

# Can the Capability Approach Be Justified?\*

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During the past 25 years, the capability approach, developed by Amartya Sen and Martha Nussbaum, has come to play a major role in political philosophy and normative economics. This approach has gained much support, among academics as well as among international agencies and non-governmental organizations, at the expense of competing resourcist and welfarist approaches exemplified, respectively, by John Rawls's theory and utilitarianism.

In this essay, I examine how the capability approach has been, and might be, justified as superior to, in particular, its resourcist competition. I reach two main conclusions. First, this question should not be answered in isolation, but can be plausibly resolved only in conjunction with other key elements of a conception of social justice. Instead of asking *which approach is superior*, we should ask *which approach can deliver the most plausible public criterion of social justice*.

Second, neither Sen nor Nussbaum have so far shown that the capability approach can produce a public criterion of social justice that would be a viable competitor to the more prominent resourcist views. While I concentrate my critical attention on the capability approach and reject much of the case made in its favor, my intent is wholly constructive. I am working on the same problem as the pioneers of the capability approach and I do not have all the answers any more than they do. If they can learn from my critique even a fraction of what I have learned from their work, I will be well satisfied.

The essay proceeds in four stages. Section 1 clarifies the question the two approaches disagree about, namely: *What metric should be used, within a public criterion of social justice, for the comparative evaluation of individual advantage?* Section 2 shows that capability theorists have overstated the systematic difference between the two approaches, which boils down to this: *Capability theorists assert, while resourcists deny, that a public criterion of social justice should*

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*take account of the individual rates at which persons with diverse physical and mental constitutions can convert resources into valuable functionings.* Section 3 disposes of some inconclusive arguments that have been advanced to settle this dispute. Section 4 brings out some of the more important reasons bearing on its resolution. The essay is long but, as its sections are reasonably self-contained, readers can skip ahead at will.

## **1. Introduction**

In a discussion of inequality among persons,<sup>1</sup> Amartya Sen suggests that we are egalitarians now and that today's serious disputes in political philosophy and normative economics concern the question 'equality of what?'.<sup>2</sup> In developing this suggestion, Sen focuses especially on the debate about *criteria of social justice*, that is, about how *institutional schemes*<sup>3</sup> are to be assessed and reformed in the name of justice.<sup>4</sup> It is specifically in this domain that Sen asserts we are egalitarians now by endorsing the equality and equal claims of individual human beings.

To understand what this assertion might mean, we need to distinguish sharply, as Sen does not, between two different ways of being an egalitarian in the domain of social justice. One way involves endorsing a criterion of social justice that requires *institutional schemes* to be geared toward equality. By the lights of such an *egalitarian* or *equality-demanding* criterion, an institutional order is just if it treats all individuals living under it equally (in whatever respects that criterion deems morally important for the assessment of institutional schemes); and an institutional order is unjust to a greater or lesser degree depending on how far it falls short of realizing equal treatment (in those same morally important respects).

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<sup>1</sup> Amartya Sen: *Inequality Reexamined* (Cambridge, MA: Harvard University 1995 [1992]), esp. chapter 1.

<sup>2</sup> *Ibid.*, 16. Sen is here echoing earlier formulations of the same thought by Dworkin and Kymlicka. See Ronald Dworkin: *Taking Rights Seriously* (Cambridge MA: Harvard University Press 1978 [1977], 272-74; Will Kymlicka: *Contemporary Political Philosophy* (Oxford: Oxford University Press 1990), 4. See also Sen's essay "Equality of What?" [1980] in his *Choice, Welfare and Measurement* (Cambridge MA: Harvard University Press 1999).

<sup>3</sup> I use the expression "institutional order" (plural "institutional schemes") for the important and pervasive social institutions or ground rules that structure and organize a society or other social system (such as the international states system).

<sup>4</sup> Sen: *Inequality Reexamined*, 19 n. 19.

The other way of being an egalitarian in the domain of social justice involves endorsing an egalitarian *criterion of social justice* — a criterion that, in the assessment of any institutional order, gives equal consideration (in whatever respects that criterion deems morally important for the assessment of institutional schemes) to all individuals living under this order.

In some cases, the employment of an egalitarian criterion of social justice has the consequence that only institutional schemes geared toward equality are assessed as just. But, as we shall see, other egalitarian criteria of social justice approve institutional schemes that generate massive inequality. Egalitarian criteria need not be equality-demanding.<sup>5</sup>

Sen clearly does not mean to claim that we now endorse only equality-demanding criteria of social justice. What he writes fits much better with the claim that we now endorse only egalitarian criteria of social justice. We agree, he holds, that the moral assessment of any institutional order should give equal consideration (in the relevant respect) to all individuals living under this order. And we disagree about the respect in which a criterion of social justice should consider individuals equally, that is, about the *metric* for evaluating how individuals are treated by an institutional order or about (as Sen says) the *space* in which individual shares should be defined and evaluated<sup>6</sup> or about (in G.A. Cohen's phrase) the *currency* of egalitarian justice.<sup>7</sup>

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<sup>5</sup> Equality-demanding criteria are generally egalitarian. But there may be exceptions: non-egalitarian criteria of social justice that are (at least under certain empirical conditions) equality-demanding.

<sup>6</sup> In this essay, I use the word “share” in reference to what individual persons have of whatever goods and ills matter for evaluating how they are being treated by an institutional order under which they live. Shares may be defined in terms of welfare, capabilities, or resources, for example. And they may be described in absolute terms or in relative terms (as when each income is expressed as a percentage of the median income): Conceptions of individual advantage as employed by different criteria of social justice might evaluate how institutional schemes treat their participants in absolute terms or in relative terms or in a way that takes account of both absolute and relative aspects.

<sup>7</sup> G.A. Cohen: “On the Currency of Egalitarian Justice,” *Ethics* 99 (1989), 906-944. The word “currency” carries a connotation of homogeneity, which is here inappropriate. How any institutional order treats its participants may be assessed in terms of a homogeneous good, such as utility, but it may also be assessed in terms of a heterogeneous set of goods such as rights, resources, or capabilities. Using one spatial dimension — or several, if distinct life phases are to be distinguished (*cf.* note 69 below) — to represent each such good, we can then express each participant's specific access to relevant goods as a vector of the same dimensionality. This is the point of Sen's metaphor. Still, because the comparison of alternative feasible institutional schemes requires interpersonal comparisons, multidimensional accounts of advantage must say something about how individual bundles of goods can be valued for purposes of comparison. Such accounts may provide a fully determinate function that assigns each multidimensional bundle a unique point on a one-dimensional metric, which might then be described as a currency. As Sen rightly suggests, such accounts may also leave some looseness in the

What Sen says we agree about can be decomposed into two steps: *Normative individualism* holds that any institutional order should be assessed solely by how it treats its individual human participants. This imposes a constraint on relevant information. *Egalitarian* normative individualism holds that the assessment of any institutional order ought to consider its individual participants equally (in the relevant respect). These two steps Sen deems uncontroversial, by and large. The third step then fixes the respect in which the assessment of institutional schemes ought to consider individuals equally. This third step is the one Sen deems controversial. I discuss the first two steps in this introductory section and devote the remainder of the essay to the third.

Normative individualism is indeed widely endorsed. But its adherents differ in what exactly they are endorsing under this label, and there are theorists who do not endorse it at all. Four points in particular are worth mentioning.

There is some dispute about who should count as a participant in an institutional order. For example, in assessing the institutional order of a country today, should we consider how it treats compatriots who are no longer alive and compatriots not yet born? Insofar as different theorists would answer these questions differently, the object of their consensus remains vague.

There is also the question whether the assessment of an institutional order should be sensitive to how this order treats outsiders.<sup>8</sup> Should not our assessment of alternative feasible designs of the US economic order, say, also take account of its impact on foreigners, on much poorer persons in Africa and Latin America, for instance)? Theorists typically ignore such questions by stipulating that there are no affected outsiders.<sup>9</sup> But this stipulation renders their consensus hollow: The theorists' superficial agreement about a fictional state in which there are no affected outsiders conceals deep disagreements about the real world which would emerge if the stipulation were lifted.

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intrapersonal aggregation function, which will then support a merely partial ordering of individual bundles. *Cf.* Amartya Sen: *Development as Freedom* (New York: Anchor Books 2000), 78.

<sup>8</sup> *Cf.* Amartya Sen: "Open and Closed Impartiality," *Journal of Philosophy* 99:9 (2002), 445-69.

<sup>9</sup> This stipulation is prominent, for instance, in John Rawls: *A Theory of Justice* (Cambridge MA: Harvard University Press 1999 [1971]), 4, 7, 401. It is reiterated in his *Political Liberalism* (New York: Columbia University Press 1993), 272 n. 9.

There is, thirdly, communitarian opposition to normative individualism. Such opposition involves the belief that the moral assessment of any institutional order must be based in part on how it treats certain collectives within it, such as national, ethnic, religious, linguistic, or lifestyle groups. As the examples of Walzer and Kymlicka show,<sup>10</sup> this belief is compatible with normative individualism. Communitarian positions oppose normative individualism only if they also hold that, in the moral assessment of an institutional order, some such collectives should be given consideration that is not reducible to the consideration given to their individual members. This brand of communitarianism, prominently exemplified by Hegel,<sup>11</sup> is alive in Charles Taylor's account of the reasons for protecting and maintaining Québécois culture<sup>12</sup> as well as in Rawls's account of international justice, which gives equal consideration to (not individuals but) peoples, including "decent societies" designed to be responsive to the interests of (not individuals but) associations, corporations, and estates.<sup>13</sup>

There are, finally, impersonal values that might also be thought to have a bearing on the moral assessment of institutional schemes. Thus Ronald Dworkin invokes the sanctity of human life in assessing legal rules governing the treatment of fetuses<sup>14</sup> and he also holds that places of great natural beauty may have an impersonal value that may justify otherwise inadmissible restrictive legislation. Others have stressed our obligations to animals in order to justify placing the freedom of persons under restrictions that, if they were not necessary for the protection of animals, would be unjust.<sup>15</sup>

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<sup>10</sup> Eschewing the Hegelian route, these thinkers argue that cultural communities should be protected and maintained because they sustain the good of community which in turn is an important component of, or means to, the flourishing of individual human beings. In this way, Walzer and Kymlicka at least *claim* that their views are fully consistent with normative individualism. Cf. Michael Walzer: *Just and Unjust Wars* (New York: Basic Books 1977), 53f., and Will Kymlicka: *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Oxford University Press 1995), esp. Chapter 3.

<sup>11</sup> Cf. Georg Friedrich Wilhelm Hegel: *Elements of the Philosophy of Right* (Cambridge: Cambridge University Press 1991), esp. Part Three, Section 2, the discussions of estates and corporations.

<sup>12</sup> Charles Taylor: "The Politics of Recognition," in Charles Taylor and Amy Gutman, eds.: *Multiculturalism* (Princeton: Princeton University Press 1994).

<sup>13</sup> John Rawls: *The Law of Peoples* (Cambridge, MA: Harvard University Press 1999), 25-7 and 72f. Rawls's theory of domestic justice for liberal democracies does exemplify normative individualism.

<sup>14</sup> Ronald Dworkin: *Life's Dominion: An Argument about Abortion, Euthanasia, and Individual Freedom* (London: Vintage 1993).

<sup>15</sup> E.g. Peter Singer: *Animal Liberation* (New York: Ecco 2001 [1975]).

Despite these four minor difficulties, Sen is right to suggest that the leading theories in political philosophy and normative economics today exemplify, or at least closely approximate, normative individualism.

Somewhat greater difficulties appear when we examine the second step: the move to *egalitarian* normative individualism and the claim that it is fairly uncontroversial. One major difficulty here is that most writers on social justice restrict their theory to the case of a national society. They exclude foreigners from the scope of the criterion of social justice they propose for the institutional order of a society and they also hold that their preferred criterion does not apply to the global institutional order.<sup>16</sup> Only by ignoring these two restrictions and focusing solely on the content of such theories can Sen be justified in counting them as egalitarian.

Moreover, there are many societies in which unequal practices — most typically involving an inferior status of women or of members of certain minority religions — are entrenched and popular among politicians and the general public alike. Not surprisingly, these practices have their academic defenders in the societies in question. Many such defenders endorse moral assessments that give less than equal consideration to members of the disadvantaged groups. Quite possibly, Sen does not mean to include such defenders in the scope of his generalization. But does he also mean to exclude Rawls, who has recently argued that “decent” societies, whose institutional schemes and conceptions of justice assign an inferior status to some participants on account of their sex or religion, should nevertheless be accepted as “equal participating members in good standing of a Society of Peoples”?<sup>17</sup> By claiming that a just international order would reserve such a place for decent societies, Rawls’s law of peoples would seem to fall outside the egalitarian consensus Sen asserts.

These possible exceptions notwithstanding, Sen is correct in describing this consensus as quite wide. It is so wide in large part because of how Sen understands egalitarianism in the domain of social justice. To be an egalitarian in this domain, one need not endorse an *equalitarian* (equality-demanding) criterion of social justice. One need merely endorse an *egalitarian* criterion of social justice, which, in the assessment of any institutional order, gives equal

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<sup>16</sup> The inegalitarian character of the latter restriction is discussed in Thomas W. Pogge: *World Poverty and Human Rights* (Cambridge: Polity Press 2002), chapter 4.

<sup>17</sup> Rawls: *The Law of Peoples*, 59.

consideration (in whatever respects that criterion deems morally important for the assessment of institutional schemes) to all individuals living under this order.

Sen holds that, so understood, the egalitarian consensus includes utilitarian views according to which an institutional order should maximize aggregate utility (welfare) regardless of distributive pattern.<sup>18</sup> Such views may justify institutional schemes that produce highly unequal utility distributions. Sen justifies including them nonetheless by maintaining that “the maximization of the sum-total of the utilities of all people *taken together* ... takes the form of equal treatment of human beings in the space of gains and losses of utilities. There is an insistence on equal weights on everyone’s utility gains in the utilitarian objective function.”<sup>19</sup>

Sen also includes Rawls’s theory of domestic justice in the egalitarian consensus,<sup>20</sup> but fails to characterize the space in which Rawls’s difference principle is egalitarian. This principle is often held up as exemplifying a (maximin or leximin) *prioritarian* as opposed to an equalitarian criterion of economic justice.<sup>21</sup> As this contrast is understood, equalitarian criteria favor distributive patterns with smaller deviations from the center, whereas prioritarian criteria favor distributive patterns with higher minima and thus favor an economic order that generates great inequality over a feasible alternative that generates much less inequality, provided the former also generates a superior lowest position. The difference principle gives precedence to gains in the lowest socioeconomic position, however slight, over gains in socioeconomic equality, however large. Clearly, the difference principle is then not equalitarian in the sense of demanding equality of socioeconomic advantage (which Rawls defines in terms of an index,

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<sup>18</sup> There are various such views. They differ on how utility is to be understood — as desire fulfillment, perhaps, or as pleasure minus pain. And they differ on how to aggregate — through arithmetic or geometric averaging, perhaps, or through summing up.

<sup>19</sup> Sen, *Inequality Reexamined*, 13. The quoted passage shows how Sen includes in his postulated egalitarian consensus views that are equalitarian only in a formal, attenuated sense: Sum-ranking utilitarianism is no more concerned with considering persons equally than an apple counter is concerned with considering apple trees equally. In both cases, equal consideration is a mere byproduct of a wholly non-comparative concern. *Cf.* also Joseph Raz: *The Morality of Freedom* (Oxford: Clarendon Press 1986), chapter 9.

<sup>20</sup> Sen, *Inequality Reexamined*, 26f.

<sup>21</sup> *Cf.* esp. Derek Parfit: “Equality or Priority” in Matthew Clayton and Andrew Williams, eds.: *The Ideal of Equality* (Houndmills: Macmillan 2000), 81-125. See also the editors’ introduction to this volume, *ibid.* 1-19.

including income and wealth, powers and prerogatives of offices and positions of responsibility, and the social bases of self-respect<sup>22</sup>).

Extending the way Sen qualifies utilitarianism as egalitarian, I suppose he would think of the difference principle as egalitarian in his sense on the ground that, in comparing alternative feasible institutional schemes by reference to the lowest socioeconomic position each of them generates, this principle pays no attention to the identity of those who would be occupying this decisive lowest position under any of the candidate schemes. More generally, the difference principle is egalitarian by virtue of the fact that it assesses feasible alternative institutional schemes on the basis of the distributive pattern of bundles of socioeconomic goods each such order would tend to generate, without regard to which persons would end up with which bundles.

If this is how a maximin criterion qualifies as egalitarian, then qualification cannot be denied to a *maximax* criterion of economic justice, according to which an economy should be organized so as to maximize the *largest* shares. Such a criterion is egalitarian in Sen's sense in virtue of the fact that it assigns the same great value to very large shares no matter whose shares these are.

Likewise, the label "egalitarian" applies to *sufficientarian* views, which assess any institutional order by the extent to which its treatment of any of its participants avoidably falls below some threshold (however defined).<sup>23</sup> On such a view, an institutional order could be perfectly just even while it generates vast inequalities above the threshold. Sen would nonetheless count such views as egalitarian in his sense on the ground that they give equal weight to any given shortfall below the threshold, regardless of the identity of the person or persons whose shortfall this is.

Another surprising entry on Sen's list of egalitarians is Robert Nozick, who endorses the extreme inequality of slavery. Inconsistently, Sen justifies this inclusion by pointing out that Nozick endorses an equality-demanding criterion, specifically demanding "the equality of libertarian rights."<sup>24</sup> Indeed, according to Nozick, enslavements must be effected pursuant to equal initial

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<sup>22</sup> John Rawls: *Collected Papers* (Cambridge MA: Harvard University Press 1999), 313f., cf. 366.

<sup>23</sup> Here greater shortfalls may be assigned weight that is proportionately or disproportionately greater than that of smaller shortfalls. In the latter case, a given aggregate shortfall manifests a lesser injustice when it consists in many citizens falling short a little than when it consists in a few falling short a lot.

<sup>24</sup> Sen: *Inequality Reexamined*, 20.

rights which include the (alienable) powers to sell oneself and to buy other persons from their present owners. Nozick holds that all persons would start out with equal such powers in any “free system”<sup>25</sup> and also that their other rights, liberties, powers, and immunities would be initially equal.<sup>26</sup>

In keeping with his discussion of other “egalitarian” views, Sen could have justified his inclusion of Nozick by appealing not to the equality-demanding but to the egalitarian character of Nozick’s criterion of justice: Nozick regards an institutional order under which certain libertarian rights of some are denied or insecure as equally unjust, regardless of the identity of those suffering the rights denial or insecurity.<sup>27</sup>

The egalitarianism Sen describes is weak. It excludes only sexist, racist, feudalist, fascist, and fundamentalist views which hold that the assessment of any institutional order must take into account how its treatment of its participants correlates with their “worth.” On such views, the fact that an institutional order advantages certain persons over others makes this order more just insofar as worthier individuals (*e.g.*, men, whites, nobles, Aryans, devout believers) are advantaged and less just insofar as such worthier individuals are disadvantaged.

