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Key-words. Capability, welfarism, justice, operationalization, paternalism, agency, public reasoning
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INTRODUCTION[3]

"I have to rescue myself by saying [thumping table] 'I'm not a capability theorist! For god's sake, I'm not a capability theorist'" (Baujard, Gilardone and Salles forthcoming[4]). The apparent

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disagreement between Amartya Sen and his commentators on the status of capability in his thought is puzzling. This paper challenges the dominant reading, here called the "capability-centered view", according to which capabilities are at the core of Sen's contribution to issues of justice (e.g., Gasper 2002, Pressman and Summerfield 2002, Bénicourt 2007, Bonvin and Farvaque 2008, Robeyns and Brighouse 2010, Davis 2012). In the first step, we disentangle the main features of this disagreement, in order to be able, in the second step, to clarify the basis for an alternative theory of justice consistent with our reading.

In our view, Sen has always striven to expand the debate on theories of justice. In the seventies he played a prominent role in shifting the debate from aggregation to the informational basis for justice: at a time when social choice theory and welfare economics considered justice solely through the aggregation problem, the issue of what is to be aggregated remained unaddressed. For this reason, Sen introduced the notion of the *material*. The material is the relevant informational basis for justice, i.e. the information used to measure individuals' advantage, in order to assess, after proper aggregation, whether a social state is more just than another. In this respect, Sen defended the view that capabilities constitute a possible alternative material for justice instead of utility – as is the case in welfarist approaches, as he calls them. The capability approach Sen gave rise to is rooted in this defense. Very soon, it has conveyed the idea that the proper material for justice should be capability. Nevertheless, the approach Sen adopts is not in itself sufficient to constitute a capability theory of justice, since such a theory would require that capabilities are well-defined, as well as the aggregation procedure. Given his well-known reluctance to specify either of these, it is clear that Sen is not a capability theorist in this sense. But there is more to this which is worth highlighting. While some authors devote much effort to building an operational metric based on capabilities (e.g., Kuklys 2005), Sen strives to convince us that he does not want to get stuck with the concept of capability, and that we need to go beyond the issue of material in order to think about justice. Thus far, it seems, he has failed to make himself properly understood in this regard.

This paper attempts to disentangle the different roles that capability may play in a theory. Through a careful reading of Sen's works, it aims in particular to examine the status of capability in his contribution to justice issues and question the standard reading. We first recall how and why Sen introduced the concept of capability, alongside a presentation of the debate regarding his underspecified capability approach (Section 1). We demonstrate that capability plays a purely *heuristic* role in Sen's view of justice: i.e., it is a step in a wider argument intended to open up the debate on justice, a

debate that previously had been stuck on the aggregation problem (Section 2). In the precise sense which we shall define, then, we establish that Sen is not a capability theorist. Taking seriously his refusal to provide lists of capabilities, we show that Sen's view is immune to the usual criticism addressed at well-defined capability theories. This definitively undermines the capability-centered interpretation of Sen's work (Section 3). Last, but not least, we argue that capability may be incompatible with Sen's conception of justice, or may indeed not even be required by it at all (Section 4).

We conclude our discussion with remarks on the peripheral status of capability in Sen's contributions to justice and welfare issues. Specifically, we should not simply take it for granted that the concept of capability is central to Sen's contribution to justice, considering the later as a mere shift of focus from utility to capability. Rather, thinking deeply about a theory of justice not only requires us to move beyond the aggregation issue, but also to move beyond the issue of material to value instead the *process of identification* of the material of justice. Although this paper does not aim to elaborate on Sen's theory of justice, we assert that, rather than capabilities, the core of Sen's theory is to be found in his conception of the role of public reasoning (e.g., Sen 2010: 242; Baujard, Gilardone and Salles forthcoming). Public reasoning pertains to how agents take part in collective discussion of public concerns, and requires that the political rules are justifiable or acceptable to all. The importance of public reasoning has already been noted by other authors (Qizilbach 2007, Gilardone 2013), as has the fact that Sen's idea of justice is path-breaking (Peter 2012). To our knowledge, however, our paper is the first to suggest that this novel feature of Sen's contribution cannot be properly understood in the absence of a primary step that consists in demonstrating that the capability-centered view is misconceived.

