

MEASURING JUSTICE

Primary Goods and Capabilities

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*Justifying the capabilities approach to justice**Elizabeth Anderson*

Thomas Pogge (2002a) has recently criticized the capabilities approach to justice, questioning its ability to specify a plausible criterion of distributive justice that avoids stigmatizing the naturally less well-endowed. In this essay, I defend the capabilities approach against Pogge's critique, and explain why it is superior to its main rivals, subjective and resource approaches. A capability metric is superior to any subjective metric because only an objective metric, such as capability, can satisfy the demand for a public criterion of justice for the basic structure of society. It is superior to a resource metric because it focuses on ends rather than means, can better handle discrimination against the disabled, is properly sensitive to individual variations in functioning that have democratic import, and is well-suited to guide the just delivery of public services, especially in health and education.

I SPECIFYING A THEORY OF JUSTICE:
DO CAPABILITY THEORIES DO THE JOB?

Theories of distributive justice must specify two things: a metric and a rule. The metric characterizes the type of good subject to demands of distributive justice. The rule specifies how that good should be distributed.

Metrics may be either subjective or objective. Subjective metrics include goods such as happiness and preference satisfaction. Objective metrics divide broadly into resources and functionings. Resources are goods external to the person, such as income and wealth, job opportunities, and legal rights.¹ Functionings are states of the person, such as literacy, health, mobility, and the ability to appear in public without shame.

Rules divide broadly into unconstrained procedural rules, constrained procedural rules, and distributive patterns. Robert Nozick (1974) offers the leading example of an unconstrained procedural rule, which establishes procedures for the just initial acquisition and transfer of property in

free markets, and declares just whatever distributive patterns are brought about in accordance with the procedures. Since unconstrained rules fail to secure many individuals against disaster, few theorists, and no capability theorists, accept them. The leading example of a constrained procedural rule is John Rawls's difference principle (1971). This rule allocates income in accordance with free contracts and other entitlement rules (for instance, social insurance measures) subject to the constraint that deviations from equality improve the prospects of the least advantaged. The leading example of a distributive pattern rule is Rawls's First Principle of Justice, which directly allocates equal basic liberties to all. Distributive pattern rules fix distributions of actual goods independently of what anyone does. Constrained procedural rules only fix *opportunities* for access to goods. Actual distributions are determined by individual decisions to take advantage of those opportunities – that is, to do whatever the rule specifies is necessary to acquire an entitlement to the good.

Constrained procedural and pattern rules must specify the form of constraints on permissible distributions. Such rules may be pattern-insensitive (for example, maximization of total or average per capita goods), or pattern-sensitive. Pattern-sensitive rules broadly divide into equalitarian (requiring equality of opportunities or actual holdings), prioritarian (requiring that the minimum opportunities/holdings be maximized), and sufficientarian (requiring that all enjoy some minimum threshold of opportunities/holdings).²

It follows that a theory of justice must explain, with respect to the metric: (a) why an objective or subjective metric is preferred; (b) what *types* of goods are subject to demands of distributive justice (subjective welfare, resources, functionings); and (c) which *specific* goods under that type are so subject (for example, which functionings matter). It must then explain, with respect to the rule: (d) whether it should be unconstrained, constrained, or patterned; (e) whether it should be pattern-insensitive or pattern-sensitive; and (f) what specific form it should take.

I spell out these requirements for a theory of justice to address Thomas Pogge's (2002a, p. 209) complaint that capability theorists have failed to specify their theories to an adequate degree. Capability theorists all agree, however, that (a) the metric should be objective; (b) the goods subject to demands of justice are functionings; (c) the rule should be distribution-sensitive; and (d) at least part of the rule should be of a constrained procedural type. Constrained proceduralism follows from the fact that capability theorists define the rule in terms of *opportunities* to achieve valued functionings – i.e., capabilities – rather than in terms of achieved

functionings, leaving it up to individuals to choose how to take advantage of the opportunities open to them. Pogge faults Amartya Sen for failing to (e) state which specific functionings matter in the capability set and (f) specify the form of a just distributive rule. Martha Nussbaum, however, has provided a list of relevant functionings (2000a), and proposed a *floor* on permissible distributive rules (2000b, pp. 71–75), of a sufficientarian form.

To the extent that Nussbaum and Sen focus their attention on less developed countries, it is not evident that they need specify much more than what Nussbaum has done.³ So many people in these countries fall so far below minimal capability levels for a decent life that, for practical purposes, it makes little difference whether the best theory of justice would prescribe something more than a floor of capabilities needed to live a minimally decent life. For immediate purposes, specifying a defensible threshold may be sufficient to guide action, since any more ambitious standard would have to reach this goal before moving on (Nussbaum 2000b, p. 12). Moreover, it may be best to postpone deliberation on a more ambitious standard until the threshold is reached. At that point, people in the developing world will be in a much better position to articulate justice claims for themselves, rather than depending on those in wealthy countries to assert such claims on their behalf. However, it could be argued that even Nussbaum's capability theory, which supplies more details than Sen's, has offered too vague an account of where to set the threshold.

