



European Master's Degree in Human Rights and Democratization

UCD School of Politics and International Relations

CIVIL, POLITICAL, SOCIAL AND ECONOMIC RIGHTS – BRANCHES OF THE SAME TREE

PROMISES AND PERSPECTIVES OF GENUINE PUBLIC DELIBERATION THROUGH AN
ANALYSIS OF PREDELIBERATIVE CONDITIONS IN SEN'S THEORY

Isabelle de Ghellinck

Under the supervision of Dr Graham Finlay

Academic year 2010-2011

ABSTRACT

This thesis deals with Sen's Capability Approach coupled with his work on public reason. The aim is to understand if the effective use of public reason and the genuine freedom to participate in public deliberation require the establishment of some *preconditions*, enabling every citizen to participate if they so choose. It has indeed been observed that some social groups have a decreased or inexistent level of participation. This shows that prior social and economic inequalities influence considerably the freedom to participate in public debates, and therefore lead to political inequalities.

Such inequalities in the deliberative process seriously undermine its legitimacy. This is especially valid for theories of justice such as Sen's, which rely on the concept of public reasoning as being the key process of creation of principles of justice. Therefore, our analysis focuses on the question whether Sen's theory itself implies the establishment of *preconditions* that would guarantee a more inclusive and legitimate debate.

« கூழுக்கும் ஆசை மூசைக்கும் ஆசை »

« You can't drink thick porridge if you want to keep your mustache clean »

- *Tamil quote* -

Acknowledgements

I thank my supervisor, Dr Graham Finlay, for his precious comments, time, openness and patience. I'm also grateful to Suzan P. Murphy and UCD for all the technical and material support they have provided to this research.

I am of course more than grateful to my parents, who have always supported me, and backed me in (nearly) all the decisions I have made. Your support is essential to me. I wish you peaceful future moments, shaped by love, tolerance and intelligence.

Last, but certainly not least, a special thought for En Anbu Hijas. Kavalai padaathey, the path will brighten!

Table of Contents

INTRODUCTION.....	1
CHAPTER 1: AMARTYA SEN’S CAPABILITY APPROACH.....	6
Introduction-----	6
Criticism of other egalitarian theories-----	7
Equality of What?-----	9
Functionings or capabilities?-----	10
Basic capabilities-----	11
The notion of Freedom-----	13
<i>A. The two values of freedom</i>	<i>14</i>
<i>B. The two aspects of freedom.....</i>	<i>16</i>
<i>Further observation.....</i>	<i>17</i>
The notion of Agency-----	18
CHAPTER 2: DEMOCRACY AND POLITICAL CAPABILITY.....	21
Introduction-----	21
The importance of democracy-----	22
<i>The intrinsic value.....</i>	<i>22</i>
<i>The instrumental value.....</i>	<i>23</i>
<i>The constructive value.....</i>	<i>24</i>
Democracy as a universal value-----	25
Political capability-----	26
Further observations-----	27
CHAPTER 3: PUBLIC REASON, DEMOCRACY AND JUSTICE.....	29
Introduction-----	29
The notion of public reason-----	29
The search of objectivity-----	32
<i>The objectivity of the deliberator.....</i>	<i>32</i>
<i>The objectivity of the ethical claim.....</i>	<i>33</i>
Public reasoning and democracy-----	34
Public reasoning and justice-----	34
Institutionalization?-----	35

CHAPTER 4: POOR PEOPLE IN DEVELOPED COUNTRIES: INTEGRATION IN DELIBERATIVE DEMOCRACY.....	37
Introduction-----	37
The effectiveness of political participation of poor people in developed countries----	37
<i>Social functionings and relative deprivation.....</i>	<i>38</i>
<i>Political participation as an exigent social functioning</i>	<i>39</i>
<i>Inequality and political domination.....</i>	<i>40</i>
<i>The ability to make unconstrained choices.....</i>	<i>41</i>
1) The existence of preference adaptations.....	42
2) Some philosophical and theoretical concepts regarding preference adaptation.....	43
3) The impact on Sen's use of public reason and public deliberation.....	44
From deficient functioning to absent capability?-----	46
 CHAPTER 5: THE INTERNAL TENSION IN SEN'S THEORY.....	 47
Introduction-----	47
The neutrality of his theory-----	48
<i>The Liberal conception of a value-neutral theory of justice.....</i>	<i>48</i>
<i>The Capability Approach as a metric.....</i>	<i>49</i>
<i>Public deliberation as the key process.....</i>	<i>49</i>
The substantial vision of his theory-----	50
<i>The Marxist oriented approach of situated agent and effective freedoms.....</i>	<i>50</i>
<i>Is there a pregiven conception of the good in Sen's theory?.....</i>	<i>51</i>
<i>Specific considerations regarding political participation.....</i>	<i>53</i>
Conclusive analysis-----	55
<i>Tension 1: The circularity of deliberative theories.....</i>	<i>55</i>
<i>Tension 2: The value of specific capabilities (especially the political capability).....</i>	<i>58</i>
Tension 2.1 The Valuation of Basic Capabilities.....	58
Tension 2.2 The Rendering of effective capabilities.....	60
<i>Conclusion.....</i>	<i>61</i>
 CHAPTER 6: SOCIAL ARRANGEMENTS AS IMPLIED BY THE POLITICAL CAPABILITY.....	 63
The need for social arrangements-----	64
<i>The intrinsic importance of democracy.....</i>	<i>64</i>
<i>The enhancement of agency.....</i>	<i>65</i>
<i>The Capability Approach associated with the concept of public reasoning.....</i>	<i>66</i>
The nature of the social arrangements-----	67
<i>Social adjustments as a necessary but not sufficient condition.....</i>	<i>70</i>
The role of the state-----	71
Institutionalization-----	72
<i>Political participation and public reasoning: distinct requirements.....</i>	<i>72</i>
<i>Requested measures: non exhaustive presentation.....</i>	<i>74</i>
 CONCLUSION.....	 77
 BIBLIOGRAPHY.....	 81

INTRODUCTION

Human Rights have lately been widely recognized and accepted as being indivisible, interrelated, and interdependent. This movement might be seen as having known its *akmê* during the World Conference on Human Rights held in Vienna in 1993. The Outcome of the summit, The Vienna Declaration and Programme of Action, states indeed that « all human rights are universal, indivisible and interdependent and interrelated »¹, and specifies even more that « democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing »². However, besides the general acknowledgment that both sets of rights are equally important – leading hereby to the refusal of trade-offs amid them – and reciprocally enhancing themselves, a consistent and comprehensive theoretical approach to the issue might be difficult to find. This present research aims to be a small contribution in the vast area of political philosophy and social justice dealing with the relation between human rights and democracy. More precisely, this thesis will be focused on how social and economic rights might -or might not- be essential in rendering civil and political rights *effective*. Indeed, many empirical studies show that the political involvement of citizens is largely unequally distributed, especially regarding economic and social standards. However, even if « there can be little doubt that differences in the distribution of income and wealth across the countries and over time within the countries make for significant variations in political equality »³, we should nevertheless interrogate ourselves if « the pursuit of political equality warrant measures that reduce inequalities of income and wealth more directly? »⁴.

Focusing on that question, the present research will therefore consider social justice and political theories that assign an essential role to the concrete exercise of political rights without considering the reality of their practice. What kind of relation might be found between economic and social equality on the one hand, and political equality on the other hand?

1 § 5, *Vienna Declaration and Programme of Action*.

2 § 8, *Ibidem*

3 Rueschemeyer, 2004, p. 80.

4 *Ibidem*

The chosen perspective will be an analysis of Amartya Sen's Capability Approach, coupled with his more recent works on democracy and public reasoning. We will try to identify whether his theory implies the establishment of a certain threshold of social and economic rights to ensure a substantial realization of democratic participation and public reasoning. This research's objective is indeed to examine what Sen's theory says, directly as well as indirectly, on *predeliberative* conditions in pursuance of a *genuine* democratic participation and public deliberation. Since the focus is put on the *predeliberative* conditions, we won't linger neither on the deliberative procedure itself nor on the outcome of the deliberative process. Furthermore, in order to allow an authentic reflection on that question, the topic will be narrowed down to developed countries, and won't deal with notions related to development, nor to the difficult problem of the feasibility of guaranteeing economic and social rights in developing countries.

So as to reach the given purpose, this research will in a first step apprehend Amartya Sen's theory in a general perspective, before concentrating on his position regarding notions that are relevant for the current analysis. After a more descriptive presentation of his concepts, we will adopt a more analytical perspective in trying to identify if the Capability Approach implies – directly or indirectly – a certain vision of social justice.

However, as John Dewey has stated: « Philosophy recovers itself when it ceases to be a device for dealing with the problems of philosophers and becomes a method, cultivated by philosophers, for dealing with the problems of men »⁵. Therefore, even if the purpose of this thesis is to remain fundamentally theoretical, we will try to determine what kind of institutionalization could reflect and embody the normative consequences derived from the theoretical perspective.

The question we will try to find an answer will unfurl in the following way: the first chapter will deal with a contextualization of Sen's research, by developing his Capability Approach. We will in that regard expose the specificity of his theory in comparison with other egalitarian theories, and concentrate more particularly on the notions of *freedom* and *agency* as they have evolved through his research. *Freedom* and

⁵Dewey, 1917, p. 65.

agency are indeed two core concepts in his theory that will help us understand the basis of his thoughts. Amartya Sen has a strong rooting in the liberal conception (understood in a classic way), hence the concepts related to *freedom* and *agency* lay the foundations for further understandings of his idea of democracy. The second chapter will deal more specifically with political participation, seen as a basic capability. Indeed, the effective right of shaping one's political and social environment is seen as one of the core capabilities, having intrinsic, instrumental and constructive reasons to be valued. In the third chapter, we will examine how Sen's theory has evolved from an initial Capability Approach seen as a measuring and evaluative method, to a more comprehensive theory of Justice. Highly influenced by Rawls, Sen develops a strong concept of public deliberation that is tightly related to the ideas of democracy and justice. He elaborates his conception of democracy and public reasoning upon Walter Bagehot's and John Stuart Mill's idea of « government by discussion », which would distance itself both from a transcendental and from a procedural or consequential⁶ approach to justice. But the very notion of public reasoning also refers to an alternative route to the aggregative dimension of democracy, where final decisions are not made by aggregation of opinions but rather by a real transformation of the initial (predeliberative) positions through discussion led by reason, impartiality and objectivity.

The fourth chapter will address deliberative democracy through a more concrete materialization: does every human being have equal effective access to public deliberation? This question will be discussed from several angles, but will remain focused on deprived groups in developed countries. We will observe that some social groups lack real access to the public sphere. We will also consider the fact that some social groups are participating in the process of public deliberation, but in a non-genuine way. Concepts such as *social functionings* and *relative deprivation*, *preference adaptation* and *invisible sufferings* will help us understand how a non-genuine political participation is possible, and how it undermines the legitimacy of the whole deliberative process.

6 Sen recognizes nevertheless that it is hard to remain fully consequence-independent or procedure independent while dealing with a social choice theory and thus the question of justice. Sen, 1995(a), p. 11-12.

The fifth chapter will consider the normative aspect of Sen's theory, and more precisely the relation that his Capability Approach maintains with a substantial vision of the good life. We will see that his theory is somehow torn between two opposite visions of social justice. On one hand, Sen is indeed profoundly marked by the classic liberal wave, considering that human beings are free to act and shape his own environment. Accordingly, a theory of justice should be neutral on the question of what a good society is⁷. His Capability Approach, by seeking the highest form of freedom as possible, doesn't contain a substantial view of the good society, but rather leaves the question to the process of public discussion. On the other hand, Sen is very concerned of avoiding a sole institutionalization of formal rights without looking at their effectiveness. He perpetually seeks a way of providing substantial freedom, acknowledging that social and environmental factors have an important role in yielding rights and opportunities effective. He furthermore refuses to present a list of valuable capabilities (leaving it to public discussion), but nevertheless presents some basic capabilities that are intrinsically important.

This internal tension in Sen's work will lead us to answer the following question: does the idea of political capability imply -in order to be effective- some social arrangements, and therefore a certain vision of the good, or does it have a neutral stand in that regard? This question will be treated in the sixth and last chapter. We will first consider the nature of those social arrangements on the basis of the analysis made in the fifth chapter. Are those social arrangements to be seen as part of Sen's theory, or as 'outsiders'? Afterwards, we will determine what kind of institutionalization would embody in the best way the explored adjustments. In that perspective, we will make a distinction between potential social arrangements needed for democratic participation understood in a reactive way, and democratic deliberation as entrenched in public reasoning. The latter is indeed much more demanding regarding the individual involvement, and is more prone to be affected by the notion of relative deprivation and social functionings discussed in the fourth chapter, and might therefore require other adaptations.

7 Sen, 2006, p. 226.

The aim of this thesis is to seek a legitimization of the institutionalization of *prior* economic and social equality. This equality is understood in a broad way, as the path that will be sought goes beyond a reflection on the sole question of economic redistribution, but will include among other questions those related to education and culture.

CHAPTER 1: AMARTYA SEN'S CAPABILITY APPROACH

Introduction

Faced with the limitations of the former theories of justice in their ability to address, assess and measure equality, Amartya Sen has developed throughout the last few decades a new *Capability Approach* aiming to proposing a new perspective on what equality should be about⁸. He observes that « a common characteristic of virtually all the approaches to the ethics of social arrangements that have stood the test of time is to want equality of something – something that has an important place in the particular theory »⁹. For that reason, he constantly repeats that the choice of the right *evaluative space*, meaning the choice of the relevant aspect of life that should be equalized in the given theory, is essential in order to avoid potential outcomes that would be contrary to the ones sought. A wrong *equalisandum*¹⁰ could indeed amalgamate means and ends, or could rely on misconceived presuppositions that would lead to inherent limitations and damageable consequences¹¹. Therefore, Amartya Sen proposes to revisit the notions of justice, equality, poverty, freedom, opportunity, and to integrate them in a new theory. That theory, the Capability Approach, has evolved over time into a comprehensive and solid normative theoretical framework with strong ethical, social, economic and political concerns. This chapter will present Sen's view in a non-exhaustive way, but will rather focus on notions that will be used in this research, *id est* concepts related to democracy and public reasoning. We will first present how and why Sen has distanced himself from other theories of justice, before giving an overview of his theory. We will finally present the notions of capability, functionings, freedom, agency and well-being.

8 Sen, 2009, p. 231.

9 Sen, 1992, p. ix.

10 « An *equalisandum* claim specifies that which ought to be equalized, what, that is, people should be rendered equal in. » Cohen, 1989, p. 908.

11 Sen states indeed that « a misconceived theory can kill », Sen, 1999(a), p. 209. For a broader analysis of that concept, see « Development: 'A Misconceived Theory Can Kill' », Alkire, 2010.

Criticism of other egalitarian theories

Sen has presented for the first time his perspective on the failure of former theories (namely utilitarian equality, total utility equality and Rawlsian equality) in a consistent and methodical way in the 1979 Tanner lectures¹². He delivered a lecture entitled « Equality of What? », where he presents his view on the limitations of each of those theories, and presents his own alternative, namely the equalization of capabilities. Throughout the time, he will deepen and refine his criticism of those theories, by showing how they focus in his view on the wrong focal variables, or forget to include what he values as being the right focal variable¹³.

Sen advocates strongly against any form of commodity approach¹⁴, since those theories value goods as being intrinsically important and for their instrumental purposes. He believes that they neglect the fundamental opposition between *means* and *ends*. Indeed, if the maximization or equalization of goods is sought, it is not for the goods themselves, but « only by virtue of their relationship to –what they do *for* – human beings »¹⁵. As Sen notes, goods, and Rawls' primary goods, are « merely means to other things, in particular freedom »¹⁶. Sen pays much attention to the intrinsic diversity of human beings. Human beings are indeed naturally endowed with different capacities and talents, but differ also regarding the environment in which they are evolving. Those multiple factors the human beings differ into are indeed both internal (health, talents...) and external (social environment, climate...), and influence to a great extent the possibility for a person to *convert* primary goods into valuable ways of living¹⁷.

12 Sen has been invited twice as a lecturer at the Tanner lectures on Human Values. The first lectures were given in 1979 and dealt with « Equality of What? », whereas the second lectures entitled « The standards of living » were presented in 1984-1985.

13 « Each evaluative approach can, to a great extent, be characterized by its informational basis: the information that is needed for making judgment using that approach and – no less important- the information that is « excluded » from a direct evaluative role in that approach ». Sen warns against the danger that wrongfully excluding essential information might influence the outcome of the theory in a dangerous way. For more information, see the section « included and excluded information » in Sen, 1999(a), p. 56-58.

14 This includes the « crude » commodity approach, the Rawlsian approach on primary goods and the Dworkinian focus on resources.

15 Crocker, 1992, p. 590.

16 Sen, 2009, p. 234.

17 On that issue, see for example Sen, 1979, p. 202-203; Sen, 1990; Sen, 1992, p. 19-21, 27-28 and 81-84; Sen, 1999(a), p. 70-72 and Sen, 2009, p. 233 and 253-268.

Focusing on goods misses therefore the final status of well-being, which is dependent on the inequality of the conversion factors of the human beings. Furthermore, for Sen there is a need to adopt a perspective that allows for the recognition of diversity in people's preferences and values¹⁸. A theory of justice should therefore be neutral regarding the conception of the good, and allow for plurality in the evaluative space. This should yield the possibility to assess well-being on the basis of what each person has reason to value, and not following the ends that the theory has *predefined* as being valuable. This point will be examined more thoroughly in the fifth chapter.

Targeting specifically utilitarianism, Sen criticizes its limitation by highlighting both the « limitation of informational availability »¹⁹ and the impossibility to proceed to interpersonal comparisons of the given utility²⁰.

We could conclude this section stating that Sen has shaped his own theory by trying to overtake the failures he saw in former theories, and by relying on the strengths that he could shed light on. That's why Rawls remain the most important and influential author for Amartya Sen. Indeed, even if Sen rejects his focus on the primary goods²¹ –and consequently also his difference principle-, he recognizes that Rawls has an opening for the recognition of diversity among human beings. The social primary goods, even though considered by Sen as means and not the pursued end, tend to allow everybody to be able to pursue its own vision of the good, since in Rawls' vision, « to be free and equal, citizens must have (minimal levels of) certain primary goods »²². Therefore, Sen creates his capability metric on Rawls's notion of primary goods²³: « the focus of basic capabilities can be seen as a natural extension of Rawls's concern with primary goods, shifting attention from goods to what goods do to human beings ».

18 « Why should an objective criterion not take note of the objective basis of differences of different people's « tastes and interests »? [...] The personal features that make a relevant objective difference (and which others too can see) can be built parametrically into an evaluation function without losing objectivity », Sen, 1985, p. 196. On that issue, see also for example Robeyns, 2005, p. 100-102 and Sen, 1992, p. 46-49.

19 Sen, 1985, p. 179.

20 See for example « Utility, Real Income and Interpersonal Comparisons », Sen, 1999(a), p. 67-70.

21 « Equality in holdings of primary goods or resources can go hand in hand with serious inequalities in actual freedoms enjoyed by different persons. », Sen, 1990, p.115.

22 Crocker, 2008, p. 117.

23 On that issue, see for example « Introduction: Social Primary Goods and Capabilities as Metrics of Justice », Brighouse and Robeyns, 2010, p. 1-13.

Equality of What?

Which alternative does Sen propose over other theories of justice? He considers that the right basal equality should be « our capability to achieve valuable functionings that make up our lives, and more generally, our freedom to promote objectives we have reason to value »²⁴. He values the *effective opportunities* that a person has to accomplish what he/she has reason to value. What is important is what kind of beings and doings the person had an effective freedom to achieve, and not what the person finally ends up being and doing. Freedom and achievements are thus differentiated, and the distinction between them is a core element in the Capability Approach. Freedom is indeed seen as being genuine and effective, and not formal. *Freedom to achieve* furthermore refers to a positive freedom, and not to a concept of negative freedom²⁵.

The actual achievement of a person, namely the *doings* and *beings* that the person decided to accomplish in his/her living, are referred to as *functionings*. Functionings can be very elementary (being nourished, sheltered), but can also be more complex (such as self-respect, being socially integrated or being happy)²⁶.

The *actual* functionings are part of a set of *possible* functionings from which the person decides to choose (the capabilities). As Sen notes:

« Given n different types of functionings, an " n -tuple" of functionings represents the focal features of a person's living, with each of its n components reflecting the extent of the achievement of a particular functioning. A person's "capability" is represented by the set of n -tuples of functionings from which the person can choose any one n -tuple. The "capability set" thus stands for the actual freedom of choice a person has over alternative lives that he or she can lead »²⁷.

As Ingrid Robeyns notes, it is important to realize that this leads to the fact that « two people with identical capability sets are likely to end up with different types and levels of achieved functionings, as they have made different choices from their effective

24 Sen, 1992, p. xi. Sen has afterwards regretted the choice of the term « capability » since it has led to several confusions and misunderstandings. Sen, 1993(a), p. 30.