The shared element in the wide consensus Sen sketches might be less misleadingly described as a commitment not to equality but to a variant of what economists call the *anonymity condition*. This condition can, once again, be most elegantly characterized as a constraint on relevant information: The assessment of feasible alternative institutional schemes ought to be based on information about the pattern of individual shares each would generate, without regard to (further) information about the individuals whose shares these are. If alternative institutional schemes would generate the same pattern of individual shares in some society, then they are equally just for this society, even if they instantiate different permutations of shares over individuals. Many quite different criteria of social justice could agree on this point and then

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<sup>25</sup> Cf. Robert Nozick: *Anarchy, State and Utopia* (New York: Basic Books 1974), 331.

<sup>26</sup> Contrast Nozick’s view with that of an aristocratic libertarian who holds, say, that noblemen start out with more extensive rights than commoners (that a nobleman’s act can appropriate more unowned land than the same act performed by a commoner, perhaps). Cf. Thomas W. Pogge: *Realizing Rawls* (Ithaca: Cornell University Press 1989), 52.

<sup>27</sup> *Ibid.* 53-59.

disagree about the correct characterization of the shares that matter: Should these be individual utilities, opportunities for welfare, capability sets, bundles of social primary goods, or what?<sup>28</sup>

The egalitarianism Sen suggests we agree on is then weaker than one might have thought. It does not require endorsement of an equality-demanding criterion of social justice or even of an egalitarian criterion that reflects a comparative concern for considering individuals equally (*cf.* note 19). Rather, it requires merely endorsement of a criterion whose assessment of any institutional order is indifferent to how the relevant individual shares this order generates map onto its participants.

On the face of it, this weak egalitarianism seems indisputable. Surely, one wants to say, our assessment of an institutional order must not be affected by whether some relevant disadvantage, some burden or other hardship arising under it, is suffered by me or by you, by a man or a woman, by a white or a black, by a Mormon or a Jew. In fact, however, this apparently quite weak egalitarianism is still too strong to be endorsed by most contemporary theorists, Sen himself included. The reason is that the anonymity condition rules out not only feudal, racial, and other chauvinist distinctions. It also rules out any sensitivity, in the comparative assessment of alternative institutional schemes, to the correlation that would exist under each between the relevant shares persons have and their natural features. In this way, the anonymity condition requires criteria of social justice to pay no attention to whether women or blacks or Jews are overrepresented among the least advantaged. Insofar as the criteria currently put forward in political philosophy and normative economics do pay attention to such correlations, they fall outside the weak egalitarianism characterizable by the anonymity condition.

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<sup>28</sup> How can a criterion of social justice that defines shares in a way that includes information about persons (*e.g.*, about their metabolic rates) satisfy the anonymity condition? Does such a criterion not treat different persons differently? One may respond that such a criterion can still satisfy the anonymity condition in this sense: The assessment of feasible alternative institutional schemes ought to be based on information about shares only, without regard to *further* information about the persons whose shares these are. Thus, if persons' metabolic rates and food access constitute their shares, these are evaluated without regard to any further features of their owners. But this response risks depriving the anonymity condition of all content: Racists can propose a definition of shares that includes skin color and they can then claim that this, too, satisfies the anonymity condition: Just as persons with low metabolic rates and a small food supply are no worse off than persons with higher metabolic rates and a proportionately larger food supply, so blacks with little access to education and culture are no worse off than whites with much greater such access. To retain some bite for the anonymity condition, one may therefore want to identify certain features of persons — *e.g.*, sex, race, ethnicity, birth, religion — that must not be included in the definition of shares. For our purposes here, let us grant that Sen means to do this and that his notion of egalitarianism thus does have some bite.

To be sure, the anonymity condition permits criteria that are sensitive to whether two different kinds of hardship are correlated. Consider institutional schemes under which half the population are poor and half have no access to higher education. We may plausibly judge such an order to be more unjust when the two groups coincide than when they are disjoint (so that no one bears both hardships). By supporting this judgment, a criterion of social justice does not violate the anonymity condition. — Yet this thought does not help solve the problem I have posed for the anonymity condition: Being female, black, or Jewish are not, as such, hardships. Sex, race, and religion are precisely the kinds of factors the anonymity condition screens out. So we must discard the anonymity condition if we want to count against an institutional order that, in the pattern of shares that would exist under it, persons of certain sex, skin color, or religion are heavily overrepresented at the bottom. The anonymity condition, what Sen calls egalitarianism, is incompatible with fair equality of opportunity or distributive fairness among groups.

Now one may think that such an offensive overrepresentation could persist only under an institutional order that is inherently unjust, by affording preferential treatment to males, whites, or Christians, for example. Acceptance of the anonymity condition is therefore plausible after all. It prevents us from diagnosing the injustice of an institutional order on the basis of offensive correlations; but this is no loss, because the anonymity condition does not prevent us from diagnosing the underlying institutional injustice (preferential treatment) that manifests itself in such offensive correlations. — Yet this argument fails. Offensive correlations need not manifest inherent injustice of an institutional order. They may instead be caused by prevalent cultural practices and attitudes, and often *are* so caused, as Sen and Nussbaum have shown quite effectively. As theorists of social justice, we thus face this choice: We can either require that any institutional order, to be just, must be designed to modify, and to mitigate the effects of, cultural practices and attitudes that cause offensive correlations. Or we can uphold the anonymity condition and thus focus only on the distributive pattern as such, while being indifferent to any reshuffling of individuals over the shares in this pattern.

I think that Sen would want to resolve this conflict at the expense of the anonymity condition. He would then accept that the justice of an institutional order depends not only on the pattern of capability sets it would engender, but can be marred by its failure to mitigate cultural practices and attitudes that cause women to be heavily overrepresented among those with the greatest

capability deficits. If this conjecture is correct, then Sen is obliged to reject the anonymity condition as a constraint on acceptable views about how institutional schemes should be assessed. This would place Sen himself outside the egalitarian consensus as he characterizes it.

Ordinary utilitarians endorse the anonymity condition. They hold that social institutions ought to be designed so as to maximize aggregate utility regardless of its distribution (*cf.* note 18). This design is superior to any feasible alternative that, while lowering aggregate utility only slightly, would engender much less inequality in average utility between men and women.

Rawls's stance on this question is unclear. He requires fair equality of opportunity only with respect to the social class in which persons have been raised.<sup>29</sup> Citizens' initial social class is easily characterizable as a social good or hardship, and Rawls's opportunity principle therefore satisfies the anonymity condition: He requires that no one should suffer both an inferior upbringing and inferior opportunities for given talents and motivation. Rawls does not require fair equality of opportunity with regard to race or sex — a requirement that would violate the anonymity condition. But since the validity of his narrow principle of fair equality of opportunity is confined to ideal theory, Rawls's exclusion of race and sex from this principle may merely reflect his empirical assumption that any society satisfying his first and difference principles is bound to be one in which significant correlations between persons' shares of social primary goods and their race or sex would not persist. If this interpretive conjecture is correct, then Rawls might yet believe that, should an institutional reform raising the lowest socioeconomic position at the expense of fair equality of opportunity across natural groups be feasible after all, justice would rule it out. This further belief would violate the anonymity condition.

Let us take stock. In *Inequality Reexamined*, Sen presents a general picture of the current state of political philosophy and normative economics. According to this picture, an understanding of the competition among criteria of social justice can be developed in three steps. At Step One, these criteria agree that any institutional order should be assessed solely by how it treats its individual human participants (normative individualism). At Step Two, these criteria agree that any

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<sup>29</sup> Rawls: *A Theory of Justice*, 63; John Rawls: *Justice as Fairness: A Restatement* (Cambridge MA: Harvard University Press 2001), 44.

institutional order should be assessed on the basis of the pattern of relevant shares it gives rise to, without regard to the resulting match-up between shares and individuals (anonymity condition). At Step Three, these criteria disagree about the metric or space or currency in terms of which individual shares should be defined and compared.

Thus far, I have argued that the first two steps are not as uncontroversial as Sen suggests. At Step One, there is some respectable opposition to normative individualism. More importantly, at Step Two, most theorists would, on reflection, reject even the weak egalitarianism enshrined in the anonymity condition. Nonetheless, Sen is right that the most important disagreements among contemporary criteria of social justice occur at Step Three where these criteria evaluate in diverse ways how institutional schemes treat their individual participants.

To render the ensuing discussion of Step Three as clear as possible, I follow the example of Sen and Cohen by holding fixed the first two steps. At Step One, I assume a strengthened specification of normative individualism which holds not only that alternative institutional schemes feasible for the same social system should be assessed solely by how each treats its individual human participants, but also that one such candidate order cannot be more just than another unless it renders some person or percentile of persons better off in either absolute or relative terms.<sup>30</sup> Criticism of any institutional order as unjust must then be expressible as a complaint, set forth in behalf of one or more of its individual participants, alleging that the institutional order treats the relevant person(s) absolutely or relatively worse than they should be treated.

Given the difficulties we encountered at Step Two, I fix this step somewhat differently from how Sen and Cohen do. Leaving Nozick and utilitarianism aside, I assume here that the correct criterion of social justice is *equalitarian* (equality-demanding) or *prioritarian* or *sufficientarian* or some hybrid of any two of these or of all three. Combining both steps, I assume then that criticism of any institutional order as unjust must be expressible as a complaint alleging that this order treats some of its participants *worse than others* (equalitarianism), or treats some of its participants *worse than any would be treated under some alternative institutional order feasible*

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<sup>30</sup> This assumption goes beyond normative individualism, which implies nothing about how information concerning individual participants is to be processed into one assessment. Normative individualism is formally

for the same society or social system (prioritarianism),<sup>31</sup> or treats some of its participants *worse than some threshold and avoidably so* (sufficientarianism). If there is no valid complaint under any of these three pure types, then there is no valid complaint under any hybrid criterion of social justice either.

Complaints of all three types involve interpersonal comparisons. Equalitarian criteria must merely be able to compare shares within one institutional order.<sup>32</sup> Prioritarian criteria must, in addition, be able to compare shares across alternative institutional schemes that are feasible for the society (or other social system) under assessment. Sufficientarian criteria of social justice must, in addition, be able to compare shares across different societies (which are to be governed by the same threshold). In discussing these comparisons, I will characterize such shares as more or less *adequate* and, in reference to sufficientarian criteria, as either *adequate* (at or above the threshold) or more or less *inadequate*. The question at Step Three is then: In what metric or space or currency should individual shares be defined so as to support plausible comparative judgments about the justice of institutional schemes? My critical examination of the capability

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compatible with a criterion according to which an institutional order is more just when it generates *greater* inequality or a *lower* minimum or *greater* shortfalls from sufficiency.

<sup>31</sup> I am here focusing on leximin prioritarianism to keep things perspicuous. But a view that merely gives substantially greater weight to relative gains and losses for any less advantaged persons or percentiles than to equal relative gains and losses to the same number of more advantaged persons or percentiles would also be recognizably prioritarian. (There is some arbitrariness here about the word “substantially.” But, clearly, a view is not recognizably prioritarian if it counts \$1 to a pauper on a par with \$2 to a billionaire. This 2:1 weight ratio is far too small.) Criteria of social justice that are equalitarian or prioritarian in this broad sense all embody the *Pigou-Dalton Condition*, that is, they all hold that one institutional order is less just than a feasible alternative when the pattern generated by the latter shows a larger share increased and a smaller one reduced both by the same amount. The difference between prioritarian and equalitarian views is twofold: First, unlike most equalitarian criteria, prioritarian criteria all embody the *Pareto Condition*, holding that one institutional order is less just than a feasible alternative when in the pattern generated by the former at least one share is smaller and none larger than in the pattern generated by the latter. (Maximin prioritarianism, being wholly indifferent to gains and losses above the minimum, is inconsistent with both Pigou-Dalton and Pareto, and I am leaving it aside for this reason.) Second, unlike all equalitarian criteria, prioritarian criteria are all *additively separable*. This means that the assessed value of a distributional pattern is simply the aggregate of the assessed values of the individual shares. Equalitarian criteria, by contrast, make a holistic assessment (which does not involve valuing individual shares in isolation from one another). For this notion of additive separability, see John Broome: *Weighing Goods: Equality, Uncertainty and Time* (Oxford: Blackwell 1991) and John Broome: “Equality Versus Priority: A Useful Distinction” (<ftp://194.167.156.192/EE/broome1.pdf>) forthcoming in Daniel Wikler and Christopher J.L. Murray, eds.: *‘Goodness’ and ‘Fairness’: Ethical Issues in Health Resource Allocation* (Geneva: WHO Publications).

<sup>32</sup> To be sure, equalitarian criteria must be able to compare degrees of inequality across alternative institutional schemes that are feasible for the same society or other social system. But this exercise generally does not require interpersonal comparisons of advantage across schemes.

approach as one answer to this question concentrates exclusively on its alleged superiority to its resourcist competitor, exemplified by Rawls's theory of domestic justice.

Following Sen and Nussbaum, I use Rawls as my exemplar of a sophisticated resourcist. Doing so involves conceiving resources more narrowly than Dworkin, who brought talk of resources and resourcism to academic prominence.<sup>33</sup> Dworkin includes among resources not merely *social resources*, such as civil and political liberties, education, health-care, employment, and claims to external space, personal property and public goods, but also *internal resources*, such as someone's physical abilities and state of health.<sup>34</sup> Dworkin's view is therefore, as he realizes,<sup>35</sup> close to Sen's in that both share the idea that a just institutional order would regulate the distribution of social resources so as to compensate for inequalities in internal resources. They differ only in how they want to fix and justify the correct amount of compensation: Sen suggests that justice requires institutional schemes to channel additional social resources to those worse endowed with internal resources insofar as this is necessary for achieving what he would regard as a just distribution of capabilities. Dworkin proposes the thought experiment of a hypothetical insurance market, suggesting that justice requires compensation for only those deficiencies in internal resources that persons would insure against *ex ante*.

Rawls rejects such demands for compensation or, as he says, the *principle of redress*, while pointing out that an institutional order satisfying his difference principle would treat the poorly endowed a great deal better than they have been treated historically and than they would be treated under other conceptions of social justice.<sup>36</sup> His two principles define shares solely in terms of *social* primary goods, leaving aside information about the distribution of natural primary goods, such as "health and vigor, intelligence and imagination."<sup>37</sup> In what follows, I speak of resources in this narrower Rawlsian sense of social resources and thus do not count

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<sup>33</sup> Ronald Dworkin: "What is Equality? Part 2: Equality of Resources," *Philosophy and Public Affairs* 10 (1981), 283-345, reprinted in his *Sovereign Virtue* (Cambridge, MA: Harvard University Press 2000).

<sup>34</sup> Dworkin: *Sovereign Virtue*, 300. I prefer to call these *internal* rather than (as Dworkin does) *personal* resources, because in ordinary parlance my coins and bicycle are also considered personal resources, effects, or property.

<sup>35</sup> *Ibid.* 302f.

<sup>36</sup> Rawls: *A Theory of Justice*, 86f. I will come back to this point in subsection 4.1 below.

<sup>37</sup> *Ibid.*, 54.

natural primary goods (genetic endowments, internal resources) as resources at all. This Rawlsian account of relevant resources is still quite broad, as we shall see.

## **2. Some Supposed Contrasts Between the Capability and Resourcist Approaches**

Both Sen and Nussbaum hold that, for purposes of assessing alternative feasible institutional schemes on the basis of how each treats its individual participants, “the appropriate ‘space’ is neither that of utilities (as claimed by welfarists), nor that of primary goods (as demanded by Rawls), but that of the substantive freedoms — the capabilities — to choose a life one has reason to value.”<sup>38</sup>

As G.A. Cohen has pointed out, this emphasis on freedoms as the hallmark of the capability approach can be misleading.<sup>39</sup> In explicating the meaning of “capabilities,” Sen emphasizes that he is concerned not with what persons have or are, with their achievements or functionings, but rather with what they *can* have or be. Capabilities are *options* to achieve valuable functionings.<sup>40</sup> This emphasis, however, is one that resourcists can fully share. They tend to focus not on the goods persons actually have or consume, but on the goods persons *can* have or consume. Rawls, for instance, evaluates social positions in terms of the *access* they provide to or through certain all-purpose means such as basic liberties, opportunities, and money.<sup>41</sup> The key question dividing the relevant approaches is then *not*: Should alternative feasible institutional schemes be assessed in terms of what their participants *have* or in terms of what their participants *have access to*?

Rather, the key question is: Should alternative feasible institutional schemes be assessed in terms of their participants’ access to *valuable resources* or in terms of their participants’ capabilities, that is, access to *valuable functionings*? In the context of this dispute, the distinctive feature of

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<sup>38</sup> Sen: *Development as Freedom*, 74.

<sup>39</sup> G.A. Cohen: “Equality of What? On Welfare, Goods, and Capabilities” in Martha Nussbaum and Amartya Sen: *The Quality of Life* (Oxford: Clarendon Press 1993), 9-29.

<sup>40</sup> Sen often gives the example of affluent persons fasting by choice. Though they may be undernourished, they are not to be grouped with other hungry people who cannot afford enough to eat. What matters is their *capability* to be well-nourished, in terms of which they are no worse off than other affluent people who are eating three square meals a day.

<sup>41</sup> To be sure, it is difficult to identify what persons genuinely have access to, as when some have lost opportunities through choices made much earlier or others do not avail themselves of certain opportunities

the capability approach is its focus on what Cohen helpfully calls “midfare”<sup>42</sup> or, in Sen’s words, “on the *state* of the person, distinguishing it both from the *commodities* that help generate that state, and from the *utilities* generated by the state.” Quoting Cohen, Sen continues: “We must look, for example, at her nutrition level, and not just, as Rawlsians do, at her food supply, or, as welfarists do, at the utility she gets out of eating food.”<sup>43</sup> In light of this clarification, the dispute would be better described as being about resources versus functionings rather than about resources versus capabilities — but I will stick to the received labels.

The resourcist and capability approaches can each be specified in a wide variety of ways. I leave aside this internal diversity as much as possible to focus instead on the central disagreement that divides the two approaches. If one side were right about this central disagreement, then we could infer that we should look on that side for the most plausible criterion for assessing alternative feasible institutional schemes. We could not infer, however, that every view on the winning side is more plausible than every view on the losing side. This second conclusion is mistaken, because a criterion of social justice on the winning side of the resources-vs.-capabilities dispute may have many other serious flaws that, all things considered, render it inferior to some criteria on the losing side of this dispute.

It follows that the contrapositive of the second conclusion is equally mistaken: The fact that one particular capability view is more plausible than one particular resourcist view does not show that the capability approach is superior to the resourcist approach. Unfortunately, both Sen and Nussbaum occasionally suggest this invalid argument: They compare an implausible resourcist view — typically one that assesses alternative feasible institutional schemes by the average income (or GNP *per capita*) each would engender — to a more plausible capability view and then suggest that the capability approach is therefore more plausible than the resourcist approach.<sup>44</sup>

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because of social conditioning or pressures. Still, these difficulties are common to both approaches and thus can here be left aside.

<sup>42</sup> G.A. Cohen: “Equality of What?,” esp. 18.

<sup>43</sup> Amartya Sen: “Capability and Well-Being” in Nussbaum and Sen: *The Quality of Life*, 43.

<sup>44</sup> *Cf.*, for example, Sen: *Development as Freedom*, 87, and Martha Nussbaum: *Women and Human Development* (Cambridge: Cambridge University Press 2000), 60f.

