

This article was downloaded by: [Swets Content Distribution]

On: 8 November 2008

Access details: Access Details: [subscription number 902276281]

Publisher Routledge

Informa Ltd Registered in England and Wales Registered Number: 1072954 Registered office: Mortimer House, 37-41 Mortimer Street, London W1T 3JH, UK



Environmental Politics

Publication details, including instructions for authors and subscription information:

<http://www.informaworld.com/smpp/title-content=t713635072>

The rapid reproducers paradox: Population control and individual procreative rights

Marcel Wissenburg^a

^a Research fellow and lecturer at the Department of Political Science, University of Nijmegen, The Netherlands

Online Publication Date: 01 June 1998

To cite this Article Wissenburg, Marcel(1998)'The rapid reproducers paradox: Population control and individual procreative rights',Environmental Politics,7:2,78 — 99

To link to this Article: DOI: 10.1080/09644019808414394

URL: <http://dx.doi.org/10.1080/09644019808414394>

PLEASE SCROLL DOWN FOR ARTICLE

Full terms and conditions of use: <http://www.informaworld.com/terms-and-conditions-of-access.pdf>

This article may be used for research, teaching and private study purposes. Any substantial or systematic reproduction, re-distribution, re-selling, loan or sub-licensing, systematic supply or distribution in any form to anyone is expressly forbidden.

The publisher does not give any warranty express or implied or make any representation that the contents will be complete or accurate or up to date. The accuracy of any instructions, formulae and drug doses should be independently verified with primary sources. The publisher shall not be liable for any loss, actions, claims, proceedings, demand or costs or damages whatsoever or howsoever caused arising directly or indirectly in connection with or arising out of the use of this material.

The Rapid Reproducers Paradox: Population Control and Individual Procreative Rights

MARCEL WISSENBURG

In this article, I consider the impact of population policies on individual rights (in a very broad sense of the word), a topic that has received disproportionately little attention in debates on the legitimacy of population rights. I first concentrate on arguments in favour of very radical antinatalist policies and assess these on the basis of rather strict conditions that are typical for liberal democratic morality, but I also show that many objections to these policies can apply to far less radical policies and under far less stringent conditions. My main objection to population policies is that they create a paradox: although they may be beneficial *overall*, they punish *individuals* who do not contribute to overpopulation and reward those who do.

The issue that will be addressed here is one of a sensitive and controversial nature: the right to procreate or, as Garret Hardin so compassionately called it, the freedom to breed [*Hardin, 1976*]. The topic may be sensitive, it is also crucial to any understanding of sustainability: at least in theory, the distribution of procreative rights influences the size of a population and thereby the actual size of the problem of sustainability. In this article I want to discuss the moral validity of purely ecological reasons for *coercive* population control; in doing so, I hope to shed new light on an old issue.

In the theoretical literature on population size and population control, the perspective of individual rights is slightly underrepresented. There is,

Marcel Wissenburg is a research fellow and lecturer at the Department of Political Science, University of Nijmegen, The Netherlands. For their valuable comments and suggestions, the author would like to thank Milja Bos, John Barry, Oscar Struijvé and Astrid Wissenburg, as well as the participants in the second Sustainability and Social Justice Seminar at Keele University, 21 June 1996, where this paper was first presented – in particular Brian Barry, Paula Casal, Avner de-Shalit, Andy Dobson, Brian Doherty and David Miller. He is also grateful to the Editor of this journal and two anonymous referees for their extremely helpful critique of an earlier version of this article, and finally to the sponsor of the research presented here, the Foundation for Law and Government (REOB), which is part of the Netherlands Organisation for Scientific Research (NWO).

Environmental Politics, Vol.7, No.2, Summer 1998, pp.78–99
PUBLISHED BY FRANK CASS, LONDON

admittedly, a large body of literature written from a utilitarian point of view. Much of it deals with the kind of questions raised by Derek Parfit: how many people should there be? Is having more people better than few? Can causing someone to exist be good in itself or only circumstantially, and if the latter, then relative to which measure or alternative [Parfit, 1984; Attfield, 1988]? Yet as a rule these texts do not deal with rights and sustainability but with welfare. There is also an amazing number of publications combining philosophical or theoretical considerations with empirical data on population size and sustainability [e.g. Hardin, 1976; Walter, 1988; Irvine, 1991]. It should be noted that not all of these texts are necessarily Domsday writings [e.g. Graham and Graham, 1992; Tabah, 1995]. Yet with sustainability or alternative concepts operating as the supreme value and the macro level of society as domain, the issue of individual rights is often either ignored or dismissed as being overruled by considerations of survival. What remains is little more than a dozen or so articles and books over the last, say, thirty years. Given the deep and possibly extreme intrusions on people's lives and bodies involved in population policies, there is good reason to draw attention to the moral status of the individuals' procreative rights.

My approach to procreative rights will be more or less that of a logic-chopping formalist. I shall first discuss the place of population policies relative to other policies aimed at sustainability, and argue that population policies need to be evaluated not only from a macro-perspective but also from the micro-perspective of individual rights. After that, I introduce a moral standard by which I shall assess ecological arguments in favour of population policies: a series of what I call stringent conditions of liberal democracy. This standard will be applied to a series of reasons for limiting procreative rights in the cause of sustainability. I concentrate on *rights*, legally enforced antinatalist measures, rather than on less controversial indirect policies that use incentives and deterrents. For one, arguments against the former are usually voiced in extremely vague and general terms as 'obviously' incompatible with a Western view of individual freedom [Bayles, 1976a; Walter, 1988]. I aim for more precision. The type of argument that I shall develop appears, moreover, to apply to both types of policy. Finally, the case of strong anti-natalist policies offers an excellent opportunity to expose the sometimes perverse logic of anti-procreationism. My main target is the unfairness involved in any population policy: it does what seems to be the moral thing at the social level yet at the level of individuals it punishes the innocent and rewards the guilty. I shall refer to this as the rapid reproducers paradox. Having established that population policies are incompatible with stringent conditions of liberal democracy, I end with a discussion of three alternative antinatalist solution strategies,

only to conclude that the quest for perfect guarantees of a sustainable population level will be either in vain or vile.

