Chapter 10
Entitlements, Capabilities and Human Rights

Jeanette Schade

Abstract It was the intention of the conference organisers to capture the potential of human agency involved in environmentally induced migration as well as its limits. They therefore chose to try to move conceptually from vulnerabilities to capabilities by embedding environmental migration within the broader frame of the capabilities approach pioneered by Amartya Sen. Capabilities, according to Sen, are not the things that people may be able to do—their 'functionings'—but their capacity to choose and to live a life they value. The conclusion reconsiders the previous chapters in light of their contributions to the question of vulnerability versus capability and then discusses Sen's approach in more detail, in particular with respect to its relationship with the realm of human rights that figures so predominantly amongst the contributions of part II.

Keywords Amartya Sen • Capability • Entitlements • Human rights • Migration

10.1 Introduction

This chapter elaborates on Amartya Sen's entitlement and capability approach and its contribution to overcoming the lopsided emphasis on neo-Malthusian thinking about the natural resource base and its limited capacities to sustain human society. This thinking dominated the approaches of international organisations to combat famines through most of the 1980s and Sen contributed considerably to challenging it. This perspective, however, still influences the climate change and climate migrant debate. Without negating the challenges of climate change, recalling the achievements of Sen's approach re-embeds the discussions about vulnerability and environmental

The author thanks her co-editor for the lively and fruitful discussions.

J. Schade (✉)
Faculty of Soziologie, Bielefeld University, P.O. Box 100131, D-33501 Bielefeld, Germany
e-mail: jeanette.schade@uni-bielefeld.de

T. Faist and J. Schade (eds.), *Disentangling Migration and Climate Change*,
DOI: 10.1007/978-94-007-6208-4_10,
© Springer Science+Business Media Dordrecht 2013

migration at the micro level and re-introduces an agency-oriented perspective that considers the interrelationship between human agency and social institutions. After having shed light on the role of migration within Sen's entitlement and capability frames as well as the subsequent sustainable livelihood approach to development, the contributions to this volume view climate related migration through the lens of the entitlement and capability perspective. Some of the chapters emphasise the role of human rights in protecting the needs and entitlements of those who are most vulnerable to climate change and to its policy responses. Therefore, the concluding chapter turns finally to a discussion in greater detail of the relationship between Sen's work and internationally recognised human rights. Though Sen's theorising had considerable impact on the interpretation of the right to food, the relationship turns out to be ambivalent and characterised by the primacy of democratic and procedural rights over substantive social and economic rights and by a reservation to impose allegedly international values and law over smaller political communities, which is typical of the communitarian perspective. It is shown, however, that his thinking is not entirely consistent.

10.2 From Food Output to the Right to Food and from Vulnerability to Capability

Discussions of climate change are—due to the nature of anthropogenic global warming—largely dominated by the vantage point of population and environment studies (P&E), whose foundations were laid down by Malthus. In his *Essay on the principle of population* (1798) he developed the argument that exponential population growth will, in the long run, exceed the presumably linear growth of food production, which will be a major cause of famines. His legacy to the twentieth century, so-called neo-Malthusianism (the Club of Rome in particular), extended this argument to other forms of resource consumption and the suffering that the mismatch between the increasing human population and its declining natural resource base will cause.[1] Though in the scientific realm P&E studies have diversified and even include critical strands such as political ecology, the neo-Malthusian paradigm still dominates public and political discourses—at least in the western sphere. A recent example is the debate on the increasing consumption of meat and milk in China and India. The main message is that our resource base will break down, because we are too many and consume too much. The call to ensure the survival of humankind is often accompanied by a proclivity to technical solutions. This is most clearly expressed in the Club of Rome's IPAT-formula, which defines 'environmental **i**mpact' as a function of '**p**opulation', '**a**ffluence' and '**t**echnology' (see Sherbinin et al. 2007, p. 348). Technological progress is thus regarded as a decisive means to exploit natural resources in a more effective and sustainable manner.

[1] For an overview of P&E approaches see Sherbinin et al. (2007). For an overview of the 'degradation narratives' of neo-Malthusianism see Hartmann (2010).

This line of thinking has been playing a major role in tackling the problem of, for example, famine already since the 1970s. Leading development organisations such as the World Bank and the Food and Agriculture Organisation (FAO) at this time reduced the challenge of combating hunger to a deficit in food availability, to which the logical solution was an increase in food production per capita by means of modernising agriculture (Norse 1976; Sinha 1976; FAO 1979).[2] The World Bank, moreover, promoted trade-based strategies to achieve national food security, that is, purchasing food on the world market by producing and selling cash crops with better terms of trade (Bals et al. 2008, p. 42f). The social unit of food production and consumption thus expands from the national to the global scale. Moreover, this type of market paradigm also complements the technical approach in guiding other resource management policies.

The climate change discourse has both the survival rhetoric and the technical solutions approach in common with the neo-Malthusian paradigm of P&E studies. It has a clear focus on how society's resource consumption fuels the production of climate unfriendly greenhouse gas (GHG) emissions and on its consequences for the atmosphere and climate conditions. For policy advice, the early Intergovernmental Panel on Climate Change (IPCC) reports accordingly focus on limiting GHG emissions by developing more energy-efficient technology and by shifting toward a greater share of renewable energy resources. Both contribute to reducing fossil fuel consumption per capita and to adjusting the economic foundations of our society to the appealing—and widely criticised—idea of a so-called 'green economy'. Such a shift is intended to be driven by market mechanisms that will give incentives to market stakeholders to reduce CO2 emissions and/or to extend carbon sinks. Thus, the United Nations Framework Convention on Climate Change (UNFCCC) and its Kyoto Protocol have been tailored mainly around mitigation and carbon counting mechanisms to avoid unmanageable climate change (Hunter 2009, p. 340).

P&E studies also contribute their frames of reference to the meaning of vulnerability and of adaptation. It is ultimately human vulnerability, for example to famines, which results from the claimed mismatch between the consumption needs of a population and its natural resource base. Thus vulnerability to environmental conditions can be said to be understood as a resource shortage. Translated into the context of global warming and increased climatic variability it can be understood as dependency on ecosystem services which become increasingly unreliable for human use. The definition of vulnerability in both the third and fourth IPCC report of Working Group II (vulnerability and adaptation) mirror this thinking[3]:

> Vulnerability is the degree to which a system is susceptible to, and unable to cope with, adverse effects of climate change, including climate variability and extremes. Vulnerability is a function of the character, magnitude, and rate of climate change and

[2] Hartmann (2010, pp. 196f). For further sources see McInerney (1976); Sinha (1976); Norse (1976). An example of a political document in line with this thinking is FAO (1979).

[3] For further discussion on conceptions of social vulnerability to hazards see also Villagrán de León (2006).

variation to which a system is *exposed*, its *sensitivity*, and its *adaptive capacity* (IPCC 2007, p. 883; IPCC 2001, p. 288; emphasis added).

In IPCC reporting the 'human system' is thus only one system alongside the atmospheric, the climate and the natural systems that are considered to fall under such a definition of vulnerability. Taking again the example of famines, a human system exposed to drought suffers from reduced availability of food. Humans are very sensitive to such conditions, because without food they starve. Coping and adaptation strategies along neo-Malthusian thinking may include food storages from overproduction of former years or from less affected or unaffected regions of food production to bridge the food gap, or—as climatic conditions may change persistently—the introduction of drought resistant crops and other (bio-engineering) innovations to secure agricultural output. Kenya might serve as an example that such conviction of belief in technical solutions is well entrenched in the climate adaptation debate. In its national climate change strategy the Kenyan government calls for biotechnology to tackle national food insecurity and in July 2011 enacted a law that permits the production of genetically modified food in Kenya (Ministry of Environment and Mineral Resources 2010; DeCapua 2011).

