrity of greater or lesser importance. First, does the decision fit the person's values? Sometimes reflective and lifelong values are abandoned in a moment of crisis. Second, does the decision fit the person's real-life circumstances? Some circumstances support abandonment of one's values, whereas others confirm maintaining one's deepest commitments. In the latter cases, recognition of a client's courage (as well as compassion by the care-giver) may be helpful for decision-making (Brody 1988, 35-37).

Compassion. By its very nature, the virtue of compassion is centered on others, not oneself. The virtue of compassion is based on the helper's willingness to help, not the sufferer's right to be aided. Even though this virtue arises within oneself, it is a response to the sufferings and needs of others. Compassion is distinct from consequences, respect, and rights, because these other appeals are not fully other-centered. Compassion is essential since without it the agent may sometimes disregard the impact for others of consequences, rights, and respectability. Moreover, when the helper puts compassion into action, the virtue needs to be assessed by the
seriousness of the consequences to the other's values—not the helper's own values—and by the potential for ameliorating the losses to the sufferer by the agent's action or inaction. Irrational and foolish wastage of resources is not virtuous (Brody 1988, 91).

**Courage.** Like Aristotle, Brody holds that courage is action based on sober assessment of risks, not foolhardiness. Courage is *not* to be done for its own sake. Courage is doing what needs to be done, despite a fear-invoking situation. After rationally assessing the risk, courage is freely doing what is needed and consciously facing the risk. Although usually seen in the moral agent, courage also can be displayed by the client, since some clients give up, while others courageously struggle to defeat the contagion and maintain their integrity and worthiness of respect (Brody 1988, 91-92).

**Honesty.** In many cases, honesty is mandated by other appeals, such as the right to informed decision-making. Nevertheless, in some cases "...it is only the appeal to the virtue of honesty that would lead us to act in a certain way" (Brody 1988, 92). In some cases, on independent grounds, a professional may decide not to do what patients or their families want. Although honesty indicates candor,
compassion or disastrous consequences may indicate deception.

Regarding honesty, Brody writes:

> It seems that there is only one factor that we need to take into account here, and that is the extent to which the people with whom we are communicating want to receive honest and complete information. The more they want to have that information, the greater the significance of the appeal to honesty. (1988, 92)

Like other appeals, honesty requires a judgment, and judgments are fallible, debatable by others, and revisable by oneself (Brody 1988, 92-92).

### 6.52 Animals, Plants, and Inorganic Things

Below I propose how the four virtues apply to animals, plants, and inorganic things. Comparable to Brody’s focus on healthcare ethics, my concern is the role of the virtues in decision-making and the moral evaluation of actions.

**Integrity.** Integrity’s constraint upon oneself against violating one’s own values directly applies to animals, plants, and inorganic things, at least to the limits of one’s valuings of these beings and things. The limits of one’s valuings are no more problematic here than in healthcare.
Integrity's constraint upon others can be usefully and coherently restated in terms of the recipient: namely, when the agent doing the action is one or more others, then integrity is a correlative constraint upon the others against doing, fostering, or consenting to actions that are contrary to the values of the recipient of the actions. Accordingly, the two sub-factors become the recipient's values and real life circumstances.

Integrity's first constraint directly yields (1) below. Since possible recipients of one's actions are humans and animals with preferences and ends, integrity's second constraint yields (2) and (3) below. Moreover, since other possible recipients of one's actions are beings and things that are intrinsically valuable, integrity's second constraint also yields (4) below.

(a) From integrity's constraint upon oneself against disregarding one's own values:

(1) Integrity imposes a constraint against acting in ways contrary to one's own valuings of animals, plants, and inorganic things.

(b) From integrity's constraint upon others against disregarding the recipient's values:

(2) Integrity imposes a constraint against disregarding the present or future value of an animal, plant, or inorganic thing for satisfying the preferences and ends of humans.
(3) Integrity imposes a constraint against disregarding the present or future value of an animal, plant, or inorganic thing for satisfying the preferences and ends of all animals capable of having preferences.

(4) Integrity imposes a constraint against disregarding the intrinsic (objective) value of any animal, plant, or inorganic thing that is intrinsically valuable.

The four constraints are subject to the two subfactors: the actual values at issue, and the real-life circumstances at the moment.

Next I consider how the four constraints apply to (a) higher animals, (b) plants and lower animals, and then (c) inorganic things.

(a) Higher Animals. The four senses of integrity are applicable to all animals capable of having preferences, since agents can act in ways contrary to (1) their own valuing of animals, (2) the value of the animals to other humans, (3) the preferences of the animals, and (4) the intrinsic value of the animals, which includes the objective values of their experiences, such as pleasure and affection. As pointed out above, the latter three senses are qualified by the actual values at issue, and by the significance of the real-life circumstances.

A relevant case is “Killing a Pet” (see Chap. 1, Section 1.1). In this case, a female golden retriever, Flo, was adopted from an animal
impoundment by Jeff, a college student who now has a rare and significant opportunity to further his education by studying in London. Obviously, Flo’s values are her affection for Jeff and her instinctive desires for continued life and companionship. In contrast, Jeff’s values are in conflict, for he cherishes Flo but also wants to further his education in England. Given the importance of education in today’s world, Jeff’s affection for Flo is seriously in conflict with his real-life opportunities. Evidently other relevant humans do not share Jeff’s affection for Flo since no one has offered to provide care during Jeff’s absence. Unable to pay kennel fees, Jeff considers having her euthanized. Mainly at issue are Jeff’s integrity, not Flo’s, and the consequences for Jeff’s education. According to pluralistic casuistry, moral judgments in this case may vary regarding whether integrity or consequences should prevail. Nevertheless, integrity clearly is a *prima facie* consideration, and for some agents, integrity likely will be the determinative appeal.

(b) *Lower animals and Plants.* Lower animals and plants are incapable of having preferences. Nevertheless, plants are living organisms, as are lower animals, which in contrast to plants, may have at least some simple rudimentary conative urges (see Chap. 3, Section
3.41). To plants and lower animals, the four senses of integrity apply as follows: (1) agents can act contrary to their own valuing of plants or lower animals; (2) agents can act contrary to the value of plants or lower animals for other humans; (3) agents can act contrary to the value of plants or lower animals for satisfying the preferences of higher animals; and (4) agents can violate the objective value of plants or lower animals, which agent's do whenever their actions produce consequences of lesser instrumental or intrinsic value (cf. Rolston's Value-Capture Principle, Chap. 3, Section 3.44). As argued earlier, the intrinsic value of plants and lower animals is so low that in cases of conflict, it is likely to be overridden by the interests of higher beings, including humans, in such basic needs as food, clothing, shelter, and disease-prevention. Nevertheless, in some cases, the above senses of integrity can be crucial moral considerations.

