

Is Pogge a Capability Theorist in Disguise? A Critical Examination of Thomas Pogge's Defence of Rawlsian Resourcism

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Abstract Thomas Pogge answers the question if the capability approach can be justified with a firm 'no'. Amongst others, he ridicules capability theorists for demanding compensation for each and every possible natural difference between people, including hair types. Not only does Pogge, so this paper argues, misconstrue the difference between the capability approach and Rawlsian resourcism. Even worse: he is actually implicitly relying on the idea of capabilities in his defence of the latter. According to him the resourcist holds that the institutional order should not be biased towards the average person or the needs of some. Yet, as his own case of blind people and traffic lights can illustrate, whether or not this is the case is impossible to assess without resorting to some concept like people's capabilities. Secondly, it is argued that the real issue at stake is not at all the best metric of justice—primary goods or capabilities—but rather the scope of theories of justice. On the surface the difference of opinion seems to be how to deal with so-called “personal heterogeneities”, yet the discussed case of interpersonal differences in metabolism and communal land-use choices hints at something else; Whereas Pogge insists that questions of justice only concern the institutional structure of society, many capability theorists support the inclusion of culture and social practices as possible sources of injustice. Unfortunately Pogge does not properly acknowledge this, as right from the start of his paper he frames the debate between both approaches in terms of institutions only.

Keywords Thomas Pogge · Primary goods · Human capabilities · Capability approach · Rawlsian resourcism

1 Introduction

In 1979 Amartya Sen gave the *Tanner Lecture on Human Values*, for which he chose the title “Equality of what?” (Sen 1979). This question, concerning the best metric or evaluative space in matters of justice and equality, is nowadays still a topic of philosophical debate. Answers that have been discussed in the literature include utility, preference satisfaction,

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access to advantage, resources, Rawlsian primary goods, and—which Sen himself defends—human capabilities. This paper is concerned with the latter two. As the basic primary goods Rawls lists (a) certain rights, liberties, and opportunities; (b) income and wealth and (c) the social bases of self-respect. He claims that these primary goods are means or “things that every rational man is presumed to want [...] whatever a person’s rational plan of life” (Rawls 1999, p.54). From the perspective of the capability approach, however, we should take account

“not only of the primary goods the persons respectively hold, but also of the relevant personal characteristics that govern the conversion of primary good into the person’s ability to promote her ends. What matters to people is that they are able to achieve actual functionings, that is the actual living that people manage to achieve” (Sen 1999, p.74).

‘Functionings’ refers to anything a person could do or be, like travelling or being part of a community. Capabilities are then the corresponding positive or substantive freedoms to achieve these functionings. A recent addition to this debate is a book edited by Brighthouse and Robeyns (2010), titled *Measuring Justice—Primary Goods and Capabilities*. This volume also contains an abridged version of an article that Thomas Pogge already published in 2002(a) under the title *Can the Capability Approach be Justified?* In that article—and in the reprinted book contribution—Pogge answers the question that he poses with a distinct ‘no’ and defends Rawlsian resourcism instead. Amongst others he ridicules capability theorists for demanding compensation for each and every possible natural difference between people, including hair types. The question that I will discuss in this paper is whether Pogge’s rejection of the capability approach is coherent and justified.

The first section will summarize how exactly Pogge understands Rawlsian resourcism, the capability approach and the differences between them. What I will argue in this essay is firstly that Pogge misconstrues the difference between the resourcist approach and the capability approach and is even implicitly relying on the idea of capabilities in his defence of resourcism. This is being discussed in section two, which will focus on primary goods versus human capabilities as the metric of justice, using the case of blind people and traffic lights. Secondly I will argue that, when reading Pogge’s article carefully, it seems that his apparent rejection of capabilities as the evaluative space for justice is masking something else. What Pogge, on a more fundamental level, seems to disapprove of is the widening by many capability theorists of the scope of justice beyond institutional design, to include things like cultural practices as well. This will be discussed in section three, where I will discuss the scope of justice, using the case of interpersonal differences in metabolism. Sections two and three thus address two different topics of disagreement between Pogge and capability scholars - of which only the second will turn out to be a real topic of disagreement. The last section will summarize the conclusions.