Such approaches are of concern to social scientists, practitioners and activists engaged in bottom-up development, and it is useful to recall the arguments against the above mentioned food security strategy of the 1970s and early 1980s. It was in the context of that debate that Amartya Sen developed his entitlement approach, which broadened the analysis of famines to go beyond the lopsided focus on food shortage and food availability. Based on empirical cases he showed that famines and chronic hunger had increased in many parts of the world even though food output per capita had also increased (Sen 1982). This finding discredited the neo-Malthusian approach to famines, according to which food output per head (at local, national, regional, global scales) is a reliable indicator of food security and increasing it the adequate solution to the problem (Sen 1986, p. 6). It is to Amartya Sen's credit that he pointed out that food insecurity is not just a matter of food quantity, but of 'entitlements to food' that are predominantly regulated and restricted by societal institutions. Thus the complex social underpinnings of emergency-like situations as well as of the solutions to them came into focus.

Accordingly, Sen pleaded for the study of 'the causal mechanisms leading to famine and the precise form it takes' (Sen 1986, p. 10), which can look very different from case to case. As an economist he proposed to do so by analysing production and exchange patterns. His so-called 'entitlement approach' concentrates on the 'set of different alternative commodity bundles' a person can acquire by legal means to satisfy his/her need for food. Entitlements encompass 'endowments' (entitlements that are owned) and 'exchange entitlements' that are achieved by means of trade and production (including wage labour). A person is threatened by misery if there are unfavourable changes in his/her entitlements (e.g., loss of land or labour power) or in his/her 'entitlement exchange mapping', that is, the exchange value of entitlements (e.g., declining wages and selling prices, or increasing food prices). Determinants of entitlements such as natural hazards,

inflation, recession-induced unemployment or war, etc. do, however, affect different sections of a population very differently (Sen 1986, pp. 9–10). Accordingly he claimed that the circumstances of different occupational groups, and the ways they are deprived of their entitlements, have to be disaggregated (Sen 1986, p. 20). Moreover, he called for long-term policies, which are 'geared to enhancing, securing, and guaranteeing entitlements' (Sen 1986, p. 28).

Sen's analysis of famines is characterised by an economic perspective that regards entitlements as 'the commodities over which she [a person] can establish her ownership and command' (Sen 1999, p. 162). 'Entitlements', in a legal sense, seem thus to be reduced to property rights, the right to sell one's own labour, and the right to exchange goods and services, features that are characteristic of a 'private ownership market economy'. This interpretation is confirmed by his earlier writing on *Poverty and famine* (1981), where Sen offered his typology of four entitlements, all of which are expressed in terms of 'ownership' (Sen 1981, p. 2): (1) trade-based entitlements that allow the selling of goods that one legally owns; (2) production-based-entitlements that allow one to own (and then sell) what one has produced by using one's own resources, or resources hired from willing parties; (3) self-labour-based entitlements that ensure that everyone owns his or her own labour power (as opposed to slavery) and can offer it to others; and finally (4) inheritance and transfer entitlements which allow one to own what has freely been given to him or her by another who legitimately owns it, possibly as an act of charity or inheritance. Such categorisation leaves no doubt that Sen's entitlement approach to famines is about economic entitlements and that his preferred societal system of reference is the market economy.

Sen's work on entitlements to food must, moreover, be seen in relation to his capability approach, on which he started to work shortly after (Sen, 1984a [1982], 1984b, 1985). His work on capabilities is rooted in his search for alternative measures of living standards. As with the neo-Malthusian idea of food security he regarded the existing measures of living standards, gross domestic product and income, as thoroughly inadequate to measure wellbeing and development (Sen 1984a, [1982], pp. 74–79). Again he diverged from the dominant macro and aggregated approaches of his time to emphasise the importance of the micro level and of agency [Overseas Development Institute (ODI) 2001, p. 1]. Already in 1982 he called his approach 'that of freedom' which finally culminated in his book *Development as freedom* (1999), where human agency gains centre stage. Freedom was 'interpreted in its "positive" sense (to be free to *do this* or *be that*) rather than in its "negative" form (not to be interfered with)' (Sen 1984a, [1982], p. 85). His point of departure was to re-define development as 'a process of expanding the real freedom people enjoy' (Sen 1999, p. 3) and to understand freedom as 'the expansion of the "capabilities" of persons to lead the kind of lives they value—and have reason to value' (Sen 1999, p. 18). Living conditions are thus directly reflected in the bundle of functionings a person has achieved, such as being well fed, educated and so on. In contrast, capability is what a person *can do* or *can achieve*, that is, 'the opportunities you have regarding the life you may lead' (Sen 1986, p. 36). In other words, capability is the bundle of potential functionings someone is able to choose from and to

realise. It 'refers to the alternative combinations of functionings that are feasible for her [a person] to achieve. Capability is thus a kind of freedom: the substantive freedom to achieve alternative functioning combinations' (Sen 1999, p. 75).

To stay with the example of hunger: in the case of religiously motivated fasting or a hunger strike, 'to be hungry' is a chosen function and expression of capability; in the case of starvation and chronic hunger it is an expression of unfreedom, because those affected can hardly, if at all, exercise any choice about this living condition. The example also shows that realised functionings do not in all cases depend on the disposal of commodities and other assets; they can just as well imply the choice to abstain from certain goods. However, in most cases the availability and use of certain commodities is a precondition for effectively realising functionings and exercising choice. Though a high degree of capability is not equal to a high degree of access to commodities, the two are nevertheless strongly related in many cases. Availability of and access to commodities and other assets are nevertheless highly conditioned by formal and informal institutions. Sen thus gives particular importance to political participation and to democratic procedures.

> What people can positively achieve is influenced by economic opportunities, political liberties, social powers, and the enabling conditions of good health, basic education, and the encouragement and cultivation of initiatives. The institutional arrangements for these opportunities are also influenced by the exercise of people's freedoms, through the liberty to participate in social choice and in the making of public decisions that impel the progress of these opportunities (Sen 1999, p. 5).

Types of 'instrumental freedoms' include (1) political freedom, (2) economic facilities, (3) social opportunities, (4) transparency guarantees and (5) protective security (Sen 1999, p. 38). 'Political freedom' explicitly includes 'civil rights' and all the varieties of political freedoms that are usually associated with political rights and are the sine qua non conditions of democracy. 'Economic facilities' entail 'opportunities to […] utilize economic resources for the purpose of consumption, or production, or exchange' and thus correspond to the term 'entitlement' in his reflections on famines, which he now refers to as 'economic entitlements' (Sen 1999, p. 39). 'Social opportunities' refer to the 'arrangements' a society offers to enhance, for example, education and health care. 'Transparency guarantees', which include the 'right to disclosure', he regards as fundamental to support relations of trust within a society and to combat corruption. 'Protective security' calls for arrangements within a society to support those who suffer hardship due to economic crisis or natural disasters, etc. Sen views those freedoms as mutually reinforcing and considers social opportunities in particular to be essential, not only to improve morbidity or literacy rates, etc., but also to enable more effective participation in economic and political life.

The reason Sen regards those freedoms to be 'instrumental' is presumably that all of them serve to enhance 'capability', that is, 'substantial freedom' (Sen 1999, p. 75). That the first of those instrumental freedoms, in his view, nevertheless enjoys a privileged status becomes clear from his elaboration of the 'pre-eminence of political freedoms and democracy' (Sen 1999, p. 147f), which are of both instrumental and intrinsic value.

