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The capability approach to intergenerational justice: A survey

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UFZ Discussion Papers

8/2011 - GeNECA 4

The Capability Approach to intergenerational justice – a survey

Rebecca Gutwald, Ortrud Leßmann, Torsten Masson, Felix Rauschmayer

November 2011

Gerechte Nachhaltige Entwicklung auf Grundlage des Capability-Ansatzes (Fair sustainable development based on the capability approach):

GeNECA

'Sustainable development is a development that meets the needs of the present without compromising the ability of future generations to meet their own needs.' (WCED 1987)

Aims and objectives of the research project GeNECA

Sustainability policy has to consider the interdependencies of human life and nature; it has to meet the high moral standards of intra- and intergenerational justice set by the Brundtland Commission in 1987; and, finally, it has to motivate people to behave accordingly. This is quite a challenging task that often is responded to in a too simplistic way. Current sustainability science and civic engagement often focus on the environmental dimensions and herewith on intergenerational justice.

The Capability Approach is a leading paradigm in development economics that has informed development policy during the last 20 years. With its focus on human development it has highlighted the interaction between social and economic development. The issue of intragenerational justice constitutes an ongoing motive within the Capability Approach, but intergenerational justice and environmental concerns have often been left out of its scope.

The project GeNECA aims at conceptualizing sustainable development on the basis of the Capability Approach so as to combine the issues of inter- and intragenerational justice drawing on an integrated understanding of social, economic and environmental development. Resuming the spirit of the Brundtland commission, GeNECA puts the needs and capabilities of people all over the world, now and in future into its focus.

On the basis of conceptual reflections, current sustainability indicators will be complemented by capability-based indicators. The concept will further be used in case studies on various areas of governance to prove its usefulness in decision processes. A feedback mechanism will be installed to amend the conception to the demands of applicability.

GeNECA is a 3 years research project (04/2010-03/2013) funded by the German ministry for science and research as part of the funding programme "Economics for Sustainability". (FKZ 01UN1015A, www.wi-n.org)

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The Capability Approach to intergenerational justice – a survey

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Abstract:

The politically influential idea of sustainable development is closely tied to the concept of inter- and intragenerational justice without clarifying these concepts and their relationship. In developing an account of human development, the capability approach conceptualizes parts of intragenerational justice, but not intergenerational justice. After explaining briefly our motivation by establishing the link to sustainable development, this paper aims to close the gap in two steps: first, it clarifies elements of a universal theory of justice. Second, it examines how well the CA can take up these elements before drafting how this would translate back to the political context of sustainable development.

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1. Introduction

Motivated by the ongoing discussion on sustainable development, we aim to bring together two things in this paper: Sen's and Nussbaum's *capability approach* and a theoretical account of *intergenerational justice* – two discussions which have often run separately. The goal of this paper is largely explicative: it characterizes the potential of the capability approach (henceforth “CA”) in answering questions of intergenerational justice. It has three parts: First we enter the issue of intergenerational justice by explaining our motivations briefly: we want to shed some more light on the important, but notoriously difficult notion of *sustainable development*. In the second part we characterize the main elements of a theory of justice, which yields a structure along which we develop our account of intergenerational justice. In this discussion we identify specific philosophical issues of the intergenerational context.

The third part introduces the CA into this discussion. We claim that the CA makes a theory of intergenerational justice more plausible in three important ways. First, the CA determines the metric for a theory of intergenerational justice. Second, specific problems of the intergenerational context can be tackled by building a basic threshold of human well-being based on the CA. Third, we make a connection to sustainable development, since the CA provides insights about the problem of human development. On the negative side, however, it has to be admitted that the CA still exhibits considerable gaps. We will thus conclude by pointing out the most pressing questions that need to be addressed in further discussion.

2. Sustainability: our main motivation

The conceptual core of sustainable development (henceforth “SD”), a concept widely referred to in politics, society and science, is hard to grasp from a merely philosophical perspective¹. Under the heading of SD a number of (partly) inter-related issues such as environmental exploitation, demographic changes, economic destabilization by financial crisis or poverty are subsumed. Hence, SD rather constitutes a global, political agenda than a theoretical conception.

In the face of existing conceptual ambiguities some authors even go as far as to dismiss the concept of sustainability altogether (e.g. Redclif 2005) or to turn from substantial to more procedural oriented definitions (Enquete-Kommission 1998). Yet, we believe that the ideas and ambitions behind sustainability are far too important to dispense with the notion. Our main motivation in this paper is to frame and partly refocus the normative dimension of SD

¹ In this paper, we use the terms “sustainability” and “sustainable development” interchangeably.

by developing a CA-based notion of intergenerational justice. The reason behind this is as follows: The scientific sustainability discourse has put much emphasis on the *strategic* issues of SD (e.g. substitution of natural capital, technological efficiency gains, sufficient lifestyles, Neumeyer 2010), but tends to neglect the substantial aim of sustained *human well-being*. On the other hand, the sustainability definition brought up by the World Commission on Environment and Development (Brundtland Commission) requests both inter- as well as intragenerational justice, but underestimates the role of ecosystems to sustain human well-being. With this paper, we therefore want to relate the philosophical debate about justice to political aims. Also, we sketch how the discourse on human development and substantial well-being could contribute to fill out the notion of intergenerational justice differently from the current sustainability discussions.

