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Capability ethics

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The capability approach is one of the most recent additions to the landscape of normative theories in ethics and political philosophy. Yet in its present stage of development, the capability approach is not a full-blown normative theory, in contrast to utilitarianism, deontological theories, virtue ethics, or pragmatism. As I will argue in this chapter, at present the core of the capability approach is an account of value, which together with some other (more minor) normative commitments adds up to a general normative framework that can be further developed in a range of more specific and detailed normative theories. The aim of this chapter is both to describe the capability approach, as it has been developed so far, as well as briefly exploring how a capabilitarian ethical theory could look like if we were to develop it in full.

So what is the capability approach? In its most general description, the capability approach is a flexible and multi-purpose normative framework, rather than a precise theory of well-being, freedom. At its core are two normative claims: first, that the freedom to achieve well-being is of central moral importance, and second, that freedom to achieve well-being is to be understood in terms of people's valuable capabilities, that is, their real opportunities to do and be what they have reason to value. This framework can be used for a range of evaluative exercises, including most prominent the following: (1) the assessment of individual well-being; (2) the evaluation and assessment of social arrangements, including assessments of social and distributive justice; and (3) the design of policies and proposals about social change in society, which is at the core of social ethics. In all these normative endeavors, the capability approach prioritizes (a selection of) peoples' beings and doings and their opportunities to realize those beings and doings, for example their genuine opportunities to be educated, their ability to move around or to enjoy supportive social relationships. This stands in contrast to normative frameworks which endorse other accounts of value, like mental states or which focus on instrumental values (e.g. resources).

1. What are capabilities?

Capabilities are real opportunities, whereby the opportunities do not refer to access to resources or opportunities to certain levels of satisfaction, but rather to what a person can do and to the various states of being of this person. Capabilities refer to both what we are able to do (activities), as well as the kind

of person we can be (dimensions of our being). These 'beings and doings', that is, the various states of human beings and activities that a person can undertake, are in the capability approach called '(human) *functionings*'. The term 'functionings' may misleadingly sound like a profound notion, but in essence it refers to a very simple idea that we use in common speech, namely aspects or states of the human being that we are ('beings'), and the various things we can do as human beings that we ('doings'). Examples of the former (the 'beings') are being well-nourished, being undernourished, being housed in a pleasantly warm but not excessively hot house, being educated, being illiterate, being part of a supportive social network, being part of a criminal network, and being depressed. Examples of the second group of functionings (the 'doings') are travelling, caring for a child, voting in an election, taking part in a debate, taking drugs, killing animals, eating animals, consuming lots of fuel in order to heat one's house, and donating money to charity.

Although many scholars who are working with the capabilities approach focus exclusively on capabilities that they deem valuable, conceptually the notion of 'functionings' is in itself morally neutral. Functionings can be univocally good (e.g. being in good health) or univocally bad (e.g. being raped). But the goodness or badness of various other functionings may not be so straightforward, but rather depend on the context and/or the normative theory that we endorse. For example, is the care work of a mother who is caring full-time for her child a valuable functioning or not? A conservative-communitarian normative theory will most likely mark this as a valuable functioning, whereas a feminist-liberal theory will only do so if the care work is the result of an autonomous choice made against a background of equal opportunities and fair support for those who have duties to care for dependents.

Capabilities are a person's real freedoms or opportunities to achieve functionings. Thus, while travelling is a functioning, the real opportunity to travel is the corresponding capability. A person who is not travelling may or may not be free and able to travel: the notion of 'capability' tries to capture precisely this fact of whether the person *could* travel if she would want to do this. The distinction between functionings and capabilities is between the realized and the effectively possible, in other words, between achievements, on the one hand, and freedoms or valuable opportunities from which one can choose, on the other.

The notion of 'capabilities' refers to the combination of the external conditions of acting or being, as well as the internal conditions. Take for example the capability to read. The internal conditions for that capability include having decent reading skills, as well as not suffering from debilitating conditions that prevent a person from reading (e.g. severe concentration issues or visual health problems). The external conditions for that capability are, for example, having access to a text that is written in a language one masters, as well as being in the right environment and conditions which allow one the time and space to read (e.g. not being in a situation of acute physical danger).

Martha Nussbaum acknowledges the importance of both the internal and external conditions explicitly, by working out the conceptual distinction between internal capabilities and combined capabilities. Internal capabilities are "the characteristics of a person (personality traits, intellectual and emotional capacities, states of bodily fitness and health, internalized learning, skills of perception and movement)" (Nussbaum 2011a: 21). Combined capabilities,

which in the capability literature are referred to simply as ‘capabilities’, are “not just the abilities residing inside a person but also the freedoms or opportunities created by a combination of personal abilities and the political, social and economic environment” (Ibid, p. 20). Combined capabilities, or ‘capabilities’ for short, are thus the internal capabilities in combination with the relevant external conditions.

Capabilities are often referred to as ‘freedoms’. Yet this can only consistently be done if freedoms are understood in a very particular sense, since the term ‘freedom’ is used (both in daily speech and in practical philosophy) in a range of different ways, many of which are not what is meant by those who equate capabilities with freedoms. This is one reason why Nussbaum (2003) is critical of calling capabilities freedoms, since it is a language that is often equated with the rule of law, formal rights, and similar formal or legal notions. She is especially worried that in certain contexts the reference to ‘freedoms’ will lead to an understanding of capabilities as implying mere non-interference, whereas the protection or enhancement of a person’s capabilities often requires pro-active policies. Nussbaum has on a few occasions used the term “substantial freedoms” (e.g. 2011a: 21) but generally has preferred the use of the term ‘opportunities’ when describing capabilities.