Assumptions

Controlling population size for the sake of sustainability makes sense only against the background of a vast number of assumptions, the most important of which I shall discuss in this section. For starters, there is sustainability. One of the least contestable remarks about sustainability is that it is an essentially contested concept [*Jacobs, 1995*]. Among the many interpretations or, in Rawls's terms [*Rawls, 1972; cf. Gray, 1980*], conceptions of it, is the series of ecological, economic and social sustainability. Ecological sustainability is perhaps the most limited conception: for a sustainable ecology, not even the presence of humans is required. Economic sustainability does presume the existence of humans (without people no economy); it also presumes at least a minimal form of ecological sustainability in that it requires the continued presence of those natural resources that cannot be substituted by others. Finally, social sustainability [cf. *Dobson, 1994: 17*] seems to be the most inclusive conception of the three. It requires a sustainable culture and structure of society, which by itself poses limits to man's exploitation (in the neutral sense of the word) of the natural environment. It also presumes economic sustainability and the minimal form of ecological sustainability included in the latter: without an economy, there can be no culture, and without an at least minimally viable environment neither economy nor culture can be sustained.

Despite the differences, these and many other conceptions of sustainability share a series of 'core ideas' [*Jacobs, 1995: 5*] often represented by worn analogies like Spaceship Earth or Lifeboat Earth. Here, I want to concentrate on those core ideas that relate to the source and the parameters of the problem of social sustainability, assuming we want at least humankind to survive. The source of the problem is simple: the world is supposed to be a nearly closed system containing a finite amount of resources, each individual human lives on them and humans therefore face limits to their capacity for consuming resources. These limits dictate three fundamental *parameters* of sustainability [cf. *de-Shalit, 1996: 10*]: the supply side parameter 'resources', the demand side parameter 'consumers' and the parameter 'distributive structure', which describes the relations of access to and use of all types of resources by all types of consumers. It follows that if one believes sustainability to be the problem, then the solution must be sought in influencing the parameters via the distributive structure (fair distribution schemes that maximally satisfy legitimate

demands); via a more technocratic approach that focuses on developing alternative resources, discovering new ones, enlarging efficiency, promoting recycling and so forth; or finally via consumer control. Given a closed system with limited resources, there are no alternatives to Spaceship Earth. A scheme like Starbase Earth in which we would all board spaceships and roam the universe for new planets to consume is not on the agenda.

Even if one does not like the idea of consumer control, there is within the sustainability framework every reason not to dismiss it. At least mathematically, it is a crucial factor. There is a mathematical upper limit to the volume of satisfiable demands even in circumstances of nearly infinite resources and infinitely small pollution: a level at which the mere volume of admissible demands outweighs any supply. Conversely, there is at least in terms of social and economic sustainability a lower limit, a minimum number of people required to keep an economy or a society viable.

There are a number of ways in which volume control might be thought possible – even though the means may be repulsive. For one, the size of individual consumers could be modified. It has been argued that the increasing height and, partly in consequence, weight of the average European human since the Second World War has been responsible for a 25 per cent increase in food consumption, merely because larger bodies need more food [*Samaras, 1994*]. Large people will also need larger clothes, more warmth, more energy, taller houses, more of nearly everything. If the assumption is correct that the cause of all this is the gigantic rise in welfare since the beginning of this century, that is, higher incomes, healthier lives, better food, better medical care – then it would appear that decreasing growth might have an environmentally fascinating side-effect in terms of the size of individuals.

The longer we live, the more we consume. The average life span of individuals has almost doubled over the last century. A decrease in economic growth might therefore also help turn the tide against this particular threat to sustainability. Alternatively or in addition, an active death policy could help to make room.

We could also change people's diets, for instance by banning meat, as has been argued by vegetarians and radical animal rights activists [*Gold, 1995*] as well as biologists [*Postel, 1996*]. The production of consumable proteins, vitamins, etc. via the meat of animals appears to be quite inefficient in environmental terms. Of course, this strategy could be applied more radically by not just excluding the wrong kinds of food but prescribing the right taste or, one step further, by diminishing people's appetite.

Next, there is the possibility of influencing the number of consumers, that is, the size of the population at any given moment in time, which happens to be our subject. Applying one or all of the earlier mentioned

techniques, even if feasible, will not by itself provide any final solution to the volume control problem: one can imagine nearly infinitely small people living very short and nasty lives, people with the smallest possible appetite for the environmentally most efficient greens only, and nevertheless discover that *there can be too many of them to sustain*. Hence, there still is reason to ask if the size of a sustainable population can and should be a subject of environmental policy.

Now what exactly a sustainable population size is depends on one's conception of sustainability. There is reason to believe that the most adequate understanding of sustainability in our context is that of social sustainability. Whatever reasons we have for wanting our natural environment to be sustainable will be reasons that usually include the positive value of the continued existence of humankind. The reasons that would make the Chinese tiger or the Byzantine unicorn worth preserving will only on the most radical interpretations of ecologism exclude our own survival. Hence, sustainability requires a sustainable ecology, rich enough to sustain *at least* humankind, a sustainable economy to enable survival and reproduction and, under the assumption that a life must be worth living if the idea of sustainability is to make sense, a reproducing and developing society to provide the kinds of welfare an economy cannot or need not provide. Note that this remains a very indeterminate understanding of sustainability: it is as compatible with a society of hunters and gatherers as it is with a global Manhattan fed on algae.

There are basically two ways of appraising the population size problem: from a traditional quasi-welfarist macro-perspective and from the less familiar individual rights perspective. I refer to the former as *quasi-welfarist* because it is an amalgam of two strands of thought, only one of which is typically welfarist (the Parfitian treatment of population problems). The other is welfarist only in its prescriptive role which is secondary to its main, descriptive interest in the carrying capacity of ecosystems. The most conspicuous common denominator of these two views is that their 'unit of analysis' is a complete population. The rights perspective, on the other hand, is interested in individuals only. It should not be confused with a natural rights perspective. The conception of rights that will be used here and introduced in a moment can represent natural rights equally well as individual interests or individual welfare.

My reasons for focusing on the rights perspective are twofold. First, a quasi-welfarist answer to the right *size* of the population may still leave the question of the *distribution* of procreative activities unanswered; there may be valid reasons other than overall welfare why some people would be more deserving than others. Secondly and more positively, I do not believe that the quasi-welfarist perspective embodies the only or most important moral

code; individual rights and the limits they pose or aims they give to population policies should be considered too. To support this claim, I have to refer to, what I believe are shared, intuitions. It is not a final proof – if there can be anything of the sort in moral philosophy – but it does seem to give us a prima-facie reason to recognise the legitimacy of the individualistic perspective.