1. The capability-centered view in question

For nearly twenty years, debate has been ongoing in the secondary literature on the reasons why Sen left his capability approach underspecified (e.g. Gasper 1997, Deneulin 2002, Qizilbash 2002, Chakravorty 2003, Nussbaum 2003, Robeyns 2003). As a consequence, Sen's account of capability is seen as an approach or a framework of thought, and not a theory of justice. What may be called the standard reading of Sen's capability approach was introduced by Ingrid Robeyns:

> The capability approach is a framework of thought, a normative tool, but it is not a fully specified theory that gives us complete answers to all our normative questions. It is not a mathematical algorithm that prescribes how to measure inequality or poverty, nor is it a complete theory of justice. The capability approach, strictly speaking, only advocates that the

evaluative space *should* be that of capabilities. (Robeyns 2003: 64, our emphasis)

Yet the publication of *The Idea of Justice* contradicts the common interpretation that Sen's ambition is not to provide a theory of justice, since it sets itself up as an alternative to Rawls's theory (Sen 2009: 410). The idea that Sen argues in favor of a capability approach in the sense just defined is also undermined. Sen does not insist on the capability space in his 2009 book, and – as we saw above – he has claimed he is *not* a capability theorist (Baujard, Gilardone and Salles forthcoming). First, then, we need to ask whether the apparent misunderstanding between Sen and his commentators is due simply to an evolution in the status Sen assigns to capability in his various contributions to justice issues.

(i) It is well known that Sen's development of the capability approach was originally motivated by a discontent vis-à-vis welfarism. Sen defined welfarism by reference to two features: the fact that well-being is identified by some subjective notion of utility, and an exclusive focus on well-being for measuring social welfare (Baujard, Gilardone and Salles forthcoming). Sen rejects both features of welfarism because he considers us as individuals to be "'agents' whose freedom to decide what to value and how to pursue what we value can extend far beyond our own interests and needs" (Sen 2009: 252).

In contrast, welfarism requires considering individuals not as agents but merely as locations of utilities (Sen 1982a: 19). This conflicts with the intrinsic valuation of individuals' agency (e.g., Sen 1985a, 1993, 2006). An emphasis on agency considers individuals to be persons with the moral power to frame their own conception of the good. Because a focus on well-being is consequentialist, it is likely to violate agents' relative values, and hence to downplay agents' autonomy and deontology (Sen 1982b: 23). Imagine that utility was not exactly what a given individual thought should count for her well-being; or imagine that she pursued other goals apart from well-being, or had values which consisted in more than her own personal goals. In such cases, a welfarist policy conducted by some alien authority could favor her well-being but conflict with her agency.

(ii) Sen introduces the concept of capability, and shows it is a better candidate than utility to evaluate individuals' situation (e.g., Sen 1982b, 1984, 1985b, 1992, 1993a, 1999, 2006, 2009; see also Peter 2003 inter alia).

A capability is an opportunity set and it is specific to a person. Person *i*'s "*capability set* [is] the set of functioning vectors within his or her reach" Sen (1985: 201), and among which this person will choose one particular functioning vector. Functionings refer to "various doings and beings that come into [the] assessment" (Sen 1985b: 197). For instance, a functioning vector would be the list: (*i* eats enough calories and calcium per day; *i* has a

direct access to water; *i* lives in her own house; *i* sleeps on the floor; *i* cannot read; …); another functioning vector would be a similar list with different descriptions of each achievement, e.g., where *i* can now read but does not live in her own house. Choosing one functioning vector rather than another implies choosing a kind of living. Valuing capability rather than functionings implies valuing *i*'s choice of one kind of living *per se* – hence, freedom of choice rather than achievements. That is why we say capability stands for "the *freedom* to achieve actual livings that one can have reasons to value" (Sen 1999: 73). Capability thus appears as a better candidate than utility if, in addition to well-being, we are to respect freedom and agency.

Since 1980, Sen has also insisted that his concept of capability is more relevant to defining the material of justice than Rawlsian primary goods. Although this comparison belongs to another line of arguments than those regarding utility, it reinforces the idea that capability is a better material for justice. Capability takes into account the heterogeneous transformation rates of resources into what is valuable to each individual. Personal characteristics, as well as social or environmental factors that are not necessarily a person's responsibility, may greatly influence her ability to convert resources or primary goods into functionings, and hence her capability. For instance, if *i* is pregnant, she will need more calories and more calcium per day than a non-pregnant woman: focusing on the goods of providing calories and calcium is not informative about how well-fed this woman is, whereas the definition of functionings would focus on the achievements that are meaningful to her – "eat enough calories and calcium a day". The capability approach avoids "fetishism of the goods", because it does not consider goods to be valuable in themselves, but only as regards what they enable individuals to be or to do.