Sen, in contrast, often equates capabilities with freedoms. Yet as any overview on the concept of ‘freedom’ will quickly reveal, ‘freedom’ has many different and often conflicting meanings (see e.g. Carter, Kramer and Steiner 2007). A careful reading of Sen’s work clarifies that capabilities are freedoms conceived as real opportunities (Sen 1985a: 3–4; 1985b: 201; 2002: chapter 20). For Sen, capabilities as freedoms refer to the *presence* of valuable options or alternatives, in the sense of opportunities that do not exist only formally or legally but are also effectively available to the agent. As Alexander Kaufman (2006) has shown, some critiques of Sen’s writings on the capability approach are based on a mistaken understanding of the kind of freedom capabilities are.

Many ethical theories require a metric for interpersonal comparisons. According to the capability approach, ‘functionings’ and ‘capabilities’ are the best metric for most kinds of interpersonal evaluations. Yet the various versions of the capability approach differ in whether they have an underlying theory of reasons to value (and if so, which), and whether capabilities are strictly tied to people’s well-being. In general, there is very little explicit discussion about these issues in the capability approach, which makes situating this theory in the landscape of ethical theories tricky. In fact, one could argue that nothing can be concluded about the capability approach in general, but that rather each particular capability needs to be analysed on its own before its theoretical properties can be properly described.

In Sen’s version of the capability approach, interpersonal evaluations should be conceptualized in terms of people’s capabilities to function, that is, their effective opportunities to undertake actions and activities that they have reason to value, and be the person that they have reason to want to be. These beings and doings together are held to constitute what makes a life valuable. Whereas ‘functionings’ are the proposed conceptualization for interpersonal comparisons of (achieved) well-being, ‘capabilities’ are the conceptualization for interpersonal comparisons of the freedom to pursue well-being, which Sen calls “well-being freedom” (Sen 1992: 40). Sen’s claim is that functionings are

constitutive of a person's being, and an evaluation of well-being has to take the form of an assessment of these constituent elements (Sen 1992: 39).

Sen's account of the capability approach is deliberately vague and ambiguous – in part because he believes the notion of capabilities can be helpful for different normative goals. Two points should be noted here. First, Sen has a broad and plural approach to ethical evaluation: he holds that there is not a single value which is always more important than other values. In particular, he argues that we can make a distinction between achieved well-being (reflected in a person's functionings), well-being freedom (reflected in her capabilities), as well as achieved agency and agency freedom. Both aspects of agency are for Sen very important, and evaluating agency requires the evaluation to go beyond functionings and capabilities. As a consequence, Sen holds that a person's functionings and capabilities are not all that matters: she may have certain agency goals, which translate into particular commitments which may harm her own well-being. For example, an environmental activist or a human rights advocate may put at risk their own well-being, yet for Sen there may be good reasons why an ethical evaluation should also investigate whether people can pursue their agency goals (Sen 1985b).

The second particular feature of Sen's capability theory is the role played by 'reasons to value' in his account. In Sen's view, we need a process of public reasoning in order to find out which capabilities are valuable. Sen (2009: 31-51) believes that there cannot be a guarantee that by reasoning we will reach the truth, but that this should not prevent us from trying to be as objective as we can. While in the context of the capability approach Sen has said little on what the theory of reasons is that underlies his claim that the capability approach should focus on the capabilities which people have *reason to value*, he has indicated repeatedly that he believes this should be a process of *public* reasoning. He draws on Adam Smith's notion of the impartial spectator in order to bring in the necessary objectivity in public reasoning, since Smith's method requires us to broaden the discussion about reasons beyond the local perspectives and interests. Sen (2009: 45) does indeed "take reasoned scrutiny from different perspectives to be an essential part of the demands for ethical and political convictions". While a critic may remark that Sen's writings on the role of 'reasons to value' in his capabilities theory remain vague and perhaps even ambiguous, a defender of Sen would stress that it is a mistake to believe that one can do more than outline a procedure, as there is no final account of such reasons to be given.

Nussbaum's version of the capability approach has very different normative foundations. There is no role for public reasoning in her theory, apart from the level of implementing the capability approach in a particular context where local people need to be involved in translating the abstract capabilities into more specific capabilities that are sensitive to the local particularities. Nussbaum has been very clear and explicit for a long time that her capabilities approach is a partial theory of social justice: it is defending an account of a minimal set of capabilities which all people on earth should be entitled to purely on grounds of their humanity. Over time, Nussbaum has developed and defended a list of 'central human capabilities', entailing the following ten broad categories: life; bodily health; bodily integrity; senses, imagination and thought; emotions; practical reason; affiliation; other species; play; and control over one's environment (Nussbaum 2006: 76-78). She believes these ten categories of

capabilities would be endorsed by people across cultures and circumstances. In other words, Nussbaum claims that the ten categories of capabilities on her list of central human capabilities form the object of a Rawlsian overlapping consensus: independent of people's own comprehensive views of the good life, all will agree that as members of a common humanity, we owe each other minimal levels of these ten capabilities. This would turn Nussbaum's capabilities approach into a form of political liberalism, which she believes is the only defensible form of liberalism in political philosophy (Nussbaum 2011b). Yet as is the case with Sen too, Nussbaum's work attracts many critics, including many who oppose her way of doing philosophy, or who argue that her version of the capabilities approach is a form of liberal perfectionism (e.g. Barclay 2003).