I have advanced a capabilities-based theory, called "democratic equality," that I believe can meet this objection (Anderson 1999). The point of the theory is to identify the demands of justice that flow from citizenship in a democratic state. On my view, the fundamental requirement of democracy is that citizens stand in relations of equality to one another. Citizens have a claim to a capability set sufficient to enable them to function as equals in society (assuming they have the potential to do so). Democratically relevant functionings include adequate safety, health and nutrition, education, mobility and communication, the ability to interact with others without stigma, and to participate in the system of cooperation. Democratic equality expects that, provided strong provisions are in place to block illicit exchanges (notably, of income and wealth for political influence), the demands of equal standing are satiable with respect to capabilities and the resources needed to secure them.⁴

This yields a sufficientarian standard of justice in the metric of capabilities. Citizens are entitled to enough education, for example, to be able to advance informed claims in public forums, at a level of articulateness

that elicits a respectful hearing. How much education this amounts to may vary with the society's technological complexity and general level of education. With democratic cultural norms of discourse in place – for instance, calling out snobs who try to lord their Ivy League degrees over others in public forums – it is possible to prevent inequalities in education levels beyond the sufficiency level (which, in a prosperous society, may be quite high) from being converted into unequal political standing.

Three provisos must be added to the summary view that democratic equality advances a sufficientarian rule of distributive justice in the metric of capabilities. First, with respect to children, the relevant standard of justice is in terms of functionings, not capabilities. Children lack the autonomy to choose for themselves. Bare opportunities are of no value to children unless adults in their lives place them in those opportunities. Moreover, the levels of actual functionings children achieve have a profound impact on their capabilities as adults. A severely malnourished child may grow up to be a mentally disabled adult. To have capabilities to exercise equal citizenship as adults, persons must enjoy sufficient levels of functioning as children. Second, democratic equality specifies a sufficientarian standard for access to educational and job opportunities beyond the threshold. A system of rules that guaranteed everyone the social minimum, but effectively relegated particular social groups to few opportunities beyond the minimum, would not be a society of equals, but a kind of caste or aristocratic system. A fully democratic society requires that all positions of responsibility and power in the system of cooperation be fully integrated, with accessible pathways to advancement open to all with the potential to function competently in those positions (Anderson 2004, 2007). Third, democratic equality does not offer a comprehensive theory of distributive justice, but locates the role of equality in a theory of justice for democratic societies. Additional principles must be supplied for such issues as justice in taxation, and for individuals who (due to severe brain damage, for instance) have no potential to stand in equal relations with others.

2 METRIC OPTIONS: SUBJECTIVE VERSUS OBJECTIVE MEASURES, CAPABILITIES VERSUS RESOURCES

It is one thing to specify a theory of justice, another to justify it. I shall hereafter leave aside issues of the form of the rule, and focus on the metric of justice. We must first consider the choice between subjective and

objective metrics. A subjective metric defines the measure of justice relative to subjective evaluative states of individuals, such as their happiness or preferences. An objective metric defines the measure of justice in terms of objective states of individuals or their possessions. Capabilities and resource theorists agree that the metric of justice should be objective. There are three reasons for preferring an objective measure: adaptive preferences, the publicity condition, and the basic structure as the subject of justice.

Capabilities theorists have most often stressed the problem of adaptive preferences. People adapt to their deprivations, making do with what they have by giving up on larger ambitions. They may not think to make certain complaints, not knowing that a remedy is available. Their deprivation may also reflect an unjustly low regard that others have for them, which may make them feel unworthy. A metric defined in terms of actual preferences, feelings of satisfaction, or complaints disservices those who have resigned themselves to deprivation or feel that they are not entitled to complain.

To remedy this problem, advocates of subjective theories could move to a hypothetical standard – for example, to the preferences individuals *would* have if they felt entitled to make claims, were informed of the availability of remedies, and so forth. However, it is difficult to soundly formulate such a criterion, or any other criterion, for distinguishing adaptive from authentic preferences. In addition, hypothetical preferences are unknowable under current conditions. Moreover, a hypothetical preference theory, if joined with a pattern-sensitive rule, would need to be able to make interpersonal comparisons of the intensity of hypothetical preferences. It is hard to know how to undertake such comparisons in a way that enjoys general consensus, and that satisfies the publicity condition. The publicity condition requires that an acceptable principle of public justice be capable of being known by all, as a matter of common knowledge, to be satisfied in society (Rawls 1971, p. 133). It is difficult to be confident that subjective metrics have actually been satisfied. Once a public measure of a subjective state has been specified, individuals may have an incentive to feign the relevant states. Moreover, determining that the society has satisfied a standard depending on idiosyncratic subjective states would be an information-intensive project that would likely lack transparency. Subjective metrics are not good candidates for a standard of justice that can meet the publicity condition. Nor can the publicity condition be dispensed with, for the legitimacy and stability of society depend on it (Rawls 1971, pp. 177–82).