One obvious starting point is the numerously cited Brundtland definition that takes sustainability to be “[...] development that meets the needs of the present without compromising the ability of future generations to meet their own needs.” (WCED 1987) The ethical foundations underlying this definition as well as its practical implications remain unclear. It will therefore be only of limited use in the present discussion, unless it can be linked to a more substantial value theory. We aim to provide this by using the CA.

A major problem is that Brundtland mixes up aspects of inter- and intragenerational justice without clarification of their conceptual (or normative) status for SD. Hence, it opens the floodgates for a “catch all”-interpretation of sustainability. Both inter- and intragenerational justice pose some complicated philosophical problems; it is therefore hard to imagine how to construct a unitary philosophical theory that encompasses all the issues it is designed to address.

In this paper, we can also, of course, only address part of these difficulties. One of our concerns is a proper definition of the objective of SD. In a similar vein as Brundtland, we believe that SD is tied up with intergenerational justice and the protection of human well-being. In what follows we clear up how we define these concepts and their relationship.

3. Intra- and Intergenerational Justice

The topic of justice is quite complex *in general* and questions of *intergenerational* justice belong to the most difficult of the subject. Before we delve into the specifics of intergenerational justice, it is therefore necessary to take a step back and examine the basic structure of a theory of justice. This helps us to categorize questions of intergenerational justice and clarify how they diverge from issues of justice between contemporaries. We will

identify four major issues that a comprehensive theory of justice needs to address in one way or other.

a. Elements of a theory of justice

Many modern philosophical theories of social justice are motivated by *questions of fair distribution of advantages among contemporaries*: how are benefits and burdens to be allocated fairly within a certain group or society given that benefits and valuable resources are scarce? How does a national (or supranational) state need to be structured that it enables people to live a good life – or at least a decent one (Lamont and Favor 2008). This way of framing issues of justice has been considerably influenced by John Rawls' (1971) theory of “justice as fairness”, which frames justice mainly as a matter of distribution of goods and constructing the respective institutional arrangements. Rawls' theory presents a paradigm of how such theories are structured. Based on his theory we identify four realms of a theory of social justice:

- (i) *Metric of Justice*: A first important question any theorist of justice needs to ask, how to measure individual advantage, i.e. the “currency of justice” (Robeyns 2009). That is, a theory of justice needs to specify an evaluative space in which we should evaluate justice. Often this is couched in terms of personal advantage or well-being as the object that justice is to preserve or promote. The most common metrics suggested are *resources* or *preference fulfillment*. More refined accounts can be found in Rawls' account of primary goods or in theories of basic rights such as the human rights approach.
- (ii) *Principles of justice*: This comprises what Edward Page (2007) calls the “pattern of justice”: the selection of an appropriate distributive aim, such as equality, priority or sufficiency, is fundamentally involved in the formulation of principles that regulate how much of a given “currency of justice” the subjects of justice are entitled to receive. Most theories offer an account how governmental institutions should be structured in order to comply with the demands of a just distribution. Rawls, for instance, constructs two principles of justice in order to regulate the allocation of primary goods.
- (iii) *Justification*: The standards and principles just mentioned are usually based on philosophical arguments or models of society that serve as a theoretical foundation. Rawls, for instance, employs his now famous model of the original position, in which people (or rather representatives of people) decide over

principles of justice behind a “veil of ignorance”. This device is used to grant objectivity and impartiality in the choice of principles.

- (iv) *Scope of a theory of justice*: Most theorists take their respective theory of justice as universal in a more or less strict sense. In the former interpretation, it demands that principles of justice are valid for *all human beings* regardless of their place in the world or in history. In a more confined way, justice is limited to some unit, e.g. a certain society or group of people. Traces of both notions can be found in the work of Rawls over the years.

The four elements just identified are usually defined with regard to justice among contemporaries. In some cases, it seems quite difficult to apply them to the intergenerational context, i.e. to people who do not exist today. Yet, analyzing the Brundtland definition along these lines shows the following: (i) it suggests *needs* as a metric of justice. (ii) it does not announce explicit principles of justice, but rather gives *recommendations* for governmental actors on how to move towards more inter- and intragenerational justice. (iii) it relies on *moral intuition* for justification. And, (iv), it views *all human beings* as the scope for sustainable development as shown in numerous UN declarations and international agreements.

b. Extending intragenerational theories

Intergenerational questions are special – or so it seems. The core concern of intergenerational justice is, *why present generations owe something to future generations, what they owe to them and how much of it?* (Ott and Döring 2004) Answering these issues involves not only guesswork about how people will live. We must also acknowledge that our actions may influence the situation of these people, even their very existence. Yet, it is questionable whether an answer to this question requires *sui generis* principles or whether intergenerational justice is “just” an extension of intragenerational justice. We see two reasons why we should start from an intragenerational point of view. First, as Brian Barry (1997) states, we are more accustomed to think about relations among contemporaries and have already developed an apparatus to deal with them. We have no similar apparatus to help us deal with relations to future people. Second, we think that demands of intergenerational justice should not differ significantly from intragenerational ones, if a theory of justice is taken to be *truly* universal. The core idea of giving *all* people the chance to live a good life is ethically fundamental and universal. Hence, a theory of *intergenerational* justice can be categorized along the requirements identified above:

- (i) *Metric of Justice*: an account of intergenerational justice needs a plausible metric of human advantage that needs to be protected for present *and* future generations. One problem here is whether future individuals can be the bearer of *claims* and *rights* vis-à-vis present generations, especially when we consider that our very actions influence their very existence. This problem of non-identity will be discussed below.
- (ii) *Principles of justice*: it needs principles and patterns that tell us how the advantages selected in (i) are allocated fairly within and across generations. This includes determining to how much of them each generation is entitled. One quite contentious point for the intergenerational context is the structure of the principles of fair allocation, e.g. egalitarian, sufficientarian etc., because of varying population size.
- (iii) *Justification*: At its starting point, an account of intergenerational justice needs to explain why one generation owes something to another generation at all and, more specifically with regard to SD, why we owe something to future generations.
- (iv) *Scope of a theory of justice*: As it has been mentioned, it needs to aim at a *truly* universal theory of justice.² It is not by the membership to a specific generation that an individual can be granted special moral value.

The structure just identified shows the need for introducing *substantial* philosophical theory of intergenerational justice. The demand for universality justifies that future generations should *somehow* factor in a theory of justice. But it does not help us to determine the most critical issues, e.g. what we owe to future individuals and why. Answering those questions requires a substantial theory. Before we examine to which extent the CA meets these conditions, we lay out the most special features of intergenerational justice, which will then be picked up again with regard to the CA.

c. Critical Problems for a theory of intergenerational justice

In the following part we first discuss the most pressing issues for intergenerational justice that we aim to tackle with the help of the CA.³

² In this context “universal” refers to human beings. We will sketch below why we prefer an anthropocentric approach nevertheless. In the realm of SD this position is often criticized as “anthropocentric”, but a more detailed discussion is beyond the scope of this paper.

³ We find several works in philosophical literature which are devoted to specific intergenerational questions. Axel Gosseries’ work in the field provides an extensive treatment of the subject, cf. e.g. “Introduction - Intergenerational Justice and Its Challenges” in Gosseries and Meyer (2009). Tim Mulgan also provides a good overview in his development of a moderate consequentialist account (cf. Mulgan (2008)). We cannot go into all of these complex questions here, mainly for reasons of space. In what follows we concentrate on questions that are relevant in our project of introducing the CA into the discussion.

i) The Non-Identity-Problem

Let us start with the so-called non-identity problem, first described by Derek Parfit (1984), that permeates the discussion of intergenerational justice. Future people do not exist today. Even more, decisions we make today influence the very existence of future people. Suppose we have two policies A and B.⁴ A implicates the depletion of resources for future people, while B saves resources for future individuals. We would like to say that A is harmful for future generations. The problem is that the choice of A affects the very existence (and number) of *specific* future individuals. Without the choice of A, some individuals would not have been born at all. If the life of those individuals is not totally miserable, it is therefore hard to claim those specific individuals have been harmed – unless one wants to put forth the rather implausible contention that existence can be a form of harm. Therefore, it may be difficult to argue for the choice of B solely on the basis that it enhances someone's welfare who otherwise may not exist.

The puzzle of non-identity has dominated the philosophical discussion of intergenerational justice during the past few decades. It is crucial to find one's way around non-identity in order to be able to make consistent claims about future people's well-being or needs fulfillment. In his survey on "Intergenerational Justice" Lucas Meyer (Meyer and Roser 2009) distinguishes between four main responses to circumvent the problem: first, future people cannot be the bearer of rights vis-à-vis the present generation. Second, rights of future generations can be violated even though those people cannot be harmed. Third, one may limit the practical focus of the non-identity problem by singling out those actions that are necessary conditions of the existence of the concerned person. One may thus say at least something about other, general conditions of life. Fourth, a theorist may interpret the notion of harm in a different, non-comparative way. The goal of the latter is to claim that no matter, who X is, she is harmed if she is in circumstance Y. Harm and benefit are thus defined from an impersonal and objective point of view, which gives us a way around the identity-problem.

Our commitment to a strict form of universality, which we have embraced above, rules out the first strategy as an option. The second strategy precludes speaking of welfare-rights insofar as violating a person's welfare means *harming* her. It makes it difficult to keep the notion of human well-being in play which we find central. The third strategy is actually not a proper solution to the non-identity problem, since it only limits the questions that pertain to the issues of intergenerational justice. However, we want to be able to deal with justice in a full sense. Hence, we opt for strategy number four which we will flesh out below by using the CA.

⁴ This description of the non-identity-problem relies on Meyer (2010).

ii) Insecurities and lack of knowledge

Suggesting political principles for the future involves a considerable amount of guess-work and uncertainties: for instance, we cannot possibly know what kind of technologies people in the future will have access to. We can also only extrapolate how society and natural systems sustaining societies will change, and this extrapolation clearly has limits due to ambiguity, threshold effects, non-linearities and the like (Leach et al. 2010). It is not clear whether people in the future will have a similar notion of the good life as we have now; maybe their standards of the good have changed dramatically, depending on the social and environmental changes that have ensued meanwhile⁵. Furthermore, we cannot even fully predict how many people there will be – thus it is difficult to allocate a certain amount of resources.

