



# *Maitreyee*

E-Bulletin of the Human Development and Capability Association  
Number 19, September 2011

## **Theme: The Capability Approach as a Theory of Justice**

### **Table of Contents**

Introduction: ‘The Capability Approach as a Theory of Justice: Clarifications and Challenges’ (Krushil Watene)

Sen on Justice, Deliberation, and Individuals (John B. Davis)

Taking Sen’s Commitment to Evaluation Seriously (Thomas Wells)

The Capability Approach to intergenerational justice: A survey (Rebecca Gutwald, Ortrud Leßmann, Torsten Masson, Felix Rauschmayer)

An overview of ‘Resisting ‘Global Justice’: Disrupting the ‘Emancipatory’ logic of the West’: Some considerations for the Capability Approach as a theory of justice (Krushil Watene)

**Editor:** Krushil Watene

---

### **The Capability Approach as a Theory of Justice: Clarifications and Challenges**

**Krushil Watene**  
**University of Auckland**

Theories of social and global justice constitute an important and influential body of work in contemporary political philosophy. Concerned with how we ought to distribute the benefits and burdens within and between societies – and concerned with asking what social arrangements can be justified – theories of justice diverge on some key questions: 1) On what grounds are principles justified?; 2) What principles are they?; 3) What should the metric of justice be?; 4) Who is obligated to pursue and to realise just social arrangements?; 5) What is the scope of justice?; and 6) What are the relevant units of concern? (Robeyns, 2011). While a number of different theories arise on the back of these questions, the work of John Rawls remains most prominent. John Rawls’ contractarian approach continues to influence much of the most recent discussions of social and global justice – including the recent work of Martha Nussbaum and Amartya Sen (Nussbaum 2006, Sen 2009).

Indeed, Nussbaum and Sen’s articulations of the capability approach in light of issues of justice, has generated quite a bit of discussion about what contribution (if any) the capability approach is able to make to this body of work. Nussbaum’s approach – a partial theory of

justice and which departs in important ways from Rawls – has generated discussion on whether the CA is able to produce a viable alternative to social contract theories of justice (Freeman 2006, Mendus 2008). Amartya Sen's recent work critiquing Rawls' 'transcendental approach' to justice in favour of a 'comparative approach' has generated questions around the kind of theory of justice Sen's CA really is, and (perhaps more significantly) whether it is a theory of justice at all (Broome 2009). More generally, interest in the CA to justice has led to the publication of a recent and important volume of essays comparing the CA with the primary goods approach as the *metric* of social justice, and to an overview of what the CA needs to be developed into a full theory of justice (Brighthouse and Robeyns, 2010).

Much more discussion about the CA as a theory of justice is required to truly appreciate what contribution the approach is able to make to this body of work. As such, this *Maitreyee* brings together short papers that aim to provide insights for clarifying important aspects of the CA and in highlighting how new challenges are able to move the approach forward.

We begin with two papers on Amartya Sen's work. Our opening paper by John Davis provides us with an informative overview of Sen's *The Idea of Justice*. The overview begins by providing insights on the relationship between Sen and Rawls – particularly in light of the way that they approach justice and the basic fact of human diversity. Building on this, Davis demonstrates how important Sen's conception of the individual is for his 'realisation-focused comparison approach' to justice. For instance, Davis provides us with the insight that individual self-scrutiny and public deliberation go hand in hand – that is, Sen's conception of the individual as capable of deliberation and reflection on personal goals, and his conception of society go together. As such, both the conception of individuals and of society is grounded in the diversity of human beings. Davis helps us to recognise that understanding Sen's approach requires that we dig down into the foundations to see what is at work. Understanding Sen's approach to justice requires an appreciation of the way in which individuals are framed within the theory. At least, any serious attempt to understand and develop Sen's approach to justice, must take these considerations into account.

Understanding these foundations helps us to recognise what is at work in Sen's approach, but it also prompts us to ask what kind of theory of justice this is. If our starting point is the fact that disagreements over what we take to be just will always exist, then where do we go to from here? Thomas Wells tells us that Amartya Sen gives us more things to worry about. Yet, this does not lead Wells to contend that this is a weakness. Rather, Wells contends that critics and interpreters often misunderstand the nature of Sen's approach and contribution to theories of justice. Rather than offering a theory of justice as such – with a metric and a rule – Sen's contribution is in its evaluative nature and subsequent incompleteness. It is, then, not like current theories of justice at all – and ought to be taken on its own terms. Such a move, Wells argues, will lead us to concentrate on further developing Sen's approach – rather than completing it. In line with this contention, Wells leaves us with two particular projects worth exploring, including: 1) the discipline of evaluation, and 2) the discipline of choice based on that evaluation. At least, both projects would be consistent with Sen's approach and so far more fruitful.

Rebecca Gutwald et al bring a new challenge to the CA. The CA remains relatively unexplored on the challenge of intergenerational justice. This is the case even though Nussbaum contends that the CA (or at least her version of it) is able to draw on Rawls' solution to it. Gutwald et al presents a helpful overview of some of the issues and challenges that the CA will need to consider if it is to respond to this problem. They contend that the CA looks to have no clear way of answering some of these challenges – such as the motivation problem and what our obligations ought to be. At least, and given the importance of

intergenerational justice and our obligations to future generations, much more work needs to be done.

The final paper offers an overview of a critique of current theories of global justice, and highlights how the CA and the development of capability theories would benefit from some of the criticisms and questions it raises. After providing an overview of some of the main arguments that the paper presents against global justice theory and claims that the CA would benefit from many of the insights the paper provides. Not only are the insights in line with capability thinking, but it highlights the importance of continued critical engagement with the foundations and applications of current capability theories in light of issues and challenges of justice. At least, the CA will be better for it.

