

**The Case for
A Bill of Rights for Sustainability**
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In 1776 the United States of America declared their independence from Great Britain, and Adam Smith published his "Inquiry into the Nature and Causes of the Wealth of Nations." The U.S. Constitution was adopted and ratified by the new nation in 1788. Drafters of the constitution included scholars who apparently shared Smith's economic views, regardless of whether they had studied his new book. Smith's concluded that pursuit of individual self-interest would be transformed into outcomes serving the public interest, as if by an "invisible hand." Nothing in the constitution would lead one to believe that promotion of the "General Welfare" would require the public to be protected from the forces of economic self-interest.

The assumptions supporting Adam Smith's "invisible hand" theory of public welfare were probably reasonable for the America of 200 years ago. Businesses were mostly small, individual proprietorships, none of which individually could measurably affect prices or quantities in their markets as a whole. Productive resources; land, labor, capital, and management; were embodied in the same economic entities. Consumer tastes and preferences could be taken as given -- as determined by their inherent needs and desires and not subject to question or manipulation by producers. Transactions were mostly face-to-face and personal, between producer and consumer, which left little room for deception or misinformation. The human population was too small to inflict any irreversible damage to the natural environment. And, strong cultural, moral, and social values clearly defined the bounds of "acceptable" behavior. Under these conditions, the "invisible hand" was indeed a protector of the general economic welfare.

However, none of the key assumptions above are true in the American economy of today. One doesn't need to review business statistics to know that large national and multinational corporations dominate today's markets for nearly all classes of products. Adam Smith gave stern warnings that corporations -- even those of 200 years ago -- represented a grave threat to free market competition. He could not have conceived that a 1924 Supreme Court decision would confer the status of "person" to corporations. Land, labor, capital, and management are now separated among those who own, those who work, those who invest, and those who manage. And, it matters how profit is allocated among them. Today, businesses spend billions of dollars each year attempting to *shape* consumer tastes and preferences to fit their need -- not just to *satisfy* them. Many vertical layers of markets and middlemen typically separate consumers and producers. *Legal* deception and seduction of consumers has become "acceptable" business practice.

Today's human population is clearly capable, and seemingly willing, to inflict irreparable damage to the natural environment in pursuit of its short run self-interest. And a belief that the "greatest greed yields the greatest good" seems to have replaced, or perhaps destroyed, the cultural values of human caring and responsibility. Ironically, belief in Smith's invisible hand seems to have achieved its greatest acceptance at a time when the assumptions that support it are least valid.

If the U.S. Constitution were to be written today, by true scholars of today, it would have to include Economic and Ecological Bills Rights to complement the political and social Bill of Rights adopted in 1788. Nothing today indicates that the General Welfare can be further promoted without constitutional assurances that the economic and ecological rights of humanity will be protected from the greed-driven machinations of an out-of-control, corporate economy. Lacking constitutional protection for our economic and ecological rights, our social democracy quite simply is not sustainable.

The Wisdom of Changing the Constitution

The drafters of the constitution meant it to be a living document, capable of changing to meet the changing needs of the time. In the words of Thomas Jefferson, "I am not an advocate for frequent changes in laws and constitutions, but laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times. We might as well

require a man to wear still the coat which fitted him when a boy as civilized society to remain ever under the regimen of their barbarous ancestors.” (Taken from a letter to Samuel Kercheval, July 12, 1816, and inscribed on the walls of the Jefferson Memorial).

Thomas Paine, in his essay, “Rights of Man” stated: “It is perhaps impossible to establish any thing that combines principles with opinions and practice, which the progress of circumstances, through length of years, will not in some measure derange, or render inconsistent; and therefore, to prevent inconveniences accumulating, till they discourage reformations or provoke revolutions, it is best to regulate them as they occur. The rights of man are the rights of all generations of men, and cannot be monopolized by any... The best constitution that could now be devised, consistent with the conditions of the present moment, may be far short of that excellence which a few years may afford.”