As it also circumvents the drawbacks of subjective utility, capability succeeds in focusing on what persons can do or be; and it avoids assigning intrinsic importance to something else, whether that be utility or resources.

(iii) The misunderstanding between Sen and his commentators might, perhaps, be explained by an evolution in Sen's view regarding the role of capability in his argument. The 'evolution explanation' would thus assert the following: Sen did indeed first side with the capability-centered view, but realized in a second step that capability was vulnerable to criticism. In this story, commentators have become stuck on the first stage. Yet it seems to us that the ambiguity of his presentation of the importance of capability is still evident in his later contributions. In *The Idea of Justice*, the concept of capability appears in the table of contents in the titles of the third part, devoted to "the materials of justice" (notice the use of the plural). And if we look more closely, he does use the expression "change of focus" (e.g., Sen 2009: 254, footnote), which does not amount to the capability-centered view although it seriously supports it. Besides this, and as we shall describe more extensively

below, doubts about the capability-centered view are already evident in Sen's first writings on the capability approach. As a result, therefore, we cannot accept that there is a sharp historical discontinuity regarding the status of capability in his writings. This calls out for further clarification of the status of capability in Sen's idea of justice.

2. Arguments in support of the heuristic view on capability

We now propose a novel interpretation of the status of capability in Sen's account of justice, which we call "the heuristic view". A heuristic device is an assumption provisionally adopted as a guideline, regardless of its absolute truth. According to the heuristic view we here defend, Sen's use of capability is simply a step in his argument against welfarism (or against resourcism). It is an argumentative step in a long demonstration which eventually issues in a theory of justice – although this intention was not evident from the outset. There does exist a better material for the framing of a theory of justice, namely capability; but this does not imply that capability is *the best* material, nor that it constitutes the *complete* guide to justice.

(i) Firstly, we offer a logical argument in favor of the heuristic view: better does not imply best.

The standard interpretation defends the claim that capability is the material which Sen suggests we should substitute for utility in thinking about public policies and assessing social states. Sen himself develops arguments supporting the so-called "change of focus" in his second Dewey Lecture, "Well-being and Freedom" (Sen 1985a: 185-203). If we take quotations out of context and ignore nuances, Sen certainly seems to express the view that capability and functionings are a better way to consider well-being than utility (Sen 1985a: 195-203). But consider, now, the whole text in which the demonstration is set out. The explicit aim of this lecture is to propose a critical examination of the informational basis of utilitarianism, which is supposed to show that utility is not the best way to see well-being (Sen 1985a: 185). He concludes that functionings and capability may be a better material for justice than utility. This assertion does not have as a logical consequence that functionings or capabilities are *good* materials for justice, nor that they are the *only* suitable materials for justice. This remains to be proved.

When Sen introduces capability, he does so not to defend capability *per se* but rather to undermine welfarism – as he explicitly says. Yet undermining welfarism is only a step in an argument towards something else.

(ii) Secondly, we cite textual evidence in favor of the heuristic view.

A careful reading of Sen's texts on capability establishes that his argument in favor of capability is sometimes accompanied by a specification of how to understand it. He specifies that capability is something which proves to be better than utility in certain respects, and which avoids the failures of a resourcist framework. Given that there exists a better material than utility, he remarks, the dominance of utility should be questioned. Sen's first introduction of the concept of capability is clear in this regard:

> This [rejecting the claims of utilitarian equality, total utility equality, and Rawlsian equality to provide a sufficient basis for the equality aspect of morality] is my main thesis. I have also made the constructive claim that this gap can be narrowed by the idea of basic capability equality, and more generally by the use of basic capability as a morally relevant dimension taking us beyond utility and primary goods. I should end by pointing out that the validity of the main thesis is not conditional on the acceptance of this constructive claim. (Sen 1980: 220)

This excerpt shows that Sen's main thesis in the first presentation of the capability approach was indeed to demonstrate the irrelevance of the welfarist framework. According to our reading, the concept of capability, set in opposition to utility, and to Rawls's (1971) proposed candidate – primary goods –, is an additional argument intended to undermine welfarism. Again, we insist that it does not hold that the *better* material is the *best* material. Indeed, the "basic capability equality" is *not* considered by Sen (*Ibid*.) to be "the sole guide to the moral good": there could be other morally relevant claims to take into account in equality judgments, and also in other types of moral judgments of social states.