These reasons to reject subjective metrics of justice are sufficient, but do not reach the core of the issue. Justice is fundamentally about second-personal normative claims: claims that morally considerable persons can make *to others*, holding them to account for their conduct toward others and its consequences for others (Darwall 2006). Justice embodies demands of particular persons that can, by right, be *exacted* from others. Other normative claims lack this second-personal quality, for example, Moorean judgments of states of intrinsic goodness (Moore 1903). Perhaps the world would be best if state P were realized. It does not follow that any individual has the standing to hold others to account for realizing P.

What *do* we have standing to hold one another to account for, in ways that can justify the imposition of coercive rules of justice? Rawls's elegant answer still stands today: we are jointly responsible to one another for the kind of society we have made – that is, for the basic structure of society that defines the terms of cooperation. For current purposes, the important point is what this conception of justice excludes. The metric of fair shares for judging the justice of the basic structure is derived, not from a conception of what are the best overall states of the world (since pluralism about conceptions of the good rules out any consensus on this), nor from a conception of subjective happiness or preference satisfaction (since persons are responsible for their ends), but in terms of what citizens *need* to satisfy their *objective interests as citizens* – notably, their highest order interests in following rules of justice acceptable to all, and in framing their conception of the good (Rawls 1982).

Rawls argued that citizens' objective needs should be defined in terms of primary goods (a resourcist conception). Capability theorists disagree with Rawls on this point. But I at least agree with Rawls on the more basic point, that citizens' needs are to be defined objectively, in virtue of a political conception of justice that takes the basic structure of society, not states of nature as such or subjective valuations, as that for which citizens are jointly responsible. Thus, democratic equality claims that, in the realm of domestic justice, what citizens owe one another are the capabilities they need to function as equals in the system of cooperation. At the level of international justice, too, individuals owe it to one another not to uphold an international coercive and cooperative order that is harmful to others' objective interests, or that deprives them of their basic needs, when there is a feasible alternative that would secure those needs for all (Pogge 2002b). Resourcists and capability theorists therefore agree that the metric for purposes of domestic and international justice should be objective, not subjective.

What, then, separates capability theorists from resource theorists? They do not disagree over what goods the distribution of which is directly regulated by the state. Functionings, or states of a person, cannot be immediately distributed. Only the means to such states – resources – can be. For example, the state can provide health care, but not health directly; food, or an income that can buy food, but not a well-nourished person immediately.

Capability and resource theorists also do not disagree on the *ends* of such distributions of means: namely, (access to) the satisfaction of objective human needs, as measured in terms of functionings. Pogge (2002a, p. 180), defending resourcism, admits that “[a] plausible resource metric must include all and only the resources human beings need to function adequately.” The selection of relevant resources and the weights given to them is to be determined in terms of their usefulness as means to the adequate functioning of human beings (Pogge 2002a, p. 191). We must first determine what the relevant functionings are before we can identify which resources are needed to achieve these functionings.

The fundamental difference between capability theorists and resource theorists lies rather in the degree to which their principles of justice are sensitive to internal individual differences, and environmental features and social norms that interact with these differences. Resourcism calls on the basic structure to provide, to each person, access to a *standardized* package of resources that an individual is expected to need in order to achieve relevant functionings. By contrast, capabilities theorists insist that the basic structure should provide, to each person, access to a package of resources adjusted to that person’s individual ability to convert resources into relevant functionings, and sensitive to environmental factors and social norms that also affect individuals’ conversion abilities.¹ The hallmark of the capabilities approach is its sensitivity to variations in the abilities of individuals to convert resources into functionings, which may be affected by internal variations, environmental features, and prevailing social norms. Thus, the fundamental question that divides resourcist from capabilities theories is whether a theory of justice ought to be sensitive to such variations.

3 FOUR REASONS TO FAVOR CAPABILITIES OVER RESOURCES

There are four basic reasons to favor capabilities over a resourcist metric of justice. First, there is a presumption in favor of articulating principles

of justice in terms of ends rather than means. Since both sides agree that resources are means to functionings, this presumption favors the capabilities approach. Second, capability measures are sensitive to structural and psychosocial injustices – for example, *de facto* group segregation, stigma, shunning, and other unjust informal social norms – that interfere with individuals' functioning as equals, although they are neither constituted nor remedied by distributions of resources. Third, individual variations in access to the functionings needed for equal citizenship have democratic import, and so properly figure in measures of justice. A capabilities approach can handle these variations better than a resourcist approach can. Fourth, democratic institutions are well-suited to addressing concerns of justice couched in terms of capabilities, citizens recognize this, and express their claims in those terms, not just in terms of primary goods. Let us now consider each reason in more detail.

Capabilities and resource theorists agree that principles of justice aim to secure persons' effective access to the means they need to satisfy their objective interests, as defined in terms of needed functionings. Since resources are merely the means to the fundamental end of enabling persons to satisfy their objective interests, it would seem to make sense to measure the justice of a society in terms of the end – capabilities – rather than the means. For why choose an indirect measure, when a direct measure is available?

