MASTERARBEIT / MASTER'S THESIS

Titel der Masterarbeit / Title of the Master's Thesis

„Translating Human Rights into Wages – An Analysis of Living Wages and Supply Chain Laws Informed by the Capability Approach“

verfasst von / submitted by

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angestrebter akademischer Grad / in partial fulfilment of the requirements for the degree of

Master of Arts (MA)

Wien, 2023 / Vienna 2023

Studienkennzahl lt. Studienblatt / degree programme code as it appears on the student record sheet:	UA 066 642
Studienrichtung lt. Studienblatt / degree programme as it appears on the student record sheet:	Masterstudium Philosophy and Economics
Betreut von / Supervisor:	Univ.-Prof. Dr. Angela Kallhoff

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List of Abbreviations

BMZ	German Federal Ministry for Economic Cooperation and Development
CPI	Consumer Price Index
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
GDP	gross domestic product
GIZ	German Agency for International Cooperation
ILO	International Labour Organization
IMF	International Monetary Fund
NFNH	non-food and non-housing
NGO	non-governmental organization
OECD	Organization for Economic Co-operation and Development
PPP	purchasing power parity
SME	small and medium-sized enterprise
UN	United Nations
USD	U.S. dollar
WB	World Bank
WHO	World Health Organization

As a result of globalization in trade, the supply chains for a vast majority of the products that people all over the world consume have become more and more internationalized. This international division of labor has been the foundation for a substantial share of the aggregate economic growth that most countries have experienced over the last decades. At the same time, however, it has facilitated severe environmental damage and human rights violations – including tragedies such as the 2013 Rana Plaza factory collapse in Bangladesh, leaving more than a thousand workers dead, and the 2015 collapse of a mine dam in Brazil, releasing more than sixty million cubic meters of iron waste into the Rio Doce. While these might be extreme examples of the downsides of globalized capitalistic supply chains, human rights violations and environmental degradation are the necessary result of a failure of states and the international community to regulate these markets. In particular, prevailing business practices deprive a large share of the workers in the so-called Global South of the monetary means necessary to afford a decent standard of living. This means, for example, that many workers are not able to afford a sufficient amount of healthy food and decent housing as well as basic education and health care for all their household members – the reason being that wages are too low. However, workers have a right to be paid Living Wages, that is, a remuneration that suffices for such a life in decency: Most importantly, article 23(3) of the Universal Declaration of Human Rights states that "Everyone who works has the right to just and favorable remuneration ensuring for […] his [or her] household an existence worthy of human dignity […]" (United Nations 1948). Despite Living Wages being a human right, however, most of the working poor worldwide cannot effectively make sure that this right is enforced.

Until recently, the discussion about Living Wages has mainly focused on civil society, aiming at voluntary commitment by companies and consumers. As it is difficult for consumers to collect information about the working conditions with regard to certain products, certificates such as Fairtrade play an important role. However, as such voluntary standards are neither demanded nor regulated by law, they are far from sufficient. On the one hand, they only apply to a small share of products and, therefore, workers. On the other hand, these standards are often too low, mainly because adhering to them is comparatively costly if other competitors do not. However, the recent developments with regard to the upcoming Supply Chain Law in the European Union (EU) have changed the picture.

A legal enforcement of Living Wages – as well as other environmental and human rights standards – along the entire supply chains has now become plausible.

While I believe that the main reason why Living Wages are not paid is the lack of a legal requirement to pay them, measurement and definitional problems are another important factor (Anker 2011, 7). Against his background, a couple of questions need to be answered: When exactly is a wage high enough to fulfill the human right to a just numeration that ensures an existence in dignity for all household members? Against which criteria should the methodologies that estimate such Living Wages be evaluated? And how should Living Wages be legally implemented within supply chain laws? In this work, my aim is to argue that the Capability Approach provides an important contribution to answer these questions. In particular, I will analyze how the Capability Approach can contribute (1) to understanding Living Wages, (2) to evaluating methodologies to estimate Living Wages, and (3) to evaluating the legal implementation of Living Wages through supply chain laws[1]. I will set up two evaluative frameworks based on the Capability Approach and conduct two exemplary evaluations with regard to the so-called Anker Method and the EU Supply Chain Law.

I will proceed as follows: In chapter 1, I will outline the aspects of the Capability Approach that are most relevant for our analysis and elaborate the implications that it has for Living Wages and their legal implementation within supply chain laws. I will use these implications to set up the evaluative frameworks in chapter 2. After outlining the most important aspects of the Anker Method and the upcoming EU Supply Chain Law, I will exemplarily evaluate them against the requirements implied by the Capability Approach. Finally, I will summarize and contextualize my results in chapter 3.

[1] Despite its conceptual and political importance, this topic has attracted relatively little attention for academic discussion and has not found its way into major journals. To my knowledge, only Schrage and Huber (2018) have worked on the implications that the Capability Approach has for evaluating Living Wage methodologies. Other authors who have worked on the intersection have used the Capability Approach merely as a justification for Living Wages (see, for example, Carr 2023, 149–50). However, I disagree with Schrage and Huber in important aspects to which I will come back. Furthermore, there have been recent developments in the debate of Living Wages which are not reflected in their work.

Before starting with the analysis, however, I will shortly introduce the terminology necessary for the discussion of wages and supply chains. *Supply chains* encompass all the steps that are involved in providing a good or service including, for example, all the workers, suppliers, and technologies. They need to be separated from *value chains*. Whereas supply chains refer to the way from the supplier to the end user, value chains refer to the way from the raw materials to the final product or service. This is important to highlight, because value chains are often falsely used as synonyms for supply chains. When looking, for example, at the drafts of the upcoming EU Supply Chain Law and other sources, this lack of precision of using the words supply and value chain might otherwise cause confusion. In addition, *wages* are usually defined as the monetary remuneration that workers receive for their labor. This means that they are a form of the income for employed workers. Wages are usually specified in units of time, for example as wage per hour or wage per month. If a wage is sufficient for the workers and their households to afford a decent standard of living, it is called a *Living Wage*. Living Wages must be distinguished from *minimum wages*: Whereas the former are normative thresholds, the latter are political trade-offs. Minimum wages, on the one hand, are set by governments as a compromise between the competing objectives to reduce poverty through work and to stimulate employment and economic growth. As they are set in political processes, the relative power of employers and workers has an important influence on the level of the minimum wage. Living Wages, on the other hand, are not set by political actors, but from a minimum level of well-being. They are normative and their levels are independent from political considerations and the relative power of workers and employers (Anker and Anker 2017, 10–11).

1. The Capability Approach

Because Living Wages are defined in terms of the threshold costs for a basic but decent lifestyle, they cannot be analyzed independently of a concept of well-being and considerations of justice. As will be clear, on the one hand, the Capability Approach provides a powerful theoretical underpinning to understanding and measuring well-being. On the other hand, it can serve as a partial theory of justice in terms of thresholds as regards human rights.

Against this background, I will now outline the idea of the Capability Approach and its aspects that are most relevant for our analysis. This allows us to elaborate on the implications that the Capability Approach has for Living Wages and their legal implementation within supply chain laws. I will later restructure and reformulate these implications into two frameworks to evaluate Living Wage methodologies as well as the legal integration of Living Wages into supply chain laws. In my analysis, I will use the versions of the Capability Approach outlined by Amartya Sen and Martha Nussbaum as starting points. I try to carve out the aspects which I believe best fit our context of analyzing Living Wages and supply chain laws, and I will extend and contextualize their argumentation where necessary[2].

I will start this chapter by outlining the general idea of the Capability Approach and explaining the relevant terms and concepts, discussing the relationship between capabilities and functions, and discuss the difference between Sen's and Nussbaum's version of the Capability Approach. Secondly, I will discuss the role that preferences play in the choice of relevant capabilities, arguing that, given our context, the Capability Approach makes a strong case for theoretical instead of social choice. In the third section, I will analyze the role that income plays within the Capability Approach, showing that income and, therefore, Living Wages are not identical with well-being but a crucial means toward it. Fourthly, I will outline the understanding of wage labor within the Capability Approach. I claim that, while being an important aspect of dignity, work at the same time takes and generates well-being. This allows us to better understand the connection between Living Wages and well-being, which always needs to the be based on a broader picture. Fifthly, I will show how, despite proposing universal values, the Capability Approach can be defended against the charges of value imperialism and paternalism. In the sixth section, I will discuss the role that families, households, and individuals play within the Capability Approach, arguing that the evaluative focus should be on individuals or, for reasons of scar-

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[2] In the literature, sometimes the distinction is made between the terms *Capability Approach* and *Capabilities Approach*. The latter especially refers to Nussbaum, thereby emphasizing that the capabilities are "plural and qualitatively distinct" (Nussbaum 2011, 18). I will, however, not make this distinction and speak only of the Capability Approach.

city, on households. Finally, I will elaborate on how the Capability Approach relates to human rights and how the corresponding duties should be assigned individually and collectively.

After each section, I will elaborate on the implications that the results have for understanding Living Wages, the methodologies to estimate Living Wages as well as the political integration of Living Wages into supply chain laws. Based on these results, I will in chapter 2 set up my framework for evaluation. For reasons of scarcity, this chapter does not contain all aspects of the Capability Approach. However, but I believe that the discussion covers all important issues with regard to Living Wags and their legal implementation within supply chain laws.

1.1. Basic Concepts

The Capability Approach is a multidimensional analysis of well-being and a partial theory of justice, integrating economic, social, political, and ecological factors. As a theoretical framework, its basic idea can be reduced to two normative claims: On the one hand, providing and securing people's freedom to achieve well-being has ethical priority. On the other hand, well-being is to be understood in terms of the real freedom to realize one's conception of the good life, which in turn needs to be understood in terms of capabilities (Robeyns and Byskov 2021, 1).

The Capability Approach can be used for a variety of normative tasks and it is used in a variety of different fields including welfare economics and political philosophy (Robeyns 2005a, 94). I believe that, given our context of evaluating Living Wages, the most important areas of application include measuring individual and social well-being, evaluating social arrangements, and designing policies. While there is a variety of different, sometimes contradicting versions of the Capability Approach, it shares a number of general principles. According to Robeyns, these are "treating each person as an end" and "value pluralism" (Robeyns 2016, 400–403). Nussbaum additionally includes "focusing on choice and freedom as opposed to actual outcomes", "value pluralism", "social justice", and "ascribing responsibilities for actions to governmental institutions" (Nussbaum 2011, 18–19)[3].

1.1.1. Functionings, Capabilities, and Conversion Factors

Three concepts are necessary to understand the theoretical framework of the Capability Approach: capabilities, functionings, and conversion factors. *Functionings*, on the one hand, refer to concrete actions and situations and actual achievements. They are things that a person may value doing or being, which means that functionings can be understood as the activities that individuals do or the kinds of persons that they are. *Capabilities*, on the other hand, are the real freedom to achieve different combinations of functionings. They do, therefore, not merely refer to the formal freedom to do or be something, but to the effective opportunities. Capabilities are created by a combination of personal abilities and the political, social, and economic environment in which a person lives. Functionings are, thus, the realization of capabilities.

To evaluate the real freedom, the Capability Approach measures bundles of capabilities – and therefore individual well-being and social arrangements or social justice. The difference between capabilities and functionings can be made intuitive by providing an example about nutrition. Having a healthy and nutritious diet is a functioning, whereas having the monetary means, access to markets, and the necessary knowledge – and thus the real opportunity – to do so is a capability. This distinction between functionings and capabilities allows us to conceptually separate people who can afford to eat according to the model diet but prefer more tasty but unhealthy calories from people who lack the monetary resources. Whereas both do not realize the functioning associated with the model diet, the Capability Approach considers only the second case to be a problem with regard to well-being or social justice.

[3] Against this background, Robeyns makes the distinction between the *Capability Approach* and different *capability theories*. Whereas the Capability Approach is an underspecified and open-ended general idea, the different capability theories refer to specific uses of the Capability Approach (Robeyns 2017, 29–30). In this narrative, Nussbaum and Sen do not develop different versions of the Capability Approach but rather different capability theories.

Finally, the degree to which a person can transform existing resources into capabilities and functionings depends on different *conversion factors* (Sen 1979, 219). These conversion factors can be categorized as personal, social, or environmental (Robeyns 2005a, 98–99). The *personal* conversion factors refer to characteristics that are internal to the individual persons. These include health, metabolism, sex, intelligence, and education. For example, if a person has the monetary means to eat according to a health and nutritious model diet but has parasites, she does not achieve the same level of capabilities and well-being from the same food as a healthy person. The *social* conversion factors represent the society in which the respective individuals live. These contain social and political institutions and power structures due to, among others, class, gender, race, or caste. The *environmental* conversion factors, finally, refer to geographical or built environment. Environmental conversion factors include, for example, climate and pollution, stability of infrastructure such as buildings and roads, and means of transportation and communication.

These conversion factors are not given but can be influenced by individual and political decisions (Robeyns 2017, 47). It has to be noted that some conversion factors are also functionings, while some are not. Income, for example, is both a functioning and a conversion factor, whereas age is only a factor that influences how resources are transformed into functionings and capabilities. Closely related to the personal differences in conversion factors is the tendency of functionings and capabilities to cluster. Based on empirical research, Wolff and De-Shalit (Wolff and De-Shalit 2007, 120–21) argue that, on the one hand, the absence of certain functionings and capabilities leads to the absence of other functionings and capabilities. I believe that income is a good example for such a *corrosive disadvantage*: A lack of income can cause a lack of nutrition, which in turn can have negative causal impacts on the capacity to work and, thus, the income. On the other hand, the fulfillment of other functionings promotes other related functionings. Again, income serves as an example for these *fertile functionings*: High incomes allow people to invest in physical or human capital, which can have positive impacts on the work output and, thus, the income. Sen argues in the same direction: He highlights that that five capabilities have particularly high instrumental importance – namely political freedoms, economic facilities, social opportunities, transparency guarantees, and protective security.

This is due to the fact that they contribute to the overall level of capabilities and complement one another (Sen 1999, 38–41).

That said, it would be wrong to conclude that the Capability Approach should only focus on the presence of capabilities and functionings. For one, I will show later that resources play an important role, though merely as instruments towards well-being. For another, capability theorists need to pay attention to people's vulnerability to losing functionings. Wolff and De-Shalit show that this is especially important as regards people who are already deprived of many functionings (Wolff and De-Shalit 2007, 68–72).

Implications for Living Wages and supply chain laws. From these first definitions we can already infer a couple of implications for our analysis of Living Wages. For now, they need to remain fairly abstract, but they will become more concrete as soon as we have further elaborated on the Capability Approach.

Firstly, as regards how we understand Living Wages, the Capability Approach and the Living Wage methodologies have overlapping aims. Since the Capability Approach serves both as a methodology to measure well-being and as a partial theory of justice, I believe that it can serve as a promising framework to evaluate different Living Wage methodologies and their political implementation within supply chain laws.

Secondly, one of the most important insights from the Capability Approach is the conceptual distinction between functionings and capabilities as well as between means and ends. It implies that Living Wage methodologies must focus on capabilities, functionings and conversion factors – but not merely on income, as income is only a means towards well-being. In addition, it clarifies the welfare implications of paying Living Wages because it allows us to distinguish between people who can realize the normative thresholds set by the respective Living Wage methodologies but prefer not to and people who lack the effective opportunity to do so. The fact that different people have different conversion factors from resources into functionings and capabilities, furthermore, shows that wage levels alone are not sufficient to assess their well-being. This raises the questions of which norm Living Wage methodologies should start from: In estimating the wages that are necessary to live a life in dignity, they do not have a neutral starting point. Instead, different people need different amounts of money to realize the same capability and, therefore, different wages to reach the threshold of living in dignity. This implies that Living Wage methodologies need to take a stand on how to include, for example, disabled people, societies in which women are oppressed, and countries which lack necessary infrastructure.

Thirdly, the fact that Living Wage methodologies should not merely focus on income does not imply, however, that income irrelevant. On the contrary, corrosive disadvantages and fertile functionings actually highlight the relative importance of income in comparison to other functionings. I, therefore, believe that Living Wage methodologies are justified in putting their main focus on income and the resulting capabilities, thereby diverting the attention from other aspects of well-being such as political participation. However, it needs to be highlighted that income has only instrumental importance.

Finally, the discussion of capability security implies that Living Wage methodologies should aim not only at providing wages that are sufficiently high to cover their everyday needs. In addition, they should ensure that workers and their households have a certain level of resilience as regards unforeseen events. Living Wage methodologies should, therefore, include measurements to allow workers to save some money.

1.1.2. Capabilities or Functionings?

As elaborated above, standard economic theory mostly evaluates well-being in terms of mere means towards well-beings – such as income. The Capability Approach serves as a "counter theory" (Nussbaum 2011, 56–58) to these resources-based normative views: In principle, it could set its evaluative focus and social aim either on the realized functionings or on the capability set (Robeyns and Byskov 2021, 16). While focusing on capabilities means focusing on both primary goods as well as the various personal, social, and environmental conversion factors (Sen 1999, 74), focusing on functionings means putting the actual realizations in the center of the analysis. This translates into different government tasks: If the focus is on functionings, the governmental task would be to ensure that, for example, all citizens are nourished at least in accordance with a certain model diet. If the focus is on capabilities, on the other hand, the task is to ensure that every citizen has effective access to such a diet.

Nussbaum and Sen argue for the latter, claiming that capabilities instead of functionings are the appropriate political goals. In certain cases, however, governments need to promote functionings instead of capabilities. As far as I can see, they provide three main arguments why the Capability Approach should focus on capabilities as opposed to functionings. *Firstly*, capabilities have intrinsic value. The value of a set of opportunities is not equal to the value of the best – or the chosen – element of that set. It is important to have opportunities that are not taken. Even if a person had no immediate interest in exercising a certain freedom, it would still be a deprivation of her freedoms to leave her with no choice (Sen 1999, 37). For example, constraining a person which food items to spend her money on is a restriction of choice that decreases her well-being, even though it might make her follow a healthier diet. If we would base our evaluation of welfare and considerations of justice solely on functionings, we would, therefore, ignore that choice is an important aspect of well-being. *Secondly*, capabilities are not paternalistic and respect plurality. By focusing on capabilities rather than functionings, we do not privilege particular accounts of the good live. As capabilities refer only to the option to do or be something, they also involve the respective option not to do or be that something – thereby avoiding force. A focus on functionings, on the other hand, does not involve any choice and is, therefore, possibly paternalistic. *Thirdly*, capabilities are consistent with personal responsibility. Each person should have the same real opportunity and then be held responsible for her own choices. If the evaluative focus were on functionings instead, we would ignore that such a responsibility is an important aspect of dignity.

As a result, the Capability Approach rather focuses on capabilities than on functionings. It does not ask: "Does a person realize her reasonable conception of the good life?" but "Does she have the actual opportunity to realize it?". Putting the evaluative and normative focus on capabilities does not imply, however, that functionings are irrelevant for the evaluation of well-being and considerations of justice. It is in some cases even unavoidable that the government promotes functionings instead of capabilities (Nussbaum 2011, 156; 2000, 89–90). This is most clear with regard to children and mentally disabled persons. Furthermore, certain mandatory occupational safety measures might be paternalistic, but still considered necessary. Secondly, capabilities would be useless if people would not use them (Nussbaum 2011, 25). Thirdly, there are cases where a capability can only be inferred from patterns of functioning (Nussbaum 2011, 61). For example, whether or not workers really have access to safety tools can only be assessed by whether or not certain safety measures have been implemented at the workplace, that is, by whether or not these safety tools are actually used.

Implications for Living Wages and supply chain laws. This discussion whether capabilities or functionings are the adequate measure of well-being has important implications for our analysis of Living Wages. I have just shown that, in our context, the Capability Approach should set the evaluative focus on capabilities as opposed to functionings and mere resources. The obvious implication is that Living Wage methodologies should also focus on capabilities in calculating wages sufficient for workers and households to live in dignity. For the moment, however, this requirement must remain abstract. In order to take a stand on how precisely this result should be implemented, a couple of further questions need to be answered first. Most importantly, these are: Which capabilities are relevant in the context of wages? Which can be neglected? How do we define and distribute the responsibility to ensure that capability levels above are the relevant thresholds? On what basis can this be decided? For example, it could be argued that focusing on capabilities implies that Living Wage methodologies should not be limited to estimating the income level that is necessary for workers and their households to fulfill at least a threshold level of well-being. Instead, they should ensure that all relevant capabilities are fulfilled. On the other hand, one could argue that this would ask too much of Living Wages and supply chain laws: Ensuring that all workers can fulfill all relevant capabilities exceeds both the responsibility of the companies and consumers and the possible impact of such methodologies. The reason is that the overall capability set depends not only on resources such as income but also on the various personal, social, and environmental conversion factors – many of which have no causal connection to the wage level. Furthermore, it could be argued that criticizing a Living Wage methodology for not being able to protect workers' capability sets against, for example, oppressive regimes or harmful local traditions, would misunderstand its aim. I believe that Living Wage methodologies informed by the Capability Approach have a strong case in favor of the latter view. However, we need to answer the above questions first in order to provide a final conclusion on how to precisely implement the evaluative focus on capabilities as opposed to functionings.

