

**Oregon State Bar
Sustainable Future Section**

Photo: J. Michael Mattingly

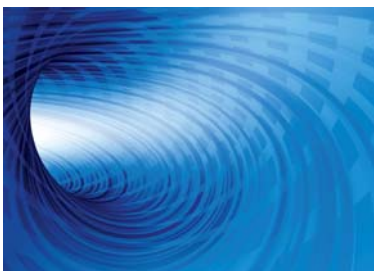
The Long View

The Ethical Dimensions of Sustainability

By Reed Elizabeth Loder

Often the most basic and familiar topics are the hardest to unpack. People invoke "sustainability" to describe everything from financial planning, to furniture, to environmental practices. While the term is elastic enough to garner generalized support, its meaning varies with perspective and context. Consensus tends to dissolve in the details and implementation. Yet the concept contains several core meanings with ethical implications for individual and collective conduct. Sustainability is inherently a normative idea that tells us what we *should* do if we want to achieve ideal balance. The Oregon statutory definition of "sustainability" is among the richer and comprehensive action-guiding statements: "'sustainability' means using, developing and protecting resources in a manner that enables people to meet current needs and provides that future generations can also meet future needs, from the joint perspective of environmental, economic and community objectives." ¹

Sustainability heals the schism between nature and humanity and integrates humans into the natural world. This unifies global humanity in the recognition that all humans are biologically and



psychologically constituted to alter the environment for their purposes. Sustainability is not by default a "hands-off" perspective. Thus "development" is often conjoined with "sustainable," and the question is *how* best to use our natural inheritance. Yet sustainable uses must allow eco-

logical processes to regenerate themselves, which requires scientific attention to the functions and capacities of natural systems. Without this constraint, people stand to lose valuable ecological services from resources such as soils, forests, and oceans that provide water purification, erosion control, flood prevention, biodiversity preservation, and the like. When the pace of utilization outstrips the regenerative powers of ecological processes, cessation of use is at least temporarily the sustainable course of action. If overuse has already impeded the replenishment of ecological fruits, restoration becomes sustainable. Thus science and ethics cooperate to achieve the varied and dynamic meanings of sustainable treatment in particular contexts. A sus-

tainable approach requires continual study and monitoring of human activities and openness to revisions in accordance with new understanding and events. Learning from the past and adaptability are essential to sustainability.

Sustainability is inherently a temporal idea. It unifies past, present, and future in an unbroken stream. Sustainable uses of natural resources extend historical existence into the future, and often this implies restraint. A human-caused terminal condition such as species extinction belies sustainability. The principle forbids people from exhausting natural bounties without considering those who follow. Sustainability eschews the short-term perspective that has so damaged the earth. Humanity is unified across time in relation to ecological goods and services upon which survival and flourishing depend. People perennially debate the details of future consideration, questioning whether we can judge what future humans will want or need and how far we must go in limiting our own lives to meet these "speculative" demands. Yet most people *do* care about their legacy and wish to perpetuate the values and institutions that reflect their highest ideals. Sustainability lends resolve to those motivations. On any view, it is unsustainable to ravage the environment and special places from which these cultural values emerge.

Equity is vital to better ideas of sustainability. Aside from the intrinsic value of justice, grossly disparate distributions of environmental burdens and benefits promote harms that limit the wellness of everyone. Profligate consumption resulting from wealth exhausts the capacities of the environment. Deprivation forces poor people to use whatever they can, often resulting in environmental degradation of vulnerable areas such as rain forests. Extreme unfairness in bearing the burdens of pollution creates conflicts and even warfare, especially when the primary instigators and beneficiaries of harm are those unburdened. The worst effects of climate changes will fall on people living in fragile environments with few resources to withstand the wrath of floods, severe storms, and drought. Richer people in developed places have affected climate most through their consumptive lifestyles but will likely suffer less from the harshest consequences. Unjust environmental conditions are unsustainable, and reducing poverty and curbing its cruel effects will enhance future prospects for all.