One of the strengths of the CA is that it does not and need not buy into any particular approach or starting point for justice. Indeed, the two most prominent approaches are proof of how very different capability theories are able to develop from very different foundations. This means that proponents of the CA are able to create new approaches to problems and to review old ones. It provides us with space to develop and to redevelop new ways forward on significant social and global challenges.

## References

- Brighouse, H. and I. Robeyns (eds) (2010), *Measuring Justice: Primary Goods and Capabilities*, Cambridge: Cambridge University Press
- Broome, John (2010), 'Is this Truly and Idea of Justice?', *Journal of Human Development and Capabilities*, 11(4).
- Freeman, Samuel (2006), 'Frontiers of Justice: The Capabilities Approach vs. Contractarianism: Book Review', *Texas Law Review*, 85(2):385-430.
- Mendus, Susan (2008), 'Frontiers of Justice: Disability, Nationality, Species Membership: Book Review', *Modernism/Modernity*, 15(1):214-215.
- Nussbaum, Martha (2006), *Frontiers of Justice*, Cambridge, Mass.: The Belknap Press
- Robeyns, Ingrid (2011), 'The Capability Approach', *The Stanford Encyclopedia of Philosophy*, <http://plato.stanford.edu/archives/sum2011/entries/capability-approach/>
- Sen, Amartya (2009), *The Idea of Justice*, London: Penguin

-----

## Sen on Justice, Deliberation, and Individuals

John B. Davis

Marquette University and University of Amsterdam

Amartya Sen's *The Idea of Justice* – dedicated to the memory of John Rawls – is about how to think about justice in terms of Sen's distinction between transcendental institutionalist types of approaches to justice and a realization-focused comparison approach to justice. His reflection on Rawls' theory of justice, classified as a transcendental institutionalist approach, is the chief means by which the difference between these two approaches is explained. Thus Sen's objection to transcendental institutionalism is that it 'concentrates primarily on getting the institutions right, and it is not directly focused on the actual societies that would ultimately emerge' (p. 6), and his objection to Rawls' thinking is that it fails to engage with the issue of how just societies emerge (even in Rawls' later work). What Sen makes central to this issue of how just societies emerge is public reasoning or public deliberation. His realization-focused comparison approach to justice consequently is about how societies sustain open and impartial discourse regarding what can be accepted as just in connection with the concrete problems

societies face over the distribution and allocation of goods and opportunities, when – it is essential to emphasize – differences and disagreements over what people believe to be just will always exist.

From this perspective, the term ‘transcendental’ is dismissive. ‘Transcendental theory ... is of no direct relevance to the problem of choice that has to be faced. What is needed instead is an agreement, based on public reasoning, on rankings of alternatives that can be realized’ (p. 17). The problem ‘is not just the infeasibility of the transcendental theory, but its redundancy. If a theory of justice is to guide reasoned choice of policies, strategies or institutions, then the identification of fully just social arrangements is neither necessary nor sufficient’ (p. 15). These thoughts are not easy ones to absorb. In the first place, transcendental institutionalism has the ready appeal of seeming to be an objective approach to justice, on the grounds that just institutions would seem to stand above and be independent of the ever-occurring dispute and conflict between people over what is just. Sen’s answer to this is that to the extent that we are able to produce just institutions they are the product of the dispute and conflict between people over what is just. The objectivity of such institutions is derivative, and accordingly we need to first understand how people bring about and realize what they accept as just arrangements between themselves. Therefore one doesn’t begin with a set of ideas transcendently removed from the social process of exchange, and then top-down require these ideas of people by extolling their abstract normative logic. Rather one proceeds bottom-up with the human logic of disagreement and resolution to rank social alternatives by systems of rankings that are plural and competitive – a ‘plural grounding’ (p. 2) that constitutes a realistic form of objectivity.

Transcendental institutionalism, however, has a further source of appeal. In the second place, then, it also imagines that people are rationally motivated, and so under the ‘right circumstances’ will opt for just institutions. Here the argument is subtle, and best seen through the lens of Rawls’ theory. For Rawls, the ‘right circumstances’ (economists would say, ‘right incentives’) are bound up with his device of the veil of ignorance. Rational individuals are self-interested, but the veil forces them to be disinterested and select principles of justice which are must then be objective. Thus justice flows from rationality – and the device of the veil – and so that the appeal of the transcendental institutionalist approach is that it fundamentally depends on the view that human beings are the rational *Homo economicus* type individuals hypothesized by economists.

There are two responses to this second basis for transcendental institutionalism. One is to draw attention to the device of the veil as but a sleight of hand. Rawls’ individuals are self-interested but he argues that we can suppose there are circumstances (that they can imagine themselves behind a veil of ignorance with respect to their future positions in society) when their self-interest rather produces disinterest. It is a clever, abstract argument, but it does not tell us much about how and when actual people are able to behave impartially towards one another when their interests clearly conflict – the issue with which Sen is concerned. Rawls basically explains impartiality through the idea that possibly being in any position in society constitutes sufficient motivation for people to abide by his principles of justice. As a theory of motivation it is a remarkably thin view, in that it simply assumes, placing the weight on traditional rationality theory, that everyone will have the identical response to such a possibility. More realistic is to say that people would be diverse in their responses. Sen thus comments: Rawls supposes ‘here will be a unanimous choice of a unique set of “two principles of justice” in a hypothetical situation of primordial equality (he calls it ‘the original position’), where people’s vested interests are not known to the people themselves. This presumes that there is a basically only one kind of impartial argument, satisfying the demands of fairness, shorn of vested interests. This, I would argue, may be a mistake’ (p. 10).

