

Paul Kelleher
University of Wisconsin-Madison

Capabilities, Resources, and Spheres of Distributive Justice: Remarks on the
Anderson/Pogge Debate

(Northwestern SETPP Conference Draft of 4.18.10)

ABSTRACT: This essay defends Thomas Pogge's resourcist approach to the metric or "currency" of justice against some recent objections of Elizabeth Anderson's. It then seeks to motivate an alternative to both Anderson's and Pogge's approaches by illustrating the attractiveness of a third, hybrid theory. This hybrid would justify social allocations of resources by reference to something like capability-related considerations in some spheres of distributive justice and by reference to resourcist considerations in other spheres.

The "Equality of What?" debate within political philosophy began several decades ago, and since then many have wondered whether anything of consequence turns on its resolution. I doubt, however, that anyone could reasonably question the debate's importance after studying a recent exchange between Elizabeth Anderson and Thomas Pogge on the answers to that question offered by what are known as the capability approach and the resourcist approach. In this paper I hope to use the Anderson/Pogge debate as an occasion to motivate the exploration of a third approach that may require reliance on something like capabilities in some spheres of justice, and resources in others.

By way of brief introduction, asking "Equality of What?" is a parochial way of putting the first of two questions that any conception of distributive justice must answer. As Anderson puts it, "Theories of distributive justice must specify two things: a metric and a rule. The metric characterizes the type of good subject to the demands of justice.

The rule specifies how that good should be distributed.”¹ Thus, on the assumption that justice requires the social distribution of *something*, we need to know *what* it is that ought to be distributed—sometimes referred to as the “currency” of justice—and how that good should be distributed within the relevant population. Because this issue was first raised by those happy to call themselves “egalitarians,” the debate over the proper metric came to be called the “Equality of What?” debate, since it was assumed for the sake of argument that whatever ought to be distributed, it ought to be distributed equally.

Resources and capabilities have long been the leading objective candidates for the correct currency of justice. Anderson and Pogge each rejects subjective metrics, such as welfare-as-preference-satisfaction, that would allocate fewer social resources to those who happen to have cheaply satisfiable preferences than to those with more expensive preferences, regardless of which rule we chose to complete our conception of justice. In addition, theoretical difficulties in the identification of which preferences would be relevant to subjective currencies, as well as practical difficulties besetting the discovery, for the purposes of justice, of the degree to which relevant preferences are satisfied throughout the population, have lent further support over the years to the more objective options of resources and capabilities.

Anderson and Pogge also seem to agree that the question of proper currency is misleadingly put when one asks, “What, in the end, should the government distribute?” For proponents of the capability approach do not believe that capabilities—which are effective freedoms to do or be various things that people have reason to value—are directly distributable by the government. Take the capability of being able to form and revise informed judgments about political matters that have a strong bearing on one’s life. If a government was of the mind that this is one of the capabilities that ought to be

¹ E. Anderson. 2010. “Justifying the Capability approach to Justice,” in H. Brighthouse and I. Robeyns, *Measuring Justice: Primary Goods and Capabilities* (Cambridge: Cambridge University Press), pp. 81-100; p. 81.

secured for its citizens, the most it could do is devote certain sorts and quantities of resources to this project. Capabilities are usually further specified as substantive freedoms to achieve certain *functionings*, which are in turn states that a person can be in. But such functionings “cannot be immediately distributed. Only the means to such states—resources—can be.”² So whatever divides the capability and resource theorists, it is does not concern the immediate objects of distribution.

There is also no inherent disagreement between Anderson and Pogge on the *ends* that the immediate objects of distribution should be designed to serve. For a resourcist like Pogge, the resources that a just government will distribute according to its favored rule are “all and only the [kinds of] resources human beings need to function adequately.”³ And we have already seen that capability theorists are also concerned to distribute resources in ways that will be useful to citizens’ choices to achieve worthwhile human functionings.

So what, exactly, does the difference between capability views and resourcist views consist in? According to Anderson, the difference lies “in the degree to which [each view’s] principles of justice are sensitive to internal differences, and environmental features and social norms that interact with these differences.”⁴ Whereas “resourcism calls on the basic structure [of government] to provide, to each person, a *standardized* package of resources,” the capability approach insists that the basic structure “should provide, to each person, access to a package of resources adjusted to that person’s individual ability to convert resources into relevant functionings.”⁵ Put another way, although the capability approach and resourcism each rejects the subjective currency of welfare, the capability approach claims that resourcism goes too far in maintaining that a sound metric will be utterly *insensitive* to individualized circumstances. The capability

² Anderson, op. cit., p. 87.

