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The Capabilities Approach as a Foundation for an Ethical-Political Theory of the Good

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Résumé

L'approche des capabilités a été caractérisée par un développement fulgurant au cours des vingt-cinq dernières années. Bien que formulée à l'origine par Amartya Sen, détenteur du Prix Nobel en économie, Martha Nussbaum reprit cette approche dans le but de s'en servir comme fondation pour une théorie éthico-politique intégrale du bien. Cependant, la version de Nussbaum s'avéra particulièrement vulnérable à plusieurs critiques importantes, mettant sérieusement en doute son efficacité globale. À la lumière de ces faits, cette thèse vise à évaluer la pertinence théorique et pratique de l'approche des capabilités de Nussbaum, en examinant trois groupes de critiques particulièrement percutantes formulées à son encontre.

Le premier groupe d'objections concerne la nature de l'objet à distribuer par les capabilités et affirme que l'analyse de ce dernier révèle une sous-détermination ainsi que des ambiguïtés. Dans le cadre de notre thèse, nous contestons cette allégation en démontrant qu'elle repose sur des difficultés propres aux modes de rédaction de Sen et de Nussbaum, et qu'une reconstruction conceptuelle de l'objet à distribuer par les capabilités peut, en fait, être accomplie avec succès en examinant leurs écrits originaux sur ce sujet. De plus, il est démontré que l'approche par les capabilités fut déjà mise en opération depuis un certain temps, tel qu'illustré par plusieurs discussions à ce sujet apparues au cours de la dernière décennie. Finalement, nous arguons que toute inquiétude résiduelle à cet égard peut être éliminée en adoptant une version standardisée de l'objet des capabilités, basée sur son noyau conceptuel originel, et en éliminant les formulations plus problématiques de Sen et Nussbaum.

Le deuxième groupe de critiques concerne la justification morale de l'approche de Nussbaum. Ce dernier remet en question l'efficacité des nombreuses tentatives faites par Nussbaum en vue de justifier sa théorie par la voie de ses

‘quatre approches au raisonnement moral’, ainsi que par ses réponses à quatre contre-arguments de nature relativiste formulés contre celle-ci. Contre ces objections, cette thèse démontre que l’usage d’une forme institutionnalisée de la théorie de l’observateur idéal permettrait de formuler un jugement définitif concernant la valeur morale réelle de l’approche de Nussbaum, et que ce jugement serait probablement de nature positive. De surcroit, la prétention des ‘capabilistes’ selon laquelle leur approche est moralement supérieure aux théories rivales resourcistes et welfaristes a été remise en cause. Mais nous démontrons que ces dernières s’avèrent forcées d’incorporer une distribution des capabilités de base dans leurs théories respectives, révélant ainsi la supériorité de l’approche par les capabilités à un niveau fondamental.

Le troisième ensemble de critiques s’attarde à la question des relations de pouvoir propres à nos sociétés humaines, argumentant que les ‘capabilistes’ omettent de prendre suffisamment en considération ce phénomène complexe dans leurs formulations quelque peu idéalistes. Contre ce dernier groupe d’objections, cette thèse affirme que la création et le maintien constant d’un triangle fondamental d’informations véridiques, d’individus alertes, et de formes appropriées de protection institutionnelle peuvent être proposés pour remédier à cet important défaut de l’approche par les capabilités. De plus, le fait qu’il soit inévitable et nécessaire de faire face à une multitude de choix difficiles lors de l’implémentation de l’approche de Nussbaum, ainsi que la nécessité et l’existence de régimes libéraux démocratiques appuyés par la communauté internationale en tant que prérequis au bon fonctionnement de cette approche sont également examinés.

En conclusion, j'affirme que, bien qu'imparfaite, l'approche par les capabilités de Nussbaum ne fait finalement face à aucune objection fatale, et que l'on peut donc défendre et promouvoir son développement.

Mots-clés : Sen, Nussbaum, approche par les capabilités, universalisme, pluralisme, relativisme, théorie de justice distributive, théorie de l'observateur idéal, Realpolitik

Abstract

The capabilities approach has seen significant development over the past quarter century, branching out into a variety of fields and directions. Originally developed by Nobel Prize Laureate Amartya Sen, Martha Nussbaum has sought to extend this approach beyond its mainly instrumental role into a tangible foundation for a full-fledged ethical-political theory of the good. However, this move has attracted a great number of criticisms levelled against Nussbaum's specific version of the capabilities approach. In this thesis, I identify three main groups of observations under which said criticisms can be classified, and assess their respective strength and tenability.

The first group includes various charges of ambiguity and underdetermination befalling the proposed object of distribution by the capabilities approach. I dispute this claim, pointing out that these charges can be traced back to difficulties associated with the respective writing styles of Sen and Nussbaum, and that a successful reconstruction of the capabilities object can in fact be achieved by examining their initial writings dealing with this approach. Also, I point out that a successful operationalization of the capabilities approach already has been achieved for some time now, as attested by numerous discussions that have flourished during the last decade. Furthermore, I argue that any remaining worries can be alleviated by advocating for a standardized account of the capabilities metric, based heavily on its initial conceptual core, and by disregarding some of the more problematic formulations that have initially been made by Sen and Nussbaum.

The second group claims that Nussbaum's attempts to defend her capabilities approach by way of her 'four approaches to moral reasoning', together with her treatment of four relativistic counterarguments levelled against it, is both problematic and inadequate. Against these assertions, I advocate for the use of an

institutionalized form of ideal observer theory in order to produce a definitive moral judgment regarding the overall value of her project, and I provide a positive anticipatory response of its likely outcome. Furthermore, capability theorists have also claimed moral preferability over resourcist and welfarist competitors. While I argue that this initial claim is unfounded, this is only in light of the fact that the competition ends up endorsing a form of basic capability distribution as well.

The third group claims that capability theorists have paid insufficient attention to the nature of power-relations in our human societies. Against this claim, I advocate for the creation and constant preservation of an underlying fundamental triangle of veridical information, alert individuals, and appropriate institutional protection as an initial starting point for further consideration. Furthermore, I point out that Nussbaum's capabilities approach will, by necessity, need to take into account a variety of hard choices associated with its practical implementation, and that it will most probably require the presence of liberal-democratic regimes backed by various levels of support on behalf of the international community to function successfully.

Ultimately, I conclude that, while not entirely trouble-free, no truly fatal objections exist against Nussbaum's capabilities approach, and that further work towards its practical implementation can consequently proceed unimpeded.

Keywords: Sen, Nussbaum, capabilities approach, universalism, pluralism, relativism, distributive theory of justice, ideal observer theory, Realpolitik

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Chapter 1: (Introduction) developing the capabilities approach as a foundation for an ethical-political theory of the good

Introduction:

The ethical-political theory referred to as the capabilities approach has experienced huge growth over the past quarter century, motivated initially by a number of perceived drawbacks in existing resourcist and welfarist approached to human development, ethical analysis and policy planning, as well as by Aristotelian and Marxian conceptions of the good life, recognized as authentic goals worthy of collective pursuit.[1] By 2011, it constitutes one of the major recognizable approaches to addressing a variety of issues pertaining to the all-important question of human well-being. Originally developed in the early 1980s by Nobel Prize Laureate Amartya Sen, this approach has since seen significant levels of further development and branching out thanks to the ongoing work of a number of authors, commentators, and additional capability theorists.

One such prominent capability theorist and probably the most recognizable one after Sen himself is Martha Nussbaum. Nussbaum sought to extend the mostly instrumental role envisaged by Sen for this approach into an actual full-fledged ethical-political theory of the good, intended to serve as a blanket solution for resolving various basic levels of social injustice. The proposed means to accomplish this task involve distributing to all individuals a number of highly

[1] The numerous historical and philosophical cross-continental and multicultural origins of the modern version of the capabilities approach are discussed at some length by Nussbaum (2011a: 123-142).

substantial freedoms to do and to be a variety of things that are deemed essential in order to live a minimally decent and fulfilling life. These substantial freedoms have been enumerated by her under an original list of ten central human capabilities, whose distribution and preservation is to become the direct responsibility of a variety of governmental agencies throughout the world. Nussbaum further claims that, once this task is accomplished, minimal levels of social justice will be effectively attainable for all, while simultaneously maintaining acceptable degrees of pluralism, diversity, and freedom of choice in the process. Hence, because of its overarching ambition to serve as an effective foundation for an ethical-political theory of the good, I will mainly refer to Nussbaum's specific version of the capabilities approach as the 'foundational project' throughout this thesis.[2]

Understandably, such a proposal has solicited significant levels of scepticism on the part of a number of authors who see grave problems associated with such a bold project. These observations can be classified into three main groups. The first group contains questions pertaining to the very theoretical nature of the capabilities approach itself. In particular, the actual 'object' that this approach proposes to distribute, namely 'capabilities', has been accused of being ambiguous, underdetermined, overly-complicated, and consequently unfit to serve as the basis for a tangible distributive theory of justice (no matter what its

[2] These various aspects proper to Nussbaum's version of the capabilities approach are discussed in greater detail (together with corresponding references) in section 2.1 of chapter two, under the heading entitled 'The Development of Nussbaum's Capabilities Approach'.

proposed extent), insofar as one is simply unclear regarding what it is exactly that ought to be made available to people in the first place. The second group claims primarily that Nussbaum's attempt to morally justify her approach by way of her 'four approaches to moral reasoning' is flawed for a variety of reasons, and that her approach runs further afoul of four relativistic counter-arguments levelled against it, severely undermining its overall moral tenability. Under this second group, one also encounters additional objections being made regarding the original claim according to which the capabilities approach is morally superior to competing resourcist and welfarist competitors, questioning its true tenability. Finally, the third group claims that the capabilities approach in general, and Nussbaum's version in particular, pays insufficient attention to the problem of power-relations in society, meaning that any attempted implementation thereof (and particularly Nussbaum's version in particular) would actually result in the creation of graver levels of social injustice than those initially sought to be corrected thereby.

Together, these three distinct groups of observations threaten to severely undermine the overall tenability of Nussbaum's foundational project. However, closer examination of the salient literature reveals a variety of ways in which said problems can be mitigated, overcome, or actually shown to be non-applicable to Nussbaum's specific version of the capabilities approach. Consequently, I argue that the final implications thereof effectively salvage her project by ultimately preserving its theoretical, moral, and practical underpinnings. I briefly discuss the

specific contents of each respective topic below, before going into greater detail in the following four chapters.

1.1 Three groups of observations made against the foundational project

The first group includes various charges of ambiguity and underdetermination claiming that the proposed object of distribution by the capabilities approach cannot be successfully utilized, insofar as its highly complex, unclear, and at times contradictory formulations simply render incomprehensible what it is exactly that ought to be distributed. While it is true that a proper and successful analysis of the theoretical contents of capabilities and of any corresponding distributive spreads do end up conceptually very taxing and rather difficult to put into practice, the additional claim that this renders this approach ineffective is simply unfounded. There are a number of reasons to maintain this affirmation. Firstly, a significant reason for the appearance of these charges rests directly with the specific writing styles of Sen and Nussbaum, making a successful reconstruction of their respective idea of 'capabilities' rather difficult to perform. Nevertheless, a successful reconstruction thereof can be still achieved by looking at their initial writings dealing with this approach, insofar as the central conceptual core that they devise at this stage remains, for all intents and purposes, unchanged in their later writings as well. Secondly, initial worries that have appeared in the salient literature regarding the theoretical tenability of the capabilities approach can be overcome by pointing out the significant ways in

which discussions pertaining to actual or further possible models of operationalization have flourished, especially during the last decade. This indicates that the capabilities approach already has, for all intents and purposes, been operationalized quite successfully in a variety of ways and in many environments. Thirdly, any remaining worries regarding possible ambiguity and underdetermination can be alleviated by advocating for a standardized account of the capabilities metric, based heavily on its initial conceptual core. This can be done by disregarding some of the more problematic formulations that have initially been made by Sen and Nussbaum, and by suggesting that any additional operational refinements thereto be made solely when needed, and in accordance with the ongoing preservation of this core in question. In this way, the distributive object proposed by the capabilities approach remains comprehensive, as well as sufficiently flexible and multivalent in order for it to function quite effectively at the center of Nussbaum's proposed list of central human capabilities.

The second group encompasses specific moral problems pertaining to Nussbaum's foundational project concerning the manner in which she sought to defend it by way of her four approaches to moral reasoning, together with her treatment of four relativistic counterarguments levelled against it. Here I take up a rather different defensive tactic, insofar as I begin by arguing that the capabilities approach actually relies, as a whole, on a tacit endorsement of ideal observer theory in order to justify its specific prescriptions. After an examination of this theory, its overall tenability, and a proposal for an institutionalized collective

version thereof in order to overcome its many recognizable drawbacks, I apply its principles to Nussbaum's four approaches to moral reasoning and to the four relativistic counterarguments levelled against it. This analysis allows for the identification and extraction of the more successful elements from these four approaches (and disregard of the more problematic ones) towards the creation of a fifth improved approach to moral reasoning that promises to vindicate the moral tenability of her theory quite nicely. Furthermore, it also allows for an overall assessment of the actual strength and tenability of the four relativistic counterarguments, which end up not being very prominent in the end. Finally, though Nussbaum's idea of a global overlapping consensus in order to morally justify her project is shown to not have been reached, as of yet, its eventual realization along the lines of ideal observer theory is defended, and an assessment of the probable outcome of such an exercise with regards to the ultimate moral value of Nussbaum's foundational project is undertaken and found to be positive, in light of currently existing empirical evidence. This suggests that there is no fundamentally damaging moral claim to be made against her project, and that its eventual moral justification by the respectable avenue of an institutionalized collective version of ideal observer theory stands as a very real possibility, to be seriously envisaged in the future.

Another significant part of the moral claims made in favour of the capabilities approach involves an alleged preferability of this approach over competing resourcist and welfarist alternatives. Capability theorists support this

assertion by analyzing competing theories according to three key desiderata, including (a) the inherent desirability of the proposed distributive object itself, (b) the acceptability of the consequences incurred by distributing said object in some fashion or other, (c) the compatibility of the proposed distributive scheme with (what is taken to be) an optimal notion of personal agency and autonomy. However, while these three desiderata constitute valid goals for any tangible distributive theory of justice to achieve, capability theorists also 'strawman' the competition, either by depicting their proposed distributive object and distributive patterns (or spreads) in a caricatured, primitive, or somewhat oversimplified manner, or by making an unwarranted equivocation between early proposed versions of said object and spreads as the only and final ones in existence, disregarding (or ignoring) later attempts at refinement. Hence, careful analysis reveals that competing resourcist and welfarist approaches are, in fact, quite able to address the variety of objections levelled against them. However, further examination also suggests that, in order to do so, they need to end up advocating for a distribution of objects that come to conceptually resemble capabilities more and more. Therefore, while capability theorists are wrong in their many claims regarding the inherent drawbacks of resourcism and welfarism, I argue that they nevertheless earn an indirect victory in having the competition concede the moral goodness of distributing at least something akin to Nussbaum's central human capabilities. This effectively vindicates the capabilities approach (and Nussbaum's version thereof) at this particular level of the moral debate.

The third group of arguments made against the capabilities approach concerns its allegedly severe oversight of the nature of power-relations in society, and the manner in which this greatly undermines the many prescriptions made by capability theorists if they were to be attempted in an as-is manner in our current world. These claims have been primarily levelled against Sen's version of the approach, though Nussbaum has seen her fair share of criticism as well. Furthermore, because of her strong ties to Sen's version of this approach, all these criticisms tend to befall her foundational project to greater and lesser extremes as well. Since these many objections appear to be rather well-founded, I do not dispute them here, and seek, instead, to suggest a variety of further avenues of development by way of which Nussbaum's foundational project could be 'immunized' from the many nefarious consequences that its reckless implementation risks engendering. Hence, by relying on a variety of suggestions made by a number of capability authors focusing on this topic, I advocate for consideration of the creation and constant preservation of an underlying fundamental triangle of veridical information, alert individuals, and appropriate institutional protection, in order to assist in the practical implementation of the foundational project. I also point out that any such attempt will invariably need to take into account the respective type and degree of hard choices generated by the necessity to employ coercion and force when dealing with particularly recalcitrant regimes, and that any 'foundational project-friendly' regime will most probably be of a rather liberal-democratic persuasion. Finally, I suggest that global capability

implementation will need to be done by way of local regimes in concordance with required actions undertaken by the international community when need be, insofar as the stage is simply not set (as of yet) for a one-world foundational project-based government. Ultimately, I argue that these various measures and precisions, based on principles of Realpolitik, can promise a smooth and (mostly) trouble-free implementation of Nussbaum's foundational project at the local, national, and (eventually) global level.

Conclusion:

By carefully examining what I take to be the three major groups of observations that threaten to undermine the overall tenability of Nussbaum's foundational project, I argue that, despite the many problems identified thereby, most can be overcome rather successfully. This does not entail that Nussbaum's foundational project remains overly problem-free. But it does show that there exist no known knock-down arguments that would imply that the foundational project is a theoretically impractical, morally dubious, or practically dangerous distributive theory of justice to implement. Further work can consequently proceed towards making it a practical reality, as resources to bring this about already exist within the very broad and highly detailed capabilities literature. With this being said, I now move on to a detailed examination of the first group of claims pertaining to the charges of ambiguity and underdetermination that have

been levelled against the capabilities approach in general, as well as the foundational project in particular.

Chapter 2: Conceptualizing capabilities within the foundational project

Introduction:

Martha Nussbaum's foundational project proposes that we distribute central human capabilities to all persons everywhere in order that minimal levels of social justice become a global reality. At the core of her foundational project is a list of roughly ten such central human capabilities, intended to serve as a guide and to be implemented into the respective constitutions of all nations around the globe. The list itself rests on what I refer to here as the 'capabilities metric'[3], which corresponds to a conceptual core intended to define what it is exactly that is meant by 'capability', as well as what the respective parameters of its deployment and distribution consist in. Though initial examination of this conceptual core appears rather unproblematic, later observations reveal serious drawbacks caused by various levels of ambiguity and undetermination that have been deemed to befall the capabilities approach in general, as well as Nussbaum's foundational project in particular. Despite these numerous drawbacks, the latest attempts at operationalization show remarkable progress being made towards the ultimate realization of a fully-functional and wholly-applicable capabilities metric. However, this has come at the price of a very heavy conceptual load on the part of capability theorists, threatening to render its implementation notoriously difficult,

[3] I use this term in relationship to other metrics that have also been proposed, namely resourcist and welfarist ones.

especially along the lines of the (at times) vaguely defined central human capabilities. Against this worry, I propose a conceptual reduction back down to the key components first developed by capability theorists, together with the elimination of some of the more troublesome aspects surrounding the very definition and use of the term 'capability' that were responsible for the appearance of the ambiguity and underdetermination charges that befell the capabilities approach in the first place. This, in turn, promises to produce a more 'manageable' capability metric that can then be more successfully (and easily) employed to underpin the various complex parameters proper to the specific implementation of Nussbaum's central human capabilities.

Hence, this second chapter is divided into five sections. The first makes some preliminary remarks regarding the nature and scope of the capabilities literature, together with reasons given for why it is rather difficult for a newcomer to aboard it successfully, and why this can contribute, in no small part, to the appearance of the aforementioned charges of ambiguity and underdetermination that have appeared later on. The second seeks to delimit the main key components proper to the capabilities metric, as they reside at the very core of the capabilities approach itself. The third illustrates how various levels of ambiguity and underdetermination have spread confusion across the capabilities literature, and lead to serious doubts regarding its possible operationalization. The fourth gives a nod to the sizeable efforts employed thus far in order to arrive at actual operationalization models that are fully functional. The fifth examines a number of

ways in which some of the problems identified thus far either do not apply to Nussbaum's foundational project, or can be overcome by way of some clever tweaks applied thereto. It also identifies some residual worries surrounding it that continue to persist to this day.

2.1 Some preliminary remarks regarding the nature of the capabilities literature

Ever since its appearance a quarter of a century ago, the capabilities approach has branched out into many diverse fields of specialization, with its distinct vocabulary making its way into a number of areas of expertise. As of the end of 2011, the Human Development and Capability Association reports the existence of over 850 publications related to the capabilities approach in some way or another.[4] Amartya Sen's initial formulation of the capabilities metric, and of the capabilities approach that encompasses and utilizes it, has served to influence the formation of the *Human Development Report* published annually since 1990 by the United Nations Development Program (UNDP). Furthermore, more than 500 *human development reports*, utilizing capability-based theoretical tools and frameworks, have come to exist, as of this day.[5] As far as further actual or proposed potential use is concerned, the capabilities approach has aroused

[4] The Human Development and Capability Association is accessible at www.capabilityapproach.com, with constant updates regarding journals, lectures, conferences and publications, as well as various other events related to the capabilities approach.

[5] Robeyns (2006: 351-352)

interest in such diverse fields as disability studies[6], education[7], business ethics[8], germ-line engineering[9], rights of other species[10], Christian ethics[11], international justice[12], and environmental justice[13], to name but a few. It would thus not be a far exaggeration to state that, as of today, there is practically something to be said for capabilities in (almost) every field, and in (almost) every flavour, relating to some aspect or another of human (as well as animal[14] and environmental) well-being.[15]

While this stands as a testament to the great interest and scope that this approach has engendered, it can also feel rather overwhelming for a newcomer who aspires to become a future capability theorist, or who simply wishes to acquaint themselves with the basic aspects of the capabilities approach proper. In such cases, it is usually preferable to start off, either by consulting a solid, reputable, secondary introductory source, specializing in the capabilities approach, or by consulting the works of the recognizable founders of this

[6] Terzi (2005a); Nussbaum (2002a); Nussbaum (2006: chapter 2 & 3)

[7] Saito (2003); Unterhalter (2003b)

[8] Gagnon and Cornelius (2002)

[9] Cooke (2003)

[10] Nussbaum (2006: chapter 6)

[11] Hicks (2005a)

[12] Nussbaum (2006: chapters 4 & 5)

[13] Perrett (1998); Holland (2008)

[14] The question of 'non-human animal capabilities' is an important one that Nussbaum (2006: chapter 6) discusses at some length. I do not deal with it here for two reasons. First, the applicability of capabilities to non-human animals hinges, in an important manner, on its preliminary applicability to human beings. Second, there are a number of technical difficulties associated with the underlying principle of choice enablement made possible by capabilities that avails itself to be quite problematic when dealing with less sentient beings — a fact duly recognized by Nussbaum herself (388-392). Hence, non-human animal rights theory constitutes an additional external branching-out topic for the capabilities approach.

[15] For a good (albeit now dated) overview of current applications of the capabilities approach, see Clark (2005a: 11-12) and Robeyns (2006).

approach, namely Amartya Sen and Martha Nussbaum — preferably in chronological order. However, while the first option on the list is, pending some reservations[16], quite attainable, the second option presents one with a number of specific difficulties that can severely detract and discourage one from the task at hand. This is because each text by Sen and Nussbaum deals with at least three distinct thematic aspects of their capabilities approach. These aspects involve: (i) discussions regarding the very nature and properties of the capabilities metric; (ii) discussions regarding the broad scope of application of the capabilities approach; (iii) discussions formulated as complex justificatory exercises intended to convince the reader of the inherent goodness and preferability of utilizing the capabilities metric, and the capabilities approach in general, over competing alternatives (generally variations on resourcism and welfarism). The second problem has to do with the fact that there are no truly dedicated texts, so to speak, dealing exclusively with one of these thematic aspects in particular. Rather, the writing styles of Sen and Nussbaum essentially force one to piece back together discussions pertaining to each such respective thematic aspect from a series of books and articles, stretching over a period close to a quarter century. The third (and most confounding) problem has to do with the fact that, once this reconstructive exercise is complete, one does not always get a proper sense of

[16] Probably the best introductory work to the capabilities approach out right now is by Deneulin and Shahani (2009). Even so, the reading is rather thick and multifaceted (and not always easy), covering a great variety of subjects, owing to the (by-now) greatly expanded scope of the capabilities approach at the time of its publication. Nussbaum (2011a) aims to fill the gap by way of her latest book entitled *Creating Capabilities*, intended to serve as a more accessible up to date introduction to this approach.

completeness for each of these thematic aspects in particular. Rather, one often ends up left with the uneasy impression that, despite all the discussions pertaining to the subject matter at hand, not all of one's questions have been answered. A quick rundown of the general development of Sen and Nussbaum's specific versions of the capabilities approach drives this point home.

The development of Sen's capabilities approach

Sen came to articulate the capabilities metric as an alternative to a number of other metrics that have come to be proposed (and employed) within the economic literature. In particular, a variety of welfarist[17] and resourcist[18] approaches (amongst others[19]) have been the long-standing target of Sen's in-depth criticisms, regarding their fundamental inadequacy in fully addressing the complex problem of properly assessing and rectifying various aspects of human well-being. Their perceived drawbacks, and the corresponding impetus to articulate a new metric for human well-being, effectively pre-date by (at least) 10

[17] Sen understands welfarist approaches to well-being as referring to any approach that (i) utilizes the metric of *utility*, understood in one way or another, and that (2) attempts to redistribute it by way of a certain algorithm or distributive principle (Sen (1979a: 471-472)). For purposes of continuity, I will stick to his specific definition of 'welfarism', in this work.

[18] Sen can be broadly construed as understanding resourcist approaches to well-being as referring to any approach that (i) utilises some type of 'resource' (material, financial, institutional, political, social, etc.), and that (2) attempts to allocate, entitle, distribute, or otherwise connect it with human beings in one substantive way or another. The respective approaches of Rawls and Dworkin are paradigm examples of these, to which Sen devotes much time and ink: Sen (1979b: 213-216); Sen (1984b: 321-323) (respectively). Just as for welfarism above, I will also stick to this specific definition of 'resourcism', in this work.

[19] Asides from the respective metrics of various welfarist and resourcist approaches, Sen also examines and criticises other ones that do not fit quite well into those two broad categories, such as ones focusing on libertarian rights (Sen (1982a)), or basic needs (Sen (1984a: 513-515)).

years the appearance of the term 'capability' in Sen's writings.[20] Therefore, as Sen eventually came to discuss the preferability of the capabilities metric, this occurred at the end of an already substantial number of discussions dealing with the inherent drawbacks of its alternatives. Hence, his pioneering article entitled "Equality of What"[21] contains an exposition of the drawbacks of welfarist utility and Rawlsian primary goods in properly addressing egalitarian concerns, ending with the suggestion that the focus of such concern actually be something like 'basic capability equality'[22]. However, little more is said regarding the capabilities metric itself at this stage, other than that basic capabilities refer to one's ability to do certain basic things, that they are informationally superior to utility and primary goods, and that one of the future challenges facing this new metric will be that of indexing the basic capability bundles, as rather culturally relative.[23] By 'informationaly superior', Sen means that, by assessing a certain aspect of human existence in terms of capabilities, such an exercise carries *morally salient features* better than the particularly narrow manner in which economists have come to appropriate and attempt to quantify and distribute utility, and better than what a like exercise employing primary goods as its 'metric of goodness' is at all able to accomplish.

[20] This term first appears in Sen (1979b: 217), whereas his first critiques of welfarism and resourcism are traceable back (at least) to Sen (1970: in particular, chapters 7 and 9).

[21] Sen (1979b)

[22] Ibid (217-219)

[23] Ibid (218-219)

Shortly thereafter, one encounters a substantial increase in capabilities-related publications by Sen, concentrated most prominently in a number of important articles, most of which can be found compiled in two volumes, respectively entitled *Choice, Welfare and Measurement*[24] and *Resources, Values and Development*[25]. In these numerous articles, Sen clarifies with greater precision that primary capabilities are akin to primary powers, i.e. akin to positive types of freedoms[26], and he now argues in a much more developed manner for the inherent preferability of the capabilities metric over a variety of competing welfarist and resourcist ones[27]. Finally, 5 years after "Equality of What", Sen develops what is to become the central conceptual core of his particular version of the capabilities metric, and of the capabilities approach in general, in "Well-being, Agency and Freedom: The Dewey Lectures 1985"[28], as well as in his *Commodities and Capabilities*[29]. Most of his later writings, however, are concerned primarily with expanding the applicatory scope and reach of his capabilities approach, and with providing a justification for his approach, regarding its inherent goodness. Hence, once one has duly absorbed the essentials of his publications from 1985, one ends up well-equipped with a decent perspective on just what his capabilities metric consists in.

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[24] Sen (1982d)

[25] Sen (1984h)

[26] Sen (1982a: 16-19, 38); Sen (1984c: 281-282, 294); Sen (1984b: 315-317)

[27] Sen (1984f: 334-340); Sen (1984e: 376); Sen (1984d: 497-499); Sen (1984a: 509-529)

[28] Sen (1985d: 197-203)

[29] Sen (1985b: chapters 2, 4 and 5)

Discussions pertaining to the broad scope of application of Sen's capabilities approach follow a similar line of development. In particular, his approach is expandable into, or holds important contributions for, the fields of (1) equality theory, (2) (human (a) and general (b)) rights theory, (3) poverty analysis, (4) famine analysis, (5) economic and human development theory, (6) personal well-being and agency theory and analysis, (7) standard of living vs. level of well-being analysis, (8) family analysis, (9) gender conflicts, and finally, (10) personal freedom analysis, to name but the most important ones.[30] These discussions are structured around a form of continuous on-going development, present across an important number of his publications, leading one to invariably find oneself in need of performing some rather significant reconstructive work to get a handle on things.[31] For example, the explicit contributions of the capabilities approach to field (1), first addressed in "Equality of What", are later revisited in "Well-Being, Agency and Freedom: The Dewey Lectures 1984"[32], before being given a thorough treatment in *Inequality Reexamined*[33]. However, the very theme of equality and inequality pervades Sen's capabilities approach at large, insofar as important capabilities to function are seen by him as the actual targets of proper egalitarian concerns, per se. Consequently, while not explicitly dealing with the very theme of equality theory itself, most (if not all) of the other fields above also have

[30] Other important fields worth mentioning involve *technology*, *culture*, and (naturally) *economy*.

[31] This is all the more the case, seeing as how Sen intensely refers his readers to his earlier publications dealing with such fields, whenever he returns to them in later ones.

[32] Sen (1985d: 192-195)

[33] Sen (1992)

something important to say about the role and impact of the capabilities approach upon considerations of equality and inequality, as they respectively apply to the subject-matter of each of these fields in question.[34] As far as field (2) is concerned, the topic of general rights (2a) is addressed particularly in "Liberty, Unanimity and Rights"[35], in "Rights and Agency"[36], in "Liberty and Social Choice"[37], in "Rights and Capabilities"[38], in "Well-Being, Agency and Freedom: The Dewey Lectures 1984", in *On Ethics and Economics*[39], in "Freedom of Choice: Concept and Content"[40], and in *Development as Freedom*[41]. The topic of human rights (2b) is addressed mainly in "Culture and Human Rights"[42], and in "Human Rights and Capabilities"[43]. Discussions regarding field (3) are to be found primarily in "Poor, Relatively Speaking"[44], and in "Poverty as Capability Deprivation"[45]. Field (4) sees discussions in "Famines"[46], and mainly in *Poverty and Famines: An Essay on*

[34] Cameron (2000) overviews the relationship between Sen's capabilities approach and the theme of equality and inequality.

[35] Sen (1982b)

[36] Sen (1982a)

[37] Sen (1983)

[38] Sen (1984b)

[39] Sen (1987)

[40] Sen (1988b)

[41] Sen (1999)

[42] Ibid (chapter 10)

[43] Sen (2005). See also Fukuda-Parr (2011) on this important and expansive topic.

[44] Sen (1984f)

[45] Sen (1999: chapter 4)

[46] Sen (1980b)

Entitlement and Deprivation[47], with some additional discussions to be found in *Resources, Values and Development*[48], and in some later publications as well. Field (5) is mainly discussed in "Development, Which way Now?"[49], in "The Concept of Development"[50], in "Development as Capability Expansion"[51], and later on in *Development as Freedom*. Similarly, fields (6 –10) are likewise discussed across a number of Sen's books and articles, with some focusing more closely on one such specific field, but with many having something to say about each such field in question.[52] All in all, no proper grasp on each of these respective fields of application can be had without consulting a significant number of Sen's publications on the topic at hand.

Finally, this writing style repeats itself again when dealing with the complex justificatory exercises that serve to support Sen's capabilities approach. These can be broken down into three main groups of argumentation. Group 1 employs the 'better metric' argument, utilizing a variety of counterfactual, hypothetical, and actual (empirical) examples, intended to demonstrate the moral preferability of the capabilities metric over alternative ones (with the metrics of resources and

[47] Sen (1982c)

[48] Sen (1984h)

[49] Sen (1984d)

[50] Sen (1988a)

[51] Sen (2003)

[52] Item (6) is dealt with in Sen (1985d: lecture 3), Sen (1992: chapter 4), Sen (1993a: sections 5-6). One is luckier with item (7), insofar as it is quite well covered in Sen (1985a). Item (8) is mainly covered in Sen (1984g), Sen (1984e), in Sen (1984a), and in Sen (1990b). Item (9) is dealt with in Sen (1985c), in Sen (1990b), and in Sen (1999: chapter 8). Finally, Item 10 is covered in many of Sen's publications (Sen (1985d), Sen (1988b)), but it undoubtedly receives its most thorough defence in Sen (1999).

utility receiving the brunt of the attack). Group 2 employs the 'valuation and balancing approach', which begins by taking for granted that the very moral goodness of (at least a certain number of central) human capabilities is quite defensible, and seeks to show how their respective weights and values can be counterbalanced against one another, and arranged into tangible capability sets, from which genuine choices for human well-being can then be made. Finally, group 3 seeks to address the concerns of those who expressed doubts regarding the practical applicability of Sen's capabilities approach (regarding, primarily, the exercises of recognizing, assessing, valuing, ordering, and distributing said capabilities), by proposing procedures for capability valuation and aggregation, together with mathematical formulations and ordering principles aimed at producing tangible capability sets, towards actual distribution within human environments.

This being said, a notable difference resides with the fact that these three groups of argumentation, constituting Sen's complex justificatory exercises, receive very different exposure across his various capabilities publications. Indeed, Group 1 receives so much exposure that the question one need ask is not 'which of Sen's capabilities-related publications deal with the preferability of the capabilities metric over its welfarist and resourcist competitors', but rather 'which ones do not'. Indeed, one would be hard pressed to find a single one of Sen's capabilities-related publications that does not deal with this first group of arguments, in (at least) a small and cursory way. Nevertheless, most of the truly

salient argumentation related to this group is to be found in his earlier publications (even in those ante his capabilities definition), with the latter ones often offering not much more than a resume or repetition of these earlier ones. Groups 2 and 3, on the other hand, receive considerably lesser exposure by Sen. Furthermore, Sen does not actually perform (even by way of an example) the important tasks of fully defining, assessing, valuing, ordering, and distributing various capability types. He merely proposes and circumscribes the tools by way of which these tasks are to be performed, and argues for their practical applicability and tenability.[53] Hence, the actual task of rendering his capabilities approach fully operational is left up for other capability theorists to take up. Indeed, the following comment by Ingrid Robeyns sums up precisely the nature of Sen's writing style:

> "One remark is called for. I fully grant that it is not easy to reconstruct an exact account of Amartya Sen's capability approach. Sen's articles on the capability approach are dispersed over a wide range of journals and books, which cut across the disciplines. Moreover, depending on his audience, Sen stresses different aspects of the approach, which makes interpretating it even more difficult. In addition, Sen has developed his approach gradually; hence to understand it one would need to go back to read all Sen's papers on the capability approach, as there is no clear overview by Sen that neatly describes the approach."[54]

[53] This is explored at some length by Martins (2007b), crossing over onto the very metaphysical presuppositions (ontological realism) implied by Sen's capabilities approach.

[54] Robeyns (2003: 545). An earlier (albeit somewhat peripheral) attempt at such reconstruction can be found in Robeyns (2000).

The development of Nussbaum's capabilities approach

Despite sharing many of the same concerns, the development of Nussbaum's capabilities metric follows a rather different route than Sen. Nussbaum developed her capabilities approach as the result of a period of collaboration with Sen at the WIDER institute. A distinguished Greek scholar, she immediately recognized the connection between Sen's central idea regarding the aim of justice needing to focus upon, not resources or utilities, but rather individual freedoms (capabilities), as bearing much closeness to what had already been articulated by Aristotle some time back.[55] Consequently, her very first capabilities writings immediately plunge the reader head first into Aristotelian thought, and into his ideas regarding the object of human living as reaching *eudemonia*, or the 'good life', and his ideas regarding the purpose of government in making it possible for citizens to reach it, if they so desire (i.e., empowering them with the required capabilities).[56] In this respect, the gist of her capabilities metric comes to be developed rather quickly and thoroughly in her first writings on capabilities proper. Hence, in "Nature, Function, and Capability: Aristotle on Political Distribution"[57], after beginning the discussion with a brief critique of the metrics of resources and utility in constituting the proper aim of distribution and

[55] This is to be found mainly in his *Nichomachean Ethics* and in his *Politics*.

[56] Nussbaum (1988: 175-179)

[57] Ibid

political planning (as Sen did in "Equality of What"[58]), Nussbaum jumps right into a rather in-depth discussion of what she understands to be functionings and capabilities. While essentially borrowing Sen's initial conceptual framework[59], she adds further refinement to it by drawing a distinction between internal, external, and basic capabilities, and explains at length what these consist in.[60] With these new refinements in place, the next problem that Nussbaum tackles is the need to determine which of the various important capabilities ought to be enabled by governments for their people (this is akin to Sen's emphasis on the need to perform valuational and ordering exercises of various functioning and capability types).[61] Unlike Sen, however, who essentially leaves these valuational and ordering exercises to be performed within the various socio-political, economic, and cultural environments within which a capabilities-based approach to examining and rectifying human well-being is to be employed, Nussbaum formulates the need to draw up a list of central human capabilities to function that is to be objective and universal enough for it to become the object of a global overlapping consensus.[62] She does not develop such a list in this first article, but

[58] Ibid (179-182)

[59] Some differences exist between Sen's and Nussbaum's versions of the capabilities metric, though these reside more at the peripheral level than at the core conceptual one. She enumerates the main ones in Nussbaum (2000e: 11-15).

[60] I discuss these in the next section as I lay down the essentials of the conceptual core proper to the capabilities metric.

[61] Nussbaum (1988: 196-198)

[62] Ibid (198-201). This is akin to the current declaration of human rights. While Nussbaum's list is probably the best known, it is important to realize that it is not the only capabilities-related list in existence. Alternative lists of varying similarity to Nussbaum's have also been formulated by Desai (1995), Qizilbash (1996a: 14), Alkire and Black (1997), Clark (2002: chapter 4), Clark (2003: tables 1-4), Robeyns (2003: 71-72),

she already points out the prevalent importance that *practical reason* (akin to Sen's refined functioning as *choosing*, and correspondent capability as being *able to choose*, amongst centrally important capabilities) is to play as one of the key central human capabilities.[63] Rather, it is in her following publication entitled "Aristotelian Social Democracy"[64] that she goes on to formulate just such a list. In doing so, she revisits in greater detail some of the justificatory arguments found in "Nature, Function, and Capability: Aristotle on Political Distribution"[65], and lays down what she calls the 'thick vague conception of the constitutive circumstances of the human being', based upon which the central capabilities ought to be determined.[66] She also re-affirms the overarching importance of practical reason and (now also) affiliation, as essential human functionings that serve to organize and arrange all the others.[67] Her list is then formulated as an indication of the most central and universally acceptable basic human functional capabilities.[68] Here is the original list from that article:

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and Alkire (2005c). The very phenomenon of such 'lists' of human ends in economic literature (together with a few pertinent examples thereof) is discussed by Alkire (2002).

[63] Nussbaum (1988: 201-204)

[64] Nussbaum (1990b)

[65] Nussbaum (1988: 206-217)

[66] Ibid (219-224). This list serves to lay down a set of underpinning universal conceptions of the essentials of the human condition, based upon which she then drafts up her actual list of central human capabilities. A more basic version of this underpinning list is also to be found in Nussbaum (1993). See also Nussbaum (1992: 216-221), as well as Nussbaum (1995: 76-80).

[67] These two key overarching functionings receive important re-appraisal in many of her subsequent writings.

[68] Nussbaum (1988: 225)

1. Being able to live to the end of a complete human life, as far as is possible; not dying prematurely, or before one's life is so reduced as to be not worth living.
2. Being able to have good health; to be adequately nourished; to have adequate shelter; having opportunities for sexual satisfaction; being able to move about from place to place.
3. Being able to avoid unnecessary and non-useful pain, and to have pleasurable experiences.
4. Being able to use the five senses; being able to imagine, to think and reason.
5. Being able to have attachments to things and persons outside ourselves; to love those who love and care for us, to grieve at their absence; in general, to love, grieve, to feel longing and gratitude.
6. Being able to form a conception of the good and to engage in critical reflection about the planning of one's own life.
7. Being able to live for and with others, to recognize and show concern for other human beings, to engage in various forms of familial and social interaction.
8. Being able to live with concern for and in relation to animals, plants, and the world of nature.
9. Being able to laugh, to play, to enjoy recreational activities.
10. Being able to live one's life and nobody else's.

10a. Being able to live in one's own life in one's very own surroundings and context.

This list, together with its scope of application and the justificatory exercises that surround it, comes to constitute the essential core of Nussbaum's capabilities approach. And it remains as is, for the most part, throughout her subsequent publications. Hence, while some important adjustments and provisions end up being made to her capabilities approach itself[69], one realizes that her conception of the capabilities metric actually receives relatively little further development. Her central capabilities list, for instance, undergoes a number of slight alterations and modifications, but tends to retain the basic above structure and layout quite strongly.[70] Her three new capability types enumerated above — internal, external, and basic — remain, with the noticeable difference that she later comes to call a combination of internal and external capabilities

[69] These concern primarily the manner in which she seeks to justify it, as well as its scope of application.

[70] This observation is shared by Clark (2005a: 7). Admittedly, some of these alterations and modifications are nonetheless rather important, in terms of clarification of content that they bring to her list, but they do not drastically alter the general structure and format of the list itself. Hence, her list gets a slight 'pruning' in Nussbaum (1992: 222), insofar as items 10 and 10a become merged. In Nussbaum (1995: 83-85), items 4-7 acquire some substantial refinement and clarification, and item 10 is split up again into items 10 and 10a, and both also receive some important clarification. Also, the importantly close connection between her list and the various elements of the universal declaration of human rights is well laid out in Nussbaum (1999b: 44-46). From there, it is reprinted with slight alterations to item 10B in Nussbaum (1999a: 235), and in Nussbaum (2000a: 231-233) This list is then carried over pretty much unchanged (with little real alteration) to her important work Nussbaum (2000e: 78-80). Some further changes are to be found in Nussbaum (2002d: 129-130), with the introduction of sub-classifications A and B for items 7 and 10, and with some pruning again for some of the other items. Finally, this latest list is carried over once again (with, you guessed it, minor alterations) into Nussbaum (2003a: 44-45), into Nussbaum (2006: 76-78), and into Nussbaum (2007c: 23-24). The latest printed version of her list can be found in Nussbaum (2011a: 33-34). For a good (albeit much earlier) overview of items that tend to overlap Nussbaum's and Sen's respective ideas regarding important human capabilities, see Crocker (1995: 174-177).

combined capabilities[71], whose production in people it becomes the final aim of public policy. Indeed, most of her subsequent work focuses much more greatly on expanding the reach of her approach into a variety of additional topics, and on furthering her justificatory exercises, than on actually further developing the capabilities metric itself. Hence, one also realizes that the developmental gist of her capabilities metric is mainly concentrated around her earlier 'Aristotelian' articles, and around her two important books entitled *Women and Human Development*[72] and *Frontiers of Justice*[73]. Indeed, most of her post-2000 articles dealing with the capabilities approach add relatively little to the metric itself. Her later writings simply refer to the earlier ones, where this metric was duly laid out and explained, whenever the need arises.

As far as the scope of application goes, Nussbaum's capabilities approach mirrors that of Sen's in some important regards, all the while branching out into other important avenues as well. On the one hand, Nussbaum does not go into some of the 'technicalities'[74] that Sen is particularly concerned with. On the other, she develops her approach into directions that Sen prefers to leave untouched.

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[71] Nussbaum (2002d: 132) This definition remains as is, throughout her works (Nussbaum (1998: 775n36), Nussbaum (1999a: 236-238), Nussbaum (2000a: 234-235), Nussbaum (2000e: 83-86), Nussbaum (2007b: 11-12, 34, 69). Mcreynolds (2002: 146) argues that, following Dewey, all capabilities ought to be considered as 'combined ones'.

[72] Nussbaum (2000e)

[73] Nussbaum (2006)

[74] I am referring here to the problems of capability valuation, weighing, and indexing, and to the disparity between what Sen calls agency freedom and well-being freedom. Because of her reliance on a central heterogeneous capabilities list, these problems do not present themselves to Nussbaum *in the same manner* in which they do to Sen – though, unlike what some commentators have suggested, they *do* present themselves to Nussbaum's foundational project as well.