A second response to this rational individual basis for transcendental institutionalism is to directly question the *Homo economicus* conception of the individual itself. Sen first did this when he advanced the concept of commitment as a form of behaviour that could be counter-preferential and contrary to the standard view that people are always oriented towards payoffs in an instrumentally rational way. When we take commitment seriously, they may also act on principles which do not produce payoffs and are nonetheless strongly motivating. The emphasis in his later work, however, is broader and deeper in its emphasis on individuals as reasoning and self-scrutinizing beings. Neither of these concepts fit in the *Homo economicus* conception, which represents individuals as mechanistic and reactive, responsive only to given subjective dispositions (or preferences) over which they have no command or oversight. The idea that individuals are reasoning and self-scrutinizing is the idea that people are both reflective and reflexive. That is, they do not just act by reacting to the world, but reason about how they ought to act, and moreover do so in a way that entails reflection upon themselves. Or, acting and self-reflection always go hand in hand.

What individuals are for Sen, then, is central to his realization-focused comparison approach to justice and critique of transcendental institutionalism and its associated view of the individual. This is key to understanding the realization-focused comparison approach, since explaining justice as impartiality achieved through a process of public reasoning and public deliberation requires a commensurate understanding of people as able to deliberate and reason about their individual and social alternatives. Clearly it would be odd to try to advance a comparative realization process approach to justice in which people behave impartially despite their differences while still relying on the traditional view of individuals as reactive and bound by given subjective dispositions. If people are to be thought capable of public deliberation about just arrangements in society, they will also need to be thought capable of individual deliberation and reflection upon their own personal goals. To further understand what this involves, consider what else Sen has said about individuals.

On multiple occasions he has emphasized that individuals are diverse and different from one another in numerous respects. It is true that people share the need to achieve the same basic capabilities, but they also differ in what they need to achieve these same basic capabilities. In addition, while people all value basic capabilities, different complex capabilities are valued by different people in different ways. Indeed the great diversity between people reflects the fact that people develop many capabilities beyond their basic ones so that what is especially characteristic of human life is its diverse forms and variety. In this regard, it is diversity that people share as their common humanity, and therefore it is this human diversity that must underlie an adequate understanding of justice as a process of deliberative exchange. Impartiality, that is, is not a matter of rejecting differences but a matter of building on differences.

When we turn, then, to what Sen tells us about justice as impartiality, two things get particular attention. In the first place, impartiality results from a social reasoning process that is open and public, as in the ideal of a democratic society. Openness, accordingly, is not just about full participation of like equals but about full participation from diverse concerns and a receptivity to difference, however it may be manifested. Of course there are many ways of characterizing openness, not to mention many problems involved in achieving it in a viable way. But openness is a standard that cannot be ignored. Second, drawing on Adam Smith's impartial spectator idea, Sen interprets successful public reasoning as an 'ability to survive challenges from informed scrutiny coming from diverse quarters' (p. 45). An 'informed scrutiny', following Thomas Scanlon, is what occurs when the grounds for decisions which societies take are ones which the parties especially involved 'cannot reasonably reject' (pp. 15, 199). But what people 'cannot reasonably reject,' Sen emphasizes, does not refer to any

unique set of principles of justice such as would be unanimously chosen in some Rawlsian original position. Since people are diverse, so too are the principles and justifications for them on which they rely. So it is inevitable that the decisions societies take prioritize some principles on some occasions and other principles on other occasions. Impartiality, then, understood as what people ‘cannot reasonably reject’ requires recognizing that a plurality of principles of justice regularly apply in social decision-making.

This places responsibility on individuals to be consciously open and impartial. ‘Even when a person does have a clearly favourite priority, such priorities may vary from person to person, and it may be difficult for someone to reject altogether possibly well-defended reasons to which others give priority’ (p. 201). It is not just that one accepts others’ arguments in mechanical exchange for their acceptance of one’s own; it is that one must believe others’ arguments can be based on well-defended reasons just as one believes one’s own arguments are based on well-defended reasons. Thus, for Sen, a plurality of impartial reasons is a plurality of non-rejectability when individuals exercise this special reflective, self-scrutinizing reasoning capability. It is an ordinary capability all people can exercise, though that alone does not guarantee its exercise. What goes considerable distance toward securing its regular exercise is people being able to live in just societies, understood not in terms of any specific set of institutions but in terms of open processes of social deliberation focused on making just social arrangements possible.

So Sen’s idea of justice makes individual self-scrutinizing reason, with his conception of the individual, and democratic public deliberation, with his conception of society, go hand-in-hand, and their shared foundation lies in the inescapable diversity of human beings. It is worth repeating and emphasizing, then, the caution advanced between the lines in *The Idea of Justice*. If justice is society’s ambition and democracy as openness and impartiality is its means, then economists’ old *Homo economicus* view of ‘rational’ individuals must be given up. That conception of people as reactive and subjective may fit a top-down world of hardened institutions with incentives to which people are expected to maximally respond, but it does not fit the sort of pluralistic, just society that Sen envisions in which people must work bottom-up to bring about justice case by case as best they can. It thus seems for him the conclusion cannot be avoided that justice and economics part ways here – unless in the future economics should change its path.

