THE CAPABILITIES OF FUTURE HUMANS AND THE NON-IDENTITY PROBLEM

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Introduction

The Capabilities Approach has become increasingly influential as a theoretical approach to social justice and development. Recently, it has also been applied to questions of environmental ethics. Since one of the questions that have been discussed most intensively within environmental ethics is what obligations we owe future humans, this raises the question of whether, and if so how, we can justify concern for the capabilities also of future humans. In this article, the theoretical point of departure for analyzing this question is the version of the Capabilities Approach put forward by Martha Nussbaum. So far, Nussbaum has not discussed the issue of justice towards future individuals in detail. In Frontiers of Justice Nussbaum mentions certain issues that are difficult to handle within Rawls’s


2 In this context “future humans” means humans, who have not yet been conceived, in other words not foetuses or children.

3 Nussbaum prefers to call her approach ”the Capabilities Approach” instead of ”the Capability Approach”.

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influential theory of justice, one of them being the issue of justice towards future individuals. Since she agrees with Rawls’s assertion that his conception of justice can be extended to handle the problem of future persons, she concludes that she does not need to treat the issue. However, as has been pointed out by Krushil Watene, this conclusion is problematic for several reasons. First, there are several unresolved issues in Rawls’s approach, for example how we should handle the non-identity problem (more about that below) and how we should handle conflicts between our duties to contemporaries and duties to future individuals. Second, Nussbaum’s Capabilities Approach is built on other assumptions that Rawls’s theory of justice. The foundation of justice is not a contract between independent individuals who seek mutual advantages, but the fact that individuals are intrinsically social and cannot imagine living a good life without relationships. Instead of a notion of a contract, Nussbaum’s conception of what constitutes a dignified human life is the point of departure for her approach. For these two reasons, the question of justice to future individuals requires an independent treatment within the Capabilities Approach.\(^4\)

In order to integrate concern for the capabilities of future humans within the framework of the Capabilities Approach, one central problem that needs to be taken into account is the non-identity problem. It has shown to be one of the most intractable problems when it comes to justifying responsibilities towards future humans. In short, the non-identity problem rests on the fact that some of our acts do not only influence the conditions of future individuals but also which individuals, and in some cases also which number of individuals, will exist in the future. Because of that, it is difficult to conclude that our acts have harmed future individuals, since they would not have existed if we had acted differently. The problem was discovered independently by Derek Parfit, Thomas Schwartz, and Robert M. Adams in the late 1970s.\(^5\) Since its most influential treatment is in Derek Parfit’s *Reasons and Persons*, it received its name from that book.\(^6\)

Within a rights-theoretical approach, to which Nussbaum’s Capabilities Approach can be said to belong, one common strategy for solving the non-identity problem is to redefine the notion of harm, often by replacing a counterfactual notion of harm with a threshold notion of harm.\(^7\) However, some philosophers argue that we can solve the non-

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identity problem without redefining the notion of harm since we can claim that the rights of future humans have been violated by an act, regardless of whether we can claim that they have been harmed by the act. In this article, I follow the latter line of argumentation and argue that we can solve the non-identity problem within the framework of the Capabilities Approach without having to redefine the notion of harm. We can simply claim that the future entitlements of future humans can be violated by an act, regardless of whether the act has harmed them. I also respond to some objections against this solution.

Solving the non-identity problem without redefining the notion of harm

Let us take the example that the inhabitants of the world living between 2020 and 2100, hereafter called individuals (x₁, …, xₗ), can choose two sets of actions conducted during this period of time. Let us assume for the sake of the argument that they have some form of collective responsibility for their actions. The set of actions A leads to very modest reductions of greenhouse gases. Because of A, the global mean temperature between the year 2250 and 2550 will be on average 6 degrees above the pre-industrial level, regardless of the fact that the individuals living between 2100 and 2250 will significantly reduce their emissions. This is a realistic assumption since according to the IPPC report from 2014, the effects of emitting greenhouse gases will remain for several hundred years. Large parts of the world will be rendered inhabitable and the level of welfare for most groups of people will be significantly reduced, compared to the situation between 2020 and 2100. However, they will still have a life that is worth living.