Most important and noteworthy is the articulation of her 'foundational project', whereby she proposes that her list of central human capabilities become the ethical-political foundation for peoples, nations and states everywhere, by inscribing this list into their respective constitutions as a set of fundamental and non-alienable entitlements to be guaranteed to all citizens everywhere. Other notable scopes of application include: (1) the relationship between her central capabilities list and that of human rights, as developed in "Capabilities, Human Rights, and the Universal Declaration"[75], in "The 'Capabilities' Advantage to Promoting Women's Human Rights"[76], in "Capabilities and Human Rights"[77], and in "Human Rights and Human Capabilities"[78]; (2) the relationship between her capabilities approach and international feminism, as developed in "Public Philosophy and International Feminism"[79], in "Women's Capabilities and Social Justice"[80], and in "Capabilities as Fundamental Entitlements: Sen and Social Justice"[81]; (3) the relationship between capabilities and disabilities, as developed in "Capabilities and Disabilities: Justice for Mentally Disabled Citizens"[82], and in *Frontiers of Justice*[83]; and (4) the need for thinking about capability rights and

[75] Nussbaum (1999b)

[76] Nussbaum (2000d)

[77] Nussbaum (2002d)

[78] Nussbaum (2007c). See also: Nussbaum (2011a: 62-68)

[79] Nussbaum (1998)

[80] Nussbaum (2000a)

[81] Nussbaum (2003a)

[82] Nussbaum (2002a)

[83] Nussbaum (2006: chapters 2 & 3)

equality for other species, in *Frontiers of Justice*[84]. Especially important for the universality of her foundational project, she also (5) criticizes the social contract tradition, and it's proposed international extension by John Rawls in his *Law of Peoples*, in "Capabilities as Fundamental Entitlements: Sen and Social Justice", in "Beyond the Social Contract: Capabilities and Social Justice"[85], and in *Frontiers of Justice*[86]. Finally, she provides an in-depth examination of the relationship between the (potential) future endorsement of her list of central capabilities, and the various problems of legal enforcement and rectification in *Women and Human Development* (India), and in "Constitutions and Capabilities: 'Perception Against Lofty Formalism" (United States)[87]. Just like Sen, Nussbaum develops these various scopes of application in a number of publications stretching over a given period of time, requiring, invariably, some noteworthy levels of reconstruction to get a proper handle on things.[88]

One particular area where Nussbaum excels in is the articulation of various justificatory exercises aimed at defending her capabilities approach. While Sen focuses primarily on showing how the capabilities metric is preferable to those of utility and resources, and how capabilities can be practically ordered into tangible

[84] Ibid (chapter 6)

[85] Nussbaum (2004b)

[86] Nussbaum (2006: chapters 1, 2, and 4)

[87] Nussbaum (2007b)

[88] Nussbaum (2011a: 143-184) discusses rather extensively the significant scope of application of the capabilities approach as it presently stands in her latest book. It includes the fields of 'disadvantage', 'gender', 'disability, aging, and the importance of care', 'education', 'animal entitlements', 'environmental quality', 'constitutional law and political structure', and 'capabilities and human psychology'.

sets for human distribution, Nussbaum undertakes a much more thorough examination and critique of the myriad of underlying conditions responsible for bad moral judgments, and proposes a number of ways for producing adequate moral judgments. Asides from criticizing the metrics of utility and resources in a way very similar to Sen's, Nussbaum also develops a number of additional justificatory exercises that can be classified into two main groups, with each group aimed at fulfilling a specific argumentative task in the overall justification of her foundational project. Group A contains an examination and critique of four relativist claims (the charges of imperialism and paternalism, and the arguments from culture and diversity), based on which various arguments have been formulated against the proposed universalization of her central capabilities list.[89] Group B contains the articulation of four additional argumentative strategies (the Aristotelian approach, the narrative approach, the morally-constrained proceduralist or informed-desire approach, and the non-Platonist substantive-good approach), aimed at demonstrating just how and why her foundational project is truly justified. In essence, both these argumentative groups function as what I will refer to here as highly complex and refined 'intuition pumps', albeit with 'differently aligned valves'. Group A, in particular, functions by attempting to illustrate the ultimate untenability of accepting some version or another of normative moral relativism, and by showing how the foundational project does

[89] Sen does argue against some relativist stances, especially regarding the notions of poverty (Sen (1984f)) and human rights (Sen (1999: chapter 10)), but he does not devote nearly as much time and energy to this important justificatory problem as does Nussbaum.

not run aground of the four charges levelled against it. The pump 'operates' both ways: it functions one way so as to purge our moral intuitions of the appeal that some version or another of normative moral relativism may hold on us, and it functions the other way so as to supplement our intuitions with the realization that the foundational project is truly compatible with certain degrees of paternalism, and with the reasonable preservations of human culture and diversity. Group B functions by attempting to produce, in us, all relevant moral intuitions required for the full acceptance of the foundational project. It does so by relying on a variety of techniques, appealing just as well to a subjective form of non-metaphysical essentialism, as it does to imagination, empathic representation and recognition of oneself in another, and to our intuitions regarding the very conditions required for the exercise of proper moral judgment itself.[90]

The main problem with Nussbaum's justificatory exercises is that, asides from the fact that they are highly intricate, complex, and difficult to get a proper handle on (let alone duly assess and critique), they are simply not developed in a continuous manner. In particular, her earlier publications dealing heavily with Aristotelian thought focus greatly on the Aristotelian approach, but the essentialism that they entail is not quite the same as the essentialism that appears in *Women and Human Development*, and in subsequent writings.[91] One therefore needs to get a handle on what kind of essentialism Nussbaum is truly defending,

[90] These two groups of justificatory exercises are discussed in-depth in the latter part of chapter three.

[91] Jaggar (2006: 303)

when one wishes to take her capabilities literature as a whole. Furthermore, each of her real-life examples dealing with poverty, deprivation, abuse, or simply lack of human sensitivity (of which there are many, spanning a great number of her publications), can be classified under the 'narrative approach', and each needs to be duly examined, assessed, and recognized, so as to establish its true 'pumping strength', in orienting our intuitions in the direction of her foundational project. Finally, there is the all-important matter of reconstructing the entirety of all her above arguments, subsumable under groups A and B, so as to get a clear picture of just how exactly Nussbaum attempts to defend her foundational project as a whole, and whether her justificatory exercise are at all successful.[92]

The pattern of capability development is conducive to the appearance of charges of ambiguity and underdetermination

The purpose of the above discussion regarding the development of the capabilities approach by Sen and Nussbaum has not been to merely produce a gratuitous critique of their works, but rather to demonstrate how and why the specific pattern and mode of writing that they have adopted reveals itself to be particularly conducive to the appearance of the charges of ambiguity and underdetermination that have been levelled against the capabilities approach in general. As we shall soon see, however, these charges rest, not only with difficulties related to the reconstructive exercises required to get a proper handle

[92] In chapter three, I argue that this can be done by tying them directly to conditions of ideal observation.

on what Sen and Nussbaum respectively understand to be 'capabilities' from their many publications, but also (and much more importantly) on a number of peculiar formulations which they have themselves made, and which lead many commentators to doubt the very possibility of practical operationalization of the capabilities approach. In the meantime, we will reconstruct the key components of the capabilities metric, and explore some of the possible additional conceptual layers that can then be laid down upon it, leading, either to desirable forms of greater refinement, or to unnecessary conceptual weight that does little but undermine the very idea of 'capabilities' itself.

2.2 The conceptual core of the capabilities approach

What exactly is the 'capabilities metric'? As its etymological roots suggest, the first component, namely a 'capability', refers to the internal ability of someone or something to do certain things, together with the actualization of certain external circumstances of enablement. In the case of human beings, it refers to the conjunction of a particular set of very specific 'foreground' and 'background' conditions that allow individuals to hold freedoms of various types. This distinguishes it from other like terms, such as *capacity* or *ability*, in that one may have a capacity for something, or even an ability to do something, but be otherwise prevented from doing it for various additional reasons. On the other hand, when one has an actual, genuine, *bona fide* capability, then one is, in an important sense,

quite *free* to exercise the object of that capability in question.[93] As for the term 'metric', it refers to the practical application of the capability concept within the sphere of various social analysis or public good policy-driven projects designed to assess and quantify varying levels of well-being achievement. The most prominent examples include the United Nations Development Program's Human Development Reports, though a number of national-level as well as an even greater number of localized ones exist as well.

The basic components of the capabilities metric are first articulated by Sen in "Well-being, Agency and Freedom: The Dewey Lectures 1984". Capabilities are based on *functionings*, which correspond to 'beings' and 'doings' (the *basic things* from "Equality of What" that one has an ability to do), themselves referring to activities, or states of existence or being[94]. Since an individual is able to be many things and to do many things, when one aggregates the totally of beings and doings that an individual actually achieves, this corresponds to their *functioning vector*[95]. Naturally, assessment of a complete functioning vector requires identification of the great variety of functioning types that can make up a human existence, followed by recognition of the relevant ones, given a certain individual in question.[96] In doing so, not all such functionings will necessarily be valuable

[93] Nussbaum (2011a: 20-25) discusses this at some length in her latest book, together with examples.

[94] Sen (1985d: 197); Sen (1985b: 10-11)

[95] Sen (1985d: 198); Sen (1985b: 11-13)

[96] The identification and assessment of complex functionings requires the examination and evaluation of very many variables. This is all a function (no pun intended) of the *precision* with which a functioning comes to be identified. For instance, the 'relatively simple' functioning of 'being adequately sheltered' requires considerably less variables for proper identification and assessment than 'being adequately fed' or 'being in

ones. However, when assessing one's functioning vector, *all* actual functionings need to be identified, for the simple reason that neutral or non-valuable ones nevertheless will and do invariably impact upon the realization of one's and other's valuable functionings, as well as one's and other's capability sets. And this is vital for proper prioritization and distribution of capability sets, following the adequate completion of valuational exercises.[97]

Hence, a person's singular capability is what a person is free to do and to be, regarding a certain given functioning, whereas a person's capability set corresponds to the totality of possible functioning bundles that said individual can respectively come to choose from. However, one needs to remember that capabilities are 'units' of freedom, and that they consequently correspond, not to what one is actually achieving, but rather to what one is, in important ways, free and able to achieve. Also, one needs to remember that all individuals have a certain set number of choices that they can make, regarding the beings and doings that are open to them. Individuals cannot, for obvious reasons, 'do all and be all', all at the same time. They must consequently choose amongst practically available groups of functionings those that best suit their needs, wants, and desires. There

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good health', seeing as how nutritional requirements are more complex, and require the proper understanding of more worldly aspects, than does sheltering from the elements, which takes into account a significantly lower number of variables.

[97] An example formulated by Williams (1995b: 101) concerns the capability of buying a certain brand of washing powder, vs. Adam Smith's example of the possibility of appearing in public without shame. It is unlikely that, following proper valuational exercises, the washing-powder associated capability (and functioning) end up being that important, whereas Smith's example of being able to appear in public without shame generally holds greater importance in people's minds. Williams was using this example to indicate the importance of distinguishing between precise (and, to a certain extent trivial) capabilities, and fundamental ones.

is, however, a finite number of such possible alternative functioning vectors (though it can be admittedly quite large) that individuals can choose from, and their totality corresponds to what Sen calls a *capability set*[98]. A person's capability set corresponds, therefore, to the totality of possible individuated functionings that he or she may choose from, by way of the totality of possible alternative combinations through which these may actually be achieved. Thus, the functioning-capability pair, together with the relationship between functioning vectors and capability sets, constitutes the basic conceptual core of Sen's capabilities metric. And for all intents and purposes, that is the core that remains once one strips down all other refinements that can be made thereto and added up atop it.

But what are some examples of such possible refinements? Examination of the salient literature reveals that they are quite numerous and can take on a great variety of forms. One such possible refinement involves drawing a distinction between what Sen calls 'basic' vs. 'refined' functionings, corresponding respectively to the difference between functionings that are exemplary of actual beings and doings, and ones corresponding to the very activity of choosing amongst a variety of possible functioning vectors.[99] As a corollary to this, Sen also discusses at some length the need to perform various valuational exercises, aimed

[98] Sen (1985d: 200-201); Sen (1985b: 13-14)

[99] Sen (1985d: 202) and Sen (1988b: 290-292) clarifies this distinction with an example of the choice open to one who *chooses* to fast, with food remaining well attainable to them, as opposed to an individual who is malnourished out of a real lack of possibility to feed themselves adequately. This topic, as well as the more complex one of starvation-related problems induced by actual eating disorders, is discussed by Woldemeskel (1990) and Lavaque-Manty (2001).

at ascribing appropriate values to the various functioning, functioning vectors, and correspondent capability sets that individuals may hold.[100] Finally, he explains the need to perform hierarchical orderings of these, according to the respective weights, values, and importance that come to be attributed to them.[101] These important tasks are discussed and developed in Sen's many subsequent writings[102], and they represent just some amongst the many possible avenues of further refinement that the capability metric can be subjected to.[103]

Other examples of possible refinements can be gained by drawing upon Nussbaum's specific articulation of her understanding of capabilities. Nussbaum distinguished early on between *internal* and *external* capabilities. The former correspond to what could be construed as internal characteristics and provisions (i.e. mental resources and capacities), allowing one to function in a certain way, whenever the appropriate circumstances present themselves.[104] She characterizes internal capabilities as follows:

> "A person is I-capable of function A at time *t* if and only if the person is so organized at *t* that, should the appropriate circumstances present themselves, the person can choose an A action."[105]

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[100] Sen (1985b: 29-37); Sen (1985a: 29-31); Sen (1988b: 279); Sen (1992: 42-44); Sen (1999: 76-82)

[101] Sen (1985a: 33); Sen (1992: 44-46); Sen (1999: 76-82)

[102] In particular, Sen proposes some mathematical formalizations by way of which these may come to be accomplished. On this, see, in particular, Sen (1985b: 11-14, 33-37, 61-71).

[103] In this connection, Qizilbash (2006: 21-22) gives a number of examples as to how Sen characterizes capabilities.

[104] Nussbaum (1988: 186)

[105] Ibid

This capability is, in a sense, an incomplete one, as far as true freedom is concerned. This is because Nussbaum points out that such a capability may well be present, but that it may not come to be chosen, lest the circumstances of its activation arise. In other words, it is quite possible for someone to have one of Nussbaum's internal, or I-capabilities, and not truly have any actual degree of freedom, regarding when and how one comes to exercise the corresponding functioning. This, she connects to *background conditions* that need to be present for an individual's internal potentiality (to function) to have an opportunity for externalization (to exercise the corresponding capability).[106] Consequently, one realizes that it is when one combines an individual's I-capability with the *absence* of limiting or impeding background conditions that one can also be said to hold an external, or E-capability. She characterizes external capabilities as follows:

> "A person is E-capable of function A at time *t*, if and only if at *t* the person is I-capable of A and there are no circumstances present that impede or prevent the exercise of A."[107]

These two capabilities are closely related to each other, insofar as, not only is an E-capability required for an I-capability to become exercised, but the absence or removal of E-circumstances will also impede the production of I-capabilities in youth, and erode them in adults.[108] One can thus see how internal mental ability cannot operate alone, to generate a true degree of freedom, without the presence

[106] Ibid (188)

[107] Ibid (189)

[108] Ibid

of genuine external opportunities for functioning, and how such ability cannot at all come to arise, or can even dissipate, if the appropriate external conditions are not met. Nussbaum then proceeds to add another category to her two capability types articulated thus far. Since according to her the purpose of good government is the enablement, by way of proper education and training, of I-capabilities in people, and the arrangement of states of affairs such that E-capabilities likewise become enabled and sustained, it is important to define the recipients of the distribution of these two main capability types. Nussbaum, following Aristotle, states that their recipients ought to be individuals who have *basic* capabilities, which she defines as follows:

> "A person is B-capable of function A if and only if the person has an individual constitution organized so as to A, given the provision of suitable training, time, and other instrumental necessary conditions."[109]

Hence, a basic, or B-capability can be construed as corresponding, in a way, to *latent potential* that one has to develop the more complex I and E capabilities. And it becomes the role of the lawgiver to distribute various forms of social goods to those who are naturally endowed with B-capabilities, so that they may then come to achieve and exercise I and E-capabilities.[110] Thus, in addition to the functioning-capability pair, together with the relationship between functioning vectors and capability sets, the capabilities metric can be further refined in terms

[109] Ibid (191)

[110] Ibid (191-194, 204)

of complexity (basic vs. refined functionings or capabilities), in terms of type (internal, external, combined), as well as in terms of the relative value and weight of its components, as established by their position on a hierarchical ordering scale.

Further refinements can be garnered by employing the corollary concepts of 'multiple realizability' and 'freedom amplitude'. Indeed, unless defined in an exceptionally narrow and concise manner, practically all capabilities are multiply realizable. What this implies is that, for any given capability, its correspondent functioning can be exercised in a variety of ways, and still reflect the given meaning of the functioning in question. Consider the simple example of riding a bicycle. The functioning associated with this capability has a relatively narrow number of invariables and a greater number of variables. The invariables constitute basic conditions that are essential for the correspondent activity to match the functioning definition in question. These regard only the person, the object class (bicycle) and the activity type (bicycle riding). The variables, however, are multiple, and I characterise them as follow:

- Bicycle type (racing, mountain, hybrid, BMX, etc.)
- Riding style (street, off-road, cross-country, acrobatic, etc.)
- Organization (alone, family, friends, group, organized event, charity, etc.)
- Objective (recreation, fitness, transportation, competition)
- Timeframe (dawn, day, dusk, night)
- Season (summer, fall, winter, spring)

What this means is that one could combine most any of these given variables (with some natural limitations), and still end up with an activity corresponding to the general meaning of the functioning of 'riding a bicycle'. The multiple realizability of one's capability set corresponds, therefore, to the variety of ways in which each and every functioning that one is presently exercising or that one may freely choose to exercise can come to be realized by way of a specifically identified multiplicity of corresponding states, activities or practices.[111]

As far as 'freedom amplitude' is concerned, this concept refers to the proportional *ease* with which one is free to exercise the correspondent functioning in question, in relationship to the respective trade-offs and compromises that this implies.[112] A further analysis of the capability to ride a bicycle above brings this into perspective. One can be said to be in actual possession of the capability to ride a bicycle under the condition that all positive conditions are minimally fulfilled for one to do so, and that all negative conditions are sufficiently absent. This being said, one still needs to take the following into consideration, when one wishes to exercise one's capability to ride a bicycle:

- Possible personal trade-offs (ride a bicycle or engage in other activities with the family)

[111] The concept of 'multiple realizability' is developed by Hinchliffe (2009: 406), though he utilizes a different terminology by introducing the distinction between 'type' and 'token' instances of functionings. This is especially pertinent for Nussbaum's central human capabilities.

[112] The concept of 'freedom amplitude' is likewise developed by Hinchliffe (408-410).

- Possible temporal trade-offs (ride a bicycle or engage in other similarly time-consuming recreational activities)
- Possible financial trade-offs (purchase or lease a bicycle or utilize those funds towards other activities and projects)
- Possible professional trade-offs (ride a bicycle or utilize that time to advance one's career)
- And so on…

Naturally, freedom amplitude is only a function of capabilities that are already realized, seeing as how incompleteness along positive and negative conditions required for possession of a certain capability implies the practical absence of its realization. Freedom amplitude corresponds, therefore, not to how much headway has been made in making a certain capability available to someone, but rather to how *easy* it is to choose to exercise a certain capability-functioning that is already, for all intents and purposes, practically available to the individual in question.

Other refinements still involve the development of specific layers along the various functioning vectors and capability sets (themselves possibly containing additional functionings and capabilities), as well as the development and articulation of additional capability types. Possible examples thereof include further conceptual refinements made to previously-defined basic and refined

functionings[113], external[114] and combined[115] capabilities, as well as the articulation of group capabilities[116]. Furthermore, the notion of 'capability thresholds', according to which desirable states of social justice can be satisfactorily fulfilled only when certain minimal levels of capability attainment are reached, can also be supplemented by that of a 'capability ceiling', beyond which further capability enablement becomes either superfluous or downright detrimental.[117] Finally, the capabilities metric can also be refined by the latest corollary concepts of 'capability security', 'fertile functioning' and 'corrosive disadvantage', corresponding respectively to the respective permanence of a capability, to the degree by way of which a certain functioning promotes others, and to its flipside effect of functioning removal.[118]

All these various refinements create a truly multivalent metric which can be broadened significantly across a great number of dimensions of human existence in order to articulate what it is exactly that is meant by a particular form of capability freedom, or what truly happens (or is supposed to happen) when some

[113] Fleurbaey (2006: 306-308); Hinchliffe (2009: 406)

[114] Foster and Handy (2008) articulate specific background condition types along the lines of external capabilities, corresponding to capability enablement made possible by direct connection or relationship with another person.

[115] Mcreynolds (2002) argues that, unlike Nussbaum's many capability types, Dewey's capabilities are all of the combined (i.e. comprehensive) type. Barclay (2003: 7-8) points out that Nussbaum's list is essentially a list of combined capabilities. Nussbaum (2011a: 20-23) confirms this later on.

[116] The specific nature of group (or collective) capabilities, as well as the important contribution that they play in allowing other full-fledged capability enablement, is discussed by Evans (2002), Iversen (2003), Stewart (2005), Ibrahim (2006), Foster and Handy (2008), as well as by Ballet, Dubois, and Mahieu (2007).

[117] This development is suggested by Holland (2008: 416-421), in addition to the already-existing notion of a capability threshold: Nussbaum (2011a: 40-42)

[118] Nussbaum (2011a: 42-45). Corrosive disadvantage corresponds to the negative conditions for capability implementation identified above.

such capability becomes distributed to people — at least on paper. However, one may ask at this point 'why need all this complexity' — Would such a complicated and multivalent metric not generate a conceptual load that is simply too heavy to render it operational in any tangible sense of the term? While this genuine worry has spawned a number of legitimate criticisms which I will examine shortly, the simple fact remains that any successful articulation of a tangible capability metric simply will need to exhibit a notable degree of complexity. As it turns out, having a capability actually involves the creation of a very specific number of ongoing states of affairs that render it possible in the first place. Indeed, a capability (in the specific sense in which I have interpreted it here) is a freedom to do and to be certain things. When one is truly free to do this and to be that, it is implied that one is: (a) sufficiently equipped with all required skills, materials, possibilities and opportunities to exercise said freedom in question; (b) sufficiently protected from all and any forms of nefarious consequences or impediments, whether these be natural or man-made[119], that may stand in the way of one exercising said freedom. This definition of mine is by no means novel, insofar as it is somewhat of a refinement of the respective distinction drawn by Isaiah Berlin between the notions of *positive* and *negative* liberty.[120] Berlin understood this distinction to rest

[119] An extreme example provided by Cooke (2003) includes the use of germ-line engineering to increase people's capabilities and freedom.

[120] Indeed, Sen (1999: 349n1) gives tribute to Berlin's positive freedom. In this context, Qizilbash (1996a: 149) argues that Nussbaum's version of the capabilities approach considers negative freedom better than Sen's, with her multiple capabilities, and more effectively combines the notions of positive and negative aspects of freedom. Alexander (2008) also argues for the need to identify both positive and negative forms of freedom for full capability conceptualization.

between the presence of personal powers for control, mastery and self-determination, and between the absence of external constraints or interference by others.[121] His concern was primarily with the political realm, though it is clear that this realm is but one amongst many dimensions of human existence wherein some things need to be present, and others absent, for it to be said of someone that they truly do hold a certain full-fledged freedom to do this and be that. Indeed, as has become rather clear to liberty theorists, at this point, it is pretty meaningless to refer to only one of these freedom types, when one actually has in mind 'real freedom' in the sense of the possession of an actual capability.

To put this into proper perspective, let us consider the example of riding a bicycle again, and analyze this specific capability to function in terms of the distinction between positive and negative freedoms.[122] The act of riding a bicycle is a functioning. The freedom to ride a bicycle is the capability corresponding to this functioning in question. But what truly needs to be present and what truly needs to be absent for it to be said of someone that they presently 'hold' such a capability freedom-unit in question? The following is an illustration of the manner in which one ought to conceptualize such a capability analysis. It is important to realize that this is a non-extensive list, insofar as it is the result of a thought

[121] Berlin (1969: 122-134)

[122] This is a favourite example of Sen (1984h: 334); Sen (1985b: 10). A short description of the nature of 'functionings' along the lines of this very example are provided by Gore (1997: 238-239). A more complex example is provided by Dong (2008: 83), where she demonstrates, by way of a table, the six multidimensional components (capability set) required to enable the capability for design in citizens. In this article, she also emphasises all of the foreground as well as background conditions (external and internal factors) that this requires. This illustrates just how difficult it is to successfully enable such a capability.

experiment, whereby I may have missed some additional salient aspects that would have appeared had this been realized as part of a real capabilities analysis. It is intended solely as an illustration of the methodology required for proper capability understanding:

I. Positive conditions required for possession of capability to ride a bicycle:

(a) Primary conditions:

a. One needs to be sufficiently able-bodied
b. One needs to have access to a bicycle
c. One needs to have practicable surfaces upon which to ride
d. One needs to have minimally acceptable weather in which to ride
e. One needs to have allowable time in which to ride

(b) Secondary or extended conditions:

1. To be able-bodied, one needs to be *sufficiently healthy*, implying that one needs to be physically and psychologically sound, which, in turn, implies that an individual must be: (i) sufficiently-fed; (ii) sufficiently-clothed (depending on climate); (iii) sufficiently-sheltered; (iv) sufficiently mentally stable; etc.

2. To have a bicycle in one's possession, it must be implied that: (i) bicycles are manufactured; (ii), bicycles are sold to made available (leased) to the individual in question; (iii) the individual has adequate financial resources to purchase or lease said bicycle (if unable to borrow one from a friend); (iv) the individual has a correspondingly sufficiently large income to allow for the purchase or lease of a bicycle; etc.
3. To have practicable surfaces upon which to ride, it is implied that either: (i) the individual lives in an area where natural geography allows for the riding of bicycles over untransformed terrain, or; (ii) the individual's environment is sufficiently and adequately transformed, so as to render bicycle riding both possible and practical.
4. To have sufficiently good weather in which to ride, it is implied that either: (i) the individual lives in an area where the climactic conditions allows for the riding of bicycles, or; (ii) facilities are provided to the individual wherein bicycles may be ridden despite hostile climactic conditions.
5. To have allowable time in which to ride, it is implied that the individual is logistically able to allocate time, energy, resources and priorities to riding a bicycle. This can be done in two ways: (i) either the individual is able to efficiently combine riding a bicycle with

another necessary or desirable activity (such as going to work, or riding together with one's family), or; (ii) the individual has sufficient disposable time, energy and resources to herself, wherein she may choose to dispose of those extra commodities in the form of the activity (functioning) of riding her bicycle.

II. Negative conditions required for possession of capability to ride a bicycle:

(a) Primary conditions:

One needs to be 'free' from:

1. physical and mental impediments to riding
2. environmental impediments to riding
3. logistical impediments to riding
4. technological impediments to riding
5. economic impediments to riding
6. personal impediments to riding
7. social impediments to riding
8. cultural impediments to riding
9. religious impediments to riding
10. political impediments to riding

(b) Secondary or extended conditions:

By extension, one consequently needs to be free from:

1. all forms of physical (de-habilitating) and mental conditions (such as agoraphobia) undermining one's effective ability at riding a bicycle
2. bad weather, shabby or dangerous infrastructure, existing infrastructure closed off to cyclists, or absence of practicable infrastructure altogether
3. no time or energy to spare for leisure, due to excessively strenuous working conditions
4. no manufacture of bicycles in the vicinity, or lack of technological ability to transport bicycles manufactured elsewhere to the individual in question
5. insufficient funds (for all reasons) for the purchase or lease of a bicycle
6. family obstructions or time-conflicts
7. social organization and demands negating one's facility for riding bicycles
8. cultural taboo or otherwise negative perspective on the riding of bicycles
9. religious practice or belief condemning, negating, or otherwise undermining one's freedom to ride a bicycle

10. selective or total ban on bicycle riding

As you can tell from the two lists above (I & II), both positive and negative conditions tend to capture a number of similar states of affairs that all need to be either present or absent for one to really hold the capability (freedom unit) to ride a bicycle. Nevertheless, neither the positive nor the negative list is alone sufficient to account for all such required conditions. Both lists need to be drawn out and duly examined for the proper assessment of each individual capability that one can come to hold. Furthermore, both lists start off with a very basic assessment of the first-level (primary) underlying conditions required for the possession of the capability to ride a bicycle. Once those are identified, each such condition is then further identified for all second-level (secondary) underlying conditions, themselves required for the first level conditions to be fulfilled. The breadth and scope of first and second-level underlying conditions is a direct function of the conciseness with which a certain capability comes to be identified, together with the respective complexity associated with its fulfillment. I have used 'bicycle riding' – a relatively simple functioning – as my example. Even so, it is abundantly clear just how many variables need to be taken into account for one to draw a proper assessment of its presence for a certain said individual. And this rule applies just as well to all capabilities. Finally, the more complex and/or ambiguous the capability, the greater the number of possible variables that need to be taken into account to properly assess its being held by someone.

The above list also illustrates another important characteristic of capability analysis. Each and every capability needs to be invariably assessed along a certain set number of *dimensions of human existence*. In doing so, one is able to perform such an assessment in an orderly and logically consistent fashion, insofar as sub-analysis within each such respective dimension brings to light additional conditions and sub-conditions that either assist or impede the possession of said capability. Berlin focused primarily on the political dimension, though it is clear that a significant multiplicity of such dimensions of human existence is always involved in making capability freedoms possible. Here are some of the major ones:

- First-level personal dimension (physical, psychological, spiritual)
- Second-level personal dimension (family, friends, acquaintances)
- Social dimension (broader ties, links, arrangements)
- Cultural dimension (traditions, practices)
- Religious dimension (beliefs, practices)
- Environmental dimension (natural, man-transformed, man-made)
- Technological dimension (chemical, biological, medical, electronic, mechanical, etc.)
- Economic dimension
- Political dimension
- And so on…

Hence, the identification of the presence of a certain capability consequently proceeds by way of the analysis of the respective presence of positive and negative freedom conditions, as illustrated above, and as examined along each salient dimension of human existence pertaining to said capability in question. And one can clearly see how even a relatively simple capability such as 'riding a bicycle' will invariably mobilize a rather intense analytical exercise for it to become fully fleshed out in terms of practical applicability.

2.3 Charges of ambiguity and underdetermination befalling the capabilities approach

Though invariably required, the inherent complexity associated with capability analysis illustrated in the previous section has caused grave concern regarding its applicability — not merely at the practical, but already starting at the theoretical level itself. Indeed, the capabilities metric has been beset by a plethora of worries ranging from it being too broad, too complex, too ambiguous or too underdeveloped to constitute an appropriate object of moral concern for just distribution. In this respect, Sen's capabilities metric has been criticised for ambiguity and underdetermination regarding the nature of its various components. For example, the concept of a functioning refers to a variety of states of existence, corresponding to what Sen calls 'beings' and 'doings'. Its primary role is thus as a variable holder in capability analysis, with potentially highly varied instances of realization. In other words, what one calls a 'functioning' can actually

correspond to very many different things that one can be and do, understood very broadly. However, it is important to realize that its relationship to the additional aspect of freedom that one gains in acquiring the capability to select any said functioning within one's capability set is quite secondary to the very notion of a functioning in question. This being said, not all authors seem to have fully realized this dissociation, and this is undoubtedly due to the ambiguity with which the functioning concept has often been discussed.[123]

To put this into perspective, consider G.A. Cohen's critique of Sen's functioning concept. Cohen argued in a number of publications[124] for the need to formulate an additional metric of well-being that he claims has been recognized by Sen but not fully identified. This metric he calls *midfare*[125], and he presents it as an alternative to Sen's functioning concept, insofar as midfare is similarly a non-utility based form of wellbeing that an individual acquires through the consumption of various resources. However, unlike Sen's functionings, Cohen disassociates his midfare concept rather strongly from the choice component inherent in the selection of functioning bundles[126] through one's capability set, as

[123] As an early example, Basu (1987: 71-72) discusses the actual complexity of the term 'functioning' for which Sen does not provide adequate acknowledgment. Basu provides a number of detailed examples to illustrate this particularity.

[124] Cohen (1989: 941-944) ; Cohen (1993: 16-28)

[125] Cohen (1993: 18)

[126] A functioning bundle is similar to a functioning vector or n-tuple, except that it corresponds to one amongst many possible collections of the totality of mutually-compatible functionings that may come to be chosen through one's capability set. Hence, out of one's capability set, it is possible to select amongst a certain set number of possible functioning bundles, whereby the chosen one would then come to be converted into one's actual functioning vector or n-tuple. In plainer English, one can think of a capability set as the totality of opportunities to function that are made available to an individual, and of each functioning

is proper to Sen's approach. He illustrates this through an example of the non-utilitarian wellbeing[127] that a baby obtains through the ingestion of food and the benefit of being clothed, even though the child does not properly 'choose' to eat and dress itself in the same manner in which an adult does.[128] Cohen chooses to denote his alternative wellbeing metric in contrast to Sen's functionings for two main reasons. Firstly, he reproaches the ambiguity incurred by Sen's broad and varied use of the functioning term.[129] Secondly, he reproaches what he calls the 'athleticism' implicit in the choice component proper to the capability-functioning pair.[130] By 'athleticism', Cohen refers to what he takes to be Sen's excessive emphasis on the importance of *choosing* which functionings are to become constitutive of one's state of being, in contrast to his very own ideas regarding the fact that he takes this choice component to not be as important for the fulfilment of egalitarian justice as Sen makes it out to be. Consequently, Cohen presents his midfare concept as placing less emphasis on one's ability to choose, for it to be thought of as an equally important good. Indeed, he points out that:

> "No serious inequality obtains when everyone has everything she needs, even if she did not have to lift a finger to get it."[131]

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bundle as a possible collection of a select number of these opportunities, as per the natural limitations that each opportunity automatically comes to impose on all others, once it becomes exercised.

[127] I.e. a form of goodness not measured along a utility index.

[128] Cohen (1993: 20)

[129] Ibid (21-23)

[130] Ibid (23-26)

[131] Ibid (28)

While Cohen's critique of Sen's functioning concept is correct, insofar as Sen's tendency to use this term to denote a great variety of possible activities and states of being can induce ambiguity and confusion as to its actual delineative borders, his additional reservations do not warrant the formulation of another metric altogether. This stems from his unwarranted understanding of Sen's functionings as inextricably tied up with their corresponding capability freedoms. However, when examined more closely, Cohen's midfare concept reveals itself to be not that different from Sen's functionings, insofar as its strict qualities of non-utilitarian resource-derived wellbeing are concerned. The key difference lies, therefore, with the importance accorded to the choice component, which is where the two authors disagree — but that is not a feature inherent to functionings (or midfare) themselves, but rather to capability sets. And the important question of the value of having genuine degrees of freedom of choice (i.e., capability sets) can be addressed without touching upon the strict qualities of actual achieved wellbeing of this sort, whether it be called functionings, midfare, or whatever other name may come to be given to a concept that serves to denote what is essentially the same thing.

For these reasons, Sen (rightly) points out that Cohen's midfare concept *is* quite directly equivalent to his functionings.[132] And, while arguing that no substantial athleticism is in fact implied by all forms of capability freedoms[133], he

[132] Sen (1993a: 43)

[133] Ibid (43-44)

nevertheless reaffirms the importance that freedom to choose does in fact hold in assessing general levels of wellbeing, as opposed to simply looking at how people are doing at the sole functioning (or midfare) level, without considering how things came to be this way[134]. This being said, one can nonetheless clearly appreciate how Sen's broad and varied use of the term 'functioning' led Cohen to envisage the need to formulate what he takes to be another more 'clearly' defined metric.[135]

While the concept of 'functioning' corresponds to a certain state of existence (as per one's beings and doings), the concept of 'capability' corresponds to the effective freedom that one holds in selecting a certain individual functioning or functioning bundle. However, some authors have observed that there is significant ambiguity regarding the exact type of freedom that is implied by the term 'capability'. I have pointed out in the previous section that, as far as my interpretation goes, a capability is a special kind of freedom, insofar as it necessarily implies the simultaneous endowment of all necessary conditions for the realization of the corresponding functioning vectors, together with the absence of any and all forms of barring conditions preventing one from doing so (mirroring the distinction between positive and negative forms of freedom). However, that is not the actual interpretation given by many capability theorists and

[134] Ibid (44-46)

[135] For a defence (amongst others) of Sen from Cohen's critique, see also Pettit (2001: 2-8, 13-17), Olsaretti (2005), Keleher (2005: 117-130), and Hinchliffe (2009: 407).

commentators. Hence, what is precisely implied by 'capability freedom' is a matter for substantially divergent interpretation, as I illustrate below:

Crocker, for instance, points out that Sen's notion of capabilities can be given five possible interpretations. They can be construed as: (i) inclinations or desires; (ii) needs; (iii) concrete skills; (iv) general character traits, or; (v) possibilities or opportunities.[136] Crocker considers each of these, and points out (rather rightfully) that Sen's capabilities concept squares best with interpretation (v)[137]. However, he goes on to say that Sen does not really specify with any concrete degree of clarity and concision the actual 'functional parameters' of the kinds of opportunities that capabilities make available to people.[138] By this, he means that, while it is rather clear that Sen understands capabilities to constitute freedoms in an important sense of the term, he does not fully clarify the 'how, where, and when' of such freedoms.[139]

Indeed, Though Sen's notion of freedom is closely tied to his capability concept, its articulation is not without its own set of problems. Hence, Gasper and Staveren[140] warn against an overemphasis on freedom by Sen and argue in favour

[136] Crocker (1995: 160). Also Gasper (1997: 290-292) and Alkire (2005b: 121-122) for four possible definitions of capabilities.

[137] Crocker (1995: 162). This is also discussed briefly by Gasper (2000: 996-997).

[138] Crocker (1995: 162-163, 168)

[139] Indeed, Tungodden (2001) examines some of the relational parameters proper to Sen's many 'freedom types'. Furthermore, Fabre and Miller (2003: 7) point out that the extent of freedom actually made available will vary, depending on the capabilities chosen, and that that is a drawback of Sen's approach.

[140] Gasper and Staveren (2003)

of a more pluralistic characterization, while Prendergast [141] makes some observations regarding inconsistencies in Sen's use of his notion of freedom. As a follow-up to this, Vallentyne observes that Sen puts more emphasis on effective freedom than on control freedom, which has been challenged by Pettit who introduced a third concept, namely *favour-independent freedom*:

> "*Favor-independent freedom* includes control freedom, effective freedom provided by nature, and effective freedom provided by others when they have an enforceable obligation to provide it. It excludes, however, effective freedom provided by others when they have no enforceable obligation to provide it (that is, when they are simply doing it as a favor)." [142]

Justice is concerned both with favour-independent and favour-dependent freedom, according to Pettit. Indeed, all effective freedoms are valuable, and all should be subsumed under capabilities.[143] Also, Capability freedom cannot be reduced to, or strictly based on, the functionings that it points to, argues Vallentyne.[144] On his end, Arrow[145] demonstrates briefly that the value of freedom may not be as high a priority for all amongst the central capabilities, sometimes

[141] Prendergast (2005)

[142] Vallentyne (2005: 364-365)

[143] Ibid

[144] Ibid (367-368). In this context, Vallentyne (368-369) also claims that although they are not in general equivalent, a plausible version of the capability view is equivalent to a version of the value of opportunities view, so long as the capabilities approach is formulated along the line of well-being freedom, and so long as said freedoms are considered to be intrinsically valuable, as opposed to solely instrumentally valuable (pp. 368-69).

[145] Arrow (2006)

even voting it out. Against this, Kaufman[146] argues (against Cohen, Pettit and others) that Sen's complex account of freedom without control (i.e., freedom derived from changes not effected by the person themselves) is, indeed, persuasive, both on the weak and on the strong account:

> "Under the *weak* interpretation, the levers of control are exercised consistently with the person's preferences, but *not* because the person would want them to be exercised in that way. For example, an international agency over which I have no influence implements a policy that I in fact favor that is designed to eliminate malaria. The policy satisfies my preferences, but I have exercised no control over the decision to implement the policy. Such a case involves a phenomenon that is important to quality of life, Cohen concedes, but the phenomenon is not a form of freedom.17 Rather than realizing the freedom to choose whether or not to live in a malaria-free environment, I am, in such a case, a powerless beneficiary of a policy implemented by others. The weak interpretation of effective freedom, Cohen concludes, does not describe a form of freedom at all.
>
> Under the *strong* interpretation, a person's preferences are satisfied *because* they are that person's preferences; the levers of control are exercised in the way that she prefers precisely because she prefers that they be so exercised. For example, a proof-reader "corrects the text as he does because he knows I would want it to be corrected that way." Such a case, Cohen argues, does not exhibit freedom without control, because I continue to operate the levers of control. The exercise of control is indirect, but I nevertheless do control what is done to my manuscript. As a result, Cohen argues, the strong interpretation of effective freedom does not describe freedom without control."[147]

[146] Kaufman (2006)

[147] Ibid (293)

Ultimately, freedom need only be understood (according to Kaufman) in the sense of minimal, if any, input on the part of the agent to bring the freedom-enabling state of affairs about in the world (opportunity view).

Finally, Qizilbash observes that Sen actually ends up giving many different interpretations of his capabilities approach in response to criticisms and difficulties.[148] Furthermore, Sen's approach is problematic (underdetermined) because: (i) he fails to give a list of valuable functionings[149]; (ii) he provides no complete account of interpersonal comparisons; (iii) his means to freedom are not given sufficient importance, and; (iv) negative freedom is not given sufficient importance.[150] Qizilbash also observes that too many capabilities, as can be created by Sen's approach, are not necessarily a good thing.[151] This is seconded by Sumner who observes that, as recognized by Sen, his very broad construal of a functioning as anything we manage to do or to be will yield "an enormous – possibly infinite – list, since a person's activities and states can be seen in so many different ways (and can also be persistently subdivided)".[152] This, in turn, can make the informational requirements of the capabilities approach extremely

[148] Qizilbash (1996a: 145)

[149] More recently, Qizilbash (2007: 176-178) argued that, despite Sen's reluctance to actively endorse such a list, his arguments actually point towards a tacit endorsement of just such a central list. Consequently, Sen's three main arguments against formulating a central capabilities list are enumerated by Nelson (2008: 103-104).

[150] Qizilbash (1996a: 146-147); Qizilbash (1996b: 1211-1212). Problems pertaining to interpersonal comparisons due to influences coming from cultural aspects of consumption are also examined by Rosenbaum (1999). A general critique of Sen can be found in Bénicourt (2004) and in Mukerjee (2004).

[151] Qizilbash (1996a: 148). Arneson (2000: 47-49) makes the same remark regarding Sen's functioning types.

[152] Sumner (2006: 6). For a striking illustration of this, see Gasper (2002: 448).

high[153], though all functionings need to be taken into account in order to avoid missing salient features in selecting the valuable ones — even though many possible modes of functioning selection do little to clarify the capabilities metric, as pointed out again by Vallentyne.[154]

As far as Nussbaum is concerned, Crocker remarks that, while she delineates some of these functional parameters better than Sen, her capabilities metric is further complicated by the fact that she conceives of various specific capability types (basic, internal) that do not, in themselves and alone, constitute opportunities, properly speaking as such.[155] He also interprets Nussbaum's notion of capabilities as corresponding better to personal powers, and Sen's to opportunities — though he admits that, for capabilities to constitute the kind of substantial degrees of freedom that are dear to both authors, they truly need to incorporate both aspects, and more.[156] Furthermore, both Sen and Nussbaum suggest a hierarchal classification of capabilities, though the use of like terms by both designating different capability types (such as the term 'basic capabilities' signifying different things for Sen and Nussbaum) does little to help alleviate potential confusion.[157] All in all, there appears to be a strange tension between what Sen and Nussbaum appear to *want* their capabilities concept to correspond

[153] Alkire (2002: 181-193)

[154] Vallentyne (2005: 362-363)

[155] Crocker (1995: 160-162, 164-165)

[156] Ibid (168)

[157] Ibid (170n14). This problem is also observed by Robeyns (2000: 7-10). 'Basic capabilities' signify the ability to *choose* a certain select functioning for Sen, whereas they signify the ability to fulfill basic life needs (shelter, nourishment), for Nussbaum.

to, and the way in which they actually articulate what it's supposed to correspond to. This is because, as Crocker rightly identifies, most of our intuitions, together with those of Sen and Nussbaum, point to the idea that, for one to hold a *complete* capability, one essentially needs to have *all* positive and negative conditions of freedom enablement realized for one to be truly endowed with the corresponding freedom that the concept of capabilities is supposed to endow us with. However, he also observes that both Sen and Nussbaum actually tend to vacillate between different degrees of capability fulfillment, leaving it unclear as to precisely which of these conditions they understand capabilities to fulfill, and which ones they do not. This not only induces, but also sustains, a significant amount of ambiguity as to the actual freedom type that capabilities are supposed to make possible for people.

The ambiguity befalling the key concepts of 'functioning' and 'capability' has been observed by other theorists as well. Gasper, for instance, considered in much greater detail the variety of meanings that can be given to these two key terms, in an attempt to alleviate some of the incurred ambiguity and confusion surrounding them.[158] He even attempted to sketch out two charts indicating the complex 'conversion' relations amongst these.[159] While these charts are of some help in better understanding the nature of actual conversion processes between entitlements, goods, capabilities, functionings, and well-being, they also end up

[158] Gasper (2002: 446-449). See Gasper (1997: 283-289) for an earlier attempt by the same author at clarifying the capabilities approach.