-----

### **Taking Sen’s Commitment to Evaluation Seriously**

**Thomas Wells**  
**Erasmus University Rotterdam**

In *Development as Freedom* Amartya Sen presents a parable. Annapurna has a choice between three unemployed labourers who would like the job of cleaning up her garden (Sen 1999, 54-55). Dinu is the poorest, Bishanno is the most unhappy, and Rogini has a chronic ailment that her wages would allow her to cure. Who would be the right person to employ? A purely income-egalitarian, utilitarian, or capability theory of justice would each focus on a different feature as the most ethically salient and would straightforwardly indicate the corresponding person as most deserving of the job. However, Sen doesn’t use the parable to argue that a capability theory provides the right answer to the question. Rather he uses it to demonstrate how the choice of a theoretical perspective determines in advance which kinds of information are considered, and which are not. For example, classical utilitarians only

consider effects on aggregate mental satisfaction, and exclude information about rights, freedoms, or distribution per se, while libertarians restrict themselves to information about certain liberties and property rights. Sen also shows us how such theory driven evaluation can be a problem. While it allows theoretical consistency and elegance, and arguably makes answering questions easier (because one always gives the same kind of answer, no matter what the question), it fails in its responsibility to address the actual complexity that real problems raise. As a result, Sen points out, approaches which attempt to provide a consistent systematic rule based framework for dealing with all problems that may come up can easily be shown to produce absurd or awful conclusions about plausible cases; for example libertarian justice is quite compatible with famines (Sen 1999, 66). This follows from the theoretical approach itself which seeks to reduce all problems to what can be comprehended within the limits of an *a priori* chosen account. As Sen notes, such exercises do not resolve the problem of evaluation but only evade it (Sen 1999, 77).

In the constructive part of the chapter, Sen goes on to argue that none of the main ethical accounts properly engages with a particular aspect of human lives that would seem of considerable significance: ‘the *freedom* to achieve actual livings that one can have reason to value’ (Sen 1999: 73, original italics). Analysing this lacuna and demonstrating its ethical importance is of course the particular concern of the capability approach ‘at the foundational level’. Yet even here Sen’s argument is for attending to the capability space, rather than for committing to any particular capability theory of welfare or justice.<sup>1</sup> One of its main merits, Sen suggests, ‘is the need to address these judgmental questions in an explicit way, rather than hiding them in some implicit framework’ (Sen 1999: 75). As Hilary Putnam puts it, Sen’s capability approach,

does not pretend to yield a ‘decision method’ that could be programmed on a computer. What it does do is *invite us to think* about what functionings form part of our and other cultures’ notions of a good life and to investigate just how much freedom to achieve various of those functionings various groups of people in different situations actually have. (Putnam 2002: 60, emphases added)

Sen argues that the capability approach subsumes many of the underlying motivations of alternative approaches, that it ‘can take note of, inter alia, utilitarianism’s interest in human well-being, libertarianism’s involvement with processes of choice and the freedom to act and Rawlsian theory’s focus on individual liberty and on the resources needed for substantive freedoms’ (Sen 1999: 86). Yet despite Sen’s endorsement of the importance and plausibility of assessing advantage in terms of capability, he is clear that we shouldn’t limit ourselves to it when we come to a practical problem – such as whom to give a job to (Sen 1999: 86). Sen is keen to stress that he is not simply providing yet another closed theoretical account – a ‘capability theory’ - that would evaluate all cases on the basis of a limited class of information.

This makes the application of Sen’s capability approach particularly challenging, and quite deliberately so. Sen believes the way we try to address practical problems must reflect their underlying complexity rather than attempt to wish it away. The facts of choice are that we must often contemplate which of various contradictory courses of action indicated by good reasons to adopt, or decide between different outcomes that are all somewhat awful. And so, unlike its competitors, Sen’s capability approach does not dictate which of the three unemployed people you should give the job to. Rather it gives you more things to worry about

---

<sup>1</sup> Of course that doesn’t preclude others from developing such theories, whether partial theories of justice focused on the proper distribution of ethically central capabilities (Nussbaum 2000); or alternatives to orthodox welfare economics (Kuklys 2005; Fleurbaey 2009); or development project evaluation (Alkire 2005). But all these efforts at operationalization seem to have a different character from Sen’s project and should not be seen as competitors, except for our attention about what is important.

since it suggests that evaluative decisions such as these should be explicitly justified on the basis of how appropriately all the information in a case is considered, rather than on the basis of analysing what follows directly from an *a priori* choice of a theoretically elegant and well motivated ethical account. As Sen often notes, ‘There is no escape from the problem of evaluation’ (Sen 1992: 44). It would seem that the capability approach, as envisaged by Sen, is evaluative *all the way down*.

It is almost a commonplace in the capability approach literature to say that it is about evaluation, though the point is still misunderstood by many serious interpreters and critics. Indeed many criticisms of Sen’s capability approach depend on seeing it instead as a theory of justice, with ‘a metric and a rule’. This holds not only for external critics such as Thomas Pogge, who evaluates it as an instruction manual for designing a perfectly just institutional scheme and finds that it instead mainly proposes ‘a new language’ (Pogge 2010: 51). It also holds for some internal critics, most notably Martha Nussbaum who argues that the capability approach needs ‘an objective normative account of human functioning and [...] a procedure of objective evaluation by which functionings can be assessed for their contribution to the good human life’ (Nussbaum 1988: 175-6). In other words, the capability approach needs theoretical closure before we can understand and assess what it is really claiming about justice and the good life.

The deliberate openness of Sen’s capability approach – its commitments to a broad understanding of individual advantage and to theoretical pluralism – has helped the capability approach become seen as a particularly attractive and sensible approach to development. It is unfortunate therefore that that very openness is often mis-seen as a problem to be overcome. Properly understood, Sen’s open evaluative approach has unappreciated credibility and strengths. Nor is it without bite. Sen has successfully used it to identify and raise problems, from gender inequality in childhood nutrition (Sen and Sengupta 1983), to the under-achievement of relatively rich countries in achieving certain basic capabilities they claim to value. The human development index and related measures have broadened the informational bases available for the evaluation of poverty and progress.