³ T. W. Pogge. 2002. “Can the Capability approach be Justified?” *Philosophical Topics*, 30, 2: pp. 167-228; p. 180.

⁴ Anderson, op. cit., p. 87.

⁵ Ibid.

theorist holds that the problematic feature of welfarism is its claim that the size of justly distributed resource bundles must be sensitive to individual variations in abilities to convert resources into welfare outcomes such as pleasure or preference satisfaction. What matters, the capabilities theorists claims, is not the ways people happen to feel or the degree to which they get whatever they happen to want, but rather whether they possess the real ability to achieve various functionings that moral reflection holds up as worth pursuing or worth wanting. It is with respect to *these* ends that a just government should offer individually tailored assistance to ensure that each citizen is in a position to achieve them, if he or she should want to.

Anderson offers some examples that she believes illustrate this difference between the capability approach and resourcism. One of these involves the just design and allocation of parking spaces. A resourcist like Pogge, who seeks to tailor distributed resource bundles in light of an “unbiased conception...of diverse human needs and endowments,” will, Anderson argues, be unable to justify intuitively fair allocations of parking spaces in light of the special needs of some disabled citizens. According to Anderson, a resourcist like Pogge is compelled to support the provision, in the interests of all, of a sufficient number of just one kind of parking space—an “unbiased” parking space to which all have access and which evenhandedly meets the diversity of needs present within the population. But this would have the consequence that “the disabled would no longer have regular access to a space close enough to enable them to reach points of interest,” since neither they nor any one else will have a special claim to a specialized or biased space.⁶ Moreover, if all such “unbiased” spaces were indeed wide enough to accommodate the room needed to unfold a wheelchair next to the vehicle, then that would leave fewer spaces for others who would like to park in the same lot. According to Anderson, of the two approaches, only the capability approach can handle this case satisfactorily, since only it can endorse the *justifiably* biased provision of

⁶ Anderson, op. cit., pp. 92-93.

dedicated, wide spaces close to the relevant shops or attractions to that minority of citizens whose individual needs make such spaces necessary.

I am not convinced by this argument. We are assuming that we—as city planners or perhaps shop owners bound by just zoning rules—have certain resources to devote to the construction of a parking lot. These resources include land and money to pay for surveyors and contractors and construction crews. And we wish to use these resources to construct a lot giving diverse people unbiased access to parking in proximity to the shops. If we are resourcists, we may choose to make all spots suitable for patrons with wheelchairs. Yet then we run up against Anderson’s observation that some disabled patrons will be relegated to spaces in the back of the lot, since each space is part of a standardized bundle of resources that is no more tailored to the special needs of the disabled than to the needs and interests of those who are not disabled. But there is another tack the resourcist could take. For the purposes of lot design, he could say that each patron is entitled to the same standard resource bundle which includes: unconditional access to any available non-wheelchair accessible spot in the lot, *and* conditional access to the several reserved wide and close spots. Access to such spots would be conditional upon one’s demonstrating prior to arrival that there is a bona fide need, and then one’s displaying some sign that a parking authority has confirmed that one now meets the requirements imposed on the use of a resource one had conditional rights to all along.

This alternative seems to me completely open to the resourcist. Its resourcist credentials can be seen by comparing it to the lottery. In the latter, individuals purchase tickets having equal face value, say one dollar. Yet in addition to its present value of \$1, each ticket also gives the ticket holder a conditional claim on a much larger sum of money. Of course, the condition is not easily met: one must possess the ticket whose number matches the number drawn on a specific date by the lottery commission. Still, every person who possesses a valid lottery ticket possesses a sort of claim, however

conditional it may be, that the person who just jots down the winning numbers while doodling on the day the commission picks the numbers does not. Likewise, everyone with a legal driver's license possesses a conditional claim to nearby, wheelchair accessible parking spots. And just as there is no reason to impute capability-related motivations to the lottery commission when they are sensitive to individual differences in what is printed on (winning vs. losing) lottery tickets, I see no need to appeal to the capability approach to explain a "sensitivity" to individual differences when some people are granted access to special parking spaces and others are not.

