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Social Justice for Children – A Capability Approach

In this chapter, we will outline a concept of social justice for children based on the capability approach. So far, this issue has received much less attention than it deserves given the particular social and political status of children in today's world. The capability approach, as well as most other theories of justice, has not dealt with children thoroughly, although more and more literature on important questions in this regard is being published. We seek to answer two important questions that every concept of justice has to deal with: what is the right currency of justice, and what is its right principle? To phrase the questions slightly differently: what kinds of things are children entitled to as a matter of justice, and how should they be distributed? Our answer to the first question is that children are entitled to the achievement of important functionings; only as they develop is it adequate to provide them with capabilities. Hence, the capability approach to justice for children we want to defend is in large part a functioning approach. In regard to the second question, we defend a sufficientarian approach. In a nutshell, each and every child is entitled to reach a certain threshold in all these important functionings, and failing to do so constitutes an injustice. Since the main target of this book is child poverty in affluent societies and welfare states, we will model our concept of justice on children living within these societies, although we believe that many of our claims hold universally and could serve as the basis for a concept of global justice. In the end, we argue, justice for children is about safeguarding their well-being and well-becoming, and the functionings and capabilities that matter for justice, as well as the thresholds for them, should be selected with reference to that. Hence, well-being and well-becoming are the guiding principles for our approach.

1.1 The currency of justice

The first question a concept of justice for children has to answer is, what is the adequate currency of justice? That is, what types of things are children entitled to as a matter of justice? The capability approach is first and foremost an answer to that question; it claims that the best available currency of justice is constituted by capabilities. In what follows, we will argue that the approach has something very valuable to offer to the conception of justice for children but that it must shift its sole focus from capabilities, which essentially incorporate the notion of freedom of choice, to functionings that are actually realized. Justice for children has to be thought of as a dynamic concept that starts with functionings as the right currency; as children grow up, capabilities become ever more important. In the end, for adults, capabilities are what matter most, and the state or any other agent of justice should refrain from imposing functionings upon people who do not wish to have them.

Let us begin by spelling out some of its central concepts and assumptions. The origin of the capability approach lies in Sen's criticism of utilitarianism and in his claim that human well-being cannot and should not be identified with subjective welfare or utility. There are several well-known objections to the traditional formulation of utilitarianism, and replicating and assessing all of them here would exceed the scope of this book. Instead, we would like to point to some of Sen's and Nussbaum's concerns directly related to the metric of justice employed by utilitarians (Crocker 2008, 126–129). First, subjective welfare 'does not adequately represent well-being' (Sen 1990, 47). In its standard interpretation, it reduces the diversity of human experience to one single measure and suggests that, in the end, all different types of pleasures or satisfactions are commensurable. But does it really make sense to compare the pleasure we feel eating ice cream to that we get from helping a friend in need or raising a child? From Sen's and Nussbaum's point of view, it does not; they argue that the theoretical simplicity gained by adopting such a monist understanding of human well-being comes at a high cost: it cannot integrate our commonsensical experiences of how we perceive our lives and the intuition that a variety of different aspects matter for our 'wellness'. To be clear, subjective welfare is highly valued in the capability approach, and indeed, Sen refers to it as a 'momentous functioning' (Sen 1985, 200). However, it should be seen as one aspect of a person's well-being and not, as utilitarians suggest, the only thing that matters.

Second – and this is connected to the first point – the phenomenon of 'adaptive preferences' also suggests that a focus on a subjective metric

is misleading when conceptualizing the well-being of a person. To make his point, Sen refers to empirical evidence: human beings often adapt their assessment of their own situation, including their wishes, hopes and general psychological state, to the circumstances they find themselves in. On the one hand, this may have the effect that one can feel subjectively happy even when suffering considerable disadvantages:

Our mental reactions to what we actually get and what we can sensibly expect to get may frequently involve compromises with a harsh reality. The destitute thrown into beggary, the vulnerable landless labourer precariously surviving at the edge of subsistence, the overworked domestic servant working round the clock, the subdued and subjugated housewife reconciled to her role and her fate, all tend to come to terms with their respective predicaments. The deprivations are suppressed and muffled in the scale of utilities (reflected by desire-fulfilment and happiness) by the necessity of endurance in uneventful survival. (Sen 1999a, 15)

On the other hand, some individuals might have 'expensive tastes', meaning that they feel satisfaction or subjective happiness only if they possess or consume costly goods, such as high-powered sports cars or Almas caviar. In such cases, unhappiness related to the nonavailability of such goods should hardly be taken as an indicator that their overall well-being is jeopardized. Again, these feelings are important to consider as an aspect but not as the only definitional feature of their well-being. Accordingly, the malleability of any mental metric counts against its adequacy.

Third, Sen argues that a focus on utility sees a person only as the 'site' in which pleasant or painful experiences take place; there is no further interest in any other information about her interests and objectives. Or as Sen and Williams once put it: 'Persons do not count as individuals in this [utilitarian approach] any more than individual petrol tanks do in the analysis of the national consumption of petroleum' (Sen and Williams 1992, 4). In other words, the informational space employed by utilitarianism neglects a person's agency; that is, her ability to act and bring about change in the world in line with her own values and goals (Sen 1999b, 19). According to Sen, being able to pursue a life she has reason to value is an immensely important feature of a person's agency. Sometimes realization of values can imply hardship and may jeopardize many forms of human welfare and well-being. Nonetheless, he claims that a person's freedom to follow her ideals must be considered in evaluative exercises.

The second position (or better, family of positions) Sen has extensively criticized regarding its informational space can be labeled 'resourcism'. Its central claim is that an individual's social position can best be judged by her possession of some set of external resources. It comes in different versions, but the arguably most influential account is defended by John Rawls, whose work on justice has had a profound impact on the development of the capability approach. For Rawls, external resources relevant for the evaluation of social position embrace both material ones (such as money and wealth) and immaterial ones (e.g., rights and liberties). What really matters about them, according to Rawls, is that they are useful for pursuing a wide range of conceptions of the good life while being neutral about what this goodness consists of. In Rawls's theory, it is up to the autonomous citizen to decide what kind of life she wants to lead. The state should provide only the means and the institutional settings needed for an ample variety of ways of life; it should have no right, however, to prescribe one doctrine (moral, religious or spiritual) that all its members have to follow. This skepticism stems from the conviction that even between completely reasonable and rational persons, there will be no full agreement about fundamental ethical and political matters. However, according to Rawls, a set of all-purpose means that are useful to all and therefore have to be distributed in a fair way can be agreed on. At the same time, they are useful for making interpersonal comparisons, since the same index of these resources (primary goods, in Rawls's terminology) can be used to evaluate the social position of every citizen – they express each person's level of advantage (Rawls 1982, 163). Surely, Rawls's theory of justice is complex, and his account of primary goods is but one of its aspects. Its critique should therefore not be taken as a critique of the whole theory, which has to include many more facets. Nevertheless, resourcism is arguably deeply entrenched in it and cannot be easily given up without a complete modification of his concept of justice (Nussbaum 2006).

Against resourcism – be it Rawls's or any other version – Sen has brought forward *inter alia* the following two worries: First, Sen argues that the possession of resources is a misleading indicator for the social position of an individual; a variety of factors influence a person's ability to use a bundle of resources for her objectives. In the societies we know, it is not generally the case, as a matter of empirical fact, that two individuals who possess the same (primary) goods are equally advantaged. Personal heterogeneities, environmental diversities, variations in social climate, differences in relational perspectives and distributional issues within the family influence a person's abilities to convert resources into

valuable outcomes (Sen 1999b, 71–72). A person in a wheelchair, for example, has to invest considerable resources just to achieve a degree of mobility someone without the disability enjoys with no investment whatsoever. As a realistic notion of advantage, resources are therefore problematic and in fact lead to unfair judgments. At closer examination, their alleged neutrality fails, allowing for discrimination against the less fortunate, who are generally in a less favorable position to use their resources for the ends they value. Second, and entangled with the first objection, Sen argues that a focus on resources ‘suffers from [a] fetishist handicap in being concerned with goods [...] rather than with what these good things *do* to human beings’ (Sen 1980, 218). Resourcist theories are right, according to Sen, to stress human agency, and indeed, resources are often a good approximation of the freedoms one enjoys. However, they are only the *means* to achieve these freedoms and do not adequately represent a person’s actual opportunities to achieve well-being or to find value in life, which are, according to Sen, the *ends* we should seek and therefore include in societal evaluations. There are also other forms of resourcism, and some of them broaden the notion of what counts as a resource considerably, bringing them, in fact, closer to the metric of justice of the capability approach, which we will argue for in the course of this chapter. Take, for example, Ronald Dworkin’s influential position, which is typically discussed under the heading “equality of resources”, where he advocates that individuals should, over their life span, have access to an equal share of resources. These resources consist of two types, personal and impersonal ones:

[A person’s] personal resources are his physical and mental health and ability – his general fitness and capacities, including his wealth-talent, that is, his innate capacity to produce goods or services that others will pay to have. His impersonal resources are those resources that can be reassigned from one person to another – his wealth and the other property he commands, and the opportunities provided to him, under the reigning legal system, to use that property. (Dworkin 2000, 322–323)

In Dworkin’s theory, therefore both external goods (income and wealth) and the internal features of a person (such as talent and ambition) are seen as resources relevant for justice. However, personal resources are to a large extent subject to the natural lottery, and their unequal distribution usually cannot be redistributed easily or without ethically problematic measures. But people can be compensated for their low

share of personal resources with impersonal ones. The fairest way to do so, according to Dworkin, is determined by a hypothetical insurance market where people can be insured against being untalented, handicapped and the like. Here is not the place to discuss Dworkin's theory in detail, but there are two interrelated issues we would like to note. The first one is that Dworkin's resourcist metric of justice has to be distinguished from a capability-based theory, and the second is that his idea of equality of resources is connected to assumptions that are plausible in the context of ideal theory but lead to problematic consequences in nonideal circumstances (Pierik and Robeyns 2007). This book needs a theory that works within nonideal contexts, and this is a strong reason to reject the sophisticated form of resourcism put forward by Dworkin. We now treat these two issues in turn.

Taking up and extending a critique of Dworkin's theory first brought forward by Andrew Williams (Williams 2002), Roland Pierik and Ingrid Robeyns introduce the following example to show that there is a difference between equality of resources and equality of capability, which Dworkin explicitly denied; they argue that capabilities, in fact, can not be subsumed under his theory of resources (Pierik and Robeyns 2007; Dworkin 2000, 299–303; Dworkin 2002). Amy and Ben are twins and happen to have exactly the same personal and impersonal resources; both want to found a family with a member of the opposite sex. We do not know how they would like to divide care work and market work between them, but there are basically three categories of persons in this regard: homemakers (who are primarily in charge of domestic work and child rearing), ideal workers (who work to generate income and neglect domestic work) and coparents (who share different kinds of work roughly equally). We also know that half of the men in society prefer sharing coparent duties and that the other half prefer being ideal workers. With women, the distribution of preferences is as follows: Half are indifferent to being an ideal worker or a coparent, 40 percent want to be either a coparent or a home worker, and 10 percent prefer to be ideal workers. According to this distribution of preferences, Ben has a very high chance of becoming a coparent (90 percent) and a reasonable opportunity to be either a home worker (60 percent) or an ideal worker in his relationship. For Amy, the situation looks different. She has a 50 percent chance of becoming both a coparent and a home worker. But the option to become an ideal worker in her family is nonexistent because there are no men willing to do the domestic work on their own. Now, given that the preferences of the members of this society are authentic and not influenced by prejudice (two important conditions for a just background

structure), Dworkin's theory leads to the conclusion that there are no morally relevant inequalities between the situations of Amy and Ben since they possess exactly the same resources. The actual distribution of (authentic) preferences and tastes is a matter of luck and should not be seen as triggering claims of justice (Dworkin 2000, 69–70). As will become clear in the following, a capability perspective would judge this example differently. There is a difference between the real freedoms of Amy and Ben. Their resources are the same, but what they can do with them is different. This aspect matters from the perspective of justice, especially in nonideal circumstances, bringing us to the second reason why we reject Dworkin's resourcist approach for the purposes of our book. Dworkin's theory can best be classified as an ideal theory of justice that works with strong assumptions and idealizations. His principles of justice are derived from a thought experiment assuming that the people involved choose against a background of equality of opportunity and nondiscrimination the rules that should govern the institutional structure of their society. He abstracts from inequalities and power structures as they exist in virtually all societies and does not consider histories of subordination, be it in relation to gender, race or wealth, and simply assumes that the preferences of all people involved in his thought experiment are authentic. It is therefore not clear what the implications of his theory are for real-world contexts. He seems to assume that legal measures and economic redistribution (Dworkin 2000, 175) can effectively fight injustice, ignoring the widely established relevance of sociocultural inequalities, which are of the uttermost importance for studying, understanding and alleviating poverty. Here, a direct focus on how people effectively live their lives and the real freedoms they enjoy seems to provide a more feasible way than a focus on resources – even if understood in Dworkin's broad way. Looking again at the example of Amy and Ben, the difference in the opportunities they have within a social context because of sex should be alarming; downplaying the issues of justice involved by pointing to the fact that they have an equal share of resources just seems too easy an excuse.