[159] Gasper (2002: 439, 448). Another small schematic representation is provided by Robeyns (2003: 544).

making even clearer just how varied a usage can be given to both these terms, even within the 'narrowed' confines of the capabilities approach at large. Furthermore, Gasper remarks that the term 'capability' has also been used to refer to opportunities and skills – and not to full-fledged capabilities – and that this has been done by capability theorists themselves, without further explanation or comment as to why they had performed such inconsistent and puzzling semantic shifts.[160] Finally, he (once again) points out that the term 'functioning' can also be given a similarly broad meaning[161], and these problems, in turn, generate further ambiguity as to the way in which capabilities can actually correspond to various sorts of freedoms, understood in terms of one's exercise of genuine choice.[162] This being said, Gasper is nonetheless sympathetic towards the capabilities approach as a whole. However, he rightfully recognizes that these important problems befalling its metric need to be resolved for this approach to make proper headway in the future.

Other authors have also made similar observations, though in more cursory form, regarding the ambiguity befalling the capabilities metric. Laderchi et al. provide us with a chart illustrating the specific problems associated with capability operationalization which makes things quite clear.[163] Bertin and Sirven point out that the multidimensional nature of capabilities makes them very

[160] Gasper (2002: 446-447)

[161] Ibid (448)

[162] Ibid (456-458)

[163] Laderchi, Saith, and Stewart (2003: 28). These problems are also examined briefly by Alexander (2003: 7).

difficult to measure, hindering its usefulness for the analysis of social capital.[164] Vallentyne argues that there are many options (and problems) with attempting a proper valuation of capabilities.[165] Dowding makes remarks similar to Crocker above, concerning the exact meaning that Sen and Nussbaum have in mind, by way of their understanding of the main components proper to the capabilities metric.[166] Finally, Pressman and Summerfield, while conceding that Sen's ambiguity does permit flexibility, drew the following stark observation in 2003:

> "Although the capability approach has been expanded and refined over the years, its vagueness plagues researchers. Graduate students in fields such as economics find that their advisors do not accept the approach as a legitimate methodology for their theses; reviewers for journals often state that the capability approach is unnecessary in an article; proposals that have to be based on a formal model have to look elsewhere, such as to utility maximization, which Sen elaborately critiques. This is the juncture at which we presently find ourselves. Many people recognize the capability approach as a major contribution to economic analysis, but they all recognize that there are problems in the present construction of the approach."[167]

This was also echoed by Robeyns the same year:

> "However, while the capability approach has developed considerably in recent years, much work needs to be done, and I

[164] Bertin and Sirven (2005: 14-15)

[165] Vallentyne (2005: 366-367). A possible method relying on Rawlsian public reason (though aimed at setting reasonable limits on capabilities) has been proposed by Hinchliffe (2009: 410-412).

[166] Dowding (2006: 324-326). He also arrives at a sceptical conclusion in an earlier paper, regarding the general tenability of the capabilities approach: Dowding (2005).

[167] Pressman and Summerfield (2002: 430-431). This being said, the authors also believe that, despite the various objections levelled against the capabilities approach, it can overcome them. They also point out some contributions made to the capabilities approach by Des Gasper, Mozaffar Qizilbash, John Davis, Nancy Folbre, and Séverine Deneulin (431-433).

> certainly would not want to claim that it is a framework that is ready to give us guidance on all questions of justice. But I do feel that it is the most promising normative framework we have at present, and a rapidly increasing number of scholars, activists, and policymakers feel the same."[168]

Given these numerous examples, it should be clear, by now, that the ambiguity befalling the capabilities metric cannot simply be a case of misreading, misinterpretation, or bad faith on the part of the significant number of important authors who have all arrived at similar conclusions. The fact that many of them remain sympathetic towards this approach in general is an indication that the perceived lack of conciseness and clarity at the root of the capabilities metric is simply the result of an honest recognition of a significant problem that has not been satisfactorily dealt with, as of yet. And it is quite clear that Nussbaum's foundational project, relying squarely on the capabilities metric as well, consequently finds itself in the same boat as far as the first major hurdle that it needs to overcome for it to become a viable partial theory of justice is concerned.

2.4 Various attempts at operationalization

Despite the numerous problems identified with the capabilities metric in the previous section, attempts at operationalization have flourished over the past decade, with more recent advances indicative of a substantial concerted effort to finally construe a working conceptual model for this approach. This is not to say

[168] Robeyns (2003: 551). This is also seconded by Alkire (2005b).

that such attempts arose solely during the past ten years or so. A number of such propositions for standardization were already formulated by Sen himself and by other capability theorists in their earlier works in the form of a variety of algebraic formulations[169] or schematic layouts[170]. Other examples of early endeavours can be found in Chakraborty's proposed solution to functioning vector ranking[171], in Herrero's idea for a model of capability operationalization devised by way of tying a capability index together with Rawlsian and utilitarian theory[172], as well as in Alkire's proposal to operationalize Sen's capabilities approach along Natural Law[173]. Later accounts include Fukuda-Parr detailed description of the practical applications of Sen's capabilities approach within the UN's Human Development Reports, in terms of his views regarding human development as capability expansion, as well as the philosophical path taken by Sen to get there (i.e., philosophical basis and critiques of resourcism and welfarism).[174] Other endeavours include Anand *et al's* contribution to the operationalization and testing of the capabilities approach by using data from the British Household Panel

[169] Sen (1985b: 11-4, 33-37, 61-71) was the first to offer such formulations, though others have done so as well, such as Robeyns (2000: 12-13), and Herrero (1996: 72-83).

[170] For examples of such schematic formulations, see Robeyns (2000: 5-10), Dowding (2006: 325), and Gasper (2002: 439, 448). One realizes that, despite sharing certain key components and links, these schematic formulations tend to differ substantially in terms of complexity, depending on the author and interpretation given thereof.

[171] Chakraborty (1993)

[172] Herrero (1996)

[173] Alkire (1996: 42-44). Alkire and Black (1997) also suggested that one road to operationalization would be for agencies and governments to adopt the list of basic principles as a charter for the making of development decisions, and to institutionalize them by making their decisions reviewable on these grounds.

[174] Fukuda-Parr (2003: 302-314)

Survey in conjunction with a list of substantial values posited by Martha Nussbaum[175], as well as Qizilbash and Clark's exploration of the pros and cons of operationalizing the capabilities approach by way of fuzzy poverty measures and their production of a number of tables intended to illustrate exactly how this works.[176] More recently, Gaertner and Xu suggested the use of Lancaster's characteristics approach to consumer theory by combining it with Sen's concept of functionings in order to measure the standard of living available either to an individual or household or to a whole nation, when the direction of the development of society represented by a reference functioning vector is uncertain[177], while Qizilbash examined in depth how issues pertaining to the contextualized operationalization of Sen's capabilities approach (due to his respect for pluralism) are closely linked to social choice theory.[178] Furthermore, Martins attempted to employ Tony Lawson's structured ontology in order to improve the capabilities approach's weakness regarding the recognition of diversity between individuals in welfare analysis[179], while Krishnakumar proposed a structural equation econometric model intended to operationalize the capabilities approach along the latent variable approach, which considers the

[175] Anand, Hunter, and Smith (2004)

[176] Qizilbash and Clark (2005). Preliminary work on the use of fuzzy poverty measures in order to operationalize the capabilities approach can be found in Chiapperro-Martinetti (2000), Qizilbash (2002a), Qizilbash (2003) and in Clark (2005a: 42). The respective effectiveness of this specific approach over others is examined by Lelli (2000).

[177] Gaertner and Xu (2006). Previous work slightly related to this can be found in Pattanaik and Xu (2000).

[178] Qizilbash (2007: 169-185)

[179] Martins (2007a)

different dimensions of capability or human development as unobserved variables (factors) manifesting themselves through measurable indicators.[180] Other authors who have also overseen contemporary operationalization attempts or who contributed to them directly include Gore[181], Comim[182], Fleurbaey[183], Robeyns[184], Farina *et al*.[185], Srinivasan[186], Dowding[187], Burchardt[188], and Frediani[189].

As we gradually approach the year 2011, discussions pertaining to the operationalization of the capabilities approach, together with proposed models and contributions thereto, keep on increasing. Hence, Vizard discussed the use of human rights to develop and justify central human capabilities[190], while Alkire *et al.* all discussed specific ways in which the capabilities approach can or already has been operationalized[191]. Echávarri and Permanyer proposed an innovative approach for ranking profiles of capability sets on the basis of equity[192], while Chiapperro-Martinetti and Roche reviewed specific techniques and problems

[180] Krishnakumar (2007)

[181] Gore (1997)

[182] Comim (2001)

[183] Fleurbaey (2002)

[184] Robeyns (2003)

[185] Farina, Peluso, and Savaglio (2004)

[186] Srinivasan (2007)

[187] Dowding (2008)

[188] Burchardt (2009)

[189] Frediani (2010)

[190] Vizard (2007)

[191] Alkire, Robeyns, and Prabhu (2008)

[192] Echávarri and Permanyer (2008)

related to the operationalization of the capabilities approach[193]. Anand *et al*. 'operationalized' the capabilities approach by developing a survey instrument to elicit information about capabilities at the individual level[194], while Smith and Seward proposed one approach to understanding and integrating the social nature of capabilities by basing themselves on the emergence of an individual's capabilities from the combination and interaction of individual-level capacities and the individual's relative position *vis-à-vis* social structures that provide reasons and resources for particular behaviours[195]. Finally, Hinchliffe further refined functionings along the *type* and *token* distinction (multiple realizability discussed above), and proposed a type-token line of reflection in order to select them, basing himself on Taylor's concept of a strong evaluator[196], while Burchardt and Vizard devised a new two-stage procedure for deriving a successful capability list, challenging the sceptical position by suggesting that 'operationalizing' the capability approach is both 'feasible' and 'workable'[197].

The purpose of the extensive tally above is to show that, despite all the difficulties enumerated earlier, far from becoming abandoned or lost in a quagmire of conceptual complexity, the capabilities approach has, in fact, already become operationalized (for better or worse) in a variety of ways and in a number

[193] Chiapperro-Martinetti and Roche (2009)

[194] Anand et al. (2009)

[195] Smith and Seward (2009)

[196] Hinchliffe (2009: 405-410)

[197] Burchardt and Vizard (2011)

of contexts, and that ongoing efforts towards the creation of an optimal model of the capabilities metric constitute a very real and recognizable work in progress.

2.5 Towards a standardized account of the capabilities metric

Nevertheless, some important observations need to be made regarding the requirements that a standardized account of the capabilities metric intended for specific employment within Nussbaum's foundational project needs to fulfill. While it does need to retain the critical core constituted by the functioning-capability pair, together with the relationship between functioning vectors and capability sets, it does not actually inherit some of the difficulties proper to Sen's version. This is due to three distinct characteristics that effectively shield it from them. First of all, the number of possible capabilities is limited solely to Nussbaum's central list, together with any possible sub-capabilities and functionings that may exist along its many layers, as required strictly for full operationalization. Secondly, there is no problem related to multiple lists and capability ordering, valuing, and weighing in order to organize them along a proper hierarchal scale, insofar as all capabilities present on the list remain incommensurable, irreplaceable (no trade-offs) amongst themselves, and are all required *as a set* for proper minimal levels of social justice to be attained. Thirdly, valuation exercises are simply not needed, seeing as how the central human capabilities list is already considered to be, in itself, morally justified (though this claim is explored in depth in the next chapter). Hence, the dreaded scenario of a

quasi-unlimited number of possible capabilities spread across a significant number of mutually-incompatible capabilities lists, all requiring proper valuation and positioning along hierarchal orderings, is simply not something to be envisaged for Nussbaum's foundational project.[198]

Despite these inherent advantages, some specific reservations remain in order. First of all, since the original intent had been for a capability to correspond to a genuine unit of freedom, it is truly inappropriate (and needlessly confusing) to utilize the very same term to designate states of affairs that are clearly either different or lesser than that. Examples of this involve states of affairs where there are varying degrees of *potential* for a certain freedom unit to be present, but where this freedom unit is not, actually, fully realized.[199] Hence, I fail to see the benefits brought to the capabilities concept by Nussbaum utilizing the same term to refer to what are essentially capacities, potentialities and background conditions, just as she has done with her distinction between basic, internal and external capability types.[200] The reasons for this have been made clear previously, insofar as her 'basic capabilities' correspond to nothing more than latent potential to develop a certain actual full-fledged capability type later on in life, whereas her 'internal' and 'external' capabilities correspond to two different kinds of foreground and background conditions that are both necessary, but alone

[198] Qizilbash (1996a: 149); Qizilbash (1996b: 1213-1215); Gasper (1997: 292-293).

[199] Gasper (2002: 446-447) identifies the term 'capability' being used by capability theorists to refer to such diverse things as skills, opportunities, and capacities – all terms importantly related to freedom, but that are alone non-indicative of actual freedom, per se.

[200] Ibid

insufficient, for someone to hold a certain actual capability-freedom. In fact, one realizes that Nussbaum only refers to a *real* capability freedom-unit by way of what she later calls *combined* capabilities.[201] And that is the only concept that the respective term 'capability' out to correspond to.

Secondly, the combined vagueness and thickness of Nussbaum's list, though initially presented as an advantage against charges of imperialism and paternalism (to be explored in the next chapter) actually implies, not only that the dimension of multiple realizability will necessarily apply quite heavily to her list, but also that it will create possibly insurmountable problems related to the significant selection exercises required to choose one possible instance of any one of her central human capabilities over any other.[202] Thirdly, some authors have expressed doubt regarding just how exemplary of genuine capabilities Nussbaum's list truly is[203], as well as claiming that Nussbaum does, in fact, engage in an exercise of hierarchical ranking and classification of her list, despite her claims to the contrary[204]. Finally, some serious doubts have been raised regarding the practical ability of impoverished governments at fulfilling the rather stringent minimal requirements of all of Nussbaum's central human capabilities simultaneously to all individuals,

[201] This being said, she does identify the need for both positive and negative aspects of freedom for capability enablement better than Sen, as observed by Qizilbash (1996a: 148-150).

[202] This is observed by Arneson (2000: 49-52).

[203] Nelson (2008: 96-97) argues that Nussbaum's list of central human capabilities is formulated in such a manner that not all items described therein constitute actual capabilities, properly speaking as such. This is seconded by Dorsey (2008: 430-432), who questions the legitimacy of a number of items on Nussbaum's list as not being truly necessary for adequate human functioning.

[204] Nelson (2008: 97-98); Dorsey (2008: 430-432)

especially when dealing with severely deficient individuals or when resources become especially strained during natural disasters.[205]

My response to these various worries is as follows: Though the first objection above can be rather easily overcome by sticking to only one definition of capabilities (as I argued here extensively), it is the second and fourth objections that represent, in my view, the greatest conceptual and practical challenges to the successful application of the capabilities metric towards the operationalization of Nussbaum's foundational project. This is because the third objection is more dependent on the kind of interpretation that is being made of Nussbaum's foundational project, and can thus be more easily circumvented by better clarifying some of its functional parameters. As for the second objection, though the significant multiple realizability of Nussbaum's list of central human capabilities does constitute an unavoidable conceptual hurdle and additional burden placed on anyone attempting to operationalize it, at least the act of choosing amongst them can be successfully circumvented by demonstrating that any such choice being made ends up morally moot, which I explain at length in the following chapter. The fourth objection I am forced to concede can, in effect, render the foundational project unrealizable at times, given certain very specific personal or environmental circumstances.[206]

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[205] Dorsey (2008: 426-430, 436)

[206] Though, to be honest, Nussbaum's identification of her basic capabilities is intended to allow governments to forego the diversion of resources to those that are simply 'too far gone' to warrant excessive social taxation for their benefit (despite how unjust that may sound), and her central human capabilities, if understood correctly, do not (necessarily) require unrealistic levels of wealth or technological

Conclusion:

Operationalization problems related to the capabilities approach in general and to the foundational project in particular can be traced back to three key factors. These include (1) the writing styles of Sen and Nussbaum, which make it rather difficult to piece back together their respective versions of the capabilities approach, (2) their somewhat inconsistent and confusing use of the various capabilities-related terms, as well as (3) the great number of directions that further refinements to the central conceptual core of the capabilities metric can undertake. This makes the capabilities metric a rich and highly flexible one, yet one that can end up beset by a very heavy conceptual load, threatening to render practical operationalization impossible. While analysis of the very nature of capabilities has shown that their successful operationalization does invariably require such an imposing load, due to the high variety of foreground and background conditions that need to be properly identified and enabled for the genuine possession of capabilities by individuals, fears of conceptual overload can and already have been alleviated by a number of salient factors. Firstly, much of the identified ambiguity and confusion can be overcome by reducing the very concept of 'capability' squarely down to that of a full-fledged freedom unit, thus avoiding the comingling of this notion with any aspects proper to the aforementioned foreground and background conditions in question. Secondly,

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development for proper implementation. The case of natural disasters, however, remains a possible exception to the successful implementation and preservation of her foundational project.

because of the specific parameters proper to Nussbaum's foundational project (namely the restriction of possible salient capabilities to a central list), many of the drawbacks befalling Sen's original version of the capabilities approach, upon which Nussbaum's version is still heavily based, simply do not apply. Thirdly, significant progress has been made in the last decade towards the creation of a successful capabilities metric, and a variety of studies illustrate that the capabilities approach actually already has, for all intents and purposes, been operationalized for some time now, to greater or lesser degrees of fidelity to its original spirit. This, in turn, implies that proper operationalization of Nussbaum's foundational project presently has at its disposal a remarkable framework to work with, which can serve as an effective launching pad for further development.

This being said, the two main recognizable areas where operationalization of the foundational project can still flounder include the very broad multiple realizability implicit by the 'thick and vague' nature of Nussbaum's central human capabilities list, together with the fact that severe cases of disability, as well as resource-crippling natural disasters, can come to seriously undermine its effectiveness. And even then, problems related to the first area can be overcome by at least reducing the very need to choose amongst the numerous options available for central capability actualization at a moral level (explained in the next chapter), together with the observation that problems pertaining to the second area, though duly recognized and acknowledged, remain of a purely practical as opposed to a strictly theoretical nature, and do not actually represent the standard

model for habitual human environments. In other words, the very idea of distributing central human capabilities to all remains *conceptually sound* — thus overcoming the first major hurdle needed for Nussbaum's foundational project to be considered practically viable. Now, the all-important question of the very possibility of morally justifying a practical implementation of her foundational project, together with an analysis of the probable outcome of such an inquiry, is dealt with in the following chapter.

Chapter 3: Moral justification for the foundational project

Introduction:

The preceding chapter served to show how the primary obstacle to the practical realization of the foundational project can be overcome. It has been argued in the latter parts of chapter two that the foundational project's proposed distributum, namely 'capabilities', requires the adoption of a *minimally standardized conceptual frame* in order to avoid the charges of ambiguity and underdetermination that have been levelled against it, due to inconsistencies present in its current formulations in the salient literature. Furthermore, reliance on existing attempts at operationalization promise to satisfy the specific work required for the implementation of Martha Nussbaum's central human capabilities. Hence, barring some residual recognizable worries, it has already been shown that the very idea of using capabilities as a distributum in something like the foundational project can become a very real possibility.

That the use of capabilities as distributum in the foundational project becomes a practical possibility does not, however, automatically entail that this also makes the foundational project a *morally good idea*. It only serves to illustrate that realizing the project would not be an *impossible* thing to do – hence, serving only to validate it for actual moral assessment at this point, by allowing it to avoid the rather fatal caveat of failing to fulfill Kant's famous principle of 'ought implies

can'[207]. The significant task of satisfactorily demonstrating the moral worthiness of the foundational project represents the next major obstacle in its complete endorsement, and my assessment of this task will occupy the entirety of this chapter.

Attempts at morally justifying the foundational project already exist in the form of a number of argumentative strategies that have been employed to try and persuade the reader of its moral preferability. Before I assess these strategies in turn, however, I will spend some time on an ethical theory which I believe serves as the unofficial and sometimes quite tacit basis for these strategies in question. In examining the relationship between this theory and moral justification for the foundational project, I plan to accomplish three important things: (I) I plan to show how this theory can be utilized in order to bring about practical evaluative exercises of the moral status of various states of affairs, so that an actual practical moral assessment of the foundational project could then be made; (II) I plan to illustrate the need for moral defenders of the foundational project better to align their argumentative strategies along the lines of this theory, as this would only be to their benefit; (III) I will attempt to assess the probable overall moral desirability of the foundational project, basing myself on the evidence collected thus far. The theory I have in mind here is called the 'ideal observer theory'.

[207] Kant is usually credited with bringing this principle to prominence within modern philosophy, despite never having formulated it himself in such a direct manner, but rather in much more 'convoluted forms' — Stern (2004: 53-56).

3.1 The general contents of ideal observer theory

The term 'ideal observer theory' actually corresponds to a group of theories sharing a number of similar characteristics. Ideal observer theory belongs to the class of normative-explanatory ethical theories (in contrast to solely explanatory or *meta-ethical* ones), in that it proposes positive (if not necessarily definitive) answers to a number of important normative questions that have long plagued ethicists[208], as well as provide an additional explanatory basis for semantic[209] as well as ontological[210] questions, pertaining to the nature of moral behaviour. Earlier proponents of ideal observer theory include Adam Smith[211] and David

[208] For a list of seven such answers potentially provided by ideal observer theory, see Brandt (1955b: 407).

[209] Many proponents of ideal observer theory have concerned themselves with the meaning of moral assertions, hypothesizing that when individuals utter morally laden propositions, they actually express claims as to what they *believe* an ideal observer would 'judge' in our place, regarding some object of moral contention. For examples, see

Firth (1952: 317-318), Brandt (1959), Brandt (1979), and Bailiff (1964: 423)

[210] Ontological questions concern themselves with the status of moral truths, as related to specific features of the world. Ideal observer theory is a form of subjectivist cognitivism, yet of a universalist kind (given its commitment to the overarching authoritative particularity of ideal observers), though with some interesting overlaps suggested into moral realism. For example, Carson (1984: 91-94) suggests that full convergence amongst ideal observers upon the value attributed to some state of affairs could imply a weak form of moral objectivity. Railton (1986: 173-177) discusses the role that conditions of ideal observation can play in the identification of 'value-realism', and, despite holding the view that "Normative moral realism is implausible on various grounds" (185, 189), he nevertheless argues for the possibility of an objective morality at the collective or social, level (190-204). Finally, Lewis (1989: 114, 127-129) attempts to ascertain the ontological status of 'values', by linking them to ideal observer theory. He concludes that values can be thought of as 'unreal when strictly speaking', but 'real when loosely speaking'. This, according to Lewis (137), is due to the practical impossibility of completely fulfilling conditions of ideal observation and, hence, to us being unable to fully identify 'real values', if there be any.

[211] Smith discusses a number of conditions required for ideal observation in *The Theory of Moral Sentiment* (Smith (2002 [1790])). Though the actual role played by ideal observation in Smith's theory is up for debate, his overall contribution to ideal observer theory, by way of his recognition of these important conditions above, is rather undeniable (Carson (1984: 181n39)).

Hume[212], as well as a few other well-known philosophers[213], whom one would not have initially envisaged as advocating conditions of ideal observation. More contemporary proponents of ideal observer theory include Roderick Firth[214], Richard Brandt[215], Thomas Carson[216], Peter Railton[217], David Lewis[218], R. M. Sainsbury[219], and Linda Zagzebski[220], to name a few. Other contemporary authors, whose theories resemble closely, or rely on principles similar to those of, ideal observer theory, include R. M. Hare[221], Kai Nielsen[222], and John Rawls[223]. Overall,

[212] Hume's works (especially his *Treatise*) can also be read, with some interpretative leeway, as advocating some of the conditions of ideal observation: Allen (1970: 533-549); Harrison (1971: 177n1); Radcliffe (1994: 42-48); Sainsbury (1998: 152-158). However, the extent to which Hume's theory can be taken to endorse the rather 'extreme' demands generally associated with full and complete ideal observation has been contested by some: Sayre-Mccord (1994: 202-228).

[213] It has also been suggested that principles of ideal observation can be identified in the works of such diverse authors as Emmanuel Kant (Zagzebski (2004: 349)) and John Dewey (Baird (1970: 58-65)).

[214] Firth (1952: 317-345)

[215] Brandt (1959); Brandt (1979)

[216] Carson (1984); Carson (2000)

[217] Railton (1986: 163-207)

[218] Lewis (1989: 123-126)

[219] Sainsbury (1998: 152-158)

[220] Zagzebski (2004)

[221] Carson (1984: 163) and Kawall (2006: 360) both point out the close connection between ideal observer theory and Hare's notion of an 'archangel' Hare (1981: 44-45).

[222] Steglich (1990: 117-121) argues that Nielsen, in his book *Ethics without God*, makes use of ideal observer theory in his criticism of Christian thought and morality, thus making his overall argument rather circular.

[223] Hare (1973: 155), Dreier (1993: 31), and Pollock (1986: 507n2) all point out that Rawls' theory can also be interpreted as a sort of sophisticated ideal observer theory (an 'ideal contract theory', according to Dreier), or at least as belonging to the same general class of theories, namely 'hypothetical choice theories' (Hare (1973: 149-153)), and this, despite some important differences (150). Hare in particular believes the similarities between ideal observer theories and rational contractor theories (Rawls') to be rather close, to the point of equivalence. This is because, according to Hare, the conditions stipulated by both theories (Rawls' and ideal observer theory), actually achieve the same results, with regards to conditions of ideal observation (Hare (1972: 168-169)). A similar claim is made by Friedman (1989: 648-649), regarding the contrast between Hare's and Rawls' theories.

despite not having attracted as much general attention[224] as other prominent competitors, ideal observer theory has nevertheless seen its respectable share of interest, and it proposes a tantalising way of looking at how we may come to see and deal with moral problems.

Ideal observer theory's main proposal is that we assess morally-laden situations by examining what a being endowed with certain key *non-moral* properties would 'do'[225] in our place. Despite a lack of definitive consensus[226] regarding the nature and content of these properties in question, one can actually identify the main recurring ones by looking at Firth's original formulation, and using it as a starting benchmark. Thus, according to Firth, an ideal observer is to be:[227]

1. Omniscient with respect to non-ethical facts
2. Omnipercipient
3. Disinterested
4. Dispassionate
5. Consistent
6. Normal in other respects

[224] This can be ascertained by judging the number of existing publications for each respective theory type.

[225] The general term 'do' here can correspond to the being's 'attitude' (Carson (1984)), 'disposition' (Lewis (1989)) or 'reaction' (Firth (1952)), depending on the version of ideal observer theory at hand.

[226] This disagreement actually lead Brandt (1979: 225-228) to formulate two versions of ideal observer theory. See also Henson (1956: 392-393), Pollock (1986: 507), and Tappolet (2000: 50-51) on this lack of consensus.

[227] Firth (1952: 333-345)

The origins of these six properties can be traced back to what is commonly taken to represent a general understanding that we hold of moral failing, and of the variety of causes that are responsible for it. Hence, one need only look at the opposite conditions corresponding to each one of these six properties to get a handle on why we would think a being endowed with them would make a better moral judge than the average person.[228] Amongst the variety of conditions that are generally identified as causes for undermining good moral judgment, one can include: lack of adequate information (~1); lack of empathic understanding of the plight of others (~2); biased or partial attitudes (~3); being improperly swayed by emotional infection (~4); inconsistency in one's reasoning and actions (~5), and finally; various forms of 'abnormality'[229], causing one to be unable to fully grasp all the intricacies of the human condition (~6). Thus, so long as one believes that conditions ~1 to ~6 really do represent *actual defects* in the quest for good moral judgment, one will also become naturally drawn to the six positive conditions of ideal observation listed above, as tantalizing goals that promise to allow one to overcome these limitations, and finally become able to draw good moral

[228] A good overview thereof is provided by Rosati (1995: 299-304).

[229] These usually include physical and psychological forms thereof. For examples of psychological abnormalities of the kind usually envisaged here, see Shapiro (2000). Physical abnormalities are also to be taken into consideration, but these represent their own sets of distinct problems, often entangled with the psychological ones.

judgments.[230] But just how tangible is this *prima facie* appeal of ideal observer theory? As we shall see below, things are not as simple as they first appear to be.

3.2 The optimal use for ideal observer theory

Despite the initial pull that ideal observer theory may exercise on us, by way of the appeal of its conditions of ideal observation, it is beset by a number of significant problems that all need to be addressed, if it is to be conceivable as an adequate theory for the moral defence of the foundational project. Before I examine the various criticisms levelled against ideal observer theory, however, I need to specify what I believe this particular theory *can* and *cannot* do for us. This is because I hold the principal utility of ideal observer theory to reside in a specifically delineated objective — one that puts me at some significant odds with the majority of authors who have concerned themselves with this theory — and a clear and concise formulation of this objective will also serve to predetermine which criticisms levelled against ideal observer theory apply to my specific version of it, and in which manner.

Traditionally, ideal observer theory had been conceived as a theory that promised to give us moral guidance in our everyday dealings and actions. It was believed that by either (i) trying to place ourselves under conditions of ideal observation (usually by way of intense mental exercises or even

[230] This is all the more important, insofar as Amartya Sen (2006b) illustrates eloquently how an intentional promotion of conditions ~1 to ~5 can be utilized to created bigoted and reductionist judgments in people regarding others, in order to foster violence-induced regime changes.

'psychotherapy'[231]), or (ii) divining the will of actual (or hypothetical) ideal observers, we would then become capable of reacting in a manner that would be morally efficacious, when faced with various morally-laden situations. This noble goal, however, is wrought with two sizeable difficulties, which present formidable challenges to anyone attempting to utilize ideal observer theory in this way.

The first difficulty (as we shall soon see) involves the fact that conditions of ideal observation place such heavy requirements on everyday human beings that it appears highly unlikely, if at all possible, that they could all become realized, to a sufficiently satisfactory degree, within the kinds of 'everyday scenarios' involving morally-laden situations in which it was initially believed ideal observer theory would be of some benefit to us. As I shall soon argue, the heavy demands associated with fulfilling conditions of ideal observation (to a sufficient degree) can only be effectively realized by way of a *collective exercise*, following specifically delineated rules and procedures. The second difficulty stems from research performed into the phenomenon of irresolvable tragic dilemmas or 'hard choices', whereby many morally-laden situations actually leave us with no fully-acceptable avenues of choice or action, seeing as how no matter what we do, we would still incur a moral remainder or moral loss, for which no further utilitarian calculus or deontic principle could be invoked in order to 'reason the remainder or loss out of existence'.[232] The consequences of the existence of this phenomenon imply a

[231] Brandt (1979: 111)

[232] Classical examples of such situations are to be found in the stories of Aeschylus' Agamemnon and Sophocles' Antigone. More recently, Marcus (1980), Foot (1983), and Sinnott-Armstrong (1985) provide us

further stifling of the effectiveness of ideal observer theory as an everyday tool for moral guidance, insofar as it would do little good for individuals confronted with hard choices to appeal to ideal observer theory, even if they were capable of fulfilling the heavy conditions of ideal observation, as the universal standpoint (state of ideal observation) would still leave them with the unenviable conclusion that they are effectively 'morally trapped' by the strings of fate.[233]

Despite these two sizeable difficulties above, the basic idea behind ideal observer theory is still good. However, because of them, the true utility of ideal observer theory rests, not with its role as an everyday morally-guiding process, but rather with its role as a basis for developing planned procedures for assessing the moral desirability of various states of affairs, *all things considered*. By 'all

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with a 'primer' for this phenomenon. Macintyre (1990) points out the significant scope of discussion engendered by this topic — a testimony to its extensive reach and to the great concern solicited by it. Hursthouse (1995) and Hursthouse (1999: 43-87) fleshes out the hard choices phenomenon with an explication of the various afferent terms related to it (resolvable dilemmas, irresolvable dilemmas, tragic dilemmas, moral remainder, and moral loss). Nussbaum (2000b: 1005-1036), Nussbaum (2003b: 415-416), and Nussbaum (2011a: 36-39) discusses how this phenomenon plays into her conceptualization of the central human capabilities as unalienable rights for all that cannot be morally and effectively weighed against one another or traded off — in response to which Dorsey (2008: 426-432) argues why this very same phenomenon actually undermines our practical abilities at fully implementing the foundational project. Sen (2009: 208-221) provides us with a related discussion to this topic. Statman (1996) illustrates the significant importance that a proper understanding of hard choices holds for legal theory. Finally, Brandt (1955a: 422) explains the impact of this phenomenon on ideal observer theory, while Postow (1978: 120-121) and Firth (1978: 122-123) provide us with a concrete example thereof. See also Lewis (1989: 126) on this phenomenon.

[233] This is not to say that one does not encounter many everyday morally-laden situations that do *not* involve hard choices of the sort. In such cases, provided that one could overcome the first difficulty (information gathering and processing), it is conceivable that ideal observer theory *might*, in some cases, come in handy, by offering guidelines for at least some such situations. However, this would still limit the effectiveness of ideal observer theory to those situations only, and, given the remaining heavy requirements for realizing conditions of ideal observation, one wonders whether one would not end up better served in their everyday dealings by adopting a set of imperfect but ultimately more practical and realistic general moral principles (such as general principles of civility, courtesy, common-sense, and respect for others, for instance), rather than burden oneself with attempting to reach the universal standpoint in each individual case, as it arises.

things considered', I am referring to an exercise whereby the general desirability of a state of affairs would be assessed in relationship to what the world *could be like*, given (i) the complete state of our knowledge regarding how the world presently is, and (ii) the complete state of our knowledge regarding what we could *make it out to be*, following a complete and realistic assessment of all of our powers of worldly modification and alteration. We ought therefore to develop ideal observer theory's conditions of ideal observation into 'principles of ideal observation', which would then serve as the basis for performing actual practical exercises of just this type, determined by way of 'procedures for ideal observation'[234]. These procedures for ideal observation would then be regrouped under a 'project for the ideal moral assessment of states of affairs' (PIMASA), which would serve the important role of helping us to try and effectively assess the actual *overall* moral value of various states of affairs, in order to then draw out policy recommendations, as to which states of affairs ought to be brought about, which ought to be eliminated, and which ought to be maintained.[235]

Since this proposed use of ideal observer theory would not be so burdened by the two sizeable difficulties above, insofar as it could mobilize sufficient time, energy and resources to ensure proper realization of conditions of ideal

[234] The crucial role of procedures for ideal observation is twofold: (i) ensure proper data gathering and sharing amongst participants, all the while; (ii) ensuring that all other conditions of ideal observation are maintained for all participants at all times.

[235] Putting this project into place would not actually be that complicated, insofar as many of the social institutions and research bodies required for its realization are already in existence, and would only require 'moderate modifications' to be brought into line — a task highly facilitated by modern means of information exchange. Admittedly, the greatest hurdle resides with the public relations aspect of a PIMASA, insofar as its avowed purpose flies (rather blatantly, I may add) in the face of what people generally like to believe about their autonomy and self-determination, in terms of them being 'left free' to make their own moral choices.

observation, and insofar as it would serve to make policy recommendations aimed at long-term moral gain, as opposed to immediate individual actions and reactions, it stands as a significantly preferable alternative to the originally suggested use for ideal observer theory. However, it is important to interject at this point, by pointing out that, even though policy recommendations derived from a PIMASA would carry an effective moral 'stamp of approval', putting them into practice would still invariably entail important *transitional problems*.[236] Hence, despite the aims of a PIMASA being framed in terms of long-term goals of moral improvement, hard choices would not be fully done away with, and this in turn entails that, even if the theoretical idea behind the foundational project can be morally defended by 'running it through' a PIMASA, actually bringing the foundational project about would still require giving some measure of accountability for the number of hard choices that this would inevitably require.[237] In the meantime, however, I will now return to ideal observer theory and to the variety of criticisms that have been levelled against it, in order to assess them against the optimal use for ideal observer theory that I have just formulated above.

[236] Transitional problems are classified under two main headings. The first includes the 'challenge of the Realpolitiker', or the necessity of making hard amoral choices now in order to reach virtuous ends later. The second includes historical considerations of rights and entitlements (Nozick (1974)), in making sure that these are fully taken into account in the practical implementation of a PIMASA-approved policy.

[237] Menon (2002) identifies a number of these problems (including various forms of 'state coercion' and 'use of excessive force') associated with the practical implementation of the foundational project. They are examined in greater depth in chapter five.

3.3 Criticisms of the conditions of ideal observation

Omniscience and omnipercipience

The six conditions of ideal observation enumerated in section 3.1 above have each attracted their own respective set of criticisms. The first two joint-conditions[238], namely omniscience and omnipercipience[239], are beset by two major problems:

I. The conditions of omniscience and omnipercipience place insurmountable requirements on human beings. Given our natural limitations, no one could know all at any given point in time, in order to fulfill these conditions of ideal observation.[240]

[238] I treat these two conditions as 'joint', seeing as how they essentially reflect two sides of the same requirement, namely the 'abstract' as well as the 'empathic' aspects of 'full information gathering'. Indeed, if it were not for our largely culturally-induced dichotomy between the concepts of 'reason' and 'emotions', both conditions could be simply subsumed under the overarching title of 'omniscience'.

[239] The importance of accurately representing the emotional reactions of others to oneself, in fulfilling the condition of omnipercipience, is elaborated upon in some detail by Carson (1984: 58-65, 98-100). In doing so, Carson points out the overriding importance of having lived similar emotional experiences, in order for us to be capable of adequately representing them in others (63-4). This entails that these conditions most certainly cannot be adequately fulfilled by conserving a 'stoic frame of mind'. Indeed, the crucial role played by emotions in allowing one to fully grasp all salient aspects of various situations (whether moral or not), as they relate to human beings, has been argued for by a number of prominent authors (Nussbaum (1990a), Nussbaum (2001a), Sherman (1997), Hursthouse (1999), Tappolet (2000)), such that the role of 'emotional infection', as it relates to proper data gathering pertaining to the lives of human beings is, by now, largely recognized.

[240] This limitation is observed by Carson (1984: 65), Sayre-Mccord (1994: 218), Rosati (1995: 314-324), Kawall (2006: 361), and Zagzebski (2004: 354-355).

II. Even if we could (somehow) achieve them, doing so would cause our perspective to shift so far away from our normal human sphere of experience that we would no longer be capable of fully appraising the moral meaning of all of this newfound knowledge for our 'mere mortal existence'.[241]

I will begin by addressing the first problem (I), insofar as its resolution also entails a solution to the second one. One possible suggestion that has been brought forth for overcoming the unrealistic demands of conditions one and two is to simply bypass these requirements altogether, and identify the will of either an existing, or a hypothetical, ideal observer. If this could be done effectively, one would then need only to follow their will, in order to function in the world in morally efficacious ways. This proposed solution, however, is hopelessly flawed. If there is no existing ideal observer, then there is no one's will to follow.[242] Our only option then involves attempting to divine what a hypothetical ideal observer would will. This, however, brings us right back to the beginning, with regards to our abilities at divining an ideal observer's will. There (probably)[243] being no

[241] The possibility of this occurring is recognized by a number of authors, namely Brandt (1955b: 409-410), Harrison (1971: 174-176), Carson (1984: 57, 75-76), Railton (1986: 174n15), Lewis (1989: 124-125), Walker (1991: 765-766, 768-773), Sobel (1994: 792-807), and Rosati (1995: 308-314).

[242] Harrison (1956: 256-258) makes this remark. Harrison (1971: 151-152, 172) believes that, there being no ideal observers, we cannot simply 'query one', regarding the moral status of our actions.

[243] This hinges on one's belief in the existence of God as a benevolent ideal observer. Naturally, even if this were to be the case, one would still remain saddled with the burden of being capable of recognizing God's will *accurately*, and furthermore, being *certain of this*.

actual ideal observers, the only remaining solution for us is to fulfill conditions of ideal observation ourselves, to the best of our abilities.[244]

Luckily for us, the stringent conditions of omniscience and omnipercipience can be lightened significantly by employing three distinct strategies. The first strategy involves limiting the amount of information that is actually required to properly ascertain the moral value of some state of affairs.[245] Indeed, there is no good reason for believing that one needs to know 'everything about everything' in order to draw adequate moral judgments.[246] One only needs to acquire all *salient data* pertaining to the impact of some state of affairs on the world, in order to produce an accurate assessment of its moral worth. A number of actual proposals have been made for how this could be achieved, all the while seeking to truncate the requirements of data gathering, such that one not end up in a situation where one would be required to gather essentially the same amount of data as before, due to one needing to assess *all* data in order to filter out the salient from the non-

[244] Garner (1967: 619); Brandt (1955b: 410-411)

[245] Brandt (1955a: 422-423) proposes that this be achieved by 'hedging' the omniscience requirement, and reducing it solely to 'salient features' of worldly states of affairs, determinable by way of a procedure, whereby such features are examined in terms of whether they would alter the ideal observer's moral judgment, or not. In doing so, only those that would have an impact on the outcome of the moral judgment would come to be retained under the 'omniscience' requirement. Firth (1955: 417-418) acknowledges the 'ingenuity' behind this proposal, despite erroneously anticipating what he takes to be a rather fatal difficulty (due to his failure to recognize that conditions of ideal observation necessarily eliminate 'false beliefs'). Harrison (1971: 173, 180-181) proposes a very peculiar 'analogy' for understanding how we may approach conditions of ideal observation, and know it. Carson (1984: 58) provides us with a very simple but elegant principle for determining what counts as a salient fact or not. His principle roughly states that "any data is to be considered salient if its absence or inclusion would come to affect, in some way or another, the moral value-judgment placed upon a state of affairs".

[246] This observation has been made sporadically by various authors advocating ideal observer theory.

salient.[247] Thus, so long as a reliable method can be developed for pre-selecting and filtering data in a manner that preserves saliency, all the while ending up less informationally-taxing than complete fulfillment of the omniscience-cum-omnipercipience requirements, we can come one step closer to fulfilling these first two conditions of ideal observation. Development of such a method, however, would require cross-disciplinary endeavours which would constitute one of the key working components of a PIMASA.

The second strategy involves truncating the requirements of omniscience-cum-omnipercipience even further, by reducing the required information down from all salient data that would inevitably require gathering, to an *anticipation* or *intuition* of the outcome of such data.[248] Admittedly, this strategy is riskier and more error-prone than the first one above, insofar as the first-level truncation from complete omniscience-cum-omnipercipience avoids the potential problem of data shortage, so long as all the gathered data is, indeed, of the *salient type*, and none ends up omitted. However, since all attempts at intuiting something, as opposed to judging (perceiving, recognizing) it, necessarily entail some data paucity somewhere, the likelihood of error (of omitting some salient aspect

[247] Two examples of this include the Lehrer (1985: 109-120) method of seeking to sufficiently (realistically) fulfill the condition of omniscience, by maximizing the probability of informational accuracy, in order then to anticipate consensual probability, and Sainsbury (1998: 153-155, 157) proposing that, if one considers the combined conditions of omniscience and omnipercipience along the lines of Hume's definition of a 'frame', sufficient fulfillment of these conditions would be attained when no further addition or alteration made to said frame would change an ideal observer's general moral disposition. A similar, though less accurate suggestion, is also provided by Lewis (1989: 123-125).

[248] This suggestion is pressed forth by Kawall (2006: 363-371) and (to some extent) by Walker (1991: 764-765). See also Harrison (1971: 152-153) and Lewis (1989: 122-123) on this. Carson (1984: 100-102) suggests that this strategy could serve as a possible solution for intuitionists, in an attempt to defend their theories (by arguing for an attempt to intuit outcomes deriving from conditions of ideal observation).

thereof) necessarily appears as a direct function of the general 'quality' of the intuition in question. This second strategy, therefore, is to be understood as a 'fall-back' strategy, to be employed when the (already-reduced) requirements of salient data collection simply cannot be met, for whatever reason. However, given its natural defects, it is important to realize that the outcome of any assessments of the moral value of states of affairs made under this strategy amounts to a *moral intuition*, and not to an actual *moral judgment*, insofar as one remains aware of one's uncertainty that all salient data has been duly captured thereby. For obvious reasons, such an outcome holds lesser authoritative weight than the more 'ideal' outcome stemming from procedures for ideal observation that limit themselves solely to data truncation at the first level, and its authoritative force is consequently directly proportional to the respective 'quality' of the intuitions that it derives from.

The third strategy I have already alluded to in my earlier remarks that conditions of ideal observation can only be effectively realized by way of a collective exercise, following specifically delineated rules and procedures. Given the reasons above for why ideal observer theory is poorly equipped to serve as an everyday moral guide, it also stands to reason that achieving the requirements of omniscience-cum-omnipercipience, even under their truncated forms, necessarily involves a collective 'meeting of the minds' (many minds in this case). Indeed, the complexity of our world is such, and our accumulated body of knowledge has grown so large, with so many specializations required to even make sense of the

various fields of knowledge, that a proper assessment of the moral value of various states of affairs (especially complex ones) invariably requires the undertaking of significant collective exercises, by way of procedures for ideal observation. No one mortal person, no matter how 'gifted', could gather and process all that data by themselves.[249] And it is precisely here that the advantages of the PIMASA come into perspective, in terms of its ability at overcoming the natural limitations of lone individuals, preventing them from fulfilling these first two conditions of ideal observation.

Hence, the first major problem besetting the first two conditions of ideal observation, namely omniscience and omnipercipience, can be alleviated by doing the following: (1) Reducing the informational requirements of omniscience-cum-omnipercipience by truncating the data down to salient data only, and even further if need be, by relying on moral intuitions as opposed to moral judgments; (2) 'boosting' the cognitive, informational, and empathic powers of our human observers by transforming the singular act of ideal observation into a large-scale collective endeavour, by way of a PIMASA.