25 He dissociates himself in that regard from Rawls when he perceives freedom (liberty) as being negative. Crocker, 1992, p. 595.

26 See for example Sen, 1993(a), p. 31.

27 Sen, 1990, p. 113-114.

options »²⁸ as people have distinct perceptions of the good and the good life. This respects Sen's liberal ideal of allowing and respecting different visions of the good.

Functionings or capabilities?

Why is it so important for Sen to focus on capabilities, since the actual life and well-being is embodied by the chosen functionings? Several critics regarding Sen's Capability Approach have indeed done this statement²⁹. Sen's answer is very clear: it is because choice has an intrinsic importance, and the freedom to choose the actual functioning is part of the well-being itself, regardless of the fact that the functioning is chosen or not³⁰. Sen usually uses the example of the fasting person to illustrate his position. He explains indeed that there is no value in measuring the actual well-being of a fasting person (the chosen functioning being hunger), without considering the capability of the person. Indeed, a person who *voluntarily*³¹ fasts for political or religious reason will have the same well-being as the undernourished person victim of poverty, but has the effective choice to be hungry or not, whereas the latter hasn't³². Focusing on capabilities (taking into account *opportunity* and *choice*) rather than on functionings will enable to take that effective freedom into consideration. What matters for Amartya Sen is therefore not the *actual* status of a person, but what the person has been able to choose among. Indeed, considering the realized functionings only would per definition limit the importance of the overall set of capabilities. Sen calls for the accentuation of capabilities rather than on functionings³³ since unrealized functionings,

28 Robeyns, 2005, p. 101.

29 Cohen, 1989, p. 941-945; Sen 1993, p. 42-46 and Sen, 2009, p. 235.

30 On that issue, see for example Sen, 2009, p. 235-238.

31 The question of voluntary choice is essential in order to refer to *effective* capabilities. Indeed, a person who is formally free to choose but submitted to social pressure won't be considered as having a real capability, since both *preferences* and *choices* might be alienated under social norms. That is why it is essential to analyze the context in which the choices are made. This aspect will be considered more thoroughly in the fourth chapter. See for example Robeyns, 2005, p. 99-101.

32 See for example Sen, 2009, p. 237.

33 It has nevertheless been highlighted that from a practical point of view, focusing on actual functionings rather than on capabilities is both easier to use and to interpret, or could even make more sense. Robeyns, 2005, p. 100-101. As Robeyns notes, « informational problems or measurement constraints might make a focus on functionings the best available or only feasible option ». Robeyns, 2006, p. 354. See also Sen, 1985, p. 199 and Nussbaum, 2002, p. 132. Sen has in « Development as Freedom » detailed several ways to deal practically with the Capability Approach (Sen, 1999(a), p. 81-85), but has acknowledged that giving a practical shape to the Capability Approach might be hard.

as well as the ability to choose which functioning to realize, are important for themselves. Even regarding basic capabilities, the major social task is to ensure that every person has the real possibility to reach a certain threshold in that aspect, but not the effective reaching of that threshold. The latter includes indeed an element of personal choice that has to be respected³⁴.

Basic capabilities

The Capability Approach is fundamentally a theory that provides a way to « judge a society » and « assess justice and injustice »³⁵, through units of measurement (the capabilities) that are determined by public discussion and deliberation³⁶. A society can indeed be assessed both regarding the *extent* to which the given capability can be deployed, as well as the *amount* of effective opportunities. This is why the Capability Approach is seen by several authors as being primarily an *evaluative* framework, failing to reach the status of a theory of justice³⁷.

It is interesting to note that the question of a preset list of valuable capabilities has been a highly debated issue among the capability theorists (both supporters and opponents). Sen has indeed always refused to proceed to an enumeration of important capabilities, since it depends in his view on public deliberation³⁸ in opposition to Nussbaum's list of 10 capabilities³⁹. Public scrutiny is for him indeed essential in order to avoid any form of transcendental imposition of a certain vision of the good contained in a predetermined list of capabilities.

However, notwithstanding his refusal to elaborate a list, he has nevertheless considered

Furthermore, it is important to bear in mind that Sen highlights the non-commensurability of capabilities, even though he considers that it doesn't jeopardize its usage since choices in life are generally non commensurable neither. Sen, 2009, 240.

34 See for example Arneson, 2006, p. 31; Nussbaum, 2002, p. 132 and Sen, 1999(a), p. 30- 31.

35 Sen, 2009, p. 231.

36 *Ibidem*, p. 242.

37 See for example Robeyns, 2005, p. 94-96 and Srinivasan, n.d., p. 2.

38 A predetermined list of capabilities would be « conceptually ungrounded » and would disregard the influence of public discussion on our own valuation. Sen, 2009, p. 242.

39 Martha Nussbaum has indeed elaborated a list of 10 core capabilities that should be incorporated in every constitution. This pre-agreement on the valuable capabilities situates her in the social contract perspective, in the same way as Rawls' principles of justice, even if she seems to reject that affirmation (see for example Nussbaum, 2002, p. 134).

the question of « basic capabilities»⁴⁰, namely capabilities corresponding to « centrally important functionings »⁴¹, and which allow a person to do « certain basic things »⁴². Next to its role of *assessing* a society, the Capability Approach also calls for certain equality among basic capabilities⁴³ as he claimed in his 1979 Tanner Lecture. In *Inequality reexamined*, published in 1992, he specifies that the term basic capabilities « was intended to separate out the ability to satisfy certain elementary and crucially important functionings up to a certain levels »⁴⁴. Besides the fundamental emphasis given to capabilities, it has thus to be acknowledged that « Sen also gives independent and intrinsic value to certain functionings »⁴⁵.

Basic capabilities refer to basic needs, in the sense that they tackle poverty and elementary deprivation⁴⁶; they refer among others to the ability to be well-nourished, well-sheltered, escaping morbidity and starvation, but also taking part of the community life or appear in public without shame⁴⁷. Sen insists on the fact that basic capabilities seek objectivity, but still remain culture-dependent⁴⁸. Indeed, objectivity doesn't coincide with social invariance, since even « what is seen as terrible variation can vary from society to society »⁴⁹. For example, taking part in the community life is an « absolute » requirement, but the form it will take will depend on the social requirements⁵⁰. This concept stems from Adam Smith's reflection on the required commodities needed to appear in public without a shame that evolve over time and throughout societies. This aspect will be analyzed in the fourth chapter along with the examination of social functionings.

40 It is important not to amalgamate Sen's conception of basic capability with Nussbaum's basic capability. The latter refers indeed to the « innate equipment of individuals that is necessary for developing more advanced capabilities, and a ground for moral concern » Clark, 2005, p. 9, or, as Crocker defines, « the capacity for capability ». Crocker, p. 2008, p. 172. Nussbaum's basic capability refers indeed to Aristotle's « potentiality » (in opposition with actuality).

41 Sen, 1993(a), p. 31.

42 Sen, 1979, p. 218.

43 Sen, 1993(a), p. 38.

44 Sen, 1992, p. 45, footnote 19. The same wording has been retaken for example in Sen, 1993(a), p. 38.

45 Crocker, 2008, p. 167.

46 Sen, 1993(a), p. 38. See also Crocker and Robeyns, 2010, p. 69.

47 Sen, 1999(a), p. 36.

48 The aim is thus to avoid the fetishism that can be found in Nussbaum's list, as well in Rawls' determination of primary goods, since the weighing itself depends on the society. Sen, 1979, p. 219.

49 Sen, 1992, p. 108.

50 *Ibidem*, p. 109.

The notion of Freedom

Sen's theory is part of the liberal school of thoughts, where both freedom and individual autonomy hold essential roles⁵¹. Freedom is perceived as being crucial because it « perceives the human being as a true agent of change », and not as a « passive recipient of dispensed benefits »⁵². But what notion hides precisely behind the wording « freedom »?

Freedom has to be seen as a real and effective opportunity given to a person. The effectiveness of freedom is indeed a fundamental element to veritably understand Sen's conception of freedom. Sen warns us to be careful and not to consider only the « appropriate » procedures (in a libertarian approach), given the fact that many people might be entitled with some formal rights and freedom, but still lack substantial and effective opportunities and freedoms⁵³. This is also the reason why Sen advocates for a shifting from the assessment of equality of social primary goods to the equality of freedom enjoyed, since equality of social primary goods (including formal rights) can still be combined with inequality in effective and substantial freedoms⁵⁴.

Freedom, says Sen, has a role of *evaluation* of the society (through an analysis of both its intrinsic and instrumental value, as will be considered below) and a role of *effectiveness*, which has to guarantee that freedom is genuinely the « principal determinant of individual initiative and social effectiveness »⁵⁵. The two major *values* of freedom, its intrinsic and instrumental values, have furthermore to be understood together with its dual *aspects*; a process aspect coupled with an opportunity aspect. We will first consider the values of freedom, before analyzing its aspects, and we will conclude with an additional comment.

51 Robeyns, 2004, p. 94-95.

52 Sen, 1999(a), xiii.

53 *Ibidem*, p. 17.

54 Crocker, 1992, p. 596.

55 Sen, 1999(a), p. 18-19 and 33-34.

A. The two values of freedom⁵⁶

As indicated by the title of his 1999 book, « Development as Freedom », he believes that freedom consists both in « the primary end and the principal means »⁵⁷ of development. This dual aspect of it, namely its intrinsic and instrumental value will shape to a great extent the theory of Amartya Sen, especially regarding capabilities.

First of all, freedom has to be valued and extended for its own sake. « Recent developments in social-choice theory have attempted to bring in considerations of freedoms into the framework of evaluation, in the specific context of valuing liberty »⁵⁸, says Sen. Being free, and having the ability to choose between different valuable functionings is something valuable in itself. The capability theory, by valuing that choice, considers therefore freedom as a determinant factor in the evaluation of well-being itself⁵⁹. As Crocker notes « Sen's capability ethic [...] interpreting basic needs as actual freedoms or capabilities, conceives these freedoms as part of *the content of*, rather than the *conditions for* or *means to*, a full life »⁶⁰. The substantial freedom that a person has, has nevertheless to be considered regarding the *quality* of the opportunities offered. The nature of the given alternatives is indeed essential in order to weigh the true importance of the freedom. Sen gives two clarifications on how the importance of alternatives should be considered. First, he refers to the personal values of the person⁶¹. The significance of the given choice has to be considered following the importance that it has for the person *himself*. Second, the opportunities should concern *true options*, and not « trivial and minor choices »⁶². Indeed, the multiplication of 'so-called choices' induced by the capitalist society (as being able to choose the label of the washing powder) might be more a burden than a real increase of well-being. That is why Sen calls for an assessment of freedom which is done not by counting the number of available opportunities, but by considering the genuine value of each opportunity⁶³. He is in that way moving away from the classic economic theories that value choice for

56 On the two values of freedom, see Sen, 1985, p. 219; Sen 1999, p. 36-40 and Sen, 2009, p. 235-238.

57 Sen, 1999(a), xii.

58 Sen, 1992, p. 32.

59 *Ibidem*, p. 150.

60 Crocker, 1992, p. 604.

61 Sen, 1995(a), p. 6.

62 Sen, 1992, p. 63.

63 See Sen, 2002(a), p. 14-15; Pettit, 2010, p. 106-107.

itself, whatever the values of the opportunities are. Since the freedom to choose between different valuable functionings is what matters, one understands why Sen focuses on capabilities rather than on functionings, since even non-realized opportunities do have an importance in the assessment of well-being⁶⁴. Last, but not least, it has been mentioned that freedom can be used in the evaluation of a given society. Indeed, besides the importance of freedom for an individual's well-being, « the extent of freedom enjoyed by each person can be directly important for a good society. Indeed, whether or not freedom enters individual well-being, individual freedom can be seen as being constitutive of the goodness of the society which we have reasons to pursue »⁶⁵.

Second, freedom, and more precisely some specific sorts of freedoms, have an instrumental value to a broader and more general human freedom. Sen highlights here the interdependence of different kinds of liberties: the enjoyment of those freedoms is important in order to reach a more effective level of freedom in other areas and give the means to live following the ways of living that are valued⁶⁶. As Sen states:

« A quality that is of intrinsic importance can, in addition, also be instrumentally momentous, without compromising its intrinsic value. Basic education, good health, and other human attainments are not only directly valuable as constituent elements of the quality of life, these abilities can also help in generating economic success of more standard kinds, which in turn can contribute to enhancing human freedoms in other ways. »⁶⁷

The instrumental freedoms Sen refers to include 1- political freedoms (who governs, following which principles), 2- economic facilities (including the question of redistribution of resources), 3- social opportunities (including social initiatives and services as education, health,), 4- transparency guarantees, and 5- protective security⁶⁸. It is thus important to note that both positive and negative freedoms can be instrumental, and that negative freedoms might be important to reach positive freedoms⁶⁹. Enhancing education, health services, ... will have positive consequences on

64 See Shue when he affirms that « having a liberty can be valuable in itself even if one does not actually exercise it ». Shue, 1980, p. 68.

65 Sen, 1992, p. 151.

66 Sen, 1999(a), p. 10.

67 Drèze and Sen, 2002, p. 7.

68 See especially Sen, 1999(a), p. 38-41.

69 Sen, 1985, p. 219 and Crocker, 1992, p. 597.

effective participation in political and economic life, as well as political and economic freedom are necessary to ensure the expansion of social services (including social safety nets). Sen is thus totally convinced by the interconnections and complementary aspects of those freedoms.

*B. The two aspects of freedom*⁷⁰

Freedom has two major aspects, viz. processes and opportunities. One important point, noted by Sen himself, is that the capabilities deal only with the opportunity aspect of freedom, but are unable to consider the process aspect. That is why he recognizes that the Capability Approach doesn't amount to a full theory of justice, since « a theory of justice, or more generally an adequate theory of normative collective choice, has to be alive both to the fairness of the processes involved and to the equity and efficiency of the substantive opportunities that people can enjoy »⁷¹.

First of all, freedom has to be considered as a process, or, as Alkire states, as « the ability to be agent »⁷². Unfreedom can indeed result from a violation of processes, which, as the examples given by Sen show, might be very divergent in their nature. Inadequate processes might be the absence of political rights⁷³, unjust social institutions⁷⁴, but also the existence of social, psychological or physical *threats*⁷⁵, or, more clearly, the use of physical force. A just process has an intrinsic importance; if a person ends up choosing the same option -with or without the alienated process, the final well-being won't be the same. In order to take the fair process into account in the evaluation of well-being, Sen differentiates what he calls « comprehensive outcomes » and « culmination outcomes ». Whilst the former takes into account the actions undertaken, the agency of the person, the processes used, and not the sole outcome, the latter refers to « the simple outcome, detached from processes, agencies and

70 On the two aspects of freedom, see Sen, 1999(a), p. 17; Sen 2004, p. 330-338 and Sen, 2009, p. 228-230.

71 We underline. Sen, 2004, p. 337.

72 Alkire, 2004, slide 7.

73 Sen, 1999(a), p. 17.

74 Sen, 2004, p. 236. Sen notes in that way that even if men live usually less longer than women with the same medical care, giving women less medical attention for the same health problems would clearly be a breach to the fair process.

75 Sen, 2009, p. 228-229.

relations »⁷⁶. It is thus important to deal with the comprehensive outcome, and so have a broader view of the real opportunities, to understand the concept of capabilities⁷⁷.

Another important consequence of the process aspect of freedom is that, as noted by Robeyns, « institutions and structures need to be procedurally just too, apart from the outcome they generate »⁷⁸.

The second aspect of freedom is the opportunity aspect, namely the « opportunity to pursue the objectives and life we value »⁷⁹. This aspect of freedom has been presented more extensively in the section regarding capabilities. The comment made on the intrinsic value of freedom regarding the importance of the diversity and the value of the opportunities (in opposition with the 'number' of choices) is here fully applicable.

Further observation

One additional remark needs to be done over the notion of freedom to have a more complete understanding of the concept. As Amartya Sen notes, the notion of freedom itself is very complex and « not unproblematic », and there are « genuine ambiguities in the concept of freedom »⁸⁰. Indeed, all the factors *leading* to the decision making itself are difficult to assess (courage, pressure...), and highly dependent on social factors. This leads to the very delicate issue of free will vs. determinism, which is an important issue regarding freedom and capabilities, and raises the question if every person can be held equally accountable and responsible for the choices that are made⁸¹. As we will analyze further in chapter four, since even our conception of the good is « profoundly molded » by social and cultural backgrounds, to what extent can we consider a choice as a fully free choice⁸²? As Amartya Sen notes, « individual freedom is quintessentially a social product »⁸³, depending on legal frameworks, social tolerance, public support⁸⁴, and more

76 *Ibidem*, p. 215.

77 *Ibidem*, p. 230.

78 Robeyns, 2005, p. 109.

79 Sen, 2009, p. 228.

80 Sen, 1993(a), p. 33-34.

81 Robeyns, 2006, p. 372.

82 Robeyns, 2004, p. 101.

83 Sen, 1999(a), p. 31.

84 *Ibidem*, p. 42.

generally on economic, social and political arrangements⁸⁵. He interestingly notes that the social aspect of freedom has a « two-way relation between (1) *social arrangements* to expand individual freedoms and (2) the *use* of individual freedoms [...] to make the social arrangements more appropriate and effective »⁸⁶. Indeed, if social norms and institutions influence the exercise of freedom and the ability to make choices, they are in turn also determined by the effective use of freedoms, such as public discussions, social interactions and participation⁸⁷. The social context thus *affects* and *is affected by* the effective use of freedom.

The notion of Agency

The notion of agency, sometimes misunderstood⁸⁸, has an essential role in Sen's theory, since it is by exercising one's agency that a person is able to shape its *own* life and destiny⁸⁹. We will present briefly the concept of agency in Sen's works, helped in that task by the research Crocker has done on that issue. Agency is indeed concerned with the possibility of achieving one's own values and objectives, and perceives the agent as being a « member of the public » and a « participant in economic, social and political actions »⁹⁰.

The agency aspect is essential and has to be evaluated on its own, since a person's agency can be in opposition with that person's well-being⁹¹. Indeed, because well-being (understood as one's wellness or advantage⁹²) is generally the relevant feature for assessing the goodness of something, Sen insists on the importance of agency, apart from well-being. « A person can – and typically does- also have goals and values other than the pursuit of one's own well-being »⁹³, therefore, the realization of a person's agency can increase or decrease her own well-being. Sen therefore distinguishes the

85 *Ibidem*, p. 53.

86 We underline. *Ibidem*, p. 31.

87 *Ibidem*, p. 9.

88 See for example *Ibidem*, p. 18.

89 *Ibidem*, p. 53.

90 *Ibidem*, p. 19.

91 If both notions have to be distinguished, they are obviously related to each other, and they are equally important. *Ibidem*, p. 35.

92 *Ibidem*, p. 36.

93 Sen, 1992, p. 56.

agency freedom from the well-being freedom. Whereas the former refers to the freedom to achieve what one values, the latter is concerned with the freedom to achieve what contributes to one's well-being only⁹⁴.

Well-being and agency can thus be differentiated both in their notion of freedom and their level of achievements.

Crocker has presented these distinctions in an intelligible presentation⁹⁵:

	Agency	Well-being
Achievement	Agency achievement	Well-being achievements (Functionings)
Freedom	Agency freedom	Well-being freedoms (Capabilities)

This presentation shows in a clear way that agency doesn't enter into the weighting of neither functionings nor capabilities, since only the well-being is considered.

The distinction is sometimes difficult to establish clearly. Indeed, the happiness created by the realization of an « other-regarding achievement » (that might be part of my agency goals) can improve one's well-being, even if it doesn't impact one's « living standard » or direct wellness⁹⁶.

In order to stress the importance of one's direct *involvement* in the realization of its goals and values – making the person effectively an *agent* –, Sen distinguishes in *Inequality Reexamined* the concepts of 'realized agency success' from 'instrumental agency success'⁹⁷. '*Realized* agency success' occurs when the promoted objectives are

94 See *Ibidem* p. 57.

95 Crocker, 2008, p. 151 and Crocker and Robeyns, 2010, p. 62.

96 Sen, 1993(a), p. 37.

97 Sen, 1992, p. 57-58. Crocker criticizes this dichotomy, and revisits Sen's notion of agency success. He proposes to replace the distinction of 'realized agency' and 'instrumental agency' by a triptic distinction, namely 1) the agency of others, 2) my indirect agency and 3) my direct agency. The new element, 'my indirect agency', refers to a situation where my agency has NOT been exercised, but has influenced the outcome of the process through anticipation or taking into account of my preferences. For Crocker, the behavior of elected people is driven by the indirect agency of the voters, since the elected person is influenced by the people who have voted for him/her (the influence might be a

met independently from any personal engagement (for example, the eradication of poverty in a certain country can be part of a person's objective, and will meet its agency, even though that person hasn't been involved at all, neither directly or indirectly). The important factor is that the goal is realized, not the process by which it happened. On the other hand, '*instrumental* agency success' refers to a situation where the person has played a role – decisive or not – in the realization of the given purpose. Instrumentality is indeed tightly linked with the aspect of *participation* and *control* over a situation⁹⁸.