Pogge replies (2002a, pp. 191–92) that the capabilities approach is equally vulnerable to this argument from theorists who advocate subjective metrics. From the standpoint of the individual, capabilities are mere means to the satisfaction of subjective preferences. If the capabilities theorist may resist the move from means to ends relative to the subjective preference theorist, why isn't the resourcist equally entitled to resist the move from means to ends relative to the capabilities theorist?

The difference in the two cases lies in the perspective from which the justice of institutions should be judged. The justice of institutions should be judged in political terms, from the perspective of public reason. This perspective is distinct from the perspective of idiosyncratic conceptions of the good, about which there is no consensus in a pluralistic society. This is why both capabilities and resourcist theorists impute objective interests to persons, rather than reading their interests from their subjective preferences. From a public perspective the end of justice is to secure for individuals their capability to function as equals in society (or, for purposes of international justice, to function as humans, in Nussbaum's [2000b] terms). The fact that individuals, from their private points of view, take

these capabilities as mere means to further idiosyncratic ends is irrelevant for purposes of justice. For it has already been established that the appropriate metric of justice should be objective, not subjective. Hence, the point stands that the metric of justice should be in terms of the ends of justice, rather than the means.

A second difficulty with defining the criterion of justice in terms of means (resources) rather than ends (capabilities) is the “slippage” between means and ends that arises due to unjust social norms. Certain kinds of injustices, such as group stigmas and stereotypes, oppressive discursive norms, and *de facto* group segregation caused by shunning, interfere with individuals’ abilities to stand as equals in society. These kinds of injustices are neither constituted nor remediable by particular distributions of resources to individuals. Consider, for example, the norm of “closeting” adopted by gays and lesbians to shield themselves from contempt. This injustice cannot be directly addressed by redistributions of resources. No matter how rich a gay person is, or how highly positioned he is in the hierarchy of offices, he still faces the threat of exposure to hostile and unjust contempt in civil society that, due to the guaranteed basic liberty of freedom of speech, cannot be directly regulated by the state. While there is no unjust distribution of resources in this case, this person faces an injustice, recognizable in the metric of capabilities: the inability to appear in public (under his identity as gay) without stigma. Consider, for another example, the inequalities in discursive standing suffered by feminists demonized as “feminazis,” whose proposals are systematically distorted in contemptuous terms. Many of the disabled suffer from a different form of discourse inequality, when others assume they are not suitable subjects of direct address, preferring to talk to their assistants or caretakers about their needs. Again, command of external resources is not the issue here. A feminist may have access to public forums, but her speech is still misheard by contemptuous others. A disabled person may have plenty of money, but still not be treated as someone who can speak for herself in ordinary social interactions. Their problem is that unjust social stereotypes and norms prevent them from effectively exercising discursive equality. Nor can such injustices be remedied by redistributions of the resource of free speech. Their problem isn’t that they can’t talk, but that people aren’t listening or taking them seriously. Consider again the position of blacks who are shunned by whites in informal social interactions due to racial stigmatization. This *de facto* racial segregation, perpetuated by “discrimination in contact” and white flight from racially changing neighborhoods, is not subject to direct regulation in a free society, since such

regulation would violate the equal basic liberty of freedom of association. Yet this completely legal discrimination in contact has a profound impact on blacks' access to equal standing in society, including their access to positions of responsibility, which is inevitably affected by informal social networks (Loury 2002). Even if a resourcist approach could recommend *compensation* for this injustice in access to opportunities by creating an alternative access route – affirmative action programs, for instance – this would still leave the underlying injustice of racial stigma intact. Blacks have a claim on public policy to remedy *that* injustice, and not just to *post hoc* compensation for the effects of its operation. Similar points apply to the justice claims of similarly segregated groups, such as Muslims in the European Union.

These injustices in the informal aspects of civil society could be comprehended under Rawls's notion of the social bases of self-respect. That is, the complaints of the affected individuals could be described as unjust deprivations of this primary good.⁶ Rawls considered the social bases of self-respect to be the most important primary good. He hoped that a just allocation of the other primary goods – basic liberties, job and educational opportunities, income and wealth – would be sufficient to secure the social bases of self-respect for all. I think Rawls's hope was misplaced. Unjust stigmas and stereotypes, discourse inequality, shunning, and the like are undemocratic aspects of civil society that are neither constituted nor remediable by redistributions of resources, or indeed by any direct regulation. Insofar as they structure informal social relations rather than influencing official decisions, they are both invisible to and beyond the reach of a resourcist approach to justice. A capabilities approach, which focuses on the ways informal social norms and expectations affect the ability of individuals to convert their resources into functionings that have democratic import, can both recognize these injustices and suggest nonresourcist remedies. For example, public school curricula and student socialization policies can be revised to stress the importance of tolerance and cooperation across difference, and undermine false stereotypes about gays and lesbians, women, the disabled, blacks, Muslims, and other disadvantaged groups. Public institutions can also design affirmative action programs not merely to compensate victims for unjust resource deprivations, but to facilitate informal intergroup socialization and cooperation – known tools for breaking down group stereotypes and stigmas (Gaertner and Dovidio 2000).⁷