The set of actions B leads to large reductions of greenhouse gases and it will not cause an increase of the global mean temperature. It will lead to less economic growth in the short run, but in comparison with A it will not cause a significant increase in the number of people falling below a threshold level of the different ten capabilities on Nussbaum’s list. In


9 In this article I use the concept of entitlements, rather than the concept of rights, since it fits better with the Capabilities Approach (see, for example, Nussbaum, Martha: “Capabilities as fundamental entitlements: Sen and social justice”, *Feminist Economics*, Vol 9, No 2-3, 2003, p. 33-59). However, my argumentation can also valid for a rights-based perspective.


11 This list includes the following capabilities: 1) Life, 2) Bodily Health, 3) Bodily Integrity, 4) Senses, Imagination and Thought, 5) Emotions, 6) Practical Reason, 7) Affiliation, 8) Other Species, 9) Play, 10) Control
such a scenario, during the period 2250-2550 the percentage of the population falling below a threshold level of the different ten capabilities will not be higher than during 2020-2100. If we choose A instead of B, many more of the individuals living during the period 2250-2550 will fall below a threshold level of the ten capabilities. In comparison with A, the negative effects that B has on the capabilities of current humans will be much smaller than the positive effect it has on the capabilities of the future humans living between 2250-2550. Let us also assume that if we choose A instead of B, the number of people living during the period 2250-2550 will not be significantly larger. Therefore, the number of individuals having more than a threshold level of the ten capabilities will be much smaller if we choose A. Because of the time span between 2100 and 2250, none of the individuals living between 2250-2550 was born when any of the actions in the two sets of actions A and B were performed.

It is probable that the choice between A and B will affect not only the conditions for the individuals living between 2250-2550, but that it will also indirectly affect how many and which individuals will live during that period of time. This is because it will significantly affect decisions about production and consumption both at the local, national and international level. It will influence which occupation people will have and where they choose to live. Therefore, it will affect which persons will decide to have children with whom and at what time. If we choose A rather than B, it is probably that all, or nearly all, of the individuals born between 2250 and 2550 will be individuals with a different genetic constitution, and therefore they will be different persons. The individuals living between 2250-2550 if A is chosen is labelled as (a₁,…,aₙ) and the individuals living between if act B is chosen is labelled as (b₁,…,bₘ). For the sake of simplicity, I will assume that none of the individuals in the set (a₁,…,aₙ) is identical with any of the individuals in the set (b₁,…,bₘ). If we conclude that the choice of A is morally wrong also in this case, it would be at least as morally wrong if some of the individuals in the set (a₁,…,aₙ) would be identical with some of the individuals in the set (b₁,…,bₘ). The reason is that if some individuals in the set (a₁,…,aₙ) would be identical with some of the individuals in the set (b₁,…,bₘ), we would have to conclude that they have been harmed by the choice of A even if we accept a counterfactual notion of harm (see below).

Most people would probably believe that individuals (x₁,…,xₙ) have wronged individuals (a₁,…,aₙ) because of the choice of A, since they make them live under bad conditions. However, some philosophers have doubted that this moral intuition is possible to support rationally, because the individuals (a₁,…,aₙ) would not have existed if the individuals (x₁,…,xₙ) would instead have chosen B. This is what is often called a “non-identity situation”, since the choice of A does not only influence the conditions for future humans, but also how many and which individuals will be born in the future. According to a counterfactual notion over One’s Environment, see Martha Nussbaum, Women and Human Development: The Capabilities Approach, Cambridge: Cambridge University Press 2000, pp. 78-80.

12 This assumption is defended in Parfit, Reasons and Persons, pp. 352-356.
of harm, which states that we harm someone only if we make that individual worse off than
he or she otherwise would have been, we cannot conclude that we have harmed individuals
\((a_1, \ldots, a_n)\) by the choice of \(A\), since they would not have existed at all if we had chosen \(B\). This
conclusion presupposes that individuals \((a_1, \ldots, a_n)\) still have a life that is worth living, since
otherwise we would conclude that individuals \((x_1, \ldots, x_l)\) have harmed individuals \((a_1, \ldots, a_n)\) by
creating bad environmental conditions for them and by indirectly causing them to exist. Since
individuals \((x_1, \ldots, x_l)\) have not harmed individuals \((a_1, \ldots, a_n)\), some philosophers believe that
they have not wronged them.\(^{13}\)

