

**Natural Resources and Capabilities:  
Building a Framework  
for Natural Resource Justice**

Virginia De Biasio

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University of York

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## Abstract

This dissertation investigates the requirements for a fair allocation of rights to natural resources among individuals and communities at the global level. It develops an original theory of natural resource justice based on the capabilities approach. The capabilities approach has not yet been applied to the natural resource justice debate in a comprehensive way. However, I argue that it is a promising theoretical framework to address the issue of natural resource distribution. The main contributions of my research are the following. Throughout my analysis, I defend individual and collective claims to natural resources and integrate individual rights to resource distribution and collective rights to resource control within a coherent framework. I clarify when special relationships between people and resources are normatively significant and should entail special resource rights. I propose a non-anthropocentric extension of natural resource justice to encompass claims of non-human animals.

The dissertation starts with a critical analysis of the most prominent recent theories of natural resource justice and territorial rights that address questions of natural resource distribution and control (Chapters 2–3). Following this analysis, I argue that there is scope to formulate a new theoretical framework for natural resource justice to solve the current debate’s main shortcomings. In the positive part of my dissertation (Chapters 4–7), I outline and defend principles of natural resource justice based on the capabilities approach. This novel theoretical framework solves many of the issues outlined in the first chapters of the dissertation and contributes to the literature on natural resource justice in an original way. In the last chapter of the dissertation (Chapter 8), I apply the capabilities-based framework previously outlined to the current issue of climate mobilities in Small Island Developing States.



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## Author's Declaration

I hereby declare that this thesis is a presentation of original work and I am the sole author. This work has not previously been presented for an award at this, or any other, University. All sources are acknowledged as References. I also acknowledge that I received assistance from a professional proofreader/friend/Grammarly to proofread this thesis in line with the Policy on Transparency in Authorship in PGR Programmes. The following publications arise from the thesis:

- Most of Chapter 5 and some parts of Chapter 2, Chapter 3 and Chapter 4 were published as a peer-reviewed article entitled “When does attachment to natural resources count?” in the *Critical Review of International Social and Political Philosophy* in 2024. doi: 10.1080/13698230.2024.2311597
- Part of Chapter 2 will be published as an encyclopaedia entry with the title “Risse: On Global Justice”, in Gray, K. W. and Lo Coco, L. (eds.) *Global Encyclopedia of Territorial Rights*. Springer (2023).
- A revised version of Chapter 8 was published as a peer-reviewed article with the title “Not Just ‘Sinking Islands’: Climate Change and Adaptation in Small Island Developing States” in *Political Studies* in 2024. Available at: <https://doi.org/10.1177/00323217241298848>.
- Some of the material in Chapter 8 has been used to write a report entitled “Migration or Non-Migration to Adapt?: Assessing the Impact on the Well-Being of the Population”, for *Earth Refuge* [a legal think tank on climate migration]. Available at: <https://earthrefuge.org/migration-or-non-migration-to-adapt-assessing-the-impact-on-the-well-being-of-the-population/>
- I also published a blog post entitled “Is This Climate Justice? The Australia-Tuvalu Falepili Union” for *Justice Everywhere* [a blog about philosophy in public affairs]. This blog contains some ideas from Chapter 8. It is available at: <https://justice-everywhere.org/general/is-this-climate-justice-the-australia-tuvalu-falepili-union/>

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# 1. Introduction

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“Rising up from drought together” was the theme of the World Day to Combat Desertification and Drought on 17<sup>th</sup> June 2022. 2022 was one of the worst years for drought globally, with severe droughts experienced in Africa, Europe, Asia, Oceania, North America and South America (United Nations Convention to Combat Desertification [UNCCD], 2023). During the months of June to November 2023, the Amazonian region was hit by the worst drought on record (Lindsey, 2023). Since January 2024, El Niño has caused significantly below-average rainfall across large parts of Southern Africa, which disrupts water and food security for more than 30 million people (World Food Programme [WFP], 2024). This situation is set to worsen, as temperatures keep rising globally. The European Union’s Copernicus Climate Change Service reports that June 2024 was the hottest June on record for the globe, which is the 13th month in a row to set a monthly temperature record (from May 2023).

Needless to say, problems of water scarcity are not a new occurrence, but water scarcity is worsening globally. In 2010, the United Nations (UN) General Assembly declared access to clean drinking water as one of the fundamental basic human rights. Yet, still today for people living in many countries, especially in the Global South, access to clean drinking water is a luxury. As reported by the UN World Water Development Report 2023, between two and three billion people worldwide experience water shortages (UNESCO World Water Assessment Programme, 2023). Over the past decade, this situation has been exacerbated due to population growth and a higher demand for water supply, and due to an increasing scarcity of renewable resources caused by climate-related issues. The World Meteorological Organization warns that water scarcity and unavailability will affect over three-

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quarters of the global population by 2050. Conflicts to gain or maintain access to such a basic natural resource are thus likely to become widespread shortly, leading to the so-called “water wars” between countries or smaller groups to ensure ongoing access to freshwater sources.

Water is only one among many examples of key natural resources that are necessary for survival and are at the same time becoming increasingly scarce, especially due to climate-related issues. Other examples are clean air, which is becoming a rare good in various parts of the world due to elevated levels of pollution, and inhabitable land. For instance, large portions of currently inhabited land in countries such as Bangladesh or Small Island Developing States (hereafter abbreviated to SIDS) in the Pacific Ocean are at risk of disappearing due to sea-level rise. All these examples of resource scarcity constitute a threat to the ability of individuals to maintain their rights to access and use natural resources that are essential and non-substitutable for leading a satisfactory life (or any life).

Another source of conflict regarding rights (e.g. access, use, control) over natural resources is linked to the significance of specific natural resources for particular individuals and certain groups. There are many occurrences of such conflicts. For instance, the government of Ontario (Canada) faces ongoing protests from four First Nations regarding access, use and control rights of their land, which is often exclusively managed by the settler state and exploited for mining (Carver, 2023; McIntosh, 2023). Indigenous peoples reclaim rights to their territory along with its natural resources to maintain their traditional lifestyle and economic and cultural practices. Another example is the conflict between the State of Suriname and the Indigenous community of the Saramaka people regarding use and control rights of a forest in the country (where the Saramaka reside). The Saramaka people’s livelihoods are based on a connection to the local forest and its products. As highlighted by the Inter-American Court of Human Rights, without access to the forest and its resources, “the very physical and cultural survival of such peoples is

at stake” (IACHR, 2007, para. 121). All these real-world cases – and other similar ones – raise questions of who should control the land and natural resources available in a certain territory, and how rights to specific resources ought to be justified in case of conflicting claims held by different agents.

This brief survey shows that the distribution of rights to natural resources is far from being uncontroversial. The Global Resource Outlook 2019 reports that “the billion richest individuals account for 72 per cent of the consumption of global resources, while the poorest 1.2 billion consume only 1 per cent” (Oberle *et al.*, 2019, p. 126). There are deep inequalities in the availability and provision of natural resources to individuals and communities. Meanwhile, we can all agree that every individual ought to have access and use rights over different natural resources throughout their life (i.e. water, clean air, land) to survive and flourish. Especially nowadays, an answer to the question of how to share natural resources among the human population is much needed. First, the rapid increase in the global population entails a consequent worrying scarcity of natural resources that follows a growing demand. Since the 1970s the global population has doubled and GDP (Gross Domestic Product) is four times higher than before. This growth has resulted in a higher demand for the supply and extraction of natural resources and has intensified the pressure on land and water. Second, climate-related issues and the increasing emergence of environmental problems have put many natural resources at risk, which today must be distributed among human beings more carefully than ever before (see, for instance, Kostakos and Zhang, 2013). As a result of this situation of worrying scarcity, concerns over resource use and management have become prominent during the past decades.

The question of how to fairly distribute rights to natural resources among the human population requires a normative account of how those rights should be conceived and justified. The purpose of this dissertation is to investigate how rights to natural resources should be distributed among individuals and communities at

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the global level. To answer this important normative question, I will draw from the capabilities approach and develop an original framework for natural resource justice (hereafter abbreviated to NRJ). The concept of capabilities was introduced by Sen (1980) as what we should evaluate when assessing states of affairs in society. In this dissertation, I argue that a theory of NRJ that takes capabilities as the correct currency of justice displays many crucial strengths over its existing competitors. I will show that, even if the capabilities approach has not yet been applied to the natural resource debate in a comprehensive way, it has the potential to address many of the fundamental issues to discuss in a theory of NRJ. Among others, these include the existence of both individual and collective claims to natural resources, the non-substitutability of some resources and the ensuing importance of special resource rights for particular individuals, the provision of shares of resources tailored to the needs of different individuals, and the value of animals outside purely instrumental and anthropocentric reasons.

This introductory chapter outlines the main issue that the dissertation deals with, and spells out the main contribution of my research: the defence of a theory of NRJ based on the capabilities approach. In section 1.1, I define natural resources and give a brief overview of the current distribution and management of natural resources in the world. In section 1.2, I outline how the issue of rights to natural resources is currently considered by theories of NRJ and territorial rights theories, and I start to clarify where my dissertation stands within this debate. In section 1.3, I give a preliminary defence of applying the capabilities approach to the issue of NRJ, and I stress the fit between a discussion on rights to natural resources and a capabilities-based framework. In section 1.4, I highlight the contributions of my research to the literature on NRJ and the capabilities approach. Finally, section 1.5 outlines the structure of the dissertation.

## **1.1 The Current Distribution and Management of Natural Resources**

Before outlining the main features of the current distribution and management of resources, it is necessary to define *natural resources*. In the domain of international law and policy, the Global Resources Outlook 2019 gives a standard definition of natural resources, as the “resources — including land, water, air and materials — [which] are seen as parts of the natural world that can be used in economic activities to produce goods and services” (Oberle *et al.*, 2019, p. 25). Following this definition, natural resources are the materials available in the natural world – hence not man-made – that have some economic utility for human beings. Although partially correct, this definition is incomplete. In this dissertation, I adopt a broader definition of natural resources, which aligns with some of the definitions adopted by political theorists dealing with the issue of natural resource distribution.

Drawing from Armstrong’s definition in his theory of NRJ, natural resources are “raw materials available from the natural world, which are (therefore) not produced by humans but which are nevertheless *useful* to them” (2017, p. 11; emphasis added).<sup>1</sup> What is relevant in this definition is that natural resources are useful not only due to their economic value, as per the definition of the Global Resources Outlook, but can also have cultural or symbolic value. In this dissertation, I consider natural resources to be instrumentally important for human beings due to their economic, cultural, or symbolic value. For the purposes of this dissertation, land is considered a natural resource, since it has some instrumental value for human beings and is not man-made, although some scholars argue that land has a different

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<sup>1</sup> Check also Moore’s definition of a natural resource as “anything, derived from the environment and not made by humans, that is instrumental to satisfying human wants and needs. [...] This is a very open definition: land, water, air, and sunshine are resources, as well as plants, animals, and mineral ores” (2015, p. 163).

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status compared to fungible natural resources.<sup>2</sup> Throughout this dissertation, I will focus on the natural resources that cannot be replaced via monetary compensation and need to be provided to human beings no matter what, such as water, clean air, land and food sources. Every human being needs to be provided with enough resources to survive and live at a minimum level of decency.<sup>3</sup>

Note that I adopt the terminology of natural resources for clarity purposes since it is the one currently used in academic debate and political practice. However, I recognise that in many instances this is, at best, a simplification of a more complex reality, such as in the case of Indigenous peoples who would not consider forests, land, rivers, etc. as natural *resources*. Furthermore, a more correct term could perhaps be “environmental resources”. Throughout my analysis, I will emphasise the connection that runs between natural resources and the broader environment in which they are embedded, stretching the scope of the traditional notion of natural resources to include the environment itself as a “structural natural resource”.

Let me now give a brief overview of the current situation regarding the distribution of rights to natural resources globally. The organising principle for the use and management of natural resources since the 1950s and 1960s is the principle of permanent sovereignty over natural resources, according to which “individual nation-states enjoy an extensive and essentially exclusive set of rights over the resources within their territories” (Armstrong, 2015, p. 130). This right to free exploitation of natural resources within a territory can be traced back to the UN General Assembly Resolution 523 (IV) of January 1952, where it was first adopted as a legal principle to regulate the use of natural resources for developing countries

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<sup>2</sup> For instance, Kolers (2012a) distinguishes land from resources: natural resources are intentional kinds and are fungible, meaning that they can be replaced by other means to get the same end; land, instead, is not fungible and is a natural kind.

<sup>3</sup> This dissertation focuses on claims to resources held by human beings. However, in Chapter 7, I will defend a non-anthropocentric extension of NRJ and argue that some resources must be provided to some non-human animals too.

after the end of colonial domination (Dam de-Jong, 2015, p. 34). Its main purpose was to counteract existing inequalities among countries, by postulating a right to resources that tried to prevent the theft and overexploitation of resources in the territories of countries in the Global South by foreign actors. Permanent sovereignty gives the state and its people full and exclusive rights over the natural resources within its territory (e.g. rights to freely use, control and dispose of resources). The UN Resolution of January 1952 further states that “the right of peoples and nations to permanent sovereignty over their natural wealth and resources must be exercised in the interest of their national development and of the well-being of the people of the State concerned”.

Note that this is, however, not always the case. Although I will not examine this issue in detail in the dissertation, it is worth mentioning the existence of the so-called “resource curse”, according to which countries in the Global South with great amounts of natural resources are often more cursed than blessed by the presence of resources in their territory (see Wenar, 2016). The availability of a significant amount of natural resources in a country’s territory often leads to a failure of democratic rule, by instead fuelling civil conflicts and forms of authoritarian rule that exclusively benefit from managing those resources.<sup>4</sup> Thus, the presence of the resource curse often renders the principle of permanent sovereignty over natural resources ineffective.

But, even if we were to bracket the issue of the resource curse and assume that populations actually benefit from the presence of resources in their territory, additional fairness considerations would still be important to ponder. The availability of natural resources is unevenly distributed across countries, leading to deep inequalities in the amount of natural resources available in some territories compared to others. As Ypi writes, “The reason certain agents end up with certain

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<sup>4</sup> For a critique, see Armstrong (2017, pp. 45–53).



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shares is just an accident of history determined (if we are lucky) by convention: there is no nobler story to be told” (2017, p. 18). Some people have more than enough resources to live a flourishing life, whereas others experience a deprivation of essential resources, starting from water. This inequality is the starting consideration of global theories of NRJ whose primary aim is redressing current inequalities in resource distribution (e.g. Armstrong, 2017; Beitz, 1975; Pogge, 2002a). Hence, leaving aside considerations of the resource curse, many countries around the world have very little in the way of natural resources, which puts them in a position of great disadvantage that seems intuitively unfair.

Furthermore, there are many cases in which specific peoples object to the over-exploitation of culturally significant land or key resources for their livelihoods, as per the examples of First Nations in Ontario and the Saramaka people in Suriname mentioned above. In such cases, it is questionable whether the management of specific natural resources should be granted to the entire state (as prescribed by the principle of permanent sovereignty over natural resources), and not to these smaller sub-state groups since those specific resources are especially relevant for them.

In light of the issues just raised, political theorists dealing with the issue of natural resource distribution have objected to the current principle of permanent sovereignty over natural resources. They either defend competing principles of resource management and distribution (for instance, Armstrong, 2017), or argue in favour of a limited form of resource sovereignty without endorsing the *status quo* (for instance, Stilz, 2019). In the next section, I discuss the main positions in the current political theory debate regarding the question of the distribution of rights to natural resources.

## **1.2 Natural Resources in Theories of Justice and Territorial Rights**

The issue of rights to natural resources has been receiving increasing attention over the past decades by theorists working on issues of global justice and questions of territorial rights and jurisdictional authority. I will not provide a detailed overview of the main positions here, as I expand upon this debate later in the dissertation (Chapters 2–3). However, it is helpful to briefly introduce this debate here to understand which role natural resources play in current discussions in political theory.

Natural resources, as defined in the previous section, are necessary elements for any form of life. Given the irreducible importance of natural resources, it is not surprising that theorists have considered the issue of rights to natural resources as a matter of (distributive) justice. Broadly defined, a theory of distributive justice explains why certain individuals (e.g. from the global population or the population of a state) have claims to certain goods (or shares of goods). A theory of NRJ seeks to answer the question of what a correct distribution of rights to natural resources (and the benefits stemming from them) ought to look like. This does not entail that considerations of rights to natural resources are the only thing, or even the most important one, that matters in a comprehensive theory of justice. As Armstrong writes, natural resources “are (merely) an (important) subcategory of the goods to which an account of justice ought to apply” (2017, p. 10). However, natural resources are indeed a key element to consider.

Theorists of NRJ argue for the best way of distributing rights to natural resources at the global level and challenge the doctrine of permanent sovereignty over natural resources that I have introduced in the previous section (starting from Beitz, 1975; Pogge, 2002a; Steiner, 2005; Wenar, 2010). Among others, Armstrong (2015) rejects the permanent sovereignty doctrine by pointing out that the basic reason for granting full territorial and resource rights to the state – namely the need for the

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state to meet the basic needs of its population – does not necessarily justify permanent sovereignty, where a more limited principle of jurisdictional authority over resources and territory could achieve the same aim. Theorists of global justice claim that resources should be distributed to all individuals according to fair distributive principles, regardless of where they are located and to which political community they belong. This dissertation is situated within this ongoing debate among competing theories of justice over the best way of distributing rights to natural resources globally. Moreover, it starts from the intuition, shared with many other scholars (e.g. Armstrong, 2017; Blomfield, 2019; Moore, 2015), that the current unequal global distribution of natural resources should not be endorsed, and that a theory of NRJ should not simply aim at justifying the world's *status quo*.

Furthermore, in recent years, the main theorists of territorial rights have considered the issue of rights over natural resources (Miller, 2012; Moore, 2015; Nine, 2012; Stilz, 2019). As opposed to theories of NRJ which focus on the issue of natural resource distribution, theorists of territorial rights consider questions of territorial control and jurisdiction, which include control rights over the natural resources located in a certain region. Theorists of territorial rights still recognise that individuals hold rights over places and resources, such as residency rights and rights to satisfy their basic needs through the provision of key resources. However, they additionally conceive the individual as embedded in a collective, i.e. a political community, and argue that some of the claims held by people over the natural resources located in a certain territory are *collective* claims. They also reject the doctrine of permanent sovereignty over natural resources held by states in favour of a more limited form of resource control. Generally, they defend either a revisionist statist position (Stilz, 2011) or a non-statist one, where political communities are not necessarily states, but (often sub-state) communities defined in cultural terms (Miller, 2012), in ethnogeographic terms (Kolers, 2009), or as “people” conceived in non-cultural terms (Moore, 2015). As territorial rights

theorists do, I will also recognise that some claims over resources are held *collectively*. I will argue that certain political collectives are entitled to a limited form of control rights over natural resources, which does not amount to permanent sovereignty and is subject to distributive constraints.

This dissertation starts from a critical discussion of these two different – and in some respects, complementary – families of frameworks (namely, theories of NRJ and territorial rights theories), used to answer questions of distribution and control of natural resources. The novel theory of NRJ based on the capabilities approach that I propose seeks to solve existing shortcomings in current theories of NRJ and territorial rights and provide an original way to answer the normative question of how rights to natural resources should be distributed.

### **1.3 Why the Capabilities Approach?**

In this dissertation, I adopt the capabilities approach as a better framework than alternative ones to discuss questions of NRJ. In what follows, I briefly present the main elements of the capabilities approach. Then, I outline some key reasons that explain why the capabilities approach is a promising framework for thinking about the issue of natural resource distribution.

The capabilities approach was originally theorised by Amartya Sen (1980; 1992; 1999a) as a way of evaluating states of affairs in society and drafting solutions for issues of poverty and deprivation. Sen adopts the notion of “capabilities” – what a person can be or do (these beings and doings are called “functionings”) – as the correct metric of justice compared to alternative ways of assessing individual well-being and social arrangements. The capabilities approach calls attention to the *ends* that people have reasons to value in terms of capabilities to function. There is a relevant difference between capabilities and functionings. Capabilities are opportunities to function, whereas functionings are actualised capabilities. As

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Robeyns explains, this is a distinction “between achievements on the one hand [functionings], and freedoms or valuable options from which one can choose on the other [capabilities]” (2005a, p. 95). In Sen’s view, capabilities are the right currency of justice rather than functionings. What ultimately matters is that people are *free to choose* the options they value the most, accounting for the fact that they can also not choose them.

Capabilities are considered elements of human flourishing since they represent opportunities to achieve well-being (in terms of functionings). Relevant functionings, such as being healthy, represent objectively important dimensions of well-being that people should be given the means to achieve. Scholars of the capabilities approach argue that every individual is entitled to the capabilities that are central to a worthwhile existence (e.g. Claassen, 2016; Nussbaum, 2006; Robeyns, 2005a). Although capabilities theorists disagree on the specifics of a list of valuable capabilities (see Chapter 4), they all agree that there is a plurality of intrinsically valuable capabilities that cannot be traded against each other. For instance, different “basic capabilities” (which can be thought of as capabilities to achieve basic needs), such as the capability of education and social relations, constitute essential elements of flourishing and cannot be traded against each other.

In this dissertation, I apply the capabilities framework to a theory of NRJ. It is worth highlighting that there is an ongoing dispute between theorists who adopt the notion of capabilities vs. those who defend theories that look at resources, primary goods or welfare/utility (for an overview, see Brighouse and Robeyns, 2010). The capabilities approach was originally developed in contrast to these rival theories. As Cohen writes, the capabilities approach is in a sense “midfare”, because it is “midway between goods and utility” (1990, p. 368). It focuses “on the *state* of the person, distinguishing it both from the *commodities* that help to generate the state, and from the *utilities* generated by the state” (Sen, 2003a, p. 43). Although it is beyond the scope of this work to provide a comprehensive defence of the

capabilities approach, I will highlight some of its key features against rival theories. I will argue that the capabilities approach helps specify an account of well-being by outlining relevant dimensions of flourishing (see Chapters 2–3). I will further clarify that only the ends (i.e. capabilities) are intrinsically important, whereas the means (e.g. resources) are instrumental since they provide people with capabilities, creating and enlarging their capability sets (see Chapter 4).

Concerning this difference between ends vs. means, I should mention that one of the strengths of the capabilities approach is its consideration of individual differences in natural endowments and talents. People convert resources (means) into ends with different ratios due to their interpersonal variations. Capabilities theorists stress the relevance of so-called “conversion factors”, which are personal, social or environmental conditions that affect an individual’s ability to convert resources into ends. A simple distribution of resources indifferent to those variations would not be able to solve existing inequalities problems, but might even compound them. This would be the case if we were only concerned with equalising material shares of resources without, at the same time, accounting for differences in personal endowments or socio-environmental conditions.

Additionally, a simple equality of distribution of resources would fail to protect vulnerable individuals (e.g. children, the elderly, and women) who require more resources (or a targeted bundle of them) to achieve the same level of functionings as somebody else. As highlighted by Nussbaum (2006), the other main theorist of the capabilities approach, a major contribution of the capabilities framework to theories of justice is indeed its attention to vulnerable individuals, who have different conversion rates from means to ends. This focus on vulnerable agents can help consider vulnerable groups too, as I will argue in Chapter 8 when I analyse the situation of populations in SIDS, where some communities living on specific atolls are more vulnerable than others. It is also important to stress that individual differences should be taken into account even when individuals are part of the same

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community. For instance, theorists of territorial rights who assign an undifferentiated bundle of resource rights to political communities might fall short of addressing the internal differences among people who are part of the same collective.

Furthermore, the capabilities approach gives appropriate consideration to environmental conditions, which include natural resources and an adequate surrounding environment (see Holland, 2014). As explained above, in the capabilities terminology, environmental conversion factors, along with personal and social ones, influence people's capabilities and their actual opportunities to achieve functionings. Natural resources, as per their standard definition, are instrumentally relevant for human beings; in the capabilities language, they are necessary means for people to exercise their capabilities. A fair distributive scheme should ensure that individuals are provided with the appropriate shares of natural resources necessary for them to exercise their capabilities. Throughout this dissertation, I will argue that natural resources are relevant for capabilities in two ways. First, natural resources are essential for survival and valuable basic capabilities. Second, the environment is the structural natural resource, on which all capabilities partially depend. This second way in which natural resources are relevant for human beings – stretching the definition of what a natural resource is to include the broader environment – has not been directly discussed by existing theories of NRJ. Their focus has mainly been on providing quantifiable and shareable (though not in all cases) natural resources. Instead, I take the environment as a whole to be worthy of consideration in a theory of NRJ since failing to consider adequate environmental conditions would make the theory incomplete. I will argue that this recognition can be adequately justified through a capabilities-based framework.

Moreover, my analysis stresses the non-substitutability of specific natural resources for some individuals. The capabilities approach can justify attributing a

necessary and non-substitutable role to a broader range of natural resources than only the ones universally recognised as essential (e.g. water), which cannot be replaced by something else. There are cases in which individual capabilities require specific natural resources which are irreplaceable. In such cases, those individuals (who are often members of the same community) should be granted special resource rights, because their ability to exercise their valuable capabilities depends on the presence of specific natural resources and environmental conditions (see Chapter 5). This analysis will contribute to the current debate in theories of territorial rights and NRJ over “attachment claims”, according to which some agents have special relationships to a particular territory and/or natural resources which are normatively significant. I will argue that a capabilities-based answer provides a more detailed and specific account of when attachment claims are legitimate and thus should grant special resource rights.

Another strength of the capabilities approach worth underlying is the role attributed to individual freedom. As put by Robeyns, “What is ultimately important is that people have the freedoms or valuable opportunities (capabilities) to lead the kind of lives they want to lead, to do what they want to do and be the person they want to” (2005a, p. 95). A theory that considers people’s capabilities gives enough importance to the role of choice and agency that people can exercise. Capabilities are *possibilities* to function in a certain way but do not necessarily have to become actualised functionings. As I will argue in Chapter 2, if we were to adopt a different currency of justice such as well-being, whose focus is mostly on the outcome (i.e. achieved well-being), we would risk overlooking the significance of people’s freedom of choice, at least to a certain extent. In the capabilities approach, control freedom, namely, the value of opportunities available to people, counts in itself and not only as it is conducive to the actual achievement of functionings or well-being (Vallentyne, 2005). Additionally, the capabilities approach is context-dependent and particularly responsive to people’s actual needs and priorities. Linked to this



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important point, throughout my analysis, I will stress the relevance of respecting people's agency when drafting a tentative list of basic capabilities, and highlight how people's input regarding the specification of such a list ought to be taken into account (Chapter 4). Moreover, I will also defend the importance of respecting people's agency and freedom of choice for what concerns questions of (im)mobility in the face of climate change (Chapter 8).

Furthermore, the capabilities approach is well-suited to acknowledge how individuals value natural resources differently. In more detail, the different forms of value (e.g. economic, cultural, and symbolic) that are generally attributed to natural resources can be considered through the capabilities approach. Value pluralism is intrinsically part of the capabilities approach (Venkatapuram, 2011). Capabilities theorists are not committed to the importance of a single value but embrace pluralism and recognise that human beings may have different ideas about the "good life". The capabilities approach considers a range of different valuable capabilities that people have and are not tradeable against each other (as mentioned earlier), which sometimes cannot be exercised only through the provision of sufficient resources carrying an economic value. For example, the valuable capabilities of some individuals not only require access to material resources to be exercised but can also require respecting specific relationships between them and key natural resources that go beyond a purely economic significance (such as for resource-dependent populations or Indigenous peoples). Specific places and resources might have an irreducible cultural and symbolic value for some agents that are worthy of recognition and respect in order to guarantee individual well-being and flourishing.

The versatility of the capabilities approach makes it also a good fit to consider multi-dimensional and often competing claims that different agents (individuals and communities) have over natural resources. Through the language of the capabilities approach, this research intends to defend a theory of NRJ that solves

some of the tensions between theories of NRJ and theories of territorial rights outlined in the previous section. As argued by Venkatapuram (2011), the individualistic focus of the capabilities approach makes it especially compatible with the scope of global justice theories. The capabilities approach aims at evaluating states of affairs in society, by looking at individual opportunities for flourishing. It recognises that some valuable basic capabilities are universally valid regardless of an individual's belonging to a specific community, although their specifications are context-dependent. However, several capabilities theorists have argued for extending the traditional individualistic standpoint of the capabilities approach to include considerations of collective capabilities (e.g. Evans, 2002; Stewart, 2005). In this dissertation, I will recognise the existence of collective (or group) capabilities and focus on the capability of self-determination that political communities have (see Murphy, 2014), which would entitle those collectives to a limited form of control rights over their natural resources (Chapter 6).

Finally, the capabilities approach is compatible with a non-anthropocentric extension of the concept of justice. In Chapter 7, I will argue that a theory of NRJ grounded in the notion of capabilities can go beyond an anthropocentric and instrumental perspective, and is superior to existing theories of NRJ which generally do not go beyond that narrow standpoint. Although the idea of capability was originally theorised to be applied to human beings and their prospects for flourishing, in recent years its application scope has been broadened (see, among others, Nussbaum, 2022). Animals are capable of flourishing, although not to the same extent as human beings. For the purposes of outlining a theory of NRJ, this is significant: what are usually considered natural resources (some animals, mainly used as food sources) are not only instrumentally valuable for human beings and, in a sense, they are not natural resources any longer. It follows that claims of some non-human animals over essential resources and a suitable environment should be considered in addition to claims of human beings.

#### **1.4 The Main Contributions of My Research**

My research engages with different bodies of literature and tackles the question of how to distribute rights to natural resources from a multi-angled perspective. In what follows, I outline the main contributions of the dissertation to existing areas of research.

The primary contribution of my research concerns the literature on NRJ. This dissertation addresses the following key questions:

- (i) how should natural resources be defined in a theory of NRJ?
- (ii) what value(s) do natural resources have?
- (iii) what are the correct principles for the distribution of rights (e.g. use and access) to natural resources?
- (iv) who should hold control rights over the resources in a certain territory?
- (v) are natural resources valuable only for human beings?
- (vi) how should conflicts over the same resources be approached?

To answer these questions, I develop a theory of NRJ based on the capabilities framework. Regarding (i), I propose an original way of defining natural resources, which does not amount only to fungible and quantifiable goods, as per the traditional notion employed in the literature. Instead, I stretch the meaning of natural resources to account for the value of the environment as a *structural natural resource* (made of different ecosystems), which is not reducible to the sum of distinct natural resources.

Regarding (ii), I consider the different values that natural resources may have for individuals and communities and argue that attributing value(s) to some resources is often context-dependent. These values go beyond mere economic reasons and include cultural and symbolic ones. I also justify the existence of legitimate attachment claims over specific resources, which have a non-substitutable value for

some individuals. I then argue that some animals (sometimes considered “natural resources”) are valuable in themselves (see point (v) below).

For what concerns (iii)–(iv), my framework considers global justice claims (e.g. individual access and use rights over essential natural resources) and integrates a collective claim to resource control, based on the importance of collective self-determination. I take individuals to be the primary unit of concern when evaluating states of affairs in society, in line with the theoretical foundation of the capabilities approach. The first aim of a just distribution of rights to natural resources should be giving individuals enough natural resources to hold their basic capabilities and access to a suitable environment, regardless of their belonging to a specific community. Providing natural resources and adequate environmental conditions is a necessary, although not sufficient, element for individual flourishing; when these are not provided, individual survival itself is in danger. However, I also recognise the embeddedness of individuals in communities and the importance that resource control has for self-determining collectives, which is not strictly reducible to individual claims. When the two claims (individual vs. collective) clash, individual rights over resources take priority.

Regarding (v), I argue that some animals (often considered natural resources) are valuable in themselves, outside of an anthropocentric lens. This entitles them to resource rights too, which should be considered by a theory of NRJ alongside human rights over resources. Although human life and basic capabilities hold priority in case of direct conflicts, recognising the intrinsic value of animal flourishing has revisionist implications for what concerns the ongoing exploitation of animals used as resources.

Finally, regarding (vi), throughout the dissertation, I only sketch some potential guidelines for addressing competing claims to natural resources, given the difficulty in carrying out interpersonal comparisons. Overall, I argue that the possibility for individuals to (at least) live a decent life (in terms of survival and basic capabilities)

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has priority over collective claims to resources. Additionally, I argue that in case of conflicting legitimate attachment claims over the same resources, we should look at “capability ceilings”, which stand for the idea of an upper limit placed on the exercise of above-threshold capabilities. I also provide some general answers for what concerns human vs. non-human animal conflicts. Nevertheless, note that a more comprehensive answer to the issue of conflicting claims would require a much more detailed analysis (which needs to be context-dependent and requires a case-by-case approach) than what I can do throughout this dissertation.

The second main contribution of my research is related to the capabilities approach. The main aim of this dissertation is to adapt the capabilities approach to address a specific problem in theories of distributive justice, namely the distribution of rights to natural resources. However, my analysis explores at the same time some of the ongoing debates among capabilities scholars. First, I stress some of the strengths of the capabilities approach against resourcist and welfarist theories, such as the need to recognise individual differences in conversion factors from resources to functionings, and the importance of freedom of choice that underpins the capabilities approach. Second, I highlight the differences and complementarity between the capabilities approach and theories based on the language of basic needs and rights. Third, I take a position on some of the recurring issues that have been discussed by capabilities theorists, including the role that resources have in a theoretical framework grounded in capabilities, the dispute on settling for a fixed list of capabilities and the charge of paternalism, the ranking of different capabilities, and the individualism of the capabilities approach. Finally, I explore some of the potential extensions that the capabilities approach is very well-suited to accommodate: a concern for the level of collectives, which I consider by defending and using the concept of collective capabilities; a non-anthropocentric extension of the concept of capabilities to account for the claims of non-human animals, which can arguably also have capabilities and flourish.

It is worth clarifying that I do not aim to outline a full and comprehensive capability theory, but I aim to outline a theory of NRJ using the capabilities approach. I recognise the limited scope of such a theory, which does not intend to encompass all the relevant elements for a complete theory of justice, which falls beyond the scope of my dissertation.<sup>5</sup> The problems tackled in this research concern claims over natural resources, which are necessary but not sufficient elements to consider in a comprehensive theory of justice, as mentioned earlier. However, this partial account could be integrated into a broader theory of justice with a more extensive scope. As capabilities theorists concede, capabilities are a significant part of justice but are not the entirety of a theory of justice (Sen, 2010). Additionally, it is beyond the scope of this work to demonstrate that capabilities are the right currency of justice against other rival approaches. Although I will highlight several ways in which the capabilities framework can be a useful approach to NRJ compared to others, this does not amount to a comprehensive defence of the capabilities approach as the correct currency of justice.

A final contribution of my research worth stressing concerns debates in animal (and environmental) justice. I take this topic to be a common shortcoming of current theories of NRJ that generally consider only human claims over resources. My research challenges the traditional anthropocentric paradigm of theories of justice, by considering animals as the recipients of rights to natural resources alongside human beings. Hence, I challenge the standard view that sees animals as outside the scope of claims of justice. Furthermore, this leads me to justify a form of added protection for natural resources and the broader environment that goes beyond a purely anthropocentric sustainability discourse.

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<sup>5</sup> See Robeyns (2017, pp. 29–30) for a distinction between capability theories and the capability approach.

## **1.5 Outline of the Thesis**

This dissertation starts with a critical overview of recent theories of NRJ and theories of territorial rights (Chapters 2–3). This preliminary analysis is necessary to understand the current debate about rights to natural resources. It also constitutes the background against which I put forward my theory of NRJ based on capabilities, which I take to be superior to the existing literature in addressing some of the issues that a theory of NRJ should consider.

In Chapter 2, I critically examine the most recent discussion on natural resource distribution as a global justice issue and show that the most prominent approaches reveal serious shortcomings. I focus on three recent – and theoretically different – theories that deal with the issue of the distribution of rights to natural resources: Risse’s (2012) Common Ownership view, Armstrong’s (2017) egalitarian theory of NRJ, and Blomfield’s (2019) contractualist Common Ownership view. I argue that the shortcomings of each theory (i.e. the focus on a single principle of basic needs in Risse’s; the concept of well-being and the justification of attachment claims in Armstrong’s; the contractualist framework in Blomfield’s) and the common issue of conceiving natural resources only as instrumental for human beings justify the need to outline a new approach to NRJ.

In Chapter 3, I address theories of territorial and resource rights that justify control rights over resources held by political collectives. I examine three theories that together are representative of the main positions in the current debate: Nine’s (2012) theory of global justice and territory; Moore’s (2015) political theory of territory; and Stilz’s (2019) theory of territorial sovereignty. I show that by only focusing on questions of control rights over resources, theories of territorial rights give at best an incomplete picture of a fair allocation of resource rights since they do not specify distributive criteria. Overall, they leave many resources outside the scope of their theories (e.g. resources in uninhabited places) and, additionally, leave

the scope of legitimate resource rights under the presumptive jurisdictional authority of political collectives undetermined.

After the first part of the dissertation devoted to a critical analysis, I develop the main body of my capabilities-based theory of NRJ (Chapters 4–7). Chapter 4 is foundational and begins to outline principles of NRJ. Chapter 5 and Chapter 6 are two shorter chapters that introduce additional principles of NRJ. Chapter 7 discusses principles of NRJ valid for animals. Throughout these chapters, I clarify how the capabilities approach is an original and fruitful way to address the normative question of natural resource distribution. I also outline the main principles of NRJ that should be followed to reach a fairer distribution of rights to natural resources.

In more detail, Chapter 4 begins to outline a version of the capabilities approach for a theory of NRJ. I introduce the capabilities approach and briefly explore the contrast between resources and capabilities, highlighting that the capabilities approach has the additional advantage of recognising interpersonal variations. I defend my conception of a decent life (that includes survival and basic capabilities), which is morally valuable and has priority over considerations of other capabilities. I then discuss the link between capabilities and natural resources and argue that natural resources are relevant for capabilities in two ways, which ground two general principles of NRJ valid for all individuals. First, natural resources are essential for individual survival and for exercising basic capabilities. Second, the environment in general, as a structural natural resource, is one of the elements on which all capabilities partially depend. I conclude by briefly exploring the importance of environmental protection for human beings.

In Chapter 5, I start to ground additional principles of NRJ within a capabilities-based framework. A theory of NRJ would be incomplete if the only matter of concern were general claims that *all individuals* have over natural resources. I discuss claims to special resource rights that particular individuals have based on



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their legitimate attachments (in short: attachment claims). I argue that when the basic capabilities held by individuals depend on access to (or use of) specific natural resources (i.e. there is legitimate attachment), those specific individuals should be entitled to special resource rights over these natural resources and the environment in which they are embedded. This capabilities-mediated response provides a better justification of legitimate attachment claims than current accounts of attachment, solving the problems of indeterminacy (i.e. the legitimacy and scope issues) that these display. Then, I discuss how to navigate conflicting attachment claims over the same natural resources and consider two objections related to paternalism and collective attachment.

In Chapter 6, I integrate a principle for collective resource control – as recognised by territorial rights theorists – within my theory of NRJ. I defend a collective claim over resources held by political communities based on the value of self-determination. First, I argue for an extension of the traditional individualistic focus of the capabilities framework and the recognition of collective capabilities. Then, I argue that self-determination is a relevant collective capability and requires a limited form of control rights over the resources within a political collective's territory. More precisely, I argue that political collectives should be entitled to control rights over the natural resources and an adequate environment that are necessary for the exercise of their capability of collective self-determination. This principle differs from permanent sovereignty over natural resources and is subjected to different constraints, i.e. distributive and environmental, which would override it in case of conflicts.

In Chapter 7, I defend an extension of the traditional anthropocentric framework of theories of NRJ, which generally focus only on the instrumental value of natural resources for human beings. I briefly discuss a notable exception: Armstrong's (2022) theory of ocean justice. I argue that it is possible to extend the scope of justice to animals by relying on the notion of capabilities. If animals do

have capabilities of their own, they should be valued not only for instrumental and anthropocentric reasons. Moreover, their claims over key natural resources and adequate environmental conditions should be considered, because animals, like human beings, need resources and a suitable environment to live and flourish. A final issue that the chapter addresses is what happens when claims of animals clash with claims of human beings. I outline some general guidelines to address conflicting claims.

Finally, in Chapter 8, I apply the theoretical framework outlined so far to discuss a specific case study: the situation of populations in SIDS. SIDS are increasingly affected by climate-related issues that have ravaging effects on their territory. Additionally, their territorial integrity is at risk. I discuss potential solutions for this timely issue, drawing from the theoretical framework that I have defended. In more detail, I discuss both individual and collective claims over natural resources, including land, while accounting for their non-substitutability. I explore the importance of *in situ* adaptation measures, without only focusing on the prospect of *ex situ* relocation for the affected populations. Additionally, I argue for respecting the agency of the affected populations in two ways: (i) via a justification of a community-based approach to climate adaptation; and (ii) by defending their right to choose a suitable location for relocation (if this becomes inevitable).

Chapter 9 concludes the dissertation by pulling together the main arguments defended in the previous analysis. Furthermore, I outline future directions for research.

## 2. The Distribution of Natural Resources as an Issue of Global Justice

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### 2.1 Introduction

It is uncontroversial to state that natural resources are significant elements for human beings in terms of the benefits we can derive from them. Natural resources sustain survival, are necessary for a wide range of human activities (e.g. construction of shelters, energy provision, clothing materials) and can be an enormous source of wealth for the countries where they are located (e.g. oil reserves). Given their uneven geographical distribution across the globe – some countries have vast amounts of natural resources, whereas others have almost none – can we claim that natural resources are currently allocated fairly among individuals globally? In other words, is it justifiable that individuals have access to different shares of natural resources (in terms of the benefits stemming from them) depending on where they are located, with some having far more than enough resources to live by while others do not even have sufficient resources to survive? In this chapter, I begin to discuss what a fair distribution of natural resources would look like from the standpoint of global justice.

Recall from the Introduction that, in our current world order, the distribution of rights over natural resources follows the principle of permanent sovereignty over natural resources. Still the driving conception in international law, this principle grants states extensive and exclusive rights over the resources situated within their territory. However, it is often challenging to neatly divide resources among territorial boundaries. Some resources, such as the atmosphere, are difficult to divide and enjoy the status of a common good, given their essential role for all

human beings. Defined in international institutions as Global Environmental Commons, they include the atmosphere, sunlight, the high seas, and the Antarctic (and outer space). Other natural resources, though not considered Global Environmental Commons, are not located within single states but still challenge the division supported by the principle of permanent sovereignty. For instance, drawing a clear line on where a natural resource, such as a river, starts and ends, and granting exclusive rights over it to a single state, is often impossible (Nine, 2022; Ochoa Espejo, 2020). In cases where natural resources span across borders, they should arguably be subject to non-statist principles of justice. Furthermore, other natural resources, such as the Amazonian forest primarily contained in a distinct country (Brazil), have significant value worldwide. Especially in light of increasing climate change issues, it is questionable whether they should be exclusively managed by a single country only due to proximity reasons.

Precisely due to the interconnected nature of our world, the normative justification of exclusive state control over all the resources (and the benefits derived from them) located within state borders is controversial (Armstrong, 2015). Many theories of distributive justice concerning natural resources start from the following intuitively sound considerations: first, natural resources have some value for *all* human beings; second, no individual has brought about nor contributed to their existence and, thus, can claim exclusive rights over them in virtue of such a contribution. Hence, the current unequal distribution of natural resources across countries is arbitrary (Armstrong, 2013). It is a matter of luck that some individuals happen to be born in resource-rich countries, whereas others, less fortunate, live in resource-poor countries. Moreover, countries' borders are highly arbitrary and often result from problematic historical events, such as wars or the effects of colonialism. As Ypi (2017, p. 18) writes, the current distribution of resources results from a contingency of historical events with no underlying "nobler" reason.

Therefore, why should some individuals (as citizens of specific countries) be entitled to more than enough resources while others do not even have enough?

Because of the considerations outlined above, theorists have discussed the distribution of rights to natural resources as a relevant issue of global justice.<sup>6</sup> Some scholars argue in favour of redistributing benefits stemming from natural resources among the global population (e.g. Beitz, 1975; Pogge, 2002a; Steiner, 2005; Wenar, 2016). For instance, Beitz (1975) applies the Rawlsian original position to the international society and suggests that “the parties to the international original position would know that natural resources are distributed unevenly over the earth’s surface” (p. 367). Beitz defends a global principle of distribution of natural resources to redress this arbitrary and very unequal situation, which aims at ensuring that each state can develop just institutions and an economy able to guarantee its citizens’ basic needs (1975, p. 370).

In this chapter, I aim to critically analyse the most recent discussion on natural resource distribution as a global justice issue to show that the most prominent and promising approaches to NRJ reveal serious flaws and highlight how a different approach is thus needed. The analysis will focus on three relatively recent accounts, namely Risse’s (2012) Common Ownership view, Armstrong’s (2017) welfarist theory of NRJ, and Blomfield’s (2019) Contractualist Common Ownership view. These authors support a global conception of distributive justice but endorse different frameworks to justify how to regulate natural resource rights, exhausting some of the most important general approaches to NRJ. Risse’s theory is a comprehensive theory of global justice, where natural resources are considered among other elements. Armstrong focuses on natural resources directly and argues for egalitarian distributive principles. Blomfield addresses the issue of climate

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<sup>6</sup> I refrain from using the terminology of “cosmopolitanism” following Armstrong (2012) and Risse (2012). However, some scholars still use the language “statist vs. cosmopolitan” (Mancilla, 2015; Moore, 2012).

change by formulating a relational egalitarian theory of NRJ that merges distributive concerns with territorial jurisdiction. A key difference among their theories is the contrast between minimalist – or sufficientarian – principles of global justice, defended by Risse, and more demanding egalitarian principles aimed at redressing inequalities above a threshold level of sufficiency, defended by Armstrong and – to a certain extent – Blomfield.<sup>7</sup> Throughout the chapter, I argue that the shortcomings of each theory (i.e. the focus on basic needs in Risse's, the concept of well-being in Armstrong's, the contractualist framework in Blomfield's) and the common issue of conceiving natural resources only as instrumentally valuable for human beings justify the need to outline a new framework of NRJ.

The chapter is structured as follows. Section 2.2 examines Risse's Common Ownership, according to which human beings collectively own the earth's resources and spaces. Section 2.3 discusses Armstrong's theory of NRJ, based on the two core ideas that access to well-being should be equalised and natural resources are essential to well-being. In section 2.4, I consider Blomfield's theory, which repurposes Rawls' theory in the context of NRJ. Section 2.5 concludes and highlights why we need a revised account of NRJ.

## **2.2 Risse's Common Ownership of the Earth**

Risse's theory of global justice deals with the correct distribution of the earth's resources and spaces among the human population. Starting from the idea that humanity collectively owns the earth, his theory grounds sufficientarian principles of NRJ aimed at guaranteeing the satisfaction of basic human needs.<sup>8</sup> In this section,

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<sup>7</sup> On minimalism vs. egalitarianism, check Armstrong (2014a; 2017).

<sup>8</sup> Risse (2012) does not defend egalitarian principles of NRJ. However, taking into account his broader theory of global justice, the resulting world order scores better in respecting equality than what it emerges by examining only his collective ownership ground.

I outline the main features of his theory before criticising his ambiguous endorsement of sufficientarian principles of NRJ.

As a preliminary remark, note that Risse's (2012) theory is not directly a theory of NRJ. Risse defines it as a *pluralist internationalism*. It is internationalist since it combines principles of domestic and global justice. These principles are part of a "two-tier account" (Arneson, 2014, p. 479) since Risse defends more stringent egalitarian principles that apply within the state and less demanding (non-egalitarian) principles that apply to the global population. His view is pluralist because there are different principles based on several "grounds of justice", namely, the reasons why claims of justice apply to a specific population. Risse (2012, 2017) endorses five grounds of justice: shared membership in a state, common humanity, collective ownership, membership in the global order and trade. Some of these grounds are relational, whereas others are nonrelational (e.g. common humanity and collective ownership of the earth). A comprehensive discussion of the grounds of justice evades the scope of my analysis. Here, I will focus on the third one, collective ownership.

Risse (2012, pp. 89–107) revitalises and secularises a conception of human beings' relation to the environment, which was very common in the writings of political philosophers of the XVII century: drawing mainly from Grotius' theory, Risse claims that humans collectively own the earth and its resources. *Collective ownership* is the idea that humans collectively and originally own the earth's spaces and resources regardless of their status and membership in a particular state. This entails "a standing demand on all groups to occupy the earth in a manner that respects the equal status of all individuals with regard to original resources" (Risse, 2012, p. 109). Those resources are raw materials and biophysical factors, such as climate; wildlife is excluded, but Risse specifies that adding it would be unproblematic.