Consider now a second example Anderson uses to motivate the choice of the capability approach over resourcism, namely the identification of a just health insurance package. According to Anderson, a resourcist has to advocate for "a 'standardized' health insurance package."⁷ In contrast, only the capability theorist can acknowledge the truth that "any just system of health care provision will provide different treatments, costing different amounts, to patients, depending on their individualized needs."⁸ But isn't this precisely the way benefits are disbursed today in the United States to employees who are members of the same employer-provided group health plan? Yet no one believes that large corporations that offer health insurance to their employees are motivated by the capability approach. Rather, they are simply using the bundle of resources they devote to employees' health insurance—bundles we can assume for the sake of argument are equal—to purchase conditional claims to medical assistance on their behalf. If some employees receive "different treatments, costing different amounts," that does not reveal a departure from an intrinsically resourcist egalitarianism. It simply reveals that some employees' conditional claims were transformed into realized claims by virtue of their different medical circumstances.

⁷ Anderson, op. cit., p. 93.

⁸ Ibid.

The key point in each of these responses to Anderson is that within a resourcist insurance scheme, compensatory claims can be *triggered* by individual needs, even if they are not *grounded* in them. This much should be evident from the fact that the cold, economic interests of insurance corporations are consistent with their providing individualized payouts when medical needs arise. Obviously, the salient property of being a trigger can be shared by any insurable event, such as a patron's \$1 million prize-winning hole-in-one at a country club golf contest. In the health care context, the substantive fact that the insurable event is the acquisition of a medical *need* plays no role in determining the distribution of benefits and burdens among relevant parties.

Because there is nothing essentially anti-resourcist in the nature of social insurance as such, one must be careful not to confuse the mere concern to ensure proper compensation for health needs that trigger a payout within a social insurance scheme with a concern with neediness itself. Often, what matters for the moral evaluation of a social insurance scheme, or indeed of any government undertaking generally, are the broader purposes behind it, and the considerations that ought to guide financing and distribution within that scheme.

There may, however, be something intrinsically anti-resourcist about a social insurance arrangement that pools *diverse* risks under the same scheme. To see why, assume for the sake of argument that there exists a reason automatically to recognize each citizen's entitlement to a certain bundle of social resources (a morally required social inheritance, perhaps). If everyone had the same risks of developing a disability or poor health, and if inescapable government legislation can be the legitimate answer to collective action problems that each, prudentially, wishes solved, then the establishment of institutions that collect a portion of each citizen's social inheritance in order to pool risks and pay out indemnities when there is a qualifying trigger event needn't be a departure from resourcism. But if the same scheme were proposed when citizens differ significantly in their propensities to develop medical needs, then that scheme would

avoidably force some to use their social inheritance to meet the *higher risks* or *greater needs* of others. It is this that resourcists of Pogge's stripe oppose.⁹ As a self-avowed strict deontologist, Pogge embraces a division of responsibility that absolves causally unrelated parties of responsibility for redressing the health needs of the naturally disadvantaged. This leads him to claim, for example, that "just social institutions should not then make the naturally favored subsidize the naturally disfavored any more than a just administrator or civil judge should seek to allocate benefits and burdens under her control so as to even out natural inequalities."¹⁰

Anderson rejects this particular deontological approach to justice. On her view, which she calls "democratic equality," fellow citizens have obligations in justice to secure for one another the capabilities related to "functionings that have democratic import," such as "health and nutrition, education, mobility and communication, the ability to interact with others without stigma, and to participate in the system of cooperation."¹¹ Anderson adds that democratic equality incorporates a *sufficientarian* distributive rule. For example, it holds that citizens are entitled only to *enough* education "to be able about advance informed claims in public forms, at a level of articulateness that elicits respectful hearing."¹² Thus, whenever a compatriot lacks capabilities that have civic import, Anderson acknowledges a situation that "injure[s] citizens' standing as equals" and is therefore unjust.¹³

Anderson is aware of Pogge's penchant for deontological divisions of responsibility, but in her view this leads Pogge to embrace resourcism only because he

⁹ Others who endorse "equality of resources" will not take this hard line. But when they do not, as in the cases of Ronald Dworkin and (perhaps) Norman Daniels, there is a story to be told why that form of equality of resources actually has many of the hallmarks of a capabilities view. See Dworkin, "Equality of Capability," in his *Sovereign Virtue* (Cambridge, MA: Harvard University Press, 2000), and Daniels, *Just Health* (Cambridge, UK: Cambridge University Press, 2008), pp. 64-71.