I will now look at the second major problem (II) threatening to beset those who would achieve the first two conditions of ideal observation. This problem illustrates a genuine concern which cannot be done away with that easily — for it

[249] For it is indeed a peculiar feature of ideal observer theory that its many proponents have not paid sufficient attention to this rather evident problem (Walker (1991: 767-768)) — a particularity which can probably be traced back to an excessive reliance on the power of the omniscient-cum-omnipercipient requirements, with insufficient attention paid to what is actually practically required to attain them. Friedman (1989: 649n13) made a similar claim, regarding the need for 'dialogical', as opposed to 'monological' approaches to moral reasoning (in terms of the need for information sharing and pooling).

is indeed highly conceivable that individuals who have participated in procedures for ideal observation will come out of the experience drastically altered in terms of their worldviews, being faced now with significant discrepancies between what they initially took to be morally valuable, *vs.* what they now take to be morally valuable, after the fact. But does this reasonable assumption likewise forebode a transformation potentially 'so extreme' that participants in procedures for ideal observation may come to lose their bearings in terms of what morally matters for 'mere mortal' human beings? There are several reasons for why this would not be the case. Firstly, procedures for ideal observation only entail information gathering (and exposure) up to a maximal degree required to cover all salient aspects proper to the moral evaluation of states of affairs. Individuals exiting procedures for ideal observation would consequently not come to know 'everything', as a truly omniscient God would (though they would certainly leave the project significantly more informed than before). Secondly, such an experience would not truly *transform* its participants into Gods in any shape, way, or form. They would still remain 'just as mortal' as before, beset by all of life's woes and tribulations (though their perspectives on said woes and tribulations would probably be significantly different now). Thirdly, since the specific purpose of the PIMASA is to advance a long-term ameliorative project by way of the overall moral valuation of the collection of states of affairs presently making up our world, the realizations arising from it would not impinge the same kind of *fatalism* as might

befall a lone ideal observer, seeking moral guidance in their everyday actions, when faced by seemingly insurmountable odds.[250]

This being said, however, it is nevertheless necessary to concede the possibility that the empathic component of the omniscience-cum-omnipercipience pairing may, indeed, lead to some significant emotional trauma for the previously uninitiated.[251] But this, in itself, does not really entail a wholesale crippling of moral sensibilities for the individuals involved, barring some significantly disturbing discovery along the way. Quite on the contrary, intense cathartic experiences, despite their unsettling qualities, can (if done right) actually lead to emotional (and hence, moral) erudition.[252] The second major problem threatening participants in procedures for ideal observation is consequently not really a 'problem' at all.

[250] This would remain the case, so long as the outcome of procedures for ideal observation itself does not also reveal fatalism regarding the present existence of morally heinous states of affairs!

[251] Carson (1984: 65-66) examined this possibility of the omnipercipience condition causing an 'emotional breakdown' for an ideal observer, though he actually ends up seeing this as ultimately beneficial for them, in terms of a kind of 'emotional erudition' that it would eventually entail. Possible examples of this occurring (my examples) involve grasping, for the first time, the disturbing origins and circumstances surrounding such seemingly innocuous products as processed meat and 'blood diamonds'. A pre-procedures for ideal observation individual may see their initial moral value as being quite high (after all, meat is tasty and nutritious and diamonds are 'pretty'), but come to experience significant emotional trauma (and moral re-evaluation) once they realize how these products are made and where they come from. It is both crucial, as well as disturbing, to recognize the fact that the same applies to the existence of very many of our products today.

[252] This is also a claim upheld by many authors advocating the intelligence of emotions.

Disinterestedness and dispassionateness (impartiality)

So much for the criticisms levelled against the first two conditions of ideal observation. The next two conditions, namely disinterestedness and dispassionateness, are a bit more complicated, insofar as the criticisms levelled against them also tend to be enmeshed in a number of misunderstandings regarding their meaning and intent. By beginning with a clarification of conditions three and four, we can therefore alleviate a significant portion of the scepticism surrounding them.

The original intent of the conditions of disinterestedness and dispassionateness was to guard against the kind of partiality that may render an ideal observer's judgments biased in an unacceptable manner.[253] In this respect, both disinterestedness and dispassionateness can be understood as prerequisites towards achieving the general condition of 'impartiality', insofar as they have been formulated in an attempt to wholly support it. However, because of the apparently stoic implications of these two conditions, some authors have expressed concern that fulfilling them may also cause one to lose one's humanity[254], albeit for reasons quite opposite[255] to the ones expressed in relation to the first two conditions of

[253] Not all bias is considered detrimental to fulfilling conditions of ideal observation. According to Carson (1984: 76-79), for example, only bias that skews an ideal observer's judgment in favour of one's selfish needs, at the expense of the well-being of others, is considered to be of an 'unacceptable sort'.

[254] Brandt (1955b: 411-412); Harrison (1956: 260); Bailiff (1964: 427)

[255] Whereas it was previously argued that the omniscience-cum-omnipercipience conditions would cause one to lose one's humanity in virtue of the individual becoming *overwhelmed* by emotional data, it is also believed that the conditions of disinterestedness and dispassionateness (on their stoic interpretation) pose

ideal observation. But this assumption betrays an erroneous understanding of them. These two conditions simply entail that an ideal observer cannot be subjected to situations where any unwarranted personal interest or emotive pressure would exist that would draw the ideal observer's judgments away from assessing the moral value of states of affairs all things considered, towards formulating proposals that would actually benefit some individuals at the expense of others. They do not entail that the way to achieve this is for the ideal observer to somehow become effectively 'numbed out' or 'desensitized' to the emotive aspects that give meaning to human existence — for this would clearly violate the condition of omnipercipience which, it has been argued above, stands as a necessary partner to omniscience, in grasping the real moral impact that various states of affairs have on the world. This being said, however, it would probably be better to actually *subsume* disinterestedness and dispassionateness under the general overarching condition of 'impartiality' insofar as they exist as its genuine, albeit somewhat misleading, prerequisites.

Fair enough, but what to make of this general overarching condition of impartiality then? For such a *prima facie* clear notion, it has attracted a significant amount of discussion, and many authors hold varying views regarding, not only it's meaning[256], but also its role[257], as well as its feasibility[258], as one of the

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a similar risk, albeit this time by effectively *numbing* or *locking out* all emotional affects required for proper appraisal of the moral value of states of affairs, as they relate to human beings.

[256] The general ambiguity surrounding this term, as well as the difficulties entailed by varying interpretations of it, have been observed by Bailiff (1964: 425-426), Schlecht (1971) and Dreier (1993: 29-30). Brandt (1959: 174) suggests that it involves a 'lack of involvement on the part of special individuals or groups in morally-

conditions of ideal observation. Nevertheless, the extent to which so many cases of injustice have been linked to partial considerations by the parties involved, together with the concern that our various social institutions express in attempting to present themselves with an *impartial* image of fairness and equal consideration, serves as an indication of the profound importance that this notion does indeed hold for us, in our dealings with one another — whether this be in the context of ideal observer theory or not. How best to actually understand the condition of impartiality therefore has already been implied by my proposal for

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laden situations' (he writes "A person is 'impartial" with respect to a particular reaction if the reaction is not influenced by the fact that some special individuals or groups are involved in the situation to which he is reacting"). Harrison (1971: 165-166) holds a pretty 'standard' definition of impartiality, comparing it with the idealized workings of a judge in a tribunal. Pollock (1986: 515) suggests that we understand it in terms of concrete *vs.* abstract thinking. Hence, when examining a concrete situation, we abstract away from it whatever may link it to us in any possible way. It is important to remark that, despite the differences amongst these various definitions, they all appear to converge on the central notion that impartiality entails the absence of any kind of favouritism towards any specific individual, beyond what is normally accorded to persons in terms of the dignity conveyed upon then by virtue of their humanity.

[257] Carson's case is somewhat peculiar. On the one hand, he initially denies that impartiality need constitute one of the conditions of ideal observation, and argues against Firth on this point. On the other, he suggests that one aspect in the fulfillment of conditions of ideal observation involves avoiding all cases of *self-deception*, such as 'emotional displacement', 'sour grapes', or 'making a virtue out of necessity', for the obvious reason that these are all exemplars of potentially partiality-inducing phenomena (Carson (1984: 70-75)). Furthermore, many of the other conditions of ideal observations related to impartiality discussed by Carson can be found in Firth's formulation, despite him sometimes arguing against them (Taliaferro (1988: 129-130)). This leads Carson to regret his earlier decision to argue against the need for impartiality (Carson (1984: 123-124)), by apparently failing to realize how strongly partiality can generate just the kind of emotional displacement which he himself cautions against (77-79). All in all, Carson's bout with impartiality seems to rest more at the terminological than at the conceptual level, insofar as his writings betray a genuine concern for the problem that partiality causes for moral inquiry (Taliaferro (1988: 128-129)).

[258] Walker (1991: 759, 62-63) believes this requirement places very heavy demands on the ideal observer (though she actually seems to be conflating the requirement of impartiality with all the other requirements of ideal observation). Following her criticism of the dehumanizing effects of omniscience, she proposes that alternative conceptions to the ideal observer, such as that of the *disinterested judge* or the *third-person observer*, can fulfill the requirement of impartiality (as understood by her) without 'dehumanizing us' in the process (pp. 768-70). Friedman (1989: 649-656) believes that, even given the desirability of this requirement, we have no sure-fire way of determining if it has ever been fully achieved, assuming it can ever be achieved to begin with (which she believes it cannot). Her proposed solution to this conundrum involves identifying the positively recognizable conditions of partiality (in order to try and avoid them, to the best of our abilities), as opposed to attempting a vague and general negative characterization of impartiality.

the preferred use of ideal observer theory, in terms of the realization of a PIMASA, in order to assess what states of affairs would constitute a morally preferable world. One immediately realizes that, under such a project, the first level of partiality is done away with, insofar as one is not forced to make 'hard choices' (as of yet, anyway), by being forced to face irresolvable moral dilemmas. This is not to say, however that partiality is thus fully done away with, insofar as complete removal of all partiality-inducing factors relies directly upon the actual effectiveness and efficiency of our procedures for ideal observation.[259] And this brings us to another important concern, associated with the incorporation of this condition into a PIMASA.

Actually achieving impartiality for individuals participating in procedures for ideal observation represents a whole challenge onto itself. Two possible avenues exist towards this goal. The first assumes an unavoidable corruptibility and essential selfishness to the individual, invariably requiring *information hedging*, in order that a fine balance be struck between all required data for achieving the omniscience-cum-omnipercipience conditions, all the while carefully avoiding exposing our ideal observers to the wrong type of data that would come to 'tickle their selfish fancy'. Rawls' original position, together with its veil of ignorance, is a prime example of a strategy based on this first avenue.[260] The

[259] Various attempts can be made to sabotage the intended outcome of procedures for ideal observation. Examples of these can include incentives such as bribes or privileges, as well as coercion such as blackmail. These aspects are dealt with in chapter five.

[260] In the case of Rawls' proposal, there is some disagreement as to the amount of data that needs to be removed in order to reach impartiality. Hare (1973: 151-152) suggests that very much information can be

second avenue assumes that by simply realizing the conditions of omniscience-cum-omnipercipience, this would itself be 'sufficiently moving' for the ideal observers, such that no actual information hedging (beyond the truncation required to make the data manageable) would be required to avoid the pull of partiality, due to selfish motives (the standard assumption under ideal observer theory). Which of these two strategies is the preferred one, however, remains to be seen. A decisive answer will need to base itself heavily on our knowledge of the features of human psychology, as well as on our organizational abilities at creating the kinds of conditions required to generate the impartiality sought by way of procedures for ideal observation. In any case, the significantly superior capabilities brought about by a PIMASA make the task of producing partiality-alleviating conditions a much more attainable goal, when compared with cases of lone individuals attempting it for themselves.

Consistency

Criticism of the next condition, namely that of consistency, can be done away with more readily than for the other conditions examined above. Because the general purpose of ideal observer theory is to offer an acceptable solution of many of our moral problems, it stands to reason that an ideal observer needs to be consistent in terms of their moral judgments. Some authors, however, have

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retained, and only the crucial data allowing one to recognize one's place in the world needs to be hidden (hence, only a very economical veil).

anticipated a possible lack of consistency, insofar as *changing contexts* may lead, even ideal observers, to come to value things differently than under other contexts.[261] While this objection is directly consistent with what may occur for an ideal observer under the initially conceived goal of utilizing ideal observer theory as an everyday moral guide when faced with hard choices or irresolvable moral dilemmas, we have clearly seen that my suggested optimal use of ideal observer theory within a PIMASA largely does away with these problems. This being said, however, proper consideration of the consistency condition does hold some important normative consequences for the PIMASA. In particular, it serves to reinforce the need to fulfill the first two conditions of ideal observation adequately, insofar as each new assessment of each new state of affairs needs to be done in full cognizance of its complete impact on all other states of affairs, and vice-versa. In this respect, the PIMASA cannot function by way of an atomistic 'stacking' of the moral valuation of each new state of affairs upon the others, as in doing so each new valuation may come to undermine the previous results. Rather, a PIMASA must invariably entail a holistic counter-examination of all pertinent states of affairs *one against the other*, such that a complete valuational result of all possible desirable states of affairs considered together come to be achieved. Naturally, this implies that, as new data emerges and flows into the PIMASA, the

[261] Harrison (1971: 170-171) envisages this possibility, and believes this to be one of the main reasons for rejecting ideal observer theory (p. 180). However, one realizes that Harrison's reasoning is somewhat erroneous on this point, insofar as he fails to seize the extent to which the condition of omniscience actually serves to override the informational paucity which he takes to be a key cause for inconsistency. And he furthermore attempts to combine ideal observer theory with moral principles for everyday conduct, all the while failing to capture the problem of 'hard choices' or 'irresolvable moral dilemmas', which can, indeed, cause a *semblance of inconsistency*.

previously-determined moral value of many states of affairs may need to be reassessed, making the PIMASA a particularly intense, tedious, and ongoing project. But this is simply unavoidable, insofar as the requirement of consistency is a genuine condition of ideal observation, and insofar as it needs to be incorporated into the PIMASA, for it to be successful.

Normality

The 'normality' condition is probably the most difficult of all conditions of ideal observation to fulfill properly and without engendering unacceptable consequences. This condition harks back at the need for the ideal observer to be 'sufficiently human', in order to understand the impact that various states of affairs have on our mortal existence. Regarding the 'preservation of normality', I have already discussed above how this condition can be maintained for participants in procedures for ideal observation, in my description of the realistic requirements for achieving omniscience and omnipercipience. This being said, however, any actual attempts at defining 'normality' need to be made with the utmost of care. To begin with, it has already been made clear that individuals who participate in procedures for ideal observation will not emerge truly 'normal' from the experience, insofar as their entire worldview, along with their complete set of moral values, may end up drastically different from that of pre-procedures for ideal observation individuals. But that is not the kind of 'abnormality' that we have in mind here, insofar as such individuals would still be physically and, in many

respects, psychologically the same as before, and would still be enmeshed in the social and cultural trials and tribulations of their daily lives. Rather, the kind of abnormality that usually worries proponents of ideal observer theory is the kind that would make a creature's life 'too unlike our own' for said creature to understand the moral plight of our existence, even if this creature were to participate in procedures for ideal observation. Hence, Gods, Martians, and silicon-based life-forms would probably count as such abnormal beings, whereas all members of the human race would not, so long as they could be attributed all required properties and characteristics, in order to be capable of understanding what it is like to live a full human life.

The problem, however, resides with the fact that, even within the human community, there are significant observable differences. Certainly, we are all in many ways alike, but no standardized physical and psychological mean or average would do to define our 'normality', insofar as such a definition would be too culturally specific and too irrespective of the significant variety of conditions that otherwise 'normal' individuals experience throughout their lives, depending on such qualifiers as their age, gender, body build, socio-cultural and economic circumstances, natural perks and flaws, outcome of the natural lottery, and so on. In this respect, it would be more efficacious, following Carson, to drop the

'normality' condition altogether[262], and replace it with another one, which I will call here the 'humanity' condition.

Though this simple name change apparently brings little in the way of immediate benefits, its implications are considerable: requiring that an ideal observer be fully capable of understanding what it is like to be 'human' entails a complete comprehension of the aggregate conditions and possible combinations thereof, indicative of the complete diversity of all and any possible forms of human existence and experiences[263], whereas requiring that an ideal observer be solely capable of understanding what it is like to be 'normal' would invariably force them to break it down to some standardized physical and psychological mean or average which, as I have explained above, will simply not do, insofar as it would violate the omniscience-cum-omnipercipience conditions. Therefore, it is highly important that participants in procedures for ideal observation be fully capable of fulfilling the condition of 'humanity', as I have explained it here.[264]

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[262] These difficulties lead Carson (1984: 79-80) to discard the normality requirement from the list of conditions of ideal observation.

[263] Note that in formulating the humanity requirement in this manner, said diversity implies the inclusion of disabled and malformed cases of human existence as well — a very important (and somewhat difficult) component if ideal observer theory is to be successful in providing a basis for the moral defence of the foundational project. The question of adequately addressing disability needs is a key aspect of the foundational project (and a significant basis for its critiques of resourcism and welfarism, as we will see in the next chapter), as explored in Nussbaum (2002a), Nussbaum (2003a), Nussbaum (2003b), Nussbaum (2006: §§ 2 & 3), Nussbaum (2007b). On this, see also Terzi (2005b), Terzi (2005a), and Khader (2008).

[264] It is interesting to note that, in formulating the 'humanity' condition in this manner, this does not actually entail that the participants in procedures for ideal observation *need be human*, but only that they be capable of fully seizing what it is like to be fully human, and that their 'inhumanity' not prejudice, nor make them partial in any way, shape or form, in terms of the goals of PIMASA. However, since it is unlikely that we would come to see Gods, Martians, or silicone-based life-forms volunteer to partake in a PIMASA, I believe this worry can be ignored, for the most part.

Granted, some would argue that fulfilling this 'humanity' condition, as I have defined it above, is already, *ipso facto*, entailed by the omniscience-cum-omnipercipience conditions above. In that case, iterating it here simply serves to clarify even further what is fully contained in these first two conditions of ideal observation. And, this being the case, the 'humanity' condition may even be dropped as a standalone condition of ideal observation, if all of its specific implications are truly fully subsumable under the omniscience-cum-omnipercipience conditions.

3.4 Criticism of the general appeal of ideal observer theory

The previous section served to illustrate how the various criticisms of the six standard conditions of ideal observation can be given a satisfactory rebuttal, and how much of this rebuttal rests with developing ideal observer theory's conditions of ideal observation into procedures for ideal observation, to be utilized within a PIMASA. There remains one major overarching criticism of ideal observer theory, however, which requires our undivided attention. It is the problem of the original justification of ideal observer theory as an adequate standard for assessing the moral value of states of affairs. I stated at the beginning that conditions of ideal observation derive their appeal from the fact that they represent attempts at overcoming a variety of situations that are generally understood to undermine good moral judgment. But what *warrants* this appeal in the first place? Since it is believed that conditions of ideal observation place us in a

situation from where we can make good moral judgments, what allows us to assess and identify the reliability and effectiveness of these conditions in the first place?

Two possibilities have been formulated in an attempt to answer this question — both of them highly problematic. The first possibility suggests that only ideal observers can fully warrant the validity of conditions of ideal observation. But this is hopelessly circular, insofar as it amounts to saying that ideal observers essentially end up validating themselves, in their own moral authority.[265] The second possibility assumes that conditions of ideal observation can be validated by individuals who are not ideal observer. But this brings us right back to the problem of explaining how individuals who are not blessed with the powers of ideal observation can safely ascertain that conditions of ideal observation are, indeed, the correct path to moral enlightenment. If all they have going for them are moral intuitions (as opposed to actual moral judgements, which are only the purview of ideal observers), then how can they be sure of the quality (and hence, reliability) of their intuitions.[266] In any case, we appear to be caught in a very real 'catch-22', from which no clear avenue of escape appears on the horizon.

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[265] Henson (1956: 392, 394-395) takes this crucial realization to render Firth's entire program "wrong in principle". Harrison (1971: 152-154) expresses this circularity in a somewhat less convoluted fashion, and even believes it to give us sufficient grounds to ultimately reject ideal observer theory (178-179). This problem is also identified by Brandt (1979: 155, 227) and Tappolet (2000: 51). Note that the strategy of moral self-validation is a favourite amongst tyrants, who may claim that whatever they decree to be the law derives directly from them and them alone having attained conditions of ideal observation, and seen the 'eternal moral truth': Henson (1956: 393-394); Bailiff (1964: 426-427).

[266] See my discussion of the second strategy for reducing the informational requirements of the omniscience-cum-omnipercipience conditions in section 3.3 above, and its implications.

I will be the first to admit here that no clearly satisfactory solution exists to this problem. However, there is a strategy which holds some promise, in that it avoids the two extreme possibilities mentioned above, by focusing on a middle route. According to this strategy, moral erudition occurs as a *gradual process*, insofar as there exists a constant interplay between individuals acquiring more data, better cognitive and emotive skills, and their coming to realize just how important conditions of ideal observation are in being able to draw good moral judgments. This occurs because their personal improvements reflect an actual gradual semi-realization of conditions of ideal observation, as well as a clearer and better understanding of what is implied by such an attainment.[267] Under this scenario, there is no solipsistic self-validation of conditions of ideal observation by the validator (which would understandably lead to suspicion of fraud or personal gain), and there is no attempted validation of conditions of ideal observation by 'fools' (which would undermine the credibility of conditions of ideal observation). Moral erudition occurs progressively, whereby the outcomes, as well as the validity of the employed method, are both propped up by one another, and both gradually achieve better and greater levels of authority and success.

[267] Talbott (2005: 47-87) illustrates just how such a gradual process of moral erudition might occur, in his account of the meeting of two hypothetical characters, a Spanish conquistador and an American Native, whose tumultuous encounters and interactions eventually lead both to fill the voids in their respective worldviews, and correspondingly alleviate their respective moral blind spots, such that they both end up closer to the universal standpoint (i.e. the state of ideal observation) by the end. Furthermore, in discussing the origins of their blind spots, Talbott (68-75) also identifies a number of phenomena strikingly similar to the cases of self-deception discussed earlier, such as 'sour grapes' and 'making a virtue out of necessity', which have been clearly identified as amongst the many causes preventing one from adequately fulfilling conditions of ideal observation.

If the above strategy accurately reflects a general process of cognitive, emotional, as well as moral, erudition, then it also holds some important implications for the PIMASA, insofar as it implies that principles of ideal observation' are not fixed and set in stone, but remain open to revision. Granted, some preliminary groundwork would need to be done in order to start off a PIMASA with the best understanding we have of the requirements needed to attain and maintain the good-running of procedures for ideal observation. But we should also build in a feedback-loop, so that individual participants in a PIMASA would also be capable of feeding any data pertaining to the best way to attain and maintain conditions of ideal observation back into the project itself. This would constitute a secondary function of the project, following its first and primary function, which would still remain the moral assessment of various states of affairs. Needless to say, all such feedback mechanisms would need to be fully shielded and duly guarded from the hazards of external as well as *internal* corruption of the project.

3.5 Interpreting the probable outcomes of a PIMASA

In the previous sections, I have shown why it would be a good idea to utilize ideal observer theory's conditions of ideal observation as principles of ideal observation', by way of procedures for ideal observation, under a PIMASA, in order to assess the moral value of various states of affairs. I have argued that the variety of arguments formulated against ideal observer theory can either be done away

with by fully incorporating ideal observer theory into a PIMASA, or could eventually be done away with by following a number of promising additional investigative avenues that would need to be followed, in order that the meaning and scope of each of the six conditions of ideal observation be properly fleshed out. In passing, I have also made some important observations regarding the implications that my investigations would hold for some of the key characteristics of a PIMASA.

For the time being, however, I will assume that the PIMASA is both realizable, as well as a good idea. What to make of the probable outcome of individuals participating in it? The problem is that, whereas disagreement amongst ideal observers was not initially envisaged by the original formulators of ideal observer theory[268], it was soon demonstrated, by a number of authors[269] that such a possibility needed to be seriously taken into account. Hence, a number of possible outcomes have come to be quite realistically anticipated for hypothetical participants in a PIMASA. Carson states them as follows:

> "(II) A Favorable moral judgment about something is correct for all human beings if and only if all human ideal observers would have a favorable attitude about it. An unfavorable moral judgment about something is true or correct for all human beings if and only if all human ideal observers would have an

[268] Firth (1952: 318-319) originally saw it this way, and maintained this view (Firth (1955: 414-420)), claiming that this was the reason for characterizing his analysis as 'absolutist', as opposed to 'relativist'.

[269] Brandt (1955b: 408) writes "The facts of ethnology and psychological theory suggest that there could (causally) be two persons, both "ideal observers" in Firth's sense, who could have different or even opposed reactions (approval, experience, of apparent requiredness) with respect to the same act, say on account of past conditioning, a different system of desires, etc." For later examples of ideal observers disagreeing, see Brandt (1959: 154, 175-176), Carson (1984: 51-56), Pollock (1986: 507), Tappolet (2000: 50-51).

> unfavorable attitude about it. If all ideal observers would be indifferent to something, then it is correct (in a sense that is opposed to mistaken) for all humans to be indifferent to it. If different ideal observers would have conflicting attitudes about *x*, some having a favorable attitude about it, some having an unfavorable attitude, and others being indifferent, then there is no moral judgment about *x* that is correct for all human beings."[270]

What are we to make of these possible outcomes? There is an immediate interpretative difficulty regarding states of affairs upon which no final collective moral consensus can be reached, even under perfectly realized conditions of ideal observation. In such cases, if we are to follow Carson's interpretation above, the best way to classify the value of such states of affairs is in terms of *personal value-judgments*[271], as opposed to actual overarching moral truths.[272] For obvious reasons then, a PIMASA cannot emit policy recommendations regarding what ought to be done about states of affairs upon which no overlapping consensus of

[270] Carson (1984: 82-83) was the first to develop them in a clear and concise manner. For similar results, see also Lewis (1989: 114, 127-129).

[271] Hence, what would be right for me may not be right for you, and what would be right for you I may be indifferent to, and so on, all in perfectly good legitimacy.

[272] Carson makes the mistake of attributing the title of 'moral-judgment' to all of these possibilities, exposing him to charges of inconsistency — Gorr (1989: 111-116). This is because Carson (1984: 94-97, 104-105, 121-131). goes on to argue that two or more ideal observers who disagree regarding the moral value of some state of affairs are all, in effect, 'correct' in terms of their moral judgments, from their respective points of view. In doing so, he effectively seeks to combine moral objectivity and absolutism (states of affairs upon whose value all ideal observer would converge) with relativism (states of affairs upon whose value various ideal observers would disagree) — Taliaferro (1988: 132-133). This inconsistency can be alleviated by following my suggestion here, that only judgments that have been shown to be *universal* (i.e., agreed upon by all ideal observers) deserve the true title of 'moral judgment', whereas all other judgments upon which no such consensus exists be relegated to the status of (personal) value-judgments, pending potential verification by way of a PIMASA.

this sort exists.[273] However, this still leaves the PIMASA with the significant authority to produce imperatives in terms of what is to be done about each and all state of affairs upon which consensus has, indeed, been reached. Hence, while the realization of probable disagreement amongst ideal observers does indeed limit the effective scope of the PIMASA, it does not actually undermine its overall use as an optimal tool for practical application of the ideal observer theory.

A final precision ought to be made at this point. Each and all states of affairs benefiting from an overlapping consensus under a PIMASA, regarding its final moral value, can also be interpreted in terms of *urgency*. Urgency corresponds to the respective degree of desirability and undesirability that the collective moral assessment bestows upon each examined state of affairs. Hence, the more desirable a state of affairs, the more urgent the need to bring it about, improve or maintain it — whereas the more undesirable, the more urgent the need to prevent its appearance, to stifle or diminish it.[274] Naturally, the pressings of urgency need to be counterbalanced with due consideration for the transitional problems that would be engendered by putting into practice a PIMASA's policy recommendations regarding the state of affairs in question, as will be discussed in the last chapter.

[273] A practical example of this particularity in action is discussed briefly by Cameron (2000: 1041-1043), regarding what is to be done (if anything) at the upper end of income distribution.

[274] This is discussed in significant depth by Scanlon (1975: 660-669).

3.6 Final assessment of the utility of ideal observer theory

The above discussion illustrates the fact that ideal observer theory, if it is properly incorporated into a seriously developed project for the assessment of the moral value of various states of affairs (as I have suggested that it can be, by way of the PIMASA), holds the promise of providing us with rather definitive and universal moral appraisals of *at least some* states of affairs, upon which participants in a PIMASA would converge, in terms of their resulting moral judgments. Such cases of ultimate convergence, or overlapping consensus, would hold the normative weight required for us to then recommend that present states of affairs be modified in order better to align them with the respective judgments of our ideal observers. Thus, once all transitional problems would be duly taken into account, we would have a sure-fire way of knowing what things we could safely alter in our world, in order to make it a morally better place.

I will now examine, in the next sections of this chapter, how the variety of arguments for the moral preferability of the foundational project relate to ideal observer theory and to the PIMASA, and how said arguments could be respectively strengthened by better aligning them with the central tenets of ideal observer theory and of procedures for ideal observation. I will end with an assessment of the current state of moral desirability of the foundational project, followed by an informed guess as to its final probable moral value, once the particular state of affairs it proposes to bring about (universal distribution of central human capabilities) pass the scrutiny of an actual existing PIMASA.

3.7 Ideal observer theory and the many argumentative strategies available for moral justification of the foundational project

The foundational project proposes a unified answer to many moral questions posed within a number of distinct fields of research, having seen important development and attracted considerable attention in the last few decades. In particular, it claims that, once one adequately aggregates the questions examined in these fields, one will also arrive at the necessary conclusion that their combined resolution would entail bringing about a state of affairs equivalent, or very similar to, complete and global distribution of central human capabilities. While a thorough and optimal assessment of this claim would require running all salient data through a PIMASA, and is consequently significantly beyond the scope of this present text, a preliminary assessment of the argumentative strategies employed in defence of the foundational project will nevertheless allow us to gain a reasonably accurate glimpse at the probable outcome of such an endeavour. This is because the respective quality of the strategies involved can serve as a credible proxy for the end result — albeit this would still leave us with a highly informed guess, and not an actual final judgment of the overall moral value of the foundational project. But that is the best we can do right now, with what we have at our disposal.

The argumentative strategies in favour of the foundational project can be classified under three main headings. These are articulated chiefly by Sen and Nussbaum, but also by many other authors sympathetic to the foundational

project, or to the capabilities approach in general. Under the first heading, one finds strategies which attempt to 'tacitly align' our moral intuitions with the central tenets of the foundational project, by either causing us to fulfill, or convincing us of the need to fulfill, various conditions of ideal observation[275], and then seeking to show that this would then cause us to morally endorse the foundational project.[276] Under the second heading, one encounters four types of counterarguments levelled against the foundational project, as well as proposed rebuttals. These rebuttals are based on a twofold 'give-and-take' approach: (1) demonstrate that the formulators of these rebuttals fail to take into account crucial drawbacks and presuppositions in their argumentation (something whose importance becomes clear to any proponent of ideal observer theory); (2) concede important implications that their concerns nevertheless hold for the foundational

[275] This being said, these strategies do not explicitly invite us to fulfill conditions of ideal observation (their authors do not even mention ideal observer theory, or barely so), but what they propose essentially amounts to just that, as I will argue here.

[276] In relation to this, it is somewhat difficult to anticipate accurately what Sen's reaction to a proposed PIMASA would be — though it is fair to assume that it would probably involve a notable degree of sceptical weariness, if his previous writings are any clear indication (he rejected Nussbaum's idea of a central capabilities list (Sen (1993a: 46-48); Sen (2004)), in favour of more 'localized' ones). This, however, betrays an inconsistency in Sen's overall views, insofar as his writings also contain many discussions pertaining to the need to overcome specifically local or limited evaluative particularities (and their many causes), in order to arrive at an apparently universal moral assessment of the overall desirability of such things as human rights (Sen (1999: chapter 10)), and the overall undesirability of such conditions as poverty and famines (Sen (1982c); Sen (1984g); Sen (1984f); Sen (1999: chapter 4)) or family and gender-related causes of inequality (Sen (1984e); Sen (1984g); Sen (1984a); Sen (1985c); Sen (1990b); Sen (1999: chapter 8)). Therefore, if Sen truly does, in fact, tacitly endorse the need to realize something like conditions of ideal observation in overcoming the damaging and dangerous effects of parochialism, why does he also seem to reject (or at least remain silent regarding) the possibility of at least some moral values becoming universally agreed upon, even by all ideal observers, as per Carson's hypothesis above? This topic has already been approached in a circumspect manner by Yamamori (2003) and, to be fair, Sen (2009: 44-46, 96-105, 108-109, 123-138, 155-173) does discuss to great extent Adam Smith's version of ideal observer theory in connection to the transcendental framework envisaged under Rawls' contractarianism, but he ignores more recent work on this topic of the kind discussed here. Furthermore, he argues against the need for perfect justice in order to recognize blatant cases of injustice, though this possibility is refuted by Kamm (2011).

project, and for its moral justification. Under the third heading, one encounters strategies of a different nature, insofar as these seek to compare the capabilities approach (and, by extension, the foundational project) with resourcist and welfarist variants, and demonstrate that this approach is overall superior to these alternatives. In doing so, this third group of strategies attempts to win a kind of 'default judgment' in favour of the capabilities approach, by illustrating that no presently existing alternative is superior to it. I will now assess each of these three groups of argumentative strategies in turn.

3.8 Nussbaum's four approaches to moral reasoning

Nussbaum's many methods of moral argumentation have been carefully identified by Jaggar.[277] More specifically, Nussbaum either employed or endorsed four actual *approaches to moral reasoning* in her various publications, in an attempt to justify the foundational project. These include the 'Aristotelian approach', the 'narrative approach', the 'morally-constrained proceduralist or informed-desire approach' and the 'non-Platonist substantive-good approach'.

The Aristotelian approach

The Aristotelian approach appears in Nussbaum's earlier works, where she performs the preliminary groundwork pertaining to her theory, and where her

[277] Jaggar (2006)

discussions are still strongly enmeshed in Aristotelian thought.[278] The specific purpose of this approach involves overcoming parochial and limited points of view (i.e. beliefs), in order that the all-important question of 'what makes us human' be given a satisfactory answer — the idea being that, once this question is adequately resolved, the answer can then be utilized in order to determine what form of political organization for human beings is optimally aligned with the generalized attainment of eudemonia for all. Since it is usually agreed that parochialism, informational paucity, and limited access thereto, are nefarious to the accomplishment of this task at hand, this is to be corrected "by examining a wide variety of self understandings of people in many times and places." [279] Furthermore, any error or malformation pertaining to the information at hand is to be corrected by making use of Aristotelian practical reasoning, or "the exchange of reasons and arguments by human beings within history", aimed at correcting the reliability of beliefs by way of critical refinement.[280] Though Nussbaum initially placed great hopes in the ability of this approach at morally justifying her theory, a number of severe flaws have been identified in its actual abilities at reaching this intended goal.[281] First, the approach begins, not with information whose accuracy

[278] Nussbaum (1988); Nussbaum (1990b); Nussbaum (1991); Nussbaum (1993); Alexander (2008: chapter 6). The 'Aristotelian approach' is discussed in Nussbaum (1992) and in Nussbaum (1998) specifically.

[279] Nussbaum (1992: 215)

[280] Ibid (213); Jaggar (2006: 305)

[281] Benhabib (1995: 254-255); O'neill (1995: 144-145); Qizilbash (1996a: 150-151); Ackerly (2000: 102-110); Clark (2002: chapter 3); Jaggar (2006: 305-306). Furthermore, Ackerly (2000: 102-103, 105), following Williams (1995a: 194-202) and Wolf (1995: 107-110), also argues that Nussbaum's particularly 'convenient' interpretation of the Aristotelian approach allows her to 'slip in' her own culturally-specific views (including her liberal values) into her capabilities approach, and then claim that "her values are foundational for

and reliability is already verified and fully ascertained, but rather with 'deep beliefs' (i.e., deeply engrained ideas), whose 'deep-seatedness' (rigidity) implies no guarantee whatsoever that they be accurate and error-free.[282] Second, no true provision is made under the approach for complete collection of all salient information pertaining to the task at hand.[283] Third, the approach proposes no safeguards against misreading and misinterpretation of the collected information in question.[284] Fourth, the approach seems to overlook or ignore the infamous 'is-ought' problem, as it applies to its underlying chief premise.[285] Hence, while some authors have suggested that such an approach, once fully developed, could potentially be successful[286], it appears that the Aristotelian approach, as it presently stands, is too severely flawed as a tool to help morally justify Nussbaum's theory.

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ethics". She does this in a way which is, in fact, *consistent* with the Aristotelian approach (according to Ackerly), making this approach's legitimacy highly doubtful, as per its intended role. Finally, Wallach (1992: 628) similarly claims that Nussbaum effectively 'dehistoricizes' and 'depoliticizes' Aristotle's actual ethical-political views, to make them compatible with her own.

[282] Ackerly (2000: 103-104)

[283] Ibid (109)

[284] Ibid (104-106)

[285] Indeed, the problem with 'Aristotelian essentialism' (on which the approach is based) is that such essentialism, if it were to be accurately discovered, does not suffice to transform said discovery into a normative proposal in itself — that is, unless the normative component is somehow contained and derived from reasoning aspects inherent to this essentialism in question (see Watson (1990), Williams (1995a) and Alexander (2005) on this important topic). Nussbaum is not entirely clear on this aspect of her approach.

[286] Alkire and Black (1997) argue that the Aristotelian approach can be refined by drawing on Finnis' broadly parallel ethical system, in order to develop it in a manner so as to avoid these specific problems. Moody-Adams (1998) provides us with arguments for how this may be accomplished, together with a general defence of Nussbaum's overall use of Aristotle. Nussbaum (2000c: 108-124) attempts to address some of these concerns in a particularly long and dense article. Finally, Jaggar (2006: 306) writes "It may be possible to develop the Aristotelian method so as to avoid these problems but Nussbaum does not address this in her more recent work; instead she suggests several alternative approaches to moral reasoning."

The narrative approach

The narrative approach is intended to emphasize "the political importance of the imagination and the emotions"[287]. It involves narrating accounts of various people's lives, in order that their experiences come to be shared by us, through imagination, in the most vivid and accurate manner possible. In this respect, it is clear that this is not really an actual approach to moral reasoning per se. Nevertheless, it serves a very important heuristic function, insofar as it can be utilized as a tool for information gathering, sharing and distribution that may then be used by other approaches better to morally defend Nussbaum's theory. Furthermore, this approach promises to be particularly efficacious in its 'support role', insofar as it can convey information about the experiences of others quite effectively (by way of the written word, as opposed to having lived the actual experience), with great efficiency (by way of electronic means of communication and distribution), and with 'great empathic vivacity' (depending, naturally, on the imaginative and representative abilities of the reader). However, there are a number of serious caveats associated with this approach. Mainly, the potential for information alteration — whether by way of misinterpretation, miscommunication, or even disinformation — is great. As a highly pertinent example, consider that Nussbaum devoted a significant portion of her *Women and Human Development* to this method, whereby she "… introduces readers to two poor Indian women, Vasanti and Jayamma, returning to them constantly and

[287] Nussbaum (2000e: 15)

seeming to confirm her ideas about human capabilities against their experience."[288] Upon reading this, one cannot but feel suspicious regarding the actual objectivity of the accounts conveyed thereby. And Nussbaum has, in fact, been criticized by Okin and others, on grounds that the accuracy with which the life experiences of these two women have been conveyed has been altered by her own interpretative biases (whether intentional or not), stemming from her cultural background, and clear stake in 'finding' in their stories some support for defending her theory.[289] Nevertheless, it is important to point out that this observation does not invalidate the utility of the narrative approach per se, so long as such clear cases of biased reporting are kept properly in check.[290] However, it shows that its actual use by Nussbaum thus far, in an attempt to help morally defend her theory, is rather dubious at best.[291]

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[288] Jaggar (2006: 306)

[289] Okin (2003: 295-297). Another example of Nussbaum's cultural bias, induced by her quest to seek moral support for her theory, has been illustrated by Ackerly (2000: 106-110) in her explanation of Nussbaum's flawed understanding of the complexities surrounding the lives of poor women in rural Bangladesh after reading about them in Chen (1983), and in her consequently flawed assessment of the reasons for the initial failure and subsequent success of a BRAC literacy program introduced there.

[290] Jaggar (2006: 306)

[291] In her rebuttal to Okin, Nussbaum (2004c: 201-203) points out that she intends for the narrative method to be used "as a heuristic device rather than as an independent approach to justifying the capabilities" Jaggar (2006: 306). Though Jaggar thinks that "If the role of the narrative method is indeed so limited, its use is unobjectionable and certainly enriches Nussbaum's writing", I am not wholly convinced, insofar as one realizes that this does not discharge Nussbaum of the requirement of *informational accuracy*. Moreover, there are significant problems in a method that essentially conveys *flawed data* of some form or another, without an effective way to parse through it, in order to get rid of the bad elements. In reply to this, Nussbaum (2004c: 201) claims that these problems can be alleviated by the fact that the narrative method is supplemented by significant additional empirical material in *Women and Human Development*. But this is likewise problematic, in that it leaves the reader with the arduous task of data parsing by way of cross-comparison, and with no sure-fire way of knowing which of the data (the literary accounts or the empirical information) is necessarily the more 'accurate' of the bunch. In direct relation to this, Hodgett and Deneulin (2009) provide us with a very thorough overview of these specific problems, as they relate to using narratives in assessing development policy.

The morally-constrained proceduralist or informed-desire approach

The morally-constrained proceduralist or informed-desire approach appeared as the result of Nussbaum (and many others) recognizing the significant problem that uninformed, unreliable, unstable, or 'offensive' desires can play in moral reasoning. This made her "reluctant to rely on "preference based" approaches to moral reasoning, which validate moral claims and principles by reference to existing desires."[292] However, it is also clear that preferences and desires cannot be fully done away with, if we are to make any sense of moral reasoning at all. For this reason, Nussbaum sought to accept some reference to desires in her moral reasoning, though proposing that said preferences and desires be 'filtered' by way of an approach that would seek to eliminate corrupt or mistaken ones.[293] How such an approach is practically intended to function, however, is left rather nebulous by Nussbaum.[294] She draws her inspiration from well know philosophers, whose methods vary considerably, without making clear how their views are supposed to square together into a unified conception of this approach.[295] Furthermore, Nussbaum, is rather unconvinced by the effectiveness of this approach at fulfilling its goal, and believes that it "provides some "limited

[292] Stewart (2001: 1192); Jaggar (2006: 307)

[293] Jaggar (2006: 307) writes "The informed-desire approach assesses preferences with a view to eliminating those that are corrupt or mistaken. In this assessment, it utilizes "a proceduralist approach with Kantian features," which Nussbaum credits to Jean Hampton. Because "Hamptonian proceduralism" imposes normative constraints on justificatory procedures, Nussbaum calls it a "morally laden" or "intelligently normative" form of proceduralism. Because it encourages the critical scrutiny of desires, she also calls it an informed-desire or a sensible informed-desire approach (references omitted)."

[294] Ibid (308)

[295] Ibid . These Include Rawls, Hampton, Habermas, Dworkin and Elster.

and ancillary" support for the capabilities" at best.[296] Given these reservations, she prefers to 'place her bets' on the ability of the next approach (the non-Platonist substantive-good approach) at morally justifying her theory.

This being said, Nussbaum's lack of faith in this approach is ill founded, insofar as the worries she expresses regarding its abilities are premature.[297] The actual source of these worries is made clear by Jaggar: Nussbaum's liberal convictions (following Rawls) lead her not to want to cut off all people's preferences and desires at the onset from participation in moral discourse, despite some of them being very likely corrupted and nefarious to moral inquiry. She therefore hopes that, by implementing her theory first, the amount of problematic desires will drop overtime[298], and that this will allow people to draw better judgments about what political system they would truly prefer (namely, one incorporating her central capabilities)[299]. But then, moral justification for her theory would already need to be achieved at some other level, before it could do the job of 'cleaning up' problematic preferences and desires to begin with — a job for which Nussbaum believes the non-Platonist substantive-good approach is better suited. Nevertheless, Jaggar points out that more sophisticated versions of proceduralism promise to accomplish this task without the need for implementation of her theory beforehand, or reliance on another approach

[296] Ibid (307-311)

[297] Ibid (315)

[298] Nussbaum (2000e: 161)

[299] Ibid (152)

altogether. In particular, this could be done by articulating a number of methods for weeding out problematic desires or preferences, within specifically delimited activities of public discussion.[300]Furthermore, Nussbaum's additional reason for distrusting proceduralism on grounds that this method is not 100% foolproof is likewise no legitimate reason, insofar as no method for moral inquiry is 100% foolproof, and *sufficient reliability* is all that's really needed (and all that we really have, in the end) to get us going.[301] Ultimately, Jaggar points out that the morally-constrained proceduralist or informed-desire approach is, in fact, the most tangible of the four options proposed by Nussbaum thus far.[302]

[300] Jaggar (2006: 309-310) refers here to methods advanced by proponents of the proceduralist tradition, such as Apel and Habermas, and by further developers, such as Lugones and Spelman, Thomas, Benhabib, Young, Moody-Adams and Walker, whose intent is to make "empirical discussions approximate Kantian conditions more closely." To be sure, proceduralism is not without its problems, insofar as it has been subjected to complex critiques of 'neo-Hegelian historicism' and 'neo-Aristotelian contextualism', as illustrated clearly by Benhabib (1992: 23-67). Though Benhabib recognizes the significance of taking these criticisms seriously, she is ultimately favourable towards proceduralism, and even suggests that an improved understanding thereof can be gained by developing it along some points strikingly similar to conditions of ideal observation: (51-52). An example of a very basic proceduralist approach formulated along five criteria for selecting relevant capabilities can be found in Robeyns (2003: 70-71) and Robeyns (2005a). A more sophisticated articulation is provided by Deneulin (2005a: 83-89) and Drydyk (2011: 41-51). For a related argument, see Kurstak (2007b).