Nevertheless the focus on ‘theoretical’ criticism has diverted philosophers’ attention away from an engaged assessment and development of Sen’s evaluative system. I end this brief essay by outlining two important issues that would seem to deserve more attention: what Sen has called ‘the discipline of evaluation’ and ‘the discipline of choice based on that evaluation’ (Sen 2000: 478).

For the former, Sen is eloquent in arguing for the centrality of evaluation as an exercise of judgement rather than the application of a formula. Evaluations are choices about which theoretical perspectives are best for understanding a particular case, and hence which information and reasons are salient. They are the responsibility of the individual doing the evaluation, not the theories concerned. This seems to raise broad issues about the person doing the evaluating: what is the proper character and qualities of this judge? As Robert Sugden for example notes, there is an implied moral observer in the capability approach whose role is not properly justified or explained (Sugden 2006). Sen’s recent use of Adam Smith’s concept of the impartial spectator as a model for such ethical evaluation (Sen 2002; Sen 2009) is one promising but so far incomplete answer to this challenge.

For the latter, Sen rejects various methods of determining values ‘objectively’, such as (Aristotelian or other) perfectionist views of the good life or the revealed preference approaches endorsed by some economists. Instead valuation should be an internal political ‘exercise in social choice’ that adequately reflects the evaluations of the people concerned, characterised by public reason and deliberation (with many similarities to Rawls’ account of

public reason). Theorists, whether philosophers or technocrats, are encouraged to provide their particular evaluative expertise to the participants, but have no special status in such decision making about the constituents of the life they have reason to value or their weighting. But how this democratic exercise in social choice should work, and what can be done in its absence, has so far been only lightly sketched by Sen. For example, given Sen's pragmatic scepticism of ideal theorising, his appropriation of Rawlsian ideals of public reasoning seems in need of real world translation.

## References

- Alkire, Sabina (2005), *Valuing Freedoms*, Oxford University Press
- Fleurbaey, M. (2009), 'Beyond GDP: The Quest for a Measure of Social Welfare', *Journal of Economic Literature*, 47 (4): 1029–1075.
- Kuklys, Wiebke (2005), *Amartya Sen's Capability Approach*, Dordrecht: Springer
- Nussbaum, Martha (1988), 'Nature, function, and Capability: Aristotle on Political Distribution', *Oxford Studies in Ancient Philosophy*.
- (2000), *Women and human development*, Cambridge University Press
- Pogge, Thomas (2010), 'A critique of the capability approach', in H. Brighouse and I. Robeyns (eds), *Measuring Justice*, Cambridge University Press
- Putnam, Hilary (2002), *The collapse of the fact/value dichotomy*, Harvard University Press
- Sen, Amartya (1992), *Inequality re-examined*, Oxford Clarendon Press
- (1999), *Development as freedom*, Oxford University Press
- (2000), 'Consequential Evaluation and Practical Reason', *The Journal of Philosophy* 97 (9): 477-502.
- (2002), 'Open and Closed Impartiality', *The Journal of Philosophy* 99 (9): 445-469.
- (2009), *The Idea of Justice*, Harvard University Press
- Sen, Amartya and Sunil Sengupta (1983), 'Malnutrition of Rural Children and the Sex Bias', *Economic and Political Weekly* 18 (19/21) (May): 855-864.
- Sugden, Robert (2006), 'What We Desire, What We Have Reason to Desire, Whatever We Might Desire: Mill and Sen on the Value of Opportunity', *Utilitas* 18 (1): 33-51.

---

## The Capability Approach to intergenerational justice: A survey

**Rebecca Gutwald, Ortrud Leßmann, Torsten Masson, Felix Rauschmayer**

The political idea of sustainable development (henceforth SD) is closely tied to the concept of inter- and intragenerational justice without clarifying these notions and their relationship. In developing an account of human development, the capability approach conceptualizes parts of intragenerational, but not intergenerational justice. We aim to use the CA in order to shed light on the concepts of SD and intergenerational justice.<sup>1</sup> We proceed in two steps: first, by clarifying elements of a theory of intergenerational justice. Second, by pointing out how well the CA can take up these elements and thus explain the normative dimension of SD.

### **Our main motivation: sustainable development**

The conceptual core of SD is hard to grasp from a merely philosophical perspective.<sup>2</sup> Under the heading of SD we find many (partly) inter-related issues, such as environmental degradation, demographic changes or economic crisis. Hence, SD rather constitutes a global, political agenda than a unitary theoretical concept. Our main motivation is to refocus the *normative* dimension of SD by developing a CA-based notion of intergenerational justice.

---

<sup>1</sup> This note is a summary of a full paper by Gutwald R., Leßmann O., Rauschmayer F., Masson T. (2011) "The Capability Approach to intergenerational justice- a survey", GeNECA discussion paper, unpublished.

<sup>2</sup> We use the terms 'sustainability' and 'sustainable development' interchangeably.

This is necessary because definitions in the literature often obscure the normative aspect or neglect it altogether (Neumayer, 2010; Söderbaum, 2011). For instance, the scientific sustainability discourse emphasises strategic issues of SD (e.g. substitution of natural capital), but neglects the normative aim of sustained human well-being. Some definitions, such as the now well-known formulation by the World Commission on Environment and Development (Brundtland Commission) do emphasise inter- as well as intragenerational justice.<sup>3</sup> But the normative foundations underlying this definition remain unclear. In our paper, we want to relate the philosophical debate about justice to political aims to close this gap.