¹⁰ T. W. Pogge. 2004. "Relational Conceptions of Justice: Responsibilities for Health Outcomes," in Sudhir Anand, et. al., eds., *Public Health, Ethics, and Equity* (Oxford: Oxford University Press), pp. 135-162; p. 154.

¹¹ Anderson, op. cit., p. 90, p. 83.

¹² Anderson, op. cit., pp. 83-84

¹³ Anderson, op. cit., p. 91.

fails to see that his deontological concerns bear only on the choice of a particular distributive rule, and not on the choice of a particular metric (and thus not on the choice between capabilities and resources). Anderson attempts to illustrate her point with an example about workers' compensation rules. She argues that once a sufficientarian threshold of capabilities is secured for all as democratic equality enjoins, we could supplement that view with a workers' compensation rule that restores capability to what it would have been without the workplace injury. In this way a capabilities approach can follow Pogge in "giv[ing] higher priority to socially caused injuries than natural disabilities, by giving more to those who suffer the former."¹⁴

But this wrongly suggests that Pogge's target is limited to policies that compensate citizens beyond what they would be entitled to by the sufficientarian doctrine of democratic equality, whereas his target is those capability entitlements themselves. Consider education. Assume that a resourcist such as Pogge can endorse the allocation of a roughly equal share of social resources to each citizens' education. Assume further that these equal bundles can be used to construct an education-oriented social insurance scheme, whereby some special educational needs can be met by the portion of each citizen's education premium that is set aside to secure conditional rights to such programs. Still, even with these special programs in place, it may turn out that some citizens face significant, naturally-occurring barriers to educational attainment that cannot adequately be addressed by the existing programs. In such cases, a resourcist like Pogge will say that unmet needs do not ground claims in justice for additional tutoring or, say, special learning software. Once one's fair share of resources runs out, there is nothing else that others must provide to one on pain of injustice. Anderson, in contrast, would surely reject this stance as overly stingy, and virtually all capability theorists will agree with her appraisal.

¹⁴ Anderson, 94.

We should point out that many capability theorists view the proper metric of justice in the case of children to be functionings, not capabilities. As Anderson says, “children lack the autonomy to choose for themselves. Bare opportunities [i.e. *mere capabilities* to achieve desirable functionings] are of no value to children.”¹⁵ But this qualification to the capability approach still leaves it in stark contrast to resourcism, since only the former allows that claims to social resources are directly grounded in facts about a citizen’s capabilities and/or achieved functionings.

We might imagine Anderson at this point clarifying her remark that Pogge’s deontological objections “confuse the metric with the rule”¹⁶ by saying that Pogge’s mistake is that he does not opt for a *sufficientarian* distributive rule that would allocate resources so that each student have *enough* resources, as opposed to a rule guaranteeing each student an equal share. But this is not a plausible move, either, since we would eventually have to ask, *Enough for what?* If her answer is, “Enough resources to achieve a specified threshold of educational functionings,” then it is difficult to see how this amounts to anything other than smuggling in her preferred educational metric under the guise of a sufficientarian rule. Thus, Anderson cannot sidestep Pogge’s deontological concerns by arguing that he confuses metric with rule.

Despite agreeing with Pogge that a vindication of his strictly deontological framework would spell trouble for the capability approach (and not just for certain distributive rules), I nevertheless join Anderson in rejecting that framework. For I believe that we do have strong reason to see ourselves as responsible for meeting certain needs that we had no hand in causing. This is not because we have a general duty to help eliminate undeserved disadvantage as such. Rather, we have specific duties to others that emerge from features of the modern political relationship. For example, I take it for granted that one of government’s main roles is to protect and foster honest

¹⁵ Anderson, 84.

