

An Idea we Cannot do Without: What difference will it make (eg. to moral, political and environmental philosophy) to recognize and put to use a substantial conception of need?

DAVID WIGGINS

1.

1. Conferences on the subject of need are lamentably rare. All the more honour then for this one to the Royal Institute of Philosophy (an organisation long dedicated to saving philosophy's better self from its worse), to the Philosophy Department at Durham, and to Soran Reader, the organizer and editor.

2. Someone asked me recently what first made me think it was important for philosophy to secure for itself a substantial and serious idea of *needing* and of *thing vitally needed*. What made it seem imperative to safeguard these categorizations from conceptual and rhetorical degradation? What suggested that there was a problem here?¹

The answer lay in my case outside formal philosophy. As almost everyone does before theory or dogma crowds in, I knew the notion

¹ I expressed doubts about starting a conference paper by drawing on personal memory in the way in which I shall. But the organizers reassured me that this was all right. So now we are stuck with this. In the paper given at Durham, as in this version, the text overlaps (especially at §§ 8–14) with my book *Ethics: Twelve Lectures on Moral Philosophy*, forthcoming in 2006 with Penguin UK and Harvard University Press. I am grateful to these publishers for permission to reuse this material. Dorothy Edgington helped me find words for my rough first thoughts concerning the indispensability of the concept of need to any convincing explication of the Precautionary Principle. See IV. All the mistakes that have developed in the time since we had our conversation are of course mine.

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of need intimately. I had even had to think about it, because, early in my working life, it had been a part of my duty as a civil servant, when working as an assistant principal in a section of the Colonial Office that was dedicated to 'Colonial Welfare and Development', to apply the notion. But there, as in the colonial territories where various schemes were conceived and proposed to us as falling under these heads, everyone knew in practice what need meant, knew a need from a mere desire, and knew a vital need from a need that was less than that.

The first real intimation that these obvious distinctions could not be taken for granted at the level of policy, or even of common sense, came later and from elsewhere. It came with the experience of hearing (in 1966 or 1967 at latest) the arguments advanced by the LCC/London County Council (shortly thereafter to become the GLC/Greater London Council) for building across the close-knit urban and social fabric of London a system of urban motorways. These arguments, fully endorsed by Labour and Conservative alike, purported to justify the Council's (and the Ministry of Transport's) plans for Ringway One, Ringway Two and Ringway Three, all to be enclosed within a Ringway Four, outside London (now actually built and renamed the M25).²

3. What were these arguments? What was wrong with them? The economic version of the LCC's/GLC's argument, an argument loosely based on the so-called London Transportation Study, was that implementing these road-schemes 'would show a 20% return on the investment'. This figure was arrived at by taking the 'net [then] present value' of time-savings on the journeys which the Study projected drivers would make and setting that total against the 'net [then] present costs' of land acquisition, resettlement and construction. Translating all that out of the findings of the 'new

² For more on these matters, see Stephen Plowden, *Towns Against Traffic* (Deutsch 1972), chapter 7. Plowden's book, given its date, could not say what was going to happen. For the record, let me say. In the run-up to the election of 1973, Labour, who won, were forced to make so many concessions to independent and oppositional groups that, when they gained office, they had to abandon the north and south sections of Ringway One. Ringways Two and Three now correspond to large roads, not quite on the scale projected. A qualified victory for the vital need-concept perhaps, which has gained ground or held its ground within the thinking of moderation and restraint. Even now it has impinged very little however on official or economic modes of thinking.

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science of cost-benefit analysis' and back into the categories of ordinary life, one might have said that, on one side, there was that which was described at the time (see, for example, *The Times*, 7 Jan 1969) as the 'prize of leisure and affluence: mobility' (represented by minutes or hours saved over various routes multiplied by the projected number of motorized trips along those routes). On the other side, one might have said, there stood not simply the destruction of 20,000 urban dwellings; not simply the almost certain diminution (experience showed) of facilities accessible to those too young or too old (or too green) to drive (for a mobile society is not the same as one with good general access to facilities); but the annihilation or degradation of many times more than 20,000 established niches for ordinary citizens to inhabit.³ These were places in which ordinary human lives of passable urban contentment were already being lived, and in which it was possible to satisfy after some fashion a huge variety of familiar human needs. The disvalue of the destruction was swamped, however, by the simple numerosity of a vast sum of time savings for persons driving motor-vehicles. The ordinary politics of human weal and woe were being upstaged by a pseudo-science which was itself the plaything of commercial interests so placed that they contrived the whole direction and tendency of almost all the then current so-called research in transport matters. (You will say that I am cynical if I assert that things have not changed very much since then. So I leave that as a question: how much have they changed?)

4. In what I say about this, try to hear me as prescinding (as now I shall) from the role that I took on thereafter of active political opponent, a person occasionally invited in the nineteen seventies to speak at transport conferences—but invited only for him to represent or typify there the more conversable and soft-spoken version of the protester mentality. In recognition of your hearing me as prescinding from that mentality, I shall try to confine myself rigorously to strictly conceptual points that reasonable opponents ought to have treated as deserving of a proper answer. (Ought, even if they only rarely did so.)

The philosophical question was this. What was to be made of the fact that the evaluation of schemes such as this—and they are not

³ Also, if that were not bad enough, a consequential 40% increase of traffic on densely inhabited secondary roads, an increase deducible from the Transportation Study itself.

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confined to transport—makes no separate demarcation of the ‘costs’ that relate specifically to the deprivation of things seriously or vitally needed? What was to be made of the fact that nothing in the business of evaluation signals that what is at issue is the total transformation of the lives of a significant class of people (present and future) whose vital interests are to be sacrificed to the end of creating large quantities of some less important supposed benefit for a supposedly much larger (if not always or necessarily wholly disjoint) class of people?

The failure to make any separate demarcation under the heading of vital need is at least a failure of description.⁴ Since the times I am speaking of, it may be that some sense of this failure has encouraged closer description and has directed better efforts of quantification. But my impression is that the conceptual point still goes more or less unrecognized. Apart from the quantitative failing and the non-recognition of vital need *as* vital need, there is a further point here that you will instantly recognize as a variant on something that troubled Tocqueville and John Stuart Mill.⁵ In the process of appreciation that ensues *after* the description and quantification are done, and in the judgment that a scheme represents such and such a return on the investment, there is nothing to prevent the mass of a majority’s relatively unimportant interests from swamping the smaller totality of the vital needs of the minority. What was the philosophy of deliberative democracy to make of the fact that, over and over again, democratic procedures approve—and then in their planning procedures they institutionalize—modes of reasoning that hold in contempt the very sentiments of solidarity (solidarity surely owed to the putative victims of planning) which one might have supposed lay at the root of democracy itself?