1.1.3. Versions of the Capability Approach

It can be distinguished between at least two main versions of the Capability Approach. This is due to the fact that the Capability Approach was developed in different ways in philosophy and economics and used for different purposes (Nussbaum 2007, 70; 2011, 19). On the one hand, economists in the tradition of Sen use the Capability Approach to make quality-of-life assessments. The basic idea is that capabilities are the most suitable criterion to understand, measure, and compare individual and aggregate well-being. In this version, the Capability Approach functions mainly as a counter theory to, among others, utilitarianism, liberalism, and libertarianism (Sen 1999, 58–70). On the other hand, philosophers in the tradition of Nussbaum use the Capability Approach as a partial theory of justice. Nussbaum argues that a life worthy of human dignity requires at least a threshold level of certain capabilities. These so-called central capabilities are fundamental political entitlements and must be secured by a decent political order to all citizens (Nussbaum 2011, 32–33; 2007, 78). As the social goal is to get citizens above this threshold, justice is measured in terms of a government's ability to secure at least a threshold of the central capabilities to its citizens (Nussbaum 2007, 281) – which I will discuss in detail in the next section. With her version of the Capability Approach, Nussbaum does not aim at formulating a complete theory of justice – but only a *partial* theory. This means that Nussbaum does not intend to solve all distributional problems but instead she aims at specifying a social minimum. She does not, however, take a stand on how to deal with inequalities above this minimum threshold (Nussbaum 2011, 40; 2007, 75). In this version, the Capability Approach serves as a counter theory to, among others, contractarianism and Rawls's Theory of Justice (Nussbaum 2007, 22–69).

Implications for Living Wages and supply chain laws. I have just sketched that there are two main versions of the Capability Approach. Whereas one can be framed as a theory to assess well-being, the other serves as a partial theory of justice. This highlights that the normative framework of the Capability Approach can be used in a variety of contexts. While some aspects of the two versions contradict one another, this is not the case for each aspect. Most importantly, I believe that it is consistent to use capabilities as a criterion to evaluate well-being and at the same time demand that a universal threshold of certain capabilities is necessary to ensure human dignity. As a result, I argue that, in setting up the evaluative framework for Living Wage methodologies and their legal implementation within supply chain laws, we can include aspects from both versions, as long as they are not mutually exclusive.

In addition, I believe that Nussbaum's central capabilities play an important role with regard to evaluating Living Wage methodologies that we have not covered so far. For one, they provide a reference list of capabilities that are necessary for a life in human dignity. Even if one does not agree that her list is exhaustive or that all capabilities on her list should be universalized, empirical research provides evidence that there is some consensus that most of the elements are considered to be important for well-being (Wolff and De-Shalit 2007, 106). As a result, I believe that we can use its elements as a first "proxy" for such a list of capabilities. In the next section, I will discuss this issue in more detail. For another, the central capabilities highlight the threshold aspect of the Living Wage approaches and their legal introduction within supply chain laws: In calculating Living Wages, these methodologies should ensure that the capability benchmarks that are necessary for human dignity are fulfilled for all affected workers. Just as the central capabilities, the Living Wage should furthermore only define a social minimum. This means that Living Wage methodologies should only focus on the threshold necessary for dignity, but not on any normative issues above these benchmarks.

1.2. The Role of Preferences

As elaborated above, the Capability Approach puts the evaluative focus on capabilities of persons "to lead the kind of lives they value and have reason to value" (Sen 1999, 18). Until now, we have not made any qualifications with regard to the role of social choice in deciding which capabilities are relevant and how they should be weighed against each other. The discussion about which items should be included on a list of capabilities needs to be preceded by a discussion about whether such a list should exist. Whereas there is a sharp debate as regards a universal list, most capability theorists agree that it is legitimate to set up lists that apply to specific contexts only. However, it is obvious that some capabilities and preferences are more important than others. Furthermore, while some capabilities are good, others are bad. Any normative use of the Capability Approach must take a stand on these issues in order to have any practical relevance (Nussbaum 2011, 27–28). Even though this selection is not a truth claim but a pragmatic choice, the issue involves serious considerations: Which preferences and thus capabilities should be included in the evaluation, which not? Who decides on that matter? And on what basis?

In the literature, there are two extreme positions as regards the role of preferences in social choice: According to *democratic choice* (also referred to as "subjective welfarism"), social choice should be based on an aggregation of all preferences of all people. Starting from the necessity of public reasoning, proponents of this position hold that the capabilities should be chosen and weighted solely in accordance with the degree to which they are preferred by those affected. According to *theoretical choice* (also referred to as "Platonism"), desires and preferences are irrelevant for social choice, as the relevant states of affairs have objective value. Starting from the fact that many existing preferences are distorted, proponents of this view hold that capabilities should be chosen and weighed solely according to some normative standard other than preferences. However, Claassen argues that the difference between both positions is gradual instead of categorical (Claassen 2011, 497). I will try to show that, in evaluating Living Wage methodologies and their legal implementation through supply chain laws, we should follow a position in between: While not all preferences should be considered without prior weighing, they provide valuable information that is necessary for theoretical decision making. Preferences should not, however, have the last word. We will now take a closer look on each position.

Within the Capability Approach, the most important proponent of participation and democratic choice in the selection of relevant capabilities is Sen. He argues that participation is both a means and an end in itself. Firstly, deciding which capabilities one considers necessary for living a good life and how they should be weighed against each other is an issue of valuation and judgement. This means that there exists no such thing as a formula or "pre-determined canonical list of capabilities" to which all scientists would agree without social discussion (Sen 2005, 157–60). Against this background, Robeyns argues that theorists alone cannot sufficiently understand all the specific circumstances that are necessary for informed decision making (Robeyns 2005b, 198). This argument is especially strong if one acknowledges that the relevant knowledge is never centralized but distributed among individuals (Hayek 1945, 519–20) – a point that neither Sen nor Robeyns explicitly make, however. Secondly, participating in matters that affect one's life has intrinsic value. The people who are involved by a decision need to be able to participate in the choice (Sen 1999, 31). It would be paternalistic if the decision were made by scientists or politicians without taking the preferences and wishes of the people into account. This is especially important if the choice is between "traditional" and "modern" lifestyles, as in many cases traditions cannot be maintained along with economic or social changes. Thirdly, it is important that people accept the conception of well-being that policies are based upon – and participation is necessary for legitimacy (Robeyns 2005b, 199). If, for example, a policy aims at increasing economic growth at the cost of environmental damage, it is not clear that this increases the aggregate well-being. If many people prefer sustainable growth, it is necessary that they have a choice. This means that the best way to make sure that a policy really increases people's well-being is to let them participate in decision making. Thus, according to proponents of democratic choice, it is the affected individuals and groups who should select and weight the relevant capabilities.

However, a number of qualifications needs to be made: For one, theoretic choice is compatible with democracy. Claassen shows that proponents of democratic choice falsely presuppose that the theoretical position necessarily evades democratic decision-making. However, in their role as citizens, theorists can restrict their political demands to offering their theories to democratic processes – as opposed to demanding their unconditional implementation (Claassen 2011, 500–501). For another, Sen acknowledges that at least those capabilities that refer to "elementary and crucially important" capabilities can be universalized to some degree (Sen 1992, 44–45). These include, among others, the capability to be well-nourished and well-sheltered. This means that, even if one acknowledges the importance of participation and preferences, it does not follow that there are no objective and scientific considerations that should be considered as well. Furthermore, it is not clear what democratic choice implies, as the word democracy is not sufficiently defined in many contexts (Nussbaum 2011, 179) and the social choice mechanism can itself be an issue of theoretical decision making. The claim that affected individuals should participate in selecting and weighting the relevant capabilities does not imply that all or even only preferences should be relevant in this regard – or that they should be aggregated by simple majority vote. In discussing the relevance of Arrow's Impossibility Theorem for social choice theory, Sen argues that it implies that social choice cannot be made if the informational base consists only in preference rankings. In addition to preferences, information must be provided on, for example, distribution, losers and winners, and mechanisms of earning in order to allow for social choice (Sen 1999, 250–52). In addition, Sen acknowledges that the democratic search for a social agreement or a consensus can be highly complicated (Sen 1999, 79). This is especially relevant due to, for example, limited feasibility to conduct a large number of elections and voting procedures, lack of data availability, and scarcity of resources. However, Sen does not specify how the selection and weighting of the relevant capabilities can and should be conducted (Robeyns and Byskov 2021, 28–29). Finally, understanding democracy in terms of mere majoritarianism – that is, the democratic decision is what is favored by local majorities – has highly problematic implications. The probably most powerful argument in favor of theoretical as opposed to democratic choice is that, in many cases people's preferences about others and about themselves contradict basic human rights (Nussbaum 2000, 111). However, such a lack of capabilities can be important in itself, not just because people dislike it (Nussbaum 2011, 35). For example, all people are worthy of equal respect, even if this is not how people actually think about themselves or about others.

Within the Capability Approach, the most important proponent of a theoretical selection and weighting of relevant capabilities is Nussbaum. Her starting point is that people's preferences can be distorted by a variety of influences. This idea has deep roots even in the liberal tradition of political philosophy and economics and is acknowledged by, for example, Kant, Smith, Mill, Rawls – and Sen (Nussbaum 2000, 123–32). The most important factors for distortion are ignorance, malice, and adaptive preferences. On the one hand, the democratic search for relevant capabilities can be misleading in case of *ignorance* or if people lack important information. For example, if a person does not know that not just caloric intake but also micronutrients are important for a healthy diet, she might act against her actual preferences of being healthy. On the other hand, if people have the *malicious desire* to harm others as a result of, for example, racist or sexist attitudes, including such preferences in a social choice procedure is dangerous. Finally, *adap-*

tive preferences can seriously distort the results of a democratic choice of relevant capabilities. Due to, among others, unjust background conditions, habit, low expectations, individuals adjust their desires to the way of life they know (Nussbaum 2000, 136–41; 2001, 78–81). For example, people that have always suffered under unjust working conditions might accept them as a strategy to deal with reality or they might have gotten used to them – although they do in reality violate their interests. Elster (Elster 2016, 134–41) argues along similar lines, stating that social choice theory must not consider preferences as given. As a result, Nussbaum claims, we cannot use people's existing preferences for normative purposes – and the social goal is not to satisfy them. Instead, the selection and weighting of relevant capabilities should mainly depend on the quality of the arguments instead of the number of supporters (Nussbaum 2011, 32). This implies that, in justifying the political conception, not all actual desires should be consulted, but only those which were formed under appropriate conditions – and even these should not have the last word.

However, acknowledging that not all preferences should be considered in the choice of relevant capabilities does not imply that existence preferences are irrelevant. For one, capability theorists need to be extremely careful in interpreting given preferences as adaptive: Khader (Khader 2011, 55–60) elaborates a variety of "occupational hazards" that are connected to identifying adaptive preferences. For another, although preferences are unreliable and easily distorted, they have an important educational role – as they can demonstrate important problems (Nussbaum 2011, 80). Again, this argument is strongest if we take into account that relevant knowledge is necessarily not centralized but distributed among the members of society.

Against this background, Nussbaum elaborates her list of ten central capabilities which I have already mentioned in the last section. As stated above, she argues that they are fundamental political entitlements which must be secured by a decent political order to all citizens (Nussbaum 2011, 32–33; 2007, 78). These central capabilities are what Nussbaum refers to as "life", "bodily health", "bodily integrity", "senses", imagination, and thought", "emotions", "practical reason", "affiliation", "other species", "play", and "control over one's environment" (Nussbaum 2011, 33–34). Nussbaum provides great detail about what each of these capabilities encompasses. Although I will later elaborate which elements of this list are relevant with regard to Living Wages and their legal implementation within supply chain laws, I will not replicate their definitions.

As each of these capabilities is regarded as necessary to ensure human dignity, the central capabilities are incommensurable – which means that they cannot be traded off against each other. We cannot satisfy the need for one capability by giving a larger amount of another one, as all are of central importance and distinct quality (Nussbaum 2000, 81). Incommensurability of the central capabilities does not imply, however, that they cannot be compared, ranked, or used in cost-benefit-analyses. Nussbaum even argues that this can be done in cases where some capabilities are in competition because not all can be provided as a threshold (Nussbaum 2011, 36–37). While Sen claims that in such tragic dilemmas it is impossible to always rank one alternative over another (Sen 2005, 158–59), Nussbaum argues that a tragic choice does not imply the impossibility of ranking. Even if all available choices involve a human right violation of some kind, one option may be better than another. For example, one might reasonably argue that, if monetary resources allow only for food or schooling, choosing against either one is a violation of human rights. However, food should be given priority.

Implication for Living Wages. All Living Wage methodologies need to decide which aspects of well-being should be included in the calculation of decent wages and how these capabilities should be weighed against each other. Unfortunately, the Capability Approach leaves us little practical guidance how this task can be implemented in real life, as most scholars are not clear in this regard. Sen acknowledges that stressing the importance of capabilities is consistent with a wide range of implementation strategies and practical compromises (Sen 1999, 81–85). However, existing lists of capabilities such as the Human Development Index (HDI) and Nussbaum's central capabilities can provide some reference how the theoretical selection and weighting of relevant capabilities could be practically implemented.

I have just argued that, in deciding which capabilities are necessary for a life in dignity, people's desires and preferences provide important information. Nevertheless, the decision should be based on theoretical argumentation alone, as preferences can be severely distorted. This implies that, if we follow the Capability Approach, the selection and weighting of the relevant capabilities that Living Wages should secure up to a threshold level should not take place by simple majority vote of all the affected workers and their household members alone. In order to account for both the intrinsic and instrumental value of public reasoning but also the distortion of preferences and the practical difficulty of social consensus in this matter people's actual preferences should be considered but not have the last word. Instead, the methodologies employed for the estimation of Living Wages should select the relevant capabilities on a theoretical basis. This decision should consider information gathered in participatory processes and provided by science. In addition, it is very important that not only men but also women are given the opportunity to participate (Nussbaum 2019, 80) as the perspective of working class women would otherwise be systematically excluded from estimating the Living Wages.

It would be beyond the scope of this work to make an own selection and elaborate such a list that can be applied in the context of Living Wages with a claim to completeness. However, even if one does not agree with Nussbaum on her list of central capabilities, I suggest that we use it as a "proxy" or starting point as regards the capabilities that Living Wages should cover up to a threshold. As her list is quite long and demanding, though, it would ask too much of an income-based concept such as Living Wages to ensure that all capabilities necessary for human dignity are ensured for all affected workers. Instead, from the perspective of Living Wages, it makes sense to focus only on those capabilities that have a causal connection to income.

Considering only some particular capabilities and ignoring all other capability vectors is, therefore, a legitimate implementation of the Capability Approach and refers to what Sen calls a "partial ranking" of capabilities. Sen (1999, 81–82) explicitly does not demand that Living Wage methodologies include all capability vectors. According to Sen, it would also be coherent for Living Wage methodologies informed by the Capability Approach to consider only the wages and informally supplement them by considerations about, for example, conversion factors or other instrumental means other than income (Sen 1999, 82–83). However, I believe that such a "supplementary approach" of measuring well-being is not sufficient in our context. The reason is that the methodologies that we aim at must result in precise, numerical wage levels. It is, thus, not sufficient to base the calculations on a narrow informational base and informally supplement the results by providing further information – as this very information would have needed to be already included in the calculation of the wage threshold.

Based on this argumentation, Living Wage methodologies should only be evaluated with regard to those capabilities to which income can in principle be a relevant means. This allows us to put the evaluative focus on those capabilities on Nussbaum's proxy list that have a causal connection to income. We can, therefore, evaluate Living Wage methodologies by whether or not they use information regarding these "proxy" capabilities as numerical input. I believe that these reference capabilities with regard to Living Wages are (1) life, (2) bodily health, (6) practical reason, (7) affiliation, and (10) control over one's environment.

In the context of wages, "life" refers to the capability not to die prematurely. For obvious reasons, this has material preconditions that are connected to income, including having the monetary means for food and housing. The same holds for "bodily health", which refers to being able to have good health, to be adequately nourished, and to have adequate shelter. Again, the material preconditions are highly dependent on money and, therefore, wages. "Practical reason" refers to the capability of forming a conception of the good and engaging in critical reflection about planning one's life. The connection to Living Wages is not as obvious as in the cases of life and bodily health. However, a practical reason closely depends on education. As being able to attend schools is costly – or is at least associated with the opportunity costs of child labor –, education is connected to the wage levels. Practical reason should, therefore, be reflected in the methodologies to calculate Living Wages.

A similar argumentation applies to "affiliation". It refers to self-respect and non-humiliation, being treated as a dignified being of equal worth, and it entails nondiscrimination on the basis of, among others, gender or ethnicity. Affiliation is relevant in our context in that Living Wage methodologies can and need to ensure that all workers are considered as equals. For example, I believe that affiliation implies that Living Wage methodologies informed by the Capability Approach must not pay different wages for men and women or people of different ethnicity for equal work. It could be argued, though, that treating all workers as equals should not be included as a separate aspect into Living Wage methodologies. The reason is that wage discrimination above the threshold that is necessary for a life in dignity would leave the partial account of justice that the Capability Approach is restricted to. As long as the wage level is sufficiently high in absolute term, relative wage discrimination is not a violation of the Capability Approach. However, I believe that this view is mistaken. On the one hand, the Capability Approach is only a partial rather than a complete theory of justice because it has not been elaborated as a complete theory *yet* – but not because it is not desired in principle. On the other hand, and most importantly, the claim that discrimination above the threshold is legitimate violates the fact that discrimination is necessary a violation of dignity. It is, therefore, a conceptual contradiction to pay different Living Wages to different people on the basis of, among others, gender or ethnical discrimination.

Finally, "control over one's environment" has a causal connection to income. In the context of Living Wages, it refers to being able to participate in political choices that govern one's life, to seek employment on an equal basis with others, and to be able to work as a human being. Again, it would be misleading to infer too much from this. For obvious reasons, political participation does not imply that companies and consumers must ensure that workers live in democracies, just as the capability to work as a human being does not imply that Living Wage methodologies must ensure that workers have access to protective work gear. Whereas both are important aspects of well-being, this goes beyond the scope of wage policy. What the capability to control one's environment does imply, however, is that workers can contribute to deciding which capabilities are relevant and how they should be locally specified. As I have elaborated on the issue of participation above, I will not go into further detail here. Furthermore, "control over one's environment" implies non-discrimination and compliance to basic work standards including – most importantly – an exclusion of exploitative child labor and a limitation of working hours. Because we are interested in the wage which enables to lead a life in dignity, Living Wage methodologies should only include work that is covered by international labor standards into their calculations.

While the above implications of the central capabilities are arguably important to estimate Living Wages – but not necessarily comprehensive –, it follows from the incommensurability of the central capabilities that Living Wage methodologies should not trade off the different aspects that constitute a Living Wage. If, for example, a wage can sufficiently ensure only housing or food (but not both), a surplus of one cannot compensate for the shortage of the other. Nevertheless, it is possible for Living Wage methodologies to make cost-benefit-analyses in such cases – but we need to acknowledge that we deal with a trade-off below the threshold of dignity. Incommensurability, therefore, implies that the relative rates to which the respective capabilities are fulfilled must be treated separately.

This leads us to the second implication from incommensurability, which is that we should be very cautious with reducing Living Wages to single numerical scales. This means that Living Wage reports should not only results in a Living Wage (or several Living Wages for different regional contexts) in the form of a single monetary number, but they should also provide disaggregated data. However, because Living Wages should only refer to those aspects of well-being that have a causal connection to income, we do not need to be as strict as would be necessary to measure overall well-being.

1.3. The Role of Income

Putting the evaluative focus on capabilities and conversion factors, the Capability Approach is a counter theory to the mainstream "resourcist" view in economics that measures well-being and poverty in purely monetary terms. On the one hand, income is not identical with well-being and the evaluation of individual and aggregate well-being in terms of income is very limited. On the other hand, income is an important means towards well-being – below the threshold of poverty probably even the most important one.

Against this background, the Capability Approach – and especially Sen – provide a variety of arguments against measuring well-being (solely) in terms of monetary income. Firstly, income does not have intrinsic but only instrumental value to well-being. Income and money are just means to increasing real freedom and thus well-being. This implies that focusing merely on income as opposed to capabilities can lead to misleading results in evaluating well-being or making normative recommendations. Consider the following example: Fogel and Engerman have shown that slaves in the Southern United States had relatively high incomes and even higher life expectancies as compared to workers in the Northern United States and in, for example, Austria (Fogel and Engerman 1974, 125).

Whereas so-called *culmination outcomes* reflect only the outcomes without considering whether the achievements are a result of free choice, *comprehensive outcomes* take into account whether or not the functionings are the result of a real exercise of choice. This means that culmination outcomes can only reflect the corresponding functionings – according to which the slaves were better off. The problem with evaluating well-being solely in terms of income is, therefore, that income does not grasp the distinction between culmination and comprehensive outcomes (Sen 1999, 27). Furthermore, the positive correlation between income and well-being is not exclusive. On the one hand, well-being is influenced by other factors than income (Sen 1999, 14, 87–90). While some of these aspects are causally connected to income, the focus on income neglects aspects of well-being that are not well correlated with income – such as life expectancy (Nussbaum 2000, 61). On the other hand, measuring well-being in terms of income is not useful in cases where the causality from income to well-being is not direct. For example, Anand and Ravallion have shown that there is a positive correlation between income per head and live expectancy. However, the causality holds only through health care and measurements to remove poverty. In other words, (aggregate) income growth promotes (aggregate) well-being if and only if it is equally distributed and used for health care measures, equal distribution being more important (Anand and Ravallion 1993, 139–42). This implies that life expectancy and well-being cannot only be increased by economic growth, but also by social support alone (Sen 1999, 43–49). This shows that income itself is often neither a sufficient nor a necessary condition to improve well-being. As opposed to income, however, real freedom as understood in terms of capabilities has both intrinsic and instrumental value (Sen 1999, 36–37). This means that capabilities are constitutive to well-being and at the same time one of the most important means towards it. As a result, the focus on freedom instead of income allows to *evaluate* development and well-being and at the same time effectively *promotes* them.