While Sen and Nussbaum ultimately develop very different versions of the capability approach, which are based on quite different ethical foundations and are ultimately based on conflicting views of what a theory can and ought to do, they do of course also share some common theoretical ground. One important aspect which all capability theories share, is the idea that functionings are constitutive for human beings. To say that functionings are constitutive of a person's being means that one cannot be a human being without having at least a range of functionings: they make the lives of human beings both lives (in contrast to the existence of innate objects) and also human (in contrast to the lives of trees or termites). Human functionings are those beings and doings that we take to constitute a human life, and which are central in our understandings of ourselves as human beings. This implies that the range of potentially relevant functionings is very broad, and that the capability approach will in some respects be close to both subjective metrics (for example, by including the capability to be happy), or resources-based metrics (since most functionings require some resources as inputs). Yet not all beings and doings are functionings; for example, being able to fly like a bird or reaching an age of 200 like an oak tree, are not human functionings.

Thus, according to the capability approach, the ends of well-being, freedom, and development should be conceptualized in terms of people's capabilities. Moreover, what is relevant is not only which opportunities are open to me each by themselves, hence in a piecemeal way, but rather which overall real opportunities I have in life – in technical terms: which combinations or sets of potential functionings are available to me. For example, suppose I am a low-skilled poor single parent who lives in a society without decent social provisions. Take the following functionings: (1) to hold a job, which will require me to spend many hours working and commuting, but will generate the income needed to properly feed myself and my family; (2) to care for my children at home and give them all the attention, care and supervision they need. In a piecemeal analysis, both (1) and (2) are opportunities open to me, but they are not both together open to me. The point about the capability approach is precisely that we must take a comprehensive or holistic approach, and ask which sets of capabilities are open to me, that is: can I simultaneously provide for my family and properly care for and supervise my children? Or am I rather forced to make some hard, perhaps even tragic choices between two functionings which both reflect basic needs and basic moral duties?

Note that while most types of capability analysis require interpersonal comparisons, one could also use the capability approach to evaluate the well-

being or well-being freedom of one person at one point in time (e.g. evaluate her situation against a capability-yardstick), or to evaluate the changes in her well-being or well-being freedom over time. The capability approach could thus also be used by a single individual in her deliberate decision-making or evaluation processes, but these types of uses of the capability approach are much less prevalent in the philosophical literature, let alone in the social sciences.

In development ethics, or in ethical theories that propose to deal with poverty issues, the notion of 'basic capabilities' may play an important role too. The term 'basic capabilities' refers to a threshold level for the relevant capabilities. A basic capability is "the ability to satisfy certain elementary and crucially important functionings up to certain levels" (Sen 1992: 45 n. 19). Basic capabilities refer to the freedom to do some basic things considered necessary for survival and to avoid or escape poverty or other serious deprivations. The relevance of basic capabilities is "not so much in ranking living standards, but in deciding on a cut-off point for the purpose of assessing poverty and deprivation" (Sen 1987: 109). However, while this is the most widespread use in the present development of the capability approach, Martha Nussbaum (2000: 84) uses the term 'basic capabilities' to refer to "the innate equipment of individuals that is necessary for developing the more advanced capabilities", such as the capability of speech and language, which is present in a newborn but needs to be fostered. The lesson to take home for the student of the capability approach who delves into the primary texts is that not all capability scholars are using the exact same terminology. There are differences between the terms used by Amartya Sen and Martha Nussbaum, but there are also differences between the various disciplines and subdisciplines in which the capability approach is being developed.

2. The importance of human diversity

A deep acknowledgement of human diversity is one of the key theoretical characteristics of the capability approach. Its criticism of other normative approaches is often fueled by, and based on, the claim that the full human diversity among people is insufficiently acknowledged in many normative theories, such as theories of distributive justice. This also explains why the capability approach is often favorably regarded by feminist philosophers, or philosophers concerned with care and disability issues, since one of their main complaints about mainstream moral philosophy has precisely been the relative invisibility of the fate of those people whose lives did not correspond to that of an able-bodied, non-dependent, careduties-free individual who belongs to the dominant ethnic, racial and religious group. People of minority ethnicities, marginalized people, the disabled and many women do not fit that picture.

Where does this concern for human diversity manifests itself in the structure of the capability approach? The first and most obvious aspect of the capability approach that reveals its concern for human diversity is that the approach in general focuses on all functionings that are relevant and of value – and that generally tends to be a wide range of dimensions. Compared with normative theories that include a metric of value, it tends to focus on a broader range of goods, thereby often including dimensions that are particularly important for some groups, but not for others. Hence, when thinking for

example about the good life and a decent or just society, issues of care and dependency will be central to the ethical assessment, which is often not the case in mainstream ethics or normative political philosophy.

Secondly, human diversity plays a crucial role in the reason why the capability approach focused on capabilities and functionings rather than resources. The capability approach argues that our evaluations and acts should start from what has ultimate value (which it holds to be capabilities), and only in a second step of the analysis ask what means (broadly defined) are needed to secure these capabilities. This implies that the capability approach evaluates policies and other changes according to their impact on people's capabilities as well as their actual functionings. It asks whether people are able to be healthy, and whether the means or resources necessary for this capability, such as clean water, adequate sanitation, access to doctors, protection from infections and diseases, and basic knowledge on health issues, are present. It asks whether people are well-nourished, and whether the means or conditions for the realization of this capability, such as having sufficient food supplies and food entitlements, are being met. It asks whether people have access to a high-quality education system, to real political participation, and to community activities that support them, that enable them to cope with struggles in daily life, and that foster caring and warm friendships.