Sen's theorising revolutionised the conceptualisation of food security and of development. With respect to food security it unmasked the shortcomings of the neo-Malthusian approach taken by the FAO and the World Bank to solving the problem of famine simply by increasing food output. In line with Sen's distinction between the availability of food and its accessibility according to a person's entitlements, the FAO at least adjusted its food security policy to embrace the access dimension and even included the question of food preferences, which can be said to reflect the matter of choice in the capability approach (FAO 1996, p. 1). This approach finally informed the interpretation of the right to food, part of the International Covenant on Economic, Social and Cultural Rights (ICESCR) by the respective treaty committee (CESCR 1999, General Comment no. 12) and the adoption by the FAO member states of voluntary guidelines on realising the right to food (FAO 2004).

10.3 Sen's Impact on Thinking About Development, Social Vulnerability and Migration

Beyond the policy debate on food security Sen's work on entitlements and capabilities inspired the entire discipline of livelihood research and the development of the sustainable livelihood approach (SLA) as a useful tool for analysis and planning in development cooperation (Beall 2005, p. 1; de Haan and Zoomers 2005, p. 31). Livelihood research has its roots as well in the search for more actor-oriented approaches in development studies as an alternative to structuralist and other macro economic approaches. In contrast to Sen, whose emphasis on freedom logically embraces the individual as the unit of analysis, livelihood research focuses on the household because of its important role in organising livelihood strategies in the case of the poor. This makes sense, because households are one of the most important social formations in the accumulation of assets and help to overcome the restrictions individual members would face to achieve comparable assets. Moreover, household-based livelihood research allows for the investigation of typical strategies of sub-groups of a population (de Haan and Zoomers 2005, p. 28f).

The SLA developed in the 1990s puts more emphasis on the issue of capability, not only on availability of assets and their strategic use. Two of its main pioneers, Chambers and Conway, defined 'livelihood' as 'comprising the capabilities, assets (including both material and social resources) and activities required for a means of living' and 'sustainable livelihood' as a livelihood that 'can cope with and recover from stresses and shocks, maintain or enhance its capabilities and assets, while not undermining the natural resource base' (Chambers and Conway 1991, p. 6). They refer directly to Sen's work on capability and wellbeing during the 1980s by emphasising the value of capabilities as an end and as a means of livelihood. Chambers interprets capabilities as 'what people can do or be with their entitlements', and that allow people to define for themselves the criteria for development they value (Chambers 1997, after Scoones 1997, p. 6). The sustainable livelihood framework, the SLA developed by Scoones, sets up a non-exhaustive

list of 'capitals' comprising natural, economic and financial, human and social capital, which he brings close to the notion of Sen's 'entitlements' by calling them 'endowments that they [people] have access to and control over' and which include tangible and intangible assets (Scoones 1997, p. 8). The term 'functionings' did not enter into SLA parlance, but it might be associated with 'livelihood outcomes', that is, what has been achieved through a certain livelihood strategy, based on available livelihood resources (capitals). One of the main achievements of the SLA in comparison to the 'new household economics' is the systematic consideration of structures, processes, formal and informal institutions that support or impinge upon access to resources and available livelihood strategies (Scoones 1997, pp. 4, 11f). Again the SLA here follows Sen's call for the investigation of the role of social institutions and mechanisms in access to entitlements.

Those ideas finally also fed into conceptualisations of social vulnerability to climate and environmental change in the works of Chambers (1989), Watts and Bohle (1993), Adger and Kelly (1999) as well as in Blaikie et al.'s (1994) access-to-resource model. Their reliance on the entitlement approach is expressed in statements such as, for example, 'The response to climate change is facilitated and constrained by the same architecture of entitlements as adaptation to other social and environmental stresses' (Adger and Kelly 1999, p. 255) or 'Any strategy envisaged as feasible for coping with future climate change must be rooted in a full understanding of the complex structure and causes of present-day vulnerability' (Bohle et al. 1994, p. 37).

Migration figures prominently within the new household economics and the sustainable livelihood frame. It is considered a major livelihood strategy applied to accumulate resources and to reach social upward mobility or at least to avoid downward mobility. In livelihood research and the SLA, migration is treated as one of the major accumulation strategies in addition to land acquisition and labour recruitment (de Haan and Zoomers 2005, p. 39), agricultural in- and extensification and livelihood diversification (Scoones 1997, p. 14). In this sense the 'new economics of labour migration' (NELM), with its focus on remittances as a means of income diversification and informal risk insurance, clearly fits into the school of thinking of 'household economics', which investigates income and survival strategies of the poor. Scoones also refers indirectly to the NELM when he speaks of 'migrancy and remittances' as an alternative to rural credit schemes that fail to cover the financial and investment needs of rural households (Scoones 1997, p. 14). Migration—within the SLA as well as within the NELM—works as a substitute for the deprivation of in situ entitlements such as local food production, income or educational opportunities. At the same time migration cannot be realised by everyone and is thus also related to capability. In research on social vulnerability and adaptation to climate change Adger et al. (2002) accordingly investigated the role of migration and remittances, which are now promoted by the IOM and reflected in the fourth strand of the 'climate migrant' debate (see Chap. 1).

When considering the role of migration for livelihood strategies some caution is nevertheless indicated. The migration option relies strongly on societal factors such as supporting networks and labour market demand, and thus also

entails considerable risk of failure. Besides its costs and risks of failure, migration increases the 'multi-locality of livelihoods' and thus hampers coherent household decision-making (de Haan and Zoomers 2005, p. 39). The household as the unit of analysis, moreover, obfuscates internal household hierarchies and structures of power that determine who within the household effectively has access to a household's resources and who can effectively take advantage of the achieved functionings or livelihood strategy outcomes (Faist 2000, pp. 29–61). The household is also not the only form of collective resource accumulation. Other social formations such as village communities, clans, associations and networks equally facilitate accumulation and command of assets. Even the nation state can be regarded as a realm of collective resource allocation. Any of these social formations, however, can determine if and how individual members can take advantage of their accumulation capacities. For some, and not necessarily a minority, they might constrain resource accumulation at the individual level and thus hamper the capability and development of freedom of those individuals. For those who are capable, migration can, however, equally lead to the fragmentation of social ties between household and community members, which reveals that not only do individuals depend on such social units, but also that the social units depend on the membership of individuals.

From the viewpoint of the capability approach, which focuses on the individual, migration could best be described as a means—a strategy—to achieve certain functionings. The distinction between means and functioning is, however, a bit fuzzy, because the process of organising for certain means can take on the characteristic of realising a functioning, and sometimes functionings can equally be regarded as intermediate steps taken to reach other, superior, functionings. Thus, in the process of organising for migration, reaching mobility appears as a functioning, while ultimately is undertaken to achieve other functionings. For some people mobility might moreover appear as a value in and of itself. In any case, to be mobile—whether practiced or not—is an expression of capability.

10.4 The Role of the 'Entitlement' and 'Capability' Approach

Most of the contributions to this volume do not refer to the role of capabilities, though many of them—explicitly or implicitly—do refer to the SLA and the NELM approach, and draw on the crucial insights of the entitlement approach. Chief amongst these is that unfavourable changes in a person's or household's tangible and intangible endowments constrains a person's or household's ability to achieve basic functionings such as adequate food, water or health. Unfavourable changes in endowments and exchange mapping likewise limit a person's or household's capability to realise desired functionings beyond the basic needs for ensuring survival. But the contributions equally highlight the negative repercussions of the capability to migrate in terms of social vulnerability and the trade-offs between individual capabilities and capable solidarity networks which may result. Cases

of impelled or forced migration and relocation, moreover, reveal the potential of human rights to protect entitlements and capability.