With this we do not claim that Dworkin's approach cannot, in principle, be fruitfully used as a normative background theory for criticizing poverty. However, it seems to us that much more theoretical work needs to be done to apply it in this domain and that the capability approach provides more accessible tools to deal with injustices as they factually happen. It is true in part that it lacks the clarity of Dworkin's (also Rawls's) theory of justice, a clarity gained by idealization and abstraction. However, clarity is not very useful if it is too far from the social

world's realities. Here, so we argue, the capability approach works much better.

Let us look at Sen's alternative account to well-being and advantage, which solves, or so he argues, the issues criticized on the other proposals. In doing so, he introduces the concepts of functionings and capabilities, which focus directly on an individual's life and which enable the conceptualization of her opportunities (e.g., Sen 1992, 39–42; Sen 1999b, 74–76; see also Alkire 2002, 4–11). Functionings are the activities and states that make up a person's life; they are the different 'beings' and 'doings' living consists in. And since human existence encompasses many different doings and beings, the category of functionings is a broad one and includes being healthy and educated, having a shelter and taking part in the life of the community, as well as being undernourished, killing animals and feeling emotional distress. In any case, it is essential to note two things: First, they have to be distinguished clearly from the resources employed to achieve these functionings, even if most of them depend heavily on some of their input. Second, the criticized mental metrics as used by utilitarians can be seen as a relevant subcategory of functionings (e.g., being happy), but they do not – by far – include all the necessary information about an individual's circumstances. For Sen, however, it is not enough to look only at the functionings realized by a person in order to compare his situation with that of others. As already indicated, he considers the freedom to lead a life one has reason to value as one of the most valuable features of human life. In order to express this idea, he introduces the notion of capabilities. They are defined as the functionings a person has actually access to and reflect the person's freedom to realize different achievements. To give an example: eating is a functioning, while the real opportunity to eat is its respective capability. Normally, it is important to look at capabilities not one by one but in combination with each other – usually, the realization of one specific functioning influences others, and only a holistic approach can retrieve all the relevant information. Notice that Sen in fact originally introduced the concept of a capability to refer to *a set of combinations of functionings*, each representing a feasible lifestyle (Sen 1980; Sen 1992). However, in his other writings, he uses the term 'capability', as introduced here, to refer to the freedom to achieve one particular functioning, a usage that is nowadays widespread in the literature. Take, for example, someone who has to make a choice between a job that gives him an income necessary for a decent living but that is so time-consuming that his personal relationships will be reduced drastically. It is this interconnectedness between different

valuable achievements that must be considered for evaluating a person's situation comprehensively. If not, it might get overlooked that a good choice with respect to one domain was – all things considered – a tough or even tragic one. Since capabilities are a kind of freedom, it also becomes clear that the approach gives a high value to people's agency, which is, according to Sen, understood as the faculty to act and bring about change according to one's values and objectives (Sen 1999b, 19). In the end, people should be able to identify with their choices and actively shape their own lives; it is therefore decisive for a just society to provide the conditions to make this, in fact, possible.

It is crucial to understand that the notion of well-being as it is used in the capability approach must not be identified with what is typically termed 'welfare' in political philosophy or economics, where the term is understood exclusively in relation to individual preferences or happiness. As shown, this position was powerfully rejected by Sen. Or to put it differently, the notions of well-being, on the one hand, and functionings and capabilities, on the other, are closely related, and there is by now a vast literature confirming this diagnosis (Comim, Qizilbash and Alkire 2008; Deneulin and Shahani 2009; Biggeri, Ballet and Comim 2011). Welfare, on the other hand, in Sen's terminology, is only one aspect of the overall well-being of a person and must not be reduced to it.

A person's capabilities (but also achieved functionings) depend on many different factors. They are a product of a person's abilities and skills, as well as the political, social and economic context she finds herself in. They obviously usually depend on resources; without the necessary goods, it is simply not possible to live a self-determined life according to one's own conception of the good. However, what matters is the 'relationship between persons and goods' (Sen 1980, 216) and what the relationship allows us to do and be.

In this context, the term "conversion factors" is helpful. It was introduced by Sen to conceptualize the relation between resources and the realization of certain functionings, and it calls attention to the degree a person in fact can use the goods at her disposal for her purposes. At least three different kinds of such factors can be identified, all of which have to be taken into account when evaluating the real freedoms somebody has access to (Sen 1992, 19–21; Sen 1999b, 70–72; Robeyns 2005, 98–100). First, there are personal conversion factors. Our physical, psychological and emotional characteristics, as well as our achieved levels of skills, influence what we can 'get' out of the resources we command. If we are in good health, for example, we do not need a lot to achieve basic mobility. However, due to illnesses or impairments, moving around can

be burdensome and only possible with the right assistance or technical tools (e.g., by using crutches or a wheelchair). We can observe that, in some cases, lower levels of well-being or freedom resulting from personal heterogeneities can be compensated by more or special kinds of resources. Sometimes, however, even the best support or the greatest wealth does not outweigh the respective disadvantages (Nussbaum 2006). Personal conversion factors highlight the many differences existing between people and their relevance for using the goods they possess for their ends. They can add much interesting information to evaluative exercises and detect inequalities relevant for ethical theories, but they also point out that during a person's life course, the characteristics decisive for her realization of valuable functionings vary greatly.

Second, there are environmental conversion factors relating, for example, to varieties of climates and geographical locations but also to pollution and the prevalence of diseases. All these aspects have a direct impact on the individual, her freedoms and level of well-being and must be considered in the conceptualization of a person's capabilities. Pure survival in a country with low temperatures depends on adequate clothing and shelter with heating facilities and the respective investments that are not necessary to make in milder regions of the world. Or, to give another example, the high levels of smog and problems in the water supply as experienced by some of the world's megacities directly bear on the quality of life of their inhabitants. These environmental circumstances restrict good human functioning in many ways, and even considerable wealth cannot outweigh them. The life of each person must therefore be examined in a variety of environmental dimensions to get a realistic picture of what can be achieved with a fixed set of goods.

Third, social conversion factors play a role in how an individual can benefit from resources or a certain amount of income. This category embraces public policies, power relations and social norms, for example, and emphasizes that every individual is embedded in a social context that is crucial for understanding her real freedoms. Educational and health programs run by the state might allow access to important functionings without demanding material wealth, and the absence of crime or violence contributes massively to the quality of life in the locations in question. If the streets are not safe, options of what can be done with one's possessions get restricted. A nice car is of no use if it is too dangerous to drive it on the streets. Discriminating practices, gender roles and societal hierarchies, too, must be taken into account when analyzing the relationship between persons and goods. If there are rules excluding girls from the educational system in a certain society, even having the best

schools next door is not helpful for the capability to be educated; if a social norm forbids women to cycle, possessing a bike in combination with cycling skill does not lead – as is usually the case – to the result that a woman will consider cycling a real option; her actual possibility to use the respective good gets restricted by her social environment.

Summarizing, conversion factors point to the complex relationship between what a person has and what kind of life she in fact enjoys, and accordingly, we need to know many aspects of a person's situation in order to judge how well off she is. Resources, social institutions and norms, as well as the environmental context, all play an important role, and an analysis focusing on functionings and capabilities must take all of them into account while acknowledging that they matter primarily as means and not for their own sake. Two important points follow from these considerations: First, the capability approach entails a position called 'ethical individualism', which claims that the individual is the fundamental moral category. In the end, the quality of a society is judged by how well it manages to show respect and concern for each and every one of its members, taken one by one. As Nussbaum once put it:

[...] the capabilities sought are sought for *each and every person*, not, in the first instance, for groups or families or states or other corporate bodies. Such bodies may be extremely important in promoting human capabilities, and in this way they may deservedly gain our support: but it is because of what they do for people that they are so worthy, and the ultimate political goal is always the promotion of the capabilities of *each person*. (Nussbaum 2000, 74)

Second, however, it must not be overlooked that this focus on the individual does not ignore the social nature of human life. On the contrary, what the discussion about conversion factors showed is that the capability approach stresses the social embedding of every person and that only against this background can her individuality come forward and her life be assessed adequately. This also means that the capability approach naturally goes hand in hand with a critique of social relations which hinder the social conditions of freedom for every citizen (Graf and Schweiger 2014). The evaluation of capabilities, therefore, has to recognize the many ways oppression and exploitation are present in a society and how these phenomena affect relations of equality between people (Anderson 1999).

We have outlined some of the criticisms capability scholars have brought forward against other informational spaces, and we have

introduced the notions of functionings and capabilities and put them into the wider context of the concerns of the capability approach. From our point of view, they provide the best approach to a metric of individual advantage, and they should also therefore be used to make interpersonal comparisons that matter from a social justice perspective. They shift the focus from a mere provision of goods to the question of what these goods allow persons to be, do or achieve, recognizing variations in a person's ability to convert goods into valuable functionings. This characteristic, together with the explicit recognition of the multidimensional nature of a person's well-being and the central place attributed to human freedom, makes this metric of justice suggested by Sen preferable to other options, such as primary goods or utilities. Furthermore, they allow for a direct connection to the social scientific literature, where functionings and capabilities are used in issues of measurement and conceptualization. Does this conclusion also hold for children, with whom this book is concerned? Or do we need to adapt the capability approach somewhat? In what follows, we will discuss why the adequate currency of justice for children does not straightforwardly consist of capabilities, as is typically the case for adults.

Children are different in many important aspects, the two main ones being that children are not autonomous beings from the beginning but become autonomous over the course of childhood and that they are developing beings who change rapidly and whose development can be severely hurt by outside influences. Both imply that children are more vulnerable to certain forms of harm and that they are heavily dependent on others as well. We distinguish three kinds of vulnerability: physical, mental and social; the last can be further differentiated into legal, economic and political forms. These forms correlate with dimensions of powerlessness. It is evident that a child's body suffers more severely than an adult's from physical violence, such as shaking, and that certain hazards that are only a small problem for an adult can be a deadly threat for a newborn or toddler. It is also a fact that the physical and mental development of children can be severely distorted by external factors like toxic chemicals in the environment and that such influences on development can be irreversible (Landrigan and Goldman 2011). Various psychological research studies on the development of the self and personality and on socialization have examined the effects of outside surroundings on children. For instance, it has been shown that girls who suffer from maltreatment during childhood may develop a low perception of their own social power in relationship with others; this state may be predictive of a propensity for abusiveness in their relationships

with their own children (Bugental and Grusec 2007). Another example includes the associations found between early attachment security and measures of emotional health, self-esteem, agency and self-confidence, positive affect, ego resiliency and social competence in interactions with peers, teachers, camp counselors, romantic partners and others (Thompson 2007). It is crucial always to be aware of the fact that there is only one chance for each child to develop and grow up, and distortions in early life cannot be taken back. Still, research like this should not be interpreted to mean that children are passive objects in their own development and that childhood predicts everything. Rather, it should help us understand that all humans are dependent and are shaped by interactions with others and the environment – interactions that greatly influence who we are and what we are able to be and do.

The social vulnerability of children partly stems from their limited capacities and their needs and partly from how childhood is framed in modern societies (Graf 2015). They are economically vulnerable because they cannot take care of themselves in the same sense as adults. Most importantly, they cannot (up to a certain age) work and are not allowed (again, up to a certain age) to work and be economic agents, and they have essentially no control over their income and other resources like housing and transportation. If their parents become unemployed, for example, children cannot substitute that lack of income or otherwise sufficiently support their parents to cope with this situation. They are, in fact, often victims of these situations and the high level of stress that they cause (Edwards, Gomes and Major 2013). Furthermore, they are legally subject to their parents and their decisions in many ways. If a child is neglected, it is often not in the child's power to claim proper treatment by her parents, and it can be very difficult for her to reach out and demand others to help and intervene (also because family relations are fueled by emotions). In many welfare states, parents have a wide range of rights to control and shape the lives of their children; in some of them even corporal punishment and with it many possible severe consequences for the child's development are allowed and tolerated (Durrant and Ensom 2012).