A relevant case is “Cutting Down a Redwood” (Chap. 1, Section 1.2). Contemporary lumber executives and laborers who value life in its many forms, especially when the living individuals are rare, old, and grand, would violate their own values by cutting down an ancient redwood. The values in conflict are the value of the tree's survival as a living individual, its rarity, its antiquity, and its grandeur versus the
value of the tree to the employer’s and employee’s ends, which usually include providing for their human dependents. When other comparable sources of lumber and building materials are readily available, why should these ancient giants be struck down? Real-life circumstances do not require their cutting. Perhaps an easy way out of the dilemma for a person of integrity with these conflicting values would be to seek another kind of job, if any is available. In the Redwood case, lumber workers are comparable to healthcare providers whose personal values conflict with social, legal, or institutional policies. In these types of cases, integrity is clearly a significant moral appeal.

Marveling at the grandeur, antiquity, and beauty of redwood trees, many humans spend holidays and vacations trekking beneath them. And redwoods provide shelter, habitat, and ecosystemic values for many higher and lower animals, as well as many plant species. Leaving a few giants here and there will not satisfy these values, for lone redwoods will not survive without their jointly supportive ecosystem, which creates numerous biological interdependencies. The real-life biology of the trees requires that they be preserved in large groves and left undisturbed, except for trekking on existing trails.
According to the epistemology of pluralistic casuistry, judgments can vary regarding the Redwood case. My point is that integrity is clearly a prima facie moral appeal, and arguably, for some individual decision-makers, it is likely to be determinative.

(c) Inorganic Things. In ways similar to plants and lower animals, integrity applies to inorganic things. The four ways are: (1) agents can act contrary to their own valuing of inorganic things; (2) agents can act contrary to the value of an inorganic thing for other humans; (3) agents can act contrary to the value of an inorganic thing for animals; and (4) agents can violate the objective value of the objects in themselves, which agents do whenever their actions produce consequences of lesser value (cf. Rolston’s Value-Capture Principle, Chap. 3, Section 3.44). Also comparable to plants and lower animals, in cases of conflict, the value of inorganic things can be overridden by other values or moral appeals.

A relevant case is “The Red River Gorge and the Mountain Parkway” (Chap. 1, Section 1.3). Due to its geological rarity, antiquity, and grandeur, the Red River Gorge is called the “Grand Canyon of the East.” Although less numerous, the Gorge’s arches are comparable to those in the Arches National Park in southern Utah. Among rock
climbers, the Gorge is one of the world's top ten venues. Building the Mountain Parkway through the western side of the Gorge, completed in the 1960s, is comparable to building a four-lane interstate highway through the lower part of Yosemite. Elected officials and voters supporting the Parkway urged such immediate economic ends as tourism in the Gorge and development of Kentucky's remoter impoverished Appalachian regions. Undervalued at the time was the impact of the Parkway upon the Gorge's intrinsic value as a geological wonder of the world, the Gorge's value to future generations as pristine wilderness, and the Gorge's value as habitat for endangered species.

Now the Gorge's pristine beauty and geological integrity can never be restored. Even though without doubt today's generation would have constructed the Parkway around the Gorge, not through it, the real-life circumstances and resources of Kentuckians in the 1960s were considerably worse. Although judgments among moral agents can disagree, explicit and full consideration of integrity in the 1960s may have led to constructing the Parkway around the western perimeter of the Gorge, not through it. The immediate cost would have been higher, but not the long-term, fully assessed cost. Had the appeal to the
integrity of the ecosystem fully been considered in the 1960s, integrity may have been determinative in the minds of elected officials and voters.

**Compassion.** Compassion is an agent’s response to the sufferings or needs of others. Relevant factors are: (a) the values of the sufferer, not the agent, since the sufferer will be the recipient of the agent’s actions; (b) the capacity of the agent to ameliorate the suffering or needs of the recipient; and (c) the availability to the agent of resources that are helpful to the recipient, while not detrimental or wasteful for others.

Consider the following cases:

- Humane societies, animal activists, and others who expend time and money aiding animals
- Scientists refusing to conduct unanaesthetized animal tests, such as the Draize test (see Singer 1975, 48)
- Scientists and institutions seeking scientific alternatives to animal experimentation
- Rodeo contestants seeking glory or prizes, especially bull riders who compete in an event with no utility on ranches or farms, past or present; and rodeo fans observing and applauding such events
- Dolphins pushing injured dolphins, infant whales, or humans to the water’s surface for them to breath
- Pet owners taking unwanted pets, kittens, or puppies into rural areas and abandoning them
- Pet owners confining a solitary pet within a home, apartment, or cage for several hours while working or engaging in leisure activities
• Pet owners euthanizing beloved pets suffering from terminal injuries, disease, or old age
• Cartesian Vivisection and Animal Pain (Chap. 1, Section 1.1)

In “Cartesian Vivisection and Animal Pain,” the human agents show no compassion for the animals. Then and now, dualists deny the screams and writhings of animals as no more than the squeaks of non-lubricated or worn-out machines. In contrast, the sufferings of animals are compassionately acknowledged by most humans not in the grip of metaphysical dualism or theological anthropocentrism. Even some nonhuman animals, like dolphins, show compassion for other animals, including humans.

**Courage.** Courage is often required by humans in their many relationships with animals, plants, and inorganic things. Courage is rationally assessing the risk, consciously facing it, and doing what needs done. The cowardly flee even when success is likely, and the foolhardy risk lives and resources when failure is certain. The cowardly also over-react, needlessly harming and killing others. Often for humans, courage is required in order not to kill an innocent, nontargeting animal that is only trying to get across the yard or warm up in the sun. Consider the following cases:
• Property owners killing snakes traversing their land or sunning on their drive or walkway
• Motorists driving across the road, onto the shoulder, or even in the ditch, in order to kill an armadillo, possum, or snake
• Corporate whistle-blowers, neighbors, or others reporting animal or environmental abuses
• Biologists, environmentalists, politicians, and citizens opposing cruelty to animals or the loss of biodiversity, endangered species, and ecosystems
• Vegetarians refusing a meat entrée when attending a community, company, professional, fraternal, church, or family meal
• Hunters shooting baited deer with high-power rifles and high-tech telescopic aiming devices
• Hunters killing animals on “game” ranches and farms where the animals are fed and confined, and a “kill” guaranteed to all paying customers
• A sleeping dog barking and moving its legs rapidly as if running in a dream

Many hunters attempt to glorify their courage by displaying trophies or photographs. For the cowardly and foolhardy, naïveté is an easy way to escape facing moral conflicts and one’s own phony machismo.

Like humans, animals facing a contagion can flee or hold fast.

Against predators and strangers, some animals flee, while others defend a mate, offspring, pack, or even human companion.

Case: An Airedale Pup Named Drummer

Description: The following case is from Vicki Hearne, an animal trainer:

... it is just after dark and we are outside. Suddenly there is a shout from the house. The pup and I both look toward the shout...
and then toward each other: "What do you think?" I don't so much as cock my head, because Drummer is growing up, and I want to know what he thinks. He takes a few steps toward the house, and I follow. He listens again and comprehends that it's just Holly, who at fourteen is much given to alarming cries and shouts. He shrugs at me and goes about his business. I say nothing. To praise him for this performance would make about as much sense a praising a human for the same thing. . . .