[301] Jaggar (2006: 310-311)

[302] Jaggar (320) writes "I have argued that, if the Aristotelian method is to be reliable, it needs considerable development; as a heuristic device, the narrative method lacks independent justificatory force; a morally constrained procedural approach is promising, used with care; the non-platonic substantive good method has little value."

The non-Platonist substantive-good approach

The final approach, and the one Nussbaum places the most faith in[303], is also the most problematic. This approach seeks to justify the foundational project by appeal to our collective understanding of the human condition, arising from a conception of truly human functioning that we (apparently) all share, itself arrived at by a state of reflective equilibrium reached between our political principles and our most 'secure intuitions'.[304] This makes this approach a version of *intuitionism*, and Nussbaum's use of intuitionism is highly problematic, as we will now see.

Firstly, as discussed in section 3.3 above, intuitions are inherently inferior to actual judgments, insofar as they essentially constitute an 'informed guess', regarding some state of affairs, as opposed to a 'clear idea'.[305] Secondly, the non-Platonist substantive-good approach starts off with what Nussbaum calls our most 'secure intuitions'. What makes these intuitions 'secure' however is by virtue of people refining their initially naïve intuitions until they reach a state of reflective equilibrium or mutual consistency.[306] This leads to the following problem:

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[303] Though Nussbaum believes this approach ought to be combined with the previous one whenever possible (Nussbaum (2000e: 151)), she has more confidence in the non-Platonist substantive-good approach than in the morally-constrained proceduralist or informed-desire approach, and recommends that this last one should always prevail when their recommendations diverge (165).

[304] Ibid (76-77). Since this understanding is meant to be the result of a collectively shared intuition, and not (necessarily) correspond to an actual objective reality, Nussbaum (158) calls her substantive-good approach 'non-Platonist' rather than 'Platonist'.

[305] An idea is 'clear' only insofar as all furnished data pertaining to it is seized and processed thoroughly. For an idea to be true or accurate, however, no salient data can be omitted. Granted, intuitions can also have varying degrees of *quality*, but that still does not make them as good as judgments, seeing as how they arise in cases where data either is not, or cannot be, duly seized and processed thoroughly.

[306] Jaggar (2006: 315)

> "Establishing that a set of intuitions or preferences is in balance shows only that the set is internally coherent. Unless the individual or group creating the set has considered all available intuitions, it remains possible that anomalous intuitions may have been excluded or that other equilibria, expressing alternative moral perspectives, may exist. Since the reflective equilibrium approach offers no guidelines for preferring one of these possible alternative equilibria to the others, it does not dispel the specters of subjectivism, if the coherent set of intuitions is held by an individual, or of relativism, if the set is held by a community."[307]

Thirdly, Nussbaum further compounds the problem by stating that not all intuitions ought to be incorporated, because she distrusts some of them. In that case, what allows her to choose which ones are 'reliable' and which one 'aren't'? Apparently, 'reliable intuitions' are those held by people who share the views advanced by her foundational project — making this a blatant case of circular self-validation.[308] Nussbaum attempts to avoid this problematic conjuncture by alleging that the views expressed in the foundational project have already been 'validated' by very many people around the world.[309] However, if such a state of collective validation truly does exist (a proposition examined in section 3.9 below), it would still need to be made on proper grounds, in order for Nussbaum to avoid making a mere *argumentum ad populum*. And if this turns out to not really be the case after all, can the non-Platonist substantive-good approach actually

[307] Ibid (315-316). This is further developed by Drydyk (2011: 47-51).

[308] Nussbaum (2000e: 149); Mcreynolds (2002: 148-149); Jaggar (2006: 316-320) points out that "Ultimately, Nussbaum's test for determining whether or not a desire is informed seems to be precisely whether or not it can be interpreted as a desire for one of the items on her list." This is also remarked by Skerker (2004: 391n35), with regards to religiously-minded individuals and the automatic disregard of their more 'incompatible' preferences by Nussbaum's approach.

[309] Nussbaum (2000e: 115)

allow for *individualized* validation of the foundational project? Here I side with Jaggar's final conclusion that this approach is seriously inadequate as an independent method for moral validation of the foundational project. This is because, if interpreted correctly by Jaggar and its other critics, it truly does end up serving the significantly *illiberal* role of allowing philosophers to attribute to themselves the power to validate only those views that are in accordance with their own theories, under the disguised cloak of some additional 'objective' justificatory criteria.[310]

This troubling conclusion notwithstanding, is there still something that can be salvaged from the non-Platonist substantive-good approach, in helping to morally defend the foundational project? Not much, upon close examination. As mentioned before, the idea of utilizing intuitions for moral justification (even 'refined' or 'secured' ones) is problematic, insofar as the authority of intuition-based moral views is directly proportional to the actual *quality* of the underlying intuitions in question. Such intuitions, if we are to make effective use of them, consequently need to be 'optimised', requiring verificatory procedures stretching well beyond the individually attainable state of internal consistency, reached by way of reflective equilibrium. In fact, as Jaggar rightly points out:

> "…unless the process is also intersubjective and inclusive, the nonplatonist substantive-good approach will manifest the same defect as the Aristotelian approach, namely, the defect that Habermas calls "monologism." Insofar as the non-platonist substantive-good approach lacks both a requirement that

[310] Mcreynolds (2002: 148-149); Jaggar (2006: 317-320)

> philosophers check their own intuitions against those of non-arbitrarily selected others and a procedure to ensure that this checking is done fairly, it is unable to assure philosophers that they are not projecting their own ideas on to other people and simply rationalizing their own pre-existing values."[311]

We can thus safely say that the best possible defence of the foundational project would eventually need to move beyond making use of intuitions at all, towards actual judgments or 'clear ideas' about what we are talking about, and that this invariably requires proper hedging against the enchanting allure of monological justificatory methods and their corresponding siren calls. Though internal data-processing is a necessary and clearly respected aspect involved in drawing moral judgments, the need to maintain due contact with the community of others and with the objective world can never be underestimated, nor overlooked, less we fall into the trappings of solipsism.

Nussbaum's four approaches accurately reflect all concerns proper to ideal observer theory

My discussion of Nussbaum's four approaches to moral reasoning above illustrates the fact that they all arose out of a number of concerns held by her, regarding the variety of ways in which moral reasoning can go astray. The Aristotelian approach draws our attention to the important fact that a proper understanding of the nature of our human condition is an unavoidable (and quite natural) prerequisite to us being able to determine how we ought to organize

[311] Jaggar (2006: 317)

ourselves together, in order for each of us to be able to reach *eudemonia* or 'the good life', in the variety of ways in which this can be accomplished for various individuals. This approach also reflects (though somewhat crudely) that this invariably requires some aspects of data gathering and verification amongst ourselves. The narrative approach picks up on this need for data recording and sharing, suggesting that literary devices can be an efficient and effective means of achieving this. The morally-constrained proceduralist or informed-desire approach is the first approach on the list taking a truly 'direct stab' at the significant problem of *faulty data*, suggesting, not only that this problem needs to be addressed by correcting the data in question, but also that this requires designing and undertaking discursive projects amongst ourselves, intended to effectively protect us, as well as the process at hand, from a variety of nefarious influences (inequality, self-interest, bullying, coercion, etc.) that may all conspire to sabotage it. Finally, the non-platonist substantive-good approach illustrates a misguided attempt to overcome the same essential worries that have prompted Nussbaum's articulation of the morally-constrained proceduralist or informed-desire approach in the first place, and its mistakenly preferred role for Nussbaum stems from a combination of her misinterpretation of the true abilities of the morally-constrained proceduralist or informed-desire approach, together with her failure to realize the problematic ways in which the non-platonist substantive-good approach can actually serve to self-validate one's own unproven moral intuitions.

An examination of the respective failings and drawbacks of these four approaches is also highly instructive. The Aristotelian approach is beset by inadequate and insufficient requirements for data gathering, together with ineffective means for filtering out the good data from the bad. The idea behind the narrative approach is commendable, though it needs to be used with caution, in order to avoid misinterpretation, misreading, or personal goals corrupting the processes of data recording and transmission. The only true flaws in the morally-constrained proceduralist or informed-desire approach are those related directly to the natural limitations of the discursive procedures required by it, and their corresponding abilities at sharing and conveying unbiased objective data. Finally, the non-platonist substantive-good approach fails in virtue of it actually *violating* all of the concerns which prompted Nussbaum's articulation of these four approaches to begin with.

A closer look at these concerns also reveals that they bear a striking similarity to conditions ~1 to ~6 enumerated in section 3.1 above. In this respect, Nussbaum's articulation of her four approaches reflects an actual tacit attempt to convince us of the need to fulfill conditions of ideal observation, in order that we may see that the foundational project is, indeed, morally justified. To illustrate that this is so, consider the following formalization of Nussbaum's overall arguments for the moral defence of the foundational project, and its connection to the six conditions of ideal observation:

I. First of all, we need to be able to understand our humanity (condition 6).
II. To understand our humanity, we need to gather clear and accurate data regarding it, to the full extent of saliency (conditions 1 & 2).
III. To gather clear and accurate data to the full extent of saliency, we need to share, parse, verify and filter it through and through, to make sure that it makes sense and that it holds together (condition 5).
IV. To be able to share, parse, verify and filter our data through and through, we also need to make sure that our methods allow for optimal data flow, all the while safeguarding against all contingencies and nefarious influences that may damage, usurp, corrupt or nullify the process at hand (conditions 3 & 4).

Taking all this into account, I conclude that it would be significantly more effective and promising for Nussbaum to actually argue for moral justification of the foundational project along the lines of ideal observer theory, by running it through a PIMASA, as described above, as opposed to arguing in a somewhat dis-unified manner along four distinct strategies, each beset by its own specific problems and drawbacks. This would not entail discarding these four strategies at all, as she could simply strip each of them down to its bare-boned essentials, so that all positive aspects of each that are found to be favourably conducive to the realization of procedures for ideal observation be incorporated into an actual

PIMASA, and all negative aspects naturally discarded. This would give a notably greater unity and flow to the overall moral justification of the foundational project than what presently exists in terms of isolated discussions revolving around these four strategies above.

3.9 Has the foundational project already been morally justified?

Nussbaum's defence of the foundational project employed two more strategies worth reviewing. The first strategy involved claiming that the views expressed in the foundational project have, in fact, already been largely 'validated' by very many people around the world.[312] When this proved to be too strong an assertion to make, however[313], she 'toned it down', arguing instead that there are good reasons for believing that the foundational project could eventually be globally validated in the future. On the face of it, both these strategies appear to offer little additional support, insofar as 'appeal to popularity/belief' is a poor argumentative basis in itself for defending one's views. But there is naturally more at stake here than just a mere case of *argumentum ad populum*, seeing as how the underlying idea is not only that most people did/would agree with the foundational project, but also that it was/would be *for good reasons*. As a matter of fact, the possibility of a global overlapping consensus on the moral desirability of

[312] Nussbaum (2000e: 76) writes that her list "already represents what it proposes: a type of *overlapping consensus* on the part of people with otherwise very different views of human life."

[313] Ibid (103)

the foundational project constitutes a crucial aspect of one being able to defend it adequately, as I will explain shortly. In the meantime, however, I will examine the tangibility of Nussbaum's first claim, regarding an already existing consensus of this sort.

Upon close examination, there is no conclusive evidence that anything like a global overlapping consensus on the moral desirability of the foundational project presently exists. The first clue comes from the fact that there is presently not even a consensus regarding the items to be included on the list, even amongst proponents of a universal capabilities list (the core aspect of the foundational project), let alone other highly learned and well-respected individuals.[314] The second clue comes from the fact that, if such a consensus is to arise by way of adequate procedures for public discourse (for it to be legitimate), then one needs to make sure that all aspects of these procedures have been duly implemented, checked and verified. This entails the impartial inclusion of all participants who have something pertinent to say. Whereas Nussbaum certainly claims that her list is derived from drawing "both on the results of cross-cultural academic discussion and on discussions in women's groups themselves designed to exemplify certain values of equal dignity, non-hierarchy, and nonintimidation"[315], she also admitted that her discussions required interlocutors to speak a 'common language' (a

[314] Stewart (2001: 1191). While Nussbaum's list is probably the best known, it is not the only capabilities-related list in existence. Alternative lists of varying similarity to Nussbaum's have also been formulated by Desai (1995), Qizilbash (1996a: 156), Alkire and Black (1997: 270-271), Ackerly (2000: 114-116), Clark (2002: chapter 4, tables 1-4), Robeyns (2003: 71-72) and Alkire (2005c), to name a few.

[315] Nussbaum (2000e: 151)

perfectly reasonable assumption). However, this is especially problematic in light of the significant disparity between Nussbaum and the many poor Indian women interviewed by her, who allegedly 'agreed' with the items on her list, as well as the many other unexamined individuals who may have had something important to contribute, but who were left out because of 'incompatibility' of just this sort, making achieving a 'common language' especially difficult. This leads us to question *who* was really chosen to participate in these conferences and *for what reasons*?[316]

The third clue comes from the fact that the crucial requirements of equality, fairness and non-coercion, characteristic of good proceduralism, have simply not been achieved in the projects in which she participated. This leaves one doubting whether the answers given by the other 'less powerful, influential and authoritative' participants at the conferences were not, in some way, staged, prepared in advance, or given under duress.[317] The fourth clue comes from the fact that Nussbaum's interlocutors were simply not provided with the same kind of information, time, means and resources that she and other researchers and philosophers had at their disposal to thoroughly analyze and assess the overall

[316] Jaggar (2006: 312-313), Uyan-Semerci (2007) illustrates this disparity by comparing Nussbaum's list of central capabilities with the existing, stated and desired capabilities of migrant women living in the squatter settlements of Istanbul, and challenges her concept of 'autonomous agency' (a necessary condition for procedural justification of this sort to be successful).

[317] Jaggar (2006: 313) writes "Nussbaum is well aware that no consensus is trustworthy if it results from a discursive process characterized by power inequalities but she does not consider how social inequalities might have affected the reliability of her own conversations. For instance, she does not question how the disparities in power and prestige between herself and poor Indian women might have undermined the possibility of her engaging with them in discussions "designed to exemplify certain values of equal dignity, non-hierarchy, and non-intimidation," especially with the women's husbands watching in awe (WHD 151)."

desirability of something as complex as the foundational project. While this does not invalidate the pertinence of the somewhat 'parochial' points of view of these interlocutors for the discussions at hand (they still had genuine experiences and concerns to bring to the table), it does lead one to question the actual capacities that were made available to them, in order to fully and clearly assess all of the distinct implications of the foundational project, before (allegedly) giving it the 'stamp of approval'. The fifth and final clue comes from the already discussed fact that Nussbaum reserved for herself the ultimate authority to decide what goes on the capabilities list and what doesn't — exposing her to the criticisms examined above, relating to her preferred use of the non-Platonist substantive-good approach.[318]

These five clues above serve as a clear indication that there is presently no global overlapping consensus regarding the moral value of the foundational project. The importance of reaching such a future consensus is undeniable however, insofar as it would grant the authority needed for the foundational project to be backed with the complete powers of the state and various other local and international agencies and institutions. This is because such a consensus, so long as it arose out of a legitimate process (such as the PIMASA), would equate with the highest and most respectable moral judgment possible, namely one passed by all ideal observers and agreed upon by all of them, as per Carson's interpretation in section 3.5 above. Importantly, such a consensus would not

[318] Ibid (313-315)

actually imply a direct unanimous agreement by everyone, but rather a direct agreement only by those who have participated in a PIMASA, followed by an indirect agreement (by way of deference to the decision of the PIMASA participants) by all others. Indeed, the idea that all could simultaneously agree on such a thing as the foundational project is highly dubious and unrealistic, for obvious reasons: (Putnam 2008: 385-387). Use of a PIMASA as an intermediary step thereto is therefore a more realistic approach.

The actual evidence for the possibility of such a global consensus being reached in the future will be examined in the last section of this chapter. In the meantime, however, we need to look carefully at one more strategy for the moral defence of the foundational project. It involves considering the implications of four counterarguments formulated against it.

3.10 Four counterarguments to the foundational project

Nussbaum's defence of the foundational project also involved formulating rebuttals against four 'relativistic'[319] counterarguments to her theory. These

[319] To be clear, these arguments need only be relativistic in the weak sense, insofar as they make the claim that another culture's conceptual framework is inadequate to properly assess their own, without also (necessarily) adhering wholesale to relativism as a comprehensive ethical theory in the process. However, one may also be dealing with views pushed forth by philosophers who have constructed an entire worldview around their anti-essentialist convictions: Nussbaum (1992: 203-205); Benhabib (1995); Chen (1995); Jaggar (2006: 303).

include the charges of imperialism and paternalism, and the arguments from diversity and culture.[320]

The charge of imperialism

The charge of imperialism claims that the foundational project is nothing more than a form of neo-colonialism, bringing in distinctly foreign ideas and values, simply unsuited to another culture, and (possibly) attempting to slip on a new noose of oppression or class domination on the indigenous population, by proposing an appealing yet wholly inadequate ethical-political theory of the good.[321] The first claim behind this argument, namely the importation of foreign ideas and values, can be done away with rather swiftly, by pointing out that many of these allegedly 'western' concepts are not truly western at all, and can be found in many of the colonized cultures, sometimes at an earlier date and at a higher degree of development than in the West.[322] Furthermore, one can also point out that such 'anti-western rhetoric' is a favourite amongst political regimes and various groups that have a vested interest in resisting the importation or

[320] Gasper (1997: 293-300) thoroughly assesses preliminary versions of these relativistic counterarguments (pooled together under the general heading of 'communitarian ethics'), as well as their proposed rebuttals, as articulated in Nussbaum and Glover (1995). Nussbaum (2011a: 101-112) provides us with a good rehash of these arguments in her latest book.

[321] Nussbaum (2000e: 34-36); Stewart (2001: 1191-1192); Clark (2002)

[322] Nussbaum (2000e: 38-39); Talbott (2005: 40-41). Note that this does not vindicate the validity of the concepts in question, as that would again amount to an *argumentum ad populum*, if given without further justificatory basis. It only shows that there is no actual 'importation' of foreign concepts to speak of.

appearance of *any* ideas that would undermine their power and privileges.[323] Therefore, the charge of imperialism, while stemming from a genuine worry (given the West's colonial past), actually starts off with highly dubious premises, and moves towards an even more dubious conclusion, given a proper historical and contextual understanding of the real 'multicultural origins' of the constitutive ideas behind the foundational project.

The charge of paternalism

The charge of paternalism states that (reasonable) people can make up their own minds about what is good for them, and that a theory such as the foundational project, which imposes a universal core of human capabilities on them (whether they want it or not), shows a lack of respect for their autonomy as free and responsible agents in the world. Nussbaum shows some uneasiness when dealing with this argument, arguing on the one hand for the many ways in which the foundational project, by distributing central human capabilities for all, actually improves and augments their powers of personal autonomy, while on the other illustrating how critics of the foundational project's paternal implications are often themselves steeped in cultures and traditions that are highly paternal, and where they often tend to have vested interests in the preservation of these paternalistic tendencies in question.[324] This uneasiness stems (as discussed in section 3.8

[323] Gasper (1997: 294); Nussbaum (2000e: 37-38); Talbott (2005: 39-40, 174-178); Cudd (2005)

[324] Nussbaum (1992: 225-229); Nussbaum (2000e: 51-59)

above) from the tension Nussbaum experienced between her strong liberal values, emphasizing an important place for personal autonomy and freedom of choice, and her realization of just how intertwined said 'choice' can be with preferences and desires that are highly problematic in themselves, due to many of them appearing under the influence of psychological mechanisms for adaptation to circumstances that are otherwise widely recognizable as rather nasty and nefarious to good human living.[325]

From a strictly technical point of view, the argument from paternalism starts off with the flawed premise that many individuals and groups truly are in a position of complete (or at least sufficient) competence in order to be capable of formulating for themselves a comprehensive doctrine of the good that ought to be respected by others and by the state. Notwithstanding the fact that a significant degree of autonomy and freedom of choice in making life decisions constitutes a perfectly acceptable opportunity to be granted to fully-mature and responsible adults, the fact that such freedom requires some hedging is an unavoidable and likewise perfectly understandable reality of social life and the world we live in.[326] Therefore, so long as proper safeguards are kept in place to ensure that arguments *for* paternalism are not employed as simply another tool for raw political domination over others[327], there is truly no valid reason to claim that a moderate and reasonable form of paternalism, such as the one entailed by the foundational

[325] Mcreynolds (2002: 145-147); Deneulin (2002: 504-516); Jaggar (2006: 304, 309-310)

[326] Gasper (1997: 297); Talbott (2005: 131-135)

[327] Talbott (2005: 117-118)

project, somehow offends the *genuine* autonomous rights of various and diverse peoples and groups in unacceptable ways.[328] The underlying objective, once again, is to find a happy balance between excessive state interference and control, leading to injustice and tyranny, and letting everyone run wild with what they believe they ought to be left free to do.[329] In light of this, arguing against the foundational project simply by appealing to one's right to self-determination on nebulous grounds is a poor argument indeed. To be successful, the charge of paternalism needs to demonstrate clearly and thoroughly: (1) why one's autonomy rights as delineated are indeed valid; (2) on what grounds they are valid, and; (3) how implementing the foundational project would violate them in unacceptable ways. So far, despite some genuine concerns relating to the very real possibility of the foundational project 'running amok', nothing like this has been successfully achieved.

[328] Deneulin (2002: 516-517). Note that this still leaves unresolved the thorny issue of determining what is truly constitutive of 'human autonomy' (personal, collective or otherwise), given the important metaphysical and normative presuppositions entailed by this term, making an unambiguous and trouble-free definition thereof particularly troublesome to achieve: Gasper (1997: 298); Deneulin (2005b); Uyan-Semerci (2007); Alexander (2008: chapter 5). In response to this, the foundational project provides us with a possible partial, albeit normative and non-metaphysical theory of autonomy, insofar as concrete central human capability distribution simultaneously provides both the material from which to function in an autonomous fashion, together with a specific restrictive space within which said functioning can come to be exercised. The bicycle riding example from the previous chapter, together with its scope of multiple realizability, as transferred over onto Nussbaum's list of central human capabilities, illustrates what such 'central human capability autonomy' would practically consist in. On the role of personal autonomy in Nussbaum's foundational project, see also Dorsey (2008: 434-440), Alkire (2005a) and Hinchliffe (2009). This topic is given further discussion in section 4.3 of the next chapter.

[329] Indeed, this characterizes the 'monistic' quality of the capabilities approach in general, and of the foundational project in particular: Fleurbaey (2002: 76).

The argument from culture

The argument from culture claims that suitable norms for living worthwhile lives that are fundamentally incompatible with the foundational project can be found around the world. If these norms truly are 'suitable' and truly are 'fundamentally incompatible with the foundational project', then we have a big problem on our hands, insofar as we would be forced to admit that there are many states of affairs that can all be wholly morally adequate (one involving the foundational project), yet *mutually exclusive*.[330] However, the evidence for this is shaky at best. Nussbaum goes to significant lengths to illustrate how many of these norms are steeped in thick layers of cultural oppression, power struggles and vested interests, and how their alleged 'goodness' is often claimed by those who benefit from their existence, as opposed to those who find themselves at the 'short end of the stick', so to speak.[331] Furthermore, she points out that cultures are a dynamic and ever-changing phenomenon, and not a static force immune to external and internal influences and shifts in perspective, despite the efforts of some to try and make it so.[332] Therefore, any 'argument from culture' would be

[330] If we were to follow Carson's views in section 3.5 above, none of these states of affairs could consequently be given preference over the others by appeal to ideal observer theory, effectively collapsing the ability of ideal observer theory in vindicating the moral preferability of the foundational project.

[331] Nussbaum (2000e: 41-47). Talbott (2005: 88-107) also employs a similar line of reasoning.

[332] Nussbaum and Sen (1989); Gasper (1997: 294); Chen (1995); Nussbaum (2000a: 225); Nussbaum (2000e: 48). Japan comes to mind in terms of perhaps the most successful isolationist nation (for a time being), given its voluntarily cutting itself off from the world for periods longer than many others, who were not otherwise shielded from 'globalism' by virtue of distance, geography, or lack of interest in them. As history illustrates however, even Japan was eventually forced to 'fold', and move into modernity and the global community.

highly dubious, insofar as there are no truly distinct, separate and isolated cultures around the world anymore, and none that reflect customs and practices that are eternally fixed in time.[333] And even if there were, one would still need significantly better grounds for justifying the legitimacy of their various norms in allowing one to construct 'equally-valid comprehensive theories of the good', than mere references to tradition, religion or culture, or some such other forms of appeal to authority.[334]

The argument from diversity

The argument from diversity is closely related to the one from culture, insofar as it stems from the belief that there is genuine intrinsic worth in the cultural diversity encountered around the world today, and that stifling this diversity, as would be invariably entailed by the constraints set forth in bringing about the foundational project, is simply indefensible.[335] Two replies can be given to this argument. First of all, though the concerns raised by the effacement of

[333] Nussbaum (2000e: 48-49). Though this assertion is not entirely true, in virtue of some remaining last tribes (whose separateness is quickly disappearing, thanks to globalization), the underlying idea behind it is that, even within those tribes, one encounters ways and practices shared by others around the world, and inherited by them from the same demands placed forth by the natural environment on all human beings, no matter who they be or where they live.

[334] Gasper (1997: 294) writes "Even if communities had consensual cultures, they would remain open to external (and minority) moral evaluation. For what makes the cultures convincing and appealing to members is not simply indoctrination or habituation, but also reference to reasons, evidence, views about human requirements, and so on, which are open to review." Very similar arguments against the alleged existence of forms of 'cultural imperialism' and 'essentialism' are formulated by Narayan (1998).

[335] Nussbaum (2000e: 50) actually formulates a weaker version of this argument, insofar as she contrasts the present cultural diversity with American culture, whereas I specifically contrast it with the maximum diversity that would be made directly possible by, as well as compatible with, the foundational project.

cultural diversity by the processes of globalization are quite genuine, it is highly irresponsible to argue for a merely blindsided preservation of said diversity, without due examination of the respective value of each of its constitutive practices and customs. As with the rebuttal to the argument from culture above, just because some practices or customs arose and exist today, does not mean that they should continue to do so into the future.[336] Secondly, as explained clearly in the preceding chapter, the foundational project not only allows, but also *enables*, significant cultural diversity, thanks to the very broad scope of multiple realizability entailed by the highly generalized formulation of the central human capabilities, and by the further fact that any additional practices and customs that are not incorporable under the requirements of the human capabilities, but that are likewise *no impediment* to the foundational project itself, see no proscription placed on them from the point of view of the foundational project. Ultimately, the argument from diversity is therefore a case of *non-sequitur*, insofar the foundational project is not against diversity per se, but only against certain elements contained therein that can be universally ascertained as morally unacceptable.

Final reflections on the four relativistic counterarguments

Thought the four relativistic counterarguments ultimately fail to demonstrate the moral undesirability of the foundational project, they

[336] Ibid (51)

nevertheless point quite strongly at the very real risks and possibilities of the foundational project being easily subverted into another justificatory tool for fascist and totalitarian regimes. This is because, by carefully manipulating which capabilities are made available, it would not be too difficult to move from a theory aimed at enabling the attainment of *eudemonia* for all, to an Orwellian nightmare (given the significant impact that capabilities hold on the formation of people's preferences and desires). In this respect, the charges of imperialism and paternalism, as well as the arguments from culture and diversity, actually reflect deep-seated and quite genuine worries that the foundational project may simply be promoting another ethical-political 'product' that is simply 'too good to be true'. And its detractors are quite right to express strong reservations against it, in light of the West's colonial past, less they believe we later experience a particularly nasty case of 'buyer's remorse' down the road. Though I believe these worries can be ultimately alleviated by thoroughly safeguarding the foundational project against such possible cases of derailment, the problems entailed by this are sufficiently severe that I explore this topic in much greater detail in the last chapter.

Conclusion:

In writing this chapter, I took a somewhat different approach than the one usually encountered in the capabilities literature. Rather than begin with an

overview of one or many of the presently existing argumentative strategies for the moral validation of the foundational project, followed by an examination of its respectively delimited perks, flaws and implications, I chose to undertake a meta-analysis of the overall strategies employed in attempting to morally defend the foundational project. My reasons for doing so are clear: The many argumentative strategies in favour of the foundational project actually contain a tacit underlying hypothesis according to which three things would happen: (1) one would individually come to see the moral goodness of the foundational project for themselves, following sufficient fulfillment of conditions of ideal observation; (2) a collective endorsement of the foundational project would follow by way of an overlapping consensus amongst all such resulting ideal observers, regarding its universal moral worth; (3) said collective endorsement would play a crucial role in ultimately validating its global implementation.[337]

Since these three claims entail that ideal observer theory could serve as an effective means to accomplishing all this, I began with an examination of ideal observer theory's actual ability in allowing a collection of individuals to draw universal moral judgments. Following due consideration of the many difficulties and drawbacks facing ideal observer theory itself, I concluded that this could only be accomplished successfully by incorporating its principles and ideas into a large-scale collective project for the moral assessment of states of affairs, all things

[337] As a matter of fact, it would not be an exaggeration to say that sporadic yet quite clear tacit allusions to procedures for ideal observation can be found 'reverberating' across the variety of publications dealing with the moral justification of the foundational project: Mukerjee (2004: 3).

considered. Such a project, which I termed 'PIMASA', represents the most authoritative approach that we could possibly devise in determining which states of affairs are truly morally optimal in our given world. It would therefore be ideally suited to assess the true moral value of the specific state of affairs that the foundational project proposes to bring about.

Having this clear basis to work with, I then proceeded to examine the variety of argumentative strategies employed by Nussbaum and many other capability theorists in order to morally justify the foundational project, as well as an additional number of existing counterarguments to the foundational project. Examination of Nussbaum's strategies revealed some very interesting results. Whereas these strategies were all deemed to be ultimately unsatisfactory in allowing her to defend the foundational project, the reasons for this were always due to their inability at guaranteeing the realization of one or many conditions of ideal observation by those who would attempt to utilize them to the letter. This is ironic, insofar as the very purpose of these argumentative strategies was precisely to overcome just the kind of disinformation, partiality, bias and dubious preferences and desires that arise under conditions of *imperfect observation*, and that are taken to undermine the position of the many detractors of the foundational project.[338] Similarly, Nussbaum's earlier allegation that the foundational project had already been globally justified failed for the very same

[338] This being said, the one strategy that approximates conditions of ideal observation best, namely the morally-constrained proceduralist or informed-desire approach, is also the one that receives the less criticism, and actually sees *greater* endorsement by Nussbaum's critics, in terms of its eventual ability at justifying the foundational project, than by Nussbaum herself.

reasons, in that the many projects she participated in which were intended to support this claim did not fully achieve the conditions required under procedures for ideal observation, and were consequently unable to ensure the truthfulness, impartiality, and overall tenability of the information gathered thereby.[339] Finally, examination of the four counterarguments against the foundational project reveals that they start off with highly problematic and dubious premises, and ultimately serve to provide little real evidence against the foundational project, if it be only to remind us that proper care needs to be taken to prevent severe cases of abuse down the road, and that cultural diversity plays an important part in determining just how broadly central human capabilities can actually come to be realized, without unduly curtailing valuable cultural practices in the process.

But where does this leave us now? While Nussbaum's argumentative strategies failed to provide us with definitive moral justification for the foundational project, her many critics were likewise ultimately unsuccessful in providing us with a knock-down definitive argument against the foundational project. To be sure, empirical evidence does suggest that the foundational project provides us with a list of moral goods which human beings usually take to be valuable in a rather universal fashion, provided that these individuals are sufficiently informed, mature, responsible and sane, and that they live in a socio-political, cultural and economic environment which does not place undue

[339] The collected information was consequently corrupted by various problematic acts of data-filtering and interpretation, rendering its final value highly dubious, in terms of its alleged support for the notion of a presently-existing global overlapping consensus on the foundational project.

hardships or difficulties on their lives, and which does not attempt to poison their minds with nefarious ideologies.[340] Hence, so long as one subscribes to the fundamental notion that individuals need to achieve something like conditions of ideal observation in order to gain the authority required to pass good moral judgments, we also find ourselves with at least some preliminary and (certainly) non-negligible evidence that something like the foundational project can eventually become the object of a global overlapping consensus, by the collective action of all individuals adequately disposed to judge it as such, and freely available to do so.

This being said, some reservations are in order at this point. Given the evidence examined thus far, there are strong reasons for believing that, while an implemented foundational project will include something like Nussbaum's list of central human capabilities, the final list need not be identical, item per item, with Nussbaum's. Rather, some divergence is not only conceivable, but also to be expected. Furthermore, though some significant degrees of freedom are likewise to be realistically anticipated, the role of freedom in people choosing which central capabilities to exercise and how will actually see some notable curtailment, insofar as complete multiple realizability is only available at the purely theoretical level, and would actually be limited under the practical choices that need to be made, in choosing to channel resources to some projects of social significance, at the

[340] Fieldwork-based evidence for this is provided by Clark (2002: 103, 129-131); Clark (2003); Clark and Qizilbash (2002); Clark and Qizilbash (2005); Qizilbash and Clark (2005).

expense of others.[341] Finally, the very real possibility of a potential high-jacking and corruption of the foundational project towards nefarious ends will result in significantly stronger protective mechanisms being built around it — namely ones that rely on a less 'idealized' view of the role of big government, organizations and industries in implementing, spreading and sustaining the foundational project around the world. Ultimately, the final verdict regarding the true moral value of the foundational project not only will, but also *should*, depend on the results gained by running it through an adequately developed PIMASA. Such an exercise would provide us, not only with a clear moral value associated with it, but also with the determinate final form that a practically implemented foundational project would eventually come to adopt. Now, the further and highly important corollary question of how the capabilities approach fares against its resourcist and welfarist competitors, in light of what has been said here, is taken up in the next chapter.

[341] These limitations were discussed in the previous chapter, and entail a more significant departure from the central tenets of political liberalism in the final approved version of the foundational project than under Nussbaum's theoretical version. This is explained in section 5.4 of the last chapter.

Chapter 4: The foundational project vs. resourcism and welfarism

Introduction:

The two main founders of the capabilities approach, namely Amartya Sen and Martha Nussbaum, have devoted considerable time and energy arguing against other distributive theories of justice, classified by them under the two main headings of 'resourcist' and 'welfarist' approaches.[342] This has been done in an attempt to show that the capabilities approach is overall superior and preferable to these. However, analysis of the argumentative strategies employed by them reveals two key items of interest. First, a recurring pattern emerges, whereby the respective conceptual contents of the competing theories are analyzed according to three key desiderata. These include: (a) the inherent desirability of the proposed distributive object itself; (b) the acceptability of the consequences incurred by distributing said object in some fashion or other; (c) the compatibility of the proposed distributive scheme with (what is taken to be) an optimal notion of personal agency and autonomy. Second, capability theorists tend to 'strawman' the competition, with either: (i) the proposed distributive object and distributive patterns (or spreads) depicted in a caricatured, primitive, or somewhat oversimplified manner, or; (ii) an unwarranted equivocation being

[342] Though other theories exist, such as those articulated along the lines of strict-egalitarian, desert, or libertarian principles, I do not concern myself with them here. I believe an examination of the capabilities vs. resources vs. utilities debate is, in itself, sufficient to drive the point home.

made between early proposed versions of said object and spreads as the only and final ones in existence, disregarding (or ignoring) later attempts at refinement.

While reliance on desiderata (a-c) in order to assess the robustness of the competition constitutes a perfectly legitimate move on the part of capability theorists, their subsequent use of 'strategies' (i-ii) results in an artificially inflated impression of the superiority of the capabilities approach (and, by extension, the foundational project), over its rivals. In light of this, corrections and refinements made by a number of later observers and commentators unveil a picture of possible resourcist and welfarist alternatives that promise to satisfy desiderata (a-c) quite successfully, and that show that the multiple arguments formulated by capability theorists against the competition end up, in fact, significantly weaker than they first appeared to be. Furthermore, it is important to note that said process of corrections and refinements also entails the appearance of a number of additional consequences and observations. The most important (and striking) of these concerns their now properly understood distributive object gaining ever greater conceptual likeness to central capabilities — which, in turn, bears significant implications for the original 'capabilities vs. resources vs. utilities' debate. Indeed, I argue here that, while this debate is fundamentally flawed, insofar as it ultimately amounts to a 'false trilemma', capability theorists nevertheless earn an indirect albeit quite real victory, since available evidence strongly suggest that the competition ends up conceding the minimal distribution of what conceptually corresponds to some form of basic human capabilities. In

passing, I also observe that much of this process makes reference to the use of ideal observer theory — which, in turn, reveals some additional natural limitations proper to any tangible distributive theory of justice that relies on it, in order to articulate and defend its proposed distributive principles. Finally, some problems surrounding specific metaphysical presuppositions made by capability theorists regarding the notion of the 'person' are also brought up. These various aspects are all discussed towards the end of this chapter.

4.1 From crude to refined resourcism

The term 'resourcism' serves as a particular categorical identifier for capability theorists, pointing towards a specific class of distributive theories of justice. As its name implies, resourcism proposes that key issues of social justice can be successfully addressed by distributing a variety of 'resources' to individuals in a variety of ways. Actually, capability theorists utilize this term in a somewhat overbearing capacity, encompassing theories that can vary rather significantly in terms of their conception of the 'resource object' in question, as well as the proposed distributive spread.[343] Nevertheless, a tentative grouping of a select set

[343] Sen (1990c: 112-113) provides us with a listing of the variety of theories that can fall under the broad category of 'resourcist approaches' for capability theorists. In response to this, Bojer (2006: 1, 3-5, 6-7) points out that a broad enough definition of 'resources' (i.e., economic goods) entails that all theories of distributive justice are, by definition, resourcist. This is further reinforced by Sen (2009: 264-268) who discusses Dworkin's theory, and points out that Dworkin also foresees a possible collapse between his resourcism and the capabilities approach — though envisaged on Dworkin's terms. This illustrates the (somewhat excessive) flexibility that the term 'resourcism' can take on. In light of this, I stick here specifically (and rather exclusively) to the commodities approach, the basic needs approach, and to Rawls's theory, as principal exemplars of this approach.

of resourcist theory types can be achieved by classifying them along the respective level of *abstraction* that characterizes their distributive object. This results in the grouping of possible candidates under three main categories. The first category, exemplified by the commodities approach, encompasses theories that propose a rather direct distribution of actual goods and services, determined by rather crude, basic, or generalized measurement and distributive requirements.[344] The second category, exemplified by the basic needs approach, encompasses theories that also propose a distribution of goods and services, albeit filtered now by way of the more abstract, yet also more demanding, notion of fulfilling such things as 'basic needs'.[345] The third and final category, exemplified by such diverse theories as those of Dworkin and Rawls, encompasses approaches that filter the transition of goods and services to individuals by even more abstract normative requirements, focusing on the promotion of such things as 'broadly-defined (social and internal) resources', or 'primary goods', depending on the theory type. Hence, by observing the natural change in the resource object proper to the commodities approach, the basic needs approach, and Rawls' theory (as a key example of a

[344] These include the use of such indicators of development (and assumed living conditions) as income (GNP), life expectancy, literacy, education, employment, etc. Though these key measures of the Human Development Index (HDI) are utilized by the United Nations Development Programmes' (UNDP) Human Development Reports (HDRs) to classify countries by degrees of development and (alleged) quality of life, their many natural blind-spots allow for significant disparity in living conditions, and fail to capture all salient aspects of well-being, or true quality living. This is discussed in-depth in Sen (1985a), Sen (1988a), and later outlined by Srinivasan (1994) and Nussbaum (2011a: 47-50). See also Streeten (1994: 235-236), Laderchi (1997), Altman and Lamontagne (2004), Robeyns (2005b: 32-35, 40-44), Wagle (2005), as well as Ramos and Silber (2005) for practical examples of such remarkable disparities. Examples of proposed corrections in order to overcome these problems can be found in Mcgillivray (2005) and in Osberg and Sharpe (2005).

[345] References for the basic needs approach are forthcoming later on in this section.

sophisticated resourcist[346]), we can see how said object progressively overcomes the many objections formulated against it, and how it also incidentally comes to conceptually resemble more and more the capabilities object. While this specific exercise does not capture all possible resourcist alternatives 'presently available on the market', I judge it sufficient to drive the point home with regards to the manner in which these have generally been depicted and dealt with by capability theorists as a whole.

The commodities approach

The observable transition from concreteness to progressively greater abstraction in the various conceptual reformulations of the resource object can be understood as the natural result of trying to move away from a variety of counterarguments that 'crude resourcism' — namely the commodities approach — has first attracted. The commodities approach, developed shortly after the end of World War II, rests on the presupposition that a proper distribution of actual physical goods (i.e. commodities) is the key and end to establishing appropriate minimal levels of social justice and living standards for all — hence its designation here as a 'crude' resourcist approach.[347] Though originally convincing, this

[346] Here I follow Pogge (2004: 15-16) in his strategy, even though it is Ronald Dworkin who brought talk of resources and resourcism to academic prominence. Nevertheless, by assessing the specific kind of response that Rawls' theory solicited in capability theorists, it is not too difficult then to extrapolate what kind of response would likewise be solicited from them in response to other sophisticated resourcist approaches, such as Dworkin's.

[347] This intense focus on the procurement of physical commodities is perfectly understandable given the significant scarcity following the end of the Second World War, and the corresponding urgency that basic

approach has since been exposed to the 'inherent value argument', the 'commodity fetishism argument', the 'interpersonal variability argument', the '*many-one* correspondence argument', and the 'social/environmental interdependence argument'.[348] An explication of each of these, along the three key desiderata (a-c), brings to light the concerns expressed thereby, and lays the groundwork for a subsequent examination of how later resourcist variants attempted to overcome said difficulties, and how successful they were:

First desideratum (a) (inherent desirability of distributive object)

1. The 'inherent value argument' states that resources (in this case direct physical goods and tangible services), though clearly required for development and improvements in living conditions, constitute merely a *means to an end*, and cannot be transformed into an end in themselves.[349]

physical well-being solicited in policy makers. Indeed, more 'abstract' concerns such as social-psychological indicators of general life satisfaction were simply not given top priority at the time, given the situation at hand.

[348] A good overview of these is provided by Crocker (1992: 590-599), Stewart and Deneulin (2002: 61-62), and Dowding (2006: 327).

[349] The inherent value argument is explained in, Sen (1984h: 510), Sen (1985b: 19), Sen (1985a: 15-16), Sen (1990c: 115-116, 120-121), Basu (1987: 71-72), Nussbaum (1990b: 210), and Nussbaum (1992: 233). Note that this argument is in no way affected by how successfully a certain optimized distribution of said resources achieves its desirable ends.

Second desideratum (b) (acceptability of distributive consequences)

2. The 'commodity fetishism argument' is closely linked to the inherent value one. It points out that, not only does an obsession with crude resources distract one from their ultimate purpose as means to an end, but also that such an obsession can engender other nefarious consequences, such as 'bringing out the worst in people', and leading to a 'commodification of parts of the self'.[350]

3. The 'interpersonal variability argument' points out that different individuals have different resource requirements based on their age, gender, body mass, etc.. Hence, one cannot adopt a standardized distribution model that does not take these features into account, if one wishes to attain similar or equal valuable end-states for all.[351]

[350] The commodity fetishism argument is recognized in Sen (1984h: 510) and Sen (1985b: 19, 37-38), and its many other nefarious consequences are explored more in-depth in Nussbaum (1986: 339-340), Nussbaum (1990b: 210, 249n20) and Nussbaum (1992). This argument is also closely linked to the 'expensive tastes objection', with regards to resources (Dowding (2006: 327)). The problem concerns, not only the fact that people tend to become 'resource hoarders', but also that they increasingly come to see themselves and those around them essentially as 'physical resources', to be used and exploited in a variety of ways, leading to a form of *pathological materialism*. Though an exaggerated extreme, Charles Dickens' Ebenezer Scrooge character illustrates quite eloquently most all vices and personal consequences associated with someone who has 'wholeheartedly embraced' commodity fetishism.

[351] The interpersonal variability argument is explored in Sen (1984h: 511), Sen (1985d: 198-199), Sen (1985b: 6, 17), Sen (1985a: 16), Sen (1988b: 277), Sen (1990c: 116, 118), Sen (2009: 255, 258-260), Nussbaum (1990b: 211), Nussbaum (1990a: 62), Nussbaum (1992: 233), and Pereira (2006: 56). It illustrates the undesirable consequences of attempting crude resource distribution schemes without paying due attention to what said resources actually end up doing for people. This topic is discussed in greater detail by Rosenbaum (1999).

4. The '*many-one* correspondence argument' points out that, due to differences in personal abilities at resource conversion, different commodity bundles can produce the same valuable end-states in various individuals.[352]

5. The 'social/environmental interdependence argument' points out that cultural as well as environmental differences entail requiring varying quantities and kinds of goods in order to attain similar valuable end-states, depending on various cultural and natural specificities. Hence, attempting a merely crude general uniform determination of required goods betrays bad sensitivity to these crucial differences.[353]

Third desideratum (c) (distributional compatibility with respect for personal agency)

- Though not directly discussed here, the pertinence of this topic shows up later in Sen and Nussbaum's discussion of Rawls' theory, as we shall soon see below.