Secondly, the conversion factors from income into capabilities vary between individuals, the positive correlation between income and well-being being not unitary (Sen 1999, 14). This is because conversion factors from real income to well-being differ from person to person (Sen 1999, 70–72). These differences can be due to personal factors such as physical characteristics, environmental factors such as different climatic circumstances, social factors such as public educational arrangements, relational perspectives such as being relatively poor in a rich community, or intrafamily distribution of, for example, income. This problem is even increased because many disadvantages are interdependent which means that factors that lead to a lack of income are often also unfavorable conversion factors from income to capabilities (Sen 1999, 88–89). For example, a person with a physical disability might only be able to find low-paid work, while at the same time she needs to cover higher health expenditures. The interdependence between the ability to earn and use income implies that the inequality in the distribution of capabilities is often larger than the income inequality. In other words, real poverty is more intense than it seems by only considering income data alone. Again, a direct focus on capabilities as opposed to income skips this problem: As the Capability Approach does not consider the means towards well-being but the ends, it does not run into danger of neglecting interpersonal differences in gaining well-being from resources.

Thirdly, the evaluation of well-being in terms of income aggregates across different parts of life. This falsely suggests that single scales can contain sufficient information about quality of life (Nussbaum 2000, 48–50). As highlighted above, however, the different aspects of a good life are different in both quality and quantity (Nussbaum 2011, 18–19). For example, being well-nourished and being well-educated cannot be reduced to a single metric without losing precision. Wolff and De-Shalit make a similar point, arguing that aggregating across different capabilities necessarily misses something of vital importance as regards describing and improving well-being. This index problem does not hold, however, if only individual functionings are compared (Wolff and De-Shalit 2007, 95). Nussbaum, however, argues that this problem is best avoided by focusing on bundles of capabilities as opposed to income, as this recognizes that well-being is necessarily multidimensional. This is not to say, however, that proponents of the Capability Approach should never make use of single scales. In the opposite, there are cases in which single numerical indices can make sense from a strategic point of view, as a single ranking can increase the impact. For example, the Human Development Index (HDI) consists of a single number for each country. However, in these cases it is important that – in addition to the ranking – such reports include disaggregated data. The HDI does so with the Human Development Reports which contain extensive discussion of the results.

Fourthly, relative deprivation of income can imply absolute deprivation of capabilities. In rich countries, higher absolute incomes are necessary to participate in the public life and, thus, to realize the same social and cultural functioning. This means that people who have a relatively low income in comparison to most other members of their community can be absolutely deprived of capabilities that are connected to participating in the social life. For example, not being able to afford an own television might socially exclude people in some societies whereas this might not be the case in others. This implies that the analysis of poverty needs not only an absolute but also a relative understanding of well-being that relates capabilities to the respective social context (Sen 1999, 89). By evaluating well-being in terms of capabilities – including the ability to socially and culturally participate – the Capability Approach evades this problem.

The limits of income and money as regards the assessment of well-being has an important implication for understanding poverty. If we understand it as the lack of means necessary to live in dignity, poverty must not be assessed as the mere lack of income but as the deprivation of basic capabilities.

Nevertheless, while not being identical with it, income is an important means towards well-being (Sen 1999, 72) – and a lack of income is probably the most important reason for poverty. Firstly, low income is often the major cause of capability deprivations. This is because money allows us to buy a wide range of material and immaterial goods and services that are closely connected to well-being. Along similar lines, low incomes are often an important reason for deprivations such as low health, undernourishment, and low education (Sen 1999, 19). Secondly, I believe that income is a fertile functioning and corrosive disadvantage in the sense of Wolff and De-Shalit. As income is an important means towards capabilities, higher incomes increase the capability bundles. Capability improvements, in turn, lead to higher earning power (Sen 1999, 90), implying a virtuous circle. Conversely, low incomes can trigger vicious circles. While being not the only factor, income has, therefore, an enormous influence on what we can or cannot do: Income is a main resource as well as a conversion factor of resources into capabilities, but not the only one. This implies that, from the perspective of the Capability Approach, it is crucial to consider income data including real income, gross domestic product (GDP), their distribution, and inflation rates in order to evaluate individual and aggregate well-being. In other words, when studying poverty and well-being, there are good reasons for *beginning* with analyzing income data – but not for ending with it.

Implications for Living Wages and supply chain laws. Living Wages are closely related to Sen's analysis of poverty and well-being (Pollin 2017, ix). The obvious implication of the discussion about income is that, as Living Wages are defined in terms of well-being, the respective methodologies should not merely consider monetary means but include capability-related considerations. While Living Wage methodologies informed by the Capability Approach should not end with analyzing income data, however, they need to include information about, among others, inflation. The reason is that money is such an important instrumental means and conversion factor from resources to capabilities. As regards understanding the connection between Living Wages and welfare, we can furthermore infer that paying Living Wages is an effective – if not even the most effective – leverage to improve well-being for the working poor. I believe that we can, therefore, comprehend Living Wages as a necessary condition for people to develop their capabilities such as to be not affected by poverty.

Despite this instrumental importance of income, the fact that the conversion factors from income to capabilities differ between people does indeed pose a problem for Living Wage methodologies. While it would be insufficient for a Living Wage methodology to ignore this problem, I believe that it would be misleading to evaluate all conversion factors on the level of each individual worker or even household member. For one, obvious restrictions of scarcity make an evaluation on such a huge informational base impossible, as there is a great amount of possible conversion factors, ranging from individual bodily ability to environmental circumstances and local political and social institutions. For another, I believe that it would go beyond the responsibility of companies and consumers to account for all conversion factors from income to well-being, as there is no causal connection from increasing wages to improving, for example, the environment.

The reasoning is basically the same the one I have provided above for focusing only on those relevant capabilities that have a causal connection to income: Living Wage methodologies should consider only those relevant conversion factors that can be reasonably affected by wage policy and that are within the responsibility of corporations and consumers as opposed to, for example, regional traditions or local governments. This means that Living Wage methodologies need to set norms that define which conversion factors are within the responsibility of companies and consumers – and which are not. For reasons of scope, I am not able to provide an exhaustive and universal list of the conversion factors that are relevant and irrelevant for the calculation of Living Wages. However, I believe that the above considerations imply that, in estimating Living Wages, many conversion factors need to be neglected. This is obvious when we consider a number of examples for personal, social, and environmental conversion factors. As regards personal conversion factors, I believe that it would not make sense to define different Living Wages for people with different health levels. For example, it would be far-fetched to estimate different thresholds for people with and without parasites. The same holds for metabolism, education, and intelligence. However, as a form of affirmative action, it would be feasible and could be desirable to have higher Living Wage levels for women than for men – a point which is also acknowledged by, for example, Collins (Collins 2019, 38–39) and Del Punta (Del Punta 2019, 96). As regards social conversion factors, it would be misleading to adjust the calculation of Living Wages with regard to the political system, as, for example, the extend of democratization is beyond the causality of wages and the responsibility of corporations and consumers. The same holds for power relations related to class, gender, race, or caste. However, it is important that Living Wage methodologies include other considerations with regard to social norms, for example, local food and housing habits. Finally, I believe that it would be wrong to include environmental conversion factors into the estimation of Living Wages. I admit that this is not obvious: Corporations and consumers are clearly responsible for the environmental damage involved in the supply chain. However, I see no clear causal connection from increasing wages to reducing the pollution. The same holds, for example, for stability of buildings, roads, and bridges, and means of transportation and communication. This does not mean, though, that supply chain laws should not ensure that people are compensated for environmental damages along the supply chains, but only that Living Wages are not the right way to do so.

As a result, I believe that Living Wage methodologies should set norms by assuming in their models, among others, that the workers and their households are healthy and have a basic education that allows them to make reasonable economic decisions, and that the local governance and traditions are non-oppressive. Nevertheless, approaches to calculate Living Wages can and should take certain cultural characteristics such as local food and housing habits as well as gender-related issues into account. Furthermore, this necessity to account for different cultural conversion factors needs to be separated from the fact that different resources are needed in different regions due to, for example, different availability of raw materials. In addition, we need to keep in mind that this argumentation only refers to *estimating* Living Wages and politically *implementing* them within supply chain laws. In order to *understand* the connection between Living Wages and well-being, such considerations are highly relevant.

Finally, from the relative understanding of poverty and well-being we can infer that dignity is not the same as mere survival. This implies that approaches to estimate Living Wages should not only base their capability thresholds on a level that covers a minimum level of physical well-being. Instead, they should also ensure that the minimum requirements for social participation are met. This relative understanding of dignity also strengthens the point that the specific regional and cultural contexts – including food and housing habits, but also clothing habits and social expectations – need to be considered in calculating Living Wages.

1.4. The Role of Wage Labor

Within the framework of the Capability Approach, wage labor (and to some degree also unpaid domestic labor and care work) has a significant influence on an individual's overall capability set. Wage labor is, thus, an important aspect of dignity. *Firstly*, wage labor increases the workers' monetary capabilities. Obviously, wage labor generates income and results in products and services. *Secondly*, work can also improve the non-monetary capability set, ranging from education and skills to psychological and physical health. *Thirdly*, work improves people's conversion factors. I have shown above that some functionings can be conversion factors at the same time. In the context of work, these are, for example, education and health. *Fourthly*, work is a source of identity. This is shown by the fact that unemployment cannot merely be compensated by income support – which implies that there is more to work than simply monetary remuneration. Wage labor is arguably a major source of self-confidence, acceptance, and social appreciation (Sen 1999, 21; 94), and there is empirical evidence that it promotes important capabilities such as identity and life-satisfaction (Carr et al. 2015, 13–18). This is also in line with Engels, who argues that work is one of the fundamental conditions for human life – and therefore dignity. His point is that work has contributed to, among others, mental development, conceptual thinking, abstraction capability, and the development of human societies (Engels 1876). Fourthly, female labor force participation promotes gender equality. The participation of women in labor markets is of especially great importance as regards increasing capabilities. Female labor force participation, however, does not only improve the well-being of the workers themselves. By increasing the bargaining position of the women within the family, wage labor also improves the intrafamily division of food as well as education and healthcare expenses in favor of women. Furthermore, and unlike wage labor of men, it reduces child mortality, fertility rates, and even has a positive impact on, among others, environmental policies (Sen 1999, 193).

These are some examples of how wage labor and work in general can improve people's well-being from the perspective of the Capability Approach. Nevertheless, work has an ambivalent role as it can also reduce people's capability sets. Most importantly, wage labor reduces the workers' non-monetary capabilities. Obviously, work does not only improve people's capability set, but also has negative impacts. For example, it reduces the amount of leisure time, but can also have negative impact on, for example, mental and physical health.

Implications for Living Wages and supply chain laws. As seen above, wage labor can be an important aspect of dignity, at least in many societies. However, the role of work is ambivalent with regard to well-being in that it takes and at the same time generates freedom. This is helpful for us to interpret Living Wages.

Carr et al. (Carr et al. 2015) argue that we can understand Living Wages as the level of remuneration from which work increases the capability set instead of decreasing it. This means that Living Wages are the threshold from which the wages provide more freedom than the work that is necessary to generate it takes from the workers. I, however, disagree with this claim. If we understand Living Wages as the threshold that must be met such that people can live a life in dignity, this is not the same as the threshold defined by Carr et al. I believe that not every wage that leads to an overall increase of capabilities is automatically a Living Wage – being high enough to cover the costs of a basic but decent lifestyle is not the same as increasing the capability set. Suppose a person has the choice between wage labor and being un- or self-employed, and she decides for wage labor. The freedom lost is the opportunity costs, that is, the utility from leisure and making own choices and, if applicable, the income from social security and self-employed labor. The freedom gained, on the other hand, is the income by engaging in wage labor plus the benefits due to employee rights. According to Carr et al., a Living Wage would have to be set at the threshold level at which the freedom lost equals the freedom gained. However, such a wage does not ensure that basic needs are covered: If, for example, the social security level is too small or there are no good opportunities for self-employment, the wage could be too low and still fulfill the criterion by Carr et al. Such a wage would, therefore, be insufficient for our purpose. As a result, we should stick to our understanding of Living Wages as a threshold that allows for dignity.

Furthermore, the constructive influence that wage labor and especially female labor force participation have on individual and aggregate well-being shows that there is more to work than simply generating income. Despite this intrinsic importance of wage labor, however, good working conditions are necessary to ensure that the negative aspects of work are minimized. These include, among others, safety measures, freedom to associate, bans on discrimination, and work hour regulation. On the one hand, Living Wage methodologies need to ensure that the threshold wages can be earned within a standard forty-hour working week corresponding to standards set up by the International Labour Organization (ILO). On the other hand, I believe that, for reasons of causal connection, labor standards that refer to safety and democratic structures at work should not be included into the calculation of Living Wages. However, they are extremely important to interpret Living Wages: If we want to make causal inferences from the payment of Living Wages to the realized well-being, we need to consider the overall picture and not the wage level in isolation. If Living Wages are paid but there are shortcomings in the working conditions as regards, for example, safety, this changes the well-being evaluation in comparison to a situation where wages are below the threshold but safety measures are being obeyed.

1.5. The Charge of Universalism

In measuring well-being and understanding justice in terms of capabilities, the Capability Approach makes normative recommendations that cross boundaries of culture, nation, religion, race, and class. This gives rise to three related points of criticism. Firstly, in proposing such universal values, the Capability Approach is sometimes being accused of being not sensitive to *cultural pluralism*. In other words, by using the same normative framework for different cultural and social contexts, it fails to acknowledge that cultures are diverse. Secondly, some authors argue that the Capability Approach is *value imperialistic*. They consider it illegitimate to use concepts that have their origin in one culture or class to assess realities in other cultures or classes – even more so if this culture has been colonized by the other. The problem is that many human rights and capability theorists come from countries that have been or are colonizing; or, if they come from poorer countries, they are from relatively privileged classes within these countries. Thirdly, the Capability Approach is criticized for being *paternalistic* – the reason being that many capabilities that are considered universally relevant for well-being and justice contradict people's existing preferences and conceptions of the good life. While this criticism is probably most obvious regarding Nussbaum's list of central capabilities, all versions of the Capability Approach have in common that they conceptualize the good life and human dignity in terms of real freedom and with a close connection to human rights. Opposed to these arguments, I go along with Nussbaum that universalism is not just acceptable but necessary (Nussbaum 2000, 105; 2007, 78–80; 2011, 108–11). In the following, I will argue that, in being universalist, the Capability Approach is sensitive to cultural pluralism, not value imperialistic, and not paternalistic.

Firstly, human rights have non-Western origins. While often being associated with the European Enlightenment period, the ideas of human rights and individual freedom – including gender equality – are not particular Western views. On the one hand, Sen elaborates in detail how such views have existed in both Chinese as well as Indian Hindu and Muslim traditions long before they existed in the so-called West (Sen 1999, 231–40). At least in Asian countries, the claim that so-called "Asian values" are fundamentally authoritarian comes almost exclusively from those who are in power. The reason is that it is mostly those people who profit from authoritarianism and at the same time have access to public platforms that defend this claim. However, these modern advocates of authoritarianism are not representative of the whole populations. In addition, they are historically incorrect, as they base their argumentation on very narrow selections of traditions and authors as well as arbitrary interpretations. While the Capability Approach is indeed a modern theory, the ideas on which it is based have their origins in a wide range of cultures – they are neither recent nor only a Western tradition (Nussbaum 2011, 140). I am not aware of similar arguments with regard to, for example, the various pre-colonial African traditions. Nevertheless, the fact that human rights are not a particular Western idea is probably the strongest argument that the Capability Approach is not value imperialistic and respects cultural diversity. A further important argument is the fact that the architects of the international human rights movement came from a wide range of nations with a diverse cultural, historical, and socio-economic background. In particular, the United States, often seen as especially value imperialistic, have neither been leading in the human rights movement nor have they even ratified most of the major human right instruments until now (Nussbaum 2000, 39). Finally, the charge of imperialism and paternalism is historically incorrect with regard to anti-colonial struggles. In colonized countries, human rights were not implemented because this was demanded by colonizers but as a result of resistance against these – mainly "Western" – colonizers (Nussbaum 2011, 103–4).

Secondly, cultures are diverse, dynamic, and interconnected. All cultures contain a variety of voices, countertraditions, and protests against harmful traditions within the respective cultures. As already argued with regard to Asian values, what is considered to be representative of a culture is often simply the view of the most powerful members of the culture: This is especially relevant with regard to gender equality, as most texts as well as religious and cultural leaders are male (Nussbaum 2000, 42). For example, the ongoing social struggles in Iran and Afghanistan show that it would be wrong to generalize the opinion of those in power with regard to, among others, concealment of women. Furthermore, cultures always borrow from each other. They are interconnected and cannot be strictly separated from each other. For example, many “non-Western” people including a variety of anti-imperialist indigenous movements adopt Marxist ideas despite its “Western” origins (Nussbaum 2000, 37). Again, the dynamic and interconnected nature of cultures is a strong argument against the charges of value imperialism and lack of respect for cultural diversity.

Thirdly, the goal is to promote capabilities instead of functionings. The Capability does not aim at forcing people to realize certain functionings, but rather wants to give people the effective choice whether or not to do so. This is especially important with regard to Nussbaum’s list of central capabilities which is subject to multiple realizability and open-ended. On the one hand, multiple realizability means that, while the capabilities on the list are abstract, they need to be translated and implemented at local levels. Different people can specify and realize the capabilities differently, adapting them to the different cultures, histories, and circumstances, and their legislatures and courts can translate the abstract content of the list into concrete laws (Nussbaum 2000, 76; 2011, 40). This allows for an overlapping consensus among people and groups who otherwise have very different conceptions of the good (Nussbaum 2000, 5, 76). On the other hand, Nussbaum emphasizes that her list is subject to ongoing revision and rethinking. It is a proposal that can be adjusted by arguments – and has been in the past (Nussbaum 2000, 77). Furthermore, her list is not considered as absolute and timeless, but is intended only for the modern world. This focus on capabilities and the abstract and open-ended nature of the list of central capabilities leaves to citizens the choice whether or not to pursue the relevant functioning – thereby avoiding the charge of paternalism. This is probably the strongest argument against the claim that the Capability Approach being universalist makes it necessarily paternalistic.

Fourthly, the implementation of the Capability Approach does not imply force. Nussbaum makes clear that, on an international level, the Capability Approach is a basis for persuasion: According to her, national sovereignty is so important that military interventions and economic sanctions are legitimate only if the minimum democratic standards are severely violated (Nussbaum 2007, 80). Again, this separation between issues of justification and issues of implementation is a strong argument against all three of the above charges.

Fifthly, diversity is not good as such (Nussbaum 2000, 50–51). Culture and value pluralism have no intrinsic value, they are only important to the degree that they further people's well-being. This implies that, even if the Capability Approach were failing to respect the diversity of cultures (which I believe it is not), it would have to be shown that it thereby reduces the people's well-being to be a valid point of criticism.

Finally, certain universal norms are necessary to protect pluralism. This means that societies need to agree on some overarching norms in order to prevent illiberal subgroups from suppressing pluralism. This applies also to Nussbaum's list of central capabilities, on which the capabilities that maintain pluralism play an important role.

Based on these arguments, I hope to have shown that the criticisms regarding universalism do not apply to the Capability Approach. Even generalized lists of relevant capabilities such as Nussbaum's central capabilities can be defended against the charges of paternalism, value imperialism, and disregard of diversity, as long as they are sufficiently abstract and open-ended. Certain universal values are even necessary for the Capability Approach to have any practical relevance.

Implications for Living Wages and supply chain laws. The charges associated with universalism apply to the Living Wage methodologies if and only if they claim to apply independent of culture, nation, religion, race, and class. I believe that this is necessarily the case, as Living Wages are defined in terms of human dignity and human rights – which have a universal claim. Trying to avoid the points of criticism expressed above has implications on how Living Wage methodologies should be set up. Let us now consider the implications that each of these charges has for Living Wage methodologies:

Firstly, the charge of value imperialism is a criticism of universalizing human rights and individual freedom as such. It is based on the assumption that cultures are static, which is false. As a result, value imperialism can be rejected by referring to the historical origins and uses of human rights and individual freedom, which are not specifically "Western". The rejection is, thus, independent of the specific Living Wage methodologies. This means that, Living Wage methodologies do not need to fulfill certain requirements in order to meet the criticism and avoid value imperialism – possible implications can, therefore, be neglected.

Secondly, the charge that Living Wage methodologies are paternalistic if they are universalist only works in the context of functionings. In order to avoid this problem, it is necessary that the methodologies focus on capabilities instead of mere means or functionings. This has already been demanded above, which is why I will not repeat the details at this point. Furthermore, if the methodologies to calculate Living Wages contain lists of capabilities that are considered relevant, they must be sufficiently abstract. This is necessary to allow for multiple realizability, so that the relevant capabilities can be translated, adjusted, and implemented at different local levels according to the specific cultural, geographical, and political circumstances. It is important to highlight that the charge of paternalism can be misinterpreted as implying that Living Wage methodologies must remain a theoretical tool which must not be legally enforced: For example, one could argue that being part of criminal law would imply force and, as a result, be paternalistic. This is especially relevant on an international level, where enforcing universal standards can be considered as violations of national sovereignty. Such a demand would, however, misunderstand the idea of Living Wages: As Living Wages are defined as a threshold to human dignity and constitute a human right, I believe that (at least systematic) violations of paying Living Wages can count as "grave cases" that make certain forms of force against corporations – and potentially even restrictions of state sovereignty – legitimate. Also, this does not apply to supply chains that are democratically legitimated and make legal requirements only for companies that have their headquarters or operate within the respective jurisdictions.

Thirdly, a similar argumentation holds against the criticism that universalist methodologies to calculate Living Wages disregard cultural diversity. As in the case of paternalism, it is necessary that the methodologies focus on capabilities instead of mere means or functionings in order ensure that cultural diversity is respected. Furthermore, if the methodologies contain lists of capabilities that are considered relevant, they must be sufficiently abstract to ensure multiple realizability. This is the only way to make sure that the normative standards can be translated and implemented at local levels, thereby taking into account regional and cultural differences. Finally, the Living Wage methodologies need to be open-ended. This implication refers not only to the methodologies as such but also to the input. For one, it is important that the methodologies are adjusted to new arguments, scientific findings, and circumstances. For another, the data need to be updated to take into account that cultures and concepts of the good life as well as social, political, and economic circumstances such as prices change.