As stated above, a common solution for solving the non-identity problem is by
replacing the counterfactual notion of harm with a threshold notion of harm. Such a solution
has been proposed by, for example, Lukas H. Meyer, who has put forward the following
threshold notion of harm:

\[(\text{threshold}) \text{ An action (or inaction) at time } t1 \text{ harms a person only if the agent thereby causes (allows) either the coming into existence of this person in a sub-threshold state or the already existing person to be in a sub-threshold state; further only if this person would not be in the harmed state had the agent not interacted with (or acted with respect to) this person at all; and furthermore, only if the agent, if he cannot avoid causing harm in this sense, does not minimize the harm.}\] \(^{14}\)

However, there are certain reasons why this solution is not so convincing, at least
not as a solution within the framework of the Capabilities Approach. First, we cannot just
accept a new definition of harm since it solves the non-identity problem. Instead, we need
independent reasons for believing that a threshold notion of harm is preferable to a
counterfactual notion of harm, and it is questionable whether there are such reasons.\(^{15}\) Our
common intuitions of what harm is in “identity situations”, that is, situations in which we only
affect the conditions for some individuals and not how many and which individuals will exist,
seem to fit better with a counterfactual notion of harm than with a threshold notion of harm.
According to common moral intuitions, we harm someone by making them worse off, even if
they do not fall below a certain threshold. For example, if a welfare state decides to raise the
patient fees with 30 \%, we can presume that the citizens will still be situated above the
threshold level for the capability of bodily health. However, according to common intuitions,
we have still harmed the citizens by raising the patient fee, since they would have to pay more
in order to get the same health care and may need to cut down on other expenses. In this case,
an application of a counterfactual notion of harm fits with common intuitions, but not an
application of a threshold notion of harm.

\(^{13}\) For a defense of this conclusion, see, for example, Boonin, David: The Non-Identity Problem & the Ethics of Future People, Oxford: Oxford University Press 2014.


\(^{15}\) This requirement is described by Boonin as The Independence Requirement, see Boonin: The Non-Identity Problem, p. 20.
Second, to cause someone to exist under a certain threshold level fits better with Nussbaum’s notion of what it means to violate someone’s entitlement than with common intuitions of what it means to harm someone. She states that everyone is entitled to a certain threshold level of all the ten capabilities.\textsuperscript{16} Therefore, to replace the counterfactual notion of harm with a threshold notion of harm in order to solve the non-identity problem within the Capabilities Approach seems to be an unnecessary detour. It is simpler and more convincing to conclude that an act violates the future entitlements of future humans, and that it therefore is morally wrong. We do not need to be concerned with whether it is possible to conclude that the act harms them. Such a solution is also in line with the fact that the Capabilities Approach is primarily concerned with the violation of entitlements and not with harm.

Another option for solving the non-identity problem within the framework of the Capabilities Approach is to ascribe entitlements to future generations as wholes, rather than the individuals constituting the generations. We can then circumvent the non-identity problem since future generations will exist in most cases, independently of which actions we choose.\textsuperscript{17} Although this alternative may be well worth pursuing within a rights-theoretical framework as a whole, it seems to fit less well within Nussbaum’s Capabilities Approach. That is because the concept of capability is originally developed to be ascribed to individuals, who have the ability to exercise choice, primarily normal adult human beings. The distinction between capabilities and functionings is central for the Capabilities Approach. Functioning refers to what people actually are or do, such as being homemakers or engineers, or being volunteers in religious organizations, while capability refers to the opportunity to choose between different functionings. Since generations as wholes cannot make choices, at least not in the same sense as individual humans, ascribing capabilities to them requires a modification of the concept of capability, and for that reason, it should not be a first-hand option in order to justify concern for future individuals within the framework of the Capabilities Approach.

A possible objection against my solution is that the violation of entitlements is intrinsically connected with harm. We cannot claim that we have violated someone’s entitlements unless we can claim that we have harmed them. However, this objection can be refuted. In the case of identity situations, there are examples of situations in which we clearly violate someone’s entitlement, but in which we do not seem to have harmed that person. Nussbaum argues, for example, that everyone should be given the possibility to receive an education and make a career in order to live a dignified life. The opportunity to receive an education is connected with the Capability of Senses, Imagination and Thought.\textsuperscript{18} However, even if a person is not given such an opportunity, we do not necessarily harm him or her. If a

\textsuperscript{16} Nussbaum, \textit{Women and Human Development}, p. 75.