Collective ownership of the earth is grounded in three different claims (Risse, 2012, pp. 113–114). First, the earth’s resources and spaces are valuable and necessary for human lives, starting from survival. Second, human needs matter morally and more than any other environmental value (i.e. the protection of the biosphere). Risse defends the idea of a “distinctively human life”, which is valuable and peculiar compared to the life of other species. Humans can reflect, assess, and deliberate; they have a conception of themselves, the past and the future; they have some conception of the good life, and so on (Risse, 2012, p. 74). Risse endorses an *enlightened anthropocentric* view, by prioritising human needs over other environmental considerations. However, he does not entirely rule out the possibility of ascribing a non-instrumental value to environmental resources (Risse, 2012, p. 120). In Chapter 7, I will come back to this issue and criticise theories of NRJ that treat animals merely as instrumental natural resources. Third, given that humans have not created any part of the earth’s resources and spaces, nobody has a superior claim to use them than any of their fellow co-owners.

Following collective ownership, Risse (2009a; 2012, pp. 108–129) defends his *Common Ownership* view.<sup>9</sup> Common Ownership requires that “all co-owners ought to have an equal opportunity to satisfy basic needs to the extent that this turns on collectively owned resources” (Risse, 2012, p. 111).<sup>10</sup> There is, hence, an equality of status among human beings, conceived as equal opportunities to satisfy basic human needs (i.e. physical health and a mental competence to choose and deliberate). Common Ownership entails liberty rights to use resources, correlated with a protective perimeter of claim rights. Co-owners are under no duty to refrain from using environmental resources, with the proviso that they do not interfere

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<sup>9</sup> He defends this view against competing ones: no ownership, joint ownership, equal division, and private ownership, not examined here due to space constraints (Risse; 2008; 2009a; 2012, pp. 108–129).

<sup>10</sup> Blomfield (2019) endorses the Common Ownership view too; see section 2.4.



with others' use of environmental resources to meet their basic needs. There are also correlated immunity rights: co-owners are immune from living under political and economic arrangements that interfere with their opportunity to meet basic needs (Risse, 2012, pp. 111–112). From these considerations, Risse (2012, p. 124) formulates the following principle of justice:

The distribution of original resources and spaces of the earth among the global population is just only if everyone has the opportunity to use them to satisfy her or his basic needs, or otherwise lives under a property arrangement that provides the opportunity to satisfy basic needs.

Risse's Common Ownership view has relevant revisionist implications for what concerns the *status quo* of the global order, where not every individual has enough resources to satisfy their basic needs. If there is a conflict on using collectively owned resources, Common Ownership's natural right (i.e. pre-institutional) takes priority. In Risse's view, any distribution of the earth's resources and spaces among different states that hinders individuals' basic needs satisfaction is morally objectionable. For example, his account grounds a human right to relocation when individuals cannot satisfy their basic needs in their current location, such as in SIDS threatened by sea-level rise (Risse, 2012, pp. 145–146). If the system of states impedes their ability to relocate by refusing entry, it violates their rights as co-owners of the earth. This is a fair argument, but, as I will clarify in Chapter 8, merely respecting individual rights to basic needs satisfaction elsewhere violates the affected populations' claim over their specific territory and their collective self-determination. Different NRJ principles, in addition to an undifferentiated claim to basic needs satisfaction, are required, as I explain in the rest of this section.

### 2.2.1 Is Risse's Principle of NRJ Enough?

In what follows, I argue that Risse's principle of basic needs satisfaction cannot be the only principle in a theory of NRJ and that Risse himself appears to be leaning towards more demanding requirements of justice. Moreover, I argue that Risse wrongly treats natural resources as having an undifferentiated value.

Consider that although Risse recognises a form of equality among individuals – namely, all individuals have an equal opportunity to satisfy their basic needs and have symmetrical claims to resources – his account of natural resource distribution is minimalist (Armstrong, 2014a). His principle of NRJ entails a situation in which the opportunities to satisfy basic needs are satisfied in two ways: either by direct access to natural resources or by suitable compensation (Risse, 2014, p. 519). Now, imagine that the global population is made up of two individuals. For simplicity's sake, assume that they are both equally skilled and that natural resources can be divided into equal parts, so that an equal distribution is simply an equal share of resources. There is no need to consider diversity in personal endowments or in the capacity to benefit from resources. Consider two scenarios: (a) both individuals have equal shares of resources and thus equal opportunities to make use of natural resources to flourish as they see fit; (b) both individuals have enough resources to satisfy their basic needs, but one of the two has *exclusive rights* over the rest of the resources, whereas the other has nothing more than the bare minimum. If we follow Risse's principle of NRJ, these two cases could be equally acceptable from the standpoint of justice.

This is problematic because we should intuitively rank scenario (a) as clearly superior (i.e. more just) to (b), which presents a high level of inequality. As Abizadeh writes in his critique of Risse's Common Ownership, even if we might not know what equality precisely consists of, “we might still be able to tell, in many pairwise comparisons, that some distributions are more equal than others” (2013,

p. 37). This is the case in the example above. If we think that additional considerations other than basic needs satisfaction matter for a distribution to be just, it follows that scenario (b) is inferior to (a). Risse's view risks falling into the "indifference objection", according to which sufficientarian theories seem to imply that inequalities above a certain threshold are unproblematic since what matters is that everyone has secured enough of something. Shields (2020) argues that upper-limit sufficientarian theories, such as Risse's Common Ownership, should be integrated with additional egalitarian considerations to avoid this objection. A potential solution would be adopting a pluralist framework of NRJ that outlines different principles. Priority could be given to satisfying basic needs in case of conflict; once everyone's basic needs threshold is met, we could opt for additional principles of justice that seek to offset more significant inequalities in distribution.

This is what Risse attempts to do when he discusses "demands of reasonable conduct" in addition to principles of justice. Risse (2012, p. 6) defines a demand of reasonable conduct as follows:

There is a demand of reasonable conduct on person P to perform action A if and only if it would be unreasonable for P not to do A, and if and only if P can reasonably be expected to do A.

In Risse's theory, what happens above the basic needs threshold (concerning natural resource distribution) is not discussed in terms of principles of justice but demands of reasonable conduct. In his discussion of immigration (Risse, 2012, pp. 152–166), he imagines a hypothetical scenario in which only two citizens live in the territory of the United States and restrict entry to outsiders. In this scenario, although the two individuals are under-utilising the available resources, Risse suggests that restricting entry is not unjust unless outsiders cannot meet their basic needs in any other way. Nothing is unfair in the disproportionate use of the earth's resources and spaces once all present and future individuals' basic needs are

guaranteed (Risse, 2012, pp. 167–186). Nonetheless, when there is a disproportionate use of resources (but no impact on basic needs satisfaction), Risse defends a *demand of reasonable conduct* to let outsiders enter and share the resources more equitably. Conversely, Risse (2012, p. 122) argues that principles of NRJ other than the one stemming from Common Ownership cannot be endorsed. In his view, reasonable people would reject more robust conceptions of justice due to different cultural understandings about the value of natural resources and correlated issues of incommensurability.

However, as Armstrong (2014a) and Stilz (2014) highlight, the abovementioned demand of reasonable conduct is problematic for several reasons. First, Risse does not sufficiently discuss the normatively significant distinction between principles of justice and demands of reasonable conduct, although demands of reasonable conduct are highly relevant in his account. Second, Risse leans towards more egalitarian principles of NRJ than what he would like to admit. According to the Common Ownership view, justice requires equal opportunity to satisfy basic needs. A more egalitarian division would be “reasonable” but not more just (Armstrong, 2017, p. 44). However, as Stilz rightly wonders, why does reasonable conduct require more demanding conditions, namely “equal access to earth’s resources and spaces” (2014, p. 506)? Stilz further notes that it is unclear whether “Risse himself really believes that equal opportunity for basic needs satisfaction is the most ambitious distributive principle that could be justified globally” (2014, p. 505).

This last consideration entails an additional concern. Risse recognises that individuals have equal status with regard to the earth’s resources. However, the distributive principle stemming from this equality of status (i.e. equal opportunities to satisfy basic needs) appears underdeveloped, as Stilz (2019, pp. 157–186) and Blomfield (2019, pp. 87–105) note. It is clear that, as Armstrong puts it, “any plausible view should defend a basic rights constraint on permissible distributions” (2017, p. 36), but are those the only interests that matter for a fair distribution?

Natural resources are used for survival purposes and basic needs satisfaction, but their use and significance are not limited to that. Whereas basic needs satisfaction is universally agreed upon, other elements should be considered. Among others, Stiliz (2014) mentions non-dominating relationships with others, political or cultural self-determination, and equal opportunity for welfare.

To this challenge, Risse (2014, p. 520) has replied that many of these elements, such as non-domination and social, cultural, and political practices, are far more culturally dependent than a conception of basic needs, and thus cannot be universally endorsed by reasonable people (for a critique, see Blomfield, 2019, pp. 104–105). Basic needs conditions are more “minimal” and less controversial. This is, in a sense, a fair observation since all theorists of NRJ and territorial rights recognise the relevance of basic needs or rights. Nevertheless, there is also a widespread consensus in the literature that other elements besides satisfying basic needs must be considered, starting from acknowledging how individuals and communities use natural resources differently (e.g. Armstrong, 2017; Blomfield, 2019; Moore, 2015; Nine, 2012; Stiliz, 2019). Some scholars go as far as to state that the concept of needs is not invariant across societies but depends on how societies use and value different shares of natural resources (Moore, 2019, chap. 2).

On the contrary, in Risse’s theory, natural resources are basically quantifiable goods that should be allocated according to a blanket principle of distribution. As explained earlier, he defends a distributive principle that grants individuals access to resources or a suitable compensation. However, especially when people lead distinctive types of subsistence livelihoods or do not conceive the value of resources merely in economic terms, access to *any other* resource or another form of compensation would not replace the original connection (Armstrong, 2017; Moore, 2019; Stiliz, 2019). Risse seems to overlook the relevance of specific relations between individuals and particular resources.

To further support this point, consider that Risse endorses a “Proportionality Condition” on the use of territory/resources (2012, p. 154). For any state *S*, we can calculate the value *V<sub>s</sub>* of the collectively owned resources on *S*’s territory, which include its size and location, climate, minerals, oil, water, vegetation, topography, unmined minerals, unextracted oil, etc. If we divide *V<sub>s</sub>* by the number of people *P<sub>s</sub>* who live in *S*’s territory, *V<sub>s</sub>/P<sub>s</sub>* measures the per-capita use rate of commonly owned resources on *S*’s territory.<sup>11</sup> According to this calculation, natural resources (including land) are treated as undifferentiated and measurable goods carrying a universal value. However, the value of natural resources is not always universal and subject to an economic standard evaluation (as per the *V<sub>s</sub>/P<sub>s</sub>* formula). Individuals and communities can have different views on the value of the resources in their territory, and this value can be not economic. Recall that Risse rejects principles of NRJ other than one aimed at basic needs satisfaction precisely because there are different and incommensurable cultural understandings of the value of natural resources, and people would not be able to agree on additional distributive criteria. Then, it remains somewhat unclear why he argues simultaneously for a “standardised” measure of territory/resource use by people.

In what follows (and in Chapter 3), I will discuss how other theorists justify additional principles of NRJ that allow us to recognise the relevant connections that people can form with specific resources, which Risse’s view fails to acknowledge. From Chapter 4 onwards, I will also defend additional principles of NRJ that go beyond the mere satisfaction of basic needs and account for different ways in which people value resources (individually and collectively). Among others, I will argue that some resources should be preserved and not exploited, some ought to be controlled by communities for self-determination reasons, and others ought to be

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<sup>11</sup> Risse explains that this would allow us to calculate whether a territory is overused or underused (for migration issues).

distributed with targeted principles that do not treat them as undifferentiated goods.

### **2.3 Armstrong's Egalitarian Theory**

Armstrong (2017) defends a *global egalitarian* theory of NRJ, in what is “perhaps the fullest resource cosmopolitan account to date” (Stilz, 2019, p. 228). He criticises the *status quo* for what concerns natural resource distribution and rejects the principle of permanent sovereignty (Armstrong, 2015). His theory formulates global principles of justice that promote equality among individuals in terms of equal access to opportunities for well-being. Armstrong outlines one of the most comprehensive and detailed theories of NRJ, and many of the features of his theory (i.e. special claims from attachment, the importance of interpersonal variations and non-anthropocentric considerations) will be endorsed in the theoretical framework defended throughout the following chapters. His account of well-being will be instead amended, as I argue in this section.

In contrast to Risse, Armstrong (2017) focuses directly on the distribution of rights (and corresponding duties) over natural resources and does not formulate a complete theory of global justice. Nonetheless, he recognises that, even if natural resources are essential to human beings and we ought to give them a relevant place in theories of justice, “they are (merely) an (important) subcategory of the goods to which an account of justice ought to apply” (Armstrong, 2017, p. 10). Natural resources are but one among many drivers of human well-being. They are a good starting point for a theory of justice; yet, since they are *starting* points, eventually, a complete theory of global justice should expand its scope of analysis even further to encompass more *distribuenda* other than natural resources (see also Blomfield, 2019). From the Introduction, recall Armstrong's definition of natural resources: “raw materials available from the natural world, which are (therefore) not produced

by humans but which are nevertheless useful to them” (2017, p. 11). Other resources that can be included are “air, wild (uncultivated) plants and animals, the energy contained in wind, waves, and sunlight, [...] the land itself” (2017, p. 11). In his view, natural resources are a source of benefits (and burdens). The benefits we can derive from them are not narrowly restricted to economic ones but rightly include cultural and symbolic reasons (Armstrong, 2017, p. 12), since many people value resources for non-economic benefits, such as religious purposes.

Furthermore, Armstrong considers some animals as natural resources (i.e. when they are used as food sources or in medical research), hence as instrumentally valuable for human beings. Non-anthropocentric claims of other species (or the environment in general) are not discussed in his account of NRJ. Regarding resource preservation, Armstrong (2017, p. 20) writes:

But we need not lean on any particular account of the intrinsic value of nature, or of animal rights, to arrive at the conclusion that our current habits in consuming the resources of the world are in need of urgent reform.

Even if his theory of NRJ leaves aside principles outside an anthropocentric lens (as Risse’s theory), Armstrong believes that claims of non-human animals are worthy of consideration for future explorations and that his theory is compatible with a non-anthropocentric extension. It is also important to point out that, in his more recent works, Armstrong (2022, pp. 137–157) includes claims of some marine animals as worthy of moral consideration. Additionally, Armstrong (2024) includes animal claims as relevant claims to consider in efforts to tackle the biodiversity crisis (Armstrong, 2024). However, neither is part of his broader theory of NRJ, as Armstrong’s (2022) discussion is limited to the ocean and its resources, and Armstrong’s (2024) analysis focuses on the issue of biodiversity loss. Still, his account is highly innovative in this respect, and I shall address and expand his



arguments when I discuss the inclusion of animal claims in my account of NRJ (Chapter 7).

Going back to the general features of his theory, Armstrong (2017) defends a welfarist conception of egalitarianism, starting from the idea that people's lives matter equally. More precisely, what matters are individual prospects for well-being, and an egalitarian theory ought to promote "equal access to wellbeing" (2017, p. 83). Considerations of access to well-being prevent the classic objection advanced against egalitarian theories that focus only on providing everyone with equal shares of goods or their corresponding value: the fact that individual differences in natural endowments and abilities are not accounted for (see Armstrong, 2017, pp. 64–70).<sup>12</sup> The capabilities approach that I will endorse in the following chapters is also grounded in this intuition. In highlighting one of Rawls' theory's main shortcomings, namely its focus on primary goods, Sen writes that "variations related to sex, age, genetic endowments, and many other features, give us divergent powers to build freedom in our lives even when we have the same bundle of primary goods" (1992, pp. 86–87). This also applies to how we use and benefit from natural resources. A theory of NRJ ought to recognise the existence of interpersonal variations in the ability to use resources, which affect an individual's capacity to reach a certain level of well-being.

Armstrong's theory rightly accounts for this since he rejects a "narrow egalitarian proviso", according to which redistributing resources in equal shares is always good, even when a different distribution could offset existing inequalities (Armstrong, 2013, p. 343). Instead, Armstrong endorses a "broad egalitarian proviso" that allows for some differences in resource distribution until individuals' welfare functions become equal. Rather than providing everybody with equal shares

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<sup>12</sup> For a discussion on equality of resources and rival theories, see Brighouse and Robeyns (2010) and Arneson (2013).

of resources (or their corresponding economic value), everybody should be given equal *access* to drivers of well-being, natural resources included. Some individuals who need access to more resources to reach a certain level of well-being will be granted access to more resources to reduce inequality gaps. These considerations are relevant to a NRJ theory since we cannot assume that people enjoy benefits stemming from natural resources in the same manner and to the same extent; for example, much will depend on their personal conditions and the broader features of society. A theory that considers unavoidable interpersonal differences, such as Armstrong's, is thus plausible.

Armstrong (2013; 2017) defends the following set of principles of NRJ. First, in situations of marginalisation and exclusion in access to resource benefits of certain groups, such as in the presence of gender-based or ethnicity-based inequalities, a theory of justice needs to promote equal resource benefits to offset those inequalities. Then, Armstrong supports a principle similar to Risse's: access to essential natural resources (e.g. fresh air, water) to meet basic rights for everyone. However, *pace* Risse who writes that "the sheer fact that anybody's welfare as such would be lowered or raised is not a matter of justice" (2014, p. 511), Armstrong argues that the surplus of resources should be distributed "with a strong priority toward the worst-off individuals across the world" (2017, p. 75), according to equality-promoting shares of benefits. Armstrong suggests levying taxes on some natural resources as part of a broader package of global taxes. He rejects the proposal of an undifferentiated tax on natural resources, like Pogge's (2002a) "Global Fund", but he suggests more targeted proposals, e.g. a tax on carbon emissions or on the use of ocean resources, as a fruitful way of regulating the use of common-pool resources and discouraging wasteful consumption (Armstrong, 2017, pp. 188–191). This is a welcome proposal, given the increasing incidence of environmental problems and resource scarcity due to climate change and overpopulation.

In addition to the abovementioned principles, Armstrong's theory allows for some inequalities in resource distribution. This is especially significant because egalitarian distributive theories generally fail to recognise the importance of some individual claims over specific resources and land, such as claims based on location (Beitz, 1975). In this regard, Armstrong is an exception since he recognises specific and valuable ways in which individuals (and communities) interact with resources and benefit from them, as I discuss in what follows (cf. Stiliz, 2019, p. 229, fn. 43).

### 2.3.1 Well-Being and Indeterminacy of Attachment Claims

One of the most innovative features of Armstrong's theory is his discussion of "special claims from attachment" that some individuals have over specific natural resources and would grant them targeted resource rights, even within a global egalitarian framework (Armstrong, 2014b; 2017, pp. 113–131). These occur when individuals have a non-substitutable relationship to specific natural resources, a relationship that contributes to their well-being to a significant extent, and whose loss would be incommensurable and irreplaceable. A striking case is the relationship between members of Indigenous communities and their natural resources, such as the case of the Saami people in Finland, who are "attached" to herding reindeer in their territory, as discussed by Armstrong. Armstrong rightly suggests that failing to consider such claims will most likely not promote equality (in terms of people's well-being) but rather hinder it, as "many people have become deeply attached to particular resources, such that continued access to them becomes key to some of their most central life-plans" (2017, p. 94).

Considering attachment claims is highly relevant for a theory of NRJ because some individuals (and communities) form deep connections to specific natural resources and environments, which ought to be considered and – where legitimate – justified. It is worth specifying that recognising legitimate attachment claims does not entail endorsing the *status quo* nor states' exclusive rights over their territory

and resources. Rather, it entails challenging the *status quo* since many legitimate attachment claims held by communities are disrespected due to states' territorial rights when conflicts arise (for instance, if extracting resources clashes with protecting particular environments relevant for a sub-state community). Natural resources and land not only have economic relevance for individuals as a source of wealth (which could be substituted by monetary compensation) but also have cultural or symbolic relevance and are necessary for the way of life of specific communities. For instance, Stilz (2019) defends occupancy rights based on the “practice-based interests” of specific communities (see section 3.4), such as Indigenous peoples or resource-dependent communities, whose way of life is deeply related to particular features of specific ecosystems (e.g. populations of SIDS, whose lives are heavily dependent on their territory and the availability of local resources, such as fishing).

Going back to Armstrong, his theory strives to account for the fact that people form valuable connections to natural resources worthy of respect. However, his defence of attachment claims is somewhat undetermined. Moore (2019) rejects valuing natural resources univocally as drivers of well-being because this leaves questions of value comparison of different resource sets unsettled (see section 3.3). Concerns about measuring and recognising legitimate attachment claims, as Moore notes (see also Lo Coco and Schuppert, 2021; Mancilla, 2021), are related to a broader issue with Armstrong's theory, namely his endorsement of well-being as the correct metric of justice. His account sometimes fails to discriminate between a normatively significant attachment and a mere preference: for instance, when he treats “appreciation” for the existence of a natural resource as a ground for normatively significant attachment (Lo Coco and Schuppert, 2021). In Chapter 5, I will argue for a better justification of legitimate attachment claims within a capabilities-based framework.

This issue regarding the legitimacy of attachment claims is linked to Armstrong's conception of well-being, which displays several problems that I discuss in what remains of this section. First, well-being is a difficult concept to measure. As Stiliz (2019, pp. 184–185) suggests, it is ambiguous: it can be measured in terms of people's preferences (or revealed preferences), people's desire-fulfilment, people's utility or people's choice sets (see Parfit, 1984). Armstrong does not clearly define well-being or suggest a straightforward method for measuring it; he equates it to "people's life-plans" (2017, p. 56) and an "enjoyment of life" (2017, p. 82), which could suggest that he endorses a subjective account of welfare. If that were the case, his welfarist theory would be prone to the "fact-of-pluralism" objection (Arneson, 2000, p. 519), the idea that there is an unavoidable reasonable disagreement among individuals on what a good life should be like. His theory could also be subject to the classic "expensive taste" objection, as some individuals would require more resources to meet their expensive expectations of what a good life is.<sup>13</sup> These two objections could be avoided by endorsing an objective account of welfare instead.

Armstrong has recently clarified that his theory is leaning towards an "objective list account of well-being" (2021a, p. 117).<sup>14</sup> However, he does not provide a detailed defence but only gives some examples of potential elements of well-being. An objective welfarist theory should further clarify the concept of well-being, by identifying what is essential for human flourishing. From Chapter 4 onwards, I will draw from the capabilities approach to specify relevant elements of human flourishing. It is worth pointing out that Armstrong suggests that welfare or *capabilities* could be the correct metric of justice (2017, pp. 65, 89, 117; check also Armstrong, 2009, p. 166) because both metrics consider individual differences in

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<sup>13</sup> Armstrong's reply to this objection is "to reassert the importance to the egalitarian of *control* or choice, and attempt to demarcate a category of factors for which agents clearly should be held responsible, and a category for which they clearly should not" (2017, p. 86).

<sup>14</sup> Check also Armstrong, where he states that well-being is best "understood in a hybrid fashion as substantially objective but also as possessing an irreducibly subjective dimension" (2024, p. 77).

conversion factors. However, Armstrong's theory remains focused on well-being, and he does not adopt the concept of capabilities aside from briefly mentioning it as a plausible framework. It is interesting that, as stressed by Robeyns, "one could argue that capabilitarian accounts of wellbeing serve as a less-abstract account of wellbeing" (2020, pp. 3–4). A capabilities-based account would, in this respect, be largely comparable to an objective welfarist one. Additionally, it would help specify relevant dimensions of well-being as essential elements of human flourishing, filling the gap in Armstrong's theory.

A cautionary remark is now needed: since objective welfarist views postulate what well-being and the concept of the good are, there is the risk of falling into a paternalistic trap. Concerning Armstrong's theory, he can address this objection by stating that he considers the idea of equal *access* to well-being rather than well-being directly. People should have access to what determines their well-being but can also freely choose not to enjoy the potential well-being those elements bring about (Armstrong, 2017, p. 83). However, his theory does not fully harmonise well-being (a status or an outcome) with the notion of agency or control (which concerns the process itself). When he compares opportunities for welfare theories with capabilities-based theories, Vallentyne writes, "Freedom (especially control freedom) sometimes matters for its own sake, and the value of opportunity sets should reflect this" (2005, p. 87). Vallentyne further adds that the "opportunity for value (e.g. wellbeing) views have tended to assume that opportunities are only instrumentally valuable. They have tended to assume that freedom has no value except as conducive to achieving valuable functionings" (2005, p. 89). Similarly, Robeyns writes that the literature on well-being does not distinguish between "achieved wellbeing", in terms of functionings, and "wellbeing freedom" as one's capability set (2017, p. 119). A welfarist theory is firstly interested in the opportunity to achieve human well-being. The outcome itself – well-being (or combinations of

functionings, if we adopt the language of capabilities – matters more than how it is reached.

However, a relevant difference exists between achieving a good outcome *per se* and achieving the same through one's own agency: the latter seems to have more value than the former (Arneson, 2000, p. 510; Moore and Crisp, 1996, p. 605). Hence, it can be argued that agency is not entirely given the importance it deserves in a welfarist theory unless the theory further clarifies the intrinsic value of opportunities (Vallentyne, 2005). I take the capabilities approach to avoid this objection since the concept of capabilities is built on a distinction between the process (through one's own agency and choice) and the outcome, reflected in the distinction between capabilities and functionings, as "wellbeing freedom" and "achieved wellbeing" respectively (Robeyns, 2017). From Chapter 4 onwards, I will adopt the capabilities approach to ground a new theoretical framework of NRJ, which serves as a plausible specification of an objective list account of well-being (as suggested above) and solves some of the ambiguities of adopting a welfarist metric.

#### **2.4 Blomfield's Contractualist Common Ownership**

Blomfield (2019) reinterprets the Common Ownership view using the Rawlsian original position. Her theory merges two relevant strands in the debate on natural resource distribution: a global theory of justice (as in Risse's and Armstrong's) and a limited version of territorial jurisdiction held by collectives, close to proposals defended by territorial rights theorists.<sup>15</sup> Although I recognise the merit of endorsing a principle of collective self-determination, in this section, I argue that the contractualist framework Blomfield defends does not provide a plausible

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<sup>15</sup> This is something that my positive account of NRJ will also strive to do (see Chapter 5).

justification for her principle of collective self-determination, leaving open a different rationale for the same principle.

In Blomfield's view, natural resources "are essential for satisfying our basic needs, exercising our autonomy, and providing us with opportunities and capabilities—including the ability to form and sustain political communities" (Blomfield, 2019, p. 48). In her view, natural resources are instrumentally valuable for human beings. Even if she adds that "this does not imply that they lack any kind of intrinsic or independent value" (2019, p. 46), her account does not discuss the non-instrumental value of living natural resources like animals.<sup>16</sup> As previously mentioned, my theoretical framework will tackle this issue. In Chapter 7, I will draw from the capabilities approach to recognise the status of animals not only as instrumental natural resources, and I will outline a non-anthropocentric extension of a theory of NRJ.

As in Risse (2012), Blomfield highlights that natural resources exist independently of human beings, and everyone needs access to some of them to live. Human beings have "Equal Original Claims" to resources (Blomfield, 2019, p. 52). This does not entail that everybody is entitled to an equal share of resources but rather that a theory of NRJ must respect the equal standing of individuals as co-claimants (2019, p. 6). This is achieved by agreeing upon principles of justice under conditions of equality. Following Anderson (1999), Blomfield (2019, p. 146) suggests that her theory is *relational egalitarian* since it seeks to create a global community of individuals who stand in relations of equality with each other. She uses Rawls' original position as the "method by which to justify such principles; a particularly appropriate method since [...] it is a form of justification that

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<sup>16</sup> Accommodating duties to non-human animals is one weakness of contractualist theories (Cripps, 2010), and it is not clear whether Blomfield's account would be equipped to respond to this challenge. I will expand on this in Chapter 7.



represents each individual as a person of equal standing” (Blomfield, 2019, p. 91).<sup>17</sup> Principles of justice are stipulated in a hypothetical contract, where nobody is in a superior bargaining position to anybody else and, behind the veil of ignorance, nobody knows *a priori* their preferences or beliefs regarding resource value and use, nor their abilities to convert resources into well-being (2019, p. 93). Instead, parties know which resources exist and how they could be used, that resource management often requires coordinated collective action, that resources are scarce and unevenly distributed, and that resources serve individual and collective interests. In this manner, according to Blomfield, individuals would agree upon fair principles of justice.

The first principle on which co-owners of the earth agree is the Basic Needs Principle (Blomfield, 2019, p. 101). This principle is substantially equivalent to the one defended by Risse (see section 2.2). Individuals have rights to the natural resources necessary for satisfying their basic needs, with the proviso that they leave enough for others to do the same. Parties in the original position decide on a list of basic needs. Blomfield (2019, p. 103) does not give a complete account of that (unlike her, I will specify this in Chapter 4). Furthermore, Blomfield argues that this principle alone will not satisfy individuals. It is not true that reasonable people would find only a Basic Needs Principle uncontroversial, as Risse (2012) thinks. There needs to be a principle that allows for “a sphere of control within which shared and cultural understandings of natural resources can be given expression” (Blomfield, 2019, p. 105). This is very similar to Stilz’s criticism of Risse’s view and to Stilz’s proposal of including “interests in nondomination and communal self-determination” to ground resource rights, which “would generate a more complex set of distributive criteria, in which basic needs function as just one element among others” (Stilz, 2014, p. 509).

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<sup>17</sup> Blomfield (2019, pp. 87–105) contrasts her use of the global original position with Beitz’s.

In line with this, Blomfield (2019, p. 144) argues that individuals in the original position will agree on a second principle: the Principle of Collective Self-Determination, according to which political communities should have rights over the natural resources necessary for exercising their collective self-determination. Article I of the International Covenant on Civil and Political Rights (ICCPR) defines self-determination as a people being able to “freely determine their political status and freely pursue their economic, social, and cultural development” (United Nations General Assembly, 1966). Self-determination has both an internal component, in the sense of self-rule of members who take an active part in the collective’s decision-making process, and an external one, in the sense that they are not subject to arbitrary interference from outsiders.<sup>18</sup> Blomfield justifies self-determination invoking an interest in individual freedom as non-domination.<sup>19</sup> Drawing from Young (2002) and Pettit (1997), she argues that individuals who are part of a self-determining community are protected from domination by co-members of the political community (internal aspect of self-determination) and from arbitrary interference from outsiders (external aspect of self-determination). In her view, parties in the original position, aiming to advance their interests for mutual advantage, will agree on the importance of non-domination and on a principle of resource distribution to guarantee it.

Following this idea, political collectives must be granted some rights over the natural resources necessary for their self-determination. Note that a people’s right to self-determination is the standard justification of the doctrine of permanent sovereignty over natural resources (where a people corresponds to a state’s

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<sup>18</sup> The principle of collective self-determination is one of the grounding concepts of theories of territorial rights (Moore, 2015; Nine, 2012; Stilz, 2019). Here, I focus on Blomfield’s justification for self-determination. Chapters 3 and 6 will provide a more detailed discussion of self-determination.

<sup>19</sup> I leave aside whether self-determination can be correctly understood as freedom as non-domination or whether this is a wrong conception (Simpson, 2017).

population).<sup>20</sup> According to the ICCPR, “peoples may, for their own ends, freely dispose of their natural wealth and resources [...]” (United Nations General Assembly, 1966). Blomfield argues that self-determination requires a form of resource rights held by peoples over the natural resources in their territory, an intuition shared by all theorists of territorial rights (see Chapter 3). Furthermore, she adopts Moore’s (2015) non-statist definition of “people” as a political collective (I shall return to this point below). In her view, self-determination requires granting political collectives “a *presumptive* right of exclusive territorial jurisdiction over the land and surface resources of a region” (Blomfield, 2019, p. 123).

The two principles (the Basic Needs Principle and the Principle of Collective Self-Determination) are the constituents of her theory of NRJ. The aim of the theory, namely, respecting individuals’ equal standing as co-claimants of the world’s resources, “will be served when resource rights protect basic needs and shield individuals from domination” (Blomfield, 2019, p. 146). The Basic Needs Principle is lexically prior: should a conflict between the two principles arise, basic needs satisfaction takes priority. Both principles must be considered when dealing with concrete distributive issues, such as issues related to climate change and sharing emissions budget. A position of “limited territorial jurisdiction” over natural resources practically results from their combination (Blomfield, 2019, pp. 128–156). Furthermore, Blomfield defends using a resource tax for egalitarian purposes (similarly to Armstrong). If a people generates income from using their natural resources, a portion of such income could be taxed to reduce societal inequalities (Blomfield, 2019, pp. 139–140).<sup>21</sup> As theorists of territorial rights believe, self-determination does not require peoples to derive income from *all* the

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<sup>20</sup> Many theorists of territorial rights criticise the correlation people-state (see Chapter 3).

<sup>21</sup> Blomfield (2019, p. 140) rejects the proposal of taxing the value of “possessed resources” which are not used, as in Steiner’s theory. She suggests that this would undermine the self-determination of peoples who wish to preserve their resources rather than exploit them.

resources within their territory, which should be subject to additional constraints and distributive principles.

As I have argued in section 2.2, a theory of NRJ should consider additional principles beyond a basic needs one. Had Blomfield only postulated her Basic Needs Principle, she would have incurred a similar line of criticism as the one advanced to Risse's theory. She avoids this by formulating her Principle of Collective Self-Determination. Her principle of self-determination is a welcome addition to a theory of NRJ because she recognises an essential way in which people relate to natural resources as members of self-determining collectives. However, as I discuss in the rest of this section, her justification for the principle of collective self-determination is problematic. Furthermore, unlike theorists of territorial rights (see Chapter 3), Blomfield does not clearly explain why specific political communities can hold particular claims to specific resources.

#### 2.4.1 The Principle of Collective Self-Determination

Blomfield endorses a principle of *collective* self-determination that parties in the original position would agree upon. The parties in the original position are individuals who do not already know that they belong to a specific political setting or their social status. While it is plausible that individuals would choose the satisfaction of their basic needs as a principle of justice (Risse, 2012, pp. 121–122), it is unclear why they would select a principle of collective self-determination, conceived as the self-determination of individuals who are already part of a political community. Blomfield justifies her second principle by appealing to an individual interest in non-domination. However, it is questionable whether control over natural resources given to a political collective will ensure the non-domination of all the members of a community. Individuals might more plausibly decide on a principle of non-domination *qua* individuals (such as a degree of autonomy and control over one's environment, even in the political sense), which does not

necessarily translate into a principle of resource distribution aimed at collective self-determination. If it does translate to that, there is a gap that must be clarified. Blomfield only mentions that resource management requires collective action and resources serve collective interests, and that the parties in the original position are aware of such conditions. These explanations are, however, different from an individual interest in non-domination.

I do not deny the relevance of natural resources for communities or that a form of control over the resources in a region is vital for the well-functioning of political communities (and their members), as I will argue in Chapter 6. However, I am questioning whether Blomfield's use of the original position thoroughly justifies the significance of collective self-determination for peoples.<sup>22</sup> In support of Blomfield's reasoning, one could note that individuals in the original position will know that they live in a world structured into different political communities with self-determination claims. As Blomfield puts it, "It appears that everyone could gain by establishing principles according to which exclusive rights to resources can be justly acquired by individuals and *groups*" (2019, p. 92; emphasis added).

Still, her justification for a principle of collective self-determination of *peoples* looks question-begging. Blomfield rejects a statist position, as she writes that "if we are seeking principles of justice for natural resources that will be valid for *all* individuals, then we must not assume a world consisting of separate states at all" (2019, p. 90). But she unproblematically endorses Moore's definition of "political peoples". Blomfield postulates that individuals belong to a non-statist people and have an interest in self-determination within that collective setting. Hence, they

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<sup>22</sup> For additional objections to using a global original position, see Blomfield (2019, pp. 94–99) and Armstrong (2012). Note also that claiming that co-owners of the earth are in a relation of equality with regard to the earth's resources does not mean that the parties in the original position are equal in power and resources. Nussbaum highlights that, while in Rawls' social contract the parties are roughly equal in power and resources, "to assume a rough equality between parties [in the global original position] is to assume something so grossly false of the world as to make the resulting theory unable to address the world's most urgent problems" (2004, p. 6).

would choose a principle of NRJ respecting that assumption. As in Rawls' original position, where it is not surprising that liberal individuals put in the original position would choose liberal principles, it is not surprising that assuming that individuals belong to a people (in Moore's sense) would result in individuals choosing a principle of collective self-determination for *peoples* specifically.

Additionally, it is curious that, even if Blomfield adopts the original position, she does not commit to the principle of justice that parties will agree upon in Rawls' theory, i.e. the Difference Principle, according to which "social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage" (Rawls, 1999, p. 53). As Abizadeh writes, "whatever reasons motivate parties in the domestic Rawlsian original position to adopt the difference principle would [...] motivate the joint owners of the earth's original resources to afford themselves egalitarian protections in the case of the earth's resources" (2013, p. 38). Rationality would require that, under conditions of blindness, individuals choose to maximise the benefits of the worst-off. For instance, consider that Beitz (1979) defends a global natural resource principle in the context of a non-interdependent world order (which is rightly rejected by Blomfield since the world is interdependent). Conversely, Beitz recognises that, in our world of extensive interdependence, the parties would instead choose a global Difference Principle.<sup>23</sup> In Blomfield's theory, individuals in the original position agree on a sufficientarian principle and a collective self-determination principle, not on a priority-to-the-worst-off principle. However, a principle of collective self-determination does not arguably shield individuals from an uneven distribution of resources (nor does her first sufficientarian principle). In practical terms, individuals are only given access to enough resources to satisfy their basic needs. The community, not its individual members, is granted control over the resources necessary for self-determination.

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<sup>23</sup> See also Caney (2012, p. 267, fn. 29) on this.

Blomfield (2019, pp. 144–145) addresses this objection – namely, that potential inequalities could still exist among individuals after the basic needs threshold is met and they achieve collective self-determination – by specifying that the Principle of Collective Self-Determination does not imply endorsing a *sufficiency* level for the distribution of resources, after which inequalities are irrelevant. Recall that inequalities are partially redressed in her theory thanks to a gap-reducing income tax (Blomfield, 2019, p. 140). However, unlike Armstrong, who argues for granting individuals equality-promoting shares of resource benefits as a principle of justice, her gap-reducing mechanism is not defended as a principle of justice itself. Instead, it looks like an *ad hoc* specification to stress the egalitarianism of her theory.<sup>24</sup>

Finally, I want to highlight another issue with Blomfield’s account. One of the assumptions in her original position is the recognition that individuals are symmetrically situated with respect to the earth’s resources. The same recognition of symmetry leads Beitz (1975) to endorse a blanket distribution of resources, which disregards particular relationships between people and resources. Contrary to Beitz and similarly to Armstrong’s (section 2.3) and territorial rights theories (Chapter 3), Blomfield (2019, pp. 129–130) acknowledges the existence of particular claims to resources. However, this appears to conflict with Blomfield’s starting point, i.e. individuals are *symmetrically* situated with respect to the earth’s resources. She later specifies that “reality [...] is such that a significant proportion of these claims will only be satisfied by specific resource rights” (2019, p. 129). Her justification of particular claims to resources is, hence, not fully developed. Instead, it looks like an adjustment of her theory to make it compatible with a principle of self-determination that political collectives have over a *particular* territory, as defended

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<sup>24</sup> Blomfield (2019) suggests that her theory is *relational* egalitarian because she recognises the equal standing of individuals in relation to one another, i.e. as equal co-claimants of the world’s resources. However, she knows that her theory could be interpreted as a “sufficientarian” theory. See also other relational egalitarian theories (e.g. Anderson, 1999).

by territorial rights theorists. Therefore, although Blomfield is correct in recognising the relevance of self-determination and special resource rights in a theory of NRJ, as I will argue, relying on an original position to ground both claims seems to leave many questions unanswered.

## **2.5 Conclusion: Beyond Current Accounts of NRJ**

In this chapter, I introduced the debate on natural resource distribution as a problem of global justice and examined the theories defended by Risse, Armstrong and Blomfield. This analysis was essential to understand the most significant features and issues of the current debate on NRJ and to point out the main shortcomings of those theories, which call for the formulation of a new theoretical framework for NRJ that would fare better in each of these respects.

First, my analysis of Risse showed that satisfying basic needs is not enough to exhaust all considerations of justice on natural resource distribution. A theory of NRJ should be pluralist and give adequate consideration to different principles of justice besides basic needs satisfaction. It should also acknowledge how resources carry different values for people. The capabilities-based framework I defend will respect this commitment and ground additional principles other than the satisfaction of basic human needs.

Second, I pointed out how Armstrong's theory is persuasive in many aspects; for instance, because it recognises the relevance of attachment claims and interpersonal variations. However, I also argued that his welfarist theory falls short of providing a fully worked-out theory of well-being, which can be spelt out more precisely by adopting the capabilities approach. Relying on the capabilities approach would simultaneously allow us to assign importance to freedom/opportunities for well-being.



Third, my discussion of Blomfield was needed to cast aside original position approaches. Analysing her theory was also relevant, given its focus on self-determination and its connection to theories of territorial rights, to which I will turn next.

Finally, taken collectively, the theories examined in this chapter leave the role of non-human interests underexplored, which is an issue that I will develop in Chapter 7.

Before starting to outline my account based on the capabilities approach, I will examine the other relevant contemporary political theory literature that deals with natural resource rights, i.e. territorial rights theories. Those theories focus on territorial and resource rights held by political communities. Their main question is who holds legitimate control over territory and resources, rather than directly a question of resource distribution (which was the focus of this chapter); yet, as Blomfield's theory rightly shows, the two issues are necessarily related.

## 3. Resource Control in Theories of Territorial Rights

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### 3.1 Introduction

In the previous chapter, I examined three theories of justice, which mainly defend distributive principles aimed at a fair allocation of individual rights to natural resources. Political communities' rights over their territory and natural resources are left aside (Armstrong, 2017; Risse, 2012),<sup>25</sup> or are integrated into the theory as a secondary principle (Blomfield, 2019). Another trend in the political theory literature on resource rights “narrows the focus to examine land and resource use on a smaller scale” (Nine, 2016, p. 334). Rather than starting from the idea of the equal standing of all individuals vis-à-vis natural resources, theorists of territorial rights focus on the rights of political communities to justify the correct appropriation, use and control of land and natural resources (e.g. Kolers, 2009; Meisels, 2009; Moore, 2015; Nine, 2012; Stilz, 2019). Resource rights are part of the territorial rights held by political communities. Territorial rights are traditionally a bundle of different rights: a jurisdictional right over the people living within a territory, a right to border control in matters of migration and movement of goods, and a right to control and use the natural resources within the territory's borders (Miller, 2012, p. 253).

To outline a theory of NRJ, an analysis of political communities' rights over the resources situated within their territory is relevant. The first reason is that, as discussed in the Introduction, the system of sovereign territorial states with

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<sup>25</sup> Risse's broader theory includes considerations of states, drawing from different grounds of justice rather than collective ownership of the earth. He also addresses the issue of collective control of a territory, but this is part of his discussion of demands of reasonable conduct rather than principles of justice. Armstrong tangentially justifies claims to specific resources held by communities, which stem from their members' attachment claims to the same resources.

jurisdictional and ownership rights over their natural resources is still the default position in the world. Consider Brazil's unilateral decisions on the use (and destruction) of the Amazonian forest only because it is part of Brazil's territorial jurisdiction. Territorial rights theorists do not endorse this *status quo*: they either argue against a statist approach (Kolers, 2009; Moore, 2015), in favour of a revised system of sovereign territorial states (Stilz, 2019), or against the exclusionary implications of state borders (Nine, 2022; Ochoa Espejo, 2020). However, their analyses start precisely by recognising a system of territorially bounded states with control rights over their territory and resources and asking how those rights should be conceived.

Moore (2015) persuasively explains the second reason why an analysis of territorial rights is essential. A political theory of territory is necessary because there are two unavoidable relationships: first, there are particular relationships among people, which generate political communities; second, people, individually and collectively, form relationships with specific places along with their resources. As Nine puts it, "Territorial rights are one of the only conceptual, political, and legal inroads that we have for understanding *collective claims over resources*" (2012, p. 7; emphasis added). Territorial rights theorists argue that the relevant relationships between a political community and a territory with its resources should ground collective resource rights. As part of my capabilities-based framework for NRJ, I will defend the normative significance of specific collective claims to resources (Chapter 6). Hence, analysing theories of territorial rights that ground collective claims over resources is a necessary starting point.

Unlike theorists of global justice, theorists of territorial rights do not directly address the issue of resource distribution since they are not trying to build a complete theory of distributive justice. Their main question is one of territorial jurisdiction: who ought to control a territory and its resources? Which agents hold legitimate territorial rights over what, and why? However, note that most theorists

of territorial rights are not insensitive to considerations of global justice regarding resource distribution. For instance, they do not defend a collective's right to exclusive sovereignty over its resources at the expense of the satisfaction of outsiders' basic needs. Nonetheless, none of these theories specify clear principles of distributive justice. However, as my reconstruction of Blomfield's (2019) account showed, a theory of NRJ could address both types of resource claims. Or, as Armstrong concedes, "If global justice theorists would agree to leave control rights where they are, and defenders of self-determination relinquished national claims over income, a rapprochement appears possible" (2017, p. 144).

In this chapter, I examine some of the most influential theories of territorial rights to date, which give an overview of the current state-of-the-art. It is worth highlighting that territorial rights theories display relevant internal variances. One of the main differences is the distinction between statist and non-statist theories. Statist theories defend states' rights to jurisdiction over territory and control over resources on functionalist grounds, conceiving states as necessary for individuals to fulfil their moral obligations (Stilz, 2019; Ypi, 2012). Non-statist theories focus on the rights that political communities – distinct from states – have over territory and resources. These political communities can be defined in cultural terms (Miller, 2012), ethnogeographic terms (Kolers, 2009), or as "peoples" described in political terms (Moore, 2015). There are also "hybrid theories" that conceive political communities as distinct from a state's population but end up partially justifying states' jurisdictional authority over their territory (Nine, 2012).<sup>26</sup>

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<sup>26</sup> I acknowledge that this division is disputed. For instance, Nine's theory is considered a hybrid theory, though similar to a statist theory, by Moore (2015), but a theory of "peoplehood" by Stilz (2019). Moore's (2015) theory is accused of normative statism: although a people is defined in non-statist terms, her theory justifies a states' system more than what she would be willing to concede (Kolers, 2018; Ochoa Espejo, 2020). Stilz's (2019) theory is quasi-statist since she talks about an "endogenous people".

The main aim of this chapter is to critically examine the debate on control over natural resources as part of the territorial rights held by political communities. First, I consider Nine's (2012) theory, a declared attempt to harmonise territorial rights with claims of global justice. For the context of this dissertation, Nine's theory is also relevant to examine since she draws from the capabilities approach to justify territorial rights. Additionally, concerning the division of theories of territorial rights just mentioned, I consider what I take to be the most convincing examples of a non-statist theory (Moore, 2015) and a statist theory (Stilz, 2019). I discuss which role resource rights play in theories of territorial rights, and how theorists argue for control rights over natural resources that differ from exclusive ownership rights (as endorsed in the doctrine of permanent sovereignty) in favour of more limited principles of resource control. Overall, I argue that these theories give an incomplete picture of resource rights because they are silent or unclear over distributive principles for rights to natural resources.

The structure of the chapter is as follows.<sup>27</sup> Section 3.2 gives an overview of Nine's (2012) theory of global justice and territory. Section 3.3 examines Moore's (2015; 2019) political theory of territory, grounded in the idea of self-determination of political communities. Section 3.4 discusses Stilz's (2019) theory of territorial sovereignty and her principle of limited resource sovereignty. Section 3.5 draws this analysis to a conclusion and shows why none of these approaches are compelling in thinking about rights to natural resources in a sufficiently rich and detailed way.

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<sup>27</sup> Note that the theories are examined in chronological order, as in Chapter 2.

### **3.2 Nine's Theory of Global Justice and Territory**

This section examines Nine's (2012) theory of territorial rights, where she defends the compatibility between a system of territorial rights and claims of global justice.<sup>28</sup> In what follows, I argue that this compatibility is not fully developed in her theory and that her account of particular claims over resources is not compelling.

In Nine's (2012, pp. 6–8) view, territorial rights include: (a) jurisdictional rights over persons within the territory; (b) jurisdictional rights over resources within the territory; (c) ownership rights over resources; (d) the authority to determine residence, immigration and citizenship rights within the territory. Among these elements, the first two are necessary incidents of territorial rights, whereas the latter two are contingent. Resource rights are collective rights that are geographically bounded and include incidents of both jurisdictional and ownership rights (2012, p. 117). Nine quite innovatively disentangles the two incidents and defends a “theory of political legitimacy over resources” that justifies jurisdictional rights (e.g. the powers to legislate, adjudicate and enforce property rights as well as rules over unowned goods within a territory) without necessarily endorsing full ownership rights over resources (e.g. rights to extract, sell and derive income from resources).