Children are politically vulnerable because they cannot effectively change their political position and they depend on the rights they are granted by others (Milne 2013). Children cannot fight for their rights in the way adults can, and they cannot organize themselves in a comparable manner that would gather them political influence. Their social vulnerability is hence also produced and sustained by their social powerlessness. Children have less power and fewer capacities and opportunities

to alter their lives, and many opportunities they have are not good ones. The rare opportunities to acquire resources and funds to make a better living, for example, through work and labor, are limited, and there are very good reasons to ban children from working and laboring, not to speak of such illegal and evidently harmful ways as begging and stealing. In certain cases, it is better for children to leave their families and homes and live on their own (if they are old enough) or in other forms of care arrangements, but in general it is widely acknowledged that this is not good for either their well-being or well-becoming (Lawrence, Carlson and Egeland 2006).

The vulnerability and powerlessness of children reflect, thus, two dimensions of the specific moral and political status children can and should have due to the nature of their being. On the one hand, as we have argued so far, powerlessness increases and creates certain vulnerabilities in children; it is also socially created to an extent. On the other hand, to hold children powerless in some areas is not only permissible but an entitlement of justice and morality that children should be granted. It is important to note the crucial difference between children and women and other powerless subjugated social groups in large parts of this world. Being held powerless certainly does not protect women; they are oppressed, and justifications applied to children, like inferior competence and vulnerability, do not apply to women or minority groups (Nussbaum 2000).

Most theorists concerned with justice for children acknowledge that these vulnerabilities, together with their potential to develop into autonomous beings, constitute a particular 'nature' of children that grants them a different moral and political status (Archard and Macleod 2002; Brennan and Noggle 2007). It is also at this point, where the capability approach has been criticized for not being suitable as a normative theory for children. As Colin Macleod argues, the notion of capabilities is closely tied to an 'agency assumption', one that presupposes that the subject in question is able to make autonomous decisions. And since children – especially younger ones – miss this feature, the capability approach has problems to integrate them into his conceptual framework (Macleod 2010). We will argue later on that this problem is solvable and that the concepts of evolving capabilities and achieved functionings are of great value here. But before we do this, let us explore more deeply the question of autonomy and development, how children are 'special' and that it is very important to distinguish between different groups of them: Children are a very heterogeneous group, more so than a group of adults, when it comes to significant differences. A 'normal' two-year-old

toddler's skills and capacities differ more from a 'normal' twelve-year-old teenager's than those of a 'normal' twenty-five-year-old differ from a 'normal' fifty-five-year-old's. Exceptions, such as people with severe disabilities, do not refute this assumption, because they are seen as just that: exceptions. Nor does this rest on a strong anthropological conception about what is human; it can be expressed only via a very shallow understanding of empirical facts about humans. A good comparison is provided by the concept and definition of health and disease: the fact that some people are born with severe cognitive disabilities does not lead to the conclusion that suffering from a head trauma that shows the same outcome is something 'normal' in the sense that it should not be seen as impairment to health. Humans can differ greatly in many aspects, but it is plausible to assume that children are particular in some of those and that these aspects change as children develop. A capability approach to children has to recognize these differences and changes and see them as morally relevant, a view supported by Nussbaum and Dixon in the context of children's rights:

The idea of agency has a central role to play in the CA: the capability approach sees people as striving agents, and in contrast to approaches that aim only at the satisfaction of preferences, it aims at supporting the growth of agency and practical reason. This emphasis on agency, under a CA, further means that children should be afforded the maximum scope for decisional, freedom consistent with their actual – or potential – capacity for rational and reasoned forms of choice, or judgment. For adolescents in particular, this may mean recognizing a range of rights to sexual and reproductive choice, religious choice, and choices regarding custody. In many cases, it will also mean granting at least certain decisional rights to younger children. (Dixon and Nussbaum 2012, 559–560; footnotes omitted)

Childhood is a phase of rapid changes in all known mental, physical and social categories. So, when we write here about children, we should always be aware that the category of children is very vague and encompasses humans with great differences in skills, capacities and needs, which implies that a claim justified toward a toddler can be unjustified toward an adolescent. In fact, treating an adolescent like a toddler is denigrating and humiliating and certainly does not accord with treating her justly (Brighouse 2003).

What we can say, though, is that children lack the skills and capacities needed to make fully autonomous choices and decisions for themselves

until they are grown up and are hence to be seen as adults. This does not mean that they cannot articulate their wishes and preferences or that they cannot decide anything for themselves from a certain age on, but a theory of justice for children cannot and should not assume that the subjects of this justice are fully autonomous beings. The same is probably true for many adults, but in a different sense, which does not hold as a general rule rooted in their 'natural' capacities. Many adults are restricted in their freedom because of external factors, but children are so because of what they are and what they can do and be, based on their still developing minds and bodies. This becomes obvious if one looks at very young children: A toddler cannot make any reasonable decision for herself and is dependent on adults to the extent that her life is in danger if she is abandoned. The lack of autonomy of children is surely based not only in human biology but also in the social arrangements constructed around childhood. The legal position of children, for example, restricts them in their autonomy even though it is unclear in the cases of some older children and adolescents whether they are really less capable of making their own choices than many adults, who are not equally restricted by the law. Such arrangements are in need of a close examination as to whether they really fit children, respect them and do justice to them, but in general, it is reasonable to claim not only that children are less autonomous but that there are good reasons to let them make only limited choices for themselves.

This refers both to their lack in competencies and to their nature as developing beings. All humans change throughout their entire life, but childhood is a phase of rapid and significant change like no other, and this development is highly influential for the whole future life course. Development does not simply happen to children; it must be fostered, and children's development is influenced by their environment and the people and institutions interacting with them. Children's development can be severely hurt and damaged, with sometimes lifelong consequences. We will soon introduce the concept of corrosive disadvantages, which is a suitable description of such damages with lifelong consequences. Children do not know what is best for their development, as well: A baby cannot know whether a vaccination helps prevent severe diseases, and she cannot know that the pain of getting a shot is outweighed by the lifelong protection from severe illness. Older children cannot know what learning is good for, even if they often enjoy learning, and that going to school is a crucial condition for their future well-being and for what they can do later on in their lives.

As a consequence, we wish to endorse the view that childhood should be a protective phase and that children have a right to have a childhood

separated from the adult world in some features. Not having to make certain decisions and not being held responsible for one's actions to the full account also provide protection, and children would be overburdened if they were granted the full range of rights and duties as adults. Children lack the competencies and autonomy to make many decisions for themselves and to know what is best for them, their actual well-being and their future well-being. Such a justification of partial paternalism toward children, which decreases as they grow up and become more mature, is widely acknowledged, although there is significant disagreement about the justificatory bases of paternalism and how far it should go; for example, in regard to teenagers and adolescents who show (nearly) the same competences as most adults (Archard 2004; Franklin-Hall 2013; Anderson and Claassen 2012).

What such a developmental view of children, together with an acknowledgment of their agency, means for capability approach theory has already been fleshed out in some detail (Ballet, Biggeri and Comim 2011). In particular, the concept of evolving capabilities was introduced as a crucial conceptual extension to the prevalent terminology. Evolving capabilities include the dynamic aspect of the development of capabilities and explicitly link the person's abilities, achievements and circumstances at different points in time:

The process of capability expansion or of evolving capabilities starts from an initial set of achieved functionings of the child at time t_n . The process of resource conversion is very much affected by how different institutions, norms and cultures constrain or empower them, shaping the formation of a new set of functionings and capabilities that are inter-temporally distinct. The child's capability set (opportunity freedom, i.e. the vector of potential valuable and achievable functionings) is thus given by the resources/constraints, by his or her limited opportunities and by his or her own abilities. From the multidimensional capability set the choice will determine the vector of new achieved functionings at time t_{n+1} . The dynamic process is going to be influenced by feedback loops if seen as taking place in sequential periods of time. [...] The emotional and cognitive development of children goes through different stages in which their decision making and agency is shaped by their life experiences and mimicking behaviour. (Ballet, Biggeri and Comim 2011, 34)

The concept of evolving capabilities thus grasps the fact that capabilities change over time according to different factors. The already introduced

notion of conversion factors is helpful to further clarify this point. If we look at internal factors, we realize that a child's opportunities typically broaden in childhood due to physical, psychological and emotional changes. Furthermore, children acquire skills that can be used to get more out of the commodities they have access to. This expansion of their capabilities is certainly related to biological facts about the way humans grow up, but it would be wrong to reduce human development to such a perspective – this is where social conversion factors come into play. On the one hand, they often relate directly to what is 'internal' to a person. The social context profoundly influences our psychological, emotional and even physical development, the skills we are able to learn and the aspirations we have. This shows that internal conversion factors, too, do not merely exist in a vacuum but must be interpreted over a certain social context. One can also mention here the close relationship between a child's capabilities and those of her parents or close caregivers (Ballet, Biggeri and Comim 2011, 30–31). As is well known from empirical research, disadvantages are often transferred from one generation to the next, and without improving the capabilities of a child's attachment figures, it is unlikely that her life chances will be comparable to those of her peers from a privileged background as understood in terms of the caregiver's capabilities (which do not equal their material wealth). On the other hand, social norms and institutions regulate our lives in many ways and our ability to use resources for our aims. The case of children in modern Western societies serves to illustrate this point: Often enough, their possibilities are constrained; for example, by the fact that they have to attend school, kindergarten or other educational facilities that entail a set of rules and restrictions that are, at least in some aspects, different from the regulations adults face. Furthermore, there are usually laws and social expectations in place, treating children and adults differently and granting them different degrees of authority over their own circumstances. As we have argued, such an approach is valid if it is applied sincerely and with care. But the point is that all these facets – and many more – have to be taken into account when analyzing the evolving capabilities of children and the effective freedoms they enjoy.

Analyzing the well-being and well-becoming of children in terms of evolving capabilities brings another aspect to the surface, which relates to the many interconnections between different functionings and capabilities, their synergies but also negative interactions. This point is worth emphasizing for several reasons and will provide a main point of reference for our argument about the injustice of child poverty, which we will develop in the next chapter.

First, it is likely that certain functionings and capabilities are valuable not only in themselves but also because their possession positively influences other functionings and capabilities. As we will argue in more detail in the next section, a clear case can be made that health, for example, fulfills such a function and that it therefore makes sense to have a special look at health, also in the case of social analyses and distributions of inequalities. This idea of particularly important dimensions of the life of a human being, which ‘spread their good effects over several categories either directly or by reducing risk to the other functionings’, was introduced by Jonathan Wolff and Avner de-Shalit in their book *Disadvantage*, connecting it explicitly with the capability approach. They term this category ‘fertile functionings’ (Wolff and de-Shalit 2007, 121) and suggest that their identification and promotion among the least advantaged members of society will lead to social change and a reduction of disadvantage. They are also very clear that social policy has to make sure that people in fact realize these functionings and that they not be defined as capabilities where freedom of choice plays a major role (Wolff and de-Shalit 2013). While this point has been controversially discussed for adults, for children the case is clearer; for them, the category of achieved functionings needs to have priority, especially when they can be proven to be fertile. However, since for children the differentiation between well-being and well-becoming is particularly important, the notion of ‘fertile functionings’ has to be understood from both perspectives, as well. On the one hand, they are important because they promote other dimensions of well-being. On the other hand, their positive effects might spread to a child’s future and well-becoming. Certainly, both aspects are relevant and have to be included in the concept of fertile functionings. Which functionings play such a role is the subject of empirical studies, and a normative theory cannot develop its claims without considering such knowledge; it has to work with the best available evidence and must also acknowledge variations in different contexts. What is fertile in one case does not necessarily have this effect in another one, even if it is reasonable to assume that some functionings, health, for example, are likely to have a fertile effect almost universally.