Resourcism expresses the hope that all public injustices are subject to formally administrable remedies. If there is an injustice, some

redistribution of resources should be able to correct it. This is not so. Some injustices are beyond the reach of direct correction by formal rules, both because attempts at direct correction would interfere with resources to which people in a free society have a right (free speech, free association), and because attempts at direct correction would fail (the state can't force people to be friendly to one another). Yet, these injustices are of public import, because they injure citizens' standing as equals, and therefore undermine a society's claim to be democratic. There is a gap between any distribution of external resources and capabilities of standing as an equal, where stigmas, stereotypes, and shunning prevent the conversion of resources into capabilities. Although justice in this domain of public culture is not formally administrable, public policy is capable of addressing these cultural injustices indirectly, by other means than distributing resources. It can facilitate the social conditions for reducing stigma and shunning. The capabilities approach is better able than the resourcist approach to recognize and address these injustices.

A third reason to prefer the metric of capabilities over resources is that justice requires sensitivity to individual differences in physical and mental characteristics, *when these characteristics affect individuals' ability to convert resources into functionings that are necessary for equal citizenship and standing*. Citizens have a claim of justice to the resources they need to function as equals. The capabilities approach, because it is sensitive to individual differences in such needs, is better able to satisfy these claims than the resourcist approach, which prescribes a standardized package of resources for all.

Pogge (2002a, pp. 194–95) denies this charge. He distinguishes deficits in functioning due to overt or covert discrimination, such as the lack of wheelchair accessible bathrooms in public buildings, and deficits in functioning due to a failure to compensate for the misfortunes of the “natural lottery.” He argues that society has a duty to remedy the first type of deficit, because it is caused by unjust discrimination against the disabled. He denies that society has a duty of justice to remedy the second type of deficit, because such a duty would exist only if the natural distribution of internal assets were itself just or unjust. Since this is not so, natural variations in ability do not give rise to claims of compensation. Let us postpone discussion of the second type of case. I shall argue that Pogge's treatment of the first type of case reveals an internal tension in the resourcist approach.

Pogge allows that a public infrastructure that fails to accommodate the disabled unjustly discriminates against them. This kind of discrimination

is rarely intentional. Architects do not design public buildings with big staircases leading up to the front door, and no ramp or alternate floor level entrance, with the *intent* of keeping out those who mobilize in wheelchairs. Rather, they have evaluated their design with reference to a biased model of persons that assumes that everyone can walk. (The model is also biased against caregivers, insofar as it assumes that persons using the building don't at the same time have to be taking care of infants who mobilize in strollers.) Incommodious public infrastructure amounts to a facially neutral policy that is discriminatory, because it is biased toward the needs of a privileged type of person – the ambulatory, men, etc.

Pogge's response to this kind of discrimination tries to join two incompatible demands. On the one hand, he argues that a resourcist criterion of justice must be based on an "unbiased conception of standard needs and endowments of human beings" (Pogge 2002a, p. 184). "If a resourcist criterion of social justice is to ensure that any institutional order satisfying it affords all its participants genuinely equal treatment, then its resource metric must take account of the full range of diverse human needs and endowments" (p.189). On the other hand, once the "unbiased conception" that takes account of "the full range of diverse human needs and endowments" is arrived at, everyone is entitled to access to a standardized package of resources, *unadjusted for individual variations in their needs and endowments*. This insensitivity to individual variations is constitutive of the resourcist approach, and distinguishes it from the capabilities approach. The difficulty is that it is hard to see how the standardized package of resources really could be based on an "unbiased conception of the standard needs and endowments of human beings" that nevertheless takes account of the full range of human diversity.

Consider, for example, reserved parking spaces for the disabled. These spaces are closer to points of interest, to spare those with heart conditions and other disabilities from having to cover more distance than they can handle. They are also wider than usual, to provide room to unfold a wheelchair next to the car door. Disabled persons have a just complaint against lots that lack such parking spaces: like buildings that lack wheelchair ramps, they are based on a biased conception of human needs and endowments, tailored to the fully ambulatory. Yet their claim cannot be accommodated by devising an "unbiased" parking space, and then including that type of space in the standardized package of resources to which all are entitled to access, disregarding individual variations in need and endowment. If everyone were entitled to such spaces, then the disabled would no longer have regular access to a space close enough to

enable them to reach points of interest. If all spaces were as wide as such spaces, then fewer people would have access to points of interest, because parking lots could fit fewer spaces. The claim of the disabled to “unbiased” parking spaces can be satisfied, consistently with everyone having access to points of interest, only by *reserving* for their exclusive use a few parking spaces *specially adjusted for their needs*. The capabilities approach handles this case easily. By contrast, a resourcist approach is caught in the contradiction between its call for “unbiased” public infrastructure and its insistence that the package of resources to which all have access should not be adjusted to the particular physical variations of individuals.