\textsuperscript{18} Nussbaum, \textit{Women and Human Development}, p. 78.
person is not interested in having an education, the lack of such an opportunity does not cause any harm.\textsuperscript{19}

If there is no necessary connection between harming someone and violating that person’s entitlement in identity cases, we have even less reason to believe that there is such a connection in non-identity cases. Non-identity situations hinder us from concluding that future humans have been harmed as long as we accept a counterfactual notion of harm, but they do not hinder us from concluding that the entitlements of future humans are violated. We can claim that a person’s entitlements are violated without assuming that there is another possible state of affairs in which they are not violated. The foundation for the statement that a person’s entitlements are violated is simply the fact that someone has caused her to fall below a certain threshold level. In non-identity situations it seems reasonable to assume that someone’s entitlement has been violated, even if we cannot conclude that she has been harmed.

Within the framework of the Capabilities Approach, there are reasons for ascribing capabilities to future humans that are independent of the fact such an ascription would solve the non-identity problem. The ascription of capabilities to future humans is based on the fact that they are necessary for living a true human life. The point of departure of Nussbaum’s Capabilities Approach is the view that independently of which culture or society people come from, they need certain fundamental entitlements in order to live a true human life. If a person starves, for example, he will grab at the food he receives like an animal, instead of eating in a more ordered manner. A true human life requires that one can exercise one’s practical reason in dialogue with others. It also requires that one has the opportunity to satisfy one’s basic material and emotional needs.\textsuperscript{20}

Moreover, Nussbaum argues that the Capabilities Approach should be applied globally, not only within a country. All citizens of the world should be assigned the same entitlements and these entitlements are the basis for the correlative duties that others have. Nussbaum states that humanity has a collective obligation to promote a decent life for everyone, not only for the citizens of one’s own nations.\textsuperscript{21} Our duties towards people in other parts of the world is based on what they need for living a true human life, and does not presuppose that there is any cooperation between them and us. In this respect, Nussbaum’s Capabilities Approach differs from some contractarian theories, such as John Rawls’s.\textsuperscript{22} If cooperation is not a requirement for deriving duties towards people in other parts of the world, it seems inconsistent to regard it as a requirement for deriving duties towards people

\textsuperscript{19} A similar arguments is put forward in Doran Smolkin: "Toward a Rights-Based Solution to the Non-Identity Problem", \textit{Journal of Social Philosophy}, Vol. 30, No. 1, Spring 1999, p. 201.

\textsuperscript{20} Nussbaum, \textit{Women and Human Development}, p. 72.


living in the future. From the perspective of the Capabilities Approach, we have reason for assigning certain entitlements to future humans, based on what is required for living a true human life. Although we cannot know exactly what preferences and desires future humans will have, it still seems safe to assume that they need the opportunity to satisfy their fundamental material, emotional and intellectual needs in order to live a true human life. Within the Capabilities Approach it is not necessary to know what the exact preferences of future humans are, since it is only concerned with realizing their opportunities to live a good life. The focus is on the freedom of choice of future humans, not on their specific desires and preferences.

**A response to some objections**

Here I would like to respond to four different objections to my proposal, two that can be answered quite easily and two that require a more elaborate response. The most straightforward objection against the belief that the choice of A violates the entitlements of \((a_1, \ldots, a_n)\) consists in claiming that it does not violate their entitlements, since they do not exist at the time that the acts are performed. They do not have any entitlement that can be violated at that point of time. However, we can easily reply to this objection by saying that although the choice of A does not violate the entitlements of \((a_1, \ldots, a_n)\) when the choice is made, it will lead to the creation of certain conditions that eventually will lead to the violating of their entitlements at the time at which they are born. Individuals \((a_1, \ldots, a_n)\) do not have entitlements now, but they will have in the future. Therefore, it is possible to claim that current individuals should avoid actions that will violate the future entitlements of future humans.