Second, and very closely connected to the notion of fertile functionings, are ‘corrosive disadvantages’, which are also introduced and analyzed by Wolff and de-Shalit (Wolff and de-Shalit 2007, 121). Here the idea is that some disadvantages have negative impacts on many other aspects of life, leading to a variety of drawbacks. Again, such disadvantages might be relevant for the well-being of a child; for instance,

when lack of decent living conditions directly translates into social problems. They also serve, however, as an important category for future-oriented analysis. Corrosive disadvantages have a middle- and long-term impact on a child's life, and their negative effects often become clear only when they are put into a life-course perspective. It is of great moral importance that children enter their lives as adults in a condition where enough significant life chances are still available for them. Consequently, moral harm is done not only insofar as children experience suffering and neglect in childhood but also when the way they live their childhoods reduces valuable options they find as adults. Take, for example, the case of physical abuse, experienced by many children. Its immediate damage is, of course, severe and its impact on the child's well-being disastrous. However, the full picture of its moral harm can be evaluated only if we take into account its impact on the child's future life, in relation, for instance, to health problems, social status, economic well-being and a range of psychiatric disorders (Lanius, Vermetten and Pain 2010; Widom et al. 2012; Currie and Widom 2010), all of which reduce a person's well-being, including the faculty of self-government and the effective pursuit of a life plan. In our argument about the injustice of child poverty, which we will develop in detail in the next chapter, it will therefore also be crucial to look at aspects of children's lives that have particularly positive or negative effects in the long run. Naturally, such an endeavor is connected to empirical knowledge, and indeed we will argue that philosophical theories about justice have to work closely with empirical analyses that add substance to purely theoretical considerations. As in the case of fertile functionings, finding out which disadvantages are indeed corrosive is not a purely philosophical matter. On the contrary, identifying and clarifying the causal relations between disadvantages is mainly an empirical task. The same is true for studying and understanding how patterns of disadvantage arise, why they persist and which factors contribute to the fact that they can even be transferred from one generation to another.

Fertile functionings and corrosive disadvantages are related in many ways. However, it is important to separate them on a conceptual level and to stress that there is more to the distinction than acknowledging that one and the same functioning can have good or bad effects, depending on its realization or absence (Wolff and de-Shalit 2007, 134). To illustrate this point, it suffices to note that, in many situations of disadvantage, it is not enough to eliminate the causes of the problem, including disadvantages considered corrosive. In many cases, something additional is needed to effectively overcome the difficult situation. Take, for instance,

the case of someone who has an alcohol addiction. It is easy to imagine that this problem is a corrosive disadvantage, leading to many negative consequences; ending the addiction alone is not a guarantee that many of the experienced disadvantages disappear. It might be necessary for the person to develop a new sense of self-worth and self-efficacy – fertile functionings, which are not directly related to the experienced disadvantages – to succeed in life. On the other hand, the absence of many fertile functionings does not always lead to disadvantages. A sense of humor, to take Wolff and de-Shalit's example, is certainly of help in many ways to deal with difficult situations. But its absence probably has relatively few other negative effects and should not, in typical circumstances, be counted as corrosive.

Third, a look at the concept of evolving capabilities and the interrelation of different functionings and capabilities in their formation stresses the importance of *functionings*. As described by Ballet, Biggeri and Comim, the process of capability expansion always starts by an initial set of archived functionings and has to take into account which functionings will be realized during the development process, as well. Wolff and de-Shalit also deliberately write about fertile *functionings* (and not capabilities), characterizing corrosive disadvantages first and foremost in relation to achieved functionings. In their theory, they do not use the concept of evolving capabilities, and their focus is not mainly on children, but this observation is relevant nonetheless. The reason for this is that the ability to choose for oneself and to determine one's life is dependent on many preconditions, and a certain level of overall well-being typically has to be achieved so that choice in a meaningful sense can be exercised. In the terminology of the capability approach, this means that the category of functionings must not get neglected and that they provide valuable insights in the distribution of disadvantages in a society. We would like to emphasize that, in the case of children, it would be generally wrong to give them only the capabilities to achieve certain levels in different dimensions of well-being. What matters is that they actually lead good lives and not merely that they have the options to do so if they want to. In regard to children, Nussbaum prefers such a perspective as well:

If we aim to produce adults who have all the capabilities on the list, this will frequently mean requiring certain types of functioning in children, since, as I have argued, exercising a function in childhood is frequently necessary to produce a mature adult capability. Thus it seems perfectly legitimate to require primary and secondary

education, given the role this plays in all the later choices of an adult life. Similarly, it seems legitimate to insist on the health, emotional well-being, bodily integrity, and dignity of children in a way that does not take their choices into account; some of this insisting will be done by parents, but the state has a legitimate role in preventing abuse and neglect. Again: functioning in childhood is necessary for capability in adulthood. The state's interest in adult capabilities gives it a very strong interest in any treatment of children that has a long-term impact on these capabilities [...]. (Nussbaum 2000, 89–90)

For children, however, functioning may be made the goal in many areas. Thus I have defended compulsory education, compulsory health care, and other aspects of compulsory functioning. (For example, I support an age of consent for sexual intercourse, so that children's bodily integrity is protected whether they like it or not.) Compulsory functioning is justified both by the child's cognitive immaturity and by the importance of such functioning in enabling adult capabilities. (Nussbaum 2006, 172)

Where does that leave us in the question of the right currency of justice for children? The restriction of children's autonomy is, as we see, not only a reaction to their limited competencies and skills but also justified by the need to protect them, their development and their future life chances (Noggle 2002; Archard 2003). It is hence a part of justice for children, and giving children too much autonomy over their lives too early would expose them to great risks. It is very likely that these children, once they have grown up, would make serious accusations and blame their parents and the state for having let them down by allowing them to quit school at the age of seven, by not getting healthy food because they preferred junk-food or by not going to the dentist and subsequently having serious health issues. Children cannot use capabilities in the way adults can, and they do not gain the same amount of value from having a choice when they are very young. A toddler does not have an increase in real freedom and does not see the value in being presented with many potentially valuable options – her needs are more focused. The risk of overburdening children by letting them decide is also to be considered. We see good arguments that claim that functionings, instead of capabilities, are to be preferred, but over the course of childhood and as children develop into more and more autonomous beings, capabilities become more important and finally take over. The developmental perspective of Nussbaum is only one important aspect, and the issue of autonomy and being protected as a child matter equally. We

claim that functionings are the right currency of justice for children not solely because this will lead to the development of adults with certain capabilities but also because functionings represent what children need in order to have a good childhood, since they cannot make all decisions for themselves. One of the main reasons for preferring capabilities over resources is that people are given real freedoms, but for children real freedoms matter less, at least until a certain point in their development. This is not to say that freedoms do not matter at all for children, but they have to be interpreted in a suitable way, taking account of the fact that full autonomy is not the right category for thinking about children's choices. However, so far, we have described these concepts only as formal categories without specifying their exact content. In order to apply the capability to the problem of justice, something more must be said about this issue, and one needs to take a stand regarding (a) which functionings and capabilities matter for social justice and (b) to what degree or threshold must they be secured in order to achieve social justice. In the next sections, we will address these questions in turn.

1.2 Selecting functionings and capabilities for children

The next task to further develop our concept of justice for children is to select functionings – for older children, capabilities – that are relevant for assessments of justice. Sen has never identified a comprehensive list of functionings and capabilities, either for adults or for children, that could be used as the basis for a theory of justice. On the contrary, he has brought forward some reasons why he is skeptical about such an endeavor (Sen 1993; Sen 2004b). He argues that a predefined list of what is valuable to human life ignores what people actually value and might be overly paternalistic. Furthermore, it goes against the ideal of public deliberation processes that Sen sees as the best and the legitimate way to answer value questions. Finally, he suggests that moral questions are notoriously difficult to answer and that this insight, too, speaks against the definition of a full list. Throughout his works, he frequently refers to some examples of capabilities he believes to be supported by a wide range of moral and political positions, which he terms 'basic capabilities'. However, his remarks on this subject remain only exemplary, and all in all, he refrains from substantial claims when it comes to value questions on an abstract and universal level detached from concrete contexts and socioeconomic circumstances. His version of the capability approach is therefore best understood as an 'analytical device' that can be used for different ends. In particular, Sen reminds us that evaluative

exercises have to incorporate a variety of diverse concerns and dimensions. In doing so, he also explicitly stresses the many (causal) relationships between different functionings and capabilities and emphasizes how important empirical work is for the subject matter of political philosophy. From his point of view, the capability framework serves to clarify what is at stake in public reasoning, helping to make social evaluations open and transparent. However, it cannot, a priori, solve moral disagreements (Sen 2005, 157). Nonetheless, Sen is confident that there will always be enough intersections between different reasoned approaches, providing guidelines for actions that lead to the enhancement of justice (Sen 2009).

While Sen sees this ‘undertheorization’ of the capability approach as a specific strength, others have raised doubts about it. Most importantly, it has been argued that without some specifications of objectively valuable functionings and capabilities, the capability approach does not have any normative force, especially if one wants to apply the notion of social justice in a global and multicultural context (Nussbaum 2003; Arneson 2006; Nussbaum 2011, 69–75). In this line of thought, different lists have been proposed and discussed by philosophers and researchers who work empirically, but none of these lists seems to satisfy all critics. We agree that it will not be possible to have one list for all purposes and that it is important to specify the items according to certain goals and contexts. In addition, there will always be discussions about the adequacy of fully specified lists, if they include everything that is valuable or if they miss important information. However, a critique of child poverty needs to take up a position at least on some of the crucial elements for children’s lives; only then will it be possible to inform and guide a society on the design of its institutions and on its policy decisions broadly construed. But fulfilling this task does not rely on an exhaustive and fully specified list of capabilities, be they deduced from philosophical argument or from the outcome of ideal deliberation processes. Much can be achieved with pragmatic and preliminary lists, and our treatment of the injustice of child poverty in the next chapter will be a good occasion to prove this point. But before we present the list we see as suitable for our purposes, let us briefly review two influential suggestions as to what such a list might look like in the case of adults.

The most prominent list is certainly Nussbaum’s, which distinguishes ten central human capabilities. She argues that her list is grounded on the idea of a life worthy of human dignity, which in turn draws on the intuition that every person is a needy and social creature capable of reasoning. The central human capabilities are defended as universal

and prepolitical entitlements, which every state has to guarantee for its citizens. According to Nussbaum, her list appeals to very fundamental values shared by many different moral and religious doctrines (although for different reasons), and it can be, over time, the object of an overlapping consensus in the Rawlsian sense. She is also very clear that in providing these capabilities to citizens, she does not mean to push them into a set of specific functionings. The choice to realize a specific life remains with each and every individual. Before presenting the list, it must also be noted that her understanding of capabilities is broader than Sen's. While Sen defines them as real opportunities, for Nussbaum they also include talents, internal powers and abilities. Sen's conversion factors are therefore already integrated in her concept of capability itself (Robeyns 2003, 75). In our view, this is more of a conceptual issue than one of substance, but it explains to some extent the ways they characterize and write about this concept – and these conceptual ambiguities have certainly provoked some misunderstandings in the literature. The list reads as follows (Nussbaum 2011, 33–34):

- (1) *Life*. Being able to live to the end of a human life of normal length; not dying prematurely or before one's life is so reduced as to be not worth living.
- (2) *Bodily Health*. Being able to have good health, including reproductive health, adequate nourishment and adequate shelter.
- (3) *Bodily Integrity*. Being able to move freely from place to place; to be secure against violent assault, including sexual assault and domestic violence; to have opportunities for sexual satisfaction and choice in matters of reproduction.
- (4) *Senses, Imagination and Thought*. Being able to use the senses, to imagine, think, and reason – and to do these things in a 'truly human' way, a way informed and cultivated by an adequate education, including but by no means limited to literacy and basic mathematical and scientific training. Being able to use imagination and thought in connection with experiencing and producing works and events of one's own choice, religious, literary, musical and so forth. Being able to use one's mind in ways protected by guarantees of freedom of expression with respect to both political and artistic speech and freedom of religious exercise. Being able to have pleasurable experiences and to avoid nonbeneficial pain.
- (5) *Emotions*. Being able to have attachments to things and people outside ourselves; to love those who love and care for us, to grieve at their absence; in general, to love, to grieve, to experience longing,

gratitude and justified anger. Not having one's emotional development blighted by fear and anxiety. (Supporting this capability means supporting forms of human association that can be shown to be crucial in their development.)