⁴ In a way, it has been recognised as such by some studies. But so far the habitual response has been to compensate for it in (hit or miss) fashion, e.g. to multiply by some arbitrary factor any benefits or costs that accrue to the lowest income groups. Anything to avoid confronting questions of theory or principle or issues of commensurability or the possibility that the whole conceptual basis of some study already in progress is simply a shambles.

⁵ Among the most important cases of the possibility which troubled Tocqueville and Mill is the case of a majority’s outvoting a minority on an issue that mattered vitally only to the minority. For these issues, see Mill’s *Considerations on Representative Government*, Chapter Seven.

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5. How then is philosophy to mark, to bring out and to insist upon that which is so special about needing?

The first task is for philosophy to find articulate expression for our easy intuitive understanding of the difference between the denial of fulfilment to vital needs as such and the denial of fulfilment to desires that do not correspond to vital needs. After the LCC/GLC proposals established for me the interest and urgency of the ideas of need and vital need, I was wondering where, philosophically speaking, to go next, when a friend who is now a consultant at the Portman Clinic and was then en route to train as a child psychotherapist and a psychoanalyst, drew my attention to a remark in G.E.M. Anscombe's article, 'Modern Moral Philosophy' (*Philosophy* 1958):

To say that [an animate creature] needs [such and such] environment is not to say, for example, that you want it to have that environment, but that it won't flourish unless it has it.

The claim was a striking one. The Oxford English Dictionary seemed to suggest, however, that the need was a modal idea. Aristotle to the rescue then. I proposed that we collate with the 'unless' in Anscombe the passage in Book Five of the *Metaphysics* where Aristotle isolates a sense of 'necessary' as follows:

[The necessary denotes a thing] without which it is impossible to live (as one cannot live without breathing and nourishment) or without which it is not possible for the good to exist or to come to be or for bad to be discarded or got rid of—as for example drinking medicine is necessary so as not to be ill or sailing to Aegina so as to get money. (1015 a 20 following).

Once this point was reached (and other philosophers I did not know of had surely pursued similar trains of thought), there were choices to make about how to marry up these ideas and how to relate to one another the purely instrumental sense of 'need', as in Aristotle's case of needing to sail to Aegina in order to get money (which it seemed best to elucidate first), and the serious, putatively quasi-categorical sense that Miss Anscombe was concerned with.⁶

Here is one theoretical choice. Transpose 'x needs to sail to Aegina to get' money into 'Necessarily [as of now, in present circumstances], unless x sails to Aegina, x will not get money', and

⁶ Categorical in a sense that contrasts with hypothetical. For the analogy with Kant's conceptions of the categorical and hypothetical imperatives, see G. Thompson *Needs* (Routledge, London 1989).

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contrapose that into ‘Necessarily [as of now, etc.], if x gets money, then x sails to Aegina’. This gets us as far as a purely instrumental sense of ‘need’, a sense which leaves it entirely open whether x’s getting money is an all-important or more or less dispensable end. If we want to say that it is all-important, then that must be made further explicit. Still less then have we reached anything that is remotely analogous to a categorical imperative. Suppose, however, that we now supply to the antecedent of such a conditional something whose coming to pass we think is somehow indispensable or unforsakeable. Then we can reach closer to that which Miss Anscombe intended.⁷ For we can bring together now the instrumental sense and the quasi-categorical sense which may attach to the bare ‘need’ claim we encounter in natural language.

This is what I attempted in a version that I put in front of bemused planners, transport economists and men from the Ministry, at a seminar in Reading in 1979:⁸

Using the schema:

Necessarily at t (if ____ then....),

we can define [quasi-categorical or absolute] need in terms of instrumental need. We arrive at the case of [quasi-categorical] need and the special and central sense of the word, if we supply to the antecedent of the foregoing schema something that is *itself* unforsakeably needed, or is instrumentally needed for something unforsakeable (or instrumentally needed for something that is instrumentally needed for something unforsakeably needed ...):

Necessarily at t (if ____ (which is unforsakeable) is to be, then)

⁷ I omit some details about time and the t variable deployed in the citation from the work referred to in note 8 below. See the reprint of my ‘Claims of Need’ (originally published in *Morality and Objectivity* ed. T. Honderich, Routledge, London, 1985) in *Needs, Values, Truth* (CUP 2002 third edition, amended) pages 7–8 with note. At note 10 on page 7 of that chapter are recorded many anticipations of these thoughts and explorations, by writers such as J. Feinberg, D. Miller, D. Richards, Alan White and others.

⁸ David Wiggins ‘Public rationality, needs and what needs are relative to’ in Peter Hall and David Bannister (editors) *Transport and Public Policy*, London, Mansell, 1981. See also David Wiggins and Sira Dermen, ‘Needs, Need, Needing’ *Journal of Medical Ethics*, vol. 13, 1987, pp. 61–68.

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If so much is correct, if this is a plausible reading of there being an absolute need that ..., then we can make sense of the further idea that sometimes the unforsakeable end will be unspecified but rather assumed in the context, and the whole antecedent be suppressed. Here, moreover, we can reconstruct the thing which is so often intended (whether truly or falsely) by an absolute or categorical need claim.⁹ Take the same schema that gives us the instrumental needs-claim but prefix to it the words ‘there is an unforsakeable end *e* such that’, while supplying ‘*e* comes to pass’ to the ‘___’ clause that forms the antecedent of the conditional schema. Thus we obtain ‘There is an unforsakeable end *e* such that necessarily [as of *t*] if *e* comes to pass then ...’ In other words, it is impossible [as of *t*] for a certain unforsakeable end *e* to come to pass unless ... According to this proposal, the absolute or quasi-categorical ‘need’ has a sense of its own which it acquires by further conditions’ being adjoined to the conditions of truth for the simple instrumental schema.