These factors considerably influence what kind of resources or benefits future people need. Still, we follow a universal presumption: people do not change dramatically in their basic constitution: they still have biological needs, a want for sociality, they still lead a certain kind of life due to their choices and the circumstances surrounding them. Thus, we can make presumptions with regard to the basic human make-up.

iii) Lack of overlap and cooperation

The intergenerational realm poses a special problem for those theories that rely on the idea of mutual cooperation, most notably the accounts of a social contract. It is hard to explain how parties who do not exist in the situation where the contract is generated can be able to participate in this project. There is thus no mutual enforceability between generations that do not overlap.⁶ An additional complicating factor lies in the uncertainty about the number of generations to consider: If it is assumed that the pool of non-renewable resources is divided up among all human beings, one must know how many of them there will be in total, in order to divide up this pool fairly. Finally, the intergenerational realm is characterized by power-asymmetries of different kinds: while we can assume that people in the future will know more about the world than we do (although this is also not certain), we also have considerable influence on them by our actions about e.g. resources, procreation etc.

All this makes it difficult to argue for any obligation towards future people based on some form of cooperation. In our view, these problems give us a good enough reason to search for a

⁵ This certainly was a reason why the Brundtland Commission referred to rather essential needs such as food, clothing, shelter, jobs, even though the universality of particularly the latter can be disputed as pertaining to specific socio-economic forms.

⁶ Actually, we find some minor forms of asymmetries also within generations, e.g. between children and adult or older, deprived people and young, active ones.

theory that does not fundamentally hinge on cooperation. The CA, which places its emphasis on protecting people's well-being appears to be a better candidate in our view.

iv) The relationship between generations

Another problem in the present discussion is the question of defining the scope of intergenerational justice in more detail. If we focus on the obligations of present people towards future generations, we have to ask how far these reach. Should present people only care for their successors, i.e. the following generations? Or does every generation have to see to it that there is enough for every generation in the future? The latter does not only raise problems, because it is hard to tell how many generations there will be in the future, and what things these might consider essential for their well-being. Also, it may put excessive demands on present generations, so that their standard of living would be severely constrained.

But even if we opt for the more moderate option, a related issue crops up about the relationship between generations. Regard for future generations will often imply restrictions for the present generations. This is reflected in the common call for using the planet's resources in a responsible way instead of depleting them. If, as it is with most of them, resources are scarce, then the demand for preservation puts restrictions on how people live in the present. Since we advocate the universality of justice, we deem restrictions of this kind justifiable in principle.

v) The motivational problem

Why should we, as the people existing now, care about the interests and lives of people who are not even born and act accordingly? There is a gap between knowing about the problems that might occur for future generations and doing something about it oneself now (Birnbacher 2009). This issue is quite different from the problems of allocation that we have discussed so far. It is less concerned with institutions like the state, but rather with every citizen who can influence future events. Though it is mainly a psychological problem, theories of justice also provide answers depending on the underlying view of personhood. A contractarian, for instance, may argue for the force of contracts and ideas of mutual advantage thus appealing to rationality and sensibility as the motivating factors for action. But it is also possible to rely on indirect motivations by setting incentives for certain types of behavior or by self-binding if the appeal to rational arguments is not deemed to be sufficient. From a political viewpoint, which forms a big part of the discussion about SD, this is a quite central issue: if the interests of future generations should be respected, authorities must find a way, how to obligate and motivate people in the present.

Often the motivation and obligation of parents to care for the well-being of their children is used as an analogy in political as well as in scientific documents on sustainability (for the latter see Howarth 2007). This basis clearly is insufficient for a universal theory of justice, as documented empirically by the gap between pro-environment attitudes and behavior for example.

4. The CA as a framework for intergenerational justice

In recent years, Amartya Sen and Martha Nussbaum have both published books about justice and the role of capabilities in this matter (Sen 2010a). Small passages in these works also pertain to the question of intergenerational justice and sustainability. Yet, there is no capability theory of justice that covers all the issues we have identified in the first two parts of this essay. Nussbaum's (2006) account of capabilities as basic political entitlements is more complete in this respect, but she also admits that it only encompasses a partial theory of justice.

We believe that the CA has considerable potential for solving issues of intergenerational justice, but that enrichments are in order for employing it in this context. We are further aware that Sen's and Nussbaum's accounts of the CA differ in important respects (Leßmann 2007). There is no room to go into all of these points in this paper, so that we only address the differences when they become relevant. Before we analyze the CA's potential in more detail, it is necessary to lay out the fundamental concepts of the CA as we take it for our purposes.

a. The CA: basic features

The CA is not a theory of justice in the sense specified above. It neither provides us with a (full) list of principles of justice in the sense of (ii) nor with a model of justification in the sense of (iii). Yet, as we have pointed out in the first part of this essay, some normative principles that regulate the distribution of "the currency of justice" seem to be required. Otherwise there is little guidance on what to save and how much of it. Given Sen's reservation against the formulation of principles⁷, what can we learn from employing capabilities in the context of intergenerational justice?

As Sen (1993) pointed out in *The Quality of Life* "the capability approach is concerned with showing the cogency of a particular *space* for evaluation of individual opportunities and successes". In his *The Idea of Justice* he puts it thus: "Capability is, in fact, no more than a perspective in terms of which the advantages and disadvantages of a person can be reasonably

⁷ Nussbaum is less reluctant in this regard.

assessed” (Sen 2010a). This perspective can be employed for several purposes, e.g. in social sciences or economics. In this paper, we sketch the CA’s perspective on intergenerational justice. As a starting we will, however, take Sen’s idea of capabilities, since it provides the most refined and developed understanding of capabilities so far.