Why individual rights would be so important has little to do with the notion of rights since *rights* are merely a formal mode of representation of that which really matters about individuals. What matters is not the form of an argument but its substance. Next, why exactly individuals matter is open to debate: the history of philosophy has given us answers ranging from human attributes like natural rights, happiness and telos to reason, free will, interests, consciousness, plans of life and even welfare. The point is that there is something about individuals which matters. Even if individuals are sacrificed in an allegedly greater cause; we believe in that cause because of what it means to, ultimately, other *individuals*. It is individuals who are either the vehicles of whatever is good or the good in itself, and it is precisely because we believe something like this that we find a principle like *fiat justitia pereat mundi* perverse.

Please note, by the way, that the individuals whose fate matters need not be identifiable presently existing humans only. The argument refers to individual entities as such, regardless of the qualities that distinguish the morally most relevant ones from whatever other entities may (come to) exist.

In this text, I shall use a rather unfamiliar, purely formal conception of rights, one that is partly a simplification of models used in deontic logic and partly a sophistication of them.¹ In informal terms, I understand rights as sets of various types of permissions. A permission describes the moral or legal possibility of one individual to perform one basic act, that is, any single act that can be performed without any prior acts necessarily taking place.² A basic act is, furthermore, doing exactly one thing with exactly one means to exactly *one* purpose at *one* given moment in time and at exactly *one* place. I assume that there are only two basic types of permission: the permission to do *x* and the permission to do not-*x*; every other type of permission (duty, prohibition, etc.) can be derived from these two. Finally, I shall use the expression 'complex right' to refer to any set, any collection, of permissions. Procreative rights are ideally suited to be expressed in terms of such individual rights to basic acts (see below). Like rights to the use of talents, the ability to procreate is built up out of a set of distinct abilities, each of which forms a typically inalienable individual asset.

Attributing procreative rights to individuals means, in terms of the parameters of sustainability, using a distributive tool to demand side ends.

It only works as a demand side solution if rights are respected. If we want to assess the morality of population policies, we thus need a moral standard – not just because any scheme for the distribution of rights, procreative or other, cannot be explained without reference to the criteria according to which it is designed, but also because we need to know if reasonable persons should respect that scheme. It is this question to which I turn next.

Liberal Democracy

The moral standard that I am about to introduce consists of a series of stringent conditions characteristic of liberal democracy. The choice for a liberal-democratic standard is not an arbitrary choice. The values of liberal democracy are things we neither want to, nor can, nor should give up. For one, sustainability is supposed to be a practical concept. It aims at a workable solution to the problem of survival, and a workable solution is more than the mere physical possibility of its implementation; it must also be politically feasible. Whether or not a population policy can be part of such a solution depends on its compatibility with current political ideas and ideologies, and these are in turn (usually) dominated by the ideals of liberal democracy. Secondly, we established that sustainability should be understood as social rather than ecological or economic sustainability. Given that we have widely diverging views on the good life, equally diverse plans of life and no universally recognised arbiter or criterion for the legitimacy of these views and plans, there seems to be sufficient reason (as usual, *prima facie*) to embrace the orthodox view among mainstream political philosophers, namely, that a viable and morally justifiable society should be liberal democratic.

Because many of these conditions are familiar and because they have been discussed and defended by countless others in the past, I can be very brief in introducing them. Moreover, the list of conditions can itself be brief. Many conditions, like those of free association, freedom of the press and freedom of contract, are only marginally relevant to the issue of procreative rights; we can safely ignore them here.³

Of the three basic ingredients of liberal democracy, liberty and equality seem to be more relevant to our subject than democracy. We do want any decision on procreative rights to be the collective expression of the ideal citizens' will: sincere, informed, aware of consequences, prudent, responsive to needs and directed at a common good. Yet what interests us more, at the moment, are the material *consequences* of democracy.

Equality, liberal democracy's second pillar, stands for two criteria: the numerical equality of citizens and proportional equality of recipients. The first of these criteria demands that as a citizen, each inhabitant of a liberal

democracy should count for one; in the absence of relevant differences between persons or their views, no one deserves to be privileged over others. Hence, citizens should be (numerically) equal before the law and have equal opportunity for political participation. The second criterion, proportional equality for recipients, relates to the distributive capacities of a liberal democracy. In this respect, the liberal democratic state, like any other legitimate system, is expected to treat the recipients of its benefits and burdens according to a moral standard that meets the Aristotelian criterion of treating equal cases equally and unequal cases in proportion to their inequality. The exact measure of (in)equality, that is, whether it be measured by opportunities rather than capabilities, or by capabilities rather than preference satisfaction, desire satisfaction, market price or any other standard, is open to debate. Yet there are limits. One does demand that it is a *reasonable* measure, that is, that it is supported by good reasons and open to amendment should better reasons emerge.

To understand the liberal democratic interpretation of liberty it does not matter whether we believe that liberty is ultimately negative or positive. Both ideas are part of liberal democracy. Its specific version of liberty can be described as a combination of three ideas: the recognition of a series of purely formal rights to do x (for example, be educated), minimum interference with the formulation of purposes z (for example, career), and a strong commitment to empowerment, that is, to securing and enhancing the availability of the necessary means y (for example, schools). Since one can say of any government, liberal democratic or not, that it recognises certain rights, avoids some forms of interference and promotes the availability of some means, the truly distinctive marks of liberal democracy are in the precise rights it recognises. In the context of this exercise, the classical political liberties seem less relevant. What is more important is liberal democracy's recognition of a practically non-reducible pluriformity of in principle equally worthy views on the individual's and collective good life. I shall call this 'the liberty of life', referring to the individual freedom to design and pursue any reasonable plan of life and life-style.

