

# **OVER THE RIVER: A CRITICAL APPROACH TOWARDS CHRISTO'S ART PROJECT WITH THE HELP OF HOSMER'S MODEL OF MORAL ANALYSIS**

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## **ABSTRACT**

The proposed project "Over the River", by the artists Christo and Jeanne-Claude, has been a matter of debate in the State of Colorado, primarily in the region around the Arkansas River's Bighorn Sheep Canyon, which could be affected by this project. Rags Over the Arkansas River (ROAR), a local group of citizens concerned with the impact of the project on wildlife and environment, opposes Christo's project is the key opponent. "Over the River" has been pursued by the artists for more than 20 years. This paper uses Hosmer's model for analyzing moral problems to assess ethical aspects of the project.

## **HOSMER'S MODEL FOR THE ANALYSIS OF MORAL PROBLEMS**

Hosmer's model includes seven steps to find a moral solution for ethically questionable affairs. Beginning with the understanding of the different standards and the recognition of varying impacts on the various interest groups involved, the model finds a clear definition of the complete moral problem and continues by utilizing objective methods of analysis. These require the determination of economic outcomes, the consideration of legal requirements and the evaluation of ethical duties. By evaluating the results of the analysis, the model aims to introduce a "right and fair and proper balance of benefits for some and harms for others, of rights recognized for some and rights denied for others, in any given situation" [7], and to finally propose a convincing moral solution to the prior defined problem. Hosmer's approach allows to regard Christo's project from various angles and to take into consideration the distinct impacts of the art project for all concerned parties before evaluating the overall issue in terms of its ethical implications.

## **OVER THE RIVER – PROJECT SUMMARY**

The artist Christo Vladimirov Javacheff, born in 1935, became world famous for the art projects he realized with his wife, Jeanne-Claude [4]. The wrapping of the Reichstag in Berlin, Germany, in 1995, or the installation "The Gates" in Central Park in New York City in 2005 are certainly some of the most popular works of the couple [4]. Due to the tremendous scale and cost of their artwork, Christo and Jeanne-Claude often had to face public criticism. This was also true in their last common project, "Over the River", which they were pursuing since 1992 and which Christo, despite various environmental concerns the project entails, intends to finish without his wife, who died in 2009 [4]. The notion of the installation is to cover 5.9 miles of a 42.4 mile stretch of the Arkansas River in the area between Cañon City and Salida, Colorado, for a period of two weeks with semi translucent fabric above the water, attached to steel constructions anchored in the riverbanks. After almost three years of analysis, the

Bureau of Land Management (BLM) gave the federal approval to Christo's project (in November 2011) within its Record of Decision (ROD), including an Environmental Impact Statement (EIS). Proponents of the project approve of this decision, since they appreciate the global attention and tourism the project brings along. Nevertheless, Christo announced on July 31, 2012, to postpone the exhibition date, which consequently delays the beginning of the work on the project, scheduled for February 2013. Christo's decision is based on a lawsuit against the BLM, filed by the organization Rags Over the Arkansas River (ROAR). The organization is primarily concerned with the disruption of the river and the wildlife of the area affected by the project. The lawsuit contains, inter alia, the rejection of the EIS conducted by the BLM as being inadequate and understating potential environmental impacts a claim that it "violates the Federal Land Policy and Management Act" [5]. ROAR insists on a withdrawal of BLM's approval of Christo's project until the former has "fully complied with their obligations under federal law" [5]. Although Christo believes in the validity and integrity of BLM's examinations and its EIS, which was "the first ever conducted on a temporary work of art and includes well over 100 specific measures to mitigate impacts on bighorn sheep, birds, traffic, safety, and much more" [5], he decided to put *Over the River* on hold until the legal issues are completely resolved and to support BLM in defeating the EIS in court [5].

### **UNDERSTANDING DIFFERENT STANDARDS**

The goals, norms, beliefs and values of a person vary, always depending on factors like cultural and religious traditions, as well as economic and social situation and affect the person's moral standard [7]. Following this thesis, the background of a person strongly influences the way how a person evaluates moral issues, including harms and benefits for various parties involved in the issue. To understand the different standards of the the parties involved in the "Over the River" case, one has to examine their background and position. The concerned parties are clearly Christo himself and ROAR, but further interest groups have to be taken into consideration as well: The residents of the area around the Bighorn Sheep Canyon, the tourists of the area as well as the tourists of the artwork, and society in general.