Another possible objection is that future humans cannot be said to have future entitlements because they cannot claim them. However, also that objection can easily be refuted because we normally think that someone can have entitlements even if he cannot claim them, since another person can claim them for him. For example, that is the case for young children or people with serious mental disabilities. People living now can claim the future entitlements that future people will have.

Yet another objection against the belief that the entitlements of future humans can be violated in non-identity situations rests on the principle that ought implies can. If some individuals only exist in a scenario in which the environment is destroyed, it is impossible for the predecessor to fulfil their right to a decent environment. Therefore, they have no duty to

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25 See, for example, Tremmel, A Theory of Intergenerational Justice, p. 51.
do so. Applied to my example, the line of argumentation would be as follows: since individuals \((a_1, \ldots, a_n)\) only exist in the scenario in which the environment is destroyed, individuals \((x_1, \ldots, x_l)\) cannot make them exist in a decent environment. Since they cannot make them exist in a decent environment, they are not obliged to do so.

However, what seems to be wrong with this line of argumentation is that it implies that the obligation that individuals \((x_1, \ldots, x_l)\) have is for the sake of certain specific individuals. Instead, it seems more reasonably to conceive of this obligation as directed towards the individuals, who will live in the future, without specifying which individuals that will be. The argumentation above may be valid if we assume that it is possible to assign entitlements only to identifiable individuals, for example Mr. Andrew Jones. However, in many identity situations we believe that persons we cannot identify have entitlements, and that we therefore have correlative duties. For example, if a person stays at a camping site for several days, we commonly believe that he has a duty to clean up the site for the sake of the next person who will camp there, regardless of the fact that we do not know whom that person will be. We can claim that the next person who will camp there is entitled to a clean campsite, regardless of the fact that it is not determined who will use the site the next time. In this example, the duty to clean up the camping site is for the sake of an unspecified person, or several unspecified persons, namely that person or those persons that will be the next users of the camping site. The corresponding entitlement to a clean camping site belongs to the same unspecified individual or group of individuals.

Likewise, in my example it seems most appropriate to conceive of the obligation to protect the environment that individuals \((x_1, \ldots, x_l)\) have as a duty towards certain unspecified individuals, namely those living in the future, including those living between 2250-2550, rather than towards certain specified individuals. Before the choice is made between A and B, it does not make sense to state that the obligation to preserve the environment that individuals \(x_1 \ldots x_l\) have is towards the individuals \((a_1, \ldots, a_n)\). That is because it is not determined at that point of time which set of individuals will exist in the future. If we regard the duty to protect the environment that individuals \((x_1, \ldots, x_l)\) have as a duty towards the individuals that will be born between 2250-2550, it is simply wrong to argue that individuals \((x_1, \ldots, x_l)\) cannot fulfil it since they can choose B instead of A.

Another argument that has been put forward in opposition to the belief that the entitlements of future humans will be violated by the acts of present humans is the rights waiver argument. It is based on the notion that people can waive their rights that they have and thereby make acts that would otherwise be morally wrong morally permissible. For example, people have a right not to be cut with knives. However, they can waive this right in connection with a medical operation. Even if a person is unconscious and cannot give his consent to an operation, the act of operating him is still morally permissible, since it can be

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26 See, for example, Boonin: The Non-Identity Problem, p. 264.

assumed that he would waive his right not to be cut with a knife if he could, or that he would waive his right later after the operation when he has regained his consciousness.  

Boonin argues that the hypothetical or subsequent waiver of rights makes the right morally inert in non-identity situations. His discussion concerns mainly an example of a woman, Wilma, who makes a choice between giving birth to a blind child, Pebbles, and taking certain medication and later giving birth to another sighted child, Rocks. Boonin states that even if we assume that Pebbles has a right not to be born blind, it seems reasonable to assume that she would waive this right if she could or that she would waive this right after she is born, since she would prefer being blind to not existing at all. Therefore, the act of giving birth to her would still be morally permissible. Boonin claims that a similar line of argumentation would be valid in situations concerning future humans. Even if their entitlements would be violated due to the actions of present humans, they would waive their rights since they would prefer to live under bad conditions, rather than not existing at all.  