Rawls makes the same sort of mistake in the opposite direction. He argues that the reasons we have for preferring a political over a comprehensive conception of social justice also show that the way an institutional order treats its participants must be evaluated in terms of resources rather than capabilities. This is so, according to Rawls, because a capability view takes a stand on the relative value of the many diverse ends human beings might pursue whereas a resourcist view like his own can focus more abstractly on certain all-purpose means that are essential to most any way of life.<sup>45</sup> As Sen makes clear, this is a bad argument.<sup>46</sup> A resourcist view might well take a stand, implicitly, on basic moral values and on the relative merits of various human pursuits; it would be doing so if it focused not on such abstract and general goods as Rawls emphasizes (*e.g.*, political liberties, income and wealth), but on very concrete and partisan goods such as being ruled by pious Catholics or having access to Verdi performances. More to the point, a capability view can be formulated quite generally so that it focuses on capabilities that (like Rawls's social primary goods) are important to all human pursuits or nearly all. Sen has in fact emphasized capabilities of this sort, such as being well-nourished and having physical mobility. By ascribing to persons an interest in such capabilities, Sen is not (*pace* Rawls<sup>47</sup>) committing himself to any particular comprehensive conception of the good life.

To advance the debate between the two approaches, we need a sharper analysis of how they differ. Sen has listed certain key determinants of quality of life that, he claims, are ignored by the simpler resourcist criteria of social justice, which focus on income.<sup>48</sup> He presents plausible capability criteria as having the benefit of being sensitive to these determinants. However, this exercise establishes a reason for preferring the capability approach over the resourcist approach as such only if even sophisticated resourcist criteria cannot take these determinants into account. Any time we find such a determinant, which the capability approach can and the resourcist

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<sup>45</sup> Rawls: *Collected Papers*, 456.

<sup>46</sup> Sen: *Inequality Reexamined*, 82-4.

<sup>47</sup> Rawls mistakenly takes Sen's advocacy of the capability approach to involve the thoughts that "primary goods ... are not what, from within anyone's comprehensive doctrine, can be taken as ultimately important" and that "to focus on primary goods is ... to work in the wrong space — in the space of institutional features and material things and not in the space of basic moral values" (Rawls: *Collected Papers*, 456).

<sup>48</sup> "It is easy to identify at least five distinct sources of variation between our real incomes and the advantages — the well-being and freedom — we get out of them" (Sen: *Development as Freedom*, 70). As this sentence shows, the following list is meant to provide reasons for preferring the capability approach over a resourcist approach, in particular.

approach cannot be sensitive to, then we have made progress toward understanding the contrast between the two approaches. The next question is then whether this determinant *ought* to be taken into account. Only when the answer to this question is affirmative have we found a reason for favoring the capability approach over the resourcist approach.

Here are the determinants on Sen's list (with the order changed, but his headings preserved):

(1) *Distribution within the family*: "intrafamily distribution of incomes is quite a crucial parametric variable in linking individual achievements and opportunities with the overall level of family income."<sup>49</sup> The resourcist and capability approaches both share the commitment to normative individualism. Both agree, therefore, that the comparative assessment of alternative feasible institutional schemes must focus on individual shares (of relevant resources or capabilities). Whether a criterion of social justice takes account of intrafamily distribution depends *not* on the metric it employs (capabilities, resources, welfare, or whatever), but on its interpersonal aggregation function: Equalitarian, prioritarian, and sufficientarian criteria of social justice all do, while sumranking and averaging criteria do not, take account of intrafamily distribution.<sup>50</sup> Contrary to what Sen suggests, capability and resourcist criteria of social justice do not differ on the issue of intrafamily distribution.<sup>51</sup>

Now it may be true, as Sen suggests in a parallel passage, that systematic, often anti-female bias in intrafamily distribution of resources "is more readily checked by looking at capability deprivation (in terms of greater mortality, morbidity, undernourishment, medical neglect, and so on) than can be found on the basis of income analysis."<sup>52</sup> But this is a point about the best evidence we can have for unequal and unjust intrafamily distribution. It does not settle the question what such injustice consists in: The capability theorist will describe the injustice as

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<sup>49</sup> *Ibid.*, 71, *cf.* also 88f. and Amartya Sen: *On Economic Inequality* (Oxford: Oxford University Press 1997 [1973]), 212.

<sup>50</sup> According to averaging criteria, an institutional order is just if and only if there is no feasible alternative that would generate a larger average share (expressed in the preferred metric). An institutional order is the more unjust, the more the average shares it generates falls short of the largest feasible average share. According to sumranking criteria, an institutional order is just if and only if there is no feasible alternative that would generate shares (of resources, capabilities, welfare, or whatever) whose sum is greater. An institutional order is the more unjust, the more the sum of shares it generates falls short of the greatest feasible sum.

<sup>51</sup> See Susan Okin: *Justice, Gender, and the Family* (New York: Basic Books 1989) for extensive treatment of intrafamily distribution within a resourcist conception of social justice.

<sup>52</sup> Sen: *Development as Freedom*, 89, and Sen: *On Economic Inequality*, 212.

family resources being distributed so that males systematically have greater capabilities. The resourcist will describe the injustice as men and boys systematically receiving larger shares of family resources than women and girls do. In any case, it is not true, *pace* Sen, that the resourcist approach leads its adherents to overlook the very serious problem of intrafamily distribution.

(2) *Differences in relational perspectives*: “The commodity requirements of established patterns of behavior may vary between communities, depending on conventions and customs. For example, being relatively poor in a rich community can prevent a person from achieving some elementary “functionings” (such as taking part in the life of the community) even though her income, in absolute terms, may be much higher than the level of income at which members of poorer communities can function with great ease and success.”<sup>53</sup> The point Sen makes here — that individual advantage has relative as well as absolute aspects — is at right angles to the debate between the two approaches: A capability theorist can run afoul of Sen’s point by disregarding all social and relative functionings and focusing exclusively on such functionings as being well-nourished and having physical mobility. Conversely, even a simple income resourcist can accept Sen’s point: by recognizing that the value of any level of income depends in part on what incomes other participants enjoy and that, partly for this reason, an institutional order may be unjust because the incomes it makes available to some are too low relative to the incomes it makes available to others. A plausible resource metric must include all and only the resources human beings need to function adequately and must weight these resources according to their importance in fulfilling standard human needs.<sup>54</sup> If a reasonably competitive income is important

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<sup>53</sup> Sen: *Development as Freedom*, 71. Cf. Sen: *On Economic Inequality*, 212f.

<sup>54</sup> Does such a reference to standard human needs constitute a capitulation to the capability approach? If it did, a truly resourcist view would have to select and weight the resources within its metric without regard to our knowledge about what human beings generally need to function adequately. Such “true” resourcism would evidently be absurd. The interesting resourcism, here at issue, is distinctive by holding that the justice of institutional schemes should be judged on the basis of what distribution of *valuable resources* (rather than valuable capabilities or utilities) would exist under it. This will become much clearer in the sequel.

for persons to function adequately — and there is considerable evidence that this is so<sup>55</sup> — then the relative size of incomes should be incorporated into an appropriate resource metric.<sup>56</sup>

More sophisticated resourcists will accept Sen's point with regard to various other goods they recognize besides income: The value and the moral adequacy of the rights a person enjoys and of the education, medical care, and employment available to her all depend in part on how they compare to the rights and educational, medical, and employment opportunities enjoyed by those around her. In Rawls's theory, these relative aspects are expressed in the demand for equal basic liberties and equal opportunities as well as in such intrinsically relational goods as “powers and prerogatives of offices and positions of responsibility” and especially “the social bases of self-respect.”<sup>57</sup>

(3) *Variations in social climate*: “The conversion of personal incomes and resources into the quality of life is influenced also by social conditions, including public educational arrangements, and the prevalence or absence of crime and violence ... epidemiology and pollution ... the nature of community relationships.”<sup>58</sup> This thought can properly be advanced against any resourceist view that focuses on personal incomes and resources to the exclusion of social capital and, more generally, public goods and ills. Such a view would presumably oppose most tax-funded public expenditures: for a criminal justice system, for public health, for sports and the arts, and for maintaining national parks and public libraries. To my knowledge, this is not a position any actual resourceists have taken. They do not focus on personal (rivalrous or excludable) resources alone, but rather count the prevalence of crime and violence and the lack of public safeguards against biological and chemical hazards as diminishing a person's resources broadly conceived. Our paradigm resourceist Rawls sees such factors as rendering insecure some of the basic liberties

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<sup>55</sup> Consider the economics literature on positional goods as well as more recent evidence that relative poverty is an important explanatory factor in human health. Cf. Sir Douglas Black, J. N. Morris, Cyril Smith, Peter Townsend: “The Black Report,” in Peter Townsend and Nick Davidson, eds.: *Inequalities in Health* (London: Penguin 1990) and Richard Wilkinson: *Unhealthy Societies: The Afflictions of Inequality* (London and New York: Routledge 1996).

<sup>56</sup> Within Rawls's theory, for instance, there is strong reason to include persons' relative income — expressed perhaps as the ratio of income over median income — among the social bases of self-respect. Cf. Pogge: *Realizing Rawls*, 162f.

<sup>57</sup> Rawls: *Collected Papers*, 362f., 454.

<sup>58</sup> Sen: *Development as Freedom*, 70f.

of citizens such as their physical and psychological integrity and their freedom of movement.<sup>59</sup> He also emphasizes the political liberties and their fair value as a crucial primary good that allows citizens, together, to shape the social and natural conditions that shape their lives. In these ways, a sophisticated resourcist view does take account of social conditions and of their potentially differential impact on persons and groups — albeit in a different way than the capability approach which is sensitive to these factors only in proportion to the influence they exert on individuals' capabilities or quality of life.

(4) *Environmental diversities*: “Variations in environmental conditions ... can influence what a person gets out of a given level of income. Heating and clothing requirements of the poor in colder climates cause problems that may not be shared by equally poor people in warmer lands. The presence of infectious diseases in a region ... alters the quality of life that inhabitants of that region may enjoy.”<sup>60</sup> Again, these are points that resourcists have every reason to take into account. Thus, if we count a place where one can live and work among the personal goods or resources, then it makes sense to count such a place as more valuable when it offers a temperate climate and healthy environment, just as one would count such a place as more valuable when it offers an abundance of freely available nutritious fruits and vegetables.

It must be said, however, that actual resourcists have paid insufficient attention to variations in environmental conditions. They are not discussed by Rawls, for instance, and play no role in his criterion of social justice. This is so, I conjecture, because he assumes that the citizens of a just society enjoy freedom of movement. On this assumption, he finds it implausible to count Susan as worse off than Bill merely because she lives in a less hospitable environment — she lives there by choice, after all, and could live where Bill lives if she wanted to. (If she is poorer than Bill and cannot afford to live where he lives for this reason, then Rawls's criterion will appropriately count her as worse off than Bill, but not on account of her environmental conditions but on account of her lesser income and wealth.)

While my conjecture goes some way toward defending Rawls's criterion, it does not in the end provide a valid defense. The difference principle compares the socioeconomic positions of

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<sup>59</sup> Cf. Rawls: *A Theory of Justice*, 211-213, where he takes the prevalence of crime and violence to constitute a loss in basic liberties which, as the preeminent primary goods, are governed by his first principle of justice.

<sup>60</sup> Sen: *Development as Freedom*, 70.

citizens in terms of (simply put) the work-pay packages available to them, without regard to the geographical area in which such work-pay packages may be available. This can lead to an intuitively implausible ranking of socioeconomic positions for purposes of identifying the least advantaged under each feasible institutional order and of comparing such institutional alternatives by reference to the least advantaged position each generates. Persons whose best option is to sell fast food in San Diego for a wage of \$900 per month are intuitively better off than persons whose best option is to perform the same work in Alaska for a wage of \$910 per month. The reason is that the latter, to do the job, must live in Alaska and must then also pay more than the former do for clothing and for heating their homes (additional expenses that exceed \$10 per month).

I agree then that a plausible criterion of social justice must take account of environmental diversities and that actual resourcists have failed to do so. Still, the needed correction is in the spirit of the resourcist approach: In measuring resources persons have access to, one must subtract resources standardly needed to enjoy such access — the heavy coat one needs to withstand the Alaskan winter as much as the uniform one may need in order to hold down a job as a mail carrier or waitress.

(5) *Personal heterogeneities*: “People have disparate physical characteristics connected with disability, illness, age or gender, and these make their needs diverse.”<sup>61</sup> How such personal heterogeneities should be treated is really at the core of the debate between the two approaches. Resourcists define and consider individual shares without regard to the particular features of the persons whose shares they are. In selecting the various goods in terms of which they define their resourcist metric, and in weighting these selected goods relative to one another, resourcists are guided by some conception of the *standard* needs and endowments of human beings. Capability theorists, by contrast, value the goods persons have access to by reference to the *specific* needs and endowments of each particular person. In this sense, capability theorists are, while resourcists are not, sensitive to personal heterogeneities.

Sen tends to overstate the contrast, however, in that some of the features he lists as personal heterogeneities are ones that resourcists can and do take into account.

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<sup>61</sup> *Ibid.*, 70.

(5.1) Sen gives the example of women who, because they are breast-feeding an infant child, need more nutrition than other persons.<sup>62</sup> But surely resourcists are not committed to counting the needs of infants for naught. To the contrary, they are committed to recognizing that a share of food or income just adequate for a single adult is less or not adequate if shared by a woman and her infant child together.

Closely related is Sen's example of extra food needs during pregnancy.<sup>63</sup> Resourcists can hardly fail to recognize that all human beings have needs even before they are born and must have these needs met in order to reach their full human potential. Only their mothers can meet these pre-birth needs and, if they decide to do so, these mothers have additional needs related to their pregnancy. They must be able to meet these needs in order to meet the pre-birth needs of their future children. Understanding this, resourcists can easily agree with Sen that a share of food or income just adequate for a non-pregnant woman is less or not adequate for a pregnant woman and her unborn child. Any plausible resourcist view will take account of pregnancy and lactation.

Making this point does not in any way detract from the very great contributions Sen and Nussbaum have made toward spreading awareness of the economic injustices inflicted specifically upon women and girls. But it does show that these great contributions do not presuppose the capability approach. The commitment to feminism is separable from the commitment to the capability approach: The former does not presuppose the latter and therefore cannot support it either.<sup>64</sup>

In fact, the capability approach may even weaken the feminist case by suggesting — falsely — that women's terrible and disproportionate suffering in most of this world is due to their being insufficiently compensated for their inferior natural endowments. Women's suffering in the world as it is does not result from social institutions being insufficiently sensitive to the special

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<sup>62</sup> Cf. e.g. Sen: *Commodities and Capabilities* (New Delhi: Oxford University Press 1999), 16, and Sen: *Inequality Reexamined*, 113.

<sup>63</sup> Cf. e.g. Sen: *Commodities and Capabilities*, 16, Sen: *Inequality Reexamined*, 33 and 113.

<sup>64</sup> The validity of this point is confined to the debate between capability theorists and resourcists. In the debate with welfarism, capability theorists can employ feminist arguments. They can point out, for example, that welfarism does not count as disadvantaged women who have — through social conditioning or by choice (adaptive preference formation) — accepted their inferior status in their society. This important point against welfarism can, however, be made just as effectively by resourcists as well.

needs arising from their different natural constitution. Rather, it overwhelmingly results from institutional schemes and cultural practices being far *too* sensitive to their biological difference by making sex the basis for all kinds of *social* (legal and cultural) exclusions and disadvantages. Women and girls have a powerful justice claim to the removal of these barriers, to *equal* treatment (in a resourcist sense). If these barriers were removed, if our social institutions assured women of equal and equally effective civil and political rights, of equal opportunities, of equal pay for equal work, women could thrive fully even without any special breaks and considerations. So why detract from this irresistible demand for equal treatment in a resourcist sense by staking claims to compensation for greater needs or special disabilities? Why open the door to all sorts of counter-claims invoking the special needs and disabilities of males, based perhaps on their naturally lower life-expectancy or on their larger bodies in need of additional food and clothing? Why, as it were, muddy the waters?

Institutional schemes are often facially sex neutral — not openly discriminatory against women and girls, and yet male-centered. For example, access to certain positions can be subject to restrictions that are not substantially related to the demands of the job and, while not excluding women as such, nonetheless make it much harder or rarer for women to qualify. The restrictions do this by targeting features of persons that, for biological or cultural reasons, are correlated with sex. Such restrictions may, for instance, avoidably exclude candidates who are pregnant or have small children to take care of or fall below a certain height or weight or wear “obtrusive” headgear (chadors but not yamulkas).

A criterion of social justice, too, can be facially sex neutral and yet male-centered, and may then be blind to the unjust biases built into some of the institutional schemes it is used to assess. Such a criterion may, for instance, specify the standard needs and endowments of human beings in a way that is more appropriate for males than for females. Such a male-centered criterion of social justice may blind its adherents to the ways in which their institutional order is covertly discriminatory against women.

This danger is real and important. But it is, once again, orthogonal to the contrast at issue. It is possible to formulate a resourcist criterion of social justice that, in selecting, formulating, and weighting valuable resources, takes full account of any divergences in the needs of males and females and also is appropriately sensitive to covert forms of discrimination by assessing any

institutional order by how it actually works in its social and natural context. Such a resourcist criterion would employ an unbiased conception of the standard needs and endowments of human beings and would count an institutional order as just only if it secured *genuinely* equal treatment to its female and male participants. On the other hand, it is also easily possible to formulate a male-centered capability view that bases its selection, formulation, and weighting of valuable capabilities on the standard needs of males and also is insensitive to covert forms of discrimination by analyzing any institutional order without attention to the possibly quite sexist culture within which it is operating.

It is certainly difficult, within either approach, to develop a criterion of social justice that fully meets this vital challenge — with respect to women as well as to other historically disadvantaged groups. On this score, the capability theorists are way ahead of most resourcists, thanks to the great efforts by Sen, Nussbaum, and others. But I see no reason to doubt that resourcists can do as well. They should certainly make the effort.

(5.2) In response to Sen’s examples of lactation and pregnancy, I have defended resourcism by invoking the needs human beings have during their infancy and gestation in the womb. This defense heightens the interest of the next example he adduces to show that a capability criterion can treat personal heterogeneities in a more plausible way than any resourcist criterion can. Here Sen argues that when a criterion of social justice makes interpersonal comparisons in terms of a resource metric, it ignores the fact that human needs vary with age.<sup>65</sup> Yet, in regard to this example as well, resourcism can do rather better than Sen supposes. Recall that normative individualism, common ground between the resourcist and capability approaches, holds that any institutional order should be assessed by how it treats its individual human participants. Sen’s example has force, if we think of such participants as time slices. But it then poses an equally powerful objection to the capability approach as well: Whether you think of human beings as needing certain resources or certain functionings — either way, our needs vary with age.<sup>66</sup>

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<sup>65</sup> Cf. e.g. Sen: *On Economic Inequality*, 212; Sen: *Inequality Reexamined*, 113; Sen: *Development as Freedom*, 70 and 88.

<sup>66</sup> Young children do not have much use, for instance, for some of the capabilities Nussbaum lists, for “being able to participate effectively in political choices that govern one’s life” or “being able to search for the ultimate meaning of life in one’s own way” (Nussbaum: *Women and Human Development*, 78-80, capabilities 4 and 10A).