Apart from the fact that capability scholars (in line with most moral philosophers but not with the practice of many economists and policy makers) believe that one should start any ethical analysis from what really matters (rather than from the means to those goods), human diversity is the main reason to focus on ends (capabilities) rather than means. The reason is that people differ dramatically in their ability to convert resources into valuable functionings. That implies that, as a matter of public policy and social ethics, creating capabilities will require different actions for different groups of people. People are unique in their personal characteristics, and in how they fare in the communities and environment in which they are embedded and located. Some of these factors which create inter-individual diversity are body-related, others of which are shared with all people from her community, and still others of which are shared with people with the same social characteristics (e.g. same gender or class or race characteristics). If we want to give a child with autism maximal chances to achieve a valuable set of capabilities, then he will need a teacher with different skills and knowledge, and a different school setting (e.g. smaller class-size) when compared with a neuro-typical child. Similarly, a man wanting to work as a childminder may, given existing gender norms which discriminate against men working with infants, need more social support in order to be able to do the work he wants to do than a woman. Simply giving the child with autism access to public schooling made for neurotypical children, or the male childminder access to a gendered labour market, will not be enough in order to secure that all have the same capabilities to access. Capability scholars believe that these inter-individual differences are far-reaching and significant, and that normative theories that focus on means tend to downplay their normative relevance (such theories are perhaps particularly dominant in political ethics or normative political philosophy).

Yet one could wonder to what extent the capability approach does make a relevant difference for ethical analysis, compared to equality of opportunity

theories, or to theories that focus on resources. I will briefly look at both alternatives in turn.

First, wouldn't it be better to focus on means only, rather than making the normative analysis more complicated and more informationally demanding by also focusing on functionings and capabilities? (e.g. Pogge 2002). Capability scholars would respond that starting a normative analysis from the ends rather than means has at least two advantages, apart from the earlier mentioned fundamental reason that a focus on ends is needed to appropriately capture inter-individual differences. First, the valuation of means will retain the status of an instrumental valuation rather than take on the nature of an intrinsic valuation. For example, money or economic growth will not be valued for their own sake, but only in so far as they contribute to an expansion of people's capabilities. Second, by starting from ends, we do not a priori assume that there is only one overridingly important means to that ends (such as income), but rather explicitly ask the question which types of means are important for the fostering and nurturing of a particular capability, or set of capabilities. For some capabilities, the most important means will indeed be financial resources and economic production, but for others it may be particular political practices and institutions, such as effective guarantees and protections of freedom of thought, political participation, social or cultural practices, social structures, social institutions, public goods, social norms, and traditions and habits. As a consequence, an effective capability-enhancing policy may not exist in increasing disposable income, but rather fighting a homophobic, ethnophobic, racist or sexist social climate.

A second alternative framework, which could also claim to pay a lot of attention to human diversity, are sophisticated equality of opportunity theories. Ronald Dworkin (2002: 299-303) has argued that the capabilities approach, when disambiguated, collapses into something very similar to an equality of opportunity theory. Similarly, the differences with John Rawls principles of justice have also been analysed. More detailed analysis has shown that the differences between the specific normative principles defended by these theories are small, both when analysed in general terms as well as for particular problems such as health, disabilities education or gender issues (Brighouse and Robeyns (eds, 2010): Pierik and Robeyns 2007; Williams 2002).

Yet there are significant differences at the meta-theoretical level, since the capability approach is less committed to a number of specifications that are needed to turn a broad and arguable somewhat vague normative commitment idea into a well-defined theory: it's only firm normative commitment is to functionings and capabilities as the relevant evaluative space. Equality of opportunity theories either have certain background assumptions that turn them into ideals that hold only under idealizing circumstances, or they have a much more restricted theoretical scope, such as being limited to people in their capacity as citizens only, or only to people who have the cognitive capacities needed for practical reasoning. In addition, there are also differences in terms of the grounding of those theories, and to the basic ethical intuitions from which they start. In sum, the capability approach can properly be regarded as one version of an opportunity theory (after all, capabilities are opportunity-freedoms), but it remains a more open framework with fewer specifications, and with *in general* no commitment to restrictions on scope (yet more specific

capabilitarian theories may include such a commitment). Moreover, the capability approach stresses the important aspect of analyzing *all* relevant areas of life, hence endorsing what some would prefer to call a holistic viewpoint. This implies means that it would reject an analysis that only looks at opportunities in one sphere of life, but would rather ask how a certain act or social institution affects the quality of people's lives and their freedom to having a high quality of life in all relevant domains.

3. Specifying the capability approach

The capability approach defends a specific view of ultimate value, by conceptualizing a metric of well-being (in terms of functionings) and well-being freedom (in terms of capabilities). However, clearly this still leaves open a range of very different capability theories to emerge from these metrics. These theories will differ regarding *their purpose* (e.g. a capabilitarian theory of ethics, or a capabilitarian theory of global justice) but they will also differ regarding their *specifications*, which are needed in case we want a theory that gives precise answers to the questions what actions we ought to take.

In the capability literature, it is generally accepted that at least three specifications are needed. First, is the appropriate focus functionings, or rather capabilities? Second, how are we to select and aggregate the multiple dimensions of the capability approach? And finally, since the capability approach only defends the informational space in which interpersonal comparisons need to be conducted, what else is needed for a full capability theory of justice to be developed? In what follows each will be discussed briefly; a more elaborate discussion, including considerations that are of less relevance for ethical theory but more to the capability approach in the social sciences, can be found in Robeyns (2011).