- (6) *Practical Reason*. Being able to form a conception of the good and to engage in critical reflection about the planning of one's life. (This entails protection for the liberty of conscience and religious observance.)
- (7) *Affiliation*.
 - A. Being able to live with and for others, to recognize and show concern for other human beings, to engage in various forms of social interaction, to imagine the situation of another. (Protecting this capability means protecting institutions that constitute and nourish such forms of affiliation and also protecting the freedom of assembly and political speech.)
 - B. Having the social bases of self-respect and nonhumiliation; being able to be treated as a dignified being whose worth is equal to that of others. This entails provisions of nondiscrimination on the basis of race, sex, sexual orientation, ethnicity, caste, religion, national origin.
- (8) *Other Species*. Being able to live with concern for and in relation to animals, plants and the world of nature.
- (9) *Play*. Being able to laugh, to play, to enjoy recreational activities.
- (10) *Control over One's Environment*.
 - A. Political. Being able to participate effectively in political choices that govern one's life; having the right of political participation and the protections of free speech and association.
 - B. Material. Being able to hold property (both land and movable goods) and having property rights on an equal basis with others; having the right to seek employment on an equal basis with others; having the freedom from unwarranted search and seizure. In work, being able to work as a human being, exercising practical reason and entering into meaningful relationships of mutual recognition with other workers.

Another example of a concrete list of valuable capabilities is the one offered by Ingrid Robeyns (Robeyns 2003), who distinguished fourteen dimensions for evaluating gender inequality. Her list is based on a methodology that involves four criteria: First, the selection process and the selected functionings or capabilities must be explicitly formulated so that they can be openly discussed, criticized, defended and, if needed,

modified. Second, there is a criterion of methodological justification. The method used to generate the list must be clarified and scrutinized. Furthermore, it must be defended as to why it is appropriate for the issue at hand. Third, lists can be formulated at different levels of generalities, and an individual has to decide, according to the aims she pursues, at what level she works – reaching from ideal theory to pragmatic lists constrained by the given circumstances. Fourth, norms of exhaustion and nonreduction should be met: The capabilities on the list should include all elements that are important and should not be reducible to other elements. Her list is as follows:

- (1) Life and physical health: being able to be physically healthy and enjoy a life of normal length.
- (2) Mental well-being: being able to be mentally healthy.
- (3) Bodily integrity and safety: being able to be protected from violence of any sort.
- (4) Social relations: being able to be part of social networks and to give and receive social support.
- (5) Political empowerment: being able to participate in and have a fair share of influence on political decision-making.
- (6) Education and knowledge: being able to be educated and to use and produce knowledge.
- (7) Domestic work and nonmarket care: being able to raise children and to take care of others.
- (8) Paid work and other projects: being able to work in the labor market or to undertake projects, including artistic ones.
- (9) Shelter and environment: being able to be sheltered and to live in a safe and pleasant environment.
- (10) Mobility: being able to be mobile.
- (11) Leisure activities: being able to engage in leisure activities.
- (12) Time autonomy: being able to exercise autonomy in allocating one's time.
- (13) Respect: being able to be respected and treated with dignity.
- (14) Religion: being able to choose to live or not to live according to a religion.

As one can see, there are several similarities between Robeyns's and Nussbaum's lists, but that is not the point of interest for us. We are concerned with justice for children, and what is apparent is that neither Nussbaum's nor Robeyn's list is suited for them in every aspect. Let us discuss a few of the problematic cases: Nussbaum included the ability

to move freely on her list, something that is, for good reasons, limited for children. It would be highly problematic if that capability would be granted to children at all ages, as it would put them at high risk. The same is true for the capability of practical reason and that children should be able to plan their own lives. This is certainly not possible in the same way as it is and should be for adults. Likewise, political participation, having the right to seek employment and to hold property are highly problematic for children, especially younger ones; these are not proper capabilities for them. If we think in terms of functionings instead of capabilities, which is more adequate for young children, these items on the list become even more problematic. Other capabilities are suitable for children, like health and education, but they should be interpreted in terms of functionings rather than capabilities, and they have to be adapted in regard to the actual development stage of the child. Basic competencies and knowledge in literacy, math and science are a good thing for a child of school age, but for the first months of life, children need to achieve other functionings first and have certainly other needs. The same inadequacies can be found in regard to Robeyn's list, but that is no wonder, since she drafted it not as a universal list but one with a particular topic in mind: namely, gender injustices; more specifically for adults, not young boys and girls. Being able to work in the labor market is for many children more a threat than a unit of justice; being able to raise children is a very problematic issue for teenagers, and there are many good reasons to assume that reproductive health during adolescence also includes family planning and being protected from unwanted pregnancy. What we would like to make clear is simply that a list for children has to look different than a list for adults, even though there are some very important overlaps. We now want to present and discuss six criteria for selecting functionings and capabilities that matter for children for the issue of social justice:

- (1) A functioning or capability that is used for an analysis of injustice has to reflect a truly important dimension of a child's well-being or well-becoming; in this sense, it has to be child-specific. Justice for children is concerned with things that really matter for them and not with supplements or 'extras'. As we have seen, the category of functionings is at first a formal one, and in theory, one could make it a question of justice if a child is able to whistle or stand on her head. This would, however, be a distortion of the concept of justice, which should look at functionings that make a substantial difference to a child's well-being and well-becoming. The genuine importance

of a functioning for the well-becoming is best defined in relation to its contribution to the achievement of one or more other important capabilities as an adult. In our view, most approaches used to generate the lists found in literature (including the ones by Nussbaum and Robeyns) already incorporate in one way or another such ‘significance criteria’, and the dimensions they identify are typically truly important for a good human life; notwithstanding, they do not address the particularities arising when looking at children, and as a consequence and quite naturally, they do not tell anything specific about the well-being and well-becoming of children. In addition, we would like to emphasize that we see the notions of well-being and well-becoming as basic ones for normative reasoning. Hence, we deliberately depart here from Nussbaum, who suggests that her list can be justified based on the notion of human dignity and a life worthy of it. There are three reasons for this decision. Firstly, there is a certain ambiguity inherent to the notion of dignity: it is something all humans have and not something one can reach or fall short of. It is therefore nothing that can be a goal of justice in itself. Dignity can indeed be violated, and living conditions may be indecent, but the people whose dignity is violated and who have to live in such ways still have their dignity. By using the concepts of well-being and well-becoming, on the other hand, we want to highlight from the beginning that we are dealing with something aspired to, a goal that should be reached but that a lot of children are denied. Each and every child is born with equal dignity, but not all have the same chance to achieve well-being and well-becoming. Secondly, we understand dignity as a minimum concept, one that does not entail the full scope of justice. Justice encompasses a living in dignity but demands more. This is especially important if justice is applied in modern affluent societies and welfare states that have already reached a high level of development and welfare. It seems plausible that two children can both be treated with dignity but have a fairly unequal level of well-being and well-becoming, which should be criticized as unjust. Thirdly, well-being and well-becoming are developmental and dynamic concepts, while dignity is a more static concept. It is also obvious that well-being and well-becoming demand different things for children and adults, while it is less clear how to spell out the same using the notion of dignity. Justice for children is necessarily concerned with these issues of development and with the task to weigh the current and the future well-being of a child against each other.

Still it should be made very clear that human dignity is an important part of children's lives, of their well-being and well-becoming. Looking at what some researchers, including Nussbaum herself, have deduced from the concept of human dignity, many similarities can be observed, and it seems possible to interpret dignity and well-being in a way that they are more or less the same. Yet our shift to well-being and well-becoming is a signal that what matters for children is more than dignity, dignity being undoubtedly an important part.

- (2) The selection of a functioning that matters for justice should be based on the best available (empirical) evidence. Research on the well-being and well-becoming of children is a multidisciplinary task involving a variety of perspectives, methodologies and research paradigms (Graf and Schweiger 2015). Specifying functionings for the purpose of social justice must necessarily involve a close dialogue with developments in the relevant fields and the knowledge of the physical, mental and social needs of children. This point entails that lists of functionings have to be adapted, modified and redefined if new evidence is available; indeed, results of the last decades show that the new knowledge coming up makes a substantial difference (Ben-Arieh 2010; McAuley and Rose 2010). In this regard, the list we will suggest does well, since it was generated with expert knowledge and specialists of different fields; nonetheless, it is clear that the list must be constantly scrutinized and connected to results gained by the scientific community. One final remark should be made in this context: While it is important to select functionings on the best evidence available, one should not expect a scientific method that will lead to a clear and uncontroversial result. In fact, the multidisciplinary approach we suggest is likely to lead to ongoing controversies about fundamental issues of children's well-being and well-becoming, which have to be confronted continuously and with the necessary intellectual honesty.
- (3) Selecting functionings for the purpose of characterizing children's well-being and well-becoming in relation to social justice has to take into account if their (re)distribution is possible and feasible. In particular, their distribution must be influenceable by the institutional design of a society. In fact, this claim has to be at the heart of any approach that looks at distributions of well-being and well-becoming from a social justice perspective. Here, some difficult questions arise that are closely connected to a general critique of the capability approach as it was stated by some resourcists and that

we will mention later on in this chapter in our assessment of the sufficiency principle as defended within the capability approach. Some resourcists argue that functionings and capabilities are not the right metric for justice exactly because it is unclear what distributing them means and because it is not obvious that the basic structure of a society can have an influence on them. Functionings and capabilities, so the argument goes, might be a good metric for conceptualizing human well-being, but claims of *justice* have to rely on a different metric, and some sets of resources do, in their point of view, a better job in this regard (see Kelleher 2013). We agree that a theory of justice that operates within a functioning or capability metric has to face these distributional concerns and that there might be cases where a functioning is important for the well-being of a child but is not the subject of a justice-based claim. For instance, if a child has a serious accident and subsequently suffers permanent damage, for example, in cognitive and motor domains, it is likely that she will never be able to enjoy some of the functionings that other children can still reach without a problem. This fact is not, however, per se a problem of justice. Sometimes there are limits to what can be achieved, and there are limits to which kinds of support one is entitled to; we will address this point in the context of how a sufficiency principle should be interpreted so that both the demand side and the supply side are taken into account. Impairments and disabilities must be surely included in reasoning about justice as well, and it is certainly the duty of a just society to enable persons with disabilities the access to a broad range of functionings and capabilities as far as possible (Nussbaum 2006). In many cases, however, there are limitations to what is feasible – there are ‘tragic fates’ that have to be recognized by a theory of justice. But these distinctions and refinements should not lead us astray from the fact that many important functionings and capabilities are capable of being influenced by the way a society arranges its institutions. Social scientific evidence increasingly suggests that many aspects of human life are fundamentally shaped by the environment and social relations, as well as by the distribution of goods and rights. Hence, how a society is organized and how it regulates its institutions have an immediate impact on the functionings and capabilities of its members, and therefore many of them fulfill these criteria. Philosophy, too, has to work closely with other scientific disciplines, since this empirical work transcends its scope; the clear tendency is that certain aspects, such as health – which John Rawls, for example, still considered a

natural primary good and hence not subject to social distribution – are now seen by many political philosophers as highly influenceable by social factors. Health justice is a blooming research field, and we agree that the evidence that great injustices are happening in this regard is overwhelming. These few considerations illustrate that a variety of functionings and capabilities are socially influenceable. Certainly, they are not distributable, as are money and other material goods, and in individual cases people will not be able to achieve them even with good institutions in place. However, a society can still provide the general framework for a just distribution, and it can do its best in order that its institutional design secures, at least to a very high degree, that every child can actually enjoy the functionings in question.

- (4) The concept of justice demands that the functionings taken as the basis for the respective evaluations are, at least to some extent, objectively determinable and not merely subjective. They should not depend primarily on the assessments, experiences and evaluations of the subjects in question. In other words, what is important is not mainly that someone feels or thinks that she suffers from an injustice but that there are good external and intersubjectively comprehensible reasons that an injustice is happening. This set of criteria is relevant both for children and adults and connects to the arguments capability scholars usually bring forward to criticize subjective metrics of justice as defended, for example, by utilitarians. The subject's preferences are malleable and adapt to the circumstances it is used to, introducing distortions in its perception and evaluation of the situation. Claims of justice must therefore be aware of this danger and take these 'adaptive preferences' seriously. In the case of children, this aspect is of particular relevance and must not get neglected. For such reasons, happiness is not a good guide for justice for children, and it seems more suitable to take mental health as an indicator (Cabezas, Graf and Schweiger 2014). Furthermore, objectively determinable functionings allow comparing the well-being of children in a meaningful way, and they make changes and improvements traceable and perceivable by other members of society. Such information is indispensable for a concept of justice that can guide the design of institutions and policies. It needs 'hard' and accessible criteria for the evaluation of personal advantage. If not, measures for (re)distributing functionings and capabilities cannot be justified toward others, and it is unlikely that they are supported by the public. Objective measurability also limits

the possibility of cheating, which, again, has a positive effect on public acceptance of a just regime.