It is more common, and plainly more plausible within *both* approaches, to conceive of participants as persons over a complete life. They are certainly so conceived by Rawls,<sup>67</sup> who does not regard an institutional order under which all persons enjoy the same upward mobility, with uniformly rising rank and income, as unequalitarian merely because, at any given time, older persons enjoy higher socioeconomic status than younger ones. His difference principle does not judge such an order, under which the incomes of the least advantaged rise with age from \$5 to \$12 per hour, say, inferior to a feasible alternative under which the least advantaged earn \$6 per hour throughout their lives.<sup>68</sup>

If participants are conceived as persons over a complete life, age-specific variations in needs are not a personal heterogeneity. Persons have diverse needs at different times of their lives, and the adequacy of individual shares depends then not merely on what persons have access to, but also on *when* they have such access. Just as having access to ten pounds of food once a week is less adequate than having access to one pound of food each day, so having access to dentures as an infant and to mother's milk in old age is less adequate than the other way round. Recognizing these points, resourcists can specify the standard needs of human beings in the various phases of their lives and can then define the adequacy of a person's lifetime share as an intertemporal aggregate of how adequate the resources she has access to in each phase of her life are relative to the age-specific standard human resource needs during this phase. To be sure, resourcists have not tackled this task,<sup>69</sup> but capability theorists have not tackled it either. Both have clear reason to conceive the participants in institutional schemes as persons over a complete life (rather than as time-slices of such persons) and to recognize that the needs of such persons vary with age. Doing so, both approaches can easily avoid the conclusion Sen rightly finds embarrassing: They can avoid saying that an institutional order containing special provisions to meet age-specific needs is, for this reason alone, treating its participants unequally. A society is not unequalitarian merely because it has a public school system that is open to teenagers but not to septogenarians,

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<sup>67</sup> Cf. e.g. Rawls: *A Theory of Justice*, 56, coining the expression "life prospects", and Rawls: *Collected Papers*, 364.

<sup>68</sup> For discussion of such a case, cf. Rawls: *Political Liberalism*, 270f.

<sup>69</sup> Rawls has nothing to say about intertemporal aggregation within one life, although this topic is essential for making his two principles of justice operational in the real world. For a tentative treatment of this topic within a Rawlsian framework see Thomas W. Pogge: *Kant, Rawls, and Global Justice* (Ann Arbor: University Microfilms

if the latter had similar opportunities when they were young. Nor is it inequalitarian merely because it offers a special tax break to the aged, if those currently ineligible can receive an equivalent tax break in their old age.

Surely, a great deal more could be said about justice between generations, and even what little I have said about how best to respond to the fact of age-specific needs is not uncontroversial.<sup>70</sup>

Still, no more need be said to establish this minimal point: Criteria of social justice that employ a resource metric are not, for this reason, insensitive to age-specific needs.

(5.3) Even if participants are conceived as persons over a complete life and age-specific differences are thus left aside, participants do of course still differ considerably in both body and mind and therefore also in their capacity to convert valuable resources into valuable functionings. Even these differences, however, are not ones that resourcist views are constrained to ignore wholesale. Resourcists can recognize that a person's mental and physical constitution is, to a considerable extent, shaped by social factors: by the locality and family in which one is raised (which greatly influence one's access to nutrition, medical care, physical exercise, play, and educational opportunities during childhood and adolescence) and by the culture and institutional order of one's society (which determines one's opportunities for social and political participation). Resourcists can recognize, therefore, that persons' developed capacities to derive benefit from resources are co-determined by their prior access to resources.

In our world, social factors play a huge role in explaining actual mental and physical differences relevant to persons' capacity to derive benefit from resources. Vast numbers of people grow up in conditions where they and their mothers are chronically undernourished and have inadequate access to basic (including maternal and perinatal) medical care, immunizations, essential nutrients and safe water. As a consequence, many of them become mentally and physically stunted and especially vulnerable to diseases.<sup>71</sup> Not having had access to even a minimal

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International 1983), chapter 3. I also try there to accommodate within Rawls's resourcist framework what undeniably *is* a personal heterogeneity: the fact that persons die at different ages.

<sup>70</sup> Some of the complexities and controversies are interestingly discussed in Dennis McKerlie: "Equality and Time," *Ethics* 99 (1989), 475-491, Dennis McKerlie: "Equality Between Age-Groups," *Philosophy and Public Affairs* 21 (1992), 475-495, and Larry S. Temkin: *Inequality* (Oxford: Oxford University Press 1993), chapter 8.

<sup>71</sup> "Two out of five children in the developing world are stunted, one in three is underweight and one in ten is wasted." FAO (Food and Agriculture Organization of the United Nations): *The State of Food Insecurity in the World 1999* ([www.fao.org/news/1999/img/sofi99-e.pdf](http://www.fao.org/news/1999/img/sofi99-e.pdf)), 11. Cf. also below, text at notes 143-8.

education, some 854 million adults are illiterate.<sup>72</sup> Due to sexist cultural traditions and practices and sexist institutional arrangements, women are significantly overrepresented in all these horrifying statistics.

Resourcist views have every reason to take account of interpersonal differences insofar as these are due — as in fact they overwhelmingly are in the world at large — to past inequalities in the resource access persons had under their institutional order. Nearly all persons with special mental or physical needs or disabilities today would be perfectly capable of leading happy and healthy lives if they were not suffering the effects of severe past (and present) resource deprivation: lack of effective civil and political rights and inadequate access to water, food, shelter, health care, and education. Insofar as such resource deprivation was unjust, a just institutional order will compensate for its effects. The members of a society or other social system have a duty of justice to mitigate the harms caused by their prior wrongdoing.

These problems are addressed more compellingly by resourcists than by capability theorists. Where the latter criticize institutional schemes for their failure to compensate for special physical and mental frailties, resourcists more powerfully criticize the same institutional schemes for their failure to compensate for frailties *they themselves produce* through the severe mistreatment they impose on so many children and adults.

This criticism is closely linked with another: The reform of such institutional schemes must not merely ensure that they compensate for frailties they had produced in the past (insofar as doing so is still reasonably possible), but also that they no longer *produce* and *reinforce* such frailties. This last point is crucial: In order to count as just, an institutional order must not merely repair, and compensate for, the effects that deprivations it inflicts have on the physical and mental constitution of its participants — which all too often cannot be done fully or even at all. It must also and most importantly avoid causing such damage in the first place insofar as this is reasonably possible.

A plausible capability view will agree. It will hold that an institutional order producing childhood malnutrition, for instance, deprives its victims of the capability adequately to develop

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<sup>72</sup> UNDP (United Nations Development Program): *Human Development Report 2002* (New York: Oxford University Press 2002), 11.

their physical and mental faculties. And it can then, like a resourcist view, add that those responsible for maintaining an unjust institutional order that inflicts excessive deprivations on some of its participants acquire a secondary duty of justice to repair and to compensate insofar as they reasonably can. Both approaches thus can appropriately respond to these very real problems.

Sometimes severe deprivations are inflicted by a *just* institutional order, as when a motorized-traffic system engenders accidents in which innocent persons get hurt. Here as well, a plausible resourcist view can recognize a collective remedial duty to repair and to compensate even for burdens of social cooperation that are not reasonably avoidable. We authorize and partly finance the traffic system through the democratic political process. And while we can agree for ourselves to bear the cost of any harm this system may inflict upon us, we cannot so agree on behalf of others, such as children too young to consent. Justice requires then that we organize our institutional order so that, when children get hurt in traffic accidents, funds are available to pay for whatever can reasonably be done to restore their health and appearance. It may well be true that our modern traffic systems bring vastly greater gains than losses. But it is not enough that the gainers should *be able* to compensate the losers (the Caldor-Hicks criterion). We are entitled at most only to the net gains that remain after the losers have *actually* been compensated to the extent this is reasonably possible.

Two conclusions emerge from this discussion. First, we have learned that yet another important class of “personal heterogeneities,” namely those that are *socially caused*, can be fully taken into account by resourcist views. Second, we have seen that, on a resourcist view, the causal origins of special needs and disabilities are morally significant. A woman who became disabled in a childhood accident, paying the statistically predictable price of modern transportation systems that serve our convenience and affluence, has a stronger claim to compensation than another whose otherwise equivalent disability is not due to social factors. Interestingly, Sen indicates that he may agree with this second conclusion:

A person’s capability may be reduced in exactly the same way in two cases: (1) through a violation of his [sic] liberty (by someone violating her freedom over a personal domain), and (2) through some internal debilitation that she suffers. Even though the two cases are not distinguishable in the capability space, an

adequate theory of justice cannot really ignore the differences between the two cases. In this sense, the capability perspective, central as it is for a theory of justice, cannot be entirely adequate for it.<sup>73</sup>

(5.4) While the capability approach may, as Sen suggests in this passage, not be sensitive enough to the causal origins of special needs and disabilities, the resourcist approach may be *too* sensitive to such causal origins by ignoring completely any differences in participants' mental and physical needs and endowments in whose emergence social institutions are not materially involved. Such differences could be due to any combination of three other kinds of factors: ordinary genetic variations, as when some people have lesser native intelligence or a faster metabolic rate; self-caused factors, as when people ruin their bodies or minds through drugs or lack of exercise; and differential luck, as when someone is hurt by lightning or in a natural disaster.

Resourcists can make three responses to this worry. First, they can point out that special needs and disabilities in which social causes play no role at all are rare. Most special needs and disabilities are due to a confluence of diverse causes, social ones included. Social rules generating excessive poverty may, by forcing many people to live in flimsy huts or at exposed locations, magnify the harm done by a natural disaster. Social rules governing advertising may contribute to the damage adolescent smokers are doing to their lungs. And rules governing social stratification and social mobility influence mating patterns and thereby possibly the frequency of specific genetic characteristics. The question how a resourcist view should plausibly be responsive to these complex interdependencies is evidently far too difficult to be addressed here. But mere awareness of these complexities should suffice to show that resourcists are not straightforwardly compelled to ignore a wide range of personal heterogeneities.

Second, resourcists can say that the *impact* of interpersonal variations in needs and endowments on individuals is very significantly influenced by the institutional order as well as by social

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<sup>73</sup> Sen: *Inequality Reexamined*, 87; cf. *Development as Freedom*, 77. Even if this difference is morally relevant, so that persons in the first category but not those in the second can demand compensation as a right, we may still want to design our institutional order so that it treats both alike, especially when the distinction is less than clear-cut or there are only a few cases in the second category. It would not be unjust for a society to do as much for congenitally blind children as it must do for children whose eyesight was lost due to dangerous medications or pollutants.

practices and cultural traditions. To take an obvious example: The mobility of a walking-impaired person may greatly depend on whether our buildings and public transportation system are wheelchair-accessible. This general point is relevant insofar as resourcists base their selection, formulation, and weighting of valuable resources on some account of *standard* human needs. In doing so, they must avoid the complaint that this account is modeled mainly on the needs of some and much less appropriate to the needs of others. We discussed a feminist variant of this complaint above — the charge that some resourcist views are male-centered by employing metrics modeled on the needs of *males* considered prototypical of human beings. Resourcist views must avoid analogous complaints by the disabled: If a resourcist criterion of social justice is to ensure that any institutional order satisfying it affords all its participants genuinely equal treatment, then its resource metric must take account of the full range of diverse human needs and endowments. Rawls tries to solve this problem by working with abstractly defined resources, such as basic liberties and income, which, as “all-purpose means,” can be usefully employed by persons with quite different needs and endowments.<sup>74</sup>

Insofar as a resourcist view satisfies this condition, it has a more attractive way of accommodating special needs than capability theorists do. The latter say to the disabled person: “I understand that you have a lesser capacity to convert resources into valuable functionings. For this reason, we will ensure that you get more resources than others as compensation for your disability. In doing so, our objective is that, by converting your larger bundle of resources, you will be able to reach roughly the same level of capability as the rest of us, that you will be roughly as able as we are to attain the various valuable functionings.” The resourcist might say instead: “I understand that the present organization of our society is less appropriate to your mental and physical constitution than to those of most of your fellow citizens. In this sense, our shared institutional order is not affording you genuinely equal treatment. To make up for the ways in which we are treating you worse than most others, we propose to treat you better than them in other respects. For example, to make up for the fact that traffic instructions are communicated through visible but inaudible signals, we will provide free guide dogs to the blind. In doing so, our objective is that our institutional order as a whole should afford you

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<sup>74</sup> Rawls: *A Theory of Justice*, 54f., 78-81. Rawls also needs to show that his account of the importance of these goods relative to one another (as expressed in the lexical priority ranking of his principles of justice) is equally appropriate for persons with different needs and endowments.

genuinely equal treatment.” This resourcist accommodation does not, however, apply in all cases — if traffic instructions are communicated through both visible and audible signals, free guide dogs may not be required by justice. And this resourcist accommodation rarely results in equal capabilities, as a formerly disadvantaged group, once it is being treated equally, may still have below-average capabilities — the blind may still not get around as well as the seeing.<sup>75</sup>

Third, resourcists can also point out that justice is not the only moral virtue of persons and institutional schemes. Thus, even if there are some among us who have special needs and disabilities that the rest of us have no duties *of justice* to alleviate — because we did not contribute to their emergence and do not benefit from their existence — we may nonetheless have other quite stringent moral reasons individually or collectively to engage in such alleviation: duties of humanity toward all human beings, for example, or duties of solidarity toward those with whom we share a common political life. Such duties are appealed to when it is said that, though hikers, swimmers, and sailors have no *right* to be rescued from life-threatening situations at public expense, it would nonetheless be morally intolerable for a reasonably affluent society simply to let them die. It would be similarly intolerable for such a society to allow poor persons with congenital health problems to die untreated.

At the end of this long section, it appears that the resourcist approach is no less able to address most of the important deprivations and inequalities that so disfigure our world — though, as we have seen, the two approaches may address them somewhat differently. What remains as the key theoretical difference is how the two approaches direct institutional schemes to respond to what one might call *pure* personal heterogeneities. The word “pure” here serves to exclude features that, it has turned out, are not genuine personal heterogeneities at all and should not be ignored by resourcists: lactation, pregnancy, and age. It is meant to exclude also personal heterogeneities to the genesis of which social factors substantially contribute — such as the effects of accidents produced by a socially sanctioned motorized traffic system or the genetic effects of socially sanctioned drugs (thalidomide) or pollution. To avoid the rather cumbersome language of pure personal heterogeneities, let me rephrase the topic as *how institutional schemes are to respond to*

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<sup>75</sup> It is also possible, of course, that such a formerly disadvantaged group, once treated equally, has above-average capabilities.

*natural human diversity*, with the reminder that such natural diversity may arise from any combination of ordinary genetic variations, self-caused factors, and differential luck.

### **3. Capabilities versus Resources: How *Not* to Resolve the Dispute**

If we confine ourselves, with Rawls and Sen, to the more general and abstract currencies appropriate for a distinctly political conception of social justice, then the central disagreement between the two approaches is this: Resourcists believe that individual shares should be defined as bundles of goods or resources needed by human beings in general, without reference to the natural diversity among them. These goods might include certain rights and liberties, powers and prerogatives, income and wealth, as well as access to education, health care, employment, and public goods — with different lists and different weights specified by different resourcist views. Adherents of the capability approach hold, by contrast, that individual shares should be defined so as to take account of “personal characteristics that govern the conversion of primary goods into the person’s ability to promote her ends.”<sup>76</sup> Thus, an equalitarian capability criterion holds that, under a just institutional order, persons with mental or physical frailties or disabilities would receive more resources than others, enabling them to reach the same level of capabilities, the same level of opportunities to promote human ends, insofar as this is reasonably possible.

How does one resolve such a disagreement? Let me proceed by disposing of four further inconclusive arguments in favor of the capability approach.<sup>77</sup>

The first of these invokes the thought that resources are of merely instrumental significance (*cf.* also note 54):

Equality in these spaces [primary goods, resources] is seen as important because they are instrumental in giving people equitable opportunity, in some sense, to

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<sup>76</sup> Sen: *Development as Freedom*, 74. This formulation is defective by suggesting that the capability approach features criteria of social justice that take account of the specific ends that different persons are pursuing. This is not the case. Capabilities are defined without regard to such ends. One person does not count as having lesser capabilities than another merely because the former chooses to pursue more ambitious ends. What matters for capability theorists is each person’s ability to promote *typical* or *standard human ends* — and not: each person’s ability to promote his or her own particular ends.

<sup>77</sup> The word “further” refers back to the first five paragraphs of section 2. In keeping with title question of this essay, the present section focuses one-sidedly on arguments advanced against resourcism and in favor of the capability approach.

pursue their respective goals and objectives. This distance does, in fact, introduce — I would claim — some internal tension in these theories, since the derivative importance of primary goods or resources depends on the respective opportunities to convert primary goods or resources into the fulfilment of the respective goals, or into freedoms to pursue them.<sup>78</sup>

Sen's resourcist opponents will gladly grant that resources are of merely instrumental significance, are important only if and insofar as they give persons opportunities to pursue their goals. Resourcists will further grant that a plausible resource metric must include all and only the resources human beings need to function adequately and must weight these resources according to their importance in fulfilling standard human needs.<sup>79</sup> Resourcists may even grant that what ultimately matters is that opportunities to pursue human goals be distributed equitably in some sense. But, such resourcists will maintain, the correct sense in which the distribution of opportunities ought to be equitable must be defined in the space of resources.

There is no internal tension in this position. To see this, consider a simple example of two young single workers performing qualitatively and quantitatively identical labor at the same gross wage. When asking how these two workers should be taxed, we understand that they are not interested in their wages as such, but regard money as purely instrumental toward other goals. And we may agree with Sen that our tax system should aim for an equitable distribution of opportunities. Yet, we may still believe that what makes such a distribution equitable is that workers doing equal work are *paid* equally and *taxed* equally. We may still believe that it would be inequitable to tax one of the workers less on account of his lesser capacity to convert money into valuable functionings.

Sen should be grateful that the tension he alleges is no problem for the resourcist approach. If it were, then a similar tension would be problematic for the capability approach. Like rights and access to money, so the abilities to be well-nourished and to move about are of mostly instrumental importance. Sen's criticism of resourcism could thus be turned against himself: "Equality in the space of capabilities is seen as important because they are instrumental in giving people equitable opportunity to pursue their respective goals and objectives. This distance

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<sup>78</sup> Sen: *Inequality Reexamined*, 19 n. 20.

introduces some internal tension in Sen's theory, since the derivative importance of capabilities depends on their role in allowing persons to fulfill their ends." If Sen's argument were sound, it would show that what matters for social justice is not equity in the space of capabilities (access to functionings) but equity in the space of opportunities to fulfill one's particular goals.

A second inconclusive argument in favor of the capability approach is presented by Sen in the form of a parable.<sup>80</sup> Annapurna wants some indivisible work to be done in her garden and must choose one of three poor, unemployed laborers to do the job. All three are quite eager to work for her. Dinu is the worst-off financially, and giving him the job would therefore contribute most toward improving the distribution of income. Bishanno is the unhappiest, and giving him the job would contribute most toward improving the distribution of welfare. Rogini suffers from a debilitating disease that the income from this job would enable her to have cured; and giving her the job would therefore contribute most toward improving the distribution of capabilities. Sen invites us to conclude that Annapurna should give the job to Rogini.