3.1 Functionings or capabilities?

Scholars interested in the capability approach have debated whether the appropriate well-being metric should be capabilities or functionings, hence opportunities or achievements. What considerations have been argued to be relevant for this choice?

The first consideration is normative, and this is the argument Sen and Nussbaum most often offer: by focusing on capabilities rather than functionings, we do not privilege a particular account of good lives but instead aim at a range of possible ways of life from which each person can choose. Thus, it is the liberal nature of the capability approach, or an anti-paternalist consideration, that motivates a principled choice for capabilities rather than functionings. Obviously, the strength of this argument depends on how bad one takes paternalism to be. There may be good reasons to believe that some paternalism is unavoidable, or even desired (Nussbaum 2000: 51-56). Moreover, many would hold that there is most likely some paternalism in the selection of capabilities anyway.

A second normative consideration stems from the importance given to personal responsibility in contemporary political philosophy. If one believes that

one should strive for equality of capability (as some but not all capability scholars do since some would rather defend a sufficientarian capability view, which holds that threshold levels of capabilities need to be met for all people, but beyond those thresholds inequalities are morally permissible), then each person should have the same real opportunity (set of capabilities), but once that is in place, each individual should be held responsible for his or her own choices. This responsibility-sensitivity principle is widely endorsed not only in political philosophy but also in the mathematical models being developed in normative welfare economics. If one wants to endorse and implement this principle of responsibility-sensitivity, then specifications and applications of the capability approach should focus on capabilities, rather than functionings. Yet many philosophers disagree on whether we should endorse responsibility-sensitivity in developing the capability approach (e.g., Fleurbaey 2002; Vallentyne 2005; Wolff and de-Shalit 2007). Moreover, for applied ethical analysis, serious epistemological hurdles may ultimately lead us to drop the responsibility-sensitive principle for practical reasoning about the actual world.

Third, there are cases in which a capability is available to a person but only if other people do not also want to realize that capability (Basu 1987: 74). For example, two spouses may each have the capability of holding demanding jobs which are each on their own incompatible with large caring responsibilities. However, if these spouses also have infants or relatives with extensive care needs, then at best only one of them may effectively realize that capability. Since capability sets may therefore include freedoms that are conditional (because they depend on the choices of other people), it might be better to focus both on the individual's capability set and also on what people have been able to realize from their own capability sets, that is, their functionings or well-being achievements. The question of who decides or should decide this sort of spousal question highlights the importance of agency and procedural fairness, which are generally taken to be part of the capability approach in its broader use (Crocker 2008).

It should also be mentioned that the concept of functioning has particular relevance for our relations to those human beings who are not yet able to choose (infants), who will never be able to choose (severely mentally disabled individuals), or who have lost this ability through advanced dementia or serious brain damage. Whether or not these persons can decide to be well nourished and healthy, it is generally held that we (through families, governments, or other institutions) have the moral obligation to promote or protect their nutritional and healthy functioning.

3.2 Selecting and aggregating of capabilities?

Other major points of debate in the capability literature are the questions of which capabilities should be selected as relevant and who should decide (or how a decision should be made) on the aggregation of the various dimensions into an overall assessment. At the level of ideal theories of justice, some have argued that each and every capability is relevant and should count in our moral calculus (Vallentyne 2005). Others have argued that considerations of justice require that we demarcate morally relevant from morally irrelevant and morally bad

capabilities (Nussbaum 2003; Pogge 2002; Pierik and Robeyns 2007). This demarcation could be done in various ways, and most capability scholars think that different answers are appropriate in different normative exercises. In other words, the selection of relevant capabilities would be different when the question is how to arrange a society's basic structure, versus when the question is how to spend the donations Oxfam has collected, or when the normative question is how to raise one's child. Anderson (1999) argues that, for purposes of political justice, the only relevant capabilities are those needed for a person to participate as a citizen. Nussbaum endorses a well-defined list of capabilities, which, she argues, should be enshrined in every country's constitution (Nussbaum 2000, 2003, 2006). Her list contains the earlier mentioned ten central human capabilities: life; bodily health; bodily integrity; senses, imagination and thought; emotions; practical reason; affiliation; other species; play; and control over one's environment. Nussbaum (2000: 70-77; 2006: 78-81) justifies this list by arguing that each of these capabilities is needed in order for a human life to be "not so impoverished that it is not worthy of the dignity of a human being" (2000: 72). She defends these capabilities as being the moral entitlements of every human being on earth. She formulates the list at an abstract level and advocates that the translation to implementation and policies should be done at a local level, taking into account local differences. However, Nussbaum is crystal clear that her project is only the formulation of a partial theory of political justice, and hence it is not obvious at all that the same list can be used for other normative projects, nor that the justification she offers for her list can be transposed.

Sen consistently and explicitly refuses to defend "one pre-determined canonical list of capabilities, chosen by theorists without any general social discussion or public reasoning" (Sen 2005: 158). Of course, groups and theorists might construct lists for various purposes, and lists need not be "pre-determined" or "canonical," however we might understand these terms. And Sen's refusal to endorse Nussbaum's list has not prevented him from using – for various purposes – particular selections of capabilities in his empirical as well as his normative work. However, beyond stating in general terms that some democratic process and public reasoning should be involved, Sen has never explained in detail how such a selection could and should be done. Several capability scholars, including Anderson, Alkire, Robeyns, and Crocker, have sought in various ways to fill this lacuna. Anderson (1999: 316) argues that people should be entitled "to whatever capabilities are necessary to enable them to avoid or escape entanglement in oppressive social relationships" and "to the capabilities necessary for functioning as an equal citizen in a democratic state." Alkire (2002: chapter 2) proposes to select capabilities based on John Finnis's practical reasoning approach. By iteratively asking "Why do I do what I do?", one comes to the most basic reasons for acting: life, knowledge, play, aesthetic experience, sociability (friendship), practical reasonableness, and religion. Robeyns (2003) has proposed some pragmatic criteria, mainly relevant for empirical research, for the selection of capabilities for the context of inequality and well-being assessments. Crocker (2008: chapters 9–10) explores the theory and practice of deliberative democracy to bring more specificity to democratic procedures and participatory institutions in the development of an agency-sensitive capability approach.