Richard Black, Dominic Kniveton and Kerstin Schmidt-Verkerk's integrated assessment of the sensitivity of existing migration drivers to climate change is largely concerned with the macro level perspective. It thus offers little opportunity to test it against the capability and entitlement or household approaches, which refer to the individual or household level and thus start from a micro perspective. Nevertheless there are some links associated with the idea of migration as a form of opportunity enhancement. If climate change upsets agricultural or industrial production and thus labour demand declines in the most important destination areas of internal migration in Ghana, unfavourable changes in the endowments of the affected labourers can result. It deprives the migrant workers of their entitlement to income in exchange for their labour, and their families at the place of origin from remittances as an additional source of income. Though income disparities between places of origin and destination are certainly not the only factors determining migration, migrant labourers in the Accra and West Coastal areas indeed do come from the poorer north of the country where there are few economic opportunities and environmentally harsh conditions that do not allow for productive agriculture. The sensitivity of the destination area to climate change might thus initiate new migration dynamics to other destinations with labour demand, which would (or at least ideally) allow those migrants to maintain labour migration as a strategy to enhance their and their homestead's income and thus to achieve substantive functionings. The breakdown of labour demand due to climate change might, however, equally lead to return migration to arid and poor homestead areas, if the workers were deprived of the capability—the choice—to enhance income and opportunities by means of labour migration. In the case of national and short-distance migration such a scenario is not unlikely, because the number of destinations with high labour demand is—particularly in developing countries—usually limited.

When it comes to international labour migration to the long-distance destinations of the developed world, for example the UK and the US where demand for social care and other services is high, an effective capability to migrate in turn proves to be highly dependent on transnational social ties to the Ghanaian diaspora community in those countries. Such intangible social assets are not available to the majority of Ghanaians. The type of labour demand also determines who of the potential migrants can effectively diversify his/her entitlements and thus the scope of personal capability, as seen in the example of Bangladesh. Though migrants to the urban centres in search of income opportunities are still predominantly young, poor and male, the need for female workers in the increasingly significant garment industry of Bangladesh now endows women with labour migration as an available means to enhance capability. Put more precisely, for females, migration becomes an additional optional functioning within their bundle of functionings from which they can chose, and which in turn enhances freedom of choice and thus capability. In sum, the contribution shows clearly how changes in external conditions cause both unfavourable and favourable changes in the entitlement exchange mapping of certain groups.

Robert McLeman and James Ford's contribution, in contrast, reflects the great diversity of ways in which migration and capability can be linked with each other. The authors elaborate on the question of how demographic changes, including migration, impact upon communities' vulnerability to climate change and their adaptive capacities. The four case studies share the notion that demographic change, including migration, has a particular impact upon social reciprocity networks. The strong social networks in the rural area of Ontario (Canada) had always been an important livelihood resource to solve communal challenges, including those caused by climate change such as clearance of streets from uprooted trees after one of the increasingly severe and frequent storm surges. Social capital is thus of great importance for organising everyday routine as well as cultural life. In one community, for instance, a historic grist mill had successfully been converted into a community centre to serve as a new venue for the winter carnival (formerly held outdoors), the latter thus becoming independent of the warming weather. It is exactly this social fabric, however, which becomes distorted by out- as well as in-migration. The young move to urban centres for education and employment, never to return. Their numbers are only partially 'replaced' by middle-aged town dwellers who buy out local real estate to enjoy rural living. Those newcomers, however, do not seek integration into local community life.

In the case of rural Ontario the capability of the young residents to search for better opportunities by migrating to the urban centres entails a trade-off with the community's capacity to organise communal life and its challenges effectively. The impact of out-migration on the community is thus comparable to that on households: joint and coherent decision-making becomes difficult, because distant members absent themselves from communal obligations and withdraw their labour and social skills from the bundle of assets available to the community. The retiring senior city dwellers who buy into the local estate market, residing only selectively during pleasant summer months and not integrating themselves into the local society, exercise a great level of choice. Their capability to establish a second dwelling place and to reside in it according to their personal timetable is indeed an expression of freedom. It is to the disadvantage of the community's adaptive capacities at large, however, because it does not compensate for the out-migrating youth, and it eventually deprives the locals from accessing the more attractive (and expensive) lakeside properties for fishing, raises prices and taxes, and leads to gentrification, segregation, greater inequality and social disarticulation. Though it is not common to speak of capabilities of a community, it is nevertheless obvious that the mobility—as a capability—of some diminishes the capabilities of others, because they lose collective accumulation capacities and social capital as constitutive assets useful for realising certain functionings they need or appreciate to live the life they want and used to live.

In the Iqaluit case, the capital of Nunavut, high in-migration of Inuit population from other Nunavut communities, high birth rates amongst the Inuit population, and in-migration from out-of-province Canadians for labour opportunities resulted in an extraordinary population growth rate. Here, in-migration contributes to an increasing mismatch between old experienced hunters and a young population inexperienced and increasingly uninterested in hunting, which—together with the

warming climate and accordingly changing animal migration patterns and environmental conditions—leads to the advancing fragmentation of the self-sustaining food supply and to its substitution by market mechanisms. Due to this mismatch between the young and the elderly, local knowledge and skills can no longer be transferred in the traditional way, nor are the remaining hunters willing any longer to share their prey for free with their (non-hunting) extended families. The capability to hunt and to move safely in the difficult and changing environment of Nunavut dissipates, and inhabitants become increasingly reliant on monetary income, the labour market and the social welfare system to fulfil the function to be food secure. At the same time the capital offers a much better education system so that the more traditional skills passed on by hunters will be replaced by modern skills such as speaking English, which is endowed to the young. To command both sets of skills would, however, be the most favourable combination of functionings in this environment and ensure the greatest capability. The current situation might instead lead to newly emerging migration of—young and English-speaking—Inuit population from Nunavut to urban centres of Canada with better job opportunities, because a livelihood outside of the labour market is no longer available to them. To the elderly, in contrast, such an option is not available.

The contribution of Soumyadeep Banerjee, Jean-Yves Gerlitz and Dominic Kniveton, which is explicitly based on the SLA and NELM approach, explores the possibility and utility of remittances as the most crucial benefit from migration for local adaptation. Access to remittances here clearly figures as an important means to ensure entitlements to food and to enhance local asset accumulation to cope with and prevent the repercussions of water stress (too much or too little water) on agriculture. Thus, income from remittances helps to compensate for the decreased capability to fulfil the function of food security by subsistence farming and husbandry. The labour migration option is, however, ridden with prerequisites. Households must be capable of dispensing with the labour of the migrating household members as well as enabling the successful transition to the destinations including travel costs or even costs of agents to access the labour market at destination places. Moreover, income opportunities there must prove stable and costs of transferring the money must not be too high. The results of labour migration were mixed. Though migrants had not been able to send remittances regularly and at high levels, they nevertheless contributed more than half to household income, which might be due to significant income disparities and opportunities between the rural sending communities and the urban destinations. Those households not capable of sending members were therefore assumed to have been caught in a vicious cycle of poverty because they were unable to substitute lost assets to acquire and produce food or to invest into adaptation by means of labour migration. Sending households nevertheless also contributed to improved terms of entitlement exchange of other households insofar as they procured goods and services from local service providers with their additional cash. The local service providers may themselves have been able to send members for labour migration, so that it remained unclear whether income generated directly (for migrant households) or indirectly (for service providers) from remittances also contributed to increasing levels of inequality, and thus also in experience of capability, between community members.