6. There were further decisions to make about how to understand the unforsakeable. In her own work on need, the friend I mentioned, Sira Dermen, soldiered on with Anscombe’s ‘flourish’ formulation; whereas I myself was more drawn to Aristotle’s words ‘that without which it is impossible to live’. I tried to understand things needed in the absolute or categorical sense of ‘need’ as things without which the subject in question will be seriously harmed or else (in so far as s/he lives on) will live a life that is vitally impaired.

Another question about things needed related to the consequent of the complete conditional which lies within the scope of the ‘necessarily’ that governs the rest of our original schema. What sort of thing is to be supplied to the gap ‘...’ holding a place for the obtaining of that ‘without which [some unforsakeable end] will not come to pass’? As in the antecedent ‘___’ specifying the unforsakeable end, it is very important that at ‘...’ a place is being

⁹ At this point, there is confusion to be guarded against. One point is that the analysis of all ‘needs’ sentences involves a conditional or hypothetical sentence ‘if ___ then ...’ Another quite different point is that, among needs sentences, some have an *overall* force or meaning that is not absolute, thus being in *that* quasi-Kantian sense hypothetical; but others have a force or meaning that is *in the quasi-Kantian sense* categorical or non-hypothetical, a force that is owed to the unforsakeability of a certain end. See note 6.

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held for a sentence or open sentence *with a verb*. It follows that, even where, within '...', a grammatical object (such as 'nourishment') is given in construction with the verb, it is still important to determine what this verb or verb-phrase is. Only on occasion, moreover, is a simple 'have' or 'possess' the verb in question. Need-theorists have distorted and gravely damaged their conception of the subject by not stressing that, as often as not, when we put the ordinary English back together again and 'need' reappears in construction with 'to' + infinitive, the verb or verb-phrase may be 'to produce (for oneself) the object *y*', 'to reclaim *y*', 'to be at liberty to make *x* or buy *y* or grow *x*', or whatever. The choice of verb or verb-phrase is very important and important in ways that are entirely accessible to a needs-theorist. If the always sentential form of needs claims had been consistently and carefully emphasized, moreover, there would have been far less cause for the 'Capability Theory', advocated by Amartya Sen and his allies and associates, to be seen as a rival to 'Needs Theory'.¹⁰ The concerns of these theories are entirely consonant—though I do myself think that the needs framework is better sustained by the ordinary significations of the words of natural language. As correctly stated, it is well placed to accommodate the important moral and political ideas that capabilities theory has emphasized.

7. Explaining matters in the kind of terms I have been recalling, I started in the later 1970s to bother philosophers I knew to take the notion of need more seriously. I urged among others Richard Hare, Ronald Dworkin, Thomas Nagel, Bernard Williams (who I noticed had used the notion himself in connexion with medical needs) and John Mackie (who was very sympathetic in principle) to give some separate acknowledgement to needing as such. But even after I had responded to some of the things that friends and colleagues said back to me, and even after I had offered a typology of needs, distinguishing the question of a need's badness or gravity, of its entrenchedness, of its basicness and of its substitutability, and I had defined vital needs in terms of such categories as these, the philosophical impact still seemed to be negligible. Anyone else who

¹⁰ I share in the blame for this. In *Needs, Values, Truth* op. cit. I should have said that 'have' was only a place-holder for the right verb. Nor did I point out that *sometimes* the '...' clause, unlike the '____' clause, contains no overt reference to the person(s) having the need, as in 'the islanders badly needed the colonists to leave'.

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has tried to champion the *need*-concept will probably have had the same experience. There must be something dangerous or subversive in what one is suggesting.

But how can it be dangerous? In the case where an animate creature, human or animal, depends and vitally depends on the condition holding, where this is a matter of the creature's getting access to such and such or so and so, it must be equally bad for the purposes of philosophy and the purposes of life for us to see its/her/his efforts to secure the condition's satisfaction as the pursuit of just any old desire. Vital needs (I suggested) were, in divers senses I had further explicated, *grave, deeply entrenched and scarcely substitutable*. They were things that mattered extremely. Precisely on the strength of that, I advocated something I called the Limitation Principle as a restraint upon aggregative reasoning. According to this, it counts as *unjust* to sacrifice the truly vital needs of one citizen to the aim of meeting the mere desires of some larger number. (See *Needs, Values, Truth*, p. 319 following.) I know of no response to this claim. (Unless the new rhetoric of rights is supposed to furnish a response. But there could be no quicker way than the simple equation of *need* with *right* to complete the degradation of the serious idea of a right—unless, of course, the right in question is simply the right to have one's plight *considered or taken into account*. But that sends us back to where we were: what is to be made of the fact that such and such a policy threatens citizen *x*'s vital interests?)

When someone gets round to attacking or questioning Limitation Principles of the kind I was mooting or engages seriously with ideas of solidarity that give support to them, it will be time to celebrate some new acknowledgement of the philosophical importance of the idea of need—and time to celebrate the realization that, when an idea is as well established in the language as *need* and *vital need* are, there will be all sorts of purposes that the idea serves, purposes that it may be hard for humanity to fulfil without making use of the idea. Meanwhile, let theorists of need try to hold their ground.

8. In the time that remains I turn to moral and political philosophy themselves and try to show in more detail how the idea of need ought to have mattered there. I seek to show this by reference to the writings of Richard Hare and of John Rawls. If they had allowed more scope to *need* and *vital need*, then, given the large influence of each, this might even have come to impinge not only on philosophy

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but on public policy. Who knows? Finally, towards the end, I shall point to one other place where the notion of need appears to be indispensable to us both theoretically and practically, namely in connexion with ideas of safety and risk that seem to underlie the so-called *Precautionary Principle*.

2.

9. According to Hare, you will remember, if someone is to venture into the business of making a moral judgment about some situation, then this judgment commits the person to making a *similar* judgment about any situation which is *relevantly similar*.¹¹ The commitment is one of 'logic' and of practical reasonableness. Thus anyone who makes a judgement about what he ought to do in a given situation is committed to prescind from the identities of person and determine his own proper line of conduct by reference to the special rationality of *generalised prudence*.