Two additional comments, based on Crocker's analysis⁹⁹, have to be made on the concept of agency. First, agency is a matter of degree. The more an action is respectful of the conditions of agency (autonomy, rationality, instrumentality, consequentiality), the more 'fully' it will be considered as an agency act (there is no *sine qua non* condition). Second, the motivational aspect of an agent is closely related to values and rationality. The question of values, also tightly linked with the individual's level of autonomy, is important both for the process and the outcome of the action¹⁰⁰. The question of rationality, on the other hand, has a more decisive role regarding agency. As Crocker notes, « full agency is reasoned agency »¹⁰¹. The importance of rationality in Sen »s work will be examined in the third chapter. However, it is important to note already at this stage that goals pursuit by an agent have to be guided by reflection and reason¹⁰².

question of accountability, of expectation to be reelected, or others). Crocker, 2008, p. 153-159.

98 Sen, 1992, p. 58. This goes nevertheless beyond the understanding of « freedom as control ». *Ibidem*, p. 64-66.

99 See especially Crocker, 2008, p. 156-159.

100 This has been discussed by Sen under the question of 'agent relativity', initially presented by Nagel, in « Rights and Agency ». Sen, 1982.

101 Crocker, 2008, p. 157.

102 Sen, 1992, p. 56, note 1.

CHAPTER 2: DEMOCRACY AND POLITICAL CAPABILITY

Introduction

Democracy and its implications is one of the cornerstones of Sen's theory. However, it is interesting to follow the evolution of that notion over the last decades. Indeed, if the concept refers to the same reality, Sen has polished its conception and deepened the theoretical and normative aspect of it. In 1999, in his article entitled « Democracy As a Universal Value », Sen gives his definition of democracy:

« What exactly is democracy? We must not identify democracy with majority rule. Democracy has complex demands, which certainly include voting and respect for election results, but it also requires the protection of liberties and freedoms, respect for legal entitlements, and the guaranteeing of free discussion and uncensored distribution of news and fair comment. Even elections can be deeply defective if they occur without the different sides getting an adequate opportunity to present their respective cases, or without the electorate enjoying the freedom to obtain news and to consider the views of the competing protagonists. Democracy is a demanding system, and not just a mechanical condition (like majority rule) taken in isolation. »¹⁰³

Ten years later, he clarifies some features of Democracy in *The Idea of Justice*:

« In this work, democracy is assessed in terms of public reasoning, which leads to an understanding of democracy as 'government by discussion' (an idea that John Stuart Mill did much to advance). But Democracy must also be seen more generally in terms of the capacity to enrich reasoned engagements through enhancing informational availability and the feasibility of interactive discussions. Democracy has to be judged not just by the institutions that formally exist but by the extent to which different voices from diverse sections of the people can actually be heard. »¹⁰⁴

Sen has kept the same understanding of democracy, namely a demanding system going beyond formal rules and institutions. However the *requirement* of public discussion and deliberation as part of the very nature of democracy has been developed and matured more lately and has taken an essential place in his understanding of justice¹⁰⁵. Because

103 Sen, 1999(b), p. 9-10.

104 Sen, 2009, p. xiii.

105 The question of public deliberation has also been developed in « Democracy and Its Global Roots ». Sen, 1999(b) and Drèze and Sen, 2002.

Sen's notion enjoins a certain practice we can say that it is a real normative conception of democracy¹⁰⁶. In this chapter, we will develop why Sen attaches so much importance to democracy and address the question of political capability. The analysis of public reasoning and its relation to justice will be done in the next chapter.

The importance of democracy

Democracy has in Sen's idea 3 major roles: an intrinsic value, an instrumental role and a constructive function. Each of them is important on its own, but it is the combination of the 3 that makes the true value of democracy. So, for the evaluation of a society or democratic government, the 3 components must be taken into account to have a real vision of the quality of democracy¹⁰⁷.

The intrinsic value

Human beings are fundamentally social creatures. To be willing to participate in social and political activities is therefore a need for them¹⁰⁸. Participation in the political process and in the community life is thus, as we have seen in the first chapter, a basic capability. « The freedom to participate in critical evaluation and in the process of value formation is *among the most crucial freedoms* of social existence »¹⁰⁹. To be able to take part in political decisions is part of development itself¹¹⁰ and being denied that possibility is a major deprivation¹¹¹. « There is a real need », says Sen, « – for social justice – for people to be able to take part in these social decisions if they so choose »¹¹².

Indeed, democratic discussion and participation are seen as « integral to freedom-enhancing development »¹¹³: for Sen, more freedom would therefore include more participation¹¹⁴ and is hence to be valued. Crocker nevertheless thinks that Sen, by

106Crocker and Deneulin, n.d., p. 1; Crocker, 2008, p. 297-298 and Sen, 1999(b), p. 9-10.

107Sen, 1999(a), p. 157-158.

108*Ibidem*, p. 152.

109We underline. *Ibidem*, p. 287.

110*Ibidem*, p. 191.

111Sen, 1999(b), p. 10. See also Sen, 2003, p. 33-34 particularly.

112Sen, 1999(a), p. 242.

113Crocker, 2008, p. 2.

114Crocker, 2008, p. 170.

mentioning the intrinsic value of political participation, doesn't give much strong theoretical and conceptual justification. Crocker believes that Sen could have defended its legitimacy by referring to the enhancement of agency induced by political participation. Since agency is intrinsically important in Sen's theory, and since political participation intensifies agency, political participation is thus important¹¹⁵. We think that Crocker is right in highlighting that Sen surprisingly doesn't emphasize more the positive impact it has on agency, even if he refers to it many times. However, justifying the whole intrinsic value of political participation through its added value for agency would give it a mere derived instrumental value. In that idea, justifications of potential socio-economic thresholds that would have an instrumental value derived from the need to ensure an effective political participation – what will be discussed in this thesis – would have a double derived value (socio-economic threshold [instrumental to] → political participation [instrumental to] → enhancement of agency [intrinsic value]). If agency should definitely be part of the justification of democracy seen as genuine participation, it nevertheless shouldn't be the sole reason.

The intrinsic importance of democracy has an important consequence regarding its necessity regardless of the outcome of the process. Indeed, the democratic process itself doesn't give any guarantee concerning a positive outcome (a just decision for example). On the other hand, providing social and economic subsistence without allowing people to participate in the decision process would be inherently vitiated. This vision is very close to the position of Shue when he considers that a « paternalistic dictatorship » could indeed provide the *enjoyment of the substance* of many rights (security, subsistence), but that wouldn't amount to *enjoying the right itself*¹¹⁶.

The instrumental value

Democracy has besides its intrinsic value an important instrumental role. Indeed, Sen sees political participation, through the effective use of civil and political rights, as an important tool of pressurizing the decision makers and drawing the attention to the

¹¹⁵*Ibidem*, p. 300-303 and Crocker, 2006, p. 304-305.

¹¹⁶He clearly states: « it is not possible to enjoy full rights to security or to subsistence without also having the rights to participate effectively in the control of security and subsistence ». Shue, 1980, p. 75.

needs of the citizens¹¹⁷. Indeed, it is by manifesting their claims that those can be taken into account by the political leaders, and request a proper and adequate answer¹¹⁸. The reaction of the governants will generally be dependent on the level of pressure generated by the people. In this understanding, the 'effective use of civil and political rights' has to be understood as going way beyond the ballot process, and refers to reactive and proactive actions such as protests and manifestations¹¹⁹. This will lead to political incentives¹²⁰. Since the consequences and the outcome are in this aspect important, Sen refers to the 'instrumental' value of democracy¹²¹. The fact that the behavior of the people can influence the decision making process corresponds to the notion of *indirect agency* as seen in the former chapter. Indeed, rules are more likely to respond in a positive way given that they will be submitted to the people's judgment in the course of the following elections¹²². The instrumental role of democracy refers therefore to the concrete outcome of decisions, not taken by, but influenced by the people thanks to their use of civil and political rights. Therefore, Sen refers to it as the « protective » role of democracy¹²³. One of the major fields Sen has worked on, famines and deprivation, has made him discover that no real democracy has ever known a situation of famine. That stupendous finding corroborates his conviction that democratic governments take steps to prevent famines, which are thus not inevitable, to avoid criticism and pressure from the civil society and the opposition¹²⁴.

The constructive value

Next to its internal value and its consequential role, democracy allows for the *definition itself* of the needs. The process of discussion, exchange, and deliberation leads to the conceptualization, construction and the understanding of values, wishes, needs (including economic needs)¹²⁵. Open discussion is indeed important to *realize* and

117Sen, 1999(a), p. 151.

118*Ibidem*, p. 147-148. On the same conclusion, see also Varshney, 1999, p. 6-7.

119Therefore, rights such as freedom of movement, speech, association and assembly are essential.

120Sen, 1999(b), p. 16.

121See also Crocker and Robeyns, 2010, p. 83.

122Sen, 1999(a), p. 152.

123*Ibidem*, p. 154 and 178-184.

124The main research on the issue can be found in *Hunger and Public action*. Drèze and Sen, 1989.

125Sen, 1999(a), p. 148 ; 153-154.

define what the social and political problems are¹²⁶. Public deliberation, by creating « new standards and priorities »¹²⁷, has therefore a crucial importance in « the process of generating informed and considered *choices* »¹²⁸. The formation of values is genuinely an interactive process, where people do learn from each other¹²⁹.

As Bonvin¹³⁰ notes, the constructive value needs to develop throughout the time. It is through a permanent and long-term perspective that the value-construction can take place effectively in the society.

In *The Idea of Justice*, Sen has more extensively explored this constructive aspect, understood as a real practical reasoning. That aspect will be presented more thoroughly in the next chapter.

Democracy as a universal value

One of the main arguments of Sen is that democracy should be disconnected from western civilization in the collective thoughts. Indeed, political science has assimilated democracy to formal voting procedures as it has evolved in the last centuries in western countries, in the heritage of ancient Greece¹³¹. Many people believe thus that democracy corresponds intrinsically to a western value and practice. Sen wants to fight against that perception, and believes that democracy, understood as the ability to influence public choice in the lineage of Rawls's ideal of public reason, has roots that go way beyond this, both on a temporal and geographical aspect¹³². If balloting is important in the democratic process, it is only a fragment of it. The *tradition* of public discussion, in the broader view of democracy, « has had a more widespread history»¹³³. Sen takes a clear

126 *Ibidem*, p. 154.

127 Sen, 2009, p. 336.

128 Sen, 1999(b), p. 10.

129 *Ibidem*, p. 10 and Sen, 2009, p. 336.

130 Bonvin, 2005, p. 25-26.

131 He furthermore questions the allegation that Ancient Greece is the natural and direct cultural ancestor of Europe, given the numerous cultural relations Greece has maintained with eastern cultures, as well as the important influence of other civilizations such as the Vikings, the Goths, the Gauls, ... See for example Sen, 2009, p. 329.

132 Sen, 2003, p. 29.

133 Sen, 2009, p. 329.

position against the Asian value debate¹³⁴, as well as against the general idea that the Middle East is not 'fit' for democracy¹³⁵. In the same idea, he is convinced that poor countries can implement democracies in a very effective way.

Sen is willing to demonstrate that the democratic practice, perceived as the effective participation in public deliberation and influence on political decisions, has a universal root. He first clarifies that having universal roots doesn't mean that the practice is unquestioned, or practiced in every region of the world. Rather, « the claim of a universal value is that people anywhere *may have reason to see it as valuable* »¹³⁶. He bases his statement on two main grounds. First, he claims that every person *has reason to value* democracy because of its three values (intrinsic, instrumental and constructive) that have an importance for every person. Second, he shows that democratic values have been valued throughout the time and across the cultures, by referring to several sources. He uses narratives coming from different civilizations, philosophers, leaders, thinkers, but also popular wisdom and anecdotes¹³⁷.

Political capability

The notion of « political capability » doesn't appear in Sen's work. Nevertheless, it has emerged in secondary literature to express the need of ensuring the existence of an effective possibility to participate and influence political decisions, given its importance as developed *supra*. Political capability refers indeed to the real ability to discuss and debate *as equals* in the society. Sen himself has acknowledged at many occasions that the effective participation of poor people could be a challenge, and that the lack of education, poverty, ... could lead to the fact that people lose the ability to speak for themselves and have a lack of effective ability to intervene¹³⁸. The political capability, therefore, as all the capabilities, depends on the given context for the effective exercise

134Sen, 2003, p. 31. Sen considers that the question of legitimacy and authority in cultures is important and shouldn't be neglected. Nevertheless, the people themselves should be able to decide through public deliberation what part of tradition and culture they want to preserve vs. which values and commitments they want to pursue. Sen, 1999(a), p. 30.

135Sen, 2009, p. 333-337.

136We underline. Sen, 1999(b), p. 12.

137Crocker, 2008, p. 111.

138Drèze and Sen, 2002, p. 29.

of the freedom¹³⁹.

The idea of political capability pays therefore attention to institutions, procedures and social arrangements, but also on how people take advantage of the given opportunities that are offered¹⁴⁰. Indeed, as De Herdt and Abega note, true political participation depends on institutions and social arrangements, but is also dependent on *values* and *practices* present in the society¹⁴¹. This is why there is a need to protect and enhance, besides the institutional and formal aspect, the circumstances that allow for an effective participation¹⁴².

The importance of political capability would therefore ensure an *equal access* to participation (without ensuring the effective participation itself¹⁴³) and enable participation as equals, or, as García Valverde adds, it would refer to the equal ability to participate in a *meaningful way*¹⁴⁴. In a less demanding perspective, it could also imply a threshold of « minimally adequate political functionings »¹⁴⁵.

The question of the necessity of predeliberative conditions in order to have an effective political capability will be analyzed thoroughly in the next chapters.

Further observations

Some comments have to be done on the idea of democracy. First, Sen doesn't specify any form of procedure or institution that should embody real democracy. Several authors have criticized this lack of formalization in Sen's theory¹⁴⁶. Second, it has been noticed that Sen doesn't conceptualize the notion of *collective agency* regarding the

139« Political freedoms and liberties are permissive advantages and their effectiveness would depend on how they are exercised ». Sen, 1999(a), p. 154.

140*Ibidem*, p. 155.

141De Herdt and Abega, n.d.

142Sen, 1993(b), p. 158-159.

143If participation in itself is not guaranteed, once people decide to enter into the debate they should nevertheless have an equal position. On that topic, see Pogge's conception of governance, that implies equal political *influence*, and his position on genuine democracy that implies also « to be safe from extreme economic need and from arbitrary physical violence and psychological duress ». Pogge, 2002, 146-147.

144García Valverde, n.d., p. 6-7.

145Bohman, 1996, p. 112. See also Srinivasan: « a theory of justice based on the Capability Approach could thus entail that a minimum level of each individual's political capability be guaranteed as an *oustet* ». Srinivasan, n.d., p. 11.

146See for example Sabina Alkire in Alkire, 2002, p. 13.

democratic process and public deliberation. This can have an undermining effect on the idea of *collective* value and priority creation, which might questionably happen through an aggregation of individual agencies. Third, Sen notices that democracy requires more democracy¹⁴⁷. Indeed, in case of a breach or lack of democracy, only the maintenance and strengthening of civil and political rights could ensure the existence of effective democratic action¹⁴⁸. 'Democracy requires more democracy' also in the sense that democracy will apply to itself. Public reasoning will have a reflexive role and will therefore think and question notions as democracy and public reasoning themselves¹⁴⁹. Last, but not least, Sen repeats that democracy has an important role regarding economic development. There are « extensive interconnections between political freedoms and the understanding [i.e. the constructive value] and fulfillment [i.e. the instrumental role] of economic needs »¹⁵⁰. He advocates against the Lee thesis stating that political liberties jeopardize economic growth and development¹⁵¹. Political freedoms, as stated in the last chapter, have an important role in acquiring other broader freedoms, and this includes economic freedom.

147Sen, 2003, p. 34.

148Formal aspects will *lead* to a real participatory democracy. Bonvin, 2005, p. 26.

149Sen, 2003, p. 34.

150Sen, 1999(a), p. 147.

151The Lee thesis is called after Lee Kuan Yew, former prime minister of Singapore. *Ibidem*, p. 148.

CHAPTER 3: PUBLIC REASON, DEMOCRACY AND JUSTICE

Introduction

In this chapter, we will have an overview of the notion of public reasoning, as conceptualized by Sen in his latest works. As we will see, the notion of public reasoning is a form of deliberative democracy in its highest and purest shape. This can nevertheless lead to some practical problems, and even paradoxes.

Public reasoning has in Sen's theory a tight relation with the notions of democracy and justice. This is partially how Sen has extended his perspective, from a « mere » Capability Approach towards a theory which comes closer to a theory of justice.

The notion of public reason

First of all, what does *public reason* exactly refer to? The notion is quite complex, and conceiving it in a practical aspect might be even more challenging. Nevertheless, two main features characterize that notion. The first one refers to a form of public deliberation where the individuals decide on rules and values governing the society. To be « fully capable collectively of exercising public reason », a society must be « maximally inclusive », meaning that all the members of the given society should be able to participate in the debate¹⁵². When Sen refers to the exercise of public reason, he specifies that it refers to « the opportunity to participate in political discussion and so to *be in a position to influence public choices* »¹⁵³. This interpretation is taken from Rawls, whose concept of public reason has shaped to a high extent Sen's own perception. The second feature is that public reasoning, as its own denomination shows, is lead by *reason*. Decisions should be made in the most reasoned and informed way as possible¹⁵⁴, referring both to « an unobstructed discussion and scrutiny » coupled

152 Kelly, 2011, p. 7.

153 We highlight. Sen, 2003, p. 29.

154 Bonvin, 2006, p. 26.

with « adequately wide informational availability »¹⁵⁵. Reasoned deliberation will have both a role of *shaping* rules and institutions, as well as *evaluating* social arrangements. Social evaluation and judgment should indeed be done using reason and openness in the valuation itself, and not by « burying the evaluative exercise in some mechanical, and valuationally opaque, convention »¹⁵⁶. Reason should thus be the driving force behind every action or judgment undertaken. As Crocker reminds us, full agency is preeminently reasoned agency¹⁵⁷.

Secondly, public reason has an important role in the creation of values. Indeed, Sen is moving away from the traditional vision of democratic decision-making by aggregation of predeliberative conceptions and opinions. Public reason calls for interaction¹⁵⁸ and mutual responsiveness¹⁵⁹. The idea of deliberation is indeed that opinions change and are shaped through the deliberation itself¹⁶⁰. Value formation, as well as the creation of new opinions and judgment, is core element of public deliberation, as it has been mentioned regarding the constructive value of democracy.

A third element is that, as Kelly¹⁶¹ notes, we should be careful to differentiate a real agreement from a mere *modus vivendi*. This distinction comes directly from Rawls' necessity to have an *overlapping consensus* regarding the willingness of all the members to participate in a democratic deliberation, and where « the criterion of justice is that political conception itself »¹⁶². This consensus, or the agreement to have an agreement, is for Rawls essential in order to maintain a political stability. Indeed a mere *modus vivendi* would mean that people are deliberating for the wrong reasons (usually based on groups interest). So even if the participation to process remains equal, the underlying motivations are important in order to have a real public deliberation.

Another essential attribute of Sen's public reasoning is its practical aspect. Reasoning is

155Sen, 2004, p. 349.

156*Ibidem*, p. 333. See also De Herdt and Abega, n.d., p. 2.

157See also the conclusive comments made regarding the concept of agency. Crocker, 2008, p. 157.

158Sen, 1999(a), p. 79.

159Kelly, 2011, p. 12.

160Sen, 2003, p. 29. This is a main argument against Arrow's impossibility theorem, since it's not a question of choosing between alternatives anymore but rather evolving towards a new solution that is acceptable by as many participants as possible.

161Kelly, 2011, p. 12.

162Rawls, 1987, p. 1.

not, and shouldn't be, the final purpose. Reasoning is seen by Sen as *practical reasoning*, and is aimed to outreach Rawls' theory on that aspect¹⁶³. Indeed Sen is not looking for an idealistic view of deliberation, but rather for a practically oriented process that can lead to real realization comparisons and thus effective decision-making¹⁶⁴. In order to be able to overcome the problems stemming from a practical and non-idealistic vision of deliberation, Sen doesn't stand for the requirement of a 'perfect' or 'totalistic' deliberation. People should be able to decide and agree on the main elements of a decision, but not on every aspect and detail of it. The agreement should be found till the extent that allows the deliberators to make comparative judgments and accordingly choices related to social justice¹⁶⁵. Sen has indeed more sympathy for a comparative approach, able to assess different societies, or different situations and determine which one is *better* regarding justice. Between two alternatives, one can be judged more just than the other one, without being considered as intrinsically just¹⁶⁶.