One may quarrel with this conclusion. But the more important point is that, even if we accept this conclusion, the parable is nonetheless inconclusive because it falls in the domain of what Sen calls personal ethics rather than political philosophy. Sen himself insists strongly that these two domains must be distinguished, that quite different moral principles may apply to the moral assessment of personal behavior, on the one hand, and to the moral assessment of institutional schemes, on the other.<sup>81</sup> So we cannot infer from Annapurna's moral reason to give preference to Rogini over Dinu and Bishanno in that imagined situation that we have moral reason to structure our society's tax and social-security systems so that they are sensitive to capability inequalities rather than to resource inequalities. Section 4 will show more concretely and in detail why the intuitions Sen mobilizes through his parable have much less weight, if any, with regard to the choice among alternative public criteria of social justice.

A third inconclusive argument in favor of the capability approach invokes the claim that differences in human capacities to convert resources into functionings are unchosen. Insofar as this claim is true, it furnishes a complaint against any institutional order that disregards such

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<sup>79</sup> Cf. Rawls: *Justice as Fairness*, 169f.

<sup>80</sup> Sen: *Development as Freedom*, 54f.

<sup>81</sup> Sen: *Inequality Reexamined*, 19 n. 19.

differential conversion capacities: “It is through no fault of ours that, with equal resources, we are unable to attain the same valuable functionings as others. By allowing this capability inequality to stand uncorrected, the institutional order allows us to be unfairly penalized by internal characteristics for which we bear no responsibility. The institutional order should therefore be redesigned so that we have additional resources that even out our unchosen lower conversion capacities.”

Is this a compelling complaint? Consider that those with greater conversion capacities can present a roughly symmetrical complaint: “It is through no fault of ours, either, that you have lesser conversion capacities than we do. By compensating you at our expense, the institutional order would unfairly penalize us for differences in internal characteristics for which we bear no responsibility. The institutional order should therefore be designed so that our resource shares are not diminished by our unchosen greater conversion capacities.” The juxtaposition of these two complaints brings out that each of them *presupposes* a view about the metric or space in terms of which individual shares should be defined for purposes of assessing alternative feasible institutional schemes: The former complaint protests penalization in the space of capabilities, the latter protests penalization in the space of resources.<sup>82</sup> Neither complaint can therefore serve as an argument for deciding this question of metric or space one way or the other. Using either complaint as such an argument amounts to begging the question.

The fourth inconclusive argument begs the question with more elegant directness. Here the capability theorist simply points out that resourceist views ignore the fact that the quality of persons’ lives, their well-being, is substantially affected not only by the resources at their disposal but also by their capacity to employ these resources in the pursuit of ends:

An important and frequently encountered problem arises from concentrating on inequality of incomes as the primary focus of attention in the analysis of inequality. The extent of real inequality of opportunities that people face cannot be readily deduced from the magnitude of inequality of incomes, since what we can and cannot do, can or cannot achieve, do not depend just on our incomes

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<sup>82</sup> Another complaint might protest penalization in the space of welfare or personal goal attainment: “It is through no fault of ours that, with equal capabilities, we are unable to attain our goals as well as others can attain theirs.

but also on the variety of physical and social characteristics that affect our lives and make us what we are.<sup>83</sup>

This passage focuses on a flawed variant of the resourcist approach, one that defines shares in terms of income alone. But what matters here is how it proceeds to argue against this resourcist view. It argues that inequality of resources is a poor indicator for inequality in real opportunities because the latter depend not merely on inequalities in resources but also on inequalities in internal characteristics governing the conversion of resources into real opportunities. Now it is true, of course, that the resourcist approach disregards such natural diversity and focuses exclusively on resource inequalities. But this is not an argument against the resourcist approach. This *is* the resourcist approach.<sup>84</sup> By restating it, loudly and with raised eyebrows, one is merely begging the question, not making progress toward defeating resourcism. Sen is begging the question by assuming that his opponent, like Sen himself, cares about the extent of real inequality of capabilities but then foolishly overlooks one crucial determinant of such inequality. A resourcist, however, is not a foolish capability theorist who overlooks a crucial determinant of inequality in capabilities. Rather a resourcist is someone who believes that any institutional order should be assessed on the basis of the distributive pattern of relevant resources it engenders, without regard to how this distribution of resources correlates with persons' differential capacities to convert such resources into valuable functionings.

#### **4. The Real Contrast: Compensation for Natural Differences**

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We did not choose to have, unlike you, a special gift for and great attraction toward playing an expensive musical instrument....”

<sup>83</sup> Sen: *Inequality Reexamined*, 28, *cf.* also 82, 87 as well as Nussbaum: *Women and Human Development*, 68, 99. (There are many other passages where Sen and Nussbaum deliver this point in the tone of a powerful argument.) The reference to social characteristics alludes to points (1), (2), (3), (5.3), discussed in the preceding section, where I argue that such social characteristics can and should be included in a resource metric. — Once again, an analogous critique can be made of the capability approach, as follows: “An important and frequently encountered problem arises from concentrating on inequality of capabilities as the primary focus of attention in the analysis of inequality. The extent of real inequality in welfare (or personal goal attainment) we face cannot be readily deduced from the magnitude of inequality of capabilities, since our success in attaining our goals depends not only on our capabilities but also on the particular goals each of us has.”

<sup>84</sup> Again, in my Rawls-oriented sense of this word, not in Dworkin's.

Regarding the treatment of natural human diversity, institutional schemes and the criteria of social justice informing them may be said to be defective in three distinct respects. Only complaints of the last of these kinds are controversial between the two approaches, and I will therefore focus on them alone.

*Intrinsic discrimination complaints* allege that an institutional order is unjustly biased against persons with certain natural features and demand that such bias be mitigated or removed. Such a complaint may allege overt bias involving social rules or criteria of social justice that openly discriminate on the basis of natural features such as skin color or sex. Or it may allege covert bias involving facially neutral social rules or criteria of social justice that nonetheless systematically disadvantage persons with certain natural features, such as blacks, women, or the walking-impaired. Instances of such bias were discussed above (section 2, (5.1) and (5.4)). Complaints alleging (especially covert) bias can be quite difficult to resolve. But the problems they pose are equally serious for both approaches.

*Extrinsic discrimination complaints* allege that an institutional order unjustly fails to be (sufficiently) biased in favor of persons who are suffering social disadvantages due to historical or cultural discrimination based on certain natural features. Here the complaint is not that the institutional order is itself discriminatory, but that it fails (sufficiently) to dislodge, or to redress the effects of, discrimination extrinsic to itself. To cope well with such extrinsic discrimination, an institutional order must be shaped in light of three, possibly competing desiderata: to mitigate the more grievous and pervasive effects of present and past discrimination, to help dissolve prejudice and discrimination in present practices, attitudes, or ways of life, and to avoid imposing new discriminatory burdens on participants who are innocent of the discrimination to be alleviated. This complex task poses equally difficult and serious problems for resourcists and capability theorists alike, and I can therefore leave it aside as well.

*Compensation complaints* allege that an institutional order unjustly fails to be (sufficiently) biased in favor of persons who are disfavored by what Rawls has called the natural lottery.<sup>85</sup> While capability theorists approve of some such complaints and believe that institutional schemes ought to be designed to even out some natural inequality, resourcists do not. Capability

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<sup>85</sup> Rawls: *Collected Papers*, 82; *A Theory of Justice*, 64.

theorists seek an institutional order under which resources are so distributed that the resulting distributive pattern of individual capabilities — dependent on individual endowments and resources — satisfies their preferred criterion. Resourcists, by contrast, seek an institutional order under which the distributive pattern of resource access satisfies their preferred criterion. They pay no attention to how this distribution correlates with the distribution of natural features. How can we make progress toward resolving this dispute?

A compelling *ad hominem* argument can be made on behalf of the capability approach specifically against Rawls's resourcist criterion. The argument shows that the parties in the original position, as Rawls himself describes them, would favor a criterion of social justice that is sensitive to natural inequality in the way the capability approach envisions.

Recall Rawls's central thesis that we should morally endorse that public criterion of social justice which parties in the original position would endorse prudentially. He imagines these parties to deliberate on behalf of prospective participants — but behind a veil of ignorance, so that they know nothing specific about the particular persons they represent. The parties are made to assume, however, that every prospective participant has three interests, which Rawls sees as closely connected to their role as citizens in a democratic society (and hence as not being partisan to any particular religious, philosophical, or ethical world-view or way of life).

Rawls calls these the three *higher-order* (or *fundamental*) *interests*, suggesting both that they are interests in the content and fulfillment of other interests (like second-order desires are desires about desires) and also that they are deep, stable, and normally decisive. The first two higher-order interests are interests in developing and exercising two moral powers,<sup>86</sup> namely “the capacity for a sense of justice: ... to understand, to apply, and to act from (and not merely in accordance with) the principles of political justice that specify the fair terms of cooperation [and] a capacity ... to have, to revise, and rationally to pursue a conception of the good.”<sup>87</sup> The third higher-order interest is “to protect and advance some determinate (but unspecified)

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<sup>86</sup> Rawls: *Political Liberalism*, 74; cf. *Justice as Fairness*, 192.

<sup>87</sup> Rawls: *Justice as Fairness*, 18f.; cf. *Political Liberalism*, 19.

conceptions of the good over a complete life,<sup>88</sup> that is, the interest to be successful in the pursuit of one's final ends and aims, whatever these may be.

Now it is evident that the extent to which a person's higher-order interests — especially the third — are fulfilled depends not merely on her access to resources or social goods but also on her natural endowments. A person with energy, intelligence, good health, and good looks is better able to advance her conception of the good than someone who is sickly, gloomy, unintelligent, and ugly. Even if the parties are made to assume that the institutional order cannot affect such natural human diversity itself, they would still want this order to promote the next best thing: a negative correlation between the quality of individuals' natural endowments and their access to resources. In particular, the parties will want the institutional order to ensure that no one scores poorly in regard to both natural endowments and resources access. By thus choosing a public criterion of social justice pursuant to which the naturally disfavored are favored in the distribution of social goods and ills, the parties can best protect the higher-order interests of their clients. Hence they would choose such a compensatory criterion — perhaps one involving a capability metric — over the resourcist criterion Rawls claims they would choose.

If this powerful argument does not move me to abandon resourcism, it is because I see compelling independent reasons for rejecting the thought experiment of the original position and the purely recipient-oriented theorizing it so elegantly encapsulates.<sup>89</sup> Still, the interests of recipients — of those who live under the institutional order to be assessed — do matter, of course, and I should therefore be able to explain why I resist the move from a resourcist to a capability metric despite the fact that it seems to improve participants' *ex ante* prospects. The following four subsections give my reasons.

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<sup>88</sup> Rawls: *Political Liberalism*, 74; cf. *Justice as Fairness*, 192.

<sup>89</sup> A conception of social justice is purely recipient-oriented if and only if its assessments are based exclusively on information about the pattern of shares expected to exist under alternative feasible institutional schemes. In particular, purely recipient-oriented conceptions attach no moral significance to information about the character of the causal relation between institutional schemes, on the one hand, and individual benefits and burdens, on the other. Such conceptions attach no moral significance, for instance, to whether an institutional order gives rise to particular burdens by mandating, authorizing, or engendering them, or through failures to prevent, to deter, or to compensate. Cf. Pogge: *World Poverty and Human Rights*, 41f., and “Three Problems with Contractarian-Consequentialist Ways of Assessing Social Institutions” in Ellen Frankel Paul et al., eds.: *The Just Society* (Cambridge: Cambridge University Press 1995), 241-266. One of my critiques there concerns the fact that the original position implicitly endorses the anonymity condition, which I have criticized in section 1 above for its

#### 4.1 How Resourcism Is Sensitive After All to Unequal Work-Relevant Endowments

My first reason only dilutes the argument for preferring the capability approach. It shows that while the resourcist approach cannot achieve as nuanced an accommodation of human natural diversity, it has a good bit more to offer than nothing at all. To bring the points out in a clear and efficient way, I display them in the context of a stylized economic scenario in which the approaches contrast starkly.

Imagine then a group of adults of working age stranded together on an island and now cooperating in food production. In asking how the food acquired through their work should be distributed among them as income, I assume at first that, as it happens, these adults are such that equal income affords them equal capabilities. Their mental and physical constitutions are similar enough or else the pluses and minuses cancel out so that there is no vertical overall inequality. This highly artificial case lacks then exactly that empirical feature whose treatment resourcists and capability theorists really disagree about.

In accordance with a stipulation made in section 1, let us also concentrate on criteria of social justice that are either equalitarian or prioritarian or sufficientarian or some hybrid of any two of these or of all three. What space or metric or currency should one want to incorporate into such a criterion for this simple case? There are three main possibilities.

One straightforward idea is to use the space of income.<sup>90</sup> The obvious objection to such an *income metric* is that it ignores variations in the amount of work different persons contribute: The assessment of feasible alternative institutional schemes is based entirely on the profile of income shares (average annual income over a lifetime, say) each tends to engender, without regard to how this income profile is correlated with the profile of work contributions. An equalitarian theory using this space would favor an institutional order under which persons can decline to work and still be entitled to an equal share of all the food produced by the others. Under the rules that prioritarian and many sufficientarian theories using this metric would favor, there would likely be differential rewards as work incentives. But these incentives would be

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blindness to group inequities. Another problem is that purely recipient-oriented theorizing leads to highly counter-intuitive demands on penal institutions.

<sup>90</sup> Income will be understood as net of taxes and net of expenses that must be incurred by those holding the job (e.g., warm clothing for that job in Alaska).

designed so as to maximize the lowest average annual income (or, equivalently, so as to minimize the greatest shortfall from sufficiency) and would therefore lead to a distribution that rewards less the work of those who work more. These people doing more work may well complain that they are receiving less than equal pay for equal work — and this for the sake of giving far too good a deal to those who do little work or none at all.

An income metric is certainly defensible nonetheless, especially in conjunction with a prioritarian interpersonal aggregation function. In fact, Philippe van Parijs has done an impressive job defending, within the technological and socioeconomic context of contemporary continental Europe, a conception of social justice that is prioritarian in the space of income.<sup>91</sup>

Responding to some remarks by Richard Musgrave,<sup>92</sup> Rawls has decided to settle on another possibility: using the space of some index of income and time worked. He proposes a specific *income/worktime* metric that stipulates leisure as another social primary good and considers those unwilling to put in a full standard work day as having extra leisure.<sup>93</sup> This proposal involves some arbitrariness regarding the length of the standard work day and regarding the (intrapersonal) aggregation function that sums any quantities of these two goods (income and leisure) into a single index number. To keep things perspicuous, let us here consider a more elegant income/worktime metric, which avoids both sources of arbitrariness by defining the index simply as the ratio of income over hours worked. This definition is problematic in various ways,<sup>94</sup> but it will do well enough for our purposes here if we add the assumption that all

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<sup>91</sup> Philippe van Parijs: *Real Freedom for All* (New York: Oxford University Press 1995).

<sup>92</sup> R. A. Musgrave: “Maximin, Uncertainty, and the Leisure Trade-Off,” *Quarterly Journal of Economics* 88 (1974), 625-632.

<sup>93</sup> Rawls: *Collected Papers*, 455 n. 7, cf. 252f.

<sup>94</sup> Cf. Pogge: *Realizing Rawls*, 66f., 198f. For example, the assumption that persons working at a higher hourly wage rate are better off than others working at a lower hourly wage rate may be implausible when the former cannot choose freely how many hours to put in. In the real world, many jobs are all-or-nothing affairs. And being free to work either sixty or zero hours weekly at \$4 per hour may not be better than being free to work as many or as few hours as one likes at \$3 per hour. And even if persons are free to vary their hours at will, there may still be important differences, as two persons each earning \$4 per hour may face quite different options at the margins: One may be doing twenty hours a week of unpaid work (caring for children or for a sick or elderly person) plus twenty hours a week at \$8/hour with the option of increasing or decreasing the latter hours, while another may be working twenty hours a week at \$5/hour plus another ten hours at \$2/hour with the option of increasing or decreasing the latter hours.

islanders have the same freedom to vary the number of hours they work at their respective personal rate.<sup>95</sup>

Such an income/worktime metric faces a milder version of the same objection we saw aimed at an income metric: Just as it matters how many hours of work persons put in, one might say, so it also matters how hard or productively they work during those hours. This problem is clearest when an income/worktime metric is used within an equalitarian theory. Such a theory favors an institutional order under which workers are entitled to the same hourly income regardless of how hard they work. To be sure, prioritarian and many sufficientarian theories are likely to favor incentives that reward hard work. But such incentives would be designed to maximize the lowest income per hour; so work done slowly will tend to be better rewarded than the same amount of work done more efficiently. Hard-working people may well then complain that they are receiving less than equal pay for equal work — and this for the sake of giving far too good a deal to those who work much below their potential.

There is a related but different objection to an income/worktime metric: that it inconsistently treats differently two factors that are really on a par: how *long* people work and how *hard* people work. Why should someone who works very hard for only two hours each day be treated any differently from how she would be treated, if she stretched the same work over four hours (*i.e.*, if she worked twice as long and half as hard)?

These objections suggest conceiving the cost of cooperation not as time worked, but as productive contribution, proportional to both how long and how hard persons are working. This is the third possibility: an *income/contribution* metric. A simple example of such a metric is the ratio of income over productive contribution. To be sure, productive contribution is not an easy concept to operationalize within a complex network of cooperative interaction: A free-market system in which contributions are valued at what others are willing to pay for them can at best be a rough approximation, notoriously undervaluing contributions (by nurses, teachers, homemakers) that are partly motivated altruistically. Moreover, actual such systems are often

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<sup>95</sup> This freedom is, of course, quite rare in the real world. Also, the hourly wage rate available to a person may be sensitive to how many hours they work (*e.g.*, on account of progressive taxation). And it may also vary from year to year, which raises difficult issues of intertemporal aggregation (being paid \$3/hour during one decade, then \$4/hour during the next, and \$5/hour during the one after that makes for a less adequate lifetime share than being paid \$4/hour during all three decades). I will leave such variations aside.

quite unfree and non-competitive in some respects so that it would be preposterous to infer from current gross income data that ten US chief executives contribute as much to the global social product as one million Bangladeshi seamstresses.<sup>96</sup> Still we can, in the context of the simple island case, waive these difficulties for purposes of clarifying theoretically the more prominent metric options.

I have described a very simple world in which there are only two relevant individual parameters (food and work) and in which all persons have roughly the same mental and physical constitution, the same endowments, needs, and conversion capacities. And I have distinguished nine pure criteria of social justice for this world, each constructed of two components: an interpersonal aggregation function (equalitarian, prioritarian, or sufficientarian) and a metric for defining and comparing individual shares (income, income/worktime, or income/contribution). These nine criteria represent the basic options for adherents of *both* the capability and resourcist approaches. These approaches have not parted company thus far because we have not yet introduced into the story any diversities in overall natural endowments which capability theorists deem fit for compensation. Before doing so, let me make three orienting remarks.

First, we can expect that, when such vertical natural inequality makes its appearance, resourcists will still endorse one of the nine criteria of social justice outlined above. Capability theorists, by contrast, will want to modify the criterion they have advocated for the simple world so as to incorporate vertical natural inequality. For now let's assume they do this not by changing their preferred interpersonal aggregation function (equalitarian, prioritarian, or sufficientarian), but by modifying only the metric they had advocated for the simple case. Here is an example of such modification: An equalitarian in the space of income, learning that persons have different metabolic rates, may change her metric from income to income/metabolic-rate. She may then require, perhaps, that each islander should share in the social product in proportion to his or her metabolic food needs. Thus, if the social product is 115 percent of what is needed for all islanders to be minimally well-nourished, then just rules should assign to every islander 115

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<sup>96</sup> To mention just the most obvious factors: Workers from poor countries are not free to offer their services in rich countries. What they produce cannot be freely sold in rich countries, but is subject to quotas, tariffs, anti-dumping duties, and competition from unfairly subsidized rich-country products. And US CEOs play a major role in appointing members to the boards that determine their salaries, stock options, and other perks.

percent of what he or she needs to be minimally well-nourished, rather than equal amounts of food to each.