¹⁶ Anderson, op. cit., p. 94.

economic interaction between consenting adults. Even so, not all will agree on precisely which terms of cooperation are most appropriate. For example, some will wish to impose stiff penalties for false advertising in mortgage lending, while others will insist that it is the responsibility of each signatory to a contract to read the it before signing; this might lead to the belief that misleading mortgage sales pitches should be no more justifiable than telling a carpenter that you fully expect to contract with him to build your house and then deciding to go with someone else who'll do the job for less. To be sure, some policy decisions of this kind are often mundane. But they can also be quite profound in their collective ramifications, as can other relevant decisions, such as those concerning the policies of a nation's central bank. These are all decisions to employ the coercive apparatus of the state in ways that will inevitably shape the lives of all citizens, determining which avenues are open for economic betterment and to whom, and at what risk.¹⁷

The forms of control over others' lives that citizens of this state invoke raise the question of how it can be justified to exercise this kind of control at all. One plausible answer cites democracy as a condition on the legitimacy of employing state coercion in this way. But while democracy provides an important avenue through which citizens can decide for themselves how state coercion will be exercised over them, it is doubtful that choices made in that system confer legitimacy when they are made on the basis of the kinds of ignorance and unreason that we might expect to arise within a more or less free market state: such states may well refuse, on libertarian grounds, to extract funds through taxes for good basic public education. Yet a concern not to coercively shape the life of another without his or her adequately informed consent is hardly consistent with a scheme that secures legitimizing consent from those who are unable to assess relevant empirical facts and form critical conceptions of their own most fundamental interests. So

¹⁷ I have benefited here from the useful discussion of the moral implications of these pervasive forms of state coercion in M. Blake, "Distributive justice, state coercion, and autonomy," *Philosophy and Public Affairs* 30, no. 3 (2001): 257–296.

the characteristic features of the minimal state seem, morally, to force departures away from it, establishing a basic social duty to show concern for others' educated autonomy. Free market arrangements that make no provision for such education are, therefore, *prima facie* unjust.

Certainly there are similarities between the capability approach and an approach that views justice as in large part constituted by morally mandated concerns for one another grounded in the nature of specific political relationships. But consider again the case of health care in order to see why I am uneasy concluding that the capability approach is *the* proper metric of justice. Even if there are duties in justice to display more concern for one another's health needs than would be displayed in a sophisticated resourcism, these duties may not be as demanding as the duties that emerge from the capability framework that Anderson seems to have in mind. That framework appears to recognize a *prima facie* claim to the elimination of undeserved health deficits on the ground that these "injure citizens' standing as equals." Yet the burdens that would be imposed on fellow citizens should they be required to deliver on this promise to eliminate the injuries of nature appear to me to be enough to cancel the promise altogether, not just enough to outweigh it or to make it excusable for a society to ignore it.¹⁸ This strikes me as a good reason to wonder whether we should begin to explore the possibility of a third view that falls somewhere between the demands of the capability approach and austerity of resourcism.

Finally, I am also not willing to rule out the possibility that resourcism is the correct metric to use within certain spheres of distributive justice. My hunch is that this will be true of spheres that do not have what Anderson calls "democratic import." Of course, it is a hallmark of Anderson's theory that spheres with democratic import either

¹⁸ Anderson makes the claim that "the demands of equal standing are satiable with respect capabilities and the resources needed to secure them" (p. 83). In a footnote she cites Raz's account of satiability, whereby a satiable demand "can be fully met, whereas an insatiable demand cannot, but can only be met to higher degrees" (p. 98). I admit that it is not clear to me in what way demands of, say, basic health care provision can in all cases be said to be satiable.

exhaust the terrain of justice, or else exhaust the terrain of justice that is centrally concerned to embody demands of equality.¹⁹ But I am not inclined to agree. For example, despite my earlier focus on education that prepares future citizens for a life of political autonomy, I tend to agree with Harry Brighouse and Elaine Unterhalter that yet another reason to provide education stems from a justice-mandated concern for “the prospective well-being of the adult the child will become.” As they go on to note, “this consideration is sometimes in tension with the emphasis on independent judgment,” an emphasis that would be the central implication of the rationale for universal education that I articulated earlier.²⁰ It could therefore turn out that justice in the sphere of education with democratic import must be measured in terms of something like capabilities, whereas justice in education with a bearing on general well-being can be measured in terms of the cost (in resources) of inputs. If so, students’ difficulties in converting equal inputs into equal abilities to pursue and secure well-being—say in the form of success in musical or artistic projects and pursuits—would not provide grounds to force some to go with a less-than-equal share of the this sphere’s aggregate resources in order to provide compensating sums to those facing conversion difficulties.