### **A theory of intra- and intergenerational justice**

The core question of intergenerational justice is, *why present generations owe something to future generations, what they owe to them and how much of it?* It is debatable whether answering this question requires *sui generis* principles or whether intergenerational justice is an extension of intragenerational justice. We see two reasons for the latter. First, as Brian Barry (1997) states, we are accustomed to think about relations among contemporaries and have already developed an apparatus to deal with them. We have no similar apparatus for relations to future people. Second, we think that demands of intergenerational justice should not differ significantly from intragenerational ones, if a theory of justice is to be *truly* universal.

Like most modern philosophical accounts of justice, we follow Rawls' *Theory of Justice* and identify four issues that a full account of intergenerational justice should answer:

- (i) *Metric of Justice*: how are benefits and burdens to be allocated fairly within a certain group or society? (Robeyns, 2009) Any approach to intergenerational justice needs a plausible *metric of human advantage* for *present* and *future* generations.
- (ii) *Principles of justice*: Based on the selection of an appropriate distributive aim (e.g. equality), principles are formulated with regulate how benefits are distributed - *within* and *across* generations.
- (iii) *Justification*: The principles just mentioned needs to be based on *fundamental philosophical* arguments that serve as a theoretical foundation, such as Rawls' now famous model of the original position.
- (i) *Scope of a theory of justice*: An intergenerational theory needs, we believe, to be *truly universal*, since every generation is of equal ethical concern.

Still it has to be seen that the intergenerational context presents peculiar problems. In what follows, we will describe the potential of the CA in answering the questions just pointed out.

### **The CA as a framework for intergenerational justice?**

Even though Amartya Sen and Martha Nussbaum have both published works on justice and capabilities, the CA is not a theory of justice in the sense specified above. It neither provides us with (ii) explicit principles of justice nor with (iii) a model of justification. Even though, we believe that the CA has considerable potential for solving issues of intergenerational justice for two main reasons.

---

<sup>3</sup> It takes sustainability to be 'development that meets the needs of the present without compromising the ability of future generations to meet their own needs'. (WCED, 1987).

### **The CA as a measuring rod for universal well-being**

As Robeyns (2009) explains, functionings and capabilities encompass the *metric* for viewing a person's well-being in a multi-dimensional way. In our view this metric of the CA offers a convincing formulation of the *goal* of justice and SD.

The CA's concept of well-being is, in our view, mainly characterized by three attractive features: (a) the *plurality of dimensions*; (b) the importance of *human agency*; and (c) full *universality*. As regards (a), we believe that justice should deal with *multiple, irreducible* aspects of human life, e.g. political participation, education etc. The more concrete specification and weighting of these dimensions is to be based on public reasoning. This way plurality is respected, which is crucial for future ethics: Future generations will live a life that is different from ours, but their lives will be similar to ours in being pluralist and their societies will be multi-faceted.

With respect to (b), *human agency* is central to human well-being for people in the present and in the future. Persons should be conceived of as *active agents* who choose their way of life from among several possible ways of life open to them – their capabilities. Hence, enhancing human capabilities now and in future means to protect a wide range of valuable functionings for people to choose from. This includes provision of the necessary material *resources*, e.g. money, material goods, but also promoting the preconditions for *converting* them into *functionings*.

Finally, the CA embraces *universality* in a full sense, since it was explicitly designed to assess the well-being of people within all nations or societies. As a matter of consequence, the CA has the potential to be extended to other generations of people (Anand and Sen, 2000). Capabilities then provide the general evaluative perspective from which we judge human well-being and justice.

### **The CA and critical problems of intergenerational justice**

Furthermore, the CA is apt to answer two critical issues that must be solved in the special context of intergenerational justice. First, the CA helps to develop a solution to the so-called *non-identity problem* formulated prominently by Derek Parfit (1989). Suppose we have two policies A and B: A implicates the depletion of resources for future people, while B saves those resources. We would like to say that A is *harmful* for future generations. However, the choice of A affects the very existence (and number) of *specific* future individuals. Without the choice of A, some individuals would not have been born at all. If the life of those individuals is not totally miserable, it is therefore hard to claim those specific individuals have been harmed by not choosing B.

Martha Nussbaum's idea of 'basic human entitlements' or rather 'capabilities' circumvents this problem. In his discussion of a sufficientarian approach to intergenerational justice, Meyer explains why. Usually the notion of harm is usually taken in a comparative sense, i.e. comparing a person's well-being at time  $t_n$  with her well-being at  $t_{n+1}$ . The non-identity problem ensues, if there is no earlier time  $t_{n-1}$  to which to compare a person's well-being. Specifying a threshold, however, defines harm in an absolute way, i.e. valid for all people regardless of their identity. If a person is in a sub-threshold-state, we can say that she is ipso facto harmed, even if she was brought into existence by the action related to that state. Hence, we believe that a sufficientarian account of the CA should be formulated and employed in intergenerational context.

Second, the CA is helpful in setting out the *objective* of SD and intergenerational justice, which is supported by (rather short) passages from Sen's work (Rauschmayer, Omann et al.,

2011). In *The Idea of Justice*, Sen advocates that the Brundtland-definition should be reformulated by substituting ‘needs’ by ‘capabilities’. He thus claims that the goal of SD should be defined as the protection or even the enhancement of capabilities. Sen’s view fits well with our take on the CA’s role in intergenerational justice: capabilities are defined as the *metric* and thus as the *goal* of intergenerational justice. It thus also can be interpreted as the *objective of justice*. Given the strong tie between intergenerational justice and the idea of SD, we also stipulate that they should be directed to the *same goal*.