This is one small moment in a series of like moments that will culminate in an Airedale who on a Friday will have the discrimination and confidence required to take down a man who is attacking me with a knife and on Saturday clown and play with the children at the annual Orange Empire Dog Club Christmas party. (Hearne 1991, 64)

Analysis. Whether Drummer's behaviors are truly courageous depends upon his conscious rationality—his instinctive or learned ability to assess the circumstances and then act accordingly.

To some extent, animal behaviors are instinctive, learned, and sometimes mistakenly or foolishly irrational, but so too are many comparable human behaviors. Like humans, higher animals have both instinctive and learned behaviors, whether the animals live in wilderness, rural places, or cities. At issue is the conscious rationality of the animal behaviors. But also at issue is the conscious rationality of comparable human behaviors, which are to some extent instinctive and learned. If nonhuman animals can be timid or cowardly, then necessarily others can be courageous.
Obviously, plants and lower animals cannot have courage. Nor can inorganic things. They lack any mental capacity for assessing risks.

**Honesty.** The sole factor at issue with honesty is the recipient's desire to know. Obviously, lower animals, plants, and inorganic things are not capable of desiring to know. Are higher animals? Most pet owners and animal caregivers have observed behaviors in higher animals that are apparently manipulative, guilty or deceptive. Nevertheless, professional zoologists and ethologists debate whether these behaviors are genuinely conscious deceptions or merely conditioned responses. At issue are the rational and conscious mental abilities of the animals, whether innate or learned. But not at issue are the rational and conscious mental abilities of normal human agents who honestly or dishonestly deny the value of animals, plants, and inorganic things.

Some relevant cases are the following:

- Traditional butcher shops with carcasses hanging in full view of customers, in contrast to modern grocers packaging and disguising animal body parts in aesthetic containers, sometimes adorned with sprigs of parsley
- Baiting wildlife with food, or deceiving them with decoys
- Discounting risks in order to obtain profits, perks, or election by businesses, employees, or politicians
- Selling diseased or "watered-up" farm animals
• Illegally poaching, capturing, or selling rare or endangered species or their body parts, such as, flowers, seeds, eggs, feathers, tusks, horns, teeth, fetuses, fat, oil, scent, meat, skin, or testicles
• Illegally dumping untreated petrochemical, industrial, human, or animal waste into public waters
• A puppy urinating in the house, and then submissively cowering as soon as you arrive home
• A dog passing gas, then cocking its head, apparently to see if you noticed
• Hiding, hunting, ball, stick, and chase games, where dogs outwit humans

These cases provide ample evidence that honesty and dishonesty are relevant to human relationships with nonhuman animals, plants, and inorganic things. Relevant for assessing an agent's culpable dishonesty are the agent's ignorance and misinformation, since inadequate or erroneous data may absolve a truthful and benevolent agent of blame.

6.6 Cost-Effectiveness and Justice

6.61 Brody's Appeal
Although at times Brody speaks of cost-effectiveness and justice as two appeals, his analysis shows how they are interrelated. Clear enough are the basic concepts: cost-effectiveness is getting at least as much as one pays for, and justice is getting what one is "entitled" to get, which is what one is "due." But difficult or impossible to
formulate are theoretically adequate definitions, because the relevant cases often involve incommensurable values, disparate personal preferences, and conflicts of public and private values and policies (1988, 42-43, 55 n. 71). Full philosophical justification for cost-effectiveness and justice would require a complete theory of distributive justice, which requirement Brody acknowledges but does not present due to his specific focus on healthcare ethics. His argument explains how the appeal works in general in healthcare, and shows how it can be determinative for deciding some particular cases (1988, 42).

Brody argues that some healthcare decisions are open to criticism in part because they are cost-ineffective or unjust, or both; whereas, other healthcare decisions are justified in part because they are both cost-effective and just. Due to the high cost of healthcare, in some cases justice to one patient (or even many patients) may require not doing what is in the best interest of some other patient (1988, 42-45).

Since cost-effectiveness is a consequence and justice is a right, why are they paired together as a distinct appeal? Cost needs to be singled out and emphasized, Brody contends, because in the past
consequences in healthcare have not been assessed with regard to
cost. The traditional view has been that individual providers should not
bother with issues of cost and justice, but always should do what is in
the best interest of the patient. Brody rejects this traditional view.
He shows that when cost-effectiveness is paired with justice, then the
moral distinctiveness and significance of the appeal are decisive for
some cases (1988, 42-45).

Supporting the joint importance of cost-effectiveness and
justice is Brody’s analysis of the economic structure of American
healthcare. American healthcare today takes place in three economic
settings: (a) public non-entitlement agencies and institutions that have
limited and exhaustible budgets, and consequently can provide only a
limited number of funded services to eligible clients; (b) public
entitlement programs where the funding is essentially inexhaustible;
and (c) private sources of funding. The public-private distinction is
often a key to resolving cases.

Given a particular case, several factors are helpful for assessing
the greater or lesser significance of cost-effectiveness and justice.
The following is a list of relevant factors that I have assembled from
Brody’s account (see 1988, 42-48, 93-94):
Source of funding:
From public funds (which are limited for any agency):
  • Cost-effectiveness
  • Consequences
  • Justice
From private funds:
  • Recipient fully informed
  • Scarcity of the resource or technology
  • Impact on public services

Services:
At public expense:
  • Cost-effectiveness
  • Eligibility of recipient for the service
At private expense:
  • Recipient fully informed
  • Scarcity of the resource or technology
  • Impact on public services

Justice:
The loss (consequences) if not served
The number suffering the injustice
The extent of previous injuries

Other factors may need to be added to the list.

In non-entitlement public programs, the appeal to cost-effectiveness and justice may be determinative for some moral decision-makers. Choices must be made regarding services provided and severity of need. Cost-effectiveness may justify other policies. Injustice occurs whenever serving someone less eligible deprives someone more eligible of service. Often budget allocations are not available to fund both basic healthcare for many individuals and occasional expensive procedures for a few (1988, 44-45, 93).
In public entitlement programs, cost-effectiveness is essential for maintaining public funding. By performing unwarranted services, healthcare providers risk a taxpayer rebellion against these programs, resulting most likely in some loss of benefits to the worst off members of society. Because healthcare facilities are limited in their capacities to treat patients, providing unnecessary services could result in some cases in depriving more eligible persons of access to those facilities (1988, 45-46, 93).

In the private sphere, the moral significance of the appeal to cost effectiveness and justice is radically different from the public sphere. In the private setting, as long the provider is willing to provide a service, and the client requests and is willing to pay for it, providing the service is not unjust. The possible exceptions to this conclusion occur only in unusual circumstances, such as, public emergencies and disasters, or when a scarce medical resource is denied to a more eligible patient in order to dispense it to one less eligible who may have greater wealth or social status (1988, 44, 46-48, 93).

6.62 Animals, Plants, and Inorganic Things
This section defends the importance of the appeal to cost-effectiveness and justice for resolving cases in animal and
environmental ethics. First, I compare Brody’s analysis of the way the appeal works in healthcare with its similar functioning in cases involving animals, plants, and inorganic things. Then, second, I examine case-data. After developing a taxonomy of types of cases, I list several cases of each type. The case-data confirm the importance of the appeal for making adequately considered moral judgments, and provide evidence that the appeal can be a determinative consideration in the moral judgments of some decision-makers.