For a collective to hold a *general* right to territorial acquisition, one of the following three conditions needs to be held: 1) the territory is vital for the satisfaction of members' basic needs; 2) it can be used by the collective (without spoiling it), provided that it does not prevent the satisfaction of outsiders' basic needs; 3) if all human beings (globally) consent to the exclusive acquisition. I will focus on the first condition, i.e. the territory is vital for satisfying members' basic

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<sup>28</sup> Nine (2022) has recently defended a new theory of territorial rights and shared jurisdictional authority, where she rejects the idea of territorial units as distinct and independent (see also Ochoa Espejo, 2020). Here, I focus on her earlier work because it is more closely related to issues relevant to my analysis in this dissertation, namely, resource rights and the connection between territorial rights and global justice.

needs, because Nine (2012, pp. 26–44) draws from the capabilities literature to outline relevant dimensions of individual basic needs.

### 3.2.1 Individual Capabilities and Collective Territorial Rights

Nine (2012, pp. 34–35) claims that territorial rights are necessary for individuals to satisfy their basic functionings, at least at a minimum threshold of well-being. However, her use of the capabilities approach is not well-justified nor detailed enough. Moreover, it is unclear why meeting individual basic needs (or capabilities) directly grounds *collective* territorial rights.

Nine starts from the idea that achieving minimal human agency is relevant and then unproblematically endorses Brock's (2009) list of requirements for exercising such an agency without defending her choice.<sup>29</sup> This issue relates to the underlying limitation of theories of territorial rights, which do not directly seek to outline a comprehensive theory of distributive justice but seek to identify which agents hold territorial rights. Why should we look at individual well-being in terms of capabilities (and in terms of Brock's list, which Nine herself says is under-determined)? Why should we guarantee relevant functionings up to a sufficiency level (although Nine mentions that going beyond a minimum threshold is preferable)? These are questions that Nine does not address. In her defence, in her more recent work on territorial rights, she specifies that her goal is not "to present a comprehensive theory of distributive justice regarding the global allocation of resource rights" but she wants "to sketch a theory of shared resource rights between groups with rights of self-determination" (Nine, 2022, p. 255). The same delimitation of the scope of her analysis could be applied to her earlier work (Nine, 2012). Yet, this seems more problematic since her earlier work was framed as an

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<sup>29</sup> I leave aside terminology issues, since Nine uses needs/capabilities/ functionings almost interchangeably, even though they are different concepts (see Chapter 4).

attempt to show that territorial rights are not incompatible with global justice considerations. A more detailed positive account of what global justice entails would have thus been a welcome addition.

Furthermore, to spell out Brock's account of autonomy, Nine refers to Nussbaum's (2000) capability of "control over one's environment", which includes political control (e.g. political participation, freedom of speech and association) and material control (e.g. property rights, right to seek employment). Note that this capability is individually held. Following Nine's reconstruction of Nussbaum, control over one's environment is both intrinsically valuable, as part of what constitutes the dignity of human beings, and instrumentally valuable, necessary for human beings to meet their basic needs. Stressing the instrumental value of control over one's environment, Nine states that, in our world, individuals would not be able to achieve basic functionings on their own without joint collective action over a territory (in line with functionalist accounts of territorial rights). She argues that territorial rights are required for a stable system of property rights, realising social justice, providing continuous access to goods essential to meet basic needs, and long-term and large-scale effective resource management.

For Nine, the holders of territorial and resource rights are collective agents that qualify as groups with self-determination rights. To qualify as such, they need to have the capacity to establish a legitimate rule of law (Nine, 2012, p. 13), which entails two conditions: members must be able to meet minimal standards of justice within their territory and they must have a common conception of justice. Her position runs contrary to three alternatives: (1) that states hold territorial rights, thus distinguishing Nine's position from statist theorists, such as Stilz (2011); (2) that individuals hold territorial and resource rights against a global justice perspective; (3) that collectives hold territorial rights in virtue of some ascriptive feature of the group, such as cultural identity, hence distinguishing her theory from nationalist theories, such as Miller's (2012).



Focusing on clause (2), what could be clearer in her theory is why individual claims to basic needs satisfaction and the individual capability of control over one's environment (as framed by Nussbaum) do not give rise first to *individual* rights to territory and resources, which can be instrumentally met through collective joint action and collective rights over territory and resources. Instead, individual claims to autonomy and satisfaction of basic needs directly justify *collective* territorial and resource rights. Stemming from similar considerations regarding the function of states to ensure basic needs satisfaction, Stiliz (2019) more plausibly defends first individual occupancy rights, from which she derives the territorial rights of a collective. Moore (2015), on the other hand, defends two conceptually distinct types of rights: individual residency and group occupancy rights, which also lead to collective self-determination rights.

Moreover, if we consider the theories examined in the previous chapter (Blomfield, 2019; Risse, 2012), guaranteeing basic needs justifies *individual* claims to the earth's resources exactly because individuals (not collectives) need access to the resources necessary to satisfy their basic needs. Blomfield's additional principle of collective self-determination is justified by invoking an individual interest in freedom as non-domination. This, in turn, might clash with individual claims to resources, which retain lexical priority. There is, hence, a distinction between the instrumental value of collective action, necessary to meet individual basic needs, and a defence of the intrinsic value of collective self-determination that can give rise to collective resource rights. Nine (2012, pp. 45–71) stresses how having an area of control to avoid external coercion (as a *self-determining* collective) is relevant for peoples, but this is a different explanation compared to the one grounded in basic needs satisfaction. These two justifications could be better disentangled in her theory. For instance, in Stiliz's (2019) theory, justice and self-determination are two distinct principles.

### 3.2.2 The Indeterminacy of Resource Rights

In what follows, I argue that Nine's theory would need to provide a better analysis of which resource rights are relevant to hold for members of a collective to meet minimal conditions of justice (Armstrong, 2017, pp. 142–146). Resource rights are justified in Nine's theory to the extent to which they are necessary for a minimalist account of justice. Nine helpfully distinguishes two incidents of resource rights: jurisdictional rights over resources, which are necessary incidents of territorial rights, and contingent ownership rights. But, as Risse (2013) suggests, the distinction between necessary and contingent incidents is questionable. Additionally, Mancilla (2016a, p. 232) outlines different problems with Nine's seemingly appealing distinction between jurisdictional and ownership rights over resources. As Mancilla argues, it is troubling that Nine does not provide actual examples of the contingency of ownership rights, namely of cases where territorial rights are exercised in the complete absence of any incidents of ownership rights over resources. Nine actually writes that "ownership rights can be necessary for the exercise of jurisdictional authority in several ways" (2012, p. 142). As noted by Mancilla (2016a, p. 232), this "can" looks very similar to a "must" since a collective must exercise at least some ownership rights to resources (such as the right of access and withdrawal) to effectively hold jurisdictional authority over resources.

To support Mancilla's claim, we can refer to Nine's (2012, pp. 42–44) discussion of the scope of resource rights regarding underground resources and deep-sea resources. Nine writes that these resources could be subject to property rights, but not jurisdictional rights. However, she immediately adds that "the site of access" to these resources must be under a territorial jurisdictional authority. Distinguishing the site of access to resources from the resources themselves looks like a rather complex and blurred line to draw. Given that Nine's theory aims to link her theory of territorial rights to the broader debate on natural resources from a global justice

perspective, her account of how we should distinguish different incidents of resource rights (and over which resources) when allocating control rights to resources to a collective is not sufficiently clear.

So far, I have discussed Nine's theory of general territorial rights, which justifies territorial rights over some unspecified areas of the world. I conclude by addressing her account of *particular* rights over territory and resources, which responds to the so-called "particularity question" that justifies the connection between a collective and a specific territory. I should highlight that Nine's answer is substantially different from Moore's and Stilz's, who consider the importance of place-based interests as attachment claims (as I discuss later). Nine's answer is instead based on a modified understanding of the Lockean idea of "improvement claims" (2012, pp. 72–92), according to which individuals who mix their labour with the land can claim legitimate property rights. In Nine's collectivist modification of Locke's theory, a collective that improves the value of a specific region holds legitimate territorial and resource rights over it. The value-creating activity is framed in terms of justice. In her words, justice is "the appropriate value to analyse *in the context* of determining resource rights, because unlike material, symbolic or some alternative value, justice is the primary *relevant* value for analysing jurisdictional rights" (Nine, 2013, p. 244). This position runs into different problems, which prevent her theory from providing a clear picture of the scope of legitimate resource rights claims held by collectives. In what remains of this section, I point to two main issues: how to determine who holds resource rights and how to delimit the scope of resource rights.

Regarding the first issue – who holds resource rights – Nine (2016) acknowledges the difficulty in detecting which agents "mix their labour with territory and resources" as the pre-condition to holding specific rights to a particular region. Different levels of communities, such as cities and regions, implement a just system in the area where they are situated. Still, in Nine's view, those would likely not

qualify as collectives holding territorial rights. Or, if they did, her theory would be far more revisionist of the *status quo* than what she would be willing to concede.

Moreover, in her theory, what matters is the capacity to achieve justice (potential) rather than having already achieved justice. This specification helps her avoid counter-intuitive implications for failed states, whose current governments do not serve their members' interests by guaranteeing minimal conditions of justice, but whose populations should arguably retain jurisdictional authority over their territory. Given that Nine stresses the relevance of a potential capacity to establish justice, it is odd that we should look at claims from improvement with a backwards-looking component rather than the idea of potential (future) capacity for improvement. As she writes, "*a collective deserves a territorial right over a particular territory if they have created a relationship with the territory that produces a certain kind of value: the establishment of justice*" (Nine, 2012, p. 85; emphasis in original). More than a potential capacity to implement justice, Nine seems to point to an already functioning system of justice (see also Moore, 2020a), which would narrow the scope of the rightful holders of particular rights to territory and resources too much. Even if Nine could insist that a collective needs to have only the potential to achieve justice, it would be even less clear why collectives could have claims over the *particular* land/resources they occupy rather than over an undefined amount of suitable land/resources where they could reside and set up an appropriate rule of law. What in Moore's and Stiliz's theories links some peoples to specific places (i.e. pre-institutional place-based rights connected to people's expectations and life plans) is unclear in Nine's account.

A second – and related – problem concerns the range of resources over which agents can claim legitimate resource rights. If resources are not improved (and cannot be improved) in any sense, like in cases that Nine calls "manna from heaven" resources (2016, p. 334), such as rain or sunshine, her account is essentially silent on who holds resource rights over them and to which extent those rights are

justified. Additionally, defending the position that a collective adds the value of justice to all the resources within its territory is very complicated. Many resources falling under a collective jurisdictional authority are not used to serve individual basic needs and have not been used (or will be used) by the collective to advance justice. As I will argue in the following sections, this issue of scope affects theories based on attachment claims (Moore's and Stilz's theories) too, since place-based interests, grounded in expectations and life plans, cannot easily identify when control rights over resources are legitimate.

### **3.3 Moore's Political Theory of Territory**

Moore's (2015) theory of territory is one of the most compelling non-statist theories of territorial rights defended in recent years. Moore rejects the statist paradigm (e.g. Buchanan, 2004) and the cosmopolitan position (e.g. Beitz, 1979; Pogge, 2002a) and argues for the territorial rights that groups – defined as political “peoples” – have over a specific territory, grounded in the value of collective self-determination. Additionally, Moore (2015; 2019) extensively investigates the issue of claims over natural resources. Her conception of self-determination of sub-state collectives is persuasive, as is her defence of a pluralist approach to resource rights. However, I will argue that the presumptive collective jurisdictional authority to resources held by self-determining peoples constrains the validity of the value pluralism she outlines.

Moore's theory starts from two fundamental considerations. First, there are particular relations among individuals as members of collectives, which ground peculiar moral obligations that differ from those we owe to all on non-relationist grounds. Second, the relationships that people form with specific places are normatively significant, not just a matter of contingency or “luck” (Beitz, 1979; Ypi, 2017). In Moore's account, these relationships define the “place-based rights” that

constitute the basis for the legitimate acquisition of territorial rights held by political collectives. Place-based rights are individual residency rights, which are related to individuals' projects and aims and (generally) depend on a stable particular location to unfold (Moore, 2015, pp. 36–46), and group-based occupancy rights, which are instead held by the collectives to which individuals belong and through which their identities are shaped. Occupancy rights are derived but distinct from members' residency rights and reflect the agency and identity of collectives. They are connected to the particular places over which collectives have an interest in exercising collective control (Moore, 2015, pp. 40–46).

The third place-based right is a right to collective self-determination, which is held by the “people”,<sup>30</sup> defined by Moore in non-cultural terms, in contrast to rival non-statist theories (e.g. Kolers, 2009; Meisels, 2009; Miller, 2012). According to Moore (2015, pp. 34–66), different conditions have to hold for a collective to become a people: 1) members of the collective must share a conception of themselves as a group, with a common political project not reducible to individual aspirations; 2) members must have the capacity to establish and maintain political institutions over time; 3) members must share a history of political cooperation. When these three conditions are satisfied and the group legitimately occupies a geographical area (following non-usurpation conditions), a people has a right to jurisdictional authority over the territory it occupies, which entails limited jurisdictional authority over its natural resources.

Moore's definition allows her to consider many different types of political communities as holders of territorial rights. It includes existing states that meet these three conditions and sub-state communities (such as Indigenous peoples) that do not yet but aspire and have the potential to achieve self-determination as a political collective. One of the strengths of her account, as opposed to statist

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<sup>30</sup> Blomfield (2019) adopts the same definition of Moore's “people”.

conceptions of territorial rights, is that her theory disentangles claims to territorial and resource rights from claims to political independence. Her notion of peoplehood provides a plausible answer to the question of “who holds territorial rights?” given that many of the claims advanced by political communities over specific places and resources cannot be understood as claims to statehood. Contested claims to resources often occur within states’ territorial boundaries (or across states’ boundaries). They are held by sub-state groups who arguably have connections to places that are weightier than those held by a state’s population. For instance, consider the claim held by the community of the Saramaka people to use and access the forest on which their lives depend against the rival claim advanced by the Republic of Suriname to hold exclusive rights over the territory where the forest is located to extract the gold situated in the area (IACHR, 2007).

Since territorial rights are a bundle, as previously explained, self-determination rights over a territory do not necessarily entail a right to secession or full ownership rights over resources, but only control over the elements necessary for a collective’s self-determination. Applying Moore’s theory to the example above, the Saramaka people arguably do not have a claim to secede from the state of Suriname as an independent political community, but they should be granted control rights (e.g. rights to access, use, and be consulted on decisions about the forest’s use) over the specific resources that are relevant for their place-based rights. Moore’s theory can justify and ground the claims of non-state groups to control a particular portion of territory with its resources. In Chapter 6, I will come back and expand on Moore’s conception of the legitimate holders of territorial rights.

### 3.3.1 A Pluralist Relational Theory of Resource Rights

Moore (2019) deals extensively with the issue of resource rights: she outlines an interesting “pluralist relational approach” to claims over natural resources, as opposed to the “truncated” distributive justice paradigm traditionally applied to

NRJ. Stressing significant relationships between specific resources and peoples, Moore rejects a single univocal manner to conceive the value of resources, such as in the Common Ownership view. She writes that resources have “a strong claimant-relative component” (Moore, 2015, p. 165). Resources do not have only an instrumental undifferentiated value. Their value depends on the context and the relationship between people and resources and needs to be decided by the community (Moore, 2019). Her approach recognises different normatively significant claims to resources, which are context-dependent and map onto the specific relationships forming between resources and people (individually and collectively). The claims identified by Moore (2019) are: 1) need-based claims on resource consumption to meet individual basic rights; 2) desert-based claims stemming from individual production; 3) claims to individual and collective access and use of resources, grounded in the idea of “legitimate expectations”; 4) collective claims to exercise jurisdictional authority over resources and land to achieve self-determination; 5) claims to non-extraction and protection of specific resources to address the future generations’ basic interests.

The underlying intuition of Moore’s (2019) approach to natural resource rights is sound. She defends the need to examine the different interests and values at stake in people’s interactions with natural resources. People relate to resources in various ways, which, according to the definition given in the Introduction, cannot be understood only as relations based on economic value. Instead, resources can be symbolically and culturally valuable, or intrinsically valuable in a way that is not only instrumental for human beings (Moore does not explore this idea). By specifying the different values of resources, starting from context-dependent rather than top-down observations, a theory of NRJ can differentiate claims to use, access and/or control specific resources held by different agents (communities or individuals). In this way, Moore rightly stresses the non-substitutability of particular resources for some individuals and communities, as recognised by



Armstrong (2014b). Whereas some resources matter to people through generic relationships, where one resource can be easily replaced with another without any loss (e.g. I could drink any water available to me), some natural resources matter to people because of non-substitutable relationships. For instance, claims of resource-dependent communities over their natural resources (e.g. Armstrong's example of the Saami) could not be substituted with access to different resources or by monetary compensation without a loss. As I will argue in the following chapters, both types of claims – generic and particular – should be considered by a theory of NRJ.

In what follows, I highlight the main shortcomings of Moore's pluralist approach to claims over natural resources. Note that I do not discuss her idea of desert-based claims (claim #2), as she devotes too little space to it to explain what it would entail fully (Moore, 2019, chap. 2). I also leave aside claims based on legitimate expectations or attachment (claim #3), which are grounded in plan-based interests. In the next section, I discuss Stiliz's (2019) conception of occupancy rights based on located life plans, comparable to Moore's legitimate expectations. Here, I focus on Moore's collective claim to jurisdictional authority based on the value of self-determination (claim #4) while also touching upon her needs-based claims (claim #1) and claims to non-extraction of significant natural resources (claim #5).

### 3.3.2 Jurisdictional Authority and the Problem of Scope

If we refer back to her broader theory of territory, Moore (2015, pp. 162–185) justifies collective resource rights on occupied territory as necessary for peoples' self-determination. This is included in her theory of resource rights (Moore, 2019) as claim #2. Moore argues that a form of control over the resources within a political community's territory is vital because if peoples lack that control, they can hardly achieve "robust" forms of self-determination (2015, p. 175). Collective control over resources is relevant, especially given the cultural dimension of different rules

regarding land, which the political collective must decide. Among others, she mentions the example of the Lakota Sioux, who consider the Black Hills sacred and oppose mining in the area, and the case of the Maoris, who do not implement a system of private property over their land. In Moore's view, to be fully self-determining, peoples must be able to decide on the rules for the acquisition, transfer and use of resources within their territory. The upshot of her pluralist view is that the self-determining community must decide on its resources' value. However, the ensuing principle of limited jurisdictional authority, which a collective can claim over the resources within its territory, offers limited guidance on a fair allocation of resource rights.

First, Moore's principle of jurisdictional authority cannot easily differentiate among the resources vital for the collective self-determination of different groups when spheres of jurisdiction overlap. As she highlights in a later work (Moore, 2020a), her theory (like Stilz's) can, at best, draw "heartlands" of group occupancy rights without drawing precise boundaries since groups often overlap within the same region. Moreover, Moore does not specify whether there is a threshold over which resource rights (based on collective self-determination) no longer hold, aside from cases where there are clear violations of individual basic needs. Her notion of *individual* residency rights does not help to specify more explicit boundaries since residency rights ground limited rights to a territory (e.g. right to remain or return) but not to resource control itself.<sup>31</sup>

Second, Moore's theory does not provide a satisfying solution regarding allocating rights to resources located in unoccupied areas. As I have previously highlighted for Nine's theory, when resources fall outside the territorial boundaries of areas necessary for a collective's self-determination, a theory centred on collective control over territory provides inaccurate answers. Given that Moore's primary

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<sup>31</sup> Stilz's theory is different since it grounds resource rights in (individual) occupancy rights too.

justification of resource rights comes from controlling the necessary elements to achieve self-determination, resources situated in uninhabited regions (e.g. the ocean seabed, desert islands, or parts of the Arctic and Antarctic regions) fall outside this category, as groups do not relate in any meaningful way to those specific areas. In such cases, Moore writes that resource disputes should be solved internationally as disputes over clashing claims to property rights because they cannot be grounded in the value of collective self-determination.

Contrary to Moore, it would be more plausible to acknowledge that all individuals held claims to such globally relevant resources rather than collectives (Mancilla, 2016b, p. 138). Yet, Moore's principle of jurisdictional authority does not specify how to allocate rights to those resources other than suggesting that property claims should be regulated "in accordance with the common good" (2015, p. 172). What the common good amounts to remains to be further specified. At best, Moore (2019) rightly writes that some of these resources – the Arctic and Antarctic region – should be preserved for reasons of intergenerational justice.

### 3.3.3 How Important Is Self-Determination?

Moreover, it seems that Moore's theory gives too much weight to collective self-determination as the most relevant human interest to ground resource rights. As Carens (2018, pp. 776–777) emphasises, it is unclear why self-determination cannot be a kind of interest weighed against others. Moore conceives collective self-determination as serving fundamental human interests since, in her view, individuals necessarily form collectives. However, there are cases in which, as Kolers puts it, "*individual* and *collective* subjective identity are not one criterion but two incompatible ones. A person's subjective identity might clash with the group's identity criteria" (2018, p. 785). Think about individuals who are not part of a self-determining collective or do not wish to be part of one but are forced to be (see Carter, 2016).

Moore could reply that her theory includes necessary considerations of global justice to address significant individual claims to resources based on the idea of basic needs satisfaction. She specifies that collective resource rights do not translate into assigning a full stream of benefits from exploiting resources to peoples (Moore, 2015, pp. 174–175). Collective self-determination must be limited when it clashes with individual rights to use resources to satisfy their basic needs. However, Moore still defends “a presumption against violating people’s right to self-determination as a first method of recourse to ensure the subsistence rights of all” (2015, p. 183). In most cases, she believes, there would be better ways to satisfy individual basic needs, such as direct wealth redistribution, rather than violating collective self-determination rights. Furthermore, Moore highlights that the concept of needs itself is not invariant since different societies have different resource thresholds to meet conditions of relational equality and self-respect (Moore, 2019, chap. 2). The value of natural resources would be context-dependent and essentially rely on a collective’s decision.

However, collective self-determination, although indeed significant, should not always be the decisive factor used to determine the value of natural resources. As Moore (2019, chap. 5) herself seems to realise when she discusses the need to preserve specific resources for future generations (e.g. the polar regions or biodiversity hotspots, such as the Amazonian forest), some values are and should be independent of a collective’s decision, in contrast to what she claims throughout the rest of her theory (Moore, 2015). A political community cannot always decide the relevant value of its natural resources, at least not in all cases. Let me provide a different example. As I will argue in Chapter 7, the intrinsic value of animals is not ultimately context-dependent. In some cases, we could grant more relevance to the self-determination rights of collectives to hunt specific species to preserve their distinct livelihoods, because we might think that some specific human interests (e.g. cultural preservation) trump animal interests. This is not a matter that self-

determining communities should decide upon, according to different principles they may endorse.

Ultimately, Moore's (2015, pp. 162–185) theory gives undue focus to the value of collective self-determination to ground resource rights, and her specification of value pluralism, though intuitively appealing, remains relatively vague. It is true, as Moore highlights, that we need a theory of NRJ that examines how people relate to land and natural resources differently. It is also true that this might be difficult to achieve if we adopted a single way to account for the value of resources, such as people's satisfaction of basic needs (e.g. Risse's Common Ownership view) or the value of justice (e.g. Nine's theory). However, Moore's rejection of the distributive paradigm of theories of justice is unjustified. To effectively assign rights to resources to different agents, distributive principles need to be spelt out. Moore (2019) responds to the question of which values resources have for individuals and communities, but does not outline any distributive criteria other than relying on a context-dependent analysis. In the next chapters, I will defend a theory of NRJ based on capabilities, which can spell out and justify the different interests that underpin people's relationships with natural resources.

### **3.4 Stilz's Theory of Territorial Sovereignty**

Stilz (2019) offers a qualified defence of the system of territorial states and argues for a revisionist statist theory of territorial and resource rights. She defends a limited resource-sovereignty principle constrained by a "fair-use proviso", which requires respecting people's basic territorial interests and place-based aims, delimiting the rights a state can claim over the resources within its territory. In this section, I argue that her theory still incurs the same problem of leaving the scope of legitimate resource rights undetermined, as displayed by other territorial rights theories. Her fair-use proviso based on plan-based occupancy rights is not specific enough.

Furthermore, even though her theory outlines distributive constraints regarding land distribution, it does not provide a way to compare uses of land (and resources) that would be necessary to adjudicate between competing claims over the same territory.

The bulk of Stiliz's argument is that the territorially bounded state is the institution that best ensures that those who live within its borders enjoy the autonomy-based rights to occupancy, basic justice and collective self-determination. The core value of her theory is personal autonomy, defined as "the capacity to reflect upon, and to endorse or revise, one's life commitments for what one authentically judges to be good reasons, and to carry out these commitments in action" (Stiliz, 2019, p. 11). Relying on the idea of personal autonomy and people's life plans, Stiliz (2019, pp. 33–58) defends the importance of occupancy rights, namely, the individually held rights to occupy the place where they live if the connection to such place is fundamental to their lives and projects. Occupancy rights are pre-institutional rights and answer the puzzle of "why do specific people have claims to a particular place?" independently of the previous existence of a territorial state (otherwise, the explanation would be circular). Occupancy rights differ from property rights: they include a right to live in a specific area and use it for one's life plans and a claim right to non-interference from others, but they do not entail a right to fully control all the resources within a territory. Instead, these are subject to distributive constraints following a "fair-use proviso" (I will return to this point below). Although occupancy rights are held individually, Stiliz further claims that group occupancy rights are derived from them, since a collective's occupancy right is "an aggregated bundle of individual occupancy rights" (2011, p. 579, fn. 15).<sup>32</sup>

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<sup>32</sup> Note that Moore (2015) distinguishes between individual residency rights and group occupancy rights. The underlying idea – the presence of a legitimate connection to a place because of its importance for people's (individual and/or collective) plans – is substantially equivalent.

Grounded in the pre-institutional occupancy rights of its members, a state can claim jurisdictional authority over the territory its people legitimately occupy if it satisfies the following conditions: 1) it implements a system of law that meets the requirements of basic justice; 2) its institutions reflect the shared political will of a significant majority of its members; 3) the dissenters lack any right to an alternative institutional arrangement (Stilz, 2019, p. 56). Although in a way functionalist (as she stresses the role of basic justice, like Nine), Stilz's theory comes closer to self-determination accounts, such as the theory defended by Moore (2015; on this, see Moore, 2020a). A key difference with non-statist accounts is that Stilz's conception of a "people" is formed endogenously to existing state institutions and continuously subject to modifications (2019, p. 124). At the same time, to some extent in line with Moore's theory, Stilz rejects the standard idea of a Weberian state and claims that her theory can recognise territorial rights held by sub-state groups when these meet the requirements of basic justice. Territorial rights held by sub-state groups can be resource rights or forms of "intra-state political autonomy" without independent statehood.

As part of the bundle usually associated with territorial rights, Stilz's view includes control rights over the natural resources within a state's boundaries. Resource sovereignty is assigned to legitimate political communities that meet the standards of basic justice and collective self-determination outlined above. In contrast to the principle of permanent sovereignty over resources, Stilz (2019, pp. 219–248) defends a limited resource-sovereignty principle. Groups that legitimately occupy a territory have jurisdictional authority over their natural resources, e.g. rights to decide about resource use, management, and access (2019, p. 224). Conversely, Stilz's resource-sovereignty principle does not entail a right to the total exchange value of the resources within a state's territory (2019, pp. 246–247). In her view, her principle could be compatible with a system of global taxation established via a multilateral treaty if local communities' rights to decide on rules regarding the

extraction and sale of their resources were respected (2019, p. 237). For such a treaty to be implemented, Stilz specifies that additional distributive criteria would be necessary, but that outlining a theory of global distributive justice falls outside the scope of her analysis. Furthermore, Stilz notes that her account does not prescribe control rights over the resources located in uninhabited areas or underground deposits, since control rights could not be justified by appealing to occupancy rights or the value of collective self-determination. As in Moore's (2015), in such cases, resource rights would be a matter of international (or bilateral) conventions, which again should be determined by outlining additional distributive criteria that Stilz's theory does not provide.

Nevertheless, Stilz considers some distributive constraints on her principle of limited resource sovereignty. First, environmental justice duties require cooperation and co-management of specific resources through international institutional settings (Stilz, 2019, pp. 220–221). Stilz gives the example of forests, a type of resource that requires protection and policy coordination at the global level (this is similar to Moore's claim #5 to protect specific resources, including biodiversity hotspots).

Second, there is a fair-use proviso over collective resource control. Stilz's fair-use proviso on land distribution prescribes that states cannot exclude outsiders in cases "(i) where their basic territorial interests are persistently unfulfilled where they now are or (ii) where they lack a territorial base in which to pursue the social, cultural, economic, and political practices that matter to them" (2019, p. 185).<sup>33</sup> Stilz discusses the case of populations of SIDS who – in the event of complete territorial loss due to sea-level rise – have claims to enter a new territory where they would be

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<sup>33</sup> Stilz introduces the fair-use proviso in her discussion of territorial distribution. This is relevant here since land is included in my definition of natural resources and the fair-use proviso also applies to control over natural resources.



able to fulfil their basic territorial interests as well as their located life plans, through a potential arrangement of intra-state territorial autonomy.

Building on the fair-use proviso, Stilz (2019, p. 234) argues that peoples could exclude outsiders from having rights over their natural resources only if competing use would undermine individual occupancy rights and their right to collective self-determination. Like Moore, Stilz (2019, pp. 230–232) recognises that it is important for a collective to decide how to manage their land and resources to achieve self-determination. In my analysis of Moore’s theory (section 3.3), I have discussed collective self-determination as a justification for collective control rights over resources. I consider Stilz’s justification of resource rights based on an interest in collective self-determination substantially equivalent to Moore’s and I do not repeat my analysis here. In what follows, I focus on Stilz’s conception of occupancy rights.

#### 3.4.1 Occupancy Rights and Legitimate Attachment

As previously explained, occupancy rights “attach” people to specific places and resources. Similarly to Moore’s residency/occupancy rights and claims over resources and land based on the idea of legitimate expectations, Stilz argues that individuals’ comprehensive life plans can be linked to particular places and can also be “closely linked to attitudes that people direct specifically at the physical objects around them” (2019, pp. 43–44), e.g. the Blue Lake, the Black Hills and the Alps. Failing such connections, individuals’ “located life plans” would lack the background conditions essential for their well-being and autonomy (Stilz, 2019, p. 41). Stilz (2019, p. 42) defines “comprehensive life plans” as follows:

[...] they organize many choices; they give meaning to our lives and provide a standard for its success; they often reflect an agent’s deepest moral and evaluative convictions; and they integrate a person’s plans over time in a way that constitutes her distinctive narrative identity.

Her idea of a necessary connection between the satisfaction of individuals' life plans and specific places is persuasive since it seems to rule out cases based merely on superficial desires. However, justifying claims to territory and resources by relying on their centrality to someone's life plan cannot completely rule out cases in which someone's life plans are, in the end, nothing more than an expensive taste. Angell raises this subjective-account issue: "Although it seems plausible (to me) to expect that people's NLPs [non-political life plans] will typically be connected to *particular* objects/places, to be certain in any specific case, we must ask them" (2017, p. 234). Relying on people's conception of their central life plans seems to be the only way to know whether their lives depend on specific resources and places. This creates problems distinguishing legitimate attachments from non-legitimate ones grounded only in preferences or desires. Even if something is deemed central to someone's life plan, it could still require more resources than what is fair. Stilz (2019; 2021) is very sceptical of subjective welfarist accounts of distributive justice given the problem of "expensive tastes", but her defence of occupancy rights is built on a similarly unstable foundation. Her conception of located life plans would benefit from outlining a more objective account of human flourishing to rule out cases in which people's life plans are too demanding and, consequently, special resource rights are not justifiable. In Chapter 4, I will defend the capabilities approach as a successful way to specify the idea of a comprehensive life plan.

There is also an additional issue with grounding legitimate territorial rights in peoples' comprehensive life plans. As stated by Nine (2016, p. 332), plan-based defences of territorial rights are "too broad" since life plans do not require access to most areas within a region. I would add that they do not require access to most resources within a region either. For instance, Armstrong asks, "Why not grant states control over precisely *whatever resources are necessary to meet basic rights*, rather than *all resources within a territory*?" (2015, p. 240; emphasis in original). Even if we accept something more demanding than meeting basic needs as the only

purpose of a people's control over its resources (e.g. the validity of self-determination claims over territory), theories such as Stilz's and Moore's tend to justify overreaching resource rights. It is unclear how these theories would discriminate between different rights to natural resources when these resources happen to be in the same area.

Where appropriate, resource rights should be unbundled following distributive considerations that would grant different agents different parts of the same bundle of rights. However, as I have previously noted, theories of territorial rights, including Stilz's, are not trying to build a complete theory of NRJ but mainly consider territorial jurisdiction and do not endorse a metric of distributive justice with which to assess competing claims over resources (I come back to this below). What we need is, hence, a hybrid account that justifies normatively significant attachment claims for some individuals while considering general claims to natural resources at the same time, as in Armstrong's theory (see section 2.3). In other words, the resources to which individuals have legitimate attachments could grant special resource rights to those specific agents; the remaining resources, even in the same territory, should be subject to general distributive principles.

### 3.4.2 Comparing Conflicting Claims

The issue of overlapping claims within the same territory relates to an ulterior problem with Stilz's theory, raised by Armstrong (2021b): her theory does not provide a way to compare conflicting non-basic claims to resources and territory since she does not adopt any distributive criterion as a method for comparison. Stilz's fair-use proviso includes a minimalist proviso, which delimits territorial holdings if they hinder individual basic territorial interests related to their basic rights' satisfaction. Stilz (2019, p. 174) also defends a "full proviso", according to which a just distribution of the earth's spaces must:

(i) satisfy everyone's basic territorial interests and (ii) grant groups with shared practice-based interests the right to use geographical space in ways that reflect these interests, so long as the groups are of sufficient size, and so far as this is institutionally feasible.

Stilz discusses the scenario of competing use of territory between different agents with different practice-based interests. She thinks that practice-based interests ought to be balanced in case of conflicting claims (2019, p. 175). She gives the example of two groups, A and B, with the same population size but different practice-based interests, who settle on an uninhabited island. Group A is given 70 per cent of the island, whereas Group B is given 30 per cent. Basic territorial interests are protected for each group but, under the "full proviso", this allocation would be fair only if it respected the two groups' practice-based interests. This would be the case, according to Stilz, if, for example, Group B were a group of city-dwellers, and Group A pursued a nomadic life that required a more significant amount of land instead. As Stilz notes, "[...] the metric we use to compare people's holdings must be *responsive* to the fact that people have different (morally legitimate) social, economic, and political practices" (2019, p. 183). However, she does not specify what this metric should be according to an explicit distributive criterion.

Hence, it is uncertain whether (and how) Stilz's theory would balance competing interests, given that she rejects a method to compare different uses of resources and land. Stilz (2019, pp. 157–186) might rightly reject subjective accounts of well-being (see section 2.3), but she does not consider the possibility of endorsing an objective list account of well-being. As Armstrong writes, an objective account of well-being could provide a "way of capturing at least some of Stilz's concerns about the value of place-related attachment (and perhaps other territorial interests besides)" (2021b, p. 13). Stilz (2019, p. 184) seems to hint at this possibility when she notes that a fair territory distribution should seek to secure people's fundamental interests

according to an objective and public criterion of importance. But this criterion is not outlined in her theory, and Stilz objects to any attempts to formulate one. In her reply to Armstrong's criticism, Stilz (2021, p. 42) writes:

Any objective list account that contains a plurality of abstract goods [...] will face comparability and aggregation questions. Perhaps compelling answers to these questions can be provided. But their existence leaves room for doubts about this method of operationalizing a welfarist egalitarian proviso.

As I have outlined in the previous section, recognising the different values that underpin people's relationships to resources is vital for a theory of NRJ. People value resources differently, and a theory of NRJ must acknowledge this to be persuasive. Even if incommensurable values exist in the use of resources and land, we should not abandon all attempts to outline distributive criteria that could help evaluate competing claims over resources held by different agents. In the following chapters, I will argue that an account that endorses capabilities as the correct metric of justice can justify why different resources, which are part of the same territory but do not have the same significance for the occupants of that area, should be treated differently and not as a homogenous part of the same bundle of resource rights. I will show that this provides some general and less vague guidance on balancing competing claims of different agents over resources and land.

### **3.5 Conclusion: The Need for a More Comprehensive Theory of NRJ**

This chapter examined theories of territorial rights that justify collective rights that political communities have over the natural resources within their territories. These theories are persuasive because they start by recognising that people interact with specific places and natural resources individually and *collectively*. If we focused only on individual claims over resources, meaningful relationships between

geographically located communities and specific land and resources would be overlooked. For instance, consider the populations of SIDS currently threatened by sea-level rise. The relevant interests at stake are individual relationships to natural resources and land *and* a collective interest in maintaining self-determination over their territory. A theory of NRJ that is silent on the relations that people form with specific land and resources inevitably misses something normatively significant to consider. Even global justice theorists, like Armstrong and Blomfield, who start from the claims of individuals (not groups) over resources, defend the idea that particular and morally significant relations exist between people and specific territories and resources.

Theories of territorial rights answer (more or less satisfyingly) questions of collective control rights over resources. Nevertheless, my analysis of three of the most compelling approaches to territorial rights to date shows that these theories are unable to address and solve significant gaps because none of them specify clear principles of distributive justice. Here, I summarise their main shortcomings.

First, since the theories examined in this chapter only look at a question of control, they leave “patches” of uninhabited land (along with the natural resources within those areas) out of the scope of legitimate territorial and resource rights. While these theories can justify control rights to resources that are grounded in a collective claim to self-determination or in a collective’s ability to guarantee minimal conditions of justice, where collective claims do not hold (i.e. in the absence of a political collective that resides in the region), natural resources are up “for grabs”. Nine’s, Moore’s and Stilz’s intuition in these cases is that rights to resources and land should be allocated following unspecified additional distributive criteria.

Second, theories of territorial rights leave the scope of legitimate resource rights under the presumptive jurisdictional authority of political collectives undetermined. Theories based on improvement claims (Nine’s theory) do not

provide a persuasive justification to the particularity question since they link a political collective to the natural resources which have been (or have the potential to be) improved to achieve minimal conditions of justice. It is not clear what this amounts to. Theories based on attachment and the significance of people's life plans (Moore's and Stilz's theories) fail to distinguish between legitimate claims of attachment and allegations based on preferences. In a way, this is the same criticism advanced against Armstrong's theory in Chapter 2, whose notion of well-being cannot clarify which valuable interests ground legitimate attachment.

Third, the theories examined in this chapter cannot disentangle different incidents of resource rights when resources are located within overlapping jurisdictional authorities. In several cases, different agents would need resource rights to certain resources within a territory but not to others. In the example of the Saramaka people mentioned throughout the chapter, the Saramaka hold legitimate rights over their forest but not over the gold in the same region, because their relation to the gold differs from the one with the forest and is not as essential. Theorists of territorial rights are unable to differentiate resource rights in such scenarios.

Finally, theories of territorial rights cannot spell out the different values underpinning people's relationship to natural resources. Among the ones examined, Moore's theory is the best account since she outlines a pluralist framework to conceive the different values that resources have for people. However, she ultimately leaves decisions over resources' values to the discretion of self-determining peoples. I have argued that some values of natural resources should not be up to a collective's decision, but should be universal. Whereas territorial rights theorists tentatively recognise this, since they consider environmental and sustainability constraints on resource use, this is under-theorised. To avoid such problems, employing a metric of justice would help a theory of NRJ achieve more clarity on the value of resources and specify distributive principles.

This chapter ends the critical part of this dissertation, which has focused on analysing existing theories of NRJ and territorial rights with the main aim of critically examining the current debate on rights to natural resources. The shortcomings mentioned in this chapter and those highlighted in Chapter 2 show why a new theoretical framework for NRJ is necessary. From the next chapter onwards, I will start to ground an original theoretical framework for a theory of NRJ. I will draw from the capabilities approach to outline an innovative framework that provides more persuasive and detailed answers to the most significant issues that the theories of NRJ and territorial rights display. I will address questions of distributive justice regarding the values of resources and principles of resource allocation alongside questions of collective resource control. I will consider both individual claims to territory and resources and collective ones, and I will defend a pluralist approach that examines how people relate to resources differently. I will also provide a more precise answer to the question of when specific relations to natural resources are significant and worthy of respect. Additionally, I will include considerations of animal claims to resources and a suitable environment within my theory of NRJ, something that none of the theories examined so far can account for.



## 4. Capabilities and Natural Resources

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### 4.1 Introduction

What should we consider when discussing how to distribute rights to natural resources? What metric of justice should we adopt? Why should we not aim at distributing equal shares of natural resources? Should we consider firstly individuals or the political communities in which they are embedded? Different approaches have been used to answer these questions in recent years (Armstrong, 2017; Blomfield, 2019; Moore, 2015; Nine, 2012; Risse, 2012; Stiliz, 2019). As I have discussed in Chapters 2 and 3, they all fail – to different extents – to be persuasive approaches to addressing the issue of natural resource distribution. In contrast to those theories, I pursue an approach that appeals to the concept of capability.

This dissertation offers an adaptation of the capabilities approach for a theory of NRJ. In this chapter, I begin to lay out a theoretical framework for a fair allocation of rights to natural resources. The following questions are addressed. How is the concept of capability, first employed by Sen in contrast to other metrics of justice, such as primary goods and resources, compatible with a discussion on natural *resources*? How can those concepts – natural resources and capabilities – be linked? Which principles should regulate the distribution of rights to natural resources? Is the traditional notion of natural resources, i.e. raw materials or fungible goods that are part of the natural world and have some value for human beings, appropriate for a theory of NRJ?

I reject views that focus directly on the distribution of shares of resources and argue that resources are relevant as a means to something else. As capabilities theorists have argued, I defend the idea that individual capabilities – opportunities

to flourish and live the life one wants to pursue – are the relevant space for comparison and evaluation of societal arrangements. The primary foundational premise of this chapter is that a *decent life* (which includes survival and basic capabilities) is morally valuable and that this has priority over considerations of other capabilities. I argue that natural resources and an adequate environment are necessary for survival and meeting basic capabilities, and thus leading a decent life. Rights to natural resources and an adequate environment should be then granted to all individuals.

This chapter also contributes to debates internal to the capabilities approach. First, I defend an account of relevant basic capabilities, drawing from Sen's works but adding more specificity to his commitment to not outline any list (even if open-ended and abstract). Second, I provide an argument for a partial ranking of capabilities. Third, I emphasise how environmental conditions are vital as a necessary and non-substitutable precondition for exercising capabilities. This is something that not all capabilities theorists have adequately highlighted.

The structure of the chapter is as follows. Section 4.2 introduces the concept of capability and shows that considerations of resource distribution are relevant within the capabilities framework. I then briefly discuss how resourcist theories come close to the capabilities approach when they account for individual variations. In section 4.3, I defend the importance of a decent life, which includes the capability of life and other basic capabilities. Section 4.4 argues that natural resources fundamentally matter for a decent life. In section 4.5, I defend an extension of the traditional concept of natural resources and I conceive the environment as the structural natural resource necessary for capabilities to unfold. Section 4.6 concludes.

## **4.2 Capabilities vs. Resources?**

My theoretical framework is grounded in the notion of capability. Amartya Sen theorised the capabilities approach as a framework for evaluating social arrangements and as a critique of other accounts of justice (Robeyns, 2003a; 2005a; Robeyns and Byskov, 2020). In the Tanner Lecture on Human Values delivered at Stanford University in 1979, he addressed the question: “Equality of What?” (Sen, 1980). After rejecting utilitarian (and more broadly welfarist) accounts of equality and Rawlsian equality of primary goods, Sen focused on what a person can do and be. What a person *can* be and/or do is what he calls “capability”.

In Sen’s terminology, a capability “represents the various combinations of functionings (beings and doings) that the person can achieve” (1992, p. 40). Or, put in another way, “[capability is] the substantive freedom to achieve alternative functioning combinations (or [...] the freedom to achieve various lifestyles)” (1999a, p. 75). Sen draws a clear distinction between achievements (i.e. functionings) and the *freedoms to achieve* (i.e. capabilities) as opportunities to realise functionings. Regardless of which functionings are realised in practice, capabilities are what matters when evaluating states of affairs in society. In the language of social choice theory, a capability is equivalent to an individual’s opportunity set, where what counts as relevant are not just the elements of the set that are chosen and achieved in practice but all the available options (Sen, 1999b, pp. 44–45).

The other key distinction that Sen (1990) emphasises is the difference between capabilities, as ends in themselves, and primary goods and resources, which are instead means to something else. Sen writes that “commodity command can [...] be a defective guide to a person’s actual freedom to lead one kind of a life rather from another. [...] we have to *go beyond* the commodity space” (1988a, p. 276; emphasis added). Merely considering the amount of goods that individuals have

does not provide us with enough information to assess the state of affairs because people need goods in different shares to get the same level of functionings (Sen, 1999b, p. 17). Sen argues that primary goods theorists fail to acknowledge that resources are relevant only for the opportunities that individuals have to use them (or convert them) into their end goals (1992, p. 19, fn. 20).<sup>34</sup> Although focusing on resources/primary goods is not wrong in itself, it is incomplete. Resources are instrumentally valuable to the extent that they provide people with capabilities, creating and enlarging their capability sets (Robeyns, 2003a, p. 53). However, other factors need to be considered too. We should account for people's different conversion factors, which are the relevant personal, social, and environmental "characteristics that govern the *conversion* of primary goods into the person's ability to promote her ends" (Sen, 1999a, p. 74).<sup>35</sup>

What is worth stressing is that both the capabilities approach and primary goods theories recognise the instrumental value of resources as a means to something else, as per Rawls' characterisation of primary goods as "all-purpose means". However, the capabilities approach is considered by several scholars to be more sensitive to interpersonal variations than resourcist theories, since what ultimately matters is how people can use resources given their different conversion factors (e.g. Anderson, 1999; Sypnowich, 2005). It is beyond the scope of this work to provide a detailed defence of the capabilities approach against other currencies of justice, particularly primary goods and resources.<sup>36</sup> The debate between capabilities and primary goods is not settled (see Brighouse and Robeyns, 2010). Here, I provide

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<sup>34</sup> Sen accuses the Rawlsian framework of a form of "fetishism" as it "takes primary goods as the embodiment of advantage, rather than taking advantage to be a relationship between persons and goods" (1980, p. 216).

<sup>35</sup> For the present analysis, environmental features are especially significant, as I argue later.

<sup>36</sup> I have argued against (subjective) welfarist accounts in Chapter 2. Additionally, I follow Pogge (2002b), Berges (2007) and Kelleher (2015), and leave aside a discussion of Dworkin's (1981) resourcism, since his conception of resources (which includes "external" and "internal resources") comes quite close to Sen's capabilities. For a discussion of similarities and disagreements, see Dworkin (2002), Pierik and Robeyns (2007), Sen (1984) and Williams (2002).

only a critical argument weighing in favour of the capability approach: its ability to consider individual differences. This is one of the key arguments in the debate between capabilities theorists and resourcists. Several scholars have defended versions of the Rawlsian framework that account for individual differences and come close to the capabilities approach, such as extensions to Rawls' theory to consider disabilities (Daniels, 1981; Richardson, 2006). In the rest of this section, I discuss how even one among the starkest critiques advanced against the capabilities approach (defended by Pogge, 2002b) risks bringing resourcist views back to considerations of capabilities. I highlight how resourcist theories seem to implicitly rely on an analysis of capabilities when they treat individual differences as a factor that should influence resource distribution.

#### 4.2.1 Individual Differences

Pogge (2002b) has developed one of the most compelling cases against the capabilities approach and in defence of resourcism. In short, he argues that complex resourcist theories, such as Rawlsian primary goods theory, can accommodate differences related to individual standard needs (i.e. caused by external or internal influences with a uniform effect) and to needs caused by past or present social injustices. I consider his discussion of environmental variations here. Pogge (2002b, p. 182) gives the following example:

Persons whose best option is to sell fast food in San Diego for a wage of \$900 per month are intuitively better off than persons whose best option is to perform the same work in Alaska for a wage of \$910 per month. The reason is that the latter, to do the job, must live in Alaska and must then also pay more than the former do for clothing and for heating their homes (additional expenses that exceed \$10 per month).