Therefore, he acknowledges that a theory of justice (here perceived as a theory of normative evaluation) might be incomplete, in the sense that it won't give a fully comprehensive outcome. « Incompleteness may be of the lasting kind for several different reasons, including unbridgeable gaps in information, and judgmental unresolvability involving disparate considerations that cannot be entirely eliminated, even with full information»¹⁶⁷. Furthermore, besides the practical orientation regarding the outcome of the decision, Sen specifies that whenever a decision has been taken on what should reasonably be done or not, there should be steps undertaken in order to implement the decisions.¹⁶⁸

163Kelly, 2011, p. 9.

164Sen is convinced that a theory of justice shouldn't offer ready-made principles of justice – that usually won't have any practical utility- but rather should be able to make comparative judgments between several situations and make a practical decision on that ground. On that topic, see especially « Chapter 4: Voice and Social Choice » in *The Idea of Justice* (Sen, 2009) and « What do we want from a theory of Justice? » (Sen, 2006). For an interesting critique of Sen on the issue of comparative judgments, see Valentini, 2010.

165« This process of public reasoning does not have to be « total » in the sense that there is agreement on what constitutes perfectly just societal arrangements». Rasmussen and Den Uyl, 2009, p. 9.

166Sen, 2009, chapter 4 as well as p. 6-7 and 326.

167Sen, 2006, p. 223.

168Sen, 2004, p. 330.

The search of objectivity

In order to understand and define the extent of reason, Sen has theorized in some aspects his perception of objectivity that underlies public reasoning.

Even though Sen doesn't present it that way, it seems that two different conceptions of objectivity can be found in his works. The first one concerns the objective stand taken by the deliberator, while the second one is related to the objectivity of the judgment *ex post* deliberation process.

The objectivity of the deliberator

The people who are taking part in the discussion should, for Sen, be as objective as possible. He is using therefore Adam Smith's *impartial spectator*, supposed to have a point of view from a certain distance from himself¹⁶⁹. The purpose is to be able to adopt a wider perspective to enable a discussion that would go beyond the sole local social values and perspectives. That impartial spectator is supposed to adopt the view of no one in particular¹⁷⁰, avoiding in this view any form of cultural domination. Besides the need to have an open and wide perspective, the adoption of a decentered position has the advantage of pulling the person out of its situation, and hence avoiding the problem of having a personal interest in the affair.

Even if Sen calls for a decentered position, this is not a *sine qua non* condition for public reasoning to happen (unlike Rawls' *original position* and *veil of ignorance* in order to decide upon the principles of justice¹⁷¹). Indeed, Sen recognizes and accepts that each and every perception and judgment depends on the situation of the person. What he calls *positional objectivity*, i.e. objectivity which is position-dependent, is for him inevitable; every action and belief depends on our perceptions, and those are dependent on how we see and are positioned, but also on the available education and knowledge¹⁷². Trying to adopt an impartial and decentered position would therefore

169Sen, 2009, p. 45.

170*Ibidem*, p. 130-135.

171Rawls recognized himself that the original position was a situation that has never been, and will never be.

172See Sen, 1993(b).

partially contain the positional aspect of the objectivity. The impartial spectator is in that aspect much closer to Rawls' *reasonable* person, in opposition with the *rational* person¹⁷³.

Nevertheless, this has led several authors to perceive an idealistic aspect in Sen's theory, being hence not practical¹⁷⁴, and that adopting the position of 'no one' makes it impossible to actually enter into a conversation¹⁷⁵.

The objectivity of the ethical claim

Sen has constructed his theory to a great extent on the basis of Rawls's theory of justice. Regarding the objectivity in public reasoning, Rawls considers that an ethical claim is objective if there are sufficient reasons to convince all reasonable people that the statement is reasonable¹⁷⁶. Sen adopts a slightly different perception of objectivity, namely the ability to overcome public scrutiny¹⁷⁷. A political conviction might reach the level of objectivity if it is able to survive unobstructed discussion and public scrutiny. « Uncurbed critical scrutiny is essential for dismissal as well as for defense »¹⁷⁸; public scrutiny is therefore not only a condition to reach objectivity, but the failure to face it would also undermine the judgment itself. This public scrutiny should be understood regarding the objectivity of the deliberator as we have just presented. Indeed, Sen gives the example of values in some insulated societies that are seen as normal and unproblematic in that given society, but wouldn't be able to resist a « public scrutiny on a wider perspective »¹⁷⁹.

173The reasonable, in Rawls vocabulary, refers to a person desiring to cooperate and shares « a common standpoint along with others and [doesn't] make [his] judgments on a personal slant » (Rawls, 1971, p. 516-517). The reasonable is associated with the right and with the sense of justice. The *rational*, on the other hand, looks more into to his particular attachments and interests. The rational is linked more to the concept of the good and self-interest. On that topic, see for example Gaus, 2008 and Clements and Hauptmann, 2002.

174See for example Rasmussen and Den Uyl, 2009, p. 9: « with his reliance upon impartial spectators, he is making democracy an imaginative process rather than a real one ».

175*Ibidem*, p. 19.

176Sen, 2009, p. 42, based on Rawls' *Political Liberalism*.

177On that issue, see for example Bonvin, 2005, p. 26-27; Rasmussen and Den Uyl, 2009, p. 6 and Sen, 2004, p. 348-349.

178Sen, 2004, p. 349.

179Sen, 2004, p. 355. On the other hand, that's how Sen justifies the recognition of human rights. He makes a clear distinction between human rights as « institutionalized rights » and human rights as « ethical claims » underlying those institutionalized rights. He states, far from any relativist or metaphysical perspective, that « like other ethical claims that demand acceptance, there is an implicit

Public reasoning and democracy

The relation that public reasoning entertains with democracy is essential in Sen's theory. However, this topic having been analyzed in the former chapter, we won't cover it here. We will nevertheless present some critics concerning his equation of democracy and public democracy through public reasoning. First of all, some authors have criticized this relation, arguing that this would put too much emphasis on the state, and that there are situations where the state is weak, but conceptions of justice still sought and applied¹⁸⁰. In defense of Sen, we could argue that Sen puts indeed a great emphasis on democracy at the national level, but that seems to be coherent with today's reality where principles of justice are decided and applied on a national level. Sen advocates nevertheless for the use of public reason at all the levels of the society. This criticism seems therefore not to be fully applicable to Sen's theory. Some authors have also highlighted the fact that by focusing too much on the process of public reasoning itself, Sen might lose the perspective of the final outcome (by focusing on the open-endedness of the process), and would thus jeopardize what should be the ultimate purpose: the pursuit of principles of justice. We won't enter into the debate at this stage, nevertheless it has to be highlighted that for Sen process and outcome are related, even if not totally dependent. He believes indeed in the concept of virtuous circle, where public reasoning will lead to more just (or at least less unjust) situations.

Public reasoning and justice

Amartya Sen refuses to adopt a theory of justice, which would decide about the applicable principles of justice. For him, asking the question itself of « what is a good society » is a wrong thing to do since that question seeks a transcendental answer, which is exactly what Sen wants to avoid¹⁸¹. Sen believes that no theory of justice can

presumption in making pronouncements on human rights that the underlying ethical claims will survive open and informed scrutiny». *Ibidem*, p. 320.

180See for example De Herdt and Abega, n.d., p. 3.

181He notes that the problem with transcendental institutionalism is that, besides the lack of legitimacy, it is not able to address and deal with alternative proposals of justice (as the comparative approach Sen is advocating is able to do). Sen, 2009, p. 95-96.

determine the principles of justice on which the institutions will be built. Rather, this is the role of public reasoning. Sen begins his article, « What do we want from a theory of justice », with these words: « I begin from the general Rawlsian position that the interpretation of justice is linked with public reasoning ».

This leads to an interesting triangle linking public reasoning, justice and democracy. Indeed, if public reasoning leads to justice [or at least justice can be *assessed* through public reasoning] and if public reasoning is directly related through the notion of democracy [idea of government by discussion], then, justice and democracy are linked and « share discursive features »¹⁸². So, deliberative democracy, through public reason, is the best institutional model able to design principles of justice applicable in a given society.

Institutionalization?

Regarding the institutionalization of public reasoning, three main comments have to be made. First of all, Sen refuses to specify the processes and institutions that should embody public reasoning. The process itself should be part of what the people should agree on. As it has been highlighted, defining *how* democracy and public reasoning will determine the processes through which agents will reason together will be an important challenge for Sen¹⁸³. We could indeed argue that it would lead to a chicken-and-egg situation, since one should know how to proceed before being able to decide on it through the undecided process. The second comment regarding the institutions -related to public reasoning or not- is that Sen is really concerned about the fact that the institutions shouldn't be just *per se* – institutions are not manifestations of justice- but should promote justice¹⁸⁴. What we have to seek are not just institutions, but rather institutions that *in their effects*, lead to a just society. To highlight that point, Sen refers several times to the Sanskrit terms of *niti* and *nyaya*. Those two words refer to certain conceptions of justice, but while the former is consequent-independent and refers to

182 *Ibidem*, p. 316.

183 Crocker and Robeyns, 2010, p. 84.

184 Sen, 2009, p. 82.

behavioural correctness, the latter is concerned with what emerges. The concept of *nyaya* is much more inclusive, and « is not just a matter of judging institutions and rules, but of judging the societies themselves »¹⁸⁵.

¹⁸⁵*Ibidem*, p. 20 (see as well p. x, 86 and 212).

CHAPTER 4: POOR PEOPLE IN DEVELOPED COUNTRIES: INTEGRATION IN DELIBERATIVE DEMOCRACY

Introduction

This chapter is focused on one of the main considerations of this research: how can we conceive a dialogue between theory and practice regarding the political capability? More precisely, we will focus on the effective participation of the poorest fragment of the population in rich countries. We won't at this stage refer to any empirical study, although the theoretical tools and concepts used in this chapter do anchor themselves in the observation of reality, and back many empirical studies showing that there is a lack of participation in the lower social classes. As it has been announced, we will center this analysis on deprived people in so-called developed countries in order to stress the importance of the relativity of deprivation. Furthermore, deprivation is not understood here in a narrow perspective of monetary resources, as it includes cultural, educational and social deprivation¹⁸⁶. Being poor, in Sen's perspective, is indeed being unable to reach a certain level of capabilities and well-being because of inadequacy of means.

The effectiveness of political participation of poor people in developed countries

We will consider in this section how the political participation of deprived people in rich countries might be hampered through a presentation of the social functionings and its requirements. Afterwards, we will focus on some challenges specific to the political participation of poor people in rich countries, namely the relation between inequality and political domination, as well as the possibility of preference adaptations. We will conclude with a reflexion on the genuine existence of an inclusive political capability. Indeed, as we will see throughout this chapter, by focusing extensively on freedom,

¹⁸⁶On an analysis of social exclusions, see Sen, 2000. See also Robeyns citing for example works by Alessandro Balestrino, who shows that there is no exact correspondence between the 'officially poor' and the 'functioning-poor' (regarding education, nutrition or health failure). Robeyns, 2006, p. 365.

autonomy and agency, Sen might lose sight of the fact that those are socially dependent. Sen mentions that 'opportunities have to be grabbed', nevertheless, as Srinivasan notes, « it is not hard to see that the underfed, undereducated and socially discriminated might find it hard to « grab » the democratic opportunity, let alone to fully reason their desired effect and then have a reasonable expectation of influencing social policies »¹⁸⁷.

Social functionings and relative deprivation

We have seen how Sen is concerned by keeping a realistic perception of human action. « Agency », he says, « is inescapably qualified and constrained by the social, political and economic opportunities available to us »¹⁸⁸. One of the important inhibitory aspects in rich countries is the notion of relative deprivation:

« Being *relatively* poor in a rich community can prevent a person from achieving some elementary « functionings » (such as taking part of the community) even though her income, in absolute terms, may be much higher than the level of income at which members of poorer communities can function with great ease and success »¹⁸⁹.

Sen is indeed convinced that a *relative* deprivation of commodities might yield to an *absolute* deprivation of capabilities. This is even more relevant regarding *social functionings*, i.e. activities, behaviours, etc that create the inclusion of the individual in his society (as a citizen, a neighbour, etc). Social functionings are intrinsically related to the customs of that society. As Sen notes, in richer communities « the nutritional and other physical requirements (such as clothing as protection from climatic conditions) are typically already met » (Sen, 1983, p. 162), but social requirements will be more demanding regarding resources¹⁹⁰.

Social functionings are thus functionings that are intrinsically related to the interaction with others in the community. Therefore, the relative position is crucial, since it is not determining what a person is able to achieve, but what a person is able to achieve socially.

187Srinivasan, n.d., p. 9.

188Sen, 1999(a), p. xi-xii.

189Ibidem, p. 71.

190Sen, 1983, p. 162. Being « relatively poor in a rich country can be a great capability handicap, even when one's absolute income is high in terms of world standards. In a generally opulent country, more income is needed to buy enough commodities to *achieve the same social functionings* »(we underline. Sen, 1999(a), p. 89).

Political participation as an exigent social functioning

Political participation is intrinsically a social functioning as it is the basis of the inclusion of a person in his community. This is the reason why the effectiveness of participation, or as Martha Nussbaum would say, the actualization of the political capability, is highly dependent on social and economic factors.

Even though highly interrelated and thus sometimes difficult to distinguish, we would classify two different types of constraints that impede a proper and meaningful intervention on the public scene. The first one relates to a more practical aspect, and refers to a lack of means, knowledge of procedures, ... On the other hand, the second one refers more to a question of identity, perception and values.

First of all, participation in a democratic deliberation is highly dependent on the social, economic and cultural background. The latter can have an absolute (economic necessity¹⁹¹) or relative understanding (social inequalities¹⁹²), but in either case can seriously weaken the political debate. Nussbaum gives a very intelligible illustration on how predeliberative practical concerns can affect the access to the deliberation: « the liberties of speech and association, for example, have material prerequisites. A woman who has no opportunity to work outside the home does not have the same freedom of association as one who does. Women deprived of education are also deprived of much meaningful participation in politics and speech »¹⁹³. Besides the access, she also mentions the issue of meaningful participation. The ability to make an effective use of the media, institutions (political or judicial), but also of the speech itself (articulation of claims and requests, taking part to the deliberation) are also related to the access to information and provided education¹⁹⁴.

Secondly, political participation might be impeded by direct obstacles or intimidation¹⁹⁵, but as well by unknown and not perceived obstacles, such as under valuation of political participation itself. The notion of agency specifies indeed that the person will pursue what she or he has reason to value. From the moment public deliberation is not

191Sen, 1999(a), p. 146.

192Sen and Drèze, 2002, chapter 1.2: « Inequality and Participation ».

193Nussbaum, 2002, p. 128.

194Sen and Drèze, 2002, p. 29.

195Nussbaum, 2002, p. 124.

perceived as being valuable, there is no reason for the person to seek a proper involvement in the process. Furthermore, deliberators will defend through the process of deliberation what is valuable to them. If the values and preferences themselves are affected by the position on the social scale (as we will cover below), then there is a risk that the process and the outcome of the deliberation will be altered too.

Inequality and political domination

Besides the social and economic aspects that hamper mostly the *access* to the debate, there is also a great impact on the *quality* of the debate itself. We have specified that we would concentrate only on the *predeliberative* conditions necessary to the public debate, and not on the process itself. Nevertheless the fact that the process is alienated because of conditions *prior* to it makes us incorporating it in the analysis of the predeliberative conditions.

Inequality *ex ante* public deliberation has indeed an important implication on the quality of it: « public reason is imperfectly realized because power is unequal and some participants attempt to manipulate public discussion to enhance their self- or group-interests and comprehensive values. Each case represents an imperfect, partial realization of justice »¹⁹⁶. Manipulation of democratic institutions and procedures by the elites, even without *mala fide*, is quite common. In a situation of political and social dominance, created by a gap between the rich and poor fragments of the population, there will be an attempt by the dominants to *protect* and *intensify* their situation¹⁹⁷. This might happen through direct actions (discriminatory regulations) or indirect ways (lack of regulation)¹⁹⁸. As the 2006 World Development Report on Equity and Participation states, economic inequality supports political inequality through differences in influence, advantages and use of institutions. Those factors are furthermore participating in the construction of income redistributions and therefore possibly leading to virtuous -but most probably vicious- circles¹⁹⁹. Besides the formal dominance of the elites, the problem of cultural and value-related dominance is also important, and

196Kelly, 2011, p. 14.

197Crocker, 2008, p. 318-319 see also Kamal, 2000, p. 6.

198International Bank for Reconstruction and Development/The World Bank, 2005, p. 158.

199*Ibidem*, p. 108.

can jeopardize the effectiveness of the process. A cultural domination might prevent participation *ex ante*, but can also hamper its process because of the impossibility to raise issues or counterarguments. « Their numbers being so small²⁰⁰, the poor in the richer economies can hardly turn their numbers into an electoral or political check on the government. What policies are developed depend primarily on the *conscience of the elite* »²⁰¹.

As Marion Young notes, many critics have pointed the reaction to cultural dominance, i.e. the politics of difference, as being in itself against the basic principles of deliberative democracy. The holding of a firm position by a given group goes indeed against the Rawlsian idea of *reasonable person*, and against Sen's use of the *impartial spectator*. Against this background, Young argues that the politics of difference precisely leads to a more comprehensive and objective perception, and is therefore an important *resource* for democratic communication²⁰².

The ability to make unconstrained choices

Another issue that can seriously undermine the viability of public reasoning is the issue of preference adaptation. The question of motivations underlying actions, and the process of choice and preference-making is a very complex philosophical issue. Therefore we won't enter into the core of the debate and hence we won't take a position regarding the *extent* to which the society influences the preferences and choice making, as it enters into a complex discussion of an atomistic autonomy versus a socially shaped autonomy, and has a great impact on the notion of responsibility that a person might be held accountable for. Nevertheless, we cannot deny the fact that *some* choices are unconsciously and unwillingly altered following the context. Given this, and since Sen's theory is largely based on the autonomy and freedom of people, and how their ability to

200The author mentions a level of +- 5% of poor people in rich countries. Nevertheless, this amount can reach 16 % in some statistics if we speak about risks of poverty. See for example the websites of *The European Anti-Poverty Network* and the *UK Poverty Site*.

201We underline. Varshney, 1999, p. 3.

202Young, 1997. She holds nevertheless an opposite view, arguing that the politics of difference shouldn't be understood as mere interest-group politics. Furthermore, she insists on not identifying politics of difference with politics of identity. The first one corresponds to reality, and allows a wider perspective on social life.

shape their life is valuable, that same effective ability to make unconstrained choices is a question that has to be considered. We will examine in this section (1) the observation made by Sen and other authors of situations where preference adaptations occur, (2) some theoretical and philosophical concepts to help us understand the cognitive operation of preference adaptation, and (3) the impact of those findings on Sen's use of public deliberation and public reason.

1) The existence of preference adaptations

Sen has analyzed the phenomenon of people – his work has been focused mainly on women- who have unknowingly adapted their aspirations and choices under the influence of social norms and traditions. He has covered this issue mainly in « Gender and Cooperative conflicts »²⁰³ and « Gender Inequality and Theories of Justice »²⁰⁴. Martha Nussbaum, as a famous feminist activist, has equally studied the problem of preference adaptation by women. She investigated how in some societies women cannot think themselves as equal citizens, able to be autonomous and independent, unless they have been taught that they had an equal worth. They have indeed been socialized in a way that they have internalized that some goods (education, political participation) are not destined for women. It is through those observations that Nussbaum has come to the conclusion that preferences are not made independently of economic and social conditions, but are influenced by laws, traditions, institutions, social rules, religious and familial ties and backgrounds²⁰⁵. « Our preferences and choices, says Walker, are shaped and informed or deformed by society and public policy »²⁰⁶.

If those observations were principally made by Sen and Nussbaum regarding women, they are valid for every person, and especially for groups in an inferior position, facing domination or repression. As Sen notes: « deprived groups might be habituated to inequality, may be unaware of possibilities of social change, may be hopeless about upliftment of objective circumstances of misery, may be resigned to fate, and may well be willing to accept the legitimacy of the established order »²⁰⁷. The adaptation of

203Sen, 1987.

204Sen, 1995(b).

205Nussbaum, 2002, p. 127-128 (see also Nussbaum, 2003, p. 33-34).

206Walker, 2003, p. 172.

207Sen, 1987, p. 9.

preferences and choices can furthermore be the consequence of a direct²⁰⁸ or indirect²⁰⁹ threat, or of totally unconscious processes. This aspect will be covered in the next section.