Hare begins by modelling generalized prudence upon *individual prudence*—that is upon ordinary prudence that is corrigible by reference to fact or logic and is rational with respect to the deliberator's own interests and/or preferences. In the second instance, Hare goes on to explain the universalizing rationality that morality proper requires by thinking of it as prudence with respect to *all* interests and/or preferences. Hare's contention (you will remember) is that the only way in which generalised prudence can give its proper due to each preference or interest while seeking to do the best for all collectively is for such prudence to proportion whatever it awards to each interest to the strength of that preference – as rationally adjusted, if necessary.¹² This last is called the principle of equal interests, and Hare contends that it is equivalent for all relevant purposes to classical Utilitarianism.¹³ In this way, classical Utilitarianism graduates to the status of a rational requirement.

¹¹ See, for instance, *Moral Thinking*, Oxford 1982 and all the studies that led up to it.

¹² You might suggest that it should be proportioned to the degree of importance of the interest, but this distinction does not figure in the construction.

¹³ To get an exact fit with Utilitarianism, it has to be all right to suppose that there is no mismatch between the strength of a (rationally corrected) desire and the efficiency with which it can turn into the

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This construction of Hare's is familiar and invites a wide variety of commentaries. The only thing I want to attend to here is Hare's conceptions of individual deliberation and of prudence, namely the part of the whole business that he sums up in a principle which has come to be called the *prudential principle*. The *prudential principle* advises me, other things being equal, to try to maximise the satisfaction of preferences – my own preferences and any others that I care about.

Even here, at the outset, I think a doubt arises. Is 'maximize the satisfaction of my preferences' really the thing a rational deliberator (even an entirely self-interested rational deliberator) actually intends in practising individual prudence? Surely a rational deliberator asks himself constantly not so much *how to maximise* his preference-satisfaction but *what to prefer*, or *what preferences to persist in*. Indeed, one might think that he will be foolish not to interest himself always in the question *what really matters here? what does a person such as I am (and such as I aspire to be) vitally need?* If Hare's object is to show what makes choices rational, then it is a pity for him to begin from so miserably attenuated a conception of the ordinary rationality of ordinary first-person deliberation.

10. What difference would it make to recognise the indispensability to deliberation of the question 'what do I need?' Well, if a practitioner of generalised prudence were challenged to have regard for the idea of vital need or he embarked on marking among desires the special significance of vital needs, then he would have to begin by looking again at the idea's basis in individual prudence. In that place he would have to notice the key role that is played by the idea of need in clearing away a whole mass of unimportant desires or preferences and in the establishment of priorities. In Hare's framework, he would then have to transpose this observation to generalised prudence. With or without further modifications of Hare's method, the result might have some claim to be a new post-Harean version of universal prescriptivism. But it would not be utilitarianism. It would be closer to a position once espoused by Leibniz in a passage that is cited by John O'Neill:

effective satisfaction of desire any benefits the universalizer's choice of maxim may award to it. Unluckily, such an assumption is not generally true (see here my *Needs, Values, Truth*, page 86, *ad finem*).

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‘Virtue is the habit of acting according to wisdom ... Wisdom is the science of felicity [and] is that which must be studied above all things ... Justice is charity or a habit of loving conformed to wisdom. Thus when one is inclined to justice, one tries to procure good for everybody, so far as one can, reasonably, but in proportion to the needs and merits of each’.¹⁴

Such Leibnizian wisdom is only a few steps from the noble non-partisan political ideal of William Beveridge, a participative ideal that the capability theorist can as readily salute as the needs-theorist. (Indeed there is no disagreement.)

3.

11. Next I shall venture to say something about John Rawls. As a comment on Rawls’s system, what I say may be unfair (though that is not the intention). But independently of fairness to Rawls, I think the comment will pay its own way as an argument for the indispensability of the need concept.

As you know, Rawls models his conception of justice on the findings of a group of free and equal persons who are to exercise ordinary prudence in debating with one another under a veil of ignorance the conditions of fruitful cooperation in a well-ordered society whose other members they formally represent. This veil of ignorance is to prevent the deliberators from knowing anything about the part it will fall to each of them to play in this society. It deprives each deliberator of all knowledge of the content of his/her own particular conception of the good, *except* to the extent that deliberators can work out this conception by thinking of themselves as free and equal deliberators or by reflecting that there are some good things, namely the *primary goods*, that anyone will want whatever else they want (certain rights, liberties, opportunities, powers, income, wealth). These primary goods are the basis for the rest of the construction.

In deference to Rawls’s adaptability and persistence, I shall attach the comment I want to make here to a relatively recent summation by Rawls himself of his own position, a summation he revised for publication in *Political Liberalism* (1993):

¹⁴ See Leibniz’s note, ‘Felicity’, as translated in P. Riley ed. *Leibniz: Political Writings* (Cambridge: Cambridge University Press, 1988).

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A conception of justice must incorporate an ideal form for the basic structure in the light of which the accumulated results of ongoing social processes are to be limited and adjusted.

Now in view of the special role of the basic structure, it is natural to ask the following question: by what principle can free and equal persons accept the fact that social and economic inequalities are deeply influenced by social fortune, and natural and historical happenstance. Since the parties regard themselves as such persons, the obvious starting point is for them to suppose that all social primary goods, including income and wealth, should be equal: everyone should have an equal share. But they must take organizational requirements and economic efficiency into account. Thus it is unreasonable to stop at equal division. The basic structure should allow organizational and economic inequalities so long as these improve everyone's situation, including that of the least advantaged, provided these inequalities are consistent with equal liberty and fair equality of opportunity. Because they start from equal shares, those who benefit least (taking equal division as the benchmark) have so to speak a veto. And thus the parties arrive at the difference principle. Here equal division is accepted as the benchmark because it reflects how people are situated when they are represented as free and equal moral persons. Among such persons, those who have gained more than others are to do so on terms that improve the situation of those who gained less. These intuitive considerations indicate why the difference principle is the appropriate criterion to govern social and economic inequalities ...

Thus the main principles of justice, in particular the difference principle, apply to the main public principles and policies that regulate social and economic inequalities. They are used to adjust the system of entitlements and earnings and to balance the familiar everyday standards and precepts which this system employs.¹⁵

For the record, I set down here Rawls's two principles of justice in revised formulations that are coeval with the reprint:

¹⁵ J. Rawls, 'The Basic Structure as Subject', reprinted in Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), see 281–3, from *American Philosophical Quarterly* 14 (April 1977).