Pogge argues that plausible resourcist theories should be sensitive to variations in environmental conditions and should provide individuals with a differentiated bundle of resources tailored to specific situations. For example, an individual living in Alaska would be entitled to a heavy coat against the cold, which an individual in San Diego would not need. What matters is not only a distribution of a standard bundle of resources to individuals but rather a differentiated (in quantity or kind) amount of resources. In this case, the bundle of resources to which individuals are entitled would be responsive to changes in environmental factors, which affect an individual's ability to function in relevant ways. Pogge writes that plausible resourcist theories can account for environmental variations through the following amendment of "simple" resourcist theories: "*In measuring resources persons have access to, one must subtract resources standardly needed to enjoy such access*", such as the heavy coat needed against cold weather in Alaska (2002, p. 182; emphasis added). Pogge is considering the possibility for individuals to be protected from cold weather. In the example above, Pogge ends up being concerned with the wrong thing since he focuses on access to a salary. It would be more accurate to consider functionings directly, such as being able to stay warm (in cold weather) and the bundle of resources necessary to achieve them (e.g. a heavy coat, house heating, etc.). As mentioned above, the bundle of resources must be adjusted accordingly.

How to assess whether and how resources should be tailored to compensate for specific external conditions goes beyond a simple assessment of resource distribution. Oosterlaken (2013) identifies this in her discussion of another example Pogge (2002b) gave: the traffic lights system and the injustice towards blind individuals. Oosterlaken notes that classifying the traffic lights system as an injustice for which specific individuals need adjustments or compensation cannot be "identified without at least implicitly using some concept of a lack of capability or 'access to functioning' for the blind person" (2013, p. 211). Berges similarly raises this point, writing that even if Pogge could argue that the right criterion for a fair

distribution is access to resources and not resources themselves, it is unclear “how access to resources can be measured without looking beyond distribution of resources” (2007, p. 19). This implies considering how individuals have access “in practice” to specific functionings (e.g. being warm and protected from the cold). Again, we have entered the capabilities discourse since we are considering how people can convert means to actual access to functionings. As Pogge writes, “to be sure, it is difficult to identify what persons genuinely have access to” (2002b, p. 221, fn. 41). This problem is common to both approaches, i.e. resourcist theories and the capabilities approach. Identifying what people have access to is indeed difficult, and it can be further added that it requires an assessment of how people use resources, which is not that far from looking at people’s capabilities.

Therefore, it seems that even one of the most detailed attempts to reject the capabilities as the correct metric of justice, such as the one defended by Pogge (2002b), tries to account for individual differences in the conversion between resources to functionings. Doing so includes considerations that are suspiciously close to the capabilities framework or that, at least, go beyond simple considerations of resource distribution as “general means” to achieve valuable functionings. There are no “general” or “standardised” means (as bundles of resources) to achieve specific ends since these should be adapted to account for differences in (internal and external) conditions, such as environmental variations. This is not very different from how the capabilities approach conceives of resources.

### **4.3 Decent Life: Survival and Basic Capabilities**

In this section, I argue that a *decent life* (which also includes survival) is morally valuable, and this has priority over considerations of other capabilities. That life is morally valuable is already internationally recognised in different domains. The right to life is one of the fundamental rights individual human beings are entitled

to. Two articles of the Universal Declaration of Human Rights (UDHR) are relevant here (United Nations General Assembly, 1948):

- (i) Article 3 – “Everyone has the *right to life*, liberty and the security of person.”
- (ii) Article 25 – “Everyone has the *right to a standard of living adequate for the health and well-being of himself* and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

These are two basic rights to which all human beings are entitled. Relying on Shue’s definition of basic rights, a right is basic when “any attempt to enjoy any other right by sacrificing the basic right would be quite literally self-defeating, cutting the ground from beneath itself” (1980, p. 19). The well-established importance (and priority) of the right to a certain standard of living in the international political scene, as the UDHR shows, is interesting because the language of human rights has close links to the language of capabilities.

Since the emergence of capabilities as a possible metric in matters of distributive justice, the foremost scholars of the capabilities approach, namely Sen and Nussbaum, have shown how the idea of capabilities is related to that of human rights. More precisely, the capabilities approach has been considered a helpful addition and integration to the language of human rights. Nussbaum writes that “capabilities [...] are very closely linked to rights, but the language of capabilities gives important precision and supplementation to the language of rights” (2003, p. 37). Sen (2005) draws a similar parallel between human rights and capabilities. Many human rights – though not every right – can be seen as rights to particular capabilities. Rights are essentially seen as rights to certain freedoms, and the concept of capability is directly linked to that of freedom. Sen distinguishes between the “opportunity” aspect and the “process” aspect of freedom (2004a, pp. 330–338;



2005, p. 152), where the former is related to the opportunity set that one can choose from, and the latter to the fairness of the procedures involved in the choice. The idea of capability is well-suited to account for the first aspect, i.e. the opportunity aspect of freedom, since a capability is the freedom (in terms of opportunity) to choose alternative combinations of functionings. There are, hence, essential points of connection between human rights and capabilities, which led many scholars to work on a policy-level application and integration of the capabilities approach within the human rights framework (e.g. Burchardt and Vizard, 2011; Vizard, 2007).<sup>37</sup>

In what follows, I define my conception of a *decent life*: life is valuable not only as mere survival, although survival comes before other considerations.<sup>38</sup> The first requirement for a decent life is, of course, survival. The right to life mentioned above is directly linked to the *capability of life*. When the attention is on life, what especially matters is the opportunity aspect, meaning the kind of life (if any) a person can freely choose to live. Life can be considered a capability and not just a functioning (although when realised in practice, it becomes a functioning), because living is part of “what a person can be or do”. It is the first and most obvious thing a person can be: a person can be alive or not since, after all, she could decide to commit suicide and give up her life. Hence, life is not just a functioning because the opportunity aspect is present in being alive. Life is listed as one of the most essential capabilities by several theorists (e.g. Alkire and Black, 1997, p. 267; Nussbaum, 2006, p. 76; Robeyns, 2003b, pp. 76–77).

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<sup>37</sup> I am not concerned here with a broader analysis of the differences between the capabilities and the human rights approach (see Nussbaum, 2000, pp. 96–101). My point is that the two languages are connected.

<sup>38</sup> My conception differs from other accounts of the value of human life, such as Risse’s idea of a “distinctively human life” discussed in Chapter 2. Here, I specify relevant features of flourishing using the language of capabilities. In Chapter 7, I will argue that the capabilities framework is helpful to go beyond a narrow anthropocentric standpoint. However, in this chapter, my discussion is still anthropocentric.

Referring back to the previous discussion on human rights, the UDHR does not rank rights; all rights are deemed equally important. However, some ranking of human rights – for theoretical and practical purposes – is inevitable since the right to life (Article 3) has evidently priority over other rights. Without life itself, the enjoyment of any other right becomes meaningless (Griffin, 2008). Life is also the *first* element of many lists endorsed by capabilities scholars (e.g. Alkire and Black, 1997; Nussbaum, 2006; Robeyns, 2003b; Saith, 2001). Note also that in Sen’s terminology, capabilities can be defined as “freedoms to achieve different lifestyles”. To achieve any lifestyle, individuals must be *alive*. This is evident because, without life, there will be no freedom to achieve any capabilities (basic or non-basic) at all. Therefore, the first capability, which has priority over others, is the capability of life as survival.

However, surviving itself is not enough for a life to be considered satisfying and fulfilling. For instance, the life of a person who is kept alive thanks to continuous medical treatment but cannot exercise any of the faculties that make life worth living is not to be considered a decent life. Some extra requirements, other than merely survival, are connected to leading a decent life. Here, I rely on the idea of “basic capabilities”. Basic capabilities are defined as “a person being able to do certain basic things” (Sen, 1980, p. 218) or as “the real opportunity to avoid poverty or to meet or exceed a threshold of wellbeing” (Robeyns, 2017, p. 95). Alkire claims that “the set of basic capabilities might be thought of as capabilities to meet basic human needs” (2002a, p. 163). Basic capabilities are necessary for a decent life since they specify minimal conditions of well-being and flourishing. Every individual is entitled to the capabilities central to a worthwhile existence (see Claassen, 2016; Nussbaum, 2006; Robeyns, 2005b; Venkatapuram, 2011).

Note that capabilities theorists have different views regarding endorsing a specific list of capabilities. The leading positions in the debate are Sen’s “democratic

view” and Nussbaum’s “philosophical view” (Claassen, 2011).<sup>39</sup> According to Sen, any list of fundamental capabilities should be open to constant revision, and theorists should not settle for a final list. In his procedural view, “the task of specification must relate to the underlying motivation of the exercise as well as dealing with the social values involved” (Sen, 2003b, p. 6). A list should be the outcome of a process of public deliberation; otherwise, there is a risk of paternalism and a correlated loss of plurality. Sen argues that employing a top-down approach for specifying a capabilities list would limit the exercise of individual agency and freedom in selecting relevant capabilities. For instance, taking one of the capabilities endorsed by Nussbaum in her list of central ones, some individuals (and communities) might value the capability to play, whereas others might not. Sen has never settled for a fixed and definitive list of relevant capabilities since he believes those depend on specific circumstances, locations and the degree of development of a society. On the contrary, Nussbaum has defended a more fixed list of capabilities. Her response to Sen’s criticism is that her list is ultimately open-ended and subject to constant revision and that her central capabilities must be specified at the level of implementation through a process of public deliberation (Nussbaum, 2003).

There have been various attempts to go beyond the contrast between these two positions, either by nuancing Nussbaum’s philosophical position or integrating it into Sen’s democratic one. As Byskov writes, “rather than uphold the distinction between philosophy and democracy, we should look at ways in which they can be mutually reinforcing” (2017, p. 2). Some capabilities scholars have defended lists of capabilities situated between Nussbaum’s more demanding list and Sen’s commitment not to spell out any list. An example is Claassen’s (2016) agency-based

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<sup>39</sup> Nussbaum’s list consists of the following ten central capabilities: “Life; Bodily health; Bodily integrity; Senses, imagination and thought; Emotions; Practical reason; Affiliation; Other species; Play; and Control over one’s environment” (2006, pp. 76–78).

theory of justice, which lists as “basic capabilities” those capabilities that would allow citizens to have individual agency, namely, to live in autonomy and freedom within a society. Claassen provides a more open-ended list than Nussbaum’s, thus avoiding the charge of “perfectionism” advanced to Nussbaum’s theory. Still, at the same time, he provides a substantial account of relevant capabilities. In line with Claassen (2016), I reject Nussbaum’s list of capabilities as too perfectionist and demanding. I also want to stress that not all elements of Nussbaum’s list have the same degree of importance (Wolff and de Shalit, 2007, pp. 89–107). The capability to play would arguably not have the same relevance as the capability of bodily health, or at least not in all societies. It would be more plausible if the inclusion of specific elements of flourishing in Nussbaum’s list, such as the capability to play, were directly decided in consultation with the relevant individuals and communities.

It is useful to go back to Sen’s position to outline a more minimal list of relevant elements of well-being. Throughout his writings, Sen mentions some recurrent capabilities, which are valuable across different societies: “being sheltered and living in a pleasant and safe environment; health and physiological wellbeing; education and knowledge; social relations and interactions; emotional and psychological wellbeing; safety and bodily integrity” (see Robeyns, 2003a, p. 20). Even if Sen rejects a final list, the fact that he has recurrently written about the same fundamental capabilities suggests that, in his view, there is a basic level of capabilities which are more relevant than non-basic ones. Although additional valuable (non-basic) capabilities might differ from one society to another, as Sen rightly argues, several scholars note that many lists of valuable basic capabilities (as well as lists of basic needs) display significant overlap with Sen’s recurrent capabilities (e.g. Alkire, 2002b; Hick and Burchardt, 2016; Saith, 2001). Hick and Burchardt write that many basic capabilities have “a considerable degree of overlap *despite* the rather distinct contexts in which they were created” (2016, p. 83). Saith (2001) compares lists of

basic capabilities and shows that they include recurrent capabilities, such as life as survival, health, bodily integrity, education, and security, which are substantially equivalent to Sen's.

Therefore, in light of these considerations, I partially depart from Sen's commitment not to spell out any account of relevant capabilities (which practically speaking does not happen, given that Sen keeps mentioning the same relevant ones), and I outline a list of basic capabilities which are fundamental dimensions of well-being. This does not entail committing to a set-in-stone and immutable list, as the list can still be subject to revisions. Moreover, relevant capabilities can be further specified at the level of policy implementation since they only refer to a very abstract level.

I take the following capabilities as the minimal version of valuable basic capabilities that can be universally endorsed: *life, health, emotional and psychological well-being, social relations, and education and knowledge*.<sup>40</sup> This account of human flourishing has a certain degree of objectivity, with the proviso that its specification is made through a bottom-up approach at the level of different communities. These elements of well-being do not constitute a fixed and sufficient notion of what a good life is (as other elements would need to be added). Still, they allow individuals to have the opportunity to "choose a life one has reason to value", as Sen (1999a, p. 74) puts it. The elements of well-being just outlined are in line with the following suggestions made by Alkire (2002b, p. 193): (i) relevant dimensions of flourishing should not represent virtues nor personal qualities, such as self-respect, but should be the basic values that people seek when "they act and are"; (ii)

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<sup>40</sup> I refrain from mentioning "shelter and a safe environment", partially departing from Sen's recurrent capability of "being sheltered and living in a pleasant and safe environment". I consider an adequate (natural) environment as the precondition of any capability, rather than a basic capability (see section 4.5). These dimensions are listed here in the language of functionings for brevity's sake, but each of them should be thought of as "capability of". Note that there is an overlap between this list and the operationalisation of the capabilities approach through the Human Development Index (United Nations Development Programme [UNDP], 2024).

they should be intrinsically valuable as human ends, and not only instrumentally valuable as means; (iii) they should be “critical” and complete, encompassing fundamental human values; (iv) they should combine specificity with enough scope so that persons of different cultures and value systems can specify them in different ways. They are also compatible with Wolff and de Shalit’s definition of “fertile functionings” (although I am talking about capabilities), defined as those functionings “which spread their good effects over several categories, either directly or by reducing risk to the other functionings” (2007, p. 122). For instance, Wolff and de Shalit discuss affiliation (what I call social relations) as positively affecting all other aspects of a person’s well-being.

I should further note that outlining a minimal list of basic elements of flourishing is more precise than relying on a vague concept of well-being. In Chapter 2, I argued that adopting well-being as a subjective (or under-specified) notion is problematic and that the capabilities framework helps specify relevant dimensions of well-being. The capabilities framework allows us to overcome the main shortcomings of a subjective idea of well-being grounded in preferences-satisfaction or desires-fulfilment, such as expensive tastes. Moreover, it recognises the value of individual agency in two ways. First, individuals (and communities) decide on the specification of relevant capabilities and the inclusion of additional ones. Second, focusing on capabilities rather than functionings stresses the intrinsic value of opportunities (well-being freedom) as opposed to achieved well-being. Additionally, outlining a minimal list of capabilities solves the ambiguity I highlighted in my analysis of Blomfield’s and Nine’s theories since they both endorse an account of basic needs/capabilities without fully specifying or defending them (see sections 2.4 and 3.2 respectively).

What I call a *decent life* consists then of two different elements, ranked in order of priority:

1. **Life as survival:** the individual capability of being alive. This has priority over all other capabilities.
2. **Basic capabilities:** health; emotional and psychological well-being; social relations; education and knowledge.

A decent life is morally valuable and has priority over considerations of other capabilities. The enjoyment of non-basic capabilities depends, first of all, on life as survival and, secondly, on the satisfaction of basic capabilities, which underpin a minimal level of flourishing. A more detailed and comprehensive ordering of capabilities is not possible. As noted by Sen, “There is sometimes a temptation not only to have one fixed list, but also to have the elements of the list ordered in a lexicographic way. But this can hardly work” (2004b, p. 78). I take this point as valid, given the value pluralism of relevant elements of well-being and the difficulty in comparing different capability sets. However, granted that a complete ordering is impossible, a partial ordering is sometimes possible (Claassen, 2011; Saith, 2001). Going back to the abovementioned example, it is evident that the capability to play would not be as relevant as the capability to be well-nourished. Lacking the second one for a certain amount of time would impair the possession of the first one in a way in which the opposite does not hold. Sen has clarified that, although insisting on a complete ordering can be problematic, “partial orderings can be an adequate basis for many evaluative judgements, especially in dealing with serious problems of inequality” (1992, p. 84, fn. 25).

Providing a partial ranking does not entail that no other capability is morally valuable (e.g. political participation, control over one’s environment, etc.) but rather that basic capabilities carry a fundamental value for human flourishing (Alkire, 2002b). Drawing again from his discussion on basic rights, Shue (1980, p. 31) explains the salience of basic rights as follows:

(1) Everyone has a right to something. (2) Some other things are necessary for enjoying the first thing as a right, whatever the first thing is. (3) Therefore, everyone also has rights to the other things that are necessary for enjoying the first as a right.

Basic capabilities are the precondition for a minimally flourishing life, onto which valuable non-basic capabilities can be added. Securing the first ones takes priority over securing valuable non-basic capabilities in a theory of justice (even if providing the latter is still relevant for achieving justice). Later in my discussion, I will mention other relevant capabilities, including collective ones, which should be considered in a theory of NRJ. Even if more capabilities, in addition to the ones just outlined, are recognised as valuable for individuals to hold, they are less minimal and universally valuable than the basic capabilities defined above. They should be specified depending on what individuals and the society they live in consider valuable. However, to analyse a fair allocation of rights to natural resources, I take the basic capabilities outlined above as a fitting starting point. As I discuss in the next section, those are the capabilities that a fair allocation of resource rights should first strive to secure.

#### **4.4 Natural Resources and a Decent Life**

In this section, I begin to draw a link between capabilities and natural resources. Natural resources are relevant to capabilities in two ways: first, they are essential for survival and for satisfying basic capabilities, and they are thus necessary for a decent life; second, the environment in general (made of ecosystems, which include natural resources) is one of the elements on which all capabilities partially depend. This section addresses the first point.

The idea of a decent life discussed in the previous section is connected to the so-called *social minimum*, considered in theories of justice “to refer to the bundle of resources that a person *needs* to lead a *minimally decent life* in their society” (White,



2015; emphasis added). Adopting the language of capabilities, a social minimum is the bundle of resources that a person needs to have the capabilities (survival and basic capabilities) constitutive of a decent life. Individuals must have enough natural resources to live a decent life, although resources are not a sufficient condition. Other conditions, such as the absence of physical constraints and a degree of autonomy, are, for instance, necessary. However, it is undeniable that resources are essential. More specifically, some natural resources (e.g. water, clean air, land) are crucial elements that make life possible. As Armstrong writes, “Some natural resources (such as water) are essential ingredients of any human life” (2013, p. 331). Although natural resources are not exceptional (Armstrong, 2017; Blomfield, 2019), nor do they carry a special value, a fair distribution of rights to natural resources should be considered in theories of justice. Without some natural resources, human beings would not survive, let alone flourish.

The idea of the social minimum is linked to the concept of *needs*. Individuals should have enough natural resources to satisfy their basic needs, on which a minimally decent life depends. A theory of NRJ should address the satisfaction of basic needs, and this should have priority over further considerations. The theories examined in Chapters 2–3 have linked natural resources and basic needs: natural resources are instrumentally valuable to meet basic human needs. Risse’s (2012) Common Ownership explicitly regulates providing resources to human beings to meet their basic needs. Blomfield’s first principle is a “Basic Needs Principle” analogous to Risse’s. Armstrong’s first principle of NRJ requires “for each of us access to the resources necessary to meet our basic rights” (2013, p. 333).<sup>41</sup> Theorists of territorial rights recognise that collective control over territory and resources is relevant to meeting members’ basic needs and that collective rights to resources

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<sup>41</sup> Although Armstrong (2017) generally talks of rights instead of needs, this is more an issue of terminology, rather than an extremely relevant conceptual difference.

should be constrained, if they prevent the satisfaction of outsiders' basic needs (Moore, 2015; Nine, 2012; Stilz, 2019).

Although those theories focus on needs rather than capabilities, there are relevant links between the basic needs approach and the capabilities approach (Brock and Miller, 2014; Fukuda-Parr, 2003). In Reader's definition, "BNA [the basic needs approach] proceeds by identifying a set of 'basic human needs', then designing political systems to meet those needs" (2006, p. 338). Capabilities theorists have underlined the connection between basic needs and capabilities/functionings. Sen writes that "the specification of basic needs of commodities has to be related to the recognition of their role in the achievement of functionings" (1988b, p. 19). Basic needs have an instrumental role within the capabilities framework: they are valuable because they are linked to capabilities and functionings (Sen, 1987, p. 25). The existence of this link is reflected in the notion of basic capabilities conceived as "capabilities to meet a basic need" (Alkire, 2002a, p. 163), already mentioned in the previous section.

An obvious question is then: why should we focus on capabilities rather than basic needs directly? There have been many objections advanced by Sen (1984, pp. 513–515) and by other capability theorists (Alkire, 2002a, pp. 154–196; 2005) to the basic needs approach. Several scholars have suggested that the capabilities approach considers freedom of choice more explicitly than a basic needs framework (e.g. Leßmann, 2011).<sup>42</sup> Scholars also argue that the basic needs approach is not at odds with the capabilities approach, and the latter can usefully specify the former (Robeyns, 2017, pp. 174–179). In practical terms, the capabilities approach has essentially integrated the basic needs one since "many of the earlier key advocates of the basic need approach are pursuing their goals now under the umbrella of the

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<sup>42</sup> I shall not further examine this contrast here due to space constraints. See, for instance, Reader (2006).

human development paradigm” (Robeyns, 2017, p. 176), which is informed by the capabilities approach. Hence, much of the discussion on basic needs has been recast in the language of capabilities, which has proved to be a more ecumenical framework than the former, both in its theory and application.

The fact that the capabilities approach has substantially incorporated the basic needs approach proves two points. First, a capabilities framework is not at odds with the theoretical framework (based on basic needs) that other scholars have adopted to discuss the issue of natural resource distribution. Second, the same scholars have not recognised how the capabilities approach has incorporated the basic needs one. The framework I adopt here is sensitive to this change in perspective and recognises how the capabilities approach has incorporated the discussion on basic needs. Natural resources are essential for satisfying basic capabilities related to basic needs, which are essential elements of a decent life (together with the capability of life).

In what follows, I specify how natural resources are related to capabilities. As per the definition given in the Introduction, natural resources are those resources that are part of the environment, not originally produced by human beings but valuable for them (see Armstrong, 2017, p. 11). Their value can be expressed in economic, cultural or symbolic terms. Land is included in this definition of natural resources. Moreover, I consider the environment, made of different ecosystems (which include plants, animals and non-living entities), as an extension of the narrower concept of natural resources outlined above.<sup>43</sup> I will return to this point in the next section. Examples of natural resources necessary for living a decent life are water, land, clean air and food sources. In this understanding of the term, natural resources are, to a certain extent, *quantifiable* goods that can be used in different

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<sup>43</sup> Moore uses a broad definition too, which includes “land, water, air, and sunshine are resources, as well as plants, animals, and mineral ores” (2015, p. 163).

shares by individuals and communities.<sup>44</sup> Their use should be regulated (and restricted, where relevant).

The definition of common-pool resources helps clarify this further. I draw from Ostrom's definition (1990) and her analysis of the "tragedy of the commons", namely the fact that, in conditions of scarcity, individuals seem to ignore the negative externalities that occur when they use a commonly held resource, because no individual has any incentive to reduce the exploitation of that resource. The definition of common-pool resources includes the following elements: (1) partial or total non-exclusivity: resources can be exploited by any individual or community (since they are not privately owned); (2) rivalry: the use of some (part of) resources by agents subtracts from the amount available to others. Examples of common-pool resources include, among others, forests, lakes, rivers, oceans, fisheries, pastures, and clean air (Ostrom, 2008).

The second characteristic of the definition of common-pool resources, i.e. rivalry, is interesting in this context. The rivalry feature means that a common-pool natural resource can be split and used in different quantities, which are then subtracted from the whole resource. This is a plausible understanding of the concept of resources, conceived as goods that are dividable among specific agents and usually unavailable to others after being consumed by particular agents (see Risse's Common Ownership view). Many natural resources are common goods in Ostrom's sense. However, it should be kept in mind that not all natural resources are (e.g. sunlight would be a public good, like other sources of renewable energy, as they are non-subtractable).

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<sup>44</sup> I take clean air to be "quantifiable" in the sense that there have been policy-based as well as theoretical discussions over shares of clean air and carbon emission permits (Gardiner *et al.*, 2010).

In light of the previous analysis of the importance of a decent life in terms of capabilities, the following principle of justice in natural resource distribution follows:

- (i) All individuals should be entitled to secure rights over the natural resources that are essential for the capability of life and for holding basic capabilities.

Suppose the current distribution of natural resources infringes upon people's capability of life and their basic capabilities. In this case, natural resources should be redistributed so everyone has enough resources to lead a decent human life. Rights to essential natural resources should be guaranteed to everyone, meaning they are not *pro tanto* or defeasible rights. I am not providing an exhaustive list of which natural resources are relevant for each of the elements of a decent life, since this is to be further specified at the level of empirical analysis. However, some straightforward examples can be mentioned as a starting point.

Considering the capability of life, every individual needs water, clean air, land and some food sources. Those natural resources, in the sense of resource kinds (i.e. types of resources, such as water and clean air), are non-substitutable, and individuals should be granted access and use rights to a share of each of them no matter what.<sup>45</sup> The specific resource of a particular type (i.e. resource token, such as a *specific* stream of water) is instead geographically substitutable in many cases, though only in some cases.<sup>46</sup> This happens when individuals have generic relationships to natural resources. However, generic relationships do not exhaust all the possible connections that individuals can have to natural resources (I will

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<sup>45</sup> Instead of "use rights", Armstrong talks about *withdrawal* rights, as the rights "to obtain subtractive benefits—to obtain or remove resource units for one's use, or to consume and thereby remove their capacity to provide the same benefits for others" (2017, p. 22).

<sup>46</sup> For a distinction between resource kinds and specific resource tokens to which people have geographically non-substitutable relationships, see Angell (2021a).

discuss this in Chapter 5). For instance, I could drink any available water to survive and access any share of (inhabitable) land.

Additionally, other natural resources are interchangeable across the same category. For example, food sources are necessary for each individual to survive and hold basic capabilities; however, food sources can be land products (i.e. plants) or animals. As I will argue in Chapter 7, animals are currently used as natural resources (mainly as food sources) but can also not be considered natural resources. Furthermore, providing additional natural resources is relevant for holding the basic capabilities necessary for a decent life. Consider the basic capability of health: sunlight is another example of an essential natural resource to which individuals should have access (although it is not a common-pool resource, as mentioned above).<sup>47</sup>

This brief overview shows that *specific kinds* of natural resources are relevant for the capability of life as survival and basic capabilities. Those resources are non-substitutable for individuals. However, the natural resources necessary for life and basic capabilities do not exhaust all the resources available globally.<sup>48</sup> Other natural resources (i.e. fossil fuels), which carry only monetary value and over which individuals do not need secure rights, could be more easily substituted by financial compensation, and benefits stemming from them could be best redistributed through a tailored system of resource taxes to offset inequalities further (Armstrong, 2017; Blomfield, 2019). In the next chapter, I will discuss in detail the issue of non-substitutability in the context of particular relationships that occur

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<sup>47</sup> Recall that the value of these “manna from heaven” type of resources could not be considered in a theory such as Nine’s (2012), since she focuses on resources that can be improved to achieve minimal conditions of justice (see Chapter 3).

<sup>48</sup> Regarding the distinction between natural resources necessary for a decent life and additional resources, Schuppert writes that “the existing literature fails to adequately differentiate between the resources an organism needs for its survival and resources which seem of lower importance” (2012, p. 220). For instance, Risse does not clearly differentiate between the resources that are relevant for basic needs satisfaction (e.g. water, food sources) and the resources that are not, which could be more easily substituted by monetary compensation (see Chapter 2).

between people and natural resources. I will show that the capabilities approach can recognise a broader range of natural resources that are non-substitutable for specific individuals (and communities), in addition to the ones usually considered necessary for *all* human beings.

Finally, I want to highlight that employing capabilities as the metric of distributive justice implies that a fair allocation of natural resources does not entail granting individuals equal shares of resources, a proposal that many theorists of NRJ have criticised (Armstrong, 2017; Blomfield, 2019). The recognition of interpersonal variations is one of the main strengths of Armstrong's theory, as I have highlighted in Chapter 2. Individuals who need access to more (or specific) resources to reach a certain level of well-being will be granted access to more (or specific) resources. Individuals in different societies will derive well-being from natural resources in a way that depends on various factors, such as property rules, conventions on resource use and levels of technology (Armstrong, 2017, p. 86).

The same reasoning holds for capabilities since the emphasis is not on the means (i.e. the resources) but on the ends people want to achieve. As argued in section 4.2, the capabilities approach considers individual differences: people need resources in different shares to reach the same level of functionings, given that they have different conversion factors that affect their ability to convert means into ends. A simple equality of natural resources would miss this critical point. Shares of resources (as well as types of resources, as I argue in the next chapter) must be tailored to specific individuals and responsive to interpersonal variations. To guarantee the satisfaction of basic capabilities for every individual, simply equalising resources is then indefensible. As Armstrong (2013) rightly argues, this would imply a setback in offsetting inequalities. Natural resources should be distributed so that individuals can access enough to reach, at least, the same level of a decent life.

#### 4.5 Capabilities and the Environment

In section 4.4, I have argued that natural resources are essential for individuals to live a decent life. In this section, I argue that the environment broadly conceived is one of the elements on which all capabilities partially depend.

I have previously suggested that the environment, made of different ecosystems (which include plants, animals and non-living entities), is an extension of the traditional concept of natural resources generally employed by theorists of NRJ. Thereby, considering the natural environment can seem, at first glance, an inconsistency or a misdescription within a theory of NRJ since the term *resource* refers *in primis* to some material things that are, to a certain extent, distributable in measurable shares to recipients. The environment – made of non-substitutable ecosystems – is not dividable nor quantifiable. The environment is not a natural resource according to the standard meaning of the word, although in a way, it still is one. In line with the standard definition of natural resource, it is not humanly made, in the sense of being produced or created by human beings (human beings have, however, modified it), and has some value for human beings. I call the environment a *structural natural resource*. It is the structure in which all human lives and actions take place and has some fundamental value for their lives – without it, they would not be possible.<sup>49</sup>

Theorists of NRJ have recognised the value of the environment for human beings. For instance, Risse (2012, p. 181) sees natural resources as part of the “natural capital”, which is the capacity of nature to provide human beings with some form of utility. Armstrong (2017, p. 12) mentions the difference between the

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<sup>49</sup> Recognising the environment as a “structural natural resource” is another difference that could be highlighted between a capabilities-based theory to NRJ and a Rawlsian theory. Natural resources would fit Rawls’ notion of primary goods, but the environment broadly conceived would not (Schramme, 2006). Several scholars have discussed extensions to Rawls’ theory for climate justice (e.g. Kenehan, 2015; Kim, 2019), but this debate goes beyond the scope of the present analysis.



concepts of “natural wealth” and “natural resources”, where the former refers to the sources of natural resources (i.e. ecosystems) and the latter to the resources contained in them. Armstrong (2017, pp. 230–231; 2024, pp. 30–50) also considers the protection of some natural resources that are vital for the continued functioning of ecosystem services, such as trees, which prevent soil erosion and flooding. However, none of the existing theories of NRJ extensively discusses the role of the environment, as opposed to natural resources that can be quantified, consumed, or removed.<sup>50</sup> Against those theories focusing on natural resources only in terms of ecosystem services (i.e. the contributions that ecosystems make to human well-being, such as providing them with vital natural resources), a theory of NRJ should expand its focus to encompass the environment by looking at ecosystem processes (i.e. the processes that sustain the well-functioning of the ecosystem regardless of humans benefitting from them).<sup>51</sup>

Considering the environment and its different ecosystems is relevant to a theory of NRJ for two reasons. First, there is a clear connection between natural resources and the environment, given that natural resources are embedded in the broader environment. Some natural resources (e.g. trees) contribute to sustaining the well-functioning of ecosystems, as Armstrong (2017, pp. 230–231) rightly notes; at the same time, ecosystems are the source of many natural resources. Second, this connection notwithstanding, there is a significant conceptual difference between natural resources and the environment, which a theory of NRJ can help clarify. The environment is more than the sum of its constituent natural resources. It is helpful to refer to Schuppert, who writes that human well-being depends on providing “the

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<sup>50</sup> In his latest book on the biodiversity crisis and global justice, Armstrong (2024) addresses the problem of biodiversity loss, which includes ecosystems, and innovatively argues for conservation policies aligned with the aims of global justice. However, this is not part of his comprehensive theory of NRJ (Armstrong, 2017), even if it could be a very useful addition to it.

<sup>51</sup> This extension could be called “natural ecosystems justice theory” since the environment is made of different ecosystems, although I maintain the terminology of NRJ for clarity purposes.

life-sustaining benefits which functioning ecosystems produce” (2012, p. 218). Schuppert refers not only to “actual physical resources” but also to the benefits of life-sustaining ecosystems, which include provisioning services (as sources of natural resources) as well as broader services, such as regulating services (e.g. climate and soil regulation).

The capabilities approach seems to be especially well-suited to highlight the limitations of the current debate on NRJ, which is far too focused on resources in a strict sense of the term and tends to forget about the ecosystems in which those resources are often embedded and on which human well-being depends. The notion of conversion factors captures the instrumental link between the environment and individual well-being (Polishchuk and Rauschmayer, 2012). As introduced in section 4.2, Sen lists environmental conditions among the relevant conversion factors for capabilities (see Robeyns, 2005a, p. 99). In addition to personal and social variations, environmental variations affect an individual’s conversion rate from resource characteristics to achieved functionings (Sen, 1999a, pp. 70–71). Environmental conditions affect the exercise of capabilities since individuals depend on their surrounding environment to convert them into relevant functionings (e.g. Ballet, Koffi and Pelenc, 2013; Pelenc *et al.*, 2013). As stated in the Human Development Report 2020, there is an instrumental way in which the environment is valuable for human capabilities: “The interaction with the Earth system is a key factor defining other capabilities based on its instrumental role. The erosion of biosphere integrity affects the ability to transform resources into functionings” (UNDP, 2020, p. 42). Hence, the environment is indissolubly correlated to the exercise of any capability.

It is essential to highlight that access to a suitable environment is not only a capability among others. This aligns with Holland’s (2008a; 2014) criticism of Nussbaum’s capability of “control over one’s environment”. Control over one’s environment stands for the idea of being able to hold property (both land and

movable goods) and of having property rights on an equal basis with others (Nussbaum, 2006, pp. 77–78). This capability is closely related to individuals' claims over their surrounding (natural) environment. In Holland's view, this should not be simply a capability amongst the others but it should come before all other capabilities. Human beings ought to have an adequate environment that enables their capabilities. Referring to Nussbaum's list, Holland writes that "having each central human capability requires having a natural environment that enables the components of that capability" (2008a, p. 323). What matters is "the environment's instrumental value to human capabilities" (2008a, p. 320). Holland further argues that any account of basic capabilities fails to be sound if the importance of this prior capability is not recognised. In her terminology, this is a "meta-capability" which "involves being able to live one's life in the context of ecological conditions that can provide environmental resources and services that enable the current generation's range of capabilities" (2008a, p. 324; emphasis in original).

Holland is correct in arguing that environmental conditions affect the ability of human beings to exercise *any* capabilities. The capability of life and basic capabilities require the surrounding natural environment. For example, consider the capability of being healthy: living in an appropriate ecosystem is directly related to people's health. A polluted environment hinders, to a high degree, the capability of individuals to live a healthy life. More extensively, all capabilities, not just basic ones, require an adequate environment to some extent. Take the non-basic capability to swim: the ecosystem-sea must not be polluted to exercise it without harming one's well-being.

However, I do not conceive of access to a suitable environment as a meta-capability in Holland's sense. As argued by other capabilities scholars (Robeyns, 2017, pp. 170–171; Schlosberg, 2012a), an environment that provides necessary ecosystem services is a non-substitutable *precondition* for human well-being. A prerequisite for holding capabilities is not a capability in itself. Although Holland is

correct in her analysis of the environment as a necessary precondition for holding all capabilities, her terminology of a “meta-capability” would be best dropped to avoid any confusion between a precondition for something and that specific something itself.

The connection between the environment, as a structural natural resource, and capabilities differs from the connection between natural resources and capabilities that I have discussed in section 4.4. In the previous case, the focus was on the provision of specific (shares of) natural resources, necessary for the capability of life and for basic capabilities. In the present case, the focus is on well-functioning ecosystems essential to exercise *any* capabilities, starting from the capabilities required for a decent life. This grounds the following principle of justice:

- (ii) All individuals should be entitled to secure access to an adequate environment since suitable environmental conditions are essential for exercising capabilities.<sup>52</sup>

Here, I understand “adequate” as sustaining at least human well-being, defined as a decent human life (see section 4.3). The recognition of this right has significant implications in terms of environmental protection duties. If individuals are entitled to secure access to an adequate environment, then its protection (i.e. the protection of valuable ecosystems and the earth more broadly) is a duty of justice. As Schlosberg writes, “flourishing for human beings means providing for those ecological support systems that make our functioning possible” (2012a, p. 171). This holds for present generations, as well as for future ones, assuming that there

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<sup>52</sup> As I will argue in Chapter 7, an analogous right can be defended for non-human animals (this is also valid for principle i).

### *Capabilities and Natural Resources*

are relevant duties of intergenerational justice.<sup>53</sup> Guaranteeing individual access rights to a suitable environment implies protecting specific ecosystems that are vital for survival and for exercising basic capabilities. This occurs both at the local and global levels.

Locally, specific environmental conditions must be preserved for the well-being of particular individuals. Every individual needs access rights to an adequate surrounding environment. For instance, consider the challenges that populations of SIDS currently face due to ravaging climate-related issues on their territory. The claim of these populations to an adequate (surrounding) environment is currently violated where they reside. This triggers ensuing duties of justice since individuals are entitled to rights to a suitable environment necessary for their flourishing. This entails rights to the specific and non-substitutable natural resources vital for a decent life, such as water and food sources, and a right to enjoy an environment free from natural disasters and hazards, which hinder individual well-being. The following duties of justice would require either sustaining habitability and increasing adaptation measures in the region or offering access to an alternative suitable environment (see Chapter 8).

Globally, specific ecosystems affect environmental conditions across the rest of the planet and, consequently, human lives and well-being. Mancilla (2016b) refers to “systemic commons” to denote areas that provide vital ecosystem services, meaning that their loss would jeopardise the lives of all human beings. Think of the Amazonian forest, the Arctic and the Antarctic regions. These ecosystems are more than the sum of their natural resources and should be conceived as globally relevant structural natural resources. In line with the point mentioned above (about locally relevant ecosystems), the individuals (and communities) who reside in those

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<sup>53</sup> It is outside the scope of this work to defend an account of intergenerational justice. I take as valid that future generations have justice-based claims to a decent life and to exercise capabilities. Thus, environmental destruction is an injustice for both present and future generations.

regions are entitled to secure access to an adequate surrounding environment. This would be the case for Indigenous peoples living in the Amazonian forest or the Inuit population in the Arctic region, who have legitimate claims to maintain adequate environmental conditions that sustain their livelihoods in those specific regions, as I will further clarify in Chapter 5.<sup>54</sup>

However, the well-functioning of these specific ecosystems is relevant worldwide too, not only locally, because these ecosystems provide ecosystem services, such as climate regulation services, that are vital far beyond the boundaries of a particular region. In Chapter 3, I mentioned that theorists of territorial rights discuss claims over unoccupied land and resources, such as the Arctic and the Antarctic regions. I argued that their theories remain vague regarding the consequent distributive principles (Moore, 2015; Nine, 2012; Stilz, 2019). Since those critical ecosystems fall outside the scope of collective self-determination claims, these scholars argue that they should be subject to international (or bilateral) agreements among political collectives, keeping in mind duties of environmental justice (Stilz, 2019) and intergenerational justice (Moore, 2019). A useful specification to add would be that all individuals have claims to well-functioning globally relevant resources. Those ecosystems are relevant to sustaining environmentally adequate conditions worldwide, which are, in turn, fundamental for the exercise of human capabilities.

Interestingly, Holland identifies similar implications stemming from her discussion of the environment as a meta-capability. More specifically, Holland (2008a, p. 325) argues that her ecological meta-capability requires:

- (1) the protection of ecological systems at a level that promises to sustain the conditions of life on earth and
- (2) the protection of ecological systems at a level that promises to sustain the particular resources and maintain the physical context for

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<sup>54</sup> See also Armstrong (2024).

### *Capabilities and Natural Resources*

environmental experiences that enable threshold levels of other central human functional capabilities.

Condition (1) roughly corresponds to what I have called globally relevant structural natural resources; condition (2) captures the local context since individuals need access to an adequate *surrounding* environment to exercise valuable capabilities. Unlike Holland, however, I do not endorse Nussbaum's list of central capabilities and I argue that the environment should be (at least) protected to guarantee the same level of a decent life for every individual, as defined in section 4.3. Principle (ii) could be then further specified in the following way:

- (ii) Since suitable environmental conditions are essential for the exercise of capabilities:
  - a. all individuals should be entitled to secure access rights to an adequate surrounding environment;
  - b. the well-functioning of essential globally relevant structural natural resources (e.g. the polar regions, rainforests) that affect environmental conditions worldwide should be guaranteed.

It is beyond the scope of the current analysis to provide a detailed discussion of questions of environmental protection, duties of conservation and where the responsibility should fall.<sup>55</sup> Due to space constraints, I have only sketched some relevant implications which should be unpacked further. The upshot is that focusing exclusively on removable, quantifiable or consumable natural resources misses essential connections between the environment (and its constituent resources) and human well-being. Malfunctioning and loss of crucial ecosystem services can affect the provision of other natural resources with a domino-like effect

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<sup>55</sup> See Armstrong (2017; 2024).

and can have a damaging impact on capabilities. A theory of NRJ based on capabilities can capture this relevant connection by emphasising the role of environmental conversion factors. Thus, a capabilities-based framework manages to address essential considerations of environmental protection, which are especially relevant in the face of climate change and the current biodiversity crisis, and which most theories of NRJ to date tend to overlook.

#### **4.6 Conclusion: Principles of NRJ for a Decent Life**

In this chapter, I began to outline a theory of NRJ based on the capabilities approach, which I will further develop in the following chapters. I showed how capabilities and resources are connected, even if the capabilities approach was theorised as a superior metric of justice compared to primary goods and resources. Resources are instrumentally necessary for capabilities. The strength of the capabilities framework is that it goes beyond merely considering resources and looks at how people differentially use resources to achieve relevant ends. The principles of a theory of NRJ should be responsive to individual variations. This entails that bundles of resources should be adjusted to account for individual differences (instead of being equal shares of resources).

I discussed natural resources as one of the necessary drivers of capabilities. Focusing on relevant capabilities (for a decent life) allows us to narrow down the types of natural resources that are worthy of consideration in a theory of NRJ, by pulling out some specific natural resources from the set of all natural resources. At the same time, focusing on capabilities allows us to broaden the standard definition of natural resources, traditionally conceived in terms of measurable and shareable goods. Stressing the relevance of environmental conversion factors, I argued that the environment can be considered a structural natural resource and is a necessary precondition for exercising capabilities. The following principles of NRJ follow:



- (i) All individuals should be entitled to secure rights over the natural resources that are essential for the capability of life and for holding basic capabilities.
- (ii) All individuals should be entitled to rights over an adequate environment since suitable environmental conditions are essential for exercising capabilities.

Finally, I want to underline three limitations of the above discussion. First, the analysis here is anthropocentric, as it considers only human beings' claims over natural resources. I shall address this limitation in Chapter 7. Second, I left aside a broader discussion regarding principles for a fair distribution of those resources that are not essential for living a decent life. Due to the pluralism of the capabilities framework, I am in favour of additional egalitarian principles of distribution for those resources that carry only an economic value and can be substituted with monetary compensation. As mentioned in the chapter, a targeted system of resource taxes for substitutable resources, such as fossil fuels, is compatible with the principles of NRJ that I have outlined. Third, I am defending principles for a theory of NRJ. However, as Sen argued, environmental conversion factors are but one of three classes of relevant factors, including personal and social factors. Natural resources and the environment are indeed necessary. Yet, capabilities depend on many additional factors that a more comprehensive theory of justice should consider, but these are beyond the scope of this work.

## 5. Attachment Claims to Natural Resources

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### 5.1 Introduction

In the previous chapter, I argued that a fair distribution of natural resource rights requires giving individuals secure rights over natural resources and an adequate environment. However, a theory of NRJ would be incomplete if the only matter of concern were general claims that *all individuals* have over natural resources, as those discussed in Chapter 4. In this chapter, I aim to complicate the picture outlined so far and start to ground additional principles of NRJ within a capabilities-based framework. I reject a blanket distribution of rights to natural resources to individuals, which has been defended by several scholars under a global justice framework (Beitz, 1975; Pogge, 2002a). In doing so, I seek to respond to the particularity question addressed by theorists of territorial rights who examine why specific individuals and communities have claims over a specific territory (with its natural resources). I consider particular individual claims to special resource rights based on legitimate attachment (in short: attachment claims).

Through the following analysis, I expand on the capabilities-based account of a decent life (Chapter 4) to explain which kinds of attachment to natural resources are sufficiently morally weighty to give rise to special resource rights. This is an important corrective to current theories that are too unspecific when grounding normatively significant attachment claims, such as theories of territorial rights (Chapter 3) and Armstrong's theory (Chapter 2). Since my account looks at *individual* basic capabilities, it is more detailed than existing theories and recognises the possibility that individual persons, *qua* individuals, can form legitimate attachments to natural resources that ground special resource rights. However, I acknowledge that, if we look at real-world examples, this often happens when

communities reside in specific areas and form a morally valuable relationship with their territory and resources. Consider, for instance, First Nations in Canada and their non-substitutable bond with their land. Or consider populations in SIDS and the effects of climate change on their territory. Many individuals living in SIDS hope to remain in their territory due to its significance for their distinctive types of livelihoods.

The structure of the chapter is as follows. Section 5.2 discusses legitimate attachment claims to natural resources, by expanding on the capabilities-based account of a decent life outlined in Chapter 4. Section 5.3 addresses the issues of legitimacy and scope that current attachment theories display. Additionally, I sketch some guidelines to navigate conflicting claims over the same resources through the idea of capability ceilings. Section 5.4 considers two objections to my account: paternalism and collective attachment. Section 5.5 concludes.

## **5.2 Attachment Claims to Natural Resources**

This section defends the normative significance of special resource rights based on legitimate attachment in addition to generic rights to natural resources. In the academic literature, scholars refer to “attachment claims” as those claims that occur when people form meaningful relationships with specific natural resources (Armstrong, 2014b; Lo Coco and Schuppert, 2021; Reibold, 2022). In what follows, I propose using the capabilities approach to explain which kinds of attachment to natural resources are sufficiently morally weighty to give rise to special resource rights. This is an important corrective to current attachment theories that are too unspecific when grounding normatively significant attachment claims.

My response based on capabilities supports an account of NRJ in some ways akin to Armstrong’s (2017) theory, which constitutes a third position between two types of theories: on the one hand, a purely global distributive account of NRJ, which

considers only general claims to natural resources without recognising people's particular relationships to them (Beitz, 1975; Pogge, 2002a); on the other hand, theories that take attachment into account normatively but fail to clearly differentiate between what is mere preference and what is legitimate attachment, and end up justifying overreaching claims (Moore, 2015; Stiliz, 2019). Within the view that I defend here, attachment claims are morally legitimate when the basic capabilities held by individuals depend on access to (or use of) specific natural resources. By using people's capabilities as a mediating concept, I argue that we can detect more precisely when attachment claims are normatively significant and can ground special resource rights.

Recall that I have highlighted that one of the main strengths of the capabilities approach is its ability to account for interpersonal variations, by recognising that different individuals require tailored amounts of resources to achieve the same level of functionings. I have noted that, among other factors, the characteristics of the environment in which individuals live impact their ability to actualise their capabilities (Polishchuk and Rauschmayer, 2012). This idea of environmental variations can be further specified by considering the possible types of connections that exist between basic capabilities and natural resources. In Chapter 4, I argued that everyone has general claims at least to the generic resources (e.g. water, clean air) necessary to live and hold basic capabilities. In an ideal scenario, without any particular relationship between people and resources and discounting individual differences, we could presumably agree on a blanket principle of resource distribution, such as equal shares of resources.