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The Ethical Dimensions of Sustainability (continued)

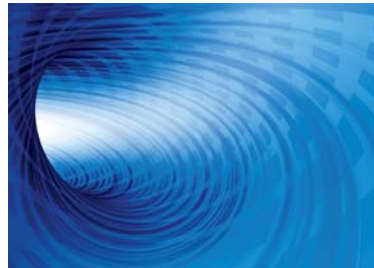
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Oregon wisely folds equity concerns into its definition and goals of sustainability.

Thus sustainability contains core ethical guidelines: people are part of nature and share a fate in common, they have obligations across time, they must monitor and adjust their alteration of the environment as necessary, they must limit uses in accordance with natural capacities for regeneration, and they must attend to the equitable distribution of environmental bounties and burdens. Despite these commonalities, assessing the sustainability of practices and policies is inevitably indeterminate. The controversy is helpful if it elevates public discourse and generates creative thinking about our many environmental challenges. If disagreement excuses inaction, however, constructive resolutions will be untimely or fail. Cooperation and deliberation are ethical values embedded in sustainability itself. Because the future is so important to human identity, people have a collective responsibility to apply sustainability ideals diligently and persistently, tempered by the realism that even modest progress counts and may later spawn greater success. The "bone weariness of the damned" is simply not justified.²

The lessons that sustainability has to teach are sometimes easier to recognize in *unsustainable* circumstances. Recent world events offer unfortunate insights on this. Much of the response to the Gulf oil spill of 2010 defies the most basic ethical components of sustainability. We have advanced knowledge somewhat from the catastrophic mistakes and have analyzed what caused the events technologically and even culturally.³ Suspending deep-water drilling during such study was reasonable, but lifting the moratorium was premature, given limited understanding of the longer-term effects on ocean ecology and the known unworthiness of blowout-prevention technology. Somewhere in the post-spill process, debate shifted from prevention to better containment, consigning the future to new thresholds of environmental injury. Even the remedial step of using dispersants to break up and sink the oil disregarded current boundaries of knowledge about the impacts of oil at far ocean depths. Attitudes toward the future preceding the spill were reckless, with no one bothering to consider worst cases. After an "impossible" combination of failures caused an "unfathomable" spill, the newly remade Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE) clung to typical modes of cost and benefit analysis and a static, full-throated ethic of use.⁴ No more were terrible events too remote, distant, or speculative to justify the hesitance of a precautionary approach, yet the key actors refused to halt long enough to investigate the capacity of ocean systems to regenerate. Neither did they take equities seriously. Corporate profit

and pursuit of flawed governmental energy policy suppressed warnings, and while some oil industry workers remained employed, others died for oil. More suffered grave damage to their fishing and tourism livelihoods, and Gulf residents generally faced threats to their cultural identity of



place. Our descendants and the rest of us are yet to grasp the full impact of these events. This aftermath fails every ethical test of sustainability.

Recent catastrophe in Japan heralds another opportunity to move earnestly in a sustainable direction. So far, insistence on the central place of nuclear power in the world's energy future is not promising. Sustainability is a springboard for dialogue on these and other looming environmental problems. Sadly, ecological disasters are no longer unimaginable or even rare. However people disagree about sustainability on an operational level, they should coalesce around the fundamental ethical urgency of the idea.

Notes

¹ ORS 184.421

² Al Gore, *Earth in the Balance: Ecology and the Human Spirit* 241 (1992).

³ National Commission on the Deepwater Horizon Oil Spill and Offshore Drilling, *Deep Water: The Gulf Oil Disaster and the Future of Offshore Oil Drilling, Report to the President* vii-x (Jan. 2011).

⁴ See, e.g., John M. Broder & Clifford Krauss, *Regulation of Offshore Rigs Is a Work in Progress*, N.Y. Times: Apr. 17, 2011, [available at](http://www.nytimes.com/2011/04/17/us/politics/17regulate.htm) <http://www.nytimes.com/2011/04/17/us/politics/17regulate.htm> (last visited Apr. 17, 2011).

Professor Reed Elizabeth Loder is an accomplished ethicist. She holds a Ph.D. in philosophy in addition to being a lawyer. The courses she has taught at Vermont Law School include Environmental Ethics, Legal Profession, Moral Philosophy for Professionals, and Property Law. She also has taught Ethics in the Professions at Dartmouth College.