Thomas Jefferson and Thomas Paine could not have foreseen today's social and ecological consequences of our blind pursuit of materialism and short-run, economic self-interests. Yet, they clearly anticipated that such derangements and inconsistencies would arise, and to limit their accumulation and prevent revolution, civilized society must at times stop and remove the yolk of our barbarous ancestors by amending, or rewriting, the constitution. Payne also pointed out that it is the responsibility of the people, not the government, to write and amend constitutions. “The fact therefore must be, that the *individuals themselves*, each in his own personal sovereign right, *entered into a compact with each other* to produce a government: and this is the only mode in which governments have a right to arise, and the only principle on which they have a right to exist. A Constitution is a thing *antecedent* to government, and a government is only the creature of a constitution. The constitution of a country is not the act of its government, but of the people constituting a government.” Thus we, the people, are responsible for recreating our government so it may promote the General Welfare by ensuring a sustainable human society.

Paine also argues that constitutions and governments must be built upon a foundation of the *natural rights of man* -- from this point on in this paper to be referred to as *basic human rights*. In his “Rights of Man,” He develops a case to support the following conclusions. 1st, Every civil right grows out of a basic human right. 2nd, Civil power, the power of government, is made up of the aggregate of that class of human rights that individuals lack the power to exercise alone, but can exercise collectively through the organization of government. 3rd, Civil power, government power, cannot be allowed to invade basic human rights that could otherwise be exercised by individuals. Constitutions, in fact, must constitute a consensus of the governed regarding the nature of basic human rights, individual rights which can be exercised alone and civil rights requiring protection *by* government, and rights requiring protection *from* government. Upon this foundation, the structure and functioning of government, as outlined in the constitution, must be built.

Toward an Economic Democracy

Many interesting similarities exist between progressive thinking during the times of the democratic movement of the late 1700s and the progressive thinking of today. One example is the *chaordic* organizational model advocated by Dee Hock (founder and past CEO of Visa Corporation). The model's foundation of fundamental purpose, guiding principles, and flexible structure bears a striking resemblance to the democratic form of government.

Fritjof Capra's, in his book “Web of Life,” claims that all living organisms are characterized by three interrelated criteria: (1) autopoiesis, or “self-making,” patterns of organization, (2) dissipative or continually changing structures, and (3) cognitive processes which continually regenerate the physical structure according to the fixed pattern of organization. In a healthy society, the process of democracy must continually regenerate its economic and civil structure in accordance with the fundamental purpose and principles encoded in its constitution. A healthy democracy is a living democracy. A democracy that has lost its “self-making” ability is already dead.

Zohar and Marshall, in “The Quantum Society,” propose a new societal worldview, consistent with *new* theories of quantum physics, to replace the currently dominant worldview that evolved from the mechanical theories of Newton and Descartes. They state: “Government and public institutions have a spiritual, not just a political, responsibility to make room for dialogue, to encourage it, and to make clear that it is a spiritual process, as the basis for our deeper,

shared meaning (our covenant).” Such a dialogue and covenant will be necessary if we are to build a sustainable democracy.

The framers of the U.S. constitution created a civil democracy. They did not create an economic and ecological democracy because they saw no need to do so. However, they created a pattern of organization and procedures for structural change clearly intended to support a process of continual renewal. Provisions for constitutional amendments and constitutional conventions send a clear signal to American society to change the constitution as the human mind “becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances. “

Nothing in the U.S. Constitution would lead one to believe the framers intended to create a civil democracy in order to protect an economic tyranny. They assumed the economy would be democratic because they could not conceive that it might be otherwise. But it is clear that today's American economy is not an economic democracy – but instead is economic tyranny. The rein of the economically powerful reign over the economically weak is reminiscent of the rule of Great Britain over the American colonies. An uncontrolled corporate economy is exploiting and degrading both natural and human resources of the nation much as if the corporation were *king* and the people of all lands were its colonial *subjects*. (See David Korten's, “When Corporations Rule the World,” for full development of this argument.)

Even if the constitution writers of past generations had not intended an economic democracy, it is clear they would not have intended to preclude the current generation from creating one. Their rejection of the rule of monarchy was based on their firm belief that no generation could be forced to sacrifice their rights simply because some previous generation had failed to claim them, or had given them away. In the words of Thomas Paine, “A certain former generation made a will, to take away the rights of the commencing generation, and all future ones, and to convey those rights to a third person, who afterwards comes forward, and tells them that they have *no rights*, that their rights are already bequeathed to him, and that he will govern in *contempt*, of them. From such principles, and such ignorance, Good Lord deliver the world!”