What about weighting different capabilities to come to an aggregate evaluation? If we have a list of relevant capabilities, we would still be left wondering whether the capabilities should be aggregated and, if so, what their relative weights and the formula to aggregate them will or should be. A closely related question is how different capabilities should be traded off against one another when they cannot all be realized fully. Some have argued against trade-offs on the basis that the different capabilities are incommensurable or that each capability is an absolute entitlement that never should be overridden by another entitlement or other normative consideration. For example, Nussbaum argues that the ten capabilities on her list, being incommensurable, cannot be traded off against one another (and, hence, have no relative weights), and also that the state should provide each citizen with a minimum threshold of each capability.

One possible system of weighting or aggregating is to use a democratic or some other social choice procedure (Chakraborty 1996). The basic idea would be to encourage or prescribe that the relevant group of people decide on the weights. In some contexts, such as small-scale projects or evaluations, such capability weighting (and selection) could be done by participatory techniques. It has also been suggested that we may determine the weights of capabilities as a function of how much they contribute to overall life satisfaction or happiness (Schokkaert 2007). Yet this raises the question to what extent functionings are taken to be merely instrumental to another end, such as happiness, or indeed any other ultimate good or ideal.

Much of the existing literature refers to the issue of 'weighting', but this is only one particular form of the more general 'aggregating', since aggregation may take a different functional form than simply adding up. For example, if you have no food, your other capabilities will be worth very little. Some capabilities may thus be complementary capabilities, implying that their value to a person depends on the presence (or absence) of others. (Note the similarity with the notion of 'complementary goods' in consumer theory in economics, where it is argued that the utility of some goods is dependent on the quantity of some other goods, as in the case of pencils and erasers, or shoe polish and shoes of the same color).

3.3 Towards a more complete capability theory

The capability approach is often wrongly taken to be an egalitarian theory or a theory of social or distributive justice. This reading is mistaken, even though it is entirely understandable given the specific debates in which the main philosophers defend this approach. The capability approach specifies what should count for interpersonal evaluations and thus provides an important aspect of a theory of social or distributive justice, or a normative ethical theory, yet more is needed. This implies that the capability approach *can be* an egalitarian theory, but *can also be* a sufficientarian theory; at the highly general level at which the capability approach is pitched, all these more specific theories can be developed.

Within the capability approach, most work has been done in political philosophy, on developing the capability approach into a more detailed theory of social justice. Nussbaum's work comes closest to offering us a capability theory of justice, but her theory too doesn't amount to a full theory of social justice.

Nussbaum's theory of social justice is comprehensive, in the sense that it is not limited to an account of political justice, or to liberal democracies. Rather, her account holds for all human beings on earth, independently of whether they are living in a liberal democratic regime, or of whether they are severely disabled. The main demarcation of Nussbaum's account is that it provides only "a partial and minimal account of social justice" (Nussbaum 2006: 71) by specifying thresholds of a list of capabilities that governments in all nations should guarantee to their citizens. Nussbaum's theory focuses on thresholds, but this does not imply that reaching these thresholds is all that matters for social justice; rather, her theory is partial and simply leaves unaddressed the question what social justice requires once those thresholds are met.

Moreover, it would be a mistake to think that there can be only one capability theory of justice; on the contrary, the open nature of the capability approach allows for the development of a family of capability theories of justice. But this prompts the question: what is needed to develop a full capability theory of justice, and which of these aspects have already been developed by theorists of justice? And what is needed for a convincing and plausible capability ethical theory? Since on that last question very little work has been done so far, I will develop some first thoughts in the last section of this paper. On the question what is needed for a plausible and complete capability theory of justice to emerge, see Robeyns (2011).

4. Capabilities and rights

The notion of rights plays a central role in practical philosophy, but also in our daily lives. As Nussbaum (1977: 273) has pointed out, "the language of rights has a moral resonance that makes it hard to avoid in contemporary discourse". Hence there is a strategic reason to ask how capabilities relate to rights. But, more importantly, there is also a theoretical reason, as several capability theories express their claims in terms of people's individual entitlements. Nussbaum has most explicitly described her own version of the capabilities approach in terms of universal entitlements, and has also argued that she sees her capabilities theory as a species of the human rights theory. Yet clearly rights are a different moral category than capabilities: how are we then to understand their relation?