1.6. Families, Households, and Individuals

In evaluating policies and assessing well-being, economists and philosophers often focus on families as opposed to individual family members. A famous argument in favor of this approach is presented by Becker: He claims that families should be modeled as groups that aim at maximizing the aggregate utility of all their members. It is, therefore, not necessary to consider the well-being of every individual family member, but to assess the aggregate well-being of the family (Becker 1991).

However, such a focus on the family – and other groups such as, for example, peoples or nations – has serious flaws and contradicts the Capability Approach. Nussbaum, on the one hand, argues from a theoretical point of view against the Becker model that groups such as families cannot be understood or modeled as homogeneous units without distortion. While the Becker model might provide correct predictions given adaptive preferences, it is inadequate for normative purposes (Nussbaum 2000, 63–65). She is explicit that capabilities belong primarily to individuals and only derivatively to groups (Nussbaum 2000, 74; 2011, 35): According to the *principle of each person's capability*, the respective individuals should be the basic units for evaluating well-being and measuring capabilities. This implies that, whenever possible, the Capability Approach should evaluate policies by analyzing what it does for the capabilities of each individual instead of, for example, families. Furthermore, such a focus on individuals makes it impossible to compensate for one person being below a threshold by another one being above it.

Sen, on the other hand, shows from a practical point of view that focusing on the well-being of individuals is especially important with regard to women. Using empirical data from India and China, he shows that female children receive less food and lower health expenses than male children. This unequal intrafamily distribution of goods leads to several million *missing women*, that is, women who would currently be alive had they received equal care within the family (Sen 1999, 104–7; 1984, 346–85; Klasen and Wink 2003). If data existed only on the aggregate food and health expenses of families – or if well-being were only evaluated in aggregate terms – development economists would lack the tools to recognize such problems and to elaborate solutions.

However, the Becker model is not the only argument against putting individual capabilities in the center of the evaluation. Even if one accepts the principle of each person's capability, it is simply far too demanding for political practice to measure the capability sets of each individual person. Instead, it is necessary to focus on groups for pragmatic reasons. This does not imply, however, that it is legitimate to focus on families in evaluating policies and assessing well-being. Unlike human rights and individual freedom, the idea that nuclear families are the primary units of personal solidarity is indeed a Eurocentric view (Nussbaum 2000, 40, 276) and the concept of a family is an arbitrary legal and political definition. There is a great cultural variety in how people associate, live together, and have children. This means that family structures are diverse, they do not exist by nature, and cannot be generalized as consisting of mother, father, and children (Nussbaum 2000, 253–62). Households, on the other side, can include other people such as more distant relatives if they live in the same house for most of the year or "share a common pot". As opposed to families, the concept of households is broader and better suited to provide a universal and empirical description on how people live together. In cases where the assessment of individual capabilities is not feasible, focusing on households is, therefore, more promising than focusing on families. It must be kept in mind, however, that the focus on groups without taking a look on the individual distribution necessarily involves some distortion.

In the above analysis I have tried to make a theoretical point: In evaluating policies and assessing well-being, it is not legitimate to measure the aggregate well-being of families. Instead, the focus should be on the separate capabilities of all individual family members' needs or, if unfeasible, on households as opposed to families. This question, however, must be separated from the empirical question of whether families increase the well-being of their individual members. Nussbaum argues that families have an ambivalent role as regards the capability sets of individuals. While they can facilitate and undermine the capabilities of their members, families often are an important site of the oppression of women (Nussbaum 2000, 243, 270).

Implications for Living Wages and supply chain laws. Methodologies that aim at calculating Living Wages must decide on whether to use input data that refer to individuals or input data that refer to groups such as the family or households. The Capability Approach clearly suggests that Living Wage methodologies should measure the capability levels of individuals instead of groups, as groups are not homogeneous and resources as well as conversion factors are often not distributed equally. If this is impossible, for example, due to data scarcity, I believe that groups can be used as the basic unit of evaluating well-being. In this case, however, the calculation of aggregate well-being should be based on households but not nuclear families.

A possible source of confusion might arise from the fact that Living Wages are defined in terms of households, which seems to contradict the principle of each person as an end. However, Living Wages demand only that income from labor work should be high enough to enable all household members to live at least a basic but decent lifestyle – which is consistent with the principle of each person as an end. This is different from and must not be confused with a Becker-like model claiming that the well-being of the individual household members can be assessed by analyzing the aggregate well-being of households – which would violate the principle of each person as an end.

How could such a transfer from the needs of individual household members to the wage level that is necessary to ensure these needs look like? By way of illustration, let us suppose that the World Bank poverty line of 2.15 USD (PPP) per day represents the threshold to live a life worthy of human dignity. Given a forty-hour work week and a household consisting of five people with equal needs, the Living Wage that would allow each household member to be above this threshold of absolute poverty would be $2.15 * 5 * \frac{7}{40} \approx 1.95\ USD\ (PPP)$ per hour or $15.60\ USD\ (PPP)$ per day – which is more than seven times the initial poverty line per person. In more general terms, it holds that the threshold net expenses per person and day need to be multiplied by the number of household members and then divided by the number of work hours per day to receive the Living Wage per worker and hour.

This means that Living Wage methodologies should use households as the reference unit to calculate the wages sufficient for all household members to command over the threshold level of capabilities necessary for a live in human dignity. However, Living Wage methodologies must not be understood as Becker-like models just because they refer to households: A Living Wages calculated in these terms does not ensure that all household members actually have a capability set above the dignity threshold, because this depends on a fair intrafamily distribution of income. While this is indeed unsatisfactory, I believe that the unequal intrafamily distribution of income does not pose a problem for Living Wage methodologies informed by the Capability Approach and their legal implementation within supply chain laws. As argued already with regard to capabilities and conversion factors, I believe that Living Wage methodologies should consider only those circumstances that can reasonably be affected by wage policy and that are within the responsibility of corporations as opposed to, for example, local traditions. It makes, therefore, sense for Living Wage methodologies to assume non-oppressive local traditions such as a fair distribution of income within households. This implies that Living Wage methodologies should only aim at ensuring that the wages are high enough to allow for, among others, sufficiently high food, housing, health, and education expenses of all household members. For obvious reasons, such a methodology – and even supply chain laws – cannot ensure that the households really use it in this way, but only that it *could* use it this way.

1.7. Rights and Responsibility

Before concluding the analysis of the Capability Approach, I will now elaborate on its relationship to human rights and the issue of how the corresponding duties should be assigned. Nussbaum argues that the Capability Approach can be understood as a human rights approach. However, she believes that the framework of capabilities has several advantages over the language of human rights as it avoids a number of ambiguities about which human rights accounts disagree (Nussbaum 2007, 7). For example, proponents of human rights do not agree on whether human rights correspond to positive or negative liberty. Opposed to that, the Capability Approach takes a clear stand in favor of positive governmental duties. Furthermore, human rights accounts are ambiguous about the relationship between political and civil rights as well as economic and social rights. The Capability Approach, however, is explicit about the fact that liberties and economic arrangements are intertwined, but political and social rights have certain material prerequisites (Nussbaum 2007, 285–91). Sen, in contrast to Nussbaum, argues that freedoms and, therefore, human rights, have two aspects. Suppose a person is being forced to do something that she would have done anyway. This violates what he calls the *process* aspect of freedom, but not necessarily the *opportunity* aspect. Sen now believes that, whereas the opportunity aspect can be understood in terms of the capabilities, the process aspect cannot (Sen 2005, 152–57). Based on this distinction, Robeyns argues that the Capability Approach by itself is not sufficient to construct a human rights theory. Since procedural human rights such as the right to a fair trial are not best understood as capabilities, the Capability Approach cannot provide a justification for human rights (Robeyns 2017, 166–67).

Even if we do not accept Nussbaum's argument that the Capability Approach can be understood as a human rights approach, however, both clearly have a common basis: For one, both the Capability Approach and human rights theories highlight that all people have certain entitlements merely due to the fact that they are human. This implies that other people as well as governments have a duty to support these claims. For another, there is a broad interception between the central capabilities elaborated by Nussbaum and the human rights recognized by, for example, the Universal Declaration of Human Rights.

While Nussbaum and Sen are not explicit about it, I believe that they follow the *interest theory* of rights, which means that people have a right to a threshold of certain capabilities ("basic" or "central") because it makes them better off. In highlighting the importance of choice, Sen and Nussbaum also acknowledge aspects of the *will theory* – but I think that, according to the Capability Approach, having choice needs to be understood as a part of well-being.

Let us not turn to the question of responsibility. According to the Hohfeldian analytical system of rights (Hohfeld 1917, 710), there must exist a duty that corresponds to each rights claim. In case of rights, this duty is positive, that is, it demands action and not mere inaction: If a person has a right that X, then someone must have a duty to do X to that person. In this sense, rights are opposed to privileges, which only correspond to negative duties (Wenar 2005, 225–29). This means that, if there is a positive human right to at least a threshold of certain capabilities, someone must be responsible for actively securing this right.

However, Robeyns and Byskov (2021, 38) highlight that there is almost no discussion about responsibility in the capability literature. Nussbaum (2007, 277) argues that the task of defining rights can be separated from the task of assigning the corresponding duties. While this might be true from a theoretical point of view, I believe that it is an important shortcoming of the Capability Approach when it comes to its implementation: It needs to be clear who exactly should bear the responsibility to ensure that people have at least the threshold level of well-being as understood in terms of capabilities. Otherwise, normative claims about rights do not have much practical relevance. This implies that the Capability Approach needs to take a stand on where to draw the distinction between individual and collective responsibility.

Although Nussbaum and Sen are not straightforward in this regard, they do make some valuable points with regard to responsibility. On the one hand, Nussbaum goes in to detail about the agents that have the duty to secure the threshold of capabilities necessary for human dignity (Nussbaum 2011, 63–64) – explicitly naming international organizations, governments, rich nations, corporations, and individuals. As outlined already above, *governments* have duties to provide at least a threshold of each central capability to their citizens. Nussbaum is explicit that this responsibility involves that governments have affirmative tasks (Nussbaum 2011, 65), which means that the duties are positive. Secondly, *wealthy countries* in the so-called Global North have a responsibility towards countries of the so-called Global South because of exploitation and power inequalities in the past and in the present. Nussbaum argues that whether or not people have the opportunity to lead a decent life should not depend on random factors such as the nation one is born in. Not only are many capability deprivations of people in the Global South a consequence of colonialism and exploitation from the Global North, but the world economy is still today controlled by the wealthier countries. As a result, richer nations have a duty to support efforts of poorer nations in securing the fulfillment of central capabilities (Nussbaum 2011, 115–16). Thirdly, Nussbaum claims that *international organizations* such as the World Bank (WB) or the International Monetary Fund (IMF) have a duty to design the global economic order such as to be fair to the countries of the Global South (Nussbaum 2007, 319). Fourthly, Nussbaum claims that *multinational corporations* are responsible to promote capabilities in the regions in which they operate (Nussbaum 2007, 317–18). Furthermore, *non-governmental organizations* (NGOs) as well as *individuals* can have responsibility (Nussbaum 2011, 167), for example in their role as consumers or citizens. As these duties are morally binding even if the states do not enforce them, they are ethical rather than political.

On the other hand, we can infer from the above examples that, according to the Capability Approach, responsibility has both collective and individual aspects. Both individuals and collectives can have a moral duty to ensure that at least the minimum capability threshold required for a life worthy of human dignity is met. For one thing, Nussbaum argues that all people have a collective duty to secure the threshold level of central capabilities to all people (Nussbaum 2007, 279–80). This is reflected in the fact that a part of the responsibility is assigned to institutional structures and organizations including nations, NGOs, corporations, and to international organizations. Then again she argues elsewhere that, as institutions consist of people, its ultimately individuals who have the moral duty to promote capabilities (Nussbaum 2007, 307–10). Sen argues into a similar direction, claiming that people themselves must have responsibility for the development and change of the world (Sen 1999, 283).

Unfortunately, this all that we can say. While assigning duties to a wide range of agents, the Capability Approach lacks theoretical precision with regard to the foundation and content of the responsibilities. For example, we do not know how far this duty reaches. Does "ensuring" require to give up to the point of marginal utility where, by giving more, one would lose more utility than one would increase – as famously argued by Singer (1972, 241)? Furthermore, neither Sen nor Nussbaum take a stand on *methodological collectivism*. This means we do not know whether collective responsibility is an aggregate phenomenon or whether it transcends the sum of individual responsibilities.

Implications for Living Wages and supply chain laws. The fact that the Capability Approach and human rights theories have a broad common basis underlines the close connection between the Capability Approach and Living Wages – which are also defined in terms of human rights. Framing Living Wages in terms of capabilities instead of the ambiguous language of human rights has the further advantage of avoiding the ambiguities mentioned above: Firstly, it suggests that we can understand Living Wages as the material prerequisites necessary for political and social rights; secondly, it implies that the right to Living Wages corresponds to positive duties.

But who exactly has these duties? And when exactly are they met? If a methodology to calculate Living Wages is to any practical impact, it needs to be explicit about who is responsible for which part in securing the threshold of the relevant capabilities. This includes the name of the individuals and collectives, the implications that collective responsibilities have for the individual group members, and the content of the duty. Living Wage methodologies need to outline precisely which capabilities and conversion factors are considered relevant and which are not. Furthermore, they should provide instruments or guidelines for meeting the respective responsibilities as well as clear-cut criteria as to when the duty is fulfilled.

In the above sections, I have already argued that the content of the responsibility connected to Living Wages should be limited to those capabilities and conversion factors that have a causal connection to wages as opposed to, among others, local political and cultural circumstances. In more detail, I have used causality and moral responsibility to show that Living Wage methodologies should be evaluated only with regard to those capabilities and conversion factors towards which income can in principle be a relevant means. While I believe that my argumentation is backed up by a strong intuition that being able to make a difference is a necessary condition for being morally responsible, a stronger foundation based on the Capability Approach would be helpful. Unfortunately, the Capability Approach is not as precise in this regard as it should be. As the Capability Approach does not make any theoretical points on where to draw the line between individual and collective responsibility, we can only make very general and incomplete statements regarding the individuals and collectives that are responsible for ensuring Living Wages and the relation between individual and collective responsibility. On the one hand, this lack of theoretical precision limits our analysis to the individuals and groups that Nussbaum and Sen explicitly mention – that is, international organizations, governments, rich nations, corporations, consumers, and voters. On the other hand, this leaves the Living Wage methodologies and their legal introduction within supply chain laws room for discretion and ethical argumentation independent of the Capability Approach.

That said, I will use the remainder of this section to specify the above-mentioned individuals and collectives that have responsibilities with respect to Living Wages.

Most importantly, it follows from the Capability Approach that corporations have a minimal responsibility to ensure that all workers along their supply chains are paid at least Living Wages. This duty is met if and only if the corresponding wages are paid, and it should be legally regulated through supply chain laws. It applies mostly to individual decision makers within companies but also to other employees qua being part of the respective companies. I suggest using *we-intentions* as elaborated by Tuomela (Tuomela 2005) as a criterion for collective responsibility, but neither want to discuss this issue in detail nor insist on it. In addition, I believe that *governments* and *international organizations* are responsible for setting up the corresponding legal framework in the form of supply chain laws that translate this moral responsibility into a legal duty. These laws need to provide effective and low-threshold mechanisms for people to report violations as well as mechanisms to make corporations and individual members criminally liable in these cases. This holds especially for wealthy countries of the so-called Global North, where a majority of the consumers and companies is located. This duty is met if and only if the supply chain laws are effectively designed and applied. However, it cannot be regulated by law. Again, this duty applies mostly to individual decision makers, but – at least in democracies – also to all citizens in their role as voters. Finally, it follows from the Capability Approach that *civil society organizations* as well as *individuals* in their roles as consumers have moral responsibilities. Civil society organizations should aim at strengthening due diligence legislation and use their expertise and power to control corporations and governments. To the degree that they can financially afford it, furthermore, consumers are responsible not to buy products or services that involve human rights violations in terms of wages. However, I believe that their duties are morally but should not be required by law. For example, if a person buys products knowing that there have been human rights violations in the production, this is morally objectionable, but she should not be legally punished. The same holds for citizens who vote for political parties that try to prevent Living Wages being mandatory.

This implies that the moral duties of individuals in their roles as consumers, citizens, and politicians should not be regulated by supply chain laws. Regarding criminal law, therefore, the framework to evaluate the legal implementation of Living Wages within supply chain laws should only request that they include corporations as well as their members and decision-makers – both in their role as individual agents and parts of the collective.

2. Evaluative Frameworks

So far, the academic discussion of Living Wages – including most authors who have worked in the intersection of the Capability Approach and Living Wages – has mainly focused on historical accounts of the concept and the moral justification of Living Wages as opposed to market wages according to supply and demand (Schrage and Huber 2018, 356). However, the Capability Approach has a higher normative applicability that goes beyond the historical analysis and moral justification of Living Wages: The Capability Approach is a promising tool to improve not only the calculation and estimation of Living Wages but also their legal implementation within supply chain laws. I believe that it gives valuable recommendations on how to estimate the amount of money that is necessary to afford a threshold of capabilities for the workers and their households to live a life in dignity. In other words, our frameworks for evaluation allow us to analyze whether Living Wage methodologies fulfill human rights as understood in terms of the Capability Approach – and whether specific supply chain laws are sufficient to legally implement Living Wages.

Setting the evaluative focus in these terms means that the aim of the Living Wage calculation informed by the Capability Approach is not to measure the individual or aggregate well-being of the workers. This view is opposed to Schrage and Huber (2018, 377–78), who were the first – and to my knowledge so far the only ones – to evaluate Living Wage methodologies in terms of the Capability Approach. They argue that the aim of Living Wage calculation should not only be to calculate costs but also the assessment of capability levels. This distinction is important: I believe that measuring the capability levels of the workers who receive Living Wages and their household members interferes with the autonomy of people to make their own decisions. While a fair intra-household distribution of resources is crucial, I believe that this should not be part of the Living Wage methodologies.

In the upcoming chapter, I will set up the frameworks to evaluate Living Wage methodologies and the legal implementation of Living Wages through supply chain laws that are informed by the Capability Approach. I will do so by, firstly, summarizing and structuring the implications from the Capability Approach that I have elaborated in the above chapter. I do not claim that these frameworks are complete or sufficient by themselves to evaluate Living Wage methodologies and supply chain laws. The reason is that there exists a variety of important human-rights based criteria for evaluation that are independent of the Capability Approach. Instead of being all-encompassing, therefore, the frameworks reflect what the Capability Approach can contribute to the understanding of Living Wages and their legal introduction – and which independent criteria it backs up. Furthermore, the frameworks are not static and will need to be adjusted to new argumentation and inputs. Nevertheless, I believe that they are valid for a variety of Living Wage methodologies and their legal integration into supply chain laws. Secondly, I will apply these frameworks to the so-called Anker Method and the EU Supply Chain Law. Whereas the Anker Method currently serves as a "Gold standard" to calculate Living Wages, the upcoming EU Supply Chain Law is likely to have a higher impact as well as broader content as compared to existing national supply chain laws.

2.1. Framework for Living Wage Methodologies

In the above chapter, I have elaborated the implications that the Capability Approach has for understanding and calculating Living Wages and for legally implementing Living Wages within supply chain laws. While I conducted my above analysis of the implications alongside introducing the Capability Approach, I will now summarize and reformulate the results in the form of criteria so that they can serve as a framework for evaluation. In doing so, I will not repeat the argumentation but only the conclusions. I will set up the framework for evaluation as follows:

LWM.1: Focus on capabilities and conversion factors

Living Wage methodologies should focus on capabilities and conversion factors as opposed to realized functionings.

For one, this means that Living Wage methodologies should result in monetary output, thereby excluding in-kind benefits as payments of Living Wages. If, for example, workers receive free meals or housing at their workplace, this should not be included as a partial payment of Living Wages. For another, the focus on capabilities and conversion factors implies that the calculation of Living Wages should be based on a model that specifies which threshold of capabilities is necessary for a life in dignity. These capabilities need to be specified such that they minimize the costs necessary to meet the minimum standards while being in accordance with the regional cultural and geographical context.

I have argued above that, according to the Capability Approach, well-being must not be understood in monetary terms. To some readers this might seem inconsistent. However, demanding that Living Wages need to be expressed in monetary terms does not imply that the same holds for well-being. We have to keep in mind that, just as money, Living Wages are only an instrumental means towards well-being. By paying Living Wages, one does not ensure that workers live a life according to the model, but only that they have the threshold amount of money that is required to do so.

LWM.2: Scientific foundation

Living Wage methodologies should base the decision which threshold of capabilities is necessary for a live in dignity on theoretical reasoning.

On the level of implementation, this means that the model minimum standards and their respective regional realizations should not be set up by solely referring to the preferences that the affected workers and their household members have. Instead, theoretical and scientific considerations should be given highest weight in selecting the model expense groups based on which Living Wages are calculated. However, it is crucial to ensure that information gathered in participatory processes are reflected in the calculation of Living Wages.

Two further things should be highlighted: *Firstly*, the scientific basis should not just include input from the so-called Global North but also from the Global South, and it should reflect not only male scientists. *Secondly*, the workers should participate both in the setting up the abstract minimum standards and in locally specifying them. Again, also female workers and, where applicable, workers with other gender identities need to be considered.

LWM.3: Provisional nature

Living Wage methodologies should reflect that the social, economic, and political circumstances are not static.

As the Living Wages are defined as a minimum threshold, it is crucial that the real wage level does not decrease over time. This means that, on the one hand, the methodologies need to ensure that the data used as input for the calculation are updated on a regular basis and in appropriate time intervals. Such a requirement is necessary to take into account that economic circumstances such as prices as well as the necessities themselves change over time. Indexing the wages to the expected inflation is a minimum requirement to ensure that the purchasing power of the workers and their households stays constant. On the other hand, acknowledging the provisional nature of Living Wage methodologies implies that the methodologies themselves need to be adjustable to new arguments and scientific findings if necessary. This criterion is closely related to LWM.4 (multiple realizability).