Christo was born and raised in Bulgaria where he suffered from the oppression of the communist party restricting him in his artistic freedom, which finally led him to escape from his country to Vienna and later to Paris, where he lived over a number of years in poverty and social isolation before his art works started to sell and his prominence grew [4]. The international attention towards his art rose when he and his wife Jeanne-Claude started to implement their projects in cities and landscapes, creating huge art works out of fabric, partly mantling whole buildings and bridges [4]. The artist couple financed all their projects on their own, by raising credits or selling original art works and took care of the various legal processes that were necessary to realize their visions, which in some cases, and also with the "Over the River" project, took several years [4].

The non-profit organization ROAR, Inc., based in Canyon City, Colorado, consists of various members, including canyon area residents, as well as visitors of the area who are interested in the preservation of the canyon [8]. Among the members, there are various kinds of social economic status, including business leaders, politicians, doctors, nurses, outfitters et cetera. Although the group is diverse and the members appear to have totally different backgrounds, they find a common ground in their goal to preserve the Arkansas River's environment, wildlife and human habitation by actively opposing the "destruction imposed by Christo's "Over the River" draping project" [8].

The different cultural backgrounds of the two parties already imply that there is potential conflict within the realization of the "Over the River" project. Christo, who is able to express his artistic freedom after a long time of oppression and escaped poverty through his art works attributes a totally different meaning

to an art project like “Over the River” than people not being familiar with the profession and do not find personal fulfillment in art itself. ROAR’s concern about the negative impact on the region affected by the project weights higher than any other potential feeling about the project. Since they obviously do not share Christo’s understanding of art, neither the particular meaning of his “Over the River” artwork, their approach to this topic goes in a different direction. ROAR constraints the project mostly on its possible negative effects on the local area, including environment, wildlife and residents. Christo sees an enhanced impact, regarding the realization of the project not only as a personal fulfillment, but also as a service for society, providing art as a cultural good far beyond the borders of Colorado [5].

These obvious divergent opinions about the true costs and value of the art project imply that these two parties have differing understandings of the moral validity of this issue, as well as of the benefits or harms, respectively, for various interest groups affected by the project. These are, as mentioned above, the residents of the area around the Bighorn Sheep Canyon, the tourists who visit the area and society in general. These parties will be approached in the next paragraph.

### **RECOGNIZE VARYING IMPACTS**

This section will address the varying impacts of the issue, including the benefits and harms, and rights and wrongs when it comes to the relative outcome of the project, which will stress the complexity of the case [7]. To get an appropriate basis for the analysis and evaluation of the moral issue, Hosmer’s model recommends to identify “who will benefit and who will be harmed, who will be able to freely exercise their rights and who will be prevented from an equally free exercise of their rights.” [7, p.6]. As already discussed in the passage above, the primary parties concerned with the “Over the River” project are Christo himself as the artist fulfilling his vision and ROAR, aiming to protect the Arkansas River’s Bighorn Sheep Canyon. But there are other interest groups that have to be taken into consideration to get a complete picture of the project’s impacts, which will become explicit by examining the benefits, harms, rights and wrongs of the project.

Beginning with the benefits, the “Over the River” project could provide a great value for the society, especially in the area of the Arkansas River’s Bighorn Sheep Canyon. Christo’s project will attract tourists from all around the world to visit the canyon, with the prior reason to see his art work. The installation “The Gates” for example was attended by approximately 4 million visitors and generated more than \$250 million in economic activity [5]. Christo and his team are expecting similar results for the “Over the River” project and since all projects of the artist are financed by himself, there are no costs occurring for the area affected by the project. The BLM already completed an economic analysis, as a part of the comprehensive Federal permitting process, for the “Over The River” project and the findings confirm the project’s extensive economic benefits, which include the following positions: \$121 million in total economic output within Colorado, 344,000 visitors to the area during the 14-day exhibition period, \$1.58 million in state and local tax revenue throughout Colorado, \$583,000 in sales tax revenue, specifically in Fremont & Chaffee counties, more than 620 temporary jobs for local residents since Christo is concerned with hiring local workers to participate in his projects, \$25.7 million in personal income, \$57.2 million in economic output from visitor spending in Fremont, Chaffee, El Paso and Pueblo counties [9]. These enormous economic gains, generated through all these various channels, would benefit the whole region and could be used for further promotion of the canyon as well as wild life preservation, but also for financing other important local infrastructure projects, for example road improvements, public park maintenance, et cetera. But the tourism the project would bring along has not only economic advantages. The artwork would showcase the beauty of the Arkansas River Valley and all of Colorado to visitors from all around the world [5], which would increase the interest in the area in the

long-term and by that also sensitize the awareness of the people not only for the region, but also for environmental and wildlife preservation. A further benefit that has to be mentioned is Christo's personal benefit of self-realization by being able to fulfill his vision as an artist. His art works can also be regarded as cultural asset, which implies that Christo's art is adding value to culture heritage.