Procreative Rights

Procreation itself is not a single basic act. It is a (chrono)logically ordered set of basic acts, each of which can but need not be performed and each of which is, in accordance with our criterion for a basic act, 'only contingently related to the rest' [Steiner, 1983: 76], that is, there is more than one alternative intentional cause of the same effect. To list the basic acts involved:

- (1) One is free to use or not use one's sexual parts for 'ordinary' intercourse. No necessary prior act seems required, and alternative forms of intercourse are imaginable.
- (2) Women are free to be or not be fertilised by means of 'ordinary' intercourse. Intercourse is not a necessary condition for fertilisation; there are nowadays alternatives like artificial insemination.
- (3) Women are free to carry or not carry a child; an alternative to fertilisation as prior cause is implantation of an already fertilised egg.
- (4) Women are free to carry a child through to birth or not; the alternative is abortion.

Note that I do assume all sorts of fortuitous empirical circumstances to obtain to the effect that one *can* actually physically perform these separate basic acts. The inclusion of empirical obstacles to procreation (impotence, infertility, the availability of contraceptives, etc.) would only complicate the analysis and add nothing to the results. I also assume that postnatal persons themselves will not be the subject of a 'modest proposal' policy (infanticide) aimed at population control.

Now the interesting thing about this list of basic acts, and the reason why I listed them in the first place, is that it helps us to see that environmental arguments against procreation must by nature be arguments in favour of abortion. One really has to stretch one's imagination to believe that the extra use of resources and hence the possible environmental degradation due to the first three basic acts, intercourse, fertilisation and pregnancy, could be more than negligible except under the most extreme circumstances. Hence, additional arguments of a different, non-environmental kind are needed to justify limits to intercourse, fertilisation and pregnancy, that is, to argue not just against giving birth to children but also against the specific prior acts that can but need not result in the birth of a child.

But apart from this problem, do we really need arguments against procreation in the first place? Why is the onus of proof not upon those who would want to procreate? There are, I would argue, good reasons in our moral standard to assume that each and every individual capable of procreating should have a universal, absolute and complete liberty to do so, compatible of course with an equal liberty for others. First, all individuals should be treated as equals unless good reasons for unequal treatment exist. Population policies create inequality between those who are and those who are not allowed to procreate. Hence, the onus of proof for the legitimacy of inequality rests upon those arguing against equal treatment. Next, respect for the liberty of life demands that individuals should have the liberty to

perform each of the four basic acts involved in procreation, since – an important assumption – each can be part of a reasonable plan of life, anywhere, anytime. Lastly, any political interference with the freedom to procreate would make women's wombs public utilities, that is, their use would be controlled by others than the individual whose body it is – which is not just a negation of the liberty of life but one of individual liberty as such.

Yet, intuitively, it also seems reasonable to prohibit rape, lesser offences like the unauthorised use of sperm from a sperm bank and dangerous behaviour like having sex while driving a car – as reasonable as prohibiting torture, theft and drunk driving. In more general terms, the exercise of one right may violate other (persons's) rights, so that one or the other right has to give way. Even though the burden of proof for specific limits on procreation rests with the antinatalist, it is clear that procreative rights cannot be absolute, that is, they cannot be assigned to all individuals, for all time, any place, to any means, or for any intention or purpose. At least not in principle.

Once we turn to the question which individuals *i, j...* exactly should be assigned rights to which basic procreative acts, we must give substantive reasons for the (non-)recognition of a right. We already have a criterion for establishing whether a reason is a *good* reason – our moral standard. What we need next are reasons themselves, to be specific: ecological reasons relating to the population question. Fortunately, 30-odd years of debate have given us more than enough of those – very weak reasons, as we shall see. In the next few paragraphs, I shall introduce and discuss a list that, or so I believe, quite adequately reflects the conventional objections to unlimited procreation. Please note that the sources to which I ascribe these arguments are not necessarily advocates of coercive or even voluntary population policies.

(1) The interests of the procreating individual(s) themselves are not served by procreating.

Supporting arguments for this claim can come from several sources. One might argue that, according to a cost-benefit analysis, purely personal circumstances like financial position, health, etc. would worsen if the procreating individual(s) took a (further) child. One might also point to the possibly doubtful ethical status of their instrumental reasons for taking a child: using another person (the child) for reaping the benefits of caring for, raising and educating it. However, even if these were valid arguments against procreating, they are not specifically *environmental* arguments. From that perspective, only the personal experience of environmental

degradation, the loss of resources or natural capital, can count as an objection, and in that case the argument is certainly not valid: it cannot pass the test of our moral standard. On this count, people's plans of life are ultimately their own affair. It is up to the prospective parents to decide if they want to carry the personal environmental costs of a (further) child, and it is even up to them to decide if they want to care about personal costs at all.

(2) The interests of one's own new child are not served by its creation [Narveson, 1976; Attfield, 1988].

A first problem with this argument is that it seems to presume the impossible, namely, a comparison between the quality of the new child's life and the quality of its life if it did not exist [Parfit, 1984]. There is at least one way out of this dilemma along lines sketched by Derek Parfit. We could argue, in our context and given a constant size of natural capital, that the addition of one person *j* to a population of *N* might lead to such a decrease of the averagely available portion of natural capital that the quality of *j*'s life would lie below a level at which *j* would consider life worth living. However, this presumes either a negative duty not to harm future individuals by creating a miserable life for them or a positive duty to create happy individuals only. Either way, *j* will be incapable for at least some time after her birth to judge on the current and expected quality of her life. But since the state, the polity or the legislator cannot judge on this one person's (possible and future) plans of life, let alone on the quality of the resulting life, without – at least in principle – simultaneously denying every existing person's liberty of life, there can be no duty to prevent *j*'s birth.

(3) The interests of (other) existing persons of the same generation or age group as the procreating individuals are not served by creating a new individual [Attfield, 1988].

(4) The interests of the next (already existing) generation or age group are not served by adding one more child to their number [Attfield, 1988].

The fact that these two arguments refer to the interests of others raises the question whether one individual from an age group can be allowed to procreate and another not, given that they have equally worthy plans of life and presumably share at least some interest in a sustainable environment and an adequate level of resources. Unequal treatment of these cases can only be justified by showing that we are dealing with a morally relevant difference between the two cases. The differences that might be relevant

here are time and the reduction of resources to (below) a critical level: if individual i was born before j , and if one may expect i 's life style to leave 'enough and as good' for others, whereas the addition of j would be one step too far, then perhaps j 's existence should be prevented. The crucial distinction between 'sustainable' i s and 'superabundant' j s is intrinsic to the logic of any theory that presumes a finite world: at any given moment in time, there must be a limit to the number of people this planet can feed and keep alive.