LWM.4: Multiple realizability

Living Wage methodologies should define the minimum standards that model the threshold for a decent life in sufficiently abstract terms to allow for different regional implementations.

This gap between the abstract model requirements and the specific local realizations needs to be closed using regional data. Such a setup ensures that the lists of relevant capabilities and conversion factors can be translated and adjusted to the diverse cultural, geographical, and political circumstances. Multiple realizability must not be confused with criterion LWM.1 (focus on capabilities and conversion factors), which applies on an individual level and does not result in different wage levels, LWM.3 (provisional nature), and criterion LWM.14 (regional specification), which I will introduce later in this section.

LWM.5: Potential means

Living Wage methodologies should include only those capabilities and conversion factors that have a causal connection to income and can be reasonably affected by wage policy.

The downside of this requirement is that capabilities and conversion factors that cannot be reasonably affected by wage policy should be neglected – even if they are important aspects of the good life. This means that in the model used for calculating Living Wages, not all components of a life in dignity can and should be included. As I have argued above, applying this requirement to Nussbaum's list of central capabilities implies that Living Wages need to cover at least the monetary means for sufficient food, housing, health expenses, and basic education for all household members. As wages can be a source of discrimination, this requirement is consistent with criterion LWM.10 (non-discrimination). I will pick up on this criterion later in this section.

However, I have argued above that Living Wage methodologies should exclude, among others, data that refer to political or social institutions, the environment, or metabolism. This means that such considerations should not be included in the model minimum standards required for a life in decency. Admittedly, the exclusion of these important capabilities and conversion factors associated with this requirement is unsatisfactory and insufficient from the perspective of human rights. However, we need to keep in mind that Living Wages cannot serve as a universal remedy for promoting well-being. They have a limited scope of application and must be embedded in a comprehensive bundle of political initiatives.

LWM.6: Responsibility

Living Wage methodologies should include only those capabilities and conversion factors that are within the responsibility of corporations.

Again, the drawback of this condition is that capabilities and conversion factors that are not within the responsibility of corporations should be neglected, even if they are necessary to lead a life in dignity. This implies that, in setting up the different model expenditure groups and their respective components, Living Wage methodologies need to make assumptions which are often counterfactual. For example, in selecting model diets, Living Wage methodologies need to assume that people are healthy and have a functioning metabolism. Also, in transferring the model expenditure groups into the wage levels, Living Wage methodologies need to assume that people work full-time; otherwise, Living Wage methodologies would hold companies responsible for regional underemployment.

I need to highlight that such modelling assumptions must be separated from assumptions that would be necessary to interpret Living Wages as actually ensuring a life in dignity instead of merely providing the monetary means. These include, for example, non-oppressive local traditions, a fair intrafamily distribution of income, good governance, or assuming that the workers have a basic education that allows them to make reasonable economic decisions. Such assumptions do not play a role in estimating the Living Wage level but in interpreting the connection between Living Wages and actual well-being.

LWM.7: No trade-offs

Living Wage methodologies should not trade off the different aspects that constitute a Living Wage.

For example, Living Wage methodologies need to ensure that a housing situation that is above the threshold cannot offset shortcomings in the nutrition. In practice, this requirement mainly refers to *assessing* well-being. However, it has an important implication for the models based on which Living Wages are estimated. The different expenditure groups and their respective components should be aggregated in a way such that it is impossible for an abundance of one capability or conversion factors to compensate for a lack of another. In other words, the Living Wage estimation should be based on the *sum* of the different expenditure groups.

LWM.8: Numerical wage levels

Living Wage methodologies should result in precise number that indicate both the Living Wages and the prevailing wages.

This is necessary to ensure a clear-cut and unambiguous criterion as to whether or not companies are paying Living Wages to their workers. This requirement is closely related to criterion LWM.1 (focus on capabilities and conversion factors) in that it requires the Living Wage output to be monetary. However, LWM.8 goes further because it rules out that Living Wages cover numerical intervals and because it also refers to the estimation of the actual wages.

LWM.9: Households

Living Wage methodologies should base the calculation of aggregate well-being on households as opposed to nuclear families.

This needs to be implemented in the setup of the model households that are used to translate the minimum requirements for a decent life into actual price levels. As a result, Living Wage methodologies need to take a stand, among others, the overall number of household members, their composition with regard to age, gender, and labor intensity – and how to adjust the expense groups as regards age, gender, and labor intensity. This requirement is related to LWM.14 (regional specification) in that these decisions need to be based on regional data and to LWM.4 (multiple realizability) in that households need to be defined sufficiently abstract.

LWM.10: Non-discrimination

Living Wage methodologies should not discriminate among workers on the basis of, for example, gender, ethnicity, caste, or religion.

This means that, ceteris paribus, Living Wage methodologies should assign the same threshold wage level to all workers who are employed in the same region. In simple terms, non-discrimination means that Living Wages should not be lower for, say, women than for men. While this seems easy to implement, the requirement of non-discrimination can be quite challenging. To see that, let us consider how it could be restricted by criterion LWM.4 (multiple realizability) and LWM.14 (regional specification). Suppose that members of two different religious groups are living in the same region, one of which has more religious holidays than the other. Multiple realization and regional specification require Living Wage methodologies to reflect the lower amount of working days of the respective religious group in their model. Taken by themselves, these two criteria would, therefore, result in higher Living Wages per working hour for the followers of this religion. However, non-discrimination demands that the hourly wages of the other people should be adjusted to the same level, thereby increasing the Living Wage level for all people in the region. This is also in line with criterion LWM.12 (social aspects), which I will introduce later in this chapter.

LWM.11: Normative work standards

Living Wage methodologies should base their calculation on normative work standards.

Most importantly, this criterion demands that, in modelling the amount of labor per household, Living Wage methodologies need to take account of working time limitations and exclude exploitative child labor. Following LWM.2 (scientific foundation), this needs to be in accordance with international labor standards provided by, among others, the ILO. For one, this means that the wages must be such that the threshold necessary to live a basic but decent life can be reached within a standard working week of forty hours (ILO 1935, vol. 47, art. 1). For another, this means that the number of full-time equivalent workers per household that underlies the model for estimation must not include children.

Whereas other work standards such as access to protective work gear and sanitary facilities are indeed necessary conditions for decent labor, it follows from LWM.5 (potential means) and LWM.6 (responsibility) that Living Wages are not the right mechanism to ensure them. Again, this is unsatisfactory and insufficient from the perspective of human rights, but the reason is that Living Wages have a limited scope of application and must be embedded in a comprehensive package of political measures.

LWM.12: Social aspects

Living Wage methodologies should ensure that the threshold to live a basic but decent life is understood not only in absolute but also in relative terms.

This means that, in addition to the physical requirements that are necessary for people to survive, the Living Wages need to be high enough to meet the minimum requirements for people to participate in the social life. This criterion is an important amendment to criterion LWM.2 (scientific foundation) and closely related to criteria LWM.4 (multiple realizability) and LWM.14 (regional specification). This means that, in elaborating the different model expenditure groups based on which Living Wages are estimated, Living Wage methodologies must not only cover physical needs that people have in order to live well, but also social aspects of well-being. Suppose, for example, that a Living Wage methodology sets forth a model diet including the minimum number of calories necessary for a healthy functioning. In order to calculate the costs of the respective food items, Living Wage methodologies must not merely refer to the cheapest sources of food that satisfy these conditions. Instead, they need to take into account local food habits.

LWM.13: Resilience

Living Wage methodologies should include measurements to make workers and their household resilient against unexpected events that require sudden additional expenses.

Such unpredictable cash requirements might be due to, for example, illness or natural disasters. In addition to covering their everyday needs, Living Wages should therefore allow workers to save some money in order to cope with such challenges. On the level of modelling and estimating the threshold costs of a life in dignity, this means that Living Wage methodologies should include a certain amount of savings as an additional expenditure group.

LWM.14: Regional specification

Living Wage methodologies should calculate different Living Wages for different regions.

This means that different Living Wage levels should be computed not only for different countries but also for urban and rural areas and – depending on the size of the country – even different regions within larger countries. Such a regional differentiation is necessary because the costs of living are not the same everywhere within a country. This can be due to, for example, different food and housing costs or different food and housing habits. This requirement should be implemented by using regionally different input data to estimate the different expenditure groups. While the method should be the same independent of the geographical and cultural context, it should ensure that the database is broad enough to account for different costs due to, among others, different food and housing habits as well as availability of raw materials. This requirement is, therefore, an important amendment to LWM.12 (social aspects). Furthermore, regional specification is closely connected to requirements LWM.3 (provisional nature) and LWM.4 (multiple realizability). While LWM.3 can be seen as a *vertical* requirement that Living Wages need to be adjusted on the time axis, LWM.4 and LWM.14 can be understood as the *horizontal* counterpart, demanding that the Living Wages be specified on the country axis.

LWM.15: Disaggregated data

Living Wage methodologies should include disaggregated data and contextualization.

This requirement is a significant amendment of criteria LWM.1 (focus on capabilities and conversion factors) and especially LWM.8 (numerical wage levels). While LWM.1, among other things, requires the Living Wage output to be monetary, LWM.8 highlights the importance of having precise numerical estimates for the Living Wages. However, this does not mean that Living Wage methodologies should be restricted to yielding monetary or numerical output. Instead, Living Wages should be accompanied by Living Wage reports that provide detailed information about, among others, the database and the specific regional economic, political, and cultural circumstances. This means that the guidelines provided in the Living Wage methodologies should not only cover how to model the different expenditure groups that are necessary as a threshold for a life in dignity and how to translate them into wages. In addition, they should provide instructions on how to write reports that contextualize the results.

2.2. Application to the Anker Method

Having set up the framework to evaluate methodologies to calculate Living Wages, I will now apply this framework to the so-called Anker Method, a Living Wage methodology that has been elaborated by Richard and Martha Anker (Anker 2005; 2011; Anker and Anker 2017). I will begin by outlining the methodology and arguing why it is more relevant than other existing methodologies.

2.2.1. What is the Anker Method?

I believe that the Anker Method is best conceptualized by dividing it into four steps. In the *first* step, researchers need to set up model expenditure groups that Living Wages need to cover and specify the minimum standards that are needed for decency. These expenditure groups include food, housing, health, education, and savings as well as mandatory payroll deductions. These minimum standards are rather abstract and considered universal but vary to some degree with "economic development" and income. In order to implement these minimum standards on a local level, researchers use local habits and prices to specify and estimate these expenditure groups. This is done by minimizing the costs of the model expenditure groups while being in accordance with the different regional cultural and geographic contexts. In the *second* step, researchers need to set up model families in order to calculate the Living Wages. This includes the model amount of full-time equivalent workers and members per family. Again, these models are location- and time-specific. In the *third* step, researchers estimate prevailing wages. As there are many different forms of remuneration, some of which are excluded by the Anker Method, calculating the prevailing wages is not a trivial undertaking. These results are published and contextualized in Living Wage reports, which are written in the *fourth* step.

Anker and Anker provide extensive detail which primary and secondary data need to be considered in each step, how they should be collected and possibly adjusted, and how they should be used for the calculation of Living Wages. Furthermore, they provide detailed tables and Excel worksheets that simplify and standardize the modelling and calculation. I will now go into detail with regard to each step.

Step 1: Minimum standards and model expenditure groups. Let us begin by elaborating on the model expenditure groups and their local specifications that are set up in the first step. According to the Anker Method, researchers need to specify the minimum standards that are needed for a life in dignity as regards food, housing, health services, education, and resilience. These are specified in four model expenditure groups, namely food, housing, non-food and non-housing costs, and a margin for sustainability. Furthermore, as Living Incomes are concerned with the actual amount of money that can be used for everyday expenses, mandatory payroll deductions need to be subtracted from the gross Living Wage. As these minimum standards can be implemented in a variety of different ways, the model expenditure groups need to be adjusted by minimizing their costs while being in accordance with local cultural habits and geographical contexts.

FOOD. This model expense group refers to the cost of a nutritious model diet that is in accordance with local food preferences and relatively cheap. Food is usually the largest expense for households and families in developing countries, amounting to almost 50 percent of the total expenses (Anker and Anker 2017, 33). The minimum standards with regard to food are normative and rely on secondary data. They are based on nutritional guidelines provided by the Food and Agriculture Organization of the United Nations (FAO) and the World Health Organization (WHO). These guidelines cover not only caloric intake, but also macronutrients such as proteins, fats, and carbohydrates as well as and fruits and vegetables. Furthermore, the necessary amounts depend on age, gender, body size, and the type of work. In setting up these standards, Anker and Anker go into great detail as regards, for example, the composition of proteins and fats, whether or not to include meat and dairy products as well as sugar, coffee, and tea, how to include additional needs during pregnancy and lactation – and how to measure the nutritional content of different food items given that their composition differs regionally. Anker and Anker do, however, adjust the normative FAO and WHO recommendations as regards the amount of fruits, vegetables, and legumes, arguing that some them are unrealistic as they are far from being reached even in high income countries (Anker and Anker 2017, 44).

These minimum standards only comprise major food groups, but they do not indicate the specific food items. For example, they include vegetables without specifying which ones. In setting up the model diets for estimating the food costs at a certain location, the specific food items should be relatively inexpensive, commonly consumed and available, and culturally acceptable. The Anker Method, therefore, asks researchers to mathematically optimize the selection of food prices by selecting the least expensive food items per edible gram to represent each food group. In order to allow for some variety in the diet, the Anker Method recommends adding 10 to 15 percent of the food costs, increasing with the rate of "economic development" (Anker and Anker 2017, 50–51). Furthermore, Anker and Anker suggest to add three to five percent for food wastage and spoilage to account for the fact that in many cases workers have restricted capacities to store food (Anker and Anker 2017, 55).

These model diets rely on secondary as well as primary data. The primary data, on the one hand, are collected in local market surveys. While the Anker Method does not specify a universal approach of how to collect these data, it specifies in detail how to train the local investigators, how many price points to collect, how to clean the data, and how to account for bargaining. The secondary data, on the other hand, are mostly national and refer to calories, nutritional content of the respective food items, and seasonality of the food prices.

The model diets are expressed in terms of portions per day or week in order to ensure that they are comprehensible (Anker and Anker 2017, 35).

HOUSING. Housing refers to the cost of living in accordance with international and national housing standards as well as local housing conditions. Housing is usually the second largest expense for households in developing countries (Anker and Anker 2017, 113). The minimum standards with regard to housing are normative and rely on secondary data. They are based on housing guidelines provided by the ILO, the WHO, and the United Nations (UN). These guidelines cover not only the expenses for durable materials for walls, roofs, and floors, but also sufficient living space, access to safe water and sanitation facilities, adequate lightning, and food storage. Furthermore, they specify that the houses must not be located in, among others, slums or unsafe areas.

Again, these minimum standards only comprise abstract conditions without specifying them in a universal manner. In calculating the model housing costs, therefore, the specific materials should be relatively inexpensive, commonly consumed and available, and culturally acceptable. The Anker Method provides comprehensive details how to find out, among others, acceptable housing materials and how to define and measure adequate living space.

Furthermore, Anker and Anker argue that, in order to fulfill the minimum standards, different conditions need to be fulfilled in rural and urban areas. For example, Anker and Anker argue that, if the population density is low, street lightning is not as important to provide secure housing conditions (Anker and Anker 2017, 118). But it is not only the conditions needed to fulfill the minimum standards which can vary between rural and urban areas, but also the housing standards themselves. For example, the Anker Method holds that electricity is not required in locations where relatively few households have electricity (Anker and Anker 2017, 128–30). However, while local housing standards can be above international minimum standards, they can never be below (Anker and Anker 2017, 136).

In estimating the model housing costs, the Anker Method focuses on rental markets and relies on secondary and primary data. However, as primary data on local costs are often difficult to obtain because most markets for housing that just meets the minimum standards are very small. As a result, Anker and Anker recommend generating primary data from discussions with workers. Furthermore, the Anker Method uses governmental data on taxes and fees.

NON-FOOD AND NON-HOUSING (NFNH) COSTS. This cost group refers to all costs other than food and housing that are necessary for all family members to afford a decent standard of living – most importantly education and health care. The NFNH costs almost always represents more than half of all expenditures (Anker and Anker 2017, 21). Unlike food and housing costs, the NFNH costs are largely not normative and there exist no detailed minimum standards for this expenditure group. Anker and Anker argue that it would be too difficult and time-consuming, as this would require listing and agreeing on each single item (Anker and Anker 2017, 22).

The model NFNH costs are estimated by using recent household expenditure surveys, proceeding in a way that is typical for poverty line methodologies: The prevailing ratios of NFNH costs to food expenditures are calculated and then multiplied by the food and housing costs of the model. This is done in four separate steps. Firstly, researchers have to select the appropriate household expenditure data. Secondly, the have to adjust these data so that the components correspond to the model diets and housing of the Anker Method. This is necessary because the UN classification scheme for household expenditures (COICOP) as well as many national expenditure data include, for example, alcohol, tobacco, and food eaten away into the food expenditure, whereas the Anker model diet does not. Based on this, a preliminary estimate for the NFNH costs is made. Finally, researchers have to make a post check to ensure that sufficient amounts for health care and education until the end of secondary school are included. The post checks are done by calculating the amounts for health care and education that are implicitly included in the preliminary estimate of the NFNH costs. These are compared with estimated costs for health care and education. If the NFNH costs are insufficiently high, they need to be increased.

The NFNH costs rely mostly on secondary but also on primary data. Primary data are collected for the typical cost of education and the typical cost per visit of health care providers. This is done through discussions with workers, school personnel as well as clinics and pharmacies. Secondary data are used for household expenditure by income decile by location as well as the average number of visits per person per year to health care providers. In calculating the NFNH-to-food ratio for developing countries, Anker and Anker recommend using the fourth decile (Anker and Anker 2017, 181). The reason is that, in accordance with Engels' Law, the income elasticity of food expenditure is below one, which means that the non-food-to-food ratio increases with family income and economic development. For example, the non-food-to-food ratio increases from about one on average in low-income countries to more than five in high-income countries. This implies that the ratio – and therefore the size of the Living Wages – depends on which part of the income distribution is used to measure it.

In addition, the Anker Method provides extensive detail how to, for example, deal with insufficient secondary data that only provide the mean household expenditures and how to ensure that NFNH costs are sufficient even in contexts where a majority of people does not have decent health care and education.

MARGIN FOR SAVINGS. In addition to the above three costs groups, the Anker Method adds a margin for sustainability and unforeseen events to the Living Wages. Such events include, for example, accidents, illnesses, and deaths or funerals. Anker and Anker highlight that, for worker with low and volatile incomes, being able to make savings is necessary to be resilient against falling into poverty as well as to provide planning opportunities. The Anker Method recommends increasing the Living Wage by five percent to ensure sustainability (Anker and Anker 2017, 230)

MANDATORY PAYROLL DEDUCTIONS. As Living Incomes are concerned with the actual amount of money that is available for day-to-day expenses, the Anker Method subtracts mandatory payroll deductions from the gross Living Wage. These include, among others, income and social security taxes as well as possible statutory pension funds, unemployment insurance, or mandatory union fees. These data are not normative and rely on secondary data provided by governmental institutions.

Step 2: Model families. Having modeled the cost of a basic but decent life per person, the Anker Method collects data regarding the reference families. Anker and Anker make explicit that the Living Wage is a family concept consisting of the nuclear family of a worker consisting of a worker as well as her partner and children (Anker and Anker 2017, 231). In the second step, therefore, researchers need to set up model families in order to calculate the Living Wages. This the model amount of full-time equivalent workers and members per family. Just as the model expenditure groups, these models are location- and time-specific.

REFERENCE FAMILY SIZE. The size of the reference family is estimated using secondary data on the average household sizes, fertility rates, and the under-five-mortality rate. It is then adjusted to account for the family members' gender, age, and their physical activity, as these characteristics imply different needs as regards, for example, nutrition. This implies that the reference family size differs between countries and regions within countries. Against this background, Anker and Anker argue that, in most cases, the minimum model family size is four and the maximum six (Anker and Anker 2017, 238). As many workers have a social and cultural obligation to support parents and relatives by sharing resources, the Anker Method includes additional funds of about five percent (Anker and Anker 2017, 238).

NUMBER OF FULL-TIME EQUIVALENT WORKERS PER REFERENCE FAMILY. The number of full-time equivalent workers per reference family is calculated using secondary data on labor force participation rates, unemployment rates, and part-time employment rates including hours of work by age, sex, and location. This implies that the number of workers depends on local conditions, leading to different models in different countries as well as rural and urban areas within countries. This is especially due to the large variation to the extent to which women are in labor force (Anker and Anker 2017, 248). The Anker Method goes into great details how to, for example, take into account that unemployment is a subjective category as it requires actively looking for employment. This is especially important in areas with little or no available jobs, leading to lower official employment rates in rural areas. Furthermore, Anker and Anker exclude youths between 15 and 24 years from the unemployment rates in modelling the amount of full-time equivalent workers per family, arguing that they can continue to live with their parents (Anker and Anker 2017, 252). Against this background, Anker and Anker argue that the number of full-time equivalent workers per reference family is always between one and two (Anker and Anker 2017, 247).

Having set up the model family and the model expenditure groups, the respective Living Wages can be calculated. The Anker Method makes this estimation by multiplying the cost of a basic but decent life per capita by the size of the reference household. This number is then divided by the number of full-time equivalent workers per reference family, and statutory payroll deductions are added.

Step 3: Calculation of Prevailing Wages. At this point, we have already calculated the respective Living Wages. However, the Anker Method goes further and estimates the prevailing wages as well. In doing so, Anker and Anker specify which forms of remuneration count towards Living Wages, and which do not. This is necessary to find out whether or not workers actually receive Living Wages – and therefore an essential information not only for workers and companies but also for governmental institutions, civil society, and standard-setting organizations.