Some of the above mentioned benefits could, however, also be construed as harms. The increased influx of tourists due to the art work might disrupt or even prevent the usual tourists, who are only interested in the natural, untouched landscape of the area, from visiting [8]. A large number of people visiting the area of the canyon within the really short time of the exhibition could also increase the danger for multiple causality accidents, because of people for example gawking, slowing, stopping, photographing, et cetera [8]. A further point underlining the potential negative impact of tourists might be the garbage and human waste left by crowds of onlookers [8], which would have a direct impact on the residents living in the area, but also on the wildlife. The disturbance of the latter illustrates another major harm, which could occur when the project would be realized. Although the exhibition will only be for two weeks, the exploratory works to install the steel constructions that should carry the fabric would take about three years [8]. These construction works could cause a major disturbance of the wildlife area, and might deplete the reproduction rate of the animals or even cause an emigration of various species [8]. An additional point to the latter would be the permanent modification or destruction of the riverbanks, which have to be adjusted to meet the requirements of the project. Since the exhibition will only last for two weeks, it could be argued, that the damage inflicted to the area over a long period of time stands in no relation to the actual presentation of the art work. According to that, one has also take into account the impact of the construction works on the residents, who might also be restricted by those, for example because of the increased traffic of the construction vehicles and the higher noise level. Residents, whose living depends on traversing the canyon with tourists, might also suffer from the implementation of the project, since they will not be possible to tour a big part of the area during the construction works, which would deteriorate their economic situation [8].

When it comes to the rights and wrongs concerning the "Over the River" project, the Record of Decision of the BLM plays a major role, since it was the basis of the BLM's decision to support Christo's project. So on the one hand, the safe and eco- and animal-friendly implementation is ensured and with that, environmental law and animal rights are protected and enforced. On the other hand, ROAR blames the BLM of not having inspected the issue properly enough for that kind of decision, which led to the lawsuit described at the beginning of the paper. At this point of the paper, it is important to register, that Christo or the BLM, respectively, as well as ROAR are using quite the same points to picture both, rights and wrongs. Whether the legal requirements in this case are met or not will be examined in a later section, dealing with the consideration of legal requirements of a moral issue.

### **DEFINE COMPLETE MORAL PROBLEM**

After analyzing the potential benefits, harms, rights and wrongs, the complete moral the described issue brings up can be defined. At the bottom line, the question is: Is it right to support an art project, that might have a controversial effect on the flora and fauna of a natural preserve, on an official basis, although there is public concern about the short and long term impact of the project? And in this context: Should potential economic gain be considered to be more important than the preservation of environment and wildlife?

## **DETERMINE ECONOMIC OUTCOMES**

The determination of economic outcomes relies on the concept of Pareto Optimality, which refers to the net balance of benefits over costs for the whole society, “given that the values of those benefits and costs are determined by all of the people within that full society, acting through open and free markets” [7, p.8]. For the Pareto Optimality to be valid, three conditions have to be met: (1) All markets must be competitive. (2) All customers and all suppliers must be informed. (3) All costs must be included in final prices [7, p.8].

The first condition is difficult to apply on the discussed topic. Since Christo’s art works and projects are one of a kind, it could be argued that the market for the product, the artwork in that case, is not competitive, because there is no similar project with the same benefits for the area. Beyond that, according to the artist, there is no other location, or river section, than the one in the Bighorn Sheep Canyon that is appropriate for Christo’s vision [5]. So his project is also dependent on the BLM’s decision without having a real alternative. Condition one is therefore not fulfilled. Regarding Hosmer’s second criterion for Pareto optimality, one could argue that Christo, the BLM and ROAR make all information about their actions concerning “Over the River” publicly assessable. This means all information about the project, its potential positive and negative outcomes, are available for the public and can be used to get an idea of the project to form an opinion and decide on a personal position towards it. According to that, the second condition concerning complete information of all parties is met. Although there are estimations about the overall costs for the project, approximately \$50 million [5], it is hardly possible to calculate an exact number that includes all potential costs. The possible damage of the environment or the wildlife, as well as the potential danger of accidents during the construction works or during the exhibition cannot necessarily be foreseen and therefore cannot be included in the total costs. The latter can certainly be estimated and added to Christo’s assumed estimation of the project’s overall costs. Nevertheless, those figures remain theoretical. Condition three is therefore also not met.