One possible objection against the rights waiver argument is that the choice to waive one’s rights under the threat of not existing is not a free and morally binding choice. Therefore, the waiver is not valid. However, Boonin responds to this objection. He admits that a waiving of one’s rights under a threat would not be a valid reason for regarding an act as morally permissible. Imagine that person A tells person B that if he does not waive his rights not to have his eyes cut out, he will kill him. Even if B waives his right not to have his eyes cut out under that condition, it is not a valid reason for regarding the act of cutting out his eyes as morally permissible. However, Boonin argues that the case of Pebbles is similar to another case in which we would conclude that the waiving of a right makes an act morally permissible. That is a case in which a villain V has injected a lethal poison into person B’s eyes. It would then be morally permissible for person A to cut out person B’s eyes in order to save his life. Such an act would be morally permissible also if B were under heavy sedation since A could reasonably assume that B would waive his right not to have his eyes cut out if he could. Let us call this example case 2 and the earlier example case 1.  

According to Boonin, the difference between the two cases mentioned above is that in the first case it is the fault of A that B has to choose between being alive or being blind, but in the second case it is not the fault of A. In case 1, B had originally the option of living and not being blind, but A took that option away from him. By removing this third option A has harmed B. However, in case 2, the villain took the option of being alive and not

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29 Boonin, *The Non-Identity Problem*, p. 120.


blind away from B. Because of the villain, B had to choose between being dead and being blind. In case 2, when B lets A cut out his eyes, this is the best option available for him regardless of what A has done. A unjustly forces B to agree to waiving his rights in case 1, but not in case 2.33

Boonin claims that the case of Pebbles is like case 2 and unlike case 1. Before Wilma’s decision about when to conceive, Pebbles did not have the option of living and not being blind. That she became blind was due to a medical condition that was not Wilma’s fault. Regardless of Wilma’s acts, the only options available for Pebbles is to be born incurably blind or not being born at all. For that reason, the case of Pebbles is like case 2 and unlike case 1. Thus, Boonin concludes that Wilma’s act of conceiving Pebbles is morally permissible since the fact that Pebbles would waive her right not to be born blind (given that she has such a rights) can be considered a valid reason for regarding her act as morally permissible.34

However, although it may be correct that the case of Pebbles is like case 2 and unlike case 1, it is much less clear with my example of future humans. One important difference between case 2 and my example is that it is not another person that has caused the bad conditions. In case 2, A is not the cause of the fact that B has lethal poison in his eyes, but in my example individuals (x₁,…,xᵢ) have caused the bad environmental conditions that individuals (a₁,…,aₙ) live under. At least in this respect, my example is more similar to case 1, since in that example A is at the same time the person who will commit the act of cutting out B’s eyes and the person who threatens to kill him. Since individuals (x₁,…,xᵢ) have chosen A, they are the direct cause of the bad environmental conditions that individuals (a₁,…,aₙ) live under, and at the same time they are the indirect cause of the fact that individuals (a₁,…,aₙ) have been born. It is, of course, true that individuals (a₁,…,aₙ) would not have existed at all if individuals (x₁,…,xᵢ) had chosen B, but the bad environmental conditions they live under are still caused by individuals (x₁,…,xᵢ).

Moreover, there are several other important differences between the case of Pebbles and my example of future humans, which makes it more questionable whether we can talk about a valid waiver in the latter case. First, in the case of Pebbles, Wilma’s choice of conceiving at a certain point of time is both the direct cause of the fact that the specific individual Pebbles is born and that Pebbles is blind. Given that Pebbles’ life is still worth living, Wilma’s decision have more positive than negative consequences for Pebbles. However, in my example of future humans, the choice of A is the direct cause of the bad environmental conditions that individuals (a₁,…,aₙ) live under, but it is only the indirect cause of the fact that they have been born. The fact that these specific individuals have been born is more directly an effect of choices their parents have made, than an effect of the choice of A. Because of that, it is problematic to claim that the choice of A has more positive than negative


consequences for them. Individuals \((a_1, \ldots, a_n)\) have no reason to be grateful to \((x_1, \ldots, x_l)\) for their existence.