2 Pogge’s Analysis of the Contrast Between Both Approaches

The existence of immense human diversity is a key concern in the literature on the capability approach. Because of facts of human diversity, the degree to which resources can be converted into capabilities differs from person to person. A disabled person, for example, may need more or different resources to be able to do and be the same things as an able-bodied person. Hence, capability theorists consider capabilities to be a better ‘space of equality’ than resources. Pogge (p.32)¹ also concludes that the “key theoretical difference”

¹ Unless stated otherwise, I will refer to the 2010 abridged reprint of Pogge’s article (Pogge 2010).

between a capability approach and a resourcist approach is their answer to the question “how institutional schemes are to respond to natural *human diversity*” (emphasis is mine). The “key question” in the debate between both approaches, Pogge said earlier in the same book chapter (p.18), is the following:

“Should alternative feasible institutional schemes be assessed in terms of their participants’ access to valuable resources or in terms of their participants’ capabilities, that is, access to *valuable functionings*?”

Note the centrality of the term ‘institutional schemes’ in both quotes—I will get back to this in section three.

So what is Pogge’s take on resourcism versus the capability approach in relation to human diversity? He claims that a sophisticated resourcist approach—like the Rawlsian one—can take into account many of the facts of human diversity often mentioned by Sen, such as differences in relational perspectives, variations in social climate and environmental diversities. Variations in social climate, for example, concern amongst others “the prevalence or absence of crime and violence [...] epidemiology and pollutions [...] the nature of community relationships” (Sen 1999, p.70). Pogge (p.22) says that

“our paradigm resourcist Rawls sees such factors as rendering insecure some of the basic liberties of citizens such as their physical and psychological integrity and their freedom of movement.”

The “core of the debate between the two approaches” lies, according to Pogge (p.23), rather in the way both approaches treat *pure* personal heterogeneities, by which he means *natural* individual variations in physical/mental characteristics due to “ordinary genetic variations, self-caused factors, and differential luck”. Pogge (p.29) thus concludes that if one makes the resourcist approach as strong as possible, then the class of cases on which both approaches differ fundamentally is actually quite limited. For argument’s sake I will accept Pogge’s claim that a sophisticated resourcist can take into account many different facts of human diversity. Like Pogge, I will thus also focus on cases of pure personal heterogeneities.

It should be noted, however, that Pogge argues that many personal heterogeneities are not natural at all, but caused by either past or present inequality in resource access under some institutional order. Such resource deprivation, he says, is the cause of many physical/mental special needs or disabilities coming into existence. Resourcists, Pogge claims (p.28), have a more compelling response to such cases than capability theorists:

“Where the latter criticize institutional schemes for their failure to compensate for special physical and mental frailties, resourcists more powerfully criticize the same institutional schemes for their failure to compensate for frailties they *themselves produce*.”

Thus, he says, “on a resourcist view, the causal origins of special needs and disabilities are morally significant.”

What is implicitly illustrated in this brief summary of Pogge’s position is that there are at least two different questions at stake in discussions about distributive justice. One question is what the right metric or evaluative space of justice is (e.g. resources, Rawlsian primary goods, preference satisfaction, human capabilities or something else). The other question is what rules govern a just distribution of whatever is chosen in answer to the first question. Anderson (2010), who herself defends capabilities as the right metric of justice, gives a detailed overview of possible answers to this last question. She makes a distinction between unconstrained procedural rules, constrained procedural rules and distributive pattern rules.