- (5) The selection of functionings has to include children's own views. A concept of children's well-being and well-becoming cannot ignore what aspects are relevant to children themselves, how they perceive their lives and where they set their priorities. Respecting children and their agency is tantamount to choosing such an approach, and there is overwhelming evidence that children are capable of expressing their point of view if they are given appropriate opportunities to do so. Different settings and methodologies can be used, adapting them to specific age groups and cultural contexts (Lansdown and UNICEF Innocenti Research Centre 2001; Camfield, Woodhead and Streuli 2009; Percy-Smith and Thomas 2010). As a consequence, subjective experiences and the children's point of view are of great importance in the selection process of relevant functionings, although we want to stress that their consultative function has to be a priority. This point might seem to be in opposition to the one before, where the objective accessibility was emphasized. However, this is not the case because the selection process has to be separated from its outcome. Of course, subjective assessments are relevant for the process, but the fact remains that the functionings resulting from it have to be measurable – at least to a considerable part – objectively if they have a role to play in a concept of justice. Furthermore, taking seriously the child's point of view has a dimension that goes beyond the useful information it often generates. The respect a society owes its children entails that they have to be granted a 'right to be heard'. As we have argued above, it is generally not reasonable to give children full authority over their own circumstances. But they certainly have their own views from an early age on, and giving them the opportunity to express them is of value independently of any instrumental considerations (Archard and Skivenes 2009).
- (6) Finally, the fertility or corrosiveness of a functioning – in the sense introduced earlier on – should be taken into account. According to their positive or negative effects on the development and achievement of other functionings and capabilities, different weights can be given to different functionings in the context of justice theory. Especially for children, these concepts have to be considered a priority because childhood is the phase of every human being's life where the foundation for well-being and well-becoming is laid and where the fertile or corrosive effect of a functioning (or its absence) has long-lasting consequences.

Finally, we will discuss a list that so far presents one of the best available approaches to children's well-being from a capability perspective. Mario Biggeri and his colleagues (Biggeri 2003; Biggeri and Mehrotra 2011; Biggeri and Libanora 2011; Biggeri and Santi 2012) proposed a pragmatic and empirically informed approach to selecting functionings and capabilities for children that are important to their well-being and well-becoming. They worked with two types of procedures, which we explain in what follows.

Biggeri and his colleagues took up Robeyn's suggestion and carried out a procedure to conceptualize a child-sensitive list of capabilities in the following way: In a first phase, a group of child experts (including UNICEF officers, psychologists, sociologists and NGO practitioners) selected, on the basis of their knowledge and experience, relevant capabilities for the evaluation of child well-being. Since the well-being of children is a concern for many stakeholders and different scientific disciplines, such an interdisciplinary and interprofessional approach seems to be required. There is a need to include theoretical and empirical as well as ethical reasoning to comprehensively grasp the different dimensions at stake, something that can be achieved only through a dialogue involving a broad range of experts. In the second phase, the reasons for the choices were explained and the inclusion of each capability was justified, relating them to other works on the capability approach, particularly those of Nussbaum and Robeyns, and to literature on children's issues as published by the UN Children's Fund (UNICEF), the UN Educational, Scientific and Cultural Organization (UNESCO), the International Labour Organization (ILO) and the United Nations (UN). Again, methodological concerns suggest this proceeding, taking into account the most important documents already developed in the field of the well-being of children, relating them conceptually to the capability approach and seeking valuable links and mutual improvements. In the third phase, an appropriate level of abstraction of the different items was chosen in order to make them generally applicable to children as a group while still including the uniqueness of each child. Finally, the list was rechecked both to include all relevant dimensions for analyzing the well-being of children and for nonreduction, meaning that none of the domains should be reducible to another. As a result, the following list emerged (Biggeri and Mehrotra 2011, 51):¹

- (1) Life and physical health: being able to be born, be physically healthy and enjoy a life of normal length

¹ The items marked with * have to be interpreted in accordance with the age and maturity of the child.

- (2) Love and care: being able to love and be loved by those who care and being able to be protected*
- (3) Mental well-being: being able to be mentally healthy
- (4) Bodily integrity and safety: being able to be protected from violence of any sort
- (5) Social relations: being able to be part of social networks and to give and receive social support*
- (6) Participation: being able to participate in and have a fair share of influence and being able to receive objective information*
- (7) Education: being able to be educated
- (8) Freedom from economic and noneconomic exploitation: being able to be protected from economic and noneconomic exploitation*
- (9) Shelter and environment: being able to be sheltered and to live in a healthy, safe and pleasant environment
- (10) Leisure activities: being able to engage in leisure activities
- (11) Respect: being able to be respected and treated with dignity
- (12) Religion and identity: being able to choose to live according to a religion and identity or to choose not to do so*
- (13) Time autonomy: being able to exercise autonomy in allocating one's time*
- (14) Mobility: being able to move

We agree that this list in fact represents central aspects of the well-being of children on a general and abstract level. It represents many of the core elements also found in other approaches to this topic and brings together different fields of discourse. It also fulfills the six criteria we have proposed. All of these functionings and capabilities (according to the child's maturity and competence) are based on research, are objectively determinable (at least to some extent) and are highly influenced by social arrangements, and many of them are fertile. We believe this list is best understood as a pragmatic and empirically informed selection of the functionings and capabilities that matter for the well-being and well-becoming of children; it is based on broad consensus backed up by a wide range of experts from different fields (academic and nonacademic), giving the selection a high grade of credibility that extends beyond purely philosophical arguments. If it is in fact exhaustive, as Biggeri and his colleagues suggest, the question is certainly a disputed, not easily answered one. However, it does not seem to be necessary to have a clear and final stance on this issue in order to provide a theory of justice for children that is able to give a fundament for the evaluation of a society's practices and institutions and to guide its development for the better.

We therefore also disagree with Robeyns's fourth criterion (exhaustion and nonreduction), since it is too demanding and not necessary for all purposes and applications.

The identified functionings and capabilities are formulated at an abstract level and must subsequently be specified according to the relevant cultural and social contexts. Thus, they include both context-sensitive and context-transcending features alike: In order to give concrete meaning to them, they have to be related to existing norms and practices, taking a great deal of diversity into account. A child's social relations and friendships, for instance, cannot be conceived the same way in a rural region in western Africa, in a favela in Rio de Janeiro and in a wealthy region in London or Paris. There is, however, a universal core to them that reflects central features of how children can flourish, not leading to a complete relativism on what social relations of children should look like. Isolation or interactions based on physical or psychological violence or categorical subordination, for example, are wrong independent of context. Similar considerations are true for all the other dimensions, which always have to be interpreted in accordance with local beliefs and circumstances without losing sight of their defining features.

The composition of the list recognizes that functionings and capabilities usually develop over time, giving the well-becoming aspect an important role. In fact, many of the items have to be interpreted taking the age and maturity of the child into account in order to understand their concrete meanings, an insight that is intuitively plausible and a cornerstone of current thinking about childhood and children's participation. This also means that it is crucial to give children age-appropriate opportunities to exercise choices and to make use of freedoms, even if they should not be as ample as those of adults and controlled in a way that they do not jeopardize important functionings. Children are social agents from an early age on, and it is important for them to make their own decisions. Hence, freedom is also a central category for children, but it should be of course exercised in an adequate environment, conducive to the development of more and more rational and reasonable decision making, leading to a steady improvement in a person's global autonomy. Looking at children in this way and characterizing them as subjects of evolving capabilities (and not just as 'sites' where functionings get realized) fits well with a new ethical attitude toward children that sees them no longer exclusively as recipients of services or passive beneficiaries of adults' care or care of state institutions but as the subjects of rights and active participants in their development

and in the life of the community (Lansdown and UNICEF Innocenti Research Centre 2001). Such an approach to children's development also makes clear that the concepts of functionings and capabilities, which are often clearly separated on a conceptual level, are in practice deeply entangled. Certain functionings have to be secured so that real choices can be made, and the situation of children illustrates this point further: as evolving agents, they rely on certain levels of health, education and social inclusion in exercising their choices – not only in terms of accessible opportunities but of actually realized functionings. Thus, for many social evaluations, it is reasonable to make functionings the most important category of analysis, especially when children are the target group. In the next chapter, we will also show that a focus on choice and freedom is often not the best way to scrutinize and evaluate the injustice of child poverty. Without downplaying their competencies, skills and agency, in many contexts it is basic to look at what has been effectively achieved and not at the options that are available to them. It matters, for instance, that children are in fact well nourished, not that they are capable of being so.

A few provisos are necessary: Firstly, we do not claim that this list is finished. It is open for discussion and further scrutiny, and other researchers using different methods or working on questions in a different context will produce slightly different lists. Secondly, the similarities to the lists of Nussbaum and Robeyns suggest, as we have stated before, that some functionings and capabilities are important for both children and adults. Thirdly, this list is still very vague and needs to be further specified in order to be able to be applied in different contexts. Nonetheless, it is a start, and we will use this list, more specifically some of the functionings and capabilities on it, to further examine the injustice of child poverty in the next chapter in more detail. We position ourselves therefore with a rather pragmatic approach within the mentioned discussions about adequate lists for theorizing justice. We do not aim for completeness; nevertheless, we are confident that on this basis we will be able to build a strong case that child poverty profoundly violates what social justice demands. Before we can do that, however, we have to discuss the issue of the rule or principle of justice we want to endorse.

1.3 Sufficiency and equality

In the last section, we have argued that functionings (and, if applicable, capabilities) should be seen as the best currency of justice for children.

In addition, we have proposed some criteria for selecting functionings and capabilities for children and presented a list that can give guidance for our purposes in this book. We have also discussed that justice should put priority on fertile functionings, which enable the development and achievement of other functionings and capabilities, and that the detection and alleviation of deprivations that constitute corrosive disadvantages should be prioritized. In this section we address the question of the rules and principles of justice and, hence, how these functionings and capabilities should be distributed among the children in a society and how much of these they are entitled to; that is to say, the question of putting a threshold on each functioning and capability below which a child is deemed to live in injustice. There is a long-running dispute between scholars about the right rule of justice, and the main options disputed are equality and sufficiency (or priority) or a mixture of these (Casal 2007). Some philosophers also advocate the use of more than one principle of justice; David Miller, for example, argues for a tripartite model of the principles of need (which can be interpreted in terms of sufficiency), desert and equality (Miller 1999). The capability approach is usually in the sufficiency camp (Arneson 2006; Anderson 2010), although Nussbaum recognizes the importance of equality, arguing that thresholds have to be specified in a way that does justice to the equal human dignity of every human being. This, she claims, leads to the conclusion that, for some capabilities, a sufficient level coincides with equality – for example, in voting rights. We do not want to recapitulate the whole debate here, for example, the criticism of Thomas Pogge (Pogge 2002; Oosterlaken 2012), but rather just jump in and argue for our version of sufficiency, which is not so far away from Nussbaum's although with a few alterations.

Nussbaum (Nussbaum 2011) demands that every human is entitled to all the central capabilities on her list up to certain thresholds, under which truly human functioning is no longer possible. Hence, the goal of justice, though not of the minimum justice Nussbaum has in mind, is not for everyone to have the same or the highest level of capabilities but for everyone to be secure in having enough for a decent living. Justice also forbids trade-offs between basic human capabilities; if a person falls below a threshold in one capability, it is not enough to compensate her by allowing a higher level in another dimension. Each capability on the list is of equal value, and a shortfall in one of them is enough to constitute an injustice. She also acknowledges, as we ourselves do, that the determination of the thresholds for her capabilities is not a purely philosophical task but involves empirical knowledge from other disciplines as

well as public deliberation. The ten capabilities on her list should guide policies in each country, but it is the responsibility of each country to set an adequate threshold. Unfortunately, Nussbaum is rather vague and only arbitrarily discusses certain capabilities and their possible thresholds. In her view, for some capabilities, the threshold should be set in a way that leads to equality so that each human is basically entitled to the same level in that capability (e.g., liberal rights), while for other capabilities the threshold can be set lower and hence allows a certain degree of inequality (e.g., in housing and material living conditions). To her, granting each human each capability above this threshold level is a partial and minimal requirement of what justice demands, admitting that there are various ways a just society can deal with inequalities above the threshold. However, they have to be arranged in a way so that *equal respect and concern* are guaranteed for all citizens. According to Nussbaum, this implies that each and every capability must be secured up to a certain level and that they should never be assessed from a trade-off perspective:

[...] all ten of these plural and diverse ends are minimum requirements of justice, at least up to the threshold level. In other words, the theory does not countenance intuitionistic balancing or trade-offs among them. The constitutional structure (once they are put into a constitution or some other similar set of basic understandings) demands that they all be secured to each and every citizen, up to some appropriate threshold level. In desperate circumstances, it may not be possible for a nation to secure them all up to the threshold level, but then it becomes a purely practical question what to do next, not a question of justice. (Nussbaum 2006, 175)

How can we, how should we interpret Nussbaum's rule of sufficiency in regard to children in rich countries? She does not give a clear answer; it often seems as if she views the capability approach as mainly concerned with poverty in poor countries and the severe harm there. We wish to specify some important aspects.