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a. Each person has an equal claim to a fully adequate scheme of equal basic rights and liberties, which scheme is compatible with the same scheme for all; and in this scheme the equal political liberties and only those liberties, are to be guaranteed their fair value.¹⁶

b. Social and economic inequalities are to satisfy two conditions: first, they are to be attached to positions and offices open to all under conditions of fair equality of opportunity; and second they are to be to the greatest benefit of the least advantaged members of society

12. Comment. The first question that Rawls has the deliberators ask in our citation is by what principle deliberators who are free and equal persons and know that they are free and equal can accept the fact that social and economic inequalities are deeply influenced by social fortune and natural/historical happenstance.¹⁷ To one who is fully engaged with the need-concept, however, as well as sympathetic to the veil of ignorance device, it will seem strange that this should be the first question. Surely there is another and even more obvious question. Given that, *whatever* principles may be instituted by human beings to regulate the social and political spheres, the human world will always be replete with contingency, good luck, bad luck and the rest, one might have expected that most deliberators would prefer to ask this: what guarantees of what strength can be placed among the conditions of social cooperation in order to ensure that the worst of the bad luck anybody encounters will be alleviated by concerted social action? After all, the thing that affects and harms the dispossessed or destitute is not so much inequality as such as dire unsatisfied need. For simply as such, *inequalities* (e.g. of income or wealth) are not the kind of things that have to detract from the freedom or equality—or even the happiness—of the free and equal persons whom the deliberators represent. (Indeed the bare promise of equality as such will have a sinister ring if there is a chance that the thing promised should prove to be equality in immiseration.)

¹⁶ For 'fair value' see op. cit. *Political Liberalism*, 356–363.

¹⁷ It assists in the interpretation of this question of Rawls's to collate it with a sentence from the same paper (p. 271 in the same reprint): 'what the theory of justice must regulate is the inequalities in life prospects between citizens that arise from social starting positions, natural advantages and historical contingencies'.

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Suppose that we prefer the need-theorist's question.¹⁸ In that case we shall expect the deliberators to go by a direct route against contingency or natural happenstance. We shall expect them to seek to invent principles precisely to counter its worst effects. If they do this then, given that what matters most is the removal of impediments to the life or happiness of cooperators, it would seem to be a reasonable condition for them to insist upon that the principles of cooperation should make explicit provision not only to buffer misfortune (deliberators might say) but to enshrine, in the spirit of maximin, certain well-considered principles relating to the vital needs of members of a well-ordered society, principles promoting their freedoms and their opportunities to make the best they can of their situation. On this basis, the deliberators might then go on to inquire what further safeguards need to be written into the principles of cooperation in order that public policies should be framed to protect cooperating members of the society from avoidable immiseration or personal disaster or any other avoidable thing that obstructs their active life within the society.

13. If the deliberators formulate principles of cooperation along these essentially ameliorative lines, and they chiefly concern themselves with the misfortunes or disabilities Rawls prefers to call 'social and economic inequalities or differences', this will surely lead them in the direction of a partly remedial and partly enabling conception of justice. Such a conception will be a proper celebration, a needs-theorist may say, of the citizenly equality that free and equal deliberators will seek to see implemented in due course. On the other hand, deliberators who prefer Rawls's question will be led to an altogether different conception of justice, and a different conception of equality.

Anyone who lacks all preconceptions in political philosophy, yet finds interesting and promising the idea of arriving at a substantive

¹⁸ One might wonder here whether there is something within Rawls's construction that makes Rawls's prefer to begin with his question. If there is not, and it is not clear that there is, then what else makes it the first? To judge from the wording of the question and the presence there of the words 'free and equal', an assumption is at work here about the connection between citizenly equality and equality of income and wealth, or equality of life chances. The assumption is momentous. It evidently determines the direction we see Rawls move in. Before taking the truth of the assumption to be obvious, compare Rawls's procedure with the rival idea that the needs theorist is seen proposing in the text.

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conception of justice by working out the principles that will condition the prospect of fruitful cooperation, will wonder at this point why on earth the notion of vital need does not figure in the text of either of Rawls's principles of justice. How can Rawls have supposed that the difference principle would do all the work of a principle relating to need as such?¹⁹

14. If you see any force in the sort of criticism I have been making of Rawls's mode of execution of his project, you may think there is another advantage in pursuing the foregoing line of criticism. The ordinary notion of 'need' is deeply imbedded in the language. There is a mass of inexplicit understanding for the semantics of the verb to draw upon. But how do things stand with our understanding of 'equal' as it occurs imbedded within our understanding of the 'inequalities' that Rawls addresses in the passage we began from? How well do we grasp this idea of 'equal'?

This is the point at which the idea of a contract seems to come into its own. Once we accept the contract idea, there will be a tendency for such a contract to be thought of as concluded *as if at some particular moment*—albeit a notional moment when there is as yet no history of the society that the contract is to make possible, no pattern of holdings, and no past events of any moral or social significance. Under *this* condition 'the obvious starting point [will be] ... to suppose that all social primary goods, including income and wealth should be equal'.²⁰ Under such a starting point conception, it may well appear equally obvious how to construe the idea of all social primary goods being equally distributed. For if *from the outset* everyone has the same, then from the outset their shares are equal. And the identity of these shares entails the equality of the recipients. Yes. The trouble is though that this is not enough to give us any idea of what it amounts to *constitutively* to measure the equality or inequality of the distribution of social primary goods at a point (say) six notional months after the

¹⁹ Let me refer here to the illuminating treatment of this question given by Brian Barry in *The Liberal Theory of Justice* (Oxford: Clarendon Press, 1973), at pp. 54–55 and 115–5.

²⁰ Here is a disobliging suggestion. Perhaps this obviousness ought to be compared with that of Laplace's notorious Principle of Indifference, to the effect that, in the case of complete ignorance, the *a priori* probability of a given proposition is $\frac{1}{2}$. For the fate of this principle, cp. the discussion in J.M. Keynes *A Treatise on Probability* (1921), Chapter IV *et passim*.

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notional starting point. All that identity of shares can furnish is one sufficient condition of equality. If other dispositions of social primary goods besides identical ones are sufficient for equality between recipients, then what are the necessary conditions of equality in this sense?

These are not easy questions at all. There is evidently no vast fund of speakers' inexplicit knowledge that philosophy can draw upon to explicate this notion of equality. Contrast the situation with 'just' or 'free' or 'fair' or 'owed'—or with 'need'. Is it projected that the relevant sense of 'equal' should be a free construction of the theorist's mind? Is the thought that he is not so much to discover this sense as to invent it? But surely not everyone will be content with this prospect, unless they are already equality theorists.