There is another kind of textual evidence relevant here: the concept of capability is not mentioned in some important contributions on Sen's idea of justice. If capability were the core of Sen's idea of justice, the concept would appear in most of them. For instance, in "What Do We Want From a Theory of Justice?", Sen (2006) does not elaborate on capability. Even in the context of the first Mahbub ul Haq Memorial Lecture of the Human Development and Capability Association, Sen (2008) does not devote much space to capability. While Sen (2008: 334) highlights above all "the importance of looking at human lives themselves, rather than at the commodity possessions and other facilitating factors that have some influence over our lives", it is worth noting that the same paragraph ends with a statement which seems to close the debate: "The distinction here has, by now, been much discussed in the literature and its implications have been widely explored in the contributions of many economists, social scientists and philosophers" (*Ibid*.). Indeed, the rest of Sen's lecture is devoted to other features of Sen's idea of justice. This corroborates our heuristic view of Sen's

capability approach, according to which it is designed to provide elements of a debate within welfare economics, and so to broaden its methods and objects.

(iii) Thirdly, there are arguments against the claim that Sen supports the capability theory as the unique alternative theory of justice.

In considering the status of the capability approach, Sen never refers to a theory. He refers to an *approach* or a *perspective*, whose scope is restricted (Sen 2004, 2005, 2009). For instance he writes, "the capability perspective has some obvious merits […] This does not entail that the most fruitful focus of practical attention would invariably be measures of capability" (Sen 1999: 81). Or, that the capability approach "does not cover all the territory of justice, in which process considerations, including liberty and procedural equity, figure" (Sen 2005: 157). Capability points towards a certain informational focus but does not define a theory of justice (Sen 2009: 232). As a result, the capability approach at least stands in need of completion. It is not sufficient as it stands to constitute a theory of justice.

Not only must the capability approach be completed if it is to become a theory of justice, but many textual arguments also testify to Sen's dissatisfaction with the capability approach as it stands. Among other points, he claims that 1) there can be tensions between "well-being freedom" and "agency freedom"; 2) the approach's inherent incompleteness and ambiguities will sometimes make it impossible to settle on a clear evaluation; 3) rival reasoning or other criteria may have a role to play in the diagnosis of injustice for moral reasons (Sen 2009: 295–98). This dissatisfaction is inconsistent with the capability-centered view, yet it is clearly consistent with our heuristic view.

As a preliminary conclusion, then, we remark that Sen's view of justice does not confine itself to the capability-centered view. Sen uses the capability approach as a heuristic device to show that there is a material which is possibly better than utility (or than resources as primary goods) to think about justice, not that capability is the only way nor the proper way to do so. Though it is clear in Sen's presentations, this nuanced role for the capability approach in his idea of justice is a reading that, to our knowledge, has never been explicitly established.

3. The inconsistency of the capability-centered view with Sen's idea of justice

On the heuristic view, the introduction of capability constitutes a step in the argument to undermine welfarism, rather than being a conclusion in a defence of a unique alternative to welfarism. Yet the heuristic view by itself does not imply the

rejection of the conclusion that capability should be substituted for utility, as is maintained by the capability-centered view. To fully invalidate the capability-centered view, we need to establish that it is inconsistent with Sen's idea of justice. This will be achieved by showing that Sen's capability approach is immune to serious criticisms addressed at capability theories – criticisms based on considerations of paternalism and the problem of operationalization. According to our reading, such criticisms pose major problems for capability-centered theories, but do not concern Sen's view.

(i) Aside from its affirming the capability approach, what, in the end, is a capability theory of justice? We think that the "formal welfarist framework" introduced by social choice theorists captures the specific nature of what is today perceived as being a theory of justice in economics (e.g., Blackorby, Bossert and Donaldson, 2005). In the formal welfarist framework, social states are ranked on the basis of the assessment of social welfare, and social welfare results from the aggregation of individual advantages in the social state under consideration. This general theory of justice may have many interpretations.