### **Outlook: CA, intergenerational justice and SD**

We conclude that the CA holds some promise of dealing with issues of intergenerational justice and SD, because it defines a plausible *metric* within a theory of intergenerational justice. However, several crucial issues remain open, three of which are quite contentious. First, the CA only forms *part* of a theory of justice. The sufficientarian account that we have sketched in our paper starts to fill this lacuna, but has to be spelled out in more detail. The general question remains, whether the CA should be extended and modeled into a fuller account of justice or whether it needs to be supplemented by other philosophical accounts.

Second, there seems to be no way around committing oneself to a substantial position about *basic well-being* if one employs a threshold in the way specified. Sen’s contextual approach to these matters seems too vague, while Nussbaum’s list of basic valuable dimensions is too rigid (a criticism that is often raised against her approach). Hence, a CA based approach to SD needs to frame a list that is both flexible and concrete enough.

Third, further peculiar problems of the intergenerational context can only be partially answered by the CA. For instance, CA theorists do not often address the problem how people are *motivated* and *obligated* to protect others’ capabilities. This does not translate well to the intergenerational realm since the CA cannot justify why present people should preserve capabilities of future people on the cost of having their own capabilities curtailed (Leßmann, 2010).

It remains to be seen whether the CA or any of its modifications are able to handle these problems convincingly. Given the complexity of these issues, there is little hope, we believe, that the CA can cover all the bases. But we have already supplemented the CA by employing a sufficientarian principle which needs to be further elaborated on. Further work needs to be done in the other areas identified.

### **References**

- Anand, J. and Sen A. (2000), ‘Human Development and Economic Sustainability’, in *World Development*, 28(12): 2029-2049.
- Barry, Brian (1997), ‘Sustainability and Intergenerational Justice’, *Theoria*, 45(89): 43-65.
- Leßmann O. (2010), ‘Sustainability and Rationality: Individual and Collective Responsibility in the CA’, paper presented at the HDCA-conference in Amman, Jordan, 21-23 September 2010
- Neumayer, E. (2010), *Weak Versus Strong Sustainability*, 3<sup>rd</sup> ed. Cheltenham; Edward Elgar
- Parfit D. (1989), *Reasons and Persons*, Oxford Clarendon Press
- Rauschmayer, F., I. Omann, et al. (eds) (2011), *Sustainable Development: Capabilities, Needs, and Well-Being*, London, Routledge
- Robeyns I. (2009), ‘Capabilities and theories of justice’, in Enrica Chiappero Martinetti (ed.), *Debating Global Society: Reach and Limits of the Capability Approach*, Milan: Feltrinelli Foundation
- Söderbaum, P. (2011), ‘Sustainability economics as a contested concept’, *Ecological Economics* 70: 1019-1020.
- WCED (United Nations World Commission on Environment and Development) (1987), *Our Common Future*.  
<http://www.un-documents.net/wced-ocf.htm>

-----

**‘Resisting ‘Global Justice’: Disrupting the ‘Emancipatory’ logic of the West’<sup>1</sup>: Some considerations for the Capability Approach as a theory of justice**

**Krushil Watene  
University of Auckland**

Theories of global justice comprise a diverse and influential body of work in contemporary political philosophy. While it is certainly difficult to take issue with the general goals of global justice theory, there is (as always) room to critically engage with it. With this aim in mind, this paper briefly outlines some of the main arguments found in a provocative paper entitled ‘*Resisting ‘Global Justice’: Disrupting the ‘Emancipatory’ logic of the West*’. Doing so provides us with a framework in which to ask how the foundations of the Capability Approach (CA) – or rather, current versions of it – might be perceived and further developed in light of global issues.

The article is concerned with asking the following question (p.2):

What is the connection between the ruminations of those who advocate global justice, and the movements, struggles and resistances that occasionally coalesce in the collective imaginary as the global justice movement?

Such a question is certainly pertinent for anyone interested in global justice theory, and especially for advocates. If, that is, we want theories that speak to challenges as they feature on the ground – and if we want theories that engage with, and that are able to engage with, real struggles for justice. If we do, then we will want to know whether (and in what ways) current theories of global justice reflect, draw on, and speak to these struggles.

Given the diversity of global justice theories, exactly who is Robinson and Tormey asking? In short, the authors refer specifically to the (liberal-egalitarian) neo-Rawlsian camp – typified by Thomas Pogge, Charles Beitz, Simon Caney, and Philippe Van Parijs. That is, ‘those who extend or refine John Rawls’ earlier rumination on justice beyond the domain of nations or peoples’ (p.2). They argue that liberal-egalitarian global justice theory (GJT) imposes a global-local definition of global justice and in so doing reproduces colonial epistemology. They claim that GJT ‘display[s] the perspective of a Western, White, European or Eurocentric elite applying the socially contingent considered convictions of its own societies complete with the elisions and sanctioned ignorances of these convictions in a global context’ (p.2). The effect, they contend, ‘[...] is the silencing and subordinating of myriad others who cannot be recognised and would not recognise themselves as the subject of liberal justice’ (p.2)

More specifically, Robinson and Tormey highlight three problematic assumptions in GJT – each of which ground this epistemological bias. The first problem they term the *Logic of Equivalence*. They refer here to the way in which much of GJT fails to challenge the basic assumptions found within Rawls’ approach to justice. In particular, they highlight that GJT accepts both:

1. The assumption that individuals are utility maximizers whose motivations can be examined in isolation from their social setting.
2. The assumption that justice concerns the distribution of ‘goods’ which must be denumerable and thus equivalent.

---

<sup>1</sup> Andrew Robinson and Simon Tormey (2009), ‘Resisting Global Justice: Disrupting the Colonial ‘Emancipatory’ logic of the West’, *Third World Quarterly*, 30 (8): 1395-140.