Sen argued that the traditional approaches to measure human well-being are not able to come to grip with certain human inequalities. For instance, an able bodied man and a person in a wheelchair may well have the same amount of resources at their command, but the latter is not able to make use of them in the same manner, since he needs more resources in order to counterbalance his handicap. Thus, people who possess the same amount of resources may yet not have the same quality of life due to their differences in converting resources into doings and beings (*functionings*).

Sen advocates that the concern of evaluations and policies should focus on both: on what people actually do and are, i.e. their *functionings*, but also on what people *can* do and be, i.e. their *capabilities*. According to Sen, functionings are human beings and doings that people value and have reason to value. This includes elementary beings and doings such as being adequately nourished, complex ones such as being able to participate in political activities, but also things we consider as “trivial” from an ethical point of view such as being able to drum a solo (Sen 1999). Capabilities, or rather a person’s capability set, are defined derivatively from functionings (Sen 1993): it comprises the many different combinations or bundles of functionings that a person can achieve. Thus, it comprises the meaningful opportunities that a person could achieve in his life.

We like to draw attention to three key features of the CA that we employ for the intergenerational realm. First, the CA lays considerable emphasis on the importance of human freedom and agency. What matters from the CA’s normative perspective is that a person commands her effective opportunities to undertake the actions she wants to and thus lives the kinds of lives she desires.

Second, the importance of *resources* and *commodities* is not neglected. To function in a certain way typically presupposes the availability of particular commodities. However, the CA demands that we must also regard a person’s ability to *convert* resources into functionings. For instance, take the functioning to move for longer distances: it presupposes the availability of a bike, car or public transport as well as the money for it. Conversion factors do not only include a person’s abilities and skills, i.e. the *personal* conversion factors. They also comprise *social* conversion factors given by social norms and institutions that

shape the availability of options as well as *environmental* conversion factors such as climate and geography (Robeyns 2005a).

Third, the CA is not confined to either developing or affluent countries, but views functionings and capabilities as suitable for measuring people's well-being globally. It is thus a universalist theory (Nussbaum and Sen 1989), but insists at the same time on the importance of the actual context for interpreting and realizing capabilities in a particular society (Nussbaum 2001). The CA's emphasis on human freedom secures respect for different forms of life. The CA does not impose a "general comprehensive view" of the good on people, which Rawls (2005) defines as including "conceptions of what is of value in human life, and ideals of personal character, as well as ideal of friendship and associational relationships, and much else that is to inform our conduct". The CA, as we take it, is at least partially comprehensive in Rawls' sense, by containing a general provision that freedom of choice is essential for a good life. Being free to lead a life one values and has reason to value is the core of this universal view of a good life.

With regard to SD it has to be further inquired in what way the CA is universal. Does it also extend to animals and nature in general? Even though Nussbaum's (2006, 2011) recent work suggests as much, we believe it to be adequate to confine ourselves to an anthropocentric stance for two reasons. First, the idea of capabilities, as Sen defines them, bears a close connection to *human* agency. It is quite open issue whether they can be ascribed in a similar manner to animals and other beings. Second, human well-being conceived of in terms of the CA is as such closely related to the non-human environment. The latter provides the preconditions and relationships, which are necessary for human well-being. Hence, the universal scope which we assign to the CA concerns mainly human beings.

These three features comprise the underlying considerations for employing the CA in the context of intergenerational justice.

b. The CA: a measuring rod for well-being and justice

We think that there is one weighty reason for considering capabilities in the context of intergenerational justice: the CA offers a very convincing account for the so-called "currency of justice" as formulated in (i) above. As Ingrid Robeyns (2009) explicates, functionings and capabilities encompass the *metric* for making interpersonal comparisons of well-being. In this way, the CA offers a way of viewing a person's *well-being*.

Robeyns demands that a full capability theory of justice would need to show why it serves as a *better* metric than other proposals of metrics found in the literature, e.g. resources or preference satisfaction. Capability theorists have employed several lines of arguments to

argue for capabilities as the superior measure, especially with the aim of establishing it as an alternative to Rawls' primary goods. We deem it wise to confine ourselves to a more moderate goal. Our goal is to point out in which ways the CA is a very *attractive* approach to the metrics of justice that should get more attention in the discussion of sustainability.

In our view the metric of the CA offers a convincing formulation of *human well-being* as the *goal* of justice and sustainable development: one that does not stop short after distributing resources without acknowledging human diversity in the way just specified (such as Rawls' or Dworkin's accounts). Unlike such resource-based accounts of justice the CA does not assume a fixed relationship between resources and well-being, but rather allows for individual differences in the amounts and nature of resources needed to achieve well-being. This is most obvious in the case of severely disabled persons, but holds for more prevalent differences such as climatic conditions, work environment or bodily characteristics (Sen 1980).

Yet, the CA does not support blunt interference or paternalism for two reasons.⁸ First, though it holds that theories of justice should *factor in* information about well-being (Sen 1985), this is not to say that well-being is the only concern of justice. Second, the CA respects and protects people's freedom to form their own view on what constitutes a good life by emphasizing the importance of having a set of feasible options – the capability set (Sen 2010a, Nussbaum 2001). An essential feature of well-being is the ability to choose from a menu of worthwhile options. This should preclude any commitment to a certain ideal life form. In political practice this will e.g. amount to protecting the opportunities that people can live well. It has to be admitted that there may be some critical areas, in which the question of imposition and paternalism crops up again (e.g. when it comes to Nussbaum's basic or rather innate capabilities). But the CA generally is very sensitive about protecting pluralism given its commitment to well-being and it is a liberal theory of justice in viewing persons as responsible agents rather than patients (Sen 2010a).