Common answers in the last category, for example, are that there should be complete equality amongst people (egalitarianism), that everybody should have the good in question up to at least a certain threshold (sufficientarianism), or that the holdings of the worst off should be maximized (prioritarianism). As both questions present different options that can be combined, a large number of different theories of justice can thus be constructed. Rawlsian resourcism, for example, combines a focus on primary good as the metric of justice with principles of justice that are prioritarian, since Rawls' difference principle says that "social and economic inequalities [...] are to be to the greatest benefit of the *least advantaged* members of society" (Rawls 1993, p.6, emphasis is mine). Nussbaum (2006), like Sen considered to be one of the founders of the capability approach, combines a focus on capabilities as the metric of justice with sufficientarianism, as she claims that justice requires everybody to be brought up to at least a threshold level for all the capabilities on her list. Sen is not defending a particular set of rules concerning the distribution of capabilities.

In discussing what a just distribution is, one may also—as Pogge does—ask what the *cause* of an inequality is and distinguish between different causes. One might label this as the question about the scope of distributive justice. As we already saw, this question is important for Pogge. This is not surprising, considering that his other work in the area of global justice is known to emphasize the importance of causal chains (e.g. Pogge 2002b). His argument is that the global institutional schemes that Western people have created and uphold—such as the patent system and certain property rules—cause poverty elsewhere. We are—according to Pogge—harming the global poor in this way. Thus, our obligation to change their situation of deprivation is not stemming from positive duties of beneficence, but rather from us violating our negative duties not to harm them. For the purposes of this paper the important thing to realize is that according to Pogge “on a resourcist view, the causal origins of special needs and disabilities are morally significant.” He thus construes the resourcist view not exclusively as a choice for resources or primary goods as the right metric of justice.

What I will argue in the next section, is that in defending resources as the best metric of justice, Pogge misconstrues the difference between the resourcist approach and the capability approach and is moreover implicitly making use of the idea of capabilities in his defence of resourcism. The example used here is that of blind people and traffic lights, which was introduced by Pogge himself in the paper under discussion here. In section three I will get back to causal chains and Pogge's focus on institutions, using the case of interpersonal difference in metabolism.

3 The Metric of Justice: The Case of the Blind and Traffic Lights

Capability theorists, says Pogge, “value the goods persons have access to by reference to the *specific* needs and endowments of each particular person”, while resourcists are “guided by some conception of the *standard* needs and endowments of human beings” (p.23–24). This is also *the* distinction between both approaches according to Anderson (2010, p.87). Yet, Pogge also asserts, the resourcist “must avoid the complaint that this account is modelled mainly on the needs of some and much less appropriate to the needs of others.” The resourcist metric “must take account of the *full range of diverse* human needs and endowments” (p.31, emphasis is mine). However, as Anderson (2010, p.92) notes, it is hard to see how one can depart from both standard human needs and the full range of diverse human needs at the same time; as soon as one opts for the latter, one comes close to taking a capability approach, with its characteristic emphasis on human diversity. One cannot help but wonder: How is the resourcist able, without

resorting to some concept like capabilities, to determine that some institution providing primary goods is unbiased towards specific human needs or characteristics?

One of the cases that Pogge himself discusses is that of blind people and traffic lights with only visible signals. He considers these artefacts to be a part of the institutional order. According to Pogge (p.31) capability theorists may:

“say to the disabled person: ‘I understand that you have a lesser capacity to convert resources into valuable functionings. For this reason, we will ensure that you get more resources than others as compensation for your disability. In doing so, our objective is that, by converting your larger bundle of resources, you will be able to reach roughly the same level of capability as the rest of us [...]. The resourcist might say instead: ‘I understand that the present organization of our society is less appropriate to your mental and physical constitution than to those of most of your fellow citizens. In this sense, our shared institutional order is not affording you genuinely equal treatment. To make up for the ways in which we are treating you worse than most others, we propose to treat you better than them in other respects. For example, to make up for the fact that traffic instructions are communicated through visible but inaudible signals, we will provide free guide dogs to the blind’.