There is no fundamental right to continue the economic tyranny, regardless of past court decisions and current economic policies. The people of this generation have every right to do whatever is necessary to claim their right to create within this nation an economic democracy. The people of this generation have a clear civic and moral responsibility to defend this right and to pass it on to the next generation and to all generations to come. The sustainability of humanity will require nothing less.

Economic Rights and Responsibilities of Humans

The Declaration of Independence includes in its opening statement; “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness.” The U.S. Constitution is built upon this foundation of the most basic of human rights. The Bill of Rights, the first ten amendments, in general, only clarify and elaborate upon these basic rights. The global Human Rights Initiative of Jimmy Carter's administration was a more direct attempt to build consensus for a basic set of Human Rights of all people in all countries.

The current public disenchantment with government may provide a unique opportunity for renewing the consensus building process. A consensus concerning basic Human Rights and Responsibilities could provide the foundation for a revised constitution designed to ensure a economic, ecological, and social democracy.

The preamble to any such rights should continue to be: *We hold these truths to be self-evident that all people are created equal, and they are endowed by their creation with certain unalienable rights, among which are Life, Liberty, and the Pursuit of Happiness.*

We might then more clearly articulate a set of basic human rights, accompanied by their social, ecological and economic implications. In general, social rights represent rights which individuals lack the power to exercise alone but can exercise collectively, and thus, must be protected by government. Economic rights represent those that can

be exercised individually and must be protected from government and corporate entities. And ecological rights represent those derived most directly from basic human rights – the ethical and moral rights of future generations. Ecological rights also represent the right of people to live in harmony with other people and with their natural environment.

The list below is provided for illustrative purposes only. Any canonized set of basic human rights, and their accompanying economic, ecological, and social derivatives, would need to result from a national dialogue arriving at a national consensus, and thus, providing the foundation for a sustainable democracy.

BASIC HUMAN RIGHTS AND RESPONSIBILITIES

These basic human rights shall not be denied or restrained, unless exercise of rights by one person denies or restrains one or more basic rights of another. Even in those cases, rights cannot be denied or restrained without due process of law -- except in self-defense of one's rights against the immediate, unlawful threat to those rights by another.

Any society has a responsibility to ensure that these rights are available to all, to the extent that they are available to any within that society. The current generation has a responsibility to ensure these rights for future generations, to the extent that they are available to those of the current generation. These rights may not be bought, sold, or otherwise obtained or given for any reason.

- The Right to Live: Every human being has the basic right to live and to grow -- physically, mentally and spiritually.
 - Social: Right to protection and of self-defense against immediate threat to life or restraint of an opportunity to develop fully from natural birth to death.
 - Economic: Right to adequate food, clothing, shelter, education, and health care needed for survival and full physical, mental, and spiritual development.
 - Ecological: Rights of future generations to opportunities to protection, growth, and development equal to those of the current generation.
- Right of Individual thought and expression: Every human being has a basic right to think their own thoughts and to express those thoughts to others.
 - Social: Right to protection and of self-defense against the immediate repression of thought and expression including speech, writing, publishing, education, or other means of disseminating information.
 - Economic: The right to obtain accurate, unbiased information and to be protected against attempts by others to manipulate or subversively influence one's thoughts, expressions, or actions for private gain.
 - Ecological: The right to obtain and distribute all types of information concerning potential threats to the natural environment that could impact the rights of future generations.
- Right of individual action: Every human being has a basic right to independent action and freedom of movement.
 - Social: Right to protection from and self-defense against immediate restraint of action or movement and invasion of privacy of personal actions.
 - Economic: Right to pursue economic opportunities of one's choosing and be protected against detrimental economic actions of others.
 - Ecological: Responsibility of the current generation to maintain options for actions of future generations equal to or greater than options of the present.