- (1) In rich countries, a higher level of well-being and well-becoming is obviously achieved for many children; the possibilities to realize a good life are much better than in most other countries in this world. Still, certainly not all children achieve the same level of well-being and well-becoming, and some even fall short of what justice demands in terms of minimal thresholds in these countries. Furthermore, we

agree with Nussbaum that it is important to focus on a particular problem in a particular context in order to be more specific about where thresholds should be set. For our approach in this book, this means that it is reasonable to first investigate the situation in rich countries in some detail before we extend our theory to global justice in the last chapter. The fact that rich countries have already reached high levels in many aspects and that welfare states do a partly good job to alleviate poverty and to secure a certain level of well-being and well-becoming for all children implies that we need to work with a different kind of threshold and minimal conditions of justice. Still, it is important to also have an absolute minimum in mind, since in rich countries, too, there are some cases in which we can find severe poverty and other forms of hardship like homelessness, exploitation, child trafficking, child hunger and prostitution. In general, however, we are concerned with 'relative' poverty, as we will discuss in the next chapter. The adequate thresholds under such circumstances can be set according to two principles: on the one hand, we have to ask what is possible in these states and what can they provide for children without violating other claims of justice. This speaks against too high standards for assessing justice for children, because we can never provide all children with a maximum in well-being and well-becoming for at least two reasons (Arneson and Shapiro 1996; Archard 2004, 62–63; Mills 2003): First, it is too demanding for those responsible for the upbringing of children. As important as it is to concentrate on children and to recognize them as equal sources of moral concern, we should not forget that we live in societies where everyone matters from a moral point of view. Maximizing the well-being and well-becoming of children in a strict sense would certainly lead to a disadvantage for other members of society and put unreasonably high burdens on them. Justice certainly does not imply the self-abandonment of all adult members in order to maximize the well-being and the life chances of children. Second, it is very difficult to understand what it even means to maximize the well-being and well-becoming of children. When it comes to well-being, it just seems unfeasible to say exactly what a perfectly good childhood looks like. There are just too many opinions about this, both in science and in commonsensical views, and any full definition will be ideologically charged. Regarding the well-becoming aspect, things are at least as difficult. Growing up is always connected to trade-offs, and some options to well-becoming can be held open only at the expense of denying others. Since there

are definitely many valuable but noncommensurable options as to how to live one's life as an adult, maximizing well-becoming is probably not even a coherent idea. We see, therefore, that questions concerning the well-being and well-becoming of children are deeply entangled with general considerations about the good life. And since we agree with the diagnosis of political liberalism that there is no objective way to fully determine the nature of the good life (Nussbaum 2001; Rawls 2005), we also reject the mentioned ideas about maximization. On the other hand, we are always concerned with context-sensitive thresholds that are specified according to the living standards in that society. This reflects partly what is possible in a state but targets a different issue; namely, that it is important for justice for children that children do not fall behind for arbitrary reasons and that determining the adequate threshold by looking at the level that typically is achieved in that society is essential. For example, if most children in a society are able to acquire a certain level of knowledge and if that knowledge is used for further education or in the job market, it is reasonable and feasible to demand that all children be brought up to that level. This does not imply that each and every child should become a scientist but that each and every child should finish primary and secondary school and that all children that do so should be on more or less the same level. Finally, justice for children in modern welfare states always has a forward-looking perspective. As technology and living standards grow and as we gain more knowledge on children's lives and health, we naturally can provide for them better; as a consequence, demands of justice also improve. In a historical perspective, this is quite obvious: the standards of justice for children 150 years ago were different; we did not know about many illnesses or about how they were transmitted and cured and we were still at the beginning of building public infrastructure like railroads, electricity and clean water in all places. Hence it was simply not possible to have all children grow up and live under the conditions we can easily secure for them nowadays and are seen as 'normal' today. Of course, the requirements for participating as an equal in the society one is part of have changed considerably, too. The knowledge and education needed for practicing full citizenship in a modern society today is different from what was necessary fifty or sixty years ago. And since this feature of political participation is usually given much weight by capability theorists (Anderson 2010; Nussbaum 2006; Sen 2009), the relevant thresholds have to be adapted accordingly. Another

example would be life expectancy, something important and a good indicator for social inequality. Today life expectancy in all rich countries is much higher than it was a few decades ago; while we do not know whether it will further increase or not, it is clear now that, should it increase, it must do so for all and not just for a few – this will thus translate into claims of justice. If we know, for instance, that a new vaccination can increase the likelihood of getting older because it prevents several forms of cancer, then all children have a claim to get that vaccination (given that the medical knowledge is clear and that it really helps all without great risk of severe side effects). Justice for children is hence also a progressive concept.

- (2) This leads us to the second point. The threshold levels demanded by justice in rich countries must always be specified by considering both the well-being and the well-becoming of children, which we would like to grasp via the concept of *equality of opportunity to well-being* in adulthood. Justice for children, as we stated before, is concerned not only with what actual functionings and capabilities a child has but also with what functionings and capabilities she can have as an adult and over her life course. That is why injustices during childhood are particularly severe; they influence a person's well-becoming negatively and violate the claim of these children to sufficient options for future well-being. We have not discussed what the well-being as an adult encompasses, but it would be possible to come up with a preliminary list using the same, although adapted, criteria we presented and assigning the idea of practical reason or autonomy a more important role; such a list would perhaps look the same as Nussbaum's or Robeyns's. In any case, some important functionings and capabilities we have showed to matter for both children and adults will be on that list, such as health, education and social relations. The state should have a strong interest to give each child the same chance to achieve functionings and capabilities that matter as an adult, which necessarily implies giving many functionings to children. If we want to secure health in adulthood, for example, we need to be concerned with health during childhood, and it is unjust that adults are impaired in their health because they suffered from health issues otherwise preventable or curable during childhood. Likewise, the state has a responsibility to provide each and every child with the education needed to achieve well-being as an adult. Without specifying in detail which capabilities and functionings are necessary for a concept of adult well-being, being able to find a decent job, to make reasonable political decisions and

to have a certain degree of health, literacy and knowledge of one's own body are certainly among them. Harry Adams's take on justice for children, for example, is oriented toward what children need in order to develop into autonomous adults (Adams 2008). We agree with most of his conclusions, particularly in regard to the importance of early childhood, but a sole focus on autonomy seems too narrow. Autonomy, as the capability approach is well aware of, is an important aspect of the well-being of adults, but it is not the only thing that matters, and justice for children must be concerned with many other aspects, as well.

- (3) Our third point relates to Nussbaum's claim that equal respect has to be shown for each and every member of society – a category that obviously includes children. But whereas respecting an adult is to a large extent tantamount to respecting her choices and life plans, the situation for children is different. We suggest that showing equal respect and concern for children should mean that a society is equally concerned with every child's well-being and well-becoming. This does not mean supplying every child with the same set of resources but rather supporting them with the (material and immaterial) means required for achieving the necessary thresholds, a commitment lying at the heart of the capability approach:

In defining the meaning of equal rights for different groups, a capability approach also insists that we start with an understanding of how groups and individuals differ in their requirements, given both physical and cognitive differences and also differences of social starting point. Indeed, it is precisely on account of the importance of context in determining what people are able to do and be that the capability approach has been defended as superior to resource-based approaches: two people may be given the same amount of some all-purpose resource such as wealth or income but differ in their real capabilities, whether because they have different physical needs or because they start from different social positions. Children, in many cases, will also be clearly different from adults in the support they require from the state in order to develop and enjoy their capabilities. (Dixon and Nussbaum 2012, 561; footnotes omitted)

We would also like to employ the distinction between demand-side and supply-side sufficiency here as proposed by David Kelleher (Kelleher 2013): So far sufficiency was presented in a way that exclusively looked at those whose functionings and capabilities lie below a certain threshold, and it was claimed that, as a consequence, they are entitled to treatment that raises them above the crucial level.

Such an account might suitably be called demand-side sufficiency view. One could also defend, however, a more differentiated ‘supply-side view’ of sufficiency, which consists of two levels: First, bearers of justice-based entitlements must give reasonable consideration for those who suffer from capability failures (interpreted in terms of not reaching certain thresholds); second, they must take actions balancing the moral reasons to help and the ‘other claims on the person’s possible actions (involving other rights and freedoms, but also altogether different concerns that a person may, inter alia, sensibly have)’ (Sen 2004a, 339–340). In other words, they must give *sufficient attention* to inequalities in the distribution of capabilities, and they have the duty of justice to intervene, taking into account their own circumstances and the other entitlements and obligations they have. This supply-side perspective is especially helpful for two reasons: it opens up possibilities of how extreme cases should be addressed from a capability perspective, and it explicitly introduces the issue of responsibilities, which has been rather neglected in the capability approach so far. Still, we would like to stress that a supply-side view has its dangers, and one must be careful to avoid misusing or instrumentalizing it in order to find excuses why the advantaged members of society do not have an immediate responsibility to act against poverty and inequality. In particular, it is important to note that the urgency to act attributed to the supply side is intertwined with the needs of the demand side. The stronger the suffering and injustices among the side of the disadvantaged, the stronger are the reasons for the supply side to neglect personal interests and to make sacrifices and efforts toward an improvement of the general situation. In this sense, the demand-side perspective remains an essential part of a capability approach to justice, even if there are clear and almost logically given limitations to it. On the one hand, it focuses on the victims of injustice and prioritizes their claims. This gives them the weight they deserve because, in the end, they are what matters. A supply-side view must be aware of the danger it poses; namely, being used by those better-off to avoid their responsibilities. In a public deliberation about how much is enough, victims of injustices are most likely in a weaker position to argue for the demand-side view, from which they will profit most in comparison with those in a more favorable position, who argue for the supply-side view. On the other hand and more importantly, how much those who are better-off can be reasonably demanded to give, that is the determination of the extent of the supply-side

responsibilities, cannot be separated from the demand side, but is rather to be conceived as the just answer to it. Only the demand-side view can provide the necessary information for the supply-side view, and not the other way around. If a child is severely deprived, then the justified demands are higher than if that child needs fewer resources to reach the just minimum in capabilities and functionings. On the basis of this demand-side information, the supply side view can be brought in. This means that the state and other agents of justice are responsible for putting efforts into each child according to what she needs in order to achieve functionings and capabilities important for well-being and well-becoming. The state has to show equal concern for all children's needs and the particular conversion factors they require, whether it be providing public transportation to schools in rural areas, securing accessibility to education for children with disabilities, or giving ill children the necessary treatment and allowing their parents to care for them, for example, via a paid leave from work.

- (4) The issue of setting an adequate threshold must also be discussed. It is important to see that the distinction between selecting functionings and capabilities and setting thresholds for them is not always so clear and that it is best to conceptualize the latter as a form of specification of functionings and capabilities. Setting a threshold is the task to replace one general description of a functioning or capability by a more specified one but also in terms of functionings and capabilities. For example, the threshold for being politically included and being able to participate can be specified in terms of being allowed to vote and to be voted into office. This threshold is nothing more than a specification that also uses the terminology and the underlying concept of functionings and capabilities. All thresholds discussed by capability theorists are, in fact, such specifications; in some empirical research, this also means the translation of a functioning or capability into a functioning of having certain goods. In such cases, the capability approach in practice gets very close to resourcist approaches, since it uses resources or rather the functioning to have certain resources as thresholds and specifications. It is more accurate to think of setting a threshold that can be specified using different functionings and capabilities. The threshold for being educated can then, for example, be going to school for a certain number of years, learning certain skills and knowledge determined by experts, being allowed to pursue further education on the basis of educational

achievements, for instance, and being allowed to pursue certain occupations based on that education. All these different functionings and capabilities can be used together to specify what the general functioning and capability of education encompasses and thus which level children should reach. Such specifications are necessary to put justice to work in policies. To state that each and every child is entitled to be educated is a phrase that might read well in a constitution, but it is not possible to evaluate the success of a certain policy or to criticize a state for failing its children on the basis of such a general statement. One has to know what it means to be educated and what the thresholds are. Here again, it is clear why the concepts of well-being and well-becoming are more suited for the task than the concept of dignity – a failure to educate all or some the children in a state can violate their well-being and in particular their well-becoming without being a violation of their dignity.