However, as recognised by theorists who defend the relevance of attachment claims (e.g. Armstrong, 2017; Stiliz, 2019), the reality is far more complex since, in many cases, people develop special relationships with specific natural resources. Hence, the second way in which capabilities and natural resources are correlated maps specific natural resources onto specific individuals, accounting for

interpersonal variations. When this happens, attachment claims are legitimate. Examining the capabilities that are necessary for a decent life (see Chapter 4), these special relationships occur in the following cases:<sup>56</sup>

- *Life*. To survive, every individual needs access to natural resources, such as water, air, land, food sources, etc. In some cases, individuals have developed a peculiar way of life in close connection to the availability of local resources (Watene, 2016, p. 293). These resources become geographically non-substitutable, such as in the so-called “subsistence economies” of many Indigenous peoples (Burnette, Clark and Rodning, 2018) or the case of small island communities (Stilz, 2019, pp. 179–180).<sup>57</sup>
- *Health*. Individuals sometimes rely on access to/use of specific natural resources to be healthy. These resources could be specific plants or mineral sources used to treat diseases and heal. An example is the relationship between traditional medicine and local natural resources (Alves and Rosa, 2007; Vandebroek *et al.*, 2011).<sup>58</sup>
- *Emotional and psychological well-being*. Being mentally and emotionally healthy can require access to specific resources that are central constituents of someone’s life (Landon *et al.*, 2020; Scannell and Gifford, 2017). For some individuals, specific natural resources have a cultural or symbolic value that

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<sup>56</sup> To corroborate the following list, I rely on empirical findings that show evidence of the impact of specific resources on people’s capabilities and functionings.

<sup>57</sup> In a sense, a subsistence economy is more than mere survival and is correlated with other capabilities of the list. In these cases, for example, an individual’s livelihood and work skills depend on using specific resources.

<sup>58</sup> Alves and Rosa argue that “the destruction of tropical forests has meant [...] increasing disappearance of native peoples who have been living in these areas and who have accumulated a compendium of folk knowledge about the usefulness of plants for curing various diseases” (2007, p. 4).

directly correlates with their psychological well-being.<sup>59</sup> Examples are religious sites (e.g. the Kailash mountain in Tibet), and situations in which individuals' lives are so profoundly dependent on specific natural resources that there is an irremediable decline in mental health if access to them is lost, as for professional surfers, skiers, etc.<sup>60</sup>

- *Social relations.* Keeping in mind that this is still an individual capability, some individuals have developed social bonds and relationships within a community that has thrived in connection with specific natural resources.<sup>61</sup> The dependency on particular resources to maintain social relations is especially strong in the case of many Indigenous or local (native) communities (Coulthard and Simpson, 2016; Reibold, 2021). Firstly, some Indigenous groups' collective existence and identity – on which individual members rely for their social relations – depend on connections with specific animals, environments and resources (Whyte, 2018). Secondly, many Indigenous peoples consider their relations with particular species or land as “social” (Reibold, 2021).
- *Education and knowledge.* This capability can require access to specific natural resources or ecosystems that are objects of study or represent some individuals' cultural and educational backgrounds. Examples include members of Indigenous and local communities whose education system is linked to access and research of specific resources and environments

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<sup>59</sup> As argued by Landon *et al.*, “symbolic value is derived from the ability of landscapes to support the pursuit of self-determined thought and behavior, a critical component of humans' subjective well-being and psychological functioning” (2020, p. 668).

<sup>60</sup> Mancilla (2021) gives the example of a professional surfer whose life is deeply dependent on access to beaches/sea where he can practise. Since this activity has the same relevance as work for the person's life (it is not just a hobby), the individual's mental health would be affected by a restriction on this resource use/access.

<sup>61</sup> Brehm notes that the natural environment “may also support certain types of social interaction among family or friends” (2007, p. 484).

(Burnette, Clark and Rodning, 2018),<sup>62</sup> but even scientists, environmentalists, etc., who spend their lives studying specific resources.

The cases just outlined show that some individuals' basic capabilities can be exercised only with access to/use of specific natural resources. When there is such a necessary connection, the attachment claim is not only a preference but holds in what is a normatively significant way, as a legitimate attachment claim. Note that the non-substitutability of natural resources and land is extremely relevant in this case. In Chapter 4, I argued that some natural resources (as resource types) and the environment as a structural natural resource cannot be replaced by monetary compensation, because they are necessary for humans not only for their economic value. In the presence of attachment claims, *specific* natural resources (as resource tokens) are relevant. Legitimate attachment grounds the following principle of justice in natural resource distribution:

- (iii) When the basic capabilities held by individuals depend on access to (or use of) specific natural resources (i.e. there is legitimate attachment), those specific individuals should be entitled to special resource rights over these natural resources and the specific environment in which they are embedded.

Two implications follow. First, considering this type of claim justifies the sense of incommensurability that occurs when a specific territory is lost for particular individuals (and communities), such as for members of Indigenous peoples in the context of land dispossession or populations of SIDS in the face of climate change. Second, the argument here is not that we ought to respect legitimate attachment claims whenever they occur, but that there are valid *pro tanto* reasons to justify special resource rights. It could be determined that, in some cases, such claims hold

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<sup>62</sup> The idea of a connection between education/knowledge and specific resources is conceptually similar to the idea of "Local Knowledge Systems" of Indigenous and local communities (Vandebroek *et al.*, 2011).

little weight compared to other considerations, such as concerns for environmental conservation or non-human interests. Additionally, this principle does not entail that individuals with legitimate attachment claims ought to have *exclusive* rights over the resources in question. I am making the more modest proposal of considering attachment claims legitimate in some specific situations and, when it happens, balancing and weighing them against other competing claims.

### **5.3 Addressing the Problems in Current Theories of Attachment**

This section answers the criticisms that I have previously advanced to Stilz's and Moore's account of attachment claims (Chapter 3) and Armstrong's innovative yet underdeveloped justification of attachment (Chapter 2). First, I consider the issue of legitimacy that affects all the theories just mentioned. Second, I address the issue of scope that affects theories of territorial rights specifically. Third, I consider a preliminary way to navigate conflicting attachment claims.

#### **5.3.1 The Issue of Legitimacy**

In Chapter 3, I discussed how theorists of territorial rights justify occupancy rights over specific places by relying on the idea of a "comprehensive life plan" (Stilz, 2013; 2019) or "legitimate expectations" (Moore, 2019). Stilz argues that the "occupancy of a particular place is of central importance for an individual's life plans and projects" (2019, p. 40). For some individuals, it would be impossible to carry out their comprehensive life plans without having access to a specific place. I suggested that this conception of an individual's central life plan is prone to a legitimacy issue since the centrality of someone's life plan amounts to a subjective notion (Angell, 2017). It is difficult to distinguish between legitimate attachments from non-legitimate ones grounded only in preferences or desires. Moreover, even if



*Attachment Claims to Natural Resources*

something is deemed central to someone's life plan, it could still require more resources than what is fair.

Consider the following cases:

(A) *Cosmopolitan immigrant*. Sophia has frequently lived abroad since childhood. She now lives in Switzerland but, throughout her life, she has moved to various countries for study and work-related reasons. She has a fulfilling and thriving life and enjoys the constant change in location.

(B) *Italian shepherd*. Gianni is a shepherd who still practices the tradition of "transhumance" in the Italian region of Abruzzo.<sup>63</sup> He has a fulfilling and thriving life in close connection to his geographical location and the natural resources available.

These situations are intuitively very different. Sophia (example A) has not developed any attachment claims that would arguably be morally significant. Gianni (example B) has a fulfilling existence only with access to the natural resources (sheep, mountains, pastures, etc.) found in his specific region, because the available resources shape the way he works and earns his living, his social relationships, his culture, his skill sets, and so on. So far, the difference between examples A and B can be captured by attachment theorists, such as Stilz, who connects some individuals' comprehensive life plans to places. Now, consider a different version of A:

(A1) *Cosmopolitan immigrant (modified)*. Sophia has frequently lived abroad since childhood. She now lives in Switzerland and goes fishing daily in a specific river for recreational purposes.

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<sup>63</sup> Transhumance is the seasonal migration of sheep flocks and shepherds.

Consider that the rest of her life is not bound up with the river, as her work, social relationships, and other essential activities of her daily routine (such as eating, cooking, etc.) are not linked to fishing or the river. Sophia could still argue that access to fishing in *that* river has become essential for her daily routine, life, and sense of self, and, thus, non-substitutable. Does she have a legitimate attachment claim to access that particular river? Can we say that fishing in that specific river is any different from Gianni's relationship with the natural resources of his region? Drawing from Stiliz's (2013) view, both cases could be seen as legitimate instances of attachment since she writes that, among other things, "some recreational pursuits are good examples of comprehensive projects" (p. 337). Nonetheless, it seems that these two cases are different. Still, if the criterion to distinguish them is to rely on people's ideas of their relevant life plans, we cannot fully appreciate the difference.

If attachment is not ultimately different from a preference, or if we cannot precisely tell under what conditions it obtains, we are drawn to the idea that attachment should not hold any normative value (Lo Coco and Schuppert, 2021, p. 58). Ypi (2017) objects to this in her critique of the normative significance of attachment claims, and she argues that attachment is a descriptive notion that can be respected only for practical reasons or as a result of other binding considerations (such as the presence of structural injustice). Ypi compares two real-world cases of potentially valid attachment claims: the claim to a right to fox hunting held by the British aristocracy versus the claim to seal hunting held by the Inuit people. She then rightly suggests that these situations are very different intuitively. Yet, she argues that they cannot be distinguished by relying on the nature of attachment but only by looking at additional considerations (i.e. structural injustice).

Instead, through the capabilities-based framework that I have proposed, these cases can be differentiated by analysing the nature of attachment itself. In Chapter 4, I specified the idea of a *comprehensive life plan* through my conception of a decent life, outlining a more objective account of human flourishing. In the previous

section, I applied this conception of a decent life and specified a (minimal) set of capabilities outside which attachment claims are not normatively significant. Attachment claims are no longer normatively significant after granting every individual the means to exercise their basic capabilities, which, in some cases, are connected to using/accessing specific natural resources. They are preferences or expensive tastes that – in conditions of non-scarcity – could be respected due to different considerations (such as practical reasons) but are not justifiable in terms of attachment. A capabilities-based account of human flourishing helps define a precise area outside which further attachment claims are over-demanding and not legitimate. Hence, they do not give rise to any special resource rights.

If we consider the examples of Sophia and Gianni again, here is how my account can explain the difference between them. None of Sophia's valuable basic capabilities depends on access to particular natural resources, even if she goes fishing in a specific river every day, and she feels that this activity has become a central part of her daily routine (unless fishing becomes her profession or her only source of sustenance). On the contrary, Gianni cannot exercise his valuable basic capabilities if he is not able to live in close connection to his region's resources and access to transhumance routes, either due to a forced relocation or to other external circumstances (such as the use of the same territory for non-compatible purposes, e.g. the investments in ski facilities that would destroy the surrounding ecosystem). Many relevant capabilities of Gianni's life have taken the form of specific functionings, such as the resource-dependent skills developed in connection to his region and its resources (*survival*), the traditional knowledge and practices linked to access to the local resources (*education*), the dependence on the area for emotional stability and the existence of his culture and tradition (*emotional and psychological well-being*), and the ability to belong to a specific socio-cultural context (*social relations*).

This capabilities-mediated response represents a relevant specification of the account of attachment claims defended by Armstrong (2017), which is grounded in an ambiguous concept of well-being. As argued in Chapter 2, Armstrong’s theory remains under-specific in its justification of attachment since it is not grounded in an objectively valid conception of well-being. I elaborate on this in what follows, drawing from scholars who tried to specify Armstrong’s view further (Lo Coco and Schuppert, 2021; Mancilla, 2021). Mancilla (2021, pp. 103–104) reconstructs and spells out the kinds of attachment implicit in Armstrong’s (2017) theory. She detects the following ones: *production-based attachment*, when the resource is needed for the production of goods that constitute an individual’s main source of income or means of subsistence; *activity-based attachment*, when the resource is relevant for certain activities, e.g. surfing; *belief-based attachment*, when the resource plays a fundamental role in an individual’s belief system; *knowledge-based attachment*, when a resource is an object of study; *emotion-based attachment*, when the resource triggers emotions such as love, awe, respect, or nostalgia in individuals; finally, *aesthetic-based attachment*, when the resource triggers an aesthetic response in individuals who wish for its continued existence.

The list of legitimate attachment claims grounded in basic capabilities that I have outlined above is more precise than Mancilla’s. More precisely, I recognise the first four types of attachments as mapping onto relevant basic capabilities, but I reject the so-called “emotion-based” and “aesthetic-based” attachments as too vague to ground legitimate attachment claims. These two latter types would ground legitimate attachment only if connected to relevant basic capabilities, such as, for instance, the capability of *emotional well-being*. However, mere appreciation for the existence of a resource – which does not have any specific cultural or symbolic value for individuals – does not seem to play a vital role in an individual’s well-being (see also Lo Coco and Schuppert, 2021).

Additionally, my capabilities-based account specifies the three broad categories of “proper attachment” given by Lo Coco and Schuppert (2021) in their critical analysis of Armstrong’s theory. Lo Coco and Schuppert (2021) reject appreciation as a ground for “proper attachment” and identify three categories of legitimate attachment: identity-defining; purpose- or meaning-giving; connected to a feeling of belonging and, thus, life-structuring. To ground their taxonomy, Lo Coco and Schuppert (2021, p. 57, fn. 3) draw from Reibold’s (2022) classification of relevant attachment to land as cultural, activity-based, and social. Cultural attachment (i.e. identity-defining) refers to the land’s cultural, historical and spiritual significance. Activity-based attachment (i.e. purpose- or meaning-giving) refers to certain place-based activities that structure an individual’s life and identity (e.g. farming or surfing culture). Social attachment (i.e. connected to a feeling of belonging and, thus, life-structuring) is the attachment to the land where we form our social relations.

The basic capabilities that I have outlined can be mapped onto one (or more) of those three categories in the following way. Cultural attachment is related to *emotional and psychological well-being, health, social relations, and education*; social attachment is primarily related to *social relations*; activity-based attachment is related to *life* (in the sense of peculiar ways of living, such as in subsistence economies), *health, emotional and psychological well-being, and education*. However, Lo Coco and Schuppert’s (2021) – and Reibold’s (2022) – categories also include putative attachments beyond the scope of what I consider legitimate attachment claims. Although Lo Coco and Schuppert rightly identify some of the values underpinning basic capabilities, tackling the issue of indeterminacy in Armstrong’s theory and the problem of grounding attachment on mere appreciation for the existence of a resource, they do so at the cost of over-inclusivity.

It is useful here to compare two cases: the British aristocracy's claim to fox hunting vs. the claims of populations of SIDS to their land and natural resources.<sup>64</sup> In terms of attachment claims, a defence of the aristocracy's claim could be framed in terms of a cultural attachment or an activity-based attachment. To explore the difference between this case and the case of populations of SIDS for what concerns cultural attachment, drawing from Margalit and Raz's (1990) notion of "encompassing groups" is useful. Some groups (i.e. nations, tribes) have "pervasive cultures": their cultural traditions are relevant for an extensive area of the members' lives and become focal points of identification. For instance, populations of SIDS are groups with pervasive cultures, and their culture inextricably depends on the significance of the land where they live. The British aristocracy's culture is not as pervasive and its connection to fox hunting is not an essential hallmark of their cultural, historical and spiritual identity (Reibold, 2022). The British aristocrats would arguably retain their identity, even without fox hunting.

However, they could still claim to have a legitimate activity-based attachment to fox hunting. As outlined above, activity-based attachment can be associated with the capabilities of *life, health, emotional and psychological well-being*, and *education*. Some of those capabilities are not associated with fox hunting (*health, education*); *life* in the sense of survival or as a peculiar form of subsistence economy is also not associated with fox hunting since this is a free-time activity, not a means of subsistence. The last capability to consider is *emotional and psychological well-being*. If a member of the British aristocracy could demonstrate that his mental well-being was deeply affected by removing the recreational practice of fox hunting, their claim of attachment would be legitimate. To the best of my knowledge, though, I find it implausible. As argued by Landon *et al.*, "the ability of a place to afford

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<sup>64</sup> To illustrate this point, consider that in the Republic of Kiribati, the land is called "te aba", which also means "people", highlighting the deep identity-defining connection between the land and the population's identity and culture (see Chapter 8).

opportunities for recreational activities” does not ground a sense of identification with it and does not appear to affect one’s mental well-being deeply (2020, p. 667). Since their claim to fox hunting is unrelated to any valuable basic capability, it is not normatively significant.

As this comparison shows, looking at the basic capabilities underpinning attachment claims can be a helpful way to detect their legitimacy, ruling out cases in which special resource rights would not be justified on the grounds of legitimate attachment. This further helps address the problem of scope that I have raised in my discussion of territorial rights theories, to which I turn next.

### 5.3.2 The Issue of Scope

Looking at the connection between specific natural resources and basic capabilities helps address the problem of overreaching resource rights that theories of territorial rights display. My proposal limits the validity of special resource rights to the specific resources relevant to exercising individual capabilities, avoiding the justification of overreaching attachment claims. As argued in Chapter 3, the main question addressed by territorial rights theorists is one of control rights and jurisdictional authority. Their theories do not outline clear distributive principles that would discriminate between resource rights that should be held by different agents, in the context of overlapping jurisdictions.

Let me go back to the case of the Saramaka people introduced in Chapter 3. I mentioned how the Saramaka people, an Indigenous population residing in the Republic of Suriname, would hold legitimate resource rights over the forest where they reside, but not over the gold found in the same forest’s region. This differentiation depends on their different relation to the gold and the forest respectively. I noted how territorial rights theorists would not be able to separate resource rights in scenarios such as this one. Considering distributive criteria, such as looking at valid attachments in relation to the exercise of basic capabilities, can

help address this issue. Regarding the case of the Saramaka people, my capabilities-based account can explain why they have resource rights over the forest and its products but not directly over the gold in the region. On the connection between the Saramaka and the forest, these are the words of Head Captain Wazen Eduards ( IACHR, 2007, para. 82):

The forest is like our market place; it is where we get our medicines, our medicinal plants. It is where we hunt to have meat to eat. The forest is truly our entire life. When our ancestors fled into the forest they did not carry anything with them. They learned how to live, what plants to eat, how to deal with subsistence needs once they got to the forest. It is our whole life.

The Saramaka people have a legitimate attachment to the forest and its products since many of their basic capabilities (i.e. *life, health, education*) depend on access to that particular forest. But the same connection does not hold for what concerns gold (IACHR, 2007, para. 155). None of the Saramaka's basic capabilities depend directly on their relationship with the region's gold, and they only have general claims to gold, since this is an essential source of material wealth. Gold concessions could then be granted to the state of Suriname (as decided by the IACHR), which however would have to consult with the Saramaka people before exercising its mining concessions and give them parts of the benefits stemming from the resource extraction.

The capabilities-based account of attachment that I defend here can capture the differential treatment of these two cases, since it looks at a distributive criterion that goes beyond the simple question of control rights over territory, along with all its natural resources. Furthermore, my framework partially rejects the IACHR's decision regarding sharing benefits from gold extraction. The Court's decision takes the rightfulness of claims of the state of Suriname (and its population) to the income stemming from extracting its natural resources for granted, that is to say, full and



exclusive control rights given to the state according to the principle of permanent sovereignty. On the contrary, after satisfying a minimum level of flourishing for individuals and their capability to achieve collective self-determination, I share the view that principles of global distributive justice to natural resources should be applied (e.g. Armstrong, 2017; Blomfield, 2019). I will return to this point in Chapter 6, where I defend *limited* control rights that political communities can claim over their natural resources by invoking the value of self-determination.

### 5.3.3 Conflicting Attachment Claims

I conclude this section by briefly sketching a potential way to address the question of conflicting legitimate attachment claims. This issue has not been explored in the literature much, except by Lo Coco and Schuppert (2021) who suggest looking at the moral weightiness of underlying claims or values to assess conflicting attachment claims. Their starting point is sound, but their answer remains rather unspecified. Which interests and values should we look at? A capabilities-based theory is a good way to address this question since it provides a specific list of interests at stake.

Here, I assume that Agent A's use of a natural resource would prevent Agent B's use of the same resource. We should consider which basic capabilities depend on that specific natural resource to assess this case. Endorsing a partial ordering of capabilities could help solve conflicts; at least a partial ranking could be supported by looking at additional moral valuations related to the interests at stake, such as considerations of "urgency" (Sen, 1985, p. 198). For instance, *life* should have priority in case of a conflict with any other capability, as suggested in Chapter 4. Suppose we value basic capabilities unequally from the beginning. In that case, the higher capabilities (e.g. *life*) will always take precedence over others (e.g. *education*, *social relations*). This could help assess which legitimate attachment claim takes priority in case of conflicts.

Additionally, scholars of the capabilities approach have theorised the idea of “capability ceilings” to resolve conflicts over whose environmental relationships should be protected (Holland, 2008b; 2014). As opposed to “capabilities thresholds”, which specify a sufficiency level for basic capabilities, the idea of capability ceilings places an upper limit to exercising above-threshold capabilities that would prevent other individuals from satisfying their basic capabilities (at a threshold level). As Holland writes, establishing capabilities ceilings “would not only involve establishing what people should be able to do; it would also require establishing the limits of those capabilities, but only to the degree that they threaten other people’s capability thresholds” (2014, p. 147). In terms of natural resources, if Agent A uses a natural resource for purposes that are above a threshold level of satisfaction of basic capabilities and, at the same time, prevents Agent B from reaching the same threshold level, Agent A’s use of that resource should be restricted as much as to guarantee Agent B’s ability to achieve their threshold level of basic capabilities.

Keeping these considerations in mind as general guidelines, it should be added that, in real-world cases, comparing the capabilities sets underlying legitimate attachment claims may not be enough to be the discriminating factor, and further considerations should be added (i.e. feasibility constraints, sustainability concerns) when assigning resource rights to agents.

#### **5.4 Objections**

Before concluding, I consider two potential challenges to the capabilities-based response I have defended: the “paternalism objection” and the “collective attachment objection”.

#### 5.4.1 Paternalism

According to the paternalism objection, the examples of legitimate attachment I have discussed (e.g. Gianni, the Saramaka people, populations of SIDS) are paternalistic. For instance, I have depicted Gianni's life as someone who cannot and does not want to adapt but could have a flourishing life elsewhere. Two things should be noted. First, the starting point of this discussion was the recognition of interpersonal differences among individuals, which entails that individuals might lead different kinds of lives and, thus, require access to different bundles of resources. The capabilities approach is responsive to this consideration and does not prescribe a right (univocal) conception of the "good life".

Second, and relatedly, deciding that some individuals (such as the ones living a subsistence or traditional life) should give up their practices in favour of a more Western style of life would be paternalistic. If relocation were possible, one precondition would be that relocation resulted from personal choice and not an external imposition. A legitimate attachment claim holds if Gianni decides not to move away since his functionings (conceived as actualised capabilities) have taken a determinate shape due to the close and constant interaction with the resources and land where he lives. Although adaptation is possible (cf. Venkatapuram, 2011, p. 72), a conversion of his functionings would be a process, presumably a long one, with correlated transaction costs. Hence, Gianni's ability to exercise his basic capabilities would be hindered for some (arguably long) time and constitute a loss. This consideration also applies to the case of populations of SIDS that I discuss in Chapter 8.

#### 5.4.2 Collective Attachment

The second objection – the collective attachment objection – argues that my account is not rooted in individual claims but collective ones – an ambiguity that

Stilz (2019) and Armstrong (2017) display. Arguably, Gianni is a member of a distinct community, although not part of an Indigenous community, as in the example of the Saramaka people. However, note that the capabilities outlined in the previous section are all individually held (even the capability of establishing and maintaining social relations). Although, in real-world cases, legitimate attachment claims are often held by collective agents (Armstrong, 2017; Moore, 2020b), there is an essential difference between conceiving attachment directly as a collective claim and acknowledging the occurrence of similar individual attachment claims held by members of the same group.

Looking at community belonging as the ground for legitimate attachment seems to beg the question, because it shifts the problem one step further without first clarifying how individuals can be legitimately attached to resources. My account recognises the possibility that individual persons, *qua* individuals, can form legitimate attachments, regardless of the existence of a community with members sharing similar attachments. For instance, if I lived in an isolated mountain house with direct access to the woods, and all my life was structured around my interaction with that resource, my attachment would still be normatively significant, even if I were the only person holding it.

### **5.5 Conclusion: a Capabilities-Based Account of Attachment**

In this chapter, I showed that a capabilities-based theoretical framework of NRJ allows us to consider individual claims to specific natural resources, in addition to general ones. I defended the following principle of NRJ:

- (iii) When the basic capabilities held by individuals depend on access to (or use of) specific natural resources (i.e. there is legitimate attachment), those specific individuals should be entitled to special resource rights over these natural resources and the specific environment in which they are embedded.

### *Attachment Claims to Natural Resources*

By using the concept of capabilities to outline a more objective account of human flourishing, I provided an original and more precise justification of legitimate attachment claims. My capabilities-based response works as an important corrective to existing theories of attachment that are under-specific and overreaching. It addresses the problems of legitimacy and scope that current theories display and can provide some guidance on how to assess competing resource claims.

The analysis of legitimate attachment claims outlined in this chapter is important in the context of this dissertation. In Chapter 7, I will note how attachment claims to specific resources and environments hold for some animals (called “niche specialists”). More than human beings who are generally quite adaptable, animals often need access to specific resources to survive and flourish. For some animals who can live only in certain ecosystems, legitimate attachment claims hold in what is perhaps the most compelling instance of attachment (see Mancilla, 2021). Moreover, in Chapter 8, I will discuss how individuals living in SIDS have legitimate attachment claims to their territory and resources. I will argue that the presence of legitimate attachment justifies the population’s hope to remain in their country, which is increasingly affected by climate change. This, in turn, provides support for *in situ* adaptation measures, which are the only ones that would respect their attachment claims.

## 6. Collective Claims to Natural Resources: Self-Determination

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### 6.1 Introduction

In this chapter, I consider collective claims to natural resources in addition to individual ones. As I have noted in Chapter 3, defending only individual claims to resources does not cover all the different types of claims that human beings have over resources. In what follows, I argue for a form of collective resource rights over the natural resources where a self-determining political community is located. The aim is to show that collective claims to natural resources can be justified within a capabilities-based framework in an original way. The following discussion goes beyond the analysis of individual rights to resources examined so far and integrates individual and collective claims to natural resources and land into a coherent framework.

Before defending a limited collective claim to rights over natural resources, the preliminary question that I consider is whether the capabilities framework is irremediably individualistic and, thus, cannot account for claims held by communities in addition to individual ones. My analysis of the individualism of the capabilities approach contributes to an ongoing debate among capabilities scholars. I argue that an extension of the traditional individualistic focus of the capabilities approach is possible without betraying its foundational commitment. More precisely, I defend the idea of collective capabilities, i.e. capabilities that communities have, developed by scholars expanding on Sen's works (e.g. Evans, 2002; Gore, 1997; Ibrahim, 2006; Stewart, 2005). I then defend self-determination as a relevant collective capability to consider in a theory of NRJ. Among other

things, self-determination provides individuals with relevant capabilities and acts as a way to qualify how capabilities relate to actualised functionings.

Furthermore, I argue that recognising the connection between political communities (in non-statist terms) and a territory is essential because management of a territory and its natural resources is necessary to achieve self-determination. A self-determining political collective should be able to decide on the regulation and value(s) of its resources. The capability of collective self-determination, hence, justifies a form of resource rights held by political collectives. These rights do not amount to permanent sovereignty rights over natural resources but to a more limited set of control rights over resource use and management. Moreover, these rights can be overridden by distributive and environmental concerns.

The structure of the chapter is as follows. Section 6.2 examines the individualistic focus of the capabilities approach and concludes that it can be fruitfully extended to encompass collective considerations. Section 6.3 introduces the concept of collective capabilities. In section 6.4, I defend a principle of collective control rights over natural resources based on the value of self-determination of political communities. I also specify when this principle holds. Section 6.5 concludes.

## **6.2 Is the Capabilities Approach Too Individualistic?**

The capabilities approach was theorised by Sen (1980) to evaluate states of affairs in societies by examining the capabilities held by *individuals*. Several scholars have tried to integrate the individualism of the capabilities approach with additional considerations of the role that communities play (e.g. De Herdt and Deneulin, 2007; Deneulin, 2008; Deneulin and McGregor, 2010; Evans, 2002; Gore, 1997; Ibrahim, 2006; Stewart, 2013; Tonon, 2018). In what follows, I introduce this debate and argue that the foundational commitment to individualism of the capabilities approach can be extended to consider the role of communities.

First of all, it should be noted that the capabilities approach is not insensitive to the influence that society has over individuals. For capabilities scholars, starting from Sen and Nussbaum, social relations are crucial for individuals to live a worthwhile life. In Sen's view, the socio-cultural context affects an individual's conversion rate from resources to functionings. Nussbaum (2006) includes affiliation as one of her central human capabilities. However, both Sen's and Nussbaum's foundational commitment is individualistic: what matters are universal considerations that apply to all individuals, regardless of their belonging to any specific community (see also Nussbaum, 2000).

Their commitment to individualism has been the target of many critiques. Notably, Evans points out that the capabilities approach originally "focuses on individuals and their relation to an overall social context, not on collectives as the necessary link between the two" (2002, p. 56). Although Sen does indeed recognise the relevance of the social context for the exercise of individual capabilities, Evans (2002) notes that the capabilities approach rejects *communities* – specific communities rather than the overall surrounding social context – as autonomous elements of analysis and as holders of any rights (see also Venkatapuram, 2011, p. 237). Granted this, we should ask how exactly the individualism of the capabilities approach unfolds and whether it is possible to integrate it with direct considerations of communities as well.

Robeyns (2003a, pp. 43–44) clarifies that the capabilities approach is grounded in ethical individualism, a view that conceives first and foremost the individual as the unit of moral concern.<sup>65</sup> Individual capabilities are the informational basis for the *evaluation* of states of affairs in societies.<sup>66</sup> At this point, it is useful to look at

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<sup>65</sup> Robeyns distinguishes ethical individualism from ontological and methodological individualism. Due to space constraints, I am not going to investigate this further.

<sup>66</sup> This is a fruitful way to detect forms of oppression or inequalities within groups. If the attention were solely on the well-functioning of communities, internal problems would not be easily spotted.



the distinction between evaluative and prospective analysis, as formulated by Alkire (2008).<sup>67</sup> On the one hand, evaluative analysis entails comparative assessments of states of affairs in societies. Individual capabilities (and functionings) are the primary informational space, in line with ethical individualism. On the other hand, prospective analysis has a prescriptive, rather than diagnostic role. It seeks to identify policies and recommendations to increase the level of development in societies, which would lead to further capability expansion.

Going back to the question at hand, namely that of outlining fair principles of NRJ, it should be evident that the main aim is not only to evaluate current states of affairs and draw comparative assessments of how societies score (concerning resource distribution). There is an additional fundamental prescriptive role since a theory of NRJ seeks to ground principles that would improve states of affairs in societies. Among other things, this could be achieved by redistributing benefits stemming from resource use across societies, by more efficient management of key natural resources, and by delimiting a protected sphere of resources that are necessary for the exercise of valuable capabilities.

When we look at prescriptive aims rather than only evaluative ones, considerations of individual capabilities should be extended to include the community level too. As aptly noted by Deneulin (2008), it is necessary to study “structures of living together” to generate recommendations used to promote capabilities and enhance development in societies. If we focus only on assessing the capabilities held by individuals, we divert attention away from how groups can have a positive impact on capability expansion. As Alkire writes, “the vocabulary of capabilities [should] acknowledge group or collective capabilities and [...] greater attention [should] be paid to the production of capabilities by groups and collective

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<sup>67</sup> According to Alkire, evaluative analysis can be complemented with prospective analysis, which is used “to identify which concrete actions are likely to generate a greater stream of expanded capabilities, the better state of affairs” (2008, p. 32).

activities” (2008, p. 38). Hence, although the capabilities approach remains individualistic for evaluative purposes, there is room for considering the role of collectives for prospective analysis. Accounting for the role that collectives play in enhancing individual capabilities is key to achieving better states of affairs in societies. Later in the discussion (section 6.4), I will argue that granting limited control rights over natural resources to self-determining political communities plays a significant role in enhancing individual well-being. Before I turn to that, in the next section I suggest that the idea of collective capabilities can be included in the capabilities framework without issues of internal coherence.

### **6.3 Collective Capabilities**

This section introduces the concept of collective capabilities as an extension of the traditional focus of the capabilities approach on individual capabilities.<sup>68</sup>

“Collective capabilities”, also called group capabilities, are capabilities held by communities and not by single individuals (Evans, 2002). Evans argues that collective action is instrumentally relevant for individuals to gain the freedom to achieve the things they value. He draws attention to the fact that “for the less privileged attaining development as freedom requires collective action” (Evans, 2002, p. 56). Communities, whether small, such as local groups of people, or bigger, such as political communities, are essential to formulating shared values and goals as well as pursuing them. Evan’s idea is further specified by Stewart (2005), who argues that groups are important for individual well-being and capabilities. Stewart (2005, p. 190) writes that this happens in the following ways:

- Because group membership and group achievements affect people’s sense of well-being;

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<sup>68</sup> For an overview of the literature on collective capabilities, see Leßmann (2020).

*Collective Claims to Natural Resources: Self-Determination*

- Because groups are important instrumentally in determining efficiency and resource shares;
- Because groups influence values and choices, and hence the extent to which individuals choose to pursue valuable capabilities for themselves and others.

The role of collective capabilities in expanding individual well-being and capabilities is not hard to picture, since groups can often achieve shared goals that individuals alone would not be able to (Stewart, 2013). Additionally, there are specific benefits to individuals that stem from being part of groups, such as respect and empowerment (Alkire, 2002a).<sup>69</sup> For the context of a theory of NRJ, groups are often necessary to manage resources and attain more efficient outcomes. Groups also play a role in determining values; for instance, they can attribute specific values to natural resources.

It is worth emphasising that there is a relevant difference between individual and collective capabilities. Collective capabilities differ from individual ones in the process through which they come about, namely through collective action; and in the outcome, meaning that they have the potential to produce benefits for the community at large (Ibrahim, 2006, p. 404; Rosignoli, 2018, p. 817).<sup>70</sup> Although there is a link between the idea of collective actions or policies and collective capabilities, the latter notion goes a step forward, rather than only capturing the idea of collective action. As mentioned above, collective capabilities influence group choices and the attribution of values, such as the value of (specific) natural resources. Collective capabilities constitute “new capabilities gained by the individual through his participation in a collective action” (Ibrahim, 2006, p. 413).

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<sup>69</sup> It can happen that collective capabilities are not beneficial to some individuals who are part of the group, but this does not entail that they do not hold some value for other members of the community (Human Development and Capability Association [HDCA], 2013).

<sup>70</sup> Note that collective capabilities can be valuable or non-valuable, like individual ones (Stewart, 2005, p. 200). Valuable collective capabilities are, for example, the ability to exercise authority as a group, to improve a given situation collectively and to manage resources.

As such, they cannot be simply levelled down to the sum of individual capabilities. For example, the capability of an orchestra playing is not the same as the sum of all the capabilities of single individuals playing their instruments; or, as Stewart writes regarding a sports team, “the quality (capability) of a sports team is not the same as that of its members even though it consists solely of actions by the individual members” (2005, p. 200). Collective capabilities represent capabilities that individuals would not hold, were they not members of a group (Alkire, 2008; Deneulin, 2008). In the next section, I will defend self-determination as a relevant collective capability to consider in a theory of NRJ.

At this point, there is a relevant question left to address. If we grant the existence of collective capabilities, does this extension betray the traditional focus of the capabilities approach on individuals? Sen (2002) maintains that capabilities that are the product of collective action are still “socially dependent individual capabilities”. According to Sen (2002, p. 85), collective capabilities include only the capabilities related to humanity as a whole, such as the potential to achieve drastic reductions in child mortality. Sen does not seem to recognise the relevance of collective capabilities for communities smaller than the whole of humankind. However, this seems unreasonable, given the relevance of *specific* communities for the life of many individuals (e.g. the community life of the Quebequois, etc.).<sup>71</sup>

As explained earlier, Sen recognises the relevance of the overall surrounding social context in which individuals are embedded. His conception of “social context” is, however, somewhat ambiguous. It could mean access to a generic social context (i.e. one among a range of many) or access to specific contexts that are valuable for individuals. There are different types of specific communities (e.g. local

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<sup>71</sup> The relationship between individuals and communities has been recognised by communitarian scholars, who stressed – in different forms – the embeddedness of individuals within the social and cultural context in which they find themselves (e.g. Mulhall and Swift, 1992; Sandel, 1984; Taylor, 1992). It is beyond the scope of this chapter to further examine this debate.

communities, political communities) that can play a relevant role in individuals' well-being and differ from a generic social context. As aptly summarised by Rodin, "In short, people attach value to the particular character of the common life to which they belong" (2002, p. 149). This often requires participation not to *any* common life, which could in principle provide the necessary context for individual lives to unfold, but to a specific one; put differently, it requires "the particular form of shared practices within which our life is conducted and has been shaped" (Rodin, 2002, p. 150). Sen appears to be leaning towards recognising the importance of a general social context, rather than specific ones. Therefore, what Sen recognises as relevant falls short of the value that specific communities can have for individuals. Collective capabilities, which refer to the value of specific communities for individuals, are thus a helpful corrective to this deficiency.

Moreover, I want to emphasise again how advocating for the existence of collective capabilities does not irremediably challenge the foundational commitment of the capabilities approach, given that its ultimate unit of concern for evaluative purposes remains the individual level. We are still able to detect and criticise groups that are harmful to some of their members, without having to reject collective capabilities altogether. Additionally, collective capabilities can aptly capture the idea that some individual capabilities develop through specific social settings, or can be enhanced through them (Deneulin, 2008; Ibrahim, 2006). This extension of the capabilities approach allows us to recognise the relevance of specific communities for individuals' well-being. As I argue in the next section, this is helpful for a theory of NRJ that seeks to consider collective claims over natural resources.

## **6.4 Collective Claims to Natural Resources**

Defending only individual claims to natural resources is not a sufficient way to cover all the different types of claims that human beings have over resources. As discussed in Chapters 2 and 3, there are some claims to natural resources held by collectives. Blomfield (2019, p. 46) writes that both individuals and collectives have some claims over natural resources. Moore (2015) argues that people form collectives, such as political communities, and that communities form relations with their territory and resources. Although not all the resource rights that political communities currently claim (and hold) are justifiable – I am not going to defend a principle of resource sovereignty – failing to consider the relationships between individuals *qua* members of a community and their territory and natural resources would lead us to overlook a meaningful link that exists between people and resources.

In this section, I defend collective claims to natural resources based on the value of self-determination of political communities. I proceed as follows: first, I discuss why self-determination is relevant; second, I clarify which communities hold self-determination claims; third, I outline a principle of NRJ that prescribes a (limited) form of control rights over resources, necessary for communities to be self-determining; finally, I specify when this principle holds.

### **6.4.1 Self-Determination**

As discussed in Chapter 3, self-determination is one of the core values of theories of territorial rights (e.g. Moore, 2015; Nine, 2012; Stiliz, 2019). Currently enlisted as a fundamental human right, self-determination refers to the idea that all peoples are entitled to “freely determine their political status and freely pursue their economic, social and cultural development” (United Nations General Assembly, 1996). Political collectives (that I will define below) are entitled to control and decide upon

the rules regulating their living together. Self-determination implies a lack of external domination (Young, 2007), and the ability to establish a rule of law.

Collective self-determination is different from individual autonomy as a form of political control (Carter, 2016; Simmons, 2016). Capabilities scholars, such as Nussbaum (2006), include “political control” (i.e. freedom of association and political participation) among the central elements of human flourishing. Political control in this sense is an individual capability and is theoretically different from self-determination held by a political collective. I have previously criticised how Nine (2012) draws from Nussbaum’s capability of political control to ground collective rights over a territory (see Chapter 3). I have argued that Nine’s justification of collective rights over territory and resources based on the value of (individual) political control is not sufficiently explained. In what follows, I offer a better explanation. First, I outline the interdependence between the value of political control, as a relevant individual capability, and the value of collective self-determination, which is instead a collective capability. Then, I clarify that the collective capability of self-determination grounds *collective* resource rights rather than a concern for individual autonomy directly.

Recall that collective capabilities are produced by collective action and bring about benefits for the whole community (Ibrahim, 2006). Self-determination is a collective capability that individuals would not be able to exercise alone, and it produces benefits for the whole community, starting from the provision of laws regulating society.<sup>72</sup> This idea of self-determination as a collective capability is not new in the literature. For instance, Murphy (2014, pp. 323–324) defines it as follows:

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<sup>72</sup> I take self-determination to be a capability and not a right because it carries a degree of potentiality. Not only do already self-determining political communities have the capability to do so (in the capabilities language, they are already exercising a functioning), but even political communities that are not self-determining yet can have this capability. The language of capabilities is not incompatible with that of human rights, but the two are linked (see section 4.3).

the collective capability for self-determination encompasses the freedom to determine the character and boundaries of the political community itself, including the criteria for membership and political participation; the freedom to establish institutional mechanisms of collective deliberation and decision-making; and, perhaps most importantly of all, the freedom to make decisions as a community in the absence of external interference or domination.

Murphy (2014) stresses the importance of collective self-determination for Indigenous peoples, which serves as a way to combat their disadvantage and disempowerment. In section 6.2, I argued that the capabilities framework can account for the existence of collective capabilities for development purposes (i.e. for prospective analysis). Collective self-determination, when legitimately held, acts as a way of enhancing individual well-being and shielding individuals from external domination. This discussion echoes what Moore (2016) notes when grounding the value of self-determination in her theory. As she puts it, “I also claim liberal credentials, arguing that the value of self-determination derives ultimately from *the value it has for individuals*” (Moore, 2016, p. 153; emphasis in original). Moore further explains that “it recognizes that these collective identities and these relationships only matter because they matter to individual people. They are not ‘objectively’ or intrinsically valuable ‘in themselves’ but their value has to be connected appropriately to individuals” (2016, p. 156). The unit of evaluation of states of affairs within a self-determining collective are still individual conditions, and this aligns with the foundational commitment of the capabilities approach.

To specify this further, collective self-determination is relevant as an instrument to provide and enhance individual capabilities (such as the basic ones defined in Chapter 4), and also to provide new capabilities that can only be achieved through a collective setting. Going back to the analyses of the main territorial rights theorists, self-determination is key to providing continuous access to goods and



guaranteeing basic needs or rights (or capabilities, in this case) to individuals, and for effective resource management (e.g. Moore, 2015; Nine, 2012).

Additionally, drawing from a useful distinction made by Rosignoli (2018), self-determination fits neatly into two categories that contribute to improving living conditions in societies: the “resistant-capability”, which increases a group’s collective capacity to resist disempowerment (e.g. eradication of poverty); the “resilient-capability”, which allows groups to respond to unfavourable external conditions that prevent the exercise of their basic functionings (e.g. adapting to climate change). Self-determination appears to encompass these two aspects. As a resistant-capability, it is similar to Murphy’s (2014) characterisation of self-determination. I will return to the idea of self-determination as a resilient-capability later (see Chapter 8).

Collective self-determination is also aligned with Sen’s commitment to not specifying any final and universal list of capabilities, since local communities need to be free to determine which capabilities they deem valuable in addition to basic ones, as argued in Chapter 4. The capability of collective self-determination provides the space in which communities can decide which additional capabilities are valuable and how to actualise valuable ones into functionings. For what concerns natural resources, it provides the space in which communities can decide how they value their natural resources and regulate their use (I will come back to this point later in the section).

Finally, self-determination should be differentiated from the idea of democratic rule. I agree with Moore (2015) that a self-determining political collective could endorse and implement a non-democratic rule of law (see also Banai, 2013). However, this does not exempt political collectives from meeting some minimal requirements of basic justice (Nine, 2012; Stilz, 2019). Political collectives that are legitimately self-determining must be able or willing to ensure the well-being of their members, at least at a threshold level of decency. In situations where the self-

determining group is persistently unwilling to guarantee the satisfaction of a threshold level of decency (i.e. basic capabilities) to some of its members – for instance on the grounds of discriminatory policies or due to outright violations of human rights – it loses its legitimacy as a self-determining political collective, at least for those individuals.<sup>73</sup>

#### 6.4.2 Which Communities?

I now turn to defining the legitimate holders of self-determination. I refer to *political communities* that do not necessarily have to coincide with the state; most of the time, they do not. Like Blomfield (2019) and partially Stilz (2019), I adopt Moore's (2015) definition of a political community as a "people" defined in political terms, whose members share a conception of themselves as a group with a common political project, can establish and sustain institutions of political self-determination and share a history of political cooperation. In line with the rejection of the idea of a unified nation-state with a common political project (e.g. Kymlicka, 1991), I endorse Moore's non-statist conception of a people, which can account for minority groups at a sub-state level or across states.<sup>74</sup> Within a single state, there are often several communities that constitute minority groups and would be entitled to be self-determining (e.g. the Tibetan population in China or Indigenous peoples in Canada). Additionally, some communities could be located across different states and still hold legitimate claims to the capability of self-determination (e.g. the Saami or the Kurds).

At this point, a key issue worth raising is the following: is self-determination an appealing ideal, given the possible sacrifice of minority views and potentially the

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<sup>73</sup> Stressing the condition of willingness rather than actual capacity avoids the problem of annexation by a benevolent external state (Stilz, 2015).

<sup>74</sup> For reasons of space, I do not expand on the critique of cultural-nationalist accounts of self-determination, as Miller's (2012). For objections to nationalist views, see Moore (2015), Stilz (2019) and Blomfield (2019).

outright oppression of minorities, even within minority groups? In many cases, there will be dissenters or alienated minorities in each group, even those defined as peoples in Moore's sense. In Chapter 2, I criticised Blomfield's rationale for her principle of collective self-determination, which relies on an individual interest in non-domination. I suggested that Blomfield should be more precise when justifying collective self-determination through an individual interest in non-domination, because self-determination (and the ensuing control rights over natural resources given to a political collective) does not necessarily guarantee the non-domination of all the members of a community. Individual non-domination and collective self-determination, though they can be linked, should be disentangled.

Conceiving self-determination within a capabilities-based framework is a good way to address the issue just raised. As noted by Murphy (2014), stressing the value of collective self-determination does not erase the concern for the individual capability of political control, as traditionally conceived by capabilities scholars. Murphy (2014, p. 325) persuasively argues that "for disempowered and politically marginalized individuals" within a political collective, the solution would be to enhance the individual capability of political control vis-à-vis the dominant majority in society. I have previously argued that the recognition of individual differences is a key strength of the capabilities approach. By maintaining the focus on individual capabilities as the unit of evaluation, individual differences and the subsequent unequal treatment of some members within a group can be detected, including the persistent exclusion of some individuals from the decisions within a self-determining collective. In such cases, individual control would get priority over collective self-determination, shielding those individuals from domination.

On the other hand, in other cases, and especially in instances of historical and structural injustice, collective self-determination is fundamental to combat disadvantage and to promote individual well-being. Murphy (2014, p. 325) notes that "for colonized and politically subjugated minorities" the solution is to enhance

their collective capability for political self-determination vis-à-vis the other members of a political collective. For instance, granting democratic participation (which respects the individual capability of political control) within a bigger state to members of an oppressed group risks perpetuating a situation of structural inequality and domination, since it would not solve the underlying issue of asymmetry (Stilz, 2015). Here, collective self-determination works as a better mechanism to combat the disadvantage and enhance the well-being of the individuals who belong to oppressed groups.

As a final point, it is interesting to consider how the capabilities framework enables us to adopt a “relational approach” to self-determination, as outlined by Young (2000). Young argues that self-determination can be part of a relational approach that considers both the idea of interdependence of individuals with one another (in communities, which are often overlapping) and the idea of individual choice. Regarding the first point, a relational approach does not draw a neat line between different homogenous groups but accounts for an “overlap, interspersal, and interdependence among groups and their members” (2000, p. 162). This relational element can be considered by the concept of self-determination that I have outlined. Recognising the capability of self-determination held by sub-state political collectives implies the recognition of overlapping self-determining units over the same territory. These collectives will be entitled to different forms of (more or less stringent) jurisdictional authority over their territory, which could be overlapping.<sup>75</sup>

Regarding the second point, i.e. individual choice, Young writes that “an adequate conception of autonomy should promote the capacity of agents to pursue their own ends in the context of relationships in which others may do the same”

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<sup>75</sup> I take this matter to be dependent on the specific community itself and on its specific requirements to achieve self-determination. As Moore (2015) argues, self-determination does not always require independent statehood or full jurisdictional authority over a territory.

(2000, pp. 170–171). In Young’s view, there are relevant differences between the members of a group that are worthy of respect. As it should be evident by now, the capabilities approach is equipped to consider this idea, given its recognition of interpersonal differences even within the same community and its stress on individual freedom of choice, which I have already mentioned in previous chapters (especially Chapter 4).