[352] The *many-one* correspondence argument is discussed by Sen (1984h: 28n87, 513-514) and Crocker (1992: 591). It serves to emphasize, once again, the need to focus on the end-state as the actual desired distributum, as opposed to the means (resources) thereto.

[353] The 'social/environmental interdependence argument' is discussed in Sen (1984h: 27-28, 332-338, essay 14), Sen (1985a: 18), Sen (2009: 255-257), Nussbaum (1992: 235-241), and Nussbaum (1993). Sen's favourite example refers to Adam Smith's observation regarding the need for expensive clothing (linen shirt and leather shoes) in order to avoid public shame in 18th century England — though other examples relating specifically to environmental variants exist as well.

One quickly notices that the key theme proper to the five counterarguments above indicates that these multiple drawbacks to the commodities approach derive principally from said approach failing to realize that what is truly required of an appropriate resourcist distributive theory of justice is the distribution of resources conceived of as certain *end-states* of human existence, as opposed to the numerous and highly variable means for reaching said end-states in question (as is the case with commodities). Realizing this, subsequent resourcist theories relied, therefore, on formulating their conception of the resource object as more directly equivalent to some such end-state in question. The response by capability theorists with regards to these new contenders has been as follows: on the one hand, they have been praised for seeing beyond the limitations of crude commodities distribution, and proposing resource types that are more accurately aligned with enabling certain levels of agency and autonomy freedom in individuals; on the other, any remaining drawbacks associated with their resource object have usually been tied to said object still failing to measure up in some way to the kind and degree of agency and autonomy freedom that capability theorists have in mind — namely the kind enabled by central capability distribution.[354] I will illustrate this fact by focusing now on the specific responses elicited by the basic needs approach, and by Rawls' theory.

[354] Indeed, these correspond to the agency and autonomy freedom made directly possible by the respective capability sets that end up distributed to individuals, of which the many complex parameters have been illustrated by my discussion of the bicycle riding example in section 2.2 of chapter two.

The basic needs approach

The basic needs approach, introduced in 1976 by the International Labour Organization, attempts to define an absolute minimum level of resources required for long-term physical well-being. While still relying heavily on an essential core of largely physical goods (such as food water and shelter), it distinguishes itself from the commodities approach by also branching out into the postulation of more abstractly-defined goods, such as education, sanitation and healthcare. Because of this, the basic needs approach has been praised by Sen for (i) recognizing the drawbacks of crude resourcism and welfarism in failing to focus on human beings themselves and the lives that they are capable of living[355], as well as for (ii) the fact that economic growth (and subsequent improvements in quality of life) is not incompatible with meeting basic needs, since they are, in fact, intertwined, one requiring the other to advance[356]. However, Sen also claims that this approach is deficient along the following five characteristics:[357]

1. First, it (allegedly) lacks a developed conceptual foundation for explaining and defending what constitutes 'basic needs', which leaves it at risk of collapsing into crude resourcism or welfarism.[358]

[355] Sen (1985a: 24-25)

[356] Sen (1984h: 515)

[357] Resumed by Crocker (1992: 603-607).

[358] Sen (1984h: essay 20) and Sen (1988a: 19-20) suggests that a possible solution is to interpret them as basic capabilities.

2. Second, the basic needs approach often does collapse into a commodities approach, subjecting it to the critique of commodity fetishism above, and all of its afferent criticisms.[359]

3. Third, the basic needs approach needs to take into account cultural and environmental variance (the 'social/environmental interdependence argument'), because basic needs can be met differently in different cultures and environments, and the same need can be met by way of different commodity bundles (the '*many-one* correspondence argument').[360]

4. Fourth, the basic needs approach is too restrictive, focusing only on basic needs for deprived individuals and poor countries, which can leave individuals in developed countries feeling that their obligations to the individuals of such other countries are met, once basic needs are attained by them.[361]

[359] Crocker (1992: 603)

[360] Sen (1984h: 514)

[361] Ibid (515). Basic capabilities, on the other hand, are more inclusive of the individual's potential for achieving complete well-being, as opposed to simply focusing on whether an individual has reached some such minimal level of well-being

5. Fifth, the basic needs approach conceives of individuals as passive recipients, as opposed to active agents, in need of opportunity creation (by way of capabilities).[362]

Most importantly, Sen alleges that the basic needs approach suffers from these numerous flaws, not due to some fundamental and ultimately fatal underlying problem (as befalls crude resourcism and welfarism), but rather due to theoretical underdevelopment and a lack of clear specification of the basic needs approach mandate. As a matter of fact, he proposes that this can be rather effectively remedied by 'converting' the basic needs approach into a subcomponent of his capabilities approach:

> "What is needed is to take the basic needs approach out of the arbitrary narrow box into which it seems to have got confined. To see it as just one part of the capabilities approach — to which it is motivationally linked — would do just that."[363]

How is a basic needs approach advocate to respond to these five allegations? There are a number of strategies available to salvage the basic needs approach. Simply rejecting the relevance of Sen's five criticisms would be problematic, as this would be tantamount to denying that these five counterarguments bear any weight at all. Indeed, none of the responses formulated against capability theorists claim that their basic observations

[362] Ibid (514). This argument only threatens cruder versions thereof, as a properly-developed basic needs approach can, in fact, cover such needs: Crocker (1992: 607).

[363] Sen (1984h: 515). See also Crocker (1992: 604).

regarding the drawbacks of crude resourcism and welfarism are somehow fundamentally flawed. Rather, each candidate seeks to demonstrate that their approach can answer their many objections successfully, by either refining their theories, or indicating that said theories already hold the conceptual refinements required to accomplish this task. Therefore a more productive strategy (pursued by Streeten, Stewart, Crocker, and Stewart and Deneulin) involves conceding the relevance of Sen's five criticisms, though only with regards to crude versions of the basic needs approach, all the while maintaining that refined versions thereof are better capable of dealing with them.[364] Indeed, further refinement to this second strategy (pursued by Alkire and Reader) consists in actually demonstrating, by way of numerous examples, how refined versions of the basic needs approach can successfully counter these five criticisms. And the way this is done is by illustrating that refined basic needs approaches are actually much more careful and attentive in terms of their understanding of individuals' basic needs revolving around something like *basic human capabilities*, as opposed to mere crudely distributed commodities.[365] It is therefore unsurprising that these authors, as well as others, have also observed a very strong conceptual affinity between a carefully refined basic needs approach, and the capabilities approach.[366]

Ultimately, the many important discussions surrounding the actual effectiveness of the basic needs approach in constituting a viable theory of

[364] Streeten (1984); Stewart (1989); Crocker (1992: 606); Stewart and Deneulin (2002).

[365] Alkire (2005c: 166-170); Alkire (2006: 246-249); Reader (2006)

[366] Streeten (1984: 974-975); Alkire (2005c: 170); Clark (2005a: 2-3); Reader (2006: 342-345, 347-349)

distributive justice (as well as an approach to development) can all be linked back to one key question: is the basic needs approach candidate of the 'crude' or 'refined' type? If it is of the crude type, it collapses into the commodities approach or crude welfarism, and inherits all of their respective problems and drawbacks.[367] If it is of the refined type, however, it actually ends up corresponding to something like the foundational project, and avoids these many problems, thanks to its now significantly greater conceptual density. It is this inherent ambivalence in the basic needs approach that positions it between crude and highly-refined resourcism, in terms of the way in which its resource object ultimately comes to be conceptualized and understood. In a way, the basic needs approach can be seen as serving as a 'gateway' theory to the next category of even more sophisticated resourcist contenders.

Rawlsian resourcism

Rawls' theory of justice has solicited a different set of discussions on the part of capability theorists. In particular, his formulation of the resource object as 'primary goods' differs significantly from the one proper to the commodities and to the basic needs approach, in that primary goods actually serve as 'background means or materials', by way of which individuals are then to select principles of

[367] Crocker (1992: 605) refers to this as Sen's 'two-horned dilemma', with regards to the basic needs approach. It is interesting to note that a similar dilemma was formulated by Dworkin against Sen's version of the capabilities approach, due to its inherent ambiguity (Dworkin (2002: 285-303); Williams (2002: 24-39)) — though this dilemma is less effective against the foundational project, as has been explained in section 2.5 of chapter two.

justice and fundamental aspects of the social-political organization of their society. Primary goods include social as well as natural types, and they corresponds, for Rawls, to such abstractly delineated items as "rights, liberties, and opportunities, and income and wealth", as well as to more concrete ones, such as "health and vigor, intelligence and imagination".[368] As for the exercise of selecting principles of justice and fundamental aspects of the social-political organization of society, this is to be performed from within an 'original position' with specific limitations placed on the information available to participants (veil of ignorance), in order that personal interest not sway their judgment in the establishment of a social contract that is conducive to a state of mutual advantage for all.[369] There is a dual purpose implicit in this exercise. On the one hand, individuals endowed with primary goods can then make use of their reasoned judgments in order to devise sophisticated personal life-plans, exemplified in their formulation and pursuit of comprehensive doctrines of the good. On the other, these doctrines need to be minimally 'compatible' with one another, within the framework of the practical needs of social living, insofar as they cannot overreach one another, in terms of the preservation of basic aspects of liberty, equality, and fairness for all. Hence, the

[368] Rawls (1971 [1999]: 54-55, 79). Both types of primary goods are to be distributed to all, based on the preliminary justification that these constitute "things which it is supposed a rational man wants whatever else he wants" (79) — though distribution of the natural variety will invariably be more limited than the social ones which permit greater flexibility.

[369] In this sense, there is a notable connection between Rawls' theory and ideal observer theory, as recognized by a number of authors and indicated at the beginning of section 3.1 of chapter three. The main difference rests with the fact that a PIMASA seeks to overcome the specter of personal interest upsetting the process at hand, not by containing certain information types, but rather by relying on procedural forms of power-equilibrium in order to overcome their nefarious influences. Hence, it also endorses a form of information-induced enlightenment that Rawls' theory remains sceptical of.

political space within which said doctrines interact is arrived at by way of an overlapping consensus, delimiting the effective point of 'compromise', indicative of the natural limitations of any such doctrine, if it is to be practicable in civil society.[370]

Consequently, Rawlsian primary goods play a significantly greater role in terms of what it is that they enable individuals to accomplish, when compared to the fulfillment of basic needs or simple distribution of commodities. Given this notable sophistication, it is not surprising that Rawls' theory has attracted much praise on the part of capability theorists, insofar as it focuses on the distribution of highly valuable (and substantial) means for freedom and social organization, and because it takes the central role of human agency, autonomy, and the need for self-determination into much greater account than its predecessors.[371] The main gripe that capability theorists express with Rawls' theory is that it *does not go far enough*.[372] This is made explicit by the following four counterarguments formulated against Rawlsian resourcism:

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[370] These various aspects and components of Rawls' theory are discussed in a number of his publications, namely in Rawls (1971 [1999]), Rawls (1980), Rawls (1982), Rawls (1987), Rawls (1988), and Rawls (2005). A good overview of them is provided by Crocker (1992: 592-595).

[371] Sen (1979b: 218); Sen (1984h: 279-280, 308, 339); Sen (1990b: 52); Nussbaum (2000e: 65-67)

[372] Another gripe which has also generated important discussion concerns the alleged neutrality or 'thinness' of Rawls' theory: Sen (1990c: 112, 114, 117); Sen (1990a: 54); Sen (1991b: 20); Nussbaum (1988: 179-181); Nussbaum (1990b: 227, 248n73); Crocker (1992: 597-599); Nelson (2008: 107-114). Notwithstanding any implications that this may hold for the other counterarguments formulated against Rawlsian resourcism, the very question of theoretically moral or metaphysical neutrality bears no concern for us, insofar as I have already endorsed the use of ideal observer theory as the principal means for assessing the moral tenability of any proposed distributive theory of justice — a decidedly non-neutral move, though one motivated by very good reasons (see the first half of chapter three on this).

1. The 'crudeness argument' alleges that Rawls' primary goods, though notably better than commodities or basic needs, are still too 'crude' to enable the kind of full-fledged freedom made possible by capabilities. This is brought to light by (i) applying the 'interpersonal variability argument' to primary goods, and by (ii) claiming that Rawls focuses exclusively on negative freedom, at the expense of positive freedom — whereas both stand as clear preconditions for full-fledged freedom enablement.[373]

2. The 'selection procedures argument' claims that Rawls' proposed method for choosing adequate principles of justice and social organization is inherently flawed, due to the limiting constraints on, and presuppositions regarding, the specific kinds of participants who engage in deliberation in his original position. More accurately, because of the *contractarian nature* of his theory, he allegedly ends up taking inadequate account of the disabled, old and ill, which undermines his basic contract and the ensuing 'four-stage sequence'.[374]

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[373] Sen (1979b: 215-216); Sen (1990a: 49); Sen (1990c: 115-116, 120-121); Sen (2009: 65-66, 299-309). Also, see section 2.2 of chapter two, regarding this important aspect in properly conceptualizing the capabilities metric.

[374] Sen (1982d: 30); Sen (1990a); Sen (1990c: 116-117, 117n18); Sen (1991a: 19); Sen (2009: 69-72, 126-128, 138-152, 203-205, 260-262, 410-412); Nussbaum (1990b: 211); Nussbaum (2000a: 236-237); Nussbaum (2002b: 134-135); Nussbaum (2002c); Nussbaum (2003a: 24-31); Nussbaum (2004b); Nussbaum (2004a); Nussbaum (2006); Nussbaum (2007a: 127-128); Nussbaum (2011a: 84-89); Qizilbash (2007: 183). In brief, the argument claims that the original contracting parties were men of roughly equal capacity and ability at producing economic activity and that they consequently devised principles of justice for their mutual advantage as coming from just such a specific perspective. Consequently, the needs of women, children, the old, ill and disabled, were thus either underrepresented or ignored outright (this was improved in more recent contractarian accounts, though not to Nussbaum's entire satisfaction). Additionally, this bias was further burdened by the specific requirements of the Rawlsian original position, introducing a plethora of

3. The 'power-relations argument' claims that differences in the respective 'weight' that can be brought to bear by more powerful and affluent individuals over weaker ones is largely overlooked by Rawls' analysis, despite the fact that this can severely impede the adequate conversion of commodities into 'capabilities' (or 'post-original position-defined universal resources') for all.[375]

4. The 'incompleteness argument' claims that Rawls has actually already moved into the space of capabilities, albeit in an incomplete, vacillating and misleading way.[376]

Now, a proper defence of Rawls' theory against these four counterarguments would require significant analysis of his position with respect to each of the claims advanced thereby. In this sense, there exists some ambiguity regarding Rawls' primary goods, as well as the degree to which they can become 'extended' by the many other components of his theory to cover all salient aspects

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conflicting ideas (and discussions) regarding what ought and ought not to be included in the later 'partly-lifted' veil. Indeed, this is a highly complex argument, and it is developed at significant length, especially by Nussbaum. Though I cannot go into further detail here, regarding the peculiarities of contractarianism as it applies to the discussion at hand, a good overview of her overall argument, together with a proposed rebuttal, is provided by Fitzpatrick (2008: 84-98). Clark (2009b: 586-587, 592-597) also discusses this to some extent.

[375] Crocker (1992: 596, 611n22). This argument is closely tied to the 'selection procedures' one (see also the references from the previous footnote). In connection to this, a thorough examination of the problem of power relations with regards to the practical implementation of the foundational project is provided in the next chapter.

[376] Sen (1984h: 320); Nussbaum (1990b: 248n73)

dear to capability theorists. It is therefore is not unreasonable to state that even Rawls' theory could be given a cruder, as well as a more refined, reading — with correspondingly lesser and greater degrees of success in overcoming the four counterarguments enumerated above.[377] However, I take the more important issue here to be, not whether Rawls' theory truly 'fails' to go far enough, but rather whether a properly fleshed out resourcist approach, possibly very akin to Rawls', truly *can go far enough*. Indeed, this highly important question has spawned a significant string of discussions attempting to provide an answer for it.

It began with Pogge writing a long article defending the ability of resourcist approaches at successfully answering the many concerns of capability theorist, as well as questioning some of the claims made by capability theorists themselves.[378] In particular, he argued that (1) both Sen and Nussbaum make strawmen out of resourcist views in order better to defend the preferability of their capabilities approach[379], that (2) many examples show that refined resourcism actually takes, or can take, all salient factors into account, in suggesting a just resource distribution scheme, thereby avoiding the blind-spots that generate the distributional-consequence-based counterarguments against it[380], that (3) resourcists can easily grant that resources only have an instrumental value[381], that

[377] This question is given an extensive treatment in Brighouse and Robeyns (2010).

[378] Pogge (2004). See also Dowding (2005) and Fitzpatrick (2008: 89-90).

[379] Pogge (2004: 17, 37-38). The same claim is also defended by Robeyns (2005b: 37-38).

[380] Pogge (2004: 17-33). An example thereof involves conceptualizing capabilities as powers and subsequently as 'resources': Dowding (2008).

[381] Pogge (2004: 34-35)

(4) resourcism truly is nuanced enough to accommodate compensation stemming from weaknesses caused by natural endowment (four elaborate examples given, in terms of *income compensation*, *natural diversity vertical inequality compensation*, *The Specificity Required of a Workable Public Criterion of Social Justice*, and *The Political Import of the Transition to a Capability Metric*)[382], and finally that (5) (i) the Human Development Index (HDI) is actually inconsistent with the capabilities approach, upon which it is allegedly based, as illustrated by the fact that (ii) two of its components are plainly resourcist, and that (iii) it also betrays a number of other important flaws (leading to an oversight of various kinds of capability failures), which puts it at significant odds of the original intent promulgated by the capabilities approach[383].

In response to these various claims, Pogge's article engendered a counter-reply by a number of authors.[384] Indeed, it has been counter-counter argued that (1) Pogge's arguments in favour of resources employ a selection procedure which actually references to something like welfare or capabilities, in determining actual resource distribution, which makes his theory structured in the same way as welfarism or the capabilities approach[385], that (2) Pogge's resourcism actually

[382] Ibid (42-71). Daniels (1990: 276-292) illustrates how primary goods can be broadened to satisfy the specific distributive needs of the ill and handicapped.

[383] Pogge (2004: 64-71). These failings of the HDI (Human Development Index) are enumerated in an earlier footnote at the beginning of this section. Admittedly, this last claim is directed more against the HDI than the capabilities approach itself — though it clearly underscores the significant problems associated with an attempt to justify the capabilities approach by connecting it with the HDI.

[384] Keleher (2004: 4-7); Bojer (2006: 4); Berges (2007: 19)

[385] Bojer (2006: 4); Berges (2007: 19)

runs aground of healthcare distribution[386] and of the special needs of women brought about by the biological facts of pregnancy and birth[387], that (3) Pogge's allegation that resourcism can compensate for past social injustices by way of compensation through resources is untenable, insofar as Pogge's idea of compensation is different from that held by capability theorists (compensating for injustices *by way of trade-offs* vs. helping to develop capabilities), and his idea of compensating by way of resources risks running aground of the Aristotelian argument against acquiring resources for their own sake (commodity fetishism)[388], and that (4) Pogge himself makes a strawman out of the capabilities approach, and seriously misinterpreted it at times, by (i) failing to realize that functionings and capabilities have intrinsic value, as opposed to merely instrumental ones, like resources (resources, even 'sophisticated ones', remain but means to an end, such as functionings, whereas functionings and capabilities were never intended to be merely instrumental)[389], (ii) failing to realize that capability achievement is not engendered simply or wholly by resource distribution (in the crude sense of resource), but by a more integral modification to the whole environment, spanning beyond mere resource distribution[390], (iii) overlooking the role of individual empowerment (Sen's agency, Nussbaum's practical reason) in enabling capabilities, and claiming that resourcist schemes are no less able to

[386] Bojer (2006: 4-5)

[387] Ibid (7-9); Berges (2007: 19-20)

[388] Berges (2007: 20-23)

[389] Keleher (2004: 4-7)

[390] Ibid (7-13)

settle issues of gender differences and other personal heterogeneities[391], and by (iv) falsely limiting the goals of the capabilities approach to resource-distribution, which leads Pogge to claim that the two approaches are, in fact, quite similar, reducing the true preferability of one over the other. Also, it is argued that his allegation that the capabilities approach requires a vertical ranking of all physical and mental features is highly erroneous, stemming from a gross misunderstanding of the kind of compensations that are meant to be achieved by capability distribution, and that he fails to account for the essential aspects of individual empowerment (agency and/or practical reason), and the valuation process[392].

The million-dollar question brought up by these discussions is as follows: which of these two possible interpretations of the true abilities of refined resourcism is to be endorsed — Pogge's or that of his critics? Clearly, a thorough answer would require a careful and rather lengthy examination of all of the relevant literature — something that lies well beyond the scope of this present chapter. Nevertheless, I tentatively propose the following partial answer, based on the indications observed in the argumentative patterns recognized thus far: on the one hand, Pogge sought to demonstrate that a properly fleshed out resourcist approach ultimately can answer the many counterarguments formulated by capability theorists against the commodities approach, the basic needs approach, as well as Rawlsian resourcism; on the other, his detractors have argued against

[391] Ibid (14-16)

[392] Ibid (16-22)

this contention — though apparently not on the grounds that this is something that resourcism can allegedly never accomplish, but rather because Pogge, despite his best efforts, has simply still not *refined it far enough*. In light of this, the key reoccurring theme here is that a truly optimally refined resourcist variant — one that would successfully rebut all of the counterarguments formulated by capability theorists against each progressively more refined class of resourcist approaches thus far — would be one that ultimately makes its resource object conceptually equivalent to capabilities. As further evidence for this, Keith Dowding writes:

> "For what it is worth, I suspect that any egalitarian account of how society should be ordered could be described in the language of choice-based utility, resources, opportunities or capabilities. And I suspect that no matter which language might at first appear rhetorically preferable in answering antiegalitarians' criticisms of that society, careful enough analytical investigation will allow the same anti-egalitarian responses."[393]

Such a move would certainly go a long way towards showing that resourcist approaches truly can distribute in a fully-refined manner. And it would also highlight the evolutionary process and end-state reached by advocates of resourcism, in moving from lesser to greater levels of abstraction, in countering the respective objections raised against the commodities approach, the basic needs approach, and Rawlsian resourcism. Hence, if the foundational project truly

[393] Dowding (2005: 30); Dowding (2006: 335). Dowding (2008: 255) also states "Nevertheless, I believe that working through the measurement of power, or capabilities, will lead us to examining individual resources and in that sense, Sen's capabilities account at base, is resourcist." This alleged equivocation between 'supremely refined' resourcism and the capabilities approach is likewise shared, not only by Sen and Nussbaum, but also by Roemer (1996: 202-203), Berges (2007: 19), and Nelson (2008: 115).

does constitute an optimal partial theory of justice (as I argue here that it does), then it is only natural that a resourcist equivalent would seek to distribute, at the very minimum, 'resources' that in fact conceptually correspond to central human capabilities, all other things considered.[394]

4.2 From crude to refined welfarism

Just as with the term 'resourcism' examined in the preceding section, the term 'welfarism' also acts as a particular categorical identifier for capability theorists, pointing towards a specific class of distributive theories of justice. However, some important preliminary clarifications are in order, seeing as how this term has both a broader generic meaning, as well as a narrower much more precise meaning, and how it is the narrower meaning that serves as the actual target of criticism for capability theorists. Hence, under its broader generic meaning, welfarism is simply understood as a form of consequentialism. L.W. Sumner writes:

> "*Generic welfarism*. The judgement of the relative goodness of states of affairs must be based exclusively on, and taken as an increasing function of, the respective collections of individual welfares in these states."[395]

[394] This being said, distribution of any other remaining resources would, interestingly enough, need to rely on external (non-moral) reasons, and could essentially become 'up for grabs', so long as said action not interfere with the distribution (and preservation) of the central ones. This peculiar aspect of a foundational project-based resourcist approach is due to its ultimate justification being arrived at through a PIMASA, and is discussed more in depth with regards to welfarism in the next section.

[395] Sumner (2006: 3)

Note that this definition makes no further specifications regarding (i) the specific nature of the 'welfares' in question (leaving them free to correspond to actions, policies, rules, states of affairs, etc.), nor (ii) the way in which said 'welfares' are grouped (leaving it open to a variety of possible measurement and aggregation mechanism). Admittedly, this leaves us with a rather sizeable number of possible theory types that could fit the bill. However, the actual theory types that are criticized by capability theorists under the banner of 'welfarism' constitute a significantly narrower spread, as they refer to a number of variants on utilitarian theory, applied by economists to a variety of possible distributive schemes. For Sen, welfarism corresponds, therefore, to what he claims to be the second central principle of utilitarianism.[396] He writes:

> "Utilitarianism provides a convenient point of departure in examining moral issues. Utilitarianism can be factorized into the following constituent parts.
>
> 1. *Consequentialism:* The rightness of actions – and (more generally) of the choice of all control variables – must be judged entirely by the goodness of the consequent state of affairs.
> 2. *Welfarism:* The goodness of states of affairs must be judged entirely by the goodness of the set of individual utilities in the respective state of affairs.
> 3. *Sum-ranking:* The goodness of any set of individual utilities must be judged entirely by their sum total."[397]

[396] Sen (1979a) and Sen (1980a) provides us with a thorough explication of his views on a variety of utilitarian variants, as well as their connection to welfarism. However, Sumner (2006: 2-3) identifies the specific commitments that Sen actually attributes to utilitarians at large, by framing their key principles in this restricted manner. Together with a subjective notion of utility, this serves to sketch out a tighter model of what is actually available under utilitarian theory, broadly understood as such. For all intents and purposes, Nussbaum ends up adopting Sen's views regarding these utilitarian variants on welfarism, when she refers to welfarism in a 'generic sense' in her writings.

[397] Sen (1984h: 277-278)

Sen also provides us with a thorough explanation of his understanding of 'welfarism', and of its many afferent characteristics.[398] However, it is clear from the above description that the key modification brought to the generic variant thereof clearly resides with the adoption of the utility object as the selected distributum. This utility object can be classified under two main headings. Under its classical variant, it corresponds to pleasure or happiness.[399] Under its more modern variant (as endorsed by a number of prominent economists[400]), it corresponds to revealed preference, choice, or desire-satisfaction, depending on the theory put forth. In any case, it remains 'thoroughly subjectivist', dealing with the production, endorsement, or relatedness of economic activity, to a variety of mental states. The purpose of welfarism clearly becomes utility 'optimization' (maximisation)[401], such that distribution be handled in such manner as to produce the end-state in which the final utility spread is the best achievable. Furthermore, since welfarism functions as an *informational constraint*, it is claimed that no additional data — other than actual utility data — is required to ensure that the resultant state of affairs be wholly 'morally non-offensive'.[402]

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[398] Sen (1979a: 471-487)

[399] Classical examples include the theories of Jeremy Bentham and John Stuart Mill.

[400] Prominent names include Alfred Marshall, Oskar Morgenstern, Paul Samuelson, and Kenneth Arrow.

[401] I use the term 'optimization' here, insofar as general utility maximization can be achieved by way of a variety of proposed distributive schemes. Sen (1979b) discusses leximin, maximin, and total utility equality, as constituting three possible examples thereof. See also Atkinson (1999: 174-177), for a brief overview of this topic.

[402] Sen (1979a: 471) writes the following "This [welfarism] can be seen as imposing an "informational constraint" in making moral judgments about alternative states of affairs. If all the personal utility information about two states of affairs that can be known is known, then they can be judged without any other information about these states (references omitted)".

Proposed distribution of both variants of the utility object has been subjected to a number of criticisms. Some of these concern the very possibility of accurately capturing the 'manifestation' of this object under its modern variant in people's behaviour, let alone being able to 'distribute' it in any meaningful sense of the term, due to: (1) its fleeting and fickle nature; (2) proposed measurement proxies being inadequate; (3) severe technical difficulties in attempting a satisfactory distribution of unfettered utilities; (4) human beings usually being motivated by many things other than mere egotistical self-interested utility optimization.[403] Others have been more directly formulated by capability theorists in the form of six distinct counterarguments against welfarism. I will concern myself with this latter group of arguments here, disregarding the former. My reasons for doing so are as follow: the latter group addresses the problem of utility distribution at a more fundamental level, causing it to hold priority over the former; successfully answering the latter group entails a significant re-conceptualization of the way the utility object may be selected and distributed — something that also incidentally happens to upset the original argumentative frame of the former group. Hence, once the latter group is successfully debunked,

[403] More accurately, I am referring here to the fact that: (1) preferences and desires are often formed in a manner disconnected from the strict application of rational choice as the entire basis for life planning, and are thus subject to significant change and instability over time; (2) the idea of observable behaviour acting as proxy for revealing preference or choice depends on behaviourism itself being a viable theory; (3) any version of welfarism that simply adopts all utilities as potentially valid invariably needs to answer Arrow's impossibility theorem; (4) crude welfarism assumes a very narrow view of the overall nature of human beings. These various aspects befalling utilitarian welfarism are discussed by Sen in a number of his articles and books: Sen (1973); Sen (1977); Sen (1982d); Sen (1983); Sen (1988b); Sen (1993b); Sen (1995b); Sen (1997); Sen (2009: 174-207, 269-290). A critical discussion pertaining to (1) can be found in Alkire and Deneulin (1998). Also, a brief albeit quite good overview of these topics is provided by Fleurbaey (2006: 71-73), Martins (2006: 680-681), and Hicks (2005b).

the outcome of the exercise also presents the former group with new challenges to address, which would need to be undertaken within its respective areas of expertise.

The six counterarguments against welfarism contained in the second group include the 'inherent value argument', the 'offensive tastes objection', the 'expensive tastes objection', the 'pleasure wizard objection', the 'adaptive tastes objection', and the 'agency argument'.[404] They are classified according to their responsiveness, as based on the desideratum (a, b, c) that they are most directly related to:

First desideratum (a) (inherent desirability of distributive object)

1. The 'inherent value argument' states that the proposed utility object, though potentially quite valuable in itself as one of the recognizable ends of good living (so long as it remains otherwise morally non-offensive), remains but one salient aspect of well-being, and that focusing on its distribution alone would produce states of affairs blind to other concerns of a moral nature that have effectively not been addressed.[405]

[404] A good overview of these is provided by Crocker (1992: 599-602), Dowding (2006: 326), and Nussbaum (2011a: 50-56, 81-84).

[405] Sen (1984h: 512); Sen (1985d: 195-196, 200); Sen (1985b: 33-34); Sen (1987: 60); Nussbaum (1988: 181); Nussbaum (1990b: 213). This argument is also tied in with the 'means-ends' argument (Sen (1985b: 15-16)), whereby utility is considered to be superior to resources at least on the singular account of it representing end-states of human living, as opposed to mere means thereto.

Second desideratum (b) (acceptability of distributive consequences)

2. The 'offensive tastes objection' points out that a sole focus on utility optimization would entail an unacceptable diversion of resources towards individuals whose source of utility generation happens to include goods or activities that are otherwise morally offensive or repugnant, so long as the end-state ends up superior in terms of said utility optimization.[406]

3. The 'expensive tastes objection' points out that a sole focus on utility optimization would entail a potentially unacceptably greater diversion of resources towards those whose utility production happens to rely on absorbing particularly rare, onerous, or otherwise hard-to-come-by resources.[407]

[406] The offensive tastes objection originated with Rawls (1971 [1999]: 23), and has been discussed by Sen (1979b: 210-211), Sen (1979a: 473-477), Cohen (1989: 912-913), and Cohen (1993: 11-16). It essentially states that promoting utilities derived from actions that are nefarious to the well-being of others cannot be dismissed on non-utilitarian moral grounds, by any known proposed scheme of utility optimization, due to the inherent blindness of welfarism regarding the quality of the object (target or originator) of the promoted utilities in question. In other words, it harks back to the original critique, according to which endorsing utilitarianism would permit the torture of one for the enjoyment of the many, so long as the end balance between pleasure and pain would end up greater than under any other alternative.

[407] The expensive tastes objection is first explained in Scanlon (1975: 659-666), is then mentioned in Rawls (1982: 168-169) and Sen (1985d: 196-197), is further discussed at some length by Cohen (1989: 912-941), Cohen (1993: 11-16) and Dworkin (1981: 186-224), and more recently by Qizilbash (1997: 252-259), Robeyns (2000: 10-11), Keller (2002), Dowding (2005: 16-23), and Dowding (2006: 326-323). The problem is compounded by the fact that there are three distinct classes of 'expensive tastes': (1) those aimed at fulfilling desires for strictly non-essential luxury or frivolity; (2) those aimed at fulfilling otherwise luxurious or frivolous desires, but which have been rendered essential by some existing social norms, and; (3) those aimed at compensating some handicap or misfortune, in order to regain some semblance of 'normal living'. A combination of these various tastes with welfarism's lack of any parsing amongst all available utility objects would entail a variety of potentially offensive distribution patterns, due to it failing to take (1), (2), and (3) into account.

4. The 'pleasure wizard objection' points out that a sole focus on utility optimization would entail diverting very little resources towards those who happen to hold very cheap tastes, or who are particularly apt at generating significant utility levels from within what are otherwise considered to be quite dire and below-standard living conditions.[408]

5. the 'adaptive tastes objection' points out that a sole focus on utility optimization would entail diverting resources in a manner that is effectively blind towards the respective quality (and consequent acceptability) of the desires, choices or preferences that people hold, due to the prevalence of psychological coping mechanisms that are responsible for people becoming capable of generating significant utility levels out of a variety of what are otherwise considered to be morally dubious circumstances.[409]

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[408] The pleasure wizard objection is discussed chiefly by Sen (1979b: 203-04, 217), Sen (1984h: 34, 308-309, 318), Sen (1985b: 14-15), and Sen (1987: 45-46), but also briefly by Dowding (2005: 16) and Dowding (2006: 326-327). It functions as an 'inverted version' of the expensive tastes objection, whereby welfarism would fail to take into account possible non-utilitarian considerations in distributing to individuals who are particularly apt at generating great utility levels out of cheap or meagre resources or situations (hence why it is also referred to by two very similar variants known as the 'cheap tastes' or 'small mercies' argument). It is also compounded by a dual classification of 'cheap tastes': (1) those related to additional activities or past-times notwithstanding otherwise decent living conditions; (2) those acting as compensatory mechanisms against otherwise dire circumstances, whereby the pleasure wizard objection effectively links up with the adaptive tastes one below.

[409] The adaptive tastes objection in the context of the capabilities approach is treated in Sen (1979a: 473-477), Sen (1984h: 308-309, 318), Sen (1985d: 188-189, 190-191, 197), Sen (1985b: 14-15), Sen (1990b: 126-127), Sen (1995a: 263), Sen (1999: 62-63), Nussbaum (1988: 181-182), Nussbaum (1990b: 213), Nussbaum (1990a: 62), Nussbaum (1995: 91), Nussbaum (2000e: 135-148), Nussbaum (2001b), Qizilbash (1996a: 154), Qizilbash (1997: 252-258), Qizilbash (2007: 170-173, 180-183), Anderson (2001: 23), Teschl and Comim (2005), Giovanola (2005: 253-259), Sugden (2006: 40-43), and Watts (2009: 426-434). It also links up with a broader body of literature dealing with the concept of adaptive selves. The main recognized problem is that this phenomenon, though not necessarily harmful in itself, nevertheless has the potential to form desires or preferences that are (1) either offensive or (2) unacceptably expensive or cheap, and that are naturally not parsed in welfarism's quest for utility optimization. Naturally, fine distinctions need to be made here,

Third desideratum (c) (distributional compatibility with respect for personal agency)

6. The 'agency argument' states that welfarism, by treating individuals as nothing more than 'mere loci', acting as generators of utility, foregoes vital consideration of their persons as autonomous agents in the world, endowed with the fully endorsable right to act upon (reasonable) self-formed comprehensive notions of the good and correspondent life-plans.[410]

The reader will immediately recognize that the respective tenability of these six arguments depends on the validity of a crucial assumption being made by capability theorists, notwithstanding the obvious fact that generic welfarism is now reduced solely to its utilitarian-based variants: it (utilitarian welfarism) employs inadequate (or inexistent) 'parsing procedures' for the utilities that are to be distributed. Instead, it is depicted as if all utilities, once identified, are treated essentially as equal[411] for purposes of distribution, and as if the sole goal of the

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regarding the time frame of occurrence, actual necessity and beneficence, as well as true cases warranting retroactive compensation, when dealing with preference adaptation. This is required in order to be able to separate truly problematic instances thereof from benign or even beneficial ones, and is discussed at length by Qizilbash (1997) and Clark (2009a).

[410] This argument is captured eloquently by Sen with his liberal paradox. this paradox showed that, within a system of menu-independent social choice, it is impossible to have both a commitment to 'Minimal Liberty', which was defined as the ability to order tuples of choices, and Pareto optimality: Sen (1970); Sen (1982d); Sen (2009: 309-317). See also Rawls (1971 [1999]), Sen and Williams (1982: 4-5), Sen (1985d: 186-187), Sen (1987: 47, 58-60), Subramanian (1995), Hees (2000), and Giovanola (2005: 251-253) on this important topic.

[411] This is not entirely accurate, insofar as utilities are filtered along such criteria as duration, intensity, reoccurrence, etc. However, this filtering only serves the purpose of distributional optimization, and it does not address the properly moral/consequential considerations at play here.

welfarist exercise becomes identifying their optimal distributional spread for subsequent application in real life.[412] This characterization is what I refer to here as 'crude welfarism', and, though an 'enduring cliché' for some, it is highly misleading, and associating it in such manner with welfarism at large entails a significant 'strawmanning' of the competition, with regards to what a fully fleshed-out even solely utilities-based distributive theory of justice is truly capable of.

Indeed, the very idea that all utilities are to be blindly treated as equal is not even something that one can reasonably associate with the writings of the classical utilitarians. In the case of J.S. Mill, for instance, Mozaffar Qizilbash, Sumner, Robert Sugden, and a few others[413] have all argued that Mill was quite concerned with the significant problem of utilities (pleasures) that are either offensive, expensive, cheap, or adaptive, and that this lead him to outline specific selection procedures[414] to ensure that the only utilities that end up promoted are those that are adequately informed and respective of individual autonomy and agency. Furthermore, they also argue that Mill's overall views, when properly understood, actually entail the promotion of a form of 'capability equality' that highlights significant similarities between his utilitarian theory, and the capability theories

[412] Chang (2000: 180) writes "…Sen criticizes any version of welfarism, which deems information regarding "different sources of utility and the motivation underlying it" to be morally irrelevant. Sen argues that this "uncompromising rejection of the relevance of non-utility information" makes welfarism "a very limiting approach." (references omitted)".

[413] Qizilbash (2006: 25-26); Qizilbash (2007: 180); Sumner (2006: 9-10, 12-13); Sugden (2006); Chang (2000: 193-195); Giovanola (2005: 252); Nussbaum (2000e: 140-142); Nussbaum (2001b: 80-85); Nussbaum (2005: 175); Nussbaum (2007b: 8, 15n14, 17n18, 35, 54, 66). Interestingly enough, Nussbaum recognizes these important aspects of Mill's theory, despite arguing that they are ultimately unsuccessful in salvaging his utilitarianism; Sen (2006a); Bénicourt (2004: 77-78).

[414] These involved favouring utilities that have been endorsed by his 'competent judges'.

advanced by Sen and Nussbaum.[415] This notable likeness between a 'refined' welfarist approach that relies on adequate selection procedures for choosing strictly 'choice utilities' for distribution, and the capabilities approach, has been further highlighted by Herrero, Singer, and Dorsey[416], insofar as such an appropriate welfarist variant would end up promoting (and prioritizing), from within its pool of selected utilities, those that are also conceptually equivalent to choice capabilities (depending on which key capabilities — those of Sen or Nussbaum — end up chosen) [417].

While one may thus grant that classical utilitarians did indeed anticipate the six counterarguments levelled against welfarism by capability theorists (to greater or lesser degrees of success), one may still maintain that a characteristic feature of contemporary welfarism, namely 'informational constraint', necessarily precludes the use of any such morally-related parsing data in assessing utility distribution models, and that this effectively re-exposes it to the six counterarguments in question. In other words, to try and introduce any additional non-utilitarian information into the equation would move us further and further away from welfarism.[418] However, I find this argument unconvincing, insofar as I simply see no good reason why one ought to be constricted by this requirement. Just because the original idea was to maintain conceptual and practical 'purity' in

[415] Qizilbash (2006: 23-25, 27-32); Sumner (2006: 7-9, 13-16)

[416] Herrero (1996: 84); Singer (2002: 2-5); Dorsey (2008: 432-436)

[417] More accurately, such a theory would give first priority to the distribution of utilities understood as the desire, choice or preference for the presence of key capabilities.

[418] Nussbaum (2000e: 126-127, 129)

terms of treating everyone as counting equally (with all utilities being treated as equivocal), clearly holding on to this idea becomes rather futile when faced with the onslaught of problems that it engenders. Hence, one can appreciate how conceding the need for filtering utilities along moral lines constitutes a natural move in this case, and why accepting the higher conceptual load that this generates simply becomes a necessary burden to bear for any refined welfarist theory that aspires to be successful.

As a matter of fact, contemporary welfarists, being well aware of these numerous problems, have also proposed a variety of techniques intended to accomplish this very task. These are characterized by their attempts at 'laundering preferences'.[419] Though the ultimate success of these attempts is debateable[420], the difficulties stem, not from the very idea of preference laundering being somehow fundamentally deficient, but rather from said techniques not having been sufficiently developed, consolidated, and fleshed out. But then, what would proper and fully-developed techniques for filtering utilities look like? From the onset, it is clear that such techniques would need to be capable of simultaneously capturing the aggregative effects of all possible utility spreads and their respective consequences, in order that an optimal distribution pattern be selected — one that

[419] Chang (2000: 183-194). See also Anderson (2001: 24-25, 37-38).

[420] Both Sen (1985b: 16) and Nussbaum (2000e: 122-132) express doubts regarding the ultimate success of the respective attempts by Bliss, Harsanyi, Becker, and Brandt at 'laundering preferences' within the welfarist framework. This, despite the fact that Nussbaum recognizes the need and possibility for proceduralism in helping to select choice preferences (135-136), and later incorporates this selection technique as one of her 'approaches to moral reasoning' into her own theory (see *The Morally-Constrained Proceduralist or Informed-Desire Approach* discussed in section 3.8 of the previous chapter).

is, at the very least, *morally optimal*, all other things considered.[421] In this respect, the associated massive informational and regulative requirements for such a task suggest that an approach based on a PIMASA, as discussed in the previous chapter, appears to be the best (and possibly minimal) means required for achieving this end. This is in no way surprising, insofar as the role of ideal observer theory in choosing select utilities constitutes a recurring theme for a number of contemporary welfarists and utilitarians, in their many suggestions regarding utility filtering.[422] However, if one truly were to adopt a PIMASA as the means through which utilities are to be selected, under an optimally refined welfarist variant, what would its respective implications be, and how would it fare against the six counterarguments levelled against its crude variant?

For a glimpse regarding its probable implications, we can extrapolate from the results obtained from section 3.5 of the previous chapter. Following the distinction between universal (hence moral) and personal judgments, regarding the value of a variety of possible states of affairs, and their respective priorities in selecting the ones that are to be brought about, we can conclude that, once all possible utility spreads become assessed, the pool of possible utilities would come to be broken down into two main types: 'essential' and 'non-essential' utilities, as

[421] In other words, such techniques would need to be capable of identifying possible utility spreads that leave no moral remainders behind as a result of the actual act of utility distribution itself.

[422] The relationship between ideal observer theory and their respective theories is discussed by Harsanyi (1982: 39-41, 55), Brandt (see numerous references in chapter three), and Singer (2002: 2). A thorough examination of this very possibility of salvaging utilitarian welfarism by combining it with ideal observer theory-based selection procedures for choosing appropriate utilities is undertaken by Sobel (1994). Though he ends up sceptical with regards to this possibility, this is partly due to him not considering the possibility of employing a PIMASA in order to reach these ends.

corresponding respectively to desire, choice, or preference for (and possibly pleasure or happiness gained from) universally agreed-upon states of affairs, and non-universally agreed-upon states of affairs. Essential utilities would then be given distributive priority at the first-level of distribution.[423] Non-essential utilities could then be entertained as candidates for second-level distribution (for further non-moral levels of social improvement), though this would not be absolutely required.

However, this would also present us with an additional problem that has been identified in that section: Because non-essential utilities would correspond to desire, choice, or preference for states of affairs that are effectively morally-neutral, they could then be distributed following any one of the possible distributive patterns developed by economists thus far, without any negative repercussions occurring along the way (so long as this naturally not undermine the distribution of the essential ones). However, while such a distribution would not be condemned by the PIMASA in any way, *it could not be condoned by it either*. This is because non-essential utilities amount to benign objects of personal fancy or luxury, in the eyes of ideal observers, and, while it is 'neither good nor bad to have them', there is simply no existing mechanism from within the PIMASA that could favour distributing some of them over others.[424] In other words, the PIMASA

[423] If the conclusion of the previous chapter is also correct, then said essential utilities would also include (as a minimum), preference for Nussbaum's central human capabilities.

[424] The only exception would involve utilities that may appear *prima facie* to be non-essential, but whose distribution actually ends up impacting the realization of essential ones. The distributional requirements for such 'transitive utilities' would then be directly linked to their respective impact on the essential ones.

simply offers no arbitration mechanisms for resolving any and all conflicts pertaining to the distribution of non-essential utilities.[425]

These realizations also hold direct implications for the manner and overall success of a PIMASA-based 'supremely refined' welfarist variant in answering the six counterarguments levelled against crude welfarism by capability theorists. Consider the following:

1. Regarding the 'inherent value argument', its actual pertinence would now be reduced solely to non-essential utilities. However, since a PIMASA-based welfarist variant also includes and prioritized essential utilities within its distributive mandate, the allegation according to which welfarism cannot successfully capture other salient aspects of well-being would be effectively defeated by the PIMASA-based welfarist variant.