For instance, utilitarianism says that individual utilities are the appropriate measure of individual advantage, and the utilitarian social welfare function is the sum of all individual utilities. Hence the utilitarian theory of justice is characterized by the identification of a specific material at the individual level – utility – and by a specific form of aggregation of such individual utilities – the sum. The specificity of any theory of justice of this kind is thus captured by two distinct stages: the definition of individual advantage, i.e., of the relevant material for social justice, on the one hand, and the identification of one kind of aggregation, on the other. The obtained ranking of social states is informative as regards the selection of a policy that fits the defined theory of justice.

We are used to saying that if the material is utility, the theory is welfarist. According to the capability-centered view, Sen defends the replacement of utility by capability, and using capability as an alternative material in a theory of justice is non-welfarist.

Nevertheless, the formal welfarist framework, broadly speaking, is still compatible with the capability-centered view, where capability is simply substituted for utility (Blackorby, Bossert and Donaldson 2005, Iwata 2013, Fleurbaey and Blanchet 2013). In such a case, capability is the information which captures a proper notion of individual welfare; it is then aggregated at the collective level, and from this we can derive a social welfare function. A capability theory is totally defined once the two stages are defined. Firstly, one needs a measurable definition of capabilities, suitable to identify the elements of the functioning vectors or to specify a list of capabilities. Secondly, one needs to determine the kind of aggregation: e.g., should one maximize the sum of individuals' capabilities, use the leximin rule, etc.?

Yet, contrary to this, Sen insists in not providing any description of these two stages. We cannot simply endorse the idea that Sen's capability approach is underspecified; rather, we want to take Sen's arguments seriously when he refuses to provide a list or aggregative principle.

(ii) In any capability theory there must be, at least in principle, a list of capabilities. Furthermore, some take for granted that a list of capabilities is required as soon as one commits oneself to the capability approach (e.g., Carter 2014: 78–79), and accordingly develop critical arguments against it. Consider two alternative functionings x and y – e.g., standing respectively for "having a job" and "taking care of your sick mother". Suppose at least two agents A and B in a population. A, in charge of implementing a policy, has established a list of capabilities and has, for example, decided that y is not valuable and that x is valuable, such that y is not part of this list, while x is on the list. As a consequence, no policy shall promote the availability of y, while some policies shall promote the availability of x to B. Through the better availability of x and, as a corollary, the lesser availability of y, B is encouraged to choose x because of A's judgment on the situation, regardless of B's judgment. A is thus paternalist as regards to B, because A is a stakeholder in the restriction of the list of capabilities while B is not. The establishment of a restricted list of valued capabilities by an evaluator (e.g. a policy-maker) A is therefore paternalist towards B in this respect. All arguments to the effect that the capability approach is paternalist are based on the assumption of the existence of a list – a capability theory is paternalist because it provides a well-defined list whether for justice evaluation or policy making. We claim that these arguments are serious for capability theories, and thus do have serious implications for the capability-centered view, but they are of little relevance for Sen's use of capability.

Sen is conscious that framing a list of capabilities would be interpreted as the imposition of a comprehensive notion of the good life (e.g., Sen 1987, 1992: 82–83, 2004: 80). In contrast to Martha Nussbaum, who has developed a full theory of justice with a list of central and universal capabilities at its core,[5] Sen refuses to assume the role of an Aristotelian philosopher. Instead, he suggests that individuals themselves, in so far as they are involved in public reasoning, should be part of the process of the definition of the good life:

> The connection between public reasoning and the
> choice and weighting of capabilities in social

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[5] Inspired by the Aristotelian philosophy, her list comprises all activities that prove necessary for a life to be truly human (Nussbaum 1999: 39). This constitutes a definition of the material of justice. She also provides a rule of aggregation when she claims that every individual should have access to all the capabilities on her list.

assessment is important to emphasize. It also points to the absurdity of the argument that is sometimes presented, which claims that the capability approach would be usable – and 'operational' – only if it comes with a set of 'given' weights on the distinct functionings in some fixed list of relevant capabilities. The search for given, pre-determined weights is not only conceptually ungrounded, but it also overlooks the fact that the valuations and weights to be used may reasonably be influenced by our own continued scrutiny and by the reach of public discussion. (Sen 2009: 242)

In Sen's view, it matters *who* is choosing (or participating in the choice of) the material for evaluation. If the individuals whose lives shall be assessed are part of the decision, the process is not paternalist. For instance, if in our previous example A = B, B's views will obviously be respected; and if A is different than B but asks B to participate in the decision-making process, B's will is not violated. But if A alone is establishing a list that is to be applied to assess B's quality of life, then the process is indeed paternalist.