I do not want to question either this assumption or the idea that there is something immoral in depriving third parties of the tolerable life they could have had. Let us grant, for the sake of argument, that there is a relevant difference here and that there is reason to limit procreation. The problem I have is not with the *overall* beneficial effects of a population policy but with the way it attributes costs to *individuals*. Notice that the distinction between i s and j s is descriptive, not prescriptive. Being the first to finish, that is, being the creator of i rather than j , is just not enough to justify the moral or legal right to be the only one to finish.

If we accepted the birth of i and the undesirability of the birth of any further j as facts of life, life not always being fair, then a decision to prevent the existence of new j s and so add to the unfairness of life a portion of voluntary unfairness, creates a new problem: that of compensation. Prohibiting individuals to exercise rights that would be considered perfectly legitimate to exercise in other circumstances calls for compensation. But it is, first of all, not clear who should be compensated since it is not clear either who should be prevented from procreating. The threat i 's creators pose (or, in John Stuart Mill's terms, the harm they do) to the welfare of j and j 's creators is just as real and deep as that of j 's would-be parents: either one or either couple prevents the other from putting a child in a viable environment. Since i 's creators could just as well have been j 's and vice versa, blaming one couple rather than the other is still arbitrary. Moreover, the same is true for the last child before i (whose existence makes the next child a borderline case i) and the one before that, and so forth.

Of course we cannot blame the greatgrandparents' generation for not perceiving the population problems of their descendants, but neither can we absolve members of that last generation merely because they had the good fortune or foresight to procreate ahead of i 's parents. Once the limit of a sustainable population comes in sight, all procreating individuals share the burden. Finally, even if prohibition could be justified and compensation required, one may seriously question if there is any way to compensate a parent for 'losing' a child. If there is any form of natural capital that seems utterly insubstitutable, it must be a human individual.

Any attempt to formulate a fair way of prohibiting procreation for the

reasons mentioned would demand equal treatment of all concerned – say, a general ban on procreation ‘for as long as necessary’, which would seem to harm everyone equally. But even this does not solve the problem. There is, actually, a limited sense in which a temporal universal ban on procreation can be described as fair: it gives the members of the existing next generation mentioned in (4) a reasonable basis to build a life on and it puts no member of that generation at a disadvantage. It also has drawbacks, though. The ban limits the liberty of life of one present generation in favour of the next. This might still be intergenerationally fair if we believe that the first generation has already had the fullest opportunity to lead a rewarding life and that the next generation now deserves the same chance – if only that did not presume that whatever rewards life has in store for us are either parcelled out before procreation or distributed evenly over life.

Moreover, even if our ban were intergenerationally fair, it would nevertheless still be based on intragenerational unfairness. In particular, it still harms those who would like to have (more) children more than those who already have (enough), and it is still biased in favour of those who accidentally (or deliberately – who knows?) finish first. To put the point of this rapid reproducers paradox more bluntly: a birth-restricting population policy may have ‘overall’ desirable effects but is predestined to victimise innocent individuals, those who are not allowed to procreate, thus do not contribute to the population problem, and to reward the culprits, those who cause the problem and whose children are protected against competitors for resources.

Finally, let us consider the interests of the members of the procreating generation in (3) who choose not to procreate or simply cannot. In their age group, they are the only ones who cannot in any way be blamed for causing the existence of the *js* that are too much and the *is* who make the *js* too much. They have better reasons to complain about the creators of the *is* and *js* for limiting their life prospects, and perhaps also for having given precedence to previously non-existing persons (the new generation they created) over existing people. Yet even if this complaint were sufficient to justify compensation for the childless, it is insufficient reason to support straightforward limitations to the right to procreate. The latter would also require a good reason to believe that the interests of at least the involuntarily childless should count for more than those of the procreating individuals and their offspring. Moreover, it would bring us back to where we were before: to the rapid reproducers paradox.

For the record, there is one possible world in which the paradox does not obtain. This is the case when all fertile individuals within a population constantly reproduce at an average rate of n , n being a natural number and the rate at which a population should reproduce to stay exactly on the verge

of sustainability, all other factors (technology, resources et cetera) having been taken into account. Apart from the fact that this is a very improbable scenario, it is unfortunately also one in which legal measures against procreation are redundant.

(5) *The interests of future generations or persons are not served by procreation beyond the level of individual i* [Callahan, 1976; Norton, 1982b; Attfield, 1988].

In the ordinary moral analysis of environmental problems, which is focused on group, species and societal effects, future generations can offer an extra reason for environmentally sane behaviour. Here, in an analysis of the individual aspects of a possible population policy, it turns out to add little more than complications.

The problem with future persons here is, for once, not so much that they and their interests do not yet exist but rather that they do not need to exist. This is true both for the superabundant *js* and for the third generation that would be created by the *is*. What we have here then, apart from the already discussed conflicts among existing generations, is a conflict of interest between two non-existent groups. The first question we should answer now is whether we should be impartial between these two generations, partial to those in the nearest future or partial to generations in the more remote future. This question is relatively easy to answer. There is no relevant difference whatsoever between the *js* and the children of the *is*: either group is equally contingent, equally 'willed' into existence, either group is equally non-existent now, and we are equally uncertain about the needs and interests of either group. We must, therefore, be temporally impartial in this matter.

It follows that we cannot hold any one generation hostage to the threat of a miserable fate for any future generation, any more than any other. The *js* of today are equally morally relevant as, and equally pernicious to the welfare of, tomorrow's children of the *is*, and the latter generation will in turn face the same problem once it reaches the point where it could create its own *is* and *js*. (And so on and so forth into the far future; see Norton's 'Distance Problem' [Norton, 1982b].) In short, argument (5) leads to a continuous repetition of the arguments made against (3) and (4); it provides no grounds for limiting any specific individual's liberty to procreate.

(6) *The interests of other existing species are not served by procreation* [Attfield, 1988].

(7) *The interests of future generations of other existing species are not served by procreation* [Norton, 1982a; Attfield, 1988].