What becomes clear when setting a threshold in this way is that another distinction gets blurry; namely, that between functionings and capabilities, on the one hand, and the conversion factors needed to achieve them, on the other hand. In the case of education, for example, it is very plausible to assume that compulsory schooling for a certain number of years is a conversion factor for being educated and not the functioning itself. Nussbaum seems to understand it in such a way herself, as she writes that it is up to debate whether compulsory education should last for twelve years, claiming that under the given circumstances, nine years of schooling is not enough. In our view, this reflects pragmatic issues and the fact that many conversion factors have some value in themselves and are not to be used only instrumentally. To finish school is important because it implies that the children have gained certain knowledge and skills and because the official degree itself is of value in the labor market or in the pursuit of higher education. For pragmatic reasons, it is sometimes easier to determine conversion factors, which, again, are often resources. In regard to health, for instance, most empirical research uses thresholds like a child receiving certain vaccinations, which is surely not a specification of health itself but a means to achieve and sustain health. It is simply easier to measure than health itself, and it is also easier to design a policy based on the claim that each and every child should get certain vaccinations.

One more thing is extremely important: If setting a threshold always implies specifying a general functioning or capability into a set of more

concrete functionings and capabilities, then this also implies at least three more important insights. First, not each and every child will be able to reach these thresholds. If we take education as an example, it is likely that we can grant each and every child certain years of schooling and that we can help them to acquire some knowledge and skills as well, but we can never make sure that all children reach the same level in all skills and knowledge. This does not mean, however, that the threshold has to be a different one for children with or without disabilities, for example. If the threshold embraces that each and every child should acquire a certain level in reading, writing and mathematics, including a certain set of knowledge about a range of topics, then this threshold will not be reached by many children with cognitive disabilities. This does not imply that we should lower the threshold for children with disabilities, but it rather signals that justice is limited with respect to tragic differences between humans we cannot alter – an argument that Nussbaum has developed in more detail (Nussbaum 2006). Second, it is evident that thresholds have to be sensitive to subjects and, to some extent, to the contexts they are applied to, as well. We have just denied that thresholds should be different for children with severe disabilities and for those without, but it is still important to have different thresholds for different age groups based on the general level of competence and skills. Hence, the thresholds should allow us to monitor the development of the child adequately. Consider health: Pediatrics need to define what can be considered a normal development and what are distortions that need to be treated, a major health issue for young children (Gardner 2015). If there is one general threshold for all children, such development issues cannot be detected because it is unclear which level of development should be reached at the age of two and which at the age of eight. The health threshold must be, on the contrary, set and specified in a way that is sensitive to what level a child should reach at what age (with certain room for individuality for sure). Otherwise, the threshold cannot be used in any meaningful way in the design of health policies. Such issues of setting adequate thresholds are certainly a task for which philosophers without an extra expertise are not suited; what we can do is emphasize that such tasks are essential and, at the same time, intertwined with normative and political issues. A third insight is that the capability approach suggests a step-by-step procedure for social justice assessments: in a first step, general functionings and capabilities have to be selected, and in the next step, they have to be specified, choosing adequate thresholds that then allow the implementation and evaluation of concrete policies. It is possible to evaluate certain living

conditions of children as unjust solely on the basis of this second step, since the standard of evaluation and the respective benchmark would be otherwise too blurry. This also gives a first methodological answer to the question that Nussbaum leaves open; namely, how to choose thresholds in particular contexts.

- (5) We also want to combine the sufficiency rule with a priority view in regard to children in general and, in particular, in relation to child poverty. In a joint article with Rosalind Dixon, Martha Nussbaum discusses two reasons for such a priority view in respect to all children (Dixon and Nussbaum 2012): cost-efficacy and vulnerability. By vulnerability they refer to the dependency of children on adults, and by cost-efficacy they mean that investing in children saves huge costs the state would have to invest in adults; for example, a vaccination that costs only a few cents can prevent the development of a disease that demands hundreds of thousands of dollars to be treated. The vulnerability of children, which we already discussed in length, implies that the state has the responsibility to step in if parents or other caregivers cannot provide for children because they cannot do it for themselves. Cost efficacy, Nussbaum argues, is also relevant in regard to fertile functionings and corrosive disadvantages. The capability approach demands that each and every human is entitled to develop and realize certain important functionings (in the case of young children) and capabilities (in the case of adolescents and adults) and to invest in a fertile functioning that helps to do what can save huge costs later on. The same is true for corrosive disadvantages, which undermine the development and achievement of these important functionings and capabilities. Nussbaum and Dixon cite nutrition, children's health and education as examples of such an investment in fertile functionings (or to avoid corrosive disadvantages), which should be prioritized by the state. That provides a good reason to tackle child poverty with a high priority. We want to move from the idea of a priority view toward children in general to the idea of prioritizing certain functionings and capabilities on the same grounds, or, to put it differently, of prioritizing the alleviation of particular injustices. Such a prioritizing has three elements: it asks how important a certain functioning or capability is; how severe and widespread its deprivation is; and how it can be overcome and what means are needed to secure justice in relation to that dimension. As we will show over the course of the next chapters, child poverty fulfills these three criteria (it affects functionings and

capabilities with a high priority, is widespread and can be overcome without unfeasible efforts) and hence should be tackled with a very high priority. This view is compatible with the idea of a moderate-sufficiency view that was developed by Richard Arneson (Arneson 2006). This view implies (a) prioritizing the gains in well-being of those who are below the threshold, (b) that those who are further below the threshold are to be prioritized and (c) that losses or gains in well-being above the threshold are important but that losses or gains below the threshold are to be prioritized. For children living in poverty, this has four implications worth stressing: First, children in poverty should be prioritized over children not in poverty, and the state or other agents of justice should provide them with the conversion factors they need, giving them priority over those that children need to achieve well-being higher than the threshold. For example, if the state can either make some elite universities better or remake the education system so as to enable poor, disadvantaged children to reach a level of educational sufficiency (in welfare states this could mean producing more or less equally educated children after the designated years of compulsory schooling), the state should prioritize the latter. Second, the moderate sufficiency view also implies that children are to be prioritized over adults due to the long-lasting consequences of injustices suffered during childhood. For this argument it is necessary to include a temporal dimension in the concept of well-being. The gains in well-being for children will be higher than the gains of older adults because the children will live longer. Also the losses below the threshold are more likely to be higher if children are not prioritized. As we will argue in the next chapter in more detail, poverty during childhood is very likely to heavily affect the whole life course in a negative way; if sufficiency is concerned with securing a certain level of well-being, not at a single point in time but over the life course, then it has to give priority to dealing with injustices that have longer-lasting effects on well-being. A third conclusion based on the priority view is important for global justice, but we want to mention it here also: severe child poverty in poorer countries should be tackled with a higher priority than less severe child poverty in welfare states, but not primarily at the expense of the children in poverty in welfare states but – if any expense is necessary at all – at the expense of adults who have a high well-being above the threshold. This follows from the rule to prioritize more severe child poverty over less severe and to prioritize children before adults.

These five points illustrate what justice for children in rich countries demands. We will not be able to set a specific threshold for all the important functionings and capabilities that matter for the well-being and well-becoming of children, but the thin concept employed by us revolves around giving all children equal opportunity to later well-being and making sure that they reach the highest level of well-being possible given the state's level of development. In modern welfare states, we have seen unprecedented progress over the last 150 years, partly with severely damaging side effects (climate change and resource exploitation) and at the cost of other countries. These issues should not be downplayed, and global justice should indeed be concerned with them and what consequences they should have for the design of justice in rich countries. It is perhaps necessary to adjust some dimensions of well-being, fundamentally rethinking the current consumerist orientation that requires ever more products at a cheaper price. In general, we assume that the functionings and capabilities we presented as important will hold even if the thresholds within them, hence the specified functionings and capabilities into which we translate them in a specific context, should vary; we certainly allow for the possibility that due to the demands of global justice, thresholds will have to decrease in rich countries in order to increase around the globe. Unfortunately, dealing with real-life justice and problems encountered along the way is sometimes messy and blurry (this is an accusation Nussbaum has often had to face). For our case, the case of child poverty in modern welfare states, we argue that we cannot come up with a definite list or definite thresholds for the items on that list, but this is not needed in order to fulfill an important philosophical duty; namely, to criticize this injustice. We will discuss this final point before moving on to examine child poverty and its effects on the well-being and well-becoming of children.

1.4 Conclusions

How can we criticize any injustice based on the concept of justice we have outlined so far? We have a preliminary list of functionings and capabilities and an underdetermined distributional rule for specifying the thresholds children are entitled to as a matter of justice. This rule is underdetermined because the setting of thresholds of functionings and capabilities demands not only a high amount of interdisciplinary knowledge and expertise but the in-depth examination of particular issues and contexts; both aspects are highly complex, and we will not be able to sufficiently deal with them in this book. One could assume

that, with these tools, we are not very well equipped to examine child poverty and to criticize it as unjust, an objection we would like to counter on four grounds, which get support from other applications of the capability approach for different purposes, for example, the one by Robeyns mentioned above (Robeyns 2003): Firstly, in order to criticize an injustice, we do not need a fully comprehensive concept of justice with a definite list and fully specified thresholds. Knowing that some functionings and capabilities are of high value for children is enough to judge it as unjust if they fall short of them for arbitrary and changeable reasons. Hence, a critique of child poverty can already start and be of value if it can be shown that child poverty interferes with the entitlements of the affected children to even just one important functioning or capability. Furthermore, it is enough to argue that children fall short either in one or more functionings or capabilities that matter for their well-being as children or in those that matter for their well-becoming and well-being as adults. Child poverty or any other injustice is unjust as soon as it interferes with either well-being or well-becoming, and it does not have to affect both, although the case is stronger if it does. In fact, we will argue that child poverty is a corrosive disadvantage because it usually deprives children not only of important elements of their well-being but also of their well-becoming.

Secondly, thresholds can already be applied for criticizing child poverty if they are only partially specified. We have argued that setting a threshold in a dimension means to determine functionings or capabilities on a less general level. How concrete this description must be depends, as Robeyns argued, on the task at hand. For our purposes, we do not think that it is useful to examine, for example, a particular part of the education system in a particular country, say the primary school in the United Kingdom. We are more concerned with the injustice of child poverty on a more general level that spans across all modern welfare states and abstracts from the many differences that clearly exist between these countries. For that general level, we do not need to specify the functionings and capabilities we will use on a highly detailed level, acknowledging that they cannot cover all important aspects. As we will show in the next chapter, these thresholds already serve to detect important violations of justice.

Finally, the specification of a threshold is relative to what is possible in a given country. In the next chapter, we will use a negative approach and concern ourselves with how child poverty affects the well-being and well-becoming of children in regard to important functionings and capabilities, using as a benchmark how they fare in comparison with

other nonpoor children in that country. It is possible, although not plausible, that we miss an important aspect of injustice by this approach, because it could be the case that all children, poor and nonpoor, are below the threshold of what is possible and hence live in injustice. In order to determine that, we would need a different approach than the one we use and to pursue another inquiry. For our goal of criticizing child poverty, we are content with showing that it fulfills the criteria of not bringing these children up to the threshold that is possible in that state, and that level is well displayed by the fact that the majority of children reach it. It is hence for arbitrary reasons, namely for being poor, that some children do not reach that threshold in some important functionings and capabilities, which qualifies as unjust. The goal of the next chapter will be to build that case based on a close examination of empirical knowledge regarding three functionings: health, education and social inclusion. This empirical work does not show us that these three are so important that each and every child is entitled to reach a sufficient level of them; this work was done in this chapter. We will simply show that under the assumption that these three, health, education and social inclusion, are relevant for justice, empirical research indicates that child poverty is unjust – both in relation to the well-being and the well-becoming of children.

The fourth ground is that we are concerned with a group-based injustice when we criticize child poverty. We will make clear in the next chapter that we are not claiming that each and every child in poverty suffers from the deprivations we examine. Rather, we are concerned with these children as a particular social group in which many individuals are suffering from deprivations that can be traced back to their shared feature, namely being poor, which they cannot be held responsible for and cannot change themselves. Robeyns has criticized gender inequalities in many functionings because they cannot be plausibly attributed to different preferences (Robeyns 2003). For children this is even more obvious: poor children seldom wish to be in ill health or less educated, and more strikingly, it is certain that they lack a capacity to realize a preference for good health or education unless other persons and institutions provide them with care and other conversion factors.



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