Second, in the case of Pebbles, the condition of being blind is intrinsic to her existence. It is not meaningful for her to imagine a life as a sighted person since she would then be another individual. If we assume that she initially has a right to be born sighted, we seem justified in assuming that she would waive this right, rather than not to exist at all. However, in the case of individuals \((a_1, \ldots, a_n)\), the bad environmental conditions they live under are external, and therefore it is meaningful for them to imagine living a life under better environmental conditions without being different persons. For that reason, we do not seem justified in assuming that they would waive their right to a decent environment. That is because a valid waiver presupposes an explicit or implicit consent, or a justified belief that someone would give his explicit or implicit consent. We normally do not think that persons make a valid waiver of their entitlements just because they are born under conditions in which the entitlements are not fulfilled, and that they do not have the option to be born under better conditions. Let us take the example of X-land, which was a democracy before 2015. In 2015, the military performs a coup d’état and general Y becomes a dictator. Because of the changed political and economic conditions in X-land, the individuals born after 2015 would not have been born if the coup d’état had not been performed. Is general Y then justified in claiming that the individuals born after 2015 have made a valid waiver of their entitlement to vote? Such a conclusion seems contrary to common moral intuitions. If we accept the moral belief that persons make a valid waiver of their entitlements just because they are born under conditions in which the entitlements are not fulfilled and that they do not have the option to be born under better conditions, the result would be that all kinds of violations of entitlements would be morally permissible. We could no longer claim that torture is morally wrong in cases in which the individuals that are born in a country where torture is practice do not have the option of being born somewhere else.

Third, in the case of Pebbles, Wilma does not get any advantage by choosing to give birth at a certain point of time, but in my example individuals \((x_1, \ldots, x_l)\) get an economic advantage by choosing A. To see why this difference is important, let us take another well-known example of when a person is forced to waive his rights to something: a situation in which A points a gun to B and says “Your money or your life!” We can interpret this situation as a case in which B gives up his rights to his money, but it seems obvious that he has been unjustly coerced to waive this right and that the waiver is not valid. A gets an economic advantage by placing B in a situation in which his only options are between waiving his entitlements or not living at all. In my example, individuals \((x_1, \ldots, x_l)\) choose A that gives them economic advantage. Also in this example, certain individuals get an economic benefit by performing acts with the result that the entitlements of certain individuals gets unfulfilled. Thus, there is an important similarity between my example of future humans and the “Your money or your life!”-example. If individuals \((x_1, \ldots, x_l)\) makes a conscious choice of A since it benefits them economically and since they are aware of that it is a non-identity situation, they actually take advantage of the fact that the only options available for \((a_1, \ldots, a_n)\) is to exist without entitlements or to not exist at all. Of course, there is also an
important difference between the two examples because of the non-identity situation, since in the “Your money or your life!”-example person B was originally living a life with certain entitlements, while individuals (a₁, …, aₙ) do not exist in the scenario in which their entitlements would be fulfilled. However, it can be questioned whether this difference is enough for concluding that the waiver is invalid in the “Your money or your life!”-example, but valid in my example. In both examples, certain individuals get an economic advantage by performing acts with the result that the entitlements of certain individuals gets unfulfilled.

Conclusions

I argue that the simplest and most convincing solution to the non-identity problem within the framework of the Capabilities Approach is to assert that some actions violate the future entitlements of future humans and that they therefore wrong future humans. This is possible to claim regardless of whether we can conclude that these actions harm future humans. The ascription of capabilities to future humans is based on the fact that they are necessary for living a true human life. Thus, we have reasons for ascribing capabilities to future humans that are independent of the fact such an ascription solves the non-identity problem.

I also respond to some common and important objections to my solution. First, the objection that an action cannot violate the entitlements of future humans since they do not have any entitlements can be refuted since they will have entitlements in the future. Therefore, an action can be morally wrong since it would have the future consequence that the future entitlements of future humans will be violated. Second, the objection that future humans cannot be said to have future entitlements because they cannot claim can be refuted since someone can have entitlements even if he cannot claim them, because someone else can claim them for him. Third, it is also possible to refute the objection that current individuals do not have an obligation to specific future individuals to preserve the environment since these individuals would not have existed in a scenario with better environmental conditions. That is because the obligation of current individuals to preserve the environment for the sake of the future is best understood not as an obligation towards certain specific future individuals, but towards those individuals who will be born under a certain time period. Fourth, the rights waiver argument can also be refuted since there are reasons for concluding that future humans have not made a valid waiver of their entitlements to a decent environment just because they would not have been born in a scenario with better environmental conditions.

References