In this quote Pogge sketches a distorted picture of the likely response of a capability theorist and a false contrast between the two approaches. Three points stand out. Firstly, it is strange that in this case Pogge ascribes a vague and general solution like *compensation by providing more resources* to capability theorists. This is surprising, as proponents of the capability approach are particularly aware of the limitations of merely providing resources. Without referring to this specific case, Keleher (2004) makes the same point:

“Pogge wrongly commits himself to the problematic position that the only way the capability theorist can hope to enhance capabilities—regardless of a particular individual’s situation, is through the distribution of (various quantities and qualities of) resources. Thus, according to Pogge, the capability theorist, like the resourcist, is concerned only with institutional distribution of resources. This is a grave error.”

Being concerned about guaranteeing actual *capabilities* in practice and not in principle, in the case of the traffic lights capability theorists would opt for a concrete solution that efficiently and effectively tackles the capability deprivation in question, be it by providing resources like guide dogs or by institutional re-design in the form of adding audible signals to the traffic lights.

Secondly, Pogge suggests that capability theorists propose to provide compensation *for inferior physical properties or a lack of internal capacities*. However—as Anderson (2010, p.97) remarks—a capability theorist would not demand compensation for “the bare fact of lacking certain innate endowments”, as on its own this does not constitute a capability deprivation. The capability approach is interested in what Nussbaum (2000, p. 84/85) calls “combined capabilities, which may be defined as internal capabilities combined with suitable external conditions for the exercise of the functioning.” In other words (Smith and Seward 2009): the ontology of capabilities is relational, as an individual’s capabilities come about or cease to exist in a constellation of specific characteristics of these individuals and of those social/physical structures in which they are embedded. One might try to argue that in the case of disabilities like blindness or not being able to use one’s legs, the capability of which the person is deprived is not relational, as these handicaps are purely physical characteristics of a person (an internal ‘incapacity’). Yet this position is exactly what has been forcefully and quite successfully been challenged by activists in the area of disability (Terzi 2010)—the degree to which not being able to use one’s leg

becomes a severe handicap or capability deprivation depends on external states of the world, like the wheelchair accessibility of our buildings. Pogge (p.30) actually acknowledges this at one point in his resourcist reply to the case of disability.

Thirdly and most importantly, the resourcist in the quote from Pogge's paper implicitly relies on some capability concept. To see that, first let me ask the question what resource is at stake here. If it is the traffic light itself, as a merely *material* artefact, one could say to a blind person: "of course this traffic light has been installed for your convenience as well, you are as free to take advantage of it as any other person and nobody is keeping you from doing so." And that would be the end of the story. Underlying this response is a view of traffic lights as basically a constellation of wires, nuts and bolts, light bulbs and so on—how could that discriminate against the disabled or be a case of injustice? There is nothing discriminatory about green lights per se, just as there is nothing inclusive about audio-signals per se. If instead we want to argue that something is wrong with this response, that this specific institutional arrangement unfairly assumes—as Pogge's resourcist says it does in the quote from p.31—some average person, it seems that a different conceptualization of the resource in question is needed. One possibility would be to conceptualize the resource distributed not as 'traffic lights' but as 'safety in traffic.'² In fact, this move seems not so radical in light of the fact that Pogge himself defends not a simplistic resourcism, but what he claims to be the most sophisticated form of it: Rawlsian resourcism. As was mentioned at the start of this article, the first items on Rawls' list of primary goods are certain rights, liberties, and opportunities. For blind people freedom of movement would be restricted in a very practical way if there were only traffic lights with visible signals—their physical safety would be threatened every time they would try to cross a busy street. Rawls claims that primary goods are "things that every rational man is presumed to want [...] whatever a person's rational plan of life" (Rawls 1999, p.54)—arguably this also applies to basic traffic safety. It can be said to be one of the constitutive elements of true freedom of movement. However, it should be noted, this choice for 'safety in traffic' instead of 'traffic lights' as the good in question is not trivial; Safety in traffic is not 'out there' in the world in the same way that traffic lights are, independent from who the person participating in traffic is. This safety arises or fails to arise in an interaction between a specific person—whether blind or not—and her specific environment. We have thus already come close to the relevant concept of capability, which is—as noted before—relational in exactly this way; Whether or not someone has the capability to be safe in traffic depends on the internal capacities of the person (seeing or blind) *in combination* with the details of design of the external environment, including traffic lights (with or without audible signals). Now let's recapitulate:

- (1) Pogge considers traffic lights to be part of the basic institutional order, so that
- (2) a condition of fairness or treating everybody as equals applies, meaning that
- (3) in their design we "must take account of the full range of diverse human needs and endowments,"
- (4) a condition that—considering the fact that some people are born blind-
- (5) is, according to Pogge, violated in case of traffic lights with visible signals only, a claim that

² There is a different way to argue along the same lines as is being done here, but it would require a detour in philosophy of technology. This alternative argument proposes a move not from traffic lights to safety in traffic as the good to be distributed, but from seeing traffic lights as mere *material* artefacts—e.g. a collection of 'nuts and bolts' and so on—to proper *technical* artefacts. Using the account of Houkes and Vermaas (2010) about the nature of technical artefacts and engineering design, it can be argued that technical artefacts are (1) per definition designed with the aim of expanding some human capabilities and (2) may indeed discriminate against non-average users like the disabled—in which case the artefacts will not expand the capabilities of these users. For more details the reader is referred to Oosterlaken (2012).

- (6) can only be substantiated if we resort to a capability-like concept as the metric of justice

The upshot is thus the following: Pogge identifies a certain type of traffic lights as a case of injustice, but how would he be able to determine that this traffic light or any other institutional design is unjustly biased towards the needs of some, while excluding others, without resorting to a concept like capability? He cannot. There is nothing about traffic lights as mere material artefacts *in isolation* that points in that direction. The problem cannot be identified without at least implicitly using some concept of a lack of capability or ‘access to functioning’ for the blind person, resulting from the interplay between specific personal characteristics and design features of the institutional arrangement in question. Perhaps it *seems* possible to leave capabilities out of the story, but this is only because it is a very simple and intuitively obvious example—surely we don’t need any fancy philosophical concepts or insights to grasp that a certain type of traffic light by design is not appropriate for blind people? However, when we have to judge more complex institutional designs or when a larger range of less salient individual characteristics becomes important, it may no longer be feasible to make a judgement on the justice or inclusiveness of a design without explicitly investigating what the implications of different design alternatives are for the capabilities of different categories of individuals.³

4 The Scope of Justice: The Case of Metabolism

The previous section made a contribution to a specific existing debate amongst political philosophers on the best ‘metric of justice.’ Pogge and capability scholars, so I argued, actually do not deeply disagree on the question of the best metric of justice—access to resources or access to functionings (that is, capabilities). Using Pogge’s own example of traffic lights, I showed that Pogge has to resort—even if only implicitly—to something like capabilities in order to identify the injustice inherent to some institutional designs. However, on carefully reading Pogge’s paper a second topic of apparent disagreement between Pogge and some or possibly many capability theorists emerges—namely on the importance of causal chains and on the scope of theories of justice. This difference of opinion seems to be more fundamental to me than the one on the best metric of justice.