For these arguments to justify limits on human procreative liberties, either individual animals or sets (say, families or herds) or a species as such should be morally more valuable than individual humans. (If we want to defend a ban on human rather than animal procreation, animals must at least occasionally be rated higher than individual humans.) I shall for the moment exclude sets and species and assume that whatever value they have is instrumental to the welfare or interests of individual animals. Now whatever else may follow from this premiss, if valid, what does not follow is that particular humans (or animals!) should be legally limited in their procreative rights – and this for the very same reason why the interests of other humans are insufficient to override these rights: any limitations of the right to procreate will result in an unjust distribution of the burdens of sustainability, profitable only to those who procreate most rapidly.

(8) The interests of (the rest of) nature as it exists are not served by procreation [Attfield, 1988].

(9) The interests of (the rest of) nature in the future are not served by procreation [Attfield, 1988].

(10) The intrinsic value of life or of some forms of life is threatened by adding new human lives [Attfield, 1988].

Arguments like (8) and (9) imply that cauliflowers (or species as such) have something equivalent to interests, which might stretch the common understanding of ‘interest’ slightly too far. What remains then is to argue, in terms of (10), that plants, rocks, species, herds or ecosystems have an independent or intrinsic value. There are reasons to assume that intrinsic value is a redundant notion in ethical theory and perhaps even non-existent [Wissenburg, 1998], but I shall not pursue that line of argument here. By now it will also be obvious that simply adding more subjects or interests for whatever reason will not solve the rapid reproducers problem. The introduction of intrinsic value can, however, open up a whole new line of argument: what if *i*'s life or way of life were intrinsically valuable and *j*'s were not or less valuable? Unfortunately, any theoretically possible defence of this approach is practically infeasible. A difference in intrinsic value between *i* and *j* must depend on their persons, not their circumstances, or else the difference would not be intrinsic. But we cannot know who *i* and *j* are until they exist.

(11) The value of justice is overruled by more serious considerations, that is, survival and freedom.

One might argue that even if a prohibitive population policy must needs be unjust and unfair and inequitable, there are more important things in life than justice, namely the preconditions of justice. A just society, it has been argued, would be impossible if there were no freedom, if there were only one possible course of life and no actual opportunity to be unjust; it would be even more impossible if even the resources for that one option had disappeared. Hence, survival is more important than freedom and freedom is more important than justice [Bayles, 1976a; Bayles, 1976b; Hardin, 1976; Lee, 1979; Walter, 1988]. The obvious rejoinder is that survival is impossible without a fair scheme of social co-operation [Hauerwas, 1974; Callahan, 1976; Hessley, 1981; de-Shalit, 1996], hence that justice is prior to survival. This may or may not be empirically true; the point is that it does not refute the survival-first argument. The only result we may expect from a confrontation of the two, apart from a stalemate, is that both justice and survival have to give way.

We cannot refer now to the necessary injustice of limits to procreative rights, nor hope to refute what basically sounds like a logical argument: no life, no justice. What we can say is that there seems to be no way to morally justify legal limits to a specific individual's procreation, at least not by our moral standard, but that necessity may nevertheless override morality.

(12) The importance of procedural justice (here resulting in a liberty to procreate) can be outweighed by that of substantive justice (i.e., the consequences) [Bayles, 1976b; Narveson, 1976].

This final argument might seem to be a less extreme version of (11), yet it is not; it is by far more radical. Rather than pointing to the necessary requirements for any just or unjust, good or evil society, as the previous argument did, this one focuses on at least the preconditions of a sustainable society or at worst on the preconditions of a substantively just society. Now the first thing to note is that there is no such thing as the sustainable society [cf. Dobson, 1996: 3]. Sustainability is a normative, not (just) an empirical concept. Only at the level of mere survival in the most dire circumstances imaginable can sustainability have anything remotely similar to a purely objective, purely empirical meaning – at which point argument (12) collapses into (11). Under all other circumstances, sustainability offers room for choice.

To choose which sustainable world we find desirable we would have to do something our stringent interpretation of liberal democracy will not allow us to do: discuss and if necessary dismiss people's ideas of the good life, that is, violate the liberty of life. In particular, it would lead us to question the exchange between procreation and creation, that is, the relative

benefits of taking children and of preventing a reduction of natural capital, a deterioration of the natural environment or however it be expressed. In other words: we would be forced to say that a plan of life that requires the depletion of our natural resources is not reasonable, hence that individuals' reasons for procreating should be open to public scrutiny and judgment.

I shall return to this issue in the next section, but we can already remark here that the above is a special case of a more general problem: the procedural view of justice inherent in our moral standard is incompatible with the substantive standards that any theorist and proponent of the sustainable or green or Green society would have to set.

Our conclusion can be short: in this section, we have found that none of the ecological arguments that are commonly used to defend legal limitations to procreative rights is compatible with a stringent interpretation of liberal democracy. Apart from their individual complications, all face the same problem, viz., that there is no just or equitable way of attributing limits to individuals' procreative liberties.

Alternatives

The proponent of population policies now faces a choice between three alternatives: to accept less rigid but still coercive policies, to amend the conception of liberal democracy or to give up hope and opt for non-coercive solutions to the problem of sustainability. In this section, I shall give a brief survey of the prospects that these strategies offer.

Up to now, I have assumed that a population policy must entail straightforward legal restrictions on procreation. The first amendment that an antinatalist would propose is to adopt an indirect but still coercive policy instead: to compel people to behave in the 'right' way rather than prohibit 'wrong' behaviour. Conventional instruments to this purpose are (financial) rewards for small families or the denial of advantages to procreating individuals [cf. *Callahan, 1976; Walter, 1988*]. Alternatively, one can think of a system of transactable vouchers ('rights to reproduce'). Unfortunately, these solutions meet with the same distributive problem encountered before, albeit in a milder sense: they work out to the advantage of the rapid reproducers and their first children or, in the case of a voucher system, to the advantage of the rich and rapid.

To defend measures of this kind after all, the antinatalist might perhaps find recourse in an argument used by the Early Dworkin [*Dworkin, 1978*] to defend positive discrimination. The core of that argument is that the advantages and disadvantages which society or the state distributes are meant to guarantee a minimum level of security and welfare, enough to give individuals an equal start in life regardless of their endowments, but not so

much as to unfairly (non-neutrally) promote any particular ambitions. On this view, any relative benefits enjoyed by small families and childless individuals would be 'beyond' justice, extras, gifts that governments can hand out at their own discretion. Sadly, for the antinatalist, this argument might perhaps work in the case of positive discrimination (where rejected candidates for a job may have alternatives) but not in the case of a population policy. To name but one serious problem: child benefit policies of whatever kind always have effects on children's relative chances in life [Bayles, 1976b]. Making parents poorer (richer) by means of family-size related benefits means less (more) money for education, toys, housing, clothes – (dis)advantages which the children did not deserve.