- Rights of Interaction: Every human has the basic right to interact with other human beings.
 - Social: Right to communicate, meet, congregate, marry, have or not have children, organize for social or political purposes, and to formulate and conduct the processes of self-government.
 - Economic: Right to collaborate, organize, and pursue joint economic activities, but only so long as such collaborations contribute to the social and ecological well-being of society.
 - Ecological: Responsibility to pass on to each succeeding generation rights equal to or greater than those of the preceding generation.

Hierarchy of Rights

The most difficult challenges in implementing a sustainable democracy are likely to arise from the integration of its economic, social, and ecological dimensions. This will require a consistent means of resolving short run conflicts or contradictions. Some issues are clearly economic – the costs and benefits accrue almost exclusively to individuals. Others issues are clearly social – individuals must share in the effort if rewards are to be realized. Ecological issues are fundamentally matters of principle – this generation accepts the responsibility to protect the rights of future generations as a matter of ethical or moral principle. The challenges arise from issues that have important economic, social, and ecological dimensions – at the margins or intersections among the three.

Issues of sustainability are not hierarchical, at not least in the conventional sense, but rather is systemic in nature. The economy is a subsystem of society, which in turn is a subsystem of the natural or ecological system. Thus, nature might seem to be dominant over society and society dominant over the economy. However, the economy can either enhance or destroy society, which in turn can enhance or destroy the natural ecosystem. So an interdependent relationship exists among the three – none can survive independent of the other. Of course, nature might well survive the ravages of both economy and society, but it likely would be a nature incapable of sustaining contemporary human society.

The hierarchy of sustainability arises from the source of organizational principles or rules of by which the system as a whole functions. The concept of ecology presumes there are inviolate *rules of nature* -- a higher order of things within which all else, including human society, ultimately must find harmony. The economy is a creation of society. Thus, society sets the rules by which an economy must function. Thus, there is a natural hierarchy among ecosystems, social systems, and economic systems. Violation of this hierarchy principle is neither impossible nor uncommon, but continual or egregious violations quite simply are not sustainable.

Thus, the natural hierarchy among ecological, social, and economic systems should be reflected in the new bill of rights. The rights of society must first conform with our ethical and moral responsibilities to humanity – not to degrade or destroy those things upon which the future of humanity depends. Only within this context can we meaningfully realize and sustain societal rights – to be a part of a caring, sharing, civil, and productive society. Our economic rights, in turn, can be sustained only within the context of our societal rights. Thus, issues of conflict can be resolved, conceptually, by relying on this natural hierarchy. The challenge of translating the concept into reality may prove far more difficult.

Economics of Sustainability

The economics of sustainability must evolve from the hierarchy of human rights and responsibilities. Theories must be developed which are consistent with the long run sustainability of humanity, not just with short run profit and growth. Current economic theories were developed for a mostly *empty, disconnected* world, but the world is rapidly becoming *full and interconnected*. As stated previously, the old assumptions are no longer valid. A new economics, based on new realities, is needed to help ensure the sustainability of human society.

The new economics will require years, if not decades, of intellectual development. However, a few examples of what is needed may demonstrate the general nature of the task.