To clearly bring out this second disagreement, let’s take another look at pure or natural personal heterogeneities, according to Pogge at the “core of the debate between the two approaches.” Pogge (§2.2) is under the impression that the capability theorist—unlike the resourcist—prescribes compensation for *each and every* possible natural difference between people, ranging from differences in metabolism to differences in hair type, for which the different options all need to be fully ranked from the most to the least desirable in order to make decisions about compensation. This is, as Keleher (2004) and Anderson (2010) note, not true. In reality, most capability theorists tend—like resourcists—to care about only some but not all differences. Both approaches diverge, however, in how they determine when a personal heterogeneity is a concern of justice. The case of differences in metabolism between people can illustrate this. Unlike blindness, Pogge (p.48–49) seems to consider a high metabolism as irrelevant in matters of justice, while Sen (e.g. 1984, p.320) has repeatedly mentioned interpersonal metabolism differences as one example that can illustrate

³ In her chapter on primary goods versus capabilities in the case of disability Terzi (2010) makes the same point as I do—using a related, but somewhat different and non-technical case—and the interested reader is referred to her more extensive treatment of the issue.

why human capabilities would be a better metric of justice than resources. Now assume that the metabolism of one person is such that 8 h of work a day would feed him and of another person is such that 4 h of work would feed him. This, says Pogge,⁴ does not mean that there is any demand of justice that both people work 6 h per day and split the production such that both people will be fed adequately (and thus maintain the capabilities for which being adequately nourished is a pre-condition). In other words, we do not—according to the resourcist—need to compensate the person with a higher metabolism for his natural disadvantage. But now take the following example: a community has to decide between two crops that they can grow on their communal land. Crop A is highly nutritious, but does not taste that good, while crop B has low nutritious value, but is very delicious. If crop A were chosen by the community, the person with the high metabolism would also be adequately fed by his equal share of the harvest. If crop B is chosen, he will be undernourished if he works as hard in the field as everybody else. In response to this example, Pogge admits that in that case metabolism would indeed become relevant, just like blindness in the case of traffic lights, because the design of the institutional order would be such that it “is modelled mainly on the needs of some and much less appropriate to the needs of others.”⁵

So for Pogge it is not the specific heterogeneity as such that is decisive, but if and how it is somehow implied in a causal chain including institutions. For different reasons the capability theorist is also not per definition committed to any interpersonal difference being salient from the perspective of justice. From the perspective of the capability approach innate endowments only matter insofar as they are one of the constitutive components of a *valuable* human capability—the other components arising, as explained in the previous section, from the person’s environment. We should thus also ask, as Anderson (2010, p.94/95) notes, which specific capabilities are valuable, are subject of demands of justice, and what rules of distributive justice apply. Both Nussbaum and Anderson, the latter explains, propose a sufficientarian standard of justice; For Anderson, everybody should have those capabilities that are needed to have an equal standing as a citizen to a sufficient level, for Nussbaum we all have a right to a sufficient level of those capabilities on her famous list of ten capabilities, which—she claims—are necessary for a dignified and truly human life. Arguably, undernourishment would lead to capabilities falling below those thresholds, but once that level is reached the sufficientarian capability theorist may find differences in metabolism irrelevant.

To summarize, the case of metabolism is illustrative of the following. When we ask if certain personal heterogeneities are somehow relevant for distributive justice, Pogge and capability theorists like Nussbaum and Anderson go about differently in answering the question. Pogge will first and foremost want to know whether the potential injustice involves some institution(s) being biased towards the average person, which would mean an unequal treatment of persons deviating from that average. As I have argued in section two, such a bias cannot be determined without resorting to some notion like human capabilities. Thus a necessary condition for something being a case of injustice is—according to Pogge—that it involves some biased institutional arrangement, but—so I argued—a capability-like concept is needed to determine that this bias indeed exists. When asked if certain personal heterogeneities are relevant for distributive justice, capability scholars like Nussbaum and Anderson will primarily want to know if there is any human capability at stake that is relevant for respectively human dignity or democratic standing and if so, to what degree person(s) with the relevant personal characteristics fall short of having the capability. What capability scholars like Nussbaum are less concerned

⁴ Personal communication with Thomas Pogge on May 18th 2010.

⁵ Personal communication with Thomas Pogge on May 18th 2010.

with, is whether or not the capability deprivation in question is a consequence of the institutional order not properly responding to personal heterogeneities, or rather of cultural practices.