The use Sen makes of capabilities in social evaluation has always been conditioned by a "social choice exercise", requiring "public discussion", and seeking "democratic understanding and acceptance" to arrive at a "consensus" on weights – all the while allowing that this "democratic search for agreement […] can be extremely messy" (Sen 1999: 78–79). Hence, his defense of capabilities cannot be judged paternalist; it does not conflict with the principle of equal respect for persons, i.e., with treating agents as ends in themselves (e.g., Carter 2014: 82, Dworkin 2014: 10). Above all, it is meant to respect agency.

(iii) Despite this, the literature has too often focused on the lack of a list and the so-called problem of operationalization that it entails. Many authors have indeed offered damning judgments on the fact that Sen does not provide any elements with which to operationalize his capability approach (Sugden 1993, Nussbaum 2003, Robeyns 2003, Comim et al. 2008). If the capability-centered view held, there would indeed be no reason why Sen should stop his reasoning at this point and leave aside the issue of operationalization. Obviously, there is something to be learnt here. Sen not only refuses to provide definitive keys for the material and the aggregation issues; in fact, he does not consider the operationalization criticism to be relevant at all:

I don't know what 'operationalize' means. It is like saying, "Mr Mill, I understand what you are saying about liberty but how are we going to operationalize the demands of liberty? It was what Ryle would call a "category mistake". A subject like capability, it's not a formula, it's pointing towards a certain space. So it's like saying "How would you operationalize

this space?" and I would say "Come again. What do you mean?" I'm saying this – the capability space – is a relevant space in a way that the utility space is not, the commodity space is not. That's it. I've operationalized it: I've told you what to look for. I don't have to end up by saying that the square root of the capability index obtained in this way has to be added to the cube root of something else. […] That's what most people mean, when they come and ask how you're going to operationalize capability. I just say, "I don't really understand what the question is about". (Baujard, Gilardone and Salles forthcoming)

Sen is particularly vehement in this regard: indeed, the subject appears to be a matter of real irritation for him. He describes attempts at operationalization as a "category mistake". Why? In reply, we claim that the novelty of Sen's idea of justice and his contribution to theories of justice is not exclusively concerned with the material of justice, whether that be capability properly identified, refined functionings, or any other material. It lies primarily in the character of the process we engage in to define this material. The aim, as we have seen, is to give individuals a voice in a way which circumvents the violation of autonomy and avoids paternalism. Agents should participate in determining their fate by being part of a process of public reasoning which is valued *per se*; whereas "'operationalization' is a demand to get to solutions without thinking, without discussing, without debating" (Baujard, Gilardone and Salles forthcoming). As Sen concludes:

Well, you have to ask what the relevant capabilities are and how you can have public reasoning about how to value them. And the public reasoning that happens in France may well be different from that elsewhere, given the history of the debate. It may favor, for example, state education in a way that the United States may not, and you could respect the reasoning in each case. I will not use the word 'operationalizing', I would say instead that in each case you will come out with a solution of some kind. I think this is a good system. (Baujard, Gilardone and Salles forthcoming)

This discussion of the operationalization of the capability approach confirms that the most important aspect for Sen is not capability but rather the process through which public decisions are made, highlighting in particular the role of individuals in public reasoning. This is a definitive argument in favor of the priority of public reasoning over capabilities. A consequence of this argument is that Sen's contribution to justice should not be remembered for a capability theory but something very different: a theory of human agency and public reasoning, both being intimately related.

4. The possible consistency of Sen's idea of justice with a material other than capability

To complete our demonstration that the capability-centered view is inconsistent with Sen's idea of justice, we will now show that the focus on capability itself is likely to be incompatible with it, whereas an alternative material is likely to be compatible. In other words, we claim that we are directed toward a theory of justice that is not necessarily a capability theory.

(i) In our view, the prominence of the debate on the difference between Sen and Nussbaum is responsible for having drawn too much attention to the list problem, and thus for hiding another essential element of Sen's position: the problem of there being any pre-established material at all.

   This takes us back to the issue of paternalism, and to the related issue of the "container view", developed after the famous Rawlsian argument in favor of the separateness of persons (Rawls 1971: 26–27). If what is really being valued in a theory of justice is not the individual person B *per se*, but just that B is the container of B's utility, then B is not being treated as an agent nor as an end in itself. The same holds for any capability theory in which individuals are considered only through their capabilities. Like welfarism, the focus on capability violates autonomy and equal respect of persons in so far as it is determined a priori that capability is the only material that will be counted.