The main difficulty in estimating the prevailing wages is that remuneration can have many different components. While some forms of remuneration should be included, others need to be excluded. The Anker Method provides several criteria which need to be fulfilled for a remuneration to count as a partial payment of Living Wages. In total, I could find four such requirements. *Firstly*, it needs to benefit the workers and reduce their ongoing living expenses. *Secondly*, the remuneration needs to be available when needed. As regards this criterion, Anker and Anker assume that the model families have the means to smooth their expenditures for up to one year. *Thirdly*, it needs to be guaranteed and not at the discretion of the companies. *Finally*, the remuneration needs to be earned in normal working hours and speed in order to count towards the Living Wages.

On the one hand, this implies that, for obvious reasons, basic wages should be included in the calculation of prevailing wages. Also, some deferred payments such as thirteenth month salaries and holiday bonuses should be included because families are assumed to be able to smooth their expenditures sufficiently long. On the other hand, other deferred payments such as pensions and severance pay should be excluded because they are not available to pay for ongoing expenditures. Furthermore, the Anker criteria for prevailing wages imply that overtime payments as well as premia for night work and weekends do not count as Living Wages should be earned in normal working time. Along similar lines, the Anker Method does not consider productivity bonuses if they exceed normal working speed, and fringe benefits such as unpaid vacations and maternity leave should not be included since they do not increase take home pay.

The issue is more complicated, however, as regards in-kind benefits. Whereas the Anker Method in principle allows to include in-kind benefits as partial payments of Living Wages, it makes certain restrictions following ILO conventions and national laws. This is especially important because in-kind benefits have a high potential for abuse, as they have been used to keep workers in dependency, often even on the verge of slavery (Anker and Anker 2017, 282). In order to be included, they need to fulfill the above four criteria as well as the minimum food and housing standards from step 1, if applicable. This means that, for example, meals, housing, transportation, child care, and education can be included as partial payments of Living Wages, whereas work equipment or dormitories for seasonal workers must not (Anker and Anker 2017, 296).

If an in-kind benefit is recognized as a partial payment of Living Wages, its monetary value is estimated using secondary and primary data. In doing so, researchers need to ensure that it neither exceeds the provision costs for the employers nor the replacement costs to workers if they purchased the respective items on the market or prepared them at home. Secondly, the monetary value of in-kind benefits must not fall below certain percentage limits. The Anker Method recommends at most 30 percent for all in-kind benefits, 15 percent for housing, and ten percent for any other expenditure group. Finally, in-kind benefits should not exceed the amounts that are included in the Living Wage models for the respective items.

Step 4: Living Wage Reports. Having calculated the Living Wages and estimated the prevailing wages, the Anker Method requires researchers to publish their results. Aim of these Living Wage Reports is to make the calculations as well as the underlying assumptions transparent and to contextualize the Living Wage estimations. In order to be comparable, all Living Wage reports share a similar outline: On the one hand, the reports provide the underlying data, explain the models, and guide through all important steps in the respective estimations. This includes, among others, detailed as well as easy summary tables. On the other hand, the reports put the results into perspective by providing background information and comparing the Living Wages with other commonly used benchmarks. For one, the Anker Method requires researchers to elaborate on the country-, region-, and industry-specific contexts. This can include, among others, the pollical, social, and ecological circumstances as well as the health care and educational systems. For another, the reports need to include photos of local food markets and local housing conditions that closely correspond to the Living Wage minimum standards. In addition, the reports need to compare the Living Wages with average wages, legal minimum wages, as well as poverty line wages (for example, in terms of the World Bank poverty line) and discuss the gaps. This also includes recent trends in real wages, as the context of a gap is different if the actual wages have been falling or rising. The Anker Method provides details how to ensure that the reference benchmarks are comparable to the Living Wages in terms of time, unit, and forms of remuneration. For example, average wage data generally indicate gross wages, include overtime pay, and exclude the in-kind benefits.

2.2.2. Why is the Anker Method relevant?

I use the Anker Method as an illustrative evaluation of Living Wage methodologies informed by the Capability Approach because I believe that it is currently the most influential approach. I think so for three reasons. Most importantly, the Anker Method is being used as a “gold standard” by parts of the civil society, governmental organizations, international organizations, as well as some companies. Sustainability standards such as Fairtrade and the Rainforest Alliance include Living Wages in their codes, basing their calculations of which payments are a fair minimum on the Anker Method (Fairtrade International 2014, 5; Rainforest Alliance 2022, 7). Also, governmental institutions such as German Federal Ministry for Economic Cooperation and Development (BMZ) and governmental development agencies such as the German Agency for International Cooperation (GIZ) use and promote the Anker Method (Living Income Community of Practice 2021). Furthermore, the Anker and Anker developed the methodology within the ILO (Anker 2005). In demanding from the EU to strengthen the EU Supply Chain Law and not to compromise with regard to Living Wages, finally, even multinational enterprises such as Aldi

South, Mondelez, Nestlé, and Unilever refer to Living Wages in terms of the Anker Method ("Civil Society Statement on the Proposed EU Corporate Sustainability Due Diligence Directive" 2022).

Secondly, the other existing methodologies to calculate Living Wages as well as other poverty line methodologies involve serious difficulties. While proving this claim would require an extensive evaluation and comparison of the other methods against our framework, I will not go into detail and leave this claim open. However, I want to highlight two characteristics of the Anker Method that are I consider highly important, but which are not covered in our evaluative framework informed by the Capability Approach. On the one hand, the Anker Method is transparent in that it makes its most important living costs – food and housing – explicit. This is opposed to most other existing Living Wage and poverty line methodologies which measure living costs for two expense-groups only, namely *food* and *all other costs* including housing. This means that, unlike the Anker Method, these methodologies include about half of the living costs in a black box. The problem with such a procedure is that it cannot reflect the most important differences in living costs within countries and between countries. Including housing costs as a separate model expense group, on the contrary, makes it easier to estimate different Living Wages, because housing is almost always the main reason for differences in living costs in different locations within countries. On the other hand, the Anker Method makes more realistic and detailed assumptions than other approaches to calculate Living Wages or different poverty lines. Most importantly, almost all other methodologies for developing countries use a model diet that only ensures sufficient calories, thereby neglecting important aspects of healthy diets. The Anker Method, however, provides extremely detailed model diets including macronutrients, fruits, and vegetables while at the same time taking into account local food preferences and relative prices.

The final reason I focus on the Anker Method instead of other Living Wage methodologies such as the Asia Floor Wage is that the Anker Method has been applied to wide range of locations. For example, Living Wages have been calculated – and often updated – for different regional and urban contexts ranging from, among others, Bangladesh, China, Colombia, the Côte d´Ivoire, Ethiopia, Ghana, India, Kenya, Morocco, Pakistan, and Turkey, Uganda, and Vietnam.

2.2.3. Evaluation

As an example of the evaluation of Living Wage methodologies, I will now apply the framework elaborated above to the Anker Method.

LWM.1: Focus on capabilities and conversion factors. I think that the Anker Method focuses on capabilities and conversion factors as opposed to realized functionings – but not sufficiently. This contradicts the Capability Approach.

On the one side, it is true that the Anker Method calculates Living Wages based on a model that specifies the reference families and the threshold of capabilities that they need for a life in dignity. As these minimum capabilities are initially very abstract, they can be regionally specified in accordance with the different cultural, geographic, and economic contexts, thereby relying on primary and secondary data. The Anker Method then specifies these minimum capabilities in terms of expenditure groups, which are chosen by minimizing the costs that are necessary to meet the respective capability standards. The Living Wages are then the gross amount of money that reference families need to realize these minimum capabilities.

On the other side, however, the Anker Method allows to include in-kind benefits as partial payments of Living Wages. As indicated above, including in-kind benefits is very problematic from the perspective of the Capability Approach, as they are functionings as opposed to capabilities. Opposed to that, I have argued that the wages need to be paid in monetary terms in order to give the workers the real freedom how to realize their conceptions of the good life. However, I believe that, taking into account the practical relevance of in-kind payments, the compromise suggested in the Anker Method makes this shortcoming less severe. As they are factually an important and accepted form of remuneration in many countries, I think that including certain in-kind benefits along with the Anker Method can be legitimate – but it needs to be subject to particular caution.

Furthermore, the way that Anker and Anker set up the model families that translate the minimum capabilities into wages is highly problematic. For one, I believe that, especially in the context of extreme poverty, it is illegitimate to model the family size based on prevailing child mortality. If the living standards are below the minimum capabilities that are considered necessary for a life in decency, this increases the prevailing child mortality. In other words, we are interested in models assuming that human rights are fulfilled – but the reference family sizes as estimated by the Anker Method are likely to be based on human rights violations, especially in countries of the so-called Global South. For another, article 23 of the Universal Declaration of Human Rights unmistakably demands that "everyone who works has the right to […] remuneration ensuring for […] his [or her] household an existence worthy of human dignity […]." This implies that Living Wages should be sufficient for *one* full-time worker to support her household – in other words, Living Wages need to assume *one* full-time equivalent worker per model household. This is clearly violated by the Anker Method which always assumes this number to be between one and two, as I have elaborated above. This inadequate setup of model families means that the Living Wages are very likely to be smaller than they should, implying that they will not suffice to meet the capability thresholds for all household members.

LWM.2: Scientific foundation. The Anker Method bases the decision which threshold of capabilities is necessary for a live in dignity on a theoretical and scientific foundation, which is in line with the Capability Approach.

The food and housing models to estimate Living Wages are based on normative recommendations by, among others, the UN and the WHO. Furthermore, the Anker Method considers local experts and to some degree reflects the preferences of the affected workers. However, it does not explicitly demand that women and, if applicable, nonbinary people are involved, which is a severe shortcoming from a feminist perspective. As these models are initially very abstract, they are adapted to the specific regional cultural and geographical circumstances.

The participation of workers and experts from the Global South is ensured in three ways. *Firstly*, the regional specification relies on primary data with regard to local food and housing habits as well as secondary data and guidelines provided by the respective national governments. The Anker Method ensures that workers and scientists from the Global South can participate in setting up the Living Wage models in that in that the primary data are collected by local investigators who are accompanied by workers. *Secondly*, the regional specification relies on discussions with workers. *Thirdly*, the NFNH expense group is estimated on the basis of primary and secondary data about their current spending patterns. I believe that NFNH costs need to be, therefore, understood as reflecting the workers' and their family's revealed preferences. It needs to be highlighted that the participation of the affected workers as well as the local experts does not cover the modelling of the normative capability model but only their regional specification. This is, however, in line with the Capability Approach.

LWM.3: Provisional nature. I believe that, as regards its provisional nature, the Anker Method is coherent with the Capability Approach.

The Anker Method sufficiently reflects that the economic and political circumstances as well as cultures – and therefore the necessary conditions for a live in dignity – change over time. Firstly, it updates the data that are used for the calculation of Living Wages on a regular basis and in appropriate time intervals. It demands that the prices used as input for the calculation be updated in accordance with the Consumer Price Index (CPI), thereby tying Living Wages to the inflation rates. This needs to be done at least once a year and even more often in high inflation countries with more than ten percent annual inflation. Furthermore, Anker and Anker acknowledge that changes in taxes and other payroll deductions need to be considered, which is especially relevant in contexts with progressive taxes in combination with a low tax-exempt amount. As the CPI is the most reliable and widespread inflation index, I believe that this is sufficient. Secondly, the Anker Method demands that new Living Wage studies need to be conducted every five to ten years – the exact interval depending on the growth rate of the GDP per capita. This means that not only new data need to be collected, but also that the models and the respective expense groups that are used to estimate Living Wages need to be revised on a regular basis. The Anker Method, thereby, ensures that the living standards and the respective wage thresholds are adjusted to new economic and political circumstances.

Unfortunately, Anker and Anker do not elaborate on adjusting the methodology itself in response to new scientific findings. For one, however, it would be a non-charitable reading of the Anker Method to assume that it would not adjust, for example, the threshold nutritional or housing requirements if it were necessary. For another, I believe that the underlying models are abstract and flexible enough for the Anker Method to fulfill the provisional nature required by the Capability Approach.

LWM.4: Multiple realizability. The Anker Method allows for multiple realizability as required by the Capability Approach.

Most importantly, the Anker Method defines the model requirements for decent living in sufficiently abstract terms. For example, it only outlines the nutritional threshold requirements in terms of calories without universally specifying the exact food items. This gap is closed by collecting regional primary data and considering secondary data provided by the respective governments. It uses these data for the estimation of the respective expense groups and, therefore, the Living Wages. Thereby, the Anker Method ensures that the lists of relevant capabilities and conversion factors can be translated and adjusted to the diverse cultural, geographical, and political circumstances. With regard to multiple realizability, the Anker Method is, thus, coherent with the Capability Approach.

LWM.5: Potential means. I believe that the Anker Method fulfills the potential-means-requirement implied by the Capability Approach.

This requirement is inherent in the very setup of the Anker Method as it estimates Living Wages based on the sum of the different model expense groups. As these are by definition monetary, all of the included capabilities and conversion factors have a causal connection to income. In addition, this means the Anker Method is in line with Nussbaum's list of central capabilities. In the above chapter, I have elaborated that Living Wage methodologies need to cover at least the monetary means for sufficient food, housing, basic education, and health expenses. This corresponds precisely to the four the most important model expense groups set forth in the Anker Method.

LWM.6: Responsibility. I argue that the Anker Method does *not* fulfill the responsibility-requirement.

This means the Living Wages do not reflect only those capabilities and conversion factors that are within the responsibility of corporations, thereby violating the Capability Approach. On the one hand, some of the implicit assumptions made in the model exclude capabilities and conversion factors that are beyond the responsibility of the companies.

For example, in setting up the model diet thresholds, Anker and Anker implicitly assume that people are healthy and have a functioning metabolism. Furthermore, the different expense groups as well as their translation into wage levels referring to model family size and composition is in line with the duties that correspond to article 23 of the Universal Declaration of Human Rights. I think that Anker and Anker have made a strong case arguing that their models serve as a threshold for even such an "existence worthy of human dignity".

On the other hand, this does not hold for the number of full-time equivalent workers per reference family, based on which the Anker Method estimates the Living Wages. I have already argued with regard to LWM.1 (focus on capabilities and conversion factors) that this violates article 23 of the Universal Declaration of Human Rights. In addition, this implies that Living Wages are the smaller the larger the number of full-time equivalent workers per reference family. If the reference family in region X contained one full-time equivalent worker per family and two in region Y, then the Living Wage in region X would be twice as high as in region Y. However, this is very problematic as this would hold companies and consumers responsible for regional underemployment as well as cultural institutions that restrict women to domestic labor. While this is a serious shortcoming of the Anker Method, I believe that it could be easily solved if the Anker Method were adjusted to assuming one full-time equivalent worker per reference family, as would also be consistent with the Universal Declaration of Human Rights.

LWM.7: No trade-offs. The Anker Method does not trade off the different aspects that constitute a Living Wage, which is in line with the Capability Approach.

Again, this requirement is inherent in the very setup of the methodology: In estimating the Living Wages as the sum of the different expense groups for all members of the model family, it ensures that an abundance of one capability or conversion factors cannot compensate for the lack of another. Suppose a prevailing wage does not suffice to cover the minimum housing standards because rent for adequate living space would be too expensive. Even if it does allow, instead, for food that is better than the minimum model diet, the prevailing wage does not qualify as a Living Wage.

LWM.8: Numerical wage levels. The Anker Method fulfills the requirement to result in precise, numerical wage levels, which is in accordance with the Capability Approach.

This does not only hold for the Living Wage estimations but also for the calculation of prevailing wages. It does, thereby, ensure a clear-cut and unambiguous criterion as to whether or not companies are paying Living Wages to their workers.

LWM.9: Households. The Anker Method does not fulfill the requirement to base the Living Wage calculation on households, thereby violating the Capability Approach.

The Anker Method takes a clear stand on the composition of the reference families: It is explicit about the number of family members, the number of full-time equivalent workers, and their composition as regards age and gender. Furthermore, it outlines how to adjust the model expense groups for age, gender, and physical activity levels of the respective family members. However, the Anker Method bases the calculation of aggregate well-being on nuclear families instead of households, thereby contradicting the Capability Approach. As Anker and Anker explicitly contrast families and household as distinct concepts, the Anker Method violates the requirement to calculate Living Wages for households.

However, I believe that the authors have a point in arguing that focusing on households can be misleading in contexts where labor migration is common: This would reduce the size of the reference households, thereby failing to reflect the responsibilities and monetary needs that continue to exist. Furthermore, Anker and Anker acknowledge that many workers have a social or cultural obligation to provide support not only for their children but also for their parents and other relatives. The Anker Method, therefore, includes the possibility to add about five percent to the Living Wages in order to allow workers to support their relatives (Anker and Anker 2017, 238). Based on this argumentation, I believe that, while the Anker and Anker Method clearly contradicts the Capability Approach as regards the household-requirement, it does so in a reasonable way.

LWM.10: Non-discrimination. I believe that the Anker Method does not directly discriminate among workers and their families on the basis of, for example, gender, ethnicity, caste, or religion. This means that, ceteris paribus, it assigns the same threshold wage level to all workers who are employed in the same region – which is an important requirement implied by the Capability Approach.

However, I believe that that the Anker Method fails to provide sufficient incentives against discrimination of women. I have already tried to show in the context of requirements LWM.1 (focus on capabilities and conversion factors) and LWM.6 (responsibility) that calculating Living Wages relative to the amount of full-time equivalent workers per reference family is questionable. This is also the case from the perspective of non-discrimination. In societies with a low labor force participation rate of women, this means that women entering the labor force would reduce the overall Living Wages. Since Living Wages are the smaller the larger the number of full-time equivalent workers per reference family, the Anker Method punishes women for engaging in paid labor as opposed to domestic reproduction work. This is highly problematic from the perspective of the Capability Approach: As highlighted above, Sen (Sen 1999, 193) has shown that female labor force participation does not only promote gender equality but it also improves the intra-family division of food as well as education and healthcare expenses in favor of women. Furthermore, and unlike wage labor of men, it reduces child mortality, fertility rates, and even has a positive impact on, among others, environmental policies. I believe that this problem would be solved if the Anker Method were adjusted to assuming *one* full-time equivalent worker per reference family, as would be consistent with article 23 of the Universal Declaration of Human Rights. This would ensure that families have a financial incentive for women to engage in paid labor.

LWM.11: Normative work standards. The Anker Method bases the calculation of Living Wages on normative work standards, which is in line with the Capability Approach.

These are in accordance with international standards provided by the ILO and the WHO. Firstly, the number of workers per reference family excludes children, thereby not counting child labor as partial payments of Living Wages. Secondly, the Anker Method sets forth working time limitations in estimating the prevailing wages. This follows from the exclusion of overtime payments as well as premia for night work and weekends of the Living Wage calculations.

LWM.12: Social aspects. The Anker Method understands well-being not only in absolute but also in relative terms, which is an important implication of the Capability Approach.

This means that the Anker Method does not only cover physical needs that people have in order to live well, but also social aspects of well-being. Firstly, the Anker Method calculates the costs for a decent living not by merely minimizing the expenses that would fulfill the threshold model requirements as regards, among others, food and housing. Instead, it collects primary data that allow to consider local food and housing habits – even if they do not minimize the costs. Secondly, Anker and Anker suggest adjusting the minimum standards to the social expectations that are associated with economic development. For example, it increases the living space that is considered necessary for decent housing with economic development (Anker and Anker 2017, 125–28). The same holds for the variety of items in the model diets (Anker and Anker 2017, 54).

LWM.13: Resilience. The Anker Approach satisfies the resilience-condition implied by the Capability Approach.

On the one hand, the Anker Method includes a certain amount of savings as a model expense group for modelling and estimating the Living Wages. This means that, in addition to covering their everyday needs, the Anker Method allows workers to save some money. In other words, it includes measurements to make workers and their household resilient against unexpected events such as illness that require sudden additional expense. On the other hand, it ensures some capability security by demanding that payments need to be guaranteed and not at the discretion of the companies in order to count as partial payments of Living Wages.

LWM.14: Regional specification. The Anker Method allows to calculate regionally different Living Wages, which is also an important implication of the Capability Approach.

This reflects that the costs of living are not the same within a country. This can be due to, for example, different food and housing costs or different food and housing habits. While the methodology is the same independent of the geographical and cultural context, there must be at least separate Living Wages for rural and urban areas. Anker and Anker highlight that larger countries even require separate Living Wage estimates for different regions and different cities. The Anker Method implements this requirement by using regionally different input data: For one, it regionally specifies the items for the respective model expense groups and as well as their price estimations. This is especially valuable because it models housing as a separate cost group, thereby making the main reason for different living costs between urban and rural areas within countries explicit. For another, it models the reference families in accordance with the local contexts. Both steps are based on secondary data provided by local governments as well as primary data that are newly collected for this purpose.

Despite that, I criticize that the Anker Method is not precise about how to split up countries into regions. It remains unclear or a matter of personal judgment to decide whether or not to treat a region as separate. While Anker and Anker acknowledge that this choice needs to balance limited budgets as well as the need for Living Wages to be generalizable, I believe that this imprecision provides incentives to something like "gerrymandering" in the calculation of Living Wages.

LWM.15: Disaggregated data. The Anker Method accompanies the Living Wage estimations by reports, thereby fulfilling another important requirement implied by the Capability Approach.

This means that the Anker Method does not only result in monetary output as demanded by LWM.1 (focus on capabilities and conversion factors) and precise numerical estimates for the Living Wages as demanded by LWM.8 (precise numerical outputs). In addition, the Anker Method includes disaggregated data and contextualization and provides instructions on how to write reports that contextualize the results. Firstly, the reports need to outline the specific regional economic, political, and cultural circumstances in the respective regions. Secondly, Anker and Anker demand that the Living Wage reports provide detailed information about, among others, the normative model assumptions and the database. This means that the reports need to guide the reader through every step of the calculation. Thirdly, the Living Wage reports aim at visualizing what it means to live on Living Wages and on less. This includes publishing photos of local housing as well as local markets.