2) Some philosophical and theoretical concepts regarding preference adaptation

Preference adaptation has been theorized among others by Jon Elster, especially in *Sour Grapes : Studies in the Subversion of Rationality*²¹⁰. He uses the fable of « The Fox and the Grapes »²¹¹ to study how individuals adapt their preferences in order to avoid a conflicting situation. The *Sour Grapes*, perfect example of cognitive dissonance, shows indeed how people have biased and constrained preferences, and act in that way in an irrational way. Indeed, in the fable, the reaction of the fox allows him to avoid a situation of dissonance, but the process by which he is able to reduce the dissonance is irrational. Elster concludes from that no rational social choice is possible, because people have a natural tendency to attenuate dissonance through alterations of beliefs, attitudes, preferences and choices²¹².

The concept of dissonance, and especially cognitive dissonance, is highly discussed in psychology and philosophy. It is defined as such:

« Dissonance is denned as a negative state of psychological tension aroused when the individual holds two cognitions that are mutually inconsistent. Dissonance arousal **motivates the individual to reduce dissonance by changing one or both of the inconsistent cognitions.** For example, the dissonance aroused by choosing to perform a counter-attitudinal act can be reduced by changing one's attitude so that attitude and behavior are consistent. »²¹³

Sunstein has worked particularly on the process of cognitive dissonance in unjust systems. He states that in unjust situations, both the dominants and the victims of the injustice participate in the 'dissonance-strategy'. Indeed, the members of the advantaged

208For example facing a punishment for women who vote. Robeyns, 2005, p. 101-102.

209Bonvin gives the example of an unemployed person adapting his choices fearing that we would loose his unemployment benefits. Bonvin, 2005, p. 27.

210Elster, 1983.

211The Fox and the Grapes has initially been written by Aesop, and retaken by Jean de la Fontaine (Le renard et les raisins). It tells how a fox, seeing some grapes but unable to reach them, convinces himself that the grapes must be unripe or sour and can in that way avoid a situation of frustration.

212For a criticism of Elster on that aspect, see for example Sandven 1999(a) and 1999(b).

213We underline. Kiesler and Pallak, 1976, p. 1014.

groups will be willing to maintain the idea that the situation/society is just, and can therefore blame the 'victims'. The 'victims', on the other hand, participate as well in the dissonance reduction by lowering their self-esteem « in order to accommodate the process of victimization and the belief that the world is essentially just »²¹⁴. He specifies indeed how individual preferences adapt following unjust background conditions, or due to unjustified restrictions in the available opportunities²¹⁵. This leads Sunstein to the conclusion that preferences are *endogenous* - they adapt to many factors and are thus not fixed and stable²¹⁶-, and should be perceived as « non-autonomous insofar as they are reflexively adaptive to unjust background conditions »²¹⁷.

3) The impact on Sen's use of public reason and public deliberation

As we have seen, it might be problematic for Sen to base his theory on autonomy and free choice, if the accountability of choices itself is being questioned by possible biased or altered preferences. We will now consider some implications of those questions on Sen's vision of public reason and public deliberation.

First of all, social sufferings (to take Renault's vocabulary) might be rendered *invisible*, in the sense that the victims themselves do not perceive them. The act of *verbalization* of those sufferings is therefore essential in order to make them visible and existent. Making those sufferings visible and perceived is a requirement before people can publicly protest (individually or collectively) or deliberate for a change of unjust conditions²¹⁸. As Goulet beautifully asserts: « when people are oppressed or reduced to the culture of silence, they do not participate in their own humanization »²¹⁹.

An absence of protest or questioning is therefore not to be understood as an absence of inequality, and there is a real need to go beyond the *feeling* that a person has on the status of her own capabilities and well-being, since they might have been influenced by social rules leading to an absence of questioning regarding the acceptance of those rules. The politicization of those issues, as well as social changes, is ways to make the

214Sunstein, 1991, p. 22.

215*Ibidem*, p. 5 and 19.

216He advocates therefore firmly against any form of preference-based theory of justice.

217*Ibidem*, p. 21.

218Renault, 2004, p. 105.

219Denis Goulet, cited by Crocker, 2008, p. 340.

people face those questions, and change their perception on them²²⁰. If the authors standing for deliberative democracy agree on the fact that it is through the debate that most of the injustices and adaptive preferences are unmasked²²¹, the difficulty still remains. And, as Landwehr points, « the more abstract the preference that has been changed is, the smaller the chance that the actors will find out that they have been misled»²²².

In conclusion, we can say that preference adaptation is a reality that affects public deliberation, and that it should be therefore be taken into account. The phenomenon of invisible sufferings seriously undermines the possibility to deal with a real constructive aspect of democracy. Furthermore, without judging preference adaptation as good or bad, just or unjust, we can still question if the person has « genuinely access to all the capabilities in their capability set»²²³ and can make use of public deliberation in an authentic way. But to what extent can we consider that participation and public reasoning are genuine, and that people can effectively be authors of their lives and enhance their true agency, if the motivations and values underlying them are shaped by their social status?

Considering free choice and autonomy based on a conception of exogenous preferences, as it might be supposed by an extensive use of Sen's impartial spectator, can reflect an embodiment of « a mild form liberal of perfectionism »²²⁴. However, reality is less sweet-smelling. As Pettit notes, « the requirement of a preference being satisfied just *because it is my preference* and not for any other reason is *more demanding that it may seem* »²²⁵.

220Sen, 1987, p. 7-8.

221See also Bonvin, 2005, p. 11.

222Landwehr, 2005, p. 49.

223Robeyns, 2005, p. 101-102.

224Sunstein, 1991, p. 20.

225We underline. Pettit, 2010, p. 96.

From deficient functioning to absent capability?

We have seen throughout this chapter that oppressed groups -here more specifically poor people in rich countries- face several difficulties regarding political participation. Some authors have highlighted the fact that Sen doesn't address properly the asymmetries in social power and how they can imperil the public debate²²⁶. Regarding political participation, Sen observes that some social or ethnic groups have a very low political participation (such as the afro-Americans in the U.S.A²²⁷), and says that the enhancement of their participation is a challenge for the developed countries²²⁸. Nevertheless, does he question their real capability to participate? Does he question the viability of a theory based on an *inclusive* public reasoning when segments of the population are falling by the wayside? We don't think so, or at least not in a sufficient thorough way that would allow him to resolve this tension in his theory.

As Robeyns interestingly notes:

« If the distribution of functionings of two groups is significantly different, and there is no convincing reason why these groups would systematically choose differently from the same capability sets, then one can deduce from their different functionings distributions that they did not have the same capabilities in the first place »²²⁹.

That statement is essential, because admitting that many people lack effectively a political capability influences both the process and the outcome of a public deliberation. Acting in such a way that deliberation is effectively inclusive, and that people have the capability to participate (whether or not they decide to participate) would consequently mean that we should reduce as much as possible all the factors leading to the deficit of political capability.

²²⁶See for example Crocker, 2008, p. 54.

²²⁷See for example Sen, 1999(a), p. 154-155 and 158-159.

²²⁸*Ibidem*, p. 158-159.

²²⁹Robeyns, 2006, p. 354.

CHAPTER 5: THE INTERNAL TENSION IN SEN'S THEORY

Introduction

In the first three chapters, we have presented Sen's theory, based on his own literature and with the help of secondary authors. By focusing on the core concepts of capabilities, freedom and agency, and later on the integration of those concepts with the notions of democracy, political deliberation and public reasoning, we have tried to give enough conceptual tools to enter into the central question of this research. Our concern is indeed to find out if Sen's theory contains some substantial provisions in order to ensure an effective inclusive political participation. Indeed, as we have seen in the last chapter, inequalities *ex ante* in the distribution of power, resources, education, ... lead inexorably to inequalities in the access and use of public deliberation. Therefore, should we perceive the dilemma the other way round by concluding that avoiding political inequalities rests on the avoidance of economic and social inequalities *ex ante*?

In order to try to answer that question, we will present what is, according to our analysis, a fundamental tension in the theory of Sen, and which he unfortunately doesn't consider. There is indeed a relentless friction between the liberal concept of neutrality and open-endedness of public reasoning, and the need for some public actions ensuring the existence and effectiveness of basic capabilities and substantial freedom. We will consider this debate especially regarding the existence of an effective political participation.

Many of the elements and tensions that will be presented in this chapter have already been seen and discussed throughout the last chapters. Therefore, not all of them will be analyzed thoroughly. Nevertheless, it is important to highlight that since Sen's main conceptual pillars are the focus on the neutrality of a theory regarding values and the advocacy against any form of institutional transcendentalism, we will focus more on the substantive aspects of his theory. Indeed it seems to us that the principal foundation of his theory is the neutrality of a theory of justice, which is then slightly eroded by some

substantial aspects requiring adjustments that may thwart the supposed neutrality. The extent and importance of that erosion is what we will consider and analyze in the two next chapters.

In this chapter, we will consider the elements in Sen's theory that yield to a liberal perspective. Subsequently we will analyze the aspects that are inclined towards a substantial vision of the good. Afterwards, we will confront those perspectives in a conclusive analysis, and we will try to determine how we could best combine those two antagonistic positions.

The neutrality of his theory

The Liberal conception of a value-neutral theory of justice

Sen avoids any form of substantive approach in a theory of justice. His main plea in « What do We Want from a Theory of Justice? »²³⁰ is that asking question such as 'what is just?' or 'what is a just society?' is mistaken since they require transcendental answers²³¹. Sen believes indeed that any theory containing a predetermined vision of the good would subscribe to what he calls transcendental institutionalism. For Sen, this is also true for theories agreeing with a social contract perspective (even when it is supposed to be an agreement between reasonable people²³²), since any form of pre-agreed principles of justice²³³ cannot but be lead by exogenous foundations.

Hence, a theory of justice shouldn't point to what is just, but rather to what is 'more just' than an alternative proposal. Indeed, Sen insists on the *pluralistic* aspect of justice. Determining what is just has to be done taking into account several considerations, such as distributive aspects, impartiality requirements and efficiency aspects²³⁴. This is why he advocates for a *comparative approach*, meaning that a theory of justice should be

230Sen, 2006.

231On that issue see also Sen, 2009, p. 105 and Valentini, 2010, p. 75.

232Kelly, 2011, p. 2.

233Or, in the case of Rawls's principles of justice, the principles that people would have chosen if a situation such as the original position would have existed.

234Vallentyne, 2010, p. 139. On the pluralistic aspect of justice, see also Sen, 1992, p. 7-8, 87 and 145-156 and Sen, 1999(a), p. 76-80.

able to deliver a comparative judgment between several alternatives, which is very different from shaping a just society *ex nihilo*. Therefore, Sen has taken a clear stand against the establishment of a list containing the most valuable capabilities, in contrast to Nussbaum²³⁵.

If Sen is really cautious in setting up a theory that does not *contain* any specific vision of the good, he also seeks a theory that doesn't *promote* any particular vision of the good either. His concern for pluralism and diversity made him indeed furthermore endorse an approach, which wouldn't be affected by the choices and preferences of the individuals. This is how he focuses on the capabilities, and not on the functionings. What is important is what the people could choose among, not what they effectively choose.

The Capability Approach as a metric

Second, we have seen that the Capability Approach had an essential evaluative function. The amount and extent of capabilities that people can enjoy provides indeed a way to assess societies. Sen himself recognized that the Capability Approach, being an evaluative framework, doesn't amount to a theory of justice (the subsequent use of public reasoning is aimed to counter this gap). As an evaluative tool, the Capability Approach in itself does not specify any consideration such as redistribution of resources²³⁶.

Public deliberation as the key process

Finally, we have focused on the use of public deliberation as the way to obtain principles of justice that would be applicable in a given society. The process of deliberation is indeed essential, since the outcome of the process is (and should be) totally unknown *ex ante*. Typically, questions of redistribution of resources should be subject of public discussion and decided at the end of the deliberative process.

²³⁵Nevertheless, as we will analyze in the conclusive analysis, this official stand hides much more complicated relation of his theory with constructivist approaches such as this 'list-establishment'.

²³⁶See for example Vallentyne, 2010. On the evaluative role of the Capability Approach, see for example Lowry, 2009, p. 231.

Deliberation being valuable in itself, Kelly highlights that relatively unjust outcomes « approach greater justice when they are shaped by procedure of public deliberation and accountability: what Sen refers to as public reason »²³⁷. Since the relation between public deliberation and justice has been discussed thoroughly in the former chapters, we won't come back to its content and features

The substantial vision of his theory

The Marxist oriented approach of situated agent and effective freedoms

Establishing a dialogue between theory and practice has always concerned Sen. No theory can be shaped without considering its implication and consequence on reality, but it should be created in a mutual responsiveness²³⁸.

Stemming from Sen's practical concern, one of the core principles he relies on is that any right and freedom should be *effective*. Therefore, there is a need to take into consideration the background of the person (internal abilities; social, cultural, religious and familial values; legal and social institutions; environmental reality...) in order to have a clear vision of what the person is genuinely free to do. As we have mentioned, he recognizes that freedoms are *quintessentially social products*. The call for the effectiveness of liberties and capabilities has an important impact on measures that have to be taken in order to guarantee them²³⁹; « for some capabilities the input will be financial resources and economic production, but for others it might be political practices and institutions, such as effective guarantees and protections of freedom of thought, political participation, social and cultural practices, social structures, social institutions, public goods, social norms, and traditions and habits »²⁴⁰.

237Kelly, 2011, p. 2.

238The distinction between *niti* and *nyaya* refers to that exact concern. *Nyaya* refers indeed to justice as it appears effectively, while *niti* calls for a formal and institutionalized concept of justice.

239For Nussbaum, if the capability is lacking, the right is inexistent. Nussbaum, 2003, section2.

240Crocker and Robeyns, 2010, p. 64.

Is there a pre-given conception of the good in Sen's theory?

If Sen has always denied the legitimacy of any list of valuable capabilities (which should be created by the people themselves through public reasoning), he has nevertheless listed some capabilities and functionings that are more valuable than others. Indeed, he lists both 5 freedoms that are instrumentally important²⁴¹ (and thus that are valuable both for themselves and for the freedoms they allow to achieve), as well as several basic capabilities. Those basic capabilities referring to crucially²⁴² (or centrally²⁴³) important functionings, we directly perceive the ethical judgment that is being done regarding their status. Those functionings receive an intrinsic value, and are established independently from any external foundation or process (including public deliberation) -yet they remain culture-dependent, in their interpretation and implementation-. Furthermore, regarding those basic capabilities, Sen not only highlights their importance, but also states that the Capability Approach calls for a certain equality among them²⁴⁴. Besides the basic capabilities that we have listed *supra*²⁴⁵ (capability to be well sheltered, well nourished, to participate in the community life...), Sen also values the ability to escape maladies such as malaria. He justifies the intrinsic value of 'freedom from malaria' in the following way: « it would be absurd to say we have now achieved freedom from 'non-malaria'. That is clear enough, but *why* is it absurd? This is because non-malaria is not a burden, and we would have no particular reason to reject it (i.e. to choose malaria instead) if counterfactually we were given that choice »²⁴⁶. We find this argument lacks solidity. Of course it would be counter-intuitive to choose malaria instead of non-malaria. But how can a theory of justice, claiming neutrality regarding values and preferences, base the justification of the intrinsic value of non-malaria « because we have no particular reason to reject it »? This seems to be an undermining argument for the stability of his whole theory²⁴⁷.

241 See the development of the instrumental freedoms *supra*, p. 16.

242 Sen, 1992, p. 45, footnote 19. The same wording has been retaken for example in Sen, 1993(a), p. 38.

243 Sen, 1993(a), p. 31.

244 *Ibidem*, p. 38.

245 See p. 11-13.

246 Sen, 2002(a), p. 68.

247 Similarly, on the freedom from hunger: « we may still be able to agree readily that there is a clear social injustice involved in the persistence of endemic hunger or exclusion from medical access, which calls for a well-specified remedying for the advancement of justice (or reduction of injustice), even after taking note of the costs involved ». Sen, 2006, p. 224. We see that, likewise his justification

Regarding the importance of freedom, it has to be stated that it is seen as valuable and thus its enhancement is sought in any situation. Even in a very light interpretation of his theory, not taking the basic capabilities into account, we will always find the fundamental value of freedom, which lays the foundation of his theory²⁴⁸.

Meera Oommen specifies that Sen has introduced another substantial value regarding the role of the state. In his works with Jean Drèze, Sen has indeed stated that the role of public action is to provide social security, in the sense of « using social means to prevent deprivation and vulnerability ». Social means has to be understood widely, and refers both to direct support to assure the ability of the deprived people to have an access to basic capabilities (*direct entitlements* to education, health care, food, etc.), and to the creation of social conditions permitting a real participation (and consequently, economic growth)²⁴⁹. It is true that Amartya Sen recognizes that his theory has direct implications regarding moral and political philosophy, « with some ongoing engagements in law, economics and politics », and, if we are 'optimistic', has its pertinence to « debates and decisions on practical policies and programmes »²⁵⁰. We can of course understand from that assertion that his theory demands measures to allow, establish and protect the public debate, as well as the implementation of the outcome of the deliberation. But does this mean that the relevance of his theory on the 'decisions on practical policies and programmes' is solely to be found in the commitment to implement the final decisions? Or does he mean that some policies and programmes can find a directing track from *within* the theory itself? Given the various elements that have been presented here, we are inclined to believe that Sen's theory of justice can provide guidelines for policies and programmes *independently* from the outcome of public deliberation.

It seems thus that Sen holds (at least partially) a perfectionist view, given that there is a

of the value of non-malaria, he bases his defense against hunger on the natural feeling and intuition that it is unjust, without elaborating a solid and consistent philosophical argumentation.

248Sen specifies that among the different freedoms, some might enter in conflict. His position is nevertheless very clear: some freedoms are more valuable than others and should therefore be chosen and promoted (the question that some authors ask is rather, should harmful freedoms be forbidden, and how?). Sen, 2004, p. 329 and Sen, 2000, p. 223-224.

249Oommen, 2006, p. 1.

250Sen, 2009, p. xi.

certain conception of the good that can be found in his theory²⁵¹. As Deneulin states, « could the claim be made that, behind its refusal to take a stand on what the (disputed value) of the good life is, the Capability Approach hides unavowed positions about the good, positions that it can no longer hide when the theoretical framework becomes practice? It seems so. »²⁵²

Specific considerations regarding political participation

We will now consider some substantial aspects and concrete implications stemming from the political capability and Sen's ideal of public reason. As mentioned, Sen affirms that there is a real need for social justice for people to engage, if they choose so, in political participation²⁵³. Indeed, if the deliberation is not inclusive, the process itself is not fair. Therefore if people don't participate because of a lacking capability (and not because they choose so), this will yield an unfair process and a false public debate.

This ideal of reasoning involves some substantial visions of equality among the members²⁵⁴. More precisely, we can differentiate two types of equality required by public deliberation. First of all, it requires the recognition of the equality of the members *in* the debate. This has of course some procedural implications, but it involves equally some substantial aspects. For example, the acceptance of the principle *audi alteram partem* in the debate, and even more the ideal of mutual responsiveness, implies some formal elements, but it implies that we agree beforehand on the moral equality of people. This is an ethical claim that can undermine a true neutral vision²⁵⁵.

Second, it requires an equal access and influence in the debate. Hence, some adjustments are required in order to allow for an effective debate²⁵⁶. Sen has mentioned, regarding the instrumental freedoms, that public action such as enhancing education and

251« Perfectionist writers advance an objective account of the human good and then develop an account of ethics and/or politics that is informed by this account of the good ». Wall, 2008. For a more extensive and detailed presentation of perfectionism, we refer to Wall's article.

252Deneulin, 2002, p. 502

253Sen, 1999(a), p. 242.

254« Even though this requirement has a largely procedural form, the very insistence on open public discussion from which no one is excluded involves an acceptance of equality, which has substantive implications also for the content of the deliberation. » Sen, 2004, p. 349, note 57.

255Valentini, 2010, p. 12.

256On a more precise examination of those adjustments, see next chapter.

health services would have positive consequences on political participation. He goes even further by affirming that « since participation requires knowledge and basic educational skills, denying the opportunity of schooling to any group – say, female children- is immediately contrary to the basic conditions of participatory freedom »²⁵⁷. If we want to have a coherent interpretation of his theory, we should understand this quote in a broad way: *denying* refers obviously to the prohibition of schooling, but it also refers to the failure of taking the appropriate steps to assure a proper schooling for every group.

Finally, « Sen might be criticized here for smuggling into his liberalism a conception that the good life and even the best life is one of political engagement. That objection, however, would assume that Sen identifies well-being and human flourishing, which he does not»²⁵⁸. Crocker says that if the political capability might be valued, it is not for intrinsic reasons, but for its instrumental reasons. It is because political deliberation favours human emancipation, and not because it is an embodiment of the good, that it is valued.

257Sen, 1999(a), p. 32.

258Crocker, 2006, p. 303.