Plus, the CA neither goes to such length as utilitarianism, which evaluates well-being exclusively by the resulting happiness or utility. As it has been shown, the CA is also not consequentialist like utilitarianism in that it takes information beyond consequences into account. Though the actual life situation is crucial for looking at well-being, it also matters how this life situation has come about.

The CA's concept of well-being is then characterized by two features: (a) the *plurality of dimensions* and (b) the importance of *human agency*. As regards (a), we see the recognition of

⁸ For instance, Martha Nussbaum discusses whether the CA may be called in paternalist in the promoting well-being of people regardless of their own views on this matter (cf. Nussbaum (2001)).

irreducible plurality of dimensions as a strength of the CA. Justice should deal with many aspects of human life, e.g. material justice, political participation, education etc., which cannot be reduced to one of them. The CA thus incorporates all dimensions which belong to a valuable life. The specification and weighting of these dimensions is to be based on public reasoning (Sen 2010a, Nussbaum 2001). It is useful to differentiate between two claims: first, the general, universal claim that functionings and capabilities should be the basis for measuring human well-being, and second, the concrete definition of functionings and capabilities within the context of a society. Sen and Nussbaum stress that the form and content of capabilities is thoroughly shaped by the societal context – after all, society determines the distribution of resources as well as a great variety of conversion factors. This is, in our view, not an obstacle to taking capabilities as the goal of future ethics: For future individuals we may also well assume a certain form of plurality that permeates human life. Future generations will live a life that is different from ours, but their lives will be similar to ours in being pluralist and their societies will be multi-faceted. As a consequence of its pluralist conception, however, the CA does not arrive at clear-cut recommendations how to design the distribution of capabilities or the distribution of resources and conversion factors for that matter. Much of this has to be left to the decision of the individuals involved. Yet, the CA has some cutting power e.g. when pointing to the freedom of today's people (Sen 2010a). With respect to (b), *human agency* has at least two roles in the CA: First the one hinted at above of selecting and weighting dimensions. This is thought to be a task for public discussion and deliberation, ideally leading to an overlapping consensus. Secondly, persons are always seen as agents who choose their way of life from among several possible ways of life open to them – their capabilities. Hence, enhancing human capabilities now and in future means to protect a wide range of valuable functionings for people to choose from. This includes provision of the necessary material *resources*, e.g. money, material goods, but also promoting the preconditions for *converting* them into *functionings*.

As an upshot of the two features of human well-being, the CA retains a pluralistic view on human freedom. This seems particularly appropriate for future people, since there necessarily is much ignorance and uncertainty on their specific ways of life as well as the technological, societal, and natural context they will find themselves in. This problem has already been discussed above. However, we can still safely assume that people will want to live a good life according to their own light and thus need the respective prerequisites. The CA is thus able to deal with the uncertainties and lack of knowledge that we have explicated above while maintaining some core normative demands by directing the objective of intergenerational

justice to the freedom to lead a life one values rather than asking for a certain amount of resources to be preserved (some of which future people may not even need or want).

Though the CA mainly introduces (i) a metric of justice and does not offer (ii) principles of justice – partly in consequence of the metric it offers – it provides some ideas on the issue of (iii) justification and (iv) the scope of justice, such as Nussbaum’s (2006) reliance on “cultivating humanity”. Also, Sen’s Smithian “impartial spectator might be employed to formulate more concrete principles of justice (even though Sen refrains from doing so).

In any case, instead of putting the nub of a theory of justice in *reciprocity*, the CA’s main emphasis lies on creating a normative picture of man, which gives the basis to measure well-being and draw policy implications. It is not necessary that the people affected need to work out an agreement or negotiate as it is done e.g. in many contractualist theories. Still, it might be objected, that the specification of capabilities by a participatory process is similar to contractualist agreements (Sen 2010b). Given the problem about reciprocity in contractualism, we may very well ask whether the CA will run into similar difficulties when specifying the relevant capabilities, and herewith the relevant resources and conversion factors. Finally, as has been mentioned, the CA embraces *universality* in a full sense. The CA was explicitly designed to assess the well-being of people within all nations or societies (even though, as Sen stresses, societal context is important in defining particular capabilities). As a matter of consequence, the CA has the potential to be extended to other generations of people (Anand and Sen 2000). It does not seem to make much difference in principle at what time these people live – they are still human beings. Also we aim at employing the CA in a general way as a basis of intergenerational justice. Capabilities provide the general evaluative perspective from which we judge human well-being and justice – the concrete definition of capabilities is still left in the hand of the people affected.