These reports are highly important for an effective dialogue with all stakeholders along the supply chains. They allow readers without much background knowledge about the respective local conditions to intuitively grasp the model threshold standards of living. In addition, they are necessary for stakeholders to understand and question the methods and the implications of paying Living Wages.

2.3. Framework for Supply Chain Laws

In the last sections, I have set up a framework to evaluate Living Wage methodologies based on the Capability Approach and I have done so exemplarily for the Anker Method. Now, I will do the same for evaluating the legal implementation of Living Wages through supply chain laws – and, based on this second framework, I will evaluate the wage aspects of the upcoming EU Supply Chain Law. Again, I need to highlight that the framework is *informed by* the Capability Approach. Some aspects of the framework to evaluate supply chain laws that are crucial but cannot be uniquely derived from the above analysis. Instead, these requirements are necessary to ensure that the supply chain law effectively implements Living Wages – in other words, without these conditions, we could not say that a supply chain law legally implements Living Wages. To be precise, I refer to criteria SCL.1 (inclusion of Living Wages) and SCL.2 (assurance of compliance). This means that these criteria are consistent with the Capability Approach and even follow from it – but only in a very trivial way. I will set up the framework as follows:

SCL.1: Inclusion of Living Wages

Supply chain laws should make explicit that the due diligence responsibilities include paying Living Wages.

This criterion is extremely important and a necessary condition for a further analysis of supply chain laws with regard to Living Wages. While it would be helpful, it is not essential that supply chain laws actually use the very term "Living Wages" to define the associated duties. Instead, they could use terms such as "decent wages" or "wages that are sufficient to afford a decent standard of living". They must, however, precisely define the associated duties. Inclusion of Living Wages, furthermore, implies that supply chain laws need to make explicit based on which methodology the Living Wages are calculated. The respective Living Wage methodology is evaluated based on criteria LWM.1 to LWM.15.

SCL.2: Assurance of compliance

Supply chain laws need to take appropriate measurements to ensure that the companies do indeed comply with their duty to pay Living Wages to all workers along their supply chain.

The requirement to assure compliance has several practical implications. *Firstly*, this condition means that supply chain laws need to be explicit about the civil and criminal sanctions and consequences that are associated with failures to pay Living Wages. They must define the respective monetary penalties as well as possible prison sentences. For obvious reason, these sanctions need to be appropriate. This requirement is closely related to SCL.4 (precise responsibilities). *Secondly*, supply chain laws need to ensure that respective authorities exist and that they have the necessary means and entitlements to control whether or not the respective companies fulfilled their due diligence duties. In addition, sufficient mechanisms must exist such that these authorities can gather the necessary information. This implies that supply chain laws should set the threshold for complaints and legislative action as low as possible. For one thing, supply chains laws should ensure that all stakeholders can effectively issue complaints at the supervisory authorities. These stakeholders include, among others, workers and their representatives, trade unions, human rights organizations – and competing companies. In addition, potential victims of human rights violations need to de facto have access to court. This means that supply chains laws need to reverse the burden of proof on the companies instead of the claimants. This is because the companies have the relevant documents and the victims of human rights violations have limited resources. Furthermore, as the way for victims of human rights violations to transnational lawsuits is very complicated and costly, supply chain laws need to ensure that legal aid (financial and procedural) are available. Finally, supply chain laws need to provide opportunities for class actions and ensure that whistleblowers are protected. *Thirdly*, supply chain laws need to make proactive consultation of the relevant stakeholders mandatory. This should include, among others, workers, trade unions, and local community members. *Finally*, as the complying to the due diligence duties and fulfilling the responsibilities associated with Living Wages are indeed complex, assuring compliance implies that supply chains laws need to set forth practical and comprehensible guidelines. Such guidelines do not only facilitate compliance for companies, but they also can support workers to know their rights and civil society to monitor business conduct.

SCL.3: Horizontal and vertical scope

Supply chain laws should ensure that all workers along the respective supply chains and all companies are covered by the due diligence duties.

In other words, this requirement means that supply chain laws need to make explicit that they include all actors along the supply chains. On the *horizontal* dimension, this means that all companies that operate in the respective markets must be covered, irrespective of their legal status. This does not imply, however, that all companies should necessarily have the same extend of duties, regardless of their size and the sector they operate in. I believe that it is reasonable and in accordance with the Capability Approach that, for example, large companies have more duties than small ones and companies that operate in high-risk sectors have more duties than companies that do not – especially as regards distant and indirect suppliers. On the *vertical* dimension, this condition requires that all steps of the supply chain are covered by the law. From the overall perspective of human rights, this applies both upstream and downstream. However, I believe that the payment of Living Wages can be reasonably demanded only with regard to upstream activities. In other words, this means that supply chain laws need to demand that companies take the necessary precautions to ensure that Living Wages are paid in all their own operations as well as the activities of their subsidiaries and suppliers.

SCL.4: Precise responsibilities

Supply chain laws should be unmistakable about the exact responsibilities that are associated with paying Living Wages.

On the one hand, supply chain laws need to clearly define who has the respective responsibility – as well as who has not. From criterion SCL.3 (horizontal and vertical scope), it follows that all agents along the supply chain have a duty to pay at least Living Wages to all workers that are involved in their own operations. Furthermore, they need to ensure that their upstream business partners pay them as well. As elaborated above, this duty can in principle apply on the level of individual as well as collective responsibility: Suppose, for example, that an important subsidiary of a company has paid paltry wages to its workers and that this was or could have been known. It follows that the supply chain law should not only hold "the company" as an abstract collective entity responsible but also particular individual employees. To provide legal clarity, it should at least specify the duties that the members of the executive board as well as individual decision makers have.

On the other hand, supply chain laws should set forth clear-cut and detailed criteria as regard the conditions under which this duty has been fulfilled. First and foremost, they should outline the exact activities that a company needs to undertake to ensure that its suppliers fulfill their obligations, including the duties of reporting. Related to that, they need to elaborate whether different duties apply to companies that have different sizes or that operate in different sectors. Finally, supply chain laws need to make explicit who is responsible to carry out the Living Wage calculations and to collect the input data. As there is always some scope for interpretation, distortion, and financial acrobatics, it is likely to make a difference whether independent authorities or the companies themselves calculate the Living Wages.

For obvious reasons, these responsibilities need to be extensive enough to ensure that Living Wages are paid to all workers. The criterion to provide precise definitions of the duties is closely related to the requirement to precisely define sanctions that is part of SCL.2 (assurance of compliance) and can be understood as a precondition.

SCL.5: Discourage disengagement

Supply chain laws should discourage companies from terminating business relationships in the case of human rights violations – as opposed to using their market power to improve the situation.

From the perspective of capability security, it is important that companies do not only pay Living Wages – but also that they do so in a way such that workers and their households can plan with sufficiently high wages in the future. However, even if employees receive too low salaries, in many cases, they might still prefer this situation to unemployment. Suppose that a certain supplier pays insufficient wages to its employees, thereby violating their human rights, and that this situation is known to a company located in the EU. If, in reaction to these human rights violations, this company decides to disengage from business relationships with the respective supplier, this can leave the vulnerable even worse off than before. The criterion of resilience requires, therefore, that supply chain laws should not only include the above measures that ensure that Living Wages are paid, as laid out in criterion SCL.2 (assurance of compliance). Instead, they should provide incentives for companies to use their influence to jointly remedy the damage.

Two things need to be added. Firstly, I believe that this argumentation does not hold for countries where these human rights violations are a result of political decisions instead of economic pressure. The systematic use of forced labor in the Chinese province Xinjiang is an important example for situations where terminating business relationships is necessary from a human rights perspective: Even if EU companies were aiming at ensuring the human rights of their Uyghur workers as opposed to profiting from cheap production costs, they have no leverage to improve their situation by maintaining business relations. Secondly, I believe that the conditions to discourage disengagement is not in conflict with the requirement to assign legal penalties for human rights violations that I have elaborated in SCL.2 (assurance of compliance). There exists a variety of statistics showing there is a huge discrepancy between the share of the final prices and profits that are appropriated by companies in the end of the supply chain as opposed to the workers in the beginning of the supply chain. This is especially relevant with regard to Living Wages, where even the minimum requirements are extremely low and, therefore, affordable by redistributing the profits along the supply chain. This implies that, if human rights are violated because companies pay insufficient wages, they can usually maintain their business relations while ensuring that Living Wages are paid without having to suffer from severe competitive disadvantages.

2.4. Application to the EU Supply Chain Law

Having set up the framework to evaluate the integration of Living Wages into supply chain laws, I will now apply this framework to the upcoming EU Supply Chain Law. I will begin by outlining its key points as well as the recent political developments with regard to its implementation.

2.4.1. What is the EU Supply Chain Law?

The EU currently drafts its so-called Corporate Sustainability Due Diligence Directive, also referred to as the EU Supply Chain Law. This law makes specific due diligence procedures with regard to human rights and environmental impacts mandatory for certain companies. What is most relevant in our context is that the affected companies must identify, prevent, mitigate, and account for the exploitation of workers along their supply chains – which includes a duty to pay Living Wages. However, this does not imply that the companies need to guarantee that exploitation along their supply chains never occurs or that it will always be stopped. Instead, they need to take "appropriate measures" (European Commission 2022b, art. 6(1)) to mitigate human rights violations along their supply chains: On the one hand, the affected companies themselves and their subsidiaries need to ensure that they pay Living Wages. On the other hand, they need to minimize other actors along their supply chains paying paltry wages.

In passing its Supply Chain Law, the EU aims at creating legal certainty as well as a level playing field for companies that operate within its market. It wants to ensure that companies do not simultaneously fall within the scope of two or more different national legal frameworks – that might even be mutually incompatible. Furthermore, it wants to exclude that some companies do not fall within the scope of any national framework although they operate within the EU.

The EU Supply Chain Law outlines that the due diligence duties consist of six steps (European Commission 2022b, arts. 4–11). *Firstly*, companies must integrate due diligence into their policies. This includes a code of conduct as well as a description of the company's approach to due diligence, the processes to implement it, and the measures to verify that the employees and subsidiaries comply with it. These due diligence policies need to be updated once a year. *Secondly*, companies need to take appropriate measures to identify actual and potential human rights violations. This includes, where considered necessary, the consultation of relevant stakeholders including workers. Whether a measure is considered appropriate depends on the particular characteristics of the respective supply chains including the sectors, the geographical areas, the influence that the companies have on the relevant actors in their supply chains, and whether or not the specific issue should be given priority (European Commission 2022b, art. 3q). *Thirdly*, the EU Supply Chain Law demands that companies take appropriate means to prevent, mitigate, and end potential and actual human rights violations. This includes implementing prevention action plans with timelines for action as well as qualitative and quantitative indicators that allow to measure the human rights situation along the company's supply chains. Furthermore, companies need to make contracts with their direct partners that ensure compliance with their code of conduct, which need to be monitored – for example, by third-party verification. In case of actual human rights violations, companies need to minimize its extend and financially compensate the affected persons and individuals. *Fourthly*, companies must ensure that people affected by human rights violations as well as trade unions and civil society organizations can submit complaints regarding the operations of the companies themselves, their subsidiaries, and other actors along the supply chain. This includes meetings with companies' representatives and allowing for follow-up complaints. *Fifthly*, companies need to monitor whether their due diligence measures are effective in identifying, preventing, and ending the potential and actual human rights violations along their supply chains. Again, they need to carry out these assessments at least once a year and update the due diligence policies in accordance with the results. *Finally*, the EU Supply Chain Law requires companies to publish reports on their website at least once a year. These reports need to describe the due diligence policies, the potential and actual human rights violations along their supply chains, and the actions that the companies have taken in order to prevent, mitigate, and end them.

The EU Supply Chain Law explicitly highlights that the directors are responsible to ensure that the companies comply with their due diligence duties. These duties hold along the complete supply chains, both upstream and downstream. This means that it includes not only the operations of the companies and their subsidiaries, but also the activities of their suppliers as well as the use of their products and services. However, the vertical scope is limited to a so-called "established business relationships". According to the EU Supply Chain Law, a business relationship is regarded as established if it is expected to be lasting and if it is not merely a “negligible” part of a company’s supply chain (European Commission 2022b, art. 3f-g).

Furthermore, the current proposals for the EU Supply Chain Law do not include all companies that operate within the EU. Whether or not a company falls within the horizontal scope depends on its turnover, the number of employees, the legislation under which it was formed, and whether or not it operates in so-called high-risk sectors – which include, most importantly, agriculture, mining, the textile industry, and the metal industry. In principle, the EU Supply Chain Law covers both companies that have their headquarters in the EU as well as third-country companies that operate in the European market. However, the criteria that are used for defining whether a company is affected are not the same for EU and non-EU companies (European Commission 2022b, art. 2). EU companies, on the one hand, need to meet a combination of a turnover and an employee criterion: In order to have any due diligence duties, their worldwide turnover needs to supersede 150 million euros per year. Furthermore, they need to have at least 500 full-time equivalent employees – including temporary agency workers. If, however, they generate more than 50 percent of their turnover in high-risk sectors, the threshold is at a worldwide turnover of 40 million euros per year and 250 employees. Non-EU companies, on the other hand, only need to meet a turnover criterion to fall within the scope if the law. If they operate in high-risk sectors, they need to generate an annual turnover of at least 40 million euros within the EU, otherwise the turnover needs be above 150 euros. It needs to be highlighted that the distinction between sectors that are considered to be of high and normal risk is important for another reason: Companies that do not engage in high-risk sectors are only required to identify severe human rights violations which, for example, affect a large number of people or are irreversible.

According to the current proposals for the EU Supply Chain Law, the fulfillment of the due diligence duties will be enforced by a combination of national supervisory authorities and civil liability. *State authorities*, on the one hand, carry out investigations whether or not companies comply with the above duties. These investigations include announced and unannounced inspections, covering the complete supply chains. In order to ensure that these supervisory authorities can carry out their duties, they will cooperate and share the relevant information on a European level. In case of noncompliance, they have the power to impose monetary administrative sanctions on the companies which are based on their turnover. In my view, however, it remains unclear from all current drafts whether these sanctions are only used for administrative purposes or also for the compensation of victims.

Civil liability, on the other hand, does not cover the whole supply chain, but only "established business relationships". Furthermore, companies are only liable for human rights violations that result from their own activities or operations of their subsidiaries or other actors along their supply chain. If, however, they have fulfilled their due diligence as described above, they are not liable for human rights violations by their indirect partners, even if the business relation is established. In addition to penalty payments in connection with state authorities and civil liabilities, companies that have been sanctioned for violating their due diligence obligations cannot apply for public support.

As of March 2023, there exist two out of three proposals for the EU Supply Chain Law. Whereas the European Commission has presented its proposal in February 2022, the Council of the EU has done so in December 2022. In November 2022, furthermore, the European Parliament has published a first draft report on which it will decide in spring 2023. As soon as all three institutions have adopted an official position, the trilogue negotiations take place. This means that the EU Supply Chain Law is likely to be finalized by the end of 2023. However, there will be a transition period until the EU member states have to implement the regulations into national law, ranging from two to five years. Seven years after the implementation, the European Commission will report on its effectiveness and make changes, if necessary.

As far as I can judge, the two proposals and the draft differ only in a small number of aspects. I, therefore, believe that we can expect that the final EU Supply Chain Law will incorporate the provisions that I have outlined above. Despite these wide similarities, however, there are two important differences between the proposals: Firstly, as opposed to the European Commission, the European Council explicitly mentions trade unions, workers' representatives, and human rights institutions as stakeholders. Secondly, unlike the European Commission, the proposal elaborated by the European Council excludes the financial sector from the due diligence duties. While the European Commission, on the one hand, envisages wide-ranging exemptions from the due diligence duties, it does in principle assign responsibilities to the financial sector (European Commission 2022b, art. 3(a)(iv)). The European Council, however, leaves it open to the EU member states to decide whether or not to include the financial sector into the due diligence regulations (Council of the European Union 2022, art. 2(8)).

2.4.2. Why is the EU Supply Chain Law relevant?

There exist several national supply chain laws, namely the British "Modern Slavery Act", which entered into force in 2015, the French "Loi de vigilance", which was introduced in 2017, the Dutch "Child Labour Due Diligence Law", which took effect in 2019, and, finally, the German "Lieferkettensorgfaltspflichtgesetz", which came into force in 2023. Why, then, is the EU Supply Chain Law so important as regards content and context?

I believe that this is the case because it differs from the above national initiatives in three important aspects. Firstly, the EU Supply Chain Law has a broader horizontal and vertical scope. This means that, on the one hand, it includes more companies than its national counterparts. For example, the German Supply Chain Law only holds for German companies with more than 1,000 employees and the French law for French companies with at least 5,000 employees in France or 10,000 worldwide. On the other hand, the EU Supply Chain Law covers more aspects of the supply chains. For example, the British Supply Chain Law refers mainly to forced labor and the Dutch Supply Chain Law to child labor. Furthermore, the EU Supply Chain Law obviously has a higher impact because the shared market of the EU is bigger than the individual markets of its member states. This also implies that it affects more companies and therefore more workers.

Secondly, the EU Supply Chain Law creates a level playing field for companies. This is important because it provides lower incentives for companies to avoid the due diligence duties by relocating their operations. For one, they have a smaller comparative disadvantage associated with the fulfillment of human rights because the same minimum due diligence standards apply to all comparable competitors. For another, it is more difficult for them to avoid the due diligence obligations as they would also need to sell their goods and services in other markets. Furthermore, they cannot evade their duties by just moving their headquarters to other EU member states as the regulations stay almost the same.

Thirdly, the EU Supply Chain Law includes paying Living Wages as a human right and therefore as a due diligence duty for corporations. This is opposed to the national supply chain regulations: For example, the German Supply Chain Law includes only the payment of local minimum wages – which is, however, not the same and often insufficient, as I have explained in the introduction. Also, the British Supply Chain Law is insufficient in this regard, as it defines exploitation only in terms of force but not in terms of market power.

For these reasons, I believe that the EU Supply Chain Law needs to be understood as a political paradigm shift. On the one hand, this is the first time that, on the level of the EU, human rights due diligence along their entire supply chain is mandatory for companies. Until now, there have only been unbinding due diligence standards on the international level, most importantly the UN Guiding Principles on Business and Human Rights and the Guidelines for Multinational Enterprises developed by the Organization for Economic Co-operation and Development (OECD). On the other hand, the EU Supply Chain Law sets a worldwide standard for fulfilling human rights that will have a strong influence beyond the EU.

2.4.3. Evaluation

As an example of evaluating how Living Wages are politically implemented within supply chain laws, I will now apply the framework elaborated above to the upcoming EU Supply Chain Law. I will do so by separately considering each criterion.

SCL.1: Inclusion of Living Wages. The EU Supply Chain Law highlights that the due diligence responsibilities include paying Living Wages to all workers along the respective supply chains. In doing so, it explicitly uses the term *Living Wage*, highlighting the "[…] prohibition of withholding an adequate living wage" (European Commission 2022a, art. 17). While not providing an own definition of Living Wages, the EU Supply Chain Law refers to the International Covenant on Economic, Social and Cultural Rights. It, thereby, defines Living Wages as a minimum remuneration that provides a decent living for workers and their families (United Nations 1966, art. 7 (a) (ii)) – which is in accordance with our understanding of Living Wages.

However, neither do the EU Supply Chain Law nor the Covenant elaborate on the methodology based on which Living Wages should be calculated or at least provide further details on the necessary and sufficient conditions for a decent living. This is a grave shortcoming and one of the most important deficits of the EU Supply Chain Law: Without outlining how Living Wages should be estimated, the EU Supply Chain Law paves the way toward arbitrariness.

Nevertheless, some properties can be inferred from the EU Supply Chain Law, allowing us to make some further statements as regards the criteria to evaluate for Living Wage methodologies. *Firstly*, the Covenant and, therefore, the EU Supply Chain Law put the evaluative focus on families instead of households (United Nations 1966, art. 7(ii)). This is not in line with the Capability Approach, as it violates requirement LWM.9 (households). As I have tried to show above, assuming that nuclear families are the basic unit of solidarity is Eurocentric and does not represent the everyday reality for a large share of the global population. *Secondly*, the EU Supply Chain Law explicitly prohibits unequal treatment in employment and demands equal remuneration for equal work of equal value (European Commission 2022a, I(16)). This is in accordance with the Capability Approach and confirms LWM.10 (non-discrimination) in that the Living Wages are the same, independent of, for example, gender. In addition, this is in line with LWM.12 (social aspects) because it acknowledges that wage discrimination would violate social recognition, which is a necessary aspect of decent living. *Thirdly*, the EU Supply Chain Law meets criterion LWM.11 (normative work standards). Not only does it require to limit working hours and prohibits exploitative child labor (European Commission 2022a, art. I(11)), but it also refers to relevant labor standards elaborated by the ILO which specify these requirements. This means that, in modelling the amount of labor per household, the Living Wage methodologies approved by the directive need to limit the working time per household member and exclude exploitative child labor. *Fourthly*, the EU Supply Chain Law ties the right to education to dignity and understands it as a condition for participation in society. This implies that methodologies to calculate Living Wages, defined in terms of dignity, must include education as a model expenditure group. This is in line with requirement LWM.12

(social aspects) and, thus, the Capability Approach. *Fifthly*, the Covenant and, thereby, the EU Supply Chain Law highlight that adequate food, housing, and clothing are necessary for a decent living. This means that these need to be included as model expenditure groups in the Living Wage methodology, which meets requirement LWM.5 (potential means). By referring to the Covenant, *finally*, the EU Supply Chain Law requires that workers receive remuneration on public holidays. This means that Living Wage methodologies need to model the working time in accordance with regional and cultural features, thereby meeting requirement LWM.14 (regional specification).