Tanvir Uddin's econometric study of the coping capacities of Bangladeshi households after the severe floods of 1998 offers a detailed inquiry into entitlements to food by the affected population on the household level. The main focus on endowments and other economic entitlements to acquire food is consistent with Sen's entitlement approach, and the contribution thus offers valuable insights into how entitlement to food can be captured by quantitative and econometric approaches. Welfare, measured as calorie intake, was directly affected by flood-related crop failure and indirectly by increasing food prices and dropping wages due to flood-related economic breakdown. The entitlements considered as relevant to calorie intake and selected for investigation included: first, literacy of household heads and level of female education which imply better capability of crisis management and income generation; second, consumer assets, livestock and land holdings as assets that can be sold to buy food or which can be used to produce and sell food; and third, access to loans and food credits to invest in food production or to buy food, respectively. The chosen variables do not, however, include social capital in the management of such types of crises (as included in SLA) and the role of 'instrumental freedoms' of the capability approach beyond economic entitlements. By selecting calorie intake as the main indicator of welfare it ignores Sen's work on the standard of living, where he concludes that the scope of capability, that is, the real freedom of choice, is the more comprehensive and appropriate measure of wellbeing.

Though only a limited number of the means and conditions determining the functioning of food security have been captured, the results are sobering. The econometric comparison of households along the chosen characteristics showed that, in particular, consumer assets, female education and food credits consistently proved crucial to redress, maintain and improve calorie intake—the function necessary for food security. The role of livestock and landholdings was less clear, which is assumed to be related to different degrees of damage of those assets by the flood, consecutive crop failure and/or difficult market and marketing conditions for those assets and their production. Food credits, which played an important role in ensuring calorie intake, turned out to be problematic: though they mitigated food shortage at the first instance, they burdened households with long-term debts, which hindered long-term recovery. Debt burden reduces the bundle of available functionings or the scope of capability, because income has to be spent on debt payments. The author suggests that such repercussions could possibly be avoided if food credits are substituted for remittances. This option is, however, dependent on the terms of exchange mapping. It has thus to be kept in mind that income generation by (skilled) employment could only take effect after the very slow recovery from economic decline in the aftermath of the floods. The capability to substitute food credits for remittances in these circumstances might thus have been limited with the exception of those who had or could send household members at/to destinations outside of this large-scale disaster area.

In sum, the case studies of the first part of this volume show that the potential of migration for adaptation is limited and can even have adverse effects such as increases in social inequality and social fragmentation. It depends, ultimately, on who migrates where and with what resources. The contribution of McLeman and

Ford, moreover, showed that out- and in-migration may cross-cut and this may exponentiate the resulting declining entitlements for those who do or cannot migrate.

The contribution of Chloé Vlassopoulos is difficult to discuss within the frame of the entitlement and capability approaches, which are designed for the analysis of the individual and household level, and not for discourses. It could nevertheless be argued, with caution, that her discourse analysis reveals that changes and shifts in the debate are related to the incapacities of the respective institutions to anchor the issue of climate change adaptation within the political realm. This incapacity is again shaped by structures and processes, here mainly of inter-state relationships. It leads to a failure to design adequate policy responses to support affected populations and thus to a failure to maintain and enhance their capabilities to cope with the challenges of environmental and climate change. The narrowing of policy responses to support for circular labour migration, whose potential is entirely determined by labour demands in destination countries, and for planned relocation, with all its pitfalls for maintaining sustainable livelihoods, might turn out to be of limited success and in some cases even an additional disaster. This underscores the point that public discourses on policy choices do not only have an enabling role, as suggested by Sen, but that discourses and their dominant actors—often represented by influential institutions—can equally limit policy choices and work to the disadvantage of those who cannot effectively participate in such debates. The role of institutions, mainly of formal ones, is of importance to the remaining contributions of part II as well.

Volker Böge describes in detail the challenge of maintaining a high degree of capability of communities threatened by the complete disappearance of their homesteads and who are therefore compelled to relocate. Inadequate institutional response appeared to be a major challenge to the success of the autonomously organised relocation process of the Carteret islanders to Bougainville (both Papua New Guinea). Those affected had been very engaged in making the—in the long run—unavoidable relocation from their sinking island a self-initiated and self-governed process. Even the name chosen for this relocation initiative, Tulele Peisa, which means ‘sailing the waves on our own’, emphasises the will to uphold their human agency and remain the masters of their destiny. Project plans were moreover characterised by a great sensitivity to the capability dimension of the host community.

Programme components designed to secure and enhance the capabilities of the community included establishing a sea transport service between the place of origin and the new settlement to maintain the social relationships between those staying behind and the pioneers, and thus seeking to prevent the social fabric of the Carteret community from fragmenting. It also opens the opportunity for exchange of goods which might become crucial to maintain those who decided to stay on the island as elderly and deeply entrenched people frequently do. To establish mobility between customary and new places of living is not just a matter of saving lives, but also of fulfilling the social duties of the young toward the older generation. Similarly, the relationships with and responsibilities toward ancestors and unborn generations can only be meaningfully maintained if access to the Carteret Islands is ensured—at least for some time. Not being able to fulfil such deeply felt duties is likely to cause psychological trauma. The spiritual and psychological dimensions of the uprooting caused by relocation were taken into account in the

ceremonies meant to welcome the relocation pioneers at the destination. Though the spiritual dimension is not given due consideration in the entitlement approach, which is confined to the legally accepted means to acquire certain goods such as food, it is contained within the capability approach which regards a high degree of 'capability' as a high degree of freedom to live the life one chooses and appreciates, which certainly includes life's spiritual or religious dimensions.

With respect to the host communities Tulele Peisa puts great emphasis on establishing social relations favourable to integration. Exchange programmes between the elders and leaders of both incoming and receiving communities, the consideration and promotion of inter-marriages, and the felt need to improve the standard of living of the host communities and to make relocation appear to be an advantage for both sides are all measures intended to advance 'bonds and social cohesion' between the new neighbours. Solidarity and reciprocity networks, as could be observed also in the contribution by McLeman and Ford, are thus crucial to successful adaptation and management of stress. In this case, the failure of integration was not, however, the result of a general unwillingness on the part of the newcomers, but was related to former political and violent tensions, a prior civil war between Bougainville and the central government, which did little to make outsiders feel welcome. Thus, having been unable to establish new social ties successfully, the Carterets islanders failed to prevent the conflicts they wished to avoid. This failure was also due to the unsolved question of land for the resettlers and their access to natural resources. Entitlement to land thus proved to go beyond spiritual questions and to be a 'hard issue' which could have been solved—at least partly—by purchasing land with money. Such financial assets were not, however, part of the entitlement bundle at the disposal of the islanders. This had been expected to be provided by external support through the government, which nevertheless allocated too little (two million instead of 14 million) and even then did not disburse the allocated funds due to bureaucratic mismanagement and, most likely, corruption. This institutional failure hindered Tulele Peisa to a large extent from realising its objectives successfully, with the result that families returned to their sinking island because of resource conflicts despite all efforts at careful and sensitive planning.

Jeanette Schade explores in greater detail how planned relocation as a response measure to climate migration deprives communities and their members of crucial livelihood resources, which causes them to lose their entitlements to food and to the means for realising other substantive functionings and thus also their capability to chose freely between livelihood options and strategies. Those impaired entitlements range from accessing land and water to produce food, to accessing adequate housing, education and health services. They also include mobility to organise for certain functionings such as maintenance of health or generating income at a distance. In some cases entitlement to food was even limited to what Sen labeled 'transfer entitlements' (Sen 1981, p. 2), that is, food owned by others who have given it freely, in other words food aid. It is obvious that food entitlement which is restricted to transfer entitlements displays a very low level of capability or even the opposite of capability and freedom, which is complete dependency and absence of choice. Moreover, communities frequently experience relocation—particularly when it is forced—as traumatising, resulting in social disarticulation and

fragmentation, which deprives them additionally of the social capital of their community life. Again the greater mobility of the working age population helps on the one hand to ensure the functioning necessary to acquire enough food at the household level, but on the other leads to greater isolation of those who stay behind.