   Imagine that an expert decided that capability was the proper material for a theory of justice. Even if the definition and the measure of capability were eventually decided through public reasoning, by including the persons who would be affected by the evaluation, the chosen material has still been imposed by some external expert and reflects her own view of the good. This implementation thus does not involve agents in the definition of the proper notion of the good, and may not respect the actual aims that individuals have reasons to value. Hence the implementation of this capability approach may be incompatible with the core of Sen's idea of justice – at least as we perceive it.

(ii) As we noted in section 2, Sen (2009: 298) considers that, for moral reasons, rival reasoning or other criteria may have a role to play in the diagnosis of injustice. And this is not a new argument. In 1999 he explicitly developed the idea that the capability perspective always has to be compared with rival perspectives, if it is to be used fruitfully in public reasoning:

> […] since it is not claimed that the capability perspective exhausts all relevant concerns for evaluative purpose (we might, for example, attach importance to rules and procedures and not just to freedoms and outcomes), there is the underlying issue of how much weight should be placed on the

capabilities, compared with any other relevant consideration. (Sen 1999: 77)

Public reasoning over competing views is not a necessary component of the capability-centered view, but it has a key role to play in Sen's idea of justice, including in the definition of the material of justice. And Sen (1999: 77) explicitly criticizes the exclusive focus on capability – the very thing we have called the capability-centered view: "To insist on the mechanical comfort of having just one homogenous 'good thing' would be to deny our humanity as reasoning creatures".

(iii) Let us now confirm that the adoption of a material distinct from capability may still be compatible with Sen's idea of justice, in the sense we have here reconstructed.

Suppose that we have undergone a process of defining a material through the true participation of each agent in public reasoning. Now imagine that this deliberation has resulted in our picking the following alternative material: utility of a certain threshold, in addition to freedoms.[6] In a refined version of a similar idea, we value not only capability but also the actual utility associated with the functionings achieved thereby. In other words, such a material is a recipient of two distinct values, freedom and utility, captured respectively by capability, and a certain value of functionings. This material does not coincide with capability *per se*, and attributing a value to this material is not consistent with the capability approach in so far as capability unquestionably excludes the instrumental value of freedom – or, to put it differently, it excludes the intrinsic importance of utility (Fleurbaey and Blanchet 2013: 223–25). Yet there is a great deal of textual evidence to support the view that this example is likely to capture Sen's own values: he clearly attributes some importance to utility besides freedom – e.g., "The importance of freedom and of opportunity would be hard to motivate if the focus were not on the options or processes that one has reasons to value or want, but rather on alternatives one has no reason to seek" (Sen 2002: 5).

With the proviso that this has emerged through a process in which each agent was fully involved in public reasoning, the focus on both utility and capability rather than on only the second is consistent with Sen's usual positions. A material distinct from capabilities may hence be compatible with the core of Sen's idea of justice.

It is clear to us that capability may not be sufficient to capture a notion of agency-freedom since it requires taking into

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[6] In the freedom of choice literature, it is standardly shown to be impossible to attribute a value to utility and to freedom meanwhile. For a discussion of whether it is formally and conceptually possible to derive proper judgments over social states based on these two distinct values, see Baujard (2011). For an axiomatic description of one possible solution with threshold, see Baujard and Gaspart (2004).

consideration "the *process* through things happen" (Sen 2002: 585), and not only the opportunity set available to each individual. In other words, if we take agency seriously, the processes by which agents reach social states may be crucial information for any evaluation. But Sen goes further in his account of agency-freedom, and, on our reading, this is the primary reason why we should see the core of justice theories as rooted in public reasoning. Indeed, the importance of process and agency seems to fade away if agents are excluded from the process of decision-making as regards the evaluation of social states. We may thus claim that *process* should trump the focus on *material*.

Conclusion

We have shown that Sen does not suggest that we should substitute capability, in whichever version, for utility, such that the dialectic stops there. There is simply no such thing as "Sen's metric".