Virtually the same objections apply to the anti-procreationist's next possible suggestion, the use of propaganda against procreation. Either propaganda does not work, and then it is useless, or it does, in which case it will have effects similar to those of positive and negative incentives: effective propaganda is never morally neutral [Bayles, 1976b]. It stigmatises families and individuals – and it does not solve the rapid reproducers paradox.

Our moral standard has now brought us back to Garret Hardin's Tragedy of the Commons where in themselves perfectly legitimate acts of individuals cumulate in a collective disaster [Bayles, 1976b; Hardin, 1976], and where, in the eyes of the liberal democrat, there is no morally admissible way of stopping the process. If coercion is ruled out by the stringent interpretation of liberal democracy, the next step would be to relax those conditions. Three of these seem to be suited for amendments: the deliberative requirements posed on collective choices, the condition of proportional equality, and the sanctitude of the liberty of life. (Note that successfully revising these premisses can solve the rapid reproducers paradox only for liberal democrats – but one does not have to be a liberal democrat to see unfairness in punishing the innocent and rewarding the guilty.)

In the first place, the anti-natalist could argue that a full liberty for everyone to procreate would not be prudent, nor responsive to the objective basic needs of individuals, nor good for any common good. This would seem to contradict the liberal democratic ideal of collective decisions as expressing the ideal citizens' will: prudent, responsive and directed at a common good (see above). If a liberal democracy is to take account of the disastrous effects of unlimited procreation, it should therefore give precedence to the conditions it poses on democratic decision making rather than let these be subjugated to its further criteria of liberty and equality.

However, this is not an option. It would mean throwing out the baby with the bath water, if one may use such an unfortunate expression. Liberal democracy would be reduced to bare democracy, equality and liberty would

be purely contingent features of society, respected only when compatible with the greater good of concord. Even a very limited priority for deliberative democracy opens the door for the dictatorship of a politically correct understanding of the good (sustainable) society, as we saw when we discussed argument (12) in the previous section.

A second way to amend liberal democracy would be to adapt the demand for proportional equality so that some differences between children are made morally relevant, relevant enough to outlaw the creation of *js* but not *is*. We have, in fact, already considered this possibility in the previous section and found no morally defensible way of making a significant distinction between the *is* and *js* themselves. There may be a relevant difference in the eyes of their parents, though, or at least the anti-procreationist in his innocence might expect that: for parents, every next child may have a smaller marginal utility than the previous one. (Remark that the term utility can be exchanged for other measures of, say, achievements in life.)

Assuming that this is true, it is still insufficient to support an argument in favour of legal limitations to procreation. The reasons are simple. Of their own free choice, reasonable individuals for whom the effects of procreation on the environment are relevant will not have *js*, so that regulations for them are uncalled for [cf. *O'Neill, 1979*]. Moreover, both these people and those reasonable individuals who only care about their own and their immediate offspring's quality of life will appeal to the liberty of life: it is up to them rather than some government to decide when a life may be worth living and when not, or when a society may be called sustainable and when not. Finally, the fact that even reasonable people can make ill-informed choices is perhaps sufficient to justify policies aimed at informing them, thus increasing their freedom, but not to limit it.

The antinatalist's final option for amending liberal democracy lies in the liberty of life. In view of the previous arguments, he might first of all suggest that it is not reasonable to (want to) have children, either on balance (weighted against the effects) or in general, so that the desire to have children cannot be part of a reasonable plan of life, thus making population control and the liberty of life compatible. Fortunately, we do not need to consider the mystery of the reasonableness of procreation. If reasonable people procreate, we may – by definition – expect them to have good reasons for doing so. If unreasonable people want to procreate, arguments for prohibiting this will have to be, at least in part, of a non-environmental nature, that is, they would have to point to the morality of limiting unreasonable behaviour in general. In other words, the fact that particular environmental circumstances would obtain can never be a sufficient condition for limiting the procreative liberty of life of specific persons.

Alternatively, the antinatalist could propose that we replace the idea of a 'reasonable plan of life' by something else – say, welfare, happiness, or opportunity. But this is no solution either. The whole point of the liberty of life is that it allows individuals to live according to their individual views of the good life, and the precise terms and conceptions with which this concept are expressed should not matter. Any alternative to the reasonable plan of life will either leave it up to the individual to decide what his or her life should look like, particularly to decide whether children fit in the picture, or it will lose the part that makes liberal democracy specifically liberal.

The rapid reproducers paradox cannot be solved by coercion in whatever form, nor by changing the parameters of the problem, that is, the conditions of liberal democracy. This leaves the anti-natalist with one and only one admissible strategy: to appeal, as a citizen, to other citizens' feelings of responsibility. Now this is a strategy that can be supported by policies that are non-coercive and do not violate the conditions of liberal democracy: providing information and education, instigating public debate and making preservatives and other alternatives to procreation available to those who, as yet, do not actually have the freedom to choose [*Walter, 1988*]. Policies of these sorts empower individuals; they enlarge rather than limit their procreative liberties.

Clearly no one can guarantee that non-coercive policies will be effective in ensuring the existence of a sustainable population. Since they are based on voluntary co-operation, volume control is by definition excluded. If we assume individuals to be as rational under these conditions as we assumed they were in the case of compulsory antinatalist policies, we may again expect there to be rapid reproducers who will grab their chances before the limits to population growth have been reached. It seems that the fate of population control is similar to that of other substantive ideals that environmentalists or ecologists may share: the ends-oriented nature of green theories is often incompatible with the process-oriented nature of liberal conceptions of justice.

Is there any other way then in which sustainability can be guaranteed? Of the methods mentioned, we can discard most demand-side solutions: controlling the life span, length, weight, appetite, diet or taste of individuals, even if practicable, seems even more obviously incompatible with liberal democracy than control of the population size. The latter seems acceptable only in the most extreme circumstances, where the survival of mankind is at stake and not the survival of any particular ideal of the sustainable society. There is also little reason to be optimistic about distributive solutions. A scheme of just distribution and use of resources within and between generations can guarantee a better life for more people but it cannot guarantee that there will not be too many people – or animals, for that matter

– to sustain. There may be too many even now to warrant a globally just and sustainable society.