### 6.4.3 Self-Determination and Control Rights over Resources

So far, I have discussed the importance of self-determination and the notion of political collectives with self-determination claims. I now address the following question: which resource rights does the capability of collective self-determination ground?<sup>76</sup> In what follows, I argue that a form of control rights over the natural resources (including land) within a territory is necessary for a community to hold a robust form of self-determination.<sup>77</sup> Control rights do not amount to full and exclusive ownership of natural resources.

A political collective should be able to decide on the laws regulating the use of natural resources within its territory to achieve self-determination (Blomfield, 2019; Moore, 2015; Stilz, 2019). For instance, a communist society could decide on the collectivisation of natural resources and reject any form of exclusive rights. Indigenous peoples could oppose the exploitation of specific natural resources considered sacred. Some populations in SIDS, such as the population of Kiribati, endorse a form of communal ownership of land. The underlying argument, supported by theorists of territorial rights, is that collectives should decide on the rules that affect the type of society in which they live; this includes managing the use of natural resources, including their alienation (Moore, 2015, p. 166; Stilz, 2019,

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<sup>76</sup> Here, I focus on resource rights, although other conditions are necessary for “robust self-determination”, as the absence of relations of domination (Young, 2000).

<sup>77</sup> I borrow the terminology “robust forms of self-determination” from Moore (2015; 2019).

pp. 230–231). As Banai puts it, “Because decisions about natural resources often have far-reaching economic and subsequently social impacts, the lack of territorial jurisdiction over natural resources would hollow self-determination out” (2016, p. 12). Nine further argues that “resource rights (a) are instrumental in the exercise of political authority, (b) are necessary for *autonomous collective decision-making*, or (c) secure individual autonomy” (2016, p. 330; emphasis added).

Control of the use and management of natural resources includes attributing different types of values to specific resources. As Moore (2019) argues, natural resources can have a relational value. In Chapter 3, I noted that there are some universal values that natural resources ought to have, regardless of a community’s decisions; for example, the significance of globally relevant structural natural resources (Chapter 4) or the non-anthropocentric value of some animals (Chapter 7). Nevertheless, the value of other types of natural resources should be determined by political collectives, since this is fundamental for their self-determination.

Within a capabilities-based framework, collective self-determination can work as a successful way to fill the gap between capabilities and functionings. In other words, collective decisions on the value(s) of resources can serve as a method to qualify how relevant capabilities relate to functionings. In Chapter 4, I emphasised that, given the universal and open-ended nature of basic capabilities, their actualisation could only be spelt out at the level of communities. As argued by Robeyns, “the crossing from capabilities to achieved functionings requires an act of choice. Now, it is perfectly possible, and [...] even necessary to take the societal structures and constraints on those choices into account” (2000, p. 17). Consequently, communities can attribute different values to natural resources and the environment, depending on the specific context. For instance, take the capability of education and knowledge. For some political collectives, especially for resource-dependent communities and Indigenous peoples, education often requires the preservation of specific resources or ecosystems (e.g. particular species)

that are relevant as objects of study (Ward *et al.*, 2023). In such instances, the political collective should have control rights to decide on the use of key resources within their territory, which reflect the value attributed to them.

Furthermore, there is also an efficiency argument for granting control rights over resources to political collectives. By efficiency, I mean use that produces benefits for individuals within a community and is also sustainable over time. Management of natural resources can be better achieved by groups rather than individuals; in particular, by political communities with the power to enforce regulations and coordinate actions. I should mention that there are exceptions to the achievement of efficient management of resources by political collectives in practice, especially if we take the current states as the relevant collectives.<sup>78</sup> However, there is a difference between rejecting collective claims to resources *tout court* and endorsing them under specific conditions. Adopting a non-statist account of peoplehood partially avoids this problem. Several scholars have shown that efficient and sustainable use of resources is better achieved by sub-state political collectives (Cleaver, 2007; Ostrom, 1990; Stewart, 2005). For example, in recent years there has been an increasing reliance on community-based natural resource management (CBNRM) programmes, where local communities are encouraged to collectively manage the resources in the territory where they are located (Kumar, 2005).<sup>79</sup>

In light of the aforementioned reasons, the following principle of NRJ holds:

- (iv) Political collectives should be entitled to control rights over the natural resources and an adequate environment that are necessary for the exercise of their capability of collective self-determination.

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<sup>78</sup> Consider the use of the Amazonian forest under the Bolsonaro government in Brazil as a paradigmatic failure in the efficient use of a natural resource.

<sup>79</sup> In Chapter 8, I shall further discuss how community-based management of natural resources is especially relevant in the context of SIDS.

This is a more limited control right than permanent sovereignty over natural resources.<sup>80</sup> It does not entail full and exclusive ownership over natural resources, nor a right to retain the full stream of income derived by the use (or extraction) of resources. It is a more modest claim to control rights over the use and management of natural resources, including land, which underpin a political collective's capability of self-determination. It does not imply extractive rights over underground resources, but it could require the control of extractive procedures, where applicable. Those procedures, in fact, could have a knock-on effect on the surrounding environment and its natural resources, which instead could hold a relevant value for the self-determination of the community.<sup>81</sup>

If the income derived from the extraction of resources were necessary to guarantee members' basic capabilities, this could be retained by the political collective, up to the point where a decent life is guaranteed to members of the community. However, the rest of the available income should be redistributed to guarantee an equal possibility of leading the same level of a decent life for *all* individuals globally and an equal capability of self-determination to relevant political communities. For instance, populations of SIDS would require financial assistance to be able to maintain their self-determination in the face of climate change; a tax on resource extraction could be a way to partially provide such financial means.

Although I do not expand here on the specifics of a potential resource tax for reasons of space, this would not be incompatible with my theoretical framework.<sup>82</sup> The principle of resource control based on collective self-determination respects

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<sup>80</sup> For a critique of permanent sovereignty over natural resources, check Armstrong (2015; 2017) and Blomfield (2019). I do not expand on this debate here for reasons of space, but I assume their critiques as valid: self-determination does not require permanent sovereignty over resources. This is also recognised by the theorists of territorial rights that I discussed in Chapter 3.

<sup>81</sup> See the case of the Saramaka people and the extraction of gold discussed in Chapter 3.

<sup>82</sup> See Armstrong (2017) and Blomfield (2019) for a defence of resource taxes.



what Armstrong writes: “If global justice theorists would agree to leave control rights where they are, and defenders of self-determination relinquished national claims over income, a rapprochement appears possible” (2017, p. 144).<sup>83</sup> I am arguing for limited collective control rights over the natural resources located within the territory of a political community, and not for exclusive rights over the economic value of resources. Furthermore, the natural resources and the environment under the control of a political collective will still be subject to the distributive principles of NRJ that I have outlined so far, as I further elaborate in the last part of this chapter.

#### 6.4.4 Constraints over Collective Control Rights

The principle of collective control rights over natural resources based on the capability of self-determination is subject to different constraints, which refer to the principles of NRJ previously defended and which should be first satisfied for collective control rights to hold.

First of all, the principle of collective control rights is overridden by a *distributive proviso*. The principles of NRJ prescribing that individuals are entitled to secure rights over the natural resources and an adequate environment necessary to exercise their basic capabilities must be respected. As argued throughout this section, individual capabilities can be enhanced through a collective setting. However, this does not rule out cases in which individual capabilities must be respected at the expense of collective claims. In instances where a self-determining collective prevents individuals from using and accessing the natural resources that are necessary for the exercise of their basic capabilities, the collective claim to control

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<sup>83</sup> I partially depart from Armstrong’s statement, since I defend a non-statist conception of the relevant political community. Control rights would need to be redrawn rather than kept “where they are” (Armstrong, 2017, p. 144).

rights over natural resources gets overridden by individual rights to resources.<sup>84</sup> This applies both to outsiders' claims and to community members' claims, if either (or both) of those claims fail to be met because a political community controls a relevant natural resource.

Relatedly, individual rights to the resources necessary for a decent life take priority over collective control rights, when external conditions call for immediate action, such as in cases where environmental conditions rapidly degenerate. As an illustrative example, think about a community that must evacuate a territory because of a flood. The first aim would be to relocate the individuals to another suitable environment where their basic capabilities could be met. The second aim would be to relocate the community as a community, ensuring the right conditions for the exercise of its capability of political self-determination. This would not always be possible, especially if relocation happened due to an unforeseen and rapid change in the surrounding environmental conditions. If this occurred, priority would go to individual basic capabilities, which could be met even by relocating individuals within a different community than their own. However, something would be lost in such cases, as it would happen in the possible scenario of climate relocation (that I discuss in Chapter 8). Ideally, both individual and collective rights should be considered in matters of redistribution of natural resources and territory.

Furthermore, there is an *environmental proviso* stemming from the principle of NRJ outlined in section 4.5. This is articulated in two ways. First, a self-determining community controlling the environment where it is located must ensure the provision of an adequate environment where individuals can exercise their capabilities. This is consistent with the distributive proviso: individual rights to a suitable environment override the control rights of a political community. Second,

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<sup>84</sup> This specification avoids giving undue importance to self-determination, as Moore seems to do when she writes that "there is a presumption against violating people's right to self-determination as a first method of recourse to ensure the subsistence rights of all" (2015, p. 183); see Chapter 3.

if a political community holds control rights over an area that includes a globally relevant structural natural resource (i.e. a rainforest), it must ensure its well-functioning. I have previously argued that all individuals have claims to the well-functioning of globally relevant structural natural resources. If such resources are destroyed or over-exploited in the name of self-determination, the principle of collective control rights is overridden. An example is the state of Brazil's exploitation of the Amazonian forest. In this context, there is a double injustice: deforestation prevents the provision of an adequate environment and relevant natural resources to Indigenous peoples living in the forest; and, deforestation destroys a natural resource, whose well-functioning is significant for all individuals worldwide.

Finally, there is an additional constraint on control resource rights held by communities, which is grounded in the respect for the self-determination of other political communities. This is an addition to respecting the resource rights of (individual) outsiders, which would override the self-determination claims of a political community, as argued above. In case of overlapping political collectives with legitimate claims to control rights over resources – this often occurs given that I have adopted a non-statist conception of peoplehood – the control rights over resources necessary for the self-determination of a community should not prevent an equal capability of self-determination of the other one(s). In many cases, a neat division of control rights over different resources would not be possible, especially given the geographical features of relevant natural resources, i.e. river basins.

For those cases, I share Ochoa Espejo's (2020) and Nine's (2022) intuition of instituting a system of overlapping jurisdictional authorities, with shared control rights held by several communities over the same resources. The regulation of those shared resources should first follow the distributive principles that I have outlined in Chapter 4. Then, if conflicts over resource use in the same territory arise, where applicable, we should look at which individuals (as members of a community) hold

legitimate attachment claims. This is a way to define neater areas of control rights over resources. Conflicts could be arbitrated by looking at considerations of urgency and capping resource use via the idea of capabilities ceilings (see Chapter 5). This would not solve all disputes, but it would provide a sketch of relevant considerations to take into account.

This analysis leads me to the last point that I want to raise. In Chapter 5, I defended an account of attachment claims. Those are held individually, rather than collectively. Yet, similar (individual) attachment claims are often held by members of the same community. When this is the case, the attachment claims of members of a community and the claim to self-determination of that political collective are connected. The presence of shared legitimate attachment claims for members of a collective would entitle that political collective to have control rights over those specific resources, subject to the additional constraints outlined above.

Here, I depart from theorists of territorial rights, such as Moore and Stilz, who ground self-determination claims over resources on the relevance of attachment claims. A justification of collective control rights over resources based on attachment is at best incomplete since political collectives are not arguably attached to all the resources within their territory. As Armstrong's (2017) theory shows, if we accept the relevance of individual attachment claims, we do not necessarily need to also endorse collective rights to natural resources based on the value of self-determination. In cases where individuals within a community have a resource-dependent way of life, the two claims can be indeed linked. In many other cases, such as for most citizens in Western states, this is not the case. A political community requires control over its natural resources and territory to achieve robust self-determination, but this does not translate into holding a non-substitutable connection with the whole territory along with its resources.

Hence, it is better to distinguish between individual attachment to natural resources and control rights of a political community over the resources where it

happens to be located. At least implicitly, even territorial rights theorists, such as Nine (2010) and Stilz (2019), seem to endorse this distinction. They propose that collective self-determination for climate-displaced communities could be guaranteed in another location, in the scenario of losing the original territory (i.e. due to sea-level rise in SIDS). Whereas self-determination elsewhere could, at least theoretically, be achieved, legitimate attachment claims would be still lost, making this loss incommensurable (I will expand on this in Chapter 8).

### **6.5 Conclusion: The Advantages of the Capabilities Framework**

In this chapter, I showed that a capabilities-based theoretical framework of NRJ allows us to consider individual claims to natural resources and claims held by political communities. I defended the following principle of NRJ:

- (iv) Political collectives should be entitled to control rights over the natural resources and an adequate environment that are necessary for the exercise of their capability of collective self-determination.

The capabilities framework provides an original and appealing way to conceive both types of claims to natural resources, i.e. individual and collective. Whereas other approaches are more issue-specific, such as theories of territorial rights that focus on the question of control and overlook distributive concerns, the capabilities approach is a more comprehensive theory of justice that enables it to address different sets of questions. The theory of NRJ outlined so far provides a coherent framework to discuss the importance of natural resources for individuals and communities and investigate the correct distribution of individual and collective rights over natural resources and the environment.

The main contributions of this chapter are the following. I defended the compatibility between collective capabilities and the foundational commitment to

individualism of the capabilities approach; hence, contributing to debates internal within the capabilities framework. I included self-determination as a valuable collective capability to consider within a theory of NRJ. Following the main intuition of theorists of territorial rights, i.e. collectives have claims over a territory and its resources, I sought to integrate global distributive justice concerns for individual rights over natural resources with a concern for collective self-determination. The capabilities approach offers an original way to consider collective rights to resource control and provides a method to navigate different types of conflicting claims over the same resources (between individuals and communities, and between different communities) since it specifies distributive criteria.

As a final remark, this analysis of collective rights over resources, based on the capability of self-determination, is a necessary preliminary step for the final chapter of this dissertation (Chapter 8), where I will consider the case of populations of SIDS and the possibility of climate-induced displacement. Those populations have individual claims to secure rights over natural resources and a suitable environment and an additional interest in maintaining their self-determination through collective control rights over a suitable territory.

## 7. An Extension to Natural Resource Justice: The Case of Animals

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### 7.1 Introduction

So far in this dissertation, I have adopted the traditional view of theories of NRJ that discuss how natural resources should be fairly distributed among (human) individuals and communities. I have analysed several key questions, such as who should control resources, how resources should be distributed among individuals and which values natural resources can have for human beings. A common denominator of all these questions is their reference to the anthropocentric value of natural resources. This aligns with the definition of natural resources outlined in the Introduction, as the resources that are part of the natural world and have some value for human beings – where value can be economic, cultural or symbolic.

This chapter aims to go beyond these constraints by examining whether some natural resources have value for non-human beings and whether other “natural resources” (i.e. animals mainly considered as food sources) are valuable in themselves. I defend a capabilities-based extension of the NRJ theory outlined so far to account for non-human animals’ claims.<sup>85</sup> In the first part of the chapter, I argue that the notion of capabilities can be applied to non-human animals in a theoretically consistent manner. The capabilities approach focuses on the importance of flourishing and well-being, which are not restricted to human beings but include animals too. Hence, it is an especially well-suited framework for extending the traditional anthropocentric focus of theories of justice. In the second part of the chapter, I discuss how current theories of NRJ are only concerned with

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<sup>85</sup> This chapter is a preliminary defence and constitutes the basis for a theory that could be developed further.

resource distribution among human beings. Against those theories, I pursue a capabilities-based NRJ framework that takes animal claims seriously, as outlined in the first part of the chapter. I defend additional principles of NRJ that recognise the value of some natural resources for non-human agents and *per se*, going beyond a purely anthropocentric standpoint.

Overall, this chapter relies on the intuition that protecting the environment and vital natural resources is essential for any theory of distributive justice.<sup>86</sup> Suitable natural resources and an adequate environment are preconditions of the distributive approach. This is evident if we observe that we first need an environment with resources to distribute to discuss (re)distribution. Scholars (including theorists of NRJ) have often focused on the concept of sustainable development (World Commission on Environment and Development [WCED], 1987), which prescribes that the environment must be protected for the needs of present and future generations.<sup>87</sup> This approach is, however, insufficient. Instead, I adopt an approach that draws from fundamental ideas in animal ethics, which challenge the instrumental and anthropocentric paradigm of the dominant theories of justice.

The chapter's structure is as follows. Section 7.2 discusses the application of the concept of capabilities to non-human animals and highlights how the capabilities framework naturally lends itself to a non-anthropocentric extension. Section 7.3 discusses how the main current theories of NRJ focus on the anthropocentric value of natural resources. I also examine Armstrong's innovative attempt to integrate his theory with animal rights considerations. In section 7.4, I outline the main principles of a theory of NRJ compatible with animal interests. In section 7.5, I

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<sup>86</sup> See my discussion of the environment as a structural natural resource (Chapter 4).

<sup>87</sup> The Brundtland report defines sustainable development as follows: "Humanity has the ability to make development sustainable to ensure that it meets the needs of the present without compromising the ability of future generations to meet their own needs" (WCED, 1987, para. 27).



examine human vs. non-human animal conflicts and I shed some light on the potential implications and shortcomings of my framework. Section 7.6 concludes.

## **7.2 A Capabilities-Based Account of Animal Flourishing**

In this section, I defend the capabilities framework as a fruitful way to consider animal interests in a theory of justice since it recognises animal flourishing as worthy of respect.

As I will clarify throughout my analysis, some animals have an intrinsic value: they can have capabilities, achieve well-being and are subjects of justice. Once we appreciate that animal flourishing matters, we should recognise that animals have rightful claims over some natural resources (e.g. water, land/sea), necessary for them to survive and hold their basic capabilities. Moreover, we should recognise that animals often considered natural resources (e.g. used as food products and in medical research) are valuable in themselves and should not be labelled natural resources any longer. This does not exclude that, in specific contexts, some animals could be used instrumentally (see section 7.4). Attributing two kinds of value to animals is permissible since an entity can have both an intrinsic and an instrumental value.<sup>88</sup> Nevertheless, this appears to be incompatible with the definition of natural resources as the resources located in the natural world that have some value *only* for human beings. Some non-human animals should be considered beyond their instrumental value as natural resources for human beings in a theory of NRJ.

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<sup>88</sup> Intrinsic and instrumental value can be defined as follows: “A phenomenon,  $x$ , has intrinsic value iff  $x$  is an end in itself (that is,  $x$  has a positive over-all value which is not reducible to the value of any other phenomenon)” (Carter, 1999, p. 41). “A phenomenon,  $x$ , has instrumental value iff  $x$  is a means to some other valuable phenomenon,  $y$  (and therefore the value of  $x$  is reducible to the value of  $y$ )” (Carter, 1999, p. 44). Consider that human beings can sometimes be used instrumentally too, as a means to achieve something valuable. However, this does not imply that they do not have an intrinsic value. Take Nussbaum’s example: “[...] I use doctors as means to keep my health good. The problem comes when we use a person as a mere means, meaning that we do not respect the person’s dignity and harmfully exploit the person in various ways” (2022, p. 170).

### 7.2.1 Capabilities for Animals

In what follows, I examine whether the capabilities approach can be extended to consider claims of non-human animals. Originally, the idea of capabilities was theorised by Sen to apply only to individual human beings and their prospects for development and flourishing. Sen (2004c) marginally discusses endangered species, such as the spotted owl. He argues that, even if our living standards are not directly affected by the presence or absence of species such as the spotted owl, we should still try to prevent their extinction, evidently for non-instrumental and non-anthropocentric reasons. It then seems that Sen (2004c) does not categorically exclude a non-anthropocentric extension of the capabilities approach, even if he does not directly apply it to anything beyond human beings.

Going beyond Sen's account, the capabilities approach has been expanded by several scholars to encompass different categories of agents able to hold capabilities. In Chapter 6, I examined the notion of collective capabilities. Here, I examine animal capabilities, mainly relying on Nussbaum's (2005; 2006; 2017; 2022) works on applying the capabilities framework to individual animals. Following Nussbaum (2022), I endorse a capabilities-based zoocentric individualist standpoint, and I do not consider plants, species or more complex systems, made of living and non-living entities (i.e. ecosystems), as holders of capabilities.<sup>89</sup>

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<sup>89</sup> A case could be made for expanding the scope of a theory of NRJ to consider ecosystems as potential holders of capabilities, in a less articulate (and perhaps metaphorical) way than the concept of capabilities applied to human beings and non-human animals. As Schlosberg (2012a) argues, ecosystems can flourish, in the sense that they can develop their potential functionings, although not in the same way as humans or animals, whose flourishing is linked to ideas of dignity and well-being. I do not develop this here, but I do not exclude an extension of the capabilities framework where claims of ecosystems could be integrated, even if not as "claims of justice". As aptly put by Armstrong, "This is not to deny that any view about global justice ought ideally to be nested within a broader account of *ecological justice*, which will potentially specify how benefits and burdens should be distributed between *all living beings*" (2024, p. 25; emphasis added). I am sympathetic to an extension of a capabilities-based theory of NRJ which would be compatible with additional principles of ecological justice.

The capabilities approach focuses on agents able to exercise capabilities and achieve a flourishing life. Although it is most intuitively applied to human beings and their prospects to reach well-being, the capabilities framework naturally lends itself to considerations of animal well-being. As reported by Cripps (2010, p. 3), Nussbaum defends the capabilities approach as better placed to consider animal interests and our duties towards them than rival approaches, such as the Rawlsian contractualist view. The contrast between the capabilities approach and Rawls' theory is interesting to highlight since, in section 2.4, I considered a Rawlsian framework applied to NRJ (Blomfield, 2019). Nussbaum accuses Rawlsian theories of recognising only moral duties of humanity and compassion towards animals, which are not principles of justice. Following Rawls (1999), agents are subjects of justice if they have a capacity for a sense of justice and a capacity for a conception of the good. Arguably, animals do not have either, at least not in the human sense of these notions. Related to this point, Donaldson and Kymlicka write that "animals are not capable of engaging in the processes of 'public reason' [...] that theorists like John Rawls [...] say are essential to democratic agency" (2011, p. 57). Although few scholars have argued for modifying Rawls' theory to consider animals as subjects of justice (e.g. Baldwin, 2023), others have rejected this as unsound (i.e. Cripps, 2010; Taylor Smith, 2020). It is unclear how Rawlsian contractualist accounts (including Blomfield's), which rely on agents deciding together on principles of justice in the original position, could be extended to include principles applied to non-human animals.

In contrast, Nussbaum (2006, pp. 349–350) stresses how animals do not have to actively participate in the debate around principles of justice to be agents falling within the scope of justice. She highlights that a similar problem occurs for different categories of agents, namely children, disabled individuals and future generations. Leaving aside internal differences, these agents cannot be consulted (some never, some only for the time being) about the formulation of adequate principles of

justice. However, this does not entail that their claims should be disregarded or that these agents do not have intrinsic value. The same reasoning applies to animals.

Animals do not need a “moral personality” in Rawls’ sense to hold capabilities. Nussbaum argues that the capabilities approach can deal with the recognition of animal claims in a better way than other approaches since it treats “animals as agents seeking a flourishing existence” (2005, p. 302). Relying upon the idea of dignity, which non-human animals share with human beings, the capabilities approach recognises that animals can lead a flourishing life (see also Korsgaard, 2018). Like human beings, animals can exercise relevant capabilities and achieve well-being – though they hold a different and somewhat more limited set of capabilities compared to human beings. Therefore, the capabilities approach is particularly appropriate to consider the intrinsic value of non-human animals and does not require any major theoretical stretch to acknowledge that animals can flourish and have capabilities too.

In her most comprehensive work on animal justice, Nussbaum considers “subjects of justice” those animals with the following characteristics: “sentience, emotion, cognitive awareness of objects, movement towards the good and away from the bad” (2022, p. 138). Sentience or consciousness is considered the discriminating criterion for holding rights by many scholars working on animal rights (for an overview, see Donaldson and Kymlicka, 2011, pp. 19–49). For the present analysis, I adopt the sentience threshold, following, among others, Cochrane (2012), Nussbaum (2022) and Pepper (2016) who take sentience as the right criterion to delimit the legitimate scope of animal interests.<sup>90</sup> Although it

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<sup>90</sup> The sentience threshold provides additional support for excluding plants and ecosystems (and non-living entities) as “subjects of justice”. Sentient animals include all mammals, birds, fish (some species), amphibians, reptiles, cephalopods (e.g. octopuses) and some crustaceans (Browning and Birch, 2022). For a critical assessment of Nussbaum’s view, see Armstrong (2023). Armstrong notes that, although sentience can persuasively explain why many living beings have entitlements, “so too can other features such as subjecthood, or autonomy” (2024, p. 26). For reasons of space, I do not engage here with this distinction nor do I provide a defence of sentience. Check also the New York

remains unclear whether we should also include other non-sentient animals, it is quite uncontroversial that sentient animals can exercise basic capabilities and flourish.

Granted this, Nussbaum (2022, chap. 2) rightly argues that individual animals can flourish in distinct ways through peculiar and species-dependent capabilities. As she writes, “Ideally we should learn enough to make a separate list for each type of creature, putting on the list the things that matter most when it comes to survival and flourishing” (2022, p. 101). Once we acknowledge that animal flourishing matters, there is a taxonomy that needs to be developed. The capabilities view has enough resources to produce this taxonomy. However, given the scope of my dissertation focused on NRJ, I do not aim to provide a detailed account of which animals count and to which extent. Producing a comprehensive taxonomy would require a more careful examination of the capabilities held by specific animals and the different degrees to which they are exercised. I leave the creation of this complete and species-dependent taxonomy open to future investigation.

I only provide a paradigmatic example as an illustration of the procedure. For instance, consider the difference between primates and fish. Primates, such as apes, have learning skills, problem-solving skills, form social relationships and have highly complex behavioural patterns. Most of the basic capabilities that I considered for a decent human life (see Chapter 4) apply to primates, including social relations and education. On the other hand, a fish does not have the same degree of complexity as primates and has a more limited set of basic capabilities, which mainly consists of survival and health (as bodily integrity) but excludes other capabilities (such as social relations).

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Declaration on Animal Consciousness (Andrews *et al.*, 2024). Other scholars criticise Nussbaum for including only animals in her theory of justice without considering the intrinsic value of the natural world (Watene, 2016).

### 7.2.2 Objections to Animal Capabilities

I now consider some objections that could be raised against applying the capabilities approach to non-human animals. First, it could be argued that there is no need to apply principles of justice to non-human animals since human beings are the only rational beings worthy of moral consideration. Theories which defend this idea generally fall into the categories of “strong anthropocentrism” (e.g. Passmore, 1974) or “weak anthropocentrism” (e.g. Risse, 2012). Strong anthropocentric theories claim that moral obligations towards other living beings are to be conceived uniquely in terms of human interests and needs. Weak anthropocentric theories affirm that some non-human entities are valuable for their own sake, but this value, such as an aesthetic one, is still understood in terms of human preferences and needs. Connecting this idea back to Risse’s theory (see Chapter 2), Risse defends a conception of “a distinctively human life” (2012, pp. 63–85), valuable due to distinctively human characteristics, such as the capacity to reflect, assess and have a conception of the good life.

Rationality, i.e. the human capacity for reason, as the only criterion for moral consideration, has been challenged by a growing number of theorists working in environmental and animal ethics. Although I do not provide a comprehensive overview of this debate here for reasons of space, there is a well-established and strong field of arguments in support of extending a narrow anthropocentric viewpoint.<sup>91</sup> Their differences notwithstanding, many non-anthropocentric theories have extended moral consideration to individual animals (e.g. Regan, 1983; Sandler, 2007; Singer, 1975; Taylor and Jamieson, 2011). There is also a growing literature on animal rights, which goes beyond the traditional human rights

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<sup>91</sup> Several theorists discuss the moral status of non-human animals; others extend it to the environment too (for an overview, see Dryzek and Schlosberg, 1998; Kawall, 2017). Some consider ecosystems as worthy of moral status (e.g. Callicott, 1980; Naess, 1973; Warren, 1996).

paradigm that grants rights only to human beings (e.g. Cochrane, 2012; Donaldson and Kymlicka, 2011; Korsgaard, 2018; for an overview, see Sunstein and Nussbaum, 2004).

Still, there is profound disagreement on how to justify attributing a kind of intrinsic value to animals. Anderson (2005) highlights that the underlying tension between different approaches (animal rights, animal welfare and environmental ethics) shows that there are no easy answers to the question of which value we should attribute to animals, aside from acknowledging a plurality of context-dependent values. Nonetheless, regardless of their differences, competing accounts partially overlap in recognising animal interests as relevant and constitute a significant development of the anthropocentric framework (see Armstrong, 2023; 2024, pp. 30–50).

As discussed earlier, I commit to a particular justification of the value of animals. I adopt a capabilities-based zoocentric individualistic account that grounds animals' intrinsic value in their ability to flourish and achieve well-being, which is, in turn, linked to sentience. It does not seem plausible that only human beings have an interest in their well-being and can flourish. For instance, Pepper notes how “the capacity for well-being is not unique to humans. All sentient animals are subjectively aware, have emotional experiences, and possess the capacity to feel pleasure and pain; thus, when their lives go badly, they go badly *for them*” (2016, p. 118). In the capability language, animals can achieve at least a reduced list of valuable functionings.

This does not imply that there is full equality between the interests of non-human animals and human beings. Following Armstrong (2024), I endorse a moderate hierarchical view, which deems non-human animals significant and worthy of moral consideration, but does not subscribe to a full equality of status. I have previously noted that animals have a more limited set of valuable capabilities compared to human beings. Human beings can access a more complex set of

capabilities and have more interests at stake than other non-human animals. There are many cases in which both animal and human capabilities could be met without any loss from either side. Yet, there are also unavoidable conflicts between the two, as I will further explore in section 7.4. In the case of inevitable conflicts, Cripps (2010, p. 9) suggests that:

although it is of moral value that an individual sentient animal [...] flourishes, it is more so that a human individual does so. Thus, although they could not be sacrificed for any lesser end and only for this one given an unavoidable clash, nonhuman interests are ultimately trumped by human interests.

This appears to be in line with Armstrong's interpretation of Nussbaum's (2022) view. In more detail, Armstrong writes that "it is not obvious that humans commit an injustice if they protect the basic rights of non-human animals but use the resources available to them to advance their own interests rather more substantially" (2024, p. 28). Even if I do not commit to a form of radical equality among all (human and non-human) animals, recognising sentient animals as capable of flourishing still leads to significant constraints on the human use of animals as natural resources, which is only legitimate and morally permissible in very few instances (see section 7.4).

Furthermore, I have stressed earlier how a taxonomy needs to be developed. On this point, critics could object that defining capabilities for different animals (as members of different species) is impossible. Sen's refusal to settle on a final list stems from the belief that relevant capabilities must be decided by the affected agents with a bottom-up approach. Settling for a list of valuable capabilities for human beings is already difficult (see Chapter 4); for animals, it would be unfeasible. The case of non-human animals displays, in fact, a notable difference. Non-human animals cannot actively contribute to discussions aimed at specifying



their valuable capabilities. It is hard to tell how to attribute the appropriate capabilities to agents whose voices will never be heard.<sup>92</sup>

In her analysis of animal capabilities, Nussbaum (2005, pp. 313–317) goes back to her list of central human capabilities and discusses how they could be applied to non-human animals, though to a different degree and in a different manner than to human beings.<sup>93</sup> Nussbaum further specifies that the capabilities approach applied to animals only requires a “limited set of political principles focused on enabling or protecting, not a comprehensive conception of good animal lives” (2006, p. 352). Outlining valuable animal capabilities does not entail endorsing a conception of what we think would be a good life for them. It only requires a limited protection of basic capabilities, starting from life. Additionally, recall that holding a capability does not necessarily lead to an actualised functioning because the notion of capability conveys a degree of potentiality that leaves room for individual choice.

I have previously rejected Nussbaum’s over-demanding list of central capabilities for human beings (section 4.3). I do not repeat this critique but I take it as sound. Without giving such an ambitious list as Nussbaum’s, animals can have some of the capabilities that even Sen recognises as basic (see section 4.3). As noted earlier, animal capabilities should be species-specific since some animals have more complex capabilities than others. Although defining sets of different animal capabilities seems indeed extremely time-consuming and challenging, this does not mean that general guidelines cannot be sketched. Animals can be alive and have bodily integrity. They can be healthy, both physically and psychologically, and can have some form of social bonds (at least some animals).<sup>94</sup> They also need a safe and

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<sup>92</sup> Some scholars argue for political representation of non-human animals through human advocates (e.g. Donaldson and Kymlicka, 2011; Nussbaum, 2022).

<sup>93</sup> To be more precise, Nussbaum (2006, p. 398) later writes that some human capabilities are only human capabilities, as is the case for the capability of practical reason.

<sup>94</sup> These two latter capabilities (psychological well-being and some form of sociality) would necessarily be more limited than the corresponding ones held by human beings. Still, some animals

adequate environment to live. However, as argued in Chapter 4, I consider the latter a constitutive requirement for exercising any capability (as a structural natural resource) rather than a basic capability. As for human beings, animal basic capabilities require providing them with natural resources and suitable environmental conditions.

In the following analysis, I will explore the implications of conceiving animals as holders of capabilities and agents worthy of moral consideration. First, if animals hold valuable capabilities, an extension to a non-anthropocentric capabilities-based theory of NRJ is possible. This is a way to fill the gap in current theories of NRJ that I discuss in the next section. Second, animals should be protected due to their intrinsic value, going beyond a narrow anthropocentric sustainability discourse. Third, animal claims must be balanced against claims of human beings on the use of natural resources and the environment, since the two will inevitably clash.

### **7.3 The Anthropocentric Framework of Theories of NRJ**

This section discusses in more detail a common shortcoming of current theories of NRJ and territorial rights already mentioned in Chapters 2 and 3: natural resources are valued instrumentally in connection to human beings and their protection is guaranteed only in terms of sustainability. I then highlight that several scholars are aware of this limitation and do not exclude the possibility of extending the traditional scope of NRJ. I conclude by examining Armstrong's innovative proposal of respecting animal rights in his theory of ocean justice and his analysis of the biodiversity crisis.

As previously stated, theories of NRJ focus on how to fairly distribute natural resources among the human population. Natural resources matter because they are

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have both or even higher forms of entitlements. For instance, Armstrong (2022, pp. 137–157) includes culture as one of the rights of cetaceans.

indispensable for human beings. Environmental issues, such as scarcity of resources, are considered from an anthropocentric standpoint. In response to current environmental challenges, theorists of NRJ argue for protecting natural resources and the environment due to their fundamental value for human lives. They consider the availability of natural resources for present and future generations of human beings. Consequently, they endorse some conception of sustainability aimed at guaranteeing that future generations have equal opportunities for well-being (Armstrong, 2017) or enough resources to satisfy their basic needs (Blomfield, 2019; Moore, 2019; Risse, 2012; Stilz, 2019).

The instrumental value of natural resources for human beings (in the present and future) is undoubtedly relevant. In Chapter 4, I discussed the role of natural resources and the environment in guaranteeing individual capabilities for the present generation. I also noted how this requirement could be extended to future generations. This would entail defining some form of irreplaceable “critical natural capital” (Chiesura and De Groot, 2003) that needs to be passed on to future generations. In this manner, the capabilities approach applied to NRJ could be as efficient as existing theories in dealing with the claims of future human generations. However, the sustainability discourse is still embedded in an anthropocentric and instrumental view. There is no direct concern for any non-anthropocentric considerations, as I stressed in Chapter 2 throughout my analysis of the theories defended by Risse (2012), Armstrong (2017) and Blomfield (2019).

Nevertheless, several theorists suggest that their theories of NRJ could be integrated with an environmental extension of the concept of justice, which would recognise the value of some natural resources for intrinsic and non-anthropocentric reasons (Armstrong, 2017; Blomfield, 2019; Mancilla, 2021). Blomfield (2019, p. 46) does not reject the possibility of non-instrumental or non-anthropocentric reasons to preserve natural resources. Risse claims that “[Common] ownership is a view

about the relationship among human beings that can readily integrate plausible accounts of environmental values” (2012, p. 119).

Armstrong analyses the limits of theories of distributive justice and states that there is an underlying moral question, namely, “the question of the constraints humans ought to place on their use of natural resources not in light of each other’s claims, but in light of the claims of other species or of ‘nature’ in general” (2017, p. 19). In Armstrong’s view, there is scope to formulate a background moral theory prescribing some constraints on the human use of some natural resources, such as animals. Nonetheless, as Mancilla (2021) rightly highlights, the fact that this question is formulated in terms of morality rather than justice is telling. It seems to foreclose the possibility that animals count as subjects of justice rather than only as “moral patients” (Mancilla, 2021, p. 108). Additionally, Armstrong believes that to reform our current management of natural resources and address environmental issues, it is not strictly necessary to rely on any conceptions of the intrinsic value of animals or nature, even if “a belief in the intrinsic value of those resources, or in the right of other sentient beings to make use of them themselves, would add further strength to the injunction to do so” (2017, p. 20).<sup>95</sup>

As this brief overview shows, extending the anthropocentrism of current theories of NRJ to include other non-human animals would be a welcome addition to the current debate, whose legitimacy has already been acknowledged by scholars, even if not fully defended yet.

### 7.3.1 A (Partial) Exception: Animals in Armstrong’s Theory

At this point, it is imperative to consider a notable exception to the widespread neglect of claims outside those of human beings is imperative. Although I have just

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<sup>95</sup> Against intrinsic reasons, it could be argued that instrumental arguments for the protection of animals are strategically able to reach a greater consensus. For criticisms, see Cochrane (2012), Donaldson and Kymlicka (2011) and Pepper (2016).

discussed Armstrong's (2017) as one of the theories neglecting considerations beyond human interests, his more recent works constitute an important advancement (Armstrong, 2022; 2024). In his theory of ocean justice, Armstrong (2022) defends an extension of the traditional anthropocentric and instrumental paradigm of distributive justice and attributes rights to some marine animals. In his work on biodiversity, Armstrong (2024) endorses a zoocentric standpoint and argues that claims of non-human animals to a suitable environment should be considered in planning for biodiversity protection. Arguably, animal interests would constitute some of the weightiest reasons for protecting the environment and offsetting the current biodiversity crisis. In what follows, I focus on Armstrong's (2022) work on ocean justice. I believe this constitutes his most complete defence of animal rights in the context of a broader theory of NRJ (although partial since its account is restricted to the ocean), given that it is not only applied to a specific issue, i.e. the biodiversity crisis (as in Armstrong, 2024).

Armstrong (2022, pp. 137–157) discusses the rights of some marine animals: cetaceans (i.e. dolphins, whales, etc.) that have abilities – what Armstrong calls “capacities” – similar to those of human beings. He defends several moral rights that cetaceans should be granted: the right to life, not to be tortured, to freedom of movement and to culture. These rights, in turn, entail corresponding negative duties from human beings, who should refrain from interfering with them apart from extreme cases in which their lives are threatened. Negative duties prescribe different actions: abstaining from killing cetaceans for human purposes; adapting fishing techniques to not interfere with their ecosystem and food chain; and developing strategies to tackle climate change that consider the rights of cetaceans.

Armstrong's (2022) addition to the traditional discourse on NRJ is interesting for at least three reasons that I highlight below. First, his discussion on cetaceans' rights is one of the most well-articulated attempts to date aimed at integrating

claims of non-human beings to the environment and its resources in addition to human claims.

Second, Armstrong uses the concept of “capabilities” that non-human animals exhibit – some more, some less, and to a different degree of complexity than human beings. Although Armstrong does not clearly define capacities, capacity standardly refers to “someone's ability to do a particular thing” (Cambridge English Dictionary, 2024). Examples of human capacities are intelligence or the ability to use language (Armstrong, 2022, p. 140). An interesting similarity exists between Armstrong’s concept of capacities and capabilities defined as “a person being able to do certain basic things” (Sen, 1980, p. 218). As argued in section 7.2, a person holding capabilities can be an agent broadly defined, including non-human animals.

To explore the similarity between capacity and capability further, it is useful to draw from Nussbaum’s distinction between “basic capabilities” and “combined capabilities”, bearing in mind that her ten central capabilities are combined capabilities (2000, p. 84–85). Basic capabilities are “the innate equipment of individuals that is the necessary basis for developing the more advanced capabilities, and a ground of moral concern” (Nussbaum, 2000, p. 84). Examples include the capability of hearing and seeing, speech and language, and so on. Central capabilities are the combination of basic capabilities, which are common to all species members, and suitable external conditions that allow for their exercise. I will not explore this distinction in more detail here, but capacities are fairly similar to the idea of basic capabilities in Nussbaum’s sense. Capabilities (as I have discussed in Chapter 4) include the concept of capacities – or basic capabilities in Nussbaum’s sense – and the presence of appropriate external conditions (i.e. conversion factors), which allow them to be realised into functionings. Hence, it looks like the language of capabilities can act as a friendly amendment and specification of Armstrong’s terminology. At this point, I should also stress a key difference between my account

and Armstrong's. Unlike Armstrong, I do not make a detailed case for the specific capabilities (in Armstrong's terminology, capacities) of particular species of animals. As argued in the previous section, animal capabilities differ and, though many may overlap, a detailed analysis would require extensive empirical research, which is beyond the scope of this work.

The third reason why Armstrong's (2022) theory is interesting to consider is that he states that the same case for recognising cetaceans' interests should be made for different categories of animals outside the ocean realm. This is actually what I consider the main shortcoming of Armstrong's theory of ocean justice. Although innovative, his view provides only a restricted example since it is limited to the ocean. Yet, there are far more ecosystems and forms of life worthy of moral consideration than a theory of ocean justice can acknowledge.

A theory of NRJ should be applicable globally. The rest of this chapter seeks to ground a preliminary theory of NRJ compatible with animal interests, which is not restricted to a single ecosystem. As argued in section 7.2, the capabilities approach is versatile enough to be applied to non-human animals. Consequently, a theory of NRJ based on the capabilities framework can include additional distributive considerations related to non-human animals. This, in turn, would make it well-suited for discussing how to protect natural resources aside from (anthropocentric) sustainability reasons.

#### **7.4 Principles of NRJ for Animals**

In this section, I spell out principles of resource distribution applied to animals, which constitute the basis for a theory of NRJ compatible with considerations of non-human animals' interests. Animals are no longer mere instrumental resources but are themselves valuable and, thus, entitled to use and access rights to natural resources and a suitable environment. Through the following discussion, I also

highlight some of the implications of this extension and I address potential objections about its feasibility.

I have argued that animals can flourish and attain a certain level of well-being. Going back to the account of a decent life defended for human beings (in Chapter 4), many of the capabilities necessary for a decent life can be exercised by animals too. These include life, health, psychological well-being and social relations. Like human beings, animals require natural resources and suitable environmental conditions to exercise their capabilities and actualise them into functionings (cf. Armstrong, 2024, pp. 41–43).

Consider the following examples. In 2022, Kenya experienced an unprecedented lack of rainfall, attributable to anthropogenic climate change. The inability to access freshwater sources killed ca. 6,000 animals (International Fund for Animal Welfare [IFAW], 2023). Between 1998 and 2015, deforestation in New South Wales (Australia) caused the death of more than 87 million animals (World Wide Fund for Nature [WWF], 2018). As these examples show, the lack of vital resources, such as water and trees respectively, jeopardises the capability of life for animals (and all other capabilities too). The use of natural resources for human purposes, far beyond those required for a decent life, and anthropogenic environmental changes (e.g. climate-related changes and habitat loss) are increasingly restricting animal access to essential natural resources. As Armstrong recognises, “most [animals] will find themselves outcompeted for food, freshwater, and living space” (2024, p. 4).

It is clear that providing (at least) the natural resources essential for survival is necessary for animals to exercise any capability, as is the case for human beings. Pepper states that “satisfying many animal interests (including those of human animals) requires valuable resources – resources that are moderately scarce” (2016, p. 120). Granted the moral standing of animals previously defended, a theory of NRJ should seek to promote a fair distribution of natural resources, aimed at ensuring the well-being of all the agents falling within the scope of the theory.



Hence, principles of NRJ aimed at satisfying animal claims to resources ought to be included. Access to specific natural resources (such as water, clean air and food sources) and an adequate environment are necessary for animals to exercise their basic capabilities. This implies that some natural resources and ecosystems should be considered instrumentally valuable for animals.

Furthermore, there are special relationships between specific ecosystems (and their natural resources) and some animals. In Chapter 5, I defended an account of attachment claims that are normatively significant for human beings. I take this discussion as valid. In the context of animal interests, it is evident that many of their basic capabilities, starting from life, can be exercised only in connection to specific resources and environmental conditions. While attachment claims are legitimate for some individual human beings, this is not valid for the majority of them. On the contrary, it seems that the reverse holds for non-human animals. Human beings are highly adaptable, which is not the case for most non-human animals, aside from specific species (e.g. rats, foxes). As a concrete example, think about pandas. If pandas were to be moved anywhere else than an ecosystem where they could access a fundamental resource for their lives, namely bamboo, they would probably not adapt very well at all. Or consider penguins living in the Arctic: they will not survive in an area with a different climate and ecosystem.

In relation to these observations, Mancilla highlights how Armstrong's account of attachment could be extended to consider attachment claims of wild non-human animals, which "are attached to specific resources to a degree to which humans and their domesticated peers will never be" (2021, p. 109). In Chapter 5, I specified Armstrong's account of attachment drawing from the capabilities approach. Hence, Mancilla's suggestion applies to my capabilities-based account of legitimate attachment. Specific natural resources and habitats are non-substitutable for some animals to survive and lead a decent life. Linked to this consideration, Pepper (2019, p. 601) usefully distinguishes between animals who are "niche generalists" and

“niche specialists”. Niche generalists are animals (e.g. rats, crows, racoons) that can live in very different environments, eat different foods and easily adapt to new ecosystems without major disruptions to their lives and well-being. On the other hand, niche specialists “may be able to live in only one type of habitat, eat one or a few types of food, or tolerate a narrow range of environmental conditions” (Pepper, 2019, p. 601). In my view, animals who are niche specialists would hold legitimate attachment claims to specific natural resources and environmental conditions.

This analysis grounds the following principles of justice, which are similar to the ones defended in Chapters 4 and 5 for human beings:<sup>96</sup>

- (v) Sentient animals should be entitled to rights over the natural resources that are essential for the capability of life and for holding their basic capabilities, such as water, clean air and food sources.
- (vi) Sentient animals should be entitled to access rights to an adequate environment since suitable environmental conditions are essential for exercising capabilities.
- (vii) In the case of “niche specialists” animals, they should be entitled to special resource rights over specific natural resources and the ecosystems in which they are embedded, based on legitimate attachment claims.

These principles should be added to the ones previously defended in the context of human claims to resources. Consider that animals belonging to different species need different resource sets to exercise their relevant capabilities and lead a flourishing life. As Armstrong notes, “It is plausible that the fuller the mental, physical or emotional capacities a creature has, the fuller the set of rights he or she

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<sup>96</sup> I do not talk about “secure rights” in this case, since I have previously explained that human beings retain priority in case of conflicts between comparable interests. I will discuss this in more detail in the next section. Additionally, note that rights held by animals are different and species-dependent since they depend on the specific capabilities held by different animals.

ought to enjoy” (2022, p. 142). Animals would then require tailored resources based on their complexity. More detailed considerations of animal differences (in line with the elaboration of a taxonomy mentioned earlier) could help ground different sets of claims over resources. I leave this task for future elaboration since I do not seek to develop such a comprehensive taxonomy here. Having a more elaborate taxonomy would, additionally, help solve conflicts among animals over the same resources and environments. This is a question that I do not discuss in my analysis due to its complexity. In the last section of this chapter, I instead consider the question of human vs. animal conflicts.

### **7.5 Human vs. Animal Conflicts**

I should start the analysis of human vs. animal conflicts by recognising that often there would be no direct clashes (namely, competition over resources for the same purpose, such as food) on using natural resources, since some animals use resources that are not similarly used by human beings. For instance, leaving aside deforestation issues, koalas eat eucalyptus leaves as food, which are not suitable food for human beings. Nevertheless, there will be other conflicts besides competition for food. Consider deforestation or the use of eucalyptus leaves as medicine. Given the potential overlap of human and animal claims over the same resources and environments, which have instrumental value for *both* human beings and animals, a theory of NRJ ought to try to regulate these conflicts. This is a complex task because some of these claims will inevitably be incompatible, and it would often be impossible to satisfy both (e.g. Cripps, 2010; Mancilla, 2021; Nussbaum, 2022).