According to the capability-centered view, the core of Sen's idea of justice is to support the focus on capability as the proper material of justice, irrespective of what process of aggregation is employed at the second stage. This view is not only widespread, but indeed remains almost unquestioned. Sen himself has expressed regret that he has been "stuck" with the capability approach by his readers, and incorrectly tagged as a capability theorist. It is also fair to say that his writings are confusing in this regard, and that the more profound proposition we feel he offers is too simply lost in the fog. We want to rescue the latter from this trap, not least because the dominant capability-centered view is inhibiting fundamental and much-needed progress in welfare and justice theories. This paper has striven to undermine the standard capability-centered view in four steps in order to propose a consistent basis for an alternative thinking about justice.

First, we presented the elements of the debate over the capability-centered view. Sen introduced capability notably because it can deal with agency better than utility or primary goods. This defense, we showed, is not simply a trace of an old theory of justice which Sen has since abandoned; it is rather a step in the argument to introduce agency into considerations of justice.

Second, we supported the heuristic view, according to which the status of capability in Sen's idea of justice is a heuristic device and the focus on capability constitutes just a step in an argument directed at framing a theory of justice, but not a conclusion. The introduction of the capability approach succeeded in showing that there undoubtedly exists a better material than subjective utility, and made the first necessary step to undermine welfarism (and similarly to undermine resourcism). However, this argument does *not* imply that capability is the best material for a theory of justice. At this stage, then, we still needed to show that answering

questions about the material does not suffice to lay the foundations for a theory of justice.

Third, we defined precisely what a fully spelled-out capability theory would be. Based on the formal welfarist framework, capability theory supposes that there are well-defined lists of capabilities, and well-defined aggregation rules. In this connection, we addressed the paternalism criticism addressed at the capability approach and showed it does not undermine Sen's idea of justice, but rather targets capability theory itself. A decision is paternalist if it is made in the interest of but not necessarily according to the will of the agent concerned. Any capability theory is likely to be paternalist, then, because it appeals to well-defined lists drawn up by external experts. On the contrary, however, Sen's focus on the involvement of agents in public reasoning in general, and in particular in public decisions aimed at defining the proper material, allows his idea of justice to avoid criticisms of paternalism. Thus the operationalization criticism reflects a profound misunderstanding of Sen's enterprise. His refusal to provide lists is not just about passing the buck. Rather, Sen requires that any lists or decisions concerning the assessment of states should arise from the concerned agents involved in public reasoning, rather than from third-party researchers, however well qualified.

Fourth, we established that the capability-centered view is inconsistent with Sen's idea of justice as we conceive it. On the one hand, the exclusive focus on capability is problematic. Even without a well-defined list, the commitment to the capability approach supposes a focus on capability rather than any other material. This would be compatible with Sen's idea of justice if it emanated from the concerned people and was arrived at by public reasoning, but it would be incompatible if it were decided upon by external experts. On the other hand, we can find candidate materials other than capability which are consistent with Sen's views of justice, on the proviso that the process behind the public decision respects agency and public reasoning.

As a result, we take it to have been proven that the core of Sen's theory does not lie in the definition of the proper material. It most definitely lies elsewhere, and certainly assigns an essential role to the process by which this material is defined, such that this process should be characterized by the involvement of the agents concerned in public reasoning.

The goal of this paper was to state as definitively as possible what Sen's idea of justice is *not*: Sen's theory of justice is not a capability theory. All the same, we must be clear that this analysis does not imply that capability is irrelevant as a material. Capability may prove to be an important part of the informational basis for justice, and is indeed likely to be so, though only on the proviso that its relevance and its content has been defined by agents through engagement in public reasoning. But to a mind haunted by the specter of capability, any presentation of Sen's idea of justice is likely to be misunderstood. Our clarification was thus a necessary

preliminary step before we could discuss Sen's thoughts about justice in a manner free of bias. An obvious subsequent step would be description and analysis of the link between human agency and public reasoning, thus further expounding Sen's *actual* theory by gaining closer insight into its content and its justificatory procedures. This cannot but be the subject of a distinct paper.

To conclude, we remark that Sen's theory of justice is fundamentally democratic. His theory thus stands in opposition to a certain tendency in the academic community to hand all responsibility over to the community of philosophers and economists, in order to define what welfare is or should be, to compute it and on this basis provide policy recommendations which are in line with the public interest so conceived. What Sen is striving to do – according to our reconstruction – is an important departure from the traditional framework of welfare economics: agents should be involved not just by voting for their representatives, but in the actual process of deciding how their lives should be conducted and evaluated. Subject to the proviso of our reading, Sen's theory is therefore a major contribution as regards the introduction of democracy into the realm of economic expertise and social welfare.

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