Conclusive analysis

« Foundational ideas of justice can separate out some basic issues as being inescapably relevant, but they cannot plausibly end up, I have argued, with an exclusive choice of some highly delineated formula of relative weights as being the unique blueprint for 'the just society' »²⁵⁹. In this quote from Sen reveals the tension we will analyze. Indeed, while he is refusing an 'exclusive choice of formula' and contesting the idea of a 'unique blueprint for the just society', he recognizes at the same time that some basic issues are inescapably relevant. Our task will be to understand till what extent those foundational ideas are 'inescapably relevant', especially when they deal with freedoms and capabilities -such as the political capability- that need social arrangements in order to be effective, and might thus be opposed to the ideal of neutrality.

Two distinct tensions can be found in Sen's theory regarding the neutrality/substantiality question. The first one is inherent to every deliberative concept of democracy. It questions how to guarantee just deliberative conditions without undermining the open-endedness of the deliberation. The second one is much more specific to Sen's theory, and concerns the valuation of some specific capabilities, and in the framework of this research, more specifically the ability to participate in the political debate.

Tension 1: The circularity of deliberative theories

The first tension is present in all deliberative theories, especially when they are focused on *situated* agency. Taking into account the situation of a person in order to perceive the real opportunities he has, indeed implies more exacting institutions. The tension highlighted here is the problem of circularity, or the « chicken-and-egg » dilemma, as pointed earlier. Two main circularity issues appear when we deal with deliberative theories. The first one is a dilemma internal to deliberative democracy itself, while the other is concerned with an effective participation.

The first circularity, as we have mentioned, is related to the principle of deliberation itself, as well as its implementation. This paradox is inherent to the deliberative process,

²⁵⁹Sen, 1999(a), p. 286-287.

and is thus not proper to Sen's Capability Approach. Many authors have highlighted the internal opposition deliberative democracy is built on. Richardson begins his article « Democratic Intentions » with the following words:

« Any account of deliberative democracy gets pulled in two opposing directions. As a normative account of democracy that differs from aggregative accounts by giving an essential and not merely an instrumental role to collective deliberation, it will have to recognize a place for a conception of political truth. Serious deliberation must be *about* something – in this case, call it the *public good*—and hence *implies the possibility of articulating standards for assessing alternative proposals about what we do.*»²⁶⁰

But does deliberative democracy allow for the formulation of alternative proposals to deliberative democracy itself²⁶¹? It seems indeed that the established procedures themselves are considered as a form of public good, but can hardly be questioned. It would indeed be a form of « self-questioning » under rules that are not independent from the questioned content²⁶². The deliberative procedures have to be decided *beforehand* in order to establish the actual process of deliberation. As Rasmussen and Den Uyl point, public reasoning « is already filled with normative commitments that go undefended ». They continue saying that « these commitments are nevertheless either the givens of such discourse or subject to an infinite regress about public discourse in defense of public discourse²⁶³ ». It seems therefore that either we accept the 'givens' as givens, or we consider that every foundational principle and metarule should pass the process of public scrutiny itself, hereby clearly putting the system at risk.

The second circularity is even more complex, and refers to the requirement of an *effective* and *inclusive* participation. We have seen that social inequalities *ex ante* lead to political inequalities. Hence, the society should be just *preceding* the deliberative process, in order for the latter to be just. Fabienne Peter analyses this dilemma in the following terms; if the *ex ante* substantive constraints of political equality are *strong*, there is a lack of democratic legitimacy because they will be exempt of public

260We underline. Richardson, 1997, p. 349.

261Regarding democracy in general, some authors believe that people could decide not to be ruled by a democratic system, but that decision should be taken under democratic conditions.

262And if a questioning is somehow possible, it is anyway constraint by the inherent limitations of public deliberation itself.

263Rasmussen and Den Uyl, 2009, p. 8.

deliberation. If those substantive constraints are *weak*, there will equally be a lack of democratic legitimacy because it will fail to assure deliberation where people can effectively participate as equals²⁶⁴.

Another element that is important to point is Sen's conviction that a virtuous circle will emanate from the deliberative process. Not only is he convinced that democracy will lead to more and better democracy, but he is also persuaded that deliberation will lead to more equality. He affirms indeed that « a reduction of inequality both contributes to democratic practice and *is strengthened by* successful practice of democratic freedoms »²⁶⁵. This looks like a real profession of faith, and seems problematic for two reasons.

First, Sen's conviction that the deliberative process will lead to more equality is seriously challenging the supposed open-endedness of the process. We agree that the nature of the 'more just' outcome has not been specified. Nevertheless, Sen has stated in several occasions that even if we could not define what is « the just outcome », we could at least determine-thanks to the comparative approach- which outcome is *more just* than the other, predetermining thus partially what the outcome of the process would be. As mentioned in the second chapter, Sen bases this statement on his discovery that no democratic society has ever known a famine. If this was his main (and undoubtedly relevant) argument regarding the instrumental value of democracy, is it also valid for public deliberation? The instrumental value of democracy is indeed used in a reactive conception of democracy, especially relevant in a representative model. Yet, Sen perceives democracy as 'government by discussion'. How is it possible therefore to accept this virtuous circle (probably only on the basis of the instrumental value of democracy) once his concept of public reason is being applied?

Second, alleging that just predeliberative conditions have not to exist *a priori*, since they will appear little by little through the virtuous circle is a bit confusing. Indeed, we have seen that in case of unjust and unequal predeliberative conditions, the risk of

²⁶⁴Peter, 2007, p. 374-376 particularly.

²⁶⁵Drèze and Sen, 2002, p. 357. This vision is shared by other authors. See for example Crocker (« people *in and through* public deliberation itself may reduce their differences and promote justice as they together forge answers to practical problems », Crocker, 2008, p. 320).

vicious circle is high. The risk of perpetuating situations of social, political and cultural domination exists, and it might therefore be an idealization of the process to be convinced that the virtuous circle will arise.

Tension 2: The value of specific capabilities (especially the political capability)

How can Sen claim a neutral perspective while he himself is giving a crucial and central importance to some capabilities and freedoms. Moreover, the freedoms and capabilities have to be effective. They thus require not only a formal recognition, but most importantly a real implementation of the effective opportunity.

We will analyze Sen's position regarding the neutrality/substantiality debate by first considering his position regarding basic capabilities, before examining the question of rendering them effective.

Tension 2.1 The Valuation of Basic Capabilities

It is sometimes hard to understand exactly Sen's distinction between his clear rejection of what he calls 'institutional transcendentalism' and his valuation of intrinsically important capabilities. This enters into the highly debated question of the possibility and legitimacy of establishing a list of valuable capabilities. On the one hand, Sen is opposed to Martha Nussbaum's list, and on the other hand he lists himself some basic capabilities. Sen argues that his list of valuable capabilities is totally open to debate and change by the people through discussion²⁶⁶, and requires furthermore a local implementation, whereas Nussbaum's list is fixed and pre-established. Besides the need for this list to adapt to the society, Sen recognizes that the issue of selecting and weighting capabilities remains open²⁶⁷. It has nevertheless to be mentioned that even Martha Nussbaum has claimed that her 10 listed capabilities, even though representing the core basic capabilities and are thus aimed to be constitutionalized, is not fixed in

²⁶⁶Determining valuable capabilities has to be done, as we know, through public deliberation. « My own reluctance to join the search for such a canonical list arises partly from [...] a disinclination to accept any substantive diminution of the domain of public reasoning. The framework of capabilities, as I see it, helps to clarify and illuminate the subject matter of public reasoning, which can involve epistemic issues (including claims of objective importance) as well as ethical and political ones. It does not—and cannot—displace the need for public reasoning ». Sen, 2004, p. 333, note 31.

²⁶⁷Sen, 1993(a), p. 47; Sen, 2004, p. 333 and Rasmussen and Den Uyl, 2009, p. 6.

time and can be debated. Furthermore, she also mentioned that it *has* to be debated regarding its implementation and interpretation. The main difference, therefore, between Sen and Nussbaum, is that she is not ready to accept either trade-offs between basic capabilities (which are not negotiable for her)²⁶⁸, nor the risk of a community not valuing a core capability and thus not recognizing it through public deliberation²⁶⁹.

Therefore, where does Sen stand in this debate? Nussbaum tackles the issue by highlighting a « puzzling tension » in Sen's theory. « It is not clear », says Martha Nussbaum, « till what extent he is prepared to recommend them as important goals »²⁷⁰. Her stand is that the normative path that Sen has taken requires the endorsement of some defined content. Numerous authors have commented the complex relation that Sen maintains with this list. Rasmussen and Den Uyl, for example, consider that Sen needs Nussbaum's constructivist approach in order to overcome genuine problems he faces in his theory, even if that erodes Sen's non-constructivist principles²⁷¹. Séverine Deneulin mentions that the constructivist / constitutionalist approach of Nussbaum might be more « sincere ». Sen could indeed adopt a more straightforward approach, since rejecting the list won't erase the fact that his theory seems to require a constructivist approach. Richard Arneson clearly states that Sen's *official* position is unstable²⁷².

Besides the question of the 'list' itself, is the mere fact that Sen has considered some specific capabilities as being essential. When Sen states that those capabilities have an intrinsic value, this assertion is stronger than claiming that they are valuable for themselves, and not for sole instrumental values. He claims that they are essential and important. They might not embody a vision of the good, but their fulfillment will approach 'the juster'. Rasmussen and Den Uyl conclude that if Sen is avoiding any metaphysical claim, he is nevertheless basing his theory with some givens, which are in

268« This list is, emphatically, a list of separate components. We cannot satisfy the need for one of them by giving people a larger amount of another one ». Nussbaum, 2002, p. 131.

269She thinks for example about authoritarian regimes. Nussbaum, 2003, p. 15-17.

270*Ibidem*, p. 11.

271Their belief is that both theories need each other to gain in legitimacy and plausibility. Nussbaum needs Sen's non-constructivist approach the same way as Sen needs her constructivist approach, leading to a « cycle of normative asymmetry ». Rasmussen and Den Uyl, 2009, p. 22.

272Arneson, 2006, p. 22. It is interesting to highlight that he criticizes Sen's *official* position, and not what can be found in his theory notwithstanding Sen's position.

their opinion ethical judgments²⁷³.

Whether those value judgments are evaluative or normative or whether basic capabilities should be discussed and implemented through deliberation, we perceive that Sen is valuing some capabilities and functionings. Those value judgments, which he considers as 'basic' (i.e. applicable under any circumstances and not dependent on variations of knowledge or values with the time²⁷⁴), are nevertheless a clear stand *in favor of* or *against* some ethical considerations.

Tension 2.2 The Rendering of effective capabilities

The second issue we will analyze refers to the idea that capabilities should be effective. This means that a capability, to be taken into account and being valuable, should be an effective opportunity. Regarding basic capabilities, this means that there should exist a certain level of equality in their availability to every person. But capabilities, as Sen recognizes, are socially dependent. Assuming or advocating for a basal equality (or a threshold) of those capabilities would therefore need some social adjustments. Nevertheless, Sen has a very unclear position on that aspect. Indeed, next to his neutral commitment, he calls for a clear equality of basic capabilities in « Equality of What? ». But does he also call for the necessary adjustments in order to assure an equality of those capabilities? Again, his position is quite confusing. Despite Sen recognizing the need for some public policies regarding some capabilities (for example the schooling and political participation as we have mentioned), he still keeps a neutral based approach. So the question is, if Sen's theory doesn't *specify* some social arrangements, does it *imply* them?

273Rasmussen and Den Uyl, 2009, p. 11-13. They explain their position in a very intelligible way in the following paragraph: « Consider, for example, such judgments as, « It is desirable that people have sufficient food, clothing, medical needs, and chances for development, » or « It is wrong to prevent people from exercising their capacities for self-development, and hence everyone has a right to have their basic nutritional and health needs met. » It is with judgments such as these that we begin our discussion. Indeed, it may just be that moral truths are *sui generis* and that one does not need to overcome the so-called « naturalistic fallacy » to make ethical judgments. There are independent moral facts. » *Ibidem*, p. 11. The fact that those *ex ante* judgments are considered as 'ethical judgments' and 'independent moral facts' and not as metaphysical claims does nevertheless not help us much in assessing the nature of those judgments. Indeed, as Morris writes, « Ethical judgments are, of course, normative or evaluative » (Morris, 2010, p. 41). The validity of a so-called neutral theory based on ethical judgments is equally not much more advanced.

274Morris, 2010, p. 40-42.

Many authors believe indeed that the Capability Approach would lose its essence if it wouldn't provide any means to assure a minimal effective capability. However, they don't agree on what should be guaranteed. While some authors stand for a universalized minimal threshold of basic capabilities, others claim equality in their access. If this has a considerable impact on the ethical consideration of equality, as well as on the implementation of the measures, it is nevertheless irrelevant at the stage of assessing if Sen's theory contains some substantial aspects. Tenants of a minimal threshold as well as tenants of equality are both endorsing the idea that positive measures have to be taken in order to make those capabilities truly effective. Deneulin for example believes that implementing policies derived from the Capability Approach cannot but be perfectionist (since they cannot avoid the promotion of one given conception of the good), « despite its intention to propose a non-perfectionist and liberal approach »²⁷⁵. Knight and Johnson believe that there are « requirement of governmental expenditures to guarantee the social and economic prerequisites of effective participation »²⁷⁶, whilst Fung mentions the « attempt to bracket the effect of these inequalities upon deliberation »²⁷⁷, and Richardson stresses the need for a fair process in order to avoid situations of domination²⁷⁸.

Conclusion

According to what has been examined, we can say that there is a general acceptance that deliberative democracy, especially under the Capability Approach, requires the fulfillment of enabling condition in order to reach political equality. Let us remind that political equality refers to the ability to have an effective access to stand and participate as equals in the society, and not to the pure equalization of the capability *in se*.

It seems clear to us that this requirement included in the Capability Approach correspond exactly to the observation of Richard Arneson, when he states that there are

²⁷⁵Deneulin, 2002, p. 497-500. She observes indeed that from a perfectionist position, the Capability Approach slightly moves towards a paternalistic approach. Indeed, because of the confusion in the assessment of capabilities (capabilities are nearly impossible to evaluate, so it has to be done through functionings) it leads to sort of an obligation of implementing a realization of the capability, and thus moving away from the freedom given to the people to choose to realize the capability or not).

²⁷⁶Knight and Johnson, 1997, p. 306.

²⁷⁷Fung, 2005, p. 406.

²⁷⁸Richardson, 2004 and Richardson, 2005.

many components that appear in Sen's theory « without receiving the stamp of his endorsement »²⁷⁹. The nature and extent of those enabling conditions, as well as the varieties of means to reach their fulfillment, are analyzed in the next chapter.

279Arneson, 2006, p. 22.

CHAPTER 6: SOCIAL ARRANGEMENTS AS IMPLIED BY THE POLITICAL CAPABILITY

Introduction

We have concluded in the last chapter that Sen's theory demands the fulfillment of enabling conditions, even if this wasn't recognized expressly by Sen. That observation will constitute the given for this chapter, which will try to develop the necessity of social arrangements as implied by the combination of the Capability Approach and public deliberation. Until now, we have mainly focused our research on components that could be found *within* Sen's theory, and what could be deduced from them. In this chapter, we will focus on what could be elaborated on that ground. We have indicated that some contradictions were inherent to deliberative democracy itself, while others were proper to Sen. Both concerns have to be considered and addressed at this stage in order to attain a consistent and coherent interpretation of Sen's theory.

We have accepted that a lack of effective participation due to prior inequalities would jeopardize the legitimacy of the outcome, both due to procedural and substantial considerations. A lack of effective participation has to be understood as an *absence* of participation as well as a *non-genuine* participation. There is thus a need to minimize as much as possible those *a priori* inequalities if we want to maintain a legitimate public discussion. The formulation of some *preconditions* has already been discussed, and is generally accepted in the deliberative democracy literature. However, those are usually stated in very broad terms, such as 'the need for equality'. But what kind of equality is required by deliberative democracy? What kind of equality, should we better ask, is required by Sen's use of public reason? The question of the institutionalization of enabling conditions is also essential. What kind of social arrangements could lead to the ideal form of equality that would be expected?

To give a practical shape to Sen's theory requires a materialization of the answers to those questions. We will at this end proceed to some reflections regarding the nature and implementation of the enabling conditions. We will first consider more in depth the need of those social adjustments, as well as their nature. By nature we mean their place

within Sen's theory; shall we consider them as outsiders to the theory, or rather as implied by or included in the theory? Are they temporary measures, or permanent? We will afterwards consider the role of the state in the implementation of these conditions. Last, but not least, we will also suggest some avenues to explore regarding which concrete measures have to be taken. However, we won't proceed to an exhaustive analysis of what kind of measures would be necessary.

The need for social arrangements

Three main reasons lead us to conclude that social arrangements are needed in order to assure a genuine political participation, including from the bottom layers of the society. The first one concerns the intrinsic importance of the mentioned political participation, as it has been discussed in depth in the last chapters. The second one refers to the need to enhance the instrumental agency success. The last reason deals with the association of the Capability Approach with the concept of public reasoning.

The intrinsic importance of democracy

This topic has been discussed extensively. We won't therefore reproduce all the relevant arguments. Let us remind, as it has been stated in chapter four, that a lack of substantive political equality is highly influenced by a lack of economic and social equality²⁸⁰. We have also concluded in chapter five that a coherent interpretation of Sen's theory leads to the need of implementing some measures in order to minimize those prior economic and social inequalities. Authors disagree on the need for a perfect equality in the political capability rather than the guarantee of a certain threshold for everybody²⁸¹. What is sought regarding the political capability influences of course what is needed regarding the preceding economic and social status²⁸². Transcending this question of equality vs. threshold, we think that the most important feature all the authors agree on is that the influence of the economic and social status on the public deliberation should

280On that topic, see Bohman and Rehg, 1997, p. xxiii.

281See for example Anderson, 1999, p. 316; Bohman, 1997, p. 326.

282See for example Knight and Johnson, 1997, p. 280-293.

be neutralized to the highest extent as possible²⁸³. Furthermore, we must pay attention to the fact that the *ex ante* conditions affect both the access to the deliberation, and the authenticity of the deliberation itself (related to questions of power and influence)²⁸⁴. The neutralization of those economic and social inequalities is done through some adjustments, which include redistribution of resources, but also factors related to schooling, media and culture.

The enhancement of agency

As we have detailed at the end of the first chapter, agency has an important role in Sen's theory. This is the authentic way of expressing one's freedom. However, it is important to be very careful in dealing with the concept of agency. Indeed, the realization of goals -and in general of all what is valued- reflects an enhancement of agency. More precisely, this will be an increase of the *realized* agency success. For example, if an Irish NGO advocates for the construction of a Tamil library for the Tamil immigration community, it will enhance the realized agency success of the members of the Tamil community (because the library is something they were looking for). Their agency will increase, even if they don't participate in the process. Nevertheless, Sen stated very clearly that the most important part of agency is the *instrumental* agency success, i.e. where the agent *participates* in the realization of the valued outcome. The Tamil community of Ireland will therefore increase their actual agency if they stand *themselves* for the creation of the library. Sen had given the example of « even if you know what I'm about to say, let me talk » in order to illustrate the instrumental agency

283 See for example the statement of Cohen : « the participants are substantively equal in that the existing distribution of power and resources *does not shape* their chances to contribute at any stage of the deliberative process, nor does that distribution play an authoritative role in their deliberation ». Cohen, cited by Knight and Johnson, 1997, p. 292. We refer as well to what has been said in the precedent chapter, namely that political equality is mainly the effective ability to stand and participate *as equals*.

284 Knight and Johnson, 1997, p.281. On that aspect, we disagree with Knight and Johnson. Indeed, they write that deliberative democracy requires procedural guarantees to assure equal access, and substantive equality (including wealth and educational considerations) to assure equality of influence. If we fully agree with the observations made by knight and Johnson on both the formal equality for access and substantial equality for influence, we nevertheless think that is it very incomplete. As we have seen throughout the last chapters, we believe that both formal (including procedural) AND substantial rights are necessary to enable ACCESS and INFLUENCE. Indeed, access can be hampered by inequality, and influence has to be guaranteed by formal and procedural equality in the debate too.

success. Similarly, we could say « even if you know what I would like to claim, let me claim it ».

This has a considerable impact on the types of measures that have to be taken in order to assure a political capability that would be consistent with Sen's theory in its globality. Indeed, planning and setting up systems of representation for the worse-off is a good political goal and might be very helpful in the process of verbalization of the sufferings and escaping invisibility. It might also be efficient in achieving goals, and thus in the increase of realized agency success. But no public policy could be as efficient and respectful of Sen's theory than the ones aimed at giving the voice back to the people directly.