In search for an institutional frame that safeguards the entitlements of those subject to planned relocation, Schade proposes a human rights approach derived from the Basic Principles and Guidelines on Development-based Evictions. The application of such guidelines within an institutional setting that enables their enforcement would be an example of how institutions can contribute to the protection of entitlements to livelihood resources and associated substantial human rights as well as procedural rights that allow the affected to have a stake in decisions about relocation plans. Though fulfilment of substantial rights such as access to water, food, clothing, housing and health are certainly vital to survival, it is procedural rights in particular that are, from a capabilities perspective, crucial to protecting human agency in leading a self-determined life, freedom of choice and welfare beyond nutrition intake. Thus, the contribution covers both human rights as an instrument to enhance individual capability and the institutional settings required to improve their enforcement.

Megan Bradley and Roberta Cohen deepen the discussion on protection gaps in dealing with so-called environmental migrants, refugees and internally displaced persons. Of particular concern to them are those who cross international borders, who flee slow onset disasters, and who become stateless due to the complete disappearance of state territory as in the case of small island states. It is these victims of environmentally caused cross-border flight and gradually impelled migration and statelessness who are not covered at all by existing regimes or normative frameworks. But the frameworks in place for dealing with those who are internally displaced due to natural disasters do also suffer from deficiencies. Bradley and Cohen therefore scan existing international arrangements for legal and organisational gaps, and display a clear preference for a human rights-based approach. It is their observation that policy responses frequently become discriminatory in practice toward minority and vulnerable groups, including women, if they lack effectively applied human rights-based standards. Inequitable access to aid, discriminatory evacuation plans and gender-based (sexual) violence are common results.

Such effects, they explain, can be studied not only in cases such as Burma or China, but also in democratic societies. Though the US government applies human rights standards in its humanitarian aid abroad, it abstains from them in its domestic disaster management because it fears the threat of lawsuits in case of non-compliance. Evacuation, emergency aid and reconstruction during and in the aftermath of Hurricane Katrina revealed the extent of discriminatory practices within US governmental responses. Bradley and Cohen thus regard it a crucial institutional gap that most countries have not yet integrated human rights into their national disaster responses. They assert that the identification of vulnerabilities must be connected consistently with human rights to guarantee adequate protection of and attention to the needs of vulnerable groups. Moreover, they emphasise the importance of consultative processes to provide a voice to vulnerable groups, which become inaudible when top-down approaches are applied. Court cases, or the

threat thereof, are regarded by the authors as an important accountability mechanism that raises the awareness of governments about their duties and responsibilities according to internationally recognised human rights and humanitarian law. As an example they mention the lawsuit against Russia before the European Court of Human Rights addressing the state's failure to save lives and compensate survivors of the mudslides in the northern Caucasus. They stress moreover the role of public but independent institutions such as national human rights commissions to support monitoring of state behaviour.

The latter two contributions strongly emphasise the potential of human rights standards, laws and institutions to protect those who suffer from environmental degradation, natural disaster and inadequate policy responses. Such standards, it could be argued, function as safeguards that protect the capabilities of the affected mainly in two ways. They endow them with legal entitlements to substantial rights as well as procedural rights to participate in the decisions over their future life options. Embedded into international human rights law and treaty body monitoring, regional human rights courts and commissions, national supreme or constitutional courts, and other accountability systems such as national human rights commissions, ombudsmen, and a vital civil society, this seems an appropriate institutional frame that opens up the choice to complain or even to file a lawsuit against indifferent and reckless authorities. Embedding such entitlement to human rights may help the affected to maintain a greater freedom of choice and to exercise more human agency than they normally have in such emergency-like situations. The question arises whether Sen himself would have supported the idea of human rights, in particular social and economic rights, as an appropriate instrument to ensure economic entitlements and enhance capabilities. The following will therefore explore in more depth the relationship between capabilities and human rights within Sen's work.

10.5 Entitlements, Capability and Human Rights

There is considerable discussion as to whether Sen's entitlement and capability approaches can be assumed to support human rights approaches to development and disaster management. This question must be raised particularly with regard to substantial human rights that constitute legal entitlements to minimum standards of food security, health services, housing, education and so on. In line with Edkins' critique that 'entitlement to food' in Sen's interpretation does not entail any 'right to food' (Edkins 1996, p. 559), de Haan and Zoomers also argue that 'entitlement' according to Sen means 'what people *can* have, rather than what they *should* have; [and only] the latter is a right' (de Haan and Zoomers 2005, p. 35). An ODI Briefing Paper, in contrast, asserts that 'starvation' occurs 'as a consequence of shifts in entitlements resulting from exercising rights that were legitimate in legal terms' (ODI 2001, p. 2). They thus refer to the interpretation of 'entitlements' as a kind of ownership of commodities, production facilities

and labour power and the right to use and exchange them as elaborated by Sen in *Poverty and famines* (1981). Beyond that they take the position that Sen's idea of freedom comprises opportunity to be adequately fed, sheltered and so on (all components of ICESCR), as well as civil liberties (components of the ICCPR), and they point to the human rights parlance of the UNDP report of 2000 to which Sen contributed considerably (ODI 2001, p. 3). Moreover, the impact that Sen's work had—intended or unintended—on the development of the right to food concept encourages the assumption of a positive relationship between the capability and human rights-based approaches to development. In the scientific sphere it was Martha Nussbaum who argued particularly for capabilities to be interpreted as a species of human rights, and who developed a priority list of such rights which includes rights under the ICESC (Nussbaum 2002).

Sen's work is, however, ambivalent on the matter of human rights. The capability approach as described in *Development as freedom* (1999) is embedded into the normative language of freedom. Sen emphasises the importance of political and civil liberties, which are anchored in the ICCPR. He makes no similarly strong references throughout his writing to the economic, social and cultural human rights (ESC rights) of the ICESCR, although it would seem appropriate to do so at many points. In his introduction, for example, he mentions inter alia poor economic opportunities and systematic social deprivation, insufficient access to health care, clean water, functional education and economic and social security as major sources of 'unfreedom' (Sen 1999, pp. 3, 15). Nevertheless he refrains from using ESC rights language to support his argument. In addition, in his elaboration on 'instrumental freedoms', i.e., those crucial to achieve development, he lists a mixture of ICCPR and ICESCR related freedoms, but refrains from using rights language in the case of the latter. He prefers to call them (1) political *freedom* on the one hand, but (2) economic facilities, (3) social opportunities, (4) transparency guarantees and (5) protective security, on the other hand (Sen 1999, p. 38; emphasis added).

Sen's reluctance to speak out in favour of a comprehensive human rights approach to development—including economic and social rights—is not a case of neglecting to examine philosophical disputes about the societal role and status of rights. This becomes obvious in his elaboration on reproductive rights in *Development as freedom* (1999, p. 211ff) and in his early article on *Rights and agency* (Sen 1982), where he proposes a 'goal-rights system'. Such a system is his favoured approach to avoiding the pitfalls of the philosophical traditions of the 'welfarist consequentialist/utilitarian' and the strictly 'constraint-based deontological' view of rights. The former values rights only as 'instrumental' means to maximise right-independent utilities and thus often has a tendency to privilege the interests of majorities within a society over minority rights. The latter, in contrast, ascribes intrinsic importance to rights and has thus a predisposition to claim fulfilment of rights irrespective of the possibly negative consequences of that fulfilment for the realisation of overall utilities and for the fulfilment of other rights and the rights of others (Sen 1982, pp. 4–7).