Should voluntary abstinence and distributive solutions turn out to be insufficient, there remain only two alternatives: encouraging frugality on the demand side, and on the supply side exploring all technological possibilities. It would be imprudent to reject either one of them offhand; we will probably need them both.

NOTES

1. For a formal representation of this conception, I refer the reader to Wissenburg [1994] and Wissenburg [1998]; for background reading see Kanger and Kanger [1996]; Parent [1974]; Lindahl [1977]; Van Hees [1995].
2. This definition is based on Steiner's [Steiner, 1983]; it is not uncontroversial but a discussion of the proper way to define a basic act would lead us too far astray.
3. For a more detailed discussion of these conditions, see Wissenburg [1996].

REFERENCES

- Attfield, Robin (1988), 'Population Policies and the Value of People', in Hudson and Peden, [1988: 191–202].
- Bayles, Michael D. (1976a), 'Introduction: Moral Philosophy and Population Issues', in Bayles (ed.), [1976: xi–xvi].
- Bayles, Michael D. (1976b), 'Limits to a Right to Procreate', in Bayles (ed.) [1976: 41–55].
- Bayles, Michael D. (ed.) (1976), *Ethics and Population*, Cambridge, MA: Schenkman Publishing.
- Callahan, Daniel (1976), 'Ethics and Population Limitation', in Bayles (ed.) [1976: 19–40].
- de-Shalit, Avner (1996), 'A Return to the Scene of the Crime: Sustainability and Intergenerational Justice', paper for the Sustainability and Social Justice Seminar Series, Keele.
- Dobson, Andrew (1994), *Green Political Thought*, Second Edition, London: Routledge.
- Dobson, Andrew (1996), 'Sustainabilities: An Analysis and a Typology', paper for the Sustainability and Social Justice Seminar Series, Keele.
- Dworkin, Ronald (1978), 'Reverse Discrimination', in R. Dworkin, *Taking Rights Seriously*, Second Edition, London: Duckworth, pp.223–65.
- Gold, Mark (1995), *Animal Rights: Extending the Circle of Compassion*, Oxford: Jon Carpenter.
- Graham, E. and S. Graham, (1992), 'The Crisis of Population Growth', *International Journal of Moral and Social Studies*, Vol.7, pp.205–36.
- Gray, John (1980), 'On Negative and Positive Liberty', *Political Studies*, Vol.28, pp.507–26.
- Hardin, Garrett (1976), 'The Tragedy of the Commons', in Bayles (ed.) [1976: 3–18].
- Hauerwas, Stanley (1974), 'The Moral Limits of Population', *Thought*, Vol.49, pp.237–49.
- Hessley, Rita (1981), 'Should Government Regulate Procreation: A Third View', *Environmental Ethics*, Vol.3, pp.49–53.
- Irvine, Sandy (1991), 'An Overcrowded Continent', in Sara Parkin (ed.), *Green Light on Europe*, London: Heretic Books, pp.266–77.
- Jacobs, Michael (1995), 'Reflections on the Discourse and Politics of Sustainable Development. Part I: Faultlines of Contestation and the Radical Model', paper for the Sustainability and Social Justice Seminar Series, Keele.
- Kanger, Helle and Stig Kanger (1966), 'Rights and Parliamentarism', *Theoria*, Vol.2, pp.85–115.

- Lee, Donald (1979), 'Some Ethical Decision Criteria with Regard to Procreation', *Environmental Ethics*, Vol.1, pp.65-9.
- Lindahl, Lars (1977), *Position and Change: A Study in Law and Logic*, Dordrecht: Reidel.
- Narveson, Jan (1976), 'Moral Problems of Population', in Bayles (ed.) [1976: 59-80].
- Norton, Bryan (1982a), 'Environmental Ethics and Nonhuman Rights', *Environmental Ethics*, Vol.4, pp.17-36.
- Norton, Bryan (1982b), 'Environmental Ethics and the Rights of Future Generations', in *Environmental Ethics*, Vol.4, pp.317-37.
- O'Neill, Onora (1979), 'Begetting, Bearing, and Rearing', in O. O'Neill, *Having Children*, New York: Oxford University Press, pp.25-38.
- Parent, William A. (1974), 'Some Recent Work on the Concept of Liberty', *American Philosophical Quarterly*, Vol.11, pp.149-67.
- Parfit, Derek (1984), *Reasons and Persons*, Oxford: Clarendon Press.
- Postel, Sandra (1996), 'Dividing the Waters. Food Security, Ecosystem Health, and the New Politics of Scarcity', Worldwatch Paper 132, Washington, DC: Worldwatch Institute.
- Rawls, John B. (1972), *A Theory of Justice*, Oxford: Oxford University Press.
- Samaras, Thomas (1994), *The Truth about your Height*, San Diego, CA: Tecolote Publications.
- Steiner, Hillel (1983), 'How Free: Computing Personal Liberty', in A. Phillips Griffiths (ed.), *Of Liberty*, Cambridge: Cambridge University Press, pp.73-89.
- Tabah, Léon (1995), 'Population Prospects with Special Reference to the Environment', in David E. Cooper and Joy A. Palmer, *Just Environments: Intergenerational, International and Interspecies Issues*, London: Routledge, pp.72-88.
- Van Hees, Martin (1995), *Rights and Decisions. Formal Models of Law and Liberalism*, Dordrecht: Kluwer Academic Publishers.
- Walter, Edward (1988), 'Morality and Population', in Hudson and Peden [1988: 203-16].
- Wissenburg, Marcel (1994), 'Justice From a Distance. An Outline of a Liberal Theory of Social Justice', Ph.D. thesis, University of Nijmegen. Revised version to be published as *Minimal Justice*, London: UCL Press.
- Wissenburg, Marcel (1996), 'European Constitutional Decision Making: the Case of Green v. Liberal Democratic Concerns', Nijmegen Political Science Reports No.36, University of Nijmegen.
- Wissenburg, Marcel (1998), *Green Liberalism: The Free and the Green Society*, London: UCL Press.