There are two main types of conflicts between animal and human interests. First, human beings often use animals as resources, hence depriving animals of the possibility of exercising their capabilities (starting from life). Second, conflicts arise in the use/allocation of other natural resources and ecosystems (and, more

generally, the environment), to which human beings and animals both have claims.<sup>97</sup>

### 7.5.1 Human Use of Animals as Resources

Let me address the first type of conflict, i.e. human beings using animals as resources. As a preliminary remark, recall that I do not outline a comprehensive list of relevant (and species-specific) animal capabilities. Instead, I focus on the capabilities of life and a certain degree of bodily integrity and physical health, which all sentient animals share regardless of their complexity level. Other basic animal capabilities depend on species membership, and including them in the following analysis would considerably complicate it. Also, recall that my standpoint is zoocentric individualist, and I leave aside considerations of species. Although sometimes we use animals as natural resources in a way that endangers the whole species, I consider only individual animal claims. More precisely, I focus on the capabilities of life and health of individual animals and examine the main ways in which human beings encroach upon them: when they use animals as food products, for medical research and cultural practices.

Consider the use of animals as food sources. Recognising the interests of non-human animals has relevant implications for the current over-consumption of animals as food products. Additionally, current methods of killing animals are not painless, violating not only their capability of life but also that of health (as bodily

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<sup>97</sup> The following discussion is not exhaustive but outlines some potential solutions and avenues for further exploration. I do not take any position on how to solve competing claims of animals since this chapter focuses on the human use of non-human animals. For instance, animals use each other as food in a prey-predator relationship. Nussbaum (2005) seems to give a picture of a de-naturalised nature where humans have to intervene in prey-predator relations. However, the flourishing of some animals depends on their killing of other animals (see Cripps, 2010; Keulartz and Swart, 2012; Wissenburg, 2011).

integrity).<sup>98</sup> Given the intrinsic value of animals outside of anthropocentric reasons, killing (sentient) animals for food is morally objectionable, as there surely are alternative ways in which human beings (in the present and future) can sustain themselves. Yet, if the conflict is a straightforward one between human life and animal life with no other option, I consider the first one to be prior, as explained in section 7.2. Here, I focus on the capability of life as a paradigmatic case, since in Chapter 4 I argued that (human) life as survival has priority over all other basic capabilities (e.g. health, social relations, education) because without life there would be no other capabilities. Human survival takes priority in case of a conflict with animal life and, subsequently, any other animal capability.

Think about an extreme scenario in which an individual human being had the unique option of eating an animal for survival or starving to death. In the absence of any other alternative method, the first option would be morally permissible. Nevertheless, in real-world scenarios, killing animals for food is strictly necessary only in some situations, such as in distinctive types of subsistence economies. Take the example of members of the Ik population in Uganda, who depend on apes for their subsistence, as discussed by Anderson (2005). Anderson (2005, p. 296) writes that:

Yet those of us who care for the apes must heed the demands of respect for the miners, by finding them some alternative means of subsistence. We cannot justly enforce a right against hunting apes while blithely leaving the costs of this prohibition to be borne by those least able to afford them.

In these situations, alternative ways ought to be found but not at the cost of the lives of the local population's members. This and similar cases count as an instance

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<sup>98</sup> I depart from Nussbaum (2022) who stresses the importance of continuity of life plans and projects as the criterion to consider when killing an animal. Interestingly, she does not invoke her list of capabilities but uses what seems an *ad hoc* argument to state that fish do not have a sense of temporality and their painless killing would be thus permissible.

of what Nussbaum calls “tragic conflicts” (2022, pp. 173–192), when there is an unavoidable conflict that will inevitably lead to a loss. Or, as Donaldson and Kymlicka call them, they constitute “lifeboat” cases; as they suggest, “there may still be some isolated communities of humans dependent on limited local options for survival, who arguably are not in the circumstances of justice with animals” (2011, p. 41). In most real-life scenarios, however, the choice set will rarely be limited to only this solution, but there will be other ways in which a human being can survive. Overall, it would not be morally permissible to kill animals, unless the human capability of life could not be met otherwise in a feasible timeframe.

Additionally, if we consider a longer period of time, there might be other ways for resource-dependent populations to sustain themselves, by converting their practices into alternative ways of living that do not require unnecessary killing (I will discuss the adaptability criterion below). Where applicable, the regulatory process should involve decision-making procedures that include and respect the affected populations’ voices, since these communities rely on those specific natural resources. In Chapter 6, I mentioned that sustainable management of resources is usually better implemented when interested parties, having a detailed knowledge of the area, are involved in the decision-making process. Ballet, Koffi and Pelenc (2013) discuss the example of local populations living around Lake Chad, who rely on fishing for subsistence. To protect the fishing resources of the area, the government prohibited their use by the locals. This led to a significant decrease in the quality of life of the affected individuals, whose claims were not even taken into consideration during the decision-making process prescribing a ban on fishing. As a temporary solution to this case, norms that propose a threshold level for using fishing resources in Lake Chad could be established. At the same time, the affected individuals should be provided with the means to expand the methods through which they can satisfy their basic capabilities, starting from survival. This does not

entail disregarding animal claims but would give the affected populations new means to sustain their members.

Regarding the second instrumental use of animals as resources, i.e. in medical testing and for scientific research, this counts as another “tragic dilemma” among the ones identified by Nussbaum (2022, pp. 177–183). In many cases, animal testing is useful to save both human and animal lives and should not be fully banned. However, a requirement would be for it to be conducted according to the following principles: “reduce the harms, refine techniques to produce fewer harms, and, where possible, replace research involving animals with other types of research” (Nussbaum, 2022, p. 178). There also seems to be scope for using alternative methods and non-lethal ways of conducting scientific research, including for medical purposes (see Wichert and Nussbaum, 2017). If testing practices are not strictly necessary (e.g. for cosmetic purposes and not for survival) or if there are alternative ways to reach the same outcome, there is a strong case against using animals for medical and scientific research.

Lastly, I discuss cultural practices. For these cases, the permissibility of killing animals depends on the specific context in which such practices take place and how they unfold.<sup>99</sup> There are cases with straightforward answers, such as the British aristocracy’s claim to a right to fox hunting (Ypi, 2017). The life and bodily integrity of foxes have priority over a practice on which none of the British aristocracy’s basic capabilities depend (see Chapter 5). Hence, in this specific case and analogous ones,<sup>100</sup> those practices are not permissible, as human claims are not directly related to survival purposes or any of their basic capabilities.

In other cases, however, the matter is more complicated, since the practice is embedded in contexts where survival reasons merge with identity and culture (e.g.

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<sup>99</sup> Here, I depart again from Nussbaum (2022) who seems to lean towards an outright rejection of cultural killing.

<sup>100</sup> For other examples, see Casal (2003).

Linch and Holland, 2017; Reibold, 2021). For instance, in the case of the Saami examined by Armstrong (2014b; 2017), the Saami's way of life is centred around herding reindeer. Many of their basic capabilities depend on such a practice, including health, knowledge and social relations. I argued that this is an instance of a legitimate attachment claim since the exercise of basic capabilities depends on specific natural resources. In the Saami's case, herding reindeer is thus permissible. This would also include killing reindeer.

In such cases, killing usually happens under respectful circumstances. To clarify what I mean by "respectful circumstances", Indigenous and native people often have a capabilities-like argument for the killing of animals: only animals that have flourished to the peak are appropriate subjects for hunting. More generally, hunting practices by such groups are often done under ethical considerations. As Reibold puts it, "Many indigenous peoples view welfare not just as interest satisfaction but as the harmonious co-existence with humans and non-human beings" (2021, p. 96). As argued in Chapter 5, many Indigenous peoples consider their relationships with particular species as *social* and, if they kill animals for survival or cultural reasons, they do so guided by a form of respect for the animals. Among other examples, Cunsolo *et al.* (2020, p. 44) report the following words of the Inuit people regarding caribou decline:

The first word that comes to my mind is sad. Not only sad for us, but sad for the caribou. [...] I'm sad for the people because we don't have caribou meat to eat. I'm sad for the caribou because they're declining. They're getting killed off or being starved, or whatever it is that's happening to them. [...] Which is really bad, and sad for the caribou themselves.

Referring to Linch and Holland's (2017) discussion of "permissible cultural killing" is helpful here. Drawing from the resources of the capabilities framework and its recognition of animal flourishing, Linch and Holland (2017) discuss two



criteria that justify the permissibility of killing animals. The first one, the “adaptability criterion”, refers to the idea that practices harming animals are more justifiable when reinterpreted over time to account for changes in values and material circumstances. According to the second one, “the regulatory criterion”, practices of cultural killing are more justifiable if they respect the interdependence of humans and animals and seek to regulate and minimise the harm produced to animals. Taken together, these two criteria entail that cultural practices should change over time towards a more respectful interaction between human beings and animals. Regarding herding reindeer (as in the Saami’s case), Istomin and Dwyer note that “the interaction between the animals’ behavioral patterns and the herders is an important element of nomadic pastoralism” (2010, p. 614). The interaction between reindeer and herders is not fixed but results from a dynamic mutual behavioural adaptation. Additionally, Sara, Syse and Mathiesen (2022) argue that traditional killing practices carried out by the Saami are more humane and attuned to the animals’ welfare. Hence, it appears that the Saami’s practices of cultural killing respect both the adaptability and regulatory criteria outlined by Linch and Holland (2017). Conversely, the same consideration would not hold for fox hunting claimed by the British aristocracy as part of their identity. In addition to not being necessary for the aristocrats’ relevant basic capabilities, as I showed in Chapter 5, this practice refers to an immutable and fixed past that does not entail respect for foxes’ welfare.

I should now highlight an additional relevant point. Using animals as resources for specific groups can be legitimate. However, this does not entail that animals should be seen as valuable natural resources to be used to meet human capabilities for *all* self-determining groups that wish to do so. The abovementioned cases refer to specific resource rights grounded in legitimate attachment claims. As I have argued in Chapter 6, attachment claims are sometimes related to self-determination claims but not necessarily. Communities are not always entitled to decide on the

value of their natural resources. Animal flourishing should be universally valued, although subject to qualified exceptions like those just examined. Therefore, animals cannot be seen as *resources* only due to a collective's decision.

#### 7.5.2 Human vs. Animal Conflicts over Resources

I conclude this discussion by examining the second type of conflict between human beings and animals, namely, incompatible and competing interests over the same natural resources (e.g. water, land, etc.) and environment. As previously argued, the environment is a structural natural resource essential for every form of life. Given the current availability of territory and resources and its increasingly worrying scarcity, meeting all claims to a decent life for the present and future generations of human beings and, additionally, the claims of animals seems quite demanding. At a minimum, this would require significant behavioural changes in the human use of the environment and its natural resources. Human beings are highly adaptable (more than most animals), as mentioned earlier.<sup>101</sup> Different environments are appropriate for human lives, whereas some of the same environments are strictly necessary for specific animals. When this is the case, human beings should live where they do not preclude the same possibilities for other animals to do the same.

So far in the section, I have mainly discussed the capability of human life, but let me briefly expand on other same-level conflicts between human and non-human animal capabilities, which become starker if we consider competition for scarce resources. If a human basic capability, other than survival, directly clashes with an animal basic capability, again other than survival, human interests trump non-human interests. As argued in section 7.2, I endorse a moderate hierarchy view, according to which human beings with a more complex set of valuable capabilities (and, hence, more valuable interests at stake) have priority over non-human

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<sup>101</sup> I do not consider animals who live in captivity as adapting to their condition.

animals. For instance, consider human-elephant conflicts in a situation of water and/or food scarcity (Shaffer *et al.*, 2019). If there is a direct contrast over resource use, e.g. access to freshwater and crops, necessary for the capability of physical health of *both* human beings and elephants, human interests take priority. Or, consider the potential destruction of infrastructure, such as hospitals or schools (relevant for the human capabilities of health and education), caused by elephants looking for food. In such cases, actions such as fencing around crops, used as food sources, prioritising freshwater provision for human beings and protecting infrastructures are allowed. However, it does seem possible that non-human animals could flourish alongside humans better than what happens nowadays, turning situations of conflicts into co-existence. This would undoubtedly require a revision of current practices and an implementation of new strategies. Still, there are good reasons for considering changes that would help guarantee both human and animal flourishing. Context-specific measures should be decided in consultation with the affected individuals and communities on a case-by-case basis.

Furthermore, there is also an additional way in which human beings should consider animal claims over resources and an adequate environment. As Armstrong (2022, pp. 137–157) argues for what concerns the rights of cetaceans, recognising their rights implies that practices damaging the availability of cetaceans' food (such as overfishing) are to be avoided. If human beings need to use natural resources, for instance, by cutting down a forest to use wood, claims of the animals living in the forest should be considered. Take another example: oil extraction stations and oil transportation across the ocean that can disrupt the entire surrounding ecosystem. An entitlement to an adequate environment for human beings *and* animals would require changes in such disruptive practices.<sup>102</sup>

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<sup>102</sup> Armstrong (2017) discusses redistributing benefits *and* burdens derived from natural resources. Although I do not discuss the distribution of burdens from resource use, there is scope to include considerations of non-human animal interests when distributing burdens.

Overall, considering animal claims also carries significant implications for decisions on mitigation and adaptation strategies to tackle climate change (see Pepper, 2019). Addressing climate-related issues in specific ways could be unproblematic for human beings, yet it could entail a decrease in animal capabilities. A theory of NRJ should assess potential solutions by weighing both types of claims. In many cases, the optimal solution would be setting stricter boundaries and regulations on the human use and exploitation of resources. The same reasoning applies to policies and practices aimed at biodiversity conservation, which impact both human beings and animals. These policies should be evaluated with a concern for both types of interests (see Armstrong, 2024).

This concludes my analysis of conflicts. There is scope to develop it further, as I have only sketched general guidelines to regulate some forms of competing interests. I assume there are *pro tanto* reasons to (at least) follow those guidelines. However, I am aware that several constraints might prevent their practical application. Constraints could include extremely high opportunity costs (especially in poor and rural areas), implementation problems and scepticism regarding principles that go beyond an anthropocentric framework. Although I showed that some conflicts have potential theoretical solutions, their practical implementation remains a critical challenge to any theory considering animal interests. This implies that there are still many unanswered questions that an extended theory of NRJ should explore and hopefully solve in the future.

## **7.6 Conclusion: Beyond Anthropocentrism in NRJ**

In this chapter, I defended an extension of the traditional anthropocentric framework of theories of NRJ, whose analyses discuss distributive concerns among the human population. A theory of NRJ based on capabilities is in an optimal position to address claims of non-human animals. Recognising animals as holders

of capabilities has three fundamental implications. First, animals should not be conceived simply as natural resources. Second, some animals hold legitimate claims over natural resources, which should be considered alongside those of human beings. Third, a capabilities-based theory of NRJ that recognises animal interests can place a higher bar on the protection of natural resources and the environment than a theory that simply relies on the idea of sustainability.

Let me conclude by considering a final objection related to this point. How is the framework outlined in this chapter different from (and superior to) a sustainable development approach, as defended by current theorists of NRJ? First, I argued that several theorists recognise the need for an extended theory of justice that includes claims of non-human agents. Hence, my account is already different from the current theories of NRJ (except Armstrong's case) and better able to fill the existing gap in the literature.

Second, defending only (anthropocentric) sustainability constraints leads to considering only the needs of present and future generations of human beings. This, in turn, is built upon recognising only the instrumental value of natural resources for human beings, without any respect for other forms of life. Animals and the environment are protected incidentally *only* to exploit them more, which is a kind of answer that begs the question since eventually there will no longer be something to protect or exploit. On the contrary, valuing other forms of life aside from human beings and placing some constraints on the use of natural resources and specific ecosystems – because animals are valuable in themselves and because other resources and ecosystems are valuable for both human beings and animals – is a fruitful way to tackle the issue of over-exploitation of some species and ecosystems. Animals gain additional protection since they are morally worthy of consideration. Moreover, if the environment is instrumentally valuable for non-human animals, additional limits, aside from human needs, will be put in place for its protection. This will lead to a higher level of concern for the ability of the environment to

sustain life. Consequently, the environment may be able to sustain other forms of life in a better way and, presumably, also human life for a longer time (given the interconnectedness of all forms of life).

## 8. Addressing Climate Mobilities in Small Island Developing States

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### 8.1 Introduction

In this chapter, I discuss the challenges that populations of Small Island Developing States (SIDS) face due to the increasingly severe effects of climate change and sea-level rise on their territories. Let me first clarify why this topic is relevant to discuss in the context of a theory of NRJ. Climate change raises many questions of NRJ, as rightly noted by Blomfield (2019). Leaving aside that it results from the overconsumption of resources such as fossil fuels, climate change has ravaging effects on the environment. Environmental conditions are worsening globally, extreme weather events and the associated loss of lives and livelihoods are increasing, and vital resources are becoming scarcer and scarcer (Intergovernmental Panel on Climate Change [IPCC], 2023). A framework for NRJ helps us grasp how climate change affects individual and collective rights over essential natural resources and an adequate environment. Moreover, it can contribute to drafting appropriate solutions.

Although climate change has a global impact, I will restrict my analysis to the context of SIDS, focusing on Kiribati. SIDS, such as Kiribati, Tuvalu, the Maldives, and the Marshall Islands, are some of the most hit countries by the effects of climate change. Their situation is paradigmatic to analyse since two different – though linked – sets of problems arise. First, there is a growing issue of natural resource availability, coupled with the consequent inability for individuals to reach a certain level of well-being and maintain their livelihoods where they are located. Second,

there is a future high risk of territorial dispossession and consequent loss of collective self-determination.

In recent years, the possibility of these entire countries disappearing due to sea-level rise has captured increasing attention under the label of “sinking islands” (Boas *et al.*, 2019; Farbotko, 2019). Several scholars have proposed theoretical solutions to the scenario of inevitable relocation for populations of SIDS (e.g. Angell, 2021b; Armstrong, 2022; Kolers, 2012b; Nine, 2010; Ödalen, 2014; Risse, 2009b; Stilz, 2019; Vaha, 2015). While these are relevant interventions if collective relocation becomes inevitable, these authors have tended to assume the uninhabitability of SIDS, regardless of uncertain scientific projections.

In response to the sinking island framing, an increasing number of scholars have instead offered arguments in favour of considering *in situ* adaptation as a relevant aspect of addressing climate mobilities beyond relocation plans (Baldwin, 2022; Boas *et al.*, 2022; Capisani, 2021; Farbotko and McMichael, 2019; Farbotko *et al.*, 2020; Klöck and Nunn, 2019; Zickgraf, 2018). As these scholars have pointed out, focusing only on relocation leads us to endorse a “doomsday” narrative, which normalises the inevitability of territory loss and reinforces a narrative centred on the vulnerability and powerlessness of SIDS populations.<sup>103</sup> Furthermore, it obscures theoretically distinct problems related to managing resources that are growing scarcer and scarcer in the short- to medium-term, whether or not relocation will eventually become necessary.

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<sup>103</sup> I refrain from adopting the terminology of “environmental refugees” or “climate refugees” to refer to populations in SIDS. First, no legal notion of refugeehood is granted based on environmental reasons. Second, this category risks misrepresenting the realities of SIDS, where the affected communities do not necessarily want to relocate abroad, reinforcing a narrative where the lack of more hopeful options is often taken for granted (Baldwin, 2022; Farbotko and Lazrus, 2012; Farbotko *et al.*, 2023). Additionally, I refer to *climate mobilities* rather than displacement, to capture the idea that potential solutions should encompass relocation *and* voluntary immobility (Capisani, 2021; Zickgraf, 2018).



In this chapter, I address this timely issue and seek to cast new light on the debate about climate change and climate mobilities in SIDS. I argue that the capabilities-based framework of NRJ that I have outlined can inform more appropriate solutions to tackle this issue for at least three reasons. First, it can justify individual and collective claims to natural resources, including land, and account for their non-substitutability. Second, it has relevant normative implications for both *in situ* adaptation measures and the prospect of *ex situ* relocation without selectively focusing on the latter. Third, recall that the capabilities metric is context-dependent and sensitive to interpersonal variations. In the context of SIDS, this helps acknowledge the differential vulnerability of individuals to climate-related effects, which intersect with existing conditions of disadvantage.

The chapter is structured as follows. Section 8.2 sets out the salient features of Kiribati's situation. Section 8.3 applies the theoretical framework of NRJ that I have outlined so far to Kiribati's case. Section 8.4 justifies the importance of *in situ* adaptation efforts. I then discuss how adaptation should be planned and implemented if it wants to be effective. Section 8.5 discusses the scenario in which collective *ex-situ* relocation becomes the only viable option and defends the population's right to choose where to settle. Section 8.6 concludes.

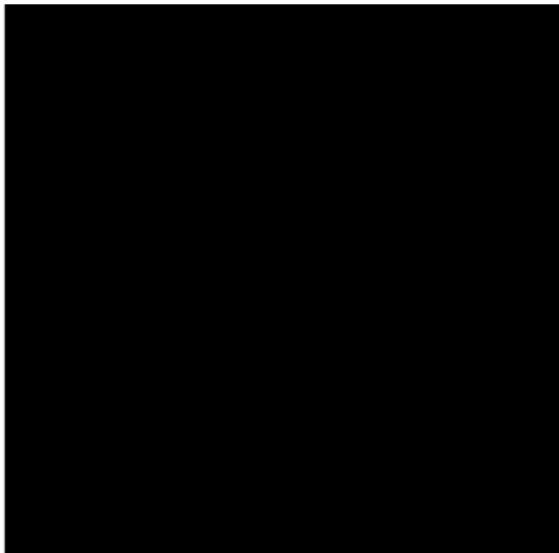
## **8.2 Kiribati: An Island Nation Facing the Threat of Climate Change**

Throughout my analysis, I focus on the situation in the Republic of Kiribati as an example of current problems in SIDS.<sup>104</sup>

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<sup>104</sup> Many of the considerations valid for this case are relevant for similar cases, but a compelling account of justice for other SIDS must be context-sensitive (Walshe and Stancioff, 2018). The specific impact of climate change depends on the country's geographical features, vulnerability and (in)ability to adapt.

Here, I provide a general overview of its empirical features.<sup>105</sup> The Republic of Kiribati consists of thirty-three islands extending over 3.6 million km<sup>2</sup> in the Pacific Ocean. Thirty-two islands (twenty-one inhabited) are low-lying atolls rising no more than 2–3 meters above sea level. The most populated atolls are Tarawa (South Tarawa is the capital city) and Kiritimati (see Figure 1 below). The other islands – called “outer islands” – are less densely populated and accessible. Land, vegetation and agricultural resources are scarce in Kiribati. Guaranteed provision of water is also a challenge. Given the size of Kiribati’s Exclusive Economic Zone (EEZ), only marine resources have been traditionally abundant.



Kiribati became independent from the UK in 1979. Several factors, including the isolated geographical position, the atolls’ environmental features and the history of colonial domination, have contributed to an extreme level of poverty and a low standard of living. The main problems affecting Kiribati are the increasing scarcity of natural resources, issues of overpopulation coupled with a lack of economic

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<sup>105</sup> For more details, see Government of Kiribati (2007; 2009; 2013; 2016; 2019), Hay and Onorio (2006), Oakes, Milan and Campbell (2016), and United Nations Office for Disaster Risk Reduction (2020).

resources and inadequate infrastructure, high levels of unemployment, and a significantly underdeveloped economy, whose main sectors are fishing, selling fishing licenses to foreign vessels and agricultural exports of copra. With a population of 119,438 in 2020 (Pacific Community [SPC], 2022), the country is forced to rely on sources of foreign aid to sustain itself.

Kiribati is among the most hit countries by climate change (IPCC, 2023, pp. 2043–2121; World Bank Group and Asian Development Bank, 2021). Aside from accelerating sea-level rise, additional climate-related issues contribute to the rapid deterioration of Kiribati’s environment (e.g. floodings, extreme weather events, soil salination, etc.). The surge in climate-related issues affecting Kiribati’s environment hinders the possibility for the I-Kiribati (i.e. members of the Kiribati population) to maintain their lives in their country, regardless of future territorial loss. Additionally, climate change intersects with existing economic, social, and political vulnerabilities, exacerbating issues that are traditionally drivers of migration, such as unemployment, overpopulation and poverty (Draper, 2022a).

### **8.3 Principles of NRJ: A Framework for Climate Mobilities**

In Chapters 4–6, I outlined a capabilities-based theory of NRJ and argued that it provides an appealing way to consider individual and collective claims to natural resources and an adequate environment. For reasons of simplicity, I will bracket the principles of NRJ outlined in Chapter 7, which apply to non-human animals. Including them in the following discussion would have significantly complicated it: conflicting claims would need to be balanced against each other and these would often depend on species membership, which is an issue I did not elaborate upon (see Chapter 7). Hence, I will restrict my analysis to the (anthropocentric) normative framework outlined in Chapters 4–6. In more detail, I will apply the framework to address the claims that the population of Kiribati has over vital

natural resources and an adequate environment, in light of the challenges brought about by climate change.

As mentioned in section 8.1, two different problems arise in SIDS: the loss of ways of life and territorial dispossession (see Heyward, 2014). The loss of ways of life refers to the negative impacts of climate change on the livelihoods of the I-Kiribati, who have developed a distinctive way of life in connection to the physical features of their surrounding environment and the natural resources available. Territorial dispossession refers to the complete and permanent loss of territory due to sea-level rise. Territorial dispossession is a future scenario since many – though not all – scientific projections are very bleak regarding the future habitability of SIDS. Not only does territorial dispossession affect individual lives, but it also hinders the possibility of collective self-determination for SIDS populations, given the standard conception of self-determination as territorially-based that I have discussed in Chapter 3 (see Moore, 2015; Stilz, 2019). As put by Schlosberg, in this situation it “is the *community* functioning that is at issue *as much as*, and *distinct from*, individual functioning” (2012a, p. 173).

A capabilities-based framework of NRJ helps consider these two levels of analysis: individual losses and collective losses. Recall the principles of NRJ that I have defended in Chapters 4–6:

- (i) All individuals should be entitled to secure rights over the natural resources that are essential for the capability of life and for holding basic capabilities.
- (ii) All individuals should be entitled to rights over an adequate environment since suitable environmental conditions are essential for exercising capabilities.
- (iii) When the basic capabilities held by individuals depend on access to (or use of) specific natural resources (i.e. there is legitimate attachment), those

specific individuals should be entitled to special resource rights over these natural resources and the specific environment in which they are embedded.

- (iv) Political collectives should be entitled to control rights over the natural resources and an adequate environment that are necessary for the exercise of their capability of collective self-determination.

### 8.3.1 Individual Rights to Natural Resources

Here, I examine the first three principles of NRJ that apply to individuals. Following principles (i)–(ii), the first requirement in tackling climate-related issues in SIDS would be giving individuals enough natural resources and an adequate environment to survive and hold their basic capabilities. As argued in Chapter 6, individual rights to the resources necessary for a decent life – including the environment as a structural natural resource – take priority over collective control rights when external conditions call for immediate action, such as when environmental conditions rapidly degenerate.

For instance, consider extreme weather events (e.g. floodings) affecting the outer islands of Kiribati, which are the most vulnerable to climate change. There are morally valuable ties between the I-Kiribati community living on a specific atoll and its land, which should be respected (as I clarify later). However, in the event of rapid environmental changes that jeopardise the possibility of the I-Kiribati's survival, priority goes to ensuring that the affected individuals are relocated and have access to resources and suitable living conditions elsewhere in the country. In Kiribati, there is a growing number of internal migratory movements from outer islands to the higher atolls of Tarawa and Kiritimati to face extreme weather events affecting the most vulnerable atolls. Other issues notwithstanding, internal relocation helps ensure that there are (at least short-term) increased opportunities to guarantee basic well-being conditions for the affected individuals, starting from survival.

In Chapter 4, I highlighted how the capabilities approach is particularly well-suited to account for differences in individual conversion factors from resources to functionings, including personal and social conversion factors. In Kiribati's context, this entails providing necessary resources (e.g. water, food, land) tailored to the needs of differentially vulnerable individuals. Given the presence of interpersonal variations (even when individuals are part of the same community), some among the I-Kiribati will require more than an equal share of resources to reach the same level of well-being.

Going back to the case discussed above, internal migration from outer islands to safer areas (the atolls of Tarawa and Kiritimati) exacerbates conflicts over already scarce vital resources, where the first ones to lose access to them are vulnerable members of the population, i.e. the elderly, children, women, the disabled and individuals living on outer islands (see, for instance, Asian Development Bank, 2021). Looking at people's capabilities rather than prescribing a blanket distribution of resources to everyone can capture the different needs of individuals. This can inform tailored interventions for *in situ* adaptation programmes, as I discuss in section 8.4. Furthermore, using a multi-dimensional account of well-being based on capabilities helps shed light on an important – and often under-considered – aspect of climate-induced mobilities (see de Haas, 2021), namely, climate change intersects with existing conditions of disadvantage and vulnerability that affect people's decisions and opportunities to move or stay.

Regarding principle (iii), I discussed how legitimate attachment claims hold when individual basic capabilities depend on the existence of *specific* natural resources and environmental conditions (see Chapter 5). When this occurs, those individuals are entitled to special resource rights over the resources embedded in specific ecosystems. In the context of Kiribati, there is legitimate attachment between (the majority of) the I-Kiribati and their natural resources and land. In many SIDS, including Kiribati, the local population depends on the surrounding

environment and the specific natural resources available on the atolls. The Kiribati Integrated Environment Policy (Government of Kiribati, 2013, para. 1.1) reports that:

Since it was first settled, the people of Kiribati have relied on their natural resources for survival. They still do with an estimated 80% of the population primarily living a subsistence lifestyle. The marine environment sustains them and they depend on it for food, transport, traditional practices and economic opportunity. On atolls the terrestrial environment is more limited but it is essential for water, food and shelter.

The I-Kiribati have developed a distinct type of subsistence livelihood linked to the particular conditions on the atolls and the surrounding ocean. Although subsistence livelihoods are changing, favouring a more Western lifestyle in the capital city, South Tarawa, most of the I-Kiribati still rely on the natural resources and environmental conditions available, especially on outer islands. This idea is close to Stilz's concept of "practice-based interests" (2019, pp. 157–186) and "located life plans" (2013, pp. 335–336): the interests of some individuals/populations, such as resource-dependent communities, in carrying on a distinct way of life in a given territory.

Recall that, in Chapter 5, I clarified Stilz's account of attachment (as well as Armstrong's) through a capabilities-mediated response. I considered the relationships between individual basic capabilities and particular natural resources and environmental conditions. Additionally, I stressed that basic capabilities could be specified at the level of the affected communities, and other valuable capabilities could be added via a bottom-up participatory mechanism. This is useful so as not to misrepresent the experiences of local populations and oversimplify each specific context (see Schlosberg, 2012a; 2012b). I then suggested we start by considering the following capabilities: *survival, health, emotional and psychological well-being,*

*education and social relations* (Robeyns, 2003b; Sen, 1980). In what follows, I briefly examine these capabilities for the case of the I-Kiribati.

Consider first *survival*. As reported in the Kiribati Integrated Environment Policy (Government of Kiribati, 2013), around 80% of the population relies upon a distinctive type of subsistence livelihood (see also Government of Kiribati, 2016; 2019). The environmental conditions on the atolls and the surrounding marine environment have shaped the way of life of the I-Kiribati (starting from survival), which is linked to continued access to critical resources, such as local tree crops and fishing resources (Cauchi, Correa-Velez and Bambrick, 2019).

Concerning *(physical) health* beyond survival, the I-Kiribati, like many populations in other SIDS, rely on specific plants available on their territory to treat diseases and heal, following traditional medicine practices. Although there is an increase in imported (Western) medicine, traditional practices are still a significant part of medicine in Kiribati (Schutz, Tanuvasu and Outel, 2019).

The I-Kiribati's *emotional and psychological well-being* is related to their specific environment. Many of the natural resources available in Kiribati's territory are fundamental elements that underpin traditional practices and culture, from the production of handicrafts to forms of knowledge, on which the I-Kiribati's sense of identity and stability depend (Government of Kiribati, 2013; 2019). The land is highly significant and carries an irreplaceable cultural and symbolic value for the I-Kiribati's identity and sense of community and belonging (Campbell, 2010). Note how the term used to denote land in the I-Kiribati language is "aba", which also means "people" and "country", suggesting a deep connection between the land and the identity, history and culture of the population of Kiribati (Goodwyn, 2020).

Forms of traditional practices are also linked to the capability of *education*: the I-Kiribati's traditional system of knowledge is linked to their specific cultural heritage and traditions that are rooted in their land (Woodham *et al.*, 2018).



Finally, for what concerns *social relations*, it is helpful to consider Farbotko's (2019) concept of "ontological security". This captures the idea of a sense of identity, temporal continuity and wholeness of individuals in SIDS, conceived in relation to others and their territory. The I-Kiribati society is a communal type of society where communities, such as the larger social kinship and the village, are integral parts of the individual's identity (Kuruppu, 2009). These, in turn, depend upon the land. This resonates with Margalit and Raz's (1990) notion of "encompassing groups" with "pervasive cultures" that are fundamental for an extensive area of their members' lives and become focal points of identification (see Chapter 5). For instance, when the I-Kiribati living on outer islands had to leave their islands and traditional meeting town halls due to flooding and environmental hazards, their sense of community belonging – which is linked to those specific atolls – was significantly damaged (Cleverley, 2023).

As this brief overview shows, the I-Kiribati's most essential capabilities listed above depend on access and use of specific resources and land/ocean. Put differently, the environmental conditions on the atolls and the availability of specific natural resources have shaped the I-Kiribati's ability to actualise their capabilities into functionings, impacting their ability to reach a certain level of well-being. Following principle (iii), the I-Kiribati are thus entitled to rights (e.g. access, use) over the natural resources and the specific environment in which they are embedded. The "grounded nature" of their capabilities justifies the I-Kiribati's claim to maintain continued access to that *particular* territory and legitimises their hope to promote solutions for *in situ* adaptation (see section 8.4).

Furthermore, their legitimate attachment explains the sense of incommensurability that occurs when the territory is lost. In line with the above analysis, the I-Kiribati fear that their traditional forms of culture, knowledge, skills and distinctive identity will disappear if they have to relocate. Many I-Kiribati are very concerned about losing their country since they worry that they will lose at the

same time their uniqueness, given that everything they know about themselves is there and – as they claim – cannot be replaced by a different environment. Maintaining the connection with their land, which constitutes the basis of their cultural identity and is necessary for their ontological security, underpins the will of the majority of the I-Kiribati not to relocate abroad but to explore options for *in situ* adaptation, reflected in the Government of Kiribati’s (2016; 2019) current policy programme. Their specific environment, along with its natural resources, is non-substitutable. A different environment cannot replace it; if displacement is inevitable, there will be a loss that can never be fully compensated (see de Shalit, 2011).

### 8.3.2 Collective Self-Determination

So far, I have discussed individual claims to resources and land in Kiribati (principles i–iii). Following principle (iv), populations in SIDS have an additional interest in maintaining their self-determination through collective control rights over a suitable territory. A people’s claim to self-determination is crucial to consider in the context of SIDS since the countries’ entire habitability is threatened. The relevant interests are individual claims to natural resources and land *and* a collective interest in maintaining self-determination in their territory.

As mentioned in section 8.1, several scholars, particularly theorists of territorial rights, have approached the issue of climate change in SIDS by focusing on the future scenario of territorial loss. Given that statehood has been traditionally conceived with a territorial base (per the 1933 Montevideo Convention), “state extinction” appears as a looming prospect in the case of “sinking island states” (Vaha, 2015). As territorial rights theorists argue, self-determination requires a territorial base and a form of territorial and resource rights to be robust (see Chapter 3). If scientific projections about sea-level rise are correct, the central puzzle becomes how to ensure effective relocation of SIDS populations to mitigate the loss

of territorial sovereignty and guarantee some form of collective self-determination for the displaced political community (see Kolers, 2012b; Nine, 2010).

To further illustrate this point, consider the different proposals advanced by theorists to respect their *collective* right to territory. In short, Nine (2010) argues for redrawing territorial boundaries to ensure territorial sovereignty for the affected populations. This would entail the collective relocation of the populations to a new territory as independent political communities; in the case of Kiribati, creating a “New Kiribati” in a different territory. Stiliz (2019) argues for a form of “intra-state” territorial autonomy since she rightly recognises that, in some cases, territorial redistribution might not be feasible (see Chapter 3). In her view, climate-displaced communities should be relocated to a place where they can maintain their traditional livelihoods as much as possible; additionally, the host state should protect their unique culture through specific policies. Given the challenges that granting more or less demanding forms of political autonomy could bring about (in terms of conflicts with the populations of host countries), there are other proposals in favour of reconceptualising statehood without the requirement of permanent residence in a given territory. Affected SIDS would become “de-territorialised states” (Ödalen, 2014), with no effective control over new territory but with residual control over the submerged territory and its surrounding EEZ (on this, see also Armstrong, 2022; Armstrong and Corbett, 2021).

I do not aim to provide a detailed defence of any of the above proposals. However, I want to highlight that these proposals capture a fundamental aspect of the challenges brought about by climate change in Kiribati. In Chapter 3, I argued that theories of territorial rights are persuasive because they recognise that people interact with specific places and resources individually and collectively. In the case of SIDS, if we were to focus only on individual claims to land and resources, we would overlook how territory and resource control are significant for the collective self-determination of the population. For instance, consider the solution given by

Risse (2009b), who defends a human right to relocation triggered when individuals are unable to satisfy their basic needs where they are located (see Chapter 2). Risse's argument allows affected individuals to seek entry in a different state. However, only respecting individual rights to basic needs satisfaction violates the collective claim that SIDS populations have over a suitable territory. It is indeed the hope of the population of Kiribati to maintain their political independence and identity as a political community and not to be dispersed among different countries.

In Chapter 6, I argued that collective self-determination is relevant as an instrument to provide and enhance individual capabilities (such as the basic ones defined in Chapter 4), and also provide new capabilities that can only be achieved through a collective setting. Collective self-determination allows communities to decide which additional capabilities are valuable and how to actualise them into functionings. Moreover, relevant individual capabilities, such as a sense of belonging to a community and social relations, rely on a stable surrounding socio-cultural context to be actualised. In the previous section, I referred to the concepts of ontological security and a form of pervasive culture in Kiribati, which suggest that the I-Kiribati rely on their broader community – which, in turn, depends on the land – to maintain their sense of identity and wholeness as individuals.

Collective self-determination is also essential for providing continuous access to goods necessary to meet basic capabilities, or individual basic rights, as theorists of territorial rights argue (Moore, 2015; Stilz, 2019). Among other things, managing resources is best achieved through collective action. This is especially relevant for SIDS populations, given their knowledge of the territory and their reliance on sustainable environmental conditions. Through collective self-determination, communities can decide on the value of their natural resources and their regulation system (see Blomfield, 2019; Moore, 2015; Stilz, 2019). In Kiribati, there is a system of communal ownership of land, which can only be respected if the political collective has control rights over a territory and its resources. If the I-Kiribati were

relocated to a foreign country that adopts a different land regulation and management system, this valuable part of their culture would be lost.

Additionally, collective self-determination can function as a “resistant-capability” and a “resilient-capability” in the context of SIDS.<sup>106</sup> Self-determining populations in SIDS can exercise their agency in a way that may help them counter the existing situation of disadvantage and asymmetry in which they find themselves (thus, acting as a resistant-capability). Arguably, self-determination allows them to freely govern themselves through a mechanism of collective decision-making and without undue external interference. Nonetheless, consider that this does not solve the underlying structural situation of asymmetry of power and vulnerability of SIDS populations, which is perpetuated by the current system of territorial states and exacerbated by the disproportionate effects of climate change on their territories (see Baldwin, 2022). Having contributed almost nothing to climate change, SIDS are some of the countries that bear the highest costs. In addition, they do not have the financial and economic means to face this situation without relying on foreign aid. Nevertheless, as several scholars rightly argue, there is still an undeniable value in considering the needs and desires of SIDS populations “on their own terms” (Farbotko and McMichael, 2019; Perumal, 2018) and ensuring that their self-determination is respected. Self-determination is also fundamental to guaranteeing the resilience of SIDS populations in the face of environmental degradation on their islands and in the event of relocation elsewhere (acting as a resilient-capability). Only through community-led decision-making can effective policies be drafted, policies that ensure the respect of the I-Kiribati’s agency and needs.<sup>107</sup>

In light of the abovementioned considerations, the political community’s claim over land and natural resources should be considered as a relevant requirement of

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<sup>106</sup> See my discussion of Rosignoli’s (2018) resistant and resilient capabilities in Chapter 6.

<sup>107</sup> I will return to the discussion of community-led resilience building in section 8.4.

justice in Kiribati's case (and other SIDS). However, respecting collective self-determination should not occur at the expense of the I-Kiribati's ability to meet basic conditions of well-being. As argued in Chapter 6, an interest in collective self-determination does not rule out a distributive constraint, according to which basic conditions of individual well-being (in terms of capabilities) should be first met. Ideally, both individual and collective claims should be considered in the case of SIDS. But this would not always be possible, especially if relocation happens due to an unforeseen and rapid change in the surrounding environmental conditions. As previously mentioned, in the event of forced relocation with no time for suitable preparation, the priority would be to relocate the affected individuals to another suitable environment where they can exercise their relevant capabilities. Only at a later point, should we aim to relocate the community as a community, ensuring the right conditions for exercising its collective capability of political self-determination.

As a final point, consider the relationship between self-determination and the particular territory of Kiribati. I showed that many I-Kiribati hold legitimate attachment claims over their environment and natural resources. The presence of shared legitimate attachment claims for members of the same collective entitles the political collective to control rights over that *specific* territory. Although self-determination and attachment are distinct claims, in some cases, such as this one, they may be linked (see Chapter 6). Respecting both claims simultaneously would be best achieved by ensuring adequate conditions of habitability in Kiribati's current territory. This observation provides further support for *in situ* adaptation policies. In the event of relocation elsewhere, even if self-determination might be respected if the I-Kiribati were given a robust form of territorial autonomy (which is quite unlikely to be achieved in practice), the I-Kiribati's rightful claims to access and use rights over their specific resources and environment would nevertheless be lost.

Let me briefly summarise this discussion. I argued that, following the principles of NRJ outlined in earlier chapters, members of SIDS are entitled to enough resources and an adequate environment necessary to maintain their lives and distinctive livelihoods. I defended legitimate attachment claims held by the I-Kiribati over their land/ocean and resources. Additionally, I argued that they have a valid claim to maintain their collective capability of self-determination, and I noted that this would be best achieved in their territory.

Two relevant implications follow from this analysis: (i) *in situ* adaptation measures would be the only ones that respect the I-Kiribati's claim to their *particular* territory; in all other cases, that link would be irremediably severed; (ii) if relocation eventually becomes inevitable, the original connection between the I-Kiribati and their environment should be respected in the best way possible, by providing them with access to a similar territory where their livelihoods could be replicated (with the proviso that the I-Kiribati wish to do so). Note that this does not entail that *ex situ* relocation cannot be supported if the I-Kiribati decide to migrate. After all, capabilities represent possibilities for specific ways of beings/doings; as possibilities, they do not have to be endorsed. If the I-Kiribati want to relocate elsewhere, this is entirely legitimate. However, relocation should not be imposed without exploring options for *in situ* adaptation, as I clarify in the next section.

#### **8.4 *In Situ* Adaptation**

In what follows, I consider some key normative implications of the preceding discussion concerning the prospect of *in situ* adaptation in Kiribati, which reflects the current central policy advanced by the Government of Kiribati.<sup>108</sup> First, consider

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<sup>108</sup> During the 2022 UN Climate Change Conference, COP27, the President of Kiribati, Taneti Maamau, asked the international community for “data, capacity building and technology transfer,

that although parts of the land in some SIDS are already submerged by the sea and habitable land will likely be further submerged (IPCC, 2023), the *complete* loss of territory and the inevitability of *ex situ* relocation remain uncertain future projections (Barnett, 2017; Farbotko and Campbell, 2022; Jarillo and Barnett, 2022). If we focus solely on the loss of territory that SIDS could face in the future, we miss the point that there are issues that should be addressed in the short- to medium-term before potential relocation elsewhere.

Climate change and its effects have an impact on the availability of local natural resources on which the I-Kiribati depend for their well-being, regardless of future territorial loss (Adger *et al.*, 2011). Marine, agricultural and freshwater sources are becoming scarcer. As mentioned earlier, there is an enhanced risk of conflicts over fundamental resources and land, where the most vulnerable individuals are particularly affected and the first to lose access to essential resources (Heltberg, Siegel and Jorgensen, 2009). Moreover, the claim of SIDS populations to an adequate (surrounding) environment, free from hazards, is currently violated where they reside. This situation should be addressed right now and not in the future. As Bell (2004, p. 138) suggests in his discussion of “environmental refugees”, the responsibilities we have towards actual and potential environmental refugees are two different questions that must be treated differently. Although I have refrained from using the concept of refugees, the underlying idea is compelling: SIDS face challenges that threaten the lives and livelihoods of the population *right now*. Consequently, efforts should be made to provide individuals with the resources necessary for them to achieve (at least) their basic capabilities and with secure access to an adequate environment (following principles i–ii).

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and country specific science projections to make our adaptation planning much more effective” (Maamau, 2022). His policy plan is focused on *in situ* adaptation measures to ensure that the I-Kiribati will not lose their country and unique way of life.



Given Kiribati's lack of economic and financial means to tackle the issues outlined, *ex situ* relocation is often portrayed as the best (and only) solution to the current problems.<sup>109</sup> However, this is a *future* intervention unable to provide a satisfactory solution to the current situation affecting the I-Kiribati. Furthermore, as I clarify in what follows, there are relevant arguments against conceiving relocation as the only option and disregarding the possibility of *in situ* adaptation. All these considerations call for attempts to make the living conditions in Kiribati as sustainable as possible, at least in the short- and medium-term, even if relocation might eventually become the only option.

#### 8.4.1 Why Is *In Situ* Adaptation Relevant?

First, there are *agency-based* arguments for granting people the ability to pursue and maintain their life plans where they are located. As explained in earlier chapters (see Introduction and Chapter 4), the capabilities approach focuses on people's capabilities, defined as "the substantive freedom to achieve alternative functioning combinations (or, less formally put, the freedom to achieve various lifestyles)" (Sen, 1999a, p. 75). The capabilities approach stresses the importance of individual freedom of choice and agency in living the life one has reasons to value, including choices of *voluntary immobility* that are relevant in the context of climate mobilities in SIDS.

Here, it is helpful to draw from de Haas' conception of human mobility as the "*ability to decide where to live, including the option to stay at home*" (2021, p. 20;

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<sup>109</sup> In favour of cross-border relocation, it could be argued that SIDS populations already experience movements of cross-border migration driven by a lack of employment opportunities, adequate healthcare service and educational opportunities. However, as noted by the UNU-EHS report on "Kiribati: Climate Change and Migration" (Oakes, Milan and Campbell, 2016, p. 41), cross-border migration is an uncommon occurrence for the I-Kiribati: between 2005–2015, it amounted only to 13% of the total migration movements. Additionally, as Perumal (2018) notes, a different problem arises when there is no possibility of returning to the old land, as would be the case if the entire territory of Kiribati became uninhabitable.

emphasis in original).<sup>110</sup> According to de Haas, the ability to decide to stay or move is a valuable capability. The importance of agency recognised by de Haas is relevant for any capabilities-based account, given that capabilities represent “opportunities to achieve functionings”. Valuing people’s decision to relocate or stay is fundamental to respecting individual agency. Given widespread preferences for voluntary immobility in SIDS (Farbotko and McMichael, 2019; Farbotko *et al.*, 2020; Perumal, 2018), individuals should be given the means to maintain their lives in their territory for as long as possible, with the proviso that they wish to remain in their country.

Furthermore, forced relocation not only prevents people from exercising their capability to decide where/how to live but also disrespects their legitimate attachment claims (following principle iii). Straehle (2023, p. 463) helpfully suggests that:

Moreover, personal agency has a backward-looking aspect to it. We are not only projecting ourselves into relationships in the future; we are also defining ourselves with reference to the past. [...] at least some of these practices are territorially defined. It is not clear that individuals can develop a sense of place in just *any* territory.

Imposed relocation would prevent the I-Kiribati from maintaining the conditions necessary for their distinctive livelihoods that depend on a specific environment. Forced relocation then negatively impacts critical dimensions of an individual’s capability set (i.e. basic capabilities) in addition to hindering the capability of “human mobility” (see also Bonfanti, 2014, p. 4). Thus, taking the occurrence of future relocation for granted, what Straehle (2023) calls “anticipatory

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<sup>110</sup> A similar idea is defended by Oberman (2011) and Ottonelli (2020), who argue that individuals ought to have the freedom to pursue the lives they want, including choices of relocation or immobility. Farbotko and McMichael also argue in favour of recognising “preferences for immobility in a changing climate” (2019, p. 149).

displacement”, instead of trying to create the conditions for adaptation, is a form of injustice towards the affected individuals.