Of course, requirements LWM.1 to LWM.15 are more demanding, and an aspect being "in line with" a criterion should not be confused with the criterion being fulfilled. Furthermore, while these points shed some light on certain aspects of the Living Wage methodology that is required by the EU Supply Chain Law, they not, however, compensate for its grave failure to clarify the methodology.

To sum up, the main points of criticism with regard to criterion SCL.1 are the failure to set forth the methodology to estimate Living Wages and the focus on households as opposed to families. I, therefore, argue that the EU Supply Chain Law should be extended by an annex that clarifies the exact methodology to calculate Living Wages – in accordance with requirements LWM.1 to LWM.15.

SCL.2: Assurance of compliance. I believe that the EU Supply Chain Law does not take sufficient measurements to ensure that the companies comply with their duty to pay at least Living Wages to all workers along their supply chains, as would be in line with the Capability Approach.

It is true that the EU Supply Chain Law does indeed include a number of strong measurements to verify compliance. *Firstly*, it comprises both civil liability and supervisory authorities, thereby allowing workers to file lawsuits against companies, even if their human rights were violated by suppliers outside the European Union. This is monitored by independent governmental authorities who cooperate at a supranational level and impose administrative fines. Whereas the legal fines are used to compensate victims, the administrative fines go to state treasury. *Secondly*, the EU Supply Chain Law makes it mandatory for companies to set up appropriate complaints mechanisms for all stakeholders. *Thirdly*, it protects all whistleblowers who report human rights violations. *Finally*, the EU Supply Chain Law will be accompanied by guidelines that facilitate compliance for companies and which can also be used by civil society to monitor business conduct.

Nevertheless, I believe that these measurements are insufficient to ensure that the companies really comply with their due diligence duties. *Firstly*, and most importantly, the EU Supply Chain Law does not hold companies responsible for human rights violations by their suppliers if they have made externally audited agreements to comply with human rights – while at the same time failing to provide any regulations on the auditing industry. However, this is insufficient and does not ensure that companies appropriately comply with their due diligence responsibilities: If the certifying and auditing institutions are not liable themselves, their verifications cannot be considered credible. *Secondly*, companies that operate in the high-risk sector need to identify only severe human rights violations. Again, this is insufficient as there is no "non-severe" violation of human rights. For example, Living Wages have intrinsic value and are defined as thresholds to enable decent livings. *Thirdly*, the EU Supply Chain Law is not explicit enough about the civil and criminal sanctions and consequences that are associated with failures to pay Living Wages. It does not define the respective monetary penalties as well as possible prison sentences. In addition, the size of the administrative sanctions should not only depend on the companies' turnover (European Commission 2022b, art. 20(3)) but also on the extend of the human rights violations. Furthermore, the EU Supply Chain Law should ensure that companies that severely violated their due diligence duties are not eligible for subsidies and will be excluded from public procurement. *Fourthly*, stakeholders such as workers, trade unions, and civil society organizations can influence important decisions only in retrospect. Instead, the EU Supply Chain Law should demand that companies consult the relevant stakeholders in advance. *Fifthly*, the EU Supply Chain Law sets the threshold for complaints and lawsuits too high. For example, it puts the burden of proof whether companies fulfilled their due diligence duties on the victims of human rights violations and other actors of civil society. It should reverse the burden of proof on the companies instead. Furthermore, it should provide legal aid to the victims of human rights violations. *Sixthly*, the EU Supply Chain Law should carry out only unannounced controls instead of giving prior notice to the companies (European Commission 2022b, art. 18(3)).

To sum up, the main points of criticism with regard to criterion SCL.2 are the missing regulation of the auditing industry, the restriction to severe human rights violations for high-risk companies, insufficient precision of the legal sanctions, the insufficient consultation of relevant stakeholders, the high threshold for complaints and lawsuits, and the prior announcement of controls. I, therefore, argue that the EU Supply Chain Law needs to add an article that regulates the "independent third-party verification". Furthermore, article 6(2) needs to be deleted in order to ensure that high-risk industries have to identify all potential human rights violations and not just the most severe. In addition, articles 20 and 22 should precisely define the minimum monetary penalties and prison sentences, and article 22 should include the above instruments to lower the threshold for civil liability. Finally, article 18 should cross out the possibility of controls with prior warning.

SCL.3: Horizontal and vertical scope. The EU Supply Chain Law provides a sufficient account of the horizontal and vertical dimensions of supply chains. However, it gravely restricts this broad scope. It thereby fails to hold a large share of the companies accountable for paying Living Wages.

I have already outlined above that, in principle, the EU Supply Chain Law not only applies to European companies but also to companies from outside the EU if they operate in its domestic market. In addition, it includes not only supply chains inside the EU, but it covers all suppliers and subsidiaries worldwide – thereby covering the supply chain upstream as well as downstream. Nevertheless, the EU Supply Chain Law fails to consistently implement condition SCL.3. Firstly, it explicitly omits small and medium-sized enterprises (SMEs). Due to its criteria with regard to turnover and number of employees, the EU Supply Chain Law gravely restricts its vertical scope: It covers only about 13,000 companies within the EU and 4,000 foreign companies, thereby excluding more than 99 percent of the companies that operate within the EU (European Commission 2022b, 14). It is often argued that the SMEs will be indirectly responsible for paying Living Wages through their business relationships with the companies that are within the scope of the EU Supply Chain Law: They will just pass on their due diligence duties to their suppliers. While this might be true, I believe that these indirect due diligence duties are insufficient because the size of a company as defined in terms of turnover and the number of employees does not say anything about its impact on human rights. Furthermore, they affect only “established business relations” – a point to which I will come back in the next paragraph. If it turns out that the financial and administrative demands are too high for SMEs, the EU Supply Chain Law should instead provide support instead of releasing them from their due diligence duties.

Secondly, by confining the due diligence duties to “established business relationships”, the EU Supply Chain Law further limits the vertical scope of its application. It is often argued that supply chains are too complex to impose stronger due diligence duties on the financial sectors or to go beyond these “established business relationships” (see, for example, Gabriel Felbermayr et al. 2021). The way that globalized supply chains are structured makes it indeed difficult to directly control suppliers that are further away than two or three steps. For example, a fashion company can relatively easily trace back where exactly its shirts were sewn, but it is more difficult to trace back where the cloth was dyed, where the cotton comes from – and where the fertilizers that were used in its cultivation come from. However, such an argument ignores how procurement practices can drive down wages, especially in the case of unequal market power. On the one hand, this means that companies that operate within the EU – including SMEs and financial institutions with a relatively small number of employees – still have the market power to influence their suppliers or service recipients. For example, they can make contracts, thereby committing their business partners to comply. The monitoring could be outsourced and bundled to local audits and certification authorities. In this case, it would be necessary for the EU Supply Chain Law to include measurements to support and standardize the audition industry in order to regulate deficient audits. On the other hand, this means that also SMEs and financial institutions need to be made responsible for illegitimate purchasing practices including prohibitively low prices and deferred payments for goods and services.

Thirdly, the EU Supply Chain Law fails to include the financial sector in the high-risk sectors, thereby further restricting its horizontal scope. The criteria with regard to turnover and number of employees exclude a large share of the financial institutions, as they often have only few employees. However, as it involves large amounts of money, the financial sector is actually especially subject to risk. This is also acknowledged by the OECD Guidelines for Multinational Enterprises (OECD 2017). At the same time, the EU Supply Chain Law even reduces the due diligence obligations that financial institutions have, thereby further restricting its vertical scope: SMEs that receive financial services such as credits or insurance explicitly excluded from the financial supply chains.

To sum up, the main points of criticism with regard to criterion SCL.3 are the omission of SMEs from the due diligence requirements, the exclusion of financial institution from the high-risk sector, and the restriction of the supply chains to “established business relationships”. I, therefore, argue that articles 2(1) and 2(2) should be adjusted in order to include all companies regardless of their size. The duties need to vary with impact, but not with turnover or number of employees. Furthermore, financial institutions need to be integrated into the high-risk sectors in article 2(1)(b), and articles 5 to 11 need to include stricter instead of weaker provisions for the high-risk sectors. In addition, the EU Supply Chain Law needs to remove the restriction towards “established business relations” in articles 5 to 11. Finally, article 7 should include codes of conduct and contractual obligations that specify mutual duties for both buyers and suppliers. While the EU Supply Chain Law acknowledges this in the recitals (European Commission 2022a, 37), such a requirement is not included in the directive itself.

SCL.4: Precise responsibilities. The EU Supply Chain Law neither sufficiently designates the exact duties associated with paying Living Wages nor the specific people who are responsible to ensure compliance.

As regards the designation of the people who are responsible to implement the due diligence duties, the EU Supply Chain Law is not precise enough to ensure that Living Wages are paid to all workers. In a nutshell, it fails to comprise who exactly has the duty to verify compliance and who will, therefore, be liable to civil charges in case of violations. While the EU Supply Chain Law does indeed imply that the company as such needs to pay the respective fines and compensations, it remains unclear to which degrees individual decision makers are liable and which exact duties the members of the executive board have. This would be, however, crucial in order to provide legal certainty.

As regards the conditions under which the due diligence duties are fulfilled, the EU Supply Chain Law is not sufficiently clear-cut, either. On the one hand, it lists and elaborates on the necessary measures that companies need to take – namely, to integrate due diligence policies, identify, prevent, and end human rights violations, set up complaints procedures, and publicly report. The only important imprecision that I recognize refers to the requirements with regard to the due diligence reports. While there are regulations concerning the content, this is not the case for the provision. In particular, it would be necessary for the reports to be publicly available for sufficiently long time for the supervisory authorities and relevant stakeholders to draw upon them if necessary. Furthermore, while they need to include a description of their due diligence, potential and actual human rights violations, as well as their counteractive measures, the EU Supply Chain Law also must also require companies to transparently map their supply chains and suppliers. On the other hand, and most importantly, the fact that the EU Supply Chain Law does not specify the methodology underlying the estimation of Living Wages implies that there is no clear-cut point as to when the paid wage is actually high enough, leaving too much room for interpretation. This severe shortcoming is even reinforced by the fact the EU Supply Chain Law does not clarify who has to collect the input data who is responsible to calculate – and thereby has the power to define – the Living Wages.

To sum up, the main point of criticism with regard to criterion SCL.4 is the vague assignment of liabilities to individual decision makers and the members of the executive board. In addition, the level of the Living Wages is imprecise as no methodology is set forth and it remains unclear who can and must carry out the estimations. Following my conclusion for SCL.1 (inclusion of Living Wage), I argue that the annex outlining the underlying Living Wage methodology needs to make explicit who is responsible to collect the data and calculate the respective wage levels. Furthermore, article 25 needs to set forth clear-cut and extended duties for the members of the executive board, and the EU Supply Chain Law needs to add a further article clarifying the responsibilities of individual decision makers in accordance with requirements SCL.1 to SCL.5.

SCL.5: Discourage disengagement. The EU Supply Chain Law does not sufficiently discourage companies from terminating business relationships in the case of human rights violations as opposed to using their market power to improve the situation.

It is true that, by restricting the scope to so-called “established business relationships”, the EU Supply Chain Law does not provide any incentives to disengage with minor suppliers if they fail to pay Living Wages to their workers. However, such an argument would miss the point, as restricting the scope to these long-term suppliers is the very problem: *Firstly*, the requirement to discourage disengagement clearly aims at forcing corporations to redistribute the gains along the supply chain and use their bargaining position to improve the situation of the most vulnerable workers. This is not done by excluding them from the due diligence duties. *Secondly*, by limiting the due diligence obligations to such “established business relationships”, the EU Supply Chain Law encourages companies to reorganize their supply chains, for example, by minimizing lasting contracts. It, thereby, reduces the number of workers that fall within the scope of the due diligence duties. *Furthermore*, it prevents companies from establishing stable relationships with small enterprises since it is especially the small businesses who lack the prerequisites for sustainable production.

To sum up, the main point of criticism linked to requirement SCL.5 is that restricting the due diligence obligations to “established business relations” disincentivizes companies from making long-lasting contracts. I, therefore, urge on my conclusion from requirement SCL.3 (horizontal and vertical scope) that the limitation to “established business relations” must be weakened. Furthermore, I suggest that articles 7 and 8 of the EU Supply Chain Law make explicit that terminating existing business relations with suppliers should only be used ultima ratio if and only if all attempts to mitigate the human rights violations have failed. While this demand is mentioned in the recitals (European Commission 2022a, 32), it is not included in the legal requirements themselves. Finally, I argue that article 11 should require the annual reports to contain a list of all disengagements, in which the companies set forth with whom they have disengaged and why they have done so.

3. Conclusion

In the above work, I have elaborated on how the Capability Approach can contribute to (1) understanding Living Wages, (2) evaluating methodologies to estimate Living Wages, and (3) evaluating the legal implementation of Living Wages within supply chain laws. I set up two evaluative frameworks that are informed by the Capability Approach.

My most important argument was that the Capability Approach is a promising tool not only to improve our understanding as well as the estimation of Living Wages but also their legal implementation within supply chain laws. I have tried to show that it provides valuable recommendations on how to estimate the amount of money that is necessary for workers and their households to live a life in dignity. Furthermore, it gives insights how we can interpret the connection between Living Wages and actual well-being. Using the versions of the Capability Approach outlined by Sen and Nussbaum as starting points, I tried to carve out the aspects which I believe best fit our context of analyzing Living Wages and supply chain laws, and I extended and contextualized their argumentation where necessary. This allowed me to elaborate 15 requirements that Living Wage methodologies informed by the Capability Approach need to fulfill and five additional criteria for supply chain laws.

I believe to have shown that the Anker Method fulfills many of the criteria – while having significant shortcomings. On the one hand, I have argued that the Anker Method bases the modelling on a sufficiently scientific foundation while ensuring the participation of experts and workers from the Global South (LWM.2). Furthermore, the Anker Method allows for multiple realizability (LWM.4) and it only includes capabilities and conversion factors that can be influenced by wage policy (LWM.5) and that are within the responsibility of companies (LWM.6). In addition, it does not trade off the different aspects that constitute a Living Wage (LWM.7), it results in precise, numerical wage levels (LWM.8), and it does not discriminate among workers on the basis of, among others, gender or ethnicity (LWM.10). Finally, it bases the calculation of Living Wages on normative work standards in accordance with international standards provided by the ILO and the WHO (LWM.11), it understands well-being not only in absolute but also in relative terms (LWM.12), provides measurements for resilience (LWM.13), allows to calculate regionally different Living Wages (LWM.14), and it provides disaggregated data in the form of reports (LWM.15).

On the other hand, I have criticized that, by including in-kind benefits as partial payments of Living Wages, the Anker Method does not sufficiently focus on capabilities as opposed to realized functionings (LWM.1). In addition, it does not explicitly demand the participation of female scientists and workers (LWM.2) it bases the calculation of aggregate well-being on nuclear families instead of households (LWM.9) and is not precise about how to split up countries into different regions (LWM.14). Finally, the Anker Method should assume one full-time equivalent worker per reference family for reasons of modeling capabilities (LWM.1), responsibility (LWM.6), and gender equality (LWM.10). For each of these shortcomings, I have elaborated feasible recommendations on how to adjust the Anker Method in accordance with the Capability Approach.

Along similar lines, I have argued that the EU Supply Chain Law meets many of the criteria in line with the Capability Approach. For one, it explicitly demands the payment of Living Wages and defines it in accordance with the Capability Approach (SCL.1.). In addition, it encompasses a number of strong measures to verify compliance. It includes both civil liability and supervisory authorities, it requires appropriate complaints mechanisms for all stakeholders, and it protects all whistleblowers (SCL.2). The EU Supply Chain Law also shows a sufficient understanding of the horizontal and vertical dimensions of supply chains by including both EU and non-EU companies and by covering all suppliers and subsidiaries worldwide (SCL.3).

On the other hand, however, I have tried to show that the EU Supply Chain Law has serious deficits from the perspective of the Capability Approach. Most importantly, it does neither elaborate on the specific methodology based on which Living Wages should be calculated (and who should collect the data and do the calculation) nor does it provide details on the necessary and sufficient conditions for a decent living (SCL.1). Furthermore, it does not hold companies responsible for human rights violations if they have made externally audited agreements with their suppliers – while at the same time failing to provide any regulations on the auditing industry. Also, it is not explicit about the civil and criminal sanctions and provides only reactive means of participation for important stakeholders, it puts the thresholds for complaints and lawsuits too high, and it does not demand that all controls be unannounced (SCL.2). In addition, the EU Supply Chain Law restricts its initially broad scope by explicitly omitting SMEs, confining the due diligence duties to "established business relationships", and by excluding the financial sector from the high-risk sectors (SCL.3). Finally, I have argued that it fails to sufficiently designate the exact duties associated with paying Living Wage and the specific people who have these responsibilities (SCL.4), and it provides incentives for companies to form unsustainable short-term business relationships (SCL.5). Again, I have elaborated concrete recommendations how to adjust the current drafts in order to overcome these insufficiencies.

The above analysis is limited in at least two important dimensions. Firstly, the two frameworks that I have elaborated are not complete. On the one hand, the Capability Approach by itself is not comprehensive enough to establish a full and independent framework for evaluation. However, this is not a problem, as this should not be the demand for a partial theory of justice as the Capability Approach. The Capability Approach can, nevertheless, contribute to the understanding of Living Wages as well as the evaluation of methods to calculate them and law to politically implement them. On the other hand, this is because, given the diverse versions of the Capability Approach, different implications for Living Wages methodologies and their legal implementation within supply chain laws can be deduced. Despite this, I believe to have arrived at my conclusions transparently while capturing the main requirements.

Secondly, many of the restrictions in the scope of Living Wages and supply chain laws are unsatisfactory and insufficient from the perspective of human rights. This is especially the case for LWM.5 (potential means), LWM.6 (responsibility), and LWM.11 (normative work standards), where I have excluded a number of necessary conditions for decent living from the evaluative framework. However, we need to keep in mind that Living Wages and supply chain laws must not be seen as universal remedies for promoting social justice and sustainability. They have a limited scope of application and must be embedded in a comprehensive bundle of measurements.

In my above analysis, I have focused on Living *Wages*. While I have restricted my scope for limits of space, it is important to keep in mind that wages are only one of several forms of remuneration for work. Whereas Living Wages constitute the threshold remuneration for employed workers, so-called Living *Incomes* apply to self-employed workers such as smallholder farmers and small business owners. Anker and Anker acknowledge that their methodology can be adjusted to calculate Living Incomes along similar lines (Anker and Anker 2017, 13–14) and Living Income estimations have already been conducted in a large number of cases. From the perspective of the Capability Approach and of human rights in general, a strong case can be made in favor of including Living Incomes into supply chain laws. Several civil society organizations argue that this follows from article 11 of the International Covenant on Economic, Social and Cultural Rights and article 25 of the Universal Declaration of Human Rights (see, for example, Fairtrade International et al. 2022, 2). I disagree with this reasoning, however. I believe that from the right to an adequate standard of living (as demanded by the Covenant) one cannot infer that companies have a duty to ensure that all self-employed actors along their supply chain receive sufficiently high prices for their goods and services. Opposed to such an argumentation, I believe that paying Living Income Reference Prices needs to be part of supply chain laws because, given the power structures in global supply chains, the distinction between regular employment and self-employment is not clear-cut. Furthermore, paying sufficiently high prices for goods and services is necessary in order to enable these smallholder farmers and small business owners to pay Living Wages to their workers – as they otherwise lack the means to respect human rights. Despite this, Living Incomes are neither included in the upcoming EU Supply Chain Law nor in any other national supply chain law so far.

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Appendices

Appendix I: Abstract (in English)

In this work, I analyze how the Capability Approach can contribute (1) to understanding Living Wages, (2) to evaluating methodologies to estimate Living Wages, and (3) to evaluating the legal implementation of Living Wages through supply chain laws. I set up two evaluative frameworks based on the Capability Approach and apply them to the so-called Anker Method and the upcoming EU Supply Chain Law. While both fulfill some criteria implied by the Capability Approach, I argue that they also violate it in important aspects.

In chapter 1, I outline the aspects of the Capability Approach that are most relevant for our analysis and elaborate the implications that it has for Living Wages and supply chain laws. I use these results to set up the evaluative frameworks in chapter 2. After delineating the most important aspects of the Anker Method and the EU Supply Chain Law, I evaluate them against the requirements implied by the Capability Approach and make recommendations for improvement. Finally, I summarize and contextualize my results in chapter 3.

Appendix II: Abstract (in German)

In dieser Arbeit analysiere ich, wie der Capability Ansatz (1) zum Verständnis existenzsichernder Einkommen, (2) zur Evaluation von Methoden zur Berechnung existenzsichernder Einkommen und (3) zur Evaluation von Lieferkettengesetzen und der rechtlichen Implementierung existenzsichernder Einkommen beitragen kann. Ich entwickle zwei Bewertungsrahmen, die auf dem Capability Ansatz basieren, und wende sie auf die sogenannte Anker Methode und das zukünftige EU-Lieferkettengesetz an. Während beide einige Kriterien erfüllen, argumentiere ich, dass sie in wichtigen Gesichtspunkten gegen den Capability Ansatz verstoßen.

In Kapitel 1 lege ich die Aspekte des Capability Ansatzes dar, die für die Analyse wichtig sind, und ich arbeite heraus, welche Implikationen der Capability Ansatz für existenzsichernde Einkommen und Lieferkettengesetze hat. Auf Basis dieser Ergebnisse stelle ich in Kapitel 2 die Bewertungsrahmen auf. Nachdem ich die wichtigsten Aspekte der Anker Methode und des EU-Lieferkettengesetzes dargestellt habe, bewerte ich beide anhand der Kriterien und

zeige Verbesserungsvorschläge auf. Abschließend fasse ich in Kapitel 3 meine Ergebnisse zusammen und bringe sie in einen größeren Kontext.