The 'goal-rights system', Sen suggests, instead allows for the 'inclusion of right-based considerations in the goals themselves (and thus permits its direct use in the evaluation of outcomes and consequences), but it does not deny the use

of instrumental considerations as well' (Sen 1982, p. 16). He actually seeks a rights system that offers room for considering the social ordering of rights as well as for the consequence analysis of their realisation in a particular situation. In other words, Sen seeks to overcome the shortcomings of the utilitarian/welfarist approach to rights as purely instrumental and those of the deontological approach which does not take into account the consequences of the realisation of rights, with his own ‚goal-rights system'. Already in the early 1980s he preferred goal-rights to 'take the form of rights to certain capabilities', and calls it a 'capability rights system', if all goals take that form (Sen 1982, p. 16). Such goals should include both negative rights (*freedom from* fear, coercion, misery, etc.) and positive rights (*freedom to* actively realise certain rights), which implies respecting and facilitating the necessary means for the fulfilment of rights. According to Martha Nussbaum, Sen thus acknowledges the importance of rights as 'side constraints for the pursuit of social well-being' (Nussbaum 2002, p. 9).[4]

It would be far from correct, however, to deduce accordingly Sen's support or tacit approval of ESC rights as rights. In later writings he distinguishes between 'substantive opportunities' and 'freedom of processes', which correlates with substantive and procedural rights respectively. The capability approach, he emphasises, can be 'helpful in understanding the opportunity aspect of freedom and human rights'; but he also makes very clear that it 'distinguishes appropriately between whether a person is actually able to do things she would value *doing*, and whether she possesses the *means or instruments or permissions* to pursue what she would like to do', and states that the capability approach highlights the first and thus 'resists an overconcentration on means (such as income and primary goods)' (Sen 2005, p. 153). Though the capability approach enables an investigation of variables that explain differences in capabilities and sets of personal means, and though Sen certainly recognises unfreedom—being deprived of substantial freedoms—as a major cause of poverty and famine, he actually resists the idea of legal rights to certain means or commodities.

The explanation for this resistance lies in the philosophical traditions Sen belongs to. He explained his reluctance to offer a list of central capabilities as being linked to his respect for democratic deliberation, which does not allow for predefining such substantial capabilities (cp. Nussbaum 2002, p. 14). He cannot see how such a 'canonical list' can be drawn up and how its items can be weighed against each other in their respective priority without considering a specific context (Sen 2005, p. 157). Sen even explicitly opposes himself to the philosophical tradition of John Rawls and the 'difference principle' in his *Theory of justice* (1971), which calls for 'distribution-sensitive aggregation of personal utilities' (Sen 1982, p. 4f), that is, mechanisms for the distribution of means and primary goods (Sen 2005, pp. 153f, 156f). He thus clearly positions himself in the dispute between liberals and communitarians, which was prevalent in the US during the 1970s and 1980s, on the communitarian side. The latter rejected all attempts to pre-define common goods (as Rawls did) but saw them as subject to democratic deliberation (cp. Schade 2002). Thus political and civil rights, it can be said, are

[4] Sen himself does not use the term 'side constraints', except when referring to Nozick's philosophical reflections (Sen 1982, p. 12). See Nozick (1974, pp. 28–29).

actually thought of as preceding economic and social rights and as enabling rights that allow citizens to claim such social and economic rights.

Though this dispute was discussed against the background of the nation state as the largest social unit of such a community, this positioning translates into the question of 'transnational social rights' as well and here the communitarian perspective actually opposes the cosmopolitan perspectives of a global society with common normative standards (Faist 2011, p. 443ff). It is thus not surprising that Sen—with regard to international human rights—states that not everybody 'must always agree to the same view of the exact specification of human rights'. His communitarian viewpoint, with a certain bias toward nationally confined communities, entails his resistance to acknowledge the universality—or more precisely the universal meaning—of human rights across political communities, thus transcending their respective value systems. He instead persists in emphasising the 'process aspect of freedom', 'information pluralism' and the 'dialogic contribution' of human rights to 'public reasoning' (Sen 2005, p. 155f, 2012, p. 97f). Though he regards human rights to be important they still should be subject to public dispute, in his view. And though he acknowledges human rights as a moral institution—as ethical rights—he rejects viewing them primarily in legal terms, that is, as legal rights. He even states that he 'would argue against the adequacy of a rights-based approach that would tend to be woven, in one way or another, around law' (Sen 2012, p. 93). In this way he is clearly stating that he rejects the attempts of others to interpret his thinking as supporting human rights-law based approaches.

10.6 Conclusions

It cannot thus be argued that Sen regards himself as a pioneer of human-rights based approaches to development and disaster management. Rather, Sen distinguishes the law-based approach from other approaches to fulfil the ethical claims inherent in human rights such as food aid programmes, investment into social and economic opportunities, public discussion and lobbying, shaming and blaming, many of which strategies are pursued by nongovernmental organisations in the field of development (Sen 2012, p. 94). This gives the impression that Sen regards the rights or law-based approach as something in contrast to these other approaches, something mutually exclusive. This is strange and self-contradicting for several reasons:

Interpretation of law such as the general comments of the respective human rights commissions on the treaties that interpret international human rights law, as well as the process of signing and ratifying international human rights treaties and their protocols, are themselves subject to public discussion and parliamentary—or at least political—decision-making. They can be regarded as the result of deliberation on the global level. The deliberation between states is accompanied by contributions to such public and political discourses of globally engaged civil society actors. It is certainly true that such deliberations at the international level do not enjoy the same degree of democratic legitimacy as do democratic processes on the national or smaller scales

because of the lack of democratic procedures and power imbalances between states as well as within international civil society actors. There are, however, many nation states that offer less possibility for deliberation than the global scale.

The existence of international human rights—not only as ethical but also as legal rights—is an important basis for the advocacy work of international and national NGOs and for approaches to strategic litigation. To reduce international human rights to ethical rights would undermine the ability to file lawsuits to enforce respect, protection and fulfilment of human rights at supra-national levels, which is in fact already possible insofar as nation states are members of regional human rights systems. It is, moreover, within the frame of the capability approach to assess the relationship between human rights law and its enforcement institutions and capability and, if positive, to build upon such institutional approaches 'geared to enhancing, securing and guaranteeing entitlement' (Sen 1986, p. 28).

Finally, regarding Sen's support for ownership rights and economic entitlements 'legally' available to a person—in particular property rights and obligations to adhere to contracts in the exchange of products and labour—there is a normative bias at work. He implicitly accepts their value as a legal base of our societies without questioning them as a legal right or demanding them to be subject to public debate as he does with other human rights. There is no logical explanation why the right to property has less of an ethical character of a 'natural' or 'pre-existing right' of all human beings than those other human rights. All of them are part of the International Bill of Human Rights and by acknowledging this one but not the others, Sen has implicitly already made a ranking of such rights.

Interpretation of the capability approach is, however, not only up to Amartya Sen, and can and is pursued by others as well, who are likely to be less 'doomed to remain somewhat contaminated by my [Sen's] earlier thinking' (Sen 2012, p. 92) regarding the priority of civil rights over economic and social rights.

References

Adger, N., & Kelly, M. (1999). Social vulnerability to climate change and the architecture of entitlements. *Mitigation and Adaptation Strategies for Global Change, 3–4*, 253–266.