It is quite difficult to argue, that the economic outcome of the “Over the River” project provides a Pareto Optimality, but nevertheless, the economic benefit for the society in the affected region is remarkably high as described in a previous paragraph, although the conditions are not fully met. Due for example to monopolies, information asymmetry, and externalities [3], the achievement of Pareto Optimality is quite hard in the real world and should therefore not be seen as an exclusion criterion. The economic benefits can be, as in this case, highly positive.

## **CONSIDER LEGAL REQUIREMENTS**

The consideration of legal requirements in the moral analysis is about examining if laws that help to regulate self-serving behavior of individuals without regarding to the self-interest of others. The focus should be on finding a balance between an increase in rights for some and a decrease in rights for others [7, p.9]. As already mentioned above, the BLM has given the federal approval to Christo’s project including rules to minimize the impact of the project on any party, which implies that Christo did get the official permission for “Over the River” and with that, the “right” to realize his project. Within its Record of Decision (ROD), the BLM is giving Christo and his team clear guidelines they have to fulfill, including regulations on the behalf of the wildlife animals and the environment. The requirements include, respectively, acoustical screens, engine mufflers, drilling noise reduction, bird diverter replacement and also a training of the project staff for raising their awareness of the needs of the area and to keep disturbance at a minimum level, especially during seasonal periods, for example the lambing of the Bighorn Sheep [9]. The decision took the BLM almost three years of analysis, which implies that

it spent a great effort on verifying that the project does not pose any danger for either humans, animals or the environment of the affected region [5]. Nevertheless, ROAR accused the BLM for having not adequately examined, and even mitigated potential environmental impacts [8]. Furthermore, ROAR blamed the BLM for having violated the Federal Land Policy and Management Act [8], which calls into question if the BLM has applied the state law correctly on the present case since the lawsuit is still in progress. It is a question of time before it can be stated if the ROD is (in)complete, the federal review of the Interior Board of Land Appeals has to be awaited first.

## **EVALUATE ETHICAL DUTIES**

Unlike the doctrine of economic outcomes or the doctrine of legal requirements, the doctrine of ethical duties does not look for a balance between duties, “but it attempts to define what is meant by “equitable” and it attempts to reach that definition through a logic that everyone in society can logically understand and hopefully accept” [7, p.11]. In other words, ethical duties are setting the rules or conditions that should govern the operations of markets and the applications of law [7]. In order to explain the logical basis of ethical duties, Hosmer discusses several approaches through history, which can provide great support on the way of solving a moral problem.

One of the oldest is from Aristotle (384-322BC) and concentrates primarily on personal virtues within decisions and actions. It allows the individual to follow its own self-interests, as long as other individuals are not exploited or diminished. Hosmer summarizes Aristotle’s approach as follows: “Never take any action that is not honest, open, and truthful, and that you would not feel pride to see reported widely in the national newspapers and on network newscasts” [7, p.12]. From the perspective of this ethical explanation, the “Over the River” project can be declared as ethical. Christo presents the planned course of action for his project openly on his homepage and to the press. He is clearly following his self-interest, but without exploiting or diminishing other individuals.

A further approach Hosmer includes confirms the latter: Hobbes (1588-1679) and Locke (1632-1704) introduced the idea of a “set of rules” that has to be established in a society to prevent chaos occurring from the competition for property and position between individuals [7, p.12]. According to the author, all individuals should obey a central authority, as long as this authority respected each individual’s rights to life, liberty, and property [7, p.12]. Hosmer paraphrases this “government requirements” as follows: “Never take any action that violates the law because law respects the basic rights of life, liberty, and property” [7, p.12]. As discussed above, the BLM examined the legal background for the “Over the River” project and evaluated it as having “no significant impacts” to any terrestrial, avian or aquatic wildlife [5]. In other words, ignoring the accusation of ROAR, the legal requirements are met and Christo’s project is in line with the law. Consequently, this ethical explanation clearly evaluates the project as being ethically correct.