2. Regarding the 'offensive tastes objection', a PIMASA-based welfarist variant clearly disregards utilities associated with such states of affairs, thereby defeating the objection.

[425] The problem is even starker if one fully endorses such a version of welfarism. For, not only would there be no selective mechanism from within the PIMASA to choose an appropriate distributive spread of non-essential utilities, but no such external mechanism could *ever be morally justified* by way of the PIMASA either. Hence, the arbitrariness of selecting a distributive pattern for non-essential utilities could, in principle, *never be contested* on any moral grounds properly speaking as such, so long as said grounds ultimately lead us back to ideal observer theory.

3. Regarding the 'expensive tastes objection', a PIMASA-based welfarist variant would do the following: first, it would seek a distributive spread that would avoid the endorsement, production, or enablement of non-sustainable ostentatious or onerous tastes required for normal functioning in any society; second, it would seek to compensate, up to a reasonable mean[426], expensive tastes arising out of handicap or misfortune; third, it would remain indifferent, regarding the promotion of any remaining expensive tastes that are otherwise morally non-offensive, so long as the circumstantial possibilities permit it.

4. Regarding the 'pleasure wizard objection', a PIMASA-based welfarist variant simply disregards the intensity of the pleasure gained from utilities as the key (or sole) fundamental ground for establishing distributive priority, in favour of their classification along the lines of essential and non-essential ones. Hence, the objection does not apply.

[426] Indeed, lacking such a proscription would entail an unreasonable diversion of resources towards the compensation of extreme types of handicaps. Arneson (2000: 55-58) observes that this is a problem which threatens to befall the capabilities approach as well, if similar restrictions are not envisaged therein.

5. Regarding the 'adaptive tastes objection', same reply as for the 'pleasure wizard objection', only regarding the non-ideal observer theory based origin of the taste this time.

6. Regarding the agency argument, while the PIMASA-based welfarist variant does place some reasonable restrictions on the types of utilities that individuals are free to pursue, it maintains significant flexibility in terms of the likeness of essential utilities to central human capabilities (inheriting their associated multiple realizability), and by remaining indifferent to non-essential ones.

One can tell from the above tally that a PIMASA-based welfarist variant is significantly more successful at answering the six counterarguments levelled against crude welfarism than other variants that employ no or inadequate filtering procedures for the utilities that are to be distributed. While its rebuttal is particularly successful against counterarguments 1, 2, 4 and 5, it presents some difficulties with counterarguments 3 and 6. There are two main reasons for this. First, whilst a PIMASA-based welfarist variant can correct for otherwise superfluous expensive tastes made unreasonably necessary out of social fancy for the appearance of wealth by distributing in such a way as to mitigate such social tendencies in question, it becomes hard-pressed when faced with cases of severe handicap or misfortune, requiring heavy resource transfers to attain a semblance

of normal living.[427] For, while preference adaptation is a clearly recognizable and 'cheap' way out in such circumstances (at least on the subjective level)[428], it is unclear that distribution *in order to generate such adaptation* is something that can be clearly extrapolated from within a PIMASA. Second, while the multiple pursuit of reasonable comprehensive doctrines of the good is something that can be allowed and even assisted by the inclusion of central human capabilities amongst the essential utilities to be distributed, the PIMASA-based welfarist variant effectively hits a wall when such comprehensive doctrines also seek out non-essential utilities, due to a PIMASA's inability to arbitrate amongst possible non-essential utility distribution schemes.[429]

Hence, the six counterarguments levelled by capability theorists against crude welfarism are highly successful only as long as no serious attempt is made to filter utilities before seeking to optimize them by way of a variety of possible distributive spreads. Once such attempts are duly introduced, however, these

[427] See: Nussbaum (1992: 228); Nussbaum (2006: §§ 2-3).

[428] The many positive aspects of preference adaptation in helping individuals get through life, though only really entertained within the capabilities literature (Sen (1985b: 15); Qizilbash (1996a: 154); Qizilbash (1997); Nussbaum (2000e: 137-138); Burchardt (2009: 7-15)), have actually been explored in much greater detail within the subjective well-being (SWB) literature (Diener et al. (1999); Kahneman, Diener, and Schwarz (2003); Comim (2005: 163-164, 171-174); Schokkaert (2007); Anand et al. (2009)), as well as by many others (Bovens (1992); Sandven (1999b); Sandven (1999a); Teschl and Comim (2005); Berofski (2006); Bruckner (2007)). For example, Watts (2009: 426-434) argues that, while education plays a key role in enabling capabilities and reducing nefarious preference adaptation (426-427), some such adaptation is useful (so long as central capabilities have been enabled) in order to select functioning bundles that are best suited to an individual's particular abilities (427-431). Hence, higher education need not be pursued by all, and choosing some lower level jobs and occupations is perfectly acceptable, even if this stem from preference adaptation, so long as this does not involve severe capability deprivation in the process. The key, therefore, lies in choosing the *ends* of well-being, as opposed to the *means* (431-434).

[429] Note that similar implications also carry forth for any 'supremely-refined' resourcist variant selected by way of a PIMASA, regarding the available justifications for distributing essential as well as non-essential resources, as alluded to at the end of the previous section.

counterarguments lose much of their potency (and this goes without even considering other possible non-utilitarian based welfarist alternatives). Furthermore, it has been argued that the resultant maximally refined welfarist variant would also bear striking similarities to the foundational project, insofar as it would include, amongst its prioritized essential utilities, something akin to Nussbaum's central human capabilities.[430] Its major drawbacks relate to the fact that it could not satisfactorily mandate for one possible distributive spread of non-essential utilities over another, due to the impossibility of arbitrating amongst them from within a PIMASA, and to the fact that it has difficulties accommodating cases of severe handicap or misfortune. While this may be taken as evidentiary of the foundational project's residual superiority over a PIMASA-based welfarist variant, it would be a false conclusion to draw. This is because the foundational project simply avoids distributive questions beyond those pertaining to the central human capabilities, and has similar problems accommodating cases of severe handicap or misfortune, even along its central human capabilities. In most other respects, however, the foundational project and a PIMASA-based welfarist variant appear to be normatively very close, if not outright identical.

[430] Bertin (2005) even went so far as to argue that Sen, despite the articulation of his capabilities approach, actually remains a utilitarian economist.

4.3 The role of agency

The theme of personal agency and autonomy has appeared a number of times in the various discussions surrounding the capabilities vs. resources vs. utilities debate explored in the previous two sections. In particular, both crude resourcism and welfarism have been criticized on the grounds that their proposed distributive spreads entail paying insufficient attention to the need for respect of individual agency and autonomy. In the case of crude resourcism, this was due to the fact that distributing commodities and services in a non-judicious fashion ends up (i) severely handicapping the ability of individuals to convert said resources into a number of valuable functionings, and (ii) severely undercutting any say that individuals may have in determining how said resources *ought be* distributed, in terms of any social-political planning on their part. In the case of crude welfarism, the outcome was similar, though this was now due to the fact that any unfettered form of utility distribution seeking optimization simply undercut any form of tangible personal action in determining which types of preferences, choices, or desires would be tallied up (asides from those salient to the pure utilitarian calculus), and what kind of world this would end up creating.

In essence, both these crude alternatives violate our key liberal intuitions, suggesting that individuals ought to have, not only significant levels of reasonable freedoms in terms of what is available to them in the world, but also in terms of how much they can also end up influencing and affecting the world, in order to transform it (or at least parts of it) into something that is to their liking, as

determined by their respective personal comprehensive doctrines of the good. Refined versions of these alternatives sought to correct these drawbacks by suggesting distribution of resources and utilities that actually end up conceptually *in accordance* with the granting of the liberties in question, all other things considered. Since the stalwart reference point of said liberties resides with the distribution of central human capabilities, for capability theorists, it is also not surprising that astute defenders of refined resourcism and welfarism have suggested that such variants could overcome the multitude of counterarguments levelled against them by at least minimally distributing resources or utilities that end up conceptually equivalent to some such central capabilities in question.

However, there is another matter that comes into play here. The agency-based arguments formulated by capability theorists against resourcism and welfarism *presuppose* that the specific kinds of personal liberties inherent to, and made possible by, central human capabilities, constitute, not only a practical possibility, but also a wholly recognizable worthwhile good, worthy of pursuit by any optimal distributive theory of justice. Indeed, the foundational project is also supported by a specific (if not *tacit*) underlying theory of agency and personal autonomy, insofar as it carries with it a number of metaphysically-based normative presuppositions. This is made evident by its proposed distribution of central human capabilities, aimed at enabling significant levels of individual planning and choice, by furnishing persons with the materials by way of which they can then select, from a variety of possible capability and functioning bundles,

those that end up constitutive of what will eventually become their agency-in-the-world.[431]

The problem is that these underlying presuppositions, and their normative outcomes, are not shared by all. Indeed, it has been argued, by a number of authors, that the type of *methodological individualism* inherent in the very conceptual fabric of the foundational project reflects a number of flaws of varying degrees of severity. Firstly, Phillips, as well as Fabre and Miller, draw our attention to the specific (and unproven) metaphysical presuppositions regarding the very existence of personal autonomy in humans, as assumed by Nussbaum in her foundational project.[432] Secondly, though not outright unsympathetic to the foundational project, Stewart and Deneulin have nevertheless argued that 'structures of living together' (and not just the presence of capabilities) ought to constitute an additional space of evaluation for assessing the quality of life, and also one which may be influenced by development policies.[433] Thirdly (and more strongly), Uyan-Semerci has emphasized the fact that we are embedded in a cultural, social and religious environment, and that this both precludes, as well as

[431] The specific parameters and limitations of such selection have been explained in the second part of chapter two. The role of personal autonomy in Nussbaum's foundational project is also discussed briefly by Dorsey (2008: 434-440), and elaborated in greater detail by Alkire (2005a) and Hinchliffe (2009). See also Anderson (2001: 36-38) on the formation of personal agency and the creation of preferences, in the context of Sen's capabilities approach. The particularities of Sen's concept of agency are outlined by Gore (1997: 239-243). Specific limits and drawbacks to Sen's concept of agency are explored by Gasper (2000: 997-1000). For an overview of the main threads of discussion pertaining to the notions of agency and personhood, proper to the capabilities approach, see Clark (2005a: 9-10).

[432] Phillips (2001); Fabre and Miller (2003: 8-9)

[433] Stewart and Deneulin (2002: 66-68); Deneulin (2006). This is a complex topic, insofar as such structures can be very intricate, and measuring them requires significant theoretical as well as practical work, as demonstrated by Alkire (2005a). Closely related claims are developed by Nelson (2004), Jackson (2005), and Cleaver (2007), as well as by Ballet, Dubois, and Mahieu (2007).

influences (to a significant degree), any kind of 'free independent autonomy' that we may be able to acquire. In response, she emphasizes the fact that many cultures adopt a 'relationality' approach to human coexistence, which, together with the notion of 'crowded selves', reflects how some individuals think in the collective (we) as opposed to the singular (I). She then carefully demonstrates how this intricate relationality actually permeates each of Nussbaum's central capabilities.[434] Finally, Nelson argued that strictly defined autonomy (if it exists) and redistribution are not mutually compatible, neither under Rawls' theory, nor under capability theories.[435]

The existing philosophical body of literature on the important questions of agency and autonomy is sizeable, and any serious attempt at fully rebutting these various worries would require development stretching well beyond the scope of this present chapter.[436] I will therefore limit myself here to proposing a number of possible avenues of defence that proponents of the foundational project can adopt in seeking at least to appease, if not outright alleviate, these various communitarian claims.

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[434] Uyan-Semerci (2007: 206-215). Related claims regarding deficiencies and incompleteness in the capabilities approach's conception of personhood and self are also made by Gore (1997), Gasper (2002: 449-454), and Iversen (2003). A possible avenue for overcoming the potential effacement of individuality generated by this embeddedness is envisaged by Davis (2002).

[435] Nelson (2008: 115)

[436] This is partly due to the fact that, in addition to the greater body of literature dealing with metaphysical questions of personhood, free will, freedom of choice, etc., these specific criticisms of the agency aspects of the foundational project also plug into the additional body of literature concerning the 'communitarian critique of liberalism'. Bell (2005) provides us with an overview thereof.

Let us begin with the first and strongest argument, namely the metaphysical one. To properly address it, this argument first needs to have its two respective underlying presuppositions disentangled. The first one concerns the need for the actual metaphysical existence (and demonstration thereof) of some sort of fundamental agency-based personal autonomy. However, that is not something that is actually required by the foundational project. The foundational project does not require (or even envisage) that individuals act as 'self-creating locus of the self', capable of literally 'creating themselves out of thin air', without any regards to their genetic, physical, psychological, educational, and socio-cultural environmental origins, influences, and various other considerations. Quite to the contrary, the foundational project recognizes the profound embeddedness of individuals within these various existential spheres, and fully understands the need for procurement of a variety of specific materials and spaces for the creation of the adult self. This is evident in its proposed distribution of central human capabilities which act, both as said material, as well as said space, within which these adult selves in question are then capable of forming. Consequently, the foundational project only requires endorsing the modest existence of the possibility of full-fledged adult agency formation with the specific aid provided by procurement of central human capabilities — and that is an aspect of the development of human beings which one would actually be hard-pressed to argue *against*, as opposed to be forced to demonstrate at some fundamental metaphysical level. Hence, one actually only needs to be a 'soft', as opposed to a

'hard', realist, with regards to the existence of human agency-autonomy, to support the possibility of the foundational project.

The second presupposition concerns the underlying idea that demonstration of the metaphysical existence of human agency-autonomy would somehow serve to provide support for the endorsement of the foundational project. This presupposition is flawed on two accounts. First, Nussbaum has already explored the significant difficulties involved in making any kind of successful demonstrations regarding the actual existence of fundamental metaphysical truths in her discussion on the kind of Aristotelian 'essentialism' that she envisaged as one of her early moral justification techniques for the foundational project.[437] Naturally, these same problems carry over for anyone attempting a similar hard-and-fast demonstration of the *bona fide* essentialist foundations for the existence of human agency-autonomy. Second, even if the metaphysical existence thereof were to somehow become demonstrated, that would still not aid the advocate of the foundational project because of the (in)famous 'is-ought' problem, which states that a properly justified normative claim simply cannot be inferred from an actual observable state of affairs (hence one cannot derive an 'ought' from an 'is').[438] It would thus only serve to show that the kind of agency-autonomy that Nussbaum envisaged as an underlying condition

[437] This is given a long and careful treatment in Nussbaum (1992). See also Walsh (2003) on this complex philosophical topic, in the context of Sen's and Nussbaum's specific versions of the capabilities approach.

[438] The 'is-ought' problem is originally attributable to David Hume, and later saw further development under G.E. Moore's 'naturalistic fallacy'. For a good overview of the present state of discussion on this topic, see Curry (2006). See also Walsh (2003: 326-330) on this.

for her foundational project is most-definitely, at the deepest and most fundamental level, *quite possible* — but not that this also automatically makes it something worthwhile to endorse. Something more is needed and this is where we need to look at the next argument.

Moving on to the general 'embeddedness of human living' argument, three distinct sub-claims can be derived from it. The first states that the foundational project takes inadequate account of this embeddedness in articulating its plans for central capabilities-based agency-autonomy. The second states that this embeddedness severely handicaps the ability of individuals in exercising said central capabilities-based agency-autonomy in question. The third states that embedded individuals have access to some form of (collective) moral truth that ultimately questions or contradicts the moral goodness of implementing the foundational project. Responding to the first claim, while conceding its relevance and importance, one only need to point to the actual high degree of holistic consideration that comes into play in articulating the foundational project, especially with regards to the nature of the central human capabilities themselves, and (most importantly) to their *multiple realizability*.[439] Responding to the second, one need to point to the fact that, if the foundational project truly does constitute a morally-justifiable distributive theory of justice (as has been argued at length in the previous chapter), then any 'disturbance' that this may cause to the embeddedness of individual lives constitutes a possibly unfortunate, yet quite

[439] Alexander (2003: 11-15); Giovanola (2005: 259-265); Robeyns (2005b); Qizilbash (2007: 93-97, 182-183). See also section 2.2 of chapter two on this.

justifiable, consequence of moving towards greater states of generalized well-being. Responding to the third, one simply need to refer oneself to the ultimate moral justification for the foundational project, as derived from running it through a PIMASA, as explained in the previous chapter. Hence, if all salient information is included in the process (including that proper to the alleged collective moral truth available to imbedded individuals) and the foundational project still comes out on top, then the moral goodness of implementing the foundational project trumps such other considerations in the end.

Turning now to the final argument, regarding the alleged incompatibility between strict autonomy and redistribution, it is important to emphasize that this is something that is, in fact, fully realized by proponents of the foundational project. Indeed, the specific type of autonomy made possible by the foundational project is only of the 'select capability type', and it only concerns the natural outcome of universal distribution of central human capabilities. Furthermore, it is clear that strict unfettered individual choice in deciding whether to have the foundational project 'dropped on one's head or not' is not something that is envisaged as desirable by proponents of the foundational project, nor is this in any way denied. Indeed, the previous chapter emphasized the overriding quality that application of a PIMASA in vindicating distributive theories of justice bears on the limits of individual freedom of choice, together with strong consideration for why this is something that is perfectly defendable. Hence, while conceding the existence of a fundamental level of incompatibility between strict autonomy and

redistribution, the same cannot be said for capability distribution and capability distribution-derived resultant autonomy, as conceptualized within the foundational project.

These various possible avenues of rebuttal, though only formulated here at a very basic and embryonic stage, can nevertheless serve to show that communitarian arguments against the conceptual foundations underlying the specific notions of agency and autonomy, as found in the foundational project, are either unfounded (as in the case of the metaphysical one), or weaker than they first appear (as in the case of the embeddedness one and of the alleged incompatibility between autonomy and distribution one). While it remains true that methodological individualism remains a key feature of the foundational project (and of the capabilities approach in general), this does not imply that the foundational project actually condones a form of individualistic egoism or socio-cultural atomism. Quite on the contrary, Sen, Nussbaum, and other capability theorists are well aware of the severe problems and drawbacks that appear in various societies where these tendencies tend to take over or end up reigning supreme, and they remain succinctly aware of the need to retain and preserve a variety of existential spheres (family, group, religion, affiliation, etc.) around human individuals, in order for them to be able to lead healthy, worthwhile, and fulfilling lives.[440] This being said, the foundational project unashamedly retains the

[440] Their main gripe (expressed most strongly by Nussbaum) concerns a number of situations where ill-founded demands placed by such existential spheres end up harming the individual in a variety of ways. Sen (2009: 244-247) also responds in like fashion.

key philosophical principle that individual human well-being *within a well-ordered society* — as opposed to outside of, or to the detriment of, such a society — ought to become one of the key goals of any worthwhile distributive theory of justice. And if this perspective is correct (as I believe it is), then it also entails that the agency argument formulated against crude versions of resourcism and welfarism continues to stand unabated.

4.4 Selection procedures revisited

I have argued in the previous chapter that the optimal method for selecting an appropriate theory of distributive justice should involve running all proposed candidates through a PIMASA, and I have provided evidence for why multiple moral arguments formulated in favour of the foundational project would pass such a test. I will now make the further claim that the very idea of utilizing conditions of ideal observation in determining the appropriate distributive object and spread for any tangible distributive theory of justice constitutes a key reoccurring theme in the capabilities vs. resources vs. utilities debate as well.

Evidence for this assertion can be gathered from the following facts: First, the reader will notice that the variety of arguments formulated against crude versions of resourcism and welfarism essentially amount to stipulating that their proponents failed to fulfill a number of conditions of ideal observation, in articulating their proposals. Hence, if the ultimate desirable end-state is the distribution of capability-freedoms, then it is only natural that crude (direct)

resources and crude (unfettered) utilities are, not only inadequate at the fundamental level, but also that their distribution would invariably lead to a variety of undesirable consequences, and violate a number of aspects proper to the preservation of, and respect for, personal agency and autonomy. Second, the reader will also notice that the various progressive refinements proposed by defenders of resourcism (abstraction from commodities and services to basic needs, to Rawlsian primary goods) and welfarism (ongoing development of utility selection procedures and limitation criteria) are illustrative of them becoming more and more cognizant of these various drawbacks, and essentially seeking to reformulate their theories in light of conditions of ideal observation, all the while holding on, as far as possible, to the core conceptual aspects thereof. Third, I have also made clear that allusions or references to ideal observer theory in selecting an appropriate distributive object already exist in the writings of a number of prominent resourcist and welfarist candidates.

Hence, the idea of utilizing ideal observer theory pertains, not only to the moral justification of the foundational project, as explored in the previous chapter, but also to the outright resolution of the capabilities vs. resources vs. utilities debate. An appropriate move would therefore involve not only making allusions and references to it, but actually supplementing the entire debate as additional data to be fed into a PIMASA.

Conclusion:

The very idea of distributive justice constitutes a key theoretical theme for capability theorists, and a central aspect of Nussbaum's foundational project. It is therefore only natural that one of the central tasks involved in the global defence of the overall preferability of the foundational project involves defending it against other 'competing' distributive theories of justice. However, while capability theorists selected three perfectly reasonable desiderata against which to judge the competition, their actual portrayals of said competition left much to be desired in terms of their true strengths and possibilities. Indeed, while the numerous arguments formulated by capability theorists have been shown to work quite well against crudely defined resourcist and utility-based welfarist variants, one can also see how they lose much of their potency, once said variants become sufficiently refined. Also, it has been shown that very highly refined resourcist and welfarist variants either do end up, or would end up, conceptually (or at least normatively) very similar to the capabilities approach.[441]

This primary and highly important revelation holds significant implications for all advocates of the foundational project: on the one hand, the original claim that the foundational project is superior to resourcism and welfarism, on a variety of alleged grounds, ends up disappearing; on the other, the main reason why the foundational project is no longer superior to resourcism and welfarism is precisely

[441] Indeed, Qizilbash (2002b) and Clark (2005b) illustrate the considerable common ground underlying these various approaches, as well as their basic motivation.

because refined resourcism and welfarism end up very much akin to the capabilities approach. In other words, capability theorists lose one argument, but gain another. Hence, if the probable outcome of running all possible distributive theories of justice through a PIMASA truly does ends up producing a final theory that warrants the distribution of something akin to central human capabilities, as a bare required minimum, then that constitutes a significant point in favour of the foundational project.

However, the theoretical use of a PIMASA in selecting the best possible distributive theory of justice also reveals some additional limiting implications. First, we have seen that the problem of compensation for severe handicap or misfortune constitutes a problem, not only for resourcists and welfarists, but also for capability theorists. If such situations constitute genuine cases of 'hard choices' or 'irresolvable tragic dilemmas' (see section 3.2 of previous chapter), then no possible distribution of any of the proposed objects (whether refined or not), under any of the proposed spreads, can resolve them satisfactory, and no gracing justification for them can ever be granted by way of a PIMASA. Second, we have seen that, whereas a PIMASA can be used to justify minimal distribution of central human capabilities, it can neither condone, nor refute, any additional possible distributional spreads over-and-above that initial one. Hence, any remaining resources, utilities, or capabilities (however conceived) could then end up distributed in any variety of possible ways. These could follow strict equality models of distribution, difference principle models, desert models, libertarian

models, or any of the other possible existing spreads that have been proposed thus far in the relevant literature. The problem is that, no matter what model would end up adopted, no moral assessment and ultimate justification nor condemnation thereof could ever be reached by using a PIMASA. Finally, we have seen that the notion of a 'person', as utilized by capability theorists in the articulation of their approach, and as implied in their criticisms of crude resourcism and welfarism, is by no means as clear cut or problem-free as they thought it would be. Though some preliminary avenues of defence have been suggested here, significantly more development on this topic needs to be undertaken before the capabilities approach becomes endowed with a truly solid conceptual foundation, regarding this specific underlying theoretical aspect thereof.

Ultimately, the capabilities vs. resources vs. utilities debate amounts to a *false trilemma*. There is no inherent conflict present there, insofar as each theory can be duly and fairly articulated as advocating the minimal distribution of what corresponds to (at least) central human capabilities. While this is certainly a positive development for advocates of the capabilities approach, the additional implications discovered thereby serve as a cautious reminder of the inherent limitations of any distributive theory of justice that essentially focuses on the distribution of some *basic minimum*, and either omits or ignores what is to be done over and above it, in the rightful organization of social living and justice for all.

Chapter 5: Addressing the challenge of the Realpolitiker

Introduction:

In the previous chapters we have explored two key obstacles to the practical realization of Martha Nussbaum's foundational project. These include specific theoretical as well as moral drawbacks that have been identified, either directly with her foundational project, or with the capabilities approach in general. Hence, conceptual problems of ambiguity and underdetermination befalling the capabilities metric have been shown to be caused by a rather loose and inconsistent use of the various capabilities terms by capability theorists themselves. In response, I have suggested that capability theorists stick to a standardized account of the capabilities metric in order to overcome these various problems, and I articulated a sketch of what such an account would look like. Regarding the variety of argumentative strategies employed by Nussbaum to morally defend her theory, I have shown that these are founded on a tacit endorsement of ideal observer theory, and I argued for the full-fledged use of an institutionalized form of ideal observation (PIMASA), in order to arrive at a final verdict regarding the overall moral value of Nussbaum's foundational project. In passing, I also made an anticipatory assessment of the probable outcome of such an exercise, together with specific consequences for the foundational project. Finally, as an important extension to the moral class of drawbacks befalling the foundational project, I explored the alleged superiority of the capabilities

approach over existing resourcist and welfarist competitors, and found it to be rather unfounded. However, this was done in light of the startling revelation that refined versions of resourcism and welfarism appear to endorse a form of capability distribution as well, effectively conceding the inherent superiority of capabilities in the long run.

The third obstacle standing in the way of full implementation of Nussbaum's foundational project is of the institutional variety. More accurately, a number of authors have observed that Nussbaum holds a rather naïve view of the actual role and intent of governments, as well as a variety of non-government organizations, and their various institutional branches and affiliates, in helping to implement the foundational project. In particular, it is argued that the nature of *power-relations* at this key level of society is severely overlooked by Nussbaum, and that a proper focus on the creation of desirable *power-equilibria* constitutes a quasi-unavoidable move, if such institutional actors are to be at all helpful in practically implementing Nussbaum's foundational project. Hence, this last chapter is divided into four sections, intended to explore and suggest a number of further avenues of development pertaining to this all-important and quite difficult topic. The first enumerates the recognizable blind-spots in Nussbaum's thinking at this level, together with the variety of nefarious consequences that this can engender if she attempted an 'as is' practical implementation of her capabilities approach through the presently existing powers that be. The second proposes that a greater focus on the creation of desirable power-equilibria, based on key

principles of Realpolitik[442], can help to avoid such nefarious consequences, and orient said institutional actors in a manner that is beneficial to the honest implementation of her project. The third explores specific unavoidable problems that a hypothetical transition from current states of affairs to global capabilities distribution would necessarily entail, and the hard-choice consequences incurred thereby. The fourth examines some key characteristics of the optimal type of political regime(s) that this would require. Together, these four sections serve to sketch out important lines for further development regarding what needs to be done at the institutional level in order for Nussbaum's foundational project to be capable of as smooth and honest an implementation as would be realistically possible.

5.1 The variety of power-relations and Nussbaum's many blind spots

Although dealing here specifically with Nussbaum's version of the capabilities approach in relation to the 'institutional challenge', this is actually a general problem that has been identified in the work of capability theorists as a whole. Two main observations need to be made concerning this problem. First of all, the problem of power-relations is one that is usually taken to be either misunderstood, overlooked, inadequately examined, or sometimes downright ignored by capability theorists. Secondly, practically all proposed solutions to

[442] I utilize this term in a rather restrictive manner here, pertaining to specific discussions whereby various failings of the capabilities approach are identified as contrasted against a number of precepts of political realism. How and which of these apply directly to the discussion at hand will become clear along the way.

overcoming these drawbacks are of the 'Realpolitik' variety, meaning that they suggest the realistically-based implementation of appropriate forms of power-equilibria in order to bring about states of affairs where none of the interested parties involved is in a position to yield excessive levels of power, so as not to be able to disrupt the desirable social-political and economic equilibrium that is to be reached (or has been reached), for purposes of personal gain or benefit.[443] I return to this second aspect of the problem in the next section of this chapter. In the meantime, it is highly informative to examine the many observations that have been made in this regard, in the respective works of Amartya Sen and Martha Nussbaum.

With regards to Sen's capabilities approach, Frances Stewart and Severine Deneulin claim that it endorses an 'idealistic' concept of democracy, where there is an absence of political power, political economy, and struggle.[444] When dealing with political economy, for instance, they observe that:

> "Some of the most important issues today concern the way "market forces," often at a global level, are influencing decision making, both within national democracies (and also non democracies) and in the determination of the global rulemaking of international agencies. But market forces here do not refer to the

[443] This is in opposition to more 'idealized' or 'utopian' suggestions, where it is believed that the inherent struggle for power and domination can be overcome by seeking forms of collective enlightenment (as characterized by Kant's 'project for perpetual peace', for instance). While it would be unfair to dismiss such possible avenues outright, most of the relevant capabilities-related literature dealing with this matter positions itself rather squarely within the camp of Realpolitik, and I consequently deal with it as such. Indeed, despite its central tenets regarding the natural underpinning of human societies by power-struggles and power-relations, Realpolitik and its broader underlying field of political realism span a rich tradition with a significant variety of views, as illustrated clearly by Gilpin (1984). In this context, a good (brief) overview of a number of important avenues critical of pure Realpolitik along feminist lines is provided by Chung (2008).

[444] Stewart and Deneulin (2002: 64)

> supply and demand for goods and services depicted in textbooks, but the influence of large corporations on political decision making, through the financing of political parties, direct representation in powerful political parties, ownership and use of the media, and (probably of least importance) explicitly corrupt practices. The current outcome is a political system that increasingly favors global capitalism."[445]

Furthermore, while democratic consensus has been envisaged by Sen (as well as by many other capability theorists) as a possible tool for bringing about positive change, Stewart and Deneulin have the following to say about it:

> "In principle, the capabilities approach looks to democratic consensus to bring about the change needed. But a democratic consensus may not be able to achieve this (for some reasons mentioned in the first part of this essay). Here we would especially draw attention to the difficulties posed by the overwhelming power of large corporations which in many contexts shape the democratic consensus, while the locus of decision making (often a small individual nation) lacks the autonomy to make such decisions on its own. Decisions that challenge the capitalist system in a substantive way can only be effected by groups that wield power comparable to that of the interest groups being challenged. As noted, this almost invariably requires collective action of one kind or another."[446]

This being said, the authors are not dismissive in an outright manner of the importance and capacity of democratic freedom in bringing about such desirable change. Indeed, in a later article, Deneulin articulates the many ways in which democratic freedom is seen as a key component of capability selection, in allowing a PIMASA to do its function. The author even argues (albeit somewhat crudely) for

[445] Ibid (68)

[446] Ibid (69)

something along the lines of PIMASA-like procedures of public participation to do the job. However, she also claims that excessive political freedom at the expense of proceduralism can actually lead to capability deprivation, which is due to existing power inequalities in the exercise of political freedom skewing the balance. The author argues that proper proceduralism can prevent this by hedging the power of all participants involved in the process, hence achieving the very sort of 'power-equilibrium' that interests us here.[447]

Many diverse observations of a similar nature have also been made by a number of additional authors. Hence, Shyam J. Kamath shows that development can help alleviate unequal power relations by giving practical examples of positive changes that have taken place in three Indian states, though later commentators tend to be more careful regarding this claim.[448] Vincente Navarro's careful and in-depth examination of Sen's *Development as Freedom* illustrates how the absence of an analysis of the power relations that cause and reproduce underdevelopment through national and international political institutions leaves Sen's work wanting. This is performed in the context of a careful analysis of Sen's five instrumental freedoms, presented in his *Development as Freedom*.[449] Stuart Corbridge alleges that problematic areas in Sen's work revolve around his treatment of authoritarian rule, of the rights to difference of certain social groups, and of political power (amongst others). This is specifically done here in the context of

[447] Deneulin (2005a)

[448] Kamath (1999)

[449] Navarro (2000: 665-674)

socio-cultural and gender-based power struggles and resultant inequalities, as has permeated much of Sen's work (A similar albeit more sympathetic claim has also been made by Des Gasper[450], regarding Sen's take on power-relations and the various problems associated with authoritarian rule).[451] Marianne Hill argues that, while Sen's capability approach to human welfare recognizes the impact of social institutions on human capabilities, as an evaluative framework it does not analyze the role of institutionalized power in causing or perpetuating inequalities in individual opportunities to achieve.[452] Christine Koggel suggests that we need to add further levels of complexity when we examine how global forces of power interact with local systems of oppression in ways that often limit women's freedom. The author illustrates this specifically within the context of women's paid work.[453] Elaine Unterhalter illustrates how a superficial understanding of the school context by capability authors (by overlooking existing underlying power-relations) undermines the capabilities approach's abilities at enabling capability freedom. This is done by using the South African context as a test-bed.[454] Emmanuelle Bénicourt claims (albeit briefly) that Sen holds a rather superficial market-based notion of the role of the state in implementing capabilities. The author claims that Sen's envisaged role for the state is effectively limited to 'activating' market forces which will then self-stabilize through the process of 'free

[450] Gasper (2000: 996)

[451] Corbridge (2002: 203-208)

[452] Hill (2003)

[453] Koggel (2003)

[454] Unterhalter (2003a)

competition', such that 'all will be well' afterwards. Any further forms of envisaged state-intervention are minimal and limited to correcting possible remaining small deficiencies that this autonomously-running system may exhibit.[455]

Jay Drydyk argues that development can be democratically dysfunctional in three ways: exclusion from political activity, lack of influence by political activity over decision making, and lack of effect on capability shortfalls within the community. He concludes that the debate on participatory development points to dysfunctionalities of all three kinds, even within participatory development. Therefore, rather than merely calling for development to be more participatory, he suggests that we ought to call for it to be more democratic, by way of the capabilities approach.[456] Deneulin demonstrates how existing power inequalities hamper the ability of individuals to successfully exercise their political freedom of democratic participation. She also argues that such exercise can actually lead to decisions that end up hampering the actual freedoms of individuals. She proposes a type of procedural (as opposed to a solely consequential) mode of assessment of development policies, based on the four requirements of *phronesis*, in order to monitor to what extent the exercise of political freedom successfully promotes human freedoms in political communities.[457] Shelly Feldman and Paul Gellert argue that attention to state forms and practices, as well as unequal power relations, must be incorporated into analyses of capability and development,

[455] Bénicourt (2004: 81-83)

[456] Drydyk (2005)

[457] Deneulin (2005a: 77-89)

which leads them to support Sen's advocacy of deliberative democracy as a productive space for collectivities and individuals to strive for social justice and equity. Such a focus is necessarily attentive to multiple forms of inequality and domination, and is best understood by engaging historically specific analyses of state formations.[458] Stephen Porter and Jacques de Wet explore the relationship amongst all agents participating in development as one essentially based on power-relations and power-struggles. The authors suggests that the guardians of development can be 'guarded' by having the capability approach strengthened by drawing on the literature of deliberative democracy, and by synthesizing the capability approach with a rights-based approach, whereby adequate implementation of the capabilities approach can best help to guard the guardians.[459] Finally, Alexandre Apsan Frediani argues for the need to incorporate power relations into the capabilities approach in order to make it more suited to development economics, and he examines five specific types of 'power modes' that can clarify this. In doing so, the author also provides us with a rundown of the main figures involved in examining and highlighting the intimate links between power, agency and autonomy.[460]

Together, these many authors all press forth the common claim that there is a recognizable and rather serious failing in Sen's overall understanding and

[458] Feldman and Gellert (2006)

[459] Porter and Wet (2009)

[460] Frediani (2010: 180-181). This important topic is also explored in greater depth by Iversen (2003) and Cleaver (2007).

analysis of the depth and extent to which existing power-relations, as well as power-imbalances, at various levels and strata of society, seriously upset (or threaten to upset) the proper implementation of the capabilities approach.

Because of its close ties to Sen's capabilities approach, Nussbaum's foundational project is also affected by these various observations. However, because she envisaged and advocated for an even stronger governmental role in implementing and sustaining her more narrowly delimited version of this approach than Sen ever did, critiques of this type are all the more pertinent when it comes to her theory. This is further reinforced by authors who have taken on Nussbaum's foundational project directly with regards to these specific issues. Hence, Henry S. Richardson claims that the role of social institutions in establishing international justice is underdeveloped by Nussbaum.[461] Similarly, Phillip McReynolds recognizes the specifically authoritarian danger associated with implementing Nussbaum's capabilities approach.[462] Marianna Papastephanou argues at some length that Nussbaum's idea of the role of cosmopolitan education in overcoming biased points of view is plagued by shortcomings (ethnocentrism and patriotism, which Nussbaum claims it avoids), and she presses for an implementation of a historical-relational dimension to Nussbaum's account, in order to overcome its biased qualities.[463] Michael Skerker warns against

[461] Richardson (1998: 260-261)

[462] Mcreynolds (2002: 146-148)

[463] Papastephanou (2002). This is especially important, insofar as a proper education is one of the first tools in allowing for a subsequent balancing of power-equilibria, since it prevents interested parties from brainwashing individuals into accepting subservient and unfair positions in the social order.

incompatibility and potential for abuse in a government-backed implementation of Nussbaum's capabilities approach, especially when concerning a number of traditionally-minded communities.[464] Andrea Boggio shows that the problem of power differentials is illustrated eloquently by transnational human rights litigation, as relate to the capabilities approaches of Sen and Nussbaum (in particular, it is argued that countries, as well as individuals, from which such claims originate, will be discriminated against by more powerful actors (namely companies), who are threatened by said litigation).[465] Finally, Tony Fitzpatrick alleges that Nussbaum underestimates all that it takes to overcome injustice at the various levels of society.[466]

While these specific observations have all had their notable effect, the most complete and direct criticism of Nussbaum's capabilities approach along the lines of power-relations has been formulated by Nivedita Menon. Menon demonstrates quite clearly that Nussbaum's overwhelming reliance on (and belief in) state power betrays a certain naivety regarding the extent of benevolence expected from such institutions, as well as blindness to the dangers of corruption of initial intent, abuse, and eventual tyranny. She illustrates this by way of many examples based on specific statements and claims taken directly from Nussbaum's *Women and Human Development*, showing a gradual slide towards granting more and

[464] Skerker (2004)

[465] Boggio (2006). A local procedural solution is presented as preferable by the author, following the lines of the capabilities approach specifically.

[466] Fitzpatrick (2008: 91)

more license for the state to intrude into people's lives — which involves transferring many powers of decision to the state — while simultaneously attempting an (unsuccessful) reconciliation between paternalism and freedom of choice. Such examples include state coercion when enforcing the choices of children upon parents, as well as decisions regarding building codes, food, medicine and environmental contaminants based on the dubious allegation that that is not something that citizens are at all capable of determining for themselves, all the while itself engaging in such nefarious actions as toxic dumping and submitting their populations to dangerous activities like uranium mining, nuclear power plants and research for chemical warfare.[467] The author also points out that Nussbaum's specific notion of the state follows Charles Taylor's interpretation of Hegel's fully rational state — a naïve concept based on a state's benign representation of people's will in matters of governance. She argues that this is not possible in practice, basing herself on an example of the impossibility of legitimizing individual non-religious beliefs that go against state laws over 'legitimate' religious ones, insofar as doing so "would quickly make a mockery of drug laws, of mandatory military service, and many other laws of general applicability' (p. 208)." [468] Furthermore, Menon reaffirms that Nussbaum's assumption of the state holding legitimate monopoly over coercion is especially problematic and dangerous, as illustrated by the specific cases of her endorsement

[467] Menon (2002: 154-155). These are just some of the dire outcomes that can arise out of so-called 'state benevolence'.

[468] Ibid (158)

of mandatory military service[469], and of the role Nussbaum envisages for the state in the education of children, as mentioned above[470].

Menon then further reinforces the validity of all these points above in a detailed example of the debate in India on the conflict between the rights of women and that of religious communities. It shows, both the dangers of ceding too much power to the state in a quest to improve justice, together with Nussbaum's many misunderstandings of the situation leading to potentially dangerous policy suggestions on her part.[471] Finally, the author observes that Nussbaum's idea that nations that have endorsed the foundational project export it to others through force if need be fails to realize that the only nations capable of doing so right now are especially powerful ones, whose goals in foreign policy are often far from benevolent or benign, aimed squarely at preserving their national interests. The following quote drives this point home:

> "The universalism espoused by Nussbaum includes the idea that nations which have adopted this account of human capabilities should 'commend this norm strongly to other nations', using whenever necessary 'economic and other strategies to secure compliance' (p. 104). The only nation in a position to 'secure compliance' today is the United States of America. Thomas Friedman puts it succinctly when he says 'The hidden hand of the market will never work without a hidden fist . . . and the hidden fist that keeps the world safe for Silicon Valley's technologies to flourish is called

[469] Ibid (157-160). This case is especially problematic, not only from the point of view of serious capability removal for the draftees, but also when one considers that Nussbaum advocated the use of military force in order to enforce the foundational project in extremely dire cases of human rights violations.

[470] Ibid (158-159)

[471] Ibid (160-163). This section brings to light some of Nussbaum's superficialities and remaining stereotypes regarding Indian society (166, 168), which ultimately mar her otherwise highly accurate appraisal of the situation at hand.

> the US Army, Air Force, Navy and Marine Corps'. The US as global champion of universal human rights cannot but be seen in this context, with its selective regime of sanctions and human rights conditionalities protecting the interests of American and multinational corporations all over the world."[472]

Menon concludes her extensive critique with the following stark summary:

> "In short, Nussbaum's capabilities approach, functioning in a vacuum where power is absent, fails altogether to come to grips with political realities, and not in India alone. Since Nussbaum presents this approach as a basis for policy recommendations in the interests of social justice, the failure is even more stark. The core reason for the failure, it seems to me, lies in its *a priori* characterization of the state as benign, the privileging of liberal individualism and the naturalization of culturally specific norms designated as 'universal' in an abstract space."[473]

In other words, it is absolutely crucial for Nussbaum to take these very important aspects of power-relations into careful consideration if her foundational project is to avoid becoming another well-intentioned philosophical project that ironically ends up sanctioning various levels of state-backed injustice. How this may be accomplished is explored next.

[472] Ibid (164)

[473] Ibid

5.2 The quest for desirable power-equilibria

One of the most important things to realize from the observations made by the numerous commentators above is the need for achieving appropriate forms of *power-equilibria* in order to avoid the many nefarious consequences that an unfettered form of the foundational project is likely to engender. In this vein, it is notable to observe that there is no proposal to discard presently existing institutional structures outright.[474] Quite to the contrary, the need for various forms of institutional backing, in order to serve as an underlying framework for the implementation of the capabilities approach, is advocated by such diverse authors as Fred R. Dallmayr[475], Sakiko Fukuda-Parr[476], Saul Tobias[477], J. P. Ruger [478], Sharath Srinivasan[479], and Rutger J.G. Claassen[480] (in addition to Sen[481] and

[474] The profound embeddedness of people's lives in presently existing institutional contexts is duly recognized by Gore (1997: 243-244). This does not mean, however, that a number of alterations, at times potentially quite significant, are not to be envisaged for said institutional structures in question.

[475] Dallmayr (2002: 145-148). According to the author, the perspective of power differentials is crucial to determining the cause of inequality in a global context. Globalization is a key cause of this, due to its tendency to concentrate power even more tightly into specialized hands. Naturally, equilibrating such differentials is a central component towards attaining global justice. Sen's insistence on the role of the economy in enabling capability equality is the means to this, and the benefits of his capability equality for the global arena are discussed. Equilibrium between the state and the free market is seen as the goal.

[476] Fukuda-Parr (2004: 43-45). In this particular case, the preservation of cultural diversity requires adequate institutional backing for it to succeed. Too little and existing mechanisms of inequality will still prevent its attainment.

[477] Tobias (2005: 65-69, 78-80). The author points out that, despite Foucault's examinations of the nature of institutions as power-grabbing and status-preserving, as well as his call to resistance and defiance, his writings nevertheless betray a certain recognition of the need for some institutional and social support in rendering true capability-freedom possible.

[478] Ruger (2006). The author argues for the benefits of capability equality in health as fundamental to good citizenship and as superior to contractarian, utilitatian and cosmopolitan approaches to global justice (based on the very nature of capabilities). The role played by various international agencies, state actors, institutions, and others in bringing this about is also discussed briefly.

Nussbaum[482] as well). To get a preliminary grasp at what such backing would consist in, we can look at the specific recommendations set forth by Stewart.[483]

The first and most important tool for attaining proper levels of power-equilibria is appropriate monitoring of the social situation with correspondingly accurate levels of data collection, examination, and dissemination. This is by no means surprising, insofar as the implementation, as well as preservation of, power imbalances, relies on (and most probably has always relied on) intentional filtering of all information as it flows through the various strata of society.[484] Breaking down such intentional filtering is key to raising required awareness levels in individuals, that they may then be mobilized in order to bring about a redistribution of various social weights and counterweights, so that presently

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[479] Srinivasan (2007: 460-76). The author argues that the good functioning of democracy needs to be buttressed by requirements of justice that would allow it to function in a manner consistent with capability egalitarianism.