A resourcist could reply that the provision of disabled parking spaces is not a requirement of justice, but merely a humanitarian concern.⁸ For the disabled cannot justly claim that others owe them the extra resources needed to build such spaces. I disagree. The disabled have a just complaint that cannot be matched by any remotely comparable complaint by those who must provide special spaces to the disabled. Without such spaces, the disabled will lack effective access to public accommodations, especially state services such as public schools, libraries, hospitals, courts, and post offices. This deprives them of equal standing as citizens. Deprivation of equal standing is always a concern of justice, not merely of humanity. If such spaces are provided, the complaint of the nondisabled is trivial: at most, they suffer a slightly higher chance of having to park farther away from points of interest, and walk a few more steps to their destination.

I conclude that some claims to the resources required by justice for functioning as an equal cannot be met by uniform or “standardized” bundles of resources. Differences must sometimes be recognized as differences, because there is no unbiased norm that equally serves everyone’s objective interests. This point generalizes to other accommodations for the disabled, such as the provision of Braille books and special reading devices for public library users with low vision, and Individualized Education Programs for public school students with learning disabilities. It also applies to the provision of health care. The resourcist notion of a “standardized” health insurance package masks the highly individualized tailoring to specific needs and endowments that actually goes on, as a matter of both justice and common sense, when different patients take advantage of this resource. Any just system of health care provision will provide different treatments, costing different amounts, to patients, depending on their individualized needs. Nor is there any clear notion of what an “unbiased” health care package would look like, apart from one defined in terms of capability outcomes (restoration of health, mobility,

ability to communicate with others, to work and participate in community life, etc.).

I have just argued that, contrary to Pogge's claims, the resourcist approach does less well than the capabilities approach in addressing covert discrimination complaints. Pogge, however, claims that the resourcist approach gives a better answer than the capabilities approach to compensation complaints. These complaints allege that the natural distribution of internal physical and mental endowments can be unjust in itself, apart from how society responds to it, and that such injustices are entitled to compensation. Pogge denies the validity of such complaints, and correctly observes that resourcists offer no compensation for such alleged injustices. He objects to the capabilities approach on two grounds (Pogge 2002a, pp. 188, 204–6). First, it fails to recognize that there are stronger obligations of justice to help those with internal deficits caused by social arrangements (e.g., injuries caused by the design of roads) than those with internal deficits caused by natural accident. Second, it is committed to accept the validity of compensation complaints.

Pogge attributes these problems to the choice of the capabilities metric, when they are in fact due to the choice of rules. The first objection arises from the choice of a distributive patterned rule, rather than a constrained procedural rule, regardless of the choice of metric. A patterned resourcist principle ignores considerations of how deficits in resources might arise just as much as a patterned capabilities principle does. Hence, it would equally well suffer from Pogge's first objection, because it would fail to distinguish, say, unemployment caused by social factors, from unemployment caused by birth defects. A constrained procedural rule of the right type can avoid Pogge's first objection, regardless of metric. For example, the sufficientarian democratic equality rule, setting a floor to capabilities, could be supplemented by a workers' compensation rule, ensuring that workers injured on the job are restored to a capability level positively correlated with what they had enjoyed prior to the injury. This would be one way for a capabilities approach to give higher priority to socially caused injuries than natural disabilities, by giving more to those who suffer the former.

Pogge's second objection also confuses the metric with the rule. Choosing a capabilities metric does not commit one to viewing the natural distribution of internal abilities and disabilities as just or unjust in itself. A compensation rule, alleging that one's natural endowments are unjustly inferior to others' and hence entitled to compensation, is but one of many possible rules that could be joined to a capabilities metric. My

capabilities-based principle of democratic equality explicitly rejects this rule (Anderson 1999, pp. 334–35). Nor is there anything in Nussbaum's sufficientarian standard, based on the functioning requirements of a minimally dignified distinctively human life, that commits her to this rule. People may be entitled to access to a level of functioning in virtue of their citizenship, or their needs as a human being. Neither of these ideas entails or presupposes the compensation principle, or its associated idea, which Pogge also objects to, of a vertical hierarchy of internal endowments, ranked from most to least valuable. From the point of view of democratic equality or Nussbaum's standard, remediable capabilities deficits are viewed as forms of covert social discrimination, due to avoidable social arrangements unjustly biased toward those of normal ability.

A fourth reason to prefer a capability to a resource metric is that democratic institutions are well-suited to addressing concerns of justice couched in terms of capabilities, citizens recognize this, and express their self-understandings as citizens in those terms, not just in terms of resources. In education, citizens look not merely at resource inputs, but at actual learning outcomes, to assess the justice of their system. The No Child Left Behind Act, whatever else its flaws, makes this outcome-based assessment clear. In health care and public health policy, too, actual health outcomes are what matter. Sicker patients are entitled to more health care resources, precisely because they fall below an acceptable threshold of health.

4 FURTHER OBJECTIONS TO THE CAPABILITIES APPROACH

I close with a reply to two further objections to the capabilities approach. First, Pogge (2002a, pp. 204–6) objects that the capabilities approach stigmatizes recipients of extra resources, by representing them as having intrinsically inferior endowments, and by representing people in a vertical hierarchy of overall intrinsic superiority and inferiority. Second, he objects that the approach does not consider the resource costs to others in providing for what is needed to bring people up to the level of capabilities specified by its distributive rule.