Hence, the CA offers a *plausible metric for intergenerational justice*. But as we have seen, the way to providing a complete account of justice is still long. Especially with regard to future generations the question of non-identity remains a serious issue.

c. A threshold of well-being based on the CA

In our previous discussion of the non-identity-problem we have claimed that the idea of a threshold of well-being constitutes a viable solution for the non-identity-problem. In his discussion of a sufficientarian approach to intergenerational justice, Meyer elaborates that the notion of harm is usually taken in a comparative sense: it is defined as relative to a specific person who can compare her well-being at time t_1 with her well-being at t_2 . If she has less well-being at t_2 , we can say that she is worse off and thus harmed. Hence, the non-identity

problem ensues, since there is no earlier time t_1 to which to compare a person's well-being. Another possible understanding of harm defines it as absolute, i.e. valid for all people regardless of their special identity. Often, this absolute limit is formulated as a *basic threshold of well-being*⁹. If a person is in a sub-threshold-state, we can say that she is ipso facto harmed, even if she was brought into existence by the action related to that state.

Employing the notion of a threshold thus avoids the non-identity-problem for those cases in which persons can be said to fall under the basic threshold, since we do not have to compare the situation of a person that exists due to a certain action with a state in which she does not exist.¹⁰ We believe that the CA is a good basis to define a suitable threshold. Nussbaum (2006) explicitly does so by devising a list of basic capabilities, which she calls "central human capabilities" that should be guaranteed constitutionally. In a similar manner Elizabeth Anderson (1999) develops a CA based account of justice by introducing a sufficientarian standard of what she takes to be the basic capabilities of citizens in a democracy.

Even though Sen's and Nussbaum's accounts of capabilities differ in some crucial conceptual aspects, the idea of a threshold is also applicable to Sen's account of capability. Sen (1995) also employs it implicitly in his account of poverty by talking about "basic capabilities": "The term 'basic capabilities', which I had used in 'Equality of What?' (Sen 1980), was intended to separate out the ability to satisfy certain elementary and crucially important functionings up to certain levels." He also agrees with Nussbaum about the importance of thresholds (Sen 2010b).

Creating a sufficientarian theory of justice based on the CA means singling out a minimum of capabilities that no person should fall short of. This also addresses the problem of uncertainty mentioned above. Since there are many aspects of future living conditions that we cannot foresee, it seems sensible to confine ourselves to essential normative demands. Even though the idea of a threshold has its appeal, it entails several theoretical problems, for instance, that it does not entail a rule for distributing capabilities beyond the threshold. Also, the plausibility

⁹ As mentioned, the Brundtland focus on essential needs can be understood as a form of a basic threshold.

¹⁰ This is not to say that a sufficientarian account is the only possible way to counter the non-identity problem in a CA based theory. Another route that suggests itself is to tie intergenerational obligations to institutions instead of focusing on individual good. In this way, one may refer to "collective capabilities" or "group capabilities" (cf. e.g. Wolff and De-Shalit (2007) or Robeyns (2005b)). We believe this to be a very promising route to counter the non-identity-problem, since it shifts away the focus from individual well-being and thus from particular identity. There is also the possibility of combining the two ideas. Nevertheless for the present concern of justice and SD, we deem the notion of a threshold better suited. One weighty reason for is that it thresholds and the idea of basic capabilities are much closer to the understanding of SD by the Brundtland definition. Another is that the construction of collective capabilities is quite complex and still unclear in its prospects of success. The focus on individual well-being, however, is fundamental to the CA.

of a threshold approach rests on the specification of what the most basic, human minimum that is worth protecting. The threshold itself must also be specified in a non-arbitrary way. These problems are too ample to be dealt with here.¹¹ In any case, they have to be kept firmly in mind, but they need not be seen as an embarrassment. Despite all limits a sufficientarian principle gives advice with respect to some choices and will serve to make the world comparatively more just than today. It is thus a principle in line with Sen's (2010a) idea of comparative approaches to justice in contrast to transcendental approaches.

d. The CA and sustainable development

In the beginning of this paper we have outlined how the concept of SD is notoriously difficult, because it is not an agreed theoretical notion. Rather it constitutes a political schema (or a meta-approach, Spangenberg 2005) that encompasses a variety of partly conflicting concepts and normative aspects (Ott and Döring 2004). With the main features of the CA and intergenerational justice lying before us, we may ask how we can shed light on this difficult notion.

The topic of intergenerational justice as an essential part of SD is not very prominent among advocates of the CA, but we can find some helpful remarks. We find short passages about SD in Sen's latest book as well as in Sabina Alkire's and Severine Deneulin's (2009) introduction to "The Human Development and the Capability Approach". These considerations provide insight in two ways.

First, Sen advocates that the Brundtland-definition (as mentioned above) should be reformulated by substituting "needs" by "capabilities". He thus claims that the goal of SD should be defined as the protection or even the enhancement of substantial freedoms. This yields, in his view, a far broader and more sophisticated concept for preserving the well-being of future individuals. Sen's view fits well with our take on the CA's role in intergenerational justice: capabilities are defined as the metric of intergenerational justice. Thus it also can be interpreted as the objective of justice, i.e. what we should protect for people that are subject to it. Given the strong tie between intergenerational justice and the idea of SD, we can thus stipulate that they should be directed to the same *goal*. As capabilities are determined by personal and social (systemic) factors, a CA-based definition of SD also needs to conceptually combine individual and systemic perspectives on development. We should see to it that people's capabilities are not only protected in the present, but also in the future. However, Sen

¹¹ We discuss this proposal in more detail in a separate paper, see Gutwald/Leßmann/Rechenauer (2011).

does not explain how capabilities of future generations can be defined, let alone how to deal with the inherent ignorance of the future technological, societal, and natural environment.¹²

Second, Alkire and Deneulin agree that the CA determines the substantial goal of human development. But further, they employ sustainability as a principle that regulates the process of promoting human development.¹³ According to them, sustainability refers to “advancing human development such that outcomes progress in all spheres – social, political and financial – endures over time” (Alkire and Deneulin 2009). Hence, sustainability is defined as a principle that regulates the employment of the CA in promoting human development along with the SD-related principles of equity, efficiency and participation. If this idea is applied to the context of justice, we may think of SD as a principle in the sense of (ii) defined above, i.e. as a rule that regulates the proper distribution of benefits.