Second, *how* a capability theorist will be moved to modify her metric will depend on what metric she had preferred in the absence of vertical natural inequality. It is therefore somewhat unfortunate that the views set forth by Sen and Nussbaum are not specific enough to address even the simple case (where vertical natural inequality is assumed absent). If they were committed to one of the nine possible criteria (or some hybrid), then we could concentrate our efforts on examining how *this* criterion might be modified in response to the introduction of vertical natural inequality. Rawls's choice from among the nine possible criteria of social justice for our simple island world seems, by contrast, quite clear: He would want alternative feasible economic schemes to be assessed by a criterion that is *prioritarian* in a space of *income/worktime*: The islanders should organize their economy so that the lowest hourly income rate is as high as possible.<sup>97</sup>

Third, and most important, although resourcists refuse to incorporate reference to vertical natural inequality into their chosen metric, their nine alternative criteria nonetheless differ in the relative benefits and burdens they bring to persons with various natural endowments. For example, a person with poor work-relevant natural endowments will fare much better, if the economy is governed by a prioritarian income/worktime criterion, than if it is governed by a prioritarian income/contribution criterion.

With these remarks in mind, let us now set aside our supposition that all islanders of working age have roughly equivalent natural endowments by introducing (what capability theorists would regard as) vertical natural inequality.<sup>98</sup>

Let us begin with the fact that persons differ in how much *effort* the work they do requires of them. By “effort” I mean something quite distinct from how intensively or hard persons are

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<sup>97</sup> This statement simplifies by leaving aside constraints and expenses arising from maintaining the equal basic liberties and fair equality of opportunity as well as democratically sanctioned expenses for, and opportunity costs arising from, public goods such as national parks. Also, at issue here are not income rates available to persons at some particular time, but some aggregate of such available rates over a person's life-time (*cf.* note 95).

<sup>98</sup> We may need the reminder that natural inequalities are defined as ones to which relevant social factors do not substantially contribute. We might circumvent complications (*cf.* section 3, (5.3), *supra*) in our simple case by thinking of the islanders as freshly thrown together by fate and hailing from different parts of the world so that they bear no responsibility for one another's physical and mental development.

working. Intensity is an objective matter. A person works very hard or intensively when her average contribution per hour of work is above 80 percent of her capacity, say. Effort, however, is a subjective matter: Some persons enjoy working and enjoy working hard. They like working 60 hours a week and also find it quite frustrating to work at less than 70 percent of their capacity. For them, working very hard at 90 percent of their capacity is rewarding, requires no special effort or sacrifice. Others are much happier taking it easy. They work only because they must, and they find that contributing at above 30 percent of their capacity requires a real effort on their part and that going above 50 percent is positively painful.

Suppose Ann and Sam are equally productive, working equally hard, for the same number of hours, in the same job. And suppose Ann likes her work while it is painful for Sam. Should we say that their institutional order is treating Ann and Sam equally only if Sam's net income is higher than Ann's? Arranging such earning differentials may well turn out to be practically infeasible because of theoretical difficulties about interpersonal comparisons of reluctance and practical difficulties about dissimulation and perverse incentives. Still, it is interesting to ask whether one should want to incorporate this natural difference into one's metric if this could be done without undermining its workability.

The welfarist answer is a clear yes. Equalitarians, prioritarians, and sufficientarians in the space of welfare would ideally want the institutional order to be sensitive to the larger welfare losses Sam incurs from working.<sup>99</sup> An equalitarian welfarist, for example, will want more income to be channeled to Sam, whose work costs him greater effort, so that his extra pain from work is compensated by greater pleasures available through extra income. This reduces the income of Ann, who works hard with little effort or sacrifice and can thus reach the same welfare level with much less income.

The resourcist answer is a clear no. Resourcists look at what persons give to and get from society in objective terms and do not "look behind" the inputs and outputs to discern how they may affect a person's subjective states.<sup>100</sup> And yet, different resourcist views differ in their

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<sup>99</sup> In support of their view, they might say that dispositions to like or to dislike hard work are largely unchosen by the persons whose disposition they are (*cf.* note 82 above). How can we allow Sam to be penalized for his disposition by being paid no more for his work than Ann?

<sup>100</sup> *Cf.* Rawls: *A Theory of Justice*, 80.

implications for persons who differ in their reluctance to work. Except for those with outstanding work-relevant endowments, persons who like taking it easy will do best under an income metric and worst under an income/contribution metric. The opposite is true for those who like hard work. An income/worktime metric, combined with prioritarianism, is a compromise in that there are rewards for hard work (rewards that those who like hard work find it easier to capture) but these rewards are designed to maximize the lowest income per hour (often fetched by those who follow their desire to take it easy). In a Rawlsian society, the productive contribution of reluctant workers — choosing to work more slowly and/or in lower-paying jobs — will generally be more highly rewarded than equivalent productive contributions by those who like hard work.

The answer of the capability approach is unclear. On the one hand, its proponents present it as an objective approach, as is brought out, for instance, in Sen's acceptance of Cohen's characterization of valuable functionings as midfare.<sup>101</sup> On the other hand, they also introduce subjective capabilities, such as "being happy"<sup>102</sup> and "being able to have pleasurable experiences, and to avoid non-necessary pain."<sup>103</sup> If pleasurable experiences and avoidance of unnecessary pain are to be included among valuable functionings, then job satisfaction can hardly be ignored.

Let us turn next to natural differences in persons' work-relevant natural endowments. Human beings have a vast number of different talents and aptitudes. Many of these — strength, stamina, dexterity, intelligence, and so forth — are relevant to what they might contribute to the social product. Because our endowments are so multidimensional, it is generally true, for any two persons, that one is more talented than the other in some respects and less talented in others. Still, it may nonetheless often be true that one has, on the whole, better work-relevant natural endowments than the other with respect to the existing system of economic cooperation. This means, roughly, that if each chooses from among what are the most lucrative jobs for him or her, and if both work equally hard, then one will make a greater marginal contribution to the social

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<sup>101</sup> Cf. *supra* text at notes 42 and 43.

<sup>102</sup> Sen, *Inequality Reexamined*, 13.

<sup>103</sup> Nussbaum: *Women and Human Development*, 79.

product than the other. And the question is then how, if at all, a criterion of social justice should accommodate such endowment-induced interpersonal productivity differentials in its metric.

We can bring this question into a somewhat more perspicuous form by means of a simple mathematical model in which any person's productive contribution is analyzed as the product of three factors: how long (average annual number of hours) she works (L), how hard she works on average (H), and how good work-relevant natural endowments she brings to bear (N):  $C=LHN$ . It is uncontroversial that individual shares should be defined to be sensitive to income: Other things being equal, persons who receive more income than others under the same institutional order do count as being treated better by this order. It is, as we have seen, controversial whether individual shares should be defined to be sensitive to L (and perhaps H as well), so that persons who receive more income than others under some institutional order may nonetheless not count as being treated better by this order if they also contribute more by way of L (or LH). The new question is whether individual shares should be defined to be sensitive also to work-relevant natural endowments, so that persons who receive more income than others with the same L and H may nonetheless not count as being treated better if they also contribute more by virtue of a higher N.

Theorists who hold, like van Parijs, that individual shares should be defined without regard to contribution factors L and H will find this an easy question to answer: Contribution factor N should also be ignored. If persons with lower incomes count as worse off even if they choose to work less long and less hard, then surely persons with lower incomes must still count as worse off even if they bring to bear lesser work-relevant natural endowments. The reason is that income inequalities arising from work-relevant natural endowments are *less* justifiable than income inequalities arising from how long or how hard persons work. Why so? Consider a scheme of rules under which only half as much income goes to one person than to another who, because she works longer and harder, gets twice as much work done. These rules can be justified to the first person by pointing out that he is quite free to work as long and as hard, and then to earn as much, as the second one does. But this justification is unavailable for a scheme of rules under which only half as much income goes to one person than to another who, because she can bring to bear greater work-relevant natural endowments, gets twice as much work done (without working any harder).

The question is more difficult to answer for theorists at the other end of the spectrum, who endorsed an income/contribution metric for the simple case. The more libertarian of them will feel that an institutional order is not treating one person worse than another who earns twice as much for twice the work contribution, even if the latter's greater contribution is due entirely to greater work-relevant natural endowments. They believe that while income inequalities arising from work-relevant natural endowments may be less justifiable than income inequalities arising from how long or how hard persons work, they are still justifiable enough. N may be incorporated in the same way as H and L, and there is then no need to modify the income/contribution metric preferred for the simple case.

A theorist who favors the income/contribution metric for the simple case but believes that persons' lack of control over their work-relevant natural endowments is morally too significant to be ignored will naturally be drawn to an *income/HL* metric.<sup>104</sup> But this proposal may not be informationally workable. In the real world, it is all but impossible to tell to what extent observed differences in persons' productive contributions are due to how hard they work or due to their work-relevant natural endowments. The problem here is not merely that of estimating how much more productive each person could be in the job he or she is in. In a world with significant differences in work-relevant natural endowments, it also matters how much more productive each person could be in other jobs. Persons generally have control over how much they contribute to the social product not only through their choice of how hard they work in their job, but also through their choice of job: They can choose between jobs for which they are relatively talented and jobs for which they are relatively untalented (that is, between jobs in which they can outperform a larger/smaller percentage of their peers). And they can choose

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<sup>104</sup> Such a metric may also seem implausible. Consider two persons working equally productively in the same job for the same number of hours per year. Jean could be twice as productive (in the same or another job), while Bob is as productive as he can be. In this case, Bob counts as working twice as hard as Jean; and a system of rules would be treating them equally, by the lights of an income/HL metric, only if Bob had twice Jean's income under it. — There are also two further, somewhat less natural possibilities: an  $(f_1(N) + \text{income})/\text{contribution}$  metric or an  $f_2(N) + \text{income}/\text{contribution}$  metric, with  $f_1$  and  $f_2$  linear increasing functions. The first of these metrics would achieve equal treatment when persons have gross pay proportional to their contributions, which is then diminished by a percentage proportional to their work-relevant endowments. The second of these would achieve equal treatment when persons have gross pay proportional to their contributions, which is then diminished by a lumpsum tax (or "head tax") proportional to their work-relevant endowments. Each of these further possibilities entails that, to treat Jean and Bob equally, an institutional order must ensure that Bob receives more income than Jean does for the same productive contribution. The two further possibilities also both run into the informational problem sketched in the remainder of the paragraph.

between jobs that tend to contribute more to the social product and jobs that tend to contribute less. It makes sense to treat such career choices as an element of H by defining how hard a person works, during a given work period, as the ratio of what she contributed to the social product over the most she could have contributed in this period. Thus, a person who contributes all she can in a job she is not good at does not count as working hard at all, if she could instead have worked in another job in which, contributing as much as she can, she would have contributed much more. Estimates of how hard a person is working are thus all but impossible because of their dependence on a large number of difficult subjunctives.

Reverting to our simple mathematical model, a person's productive contribution can be measured (or at least estimated) and is known to be the product of three factors: the length of time she works (L), how hard she works on average (H), and the quality of the work-relevant natural endowments she brings to bear (N).  $C = LHN$ . Now, since L is measurable, it is possible to back out HN as  $C/L$ . But it is generally not possible to determine H and N. It is observable that a person contributes, on average, \$20/h to the social product, say, but it is not observable what her maximum average contribution would be. Could she maximally contribute \$40/h, so that  $H=0.5$ , or could she contribute \$100/h, in which case  $H=0.2$ , or could she contribute even more? This is quite difficult to know in an economy that is at all complex. And it would be even more difficult to know in an economy where income rewards are more sensitive to H than to N and where persons would therefore have an incentive to dissimulate by playing up their H and downplaying their N.

Given this practical complication, theorists drawn to an income/HL metric thus face a trilemma: They find it justified to make income sensitive to H and L, and much less justified (if at all) to make income sensitive to N. But because H and N are empirically inseparable, it is impossible to do justice to all of these ordinal relations. One can make income as sensitive to N as income should be to H and L, thereby doing violence to the disparity between N on the one hand and H and L on the other. This horn leads to the libertarian income/contribution metric. One can make income as insensitive to H and L as income should be to N, thereby doing violence to the same disparity between N on the one hand and H and L on the other. This horn leads to an income metric à la van Parijs. Or one can make income as insensitive to H as income should be to N, thereby doing violence to the disparity of H and N as well as to the parity of L and H. This horn

leads to the compromise of a Rawlsian income/worktime metric, which looked inconsistent in the simple case but now gains in stature when seen as such a practical compromise. The trilemma shows how an informational problem can plausibly affect the normative choice from among candidate public criteria of social justice.

Concluding the discussion of work-relevant natural endowments, we find that although resourcists do not incorporate this natural inequality into their preferred criteria of social justice, their choice of one such criterion nonetheless has important implications for how persons with diverse work-relevant natural endowments will fare. Here the difference principle accommodates persons with lesser work-relevant natural endowments in two important respects. First, it employs an income/worktime metric, under which those with lesser work-relevant natural endowments will fare much better, in both relative and absolute terms, than they would fare under an income/contribution metric. Second, the difference principle is prioritarian. This means, on the one hand, that there will be income rewards that may be inaccessible to those with lesser work-relevant natural endowments. But it also means, on the other hand, that these incentives are constrained so as to optimize the lowest socioeconomic position in which those with poor work-relevant natural endowments are overrepresented. Thus Rawls can say with some justification: “the difference principle represents, in effect, an agreement [that t]hose who have been favored by nature, whoever they are, may gain from their good fortune only on terms that improve the situation of those who have lost out.”<sup>105</sup>

Capability theorists may be moved to concede that a resourcist view like Rawls’s does cope acceptably well with inequalities in work-relevant natural endowments. They may also concede that it is acceptable for Rawls to make no allowance for those from whom work requires greater effort. They see the main weakness of a Rawlsian view in its inability to accommodate other natural inequalities. And they may even draw ammunition from my qualified defense of a Rawlsian view by trying to argue that Rawls is inconsistently more concerned to accommodate those with lesser work-relevant natural endowments than those with greater natural needs. However, before considering whether such an argument may be available, one would want to know more about the alternative that capability theorists want to propose. How do they conceive the burdens of economic cooperation? How do they propose to accommodate inequalities in

work-relevant natural endowments and inequalities in the amount of effort persons' work requires of them? Insofar as capability theorists have not offered any criterion of social justice specific enough to answer such questions, their rationale for preferring the capability approach over resourcism remains obscure.

#### **4.2 The Treatment of Natural Diversity: The Vertical-Inequality Problem**

By seeking to shape the institutional order so that the distribution of resources it generates compensates for natural inequality, capability theorists regard human natural diversity in *vertical* terms and human beings as better or worse endowed. Foreswearing any such compensatory ambitions, resourcists have no use for the very idea of greater or lesser human endowments and can thus endorse a *horizontal* conception of human natural diversity. This difference is of some consequence.

Human beings differ from one another in countless ways in their mental and physical features. All our lives are immensely enriched by this variety. We can best share the delight in our natural diversity when we think of it in horizontal terms. We then see persons as different — in regard to the color of their eyes, for instance — without believing that having green eyes is either better or worse than having brown ones. History would have gone vastly better if prominent natural inequalities (sex, height, skin color) had always been seen as horizontal.

To be sure, many natural inequalities can hardly be seen as horizontal. We speak of bad posture, bad health, and bad memory and thereby explicitly deny that these are no worse than their “good” counterparts. And many other predicates carry similarly strong negative connotations: It is widely considered worse to be dim, obese, balding, frail, tone-deaf, or short than the opposite. These entrenched valuations are cultural to some extent, and we may hope to eradicate some of them and to soften others. Still, we cannot realistically — and perhaps should not — hope for a world in which no one admires some natural features in another. That such a world is out of reach is no misfortune. For *partial* verticality — confined to particular natural features or to particular judges — need not undermine the shared public sense that human natural diversity *overall* is horizontal.

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<sup>105</sup> Rawls: *A Theory of Justice*, 87.

As we admire certain features in another — his full dark hair, beautiful eyes, amazing memory, regal posture, or quickness of mind — we may also realize that we have mental and physical gifts that the other might admire in us. And while we would be well pleased to trade our height or memory for another's, we would be quite reluctant indeed to trade in our full package of natural features for his. To approve such a trade, to conclude with confidence that the other is better endowed all things considered, we would not merely need to know in detail all the myriad features of ourselves and of the other, but also how to value each of these features relative to all the others. But how do you compare extra hair on your head with extra musical talent? Good health with good looks? Acne with melancholy? A perfect memory with perfect teeth? What “exchange rates” would you use?

Insofar as some of us have answers to some or even to all of these questions, their answers tend to be shaped by their own features, and normally with a bias against the trade: Musical persons tend to attach great importance to being musical, athletes to being athletic, brainy people to brains, and — most notoriously — beautiful people to being beautiful.<sup>106</sup> This reinforces our reluctance to trade, our reluctance to envy. And our awareness of the great diversity in our valuations and of the bias in favor of one's own endowments militates against the idea of a *socially shared* ranking of persons' *overall* endowments. Looking at each person's full set of endowments from a shared social point of view we can sustain the conception of natural inequality as horizontal. We can think of humankind as displaying a wonderful natural diversity rather than, as was done through most of human history, a natural hierarchy of persons more or less well-born.<sup>107</sup> This thought powerfully reinforces the modern ethos of democratic equality.

While the resourcist approach is supported by this conception of natural inequality as horizontal, the capability approach requires that natural inequality be conceived as vertical. When a capability theorist affirms that institutional schemes ought to be biased in favor of certain persons on account of their natural endowments, she thereby advocates that these endowments should be characterized as deficient and inferior, and those persons as naturally disfavored and

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<sup>106</sup> Health may be an exception in this regard in that persons in poor health tend to attach *more* importance to health than healthy people do.

<sup>107</sup> Acceptance of a resourcist criterion does not entail or presuppose these thoughts in celebration of human natural diversity. My point is that resourcist criteria are, while capability criteria are not, compatible with these sentiments.

worse endowed — not just in this or that respect, but overall — not just in the eyes of this or that observer, but in the eyes of the shared public criterion of social justice.<sup>108</sup>

Although conceiving human natural diversity as vertical is central to the capability approach, its intent is opposite to the historically dominant one: Where Aristotle postulated natural hierarchy in order to claim greater resources for the *better* endowed, who alone, he thought, were able to deploy them toward a truly good life, contemporary capability theorists postulate natural hierarchy in order to claim greater resources for the *worse* endowed so as to make up for their natural deficiencies and to provide them access to the full range of valuable human functionings. While this concern for the naturally disfavored is noble, it is destructive of any social conception of human natural diversity as horizontal. In this way, the return to a natural hierarchy constitutes a social loss — not least for those who, singled out for special compensatory efforts, are characterized as naturally disfavored or worse endowed.