The Capability Approach associated with the concept of public reasoning

We have considered in this thesis many aspects of Sen's theory arising both from his Capability Approach and his work on public reasoning, mainly developed in the *Idea of Justice*. We have presented that the Capability Approach in itself contained various internal tensions, for example being presented as a metric on the one hand, but considering some capabilities as being essential and needed to be promoted. Nevertheless, the main problem that has led to our question related to the political capability is the need to comply with the requirements of public reasoning. The Capability Approach has been presented by Sen as an *assessment* of opportunities: Do people have x or y capability? Is a given society offering effective freedoms allowing people to actually enjoy them? This is why the Capability Approach is dealing with the opportunity aspect of freedom, and not with the process aspect of it²⁸⁵. The development of a theory of a justice based on public reason changes the state of affairs. Establishing a whole process of deliberation would have no sense and no legitimacy if it wouldn't be inclusive and genuine. Therefore, if we want to avoid rendering Sen's use of public reason insignificant and unsubstantial, there is a necessity to assure its effectiveness by implementing some enabling conditions.

²⁸⁵On our development of the process aspect of freedom vs. the opportunity aspect, see p. 15-16.

The nature of the social arrangements

We have reached the conclusion that social arrangements are necessary under Sen's theory. Until now, we have mentioned that those arrangements are 'implied' or 'demanded' by the theory itself, without considering its status among the theory. Should we consider them as being mere 'implications' of other concepts (effective capabilities, public reason), or should we perceive them as being part of the theory? We shall furthermore consider the position of those measures over time. Are those meant to 'launch the virtuous circle', and therefore temporary? Or are they supposed to guarantee a long-term minimal protection, in the way of Nussbaum's constitutionalization of core capabilities? We will consider those questions in order to enlighten the concept of *social arrangements*, and so lifting the veil on the tensions we have been working on.

Sen distinguishes very clearly what can be associated directly to a criteria of justice from what can be instrumentally useful to reach that criteria of justice. He differentiates institutions perceived as being just by themselves, from institutions necessary to achieve a goal that would be just²⁸⁶. What is important here is thus to try to differentiate what is sought from what is necessary to achieve the sought purpose. It seems clear from what has been seen that the equality of political capability is what is sought (i.e. equality of influence, of meaningful participation, of access, of respect...). This goal forms part of Sen's Capability Approach combined with the use of public reason. Otherwise, the whole practicability of the theory would be defeated, and the Capability Approach could be seen as an illusion. Raising the political capability is thus a higher objective in Sen's theory, and is entirely part of it. By contrast, the means to reach this political capability will depend on the characteristics of each society, as it has been explained in the analysis of the social functionings. We can nevertheless draw some patterns of measures that will generally be necessary in order to achieve an equalization of political capability, even though those patterns are not universally valid. But even if there is no unique and singular path to overcome political poverty, some adjustments will be requested in practically all the circumstances. We can therefore say that the

²⁸⁶See for example Sen, 2009, p. 84.

social arrangements are *per se* not directly part of Sen's theory itself, since they will depend on local adaptations. Those adjustments are instrumental to the realization of the final objective: the achievement of political capabilities for all. We take thus the stand that the requirement and need of adopting measures is mandatory under Sen's theory to comply with its own imperatives, but the measures themselves will depend on the characteristics of the society. No predetermined type of measure can thus be included in Sen's theory. This, however, doesn't go against the observation that some cardinal measures will nearly always be required.

Some authors adopt other positions regarding this question. Srinivasan, for example, states that « all capabilities instrumental to achieving equal political capabilities must also be included in Sen's theory of justice »²⁸⁷. This would mean that capabilities such as access to culture, economic independence, but also capability to think in a critical way and be autonomous would be *included* in Sen's theory, because of their instrumental role in attaining political equality. Nevertheless, we don't agree with this statement for two reasons. First, the question of measures needed in order to achieve the capabilities that are instrumental to political equality is still open and not answered. Second, and this is a much more problematic issue, how would it be possible to determine which capabilities are instrumental to the equality of political capability? Is it possible to determine an exhaustive list of those instrumental capabilities? We don't think so. Therefore, we think that we shouldn't adopt an indirect way [measures => instrumental capability => political capability] but rather a more direct perspective [measures => political capability].

Sen himself has given some examples of social arrangements undertaken in order to meet the requirements of a 'higher goal'. The example that we will present is directly related to the topic of this thesis. It concerns Condorcet's commitment to favour the education of girls and women. Sen mentions indeed at several occasions how Condorcet valued the participation of women in public affairs, as well as in social and family life. Nevertheless, to reach that goal, there is a special need to focus on the education of girls and women, in order for them to effectively participate. The emphasis on the education

287Srinivaran, n.d., p. 12.

of women has no intrinsic importance in this example. What is valued here is its ability to raise the position of women in order to reach an equal participation in the private and public sphere, and not the education itself²⁸⁸.

Regarding the temporal anchorage of the social adjustments, the question is equally sensitive. We have seen that Amartya Sen is heavily relying on the idea of virtuous circle. This virtuous circle allows him to counter the argument claiming that deliberative democracy is idealistic. Indeed, he believes that the situation doesn't need to be perfect *ab initio*, since improvement will result from the process itself. Nevertheless, we have seen that if the initial conditions were left unattended, they would probably lead to the creation of a vicious circle. But shall we consider the establishment of those enabling conditions as a sole way to initiate the virtuous circle and thus as *temporary and transitional* measures, or as a *permanent* requirement of assuring a non-vitiated deliberation? This differentiation is not insignificant. Considering them as a permanent requirement would indeed mean that there is a certain threshold under which people cannot go, and consequently under which people cannot decide by public deliberation. This would come closer to Nussbaum's protection of basic capabilities by means of constitutionalization, which is opposite to Sen's non-constructivist approach.

Nevertheless, our opinion is that Sen's belief in the virtuous circle is problematic for two reasons. First, there is a high risk of vicious circle and increase of existing inequalities if those are not dealt with adequately. But there is also a second problematic issue. What can guarantee us that existing (but not sufficient) levels of democracy and justice will enhance the degree of democracy and justice? The concepts of constructive, and especially instrumental value of democracy can explain some phenomena, such as pre-emptive measures undertaken by the governants can certainly explain some strengthening aspects of democracy. Nevertheless, it cannot assure that public deliberation in itself will lead to decisions that are more just and democratic. What if a society, having reached a level where all the people can participate as equals, nevertheless ends up adopting unjust decisions? The ideal of objectivity and impartial spectator fails indeed in guaranteeing that any unjust decision would ever be taken. The

²⁸⁸See Sen, 2009, p. 94 and 111.

question is therefore, once the *initial* enabling conditions have been guaranteed, should any outcome be accepted on the ground that it has been adopted through public deliberation? We don't think so, because decisions that would lead to unfreedom or injustice would still contravene the basic idea of enhancing capabilities and freedom. Since our discussion concerns the necessity to maintain a certain threshold in order to assure a genuine participation, we will concentrate on that aspect, and not on the general need to avoid unjust outcomes *ex post* the deliberation. But as we have seen, political capability is tightly related to prior equality in many aspects. Therefore, leaving an open-ended outcome without considering if it would comply with a certain threshold of equality and freedom could impede a genuine deliberation.

For those reasons, we think that the required *adjustments* have to be done in a preventive manner in order to guarantee the possibility of a non-altered debate. Nevertheless, to keep those guarantees, a certain threshold has to be maintained on a permanent basis. Otherwise, the risk that some decisions would impede a proper deliberation would still exist.

Social adjustments as a necessary but not sufficient condition

Having a genuine public deliberation can happen only if some social arrangements are set up. We have nevertheless to remind that those social adjustments are meant to assure an effective political capability, and thus do not refer to the actual participation itself. Indeed, Sen has always been very clear on the fact that enjoying capabilities did not determine anything regarding the exercise of those capabilities.

In logic terms, we could observe that it would be therefore too hasty to conclude that

- 1) a certain threshold will lead to an inclusive public debate (sufficient condition)

[social arrangements] \Rightarrow [inclusive debate]

OR

- 2) that a certain threshold will lead to an inclusive public debate, and having a inclusive public debate shows that a certain threshold is guaranteed (necessary and sufficient condition)

[social arrangements] \Leftrightarrow [inclusive public debate]

Those two proposals are indeed wrong in the sense that they imply that whenever social arrangements and certain thresholds are put in place, they would automatically lead to a generalized public debate. But what is sought is the capability to participate, not the actual participation, and the latter cannot be guaranteed (unless through forceful measures). Each person should be put in a situation where he/she has the effective ability to choose to participate or not. So the 'positive functioning' of participation is not assured.

Therefore, the correct way of presenting it would be

[inclusive debate] \Rightarrow [social arrangements]

since social arrangements are necessary, but not sufficient conditions to reach public debate. Indeed, The existence of a genuine public deliberation implies that some social arrangements exist, even if those are not sufficient to guarantee the debate.

The role of the state

The question that we would like to tackle here is the question of the role of the state in guaranteeing a threshold of basic capabilities. This could seem to be a tricky question, especially because taking the state's action for granted could be perceived as a form of welfarism, and thus overcome the idea that principles of justice should be decided through public deliberation. The whole question is therefore to find a right balance between a paternalistic state and the necessity of the state to effectively protect against unfreedom. There is therefore an important distinction in the implementation of policies that would consist in taking decisions on behalf of the people, and the policies that would grant more freedom to the citizens. Indeed, as Sen says, « there is a difference between « nannyng » an individual's choice and creating more opportunity for choice and for substantive decisions for individuals who can then act responsibly on that basis »²⁸⁹. The question is thus not whether taking appropriate steps to offer a threshold of basic capabilities is consistent with the neutral commitment of Sen's theory

²⁸⁹Sen, 1999(a), p. 284.

(refraining to act), but rather if there is a positive obligation on behalf of the state to take them (obligation to act). Indeed, the state has the task to provide a minimal threshold of basic capabilities²⁹⁰. This is especially important regarding all what is necessary « to safeguard the conditions and circumstances that ensure the range and reach of the democratic process »²⁹¹. The failure to adopt the necessary measures would therefore consist in a breach of the state's obligation²⁹².

Institutionalization

After having determined on a theoretical aspect the characteristics of the needed arrangements, we will try to figure out what kind of concrete forms those might take. We will a differentiation between what might be requested to assure a political participation from what could be necessary to lead to a genuine deliberation, and will finalize with some examples of requested measures.

Political participation and public reasoning: distinct requirements

Political participation does not exist in a single form. Being present as a citizen on the public sphere might be done in various ways. It might include protesting, bargaining, reacting, but also voting and petitioning. One of the most demanding forms of participation on the public scene is public reasoning, since it includes a physical involvement, but also strong cognitive processes. Favouring political involvement will therefore be done in distinct ways regarding what kind of involvement is sought. This is important, since Amartya Sen requests several forms of participation from the citizens, direct as well as indirect. He distinguishes in *India: Development and Participation* « adversarial public action » and « collaborative public action ». Those distinct forms of

290Drèze and Sen, 2002, p. 247 and 375. See also Crocker, when he states that here is for Sen a duty of the responsible law and policy makers to assure « that people -if they decide to- are held above a certain threshold of functionings ». Crocker, 2008, p. 169.

291Sen, 1999(a), p. 158.

292To take Shue's words, it would be « fraudulent » to promise liberties without assuring their effectiveness. « Illusions are not liberties », he states. « Believing that we are free to do some things, while we actually are not, is a mistaken belief ». So the state cannot promise rights if there are lacking rights to subsistence, security and other basic rights (which are necessary in his view to enjoy any kind of liberties). Shue, 1980, p. 69-70.

participation have to be confronted at this stage.

Reactive participation (or *adversarial* in Sen's vocabulary), such as petitioning and protesting, is essential for the instrumental aspect of democracy. The social and economic background is less likely to shape this form of participation, since the reaction is usually induced by a situation that affects directly the person. Nevertheless, social and economic conditions do still influence that form of participation. First, it influences the forms in which the person will contest. Some democratic tools require indeed certain knowledge on their functioning (media, judicial courts...). Second, it influences also the content of what will be fought for. Indeed, Amartya Sen has distinguished very clearly the distinction between what an individual would like to achieve (agency) and his level of well-being. It seems nevertheless obvious that a person who is struggling with his own level of well-being will less probably have other regarding goals that might negatively affect his well-being.

If we consider the collaborative public action as public reasoning, we see that the challenges are much more important. Indeed, the social and economic background influences nearly every aspect of it, from the mere participation to the process, to the ability to raise issues, the ability to reason and present arguments, ... Public reasoning relies on the ability to have a critical point of view and asks for the ability and freedom to « question and reassess the prevailing norms and values »²⁹³. What is at stake here is the constructive aspect of democracy. The value formation is here an essential aspect, and therefore there is a need to enter into the discussion untied from any form of bondage. The avoidance of any form of « objective illusions » (mistaken beliefs that are *perceived* by the holders of the belief as being positionally objective) is essential in order to have a deliberation that are genuine²⁹⁴.

293Morris, 2010, p. 81.

294Objective illusions have been analyzed in the Marxian philosophy as corresponding to beliefs that are usually shared by a class or group of people and perceived as being objective and thus true. That mistaken belief hampers the possibility of having an enlightened perception of the subject. For a presentation of objective illusions, see Sen, 1993(b).

Requested measures: non exhaustive presentation

Different kind of measures can be separated out; some are concerned with formal equality while others deal with substantial equality. The requirement of formal equality is self-evident and is at the very basis of the concept of democracy (whether representative or deliberative). The requirements of substantive equality is much more demanding. We must not forget that what is sought here are elements of substantive equality which are relevant for public deliberation. We shall classify them in distinct 'categories': first, measures targeted on the individual, and second, measures impacting the system as a whole.

First of all, we will consider social arrangements aimed at providing substantial equality that are directly focused on the citizens. Those include financial and economic aspects (redistribution of resources and access to economic production) in order to minimize the relative economic poverty. But what is very important regarding public reasoning is the ability to stand as equal in the conversation. As Anderson²⁹⁵ notes, prior to being able to work as a citizen, a person has to be able to work as a normal agent. This includes having the capability to be sheltered, nourished, clothed, ... but also having an effective access to medical care. As a preliminary condition to participate in a public debate, a person should also have the ability to know one's options, ability to deliberate on means and ends, psychological conditions of autonomy, self-confidence to think and judge for one-self, freedom of thought and movement »²⁹⁶.

Relative poverty in developed countries is highly dependent on unequal education and cultural resources. This implies access to quality education for all. Education is indeed one of the most essential conditions assuring genuine political participation, it favors both adversarial public action and collaborative public action²⁹⁷. Indeed as Sabina Alkire notes « education can be a « catalyst of social change » - enabling people to overcome historical inequalities [...]. Furthermore, an educated populace can be empowered to undertake public actions, lobby, organize campaigns, and make their

²⁹⁵Anderson, 1999, p. 318.

²⁹⁶*Ibidem*.

²⁹⁷Internal factors and abilities cannot be changed through institutional adjustments. Nevertheless, the aim is to offer equal external factors (social, cultural, institutional...) in order to compensate different internal abilities (in other words, to give the non talented equal opportunities to deliberate, even if influence in the debate can never be equalized).

values and demands heard effectively »²⁹⁸. Education has besides this a major role in allowing people to become autonomous by giving them the ability to think and judge by themselves, as it has been noted *supra*, allowing a genuine scrutiny of their own values and priorities (which is essential for the constructive aspect of democracy)²⁹⁹. Assuring education might be done through free public education, or through targeted aids for the most deprived. The risk of that solution would nevertheless be the difficulty to 'target' the deprived ones, since relative poverty includes financial, cultural, social and institutional elements, and thus to favor a vicious circle of the 'forgotten deprived'. As Knight and Johnson point, education is not the only factor influencing the cognitive capacities. The nutrition during the childhood impacts the ability to develop the brain capacity. Assuring the capability to have adequate nourishment is therefore part of assuring an equal stand of the citizens in the deliberation³⁰⁰. The ability to have an access to and use cultural resources is another fundamental aspect in the creation of identity and thus in the value formation.

We will now consider some adjustments that are not focused directly on the individual, but rather on the society in its globality. We mean by that measures that will affect individuals indirectly, through their impact on social groups or institutions. First of all, the basic civil and political rights often need positive actions in order to be rendered effective. Freedom of thought, religion, speech require more than a mere recognition to become operative. One clear need in relation with reactive involvement is the avoidance of complicated procedures and unnecessary bureaucracy (regarding media, justice, administration...). This has a clear segregation-enhancement effect on the people with a limited educational background. It has indeed pointed out that in many situations, even if the will of standing against a situation of injustice existed, the lack of knowledge on the existing means did hamper their effectiveness. Simplifying procedures on one hand, and providing information and guidance on the other will guarantee a better use of the available mechanisms. Regarding the deliberation itself, some additional comments

298Alkire, 2010, p. 204.

299As Robeyns helps to distinguish, education has the task to make people free on a practical aspect (ex. assuring access to the labour market to everyone) but also by empowering them in all the aspects of their personality. Robeyns, 2006, p. 370.

300Knight and Johnson, 1997, p. 306.

have to be done. First, there must exist a clear rule regulating the financing of political parties. Indeed, the relation between economic and political dominance becomes blurred once private financing enters into the picture. In the same way, it is important to assure an independent media. As Sen has mentioned, access to quality and independent media is essential in the value formation³⁰¹. In order to avoid any form of cultural domination, as well as situations of cognitive dissonance and preference adaptation (which jeopardize a genuine debate), there must exist mechanisms (including media) allowing for the examination, creation and expression of one's identity. This might also include measures protecting collective organizations. They have indeed a greater potential to protest (reactive) and play an important role in the construction of the identity (collaborative)³⁰². Overemphasizing the role of groups might nevertheless hamper the realized agency success if the structure leads to a separation between the people and few ruling leaders of the group. Last, but not least, Anderson mentions that democratic institutions relying on public debate should offer adequate structures for the people to actually debate and form a civil society. Among others, she points at the need of having decent public spaces, such as parcs, but also places for people to interact, such as theaters, restaurants, ... Furthermore, public deliberation would be inoperative and unfeasible without proper public communication and transport³⁰³.

301Sen, 2009, p. 336.

302We refer to what has been mentioned regarding Young's politics of difference (p. 41-42). There must exist a right balance between the existence of groups as favouring human flourishing and the taking over of the group's identity over the individual's personality.

303Anderson, 1999, p. 317.

CONCLUSION

“Individual freedom is quintessentially a social product”, declares Sen. This statement appears to be a doorway to the main issues we have dealt with in this research. We can indeed perceive the inexorable tension that underlies the whole work of Sen, namely the opposition between individual autonomy and socially molded perceptions and actions. We can equally feel how social institutions and backgrounds (including values, law, mechanisms, access to commodities...) influence the effective ability one has to exercise freedom. Sen has indeed perfectly understood how the use of liberties can be restrained or stimulated by external factors.

Nevertheless, we observe that even if Sen pays much attention to that factor, he fails to take it appropriately into account in his theory. Our analysis is focused on one of Sen's major concern: the ability of a person to participate in the process of public reason. More precisely, our perspective is narrowed to the ability of deprived people in developed countries to participate in that process, in order to understand how inclusive public deliberation is. The tension between individual freedom and social constraints reveals some inherent paradoxes in Sen's theory.

The identification of core concepts of Sen's Capability Approach shows that freedom and agency are essential components that have to be valued and promoted, both for their intrinsic and instrumental value. Tightly related to those concepts is the importance of the political capability, understood as the effective ability to participate in the creation and evaluation of social norms and values. The valuation of public deliberation enters directly in Sen's elaboration of a more comprehensive theory of justice based on the practice of public reason. The freedom to shape one's environment by its own intervention is indeed valued by Sen as being one of the most crucial freedoms. Political capability is crucial for both its process (exercise of agency and freedom) and its outcome (achievement of realized agency success).

However, the observation that entire social groups are excluded from or have reduced levels of participation leads to the conclusion that the political capability does not exist

equally for every person. What kind of tools does his theory offer to counter this phenomenon? Not many, and this is exactly where the shoe pinches. Sen is indeed concerned by developing a theory that has a strong practical anchorage, and refuses the idea of an abstract and idealistic theory that wouldn't have any dialogue with concrete accomplishments. Nevertheless, he has a clear stand against the idea that a theory of justice could contain any substantial vision of the good. Every norm or value related to the question of what is good or what is just should be defined by the process of public deliberation, and not imposed by a theory of justice. But this leads to a paradoxical situation. Ensuring that even the most deprived social groups have a real political capability through the adoption of some measures could go against Sen's idea of value-neutral theory. Adopting a decision of establishing public schools or implementing a policy of redistribution of resources is necessary in order to guarantee an inclusive participation, but is certainly not neutral on a value perspective. Yet, not adopting such measures would substantially harm the process of public reason. The access to the discussion would be affected, and the process would lose its comprehensiveness. Any decision adopted by a process out of which many people were excluded because of a lack of effective freedom would suffer from a real lack of legitimacy. Furthermore, when the access to the deliberation is not hampered, there is a real risk of non-genuine participation. Influence and domination are some of the phenomena that affect the quality of the deliberation. The existence of preference adaptation equally impedes the constructive role of the process (meant to create and question values and identity). Furthermore, not taking into account the inequalities in the access to the deliberation and in the influence during the debate would have the consequence of perpetuating the situations of domination. Not guaranteeing an effective political capability for all the members of a community would therefore be the thin end of the wedge.