**Comparative Analysis.** The basic conception of the appeal is the same as in healthcare ethics. Namely, cost-effectiveness is getting at least as much as one pays for, and justice is getting what one is due. Also similar is the difficulty of formulating an adequately comprehensive formal definition of the appeal. Even greater, I suggest, are the number, variety, and complexity of preferences, incommensurable values, and public and private conflicts. Nevertheless, the difficulty of formulating the appeal as a universal covering rule is one of the strongest reasons supporting casuistry’s claim that ethics begins with cases and moral judgments about cases. In other words, our inability to construct an adequate covering rule is not a theoretical weakness of casuistry, but rather provides a strong
argument for casuistry's case-based epistemology and pluralistic
description of the moral complexity and diversity of the real world.

Even more so than in healthcare, the appeal to cost-
effectiveness and justice needs emphasis as a separate appeal in order
to offset a firmly entrenched but mistaken traditional view. For
centuries, the traditional view has been that owners of animals, plants,
and inorganic things have total control to do whatever they want with
their property.¹⁰ Animals can be killed; forests clear-cut; mountains
leveled; waste dumped. If the owner uses the property in some way,
then cost-effectiveness is presumed; and when the property is
privately owned, then justice is considered irrelevant. Traditionally,
cost-effectiveness has been assessed with no regard for justice.

On moral grounds, the traditional view is mistaken, as shown by
my arguments throughout this thesis and my arguments for the
relevance of the moral appeals in this chapter. Nonhuman animals
suffer injustice when denied their basic needs and rights, especially the
right not to be inflicted with unnecessary pain. Today numerous
innocent humans and animals have unjustly sustained injuries, diseases,
and diminished qualities of life due to environmental contaminants and
pollutants. Also suffering injustice are those unfortunate non-
consenting human consumers who can least afford costlier basic goods, as well as taxpayers who end up paying the non-compensated costs of environmental clean-up and restoration. Future generations also will suffer unjust deprivation of today's wasted environmental resources and extinguished flora and fauna, which in some cases surely would have ameliorated pains and improved welfares. In sum, because of the wrongness of the traditional view, and because of the persistence of dichotomizing consequences from matters of justice, the joint appeal to cost-effectiveness and justice needs to be singled out as a distinct appeal for animals, plants, and inorganic things.

Another similarity to healthcare ethics is the importance of the public and private sectors. When the appeal to cost-effectiveness and justice is applied to animals, plants, and inorganic things, adequate moral judgments in many cases require careful consideration of the public and private settings and their interrelationships in the case. More so in the private sector than in the public, some significant differences with healthcare emerge. The differences result in part due to the scope and complexity of animal and environmental ethics, but also in part due to the failure in the past to assess cases in light of the appeal to cost-effectiveness and justice.
In healthcare, the claim that voluntarily accepted costs in the private sector are cost-effective is a defensible claim due to the freedom of both provider and client, the irreparable finality of death, the irreplaceable value of good health, and payment for services in the form of money. But when applied to animals, plants, and inorganic things, as well as to some other social issues of great scope, the claim is less plausible in certain cases. Clearly, voluntary acceptance of any kind of cost is possible only by a very few higher nonhuman animals, and impossible by any plant or inorganic thing. Moreover, if the claim were broadly true, then abuse of animals that are legally one’s own property, and waste of private resources would not be possible, including squandering one’s talents. Nor would price-gouging and exorbitant profits in a free market. Nor paying below-subsistence wages to the working poor, who usually can obtain other employment only during seasonal or other labor shortages.

In today’s global economy, environmental discrimination (also misleadingly called “environmental racism”) takes place both domestically and internationally.¹¹ In America, predictably, social outcasts, immigrants, minorities, and the poor live and work in the worst places, which are likely to be the locations of noisy, foul smelling,
smoggy, polluting, and risky businesses disallowed by affluent communities. These places are likely to result in decreased qualities of life and diminished life-expectancies for the residents. Internationally, environmental discrimination often involves relocating risky industries and polluting facilities from affluent nations with higher environmental regulations to developing nations with lower standards. Both at home and globally, often risks, hidden costs, and long-term liabilities are passed-on, without adequately informed consent, to the uneducated, the impoverished, and the disempowered, as well as to such obviously nonconsenting and innocent third-parties as animals, children, and future generations.

Case-data. After proposing a taxonomy of the kinds of cases likely to be problematic, I list several cases of each type. The list of cases, I believe, provides ample case-data confirming the importance of the appeal to cost-effectiveness and justice for cases in animal and environmental ethics. In these kinds of cases, the appeal can be the determinative consideration in the moral judgments of some decision-makers.

Animal and environmental ethicists have overlooked the relevance and importance of the distinction between entitlement and
nonentitlement. Both entitlements and nonentitlements are legally sanctioned costs. Namely, by legislation, governmental policies, or courtroom decisions, some animals, plants, and inorganic things are due and owed some service, benefit, or status, which usually, but not always, imposes a cost upon public agencies or private individuals, or both. Entitlements are legally open-ended costs: namely, the services and benefits are mandated by law regardless of cost. Nonentitlements are legally limited costs: namely, due to budgetary constraints, the services or benefits are not open-ended in cost.

As in healthcare, the client is the recipient of one's actions. But in contrast to healthcare, the client is expanded to include animals, plants, and inorganic things. In the public sector, similar to healthcare, the provider includes local, state, and federal governmental agencies and officials who receive nonentitlement remuneration as part of their budgets.

In addition to establishing nonentitlement agencies and programs, several federal and some local and state laws, policies, and judicial decisions have created a wide variety of entitlements, or protected categories, which remain operative and mandatory entitlements, whether on public or private properties. In the private sector, again
similar to healthcare, some private providers receive contracted
nonentitlement remuneration from public agencies. But, in the private
sector, radically different from healthcare is the fact that some
private providers receive no remuneration for legally mandated
entitlement services, benefits, or losses owed to eligible animals,
plants, or inorganic things. Imposed upon private individuals and
parties, the latter entitlements are generally identified by the legal
notion of “Takings.”

Based on the above analysis of entitlements and nonentitlements
affecting animals, plants, and inorganic things, a fourfold classification
of cases results:

**Entitlements and Public Property**

**Animals:**
- Endangered species of fauna (ESA 1973)
- Fish and wildlife in US national parks,
  preserves, and wildernesses (owned
  collectively by citizens of the US, and
  held in trust and controlled by federal
  laws, policies, agencies, and officials)
- Fish and wildlife in state parks, preserves, and
  wildernesses (owned collectively by
  citizens of the state, and held in trust
  and controlled by state laws, policies,
  agencies, and officials)
- Fish and wildlife outside parks, preserves, and
  wildernesses, but in national or state
  forests, grasslands, waters, seashores,
  and so on (which fish and wildlife are
  owned collectively by citizens of the
state, and held in trust and controlled by state laws, policies, agencies, and officials)

Anticruelty laws (federal, state, and local)
Dogs, cats, and pets in urban or county animal impoundments (federal, state, and local laws and policies)

Plants:
Endangered species of flora (ESA 1973)
Flora in US national parks, preserves, and wildernesses (collectively owned by citizens of the US, and held in trust and controlled by federal laws, policies, agencies, and officials)

Flora in state parks, preserves, and wildernesses (collectively owned by citizens of the state, and held in trust and controlled by state laws, policies, agencies, and officials)

Inorganic Things:
US national parks, preserves, and wildernesses (collectively owned by citizens of the US, and held in trust and controlled by federal laws, policies, agencies, and officials)

State parks, preserves, and wildernesses (collectively owned by citizens of the state, and held in trust and controlled by state laws, policies, agencies, and officials)

Wetlands and tidelands legislation (federal and state)
Clean Air Act
Clean Water Act
Waste disposal: nuclear, airborne, solid, chemical, organic, sewage, run-off, etc.