Adger, W. N., Kelly, P. M., Winkels, A., Huy, L. Q., & Locke, C. (2002). Migration, remittances, livelihood trajectories, and social resilience. *AMBIO: A Journal of the Human Environment, 31*(4), 358–366. doi:10.1579/0044-7447-31.4.358.

Bals, C., Harmeling, S., Windfuhr, M. (2008). *Climate change, food security and the right to adequate food*. Analysis 02, Climate change study of Diakonie Katastrophenhilfe, Brot für die Welt and Germanwatch, Stuttgart/Bonn, Germany: Diakonisches Werk.

Beall, J. (2005, July). *Comparison of livelihoods and freedom approach*. Speech delivered at the London School of Economics Colloquium on 'Removing Unfreedoms'. Retrieved from www.removingunfreedoms.org/documents/LSE/LSE_13.pdf.

Blaikie, P. M., Cannon, T., Davis, I., & Wisner, B. (1994). *At risk: Natural hazards, people's vulnerability and disasters*. New York, US: Routledge.

Bohle, H. G., Downing, T. E., & Watts, M. J. (1994). Climate change and social vulnerability: Toward a sociology and geography of food insecurity. *Global Environmental Change, 4*(1), 37–48.

Chambers, R. (1989). Vulnerability, coping and policy. *IDS Bulletin, 20*(2), 1–7.

Chambers, R. (1997). Responsible well-being: A personal agenda for development. *World Developent, 25*(11), 1743–1745.
Chambers, R. & Conway, G. (1991). *Sustainable rural livelihoods: Practical concepts for the* 21*st century*. IDS Discussion Paper No. 296. Brighton, UK: International Development Institute (IDS).
Committee for Economic, Social and Cultural Rights [CESCR]. (1999). *General Comment* 12: *The right to adequate food.* E/C.12/1999/5. Geneva, Switzerland: United Nations, Council on Economic and Social Rights.
de Haan, L., & Zoomers, A. (2005). Exploring the frontier of livelihoods research. *Development and Change, 36*(1), 27–47.
de Villagrán León, J. C. (2006). *Vulnerability: A conceptual and methodological review*. SOURCE 4/2006. Bonn, Germany: United Nations University—Environmental and Human Security (UNU-EHS).
DeCapua, J. (2011, July 4). Kenya now able to produce, import GM foods. *VOA News*. Retrieved from http://www.voanews.com/content/decapua-kenya-gmo-4jul11-124971889/158423.html.
Edkins, J. (1996). Legality with a vengeance: Famines and humanitarian relief in 'complex emergencies'. *Journal of International Studies, 25*(3), 547–575.
Faist, T. (2000). *The volume and dynamics of international migration and transnational social spaces*. Oxford, UK: Oxford University Press.
Faist, T. (2011). The transnational social question. In G. Delanty & S. P. Turner (Eds.), *Routledge international handbook of contemporary social and political theory* (pp. 439–449). London, UK: Routledge.
Food and Agriculture Organisation [FAO]. (1996). *Rome declaration on world food security and world food summit plan of action*. FAO document WFS 96/3. Rome, Italy: Food and Agriculture Organisation.
FAO. (2004). *Voluntary guidelines on the implementation of the right to adequate food in the context of national food security*. Rome, Italy: Food and Agriculture Organisation.
FAO. (1979). *Plan of action on the world food security*. Resolution 3/79 of the 20th session of the committee on world food security. Rome, Italy: Food and Agriculture Organisation.
Hartmann, B. (2010). Rethinking the role of population in human security. In R. Matthew, J. Barnett, B. McDonald & K. O'Brian (Eds.), *Global environmental change and human security* (pp. 193–214.). Cambridge, Massachusetts, US: MIT Press.
Hunter, D. (2009). Human rights implications for climate change negotiations. *Oregon Review of International Law, 11*(2), 331–364.
Intergovernmental Panel on Climate Change [IPCC]. (2007). *Climate change* 2007*: Synthesis report*. Contribution of working groups I, II and III to the fourth assessment report of the Intergovernmental Panel on Climate Change. Geneva, Switzerland: IPCC.
IPCC (2001). *Climate change 2001: Impacts, adaptation, and vulnerability*. Contribution of working group II to the second assessment report of the Intergovernmental Panel on Climate Change. Cambridge, UK: Cambridge University Press.
Malthus, T. (1798). *Essay on the principle of population*. London, UK: Joseph Johnson.
McInerney, J. (1976). The simple analytics of natural resource economics. *Journal of Agricultural Economics, 27*(1), 31–52.
Ministry of Environment and Mineral Resources. (2010). *National climate change response strategy: Executive brief*. Nairobi: Government of Kenya.
Norse, D. (1976). Development strategies and the world food problem. *Journal of Agricultural Economics, 27*(1), 137–158. doi:10.1111/j.1477-9552.1976.tb00969.x.
Nozick, R. (1974). *Anarchy, state and utopia*. Oxford, UK: Basil Blackwell.
Nussbaum, M. (2002, March). *Capabilities as fundamental entitlements: Sen and social justice*. Paper presented at a conference on Sen's work at Bielefeld University (2001) and at the London School of Economics (2002). Retrieved from http://www2.lse.ac.uk/humanRights/articlesAndTranscripts/Constitutions_and_Capabilities.pdf.
Overseas Development Institute [ODI]. (2001). *Economic theory, freedom and human rights: The work of Amartya Sen*. ODI Briefing Paper November 2001. London UK: Overseas Development Institute.

Schade, J. (2002). *Zivilgesellschaft: Eine vielschichtige Debatte*. INEF Report 59. Duisburg, Germany: Institute for Development and Peace (INEF), University of Duisburg-Essen.
Scoones, I. (1997). *Sustainable rural livelihoods: A framework for analysis*. IDS Working Paper No. 72. Brighton, UK: Institute for Development Studies.
Sen, A. K. (1981). *Poverty and famines: An essay on entitlement and deprivation*. Oxford, UK: Clarendon Press.
Sen, A. K. (1982). Rights and agency. *Philosophy and Public Affairs, 11*(1), 3–39.
Sen, A. K. (1984a [1982]). The living standard: Publication of Sen's Hicks Lecture delivered at Oxford University in 1982. *Oxford Economic Papers*, 36, 74–90.
Sen, A. K. (1984b). Rights and capabilities. In A. K. Sen (Ed.), *Resources, values and development* (pp. 307–324). Oxford, UK: Clarendon Press.
Sen, A. K. (1985). *The standard of living*. The Tanner Lectures on Human Values, delivered at Clare Hall, Cambridge University. March 1985. Retrieved from http://tannerlectures.utah.edu/lectures/documents/sen86.pdf.
Sen, A. K. (1986). *Food, economics and entitlements*. UNU World Institute for Development Economics Research, WIDER Working Paper No. 1. Retrieved from www.wider.unu.edu/publications/working-papers/previous/en_GB/wp-01/_files/82530785773748791/default/WP1.pdf.
Sen, A. K. (1999). *Development as freedom*. Oxford, UK: Oxford University Press.
Sen, A. K. (2005). Human rights and capabilities. *Journal of Human Development, 6*(2), 151–166.
Sen, A. K. (2012). The global reach of human rights. *Journal of Applied Philosophy, 29*(2), 91–100.
Sherbinin, A., Carr, D., Cassels, S., & Jiang, L. (2007). Population and environment. *Annual Review of Environment and Resources, 32*, 345–373.
Sinha, R. P. (1976). World food security. *Journal of Agricultural Economics, 27*(1), 121–135.
Watts, M. J., & Bohle, H. G. (1993). The space of vulnerability: The casual structure of hunger and famine in Progress. *Progress in Human Geography, 17*(1), 43–67.