Pogge's first objection depends on the assumption that capabilities theorists are committed to the principle of compensation for bad luck in the natural allocation of internal endowments. Pogge's critique of this principle, and its stigmatizing implications, is correct. But, as I have already observed, the choice of a capabilities metric does not commit one to this principle.

In previous work, I have argued that people who are so harshly stigmatized for an uncomely physical appearance that they cannot function as equals in society may be entitled to plastic surgery (Anderson 1999, pp. 335–36). Pogge (2002a, p. 208) condemns this as stigmatizing:

[T]he State Equal Citizenship Bureau of Anderson's ideal society will be writing letters to the handicapped and the ugly ... [like this]: "Dear Naturally Disfavored, We have determined that, given your inferior natural endowments, you must receive special compensatory state benefits in order to be capable of functioning as what we could recognize as an equal citizen ..."

Pogge represents democratic equality as committed to attributing the blame for shortfalls in equal functioning to individuals' innate endowments. In fact, capabilities theorists represent a person's capabilities as a joint product of her internal endowments, her external resources, and the social and physical environment in which she lives. Those who reject the principle of compensation for natural bad luck, and adopt some other principle, such as democratic equality, attribute any individual's avoidable shortfall in the level of capability to which they are justly entitled to discriminatory failures of society to provide them with the resources and social environment they need. They do not attribute shortfalls to any supposed inferiority in the innate endowments of the individual. Hence, the State Equality Citizenship Bureau would write letters like this to those to whom it offers plastic surgery:

Dear Citizen, Your critique of the ways society stigmatizes you and fails to accommodate your differences exposes an injustice in society, which we are working to correct. Unfortunately, we have found that it is difficult to change unjust habits of stigmatization held by the populace against people with your physical appearance. Hence, we are offering you the alternative of plastic surgery, so that you can escape this unjust stigma.

Just responses to stigmatization may require that we notice that stigmatization is occurring. It does not require endorsement of the value judgments underlying the stigma, as Pogge supposes. Of course, merely noticing that someone is being unjustly treated can be wounding to the victim. But this is a difficulty with all theories of justice. In general, people would prefer that they not suffer injustice, than that their plight be ignored. I believe that persons suffering from severe disfigurement would prefer plastic surgery that enables them to be welcome in society, rather than a package of resources inadequate for surgery, that leaves them pariahs.

Capabilities theorists who reject the principle of compensation do not believe that the bare fact of lacking certain innate endowments, such as beauty or high intelligence, is *in itself* entitled to compensation, apart from an assessment of how society treats people lacking such endowments. Hence, they are also not committed to the view that individuals can or ought to be vertically ranked according to the intrinsic value of their innate endowments. Capabilities theorists, like resource theorists, welcome a “horizontal” view of the diversity of innate endowments, which represents this diversity as beneficial to all. Even those with serious disabilities have important things to offer us.⁹

A second objection to the capabilities approach is that it does not limit the resource costs of bringing people up to whatever level of capabilities the associated distributive rule specifies as just (Pogge 2002a, p. 212). These could be high. I have two responses to this objection. First, some individuals are so ill or disabled that no investment of health care, education, or other costly services will bring them up to the requisite level. In such cases, the capabilities approach does not recommend futile expenditures of resources. Separate principles of justice or humanity will need to be articulated for such persons. Similar considerations of futility apply to vast expenditures that make only a trivial difference to a person’s capabilities. Second, a capabilities approach can advance a capabilities-based criterion of limits on expenditures. When expenditures on one person get so high that resources are not available to bring others up to the capability level required by the distributive rule, the others can reasonably reject such intensive expenditures of resources on a single person, since it comes at such grave cost to them, as measured in capabilities terms.¹⁰

Thus, the capabilities approach survives the most important criticisms lodged against it. It also has numerous advantages. It is capable of supplying a public criterion of justice suitable for the basic structure of society. It is superior to subjective metrics, in avoiding adaptive preferences, satisfying the publicity condition, and limiting its claims to states people are responsible for providing to each other. It is superior to resource metrics, in focusing on the ends of justice rather than just the means, responding to forms of social discrimination that are neither constituted nor remedied by resource distributions, offering remedies to those whose just claims cannot be satisfied by standardized resource packages, and casting claims in forms recognized by citizens and suitable for satisfaction by democratic institutions.