It makes sense to interpret SD as a normative principle that guides actions towards present and future human beings. After all, the concept of SD should have implications for normative theories and political practice. Yet, Alkire’s and Deneulin’s formulation of the principle is not very helpful in elucidating this principle. It merely expresses the thought that sustainability basically means that we should “sustain some X”, as Barry (1997) explains. But more guidance is needed on how much and how long we should sustain some valuable entity – questions typically answered by the various disciplinary fields, as they also relate to causality in natural and social systems (and are not limited to purely ethical considerations), and what this means for more tangible aspects, if the “X” to be sustained is itself not very concrete.

Still, the CA is helpful in one crucial respect, namely in setting out the objective of SD and intergenerational justice. It thus determines the starting point for building a further account of intergenerational justice that fills out the normative aspect of SD (Rauschmayer et al. 2011).

5. Outlook: CA, intergenerational justice and SD

The CA holds some promise of dealing with issues of intergenerational justice and SD. We have argued that the CA should mainly be used to define the *metric* within a theory of intergenerational justice. It thereby characterizes those valuable entities which we want to protect for people as a matter of justice – in the intra- and intergenerational realm. Furthermore, this use of the CA links intergenerational justice to SD: as an evaluative perspective on well-being, the CA defines the goal of SD in a more refined way than the Brundtland definition is able to do.

¹² He explicitly points to the problem of variable populations, cf. Sen (2010a).

¹³ Along with the principles of equity, efficiency and participation (cf. Alkire/Deneulin 2009).

However, several crucial issues remain open. First, the CA only presents a *part* within a theory of justice. In particular, it lacks a systematic philosophical justification. This may seem to be only indirectly relevant for the problem of a non-scientific (i.e. political) interpretation of SD. However, as we have seen from our consideration of the Rawlsian model, the model of justification directs the selection of principles and patterns of justice. As a consequence, advocates of the CA rarely formulate explicit principles that regulate how functionings or rather capabilities should be protected or distributed in a society. The sufficientarian account that we have sketched in the second part of our paper starts to fill this lacuna, but has to be spelled out in more detail, e.g. whether it is a prioritarian or a weaker kind of view.

Second, as we have mentioned, Sen leaves the selection of valuable capabilities largely in the hand of the society to which they are relevant. Hence, he refrains from giving a universal account of capabilities. He does not state either which capabilities should be protected by law, and, of course, which of them should be preserved for future generations. In contrast to Sen, Nussbaum is very concrete about these matters, but her claims remain contentious in many ways. If, as we plan to do, one aims to construct a threshold of well-being based on capabilities, it is crucial to identify basic dimensions of human well-being and basic levels of them. There are further some other questions with regard to its construction.

Third, the peculiar problems that the intergenerational context poses can only be partially answered by the CA. Hence, little can be inferred from the works on the CA how conflicts of justice claims should be conceptualized intergenerationally – much less how they should be handled. Within the discussion of intergenerational justice, a very complex task consists in justifying that the claims of the present generations should be curtailed in order to satisfy the claims of the following ones (as is also suggested by the Brundtland definition). This may come down to curtailing capabilities of existing people in a more or less severe manner. As we have already explicated above, a threshold conception can only solve this problem partially. Above the threshold, it remains unclear how conflicts between capability claims are to be solved. It may, however, very well be that the CA yields definite results here: moral conflicts can be irresolvable, also in the intergenerational context.

Fourth, CA theorists do not often address the problem how people are motivated to protect others' capabilities and how they are obligated to do so. Further, this does not translate well to the intergenerational realm since the CA cannot justify why present people should preserve capabilities of future people on the cost of having their own capabilities curtailed. There are, however, some features about the CA and similar considerations that can be employed to supplement the CA accordingly. Ortrud Leßmann (2010) argues that we can employ Sen's

notion of commitments to justify intergenerational concerns: our identity as a member in the group of humans causes us to share the goals of the human race and thus motivates us to care for other human beings including future ones. This offers a promising route for supplementing the CA which should be further pursued.

Aside from the issues just named, there is of course a considerable amount of other issues about SD that we cannot discuss here. One of them is the question how to implement the demands of intergenerational justice and SD in political practice. Though the question of motivation just mentioned is important it does not suffice to prompt action. In particular, the issue of responsibility for SD policy has to be tackled explicitly which entails the question how individual and collective agency are related.

It remains to be seen whether the CA or any modification of it is able to handle these problems. Given the complexity of these issues, there is little hope, we believe, that the CA can cover all the bases. To achieve more theoretical progress, it may be helpful to supplement the CA with elements of other approaches where they fit and provide the necessary insight. We have already supplemented the CA by employing a sufficientarian principle which needs to be further elaborated on. But many questions still remain open for discussion.

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