However, if we change our perspective on Sen's work, we understand that the neutrality he calls for is already hindered by several notions that are valued by Sen himself. He considers public reason as being intrinsically important, basic capabilities as essential, freedom needs to be extended as much as possible. More importantly, he values the effectiveness of all the freedoms he mentions, and calls for substantive opportunities rather than formal ones. It is thus uneasy to keep the stand that Sen's theory cannot call

for measures aimed to guarantee an inclusive public debate. In fact, a coherent interpretation of Sen *requests* positive actions in order to eliminate any form of discrimination in the participation of the process of public reasoning.

We have seen that the Capability Approach was not equipped to deal with the *process* aspect of freedom, but only with its *opportunity* aspect. This is indeed what leads Sen to assess which opportunities exist or don't exist, without taking into account *how* those opportunities arise. Therefore, focusing solely on the political capability avoids the question of the necessary means to achieve such a capability. Nevertheless, Sen has widened his own work by developing a theory of justice based on public reasoning, and cannot escape from the question of the *process* aspect of freedom anymore. He has somehow filled the gap that the Capability Approach had created by incorporating a concept that requires the establishment of some social arrangements -and which are thus related to the *process* aspect of the freedom to participate in the public deliberation-.

We have reached the conclusion that Sen's theory contains the necessity to take appropriate steps in order to guarantee a genuine debate. However, there is no single blueprint of which measures have to be adopted, and those will have to adapt to the social and local realities. We can nonetheless affirm that every action that enhances the knowledge, autonomy, self-respect and integrity of a person would have positive impacts on his ability to exercise freedom, and hence to exercise its political capability.

We have determined how Sen's theory itself contains -although indirectly- the need to adopt social measures in order to favour public reasoning, and have thus reached the main conclusion we were looking for. We have however covered several issues and tension that should be addressed, though less thoroughly.

First of all, any theory on deliberative democracy can difficultly be totally open-ended and neutral, since the ideal of deliberation itself operates as a metanorm underlying the process itself as well as the whole conception of society and governance. It furthermore implies values such as equality of the deliberators, which is an essential component of the procedure. It has sometimes been argued that people could perfectly decide by themselves not to be ruled by deliberative and democratic mechanisms, but that this decision should nevertheless be taken in a deliberative democratic way. It is not easy to

subscribe to that conclusion. Theories of justice -such as Sen's- relying entirely on public deliberation would lose their entire *raison d'être*, and do not even consider such a possibility. Sen is indeed persuaded that the practice of democracy leads to more and better democracy. But there is another problematic aspect, namely that some theories request not only the practice of deliberation as mere *modus vivendi*, but as a real *adherence to the ideal of deliberation* (Rawls' idea of overlapping consensus). In such a scheme, it is hard to imagine that every single principle of justice, including the process to determine those principles of justice, can be deliberated upon.

Second, we have seen that one of Sen's major aims in developing his Capability Approach was to counter the failure of former theories of justice to distinguish the *means* and the *ends* in what they wanted to achieve. His focus on equality of capabilities has appropriately addressed the issue, by taking into account the final target. Nevertheless, we have seen that some difficulties still remain. First, he recognizes the fact that equality of means can lead to equality of ends, and, similarly, that equality of ends might need inequality of means. But beyond that recognition, he fails to consider it on a practical aspect, and doesn't give a lead on how to achieve substantive equality of ends (the capabilities). This has led to the tension we have considered *supra*. Second, we have to mention that since capabilities are impossible to assess directly, we inevitably have to rely on *prior* (means) or subsequent (functionings) conditions. Giving a practical shape to the Capability Approach would therefore deviate from the positive achievements the theory has given.

Last, but not least, this whole research has been led by the foundational question of the relation between civil & political rights and social & economic rights. The interdependence of those rights has been affirmed by Sen, and formulated under the idea of 'instrumental freedoms' (such as political rights, economic freedom, access to health and education), which, once achieved, allow for the attainment of other freedoms. The instrumentality of those rights has been a key element in this research. Indeed, granting the right to participate in public deliberation would be meaningless should instrumental freedoms be deficient. If freedom is indeed a social product, then the state has the duty to assure the social conditions that allow its effective exercise.

BIBLIOGRAPHY

Articles and Monographs

- Alkire, Sabina, 2010, « Development: 'A Misconceived Theory Can Kill' », p. 191-219, in Christopher W. Morris (ed.), *Amartya Sen*, Cambridge: Cambridge University Press.
- Anderson, Elizabeth S., 1999, « What Is the Point of Equality? », p. 287-337, in *Ethics*, Vol. 109, No. 2.
- Arneson, Richard J., 2006, « Distributive Justice and Basic Capability Equality: « Good enough » is not good enough », p. 17-43, in Alexander Kaufman (ed.), *Capabilities Equality: Basic Issues and Problems*, Abingdon: Routledge.
- Bohman, James, 1996, *Public Deliberation. Pluralism, Complexity, and Democracy*, Cambridge: The MIT Press.
- Bohman, James, 1997, « Deliberative Democracy and Effective Social Freedom: Capabilities, Resources, and Opportunities », p. 321-348, in James Bohman and William Rehg (eds.), *Deliberative Democracy. Essays on Reason and Politics*, Cambridge: The MIT Press.
- Bohman, James, and Rehg, William, 1997, « Introduction », p. ix-xxx, in James Bohman and William Rehg (eds.), *Deliberative Democracy. Essays on Reason and Politics*, Cambridge: The MIT Press.
- Bonvin, Jean-Michel, 2005, « La démocratie dans l'approche d'Amartya Sen », p. 24-37, in *Alternatives Économiques- L'Économie politique*, Vol. 27, No. 3.
- Brighouse, Harry, and Robeyns, Ingrid, 2010, « Introduction: Social primary goods and capabilities as metrics of justice », p. 1-13, in Harry Brighouse and Ingrid Robeyns (eds.), *Measuring Justice: Primary Goods and Capabilities*, Cambridge: Cambridge University Press.
- Clark, David A., 2005, « The Capability Approach: Its Development, Critiques and Recent Advances », p. 1-18, document GPRG-WPS-032, Global Poverty Research Group (found on <http://www.gprg.org>, latest consulted 9 July 2011).
- Clements, Paul, and Hauptmann, Emily, 2002, « The Reasonable and the Rational. Capacities in Political Analysis », p. 85-111, in *Politics & Society*, Vol. 30, No. 1.
- Cohen, Gerald A., 1989, « On the Currency of Egalitarian Justice », p. 906-944, in *Ethics*, Vol. 99, No. 4.
- Crocker, David, 1992, « Functioning and Capability: The Foundations of Sen's

- and Nussbaum's Development Ethic », p. 584-612, in *Political Theory*, Vol. 20, No. 4.
- Crocker, David, 2006, « Sen and Deliberative Democracy », p.155-97, in Alexander Kaufman (ed.), *Capabilities Equality: Basic Issues and Problems*, New York: Routledge (the pagination running from p.295 to 356 corresponds to the article found on <http://terpconnect.umd.edu/~dcrocker/Papers.html>, last consulted 25 June 2011).
 - Crocker, David, 2008, « Ethics of Global Development. Agency, Capability and Deliberative Democracy », Cambridge: Cambridge University Press.
 - Crocker, David, and Deneulin, Séverine, n.d., « Briefing note: Capability and Democracy », Human Development and Capability Association (found on www.capabilityapproach.com/pubs/Briefing_DemocracyF.pdf, last accessed 27 June 2011).
 - Crocker, David, and Robeyns, Ingrid, 2010, « Capability and Agency », p. 60-90, in Christopher W. Morris (ed.), *Amartya Sen*, Cambridge: Cambridge University Press.
 - De Herdt, Tom, and Abega, Séverin, n.d., « Capability deprivations and political complexities: The Political Economy of Onions in the Mandara Mountains, Cameroon » (found on www.capabilityapproach.com/pubs/479DEHERDT.pdf, last accessed 27 June 2011).
 - Deneulin, Séverine, 2002, « Perfectionism, Paternalism and Liberalism in Sen and Nussbaum's Capability Approach », p. 497-518, in *Review of Political Economy*, Vol. 14, No. 4.
 - Dewey, John, 1917, « The Need for A Recovery of Philosophy », p. 3-69, in John Dewey (ed.), *Creative Intelligence: Essays in the Pragmatic Attitude*, New York: Holt.
 - Drèze, Jean, and Sen, Amartya, 1989, *Hunger and Public Action*, Oxford: Oxford University Press.
 - Drèze, Jean, and Sen, Amartya, 2002, *India: Development and Participation*, Oxford: Oxford University Press.
 - Elster, Jon, 1983, *Sour Grapes: Studies in the Subversion of Rationality*, Cambridge: Cambridge University Press and Maison des sciences de l'Homme.
 - Evans, Peter, 2002, « Collective Capabilities, Culture, and Amartya Sen's *Development as Freedom* », p.54-60, in *Studies in Comparative International Development*, Vol. 37, No. 2.
 - Fung, Archon, 2005, « Deliberation before the Revolution: Toward an Ethics of Deliberative Democracy in an Unjust World », p. 397-419, in *Political Theory*, Vol. 33, No. 3.

- García Valverde, Facundo, n.d., « Political Equality in Deliberative Democracy and the Capability Approach », p. 1-13 (found on www.capabilityapproach.com/pubs/lima-trabajotraducciononline.pdf, last accessed 27 June 2011).
- Gaus, Gerald F., 2008, « Reasonable utility functions and playing the cooperative way », p. 215-234, in *Critical Review of International Social and Political Philosophy*, Vol. 11, No. 2.
- Kamal, Simi, 2000, « The Democracy-Poverty Nexus: Summary on Issues of Participation », Paper presented at International IDEA 2000 Democracy Forum « Democracy and Poverty: A Missing Link? », Stockholm, Sweden, June 8th – 9th (found on http://archive.idea.int/df/2000df/papers_presented_1.html, last accessed 29 June 2011).
- Kelly, Erin, 2011, « Public Reason and Capability », Tufts University, draft document, p. 1-23 (found on lawandphil.rutgers.edu/sites/default/files/kelly.pdf, last accessed 27 June 2011).
- Kiesler, Charles A, and Pallak, Michael S., 1976, « Arousal Properties of Dissonance Manipulations », p. 1014-1025, in *Psychological Bulletin*, Vol. 83, No. 6.
- Knight, Jack, and Johnson, James, 1997, « What Sort of Equality Does Deliberative Require? », p. 279-319, in James Bohman and William Rehg (eds.), *Deliberative Democracy. Essays on Reason and Politics*, Cambridge: The MIT Press.
- Landwehr, Claudia, 2005, « Rational Choice, Deliberative Democracy, And Preference Transformation », p. 40-68, in *Studies in Social and Political Thought*, issue 11 (found on www.sussex.ac.uk/cspt/documents/11-3.pdf, last accessed 23 June 2011).
- Lowry, Christopher, 2009, « Beyond Equality of What: Sen and Neutrality », p. 226-235, in *Les Ateliers de l'Ethique – La Revue du CRÉUM*, Vol. 4, No. 2.
- Morris, Christopher W., 2010, « Ethics and Economics », p. 40-59, in Christopher W. Morris (ed.), *Amartya Sen*, Cambridge: Cambridge University Press.
- Nussbaum, Martha, 2002, « Capabilities and Social Justice », p. 123-135, in *International Studies Review*, Vol. 4, No. 2.
- Nussbaum, Martha, 2003, « Capabilities as fundamental entitlements: Sen and Social Justice », p. 33-59, in *Feminist Economics*, Vol. 9, No. 2-3.
- Oommen, Meera A., 2006, « Drèze-Sen Theory of Public Action and Kerala's Development Experience », Institute of Social Science, New Delhi (found on <http://maoommen.com/papers.htm>, last accessed 25 June 2011).
- Peter, Fabienne, 2007, « The Political Egalitarian's Dilemma », p. 373-387, in

Ethical Theory and Moral Practice, Vol. 10, No. 4.

- Pettit, David, 2010, « Freedom in the Spirit of Sen », p. 91-114, in Christopher W. Morris (ed.), *Amartya Sen*, and Cambridge: Cambridge University Press.
- Pogge, Thomas, 2002, *World Poverty and Human Rights: cosmopolitan responsibilities and reforms*, Cambridge: Polity Press.
- Rasmussen, Douglas B, and Den Uyl, Douglas J., 2009, « Retreat from Liberalism: Human Capabilities and Public Reasoning », p. 0-25, in *Journal des Economistes et des Etudes Humaines*, Vol. 15, No. 1.
- Rawls, John, 1971, *A Theory of Justice*, Cambridge: Harvard University Press.
- Rawls, John, 1987, « The Idea of an Overlapping Consensus », p. 1-25, in *Oxford J. Legal Stud.*, Vol. 7, No. 1.
- Renault, Emmanuel, 2004, *Mépris social. Ethique et politique de la reconnaissance*, Paris: Ed. Du Passant.
- Richardson, Henry S., 1997, « Democratic Intentions », p. 349-382, in James Bohman and William Rehg (eds.), *Deliberative Democracy. Essays on Reason and Politics*, Cambridge: The MIT Press.
- Richardson, Henry S., 2004, *Democratic Autonomy: public reasoning about the ends of policy*, Oxford: Oxford University Press.
- Richardson, Henry S., 2005, « Review: Précis of “Democratic Autonomy” », p. 187-195, in *Philosophy and Phenomenological Research*, Vol. 71, No. 1.
- Robeyns, Ingrid, 2005, « The capability approach: a theoretical survey », p. 93-114, in *the Journal of Human Development*, Vol. 6, No. 1.
- Robeyns, Ingrid, 2006, « The Capability Approach in Practice », p. 351–376, in *The Journal of Political Philosophy*, Vol. 14, No. 3.
- Rueschemeyer, Dietrich, 2004, « Addressing Inequality », p. 76-90, in *Journal of Democracy*, Vol. 15, No. 4.
- Sandven, Tore, 1999(a), « Autonomy, Adaptation, and Rationality—A Critical Discussion of Jon Elster's Concept of “Sour Grapes” (Part I) », p. 3-31, in *Philosophy of the Social Sciences*, Vol. 29, No. 1.
- Sandven, Tore, 1999(b), « Autonomy, Adaptation, and Rationality—A Critical Discussion of Jon Elster's Concept of “Sour Grapes” (Part II) », p. 173-205, in *Philosophy of the Social Sciences*, Vol. 29, No. 2.
- Sen, Amartya, 1979, « Equality of What? », p. 196-220, in *The Tanner Lectures on Human Values*, Salt Lake City: The University of Utah Press.
- Sen, Amartya, 1982, « Rights and Agency », p. 3-39 in *Philosophy & Public Affairs*, Vol. 11, No. 1.
- Sen, Amartya, 1983, « Poor, relatively speaking », p. 153-169, in *Oxford*

Economic Papers, Vol. 35, No. 2.

- Sen, Amartya, 1985, « Well-Being, Agency and Freedom: The Dewey Lectures 1984 », p. 169-221, in *The Journal of Philosophy*, Vol. 82, No. 4.
- Sen, Amartya, 1987, « Gender and Co-operative conflicts », United Nations University Wider Working Paper, Helsinki (found on http://www.wider.unu.edu/publications/working-papers/previous/en_GB/wp-18/, last accessed 21 June 2011).
- Sen, Amartya, 1990, « Justice: Means versus Freedoms », p. 111-121, in *Philosophy & Public Affairs*, Vol. 19, No. 2.
- Sen, Amartya, 1992, *Inequality Reexamined*, Oxford: Oxford University Press.
- Sen, Amartya, 1993(a), « Capability and Well-Being », p. 30-53, in Martha Nussbaum and Amartya Sen (eds.), *The Quality of Life*, Oxford: Clarendon Press.
- Sen, Amartya, 1993(b), « Positional Objectivity », p. 126-145, in *Philosophy & Public Affairs*, Vol. 22, No. 2.
- Sen, Amartya, 1995(a), « Rationality and Social Choice », p. 1-24, in *The American Economic Review*, Vol. 85, No. 1.
- Sen, Amartya, 1995(b), « Gender Inequality and Theories of Justice », p. 259-273, in Martha Nussbaum and Jonathan Glover (eds.), *Women, Culture and Development. A Study of Human Capabilities*, Oxford: Oxford University Press.
- Sen, Amartya, 1999(a), *Development as Freedom*, Oxford: Oxford University Press.
- Sen, Amartya, 1999(b), « Democracy as a Universal Value », p. 3-17, in *Journal of Democracy*, Vol. 10, No. 3.
- Sen, Amartya, 2000, « Social exclusion: concept, application and scrutiny », publication of the Asian Development Bank, Manila (found on <http://www.scribd.com/doc/8520847/sen-2000>, last accessed 21 June 2011).
- Sen, Amartya, 2002(a), *Rationality and Freedom*, Cambridge/London: The Belknap Press of Harvard University Press.
- Sen, Amartya, 2002(b), « Response to Commentaries », p. 78-86, in *Studies in Comparative International Development*, Vol. 37, No. 2.
- Sen, Amartya, 2003, « Democracy and Its Global Roots », p. 28-35, in *The New Republic*, 6 October 2003.
- Sen, Amartya, 2004, « Elements of a Theory of Human Rights », p. 315-356, in *Philosophy & Public Affairs*, Vol. 32, No. 4.
- Sen, Amartya, 2006, « What Do We Want From a Theory of Justice? », p. 215-238, in *The Journal of Philosophy*, Vol. CIII, No. 5.

- Sen, Amartya, 2009, *The Idea of Justice*, London: Penguin.
- Shue, Henry, 1980, *Basic Rights. Subsistence, Affluence, and U.S. Foreign Policy*, Princeton: Princeton University Press.
- Srinivasan, Sharath, n.d., « No Democracy without Justice: Amartya Sen's unfinished business with the Capability Approach », p. 1-17 (found on www.hd-ca.org/pubs/4_1_Srinivasan.pdf, last accessed 22 June 2011).
- Sunstein, Cass R., 1991, « Preferences and Politics », p. 3-34, in *Philosophy & Public Affairs*, Vol. 20, No. 1.
- Valentini, Laura, 2010, « A Paradigm Shift in Theorizing about Justice? A Critique of Sen », in *CSSJ Working Papers Series*, SJ011, November 2010 (found on http://social-justice.politics.ox.ac.uk/working_papers/index.asp, last accessed 27 June 2011).
- Vallentyne, Peter, 2010, « Sen on Sufficiency, Priority, and Equality », p. 138-169, in Christopher W. Morris (ed.), *Amartya Sen*, Cambridge: Cambridge University Press.
- Varshney, Ashutosh, 1999, « Democracy and Poverty », Paper for the Conference on World Development Report 2000, Sussex, 15-16 August 1999 (found on www.siteresources.worldbank.org/INTPOVERTY/Resources/WDR/DfiD-Project-Papers/varshney.pdf, last accessed 27 June 2011).
- Walker, Melanie, 2003, « Framing Social Justice in Education: What Does the 'Capabilities' Approach Offer? », p. 168-187, in *British Journal of Educational Studies*, Vol. 51, No. 2.
- Wall, Steven, 2008, « Perfectionism in Moral and Political Philosophy », in Edward N. Zalta (ed.), *The Stanford Encyclopedia of Philosophy*, (found on <http://plato.stanford.edu/archives/fall2008/entries/perfectionism-moral>, last accessed 25 June 2011).
- Young, Iris Marion, 1997, « Difference as a Resource for Democratic Communication », p. 383-406, in James Bohman and William Rehg (eds.), *Deliberative Democracy. Essays on Reason and Politics*, Cambridge: The MIT Press.

Legal texts

- GA, *Vienna Declaration and Programme of Action*, United Nations Resolution, Vienna, 1993, A/CONF.157/23 (last consulted 23 May 2011 on <http://bit.ly/a4leNZ>).

Others

- Alkire, Sabina, 2004, « The capability approach and human development », Powerpoint presented at Sommerville College and Queen Elizabeth House, 13 September 2004 (found on <http://bit.ly/iQedcf>, last accessed 2 June, 2011).
- International Bank for Reconstruction and Development/The World Bank, 2005, *Equity and Development, World Development Report 2006*, A copublication of The World Bank and Oxford University Press (found on http://econ.worldbank.org/external/default/main?pagePK=64165259&theSitePK=469372&piPK=64165421&menuPK=64166093&entityID=000112742_20050920110826, last accessed 29 June 2011).

Websites

- The European Anti-Poverty Network (EAPN), <http://www.eapn.eu/> (last accessed 29 June 2011).
- The Poverty Site. The UK Site for statistics on poverty and social exclusion, <http://www.poverty.org.uk> (last accessed 29 June 2011).