Prohibitions against unauthorized digging and removing of artifacts (federal and state laws)
Vandalism
Entitlements and Private Property

Animals:
Endangered species of fauna (ESA 1973)
Wildlife on private properties (collectively owned by citizens of the state, and held in trust and controlled by state laws, policies, agencies, and officials)
Animal anticruelty laws (federal and state)
Illegal entertainment venues, such as, chicken or dog fights
Hunting on private properties (regulated by states)
Fishing or hunting on, in, or from the shores of waterways, lakes, and seashores adjacent to private properties
Pesticide laws (federal and state)

Plants:
Endangered species of flora on private properties (ESA 1973)
Herbicide laws (federal and state)

Inorganic Things:
Soil conservation legislation
Wetlands and tidelands legislation (federal and state)
Clean Air Act
Clean Water Act
Waste disposal: nuclear, airborne, solid, chemical, organic, sewage, run-off, etc.
Prohibitions against unauthorized digging and removing of artifacts (federal and state laws)

Vandalism

Nonentitlements and Public Property

Animals:
Services by federal, state, county, or municipal agencies and officials
“Multiple Use Act” (1960) of US Forests, Grasslands, and Seashores: contractual harvesting, grazing; scientific research; recreation; etc.
Feral animals
Pets (dogs, cats) and recreational animals
(horses, mules) in designated areas
Hunting according to federal or state statutes
Zoological parks and gardens—national, state,
or municipal
Pesticide usage laws, and public extermination
programs for rodents, mosquitoes,
roaches, ticks, and so on

Plants:
Services by federal, state, county, or municipal
agencies and officials
“Multiple Use Act” (1960) of US Forests,
Grasslands, and Seashores: contractual
harvesting, logging, grazing, scientific
research, recreation; etc.
Parks, arboretums, and gardens—national,
state, or municipal
Herbicide usage (restricted by federal and/or
state regulations)

Inorganic Things:
Services by federal, state, county, or municipal
agencies and officials
“Multiple Use Act” (1960) of US Forests,
Grasslands, and Seashores: contractual
mining, scientific research, and such
recreational activities as swimming,
hiking, camping, rock climbing, off road
vehicles [ORVs], horses, and spelunking.
County and urban parks
Publicly owned utilities: gas, water, sewage,
garbage, or electricity
Infrastructure development: public roads,
bridges, waterways, dams, pipelines, etc.
Waste disposal: nuclear, airborne, solid,
chemical, organic, sewage, run-off, etc.
Programs for authorized digging and removing
of artifacts (federal and state laws)

Nonentitlements and Private Property
Animals:
Services by federal, state, county, or municipal agencies and officials
Animal control programs
Extermination programs for nonendangered predatory, poisonous, destructive, biting, or stinging mammals, rodents, reptiles, insects, and so on

Plants:
Services by federal, state, county, or municipal agencies and officials
Extermination programs for exotics and other “weeds”
Preservation, restoration, and reintroduction programs for native, local, and endemic flora

Inorganic Things:
Services by federal, state, county, or municipal agencies and officials
Waters and water rights: rivers, streams, creeks, arroyos, lakes, oceans, bays, wetlands, subterranean aquifers
Usage of public utilities: water, electricity, sewage, solid waste disposal sites, etc.
Programs for authorized digging and removing of relics, artifacts, and human remains (federal and state laws)

The above cases provide ample evidence for the *prima facie* relevance of the appeal to cost-effectiveness and justice for making considered moral judgments in cases involving animals, plants, and inorganic things. In a given case, if the appeal to cost-effectiveness and justice is the only relevant moral appeal, then the appeal would be determinative. Remaining at issue is whether the appeal might be determinative in cases of conflicting multiple appeals.
In cases of conflict with other moral appeals, surely in some cases the appeal to cost-effectiveness and justice will be judged to be actual by some decision-makers. To save space, only one case of each type is discussed below.

(1) Entitlements and Public Property

Case: Endangered Species vs. Contracted Logging

Description. In May 1997, US District Judge Karl Forester ordered logging stopped on the Leatherwood Creek tract of the Daniel Boone National Forest, a tract adjoining the Red River Gorge. The plaintiff was Kentucky Heartwood, an NGO with national affiliation. Judge Forester ruled that the tract was likely habitat for an endangered species, the Indiana Big-Eared Bat, and that a more comprehensive environmental assessment was needed.

Immediately, in response to the order, the US Forest Service (USFS) suspended all logging in the Daniel Boone National Forest (DBNF, or the Boone), an area of over 687,000 acres. The USFS requested clarification from the court regarding whether the injunction applied to the entire DBNF or only to the Leatherwood tract. Logging was suspended on 37 sites, collectively containing over 24 million board-feet of lumber, valued at $2.3 million and enough to build over 100 homes. Temporarily, 210 individuals were unemployed.

In July, Judge Forester declared that the other sites were not part of his ruling. Logging resumed.

In September, Heartwood filed a counter-suit. Heartwood alleged that the USFS had not consulted the US Fish and Wildlife Service regarding endangered species as required by the Endangered Species Act (1973), and had not completed adequate "Environmental Impact Assessments" as required by the Multiple Use Act (1960) and the National Environmental Policy Act (1970) (NEPA). In response, in order to review its policies and practices, the USFS declared a six-month moratorium on new logging contracts in the Boone, but allowed the existing contracts to continue, except for the Leatherwood tract.
In November, in documents filed in Judge Forester’s court, the USFS had closed 12 additional sites. Based on its “detailed review,” these sites were thought to be possible habitat for the Indiana Big-Eared Bat. The USFS stated that future contracts would be monitored and approved by the US Fish and Wildlife Service, the federal agency responsible for identifying and “listing” endangered species. Heartwood claimed “victory.”

Analysis. This case clearly raises issues of cost-effectiveness and justice. In conflict are the appeals to consequences, rights, and cost-effectiveness and justice.

Some important consequences are loss of income, loss of lumber, and the cost of litigation. Since 5% of Kentucky’s sawmill logs come from the DBNF, shutting down all of the sites would have a ripple effect on the industry; whereas, shutting down only a few of sites would have negligible impact on the industry, and likely the contractors and their laborers immediately would move to another public or private site. Morally, if not legally, the contractors would have a right to fair compensation for expenses incurred and revenues lost.