At this point someone with a different take from Rawls on the problem of legitimacy (and much less patience perhaps with as-if-Platonic myth-making) might well protest that it is only the working out of the contractualist expectation that can oblige anyone to find better than rhetorical sense for a notion of equality that stands in no certain relation at all to 'equal' as 'equal' occurs in 'free and equal persons'. It is only *this* expectation that commits us to the possibility of a *metric* of social primary goods. But why was this philosophically compulsory? So far as fairness or allegiance is concerned, can we not make do with the notion of equal that figures in 'free and equal deliberators', leaving the other and supposedly connected sense to wither on the vine? Why is it not enough to use the notion of vital need to limit the gravity of the effects of contingency? And why not see the deliberators as debating, preferably from the starting point of some 'we' that they understand of free and equal citizens, *the conditions of perpetuating or renewing or improving* social cooperation in an ongoing society, whose exact details they know well enough, in a more selective amnesia doing duty for the thicker veil of ignorance operative in Rawls's original position? But then, on these terms, we are back with the same question as before: do we really have to start with the question that Rawls puts first in the passage I have quoted from him?

4.

15. These remarks about Hare and Rawls gesture at just some of the possibilities revealed by setting free the serious notion of need

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and giving it its independence. No wonder the distinguished philosophers whom I used to charge with their neglect of the notion of need mostly resisted my exhortations. The possibilities that I have been describing represent major disruptions. They are disruptive of certain sorts of theory. A further misgiving may have arisen from these friends' or colleagues' wondering whether the particular purposes for which I wanted the notions of need and vital need would prove to be of a greener hue than any that they were sure they wanted at that time to be associated with. But this brings me to my last topic, which is the so-called Precautionary Principle, a principle often now appealed to in environmental contexts. My claim is that the pretheoretical appeal of this principle and its claim to attention can be much better understood when we position it in its relation to vital human need, as seriously understood.

16. The Precautionary Principle figures in the Maastricht Treaty, is incorporated in the draft (2003) for the European Constitution, and is present already in a large number of declarations, treaties and White Papers in which HMG has now (2003) involved itself. But what does it say? It is hard to find any canonical statement of the principle, but here, to be going on with, is one official utterance:

In order to achieve sustainable development, policies must be based on the *precautionary principle*. Environmental measure must anticipate, prevent and attack the causes of environmental degradation. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.²¹ *Bergen Ministerial Declaration*, May 1990.

Such declarations, despite their vagueness, arouse opposition. But let us begin by trying to find some basis for them. What is it that appeals here to our rational intuitions?

The declaration cited cannot be derived immediately or directly from the received or standard framework for understanding risk.

²¹ More cautiously, the White paper *The Common Inheritance* (*Cmd Paper 1200*, September 1990): 'Government will be prepared to take precautionary action to limit the use of potentially dangerous materials or the spread of potential dangerous pollutants, even where scientific knowledge is not conclusive, if the balance of likely costs and benefits justifies it ...'.

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You could not deduce anything like the Bergen Declaration either from the orthodox idea that we should choose our environmental policies to maximise expected utility,²² for instance, or from the more broadly utilitarian way of thinking that supports that idea. The precautionary outlook expressed in the Declaration commits us from the outset to take a certain attitude towards the relative importance of more or less assured (real or supposed) benefits to human beings and of possible (even if relatively improbably or relatively distant in time) damage to the environment. In a way of its own, it appears to intervene at the level of the valuation of different *kinds* of outcome. The Declaration seeks to associate reason itself with a *special* concern for the environment, and no such concern can be derived from expected utility theory taken just as it stands. In due course, I shall suggest that a more general idea is at work here. But, in advance of that, I remark that the Declaration suggests the possibility of an asymmetry or incommensurability—plausible in itself perhaps to the innocent intellect, but unknown to expected utility theory or the framework in which that is at home—between the evaluation of nearly certain large human benefits in the present and the evaluation of possible longer term threats to that which ultimately contains, conditions and circumscribes human life itself and is presupposed to the continuance of the economic order itself, namely threats to the earth. In so far as we want to understand the force of the precautionary demand, rather than to prepare to pour scorn upon it, the first thing we must do is to see the earth as that which, directly or indirectly, supplies all vital human needs.

²² You calculate the expected utility of a policy in a given situation by assigning a probability and a utility to each possible outcome there, multiplying the probability together with the utility for each outcome and then taking the sum of these products. Expected utility theory, together with any constraints that it places upon rational choice under conditions of risk or of uncertainty, has its origins in philosophical utilitarianism, a theory which puts needs on a par with desires and, in many versions, discounts the future in ways that appear to offend against reason. Meanwhile, among its most sympathetic interpreters, the defects of the theory are now seen as lying with the monolithic generality of its aspirations. See for instance the temperate conclusions of John Gray's editorial *Introduction* in the Oxford World Classic edition (1991) of John Stuart Mill *On Liberty and Other Essays* (see especially page xxvi following). A conclusion one might draw from all this is that the way forward is not to replace expected utility by another theory with the same scope.

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17. Let me take that last thought a little further by citing a remarkable essay that is too rarely referred to but richly deserves at last to come into its own:

There is no dearth of goals in the modern situation of unbounded powers clamouring for actualization, nor is there a dearth of means; what now claims our attention are the dangers lurking in the actualization of the goals and the uses of the means.

The a priori object of an unconditional economic imperative is the continued possibility of the economic system itself: not necessarily of the given system, but of a viable economy as such. This was hardly a consideration in former times. With all the ups and downs of capricious nature, the good old Earth could be trusted to endure and to regenerate the conditions for future life, even patiently to repair the follies of man. Modern technology has changed this radically. Thanks to it, we live in an era of enormous and largely irreversible consequences of human action, in an era of what I call the total and global impact of almost any of the courses we embark upon under the conditions of technological might; and we must anticipate that these courses, once set in motion, will run self-propelled to their extremes. In these circumstances, the otherwise abstract obligation to preserve for posterity the conditions necessary for an economy as such, turns into a fairly concrete principle for normative judgment i.e., for approval or rejection of policies. The a priori imperative whose positive form might be, 'Act so that the effects of your action are compossible with the permanence of an economic order,' is for purposes of critical application better expressed in the negative equivalent, 'Act so that the effects of your action are not destructive of the possibility of economic life in the future,' or simply, 'Do not compromise the conditions for an indefinite continuation of some viable economy.'²³

There is much to admire here. Jonas not only anticipates the claim I have already made that, for purposes of practical reason, the name 'Earth' does not stand for just any old object of reference. In effect,

²³ H. Jonas, *Philosophical essays: from ancient creed to technological man* (Englewood Cliffs, N.J., Prentice-Hall, Inc., 1971). (See Part One, Essay 4, 'Socio-Economic Knowledge and Ignorance of Goals'.)