[480] Claassen (2009). The role of institutions is discussed in the context of their provision of care and media content to the public. Once again, their utility ought to be assessed in terms of the impact they cause on the enablement of morally relevant (central human) capabilities.

[481] Sen (2009: 75-86, 111-113)

[482] Nussbaum (2006: 306-310) provides us with four distinct reasons why the duties associated with global capability implementation are to be derivatively assigned to institutions. These include *collective action problems*, *fairness*, *capacity*, and a set of specific issues about personal life.

[483] Stewart (1989). Though regarding basic needs, many such issues of enforcement can be transposed to the foundational project directly. Against this, Alkire (2006) argues that a proper understanding of the implementation of basic needs along capabilities allows one to avoid force-based need-implementation at the international level, thanks to the capabilities approach's emphasis on freedom of choice. However, this conclusion foregoes the realization that such freedom of choice may itself require (at times rather drastic) force-based methods of implementation.

[484] An adequate overview of this process in action enacted in order to coercively impose one's beliefs upon others is provided by Kadt (2005). Furthermore, Sen (2006b) himself provides us with a thorough account backed by multiple global examples of what can happen when the need for proper information dissemination becomes subverted towards the incitement of violence in order to effect regime changes. Note that this process begins at the level of early childhood education (whether by transmission of information through the parents, the community, or state-based early educational institutions) and that, for all intents and purposes, it continues on throughout the course of an adult's life.

existing unjust situations be presented with an opportunity for rectification. As I have already dwelt upon this topic at some length in chapter three (and proposed an institutionalized procedural solution to accomplish the desired goal), I will not justify the inherent goodness of this first requirement any longer, other than to take it as a given. More pressingly, one needs to examine what needs to be done at the level of currently existing institutional structures, such that this desirable goal become, not only unimpeded but also pressed along nicely.

Indeed, Stewart observes that appropriate monitoring of the social situation is something that is rarely achievable to a high degree in the real world.[485] Though this is no doubt due in no small part to existing inefficiencies and bottlenecks in data distribution systems (though this has diminished significantly more recently thanks to modern means of telecommunication), it is *intentional* data skewing and containment (i.e., a combination of censorship and propaganda) that is of immediate interest to us. But what motivates such activity? One possible explanatory avenue that seems quite likely (and that has also been extensively explored) involves what I call here the 'Foucauldian thesis'. Indeed, Foucault's ideas depict institutions functioning akin to 'organisms', with similar drives for self-preservation, growth, and power-garnering characteristics. If this thesis is correct, then one can envisage how any institutional structure seeking to 'survive' will, given appropriate opportunity, attempt to channel and filter the general flow of information throughout society for its own benefit, to the greatest extent of its

[485] Stewart (1989: 369)

abilities.[486] Hence, governments, companies and various other private and public institutions, as well as their many branches and divisions, will naturally try and skew the flow of information to correspondingly greater extremes, the more prevalent their power and position in society, and the weaker the position of any opposing 'counter-institutions' that hold a direct stake in seeing the opposite happen.[487] Though the idea of a 'free press' has served as the staple of just such a general 'counter-institution' for some time now, aimed at exposing the dirty workings of prominent figures and their parent organizations[488], its legitimacy as a genuine conduit for delivering truthful information has come under serious scrutiny in recent times, given the increasing ownership of major news networks by private consortiums.[489] For this very reason, genuinely independent organizations are clearly better at veridical information dissemination than

[486] Menon (2002: 159) observes that Nussbaum is, in fact, quite well aware of Foucauldian analyses of power and governmentality, though she (clearly) argues that Nussbaum severely underestimates it, as illustrated in the previous section of this chapter. Tobias (2005: 65-69) also discusses the 'Foucauldian thesis' at some length. This is a characteristic that comes prominently to light every time a scandal erupts surrounding some such prominent institution and its inner workings.

[487] Note that such counter-institutions do not necessarily seek an actual flow of veridical information as the end result. Rather, they seek an informational flow that simultaneously undermines the position of their rivals, whilst not undermining their own. Hence, unless such counter-institutions have a direct stake in actually producing wholly veridical information, it is unlikely that they will be motivated in letting this happen. And even then, they may still hold back on revealing any and all information that negatively impacts their position in one way or another.

[488] Stewart (1989: 371) observes that a good tool to force compliance (of said institutions) is publicity of what is happening. The role of an unrestrained and healthy press is also backed by Sen (2009: 335-337) along five important dimensions that it holds for the good exercise of democracy.

[489] The rise of online news sites and blogs with textual, video, and audio content has also contributed greatly to its demise, though this latest medium is beset by a whole array of additional problems centered mainly around similar levels of legitimate doubt regarding the veracity of what is communicated thereby, together with the potential for countering small fragments of genuine information that have slipped through with 'white-noise levels' of adequately constructed disinformation. The recent WikiLeaks scandal and the publicity surrounding it serve as a prime example of this phenomenon in action.

government (and private) ones[490], though they naturally require appropriate levels of backing and protection from any and all attempts by the bigger (and usually stronger) concerned parties at neutralizing their activities.

Such 'protection' can come under a number of forms. Firstly, such organizations need to be backed by public funds that are attributed to them under no restrictive conditions of what it is that they be allowed to disseminate through their work, so long as it be veridical, properly-backed information that is of interest to the general well-being of all.[491] Secondly, judicial protection is also needed, though this naturally requires the existence of a moderately robust and effective legal system. Hence, this crucial combination of financial and judicial backing is the first level of support required for such institutions to function properly.[492] At higher levels, however, any interested opposing institutions that may hold a stake in disrupting the proper workings of such veridical information-disseminating ones may also be neutralized by effectively playing them against one another. This being said, care needs to be taken to ensure that even matches be found, and that no rigged contests or 'paper tigers' be brought forth, in order to

[490] Stewart (1989: 370). In this vein, a denser, more theoretical take on the use of such 'liberating knowledge' and the methodologies that can be utilized to bring it to light, has been formulated by Hill (2007).

[491] In the case of the foundational project, this 'general well-being' involves the implementation and preservation of central human capabilities for all.

[492] Stewart (1989: 371) points out that financial leverage by way of institutions such as the World Bank and the International Monetary Fund are another option (to force compliance), though they have so far been less than interested. Still, some willingness to consider basic needs on their part has appeared more recently (372). Use of the legal system is another possibility. Tying it together with the financial one enables significantly greater leverage against non-compliance than having each of them function alone (372-373).

give a mere semblance of equilibrium when in fact there is none.[493] Hence, the specific goal sought by these various actions involves setting up and maintaining sufficient levels of power-equilibrium, such that the salient information be allowed to 'seep on down' through the cracks to the public and into the hands of the general population at large.

These last points notwithstanding, a steady flow of veridical information is only the first step in preserving appropriate forms of power-equilibria — for such data is effectively useless if it ends up falling into the hands of a public that is either too ignorant of the subject matter at hand to be able to form an appropriate opinion thereof, or otherwise too 'embedded' in one of Sen's 'small mercies', 'adapted tastes', or any other such possible conditions which would cause it to fail to take any serious interest in it.[494] Thus, the very real possibility of an ongoing 'bread and circus scenario' represents a grave threat to the possibility of effective popular mobilization towards a rectification of presently existing levels of social injustice. It is therefore not surprising that, just as information needs to be protected for its veracity, so does the individual need to be protected for his or her integrity. This occurs at three general levels. On the first level, a balanced and thorough education, at home as well as in (meritoriously) reputable institutions is necessary to ensure that the individual not be brought up with crippling

[493] Hence, regarding the general implementation of basic needs, Stewart (370) observes that reports have to be backed by enforcement. Present UN structures lack this power, as they can only act as council without the power to force compliance. The European social charter has more power, but has still not yielded very satisfactory results (371). The same conditions and potential problems would apply equally well for a practical implementation of the foundational project.

[494] This was discussed at some length in chapter four.

deficiencies in any of the cognitive and emotive faculties required to process the veridical information flow in an appropriate and fruitful manner. On the second, all thought influencing dispositions throughout society need to be properly managed, oriented and contained, in order to avoid the appearance or perpetuation of the infamous 'bread and circus scenario'.[495] On the third, the individual needs to be properly shielded from all unwarranted forms of coercion, abuse, arrest or seizure associated with said individual's religious, social or political and ideological leanings.

Though these may all sound like straightforward enough prescriptions, it is well worth reiterating them here, and emphasis enough cannot be placed on them, since failings along either one or many of them are always responsible for a slide from relatively adequate levels of social justice into various forms of societal injustice. More so, the respective fulfillment of these various prescriptions befalls three distinct groups of institutions. The first concerns the educational system, starting at home, and moving right on through to the levels of various institutions of higher learning. The second concerns, not only public as well as private media channels, but also all organisms involved will all forms of publicity and

[495] One needs to remember that brainwashing and propaganda techniques are not solely limited to restrictive totalitarian dictatorial regimes — for these various techniques tend to adapt quite well to the needs of the marketplace in free capitalistic economies as well — and their reach becomes ever greater the stronger the influence held by corporations over the many control levers of society. Indeed, a society founded on the unending quest for status symbols characterized by wealth and opulence, itself founded on labour and (most importantly) consumption, is the product of brainwashing and propaganda just as well as a totalitarian repressive regime. The main difference rests with the fact that people living under the latter regime know that they live under the ominous loom of the stick, whereas people living under the former think of themselves as free when they are, in fact, enslaved to the carrot hanging ever beyond their reach — for there is no better or more effective slave than one who thinks himself/herself free, when indeed he/she is wearing invisible shackles.

advertisement throughout society. The third concerns the various branches of law-enforcement and peace-keeping organizations necessary for the preservation of social order.

Having a constant flow of veridical information, as well as a concerned and alert citizenry, is the resulting fruit of the successful preservation of adequate levels of power-equilibria in society, as well as an ongoing cause for it. Indeed, one effectively feeds off of, as well as maintains, the other. Hence, in the specific case of Nussbaum's foundational project, these two components are crucial in allowing her project to become successfully implemented without falling into the trappings of the many potential dire consequences discussed above. The third crucial component discussed here includes adequate institutional protection for the first two. In this respect, the ultimate key to a successful implementation of the foundational project, based on the principles of Realpolitik, rests with the constant preservation of an underlying *fundamental triangle* of veridical information, alert individuals, and appropriate institutional protection — the specific details thereof which are to be determined within the respective socio-cultural, political, religious, and economic context of each geographical area where the foundational project is to be implemented.[496] Some particular areas of consideration with regards to these specific details are brought forth in the next two sections.

[496] This triangle needs to be preserved by a consortium of capable individuals, not only in times of peace and abundance, but also (most importantly and to the best of one's abilities) in times of hardship or under upsetting circumstances, such as during natural or man-made ecological disasters. Indeed, Holland (2008) illustrates how human impacts on large-scale ecological interactions effectively confer fundamental advantages of wealth and power to some members of society and not to others. He does so by referring to a 1993 cholera outbreak resulting from the degradation of aquatic ecosystems caused by human activity.

5.3 Global capabilities and hard-choices revisited

In the previous section, I have argued that an essential component for realistic implementation of the foundational project without falling into its many potential trappings involves a constant preservation of an underlying triangle of veridical information, alert individuals, and appropriately counterbalanced institutional forms of protection for all involved. While this may preserve the foundational project without falling into either abuse or tyranny, it does not address specific transitive problems that a move towards the foundational project will engender. Though a PIMASA may serve to successfully legitimize its universal implementation in a categorical manner, and though the underlying triangle described above may allow for its preservation without dire mishaps caused by the fundamentally 'Foucauldian' nature of a great number of our social institutions, this does not forego the very real fact that many individuals and communities will nevertheless offer up staunch resistance to the foundational project showing up at their doorstep.

The problem rests with the unavoidable fact that the PIMASA will not convince everybody that the foundational project should be implemented. Some individuals will simply not understand the nature of the universal judgments drawn therefrom, nor the basis for the inherent goodness advocated thereby. Others will harbour the very kinds of doubts explored in section 5.1 of this

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Naturally, a severe enough catastrophe occurring in a weak-enough socio-political and economic environment will upset this balance beyond the best means of containment, and will result in a certain period of central human capability failure, as has been illustrated by Dorsey (2008: 426-432).

chapter. Many others still who find themselves either in a subordinate or authoritative position in society will endorse the preservation of the presently existing status quo over the foundational project, either out of fear of loss or reprisal, or out of fear of losing one's personal interest and gain in some stake or other. In any event, each of these individuals represents both a barrier as well as goal for global implementation of the foundational project. This is because, while they do impede the implementation of the foundational project by their actions (or inactions), the very goal of the foundational project, by its very nature, also includes central human capability distribution to them as well. The problem rests with the fact that a transition from presently existing states of affairs to a global implementation of the foundational project will invariably imply some such individuals losing out in the end.[497] Hence, how is such loss to be measured, and how ought capability theorists to react thereto?

As has already been argued at significant length by Nussbaum and others, any such deficiencies along the lines of missing and unfulfilled central capability realization by any individuals involves a tragic cost, insofar it is claimed by them that no ultimate utilitarian calculus or deontic reason can be invoked in order to morally justify the loss incurred thereby as being somehow 'erased' due to

[497] Qizilbash (1996a: 151) foresees the possibility of having to impose the central human capabilities by force, despite believing that Nussbaum is relatively free from criticism on these grounds. Likewise, Fabre and Miller (2003: 7) observe that Economic development may require curtailing freedoms, as opposed to expanding them. Finally, Murphy and Gardoni (2007: 494-496, 496-503) discuss ways of mitigating natural hazards by making use of the capabilities approach, as preferable to a cost-benefit analysis-based one (which relies on a combination of utilitarianism and resourcism and thus inherits their respective drawbacks, as discussed in chapter four). They observe that this may involve having to make hard choices in attempting to minimize losses understood as the respective reduction of people's capabilities. Procedures and conditions (HII) for achieving this are provided and explained by the authors.

positive gains counterbalancing it.[498] This is not to say that such gain has no moral value in itself, and that there are no worthwhile aspects in realizing it. Rather, it is to remind us that, ultimately, a moral loss remains a moral loss no matter how you look at it, and that it simply cannot be dismissed as such by any worthwhile attempts at ethical theorizing envisaged thus far. Quite to the contrary, any and all losses arising out of tragic choices ought to serve as a model for reflection — not merely for pity and mourning, but also for concern over what lead to such a situation in the first place, and what (most importantly) can be done to avoid it in the future.[499]

Hence, regarding the global implementation of the foundational project, moral losses will be directly and invariably proportional to the respective degree of opposition that is mobilized against it, and that needs to be overcome for it to succeed in the end. Furthermore, it is very important to realize that such moral losses are to be measured along the specific lines of central human capability deficiency, as that is the crucial benchmark against which such losses come to be deemed tragic.[500] Now, as far as specific factors that contribute to our understanding of this phenomenon in action go, two key aspects come into play, and determine just how much loss is to be incurred and by what means. The first concerns the specific society and regime type where the foundational project ends

[498] See chapter three, section 3.2.

[499] This is discussed in Nussbaum (2000b: 1005-1036) and Nussbaum (2003b: 415-416).

[500] This is because non-central capability-type losses, though upsetting and possibly quite disturbing for some, nevertheless do not factor-in as actual cases of moral loss per se. This is the inevitable conclusion reached if one follows the observations of chapter three, section 3.5, and if the foundational project does come to be morally vindicated by the PIMASA in the end.

up introduced. Indeed, one can reasonably expect progressively greater individual capability loss to arise in more fundamentalist-minded societies, cultures, and totalitarian regimes that are particularly entrenched in their ways, and that are (very importantly) most capable and willing to mobilize more and more violent levels of opposition against a practical implementation of the foundational project. In counterpart, the 'softer' and more loosely entrenched the regime (and the more open, democratic and free its institutional traditions), the less drastic and violent is to be the expected opposition against the foundational project.

The second aspect concerns the methods and means by which the foundational project ends up implemented or even 'enforced'. And here we are confronted by a particularly nasty catch-22 version of the hard-choices dilemma. Since less radical regimes also employ a looser grip on information and population control, a progressive phasing-in process, characterized by an implementation of the foundational project by way of policy changes, the educational system, and public awareness campaigns, is usually sufficient to attain the desirable results in the long run. Though this may take more time than might be required by way of more 'expedient' means, the fact that such a transition occurs more smoothly and causes less moral loss along the way, together with the fact that less radical regimes usually also tend to suffer lesser levels of capability deprivation to begin with[501], make this a clearly preferable route to undertake. Problems begin when

[501] To be perfectly honest, a properly-managed totalitarian or dictatorial regime may fulfill, to a very high degree, a sizeable number of central human capabilities (minus the all-important freedom-related ones) — sometimes even better than 'freer' ones, as demonstrated by a number of historical examples. Hence, Nazi Germany and Mussolini's Fascist Italy were initially praised by their populations for improving drastically on

dealing with particularly recalcitrant and stubborn regimes that are also severe violators of human (and thus capability) rights. In such cases, public information campaigns as well as any attempted work performed by non-government organizations and other such related organisms are woefully inadequate, and may even end up obstructed from the get-go by the present authorities in power. More subtle means of information dissemination, such a taking advantage of the internet, may yield some initial successes, but can also usually be thwarted by government censorship measures and (failing that) by nasty and sometimes quite violent means of repression towards those who end up getting the 'wrong idea' regarding what it is that they are to expect out of life.[502] More often than not, radical change in such environments requires a concerted combination of well-supported internal opposition movements as well as external political, economic, and (if need be) military pressure, in order to force the concerned powers to give

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previously deplorable living conditions. Corresponding trade-offs in the loss of a number of opportunity freedoms (capabilities) were thus quite acceptable at the time. Nevertheless, history has shown that the quest for such opportunity freedom is a very powerful drive, sometimes leading people to accept drastic drops in living standards against the obtainment of mastery of their own destiny. A number of well-managed and reasonably tolerant (for the times) colonial examples that eventually gained independence could be provided as evidence for this. Sen (1999: 147-159, 219-224) also discusses this topic, and concludes that, despite its inherent limitations, a free democratic regime is essential to the process of development, and subsequent improvements in people's living conditions and the capability sets that they come to acquire.

[502] Events in China and North Korea come to mind here. In both cases, failures by the authorities to fully restrict information flow lead many people to realize the extent of injustice characterizing their own existence. Unfortunately, the inability to successfully break out of or otherwise alter their circumstances lead to them experiencing more misery than before, due to their newfound awareness of what they were missing out on in life being added on top of already existing deficiencies in living conditions.

up some of their substantial privileges, so that their populations at large may benefit from genuinely improved living conditions.[503]

Interestingly enough, this ought not to be such a problem for powerful nations and international organizations with the means for doing so. In reality, however, a myriad of factors come into play to undermine the proper application of internal and external pressures so as to effect a pro-foundational project regime change. First of all, there is the ongoing and often publicly unaccounted-for duplicity between such radical regimes and more 'liberal' and 'progressive' ones, with a complex web of benefits stemming from arrangements made by interested parties on both sides, having every reason to preserve the presently existing status quo. This crucial underlying factor not only ends up sabotaging any attempts at putting genuine forms of pressure on such former regimes by the latter ones, but can also lead to scenarios where international corrective measures end up acting as a smokescreen in order to preserve unwitting public support for presently existing power-structures, whilst interested parties on both sides end up in no way affected by them. Worst still, various forms of international pressure, such as economic sanctions, for instance, often can and do end up hurting the very people they are intended to assist, by causing public commercial losses and failed trade opportunities to befall them directly, whereas the oppressive regime heads that

[503] South Africa is a particular case in point here. Information dissemination coupled with social mobilization against the apartheid regime lead to more and more drastic attempts by the then-existing government at repression of dissidence and resulted in ever greater violent clashes and social turmoil, culminating in the eventual transfer of power into the hands of Nelson Mandela. Living standards have fallen significantly since then, though uniform freedoms for all have been gained, making the South-African example an imperfect and ongoing work in progress, where much still remains to be done.

are allegedly targeted thereby actually end up unaffected thanks to long-standing and secure connections and supply routes.[504]

Assuming, however, that genuine opposition movements do successfully end up putting effective pressure on oppressive regimes, there is the further problem of such interested parties not willing to give up their acquired privileges and positions quietly. One of the key underlying characteristics associated with the acquisition of significant levels of power, wealth, influence, and control over others is the correspondingly ever greater looming presence and uneasiness with which the Sword of Damocles ends up wavering over one's head. This, in turn, tends to breed increasing levels of suspicion and paranoia, backed by correspondingly more and more draconian means of control and suppression of dissent.[505] Such a climate is especially anathema to proposals such as the foundational project, whereby, even if its implementation were to cause no truly severe reduction in privileges for those presently in power, the very nature of its contents as presented by Nussbaum greatly undermine its 'marketability' as it stands for such concerned individuals.[506] The particularly tragic catch-22 in such

[504] Such was the case with Iraq, Cuba, and (according to some) pre-WW2 Imperial Japan.

[505] Indeed, authority figures tend to surround themselves with a closely knit network of informants and bodyguards, which becomes ever tighter the more draconian and oppressive their regime, given the correspondingly ever greater impetus by the (ever more determined) opposition to see them dethroned. Even then, suspicion and paranoia continue to loom, as even the best internal control measures within their very own closest circles (including family members) are susceptible to breaking down. For this reason, 'savvy' dictators have understood that maintaining a good general standard of living for all, topped with a hearty dose of 'bread and games' (if need be), is a much better 'insurance policy' than ever-more heavy-handed repression of a starving and restless populace.

[506] The charge of imperialism, as well as the arguments from culture and from diversity (discussed in chapter three), represent three possible attempts at a sympathetic form of rebuttal of the foundational project by parties especially interested in preserving the status quo.

cases is that potential dislodgment of tyrants in order to implement the foundational project may only be attainable by significant use of force in such circumstances, which would invariably provoke significant levels of moral (and material) loss for all those who end up losing their central human capabilities (and possibly much more) along the way. However, seeing as how tyrannical regimes usually already act as notable orchestrators of significant capability deprivation, and since allowing their ongoing perpetuation does little to help the case of all those suffering thereunder, forced implementation, potentially going as far as relying on military intervention, may end up being the only 'sensible' way out.[507]

The general purpose of this third section has been to draw attention to the very important role that proper calculations of moral loss need to play in the planning of central human capability implementation at the global level. Naturally, the optimally-envisaged scenario involves a 'quick and painless' implementation, whereby central human capabilities become available to all in the most efficient and direct manner possible. This idealized vision notwithstanding, a more gradual yet likewise smooth and easy implementation into existing environments where there is already no significant capability deprivation to begin with reveals itself as the 'next best thing' on the list. Moving on to more serious circumstances, particularly recalcitrant regimes could also stand for smooth (albeit far longer)

[507] In such cases, problems related to the just war tradition spill on over. In a related article, I discuss the need for sufficient fulfillment of conditions of ideal observation in order to be able to wage a just war, as well as the specific consequences and options open to those parties that are unable to do so, but who still wish to intervene militarily: Kurstak (2007a). This is obviously a very difficult topic covered by a significant body of literature, and reliance on it is therefore only presented here as an additional point of consideration in addressing the institutional challenge befalling the foundational project.

transitions, if it were not for presently existing cases of severe capability deprivation lending a particular sense of urgency to the situation, coupled with the unfortunate possibility of the need for the use of force in order to bring about the required changes. In such cases, an appropriate combination of careful diplomatic work, together with well-chosen and subtle yet firm forms of political, social, and economic pressure, can help to lessen the transitive blow — but there is no guarantee, and the inherent volatility of such situations makes them especially hard to handle. In any event, full responsibility needs to be taken for the fallout caused by global capability implementation as it progresses throughout the various stages of its realization.

5.4 Towards a 'global capabilities regime'

A final point of consideration that shows up regarding the transition towards central human capability globalization involves the optimal type of regime (or regimes) under which the foundational project could operate. Originally, Nussbaum advocated for a form of political liberalism, which she argued holds high degrees of affinity with her foundational project. This being said, it has been observed by a number of authors that Nussbaum's foundational project holds characteristics that are either incompatible with or, at times, downright contrary to, the central tenets of a form of political liberalism akin to the one advocated by Rawls, and one which Nussbaum appears especially fond

of.[508] Hence, Deneulin carefully shows that the capabilities approach necessarily entails more paternalism and perfectionism (of a moderate kind) than is usually allowed under (Rawlsian) political liberalism. She illustrates how this is the case in Sen's and Nussbaum's respective approaches. This puts it at notable odds with regards to its alleged alliance and basis couched in said liberalism.[509] Linda Barclay remarks that liberalism endorses the importance of choice and respect for the individual, and that this is indeed promoted by Nussbaum, by providing the central human capabilities for all, which are meant to increase said choice, and are selected by way of a Rawlsian overlapping consensus. Because of their compatibility with varying worldviews, the process of selecting the foundational project is directly compatible with political liberalism. However, Barclay also observes that Nussbaum's foundational project is actually aligned with comprehensive liberalism, because, while she claims to be close to the late Rawls' political liberalism, it (Rawls' political liberalism) states that a conception of justice begins from the shared ideals implicit in the public political culture, and that no such consensus presently exists regarding Nussbaum's foundational project, despite arguments that it should. Furthermore, the foundational project takes the freedom afforded by the central capabilities to constitute the main object of value (i.e., greatest value), whereas under Rawls' primary goods, their value is

[508] Nussbaum (2011b) expresses her latest views on the specific type of political liberalism that she endorses in a most recent article. She argues at length for the superiority of political liberalism over a perfectionist one, on ethical grounds. This topic is also discussed in her latest book: Nussbaum (2011a: 89-93)

[509] Deneulin (2002: 498-516). Nevertheless, the charge of 'illiberal perfectionism' is given an extensive rebuttal by Arneson (2000).

only deemed to be 'instrumental' (shared conception of citizenship). Also, Nussbaum 'strawmans' comprehensive liberals, and then favours political liberalism instead. This is erroneous, as illustrated eloquently by the author — though notable differences do exist amongst comprehensive liberals. Hence, Barclay concludes that Nussbaum's foundational project is therefore very close to and compatible with comprehensive liberalism, once the latter is given a proper treatment.[510] John M. Alexander argues that the specific concept of a person that underpins Nussbaum's theory actually entails the adoption of a non-liberal view of the self.[511] Fabre and Miller discuss this topic as well. Following a critique of Sen, Nussbaum, Rawls and O'Neill, they argue that full liberal rights should be endorsed in order to enable and maintain adequate levels of justice in all societies, and that the attempts by liberal political philosophers to mutually satisfy the conditions of decency and pluralism to an acceptable degree ends up affording too little protection to specifically vulnerable members of society. Furthermore, liberal institutions can be proved, empirically, to be the best means of securing said conditions of decency.[512] Eric Nelson observes that Nussbaum's capabilities approach fails to fulfill political liberalism's requirement of neutrality, by advocating constitutional enshrinement of her central capabilities. These, in turn, overlap over people's rights to choose their own conception of the good, meaning that her theory is not at all 'thin', as it should be. Nussbaum counters this by her

[510] Barclay (2003: 6-22)

[511] Alexander (2003: 10-17)

[512] Fabre and Miller (2003: 8-16)

'capabilities, not functionings' argument, but this fails because of the nature of what is distributed by capabilities (i.e., full-fledged abilities to exercise said functionings). However, Nelson also remarks that no government can be fully neutral in the Rawlsian sense of the word. For indeed, whatever is promoted (even primary goods) will invariably override someone else's idea of the good life. Another way to put it is that this type of 'neutrality' naturally overrides anybody's idea of the good life that is not compatible with it. Nelson foresees two ways to avoid this neutrality problem: (a) jettison the Rawlsian framework or (b) concede the difficulties, but suggest resolution by modifying the capabilities on the list. He then argues that, despite Sen's insistence that his version of the capabilities approach avoids the problem of non-neutrality, it does not, because it amounts to replacing Rawls' primary goods with capabilities. And this invariably entails formulating some definite list thereof, voiding the claim to neutrality. Furthermore, arguing that this be done in various contexts precludes the idea that said list ought to be selected on the basis that it would represent what is rational to want whatever else one wants.[513]

While the complex debate over the (in)compatibility between Nussbaum's foundational project and political liberalism is a fascinating one, what is actually at issue here is not so much whether the foundational project requires absolute compatibility with some form of political or comprehensive liberalism or not (as the answer to this question has already been settled in chapter three), but rather

[513] Nelson (2008: 99-107)

what variety of regimes would end up adequately compatible with a successful implementation of the foundational project, what type of political 'gradient' this implies, and what 'degrees of tolerance' are to be allowed across said regimes in question. From a prima facie perspective, there is no definitely fixed form of government that appears to be absolutely required for a successful implementation of the foundational project. Nevertheless, it stands to reason that, given the specific requirements brought forth by the central human capabilities, any political regime that ends up compatible with the foundational project will, by necessity, hold a number of characteristics quite similar to a liberal form of government (notwithstanding some of the irreconcilable incompatibilities observed above), as far as providing 'free access' to (and guarantees of), the central human capabilities is concerned.[514] Hence, while one can expect a number of liberal or quasi-liberal variants to fulfill the role successfully, it is less likely that non-liberal (or downright illiberal) ones will be up to the task at hand. One can thus expect a set of liberal as well as quasi-liberal variants to make up the full range of possible 'foundational project-friendly' regimes to be implemented throughout the world. Furthermore, so long as the fundamental benchmark of acceptability involves, and is limited to, the ongoing preservation of central human

[514] Hence, Fabre and Miller (2003: 15) point out that "even Rawls, who aims to set a less demanding standard of decency, admits in a footnote that 'some writers maintain that full democratic and liberal rights are necessary to prevent violations of human rights. This is stated as an empirical fact supported by historical experience. I do not argue against this contention, and indeed it may be true' (*LP*, p. 75). But if so, decent hierarchical societies as he describes them become a mere conceptual possibility of no practical significance". Furthermore, Alexander (2008) argues for a republican form of government as a need to ensure capability implementation, as opposed to a more mainstream liberal one. This topic is also discussed by Bourdeau (2009).

capabilities for all, none of these variants ends up inherently preferable to any other. Granted, while some such possibilities may end up offering different 'benefits packages', they do remain, for all intents and purposes, wholly interchangeable — presenting one with an 'apples or oranges' scenario of sorts.

Another topic of interest regarding such possible foundational project-friendly regimes regards the all-important question of the role of (some form of representative and/or elective) democracy in their operative structure. Ought such regimes to be, by necessity, 'democratic' in nature, in addition to being liberal or quasi-liberal? Cleary, meaningful political participation of the people in society constitutes one of the central human capabilities, and liberal-democratic regimes purport to offer just that, by allowing the citizenry to shape the workings of their country by voting for (either directly or by the proxy of elected representatives) laws, policies, and regulations that come to shape their society. There are, however, a number of serious drawbacks to democratic forms of government that need to be duly taken into account. First of all, there is the issue of mere semblance of democracy, where the right to vote does exist, but where the reliability of the voting process is compromised by inadequate regulations to ensure that all votes are truly accurately counted, even going so far as creating scenarios where said votes end up 'recounted until the proper party wins'. Alternatively, where such corruption of due process is not present, policy choices can still be easily limited by having a restricted number of candidates with pre-determined orientations (often associated with the interests of powerful lobbies), offering the people no

real options in terms of what they would truly like to see happen in their society. Finally, there is also the specter of the 'tyranny of democracy', where none of the two previously-described scenarios above exist, but where the careful creation of a dumbed-down and ignorant populace entails that the majority ends up voting candidates (and/or policy choices) into power that offer-up a number of short-term superficial forms of gratification in 'exchange' for serious social-economic hardships in the long run — a truly society-wide Faustian bargain if there ever was one.

While these three scenarios above can still be heavily mitigated by insuring the proper preservation of the underlying fundamental triangle of veridical information, alert individuals, and appropriate institutional protection (as discussed in section 5.2 above), this does not answer the question whether a 'democratic' form of government remains the best option for allowing meaningful political participation in society, as per the foundational project. Indeed, other forms of participation might well be envisaged, where the voting process is simply not a part of the underlying procedures of governance. However, history has shown that the absence of such a process in question can quickly lead to a drastic stratification of power-levels without the proper checks and balances required to prevent such power-skews leading to 'absolute corruption by absolute power' of the individuals in charge.[515] Hence, it appears that some (genuine) form of

[515] This last observation notwithstanding the recognizable past existence of 'beneficent rulers', the 'lottery effect' of clan or family-based authoritative regimes does not guarantee to the people a 'proper choice' in the hereditary succession line to the reins of power. Hence, a merit-based elective system is preferable in the long run.

democracy remains, at least for the time being, an underlying requirement for any foundational project-friendly regime, in addition to such regimes sharing an important number of liberal characteristics.[516] Asides from that, all other options remain essentially up for grabs.

Finally, the further question of the very need for a plurality of individual governments also arises, given the potential alterative preference for a *global capabilities regime*, as opposed to a number of localized possible variants thereof. However, this last point opens up a whole other can of worms that I will not get into here, related to specific problems of administration, as well as pitfalls and dangers associated with the idea of a cosmopolitan world government.[517] Indeed, Nussbaum eventually rejects this option in favour of strictly regulated cross-border cooperation amongst presently existing institutional structures.[518]

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[516] Indeed, Sen (1999: 146-159), Sen (2009: 408-410) provides us with a thorough rundown of the many benefits and successes (as well as recognizable drawbacks) of democratic regimes in enabling capability-related levels of well-being. This is also backed by Jayasurika (2000) arguing for the role of the capabilities approach in enabling the new social democracy, as well as by Qizilbash (2007: 179-185) who illustrates the complex connection between public reasoning, democracy, the formation of preferences, justice, and social choice theory in the application of Sen's capabilities approach.

[517] In this vein, Nussbaum (2006: 224-272) eventually argues in favour of a Kantian international contractarian approach to help push the process of global capability implementation along (despite all of the problems associated with contractarianism identified by her before, as described under the Rawlsian 'selection procedures argument' in chapter four). She does this after an analysis of regional, followed by international, levels of social contracting, as suggested by Rawls (1999).

[518] Despite (or perhaps as a corrective response to) the many worries solicited by her ideas initially pressed forth in *Women and Human Development* (as illustrated in section 5.1 above), Nussbaum (2006: 311-324) better recognizes a number of Foucauldian opportunities for corruption of intent by globalized institutions, given the enormous size and power that they would eventually come to acquire, and proposes ten (ambitious) principles for the global structure that are intended to mitigate these specific dangers. Though clearly well-intentioned, these principles nevertheless strike one as somewhat inadequate (and, at times, misguided) — assuming, naturally, that the Foucauldian power-thesis ends up correct, and that its strength reveals itself to be particularly remarkable. These include: (1) *overdetermination of responsibility: the domestic never escapes it*; (2) *national sovereignty should be respected, within the constraints of promoting human capabilities*; (3) *prosperous nations have a responsibility to give a substantial portion of their GDP to poorer nations*; (4) *Multinational corporations have responsibility for promoting human capabilities in the*

Furthermore, given that the inertia of current world affairs is directly moulded over said structures in question, it sounds like a notably safer and more realistic bet, at least in the short(er) run of things.

Hence, one can expect a global capabilities regime to be constituted, at ground level, by way of a number of local liberal or quasi-liberal democratic governing bodies charged with implementing the foundational project within their respective areas of jurisdiction, and according to the direct specificities of local needs and customs. Above and beyond these, one will also encounter the notable existence of non-government organizations and (more importantly) supra-governmental and supra-national bodies responsible, both for the assistance required to local authorities that fail to maintain the foundational project due to a lack of resources, means, provisions or natural hazards, as well as for the role of 'watchmen', intended to prevent multiple forms of abuse at any existing level of governance. In this vein, wealthy developed nations are already in a privileged position to make this happen, not only at home but also abroad, thanks to a variety of assistance and development programs that can be utilized to export the means and wherewithal for central capability distribution to other less well-equipped ones. Furthermore, 'watchdog and helper' organizations, such as the United Nations as well as NATO, are also in a privileged position to 'coerce and assist'

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regions in which they operate; (5) *The main structures of the global economic order must be designed to be fair to poor and developing countries*; (6) *We should cultivate a thin, decentralized, and yet forceful global public sphere*; (7) *All institutions and (most) individuals should focus on the problems of the disadvantaged in each nation and region*; (8) *Care for the ill, the elderly, children, and the disabled should be a prominent focus of the world community*; (9) *The family should be treated as a sphere that is precious but not "private"*; (10) *All institutions and individuals have a responsibility to support education, as key to the empowerment of currently disadvantaged people*. This is discussed further in Nussbaum (2011a: 113-122).

wherever and whenever the need arises. Thus, so long as the end result is the desirable one, and so long as the process involves as little capability violation as is realistically possible, a gradual move towards a global capabilities regime will be successfully achieved in the form of an overlain curtain of improved opportunity freedoms for all, covering and moulding itself over currently existing institutional structures, and altering them only when and where needed, and to the precise degree required to make the end goal of global capability distribution happen.

Conclusion:

Though the foundational project is a highly commendable proposal for establishing minimal levels of social justice for all, its formulation thus far has been all but fully cognizant of the inherently very heavy difficulties associated with the practical realization of such a widely beneficial program. Indeed, much of the theorizing done by capability authors on this topic has suffered from the 'ivory tower' syndrome, to potentially greater degrees than regarding other strictly theoretical or moral aspects proper to the capabilities approach, as explored in the previous three chapters. The hard truth is that capability authors have simply underestimated the significance and scope of the role played by various forms of power-struggles and power-relations inherent in our complex human societies. Given that many important individuals stand to lose a lot in terms of power, status, wealth, and personal interest through the implementation of the foundational

project, this does not bode well even for the most determined policy makers that would wish to see central human capabilities become a universal reality for all persons worldwide.

As has been argued in this chapter, though some regimes will indeed accept the foundational project with relatively little growing pains, others will simply 'not go quietly', and one is to expect various levels of social strife, turmoil, resistance, and even violence on the part of the guardians of the most totalitarian and recalcitrant ones, as their leaders vehemently refuse to give up their exorbitant privileges, even as it means serious levels of misery and social injustice for their populations. Also, though concerted efforts by interested parties may eventually overcome such unjust regimes, significant levels of moral loss are to be expected along the way. And to further complicate things, gains earned along the central tenets of the foundational project are never earned forever, and these require constant care for the ongoing preservation of the central human capabilities. Hence, the Foucauldian nature of our institutions is such that there will always be attempts at upsetting any delicately achieved power-equilibrium that enables reasonable levels of social justice for all. In reaction to this, the constant preservation of an underlying triangle of veridical information, alert individuals, and appropriately counterbalanced institutional forms of protection for all involved, has been reaffirmed once again as a core necessity for preserving said desirable power-equilibria in question. Furthermore, while the foundational project does not require any specifically-delineated form of government to insure

its successful implementation, compatible regimes nevertheless will, by necessity, share central determining features with presently-existing liberal-democratic ones. Finally, its short-term international implementation will invariably need to be achieved with the concerted efforts of presently existing nation-states, as the eventual move to a global capabilities-based government, though envisaged, is simply beyond the means of the presently-existing world order.

In the end, and despite all that has been said here, I maintain that the foundational project does not represent an over-idealized form of human living, impossible to achieve in our present world. Numerous historical examples based on the gradual acquisition of various forms of human rights, as well as vast improvements in the social, economic, political, legal, and civil administration of our human societies, aimed at creating greater levels of social justice (often in defiance of significant privileges held by some) stand as a testament to the possibility of social progress of this very sort. Granted, the foundational project is a 'cut above the rest' in terms of what it proposes that be realized still, but the road does not appear closed to its eventual fulfillment.

This being said, practical difficulties are numerous, and the very nature and scope of power-relations serve both as obstacles to overcome, as well as tools to be utilized, in allowing for the foundational project to endure and prosper. As always, balance is the key. Thus, a greater recognition and incorporation of the important realm of Realpolitik by capability theorists constitutes an unavoidable move if they are to be successful in overcoming the monumental worldwide

'challenge of the Realpolitiker'. And this is all the more pressing in our time of ongoing globalization, with all of the corresponding erosion and loss of human rights, dignity, justice, and capabilities that this entails at the global level.

(Conclusion) Future avenues of development for the foundational project

In the preceding chapters I have argued that Nussbaum's foundational project ultimately does not flounder at any of the theoretical, moral or practical levels at which it needs to operate for it to function as a successful minimal distributive theory of justice. In passing, I have made a number of observations leading way to further avenues of development that it needs to undertake for it to become fully fleshed-out. I discuss them below:

On the theoretical side, a restriction down to the central notion of capabilities as full-fledged freedom-units is essential to avoiding the charges of ambiguity and underdetermination that have been levelled against the capabilities approach in general. This is accomplished by sticking to a critical conceptual core constituted by the functioning-capability pair, together with the relationship between functioning vectors and capability sets, itself combined with an analysis along positive and negative conditions of realization, and further refined according to the corollary concepts of 'multiple realizability' and 'freedom amplitude'. This *minimally standardized conceptual frame* is then to be applied to Nussbaum's list of central human capabilities, in order that the respective parameters of its employment become devised. This exercise can be aided by making good use of further developments towards capability operationalization present in the salient literature, so long as these not forego any of the essential elements constitutive of the conceptual core outlined above. In this respect, one encounters a greater

similitude to Sen's original idea for a number of capability lists to be drafted within various socio-political, economic and cultural environments than initially envisaged by Nussbaum, insofar as the significant flexibility for realization inherent in the multiple realizability characteristic of her list allows for a great number of ways in which her central human capabilities can be put into practice. Nevertheless, the remaining crucial difference resides with the fact that each such possible instantiation of a central human capability remains inextricably linked to its original (albeit vague) formulation in the centralized list. Hence, the possibility of wholly divergent and even incompatible lists is simply not possible under Nussbaum's model, preserving its underlying universal characteristic, all the while maintaining (reasonable) degrees of pluralism and freedom of choice regarding the variety of ways in which individuals and communities may come to choose from a substantial 'inventory' the number of means by which they may exercise the corresponding functionings associated with each central human capability in question. Hence, appropriate drafting of the corresponding parameters in which Nussbaum's list is to be realized in each respective environment in which it is to be implemented constitutes the major route of further development for this particular aspect of her foundational project.

Regarding moral justification for her project, further development hinges on the actual creation of the project for the ideal moral assessment of states of affairs' (PIMASA) discussed in chapter three of this thesis. In this respect, I argued that present empirical evidence suggests that individuals situated in a position

that captures closely enough the parameters proper to the fulfillment of conditions of ideal observation already advocate for the overall moral tenability of Nussbaum's foundational project. In the following corollary chapter, I also argued that a close-enough examination of the capabilities vs. resources vs. utilities debate points towards an eventual concession of the overall moral desirability for the minimal distribution of at least the conceptual equivalent of basic human capabilities. Nevertheless, the requirements of ideal observation that I have endorsed in this thesis require full immersion in both cases, in order that the moral judgments emitted thereby receive the final 'stamp of approval' on behalf of all concerned individuals. Hence, the actual creation of a number of PIMASAs around the world will allow all individuals to judge for themselves the overall moral value of Nussbaum's foundational project (in relation to the objections explored respectively in chapters three and four), and will correspondingly increase the exposure that it will receive along the requirements of ideal observer theory. Actual programs for putting these into place can be devised by current members of the Human Development and Capability Association, submitted to the proper authorities for eventual ratification and green-lighting. Indeed, such endeavours are crucial to the eventual obtainment of Nussbaum's desired 'global overlapping consensus' regarding the overall moral goodness of the foundational project, and constitute probably the most difficult and challenging further avenue of development, bested only by the specific requirements brought forth in the last chapter of this thesis.

Addressing the 'challenge of the Realpolitiker' represents the most difficult part of the foundational project in need of further development. Not only is this aspect already quite difficult to flesh out properly at the theoretical level, insofar as it relies on the overarching principle of establishing appropriate levels of power-relations and power-equilibria in order to prevent practical implementation of the foundational project from spinning out of control, putting it into actual practice is likewise notoriously difficult for a variety of reasons. Firstly, it requires convincing all concerned individuals in the various levels of power constitutive of the institutional structures envisaged as the implementers and guardians of the foundational project that this is, indeed, a good idea. Secondly, because of its international scope of application, this requires appropriate levels of transnational cooperation to bring it about amongst sympathetic actors, as well as the potential mobilization of appropriate means for enforcement when dealing with outright recalcitrant members of the international community when there is no other way out. Thirdly, all of this needs to be achieved in light of the multitude of current pressing issues that take up the time of all these concerned actors in question. Despite these numerous obstacles, however, the foundational project can rely on one important factor to help it along: Because of the significant levels of development experienced by the capabilities approach since its original appearance, and thanks to its already existing operationalization at various levels of society (such as with the United Nations Development Program's *Human Development Report* – one of many such reports in existence – being utilized by

many nations as a guide for various forms of policy formation), one is not working with a blank slate when attempting to convince all appropriate actors of its credibility and overall desirability. Consequently, further development along these lines require making use of presently existing models for operationalization and tweaking them towards the direction of the parameters proper to the foundational project. And this needs to be performed at all levels of power in order to be able to address the challenge of the Realpolitiker successfully.

As a final word, present trends indicate that, despite the numerous objections identified in this thesis, further general development of the capabilities approach will continue unabated. Furthermore, while Nussbaum's particular version of this approach represents one of the more daring and controversial examples of its many proposed uses, none of the multitude of objections formulated against it invalidate it in a categorical manner. Quite to the contrary, there is significant evidence to affirm that a return to a form of ethical-political universalism as advocated by the foundational project represents a genuinely acceptable direction to undertake in our present times and by our contemporary human societies.

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