An issue in this case is habitat for the Indiana Big-Eared Bat, an endangered species harmless to humans and entitled to protection according to the Endangered Species Act (1973). Many humans display strong irrational feelings against all bats. Bats are intelligent and complex mammals, and each one consumes countless numbers of flying
insects that are annoying to humans, like mosquitoes, gnats, flies, and moths. Although the Indiana bats hibernate in caves in winter, they sleep in trees during warm weather, including lactating females with youngsters.

The joint appeal to cost-effectiveness and justice is helpful for deciding this case. The monetary and resource losses are negligible and remediable, whereas the loss of the species is irreplaceable. As a matter of justice, stopping a few work sites is a small short-term cost, especially when the species at issue is a highly evolved, complex, and intelligent mammal (see VanDeVeer 1979).

Posed by this case and others like it are larger issues of cost-effectiveness and justice. Relevant are three federal laws. According to the Multiple Use Act (1960), US forests, grasslands, seashores, and so on (that is, all public federal lands that are not preserves like parks, wildemess, and biological reserves), are to be managed by federal agencies as long-term resources for such multiple ends as lumber, grazing, mineral-extraction, water, fish, wildlife, flora, recreation, and so on. According to the National Environmental Policy Act (1970) (NEPA), an “Environmental Impact Assessment” is required before any federal project or contract can be approved. Assessments must
include biological analyses and public comments. Unless implemented by federal agencies, approved projects are sold by anonymous bidding to nongovernmental contractors. Federal revenues from contracts are used according to the policies of the various local, regional, and national governmental agencies. Finally, the Endangered Species Act (1973) (ESA) mandates that any individual specimen of an “endangered” flora or fauna must be protected and preserved, including its habitat, regardless of the cost to public agencies (or private parties as well). “Endangered” species are “listed” by the US Fish and Wildlife Service, and “listed” species are “species entitlements.” Species entitlements are legislatively mandated entitlements currently imposed without compensation upon both public and private sectors.

According to USFS policy throughout the US, revenues from timber sales are spent on non-budgeted improvements, such as restoring wetlands, constructing ridge ponds, reintroducing fauna, planting trees or other flora, developing trails, improving recreational sites, and so on. These efforts often involve financial contributions from NGOs and extensive volunteer labor by private persons. In addition, as a voluntary “tax,” 25% of all timber receipts are donated
to the local counties where the trees were cut. As a matter of moral justice, the US Forest Service holds that this “tax” is owed to local communities because the Forest Service’s employees and contractors use such local infrastructures as roads, utilities, schools, social services, and law enforcement. Most counties in the DBNF receive $50-60,000 annually.

In the public sector, species entitlements impose costs that are arguably unjust in some cases. The injustices result whenever: (a) the entitlements deprive more eligible individuals or things of services; or (b) the entitlements deprive more valuable individuals or things of services. For instance, regarding (a): even inorganic things, such as lakes, wetlands, riparian zones, canyons, escarpments, deserts, and caves are due services by federal, state, and local public agencies. But when public budgets are exhausted by mandated entitlements to preserve endangered species or wetlands, then other eligible fauna, flora, places, and clients necessarily must be neglected. And, regarding (b): recently such large mammals as elk and brown bears have been reintroduced and nurtured in the Daniel Boone National Forest. As individuals, these mammals arguably merit greater concern than individual endangered flora like Cliff-line Golden Rod. Should
limited resources be spent on Golden Rod, elk, or bears? Or on other things like waterways and caves?

Legislation imposing costs but providing no funding can be a source of injustice in both the public and private spheres. For government agencies, compliance with mandated entitlements can result in shifting funds and services from other eligible recipients who then suffer the injustice. In the private sphere (see the next case, “Cornett Woods vs. DLX Inc.”), individuals and businesses can be deprived of earnings or forced to pay for the mandated goods and services, which are financial losses that in most cases would have been spent for such purposes as paying creditors, providing for one’s family, long-term investments, and raising salaries of employees. As a matter of moral justice, non-compensated legislatively mandated entitlements can result, in some cases, in denial of services to other eligible recipients—and sometimes to more worthy recipients. Based on the joint appeal to cost-effectiveness and justice, species entitlements ought not to be imposed by government upon public agencies unless remuneration is guaranteed. Nor should non-compensated entitlements be imposed upon the private sphere.
(2) Entitlements and Private Property

Case: Cornett Woods vs. DLX Inc.

Description: Cornett Woods is a 550-acre tract thought to be habitat for unknown, rare, endangered, or endemic species, such as, rare mosses, Golden Rods, Indiana Big-Eared Bats, Red Cockaded Woodpeckers, Kentucky Warblers, and Timber Rattlesnakes. The subsurface mineral rights are worth millions and owned by DLX Inc., a privately owned coal-mining company. The property was purchased by Eastern Kentucky University, a public institution, for usage as a laboratory and preserve. In 1996, Kentucky’s Cabinet for Natural Resources denied DLX a permit to extract the coal, and DLX filed a lawsuit for compensation. EKU and the Commonwealth argued that coal extraction would damage the fragile old-growth ecosystem. Upon appeal, the Kentucky Supreme Court ruled that DLX could pursue compensation. Subsequently in its next session, the Legislature appropriated funds to purchase the mineral rights from DLX.14

Analysis: For the private losses imposed by the circumstances in this case, a clear solution was fair compensation from the public. By law, the subsurface property rights were owned by DLX and not EKU. Consequently, if the public agencies denied the private parties their right to exploit private properties, then morally the public ought to compensate the private parties. As a matter of justice, when the public sector legislates or otherwise mandates entitlements, then the public sector ought to reimburse the private sector for reasonable costs and lost revenues. Issues of justice include the allocation of the funds for the purchase, and whether the funds could have been better
spent, such as, for poverty relief, educational subsidies, or pollution control.

A brief comparison to healthcare might be insightful. In the public sphere, the USFS is comparable to the Veterans Administration (see the case above, "Endangered Species vs. Contracted Logging"). Despite having limited budgets, the two public agencies are required by law to provide open-ended entitlements. But in the private sphere, matters are significantly different. Without limit, healthcare providers are guaranteed payment for listed services according to Medicaid and Medicare reimbursement schedules. In contrast, private individuals and businesses are not compensated at all for such mandated environmental entitlements as protecting wetlands and preserving species.

(3) Nonentitlements and Public Property

Case: Ridge Ponds in the DBNF

Description: In the Daniel Boone National Forest (DBNF), the current contract for mountain-top ridge ponds is about $400 each. Scooped from clay, the ponds are typically 3-4 feet deep and approximately 30 x 60 feet, requiring minimal habitat invasion by a small bulldozer. Rainfall fills the ponds, and flora and fauna appear “by nature.” Geologists predict that every undisturbed ridge pond will last for over 1,000 years before it fills with silt. In presettlement centuries before logging, mining, and farming, similar ponds were prolific—one pond per 1/2 mile. In open sunlight, cattails cover the
ponds, and in forested shade, the ponds remain open water. Each pond ecosystem provides habitat, food, and water for numerous individuals and species. The endangered Indiana Big-Eared Bat feeds on mosquitoes and other insects swarming above the ponds. The ponds also provide convenient water sources for fighting forest fires, which are frequent throughout the Boone due to arson.\textsuperscript{15}

**Analysis.** At issue in this case is allocation of limited nonentitlement moneys. In the DBNF, should the USFS build low-cost ridge ponds, or fund such high-cost recreational activities as swimming in improved areas with lifeguards, riding horses or mules on unobstructed trails, or riding motorcycles, four-wheelers, and other ORVs on relatively safe improved trails? After construction, horse and ORV trails require continuous costly repair to prevent erosion of the trails and surrounding terrain. ORVs are noisy, emit noxious fumes, and disturb wildlife, especially reptiles, small mammals, and nesting birds. Recreational activities are popular with local residents and thousands of urban visitors from Cincinnati, Nashville, Louisville, and Lexington, but ridge ponds are visited only occasionally by hikers, campers, and birders.