NOTES

1. Ronald Dworkin (1981) advocates a version of equality of resources that includes resources internal to the self. These include abilities comparable to Nussbaum's basic or innate capabilities, such as abilities to see and hear. Dworkin's view would be classified as a kind of hybrid view in my typology. However, it leans toward a standard resourcist view in commensurating internal resources with a measure defined in terms of money, an external resource.
2. Compare Pogge's discussion of options at (2002a, p. 176).
3. For societies that lack the resources to meet all the thresholds for all persons for all relevant functionings, some additional principles would have to be advanced to determine whose and which capability deprivations should be given priority. It would make sense to give priority to functionings that are prerequisites to others (e.g., those urgently needed for survival, such as basic nutrition, health, and safety), and then to those that enable individuals to acquire the others for themselves (e.g., education over housing, if the housing suffices for survival, and if education makes individuals better equipped to improve their housing). On *who* should get priority, see note 10 below. Developed countries, while they also face trade-offs, are not so evidently constrained by specific demands of justice, supposing all have reached the relevant thresholds. Whether more resources should be devoted to health care, say, or education, is open to policy choices, with a wider range of reasonable answers.
4. Raz (1986, pp. 235–36) distinguishes satiable from insatiable demands as follows: a satiable demand can be fully met, whereas an insatiable demand cannot, but can only be met to higher degrees. "Feed the hungry" is a satiable demand; "maximize happiness" is insatiable. I claim that "ensure that each individual can stand in relations of equality with others" is satiable in nearly all cases. For discussion of the exceptions, see text accompanying note 10 below.
5. Pogge (2002a, p. 182) puts the point as follows: "Resourcists define and consider individual shares without regard to the particular features of the person whose shares they are. In selecting the various goods in terms of which they define their resourcist metric, and in weighting these selected goods relative to one another, resourcists are guided by some conception of the *standard* needs and endowments of human beings. Capability theorists, by contrast, value the goods persons have access to by reference to the *specific* needs and endowments of each particular person." Pogge's account of the differences between resourcist and capabilities views somewhat underplays the role social and environmental factors, and not just internal individual variations, play in capability theories.
6. However, it is doubtful whether this is the best description of the injustice. Individuals who are thick-skinned enough not to lose their sense of self-respect under such treatment still have a valid complaint against it. The

- more fundamental injury is to a person's public status, not to the external supports for her psychic health. I prefer to speak of "the social bases of equal standing," where equal standing is understood as a complex functioning.
7. The shape of such forward-looking affirmative action programs, aimed at breaking down unjust group stereotypes and shunning, is different from compensatory affirmative action programs, which aim only to remedy the resource-based consequences of such injustices (Anderson 2002, pp. 1207–225).
 8. Pogge (2002a, p. 212) suggests such a reply.
 9. For a particularly insightful discussion of this point, see Hartley (2005).
 10. Triage principles apply under conditions of severe scarcity, where there are not enough resources in a society to bring everyone up to a decent level. Such principles deviate from sufficientarian principles, since those only marginally beneath the sufficiency threshold may have to wait, while more serious cases are helped. But they differ from prioritarian principles, because they would not concentrate available resources on a few least well off, at the expense of more people who are only slightly better off and still well below acceptable levels. Triage principles try to help the maximum number of individuals with significant capability shortfalls who can be significantly helped.

REFERENCES

- Anderson, E. 1999. "What is the Point of Equality?" *Ethics* 109: 287–337.
2002. "Integration, Affirmative Action, and Strict Scrutiny," *New York University Law Review* 77: 1195–271.
2004. "Rethinking Equality of Opportunity: Comment on Adam Swift's *How Not to be a Hypocrite*," *Theory and Research in Education* 2: 99–110.
2007. "Fair Opportunity in Education: A Democratic Equality Perspective," *Ethics* 117: 595–622.
- Darwall, S. 2006. *The Second-Person Standpoint: Morality, Respect, and Accountability*. Cambridge, MA: Harvard University Press.
- Dworkin, R. 1981. "What is Equality? Part 2: Equality of Resources," *Philosophy and Public Affairs* 10: 283–345.
- Gaertner, S., and Dovidio, J. 2000. *Reducing Intergroup Bias: The Common Ingroup Identity Model*. Philadelphia: Psychology Press.
- Hartley, C. 2005. "Justice for All: Constructing an Inclusive Contractualism," unpublished PhD dissertation. Ann Arbor: University of Michigan.
- Loury, G. 2002. *The Anatomy of Racial Inequality*. Cambridge, MA: Harvard University Press.
- Moore, G. E. 1903. *Principia Ethica*. Cambridge University Press.
- Nozick, R. 1974. *Anarchy, State, and Utopia*. New York: Basic Books.
- Nussbaum, M. 2000a. "Women's Capabilities and Social Justice," *Journal of Human Development* 1, 2: 219–47.

- 2000b. *Women and Human Development: The Capabilities Approach*. Cambridge University Press.
- Pogge, T. 2002a. "Can the Capability Approach be Justified?" *Philosophical Topics* 30, 2: 167–228.
- 2002b. *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms*. Cambridge: Polity Press.
- Rawls, J. 1971. *A Theory of Justice*. Cambridge, MA: Harvard University Press.
1982. "Social Unity and Primary Goods," in A. Sen and B. Williams. (eds.), *Utilitarianism and Beyond*. Cambridge University Press, pp. 159–85.
- Raz, J. 1986. *The Morality of Freedom*. Oxford: Clarendon Press.