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he subordinates every theory, not least any defensible version there may be of the theory of expected utility (together with corresponding attitudes towards uncertainty/risk), to a momentous normative claim, a claim purporting to be mandatory for any kind of practical thinking about matters economic or environmental that purports to transcend simple egoism. For Jonas' own formulations of this claim, see the citation. But here is another: in so far as we deliberate otherwise than alone or purely egoistically about the resources of the earth and in so far as we recognize the huge power that is at our collective command over its future, we have to ask ourselves what the constituency is within which and on behalf of which we shall think or speculate about these matters; if the earth's resources do not belong exclusively or specially to any one generation, *then we who deliberate here and now have no right to assume that any finite given number is the number of centuries during which there will be human beings on earth.* But this implies that, however far they lie in the future, we have no right to discount the resource needs of generations to come. Still less, one might think, have we any right to engage in activities that diminish the chances of there being such generations. These are quasi-procedural claims which condition the very idea of non-egoistic, rational deliberation about environmental questions.

18. So much for incipiently precautionary thinking. But what will one who prefers to start out from expected utility theory and the constraints which that theory places on deliberation under conditions of risk/uncertainty have to say about the Bergen declaration or similar statements? He will say that he finds here attitudes and evaluations determined by a certain outlook—an outlook upon the future and future needs that is not impermissible in itself, but is only one outlook among others. The weightings proposed by the precautionary principle are the product, he will say, of one particular attitude of 'risk aversion', namely special aversion to risks to the environment. Such attitudes are not, however, to be credited to rationality as such. About the rationality of the aversion itself a utility theorist will take no stand.²⁴ Within the confines of expected utility, where given benefits and harms are

²⁴ Unless he is eager to confuse the attitude's not being required by the theory of rationality that he himself accepts with the attitude's being condemned by that theory as *irrational*. This type of confusion is of course far from unknown.

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treated symmetrically, there can be no question of his doing so. So far as he is concerned, only one concession is in sight here regarding the rationality of the precautionary principle. Sometimes paid-up expected utility theorists will point out that, if we act now on the simple basis of the best utilities and probabilities we can assign on the basis of poor information, then our actions may prove to have foreclosed all sorts of options one might have had in the future if one had acted with a stronger sense of the possibility of error in our present estimations of probability and utility.

So far as it goes, a precautionary theorist can, of course, agree with the last point.²⁵ But it doesn't go very far, he will say. It does not tell us how long to wait, or how to think about what to do in the meanwhile. It marks no special link between rationality and the care of the earth, even though the earth is that from which the needs of all future generations will have to be supplied. It does not engage with Jonas's point about the impropriety of discounting the future. And it does not direct us to differentiate between the satisfaction of desires that are relatively trivial (however strong or numerous they may be) and the fulfilment of vital needs.²⁶

19. So much now for the first kind of complaint commonly brought against a precautionary principle, namely the complaint to the effect that it ought not to represent itself in the way that it does as a categorical demand of practical rationality. And so much for the line of reply. The second complaint will be that a principle of the kind that the precautionary theorist desires offers no rule of conduct and leads to no operational definition of sustainability in a policy or line of conduct. Putting the second complaint in my own words, I am tempted to paraphrase it as follows: as so far sketched, the principle offers no prescriptive rule of management in the light of which patterns of consumption and rates of depletion of environmental resources could ever be exactly choreographed to dance satisfactorily near—near but not over—the edge of the level at which we can leave our descendants with as large and as good a

²⁵ Thus echoing, in effect, the advice that J.R. Lucas has repeatedly offered for a decade or two to public inquiries and public consultations: assess the cost of error.

²⁶ A similar response needs to be made where a utility theorist reminds us of the law of diminishing marginal utility. That only directs us towards the earlier units of no matter what benefit. It does not discriminate between things desired and things needed.

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resource base as is available to us and bequeath them the same freedom as we have to make our own decisions about how to be, what to do, and how to live.²⁷

My own inclination, despite this criticism, is to persist in the defence I have offered of the precautionary idea—both of its claim (à la Jonas) to be a constituent principle of reason and of the divers economic prescriptions that it suggests. In so far as it gives no operational ‘rule’ for sustainable development, I shall not refuse to regret that deficiency but, suspecting that some such deficiency is integral to the true conceptual and logical situation, I shall be much more eager to remark that it *does* direct us to search out the countless *sufficient* conditions for certain sorts of development to ‘meet the needs of the present without compromising the ability of future generations to meet their own needs’.²⁸ Even now, we *could* arrange to live in such a way, I believe, and with something to spare. Not only that. It is a demand of public reason for us to try to do so, working simply on the basis of sufficient conditions of sustainability. If or when sustainability is more fully operationalized, (unless this turns into some further idiocy of targetry), that will enhance the clarity of the Bergen Declaration and its variants, provided that we remember constantly their normative and conceptual provenance. No need though to wait for that enhancement.

20. It is hard not to compare the way in which the Bergen Declaration has so far fallen flat with the way in which philosophical campaigns have fallen flat on behalf of the concepts of need and vital need. The Bergen failure is only the public and practical enactment perhaps of the older but similar failure in philosophy. What lies at the root of these failures?

It is too soon to be sure. I note though that, from the nature of the case, our philosophical campaign offers no routine into which apprentices can be inducted, no game in which philosophical aspirants can be trained up to prove quasi-philosophical theorems. Maybe we are now at a point where philosophy prefers teachability or productivity over interestingness or truth. (Let nothing stand in the way of ‘theory’, not even the prior necessity for the orderly surveying of rough ground?)

²⁷ Cp. Robert M. Solow, ‘Sustainability: an economist’s perspective’ 1993, Washington D.C. Resources for the Future.