There is some evidence that Anderson herself is not wholly averse to the possibility that different spheres of distributive justice call on different metrics. In the course of discussing the just design of parking lots, one reason Anderson cites for rejecting the “unbiased” policy of making all parking spots wide enough for persons with wheelchairs is that “fewer people would have access to points of interests,” because fewer spots could be created.²¹ Yet it is not clear that the ability to park in such close proximity to malls and movie theaters possesses democratic equality’s hallmark of democratic import. Of course, if there were discriminatory policies permitting, say, only

¹⁹ Anderson, *op. cit.*, p. 84.

²⁰ Brighouse and Unterhalter, “Education for Primary Goods or Capabilities,” in H. Brighouse and I. Robeyns, *Measuring Justice: Primary Goods and Capabilities* (Cambridge: Cambridge University Press), pp. 193–214; p. 198.

²¹ Anderson, *op. cit.*, p. 93.

whites to park nearby, that would violate democratic equality. But if the rule is first-come-first-served, and if the alternative to parking in the lot is parking a bit further away, then it seems the moral relevance of this impact is better accounted for in terms of convenience, time management, and (when considered across a whole life) an avoidable diminution in well-being. Once sufficiently many wider spots for the disabled are created near the relevant businesses and attractions, these extra well-being-related reasons to take a public policy interest in the design of parking lots seem to recommend the construction of a maximum number of *standard* parking spaces, regardless of this choice's differential effects on some citizens' abilities to derive well-being from it. For example, those patrons who have scrimped and saved to purchase a luxury vehicle in retirement have no complaint whatsoever that narrower spaces increase the likelihood that very expensive paint jobs will be scraped and scratched, and that this in turn has a differential effect on such persons' prospects to pursue valuable non-democratic functionings or well-being. Rather, what each is owed on the basis of extra-democratic, extra-civic reasons is a standardized package of resources, even if some people's particular circumstances mean they will face difficulties, not faced by others, in the conversion of this package into well-being.

Admittedly, the debate over the correct metric of justice has found itself too often reliant on quirky examples of the kind I just offered. So let me offer one more example from the sphere of health policy. Even if Anderson is correct that some basic forms of health care possess "democratic import" and thus generate *prima facie* social obligations of universal provision of medical care, health care is also intimately connected with individuals' prospects for flourishing outside of the civic and democratic political sphere. So Anderson's theory will have a difficult time explaining the moral importance of certain medical interventions, such as those that extend life-expectancy at birth by, say, one to three years for a good portion of an already relatively healthy population. For such interventions would seem to have at best uncertain democratic

import. If we in the end have duties of concern for one another's well-being that are not justified by virtue of the democratic importance of such improvements in well-being, then justice in a sphere, such as non-basic health care, that makes a distinct contribution to longevity and flourishing might well properly be measured in terms of the resources that are dedicated each citizens' life in the form of access to modern medicine. What the resourcist has to say in this scenario strikes me as perfectly reasonable. He will say: "Yes, it may be true that you'll wind up needing medical attention beyond what your non-basic health care package covers in order to reach the same extended life-expectancy that some others get from their access to non-basic care. But in order to grant you extra attention—in the form of additional lifestyle consultations with a health behavior expert, e.g.—we'd have to reduce the currently equal bundle of non-basic health care funds we've dedicated to each of your fellow citizens' lives. Since they are not responsible for your plight, it would be wrong to lessen what we have made available in the event that *they* should need it."

* * *

I have attempted in this essay to defend resourcism against some of Anderson's objections and then to motivate the continued exploration of something of a middle-way that rejects capabilities as a *metric*, but which recognizes demanding duties to *respond* to deficits in important capabilities that would outrun the demands of Pogge's more austere resourcism. I ended by suggesting that Anderson's view seems to ignore spheres of distributive justice that egalitarians may wish not to ignore, but which may be more hospitable homes to resourcism than spheres possessing what Anderson characterized as possessing democratic import. I hope that this discussion opens useful avenues for further inquiry.