The capability approach seeks to give to such a person a claim in justice, so she need not ask for extra resources as a special favor, but can come forward proudly, with her head held high, insisting on additional resources as her due. But the capability approach must then provide for such claims a ground that subverts the point of the exercise. In order to justify her claim in justice, the claimant is made to say that she is overall worse endowed than others. It is not enough for her to point to one respect in which she has a special limitation, need, or handicap that renders her worse off than most others are. For there are many other respects in which the addressees of her claim have special limitations, needs, or handicaps, other respects in which she may be better endowed than those she is addressing. To have a valid claim that she is owed compensation as a matter of justice, she must present her special limitation, need, or handicap as one that outweighs all other particular vertical inequalities and entitles her to count as worse endowed all things considered.

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<sup>108</sup> As we just saw, Rawls also uses the language of vertical natural inequality (“favored by nature”). But such notions play no role in the public criterion of justice he advocates. And their use could (and, I think, should) be confined to contexts where resourcists respond to objections from welfarists and capability theorists. Rawls might then be saying: “Those whom you call naturally disfavored and whom you want the institutional order to compensate would actually fare rather well under the difference principle even without being singled out for special compensatory benefits.”

Would you want to claim that your endowments are inferior, overall, than those of most others? Would you want to be officially singled out by your society for special compensatory benefits reserved for the “worse endowed”? Many disability groups resist such labeling, pointing out that their disability opens realms of human experience and interaction that are closed to “normal” persons. They see such labeling as undermining their demand that their condition should not be an admissible ground for selective abortions or for the denial of fertility treatment and reproductive counseling<sup>109</sup> or for assigning them a lower quality of life for purposes of allocating scarce medical resources.<sup>110</sup> They understand that the force of the label cannot be neatly confined to the grounding of compensation claims.

Elizabeth Anderson has appealed to something much like the vertical-inequality problem by way of showing that the capability approach is superior to Dworkin’s view and to equalitarian welfarism and to variants upon these.<sup>111</sup> She succeeds with this claim by tailoring her own capability view in three significant respects: First, she favors a narrow, modest list of capabilities: “Negatively, people are entitled to whatever capabilities are necessary to enable them to avoid or escape entanglement in oppressive social relationships. Positively, they are entitled to the capabilities necessary for functioning as an equal citizen in a democratic state.”<sup>112</sup> This contrasts dramatically with the wide-ranging and ambitious list provided by Martha Nussbaum. Second, Anderson is, despite the somewhat misleading injection of the word “equal,” a sufficientarian: Above some threshold, she counts persons as functioning as equal citizens even if some are functioning much better than others in the very respects in which no one is supposed to fall below the threshold.<sup>113</sup> Third, Anderson not merely *fails to require* compensation for natural inequality above the threshold, but *opposes* such compensation. Her view thus is a hybrid which draws on a capability view for specifying the threshold and for

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<sup>109</sup> Within Deaf Communities, couples have demanded counseling and support for their efforts to conceive children who will share their condition.

<sup>110</sup> According to a widely used method, the achievements of a society’s medical system are measured in terms of “quality-adjusted life years” (QALYs) or “disability-adjusted life years” (DALYs). This method assigns greater value to the life years of “normal” than of “disabled” persons and thereby gives the former precedence over the latter in the allocation of scarce medical resources.

<sup>111</sup> Elizabeth S. Anderson: “What is the Point of Equality?” in *Ethics* 109 (1999), 287-337, at 305f and 316ff.

<sup>112</sup> *Ibid.*, 316.

grounding justice claims below it, and on an (unspecified) resourcist view for grounding justice claims above the threshold.

Having appealed to the vertical-inequality problem, Anderson focuses her diagnosis of existing injustices on (intrinsic and extrinsic) discrimination complaints — a diagnosis that resourcists can fully share. However, consistent with the capability component of her view, she also echoes Sen’s mantra: “Because of differences in their internal capacities and social situations, people are not equally able to convert resources into capabilities for functioning. They are therefore entitled to different amounts of resources so they can enjoy freedom as equals.”<sup>114</sup> Remarkably, Anderson seems not to notice that this move exposes her own view to the vertical-inequality problem she herself had quite polemically pressed against Dworkin and the welfarists. The problem shows up when she requires the state to give free wheelchairs to the walking-impaired on the ground that they would be functioning as less than equal citizens without them. It is apparent also in Anderson’s discussion of the ugly, who often lack the capability to appear in public without shame.<sup>115</sup> Recognizing that practices of stigmatizing and excluding the ugly cannot be wholly eradicated in a liberal society, Anderson concludes: “Under these conditions, the better option may well be to supply the plastic surgery.”<sup>116</sup> And so the State Equal Citizenship Bureau of Anderson’s ideal society will be writing letters to the handicapped and the ugly much like the letters she imagines might be written in the ideal equalitarian society envisioned by Dworkin and the welfarists: “Dear Naturally Disfavored, We have determined that, given your inferior natural endowments, you must receive special compensatory state benefits in order to be capable of functioning as what we could recognize as an equal citizen....” Capability theorists may want to respond to this critique that it is less stigmatizing to be given extra resources toward enhancing one’s otherwise deficient capabilities than toward enhancing one’s otherwise deficient opportunities for welfare or toward honoring some hypothetical insurance policy it is presumed one would have purchased. I look forward to seeing such a

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<sup>113</sup> *Ibid.*, 318f. Nussbaum works with two capability thresholds. See her “Human Capabilities, Female Human Beings” in Martha Nussbaum and Jonathan Glover, eds.: *Women, Culture and Development* (Oxford: Oxford University Press 1995), 81ff.

<sup>114</sup> Anderson: “What is the Point of Equality?,” 320.

<sup>115</sup> Anderson considers this capability, originating with Adam Smith and often invoked by Sen, to be necessary for functioning as an equal citizen (*e.g. ibid.*, 320).

response. Meanwhile I conclude that only the resourcist approach avoids such stigmatization altogether.

### **4.3 The Specificity Required of a Workable Public Criterion of Social Justice**

Much intuitive appeal of the capability approach derives from the feeling that it is not fair that some human beings are less healthy, bright, tall, handsome, athletic, or cheerful than others or just need more food, water, or clothing. Wouldn't the world be a better place if human diversity were less vertical, as it were, with people more equal in their health and needs, and with all people being bright, handsome, and athletic in their own diverse ways? Failing this, would it not be good if those disfavored by nature at least had additional resources as compensation?

This intuitive appeal is misleading. The question to which resourcists and capability theorists give competing answers is not about what makes the world better or worse, but about what makes institutional schemes more or less just. This latter question is different in many respects. It is different, for instance, by involving a complementarity of relative gains and losses. If persons with higher metabolic rates are to be entitled to free supplementary food, then who will be made to bear the cost of its production? In thinking about the just design of such institutional schemes, we must ask not merely whether we approve of the relative gains they bring to the "naturally disfavored," but also whether we can accept the relative losses they bring to others. And we must ask whether proposed compensation rules achieve equity among their beneficiaries with their diverse special needs, and equity also among their contributors. Thus, in addition to the vertical-inequality problem, capability theorists also face the difficult task of specifying a plausible such criterion of social justice in detail.

Capability theorists usually leave such questions aside. You can read thousands of pages of their writings without finding any hint about how compensation is to be financed. As we saw, Anderson seems opposed to taking natural inequality into account above the threshold. But why? If justice requires special compensatory benefits for the naturally disfavored in proportion to how disfavored they are, why should justice not also require special compensatory burdens on the naturally favored in proportion to how favored they are? If a just institutional order must treat those with an abnormally high metabolic rate better than those with a normal one, why must

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<sup>116</sup> *Ibid.*, 336.

it not also treat those with a normal metabolic rate better than those with an abnormally low one? Conversely, if justice requires or permits institutional schemes to treat persons above some capability threshold in resourcist terms (*e.g.*, by taxing them without regard to their particular needs and endowments), then doesn't this show that justice is not tied to a capability metric and that our moral concern to meet the special needs of some is not a concern of justice?<sup>117</sup>

If each participant's resource entitlements under a just institutional order are to be determined in part by the overall quality of his or her natural endowments, then we need some way of measuring such overall endowments: how naturally favored or disfavored each participant is. Capability theorists will base their measure of human natural endowments on their preferred capability metric: Roughly speaking, the more numerous and important are the valuable capabilities that a particular human endowment helps persons to achieve, and the greater the contribution that endowment makes to this achievement, the more weight it merits within the overall measure of human natural endowment. It is obvious that it would be extremely difficult in the contemporary world to reach agreement on the four key points: on the list of valuable capabilities, on how to measure achievements with respect to each listed capability, on the relative weights of achievements in regard to different listed capabilities, and on the relative value of diverse overall endowments in respect to overall capability achievement.

Martha Nussbaum has gone further than anyone toward tackling the first task: toward facilitating agreement on a widely acceptable list of valuable capabilities.<sup>118</sup> Her extensive list is thoughtful and well constructed. Some of the items she includes — having opportunities for sexual satisfaction, being able to experience justified anger — may raise eyebrows. But suppose we could agree on the whole list, or one like it. Could we agree on rules for evaluating individual natural endowments on the basis of this list so as to compensate for the greater or lesser suitability of participants' overall endowments to their achievement of the full range of valuable capabilities?

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<sup>117</sup> A prioritarian capability theorist may have an answer to this challenge: "Justice requires the highest possible capability threshold. Because a tax system taking natural inequality into account is more cumbersome and expensive to operate than a conventional one based on income and/or consumption, the latter should be preferred on the ground that it yields larger net revenues and thus enables a higher capability threshold."

<sup>118</sup> Nussbaum: *Women and Human Development*, 78-80.

In pressing the enormous difficulty of the remaining three tasks, I am not critical of Nussbaum’s list, but only of a certain use to which it might be put. Her list of capabilities is a useful heuristic in the development of a resourcist criterion of social justice. It can help us think of all the personal and public goods and supports that human beings need to flourish fully, from the school curriculum to the organization of workplaces and organs of democratic decision-making. I have no objections to a list of capabilities being used in this role — not as the metric within a public criterion of social justice, but as a useful guide in the development of such a criterion (*cf.* note 54 *supra*).

Relatedly, an account of human capabilities can also play an important evidentiary role. The observed fact that many persons are lacking certain vital functionings may be good reason to revise our resourcist criterion of social justice. For example, if we find that many persons living above the international poverty line (and thus counted as having sufficient income) are in fact malnourished, we have strong reason to conclude that something has gone wrong. If the observed malnutrition is concentrated in certain countries or years, we may need to rethink the method used to translate the international poverty line from the base year and base currency into other years and other national currencies. If the observed malnutrition is concentrated among girls and women, we may have to jettison the empirical conjecture that household resources are normally shared equally among its members and may then need to reform the institutional order so as to achieve a more equitable intra-family distribution of resources. If malnutrition among the “non-poor” shows no patterns of these kinds, we may conclude that the international poverty line is set too low to express a plausible notion of sufficiency.<sup>119</sup> In these diverse ways, data about important functionings can, as Sen says, provide a crucial check.<sup>120</sup> Resources do not, after all, figure as ultimate ends in human lives, but as means for meeting human needs and, ultimately, for pursuing all the diverse ends that persons may set themselves.

While accounts of human capabilities can be quite useful in the two roles just sketched, I find them distinctly unpromising in the role for which they are chiefly intended by their authors: as a metric of advantage that governs the compensatory fine-tuning of the distribution of resources so as to take account of persons’ vertically diverse capacities to convert resources into valuable

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<sup>119</sup> *Cf.* Sanjay Reddy and Thomas W. Pogge: “How *Not* to Count the Poor” at [www.socialanalysis.org](http://www.socialanalysis.org).

<sup>120</sup> *Cf.* text at note 52.

functionings. Using a list of capabilities in this way involves grading all citizens for their natural aptitudes toward each of the capabilities on the list, determining their specific deficits, and ensuring that these deficits are duly neutralized through suitable compensatory benefits. Even with a large body of rules and a large administrative bureaucracy, this task could not be accomplished in a way that is even approximately equitable.<sup>121</sup>

Where Nussbaum boldly faces the challenge of constructing an account of valuable capabilities, Sen skips the first two tasks and then responds to the third with a lesson about the virtues of partial orderings: Even if we cannot agree on the weight to be attached to each valuable capability (or natural endowment), we may be able to agree on a certain range within which these weights should lie.<sup>122</sup> Such a vague agreement would not suffice for deciding, with respect to each pair of participants in some institutional order, how they should be ranked in terms of overall capabilities or overall endowments, but it may still suffice for the ranking of some such pairs or even many.

While this response is true, it is also unhelpful. We are seeking a public criterion of social justice that tells us how an institutional order ought to be designed, and also how existing institutional schemes fall short and how they should be reformed. For this purpose we need not merely a partial ordinal ranking, but a complete interval ranking. We need to know what positive or negative resource compensation each participant should be entitled to on the basis of his or her specific natural endowments. As an institutional order is fully specific, so is the public criterion of justice underlying it. Of course, Sen may reasonably believe that there is a plurality of admissible public criteria of social justice exemplifying the capability approach. But, for all Sen has published on this topic, he has done little toward ruling out any candidates within the vast space of conceivable capability views. So far, what he has mainly proposed is a new language. This language indicates that justice requires compensation for the naturally disfavored in proportion to how disfavored they are relative to some set of valuable capabilities. And it also suggests that such compensation is to be levied on the naturally favored in proportion to how

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<sup>121</sup> Dworkin seems even more skeptical when he writes: “The idea that people should be *equal* in their capacities to achieve these desirable states of affairs, however, is barely coherent and certainly bizarre — why would that be *good*? — and the idea that government should take steps to bring about that equality — can you imagine what steps those would be? — is frightening” (Dworkin: *Sovereign Virtue*, 302).

<sup>122</sup> E.g. Sen: *Inequality Reexamined*, 46-49, and Sen: *Development as Freedom*, 78.

avored they are relative to the same set of valuable capabilities. But without an account of all these capabilities and their relative weights, we cannot say of anyone whether she is naturally favored or disfavored, let alone how much she should owe or be owed.<sup>123</sup>

You may think that this is an overstatement. Surely it is clear that people with severe disabilities do not belong among the naturally favored. But do we really know even this much? Many persons commonly categorized as severely disabled have gifts and talents that militate against the judgment that they are naturally disfavored. Stephen Hawking, for example, is seriously handicapped by a motor neuron disease. But is it clear that he is worse endowed than most others, that justice requires us to tax able-bodied laborers and clerks in order to help him come as close as possible to their level of physical mobility?

You may think that Stephen Hawking is a rare and special case, that most persons with physical conditions like his cannot meet their own special needs without receiving compensatory help. But where this is true, I would respond, it is often true on account of the social injustices highlighted by intrinsic and extrinsic discrimination complaints: Institutional schemes treat their diverse human participants quite unequally and, in particular, exclude some of them from important public facilities — from the spheres of politics, law, health-care, education, employment, consumption, travel, culture, sports, or entertainment, for example. Correcting such unjust exclusionary practices will often bring the kind of progress that capability theorists are demanding.<sup>124</sup>

Still, the resourcist approach remains vulnerable on two counts. There are, first, a small number of adults who, even in the most inclusive and otherwise favorable social environment, cannot possibly meet their own most basic needs.<sup>125</sup> On a resourcist view, they have a justice claim to resources equivalent to what others have (in terms of education and vaccinations, perhaps), but

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<sup>123</sup> Sen occasionally suggests that these are matters for public discussion (e.g. Sen: *Development as Freedom*, 110). Indeed they are: A public criterion of social justice should not be dictated by one man, however eminent, but should be adopted democratically after broad and vigorous debate. But this point in no way disqualifies Sen from participating in such discussion. He has argued forcefully against resourcist and welfarist criteria of social justice and in favor of the capability approach. So why should we not be allowed to learn *which* capability view is being proposed for discussion and possible adoption by Sen, who has thought so very long and hard about this question?

<sup>124</sup> Such as the free provision of guide dogs discussed near the end of section 2.

<sup>125</sup> Cf. Eva Feder Kittay: *Love's Labor: Essays on Women, Equality, and Dependency* (New York: Routledge 1999), discussing the condition of her daughter Sessa.

no justice claim to additional compensatory resources. In a moderately affluent society, it is certainly morally imperative that such persons be fed, clothed, bathed, sheltered, and cared for in a dignified way. And it would be no more unjust to appropriate public funds for such a purpose than it would be unjust to appropriate public funds for any other morally compelling end. Still, resourcists cannot concede what capability theorists will insist on: that such persons have a *justice claim* to compensatory resources. They can speak of duties of humanity or solidarity instead. Even if these duties are quite stringent, they are also imperfect in two respects: They do not correlate with rights, and they do not prescribe that society make every feasible effort toward compensating natural disabilities. Capability theorists, by contrast, face a serious difficulty in limiting the social cost of the compensatory justice claims they postulate. Whether they endorse an equalitarian, prioritarian, or sufficientarian criterion, such theorists must conclude that, so long as additional expenditures and accommodations can still help raise the lowest level of capability achievement (below the threshold, if the view is sufficientarian), such expenditures and accommodations are required by justice. On their account, justice commands indefinite increases in expenditures on those with the greatest capability shortfalls, provided only that such additional expenditures can still meaningfully improve the capabilities of at least one such person.<sup>126</sup>

There are, second, extremely harsh natural environments where a man with a higher metabolic rate cannot meet his extra food needs simply by moderating his discretionary spending a bit or by working a little overtime. In such a context, decent people will make every effort to ensure that the man will have enough to eat. They will do so as a matter of basic human solidarity, realizing that, given his constitution, he simply cannot survive on the fruits of his own labor. But does he have a justice claim to such support, can he demand it as a matter of right? Listen to what such a justice claim would sound like: “I have a higher metabolic rate than you all. As a consequence, I need 50 percent more food each day to be equally well-nourished. Six hours of labor are needed to produce this additional food. You five therefore owe it to me as a matter of justice to work an extra hour each day along with me to produce the extra food I need.” If this is not a plausible

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<sup>126</sup> But note that this is true only so long as the debate is restricted to criteria of social justice whose interpersonal aggregation function is equalitarian or prioritarian or sufficientarian or some hybrid of any two of these or of all three. Other aggregation functions might achieve a more plausible trade-off between the interests of persons whose capabilities are very low and very expensive to raise and the interests of the other participants.

claim, then we should recognize, I think, that there are moral requirements that, however stringent and categorical, are not demands of justice. This recognition would remove both vulnerabilities of the resourcist approach.

#### **4.4 The Political Import of the Transition to a Capability Metric**

Capability theorists are pleased that their language and approach have been rapidly and widely adopted during the 1990s in academic discourse as well as in international organizations and non-governmental organizations. One main success typically mentioned in this context is the fact that the United Nations Development Program (UNDP) has designed its statistical tables to focus not on countries' per capita gross domestic products (GDPs), but on their score on the Human Development Index (HDI), a capability metric worked out in collaboration with Amartya Sen, who served as a consultant to the UNDP.<sup>127</sup>

Looking more closely at this success, we find that the HDI does not show the superiority of the capability approach. There are two singly sufficient reasons: The HDI does not constitute a plausible metric for normative assessment (*e.g.*, within a criterion of social justice). And the HDI is inconsistent with the official intent of the capability approach, which supposedly inspired it.