In this type of conflict, the joint appeal to cost-effectiveness and justice is likely to be determinative for some decision-makers. The Multiple Use Act (1960) legislates conflicting goals and rights (see the case above, "Endangered Species vs. Contracted Logging"). Two of
the many ends are habitat restoration and recreational activities, which conflict in some cases due to budget constraints. If the appeal to consequences were the lone consideration, then ridge ponds likely would not be built, since humans seldom visit the ponds and often frequent recreational sites. In addition, the appeal to rights is unlikely to resolve this case because legislatively mandated rights exist on both sides of the dilemma. Many individuals and recreational organizations, especially horseback, motorcycle, and ORV clubs, are quick to assert their rights to use “our forest.” But campers, hikers, birdwatchers, and naturalists also claim a right to solitude in nature, undisturbed by gasoline fumes and roaring engines.

As a matter of justice, forest ecosystems are life-sustaining habitats for countless numbers of plants and animals. Moreover, human “recreation” is site-relative: namely, in some places some forms of recreation are clearly inappropriate, such as, scuba diving in the desert, hunting in residential areas, and water skiing on tundra glacial lakes. Human fun-making can be satisfied in many other venues. Consequently, forests are not an appropriate venue for some kinds of recreation. Swimming, ORV trails, and horseback riding are available outside the DBNF. Compared to ORVs and horseback riding, less
environmentally intrusive recreations, like hiking, camping, and swimming, are more defensible since uniquely site-specific ends, such as ridge ponds, would not be sacrificed.

Beginning in 1999 and despite some public complaints, the Boone has been charging daily, monthly, and annual access fees in order to pay for such recreational activities as swimming and horseback riding. The fee is justified, I think. Without the fee, site-relevant projects of greater environmental value, like ridge ponds, would be sacrificed.

(4) Nonentitlements and Private Property

Case: Rural Health Districts and Raw Sewage

Description: Today by statute in the Commonwealth of Kentucky, all rural residences and businesses with indoor plumbing must have either an approved private septic system or a sewer connection to a licensed sewage treatment utility. A private septic system for a family of four costs $1500 or more. In rural Appalachia, sewage treatment utilities are unprofitable due to the high cost of construction, maintenance, pumping, and treatment in the mountainous rocky terrain.

After World War II in the late 1940s, electrically powered water pumps and indoor plumbing resulted in "straight-piping" of raw sewage directly into creeks and other waterways. In earlier decades, rural residences had hand-operated water wells and external hand-dug latrines called "privies" and "out-houses." Beginning in the 1920s, a few urban residences had electricity from coal-fired privately owned electrical utilities. In the 1930s and 1940s, the federally funded Tennessee Valley Authority (TVA) and Civilian Conservation Corps (CCC) constructed an electrical infrastructure in Kentucky.

Today in rural Appalachian Kentucky, most elderly, unemployed, and single-parent residents cannot afford to install septic systems,
and consequently still discharge raw sewage into nearby waterways. Appalachia is one of the most impoverished, illiterate, and jobless regions in the USA. Although better-off rural Appalachians could afford the cost of septic systems, some demur, even despite the availability of zero-interest government loans. For the illiterate, the paperwork is impossible.

In addition to inspecting septic systems, another duty of local health districts is finding straight pipes. By means of helicopter infrared surveillance technology, state and federal drug enforcement officers indiscriminately find marihuana plots and straight pipes. When a straight pipe is found, the resident is given a citation and disconnected from the water utility when the water is provided by a community system, or disconnected from the electrical utility when the water is pumped electrically from a private well. The utility is reconnected only after a septic system is installed, inspected, and approved.

**Analysis:** Considering only consequences is not likely to resolve this and similar cases. From a narrowly self-centered viewpoint of an impoverished resident, straight pipes are the most cost-effective way to discharge waste. A conflicting consideration is justice for future residents and those downstream.

In this case, the potential exists for unjustly denying other kinds of services to an eligible recipient, unjustly disregarding offenses, and unjustly discounting the cumulative effect of sewage on innocent downstream residents. Many rural Kentucky health districts have only one staff official whose many duties include inspecting septic systems, finding straight-pipes, and enforcing discharge regulations. Budgets seldom adequately fund salaries, inspections, and enforcement.
Laziness, friendships, and bribes are a constant temptation. Usually other budgeted items are also underfunded, including such important healthcare services as immunizations, nutritional counseling, dispensing contraceptives, STD testing, pregnancy and prenatal care, paperwork assistance for Medicaid and Medicare, blood donations, and programs for the indigent, handicapped, and elderly.

At issue in this and similar cases is a wide variety of conflicting nonentitlement public services to the private sector. Often locally biased or poorly trained public officials excuse bad consequences, thinking that the downstream residents also have straight pipes and get their water from an uncontaminated well or a licensed water utility. When the offender is an elderly grandparent, a single mother, or an impoverished householder with no income, even some competently trained public officials “overlook” straight pipes, believing that the water has already been polluted upstream by heavy metals from coal mines, run-off from timber harvests, and fecal matter from farm animals.

In making considered moral judgments in this and similar cases, the joint appeal to cost-effectiveness and justice is likely to be determinative for some decision-makers. Justice requires
consideration of the consequences for those downstream. Sewage in public waterways is a significant human and animal health risk. As a matter of justice, downstream humans and animals have moral and legal rights to enforcement of statutes by public agencies. In some cases, the moral conflict among private individuals can be intense: Should upstream impoverished single mothers or upstream elderly poor be deprived of basic goods like water or electricity? Is it just for downstream residents to face greater risks to health and higher costs for water purification?

Enticed by public programs, subsidies, and grants, many rural communities have constructed roads, electrical grids, and water systems. But many of these same communities have not constructed sewer systems. As a matter of justice, based on this and numerous similar cases of air-borne waste, solid waste, mining waste, and nuclear waste disposal, cheap utilities ought not to be offered to rural residences and businesses without adequate cost-effective provisions for the disposal of the resulting waste. The injustice is passing the waste to others, without their consent, merely because they live downstream, or live next-door, or breath the air.
In this section, I have argued that case-data confirm the importance of the appeal to cost-effectiveness and justice for resolving cases in animal and environmental ethics. For some decision-makers in certain cases, the appeal can be the determinative moral consideration.