Capability scholars have tended to be critical of the notion of rights, yet have also seen the moral, political and rhetorical power of rights. The challenge is therefore to give rights a place in a capability ethics that makes that theory stronger. Why have capability scholars been critical of the notion of rights? One important risk in the rights discourse lies in the danger to conflate moral rights with legal rights. Capability ethics would have no problem with granting people moral rights to certain capabilities (possibly up to a certain level), as part of a more in detail specified capability theory. Yet the rights discourse runs the risk of overemphasizing the legal aspects of rights. The core ethical commitment of the capability approach is to secure certain freedoms and access to a certain level of quality of life to all (to the extent that this is feasible). Capabilities are thereby the ends, and rights are one of the possible means. But rights may not be enough to secure those ends, and other means may be needed in order to give

people genuine access to capabilities. For example, if certain groups of people suffer from stigma or a societal taboo – as is the case with some disabilities – then rights alone will not be enough for those people with those disabilities to be able to fully participate in social life and hence have access to some centrally important capabilities. Social strategies to reduce or even eliminate stigma may therefore be a much needed complement to the granting of rights in order for people to be fully able to flourish. This example also raises the question who holds the corresponding duties to secure rights, and who holds the duties to ensure those other additional measures, such as breaking down the stigma. There is a risk with a legal rights discourse that it may induce policy makers to being contented when they have strictly followed the rules that a limited interpretation of the rights imposes on them, even when additional efforts are necessary to meeting the goal that underlies the right. And the additional capabilities-enhancing measures that are needed to complement rights may not always be seen as within the legitimate scope of government intervention, and hence we need non-state actors to deliver those, such as civil society groups or religious organizations.

How should we characterize the role of rights within capability ethics? Rights clearly are important in daily discourse. However, at the theoretical level, rights are always rights to something. Clearly, capability ethics would want rights to target capabilities. This is also how some have believed that the capability approach can best be understood. For example, Harry Brighouse (2004: 80) writes, “it is more illuminating to think of capabilities as the bases of rights claims. If someone claims that there is a fundamental right to X, it is incumbent on them to justify it; and justification will proceed by showing how the right to X is required to serve some capability. If there is no capability that it serves, then it is not a fundamental right.”

But understanding rights as capability-rights still leaves several important options open. One important question is whether such a rights-supported capabilities ethic will be consequentialist or deontological. If rights are seen as mere instruments to serve the expansion of capabilities, then we will end up with a capability ethics that is consequentialist in nature. Such a theory could easily supplement rights with other instruments aimed at expanding capabilities (e.g calling upon people’s voluntary contributions), since the rights have a purely instrumental role.

However, if (some) capability rights are regarded as side-constraints that cannot be violated no matter what, then we are entering the terrain of deontological theories. This seems to be how Nussbaum (1997: 300) understands her capabilities theory: “... a list of human rights typically functions as a system of side-constraints in international deliberation and in internal policy debates. That is, we typically say to and of governments, let them pursue the social good as they conceive it, so long as they do not violate the items on the list. I think this is a very good way of thinking about the way a list of basic human rights should function in a pluralistic society, and ... I regard my list of basic capabilities this way, as a list of very urgent items that should be secured to people no matter what else we pursue.” Yet despite Nussbaum’s repeated reference of her list as a species of the human rights approach, there remain many unresolved conceptual questions to answer regarding capability rights.

Bernard Williams (1987: 100) has been one of the first moral

philosophers to point out the need for a careful conceptual and theoretical analysis of the relationship between rights and capabilities. Clearly some progress has been made (e.g. Vizard 2006; van Hees, forthcoming) but this is another area where much more work is needed if we want to develop a mature capability ethics.

5. An alternative to utilitarianism?

The capability approach explicitly aims at providing an alternative to normative views that determine right and wrong simply by judging people's respective mental states (happiness, pain, etc.). This theme was present in Sen's launching of the capability approach in his 1979 Tanner Lectures (Sen 1980), and can be seen as an important move in the development of the capability approach (Qizilbash 2008: 54). Sen (1999: 59) characterizes welfarist theories as those consequentialist theories that restrict "the judgments of states of affairs to the utilities in the respective states (paying no direct attention to such things as the fulfillment or violation of rights, duties, and so on)". He rejects such theories because, whatever their further specifications, they rely exclusively on utility and thus exclude nonutility information from our moral judgments (Sen 1999: 62).

Sen is concerned not only with the information that is included in a normative evaluation, but also with the information that is excluded. The nonutility information that is excluded by utilitarianism includes a person's additional physical needs, due to being physically disabled for example, but also social or moral principles, such as human rights or the specific principle that men and women should be paid the same wage for the same work. For a utilitarian, these features of life and these principles have no intrinsic value. Men and women, for example, should not be paid the same wage as long as women are satisfied with lower wages or total utility is maximized. But Sen believes it mistaken to think that such egalitarian and other moral principles should not be taken directly into account in our moral judgments. However, note that is a matter of philosophical dispute whether a moral defense of basic liberties can consistently and convincingly be derived from a capabilities theory; Henry Richardson (2007) has argued that the idea of capabilities cannot well capture the social, institutional and deontic aspects of basic liberties. If Richardson is right, then the capability approach may, perhaps, have a valid critique on the blind spots of utilitarianism, but not the answer of how to rectify this.

Thus the normative theories that Sen attacks include those that rely exclusively on mental states. This does not mean that Sen thinks that mental states, such as happiness, are unimportant and have no role to play, for they too are functionings that we sometimes have reason to value. Rather, it is the exclusive reliance on mental states that he rejects.

One could question whether the attack of Sen and some other capability scholars on utilitarianism is as successful as it may seem to them. One worry is that capability scholars attack the most simplified version of utilitarianism, or that they exaggerate the difference between (some versions of) utilitarianism and the capability approach. Based on a reading of J.S. Mill's work, Qizilbash (2008: 58) concludes that "the strong contrast which Sen sometimes makes between classical utilitarianism and his capability view is overdone." Are all versions of utilitarianism vulnerable to the capability critiques?