In addition to agency-based reasons grounded in the value of individual choice, there are *instrumental* reasons to favour a delayed relocation process in an attempt to prepare the I-Kiribati to take care of their needs after relocation to a different environment, if that becomes inevitable. Returning to the capabilities-based framework I have outlined, some of the basic I-Kiribati’s functionings have taken a determinate shape due to the close and constant interaction with their environment. Although possible, a “conversion” of their functionings would be a process, presumably a long one, with correlated transaction costs (Venkatapuram, 2011, pp. 71–74). Time is needed to facilitate this conversion process before relocation, supporting a delayed relocation process. The population should have the opportunity to “migrate with dignity” per the policy framework upheld by Kiribati’s former President Anote Tong (2003–2016), which focused on ways to empower the I-Kiribati in the event of relocation. People should be given the tools to reconvert their resource-dependent livelihoods with as minor damage as possible via, for instance, targeted working and educational training (cf. Byravan and Rajan, 2010, p. 253).

Having a sufficient period to plan relocation would also provide more time to involve the population in a process of active consultation, in line with the bottom-up approach defended by capabilities theorists and the importance attributed to achieving an outcome through one’s own agency (see Chapter 2 on “wellbeing freedom”). A bottom-up decision-making process would arguably enable the I-Kiribati to find a more suitable destination for settlement and better coordinate the relocation process through their active participation. In practice, this will give the local population the possibility of proactive migration, i.e. anticipated and planned, rather than reactive migration following a rapid precipitation of events (Draper, 2023a, p. 320).

The above discussion does not imply that Kiribati's environmental conditions are not changing and will not continue to do so. Drawing from Capisani's (2021) framework for climate mobilities, the relationships between places and people are dynamic and not necessarily fixed. Capisani defends the idea of a "co-constitutive relationship" between people and places that can be sustained through adaptation. In the context of Kiribati, climate change does not irremediably hinder the I-Kiribati's capabilities (for now) since people can adapt – to a certain degree – to their changing environment. In case of *forced* relocation, however, the I-Kiribati's capabilities would be disrupted by placing them in a completely different environment with which they have not established a prior co-constitutive relationship.

*In situ* adaptation planning is also supported if we consider the I-Kiribati's claim to collective self-determination (principle iv).<sup>111</sup> Through exercising a form of self-determination, a political collective can decide on the value of its natural resources and their regulation system, which are fundamental aspects of collective rights over a territory (see Chapter 3). As mentioned earlier, a system of communal ownership of land exists in Kiribati. It seems more realistic that such a system can be best respected where the population already exercises territorial and resource rights. Relocation elsewhere would entail that the I-Kiribati's present resource and land regulation system would not already be in place and might be challenging to replicate.

Finally, there is a *democratic* argument to be made for respecting what the population wants and ensuring its self-determination, which entails listening to the affected communities' voices without prescribing a top-down solution that would lead to disempowering outcomes. Again, the capabilities approach is well-suited to grasp the differential needs of SIDS populations without being overly prescriptive.

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<sup>111</sup> I will discuss how *ex situ* relocation is unlikely to respect their self-determination in section 8.5.

In this context, seeing relocation as the only option carries the risk of obscuring the actual political reality in many SIDS, including Kiribati, whose citizens and governments do not *all* see relocation as the only solution to the current environmental issues (Vaha, 2017a, p. 231). Perumal notes that “given many Pacific Islanders’ reluctance to move, policy speculation about climate migration may sometimes lack the local context to ask the right questions and may obscure proposals for other adaptation options” (2018, p. 51). As I argue below, being responsive to local realities and requirements supports the development of adaptation policies informed by SIDS populations’ actual preferences and needs through a community-based approach.

#### 8.4.2 A Community-Based Approach to Adaptation

When discussing plans for *in situ* adaptation in SIDS, a required preliminary observation is the acknowledgement that most SIDS, including Kiribati, do not have the necessary technical tools nor sufficient financial and economic resources to ensure voluntary immobility for the populations. This creates a situation of asymmetry since the I-Kiribati ultimately depend on foreign aid and decisions. It is not my aim to discuss in detail broader issues of responsibility for climate change and considerations of reparative claims of corrective justice for the precarious situation in which many SIDS were left after the end of colonial rule (see Baatz, 2013; Caney, 2005; Draper, 2022b). I follow the leading scholars of climate justice who argue that the international community, especially wealthy high-emitting countries, should bear climate-related costs (e.g. Caney, 2005; Caney, 2010; Gardiner, 2004; Meyer, 2013; Page, 2012; Shue, 2014). Among possible measures,

developing an internationally funded adaptation scheme for climate change in SIDS could (partially) provide the necessary funds.<sup>112</sup>

Given that the means and resources necessary to plan and implement adaptation measures in SIDS would have to come from the international community, relevant questions to address are: who should decide on adaptation planning; and how these plans should be brought forward and realised in practice. It seems that a crucial element for a successful *in situ* adaptation in Kiribati (and other SIDS) would be the participation of the local population in the planning and implementation processes (Kirkby, Williams and Huq, 2017; Schlosberg and Carruthers, 2010). This idea relates to the concept of *community-driven resilience building*, according to which the affected communities should be involved in adaptation efforts to increase their resilience to climate-related changes in their territory. Local communities (also at the sub-state level) must be active agents in the adaptation process rather than only passive recipients of funds and top-down decisions to avoid a disconnection between policies and the realities on the ground (Perumal, 2018).

Schlosberg (2012b) rightly suggests that a capabilities-based approach, which stresses context-dependency and respects the agency of the affected individuals and communities, offers a useful normative framework for assessing the locals' needs and developing adaptation policies that guarantee the specific capabilities threatened by climate change. Direct participation of the affected individuals ensures respect for their agency since their preferences and needs are heard and considered (Johnson, 2012, p. 317). Locals are the best judges of their situation, including where priorities for adaptation should lie. The I-Kiribati directly experience deprivation of relevant dimensions of well-being and know which areas

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<sup>112</sup> Although I have not examined the proposal of resource taxes in detail due to space constraints, a tax on resource extraction (of substitutable resources carrying an economic value, such as fossil fuels) to offset inequalities could contribute to providing such financial means (see Chapter 6).

call for the most urgent intervention. If a community-based approach were not endorsed, there would be a considerable risk of misunderstanding the population's challenges and misjudging the most urgent needs requiring immediate action. A participatory approach directs attention to the *specific capabilities* deemed valuable by the local population by establishing a dialogue with the involved individuals and communities to decide on relevant aspects of their well-being. The resulting policies would be more effective, enhancing the I-Kiribati's resilience to the changes affecting their country (as per the concept of resilient-capability discussed in section 8.3).

Community-led resilience building has the additional benefit of involving the most vulnerable groups of the population in the adaptation process by listening to their specific challenges (Westoby *et al.*, 2020). As stressed by the Disaster Risk Reduction in the Republic of Kiribati: Status Report 2019 (United Nations Office for Disaster Risk Reduction [UNDRR], 2020), the most disadvantaged groups in the population (i.e. women, children, the elderly and individuals living on outer islands) are often the most affected. Although there is still a potential risk of misrepresenting the challenges and needs of *specific individuals and communities* with a participatory approach, locally-led climate adaptation increases the possibility of addressing groups' specific needs.

Consider again the case of the I-Kiribati living on the outer islands discussed earlier. A participatory approach would help identify how climate change specifically affects their relevant capabilities, thus helping draft more effective solutions. Arguably, plans considering their specific challenges would need to seek to promote first adaptation on their atolls for as long as feasible, even if it might be more cost-efficient to offer internal relocation to safer atolls as the optimal

solution.<sup>113</sup> In the event of inevitable internal relocation to safer (and more crowded) atolls, their specific requirements – including their potential inability to access essential resources in case of conflicts – ought to be addressed, accounting for interpersonal variations, as argued in section 8.3.

Moreover, the local population has valuable knowledge of their environment, which should be included in the decision-making process. This aligns with recognising the existence of traditional systems of education and knowledge that depend on the surrounding environment (see section 8.3). Currently, Western science and technical expertise dominate the general approach to climate adaptation (Farbotko and Campbell, 2022). As argued by Byskov and Hyams (2022), the exclusion of forms of Indigenous knowledge within the climate adaptation process constitutes a form of epistemic injustice resulting from a past of colonial domination and power imbalance. The in-depth experiential knowledge of Indigenous peoples and resource-dependent communities was deemed inferior and not worthy of consideration. However, the local population’s knowledge of their environment is far superior to that of any external agents who plan and coordinate the adaptation process. As Farbotko and Campbell (2022) argue, even the concepts of habitability and uninhabitability are culturally and socially constructed and subject to different “truth claims”; as such, they should be understood taking into account the beliefs of the affected population without *a priori* assuming the trope of uninhabitability (as the dominant scientific discourse does). Overall, local knowledge is a valuable addition to external forms of knowledge that are decoupled from experience (Boas *et al.*, 2019). By including the I-Kiribati’s knowledge in

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<sup>113</sup> Consider the project to foster resilience in outer islands funded by the World Bank Group (see World Bank Group, 2022).



policy planning, the existing situation of asymmetry of power (in this case, about systems of knowledge) is challenged.<sup>114</sup>

Furthermore, community-driven adaptation is essential to respect the legitimate attachment between the I-Kiribati and their environment (principle iii). Heyward argues that “adaptation strategies should include measures to maintain the distinctive cultural identity of vulnerable groups” (2016, p. 480). Climate change will inevitably lead to altering the environmental conditions in Kiribati. A successful process of adaptation should take those changes into account. The I-Kiribati’s knowledge is valuable in detecting the normative costs of what is at stake and the resource requirements of their lives as they want to lead them. The I-Kiribati are the ones who better understand how to maintain their relationship with their environment, especially if some changes to their livelihoods will prove inevitable. For instance, it might be unavoidable that different resources from the local ones (e.g. imported food sources) would have to be provided to the I-Kiribati to account for environmental changes and scarcity of vital resources. Consequently, their distinct forms of resource-dependent subsistence livelihoods would be impacted. In this scenario, continuity with older practices, which have cultural value for the I-Kiribati, would be best guaranteed by considering their preferences, values and knowledge system. This would enhance the I-Kiribati’s capability to be resilient against climate-related effects.

Finally, there are relevant considerations of sustainability at stake. The I-Kiribati are more attuned to their environment’s integrity than foreign actors since they depend highly on it. There is an emerging consensus in the literature on the positive impact of community-led adaptation to sustainability (e.g. Schlosberg and Carruthers, 2010). This is contrasted with a capitalistic over-exploitation of the

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<sup>114</sup> This aligns with the idea of “resistant-capability” (see section 8.3). Rosignoli writes that “the resistant capability is conceived as opposition and resistance against top-down decisions generating structural injustices imposed by authorities upon any group” (2018, p. 819).

environment that has proven unsustainable. Management of natural resources and land by Indigenous communities and resource-dependent populations, such as the I-Kiribati, is currently portrayed as a plausible way to address (and minimise) some of the ongoing environmental challenges. It is not my aim to analyse in detail the question of sustainability and the importance of traditional forms of resource management by groups who do not consider their environment only as an instrumental resource to exploit. Yet, in virtue of the value that the I-Kiribati attribute to their environment, there are valid reasons to think that they can take care of it in the most sustainable manner possible (Byskov and Hyams, 2022). It is worth recalling that Kiribati is among the countries contributing the least to climate change, as it produces less than 0.1% of the global greenhouse gas (GHG) emissions. The I-Kiribati have not significantly contributed to the environmental disruption ravaging their country; nevertheless, they bear some of the highest costs of climate change. Perhaps listening to what they want and need and appreciating how they treat and value their surrounding environment could teach an important lesson to all of us.

### **8.5 *Ex Situ* Relocation**

Although creating resilience within the atolls is the hope of the majority of the I-Kiribati, as discussed in the previous section, there is still value in exploring the scenario of *ex situ* relocation as “the last resort” (see Farbotko *et al.*, 2023). Given the bleak scientific predictions, governments in SIDS have started planning for (future) relocation.<sup>115</sup> In what follows, I argue that the I-Kiribati have the right to be

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<sup>115</sup> Supporting relocation plans is compatible with promoting *in situ* adaptation. The Government of Kiribati, along with other SIDS governments, is not brushing off the need to take seriously the threat of future uninhabitability of their territory driven by sea-level rise (which is ongoing, although its most destructive effects are uncertain), as exemplified by the work of the Pacific Islands Forum on sea-level rise.

consulted during the planning process and choose where to relocate. Additionally, I suggest that, in practice, *ex situ* relocation is set to jeopardise their capability of collective self-determination.

First of all, consider that *ex situ* relocation for SIDS populations is often portrayed as the only viable solution because it is cost-efficient. Referring to Kiribati, it would be easier – in the eyes of the international community, not in the eyes of the locals – to relocate approximately 120,000 individuals (ca. the size of a not-so-large city) elsewhere rather than providing the scientific expertise, technical tools and economic and financial means to address the changes in the country's environment. As previously mentioned, this attitude reinforces a “neo-colonial discourse” that ends up favouring relocation versus adaptation since it is more cost-efficient from the standpoint of rich and high-emitting states, which arguably are responsible for mitigating the effects of climate change in SIDS. Barnett observes that “it is as if research and policy is afraid of the idea of successful adaptation led by atoll peoples, and is rather more in awe of the possibility of their powerlessness and displacement” (2017, p. 10). It is almost taken for granted that the populations of SIDS will be relocated to Australia or New Zealand with residency rights (and possibly future citizenship) but without implementing more costly measures to guarantee displaced communities a form of territorial autonomy (Barnett, 2017, p. 5).<sup>116</sup>

Farbotko *et al.* rightly point out that planned relocation as a solution to climate change in the context of SIDS is “at risk of becoming a self-legitimizing tool of population and territorial control” (2020, p. 703). What the affected population wants risks being wholly disregarded. In matters of climate mobilities, ensuring a

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<sup>116</sup> Although it does not apply to Kiribati, consider the 2023 Australia-Tuvalu Falepili Union (Australian Government, 2023), which prescribes a new mobility pathway for up to 280 Tuvaluans per year to settle in Australia. Although the Tuvaluan Government supports this measure, it is unclear whether the local population supports it (Farbotko and Kitara, 2023).

degree of agency for the affected populations is fundamental to making the migration process proactive. The IPCC highlights that there is “*high agreement* that the degree of migrant agency and choice in decisions about whether to move, where, when and how is an important determinant of success and therefore ‘adaptiveness’” (2023, p. 2076; emphasis in original). Participation of the involved communities in the decision-making process regarding relocation plans is essential to draft more efficient solutions, as discussed for *in situ* adaptation measures. In addition, the possibility of choosing where to relocate is connected to a less alienating and disempowering experience, in line with the capability of “human mobility” discussed earlier (section 8.4). Several scholars have argued – on different grounds – for the right of climate-displaced individuals and communities to choose where to relocate (see Angell, 2021b; Draper, 2023b; Eckersley, 2015; Heyward and Ödalen, 2016). Among others, Gibney (2015, p. 459) lists some reasons that explain why refugees would have preferences for or against specific countries (such as similar ethnicity and cultural and religious traditions).

Following the framework that I have outlined, climate-displaced individuals and communities have *environmental reasons* to be relocated to a place where they can maintain their traditional livelihoods as much as possible (see Stilz, 2013, pp. 338–341). Given the close links between the I-Kiribati’s livelihoods and specific natural resources (following principle iii), they should be given the choice to relocate to an environment as similar as possible to the one they have lost, if they wish to do so. This idea stems from acknowledging the non-substitutability of land and natural resources for these populations. A complete replacement of the original living conditions is impossible, and we must recognise the incommensurability of this loss. However, even if full restitution is impossible, we should at least look at the most suitable form of compensation (O’Neill, 1987). Recall that the capabilities approach focuses on the ends people have reasons to value, in terms of opportunities to function, rather than on the means (see Introduction). Individuals

should be free to choose their preferred ends and be given adequate means to achieve them. For displaced individuals of SIDS, a form of “means-replacing compensation” should be prioritised over an “ends-displacing compensation” (Goodin, 1989). The I-Kiribati should be given similar means to achieve their preferred ends (in this case, similar natural resources and environmental conditions); on the contrary, different ends (in terms of capabilities and how they get actualised) should not be imposed on them.

Therefore, the I-Kiribati’s relocation to a completely different environmental context, even if coupled with financial compensation, cannot be conceived as a “good enough” solution, where there are possibilities of finding a more similar environment. Relocation in a similar environmental context seems a second-best scenario if *in situ* adaptation efforts fail. Several places in the Pacific region have similar environmental conditions and could provide the displaced individuals with similar resources (e.g. fishing resources, similar tree crops and vegetation) that they could use to actualise their capabilities and achieve similar practices as before (cf. Draper, 2023a, p. 324). Interestingly, under President Anote Tong (2003–2016), the Government of Kiribati bought land in the Fiji islands, whose environmental conditions and natural resources are remarkably similar to Kiribati’s atolls. Leaving aside additional considerations (such as the situation in the destination country), relocation to a similar environment would support a less painful reconversion process of valuable functionings for the I-Kiribati. However, this is currently overlooked by the international community, which prioritises plans for relocation to Australia and New Zealand instead.

Additionally, locals should be actively involved in planning solutions for climate change and should be given the tools and time to adjust to changes in their lives and to a forced conversion of many of their functionings. I have noted earlier how, in Kiribati, several policies put forward under the label of “migration with dignity” focused precisely on offering programmes of skills reconversion (Byravan and

Rajan, 2010). Although helpful for some individuals, it is worth stressing that these policies simultaneously carry the risk of favouring the most versatile groups in the population, disregarding at the same time the most vulnerable ones (i.e. the elderly, children, disabled). In such cases, a differential provision of essential resources could partially help address the problem, in line with the attention of the capabilities approach for interpersonal variations. The level of help and assistance in the event of inevitable relocation should tackle the specific requirements for the exercise of individual capabilities (and group vulnerabilities more broadly) and give the most vulnerable individuals a tailored amount of resources to reach the same level of a decent life, even under the changed circumstances.

In light of the previous discussion, the best scenario for *ex situ* relocation would be the following: relocation should be planned and coordinated through a process of active consultation with the I-Kiribati; they should have the option to migrate to a similar environment to the one they have lost; and their differential vulnerabilities should be addressed. The necessity of providing a suitable environment and vital resources for climate-displaced individuals is uncontroversial, starting from a human rights-based perspective (Lister, 2014; Risse, 2009b). Additionally, as argued in section 8.3, relocation should be planned to ensure continuity for the political community and allow its collective self-determination (allowing individual migrants also to relocate elsewhere if they wish to do so). Collective self-determination would require giving the I-Kiribati a form of territorial and resource rights allowing them to control the system of regulation of land and resources where they are located.

In section 8.3.2, I discussed some of the proposals (i.e. territorial redistribution, intra-state autonomy) advanced by theorists of territorial rights, who defend solutions aimed at guaranteeing collective self-determination for SIDS populations elsewhere. Other scholars suggest that displaced populations should maintain control rights over their Exclusive Economic Zone (Armstrong, 2022; McAdam,

2010; Ödalen, 2014; Vaha, 2017b; Yamamoto and Esteban, 2010). Retaining monetary benefits from their most abundant source of income (fishing and selling of fishing licences) as well as potential revenues from deep-sea mining would be a valuable way for the I-Kiribati community to maintain a form of independence in case of forced relocation, especially if this happened within the territory of an already existing state.<sup>117</sup> Control over their sea waters would not automatically ensure that displaced individuals could exercise their basic capabilities, since the I-Kiribati would need a suitable surrounding environment where they could reside. However, continued control over their EEZ could help create the background conditions to maintain a partial degree of autonomy as a collective, without only relying on external sources of financial aid and on help from the host country.

These theoretical proposals are relevant to thinking about potential solutions to ensure a form of political autonomy and collective self-determination for SIDS populations. However, there are considerations of political realism that should be kept in mind. These proposals remain theoretical discussions unlikely to be matched with practical implementation, at least for the time being.<sup>118</sup> What political theorists suggest, i.e. the receiving state curtailing their political authority in favour of communities that have just been admitted, is something we have never seen before. It is unlikely that populations forced to relocate cross-border will be able to exercise political autonomy elsewhere. Concerning control rights over their EEZ, it is also quite unlikely that the current Law of the Sea Convention (LOSC), which regulates maritime zones of sovereign states and links control over the EEZ to the existence of a territorial base, will be amended to ensure that control can be kept

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<sup>117</sup> I leave aside a discussion of the environmental problems that deep-sea mining entails.

<sup>118</sup> Consider again the Falepili Union agreement between Australia and Tuvalu (Australian Government, 2023), welcomed as the first agreement to link mobility to climate change explicitly. This agreement prescribes only the provision of a limited number of visas per year, and the displaced individuals would be dispersed across the Australian territory without any measures to ensure their collective right to self-determination.

without a territorial base (see Armstrong and Corbett, 2021). Therefore, it seems that cross-border relocation would not be the best way to guarantee political autonomy and collective self-determination for the I-Kiribati, at least for the time being. On the contrary, exploring options for *in situ* adaptation and trying to ensure stable conditions for the habitability of Kiribati's atolls would be the most promising way to guarantee their collective self-determination, as the I-Kiribati themselves believe.

## **8.6 Conclusion: Addressing Climate Change in Kiribati**

This chapter focused on the timely issue of climate change in the Republic of Kiribati. I applied the theoretical framework of NRJ based on the capabilities approach that I have previously outlined to the case of SIDS, where two different issues arise: (a) the deterioration of their environment and an increasing scarcity of natural resources, which affect the current living conditions of the local populations; (b) the threat of future sea-level rise and the consequent climate-induced displacement and cross-border relocation. In the context of SIDS, individual and collective interests are at stake, and these should both be considered when drafting solutions for climate mobilities.

I suggested that *in situ* adaptation is significant in the context of climate mobilities in Kiribati and I explored some of its normative implications, arguing for a community-based approach to climate adaptation and resilience building. A community-based approach, which is responsive to the specific needs of members of the affected communities, is imperative to draft more effective – and more respectful – policies to address the effects of climate change in SIDS. Additionally, I discussed *ex situ* relocation as a last resort, arguing that climate-displaced communities have the right to choose to relocate to a territory offering similar environmental conditions to maintain continuity with their livelihoods. I also noted



how *ex situ* relocation is set to jeopardise the I-Kiribati's capability of collective self-determination, providing further support for *in situ* adaptation measures.

As a last point, I want to highlight a limitation of my discussion that I have briefly mentioned in section 8.3. To avoid overcomplicating the analysis, I focused on the claims that the I-Kiribati have over their natural resources and environment. Meanwhile, I left aside a discussion of the claims that non-human animals have in the context of SIDS affected by climate change. Addressing non-human animal interests would require a more targeted analysis of the particular conditions and problems that animals experience in Kiribati, which is currently under-theorised (Mancilla and Baard, 2023, p. 9). It seems evident, though, that *in situ* adaptation led by local communities would likely ensure the non-overexploitation of the surrounding ecosystem since the I-Kiribati have an interest in maintaining the integrity of their environment, as mentioned throughout the chapter. This, in turn, could help guarantee a suitable environment for animals living on the atolls. A more comprehensive examination of the claims that human beings and non-human animals have as well as a discussion of how to navigate conflicts between clashing interests would be a welcome addition to consider when drafting climate adaptation policies.

## 9. Conclusion

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This thesis explored the question of natural resource distribution and proposed an original theoretical framework of NRJ based on the capabilities approach. I first asked whether the most prominent recent theories of NRJ and territorial rights were able to provide a satisfactory answer to the question of which rights individuals and communities ought to have over resources and land. Then, I argued that the capabilities approach could be fruitfully applied to a theory of NRJ and could help solve many of the shortcomings that existing theories display. Outlining a theoretical framework based on capabilities to answer the question of natural resource distribution was the main original contribution of my thesis. The capabilities approach had already been applied to environmental issues by scholars (e.g. Holland, 2014), but it had never been applied to the specific issue of natural resource distribution in a comprehensive manner. Throughout the dissertation, I developed an original capabilities-based framework for NRJ and showed how it can answer many fundamental questions of NRJ. In this concluding chapter, I take stock of what I have achieved in the thesis and highlight what still needs to be done.

The chapter is structured as follows. Section 9.1 summarises the thesis' main arguments and links them back to the questions of NRJ outlined in the Introduction (section 1.4). Section 9.2 considers how the current system of natural resource distribution would change if the capabilities-based framework outlined in this dissertation were applied in practice. Section 9.3 identifies some directions for future exploration and research.

## **9.1 Summary of the Thesis**

I started this dissertation by introducing the problem of natural resource distribution, highlighting how the political theory literature approached this issue and clarifying where my thesis stood and how it sought to contribute to this debate. In the first part of the dissertation (Chapters 2–3), I provided a critical overview of the state-of-the-art literature on NRJ and territorial rights. This critical analysis constituted the necessary bedrock to put forward my positive theoretical framework. In the following chapters (Chapters 4–7), I developed the main body of my capabilities-based theory of NRJ, which, as I argued, fared better than rival approaches in many relevant aspects. Throughout those chapters, I outlined the main principles of my framework of NRJ. The last chapter (Chapter 8) constituted an application of the framework to the issue of climate change in SIDS. In what follows, I provide a more detailed summary of the main arguments in each chapter and I stress where I have answered the key questions of NRJ set out in the Introduction (see section 1.4). Let me report them here for clarity's sake:

- (i) how should natural resources be defined in a theory of NRJ?
- (ii) what value(s) do natural resources have?
- (iii) what are the correct principles for the distribution of rights (e.g. use and access) to natural resources?
- (iv) who should hold control rights over the resources in a certain territory?
- (v) are natural resources valuable only for human beings?
- (vi) how should conflicts over the same resources be approached?

In the Introduction (Chapter 1), I outlined the main question of my research: what should a fair distribution of rights to natural resources look like? I stressed how this topic is relevant and timely to consider, and how there are deep inequalities in the current distribution of natural resources among the human population. I also noted how problems of resource scarcity are set to worsen in the future, especially

due to climate-related issues and overpopulation. I argued that there is an urgent need for a normative framework that outlines fair principles for the distribution of resource rights. Giving a preliminary answer to question (i) about the definition of natural resources, I discussed their standard definition. I then briefly examined how political theorists have approached the question of rights to natural resources among individuals and communities. Additionally, I gave a preliminary overview of the basic elements of the capabilities approach and started to clarify why it is a promising and useful framework for a theory of NRJ. Furthermore, I highlighted the most significant contributions of my research to the literature on NRJ and the capabilities approach, along with some limitations.

In Chapter 2, I critically examined three influential theories addressing the question of natural resource distribution from a global justice perspective (Armstrong, 2017; Blomfield, 2019; Risse, 2012). I stressed their merits and also their shortcomings, which prepared the ground to formulate a novel theory of NRJ. Even though I did not directly defend any principles yet, this chapter's analysis started addressing question (iii) regarding what the correct principles of NRJ should be (and should not be). I argued that a common limitation of the examined theories was their anthropocentric focus, clearing the ground for my answer to question (v) about the value of natural resources outside an anthropocentric one. I then advanced targeted criticisms to each theory. First, I argued that Risse's Basic Needs principle does not exhaust all the required considerations for a theory of NRJ. I also criticised how Risse treats natural resources as having a measurable and universal value, disregarding cultural differences and different views on resource use and values. This part of my discussion on Risse's theory started answering question (ii) on natural resources' value. Second, I criticised Armstrong's conception of well-being, which constitutes the basis of his theory. I argued that the capabilities approach could act as a helpful specification of a welfarist account and solve the issues of indeterminacy displayed by Armstrong's theory. Third, I examined

### *Conclusion*

Blomfield's theory of NRJ and criticised her contractualist theoretical framework. The main issue I highlighted was that her principle of Collective Self-Determination, though compelling in itself, is not adequately justified by her use of the original position.

In Chapter 3, I focused on a critical analysis of the most influential theories of territorial rights that seek to justify control rights over resources held by political collectives (Moore, 2015; Nine, 2012; Stilz, 2019). Through my discussion in this chapter, I started addressing question (iv) regarding who should hold control rights over resources and question (ii) about the value of natural resources, which is often context-dependent (as theorists of territorial rights argue, especially Moore). Overall, my analysis was relevant to recognise that people interact with resources not only individually but also collectively and that a form of resource control is a fundamental aspect of collective self-determination. I then argued that answering only a question of resource control does not provide a complete answer to the broader question of a fair allocation of resource rights. This led me to highlight again how an answer to question (iii) on correct distributive principles of NRJ is much needed. Theorists of territorial rights leave many resources outside their theories' scope since they focus on the resources found within the territorial borders of self-determining political collectives. Moreover, even when resources are located within the territory under a collective's jurisdictional authority, they tend to justify overreaching and under-determined resource rights. Since they do not specify additional distributive principles, they fail to consider that different individuals (and collectives) may need rights to certain resources within a territory but not to others. Finally, I noted that even those theorists adopt a limited anthropocentric standpoint (once again, clearing the way for my answer to question (v) developed in Chapter 7).

In Chapter 4, I began to develop my original theoretical framework based on the capabilities approach, introduced by Sen (1980) in the debate over the right

currency of justice. I outlined some relevant features of the capabilities approach and stressed its superiority over resourcist accounts. I then proceeded to defend a conception of a decent life, which includes survival and basic capabilities. The main argument of the chapter consisted in outlining the link between capabilities and natural resources, which underpins the first two principles of NRJ that I defend. This chapter started to spell out the principles of NRJ for a fair resource distribution, responding to question (iii). First, I argued that some natural resources are essential for individual survival and basic capabilities (this also answers question (ii) on resources' value), narrowing down the types of resources worthy of consideration for a theory of NRJ. According to the first principle of NRJ defended in the thesis, all individuals should be entitled to secure rights over the natural resources that are essential for the capability of life and for holding basic capabilities. Second, I revised the traditional conception of natural resources by considering the broader environment as a structural natural resource. This provides a more qualified answer to question (i) about the correct definition of natural resources in a theory of NRJ. I argued that all capabilities depend on a suitable environment and defended the following principle of NRJ: all individuals should be entitled to rights over an adequate environment since suitable environmental conditions are essential for exercising capabilities. This second principle entails duties of protection of fundamental ecosystems for human beings (both locally and globally). By recognising the importance of the environment, I stressed an additional value of natural resources (question ii).

In Chapter 5, I started to complicate the picture outlined in the previous chapter where I considered general resource rights. I engaged with the issue of attachment claims to natural resources (e.g. Armstrong, 2014b; Stiliz, 2013) and clarified when particular individuals are legitimately attached to specific resources in a way that differs from an overdemanding preference. I argued for the non-substitutable value that some resources have for individuals (question ii) and I defended an additional

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principle of NRJ (question iii). I argued that when the basic capabilities held by individuals depend on access to (or use of) specific natural resources (i.e. there is legitimate attachment), those specific individuals should be entitled to special resource rights over these natural resources and the specific environment in which they are embedded. My capabilities-based response is an original and important corrective of existing theories of attachment that are under-specific and overreaching (Armstrong, 2017; Moore, 2015, 2019; Stiliz, 2019) and solves the issues of legitimacy and scope displayed by current accounts. I concluded by sketching some general guidelines to assess competing claims held by different agents over the same resources and discussing potential objections, offering a first response to question (vi) regarding how to approach conflicts over the same resources.

In Chapter 6, I defended a collective claim over resources held by political communities. This chapter's analysis mainly provides an answer to question (iv) regarding who should hold control rights over territory and resources. I first argued for an extension of the traditional individualistic focus of the capabilities framework and the recognition of collective capabilities (Evans, 2002; Stewart, 2005). Then, I defended a political collective's self-determination as a relevant collective capability to consider in a theory of NRJ (see Murphy, 2014). I stressed how self-determination is important for providing relevant capabilities to individuals and managing resources effectively. Self-determination is also fundamental for a collective's ability to decide on the value of key resources (this is linked to question ii). I argued that a form of control rights over the natural resources within a collective's territory is necessary for a community to hold a robust form of self-determination. I outlined the following principle of NRJ (question iii): political collectives should be entitled to control rights over the natural resources and an adequate environment that are necessary for the exercise of their capability of collective self-determination. I then clarified that control rights do not amount to

full and exclusive ownership of natural resources but entail a more limited form of control and are overridden by prior distributive considerations (i.e. resource rights held by individuals) and environmental reasons, in the event of conflicts (question vi). This analysis allowed me to integrate within a coherent theoretical framework individual claims to natural resources with a collective interest in resource control (as defended by territorial rights theorists).

In Chapter 7, I argued for a non-anthropocentric extension of my theoretical framework of NRJ. My discussion in this chapter tackles question (v) regarding the value of natural resources outside their values for human beings. Against other theories concerned only with the instrumental value of natural resources for human beings (with Armstrong's exception), I argued that we should consider claims of some non-human animals in addition to those of human beings. I highlighted how the versatility of the capabilities approach allows for an extension of its originally anthropocentric outlook (Kortetmäki, 2018; Nussbaum, 2022). I argued that sentient animals are entitled to a flourishing life. Consequently, many animals generally considered only instrumental resources (as food sources or used in medical research) have an intrinsic value that should be respected; hence, they are not merely natural resources any longer. Additionally, sentient animals have claims to essential natural resources and adequate environmental conditions to live and flourish, and some of them have claims to *specific* environmental conditions. Providing a further answer to question (iii), I defended additional principles of NRJ applied to animals. I concluded by recognising that animal claims often clash with human ones and considered how to approach some types of conflict (question vi).

In Chapter 8, I discussed a specific case study. I applied my capabilities-based framework to the situation of populations in SIDS, focusing on the Republic of Kiribati. I stressed the value(s) that natural resources have for individuals and the Kiribati community (question ii) and argued that, in this specific case, individual and collective claims to land and resources are at stake given the increasing



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incidence of environmental problems and the threat of future territorial loss. According to the principles of NRJ I defended (question iii), the I-Kiribati have individual rights to resources and an adequate environment and, more precisely, to their specific environment and resources, which are non-substitutable (since legitimate attachment claims hold in this case). The population also has a valid claim to maintain their collective self-determination, which entails control rights over land/ocean and resource use and regulation (question iv). To respect the principles of NRJ previously outlined, I argued for the normative significance of *in situ* adaptation measures against a narrow focus on relocation (see Boas *et al.*, 2019; Farbotko and McMichael, 2019; Farbotko *et al.*, 2020; Zickgraf, 2018). I then defended a community-based approach to climate adaptation, which is fundamental to respect the I-Kiribati's agency and be responsive to their specific needs. As a final point, I discussed cross-border relocation as a second-best scenario, in case it becomes the only viable option, and provided support for the population's right to choose to relocate to a territory offering similar environmental conditions to maintain continuity with their livelihoods.

## **9.2 The Framework in Practice: A Revision of the *Status Quo***

This section draws together the principles of NRJ defended throughout the dissertation and explores what would practically result from their implementation. I consider the main improvements to the current distribution of natural resources that would result from applying the capabilities-based theory of NRJ that I proposed. I also stress how my capabilities-based framework entails quite strong requirements of environmental protection, which are particularly needed today.<sup>119</sup>

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<sup>119</sup> I should highlight that I have already explored these topics in previous chapters. However, I have not provided a complete overview that integrates all the practical implications of the principles

As I have mentioned in the Introduction, a theory of NRJ seeks to answer the question of what a correct distribution of rights to natural resources (and the benefits stemming from them) ought to look like. It should be evident that the current global distribution of natural resources fails to respect the principles of NRJ outlined in this dissertation in several ways. Many individuals lack vital resources and adequate environmental conditions at the global scale; special relationships between individuals and key resources are overlooked and disregarded; many communities with legitimate claims of self-determination do not hold control rights over their resources and land; animals are over-exploited and their claims to necessary resources and adequate environmental conditions are ignored. Additionally, as the case discussed in Chapter 8 shows, climate change and its effects are set to disrupt even more (or create) situations of precarity and jeopardise individual and collective rightful claims over resources and land. Essential natural resources, such as water, are likely to grow scarcer and scarcer in the future. More land will be likely lost to the sea in many regions. The current positive trend of world population growth will add increased pressure on a system already flawed.

In light of this rather bleak situation, a reform of the current resource distribution aimed at solving existing problems and combating the starkest inequalities should be attempted. This thesis wants to contribute to such an effort. It proposes principles of NRJ that have revisionist consequences for what concerns the current system of natural resource distribution and the over-exploitation of resources and the environment. The principles of NRJ that I have defended do not exhaust all the possible ones, since there is still scope for further research in the area (I will expand on this in section 9.3). Yet, taken together, they already entail significant improvements to the current situation of natural resource distribution

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defended so far. In this concluding chapter, I seek to outline this comprehensive and unified overview.

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and environmental over-exploitation. In what follows, I outline the main changes to the *status quo* that would result if the principles of NRJ outlined in this thesis were to be applied.

1. *A situation of less deprivation and more equality in resource distribution would follow.* Notably, all individuals would have secure access and use rights over the natural resources that are essential for their well-being, at least to the same level of a decent life. Although I have defended a conception of the decent life in Chapter 4, it is worth stressing that this is only a starting point. All the elements of a decent life, as I have defined it, are capabilities that correspond to objectively relevant dimensions of well-being, which cannot be traded against each other. These capabilities are very general and can (and must) be further specified at the level of the affected individuals and communities. Other elements can also be added since the list I have given is very minimal, but it is not my task to add those elements or specify them. A community-based approach, such as the one defended in my discussion of climate adaptation in SIDS (Chapter 8), would be the best way to carry out this context-dependent task.

2. *Interpersonal variations in ability to convert resources into well-being would be respected.* The capabilities-based framework outlined in this thesis recognises that considering interpersonal variations is fundamental for a fair allocation of resources. The concept of capability was theorised precisely to stress how individuals use resources differently and to take this into account when outlining principles of justice aimed at tackling deprivation. Capabilities represent actual possibilities that individuals have of using resources and achieving well-being in terms of functionings. Looking at this mid-way concept helps guarantee the respect of individual differences. Currently, vulnerable categories of individuals are often the first to lose access to vital resources, and vulnerable communities are the ones most at risk of losing access to habitable land. Those individuals and communities would need to be provided with targeted bundles of resources to offset this situation

of disadvantage. Rather than prescribing a blanket and univocal distributive principle (e.g. Risse, 2012), I defend principles of NRJ that are responsive to individual differential vulnerabilities and needs. Providing targeted shares of resources and/or specific resources to individuals would entail enhanced respect for people's different situations and needs and would further contribute to promoting equality.

3. *Special resource rights would be granted to individuals (and communities) who require specific resources and ecosystems to live and flourish.* The current system of resource distribution overlooks the un-substitutable connections between specific resources and places and some individuals (often members of communities, such as Indigenous peoples and resource-dependent communities). My theory of NRJ stresses the fundamental relevance of environmental conversion factors and recognises how some individuals can achieve a certain level of well-being only when granted special resource rights over particular resources and land. These un-substitutable connections would have to be respected. For instance, if Indigenous peoples were evicted from their territory to exploit the resources within the area or if key resources for their livelihoods were to be destroyed due to incompatible use (e.g. mining), this would be illegitimate. Indigenous peoples should be entitled to maintain access and use rights over their land and vital resources. The principles of NRJ that I defend apply to such cases (and similar ones) and have significant revisionist implications for the existing *status quo*.

4. *The principle of permanent sovereignty over natural resources held by states would be revised in favour of control rights held by sub-state political collectives.* My framework contributes to a set of existing arguments that reject the doctrine of permanent sovereignty over resources, which is the current norm valid in international law (even if it is not always respected in practice). Applying the capabilities-based framework outlined in this thesis would entail a revision of the current doctrine of permanent sovereignty (where this is applied in practice). I

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defend a more limited form of collective resource control, often legitimately held by sub-state political collectives. If we were to follow this principle, the role of sub-state communities in controlling and managing resources would thus be enhanced and a system of shared territorial jurisdiction would result.<sup>120</sup> Resource control implies respecting how people value resources differently and grants political collectives a necessary element for their self-determination, namely a form of control over the use and regulation of the resources and land where they reside. Conversely, collective resource control does not amount to ownership of all natural resources within a territory and exclusive rights to the stream of benefits derived from them. Although I have not explored the category of fossil fuels or mineral resources in detail and have excluded them from the principles of NRJ that I have outlined, there is scope to integrate a proposal for a tax on fossil fuels and similar resources within my theoretical framework. A targeted scheme of resource taxes could, ideally, also contribute to an international fund aimed at tackling climate change and promoting climate adaptation (see Chapter 8). Against permanent sovereignty over natural resources, I also additionally defend environmental duties aimed at protecting resources and ecosystems that are key for the human population, such as the Amazonian forest (I expand on this below).

*5. Current practices of environmental over-exploitation would have to be revised and enhanced duties of environmental protection would be put in place.* I defend principles of NRJ according to which the well-functioning of key ecosystems for the human population (e.g. the Amazonian forest, the Arctic region) should be guaranteed. A theory of NRJ that overlooks how fungible and, to some extent, measurable resources depend on essential ecosystem processes would miss an extremely relevant point. Protecting resources without looking at the broader

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<sup>120</sup> I leave aside what this system of overlapping jurisdiction could look like in practice and how it should be managed (see Nine, 2022).

surrounding ecosystem would not likely achieve any successful result on its own. Protecting globally relevant ecosystems entails that a form of collective control over such key resources that is damaging to them would not be permissible. In earlier chapters, I mentioned the example of the state of Brazil and the Amazonian forest. Brazil's interference with such a key ecosystem would not respect the principles of NRJ outlined in this dissertation. If political communities were to destroy globally relevant ecosystems, they would lose their legitimate control rights over those resources. Self-determination of political communities, if damaging to the environment, ought to be constrained. All things considered; it seems that such resources would be best managed by local communities in co-operation with an internationally-led institution with the task of overseeing their protection.

6. *In our world with a changing climate, guaranteeing access to a suitable environment where to live to all individuals and communities would entail changes in land distribution and an increase in adaptation policies.* According to the principles of NRJ outlined in the thesis, all individuals would need adequate environmental conditions where they can exercise their capabilities. Moreover, some individuals and communities would require specific environments (along with their resources) that should be preserved in the best way possible. For instance, this occurs in the case of the I-Kiribati and their territory (see Chapter 8). Given the increasing incidence of climate change and its effect on the inhabitability of several regions (not limited to the territory of SIDS), addressing all human beings' claims to an adequate environment would be progressively more challenging. The principles of NRJ I defend have important implications for how we ought to address the present and, most relevantly, future impact of climate change on territory and its inhabitability. Although this dissertation did not zoom in on the issue of migration, affected individuals and communities would have claims of justice to relocate elsewhere, while maintaining their distinctive livelihoods as much as possible, if applicable. Land distribution would be required to meet these

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requirements of justice. Additionally, especially in the presence of legitimate attachment claims, I propose that affected communities should have a right to receive the resources necessary to attempt a process of *in situ* adaptation where they are currently located. An internationally funded climate adaptation scheme should be put in place.

7. *Animals would be better protected and this would help tackle the ongoing biodiversity crisis and environmental degradation.* Taking animal interests into account in a theory of NRJ has relevant implications for the protection of some animals, which I treated as agents capable of flourishing and achieving well-being. Although I capped the required threshold for consideration of animals at the level of sentience, I am not against a revision of this threshold. This thesis is not a work in animal justice or ethics; as such, a more developed and thorough taxonomy regarding which animals count (and the different reasons why they do) would be a welcome addition. Granted this limitation of my discussion, the principles of NRJ aimed at guaranteeing a decent life for sentient animals have substantial implications for biodiversity conservation. Given the unprecedented pace of the biodiversity crisis, protecting animals due to their intrinsic value is likely going to have positive effects for species conservation (see Armstrong, 2024). Additionally, following my framework of NRJ, legitimate claims over natural resources held by animals are considered and weighed against human ones in case of conflicts. This has additional positive implications for the protection of the environment and its ecosystems. In Chapter 7, I highlighted how accounting for animal claims alongside those of human beings place more ambitious constraints on the use of natural resources and specific ecosystems, which need to be protected also for animals' sake. Overall, this would be a fruitful way to tackle the issue of over-exploitation of species and ecosystems, by going beyond a more limited anthropocentric sustainability discourse.

### **9.3 Avenues for Future Research**

I want to conclude this chapter by mentioning at least three related topics that deserve to be researched in the future.

First, there is scope to directly examine the claims of future generations over natural resources in more detail. Throughout the dissertation, I have focused on the present generation. This does not entail that I disregard claims that future generations have over natural resources and an adequate environment. In Chapter 4, I mentioned that I take as valid that future generations have justice-based claims to a decent life and to exercising capabilities. It follows that resource unavailability and environmental destruction are injustices for both the present and future generations, and that environmental protection is a requirement of inter-generational justice. The question of potential conflicts between the present vs. future generations over scarce resources and increasingly less habitable land is a tricky one to address given issues of discounting and well-known objections, such as the non-identity problem. Yet, I see this topic as a relevant future area for exploration. Throughout the thesis, I defend ideas that, taken together, align with the protection of the environment for present and future generations and go against the unnecessary current trend of over-exploitation of natural resources. However, a more comprehensive theoretical account that provides a way to better navigate inter-generational conflicts could be explored.

In relation to this point, I should also mention that there is scope for much more elaboration and detail on how to assess competing claims over resources than what I have done throughout this dissertation. I have sketched some general guidelines for what concerns conflicts between human beings over the same resources, and between human beings and non-human animals. The issue of conflicts over resources is an especially problematic one to answer in greater detail given the



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difficulties in carrying out interpersonal comparisons and the unavoidable context-dependency of every specific case.

Second, future research could further investigate questions of historical injustice and claims over resources and land that would stem from reasons of corrective or reparative justice. In this thesis, I take the present situation as the appropriate standpoint of observation. But additional relevant principles of NRJ could be formulated with a backward-looking approach. In a way, my theoretical framework accounts for some essential considerations of historical injustice. For instance, I consider self-determination as a relevant collective capability and stress how it has positive outcomes for the empowerment of disadvantaged populations and communities. Drawing from Rosignoli's (2018) terminology, I argue that it can act as a "resistant capability". This is especially significant in situations of historical (and structural, to be more precise) disadvantage, such as for the Kiribati's case discussed in Chapter 8. Additionally, consider that the principle grounded in legitimate attachment claims, that I defended in Chapter 5, holds – in what are perhaps the most intuitively persuasive cases – for what concerns Indigenous communities, such as the Saramaka people in Suriname discussed in the thesis. To justify their legitimate claims over land and resources, I look at their present ability to exercise relevant capabilities and I do not consider the past. However, this case (and similar ones) could be further legitimised and expanded upon through a more comprehensive account of reparative claims of justice.

Relatedly, there is scope to consider the issue of land dispossession in more detail, given that I include land in my conception of natural resources. When I discuss territorial loss, I discuss it as a future scenario for SIDS populations. I take the present situation as the starting point for my analysis and disregard more complicated considerations of corrective justice, which would be applicable given the past of colonial domination in SIDS. Complicating my theoretical framework with backward-looking considerations aimed at offsetting past injustices (and

resulting ongoing situations of structural disadvantage) would be a fruitful addition to my theoretical framework. I also believe it would be feasible because, thanks to its value pluralism, the capabilities framework is particularly well-suited to encompass a plurality of principles of justice.

Third, and finally, in this dissertation I have explicitly focused on environmental conversion factors rather than other relevant conversion factors (i.e. personal and social). I discuss principles of NRJ, where natural resources are part of the (natural) environment. I have still attributed some role to personal and social conversion factors; for instance, by detecting the differential vulnerability to climate change of individuals living in SIDS. I have considered some of these differences, since the concept of capabilities is responsive to individual variations in their conversion rate from resources to well-being. However, a more comprehensive discussion of social factors and structural constraints could be added to my current analysis. Among other things, we could more thoroughly examine how women and children are subject to more resource deprivations than other social groups. Overall, a more complete diagnostic account of situations of unequal distribution of natural resources could be developed, and this could help tackle specific group disadvantages.

The overarching aim of theories of justice broadly conceived should be to move towards a more just situation globally. There is much more to do than redistributing rights to natural resources among the present generation and protecting the environment. As already mentioned, I do not exclude that this account of NRJ could be integrated into a broader theory of justice with a more extensive scope. This does not subtract any validity from a theory of NRJ that grapples with the key issue of natural resource distribution. Unfortunately, this is an area where there are still too many deprivations and inequalities, and much improvement is needed. Natural resource deprivation ought to be tackled and the environment with its resources must be protected. A theory of NRJ that addresses these fundamental issues is,

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hence, an essential part of any comprehensive theoretical framework aimed at offsetting global poverty, disadvantage and situations of unfairness. I also hope to have shown that the capabilities approach offers a promising framework for scholars working on natural resource justice and that it could be further developed to tackle other significant issues.

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