As with the other appeals, more remains to be said about the appeal to cost-effectiveness and justice. My aim has not been to give complete justification for the appeal nor to provide full analysis of any single case or policy, all of which would require far more space than I have here. Rather, my intention has been to explain how the appeal works in general in animal and environmental ethics, and to show how it can be determinative for deciding some cases.

6.7 Conclusion

This chapter analyzes, modifies, and defends Brody’s five major moral appeals. When jointly considered according to Brody’s pluralistic casuistry and my modifications, the five major moral appeals are (a) adequately inclusive and (b) appropriately inclusive of nonhuman animals, plants, and inorganic things. By adequately inclusive, I mean that the scope of the appeals is confirmed by reflective moral
intuitions (case-data), mid-level generalizations, and higher-level theory. By appropriately inclusive, I mean that the appeals do not include such unwarranted claims as biotic egalitarianism and ecosystemic hegemony. A sound moral theory should be both adequately inclusive and appropriately inclusive.

When the theories analyzed in my earlier chapters are jointly considered, they have one major strength: inclusiveness. However, their joint inclusiveness is problematic because it is achieved in disparate ways—according to a plurality of moral theories, or theoretical appeals. What I argue is that Brody’s five pluralistic appeals, when modified as I propose and applied according to Brody’s theory and practical methodology, provide the best contemporary answer to the disparate concerns of the earlier theorists: namely, that nonhuman animals, plants, and inorganic things have appropriate moral consideration. Such an inclusive pluralism, I argue, is theoretically sound because it begins with cases. Moreover, it avoids the errors of the other theories. In sum, pluralistic casuistry includes the strengths but avoids the weaknesses of the other theories.
Notes


2 Among environmental ethicists, the most cited theory of environmental rights is Christopher Stone (1974). Stone’s theory is a legal theory of rights, not a moral theory. Like corporate rights, Stone proposes that legal rights can be given to plants and inorganic things (see Stone 1974). Such rights are obvious instances of legal positivism, legislative decree, or the rights of the benefactors. It is not plausible, I think, to attribute rights in any morally coherent sense to either plants or inorganic things. For these things have neither minds nor even rudimentary ganglia, despite such fantasies as Lovelock’s Gaia hypothesis (Lovelock 1988, 2000). Admittedly, often gardeners and horticulturalists colloquially say such colloquialisms as, “My azaleas are thirsty,” “The trees are suffering,” and “I ought to water my plants.” Obviously, these and similar elocutions are anthropomorphisms, for plants are nonsentient and never able literally to experience such mental phenomena as thirst and suffering. Similarly, farmers often say such things as, “I ought to cut cockleburs today,” “I can’t go to town now because I’ve got to put up hay before it rains,” and “I have to throw out [cultivate] the corn today.” But never do ordinary farmers think that these expressions are obligations and duties owed to their plants or land, but rather to families depending upon them, or animals needing feed, or ancestors who gave them the land, or all too often, unfortunately, bankers holding the mortgage or tax collectors threatening foreclosure.

Consequently, these commonsense utterances regarding plants and inorganic things are best explained by some other moral appeal. In some cases, the intuitions are confirmed by the appeal to consequences, which was considered above. In others, the intuition is more accurately analyzed by the appeal to respect, or virtues, or justice.

3 Satirically, most contemporary commentators believe, Jonathan Swift proposed, as a means to control overpopulation, that Irish babies be baked and eaten. These babies were my ancestors. Those of us of
Irish descent worry that many less educated and literally astute English may have acted upon Swift’s “modest” proposal. Would we tolerate and publish such satire today if it were authored by anti-Semites and White Supremacists? See Swift 1729.

4 For an accurate and realistic account of family life on a contemporary farm, see Richard Rhodes, Farm: A Year in the Life of an American Farmer (Lincoln: University of Nebraska Press, 1989).


7 See Weir 1995.

8 Brody cites MacIntyre 1981, 1984. As I explain in 4.2, recent virtue theorists such as Richard Taylor, Edmund Pincoffs, and perhaps MacIntyre are moral monists and defend two theses: the Monistic Thesis (VE 4.0) that the virtues are the only genuine moral appeal, and the Hegemony Thesis (VE 3.0) that the virtues take priority over all other moral appeals. Obviously, if those theorists are correct, then moral pluralism is mistaken. In 4.2, I argue that these theorists are mistaken.

9 These questions include: What is a virtuous action? A virtuous person? Is an action virtuous if and only if (just in case) the action is performed for the right sort of motive (see Aristotle, Nic. Ethics 1115b, 18-20)? Are either the agent or the action virtuous when the agent has the virtue but does the right action due to hardwiring, mental illness, or dementia? Moreover, when virtues are structured toward the theorist’s communitarian ends, what are the implications for collectively pluralistic, democratic, and liberal societies, or for identifiable subcultural communities or individuals who do not share some or many of the virtues, practices, and goals of the theorist’s community (Schneewind 1990)? Are the dissenters to be burned at the stake, terrorized, assaulted, imprisoned, or exiled, as has happened often in history? In the absence of adequate answers to
these kinds of questions, clearly pluralism is the better normative and practical theory (cf. Brody 1988, 35).

10 For an overview of the history of land use attitudes, see Hargrove 1989, Chap. 2. For histories of animal and environmental ethics, see Michael W. Fox 1986; Nash 1982, 1989; and Oelschlaeger 1991. For an excellent annotated bibliography of 17th and 18th century writings and brief comment on early English animal rights legislation, see Salt 1892, Chap. 8 and Appendix: Bibliography.

To the fullest extent allowed by the US Constitution, the Animal Welfare Act of 1966 (amended 1970, 1976) established sweeping new regulations for dogs, cats, and many species of wild animals. For a general account of local, state, and federal animal welfare laws and treaties in the USA, see “Animal Welfare Laws,” prepared by the Humane Society of the US, in Michael W. Fox 1986, 234-55.

A series of high profile environmental disasters in the 1950s and 1960s helped produce the environmental legislation of the 1970s, which included creation of the Environmental Protection Agency (EPA) 1970; the National Environmental Policy Act (NEPA) 1970; the Clean Air Act 1970 (amended 1990); the Clean Water Act 1972 (amended 1977, 1987, 1993); the Endangered Species Act (ESA) 1973; and the National Forest Management Act (NFMA) 1976. Also important was the Monongahela Decision 1975 in which a Federal Court in West Virginia prohibited clear cutting in US Forests.


12 The term “Takings” comes from the US Constitution. Government cannot “take” private property or assets without fair compensation to the owner, despite government’s power of eminent domain. Nevertheless, according to the Wilderness Act (1963), the Clean Water Act (1972), the Endangered Species Act (1973), and other federal legislation and policies, private property owners are required to preserve any habitat of endangered flora and fauna. Also, private property owners are denied the right to drain, fill, improve, or
otherwise develop properties that are designated as "wetlands," which often includes inland ponds and lakes, farm properties next to riparian flood plains, and beach and barrier island developments.


15 Interview with Tom Biebighauser, Wildlife Biologist, USFS, Daniel Boone National Forest, Morehead Ranger District (Kentucky).
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(1785), 2nd ed. (1786), Riga. Page references are to the 2nd German edition, given in the margins by Paton.