It is thus a pity that Pogge—as I noted in section one—immediately frames the debate between capability theorists and resourcists in terms of the assessment of institutional schemes. This is hardly surprising, as he is a Rawlsian resourcist. And it is not without meaning that Rawls (1971) begins his *Theory of Justice* with the memorable sentence “Justice is the first virtue of *social institutions*, as truth is of systems of thought” (emphasis is mine). It is exactly this point that has recently been challenged forcefully by Sen (2009), who argues that our philosophical debates are too much preoccupied with ‘just institutions’, while we should rather be discussing ‘just societies’. He defends a non-ideal or non-transcendental idea of justice, to which a comparative approach of possible states of the world—using amongst others the capability metric—is central. And these capabilities are brought about not only by the right institutions, but also—says Sen—by means of culture, social practices and individual people’s behaviour. As Sen puts it in the preface of *The Idea of Justice* (2009, p.x):

“The presence of remedial injustice may well be connected with behavioural transgressions rather than institutional shortcomings. [...] Justice is ultimately connected with the way people’s lives go, and not merely with the nature of institutions surrounding them.”

Attention for culture and social practices is also prevalent in other literature on the capability approach (e.g. Nussbaum 2000). It seems that many capability theorists—in line with Sen—hold it to be one of the advantages of the capability approach over a resourcist approach that it is able to reveal some of the consequences of culture and social practices as being cases of *injustice*. For example, in her chapter on gender in the book *Measuring Justice—Primary Goods versus Capabilities* Robeyns (2010, p.227) writes:

“[Rawls’] Justice as fairness postulates that the subject of justice is the basic structure of society, that is the totality of social institutions. For the capability approach, justice is everywhere. For example, the quality of life of individuals in terms of their capability sets is profoundly affected by the behaviour of other family members and indeed behaviour of people outside the family. Capability theorists argue that the injustices that such behaviour can generate need to be part of a theory of justice, and not relegated to moral theory”

Pogge and these prominent capability scholars thus give different answers to the question of the scope of justice. But as mentioned before, there is no logical necessity to combine a choice for capabilities as the metric of justice with a widening of the scope of justice beyond institutions. Different combinations of answers to the questions of the metric, scope and distributive rule of justice are possible. And each of these questions deserves attention in its own right. For example, Broome (2010) has argued that Sen is stretching the scope of justice too much: “Sen is looking for particular ways to make the world better. Not all those ways necessarily make it more just.” Unfortunately, this question cannot be properly discussed, let alone settled, within the limitations of this paper. The main point being made here is that this topic of disagreement between Pogge and capability scholars is not always properly recognized and deserves more attention.

5 Conclusion

Whether justice is the virtue of institutions only, or whether for example cultural practices may also give rise to instances of injustice is a question which deserves further attention

from both Pogge and capability scholars. Pogge, however, does not even seem to recognize the question of the scope of justice as a point of contention between him and some main proponents of the capability approach. The initial framing in his paper about capabilities versus resources as the metric of justice simply *assumes* that all discussants are concerned with just institutions only. However, as was explained, the questions about the metric and the distributive principles/scope of justice should not be confused. This, of course, also means that endorsing capabilities as the best metric of justice does not automatically commit one to also acknowledging capability deprivations caused by cultural practices as cases of injustice; We can easily conceive of a variety of the capability approach that merely defends a choice for capabilities instead of primary goods as the best metric to compare possible institutions only.

So let's assume—for the sake of argument—that justice indeed only concerns the institutional structure of society. In this way we enter the discussion on Pogge's terms, in order to get to the heart of a major flaw in Pogge's argument. Pogge holds that—according to resourcism—the design of institutions should be “guided by some conception of the *standard* needs and endowments of human beings”, but without being biased against some people. What was argued in section two is that without looking at capability levels it is hard if not impossible to tell whether or not institutions are indeed unbiased. Thus Pogge implicitly has to rely on the concept of human capabilities and seems to be a capability theorist in disguise.

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