²⁸ These words I quote from the Brundtland Report (*Our Common Inheritance*, Oxford, 1987).

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Mutatis mutandis has a similar unwillingness to ‘operationalize’ appeared to disable the precautionary outlook? Here though, in this second case, I remark that the failure would not have been so great as it has been if the friends of precaution had better seen the great difficulties and dangers of incorporating into European law, statute or directive anything that resists general reduction to text or test. Nor would it have been so great if the friends and foes of green causes had seen that care for the earth really can leave space for economic development as discriminatingly conceived. Even if countless policies are excluded, all sorts of other policies, indefinitely many in fact, *can* meet the needs of the present without compromising the ability of future generations to meet their own needs. It is sad that, instead of humanity’s doing something positive with the precautionary thought, what we have seen is a constant whittling away of the substance of all precautionary declarations²⁹—out of fear, presumably, lest such declarations be turned into prohibition and prohibition obstruct developments that are still represented to us, sometimes mendaciously, as economic or technological imperatives. In so far as there really are any such imperatives, why do we suppose that all ways of fulfilling them, all ways without exception, will contravene the precautionary outlook? Consider the economic imperatives that might in a given context follow from Jonas.

21. Three reactions at least are possible to the present state of affairs. First we can hold out more and more insistently for the full Brundtland definition that counts as sustainable only developments that meet the needs of the present without at all compromising the ability of future generations to meet their own needs. And then overnight, everyone must down tools, unless what they are doing is sustainable. Of course, this is madness.

Secondly, we can rearrange our ideas to rejoice somehow in the dilution, as here:

Sustainable development is a deliberately ambiguous concept; this is its strength. Its organizing focus is ecological and

²⁹ See Dieter Helm ‘The Assessment: Environmental Policy—Objectives, Instruments, and Institutions’ *Oxford Review of Economic Policy*, **14**, No. 4 (1998). ‘Almost any policy ... can be claimed to be consistent with sustainability, since the definition has been stretched by governments to be sufficiently wide to be practically almost meaningless’ (p. 17).

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human—sensitive accounting, the application of a precautionary duty of care, and the scope for civic activism at a local level. This provides it with its distinctive role in the evolution of human and natural well being.³⁰

There is a third and better thing we can do. Apart from looking immediately for schemes that counter the environmental degradation the Bergen Declaration proscribes (schemes that could perfectly well qualify as contributions to growth), we can first distinguish the task of understanding the ‘sustainable’ from the immediate tasks of prescription and proscription. If we preserve the conceptual purity of the idea of sustainability itself, then we shall be in a position to count a policy as strictly or absolutely sustainable if its implementation leaves behind it at least as large and good an environmental resource base as it itself inherits from its predecessors. On these terms, we can focus for some transitional period on the second best. We can interest ourselves actively in the comparatives ‘more sustainable’ and ‘less sustainable’ and prefer the *more* sustainable among the options open to us.³¹ At the same time, however, we can prepare to implement as soon as possible a longer term resolve in favour of the absolutely sustainable. If, at the moment, relatively few policies possess this amiable property outright—and that is certainly the manifest appearance—then let us avow that and recognize how far our conduct falls short of the standard that Jonas proposed. Let us recognize also the sheer callousness and egoism (if we care nothing for our descendants) or else (if we do care about them) the utter recklessness of that which we have done and are still doing. Surely a course of action is reckless if there is some alternative to it that ministers to the vital needs of the present but creates less uncertainty with respect to satisfaction of the vital needs of the future. The point of the precautionary

³⁰ T. O’Riordan and H. Voisey (eds.) *The Transition to Sustainability* (London: Earthscan Publications, 1998).

³¹ Careful legislators, if only they will revert to the style of the English common law, might then try to formulate some general duty lying upon this or that body or legal person to take such care as is in the circumstances possible to prefer the more sustainable over the less sustainable way of pursuing their legitimate objectives. The sense of such laws is of course to be determined gradually by reference to an emerging body of case law. As Aristotle says in his discussion of equity in *Nicomachean Ethics*, Book V, chapter 10, the subject matter of the practical is indefinite, unlimited, but susceptible in context of sufficient in context determination.

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principle is that, taking up the rational point of view within the constraints Jonas proposes, it opposes itself to the reckless.³²

22. However suddenly, I shall end with a quotation from the first page of Pushkin's *Queen of Spades* (inspired perhaps by the St. Petersburg paradox): ' "Cards interest me very much," said Herman, "but I am not in a position to risk the necessary in the hope of acquiring the superfluous" '. In this declaration the needs theorist can say he finds the voice of reason speaking—deploying effortlessly the semantic-cum-logical resources that we need to incorporate within any conception of collective reason which can suffice for the consideration or reconsideration of policies that seem to sacrifice to the interests of the present the vital necessities of one huge portion of the rest of the enormous human constituency on whose behalf we have now to deliberate environmental questions. Less and less are we now in a position to risk *that which is (or will be) necessary to human life* in the hope of acquiring the superfluous, i.e. that of which *we have no vital need*.

³² If the reader really is at a loss for an example of the reckless, let me provide one. Human beings have only been releasing such things as pesticides, artificial fertilizers, herbicides, plasticizers and pharmaceuticals into the environment for about seventy or eighty years. In really serious quantities, we have only been doing this for half as long as that. In the life span of the human race this is a bare moment, the blink of an eye. Even if pregnant mothers on the Faroe Islands are now being warned not to eat too much of their traditional allowance of whale-meat, no doubt it is questionable how large or serious a *present* threat this constitutes to human beings in the present day. It is far more significant that already, a moment after the bare moment it has taken for us to start upon our dispersion of these substances into the oceans, there is scarcely a sea, however remote from human settlement, where fish do not already carry traces of these substances. If we can bring about so much in seventy years, what shall we have done in a hundred and seventy? Whatever reasonable safety threshold is set for bioaccumulation, it will take no more than two or three further moments in the history of mankind for present levels to be substantially exceeded. It will be hard for one who reflects on *this* to react with anything but relief to the information that, at the third conference on the North Sea, The Hague, March 1990, "the participants adopted the following premises as a basis for their future work. They will continue to apply the *precautionary principle*, that is to take action to avoid potentially damaging impacts of substances that are persistent, toxic and liable to bioaccumulate even when there is no scientific evidence to prove a causal link between emissions and effects." Did the participants keep to their resolve?