To see this, we must look at the four components of the HDI. Each of these is expressed as a score on a scale from 0 to 1, and the HDI is then calculated as an average that weights the first and last components equally at one third each and the two middle components (education) at one sixths each.<sup>128</sup>

*Life expectancy at birth.* This component — no less than the oft-ridiculed average income measure — is a national average completely insensitive to the distributive pattern of longevity. A country in which the half of each birth cohort born into poorer households have a life expectancy of 30 years and the half born into wealthier households have a life expectancy of 70 years receives exactly the same score as a country in which both halves have the same life expectancy

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<sup>127</sup> Sen: *Development as Freedom*, xvi, 79, 318f. n. 41; Nussbaum: *Women and Human Development*, 70. Both Sen and Nussbaum make clear that, while they regard the HDI as a successful step in the direction of a fully adequate capability metric, they also believe that further work remains to be done.

<sup>128</sup> These four components are explained in UNDP: *Human Development Report 2002*, 144-7, 253.

of 50.<sup>129</sup> Still, because it is generally easier and cheaper to extend a low life expectancy than a high one, this component gives countries an incentive to focus resources on extending life expectancy in those social groups that currently have the lowest life expectancy. This is as it should be. Yet, the HDI also provides an incentive to concentrate resources on the healthier individuals in such groups, whose life expectancy can be greatly extended by ensuring only that they have the most basic nutrition, sanitation, and medical care. The HDI thus encourages policy makers to withhold scarce resources from those who have special needs that make their life expectancy more expensive to extend. Contrary to the advertised intent of the capability approach, this component of the HDI constitutes discrimination *against* the naturally disfavored. By contrast, an institutional order designed to satisfy a resourcist criterion would guarantee all citizens, regardless of their natural constitutions, a fair share of the means toward a long life.

*Adult Literacy.* This is once again an aggregate figure that provides incentives exactly opposite to the purported intent of the capability approach. Policy makers seeking to improve their country's HDI by raising its adult literacy rate will concentrate educational resources on the more teachable and will withhold scarce resources from those with special needs and learning disabilities. So this HDI component as well discriminates *against* the naturally disfavored, who would be better off with a resourcist criterion mandating an institutional order under which they would be guaranteed a fair share of educational resources.<sup>130</sup>

*Primary, Secondary, and Tertiary Enrolment.* This component reflects resourcist thinking: that education is an important good for human beings, and that the moral assessment of any institutional order must be sensitive to the availability of this good to the persons living under it.

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<sup>129</sup> The UNDP provides a separate gender-related development index (GDI — *ibid.* 222-5, 255f.). But it is sensitive to only male/female inequality in life expectancy, hence does not address my objection. It is noteworthy, moreover, that the GDI fixes the maximum and minimum life expectancy “goalposts” five years higher for women than for men. Thus, a society in which female life expectancy is 30 and male life expectancy is 27 is downgraded for its inequity *toward women*. The GDI encourages such a society to shift medical resources from men to women in order to achieve the ideal five-year discrepancy. Thus favoring women in the GDI is meant “to take into account their longer life expectancy” (*ibid.* 255). This is a strange justification from theorists committed to the capability approach. How can they simply take for granted an existing capability inequality, even use it as a benchmark? They take the opposite attitude toward the lower capability levels associated with other congenital features such as diabetes. Here they advocate that unchosen capability inequalities be *compensated* by favoring the naturally disfavored through provision of extra medical and other resources. So why doesn't the capability approach entail the analogous demand that medical and other resources should be shifted toward men so as to bring them up to the some level of capability to live long?

<sup>130</sup> Cf. Pogge: *Realizing Rawls*, 173-81.

*GDP per capita*. This component, too, reflects resourcist thinking — in fact, it reflects the implausible resourcist thinking often targeted by capability theorists. For what is used here, once again, is an aggregate figure that completely ignores the distributive pattern: how unequally a country's social product is distributed among its citizens. In countries where a concern to reduce poverty and inequality is at odds with the optimal economic growth strategy, this component of the HDI thus encourages policy makers to pursue efficient economic growth while paying no attention at all to equity concerns.

I conclude that of the four HDI components, two are plainly resourcist. And three HDI components are aggregative in a way that — especially in poor countries — is highly disadvantageous to the naturally disfavored: to those whose life expectancy is most expensive to extend, to those whose literacy is most expensive to achieve, and to those least able to succeed in a (typically ruthlessly competitive) economy geared toward maximizing GDP growth. This contradiction between the theory of the capability approach and its HDI instantiation — in regard to life expectancy, adult literacy, and *per capita* GDP — is obvious.<sup>131</sup> So one wonders how it can go unnoticed, both in the vast literature advocating the capability approach, in which references to the HDI are commonplace, and in the literature specifically on the HDI.<sup>132</sup>

A further obvious flaw in the HDI is that it aggregates first within each component and then across components. As a consequence, a country's HDI score is not influenced by whether inequalities in its four components mitigate or aggravate one another. This is implausible. An institutional order is surely more unjust if these inequalities aggravate one another, that is, if those with the lowest life expectancy, those who are illiterate, those who lack schooling, and those with the lowest incomes are always the same people. The HDI would be less flawed if it

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<sup>131</sup> Note 129 shows a similar contradiction between the capability approach and its GDI implementation in regard to life expectancy. In addition, the GDI aggregates its three measures of gender inequity (life expectancy at birth, education, and income) without regard to whether these inequities mitigate or aggravate one another: A society displaying substantial inequities in all three dimensions scores no worse on the GDI if all three inequities favor men than it would do if some inequities favored one sex and some the other (UNDP: *Human Development Report 2002*, 255f.).

<sup>132</sup> For a thorough review of the criticisms that have been made of the HDI, see Kate Raworth and David Stewart: "Critiques of the Human Development Index" forthcoming in Sakiko Fukuda Parr and A.K. Shiva Kumar, eds.: *Readings in Human Development: Concepts, Measures and Policies for a Development Paradigm* (New Delhi: Oxford University Press 2003).

first aggregated across the four components, intrapersonally, then aggregating the results interpersonally.<sup>133</sup>

One should also remark on the way in which *per capita* GDP data are translated into the score that is then integrated into the HDI as its fourth component. This translation involves two steps, as each country's *per capita* GDP is first adjusted through purchasing power parity conversion and then transformed into a logarithm (presumably in order to reflect the decreasing marginal value of money). To see the effects of these mathematical transformations, consider how the scores for the US and India are calculated. One begins with their raw *per capita* GDPs of \$34,737 and \$453.<sup>134</sup> One then adjusts both amounts by valuing the two relevant currencies at purchasing power parity (PPP) rather than market exchange rates, yielding \$34,142 for the US and \$2,358 PPP for India.<sup>135</sup> The final step converts these numbers into logarithms, yielding (after normalization) 0.97 for the US and 0.53 for India. Through these two steps, an initial inequality ratio of 77 is reduced to 14.5 and finally to 1.83.

Compare this new HDI metric with the old metric of national *per capita* incomes. Here is a hold-over from the past: "The income gap between the fifth of the world's people living in the richest countries and the fifth in the poorest was 74 to 1 in 1997, up from 60 to 1 in 1990 and 30 to 1 in 1960. [Earlier] the income gap between the top and bottom countries increased from 3 to 1 in 1820 to 7 to 1 in 1870 to 11 to 1 in 1913."<sup>136</sup> Crude as it is,<sup>137</sup> this resourceist statement provides

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<sup>133</sup> Doing so would admittedly be more data-intensive. But it would constitute an acknowledgment that removing a disadvantage from people who are also disadvantaged in other respects is morally more important than removing a disadvantage from people who are advantaged in other respects; and it would provide the corresponding incentives.

<sup>134</sup> These figures are not provided in the 103 pages of tables included in the report. But they can be calculated from the two countries' GDPs and their populations (UNDP: *Human Development Report 2002*, 162, 164, 190, 192).

<sup>135</sup> *Ibid.*, 190, 192. Cf. Reddy and Pogge: "How *Not* to Count the Poor," arguing that discrepancies in expenditure patterns between rich and poor countries render this use of PPPs highly questionable.

<sup>136</sup> UNDP: *Human Development Report 1999* (New York: Oxford University Press 1999), 3.

<sup>137</sup> A sophisticated resourceist will find this statement misleading for at least three reasons: It focuses on income alone. It ignores international differences in prices. And, most importantly, it ignores intranational income inequality: To calculate the global quintile income inequality ratio among households worldwide, one must, in the top fifth (quintile), replace the poorest households of rich countries with richer households in poorer countries and analogously, in the bottom fifth, replace the richest households of poor countries with poorer households in less-poor countries. So calculated, the global quintile income inequality ratio rose from 78 in 1988 to 113 in 1993, indicating an average annual growth gap of 7.7 percent (personal communication from Branko Milanovic, World Bank). This trend has continued. Today, the top fifth have around 90 percent of global income

crucial information. It says a lot about the avoidability of poverty: One percent of the incomes of the people in the rich countries would suffice to increase the incomes of those in the poorest countries by 74 percent. It says a lot about the distributions of bargaining power and expertise, which condition international negotiations and agreements. And it says a lot about how successive global institutional schemes distribute the benefits of global economic growth: Inequality increased at a 3.04 percent average annual rate during the 1990-97 post-Cold-War globalization period and it increased at a 2.47 percent average annual rate during the entire 1960-97 post-colonial period — faster than the 2.16 percent average annual increase in the last colonial period (1913-60) and much faster than the 1.41 percent average annual increase during the heyday of colonialism (1820-1913). It appears that, as inequality increases, the strong become ever more capable of tailoring the rules to their own advantage.

We see here a great benefit of the resourcist approach. It is in the space of resources, not that of capabilities, that persons and countries put forward competing claims. To be sure, this competition is not a simple constant-sum game where one party can gain only as much as others are losing. Still, most of the global rules negotiated in international conferences have feasible alternatives that would be better for some and worse for others. In particular, the economic ground rules negotiated within the World Trade Organization (WTO) have plausible alternatives that would have been better for the global poor and worse for the rich countries, who have managed to insist on the worldwide recognition of property rights in seeds and drugs as well as on various grandfathering clauses that allow them to protect their markets by imposing special quotas, tariffs, and anti-dumping duties and by providing large subsidies to domestic producers (especially in agriculture).<sup>138</sup>

Among economists, these issues — how global inequality is steadily increasing and how global institutional arrangements are exacerbating poverty and inequality — are taboo. In fact, the UNDP took heavy flak for printing the simple statistic cited two paragraphs back. By comparing countries in terms of their HDI scores, the UNDP now avoids such unpleasantness. It's tables of countries and their HDI scores (ranging from Norway's 0.942 to Sierra Leone's 0.275) are of

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and the bottom fifth about one third of one percent, which puts the global quintile income inequality ratio at about 270 (Pogge: *World Poverty and Human Rights*, 99).

<sup>138</sup> *Ibid.*, General Introduction. European cows, for example, are subsidized at about \$1,000 per cow per year ([www.guardian.co.uk/country/article/0,2763,798597,00.html](http://www.guardian.co.uk/country/article/0,2763,798597,00.html)).

merely ordinal significance and thus provide no information about inequality or inequality trends. HDI scores convey no sense of what life is like for the majority of people in a poor country. And they encourage the thought that each country is solely responsible for its own development — which thought is reinforced by omnipresent talk of states achieving or not achieving the UN Millennium goals with the rich countries at best mentioned only as potential donors of aid.<sup>139</sup>

The 1990s have been a stunning failure in terms of global poverty reduction. Despite a huge post-Cold-War peace dividend<sup>140</sup> and unusually strong economic growth, the rich countries have drastically curtailed their foreign aid<sup>141</sup> and used their bargaining power to impose highly uneven terms of trade on the poorer countries.<sup>142</sup>

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<sup>139</sup> UNDP: *Human Development Report 2002*, v, 2, 14, 17f, 21-29, 31, and so on. The deep errors perpetuated by formulating appeals to the rich countries in terms of aid, donations, transfers, assistance, and redistribution are discussed in Thomas W. Pogge “‘Assisting’ the Global Poor” forthcoming in Deen K. Chatterjee, ed.: *The Ethics of Assistance: Morality and the Distant Needy* (Cambridge: Cambridge University Press 2003). While the UN Millennium goals and their discussion in the UNDP *Human Development Reports* reinforce this error, the latter have also featured compelling chapters on how economic policies by the rich countries and international economic rules pushed through by them have had devastating effects in the developing world. See e.g. UNDP: *Human Development Report 2001* (Oxford: Oxford University Press 2001), chapter 5, and UNDP: *Human Development Report 2002*, 31: “global trade is highly regulated, with the powerful holding sway and the playing field far from level.”

<sup>140</sup> After the end of the Cold War, the developed countries were able to reduce their military expenditures from 4.1 percent of their combined GDPs in 1985 (UNDP: *Human Development Report 1998* (New York: Oxford University Press 1998), 197) to 2.2 percent in 1998 (UNDP: *Human Development Report 2000* (New York: Oxford University Press 2000), 217). With their combined GDPs at \$24,563 billion (UNDP: *Human Development Report 2002*, 193), their 1.9-percent annual peace dividend came to about \$467 billion in the year 2000.

<sup>141</sup> Aggregate ODA for 2001 was \$51.4 billion ([www.oecd.org/EN/document/0,,EN-document-15-nodirectorate-no-12-29438-15,00.html](http://www.oecd.org/EN/document/0,,EN-document-15-nodirectorate-no-12-29438-15,00.html)), down from \$53.7 billion in 2000 (UNDP: *Human Development Report 2002*, 202) and \$56.4 billion in 1999 (UNDP: *Human Development Report 2001*, 190). The US has led the decline by reducing ODA from 0.21 to 0.10 percent of gross national product in a time of great prosperity culminating in enormous budget surpluses. (In coming years, ODA is set to increase in the aftermath of September 11 — the figure for 2001 already includes a special \$600 million US disbursement toward stabilizing Pakistan.) Despite a commitment made at the 1995 World Summit for Social Development to allocate 20 percent of ODA to basic social services ([www.un.org/esa/socdev/wssd/agreements/poach5.htm](http://www.un.org/esa/socdev/wssd/agreements/poach5.htm), Chapter 5, Article 88(c)), only 8 percent or \$4 billion are actually so allocated ([www.oecd.org/pdf/M00003000/M00003133.pdf](http://www.oecd.org/pdf/M00003000/M00003133.pdf), Table 2). The remainder is spent to benefit agents more capable of reciprocation — domestic firms, for example, or strategically important governments. These priorities are evident when one looks where ODA goes: India, with more poor people than any other country, receives ODA of \$1.50 annually for each of its citizens; the corresponding figures are \$42.70 for the Czech Republic, \$54.50 for Malta, \$69.50 for Cyprus, \$76.60 for Bahrain, and \$132.40 for Israel (UNDP: *Human Development Report 2002*, 203-5), which have 11 to 40 times the GDP *per capita* of India (*cf.* note 134). Cyprus, Malta, and Israel are listed as high-income countries (*ibid.*, 270).

<sup>142</sup> See Pogge: *World Poverty and Human Rights*, for details.

The result of the ruthless use of their vastly superior expertise and bargaining power is plain to see in almost any metric: Even the US government allows that “worldwide 34,000 children under age five die daily from hunger and preventable diseases.”<sup>143</sup> These are 22 percent of all human deaths, 12.4 million annually.<sup>144</sup> With adults included, easily one third of all human deaths are from poverty-related causes.<sup>145</sup> Even the World Bank’s highly questionable method of counting the poor shows that, between 1987 and 1998, the number of poor has not declined relative to the World Bank’s absurdly low international poverty line of \$1/day and has even increased by some 10 percent relative to its \$2/day line: In 1998, the World Bank counted nearly 1.2 billion people as living below \$1/day, 30 percent below this line on average, and it counted 2.8 billion people as living below \$2/day, 43 percent below this line on average.<sup>146</sup> The former group were 20 percent of humankind with about  $\frac{1}{3}$  percent of global income. The latter, more inclusive group were 47 percent of humankind with about  $1\frac{1}{4}$  percent of global income. In thinking about their fate, we must not console ourselves with the thought that at least \$1 buys more in a poor country than in the US. For the World Bank takes this fact into account in converting dollars into the currencies of developing countries. It defines its two poverty lines in terms of a monthly income with the same *purchasing power* as \$32.74 and \$65.48 had in the US in 1993.<sup>147</sup> Today (2003), these lines are equated with \$41.40 and \$82.80 per person per month in the US ([www.bls.gov/cpi/home.htm](http://www.bls.gov/cpi/home.htm)) and with around \$10 and \$20 per person per month in typical poor countries.<sup>148</sup>

I am not suggesting, of course, that the ascent of the capability approach contributed to the appalling economic history of the 1990s. But I am suggesting the reverse: That the large increase

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<sup>143</sup> United States Department of Agriculture: *U.S. Action Plan on Food Security* ([www.fas.usda.gov/icd/summit/pressdoc.html](http://www.fas.usda.gov/icd/summit/pressdoc.html)), 1999, iii.

<sup>144</sup> The UNDP suggests that today there may actually be 14.7 million annual child deaths in the developing world (UNDP: *Human Development Report 2002*, 29). This would be over 26 percent of the total annual death toll of 55.7 million. Cf. World Health Organisation: *The World Health Report 2001* (Geneva: WHO Publications 2001; [www.who.int/whr/2001](http://www.who.int/whr/2001)), 144.

<sup>145</sup> *Ibid.*, Statistical Annex, Table 2 (144-9).

<sup>146</sup> Shaohua Chen and Martin Ravallion: “How Did the World’s Poorest Fare in the 1990s?” in *Review of Income and Wealth* 47 (2001), 283-300 at 290. (Ravallion and Chen have managed the World Bank’s income poverty assessments for well over a decade.) The relative poverty gaps are calculated by dividing the poverty gap index by the headcount index (*ibid.*, 290 and 293).

<sup>147</sup> *Ibid.*, 285.

in global inequality and the consequent persistence of massive severe poverty in the developing world have contributed to the stunning success of the capability approach in international organizations as well as in popular and academic discourse. Capability metrics tend to conceal the enormous and still rising economic inequalities which resource metrics make quite blatant. And they may also exaggerate the relative aspects of poverty,<sup>149</sup> thereby lending new respectability to the old nationalist exhortation that protecting our own poor (in the rich countries, where our normative reflections are produced and consumed) must take precedence. This suggestion is not evidence against the claim that the most plausible public criterion of social justice will turn out to employ a capability metric. Rather, it is meant to show that the amazing rapidity with which the capability language gained currency during the 1990s need not be a testament to its greater suitability with respect to the task of developing a plausible public criterion of social justice.

## **5. Conclusion**

Can the capability approach be justified? Can it conceivably deliver at least one candidate public criterion of social justice that would be as clear and as workable and as plausible as the leading resourcist criterion, Rawls's two principles? Would such a capability criterion do better in addressing and highlighting the horrific injustices of the world in which we live? The evidence to-date suggests that the answers to these questions are *no*. That the capability approach has nonetheless done much to advance the discussion of social justice is a great tribute to its foremost champions: Martha Nussbaum and Amartya Sen.

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<sup>148</sup> Pogge: *World Poverty and Human Rights*, 97. In making this conversion, the World Bank substantially underestimates the prices relevant to the poor — *cf.* Reddy and Pogge: “How *Not* to Count the Poor.”

<sup>149</sup> *Cf.* the passage quoted at note 53.