The principle of utilitarian benefits, discussed by Bentham (1747-1832) and Mill (1806-1873), adds a mean to evaluate not only the work and laws of the central authority, but also to evaluate actions of individuals [7, p.12]. Bentham and Mill declared a law or action to be right, if it led to greater social benefits than social harms [7, p.12]. Hosmer summarizes this principle as follows: “Never take any action that does not result in greater good than harm for the society of which you are a part” [7, p.12]. In addition to the legal requirements, the project provides a service to society in the sense of a great economical benefit. According to the BLM’s Record of Decision, there are no significant harms opposing the latter, which supports the “Over the River” project from a utilitarian point of view as being ethically correct.

The most modern approach of the explanation of ethical duties Homser uses was discussed by Nozick (1938-2002), who focused on “contributive liberty” [7, p.13]. It concentrates on the freedom of following one’s self-interest within the constraints of the law and the markets and stresses that the latter are more important than justice, which is described as the right to be protected from extremes of that law and those markets [7, p.13]. Hosmer expresses the author’s approach as follows: “Never take any action that will interfere with the rights of others or self-development and self-improvement.” [7, p. 13]. This ethical explanation also substantiates that Christo’s project fulfills the required ethical duties, since “Over the River”, as proven by the BLM, would be realized under the constraints of the law and would not interfere with the rights of other individuals. It might be argued that the project’s constructions works and the increased tourism could limit the resident’s self-development or self-improvement, but this certainly depends on the individual itself. The benefits the project brings along could also be regarded as a chance of enhanced self-development or self-improvement, which again proves the support of Nozick’s approach of Christo’s project.

The approaches discussed above show that project fulfills the ethical duties to be realized. The opposing group ROAR trying to prohibit the project represents a comparatively small part of the society, which is why their demand to ban “Over The River” should not be obliged, especially since the BLM already examined the group’s concerns and evaluated them as basically unfounded. It is doubtful if the lawsuit initiated by ROAR, calling into question the multi-annual effort put into a well elaborated, all angles considering ROD that has been supported by various cooperating agencies [9], is necessary, since it forces the re-inspection and re-analysis of an already well examined and evaluated issue. Hence, one could argue that the lawsuit is wasting time and money and delaying a beneficial situation for the area of the canyon.

### **PROPOSE CONVINCING MORAL SOLUTION**

After having analyzed the controversial issue of the “Over the River” project, enough information is at hand to answer the question posed in the passage “Define complete moral problem”, and to give a recommendation of action to find a moral solution to the problem.

*Is it right to support an art project, that might have a controversial effect on the flora and fauna of a natural preserve, on an official basis, although there is public concern about the short and long term impact of the project?* Since the BLM has conducted convincing studies that the “Over the River” project will have an insignificant impact on the environment and wild life of the area, the public concern of ROAR is proven to be unfounded. The benefits of the project are found to clearly exceed its harms, which confirms a justified support of “Over the River”.

*Should potential economic gain be considered to be more important than the preservation of environment and wildlife?* In general, already discussed in this paper, benefits and harms, rights and wrongs, always have to be considered and balanced when it comes to a decision concerning a moral problem. This, economic gain should not necessarily be more important than the preservation of environment and wildlife if the former are not high enough to justify a negligence of the latter. As in the present case, the impact of the various factors are balanced, which does not lead to trade-off between economic benefit and the preservation of flora and fauna.

Christo’s “Over the River” project should be realized without further postponement, since a detailed examination of the potential impacts already has been conducted and proven beneficial effects of it and the insignificant impact on flora and fauna. To solve the existing conflict with ROAR, a considerable

percentage of the gain of “Over the River” could be used for an expanded promotion of the environment and wild life protection of the Bighorn Sheep Canyon. Christo’s prominence would definitely positively influence such attempts and might raise more interest, awareness and donation for the area as without him and his art work.

## CONCLUSION

After analyzing Christo’s project with the help of Hosmer’s model, the “Over the River” project provides a great opportunity for the whole area of the Bighorn Sheep Canyon to improve its economic situation as well as increasing its prominence throughout the borders of the state of Colorado and even the United States in the long-term. Christo’s elaboration of the project is quite convincing, the time and money he privately invested in “Over the River”, as well as all the various investigations concerning the impact of the latter, which are open to the public, give proof that the project is well-conceived and that Christo has a sincere interest, which is not solely focused on his personal profit, in the area and its residents to be well informed and supportive, as well as the flora and fauna to be protected and preserved.

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