Note that a capability ethics which endorses a list of capabilities as fundamental human rights which function as side-constraints, will use the typical role that rights as side-constraints play in making an anti-utilitarian point (Nussbaum 1997: 300). Given that capabilitarian theories can, but need not, endorse capability rights as side constraints, the conclusion must be that some capabilitarian theories will be further removed from utilitarianism than others.

6. Towards an ethical theory

A claim that has recurred repeatedly throughout this chapter, is that the capability approach is clearly a normative framework, but at its current stage of development has not yet been developed into a proper ethical theory. If one were to undertake that project, what would a capabilitarian ethical theory look like? In this final section I am to give a brief sketch of what such a theory would look like. What follows will not answer all the questions we will have to face when developing a full-blown theory, but it will give us at least a better sense of the rough nature and shape of a capability ethical theory.

Most standard accounts of ethical theory, at least in so far as we are concerned with our actions and choices rather than the formation of character, generally stipulate that ethical theory consists of two parts:

- (1) the theory of value or the theory of the good, which specifies which states of affairs are intrinsically good and which are intrinsically bad.
- (2) the theory of the right that specifies which actions are right and which are wrong.

Ethical theories also (tend to) specify the relationship between 'the good' and 'the right'.

Can we apply this basic terminology to characterize the capabilities approach? Yes, we can. My proposal is to understand the capability approach as an incomplete ethical theory, consisting of the following elements three major elements.

The first major characteristic of the capabilitarian ethical theory is that it offers *an incomplete and underspecified theory of value*. However, while it is incomplete and underspecified, as was argued throughout this chapter, it does entail the following four more precise and specific claims (1A-D).

Claim 1A: *Functionings and capabilities form the 'evaluative space'*. Functionings, or capabilities, or a combination of both, have ultimate value. They are the most important aspect of our account of value, and the account of value is itself very weighty in our overall ethical judgment. This proposition points to the first underspecification of the capabilities approach: when using the approach to develop a theory that should have teeth, we need to decide whether we think only capabilities matter, or only functionings, or a combination of both – and for the latter, which combination of functionings and capabilities.

Claim 1B: *Not all functionings are positively valuable*. Some functionings have a negative value (Nussbaum 2003), e.g. the functioning of being affected by a painful, debilitating and ultimately incurable illness, or persistently being lonely.

Claim 1C: *Functionings and capabilities are morally neutral categories, and we need to distinguish between normatively relevant and normatively irrelevant*

capabilities (Nussbaum 2003, 2011a; Robeyns 2003, 2011). The capability approach, at least in the version that Sen defends' entails a normative claim, namely that we should focus on capabilities that people have reason to value; yet the not all capabilities are valuable. There are many beings and doings that have negative value (e.g. being raped), that have neither positive nor negative value (the capability to be able to choose between another type of virtually identical washing powder), or that may be valuable for some ethical purposes, but not for others (e.g. in discussions on what the global rich owe to the global poor, we would not argue that we should be concerned with undernourished children's capability to go to the cinema; yet when we think about *relative* poverty in a western-european country, one could plausibly argue that never being able to go to the cinema can be taken to be a deprivation for such a child). This implies that we have a second significant underspecification in the capability approach: we need to specify which capabilities matter. This specification may differ for different areas in life (e.g. politically relevant capabilities versus capabilities that are more comprehensively valuable), and also for different types of capability theories or analysis that are developed (a theory of welfare economics, an assessment of quality of life in one country or comparison of averages between countries, a theory of social justice, and so forth).

Claim 1D: *Functionings and/or capabilities are not necessarily the only elements of ultimate value. Other things may matter too.* Capability theories could endorse functionings and/or capabilities as their account of ultimate value, but may add other elements of ultimate value, such a procedural fairness. This implies that the capability approach is in itself incomplete as an account of value, since it may have to be supplemented with other elements of value. Sen (1993; 2002: chapter 20; 2009a: 27-28) has been a strong defender of (1D), for example when he argued that capabilities capture the opportunity aspect of freedom, but not the process aspect of freedom, which is also important and of value.

The second major characteristic of the capability theory of ethics, is that it contains a weak proposition about the right: whenever one's actions involve a notion of the good, one should use the theory of value spelled out in what has been said so far.

The third major characteristic of the capability theory is another (weak and partial) proposition about the right: there may be views of the right that do not refer to the good that are legitimate and can complement (1) and (2). However, the capability approach does not tell us what those claims about the right are. For example, consider the following claim: "Choosing for a dictatorship as the political regime to govern a country is always wrong." This claim is a claim about the right, which doesn't make reference to an account of value. A more specified capability theory could endorse this claim, without making reference to people's functionings and capabilities to justify that claim. The capabilities approach as an ethical theory is thus agnostic about other aspects of the theory of the right.

This is a first attempt at spelling out how a capability ethical theory would look like, and the way I have formulated it may contain confusions and needs to be improved. My goals here has however not been to develop and present a fully fleshed out and matured theory of capability ethics, but rather to illustrate that it is possible to give a general description of the capability approach as an

incomplete ethical theory, which can be specified and further developed into a range of theories that rely on (parts of) an ethical theory (and may or may not also entail non-ethical accounts, such as explanatory accounts). Such a project should not only be valuable for practical philosophers, but for other theorists who borrow from ethics too. For example, the eminent British welfare economist Tony Atkinson (2008) has argued that economics should be reconsidered to be a moral science. If one endorses the view that the final values that welfare economics should target are functionings and capabilities, then one can use the above sketched ethical theory to develop a capability welfare economics.

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