- Theory of utility and preferences: Conventional preference theory deals only with demand for consumer goods and services. Utility and preference theory needs to be expanded to deal with social and spiritual values as well -- the value of belonging, being a useful member of society, and fulfilling one's responsibilities. Conventional utility theory assumes tastes and preferences are given. One's tastes, preferences, and sources of satisfaction are inevitably impacted by one's cultural, social, ecological, and economic environment. Economic theory is needed to guide the process of shaping tastes and preferences so humanity may find harmony, rather than conflict, with the higher ecological and social orders of things.
- Consumer behavior and demand theory: Conventional demand theory deals only with the person as a consumer or a producer of goods and services for consumption. The quality of one's life may be impacted far more by the fundamental nature of one's work and one's environment than by the amount of income and level of consumption one is able to support. Dignity of work, equity of opportunity, morality and ethics are important aspects of one's overall well being – as are beauty and harmony with nature. Consumer behavior and demand theory should become people behavior and quality of life theory. Material goods and services, social relationships, and moral and ethical behavior should be considered as complements, rather than substitutes, in satisfying the physical, mental, and spiritual needs of people.
- Production and resource allocation theory: Production economics assumes that competitive markets provide the model for optimum resource allocation. And deviation from a free market outcome is dealt with as a market failure. Markets are fundamentally incapable of allocating resources so as to ensure long run sustainability. Markets treat technology and resources as substitutes, whereas in the long run they are inherently complements. Treating factors of production as complements, rather than substitutes, and most “consumer” alternatives as complements, rather than substitutes, should lead to some new and interesting economic hypotheses. Current market allocation of land and other natural resource uses causes non-renewable inputs to be used up at a greater than optimal rate. Sound economics must guide the processes of consensus and public choice in developing conditions, if not replacements, for market allocation of natural resources.
- Market organization and theory of the firm: Conventional price theory begins with the perfectly competitive model and compares performance of other market structures to perfectly competitive norms. Consequently, performance is measured almost exclusively in terms of price, output, and innovation. If a single-firm industry generates continuous growth in output at the lowest possible prices through constant innovation, it may be deemed economically efficient, regardless of its impact on the natural or human resource base or other extractions from society needed to maintain its growth. Current domination of the economy by multinational corporations makes a mockery of existing economic theory of the firm. New organizational theory is needed which bases performance on long run sustainability rather than short run exploitation.
- Theory of Distribution: Conventional distribution theory deals primarily with market allocation of returns to factors of production: land, labor, capital, and management. Being the foundation for capitalism, conventional economics implicitly assumes capital is the ultimate limiting, and thus the most valuable, resource. Financial performance of the firm is measured in terms of returns to capital. For example, wages paid to labor and salaries paid to management are viewed as “costs” rather than “returns” to the economic enterprise. Corporations are justified on the grounds of facilitating capital investment and accumulation, with little apparent regard to the resulting distribution of rewards among land, labor, capital, and management. The new distribution theory should deal explicitly with the moral, ethical, and social issues. Distribution theory should not only deal with distribution among factors of production, but also, with distribution of rewards among people – the holders of land, labor, capital and management – while enhancing harmony with nature and spiritual integrity.
- Economic welfare and general equilibrium theory: Conventional economic theory derives the aggregate economy by summing across the individuals and firms that make up the economy. There is no economic sense of possibility of the whole being different from the sum of the parts. Resources are distributed so as to attain the maximum sum of individual consumers' utility using the minimum sum of individual resource costs. Nothing in conventional economic logic ensures that maximum economic welfare, in fact, will not destroy the interpersonal fabric of a society or destroy the integrity of interdependent resource relationships which sustain natural ecosystems. The new theory of economic sustainability must embrace the concept of a holistic human society and a harmonious relationship of humanity with nature.

Sustainability will require new economic theory, from the ground up, not just a reworking of the old. For example, when one starts from a foundation of basic human rights, it should be obvious that a corporation is not a human, and thus, has no rights. All social, ecological, and economic rights must be derived from basic human rights. The hierarchy of basic rights also should make clear there is no right to degrade natural ecosystems, and thus, no such right can be bought or sold in the market place. Market systems must be disciplined to be supportive of the natural environment. Manipulating markets to sustaining nature will be no more successful than manipulating animalistic instincts to achieve a civil, moral society. Both require placing high value on uniquely human traits such as voluntary acceptance of responsibility, caring for and sharing with others, finding harmony with some higher, unseen order of things. Conventional economics treat people as little more than sophisticated animals, driven solely by short run self-interest and greed. Sustainability demands that we exhibit behaviors that are uniquely human – including the ability to anticipate future consequences of actions based on abstract thinking rather than previous experience.

Human progress cannot be measured in dollars and cents. It makes no ethical or moral sense to put prices on natural resources or the lives of people as if they were basic economic commodities. The dignity and integrity of nature and people must be protected from the market, even while markets are utilized to facilitate effective allocation are allowed to price their services – within the framework of a sustainable bill or rights. Natural and human services, once priced, will be treated as commodities rather than the source and essence of life itself. Those who have the most money will get to use the most. Nature and people will be used up and discarded. We must have an economic theory that treats nature as something sacred and people as something special. We must design an economy that supports society and a society that supports nature, if any of the three are to be sustainable over the long run.

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