The second problem they call the '*Logic of Statism*'. They refer here to the way in which justice is assumed to require an enforcing agent, and so built around the state or political community. Such a move assumes that interests between states, nations, peoples are in harmony (or at least that they can be). The final problem they call the '*Logic of Universality*'. Here they refer to the way that Rawlsian justice, drawing on Kant, relies heavily on constructing transcendental premises. They contend that this results in excluding other ways of approaching (and coming to conclusions about) justice.

In other words, this epistemological bias means that the approach to justice takes for granted basic and foundational assumptions about what justice consists in, what the units of concern ought to be, and what justice looks like. It takes a distributional approach to justice that relies on goods (as the metric by which to assess states of affairs), and it takes individuals as contractors within the original position. Principles of justice must be both rational and universal in scope, and the principles must be attached to and deliverable by states.

We might question Robinson and Tormey's preoccupation with neo-Rawlsian global justice theory. After all, this is not the only way to develop a theory of global justice. Yet, we cannot deny that no other approach is as prominent, so any discussion of global justice theory must begin here. However, what we might challenge is whether these basic assumptions really are problematic. Global justice theorists are well aware of the diversity that exists. They aim to develop principles that enable diverse peoples to pursue their own conceptions of the good, to be self-determining, and distinct communities (Brock 2010). The social primary goods are, we should also add, much richer than an account of crude goods (Pogge 2010). As we have said, the aims of global justice theory are entirely admirable. Given their aims, could it really be that global justice theorists have got things wrong?

Unfortunately for global justice theory, Robinson and Tormey provide a number of cases that look to place some pressure on the relevance and workability of these assumptions for indigenous peoples. For instance, they point out that the logic of equivalence is the logic of one type of society – namely 'mercantilist, capitalist' (p.5). They point to the fact that some indigenous peoples do not have market economics at all, and rely on subsistence activity and gift-giving. What's more they point out that many of the global justice movements are against commodification itself. As such, and according to Robinson and Tormey 'what, one ponders, would the promise of 'equality of opportunity' mean to the indigenous east Timorese struggling against annihilation, or aborigines herded into compounds miles from sacred lands and ancient points of reference?'(p.5).

They point out that the structure of some indigenous peoples is such as to ward off the concentration of centralised power. They point to the way that Mbuti and !Kung bushmen exist without government, and highlight that many struggles are against being incorporated into a global state. For instance, the West Papuan struggle is for freedom from Indonesian and Western domination. If this is the case, can we say that GJT has relevance for the Papuan struggle? If they are not *reasonable* or *decent*, are we compelled to forcibly develop them?

Robinson and Tormey do not contend that liberals have not done a great deal to include other cultures. Indeed, liberals have done (and continue to do) a great deal to try to include and accommodate diversity and diverse groups within their theories. The point, rather, is that we need to do much more. There is a limit to who (and more importantly what) global justice theory can include with this epistemological bias. It is doubtful that we can, for instance, make sense of the relationships that indigenous peoples have to the environment. But more than this, it is not enough to focus on how we accommodate diverse cultures and peoples within liberal theory. The challenge for liberal theory is to somehow view these diversities as

legitimate in their own right, and to ask what contribution they might make to how we approach and resolve global challenges.

So what do Robinson and Tormey propose instead? Although they do not offer a full account of what a replacement might look like, they do provide some guidance on where we might go to from here. They tell us that we ought to move toward (rather than global justice) planetary ethics. That the answer lies in thinking about what it means to theorise justice – and the sort of justice that is open ended and responsive to the other. More specifically, they provide us with the following guidelines:

1. Our theory and approach should not seek to impose a single social ordering or grand transcendental morality. We should not take a stance on whether there are universal norms.
2. We ought to be open to multiplicity of perspectives – including: different ways of relating to the land, of understanding labour, nature, territories etc.
3. We should not propose a distributive framework based on the equivalence or statist model – this assumes a global-local perspective of western capitalist colonial dominance.
4. There needs to be dialogue in the Bakhtinian and Wittgensteinian sense of ‘utter incompatible elements....are distributed among several worlds and several full-fledged consciousness; they are presented not within one field of vision, but within several complete fields of vision of equal value’.
5. We should embrace Spivak's planetary responsibility – responsibility to the other.

So what can the CA take away from this critical discussion of global justice theory? There seems to be a great deal. After all, many of the insights generated are (generally) those that the CA shares. A trademark aim of the CA is to accommodate diversity, and the CA is interested in how well-being and development plays out in the real world. On such a view, the voices of the marginalised must always be included. What's more, Amartya Sen and Martha Nussbaum (in different ways) share the view that we need to think carefully about how we theorise about justice.

Yet the paper has a more important contribution to make to the CA. The paper reminds us that there is still room to question the foundations of current articulations of the CA (as with any theory of justice global or otherwise). For instance, the article helps us to see that we ought to press Nussbaum's conception of dignity, the value Sen places on agency, and the role that Rawls plays in both of their theories. We need to ask ourselves (in line with Robinson and Tormey's starting point) what the connection is between those who advocate the capability approach, and the movements, struggles and resistances that exist. We want to know whether current articulations of the CA are able to include and speak to (in the right ways) these movements.

Of course, it might transpire that current articulations of the capability approach fall short. If so, then we need to ask whether there is scope for developing new ways forward – at least, and whatever the answer turns out to be, the CA will be better for it.

## References

- Brock, Gillian (2009), *Global Justice: A Cosmopolitan Account*, Oxford University Press  
 Pogge, Thomas (2010), ‘A Critique of the Capability Approach’, in H. Brighouse and I. Robeyns (eds), *Measuring Justice: Primary Goods and Capabilities*. Cambridge University Press